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Investment Promotion for International Business Centers (IBC)

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I. Introduction

On 29 December 2018, the Royal Decree for International Business Centers ("**IBC**") came into effect, which replaced the Regional Operating Headquarters ("**ROH**"), International Headquarters ("**IHQ**") and International Trading Centers ("**ITC**") schemes.

The initiative was considered necessary to avoid sanctions from other OECD member countries since Thailand joined the OECD inclusive framework on base erosion and profit shifting (BEPS) in June 2017, and to strengthen Thailand's role in attracting foreign investors for establishing shared-services hubs.

II. BOI Promotion

1. Permitted Activities

The Board of Investment ("**BOI**") has cancelled the previous IHQ/ITC promotion and announced the IBC promotion on 11 December 2018. The permitted activities include:

a) General management, business planning and business cooperation;
b) Procurement of raw materials and parts;
c) Research and development of products;
d) Technical support;
e) Marketing and sales promotion;
f) Human resources management and training;
g) Financial advisory services;
h) Economic and investment analysis and research;
i) Credit management and control;
j) Financial management service of the treasury centre;
k) International trade business;[1]
l) Lending to associated enterprises outside the scope of business in item j) which can be implemented under the exchange control laws;[2]
m) Other supporting services as approved by the Board.

2. Qualifying Criteria for BOI promotion

- Registered and fully paid-up capital of at least THB 10 million;
- Employment of at least 10 skilled employees (or at least 5 skilled employees in case of an IBC providing only financial management services);
- In case of performing international trade business, the IBC must perform at least one of the other permitted activities in items 1. a)-j) as well. In the case of offering loans to associated enterprises; at least one scope of business listed in items 1. a)-i) must be involved.

III. Tax Promotion

1. Qualifying Criterion for tax promotion

In order to qualify for tax privileges, an IBC must fulfil the following additional criterion:

- Annual expenses in Thailand of at least THB 60 million; and

If the IBC does not meet the criterion in any given fiscal year, the tax privileges will be revoked for such fiscal year.

In case the IBC does not meet the criterion in more than one consecutive fiscal year, the tax

[1] Under the interpretation of the BOI, local trading is restricted to wholesaling of goods in Thailand, while overseas trading is permitted for both retail and wholesale.

[2] For example: lending of foreign currency loans to associated enterprises in foreign countries; lending of Thai baht loans to associated enterprises in Thailand; lending of Thai baht loans to associated enterprises in Vietnam and countries bordering Thailand with a requirement of using them for trading and investment in Thailand or in aforementioned countries only.

privileges will be revoked from the first fiscal year.

2. Tax Privileges

An IBC that meets the aforementioned criterion will be granted the following tax privileges for up to 15 years:

- Reduction of corporate income tax (CIT) for income from services provided to affiliates in Thailand and overseas, depending on the amount of annual expenses paid in Thailand:

CIT rate	Annual expenses paid locally[3]
8%	THB 60 million
5%	THB 300 million
3%	THB 600 million

- Exemption of CIT for dividends received from affiliates

- Exemption from withholding tax for payments to companies established abroad and not doing business in Thailand on:
  - Dividends paid to the IBC's corporate shareholders abroad (*provided such dividends are paid out of the IBC's net profits from such income that is granted CIT reduction*);
  - Interest paid to companies abroad (*provided such interest is paid on loans that are taken out by the IBC for the purpose of providing loans to affiliates in Thailand or abroad*).

- Exemption from specific business tax on income from financial management services

- Reduced personal income tax ("**PIT**") of 15% flat for expatriates (i.e. non-Thai nationals) who work for the IBC.
  In order to qualify for the reduced PIT rate, the expatriate must meet the following criteria:
  - Being permanent employee of qualified IBC and work for IBC or international trade business;
  - In case the foreign employee works for another business of the company as well as IBC and/or international trade business, the company's income generated from IBC and/or international trade business must be not less than 70% of total income;
  - Being registered with the Revenue Department;
  - Residing in Thailand for not less than 180 days in the fiscal year that such foreign employee wishes to apply for the tax benefit, except for the first fiscal year and the last fiscal year, where such foreign employee can reside in Thailand for less than 180 days during such fiscal year;
  - Having obtained a work permit under the qualified IBC as a skilled/expert employee from the Department of Employment, Ministry of Labour, under Board of Investment Promotion Law or other laws from the first working day;
  - Being taxpayer who has assessable income under the Revenue Code of minimum THB 200,000 per month on average (calculated based on the number of months being in Thailand) from the qualified IBC.

