



Income Tax Exemption for the Expenses on Specific Types of Assets

An exemption of a corporate income tax was provided to a company and a juristic partnership for its expenses on specific types of assets in accordance with the Royal Decree issued under the Revenue Code on tax exemption (No. 642) B.E.2560 (2017).

The expenses of a company or a juristic partnership may be exempted from the corporate income tax at the rate of 50% of the actual expenses if such expenses were capital expense or expense for the addition, change, expansion or improvement of the business assets, but not for repair in order to maintain its present condition. Such expenses must be spent from 1 January 2017 to 31 December 2017. However, the business assets must be one of the following:

1. Machinery, component, equipment, instrument, tool, appliance, decoration, and furniture;
2. Computer program;
3. Vehicle registered in Thailand, excluding a car or a bus having less than 10 seats under the laws of the excise tax rate without a rental purpose; and
4. Permanent building, excluding land and permanent building used for residential purpose.

In addition, the assets must have the characteristics as follows:

1. The assets shall never be used.
2. The depreciation and depletion of the assets can be deductible under Section 65 Bis (2) of the Revenue Code in which such assets must be available and in good condition for the use within 31 December 2017, except the machinery and permanent building which may be available after the specified period.
3. The assets must locate in Thailand, except the vehicles.
4. The assets shall not be subject to the other tax exemption under other Royal Decree, in whole or in part, (except for those under the Royal Decree issued under the Revenue Code on tax exemption No.604)

5. The assets shall not be used in a promoted project receiving the corporate income tax exemption, whether in whole or in part, under the laws on investment promotion, unless such assets were used in a promoted project under the measures on investment acceleration which does not have an actual investment and opts to not use such the incentives.

New Regulations of the BOT: Credit Cards and Personal Loans

On 26 July 2017, the Bank of Thailand (“BOT”) publicized news regarding the new regulations governing credit cards and personal loans, which became into effect at the beginning of September 2017.

This new set of the BOT regulations aims to provide a balance between accessibility to services of the consumers and mindfulness of financial service providers as well as tackling the issues of overspending and household debts in Thailand.

The details of these regulations can be summarized as follows:

▪ Credit Cards

1. Interest rate ceiling is changed from 20% per year to 18% per year.
2. Credit limit is capped at 1.5 times per card for each cardholder with a monthly income of THB 15,000 - 30,000.
3. Credit limit is capped at 3 times per card for each cardholder with a monthly income of THB 30,000 - 50,000
4. Credit limit is capped at 5 times per card for each cardholder with a monthly income of more than THB 50,000.
5. When it is deemed necessary and urgent, the credit card issuers are permissible to provide a temporary credit limit and determine a specified period of performance depending on the repayment ability of each cardholder.
6. The change of credit limit is only applied to new applicants of credit cards whereas the new ceiling

of interest rate is applied to both new and existing cardholders

▪ **Personal Loans**

1. Credit limit is capped at 1.5 times per a creditor for each borrower with a monthly income of less than THB 30,000. For this kind of the borrower, the application for personal loans shall not be made to more than 3 lenders.
2. Credit limit is capped at 5 times per a creditor for each borrower with a monthly income of more than THB 30,000.
3. In a case where the lender desires to provide a borrower a temporary credit limit, such limit shall be capped at 5 times of a monthly income of such borrower.
4. New regulations shall be applied to any borrower who applies for the personal loan from 1 September 2017 onwards.

New Regulation on E-Tax Invoices and E-Receipts

On 19 July 2017, the Regulation of the Revenue Department regarding the preparation, delivery, and storage of e-tax invoices and e-tax receipts B.E. 2560 (2017) was published in the Government Gazette in order to replace the previous regulation issued in 2012 in compliance with the Thailand's National e-Payment Master Plan. The key features of the Regulation can be summarized as follows:

▪ **General requirements**

To be eligible to issue e-tax invoices and e-tax receipts, the VAT registrant or a person responsible for issuing receipts under the Revenue Code must meet the following requirements:

1. Having an "Electronic Certificate" as issued by the Revenue Department; and
2. Having a good internal control and be able to prove that e-tax invoice and e-receipt issued are reliable.

▪ **Preparation, delivery and storage of e-tax invoices and e-receipts**

1. Tax invoices and receipts must be prepared in an electronic form (using a digital signature) having contents in accordance with those provided by the relevant laws and regulations.

2. Once the e-tax invoices and e-tax receipts are issued, all of them must be sent to the customer and the Revenue Department as required by the relevant laws and regulations.
3. The registrant of VAT as the issuer and the customer as the recipient of e-tax invoices and e-receipts are required to keep them in an electronic form.

The Revenue Department expects that the preparation and delivery of the e-tax invoices and e-receipts shall lessen the administrative burden of the entrepreneurs as reducing the time required for preparing and delivering the documents.

Proposed Amendment to the Criteria of Issuance and Offering of Bonds and Bills of Exchange

On 2 August 2017, the Office of the Securities and Exchange Commission of Thailand ("SEC") issued a public hearing on a proposed amendment to the criteria of issuance and offering of bonds and bills of exchange (Notification No. 66/2017). As the bills of exchange have been widely offered, especially, to the High Net Worth, such offering does not have the protection mechanism for the investors as the debenture does. Therefore, the SEC intends to amend the relevant criteria regarding the abovementioned issues.

