

# Thai Tax 2022/23 Booklet







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# Foreword

This booklet has been prepared to provide general information on Thailand's tax system and primary assistance to those investing in Thailand and it should not be regarded as a basis for ascertaining a liability to tax in specific circumstances. The information is based on the tax laws and practices as at 1 July 2022. Further professional advice should always be obtained from our tax and legal services practice before acting on any matters contained in this publication.

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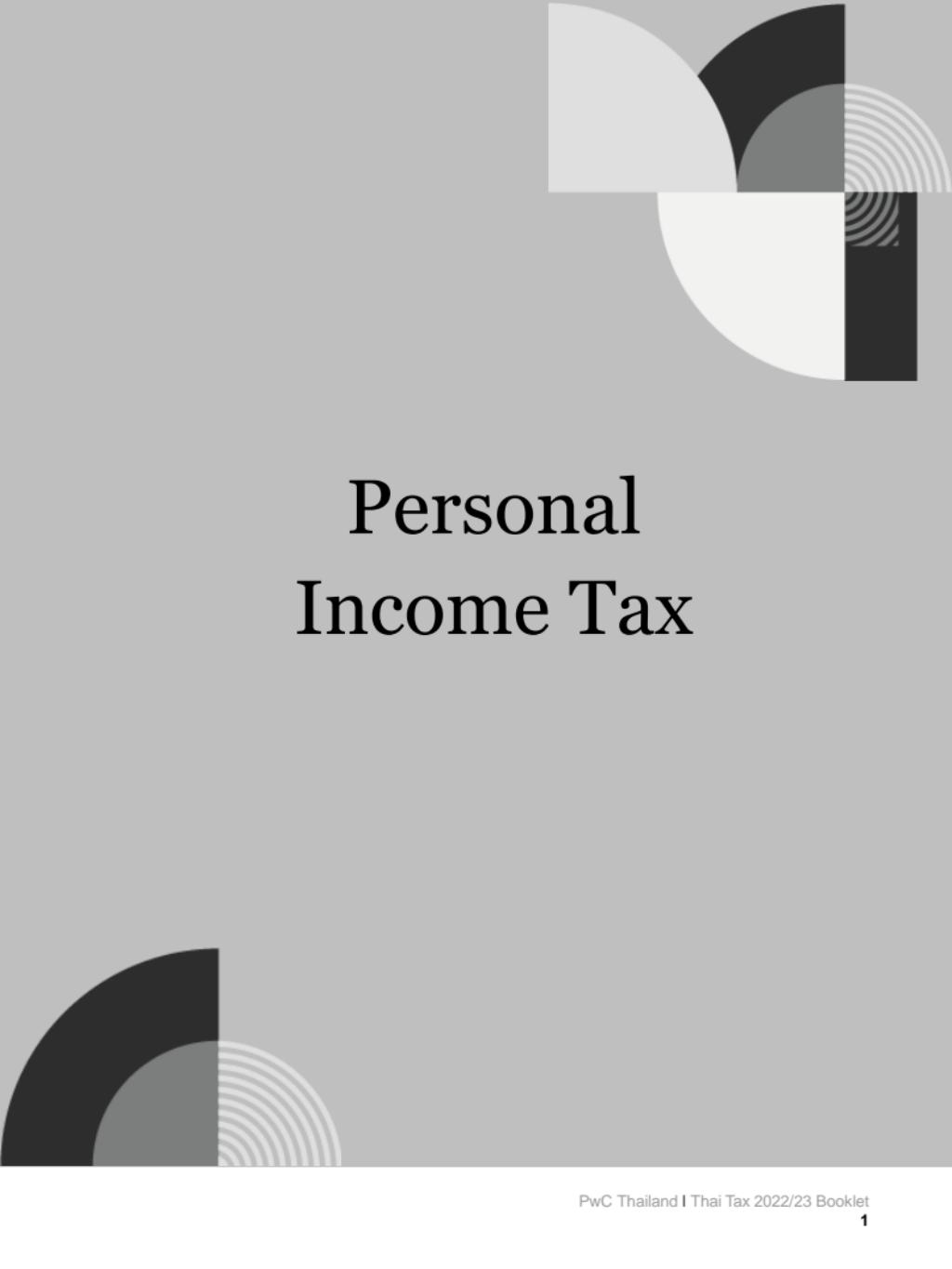
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# Personal Income Tax

# Personal Income Tax

## Resident status

An individual is regarded as a tax resident if he/she resides in Thailand at one or more times for an aggregate period of 180 days or more in any tax year.

## Taxable persons

- (a) Natural persons
- (b) Unregistered ordinary partnerships
- (c) Non-juristic body of persons
- (d) Deceased, for all assessable income of the deceased and the estate throughout the year in which death occurred
- (e) Estate of the deceased which remains undistributed.

## Assessable income

Residents and non-residents are taxed on their assessable income derived from employment or business carried on in Thailand, regardless of whether the income is paid in or outside Thailand. Residents who derive income from outside Thailand will be subject to tax only where the income is remitted into Thailand in the year in which it is derived.

Assessable income is classified into eight categories:

1. Salaries and wages (including income from stock options, house rent allowance and other fringe benefits)
2. Hire of work, office of employment or service rendered
3. Goodwill, copyright, franchise, patent, other rights, annuity, etc.
4. Interest, dividend, bonus for investors, gain on amalgamation, acquisition or dissolution of a company or partnership, gain on transfer of shares, cryptocurrencies or digital tokens.

5. Lease of property, breach of hire-purchase and instalment sale contract
6. Income from liberal professions, such as law, medicine, engineering, architecture, accountancy and fine arts
7. Income from a contract of work whereby the contractor provides essential materials other than tools
8. Income from business, commerce, industry and income other than as specified in (1) – (7).

## **Capital gains**

Most types of capital gains are taxable as ordinary income, except for the following which are exempt from tax:

- Gains on the sale of shares in a company listed on the Stock Exchange of Thailand, provided that the sale is made on the Stock Exchange of Thailand, and on the sale of investment units in a mutual fund.
- Gains on the sale of non-interest-bearing debentures, bills or debt instruments issued by a corporate entity, except for bonds or debt instruments that are sold for the first time at a price lower than their redemption price to an individual.
- Gains on the sale of securities listed on stock exchanges in the ASEAN member countries and traded through the ASEAN Link, excluding securities in the form of treasury bills, bonds, bills or debentures.

Capital losses cannot be offset against capital gains. An individual may elect to bear only withholding tax at a flat rate of 15% on the gains derived from the sale of bonds, debentures, bills or debt instruments issued by a company or other juristic entities and to exclude the gains from assessable income in his/her annual personal income tax return.

## **Gift tax**

Gifts that are given by a living person are subject to personal income tax under the Revenue Code. The income tax is levied on the value of the assets or the amount given to parents, ascendants, descendants, spouse or others that exceeds the prescribed threshold, which depends on the type of gift and donor.

The assets or amounts given that do not exceed the threshold and will be exempt from personal income tax are as follows:

- Income derived from the transfer of ownership or possessory right in an immovable property without any consideration to a legitimate child, excluding an adopted child, in the amount not exceeding Baht 20 million in respect of each child throughout a tax year.
- Maintenance income or gifts from ascendants, descendants or spouse, in the amount not exceeding Baht 20 million throughout a tax year.
- Maintenance income derived under a moral obligation or gifts made in a ceremony or on occasions in accordance with established custom from persons that are not ascendants, descendants or spouse, in the amount not exceeding Baht 10 million throughout a tax year.
- Income from gifts which will be used by the person who receives them for religious, educational or public benefit purposes according to the intention of the donor under criteria and conditions referred to in ministerial regulations.

Income in excess of the above thresholds will be subject to personal income tax at the rate of 5% and will not need to be included together with other income when computing the annual personal income tax liability.

If an immovable property is transferred without consideration by a parent to a legitimate child, the tax will be collected from the transferor at the time the transfer is registered by means of a withholding tax at

the rate of 5% based on the portion exceeding Baht 20 million. The transfer of an immovable property without consideration in other cases would be subject to withholding tax at the normal progressive personal income tax rates according to the criteria and conditions prescribed.

## **Exemptions**

Certain types of income are exempt from personal income tax. In respect of income from employment, money derived in the form of per diem, travelling expenses and certain fringe benefits, such as medical treatment, is tax exempt. The exemptions also include maintenance income derived under a moral obligation (subject to a threshold - see gift tax above), corpus of a legacy or inheritance (see the section on inheritance tax below) and certain capital gains as noted above.

Provided that certain conditions are met, gains or benefits from registered provident funds, retirement mutual funds, long term equity funds, super savings funds, national saving funds including amounts derived from insurance or social security funds, interest on a deposit received from a bank in Thailand, a savings co-operative and a return from a deposit in Thailand according to Islamic principles are also tax exempt.

Profit sharing distributed by a fixed income mutual fund to individual investors is exempt from tax.

## **Computation**

The taxable income of an individual is arrived at after all deductions and allowances have been applied to the assessable income. The income tax thereon will then be calculated at the progressive tax rates noted below.

In the case where an individual has assessable income other than from employment, amounting to Baht 120,000 or more, the tax payable must not be less than 0.5% of the assessable income.

## **Deductible expenses**

The amount of personal expenses that may be deducted depends on the category of assessable income, as follows:

- Income under the above categories of assessable income (1) and (2), including goodwill, copyright and other rights under (3), a deduction of 50% is allowed subject to a maximum of Baht 100,000.
- Income under (5), the rates of deduction vary from 10% to 30% depending on the type of rented property.
- Income under (6), (7) and (8), the rates of deduction vary from 30% to 60% depending on the type of income or type of business.

The deduction of expenses in relation to goodwill, copyright and other rights under (3) and assessable income under (5)-(8) may be on an actual basis if satisfactory evidence of the expenditure can be provided to the Revenue Department.

## **Allowances**

There are two categories of allowances after the deduction of expenses:

<b>1. Personal allowances</b>	<b>Baht</b>
• Taxpayer	60,000
• Spouse (if spouse has no income)	60,000
• Legitimate child of the taxpayer or the spouse (without limit), each	30,000
• Additional allowance for legitimate child of the taxpayer or the spouse from the second child onwards who was born in or after 2018, each	30,000

• Taxpayer's adopted child (maximum 3), each (If there are legitimate and adopted children together, a maximum of only 3 children is allowed)	30,000
• Parental care, each	30,000
• Care of disabled or incapacitated family members, each	60,000
• Care of a disabled or incapacitated person other than a family member	60,000

In addition, a resident of Thailand who is 65 years of age or older is entitled to personal income tax exemption on income up to an amount not exceeding Baht 190,000.

## 2. Specific allowances

- Life insurance premiums in an amount not exceeding Baht 100,000 paid by a taxpayer on his/her own life are allowed as a deduction provided that the insurance policies are for a minimum period of ten years and the insurer is carrying on a life insurance business in Thailand. If the policy includes a savings plan which provides an annual return to the policy holder exceeding 20% of the annual premium, the entire premium will be non-deductible.

Deposits with banks in the type similar to life insurance for a minimum deposit term of ten years are allowed as a deduction in the amount up to Baht 100,000 in each tax year. However, these deposits together with the above qualified life insurance premiums and the health insurance premiums referred to below must not exceed Baht 100,000 in each tax year.

In addition, the amount paid, up to a maximum of Baht 10,000 for a life insurance premium for the taxpayer's spouse who does not earn income is also allowed providing their marital status exists throughout the tax year.

- A health insurance premium, up to a maximum of Baht 25,000, paid by a taxpayer to a life or non-life insurance company in Thailand for his/her own health is allowed as a deduction. However, the deduction for this premium together with the life insurance premiums and deposits with banks in the type similar to life insurance, referred to above, must not exceed Baht 100,000 in total.

A health insurance premium, up to a maximum of Baht 15,000, paid to a life or non-life insurance company in Thailand for the taxpayer's parents or the parents of the spouse of the taxpayer is allowed as a deduction.

- For the purpose of encouraging long-term savings for security upon retirement, allowances are granted for investments in the following funds and pension life insurance, whereby a taxpayer is entitled to invest in one fund or several funds, subject to a maximum amount of Baht 500,000 in total for each tax year.
  - Qualified pension life insurance premiums paid to a Thai insurer in an amount not exceeding 15% of assessable income received which is subject to income tax, with a maximum of Baht 200,000.
  - A contribution to a registered provident fund in an amount not exceeding 15% of the wage with a maximum of Baht 500,000.
  - An investment in a retirement mutual fund in an amount not exceeding 30% of assessable income received which is subject to income tax, with a maximum of Baht 500,000.
  - An investment in the national savings fund in the actual amount, with a maximum of Baht 500,000.
  - An investment in a super savings fund in an amount not exceeding 30% of the assessable income received which is subject to income tax with a maximum of Baht 200,000 in any tax year.

- Mortgage interest incurred for the purchase or construction of a residential building in Thailand may be deducted up to maximum of Baht 100,000.
- A contribution to the government's social security fund may also be deducted.
- All donations in the following categories are allowed a double deduction to the extent that the combined amount does not exceed 10% of net income (assessable income after allowances and deductions):
  - Support of education, e.g. buildings, computers, books, teachers, under projects approved by the Ministry of Education
  - State hospitals
  - E-donations to the Metrology System Development Fund, the Health System Development Fund, the Science and Technology Development Fund, and the Science Research and Innovation Fund from 27 May 2021 to 31 December 2022.
  - E-donations to the Thai Red Cross Society from 1 January 2020 to 31 December 2022
  - E-donations to the Siriraj Foundation and the Chulabhorn Foundation between 30 November 2021 and 31 December 2022
  - E-donations to the Equitable Education Fund from 1 January 2021 to 31 December 2023
- Donations to educational institutions, public health care facilities, religious institutions, approved charities, and the Office of Permanent Secretary, Prime Minister's Office (up to 5 March 2022 for e-donations) to support protection from the spread of Covid-19 in the amount donated but not exceeding 10% of net income after all allowances and deductions.

- Expenses paid by the taxpayer or spouse for antenatal care and child delivery up to Baht 60,000 for each pregnancy.
- Donations in cash to political parties or in cash, assets or other forms of benefit to support activities for raising funds of political parties, up to Baht 10,000.
- E-donations to the National Vaccine Institute (NVI) to support research, development, manufacture and distribution of vaccines between 1 January 2021 and 31 December 2023. However, these donations together with the donations to state hospitals, state educational institutions and approved charities must not exceed 10% of net income after all allowances and deductions.

## **Tax rates**

The current personal income tax rates are shown below.

Net income (Baht)	Tax rates
0 – 150,000	Exempt
150,001 – 300,000	5%
300,001 – 500,000	10%
500,001 – 750,000	15%
750,001 – 1,000,000	20%
1,000,001 – 2,000,000	25%
2,000,001 – 5,000,000	30%
Over 5,000,000	35%

## **Tax credits**

Taxpayers are entitled to credits against their annual tax liability for tax withheld at source.

Persons domiciled and residing in Thailand can elect to take income tax withheld at source from dividends received from companies incorporated in Thailand as a credit against their tax liability. A credit to take into account the underlying corporate income tax paid on the profit being distributed is added to the dividend income, which is then aggregated with other types of income. Tax at the personal income tax rates is calculated on the total taxable income and the value of the tax credit is then deducted from the tax so calculated.

Foreign tax cannot be taken as credit against Thai tax unless permitted under a double tax treaty.

