



Legal/Tax News Update Thailand 02/2016

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June 2016

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June 2016

Welcome back to the second issue of our Legal/Tax News Update (Thailand) in 2016.

Inside This Issue:

1. **3 Tax Schemes for boosting Private Investment**
2. **New PIT Restructuring 2016**
3. **Permanent CIT rate**
4. **JAS bailed out – 4G band awarded to AIS**
5. **FBL Restrictions loosened**

3 Tax Schemes for boosting Private Investment

On 24 February 2016, three Royal Decrees under the Revenue Code were announced in the Royal Gazette. These laws provide tax incentives to promote investment of the private sector in three different schemes as follows:

Royal Decree under the Revenue Code (No. 597) B.E. 2559: Venture Capital Support for 10 Target Industries

This Decree aims to provide tax incentives for private investment in high-technology companies certified by the National Science and Technology Development Agency (“NSTD”) to increase the competitiveness of these companies in the market.

Eligible target companies: To qualify for the incentives, the investment must be made into a “*Target Company*”, which must fulfil the following criteria:

- Being incorporated under the law of the Kingdom of Thailand;
- Not being listed on the Stock Exchange of Thailand (SET) (they have their own tax scheme already); and
- Conducting business in “*government-supported industries*”: The NSTD-certified target companies have to use high-technology in their production processes and have to conduct their business in one of the following ten government-supported industries:
 - Food and agriculture;
 - Energy saving industry, alternative energy production, clean energy;
 - Biotechnology;
 - Medical and public health;
 - Tourism, service, and creative business;
 - Advanced materials;
 - Textile, apparel, and jewelry;
 - Automotive and parts;
 - Electronic, computer, software, and IT service;
 - Research service, development and innovation, or new industry.

The Target Companies have to be certified by the NSTD.

Tax incentives: This scheme exempts the following income from income tax:

- Income from dividends received from *Target Companies*;
- Income from the transfer of shares of the *Target Companies*.

Royal Decree under the Revenue Code (No. 598) B.E. 2559: R&D-Innovation Support

300% R&D expenses can be used as expense in the tax calculation.

This Royal Decree provides tax exemptions for research and development expenses during 1 January 2015 – 31 December 2019. Up to 300% of the R&D expenses can be used as tax deductible expense of the company, subject to the following thresholds:

Income (THB)	Maximum tax exemption rate (% of actual income)
1 – 50,000,000	60%
50,000,001 – 200,000,000	9%
200,000,001 or more	6%

Royal Decree under the Revenue Code (No. 599) B.E. 2559: Real Estate Investment Trust Support

The final tax incentive scheme is Royal Decree No. 598, aimed to attract investments in Real Estate Investment Trusts (REIT). This law gives tax incentives for the transformation of Property Funds to REITs within 31 December 2016 to increase the establishment of REITs in Thailand. The tax incentives include tax exemption of income tax, VAT, SBT, and Stamp Duty for the investor.

New PIT Restructuring 2016

Royal Decree No. 600, announced on 24 February 2016, extends the reduction of the progressive Personal Income Tax (PIT) rate (5% to max. 35%) for another year.

In addition, on 19 April 2016, the Cabinet has approved the plan to restructure the personal income tax (PIT) in 4 main aspects as follows:

Increasing the minimum income threshold for tax return filing: Every taxpayer has to submit a tax return form to the Revenue Department if the income reaches the minimum threshold, regardless of whether any tax has to be paid or not. The government approved to increase such threshold, so taxpayers with lower income (which is not subject to tax payment) **do not have** to submit the tax return form. The thresholds will be increased as follows:

	Single	Married (only if joint submission)
Only salary income (Section 40 (1))	Old: THB 50,000 ↓ New: THB 100,000	Old: THB 100,000 ↓ New: THB 200,000
Other income	Old: THB 30,000 ↓ New: THB 60,000	Old: THB 60,000 ↓ New: THB 120,000

Increasing the deductible expenses for some types of income: One complaint for several years by taxpayers has been that the deductible expenses for the PIT calculation are unrealistic and too low. Therefore, the Cabinet finally approved to increase the deductible expenses for the following types of income:

- **Income under Section 40 (1) and (2):** Income derived from employment and hire of service; and
- **Income under Section 40 (3):** Income derived from copyrights, goodwill, patents, or other IP rights:

Maximum THB 100,000 per year or THB 8,300 per month is still relatively low for current living expenses.