  In case the IBC business is not qualified in any fiscal year, the foreign employee will not be able to use the tax benefit for such fiscal year.

3. Qualifying Activities for CIT Reduction

Only income from the following activities is qualified for the CIT reduction:

- Intercompany services, e.g.

[3] "Expenses" in this regard does not cover the cost of goods or personnel under international trading activity, but would include only the cost related to the intercompany service activities, e.g. salary of service and admin personnel in Thailand.

n) General business management, business planning and business co-ordination;
o) Sourcing of raw materials and parts;
p) Research and development of products;
q) Technical support;
r) Marketing and sales promotion;
s) Human resources and training management;
t) Financial advisory;
u) Economic and investment analysis and research;
v) Credit management and control;
w) Financial management service of the treasury centre.
x) Any other activity stipulated by the Director-General of the Revenue Department.

- Royalties incurred from the technological research and development conducted in Thailand (both conducted by IBC or outsourced) which IBC receives from affiliates

In addition to the abovementioned qualified income activities, an IBC is permitted to perform the following international trading activity and the following services related to the sourced goods, which however do not qualify for the tax reduction:

- Procurement
- Storage of goods during transition
- Packing/ packaging
- Transportation
- Insurance of goods
- Advisory service, technical service and training related to goods sold

When calculating the CIT-reduced profit, the IBC has to separate non-qualified income from qualified income and its related expenses. If the expenses cannot be separated, the IBC must apportion non-qualified and qualified expenses by the ratio of the received income. However, if such method of apportioning does not reflect the reality of the business, the IBC may request approval of the Director-General of the Revenue Department to use other, more accurate and realistic ways of calculation.

3. Approval Process

In order to obtain the benefits mentioned above, an approval needs to be obtained from the Director-General of the Revenue Department.

Existing ROH1/ROH2 and IHQ/ITC companies can file an application to register as IBC to receive the aforementioned tax benefits.

The existing corporate income tax for ROH1 has been revoked with effect from 1 January 2021; the corporate and personal income tax benefits for ROH2 and IHQ/ITC have been revoked with effect from 1 June 2019 and 1 January 2020, respectively. ROH/IHQ/ITC companies may still continue their business without tax benefits, and existing IHQ/ITC companies will still receive non-tax benefits from the BOI.

IV. Conclusion

Thailand is competing with neighboring countries for foreign investors who are seeking to establish their trading hub in Southeast Asia. Hong Kong and other tax havens use the so-called "Territorial Tax System" which levies CIT only on income sourced within the country. Thailand, on the other hand, uses the so-called "Residential Tax System" which means that companies that are registered in Thailand have to pay CIT on their **worldwide** profits. By granting tax incentives to IBCs – and thereby de facto granting an exemption from the Residential Tax System – Thailand has been able to attract more foreign investment. The tax reductions under the IBC scheme are by far not as beneficial compared to the previous schemes and Thailand may lose its appeal to foreign investors seeking to establish their headquarters in the region. However, the reduced CIT rate which applies to both domestic and foreign affiliates at the same rate may benefit those IBCs having domestic affiliates.

We hope that the information provided in this newsletter was helpful for you.
If you have any further questions please do not hesitate to contact us.

LORENZ & PARTNERS Co., Ltd.
27th Floor Bangkok City Tower
179 South Sathorn Road, Bangkok 10120, Thailand
Tel.: +66 (0) 2-287 1882
E-Mail: info@lorenz-partners.com
www.lorenz-partners.com