## **Withholding tax**

All persons paying assessable income are required to deduct income tax at source on each occasion of payment in accordance with the following rules:

- For assessable income under categories (1) or (2), the payer must deduct tax by:
  - multiplying the amount paid by the number of times of payment so that the result will represent the total amount which would be payable in a year, and
  - after deducting expenses and allowances, if any, computing the tax on the resulting amount in accordance with the personal income tax rates, and
  - dividing the amount of tax so computed by the number of times of payment.
- For income under categories (3) and (4), the payer must deduct tax at the prevailing income tax rates. There are exceptions to this rule, notably interest and dividends, which are subject to withholding at the flat rates of 15% and 10%, respectively, and payments for the share of profits or any benefits from holding or possessing digital tokens or gains from the transfer of cryptocurrencies or digital tokens, which are subject to withholding at the flat rate of 15%.

- The tax withheld is required to be remitted to the respective amphur (district) office within seven days from the last day of the month in which the taxable income was paid.

A company, juristic partnership or other juristic person paying assessable income to any person who is subject to income tax, must withhold:

- 5% on payments for lease of assets under category (5)
- 3% on payments for professional fees under category (6)
- 3% on payments for hire of work under categories (7) and (8)
- 2% on payments for advertising fees under category (8)
- 3% on payments which constitute rebates or benefits from sales promotion except where goods/services are used for private consumption (not for sale) by the buyer under category (8)
- 3% on payments which constitute service fees other than for hire of work, fares for public transportation, services of hotels and restaurants and life insurance premiums under category (8)
- 1% on payments for transportation, excluding public transportation
- 5% on payments which constitute prizes won in contests, competitions, lucky draws or other like activities under category (8)
- 1% on payments for genuine diamonds, or other gemstones which have not yet been cut, except where the payers are end users under category (8)
- 0.5% on payments for rice by exporters under category (8)
- 1% on payments for aquatic animals, live or otherwise, where the payers are exporters or manufacturers of any product from aquatic animals under category (8)
- 15% on income under categories (2), (3), (4), (5) and (6) paid to a non-resident, except for dividends where the rate is 10%.

Where income under categories (5), (6), (7) or (8) in excess of Baht 10,000 is paid by the central or local government, the payer is required to deduct income tax at the rate of 1% at each time of payment.

The above withholding tax rates have been temporarily reduced from 1 October 2020 to 31 December 2022 provided that the tax is remitted via the e-withholding tax system, as follows:

Reduction of the withholding tax rate from 5% to 2% on payments for the following:

- Rental of assets under category (5), excluding rental of ships used for international carriage of goods
- Prizes won in contests, competitions, lucky draws, or other like activities under category (8)

Reduction of the withholding tax rate from 3% to 2% on payments for the following:

- Professional fees under category (6)
- Hire of work under categories (7) and (8)
- Provision of services under category (8), excluding non-life insurance
- Rebates or benefits from sales promotion under category (8).

A taxpayer who has had income tax withheld may pay, or request a refund of, the amount of any tax that has been under-/over-withheld, as the case may be. A claim for a refund must be submitted to the Revenue Department within three years from the last day of the time limit prescribed by law for filing the tax return (or from 31 March of the year following that in which the tax was withheld).

## **Tax administration**

Thailand applies a self-assessment system in collecting taxes. Taxpayers are required to declare their tax liabilities in the prescribed tax returns and pay the tax due at the time of filing.

The following individuals are required to file income tax returns for income earned in the preceding tax year irrespective of whether there is any tax due:

- A person who has no spouse and earns income of more than Baht 60,000
- A person who has no spouse and earns income under category (1) (salaries and wages) of more than Baht 120,000
- A person who has a spouse and earns income of more than Baht 120,000
- A person who has a spouse and earns income under category (1) (salaries and wages) of more than Baht 220,000.

Each husband or wife earning income can choose to file his/her income tax return either separately or jointly with their spouse, whichever they prefer.

The tax year is the calendar year. All persons liable to tax are required to file a tax return no later than 31 March of the following year for hardcopy filing and 8 April for online filing. In addition, those taxpayers who derive income from the lease of property, liberal professions (medicine, law, engineering, architecture, accountancy and fine arts), contractual work and other businesses, commerce or industries must file a mid-year tax return by 30 September in respect of income derived during the first half of the tax year to 30 June. Tax paid at the time of the mid-year filing is creditable against the annual tax liability.

## **Penalties and surcharge**

A taxpayer who is assessed additional tax by an assessment officer on the grounds that an inaccurate return was filed, or who failed to file a return, is subject to a penalty. The rate of penalty is 100% for an inaccurate return and 200% for failure to file a return. Penalties may be reduced by 50% if the taxpayer submits a request in writing and the assessment officer is of the opinion that the taxpayer did not intend to evade tax and cooperated with the officer during the tax audit.

Any person who fails to pay or remit tax within the specified time is liable to pay a surcharge of 1.5% per month, or fraction thereof, of the

amount of tax to be paid or remitted subject to a maximum equal to the amount of tax to be paid or remitted.

## **Tax investigation and assessment**

The Revenue Department is empowered to demand documents and records for inspection for a period of two years. The period will be extended to five years if it is found, or there is a reason to believe, that there was tax evasion, or where a tax audit is conducted for the purpose of paying a tax refund.

Nevertheless, under the Civil and Commercial Code, the Revenue Department can assess tax for up to ten years.

## **Appeal**

If a taxpayer disagrees with the assessment of the tax authorities, he may appeal to the Board of Appeal within 30 days from the date of receiving the assessment notice. If the taxpayer does not agree with the ruling of the Board of Appeal, he may then appeal to the Tax Court within 30 days from the date of receiving the ruling. After the judgement of the Tax Court has been made, an appeal against the decision must be submitted to the Special Appeal Court within 30 days. The judgement of the Special Appeal Court will be treated as final. However, a further appeal may be made to the Supreme Court if the issue is considered to be significant and the approval of the Supreme Court has been obtained.

An appeal does not defer payment of tax. If tax is not paid within the time prescribed by the law, it will be deemed to be in arrears unless the appellant has been authorised by the Director-General to wait for a decision of the appeal or judgement, in which case payment must be made within 30 days from the date of receiving the decision of the appeal or judgement.



# Corporate Income Tax



# Corporate Income Tax

## Resident status

Company residence is determined by the place of incorporation. A company incorporated under the laws of Thailand is a resident company. Place of management and control is not statutorily defined. Thailand taxes its residents on a worldwide income basis.

## Taxable entities

- Companies and juristic partnerships
- Joint ventures, foundations and associations
- Mutual funds established as a juristic entity under Thai or foreign law
- Companies incorporated under foreign law:
  - carrying on business in Thailand (e.g. branch)
  - not carrying on business in Thailand but deriving specified income from or in Thailand
- Foreign government agencies or other juristic persons organised under foreign laws carrying on business in Thailand

## Taxable income

- A company or juristic partnership incorporated in Thailand is subject to corporate income tax on all profits derived from domestic and foreign sources.
- A company incorporated under a foreign law and carrying on business in Thailand (e.g. a branch) is subject to tax on the profit arising from the business carried on in Thailand and on the after-tax profit repatriated to the head office.

The term 'carrying on business in Thailand' is broad and includes the presence of an employee, representative or go-between that results in the foreign company deriving income or gains in Thailand.

- A company incorporated under a foreign law and not carrying on business in Thailand, but which derives certain categories of income in Thailand, is subject to a final withholding tax (unless otherwise exempt under a double tax treaty). The following is an example of these categories of income:
  - Brokerage
  - Service fees
  - Royalties
  - Interest, dividends, capital gains
  - Rent of property

## **Tax on gross income**

Foundations and associations as well as foreign companies carrying on the business of international transportation services and certain mutual funds are subject to tax on gross income.

The gross receipts, other than registration fees, membership fees or donations of a foundation or association are subject to income tax at the rate of 10%. The rate is reduced to 2% if the gross receipts are income under category (8) of the schedule of assessable income.

Foreign airlines and shipping companies carrying on business in Thailand in the category of carriage of passengers are subject to income tax at the rate of 3% of the fares, fees or any other benefits collectible in Thailand, prior to the deduction of any expenses. For carriage of goods, the rate is 3% of the freight, fees and any other benefits collectible in Thailand or elsewhere in respect of transport of goods from Thailand, prior to the deduction of any expenses.

Mutual funds established under the Securities and Exchange Act (except for retirement mutual funds (RMF) and mutual funds established for the sale of their units to the Social Security Fund, National Savings Fund, Government Pension Fund, provident funds, and RMF) are subject to corporate income tax at the rate of 15% of their gross income from interest and discounts.

## **Capital gains**

There is no specific legislation governing capital gains. Except as noted under 'exemptions' below, all capital gains earned by a company are treated as ordinary revenue for tax purposes. Capital gains on the sale of investments derived from or in Thailand by a foreign company not carrying on business in Thailand are subject to a tax of 15%, withheld at source by the purchaser, unless otherwise exempt under a double tax treaty.

Gains on the sale of government bonds earned by a non-resident are also subject to 15% withholding tax, unless otherwise reduced or exempt under a double tax treaty.

## **Exemptions**

- The following categories of income are exempt from corporate income tax:
  - Dividends received by a company listed on the Stock Exchange of Thailand from another Thai company provided that the shares are held for at least three months before and three months after the dividend was received.

Dividends received by a non-listed company from another Thai company provided that the company receiving the dividend holds at least 25% of the total shares with voting rights, without any direct or indirect cross-shareholding, and has held the shares for at least three months before and three

months after the dividend was received. However, where the shares are held for this period, but the 25% shareholding and cross-shareholding conditions are not met, only one-half of the dividend is exempt from tax.

In the case of an amalgamation (merger) or an entire business transfer (EBT), the new or surviving company can include the period of ownership of any predecessor company that was part of the amalgamation or EBT when counting the above three-month period.

- Dividends received from foreign investments provided that the Thai company receiving the dividend has held at least 25% of the shares with voting rights of the company paying the dividend for a period of not less than six months before the date on which the dividend was received and the dividend was derived from the net profits in the foreign country taxed at a rate of not lower than 15%. In the event that a 'special law' in a particular foreign country provides a reduced tax rate or exemption for the net profits, the limited company which receives the dividend is still eligible for the tax exemption.
- Dividends or share of profits received by a Thai company or a foreign company carrying on business in Thailand from an unincorporated joint venture.
- Interest on foreign currency loans received by a financial institution of a foreign government organised under a specific law and wholly owned by the foreign government.
- Interest on government bonds, bonds of the Bank of Thailand and bonds of the Financial Institution Development Fund received by a foreign company not carrying on business in Thailand.
- Profit sharing received from a fixed income mutual fund by both Thai and non-Thai corporate investors.

- Profit sharing derived from an investment in other mutual funds established as juristic persons (excluding property funds) by a Thai company (100% exemption for a listed company and 50% exemption for a non-listed company) provided that the Thai company has held the fund units for three months before and after the distribution of the profit sharing.
- Capital gains received by a Thai company and a foreign company carrying on business in Thailand from the sale of fund units in a fixed income mutual fund subject to the condition that the cost of the investment and expenses in relation to the exempt income are not claimed as tax deductible expenses.
- The following categories of taxpayers are exempt from corporate income tax:
  - Companies granted exemption from tax for a period of time by the Board of Investment under the investment promotion law and the competitive enhancement law
  - Specified foundations and organisations
  - Foreign organisations under mutual agreements and diplomatic organisations.
- A special purpose vehicle (SPV) for securitisation is granted tax exemption on income derived from a securitisation project approved by the Securities and Exchange Commission (SEC). However, the operation and allocation of cash inflow for the settlement of debts and expenses must follow the plan approved by the SEC. Moreover, no dividends may be paid to the shareholders of an SPV until all remaining assets and benefits have been transferred by the SPV back to the originator of the securitisation project and the SPV ceases to exist.

## **Tax rates**

- The standard rate of corporate income tax is 20%.
- The corporate income tax rates for small and medium enterprises (SME) are as follows:

Net profit (Baht)	Tax rates
0 – 300,000	Nil
300,001 – 3,000,000	15%
Over 3,000,000	20%

To be eligible for the reduced rates of tax, the SME must meet the following conditions:

- Paid-up capital on the last day of any accounting period must not exceed Baht 5 million.
- Income from the sale of goods and provision of services must not exceed Baht 30 million in any accounting period.

## **Branch income**

Branches of foreign companies pay income tax at the normal tax rate on locally earned profits only. Branch profits remitted to the foreign head office are subject to an additional tax of 10%.

## **Functional currency**

A company is allowed to keep all its accounting books and records, including the computation of net profit and tax payable, in a foreign functional currency provided that the intention to do so has been notified to the Director-General of the Revenue Department.

All currencies, assets, liabilities and other items in the financial statements as of the closing date of the accounting period preceding that in which the functional currency is adopted or changed (brought forward balances) into the functional currency must be converted at the rate according to the accounting principles used which have been audited and certified by the auditor.

The following conversion methods are applied for calculation of gains/losses on exchange during the year.

- Any currency, asset or liability which has been received or paid during the accounting period must be converted into the functional currency at the market rate on the date of receipt or payment.
- Outstanding currencies, assets and liabilities as of the closing date of the accounting period must be converted into the functional currency at one of the following rates:
  - Mid-rate, or
  - Average buying or selling rate of commercial banks as calculated by the Bank of Thailand.

Any change in the functional currency or the use of the above exchange rates requires the prior approval of the Director-General. Foreign exchange gains or losses arising from a change in the functional currency or conversion of tax payable in the functional currency into Thai currency for payment of tax will be ignored for tax purposes.

While tax assessments, penalties, surcharges and tax refunds will be notified in the functional currency, payments will be made and received in Thai Baht using the mid-rate of exchange as calculated by the Bank of Thailand on the last official day prior to the date of tax payment or prior to the approval of the tax refund being granted.

## Computation of net profit

Net profit must be computed using the accrual basis which, with certain exceptions, generally follows the accounting practice.

### Deductions

- Deductions are allowed for all expenses exclusively incurred for the purpose of acquiring profit or for the purpose of the business unless there is a specific direction in the Revenue Code to the contrary.
- Deductions for royalties, management fees and interest expenses may be claimed provided they are exclusively incurred for the purpose of acquiring profit or for the purpose of the business and do not exceed a reasonable amount.
- Donations to the following organisations are allowed in the amount paid but, in total, must not exceed 2% of net profit.
  - Approved charities or for education, sport or public benefit, including the Technology Development Fund for Education, and qualified social enterprises
  - The Science and Technology Development Fund, the Thailand Research Fund, the Metrology System Development Fund or the Health System Research Fund
  - The Community Forest Partnership for Climate Action Project of the Ministry of Natural Resources and Environment from 1 January 2018 to 31 December 2022
- Donations to political parties are allowed up to a maximum of Baht 50,000.

- Deductible expenses in the following categories are allowed an additional 100% deduction:
  - Expenses up to a maximum of Baht 50,000 for the cost of books or electronic devices purchased for an in-house library.
  - Costs incurred in sending employees for training at certain educational or skill development institutions and in-house training.
  - Expenses incurred in hiring the retired employees of a corporate entity or persons registering with the Labour Department who are aged 60 or more. The eligible expenses for the additional deduction will only be the wages paid that do not exceed Baht 15,000 per person per month. The additional deduction is not allowed in respect of wages paid to any person earning more than Baht 15,000 per month.
  - Expenses on research and development (R&D) for technology and innovation when hiring government agencies or the private sector, as approved by the Director-General of the Revenue Department, provided that the R&D is incurred in Thailand.
  - Expenses or investments in the following assets in the amount paid from 1 January 2020 to 31 December 2022:
    - E-document preparation and receiving systems, computer software, equipment for storing e-certificates, computers or other equipment used together with computers so as to prepare, deliver, receive or store e-tax invoices or e-receipts for the business.

