

TAX INCENTIVES FOR REGIONAL OPERATING HEADQUARTERS

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March 2002

The Thai government is continuously looking for ways to promote and expedite the economic recovery of Thailand. The most recent one, which was approved by the Cabinet on December 11, 2001, is the new tax incentive scheme aimed at attracting foreign entities to establish their regional operating headquarters (ROH) in Thailand. The new scheme is more attractive than the one currently offered to ROH by the Board of Investment and is expected to be very competitive with the schemes of other countries in the region, such as Singapore and Malaysia.

The term “regional operating headquarters” means a juristic company or partnership incorporated under Thai law that renders qualifying services to affiliated juristic companies or partnerships or branches, whether situated in or outside Thailand.

The term “qualifying services” means services provided by the ROH which include management services, technical services, and various support services in respect of general administration, business planning and coordinating, procurement of raw materials and components, research and development of products, technical support, marketing control and sales promotion planning, personnel management and training in the region, financial advisory services, economic or investment research and analysis, credit control and administration, etc.

The term “affiliated juristic companies or partnerships” under this tax scheme is defined as juristic companies or partnerships related to the ROH in any of the following ways:

- ◆ One juristic person is a shareholder or partner holding not less than 25% of the value of the entire capital of the ROH, or vice versa.
- ◆ One juristic person that is a shareholder or partner holding not less than 25% of the value of the entire capital of the ROH is also a shareholder or partner holding not less than 25% of the value of the entire capital of another juristic person.
- ◆ One juristic person has the power to control the management and supervise the business operation and administration of the ROH, or vice versa.
- ◆ One juristic person that has the power to control the management and supervise the business operation and administration of the ROH also has the power to control the management and supervise the business operation and administration of another juristic person.

Under the new tax scheme, tax incentives are granted to both the ROH and its expatriate employees with conditions attached to such granting.

Tax Incentives for the ROH

Business Income: Reduction of corporate income tax rate from the normal rate of 30% of net profit to 10% for income derived from the provision of qualifying services to affiliated juristic companies or partnerships or branches.

Royalties: Reduction of corporate income tax rate from the normal rate of 30% of net profit to 10% for royalties derived from research and development work performed in Thailand for affiliated juristic companies or partnerships or branches. This reduced rate is also applicable to royalties received by the ROH from a juristic company or partnership applying the ROH's research and development work performed in Thailand to the production of goods or provision of services for the ROH or its affiliated juristic companies or partnerships or branches.

- *Interest:* Reduction of corporate income tax rate from the normal rate of 30% of net profit to 10% for interest on loans received from affiliated juristic companies or partnerships or branches. This reduced rate is applied only to loans borrowed from other parties to extend to affiliated juristic companies or partnerships or branches.

- *Dividends:* Exemption from 30% corporate income tax of dividends received from affiliated juristic companies. This includes an exemption from 10% withholding tax of dividends paid by the ROH to companies incorporated under foreign law which do not carry on business in Thailand or parent company abroad.

- *Accelerated Depreciation:* An initial depreciation of 25% of ROH's building cost on the date of acquisition, with the residual cost value depreciated over a period of 20 years, provided that the building is purchased or acquired for carrying out its own operations.

Conditions

In order to qualify for tax incentives, the following conditions must be met:

- ◆ ROH must be a juristic company or partnership incorporated under Thai law. This includes both Thai and foreign majority-owned companies.
- ◆ ROH must have a paid-up capital of not less than Baht 10 million as at the end of an accounting period.
- ◆ ROH must render services to affiliated juristic companies or partnerships and/or branches situated in at least three foreign countries.
- ◆ Income earned from rendering services to affiliated juristic companies or partnerships or branches outside Thailand must not be less than one-half of its total income, except for the first three years of operation where the requirement is one-third of total income.

Tax Incentives for ROH Expatriate Employees

- *Employment Income Earned from Work Assignments Outside Thailand:* Exemption of employment income earned by expatriate employees for work performed for the ROH outside Thailand, provided that such income is not deducted as an expense of the ROH, its affiliated

juristic companies or partnerships, or its branches carrying on business in Thailand, whether directly or indirectly.

- *Personal Income Tax at a Flat Rate of 15%:* Expatriates may choose to pay personal income tax at a flat rate of 15% instead of the usual progressive rate of 5% to 37%. In such a case, the ROH will withhold personal income tax at the rate of 15% instead of the usual progressive rate.

To qualify for the foregoing tax incentives, expatriates must work with the ROH for a period not exceeding two years counting from the first date of taking up employment in Thailand until the end of the employment, regardless of temporary departures from Thailand during the said period. However, if the expatriate leaves Thailand for more than 365 days after the end of the previous employment in Thailand, the counting of the two-year period will exclude the previous period of employment.

The Royal Decree concerning conditions and tax incentives for the ROH is expected to be issued soon.