The key issues of the proposed revisions are as set forth below:

1. The offering of the bills of exchange shall be made merely on a private placement basis and to the institutional investors. The offering of bills of exchange to the High Net Worth shall be cancelled.
2. The offering of the bonds on the private placement basis shall be limited to the investors relating to the issuer, the institutional investors, or the High Net Worth.
3. Only the bonds shall be offered to the High Net Worth. Prior to the issuance of the debentures, an issuer must obtain an approval, disclose information as determined, and provide a bondholder representative.
4. The public offering of the bonds is required a qualification of an issuer regarding good corporate governance, a repayment ability as well as preparation of a bondholder representative.
5. The operation standard of an intermediary shall be increased by dividing one unit to contact the issuer and another unit to contact the investors.

Proposed Amendment to the Labour Protection Act

On 15 August 2017, the Cabinet approved the fundamental principles of the Bill of the Labour Protection B.E.2541 (1998) as proposed by the Ministry of Labour to increase the protections in favour of the employees. This Bill shall be further considered by the Office of the Council of State in compliance with the Office of the Court of Justice and therefore proposed to the National Legislative Assembly for its consideration. The main issues of the proposed amendment are as follows:

1. A definition of “remuneration” shall be determined as money paid by the employer to the employee for work performed, except wages, overtime payment, holiday payment, and overtime-holiday payment.
2. The employer shall be subject to interest at the rate of 15% of the wages in lieu of an advance notice to be given by the employer and remuneration or wages during a temporary business closure of the employer.
3. Any change from one employer to another shall require the employee’s consent.
4. The employer shall be obliged to pay wages to the employee in lieu of an advance notice upon a termination of an employment.
5. The employee shall be entitled to a personal leave for at least 3 working days with pay.
6. The maternity leave shall cover pregnancy check-up for not exceeding 90 days. The employer shall be obliged to pay wages for the maternity leave for not exceeding 45 days.
7. The severance pay for the employee who has worked for not less than 20 years shall be increased to 400 days at his/her last wage rate.
8. The office relocation shall cover a relocation to another existing office of the employer. Such relocation must be announced to the employees in advance according to the form as prescribed by the Director-General of the Department of Labour Protection and Welfare.
9. The period of the special severance pay and the special severance pay in lieu of an advance notice shall commence from the date of termination of the employment.
10. The criminal proceedings against the employer shall be terminated upon a compliance of the employer with the order of the Labour Welfare Committee or the decision or order of the court.

11. The provisions on the criminal penalties under the Labour Protection Act shall be revised.

Recognition of Income from the Thai Government’s Funding

According to the Order of the Revenue Department No. Taw. Paw. 279/2560 as published in the Government Gazette on 1 July 2017, any company joining a public-private partnership with the Thai government and receiving funding provided are now required to appropriate the funding as its income for tax purpose over the life of the arrangement based on each company depreciating its cost of acquiring such funding.

Retirement under the Amended Labour Protection Act (No.6) B.E. 2560 (2017)

According to the amended Labour Protection (No. 6) B.E. 2560 (2017) as became effective on 1 September 2017, there are several potential issues regarding the retirement as follows:

1. Retirement of an employee, whether by an agreement or determination of an employer, shall be considered as termination of employment.
2. If the work rules of a company set a retirement age at 60 years-old, an employee who reaches the age of 60 shall be entitled to severance pay.
3. If the retirement age is unspecified or specifies at the age of over 60, an employee who reaches the age of 60, shall be entitled to receive the severance pay, with a condition that such employee informed his/her intention for retirement to the employer. Such employment shall be terminated on retirement after 30-days period from the date on which the intention to retire was expressed.

SEC Hearing on Amendment to Regulations: Crowdfunding

The Office of Securities and Exchange Commission of Thailand (“SEC”) held a public hearing regarding an amendment to the regulations regarding an offer for sale of securities through an electronic system or network (crowdfunding) from 24 July 2017 to 23 August 2017.

This amendment shall enable a funding portal to make use of block-chain/smart contracts technologies instead of appointing trustworthy third parties to manage the

share subscription funds during the process of crowdfunding, transfer funds to the issuers, and also return the share subscription funds to the investors in a case where the crowdfunding appears to be unsuccessful.

The SEC anticipates that the amendment to such regulations shall encourage equity crowdfunding, which is an important fundraising channel for SMEs and start-ups in Thailand.

The SEC also intends to approve a funding portal to have a secondary market in selling and buying of shares in order to support shares liquidity, which shall help the SMES and startups to raise funds with a better value of shares. In this connection, the non-retail investors can sell and purchase the shares unlimitedly in the secondary market whereas the retail investors are only allowed to sell the shares in this market as the SEC intends to apply investment limit to this type of investors. However, a funding shall request for approval from the SEC prior to establishing a secondary market.

In addition, the SEC plans to revoke the regulations providing that the issuers shall raise a fund via the same funding portal every time by replacing it with the new regulations which shall provide the right to the issuers to select other funding portals to be their crowdfunding intermediary.

Strategic Talent Centre Launched by the BOI

On 3 July 2017, the Office of the Board of Investment of Thailand (“BOI”) and government agencies, namely (1) the Ministry of Science and Technology, (2) the National Research Council of Thailand, (3) the National Science and Technology Development Agency, and (4) the National Science Technology and Innovation Policy Office, cooperatively and officially established the “Strategic Talent Center” (“STC”) in order to boost the investment and development in Thailand.

It is expected that the STC shall enable the private sector to have easier access to the available lists of human resources in the field of science and technology and to facilitate the entry of foreign science and technical experts in demand and to support the development of target industries under Thailand 4.0 Policy.

The STC shall take the role of a comprehensive database and gather all information on both Thai and foreign experts and specialists in Thailand and then match their skills to the demand of the companies. Additionally, the STC shall coordinate with the correspondent governmental agencies in recognizing their experts. The process of visa and work permit of the foreign experts of the STC shall also be facilitated.

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