However, this benefit is not available to either a service provider that prepares and remits e-information or a developer of computer software, whether for sale or for providing as a service to others.

- Tax remittance systems, computer software, equipment for storing e-certificates, computers or other equipment used together with computers so as to remit taxes of the business.

This benefit is available to corporate entities that are liable to remit income tax, withholding tax or VAT to the Revenue Department using the e-withholding tax method of remittance, and to a service provider that remits the tax.

- Expenses which are paid to a service provider that prepares and remits e-information, expenses for e-certificates and for use of cloud storage services. These are for the preparation, delivery, receipt or storage of e-tax invoices or e-receipts for the business.

Expenses which are paid to a service provider that remits tax, expenses for e-certificates and for the use of cloud storage services. These are for the use of the e-withholding tax method of remittance for the business.

- Expenses for investment in machinery and computer programs connected with the machinery under the automation system.

The additional deduction is based on the actual amount paid from 1 January 2021 to 31 December 2022.

'Machinery' is defined according to the Machinery Act and should cover most, if not all, forms of industrial, commercial or scientific machinery. However, it does not cover vehicles.

'Automation' means a system that allows two or more machines to work together automatically when controlled by a computer program and there is a data connection between the machinery and the computer program.

- Expenses and donations in the following categories are allowed as a deduction and an additional 100% deduction to the extent that the combined amount does not exceed 10% of net profit before the deduction of donations for charity, public benefit and for education or sport:
  - Expenses paid to support educational programmes under projects approved by the Ministry of Education, e.g. buildings, computers, books, teachers
  - Expenses paid in support of learning and amusement activities, e.g. to construct and maintain children's playgrounds, parks or privately owned sports fields which are open to the public free of charge
  - Donations in the form of either cash or assets to educational institutions in either the public or private sector for providing books or electronic devices to promote reading
  - Donations to the Safe and Creative Media Development Fund and funds relating to art, culture, archives and archaeology
  - Donations to the Justice Fund
  - Donations to state hospitals.
- The following donations are allowed a 200% deduction, but these donations together with other expenses entitled to a 200% deduction subject to a maximum of 10% of the net profit before deduction of expenses for charitable purposes or for public benefit, and expenses for education or for sport:
  - Donations in cash or assets made online to the Thai Red Cross between 1 January 2020 and 31 December 2022

- Donations in cash or assets made online to the Siriraj Foundation and the Chulabhorn Foundation between 30 November 2021 and 31 December 2022.
- Donations made online to the Metrology System Development Fund, the Public Health System Development Fund, the Science and Technology Development Fund, and the Thailand Science Research and Innovation Fund, between 27 May 2021 and 31 December 2022.
- Donations made online either in cash or assets to the Equitable Education Fund from 1 January 2021 to 31 December 2023.
- A 25% additional deduction of the expenses paid between 1 January 2022 and 31 December 2024 for purchasing biodegradable plastic products that fall within the categories prescribed by the Director-General and have received a product certification from the Office of Industrial Economics.
- A 50% additional deduction of the expenses paid for Covid-19 Antigen self-test kits for their employees from 14 September 2021 to 31 March 2022.
- Donations online to the National Vaccine Institute (NVI) to support the research, development, manufacture and distribution of vaccines between 1 January 2021 and 31 December 2023. A deduction is granted for e-donations in cash or assets. However, these donations together with other donations for charity and public benefit must not exceed 2% of net profit.
- A 200% deduction of the cost of the following assets donated between 1 January 2021 and 31 December 2022 to the Personal Development Promotion Centre for Industry 4.0 established by an educational institution.

- Machinery, parts, equipment, and tools for the automation system for industry 4.0
- Computer software connected with machinery for the automation system for industry 4.0

In addition to the above, a further deduction will be granted subject to a threshold amount depending on the revenue of the corporate entity.

However, the total deduction for donations of assets in this category is subject to various conditions and a cap of Baht 100 million.

- Corporate entities carrying on the business of a targeted industry, according to the law governing the enhancement of the competitiveness of the country for targeted industries, are entitled to a 50% additional expense deduction for salaries paid to highly-skilled employees in science, technology, engineering or mathematics according to the employment contract.

The additional deduction is based on the amount paid but not exceeding Baht 100,000 per month from 1 January 2021 to 31 December 2022.

- A 150% additional deduction for expenses for sending employees to receive education or training, or arranging training for their employees, for courses certified by the government authority as prescribed by the Director-General.

This applies to expenses incurred from 1 January 2021 to 31 December 2022.

- SME corporate entities are allowed a 100% additional deduction for expenses paid to a seller, a contractor to make a computer program or a computer program provider which is registered with the Digital Economy Promotion Agency for the purchase or hire

of computer programs, or the cost of using a computer program in the portion not exceeding Baht 100,000 in accounting periods starting on or after 1 January 2021 but not later than 31 December 2022.

The term 'SME' means a corporate entity that has a paid-up capital on the last day of any accounting period not exceeding Baht 5 million and income from the sale of goods and the provision of services not exceeding Baht 30 million in any accounting period.

- Corporate entities are entitled to a 50% additional deduction for expenses paid, up to a maximum of Baht 15,000 per person per month, for employing ex-convicts within three years after their release from prison. This is effective for the accounting period starting on or after 1 January 2021, but not later than 31 December 2021.

### **Non-deductible expenses**

The following are examples of expenses that are not deductible:

- Additions to provisions and reserves
- Contributions to any fund (except a registered provident fund)
- Private expenses and gifts
- Income tax
- VAT (except in certain cases)
- Fines, penalties and surcharges imposed under all tax laws
- The portion of salary paid to a shareholder which exceeds a reasonable amount
- Artificial or fictitious expenses
- Interest on capital, reserves or funds of the company
- Any disbursement where the identity of the recipient cannot be proved by the payer
- Any expenditure determined on and payable out of the profit after the end of an accounting period

- Bad debt written off from a debtor's account which is not consistent with the rules, procedures and conditions prescribed by ministerial regulations
- Any damages recoverable under an insurance or contract of indemnity.

## Depreciation

Deductions for depreciation are allowed as a percentage of cost. If the rate of deduction adopted by a company under its own accounting method is lower than the maximum percentage of cost permitted, a deduction will be allowed only at the rate adopted by the company. The straight-line basis is the method most commonly used by companies, but any generally accepted basis, such as sum-of-the-years-digits or double declining method is permitted. The maximum permitted rates are as follows:

	%
<b>Buildings:</b>	
Durable buildings.....	5
Temporary buildings.....	100
<b>Cost of acquisition of depletable natural resources.....</b>	<b>5</b>
<b>Cost of acquisition of lease rights:</b>	
If there is no written lease agreement or if there is a written lease agreement containing a renewal clause whereby continual renewals are permitted.....	10
If there is a written lease agreement containing no renewal clause or containing a renewal clause which restricts renewable periods to a definitely limited duration.....	(Note 1)
<b>Cost of acquisition of the right in a process, formula, goodwill, trademark, business licence, patent, copyright, or any other right:</b>	
If the period of use is not limited.....	10
If the period of use is limited.....	(Note 2)
<b>Other assets not above mentioned, excluding land and stock-in-trade.....</b>	<b>20</b>

## Notes:

1. Percentage equals 100 divided by the sum of years of the original and renewable lease periods.
2. Percentage equals 100 divided by the number of years of use.

## **Special depreciation methods for certain assets**

Machinery and equipment for research and development may initially be depreciated at 40% of cost with the remaining balance being depreciated at the maximum rate of 20% per annum.

Computer hardware and software may be depreciated within three accounting periods.

## **Special depreciation methods for small and medium enterprises**

Companies or juristic partnerships with fixed assets, excluding land, with a value of no more than Baht 200 million and with no more than 200 employees, are entitled to use the following special depreciation methods:

- Machinery and equipment may initially be depreciated at 40% of cost and the remaining balance at the maximum rate of 20% per annum.
- Computer hardware and software may initially be depreciated at 40% and the remaining balance within three accounting periods.
- Factory buildings may initially be depreciated at 25% and the remaining balance at a maximum rate of 5% per annum.

## **Losses**

Net losses may be carried forward for five accounting periods for offset against future profits from all sources. There is no provision for loss carry-back.

Each company's losses are dealt with separately. There is no form of group relief or relief by consolidation. A change in the shareholding of a company does not affect its tax losses.

## **Withholding tax on domestic payments**

A company, juristic partnership or other juristic person, which pays assessable income to another Thai company, juristic partnership, other juristic person or a foreign company carrying on business in Thailand (through a branch or permanent establishment) must withhold tax from payments of the following types of income at the following rates:

- 3% on royalties for use of intangible assets such as patents, copyrights or any other rights
- 1% on interest paid to all resident corporations (other than a bank or a finance company) and on interest on bonds and debentures paid to a bank or a finance company
- 10% on dividends and share of profits of registered partnerships
- 5% on rent of assets
- 1% on rent of ships, under the law governing the promotion of merchant navy, used for the international carriage of goods
- 3% on fees for professional services
- 3% on fees for hire of work
- 5% on remuneration for hire of work paid to a foreign company without a permanent branch office (see note below)
- 5% on prizes won in contests, competitions, lucky draws or other like activities
- 2% on advertising fees under assessable income category 8
- 3% on rebates or benefits from sales promotion except where goods/services are used for private consumption (not for sale) by the buyer
- 3% on service fees other than fees for hire of work, fares for public transportation, services by hotel and restaurant and life insurance premiums
- 1% on transportation fees
- 1% on non-life insurance premiums

- 1% on payments for genuine diamonds, or other gemstones which have not yet been cut, except where payers are end users
- 0.5% on payments for rice where the payers are exporters
- 0.75% on payments for certain agricultural products, e.g. sheet rubber, cassava, jute or kenaf, maize, sugar cane, coffee beans, oil-palm seeds where the buyers are exporters or manufacturers of any product from these agricultural products
- 1% on payments for aquatic animals, live or otherwise, where the payers are exporters or manufacturers of any product from aquatic animals.

Note:

A permanent branch office is not the same as a 'permanent establishment'. In this case, a foreign company will have a permanent branch office if it meets any one of the following criteria:

- It has ownership of an office in Thailand.
- It carries on other business in Thailand besides engaging in contract work, e.g. purchase and sale of goods.
- It has a registered provident fund set up for the benefit of its employees in Thailand.

The above withholding tax rates have been temporarily reduced from 1 October 2020 to 31 December 2022 provided that the tax is remitted via the e-withholding tax system, as follows:

Reduction of the withholding tax rate from 5% to 2% on payments for the following:

- Rental of assets under category (5), excluding rental of ships used for international carriage of goods
- Prizes won in contests, competitions, lucky draws, or other like activities under category (8)

Reduction of the withholding tax rate from 3% to 2% on payments for the following:

- Income under category (2), e.g. hire of work, service rendered
- Goodwill, copyright or any other rights under category (3)

- Professional fees under category (6)
- Hire of work under categories (7) and (8)
- Provision of services under category (8), excluding advertising, non-life insurance premiums and transportation.
- Prizes, discounts, or any benefits given for the purpose of sales promotion under category (8).

## **Tax credits**

Thai companies can use foreign tax paid on business income or dividends received as a credit against the corporate income tax liability. The credit cannot exceed the amount of Thai tax on the income.

Credit is also given for any Thai tax that has been withheld at source (as noted above) and for the half-year tax paid.

## **Withholding tax on foreign payments**

A final withholding tax is imposed on the remittance of income to foreign companies not carrying on business in Thailand in respect of the following:

• Brokerage, fees for services	15%
• Royalties	15%
• Interest	15%
• Dividends	10%
• Capital gains	15%
• Rental of property	15%
• Liberal professions	15%

The above taxes may be reduced or exempt under double tax treaties.

## **Double tax treaties**

Countries that have concluded double tax treaties with Thailand and the applicable rates of withholding taxes are as follows:

Country of recipient	Dividends %	Interest %	Royalties* %
Armenia	10	10/15 (1)	15
Australia	10	10/15 (1)	15
Austria	10	10/15 (1)	15
Bahrain	10	10/15 (1)	15
Bangladesh	10	10/15 (1)	15
Belarus	10	10/15 (2)	15
Belgium	10	10/15 (1)	5/15 (3)
Bulgaria	10	10/15 (1)	5/15 (4)
Cambodia	10	10/15 (1)	10(5)
Canada	10	10/15 (1)	5/15 (6)
Chile	10	10/15(1)	10/15(7)
China	10	10/15 (1)	15
Cyprus	10	10/15 (8)	5/10/15 (9)
Czech Republic	10	10/15 (1)	5/10/15 (10)
Denmark	10	10/15(1)	5/15 (3)
Estonia	10	10	8/10(11)
Finland	10	10/15 (1)	15
France	10	3/10/15 (12)	0/5/15 (13)
Germany	10	0/10/15 (14)	5/15 (3)
Hong Kong	10	10/15 (15)	5/10/15 (16)
Hungary	10	10/15 (1)	15
India	10	10	10

Country of recipient	Dividends %	Interest %	Royalties* %
Indonesia	10	10/15 (1)	15
Ireland	10	10/15 (15)	5/10/15 (17)
Israel	10	10/15 (1)	5/15 (18)
Italy	10	0/10/15 (19)	5/15 (3)
Japan	10	0/10/15 (20)	15
Korea, Republic of	10	10/15 (15)	5/10/15 (21)
Kuwait	10	10/15 (1)	15
Laos	10	10/15 (1)	15
Luxembourg	10	10/15 (1)	15
Malaysia	10	10/15 (1)	15
Mauritius	10	10/15 (1)	5/15 (4)
Myanmar	10	10	5/10/15 (22)
Nepal	10	10/15 (1)	15
Netherlands	10	10/15 (1)	5/15 (3)
New Zealand	10	10/15 (15)	10/15 (23)
Norway	10	10/15 (1)	5/10/15 (24)
Oman	10	10/15 (25)	15
Pakistan	10	10/15 (1)	0/10/15 (26)
Philippines	10	10/15 (1)	15
Poland	10	10/15 (1)	0/5/15 (27)
Romania	10	10/15 (1)	15
Russia	10	10/15 (28)	15

Country of recipient	Dividends %	Interest %	Royalties* %
Seychelles	10	10/15 (1)	15
Singapore	10	10/15 (15)	5/8/10 (29)
Slovenia	10	10/15(1)	10/15 (30)
South Africa	10	10/15 (1)	15
Spain	10	10/15 (1)	5/8/15 (31)
Sri Lanka	10	10/15 (1)	15
Sweden	10	10/15 (1)	15
Switzerland	10	10/15 (1)	5/10/15 (32)
Taiwan	5/10 (33)	10/15 (1)	10
Tajikistan	10	10	5/10 (3)
Turkey	10	10/15 (1)	15
Ukraine	10	0/10/15 (34)	15
United Arab Emirates	10	10/15 (1)	15
United Kingdom	10	10/15 (1)	5/15 (3)
United States	10	10/15 (15)	5/8/15 (35)
Uzbekistan	10	10/15 (1)	15
Vietnam	10	10/15 (1)	15

\* Royalties are defined in many of Thailand's double tax treaties to include the use of, or the right to use, industrial, commercial or scientific equipment (which would not therefore be treated as business profits taxable only if there is a permanent establishment). In addition, certain consultancy and technical services which transfer 'know-how' may be treated as royalties and not business profits.

Notes:

The numbers in parentheses above refer to the notes below:

1. The 10% rate applies to interest paid to a recipient that is a bank or financial institution (including an insurance company).
2. The 10% rate applies to interest paid (a) to a recipient that is a bank or financial institution (including an insurance company); or (b) with respect to indebtedness arising as a consequence of a sale on credit of any equipment, merchandise or services.
3. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, artistic or scientific work.
4. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, artistic or scientific work excluding cinematograph films and films, tapes or discs for radio or television broadcasting.
5. Fees for technical services, which fall under Article 13, are also subject to tax at the rate of 10%. Fees for technical services mean payments for managerial, technical or consultancy services. Under a protocol signed on 7 September 2017, in the case of Thailand, where a consideration paid for managerial, technical or consultancy services falls under Articles 12 (royalties) and 13, the provisions of Article 13 shall apply.
6. The 5% rate applies to copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work excluding royalties with respect to motion picture films and works on film or videotape for use in connection with television.
7. The 10% rate applies to royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work, or for the use of, or the right to use, industrial, commercial or scientific equipment.
8. The 10% rate applies to interest paid (a) to a recipient that is a bank or financial institution (including an insurance company); (b) in connection with the sale on credit of any industrial, commercial or scientific equipment; or (c) in connection with the sale on credit of any merchandise by one enterprise to another enterprise.

9. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, dramatic, musical, artistic or scientific work including software, cinematograph films or films or tapes used for radio or television broadcasting; and the 10% rate applies to royalties paid for the use of or the right to use industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.
10. The 5% rate applies to royalties paid for the alienation or the use of or the right to use any copyright of literary, artistic or scientific work excluding cinematograph films or films or tapes used for radio or television broadcasting, and the 10% rate for the alienation of any patent, trademark, design, or model, plan, secret formula, or process.
11. The 8% rate applies to royalties paid for the use of or the right to use industrial, commercial or scientific equipment and the 10% rate applies to royalties paid in all other cases.
12. The 3% rate applies to interest paid on loans or credits granted for four years or more with the participation of a financing public institution to a statutory body or to an enterprise in relation to the sale of any equipment or to the survey, the installation or the supply of industrial, commercial or scientific premises and of public works. The 10% rate applies to interest paid to any financial institution.
13. The zero rate applies to royalties paid to a contracting state or state-owned company with respect to films or tapes, and the 5% rate to royalties for the alienation or the use of or the right to use any copyright of literary, artistic or scientific work.
14. The zero rate applies to interest paid to any financial institution wholly owned by the other contracting state, a 'land', a political subdivision, a local authority, or a local administration thereof, and in particular, in the case of the Federal Republic, by the Deutsche Bundesbank or the Kreditanstalt für Wiederaufbau, and in the case of Thailand, by the Bank of Thailand. The 10% rate applies to interest paid to a recipient that is a bank or financial institution (including an insurance company).
15. The 10% rate applies to (a) interest paid to any financial institution (including an insurance company) and (b) interest paid with

respect to indebtedness arising as a consequence of a sale on credit of any equipment, merchandise or services, except where the sale was between persons not dealing with each other at arm's length.

16. The 5% rate applies to royalties paid for the use or the right to use any copyright of literary, artistic or scientific work and the 10% rate for the use or the right to use any patent, trademark, design, or model, plan, secret formula, or process.
17. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, artistic, or scientific work, including software, and motion pictures and works on film, tape or other means of reproduction for use in connection with radio or television broadcasting, and the 10% rate for the use of or the right to use industrial, commercial or scientific equipment or any patent.
18. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, artistic or scientific work excluding cinematograph films or films or tapes used for radio or television broadcasting.
19. The zero rate applies to interest paid to any financial institution wholly owned by the other contracting state, an administrative subdivision, or a local authority thereof. The 10% rate applies to interest paid to a recipient that is a bank or financial institution (including an insurance company).
20. The zero rate applies to interest paid to any financial institution wholly owned by the government. The 10% rate applies to interest paid to a recipient that is a bank or financial institution (including an insurance company).
21. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, artistic or scientific work including software, and motion pictures and works on film, tape or other means of reproduction for use in connection with radio or television broadcasting and the 10% rate for the use of or the right to use any patent, trademark, design, or model, plan, secret formula or process.
22. The 5% rate applies to royalties paid for the use of, or the right to use, any copyrights of literary, artistic, or scientific work, while the

10% rate applies to royalties for the consideration for any services of a managerial or consultancy nature, or for information concerning industrial, commercial or scientific experience.

23. The 10% rate applies to royalties paid for the use of or the right to use any copyright; or the use of, or the right to use, any industrial, scientific or commercial equipment; or the use of, or the right to use, any motion picture film, or film or videotape or any other recording for use in connection with television, or tape or any other recording for use in connection with radio broadcasting; or the reception of, or the right to receive, visual images or sounds, or both, transmitted to the public by satellite or, cable, optic fibre or similar technology; or the use in connection with television or radio broadcasting, or the right to use in connection with television or radio broadcasting, visual images or sounds, or both, transmitted by satellite or cable, optic fibre or similar technology.
24. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, artistic or scientific work and the 10% rate applies to royalties paid for the use or the right to use industrial, commercial or scientific equipment.
25. The 10% rate applies to (a) interest paid to a bank or financial institution (including an insurance company) and (b) interest from a loan or debt claim that is guaranteed by the government.
26. The zero rate applies to royalties paid to a contracting state or a state-owned company with respect to films or tapes, and the 10% rate applies to royalties paid for the alienation or the use of or the right to use any copyright of literary, artistic or scientific work.
27. The zero rate applies to royalties paid to a contracting state or a state-owned company with respect to films or tapes. The 5% rate applies to royalties paid for the alienation or the use of or the right to use any copyright of literary, artistic, or scientific work, excluding cinematograph films or tapes used for television or broadcasting.
28. The 10% rate applies to interest paid to the following recipients (a) in the case of a resident of Russia, any institution having a license to carry on banking operations; and (b) in the case of a resident of Thailand, any financial institution (including an insurance company).

29. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting. The 8% rate applies to royalties paid for the use of or the right to use, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment.
30. The 10% rate applies to royalties paid for the use of, or the right to use, any copyright of literary or artistic work including motion pictures, live broadcasting, film, tape or other means of the use or reproduction in connection with radio and television broadcasting, and for the use of, or the right to use industrial, commercial, or scientific equipment.
31. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, dramatic, musical, artistic or scientific work excluding cinematograph films or films or tapes used for radio or television broadcasting. The 8% rate applies to royalties in consideration of financial leasing for the use of, or the right to use, industrial, commercial or scientific equipment.
32. The 5% rate applies to royalties paid for the alienation or use of, or right to use, any copyright, artistic or scientific work, excluding cinematograph films or films or tapes used for radio or television broadcasting, and the 10% rate for the alienation of any patent, trademark, design or model, plan, secret formula or process.
33. The 5% rate applies if the recipient holds at least 25% of the capital of the company paying the dividend.
34. The zero rate applies to interest paid to any other financial institution established and owned by the government to promote trade and investment. The 10% rate applies to interest paid to a recipient that is a bank or financial institution (including an insurance company).
35. The 5% rate applies to royalties paid for the use of or the right to use any copyright of literary, artistic or scientific work including software, motion pictures and works on film, tape or other means of reproduction for use in connection with radio or television broadcasting. The 8% rate applies to royalties paid for the use of or the right to use industrial, commercial or scientific equipment.

## **Group taxation**

There is no group taxation in Thailand.

## **Holding companies**

There is no specific legislation regarding holding companies.

## **Thin capitalisation**

Under the tax law, there are currently no thin capitalisation or prescribed debt to equity rules in Thailand.

## **Transfer pricing rules**

Specific transfer pricing provisions were introduced into the Revenue Code with effect from accounting periods that started on or after 1 January 2019. Prior to that, the Revenue Department relied on the general income tax provisions and its transfer pricing guidelines to administer the compliance of related party transactions.

The transfer pricing legislation is generally based on the OECD's arm's length principle and provides a definition of related parties, the transfer pricing information reporting requirements as well as the imposition of penalties for the failure to comply with the various disclosure requirements.

### **Arm's length principle**

The transfer pricing rules adopt the arm's length principle. Revenue officers have the power to uplift or reduce taxpayers' revenue and/or expenses to the arm's length price and make assessments for additional taxes, penalties and surcharges. Where transfer pricing adjustments result in a tax shortfall, a secondary adjustment which arises from imposing tax on a constructive transaction, either in the form of a deemed dividend or interest on a deemed loan, would also apply.

If a transfer pricing assessment results in a tax refund, the taxpayer is entitled to claim the refund within 60 days from the date of receiving the tax assessment letter or three years from the last day prescribed by law for filing the tax return.

### Comparability framework

The application of the arm's length principle is based on the comparison of the conditions in controlled transactions (transactions carried out between related parties) and uncontrolled transactions (transactions carried out between independent parties). A controlled transaction is comparable to an uncontrolled transaction if there are no differences between the two transactions that could materially affect prices/profits or if reasonably accurate adjustments can be made to eliminate the impact of the differences.

The five comparability factors that should be considered when performing a comparability analysis are (i) contractual terms, (ii) functions performed, assets employed and risks assumed, (iii) characteristics of property transferred or services provided, (iv) economic circumstances, and (v) business strategies.

### Acceptable transfer pricing methods

The transfer pricing rules endorse the use of five transfer pricing methods in determining the arm's length compensation to a controlled transaction, which are: comparable uncontrolled price, resale price, cost plus, transactional net margin and transactional profit split method.

Other pricing methods may only be used in cases where it can be proven that the five endorsed transfer pricing methods are inappropriate. When other methods are adopted, taxpayers must provide written notification thereof to the Director-General of the Revenue Department within the fiscal period that the other method is used. Taxpayers must also prepare supporting documentation ready for submission to the Revenue officers upon request.

## Benchmarking studies

When performing benchmarking analysis, internal comparables (i.e. the same or similar transactions that a taxpayer has with unrelated parties) must be considered before any external comparable (i.e. the same or similar transactions between independent third parties) can be applied.

The subordinate transfer pricing regulations also allow for local and foreign sources of data when benchmarking with external comparables. However, additional details and guidance are still expected regarding the circumstances under which foreign comparables can be accepted.

## **Definition of related party**

A company or juristic partnership falling under the following criteria would be considered as a related party:

- One party that either directly or indirectly is a shareholder or partner holding at least 50% of the entire capital of another party.
- Shareholders or partners who either directly or indirectly hold at least 50% of the entire capital of one party, are also shareholders or partners either directly or indirectly, and hold at least 50% of the entire capital of another party.
- One party that has a relationship with regard to the capital, management, or control with another party so that one cannot operate independently from the other.

## **Transfer pricing reporting requirements**

Taxpayers with an annual turnover of more than Baht 200 million are required to prepare a transfer pricing report. There are two levels of transfer pricing information to be reported, as follows:

1. Partial disclosure – Taxpayers are required to complete a transfer pricing disclosure form to be submitted online to the Revenue Department at the time of filing their annual tax return, and
2. Full disclosure – Taxpayers are also required to prepare full transfer pricing documentation, which must be maintained for five years from the date of filing the transfer pricing disclosure form and is to be submitted to the Revenue Department if and when requested.

The contents requirements for transfer pricing documentation are applicable for accounting periods beginning on or after 1 January 2021. The items required to be disclosed appear to focus on the transfer pricing local file and do not deviate significantly from the OECD transfer pricing local file requirements.

A penalty of up to Baht 200,000 for each level of transfer pricing information reporting will be imposed on taxpayers if they fail to comply with the reporting requirements (by way of inaccurate or incomplete disclosure of information).

### **Country-by-Country reporting requirements**

Country-by-country reporting (CbCR) has been introduced for entities whose accounting periods begin on or after 1 January 2021.

The following entities must file the CbCR online with the Revenue Department:

1. The ultimate parent entity (UPE) of a Thai MNE group (i.e. a Thai-headquartered company)
2. A foreign entity that carries on business in Thailand and falls under one of the following local filing conditions:
  - The UPE of the MNE group is not obliged to file a CbCR in its jurisdiction.
  - There is no exchange-of-information agreement for CbCR in

- effect between Thailand and the UPE's jurisdiction of tax residence.
- There has been a systematic failure to automatically exchange CbCRs.

The Revenue Department also allows a foreign company to designate a Thai entity to be its surrogate parent entity and file a CbCR on behalf of the group, with certain conditions to be met.

The CbCR is required to be filed within 12 months from the financial year-end in the case where the UPE of a Thai MNE is the filing entity and within 60 days upon request in the case where the filing entity falls under the local filing conditions.

A fine of Baht 2,000 will be imposed on a taxpayer that fails to file the CbCR by the due date.

Furthermore, an MNE group must select a representative entity in Thailand to prepare and file a CbC notification online with the Revenue Department. At present, the official regulations for the CbC notification have not been released.

### **Advance pricing agreements (APAs)**

Bilateral advance pricing agreements are accepted with the covered period generally limited to a maximum of five accounting periods.

Only companies or partnerships incorporated in Thailand, which enter into intra-group transactions with affiliates who are residents of Thailand's treaty partners may apply for an APA.

### **Expected transfer pricing subordinate regulations**

Additional subordinate regulations are expected to be issued to provide clarification and detailed implementation guidance on the following topics:

- The interpretation of 'relationship' and 'control' under the third criterion of the above definition of related parties
- The use of foreign comparables.

## **Tax administration**

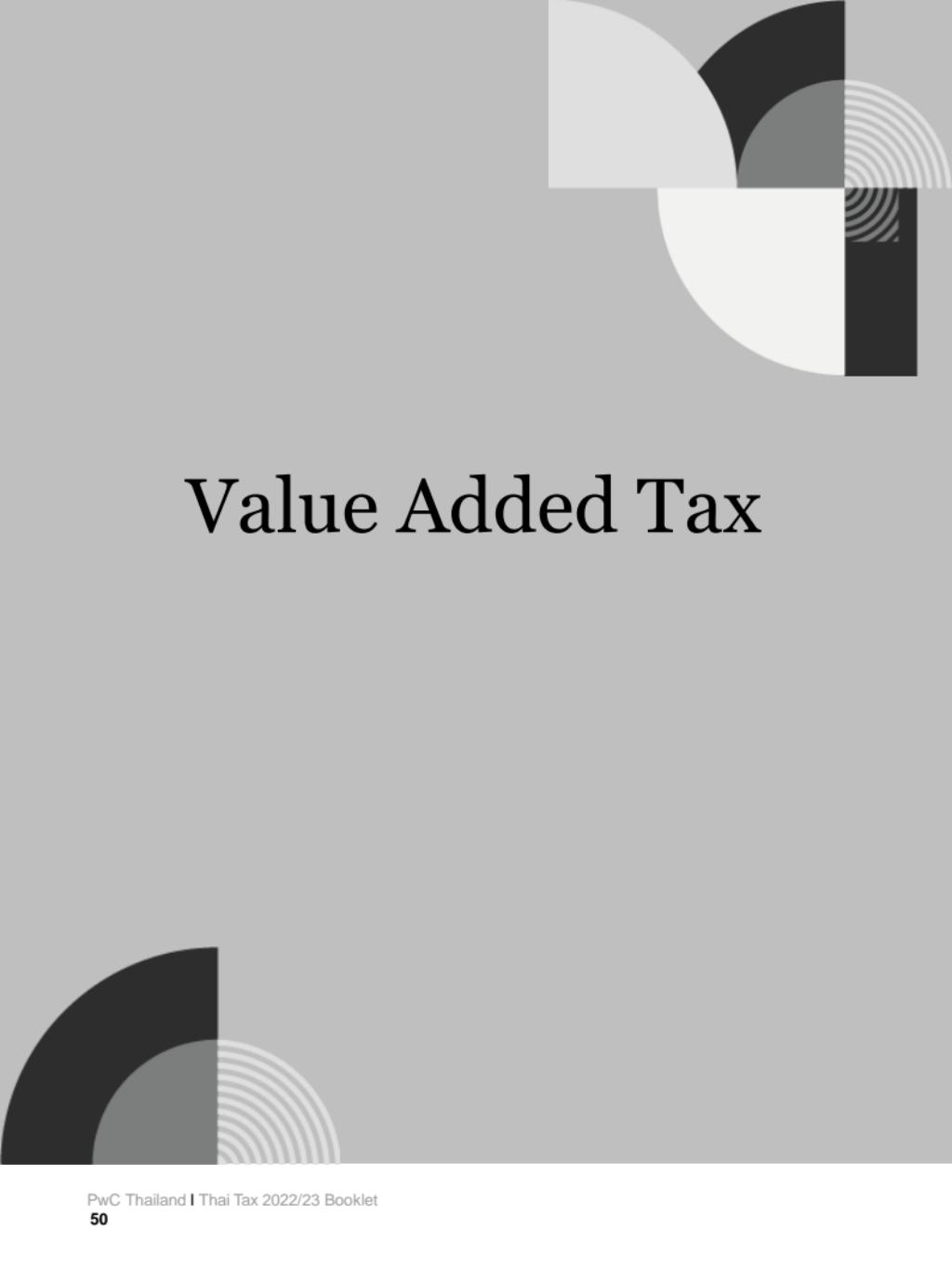
The system is one of self-assessment. A company prepares and files its tax returns by the due dates and at the same time pays the taxes calculated to be due.

The tax year for a company is its accounting period, which must be of 12 months' duration. However, it may be less than 12 months for the first accounting period after incorporation, the accounting period of dissolution or after approval for a change in the accounting period has been received from the Revenue Department and the Business Development Department.

Corporate income tax is paid twice in each year. A half-year return must be filed within two months after the end of the first six months of an accounting period. The tax to be paid is computed on one-half of the estimated profit for the full accounting period except for listed companies, banks, certain other financial institutions and other companies under prescribed conditions, where the tax is based on the actual net profit for the first six months. The annual tax return must be filed within 150 days from the closing date of an accounting period and credit is given for the amount of tax paid at the half-year.

## **Penalties, surcharge and appeal**

Taxpayers who fail to comply with tax administration requirements, (e.g. tax filing) are subject to the same penalties and surcharges as stated in the personal income tax section and to the same appeal procedures.



# Value Added Tax

# Value Added Tax

## Basis of taxation

Value added tax (VAT) is a non-cumulative broad-based consumption tax levied on the supply of goods or provision of services in Thailand by VAT operators. VAT is calculated on the total price of the goods delivered or services provided. A provision of services is deemed to have been made in Thailand if the service is performed in Thailand regardless of where the service is used, or if the service is performed abroad but is used in Thailand. In principle, the input VAT on the purchase of goods or services related to the business of a registered VAT operator may be credited against output VAT.

## Taxpayers

Generally, unless specifically exempt, every person who conducts business in Thailand is liable to pay VAT, regardless of whether the business is conducted by an ordinary person, group of persons, partnership, company or any other juristic person, including the following:

- Manufacturers, importers, wholesalers, retailers and any other persons who sell goods in the course of their business or professional activities
- Persons providing services
- Agents in Thailand of foreign suppliers who sell goods and provide services in the ordinary course of business.

## Registration

Persons who have an annual turnover in excess of Baht 1,800,000 are required to register as VAT operators. Only registered VAT operators are entitled to the credit or refund of input VAT.

## Exemptions

Persons and business activities exempt from VAT include:

- - Taxpayers with total sales of less than Baht 1,800,000
- - Sale of unprocessed agricultural products
- - Sale of goods or products related to agriculture, e.g. fertilisers, animal feed and pesticides
- - Sale of newspapers, magazines and textbooks
- - Sale of animals whether dead or alive

(All above – see note 1 below)

- Educational services, including government and private schools
- Artistic and cultural services
- Medical, auditing and court practice services
- Healthcare services including government and private hospitals and clinics
- Research and technical services
- Libraries, museums, zoos and amateur sports
- Public performers
- Domestic transportation (see note 2 below)
- International transportation by land
- Rental of immovable property
- Services of government agencies and local government which send all revenue before expenses to the government
- Religious activities and public charities
- Imported goods brought into a duty-free zone that are exempt from import duties under the law
- Goods exempt from import duties pursuant to Chapter 4 of the Customs Tariff Code
- Imported goods processed by the Customs Department and returned abroad.

Notes:

1. Businesses undertaking these activities are eligible to be registered as VAT operators.

2. Businesses undertaking local transportation by aircraft or ship as well as transportation of fuel oil through pipes in Thailand are eligible to be registered as VAT operators. Local transportation by ship includes transportation between sea and rivers within Thailand.

## **Tax rates**

- The standard rate of VAT is 10% but the government has the power to reduce the rate. The current reduced rate of 7% is valid until 30 September 2023.
- A 0% rate is applied to the following specific items:
  - Exported goods
  - Services provided in Thailand but used, either partly or wholly, in a foreign country
  - International transportation by aircraft or ship
  - Sale of goods or services to government agencies or state enterprises under foreign aid programmes
  - Sale of goods or services to the United Nations or its specialised agencies as well as embassies and consulates general
  - Sale of goods and services between bonded warehouses or between enterprises located in a duty-free zone or between bonded warehouses and enterprises located in a duty-free zone.

## **Computation**

VAT operators must charge VAT on the sale of goods or the provision of services which is regarded as output tax. The tax paid by VAT operators upon the purchase of goods or services is regarded as input tax. Input tax is creditable against output tax to yield the amount of tax due:

$$\text{Tax due} = \text{Output tax} - \text{Input tax}$$

The excess of output tax over input tax must be remitted to the Revenue Department while taxpayers are entitled to a refund or credit for the excess of input tax over output tax.

## **Reverse charge VAT**

Where a supplier of goods or services resident abroad temporarily supplies either goods or services in Thailand or provides services abroad that are used in Thailand, the payer of their invoices is responsible for remitting the VAT to which they are liable within seven days from the last day of the month in which the payment was made. The VAT so remitted is regarded as input tax and can be utilised in the same manner as the other input tax of the payer.

## **Tax invoices**

VAT operators are required to issue tax invoices indicating the amount of goods or services provided together with the VAT charged. All significant particulars in tax invoices must be completed as prescribed by the law. Incomplete or incorrect information in tax invoices may result in a VAT operator being unable to claim the input tax.

## **Overseas digital service providers**

Non-resident electronic service providers and electronic platform operators, who receive income of more than Baht 1.8 million per year from providing electronic services to non-VAT registered customers in Thailand, must register for VAT, file VAT returns and pay VAT (without deducting input tax) via the Revenue Department's online system.

These taxpayers are not required to issue tax invoices or prepare input tax reports.

The following are the key conditions for VAT collection:

- Digital services are provided from abroad

- Services are provided by electronic means and are used by a customer in Thailand
- The customer in Thailand is not a VAT registrant.

## **Tax administration**

### **Returns**

VAT operators are required to file monthly tax returns no later than the 15th day of the following month.

### **Documents and records**

Tax invoices received and copies of tax invoices issued must be maintained as well as relevant documents and records. For instance, bookkeeping and goods and raw materials records must be properly maintained at the place of business of VAT operators at all times.

### **Penalties and surcharge**

- Failure to register for VAT or businesses continuing after their VAT registration has been revoked, the penalty is 200% of the tax due (but not less than Baht 1,000 per month).
- Failure to file monthly VAT returns within the time limit, the penalty is 200% of the tax due.
- Miscalculation of the amount of tax in tax return filing, the penalty is 100% of the tax underpaid.
- Misstatement of the amount of output tax or input tax, the penalty is 100% of the deficient output tax or the excess input tax.
- Failure to issue a tax invoice to a purchaser, the penalty is 200% of the tax due.
- Failure to prepare the required reports, the penalty is 200% of the tax due.
- An additional surcharge of 1.5% per month of the tax underpaid is levied subject to a maximum equal to the amount of the tax due.



# Specific Business Tax



# Specific Business Tax

Due to the difficulty in determining the value added of certain businesses for the purpose of assessing VAT, an alternative tax levy on services, especially in the financial services sector, was introduced in tandem with the VAT regime. Specific business tax (SBT) is collected on gross revenue at fixed rates.

## Taxpayers

The following persons who are conducting transactions subject to SBT in the regular course of their business are required to register as SBT operators:

- Individuals, including a non-juristic body of persons
- Corporate entities
- Government agencies or cooperatives

## Businesses subject to SBT and applicable rates

	%
• Commercial banking, financial and credit foncier business	3.0*
• Life insurance	2.5
• Pawnshop brokerage	2.5
• Sale of immovable property, real estate	3.0
• Sale of securities in the stock exchange	0.1**
• Business with regular transactions similar to commercial banking	3.0

\* The rate of SBT has been reduced from 3% to 0.01% in respect of certain items of banking income.

\*\* Currently exempt from SBT

An additional 10% of the SBT rate is levied as municipality tax.

The sale of futures contracts in accordance with the laws governing agricultural futures trading on the Agricultural Futures Exchange of Thailand (AFET) and the sale of derivatives in accordance with the laws governing derivatives on the Thailand Futures Exchange (TFEX) are exempt from SBT.

## **Tax administration**

Businesses subject to SBT are required to file monthly tax returns no later than the 15th day of the following month.

## **Penalties and surcharge**

- Failure to register for SBT, the penalty is 200% of the tax due.
- Failure to file monthly SBT returns, the penalty is 200% of the tax due.
- Incorrect or underpayment of tax in monthly tax filing, the penalty is 100% of the tax underpaid.
- An additional surcharge of 1.5% per month of the tax underpaid is levied subject to a maximum equal to the amount of the tax due.



# Stamp Duty



# Stamp Duty

## Basis of taxation

Stamp duty is levied on the execution of 28 different types of documents or instruments specified in the stamp duty schedule in the Revenue Code.

## Rates

The rates vary according to the nature of the documents or instruments. The rates range from Baht 1 per Baht 1,000 of value on most contracts and agreements to a fixed amount per instrument on most commercial and other documents. Stamp duty must be duly stamped at the rate specified in the stamp duty schedule.

## Documents and instruments subject to stamp duty

- Contracts/agreements
  - Lease of land or buildings
  - Hire purchase
  - Hire of work
  - Loan
  - Partnership contract
- Financial/commercial documents
  - Transfer of shares/debentures
  - Bill of exchange
  - Promissory note
  - Bill of lading
  - Share or debenture certificate
  - Cheque/traveller's cheque
  - Letter of credit
  - Receipt for interest bearing bank deposit
  - Carrier's receipt
  - Suretyship

- Pledge
- Warehouse receipt
- Delivery order
- Agency/power of attorney
- Duplicate of original document
- Award given by arbitrator
- Memorandum/Articles of Association of a limited company
- Proxy for voting
- Policy of insurance
- Receipt in connection with transfer of right in immovable property which gives rise to its registration
- Receipt in connection with sale, transfer of ownership or hire purchase of a vehicle

### **Payment of stamp duty and surcharge**

In most cases, the recipient of the consideration under the instrument is liable to pay the stamp duty. Stamp duty is paid by way of affixing the stamps on the instrument and crossing them out. However, certain instruments subject to stamp duty are required to have the stamp duty paid in cash to the Revenue Department instead. These instruments include, but are not limited to, the following:

- Lease of land, buildings, other construction or floating rafts with rental of Baht 1 million or more
- Hire of work agreement with remuneration of Baht 1 million or more

The stamp duty must be paid within 15 days from the date on which an instrument is executed in Thailand except that certain taxpayers, e.g. financial institutions and insurance companies, are required to pay the stamp duty on certain instruments in cash, twice per month, i.e. by the 22nd of the month for those executed during the first half of the month and by the 7th of the following month for those executed during the second half of the prior month.

Most instruments subject to stamp duty that are in the form of e-instruments are required to be filed and have the stamp duty paid in cash via the internet. In this case, the filing of the return and payment can be made before the execution of the instrument or within 15 days from the date following that on which the instrument was executed.

An alternative means of filing the stamp duty returns of these e-instruments that are executed between 1 July 2019 and 31 December 2022 is allowed whereby payment can be made in cash at the Revenue Area Office.

Furthermore, the instruments referred to above, which are executed in hard copy between 29 September 2020 and 31 December 2022 are allowed to have the stamp duty paid via the internet.

Failure to pay the stamp duty and affix the stamps on a timely basis is subject to a surcharge ranging from 200% to 600% of the duty payable. Unstamped documents or instruments are not admissible as evidence in a civil lawsuit.



# Customs Duties



# Customs Duties

## Basis of taxation

Customs duties are imposed under the Customs Act and the Customs Tariff Decree and are collected on both imports and a limited number of exports. Classification of imports is based on the Harmonised Commodity Description and Coding System (the so-called 'Harmonised System'). Thailand has adopted the ASEAN Harmonised Tariff Nomenclature (AHTN) 2022, which is based on the Harmonised System 2022, as its import tariff nomenclature.

Duties are levied on a specific or an ad valorem basis, whichever is the higher, and the applied ad valorem duties range between 0% and 80%. Exemptions from import duties are available on certain items of goods as prescribed in the Customs Tariff Decree. Preferential duty rates are available on imported goods from countries that have a preferential free trade agreement (FTA) with Thailand.

Currently, Thailand has FTAs with the following countries:

- ASEAN member states (Singapore, Vietnam, Malaysia, Indonesia, Philippines, Cambodia, Laos, Myanmar, and Brunei)
- Australia
- Chile
- India
- Japan
- New Zealand
- Peru

Also, as a member of ASEAN, Thailand has preferential trade agreements with the following countries:

- Australia and New Zealand
- China
- Hong Kong
- India
- Japan
- Korea

Generally, the value of imports is based on their cost, insurance, and freight (CIF), whereas exported goods are based on their free on board (FOB) amount.

Thailand has implemented the World Trade Organisation (WTO) valuation agreement. The primary basis for the customs value is the transaction value, which is the price actually paid or payable for the goods when sold for export, subject to adjustments for certain elements that are considered to form a part of the value for customs purposes or that can be deducted from the value of the imported goods (e.g. the cost of transportation after the importation, duties, and taxes associated with the import).

Elements that may need to be added include royalties and licence fees that are related to the goods and paid as a condition of sale, proceeds from subsequent resale in the importing country, and the value of goods or services supplied by the buyer, such as design or development fees related to the imported goods. If the declared price is evidently low or is unlikely to be the true value of these goods, Thai Customs will likely dispute the declared price.

## **Customs controls and procedures**

Customs procedures for goods arriving in Thailand in any manner are similar to those existing in most other countries. An importer is required to file an entry form together with other requisite documents, including a bill of lading, invoice, and packing list via the e-Customs system.

Customs duties are due upon the arrival of the vessel carrying the imported goods, and goods may be stored in a Customs bonded warehouse for up to 45 days with no submission of an import entry and 60 days in the case of submission of an import entry. Landing and storage charges must be paid before the goods are released.

## **Customs incentive schemes**

Various customs incentive schemes, each with its own specific conditions and duty privileges, are available, including the following:

- Duty and tax compensation (tax coupons)
- Duty drawback for imported raw materials used in export production
- Duty drawback for re-export in the same state
- Free zones (Customs or Industrial Estate Authority of Thailand free zones)
- Manufacturing bonded warehouses
- General bonded warehouses
- Board of Investment (BOI) promotion
- Preferential import duties under FTAs.

## **Offences and penalties**

Although, technically, an offence against the customs law is a criminal offence, in practice, legal procedures are usually concerned with the recovery of tax arrears and fines. Offences include non-compliance with customs procedures, false declarations, and the most serious offence of smuggling and evasion of customs duties. Statutory penalties are as prescribed by the relevant provisions of the Customs Act. Where Customs and the offender agree to settle the case at the Customs level (i.e. waiver of prosecution), the penalties would be in accordance with the settlement criteria as prescribed by the Director-General of the Customs Department. Currently, a duty evasion offence would typically be settled with a fine of from 50% to 200% of

the duty shortfall based on the import entry. The VAT penalty would also be applied proportionally based on the duty fine. Duty and VAT surcharges (capped at the amount of the shortfall) would also apply in this respect.

For import licensing errors, the settlement criteria would be the surrendering of the goods or a fine in lieu thereof based on the value of the goods. For offences related to smuggling, the penalties are based on a multiple of the value of the goods.



# Excise Tax



# Excise Tax

## Basis of taxation

Excise tax is a form of consumption tax that is imposed on the sale of a selected range of services and goods (whether manufactured locally or imported) that are considered luxuries. The tax liability arises on locally manufactured goods when leaving the factory and at the time of importation for imported goods.

The excise tax (ET) calculation is based on both ad valorem rates (a percentage of the suggested retail price [SRP]) and/or specific rates (based on the quantity or weight of the goods). The excise tax formula varies depending on type of excise taxable products, for example:

- $(SRP \times ET \text{ rate})$  is applicable for motor vehicles, motorcycles and cosmetic products.
- $(\text{Specific rate} \times \text{quantity})$  is applicable for petroleum oil products.
- $(SRP \times ET \text{ rate}) + (\text{specific rate} \times \text{quantity})$  is applicable for non-alcoholic beverages and tobacco products.
- $(SRP \times ET \text{ rate}) + (\text{specific rate} \times \text{quantity} \times \text{degree of pure alcohol})$  is applicable for alcoholic beverages.

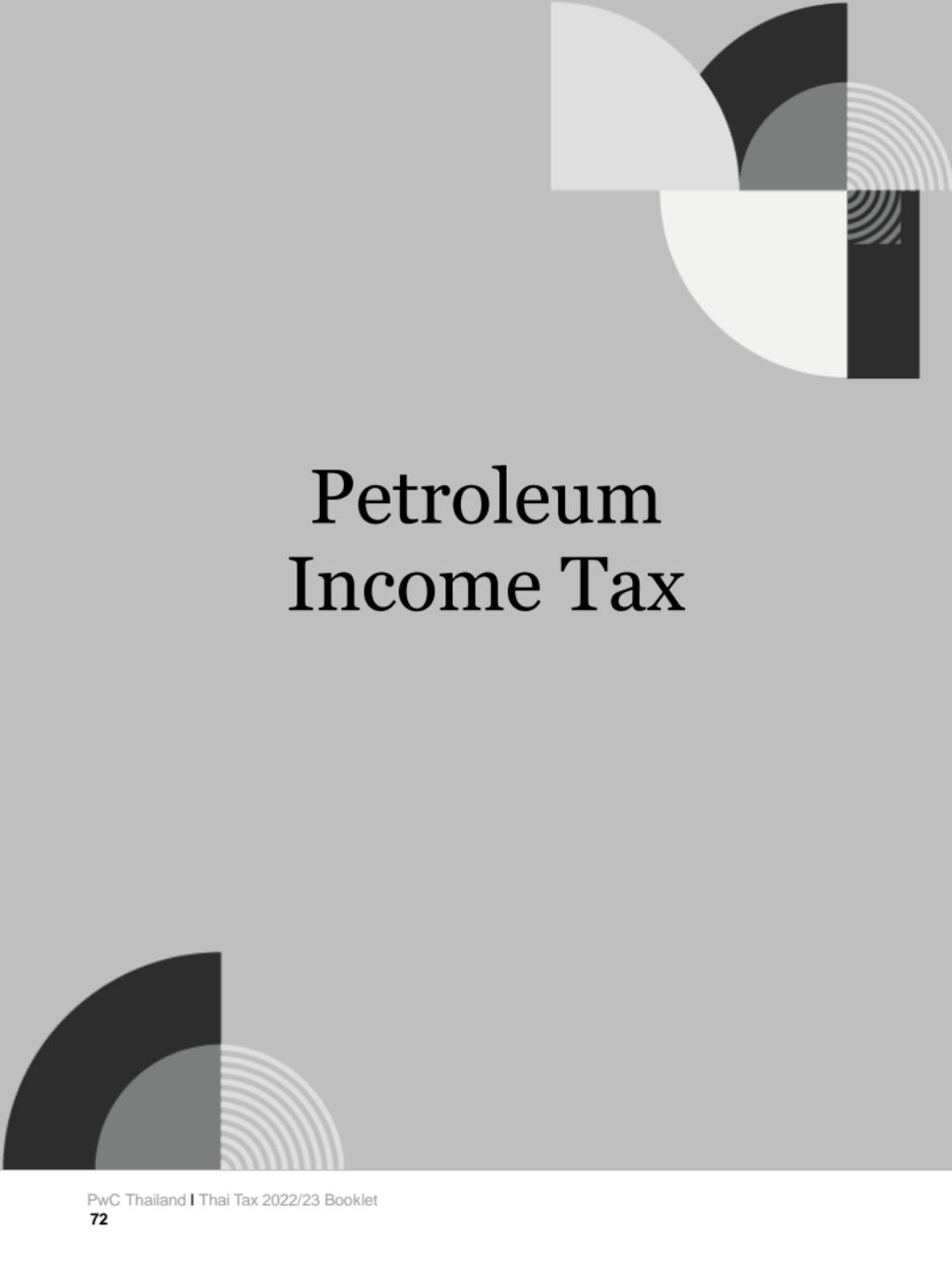
## Taxable goods and services

Goods/services	Ad valorem rate (%)	Specific rate
Petroleum and petroleum products	0	Baht 0 to Baht 6.5 per litre or kilogram
Certain non-alcoholic beverages	0 to 14	Baht 0 to Baht 44 per litre
Certain electrical appliances	0	-

Goods/services	Ad valorem rate (%)	Specific rate
Batteries	0 to 8	-
Crystal glassware	0	-
Motor vehicles	0 to 40	-
Motorcycles	0 to 20	-
Boats	0	-
Perfume products and cosmetics	0 to 8	-
Woollen carpets	0	-
Marble and granite	0	-
Ozone depleting substances/CFCs	0 to 30	-
Alcoholic beverages	0 to 22	Baht 0 to Baht 1,500 per litre of pure alcohol
Cigarettes containing tobacco	0 to 40	Baht 0.005 to Baht 1.2 per piece or gram
Playing cards	0	Baht 2 to Baht 30 per 100 cards
Entertainment services	0 to 10	-
Racecourses and lotto	0 to 20	-
Golf courses	0 to 10	-
Telecommunications business	0	-

In addition to the excise tax, an interior tax is also levied by the Excise Department at the rate of 10% of the excise tax payable. Other taxes, such as the health tax and Thai Public Broadcasting Service tax (TPBS tax or TV tax), may apply to certain specified products in the categories of cigarettes and alcoholic beverages.

The manufacturer of the products must file a return and remit the tax due prior to taking the goods from the factory or bonded warehouse. If a VAT liability arises before the goods are taken out of these locations, the manufacturer must file a return and remit the excise tax to the Excise Department within 15 days from the end of the month.



# Petroleum Income Tax

# Petroleum Income Tax

## Basis of taxation

International oil companies are permitted to engage in exploration and production activities in Thailand under a concession, a production sharing contract or a service contract.

Taxation on income from petroleum operations is imposed on petroleum concessionaire companies and production sharing producers by the Petroleum Income Tax Acts (PITA). Petroleum companies under a service contract are not taxed under the PITA but under the Revenue Code.

Companies taxed under the PITA are exempt from taxes and duties on income imposed under the Revenue Code and under any other laws. The exemption applies provided that the company pays taxes and duties on income subject to the PITA or on dividends paid out of income subject to the PITA.

## Taxable income

Petroleum companies under a concession are taxed at the rate of 50% of their annual net profit from petroleum operations, including profit from the transfer of their concession interests and other activities incidental to the petroleum operations. Deductions are allowed for 'ordinary and necessary' business expenses, as well as depreciation on capital expenditure, petroleum royalties, and other charges. Certain types of expenses are specifically disallowed for deduction, including interest.

A production sharing producer is taxed at the rate of 20% of the annual net profit derived from its petroleum business, including profits derived from the transfer of interests in the nature of rights, annuity or any other recurring income as a consequence thereof.

## **Functional currency**

Petroleum companies subject to PITA, including companies that have entered into a production sharing contract, can adopt (with the permission of the Director-General of the Revenue Department) a foreign functional currency for preparing their accounting books and records and keep them in a foreign language. Where this is adopted, the foreign functional currency must be used when calculating the net profit subject to petroleum income tax.

## **Tax administration**

Taxpayers must file an annual tax return at the local Revenue office within five months from the closing date of each accounting period. A half-year tax return must be filed by all Petroleum Companies other than those under the PITA 1 regime.

## **Penalties and surcharge**

Failure to file accurate and timely returns will result in the imposition of penalties and a surcharge. However, the penalties and surcharge can be waived or reduced at the discretion of the Revenue Department where there is no wilful evasion.

Where the foreign functional currency is adopted for preparing the accounting books and records, the Revenue Department will assess taxes, penalties and surcharge in the functional currency adopted by the company.



# Local Taxes



# Local Taxes

## **Basis of taxation**

Thailand is divided into 77 provinces which are each administered by a local autonomous authority, the municipality. The municipalities, including the cities of Bangkok and Pattaya, currently impose two major local taxes, namely the land and building tax and the signboard tax.

## **Land and building tax**

The following persons are subject to the tax:

- Individuals or juristic persons who own land or buildings
- Individuals or juristic persons who possess or use state land or buildings
- A person who is obligated to pay the tax on behalf of the taxpayer, e.g. executor, heir, legal representative, curator, legal guardian, authorised representative of a juristic person, liquidator or one of the co-owners of the properties subject to tax.

An individual or juristic person, regardless of nationality, who owns or possesses land or buildings on 1 January in any year is obligated to pay the tax for that year. In the case where the land and buildings are owned by separate persons, both the owner of the land and the owner of the buildings are subject to the land and building tax on the properties they own.

The following properties are subject to the tax:

- Land including mountains and water basins
- Buildings, where a person can reside or utilise, or use for the storage of goods, or for industrial or commercial activities

- Condominium units under the Condominium Act, whereby title deeds of the units are issued
- Rafts where a person can reside or use for seeking benefit.

The following properties are exempt from the tax:

- Property owned by the state or government agencies for their own use or public purposes, but not for seeking benefit
- Property on which embassies, consulates, the United Nations, the UN specialised agencies or offices of other international agencies are located
- Property of the Thai Red Cross
- Property for religious use, but not for seeking benefit
- Property used for public cremation without remuneration
- Property belonging to a foundation or charitable organisation, as prescribed by the Minister of Finance, that is not for seeking benefit
- Property which is privately owned but is allowed to be used by the government for public purposes according to the criteria and conditions prescribed by the Ministry of Finance
- Property for common use by the owners of condominium units
- Land for public utilities under the law governing land apportionment
- Land for public utilities under the law governing industrial estates
- Other property as prescribed in ministerial regulations.

### **Tax base and tax rates**

The tax base is the appraised value of the land, buildings or condominium units used for collecting fees under the Land Code. The amount of tax to be paid is the appraised value less the part that is exempt from the tax (see below) multiplied by the tax rate.

The statutory maximum tax rates range from 0.15% to 3% depending on the purpose of use, while the actual rates to be applied each year will be published in a royal decree.

In addition, a municipal administrative body is empowered to issue regulations prescribing tax rates higher than those published in the royal decree for the land and buildings situated in its jurisdiction, provided that the rates do not exceed the above statutory maximum rates.

The following properties are eligible for a 50% or 90% reduction in the tax rates:

#### Eligible for 50% reduction

- Land with buildings, construction or condominiums that the owners have acquired or possessed through inheritance or the registration of title/ownership of the land with the Land Department before 13 March 2019, and which are used for residential purposes by individual (natural person) owners or occupants whose names appear on the house registration.
- Power plants and the land on which a power plant is located, including land and other buildings connected to the power plant
- Dams for electricity generation and areas connected to the dams.

#### Eligible for 90% reduction

- Foreclosed immovable properties possessed by agencies specified by royal decree, e.g. financial institutions and asset management companies, for less than five years
- Housing or industrial projects under development for a period not exceeding three years from the date of receiving approval for land allocation
- Land or construction that is part of a condominium development for a period not exceeding three years from the date of receiving approval for construction
- Industrial estates under development for a period not exceeding three years from the date of receiving approval for establishment

- Land or building for development for which entrepreneurs have obtained approval under the land development law, condominium law or the Industrial Estate Authority of Thailand law, which remains unsold for two years after 13 March 2019
- Land or construction for the purpose of higher educational institutions
- Land or construction for private schools, such as formal schools, religious schools, and mosque-based Islamic education centres
- Land or buildings for general public interest, such as sports grounds, zoos, theme parks, parking facilities for the Mass Rapid Transit Authority of Thailand and public bus parking lots
- Airport runways, taxiways, and aprons
- Roads, elevated expressways and concession highways.

If land and buildings are used for various purposes, the local municipality will collect the tax based on the proportion of the purpose of usage according to the criteria and methods set by the Ministry of Finance and Ministry of Interior.

The local municipality is required to announce the appraised value of land and buildings, the tax rates to be collected, and other necessary details for the collection of the tax prior to 1 February of each year according to the criteria and method prescribed in the ministerial regulation.

## **Tax exemptions**

An individual who owns land or buildings in a local municipal area for agricultural activities which have a total value of not more than Baht 50 million is exempted from the tax.

An individual who owns land and buildings for residential purposes which have a value of not more than Baht 50 million, and his/her name is in the house registration on 1 January in any year, is exempted from the tax. However, if an individual owns only the building and uses it for residential purposes with his/her name in the

house registration on 1 January of any year, and which has a value of not more than Baht 10 million, he/she is exempted from the tax.

## **Tax assessment and tax payment**

The land and building tax is levied on an annual (calendar year) basis and classified as 'tax assessed by the authorities' whereby the local municipal authority sends a tax assessment letter to the taxpayer before the end of February of each year. The taxpayer must pay the tax so assessed before the end of April each year.

## **Tax relief for the first three years**

For the first three years of tax collection under the Act (2020-2022):

- an individual owner of land or buildings, which are used for agricultural activities, is exempt from the tax.
- where a taxpayer is assessed for the land and building tax in an amount that is higher than the year before the tax under this Act is to be first collected, the taxpayer will be entitled to pay the same amount of tax as in the prior year plus 25% of the difference for the first year, 50% for the second year and 75% for the third year.

## **Signboard tax**

An annual signboard tax is imposed on signs or billboards, which display a name, trademark or product for the purpose of advertising or providing information about a business.

Owners of signboards are subject to the tax, and the rate of tax varies according to the size of the board and the language written on the board. Currently, reduced rates are in force. Signboards that display Thai words are levied at the rate of Baht 5-10 per 500 sq. cm. whilst signboards displaying both Thai and foreign words are taxed at Baht

26-52 per 500 sq. cm. and, for foreign words alone or Thai words below foreign words, the rate is Baht 50-52 per 500 sq. cm.

The following categories of signboard are exempt from the tax:

- in public places or organisations owned by the government
- in private schools within the compound of the schools
- for religious bodies or charitable organisations and associations
- erected within the area of occasional fairs
- displayed in theatres or movie houses which publicise shows
- on products or containers
- that are confined to the internal place of a business
- farmers' produce signs
- attached to a vehicle, man, or animal

Owners of signboards are required to file tax returns in March of each year and the tax must be paid within 15 days after notification of the tax assessment has been issued.

In the case of failure to file a tax return, a surcharge at the rate of 10% of the signboard tax payable will be imposed.

In the case of failure to pay signboard tax, a surcharge at the rate of 2% per month of the tax payable would also be charged. A failure to pay tax may result in the seizure and sale of the property by the local authorities in order to collect the arrears.



# Inheritance Tax



# Inheritance Tax

A legacy received by an individual or a juristic entity from a testator is subject to inheritance tax. The following individuals are subject to the tax:

- Persons of Thai nationality
- Persons of non-Thai nationality with a domicile in Thailand under the immigration law
- Persons of non-Thai nationality receiving an inheritance which is an asset situated in Thailand.

A juristic entity subject to inheritance tax is one that is incorporated in Thailand or one that is more than 50% held or controlled by Thai nationals.

The recipient of a legacy is subject to inheritance tax only on the value that exceeds Baht 100 million obtained from each testator together either once or on several occasions.

The inheritance tax rate is 10% except for heirs who are ascendants or descendants of the testator in which case the rate is 5%. The tax is payable within 150 days from the date of the receipt of the legacy. Legacies received by the spouse of a testator are exempt from the tax.

Property subject to the inheritance tax comprises immovable property, securities according to the Securities and Exchange law, bank deposit accounts or other money of a similar nature which the testators have the right to call back or claim from financial institutions or persons who hold the money and registered vehicles.



# Tax Incentives



# Tax Incentives

## **The Board of Investment**

Under the Investment Promotion Act of 1977 (including its amendment no. 4 of 2017) and the Competitive Enhancement Act of 2017, the Board of Investment (BOI) is authorised to grant incentives and privileges to qualified investments. An investor entitled to investment incentives from the BOI under the Investment Promotion Act must be a limited company, foundation or cooperative organised under the Thai law. However, an investor under the Competitive Enhancement Act can only be in the form of a limited company.

The present criteria for investment promotion became effective on 1 January 2015 while the status of existing promotional privileges already granted did not change.

To relax the limitation on foreign shareholding and to facilitate investors in making their investment, the following criteria are currently used by the BOI:

- For a project in agriculture, animal husbandry, fishery, mineral exploration and mining and service businesses under Schedule 1 of the Foreign Business Act of 1999, Thai nationals must hold not less than 51% of the registered capital.
- For manufacturing projects, foreign investors may hold a majority or all of the shares in promoted projects.
- The BOI may specify the shareholding of foreign investors in promoted projects when it is deemed appropriate.

With effect from 25 January 2017, the amended Investment Promotion Act offers a maximum corporate income tax exemption period of 13 years, and from 14 February 2017 the Competitive Enhancement Act extends the exemption period to a maximum of 15 years. In addition, it provides for a competitive enhancement fund of

Baht 10 billion which is intended to lure high-value investors in industries using advanced technologies, geared towards innovation and research and development.

However, obtaining privileges under both Acts is not feasible. The investor will only be allowed to utilise the privileges under one of the Acts.

The BOI provides tax and non-tax incentives under both Acts as well as various guarantees and protection measures which vary with the nature and importance of the activities, project locations, and other criteria.

The following tax incentives may be granted to investors:

- Exemption from or reduction of import duties on imported machinery
- Exemption from import duties on raw and essential materials imported for manufacturing for export
- Reduction of import duties on raw and essential materials by up to 90% for use in manufacturing for domestic sale
- Exemption from import duties on items used for R&D
- Exemption from corporate income tax with or without a cap equal to or more than the amount of the investment, excluding the cost of land and working capital, for up to 15 years, depending on the applicable law, the promoted activity and the location
- 50% reduction in the corporate income tax rate for a maximum of five years from the date on which the tax holiday expires
- Exclusion of dividends received from promoted enterprises from taxable income during the period of corporate income tax exemption and within six months from the date on which the tax exemption period expires
- Double deduction of the cost of transportation, electricity, and water supply for ten years from the date on which revenue was first derived from the promoted activity.

- Deduction of 25% of the project's infrastructure installation or construction costs in addition to the normal depreciation; the deduction can be made in one or several years within ten years from the date on which revenue was first derived from the promoted activity

Additional incentives based on the value of a project (merit-based incentives) are also available, as detailed below, in order to motivate investors applying under the Investment Promotion Act to invest in or spend on activities that will benefit the country or the industry as a whole.

### **Merit on decentralisation**

The BOI grants an additional decentralisation merit for businesses that are located in 20 targeted provinces, which includes the following incentives:

- A further three years' tax exemption period from the standard incentives, but not exceeding 13 years in total. With the exception of the targeted core activities, those activities that have eight years' tax incentives will receive a reduction of 50% of the corporate income tax rate on net profit derived from the promoted activity for five years after the termination of the normal income tax holiday or from the date of earning income if no tax holiday is granted.
- A double deduction of the cost of transportation, electricity and water supply for ten years from the date on which revenue was first derived from the promoted activity.
- A 25% deduction of the project's infrastructure installation or construction costs in addition to normal depreciation. The deduction can be made from the net profit of one or several years within ten years from the date on which revenue was first derived from the promoted activity.

## **Merit on research and development**

The BOI will grant an additional investment cap of up to 300% of the permitted expenses incurred for internal R&D, the provision of advance training to employees, or the development of local suppliers and a further tax exemption period of up to three years (not exceeding 13 years in total).

## **Merit on industrial area development**

The BOI will grant one additional year of tax exemption for activities that have tax incentives and are located within an industrial estate or promoted industrial zone. However, the total period of tax exemption will not exceed eight years, except for activities under technology and innovation development, which will be entitled to a maximum benefit of 11 years corporate income tax exemption without any cap.

## **Targeted core technologies and enabling service**

The BOI has also designated activities as targeted core technologies which, together with the enabling service of research and development, are entitled to a maximum benefit of 13 years of corporate income tax exemption without any cap. The targeted core technologies are as follows:

- Biotechnology
- Nanotechnology
- Advanced material technology
- Digital technology

The enabling service of research and development will support the targeted core technologies in the following industries:

- Bio and medical
- Advanced manufacturing

- Basic and supporting
- Creative and digital

## **Other incentives, guarantees and protection measures**

Apart from the tax incentives, other incentives granted to a promoted enterprise include permission to bring in foreigners to engage in investment feasibility studies, to bring in foreign technicians and experts to work on promoted projects, to own land to undertake the promoted activities and to remit foreign currency abroad.

The BOI provides guarantees against nationalisation, competition from new state enterprises, state monopolisation of the sale of products similar to those produced by the promoted project, price controls and tax exempt imports by government agencies or state enterprises.

Protection measures include the imposition of a surcharge on imports, import bans on competing products and the authority of the Chairman of the BOI to order any action or tax relief measures for the benefit of promoted projects.

## **Special economic development zones**

Special economic development zones (SEZ) are border areas, whether inside or outside of industrial estates, to create economic connectivity with neighbouring countries.

SEZ include certain areas (sub-districts) in the provinces of Trat, Tak, Mukdahan, Songkhla, Sa Kaew, Nong Khai, Kanchanaburi, Chiang Rai, Nakhon Phanom and Narathiwat.

The BOI has granted tax incentives for investment in eligible target and general activities in the SEZ.

To be eligible for the tax privileges, a number of general and specific conditions are required to be fulfilled, including the use of modern production processes and new machinery, paid-up share capital at the required amount, adequate environment protection systems, debt to equity ratio not exceeding 3:1 and the required area to operate the business.

The following tax incentives are available for eligible target activities:

- Exemption from corporate income tax for a maximum period of eight years, with or without a cap equal to the cost of the investment (excluding cost of land and working capital)
- 50% reduction in the corporate income tax rate for five years from the date on which the tax holiday expires
- Double deduction of the cost of transportation, electricity and water supply for a period of ten years from the date on which revenue from the BOI business was first generated
- A 25% deduction of the investment cost of the installation or construction of facilities in addition to normal depreciation
- Exemption from import duty on machinery
- Exemption from import duty on raw materials and essential goods used in the production of goods for export for a period of five years.

Permission will be granted to employ foreign unskilled workers in the promoted project according to the conditions prescribed by the BOI.

The following tax incentives are available for eligible general activities:

- Corporate income tax exemption for an additional three years, but not exceeding eight years in total
- 50% reduction in the corporate income tax rate for five years from the date on which the tax holiday expires for certain specified activities which are entitled to eight years' tax exemption

- Other incentives are the same as those for the above eligible target activities.

Applications to obtain investment promotion in the SEZ must be submitted by 30 December 2022.

## **IEAT free zone**

Under the Industrial Estate Authority of Thailand (IEAT) law, the free zone is designated for the operation of industrial and commercial activities or other businesses relating thereto, for the purpose of the economy, national security, public well-being, environmental management or other necessities as prescribed by the Board of the IEAT, whereby goods taken into the area will be entitled to additional rights and privileges on tax and duty as well as special fees as provided in the law.

Industrial operators in an IEAT free zone will be granted additional privileges as follows:

- Exemption from import duties, VAT and excise tax on machinery, equipment, tools and supplies (including components) which are essential for the production of goods or for commercial purposes and on materials to be used in the construction, assembly or installation of factories or buildings in the IEAT free zone. Consumer products or vehicles are not exempt.
- Exemption from import duties, VAT and excise tax on raw materials imported and taken into an IEAT free zone for use in the production of goods or for commercial purposes. Exempt imported materials taken into an IEAT free zone for use in production include items from another IEAT free zone, promoted persons under BOI for export, bonded warehouse, items imported under bank guarantee for re-export of finished goods and items exempt under other laws.

- Importation of goods into an IEAT free zone for producing, mixing, assembling, packing or processing of the goods for export out of Thailand are not subject to the law in relation to the control of importation or exportation, the control of standards or quality, affixing of mark or any sign to those goods other than those required under the Customs law in accordance with the rules prescribed by the Board of the IEAT.
- Goods manufactured in an IEAT free zone and sold in Thailand will be deemed as imported goods and subject to import duties and VAT. Sales between operators located in the IEAT free zones could be subject to VAT at the normal rate or at the zero rates.
- Goods manufactured in an IEAT free zone which qualify under the rules of origin and manufacturing criteria may be entitled to preferential duty rates on their removal to the Thai domestic market.

## **Customs free zone**

In order to support and promote the country's exports, a customs free zone (CFZ) is an area designated for industrial or commercial operations or other businesses that are beneficial to the economy of the country, whereby the goods imported into or manufactured in this zone will be exempted from import duty, VAT and excise tax.

To qualify as a CFZ, an application for its establishment must be submitted for the approval of the Director-General of the Customs Department. A company permitted to establish or operate in the CFZ must conclude a guarantee agreement with the Customs Department, conform strictly to all customs regulations and pay an annual fee as fixed by the law.

An operator in a CFZ will be granted rights and privileges as follows:

- Exemption from payment of import duties, VAT and excise tax on the acquisition (including the transfer from another CFZ) of machinery, equipment, tools and supplies (including components) which are essential for use in industrial and commercial operations or any other businesses that are beneficial to the economy of the country.
- Exemption from payment of import duties, VAT and excise tax on raw materials imported and taken into a CFZ for use in the production of goods or for commercial purposes. Exempt imported materials taken into a CFZ for use in production include items from another CFZ, promoted persons under the BOI for export, bonded warehouse, items imported under bank guarantee for re-export of finished goods and items exempt under other laws.
- Importation of goods into a CFZ for producing, mixing, assembling, packing or processing of the goods for export out of Thailand will be exempted from the law in the part relating to the control of standards or quality, affixing of mark or any sign according to the rules prescribed by the Director-General.
- Goods manufactured in a CFZ and sold in Thailand will be deemed to be imported products and subject to duties and VAT. Sales between operators located in the CFZ could be subject to VAT at the normal rate or at the zero rate.
- Goods manufactured in a CFZ which qualify under the rules of origin and manufacturing criteria may be entitled to preferential duty rates on their removal to the Thai domestic market.

The storage period for goods in free zones (both IEAT and Customs) is limited to two years. However, the two-year limit can be extended for another year if the CFZ/IEAT free zone company obtains approval from Customs or IEAT (depending on the type of free zone). The approval needs to be obtained within 30 days prior to the expiry date

of the two-year limitation. Goods that have been stored but have not obtained approval for the extension within 30 days from the expiry date will be subject to import duty and taxes.

## **Eastern Economic Corridor (EEC)**

The EEC is a major project with the objective of helping to accelerate the future growth of the country. It aims to promote new technology and innovation in targeted industries in new economic cities located in certain zones within the three Eastern provinces of Rayong, Chonburi, and Chachoengsao. An EEC project will be promoted only if it is engaged in one of the target industries, such as smart electronics, automotive, automation and robots, aviation and digital technology.

An EEC promoted company will be granted corporate income tax exemption and/or reduction privileges for up to 13 years by virtue of the investment promotion law.

Under the investment promotion law, the BOI has issued the criteria and incentives for promoted activities located in the EEC. The tax incentives are categorised under following zones:

- Special industry promotion zone
  - Eastern Airport City (EECa)
  - Eastern Economic Corridor of Innovation (EECi)
  - Digital Park Thailand (EECd)
  - Medical Hub Thammasat University (Pattaya) (EECm)
  - Genomics Thailand (EECg)
- Industrial estate or industrial area within the EEC

Only investors in eligible activities that have been granted tax incentives for five or more years (except for those specified in a negative list), targeted core technologies and enabling services, can apply for the incentives granted under the EEC policy. Applications

must be submitted before 30 December 2022, except for those under the special industry promotion zone for which there is no due date.

Tax incentives provided by the BOI are as follows:

- BOI standard incentives
- Additional corporate income tax exemption up to two years for certain activities
- Corporate income tax reduction of 50% for three years after the end of the tax holiday.

However, the EEC incentives cannot be utilised together with those under the merit on industrial area development.

The EEC Act also grants a personal income tax reduction for experts with special knowledge/ability who work or operate a business in certain zones within the EEC. Qualified expatriate and Thai employees are allowed a flat rate of 17% personal income tax on their income derived from working for companies carrying on target activities within the EEC.

### **International business centre**

An international business centre (IBC) regime has been launched to replace the previous regional operating headquarters (ROH), international headquarters (IHQ) and international trade centre (ITC) regimes, which have been terminated.

The criteria for the establishment and operation of an IBC are as follows:

- A Thai company incorporated for the purpose of providing management, technical, support or treasury management services to its associated enterprises or for undertaking international trade business

- Paid-up capital on the last day of each accounting period of at least Baht 10 million
- Provision of management, technical, support or treasury management services to associated enterprises
- At least ten knowledgeable and skilled personnel working full time for the IBC or at least five if the IBC acts only as a treasury centre
- Expenses for the operation of the IBC paid to recipients in Thailand must be not less than Baht 60 million in each accounting period

Management, technical, support services comprise the following:

- General management, business planning, and business coordination
- Procurement of raw materials and parts
- Research and development of products
- Technical support
- Marketing and sales promotion
- Personnel management and training
- Financial advice
- Economic and investment analysis and research
- Credit control and management.

Treasury management services comprise the following:

- Treasury management of a treasury centre as permitted under the exchange control law
- Borrowing and lending in Baht of a treasury centre as permitted under the exchange control law.

International trading business means the international business of buying and selling goods, which may include the provision of services related to the goods purchased and sold. These services include the following:

- Procurement of goods
- Storage of goods while awaiting delivery
- Packing and packaging
- Transportation of goods
- Insurance of goods
- Technical advice and services and product training

Income of the IBC means the following:

- Income from the provision of management, technical, support services, or treasury management to its associated enterprises.
- Royalties from associated enterprises arising from a result of research and development carried out in Thailand by the IBC or other entities hired by the IBC, according to the rules, procedures, and conditions prescribed by the Director-General of the Revenue Department.

The following tax benefits are available for 15 accounting periods:

- Reduced rates of corporate income tax on qualifying income:
  - 8% if the IBC has incurred expenditure of at least Baht 60 million paid to recipients in Thailand during the accounting period
  - 5% if the IBC has incurred expenditure of at least Baht 300 million paid to recipients in Thailand during the accounting period
  - 3% if the IBC has incurred expenditure of at least Baht 600 million paid to recipients in Thailand during the accounting period
- Exemption from tax on dividends derived by the IBC from its affiliates
- Exemption from withholding tax on dividends paid by the IBC to a non-resident company out of profits derived from qualified service income subject to the reduced rate of tax
- Exemption from withholding tax on interest paid by a treasury centre on borrowed funds which are re-lent to affiliates

- Exemption from specific business tax on income received by a treasury centre
- Personal income tax rate of 15% for expatriate full time employees of the IBC and working for the IBC. If the company undertakes IBC as well as other businesses, the revenue derived from the IBC must not be less than 70% of the company's total revenue.

In comparison with the previous ROH/IHQ regimes, the IBC regime does not apply different tax rates to offshore and onshore income. As a consequence, there is no longer any requirement for services to be provided to a minimum number of offshore affiliates. There is also no limit to the amount of onshore income which qualifies for the reduced tax rates. The expenditure required to qualify for the reduced tax rates has been significantly increased.

However, in the case where an existing ROH/IHQ has converted to be an IBC, it can enjoy the reduced tax rate of 8% provided that it meets the original minimum expenditure requirement of Baht 15 million.

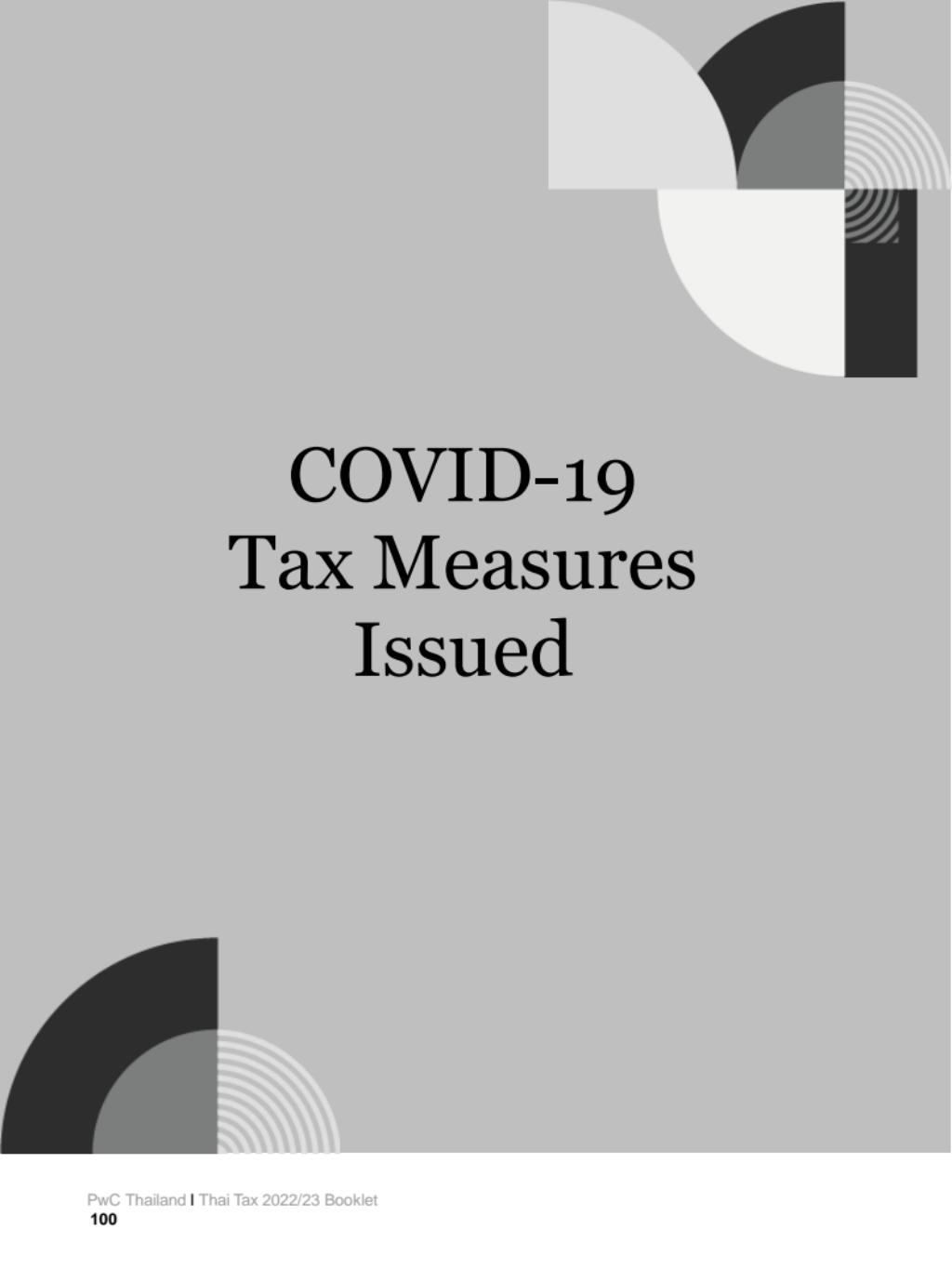
If an IBC does not meet the rules and conditions prescribed or does not otherwise qualify as an IBC in any accounting period, the benefits will be revoked on a year-by-year basis. If the company does not meet the conditions for more than one accounting period, or has none of characteristics for operating as an IBC, the tax benefits will be terminated with effect from the first accounting period.

The taxable profit and loss of an IBC must be computed separately between the IBC and non-IBC businesses and between (i) headquarters and treasury management services, and (ii) royalties. Common expenses are to be allocated based on the proportion of revenue of the IBC and non-IBC businesses.

Tax losses must be maintained separately, as follows:

- Headquarters and treasury management services
- Royalties
- Non-IBC business.

Tax returns must be filed separately for each of the above services.



# COVID-19 Tax Measures Issued

# COVID-19 – Tax Measures Issued

Following the impact of the Covid-19 pandemic and the resulting economic slowdown on individual and corporate taxpayers, the Thai government introduced several tax and legal relief measures to provide relief to individuals and businesses.

Details of the measures that were in force on 1 July 2022 are as follows:

## **Customs and trade**

The following is a summary of relief measures related to customs and trade

Responsible authority	Relief measures
Customs Department	<ul style="list-style-type: none"><li>Allowance for photocopies of certificates of origin (CO) under certain free trade agreements<ul style="list-style-type: none"><li>Forms E, D, AK, AJ, JTEPA, AI, Thai-India, AANZ, AHK, TC and Thai-Peru.</li><li>Importers need prior approval from Customs to use a photocopy of the form.</li><li>The original CO must be presented within 30-60 days from the date of import.</li></ul></li><li>Extension of storage timelines for free zone, IEAT-free zone and bonded warehouses for a further year from the expiry date.</li><li>Extension of timeline for re-exporting of temporary imported goods related to personal use, exhibitions, repairing, samples, and equipment for research and</li></ul>

Responsible authority	Relief measures
	<p>development (under Customs Tariff Decree Part 4 Category 3) for a further six months from the expiry date.</p> <ul style="list-style-type: none"> <li>• Duty surcharge reduction to 0.25% per month for payments made under self-disclosure between 1 April and 30 September 2022 (approved by the Cabinet on 24 May 2022 but not yet enacted as law).</li> </ul>
Excise Department	<ul style="list-style-type: none"> <li>• Allowance for online submission of the suggested retail price form.</li> <li>• Allowance for online submission for waiver of excise tax for petroleum and lubricant products.</li> </ul>
Department of Industrial Works	<ul style="list-style-type: none"> <li>• Allowance for online submission of licensing requirements through one of the following channels: <ul style="list-style-type: none"> <li>- Application through the hazardous substance single submission (HSSS) system and payment of fee through e-payment channel</li> <li>- Email application to <a href="mailto:RenewHazLicense@diw.mail.go.th">RenewHazLicense@diw.mail.go.th</a> and payment of fee through the e-payment channel with evidence thereof emailed to <a href="mailto:payment@diw.mail.go.th">payment@diw.mail.go.th</a></li> </ul> </li> </ul>

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## **Services include:**

### **Tax Mergers and Acquisitions**

- Tax due diligence
- Deal structuring
- Tax-efficient group reorganisation
- Post deal services/project implementation and management

### **Tax Structuring**

- International tax services
- Value chain transformation - alignment of tax and operational models
- Group tax planning/tax optimisation programmes
- Finance and treasury

### **Tax Reporting & Strategy**

- Tax strategy and operations:
  - Tax Management Maturity Model (T3M)
  - Tax strategy and function design
  - Tax governance and risk management
- Tax technology:
  - ERP systems for tax
  - Tax data management and analytics
  - Automated tax processes and workflows
- Tax accounting services
  - Tax provision outsourcing and support
  - Deferred tax accounting services
  - Accounting for uncertainty in income tax (FIN 48) services
  - Tax accounting consulting
  - Tax accounting training and advice

- Tax reporting and compliance
  - Corporate income tax return review/assistance with the return preparation
  - Tax compliance review/tax health check

## **Indirect Tax Services**

- VAT advice and planning
- VAT compliance review

## **Business Process Outsourcing Services**

- HR outsourcing and payroll services include the following:
  - Monthly payroll administration and withholding tax
  - Annual personal income tax return and withholding tax
  - Other HR and payroll related
- Accounting and tax outsourcing services include the following:
  - Statutory financial statements
  - Bookkeeping
  - Tax compliance outsourcing
  - Accounting staff secondment
  - Other finance functions, e.g. treasury management, processing of customer billings, processing of vendor invoices

## **Transfer Pricing**

- Transfer pricing compliance review and documentation
- Transfer pricing documentation
- Transfer pricing benchmarking
- Transfer pricing risk assessment
- Transfer pricing advice
- Transfer pricing investigation/mutual agreement procedures assistance
- Advance pricing agreement assistance
- Transfer pricing appeals and litigation

## **Tax Dispute Resolution**

- Tax dispute prevention techniques
- Tax audit management
- Tax dispute resolution alternatives
- Strategic planning of tax audit and disputes
- Tax risk management

## **Financial Services**

- Tax services for financial services industry - banks, capital markets, insurance, funds, real estate
  - Tax compliance services, e.g. tax return review and preparation, tax risk identification, tax investigation assistance
  - Tax advice on new and existing financial products/transactions
- Tax structuring through financial functions to achieve group tax effectiveness

## **Legal and BOI Services**

### **Legal Services**

- Corporate registration, secretarial services and business establishments
- Commercial contracts
- Employment, labour dispute
- Real estate, land due diligence, properties, trademark registration
- M&A, legal due diligence, business restructuring
- Investment incentives and licences
- Litigation, dispute and resolution
- Personal data protection law

## BOI Services

- Legal compliance and planning:
  - Determine best strategy for seeking investment promotion for new and existing investment projects, as well as project location
  - Negotiate with officials to find the optimum solution
  - Ensure that various aspects of environmental, labour and technology requirements of BOI are satisfied
  - Post-implementation support to ensure conditions imposed by BOI are maintained for every type of incentive received
- Tax compliance and planning:
  - Cost of capital, capacity, raw materials and scrap planning
  - Segregation of BOI and non-BOI activities
  - Segregation of future projects
  - Transfer pricing during and after tax holiday period
- Accounting analysis and financial modelling:
  - Choice of depreciation methods
  - Inventory valuation methods
  - Types of forward contracts used to cover FX risks
  - Leasing alternatives
  - Debt vs. equity evaluation from tax and financing perspective

## Japanese Business Desk

PwC Japanese Business Desk (JBD) works closely with PwC professionals to offer practical tax and legal advice to Japanese clients operating in Thailand. The JBD team has extensive experience in advising on foreign investment regulations and all tax and legal aspects of projects in Thailand. In particular, JBD can support Japanese clients by analysing Thai and foreign business issues and finding solutions using PwC channels. JBD also acts as a channel that Japanese clients can go through to contact PwC professionals in other lines of service.

## **China Tax Desk**

Our China Tax Desk comprises professionals with English, Chinese and Thai language ability who can help Thai subsidiaries of Chinese companies in understanding Thai regulatory, tax and reporting requirements. With member firms in the regional network, we offer a complete range of tax services from tax consulting, tax compliance and tax investigation assistance services.

## **U.S. Tax Desk**

- M&A and structuring advice on investment in U.S.

## **Customs, Excise and Trade**

- Competitiveness improvement through strategic customs, excise and trade planning
  - Free trade agreements
  - Duty savings through unbundling of transaction value
  - Customs supply-chain business modelling
  - Tariff engineering (reviewing the optimum way to import)
  - Optimising use of customs incentive schemes (e.g. free zones, bonded warehouses, Board of Investment (BOI) promotion, duty drawback for re-exported goods, duty and tax reimbursement for exports)
  - Excise tax planning
- Customs, excise and trade compliance and risk management
  - Customs and excise compliance review
  - Audit and investigation support
  - Managing customs valuation and transfer pricing documentation
  - Classification of imported goods

- Review compliance and managing export of dual use goods (e.g. assisting in drafting Internal Compliance Programmes (ICP) on export controls, assisting in applying for export licenses)
- Assisting in applying for advance and post-importation customs rulings
- Voluntary disclosure
- Review compliance and managing import and export of restricted goods (e.g. hazardous substances) and non-core importations (e.g. business and technical documents and computer software)
- On-site customs training



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