The expense deduction rate for the aforementioned types of income will be increased from maximum 40% or THB 60,000 to maximum 50% or max. THB 100,000, whatever is lower. Even with the new expense rate of THB 100,000 per year, this is still low compared to the current expenses.

Increasing the allowances: The Cabinet also approved to increase the deductible allowances for the taxpayers as follows:

	Tax payer allowance	Spouse allowance	Child allowance
Old	THB 30,000	THB 30,000	THB 15,000 per child (maximum 3 children + THB 2,000 education support)
New	THB 60,000	THB 60,000	THB 30,000 per child (no limitation regarding the number of children, but the THB 2,000 education support has been revoked)

Change of the PIT rate: The Cabinet also approved to change the PIT tax rate by increasing the minimum income of the last tier of the tax rate. Together with the tax exemption of the first THB 150,000 (Royal Decree No. 470), the tax rates will be as follows:

Current tax rate			New tax rate		
Income (THB)	Tax rate	Income (EUR) (approx.)	Income (THB)	Tax rate	Income (EUR) (approx.)
1 – 150,000	0%	0.25 – 3,750	1 – 150,000	0%	0.25 – 3,750
150,001 – 300,000	5%	3,750 – 7,500	150,001 – 300,000	5%	3,750 – 7,500
300,001 – 500,000	10%	7,500 – 12,500	300,001 – 500,000	10%	7,500 – 12,500
500,001 – 750,000	15%	12,500 – 18,750	500,001 – 750,000	15%	12,500 – 18,750
750,001 – 1,000,000	20%	18,750 – 25,000	750,001 – 1,000,000	20%	18,750 – 25,000
1,000,001 – 2,000,000	25%	25,000 – 50,000	1,000,001 – 2,000,000	25%	25,000 – 50,000
2,000,001 – 4,000,000	30%	50,000 – 100,000	2,000,001 – 5,000,000	30%	50,000 – 125,000
4,000,001 or more	35%	100,000 or more	5,000,001 or more	35%	125,000 or more

This PIT update is long overdue, as the current allowances and expenses do not reflect the current economy and there are many aspects that still need to be reviewed by the authorities. Once officially announced by the Revenue Department, the new rules will be effective from 2017 onwards.

Permanent CIT Tax Rate

On 15 March 2016, Revenue Code Amendment No. 42 has been announced in the Royal Gazette. This law has established the **20% Corporate Income Tax (CIT) rate as the permanent** rate for the fiscal year 2016. The 20% rate was previously only used as a temporary CIT rate since 2013.

JAS bail out – 4G band awarded to AIS

JAS is out.

AIS won the 900 MHz 4G band.

Truemove and Dtac did not join the auction.

JAS' default on the auction payment: As reported in our earlier update, JAS won the 900MHz 4G auction, with the winning bid amounting to THB 75.65 billion (approx. EUR 1.89 billion). The deadline for payment of the 1st installment was on 21 March 2016 and JAS failed to pay on the due date. It has been reported that the reason of such default is because the Chinese partner could not get the approval from the Chinese authority within the due date.

Not only did JAS lose the right to enter any frequency auctions from now on, they also have to pay monetary damages in the amount of THB 644 million (EUR 16 million) for auction deposit and additional damages yet to be determined by the NTBC.

New round of the auction: The new round of the auction started on 27 May 2016 at the last winning bid of THB 75.65 billion (approx. EUR 1.9 billion). Prior to the auction date, Truemove and Dtac had announced that they were not joining in the new bidding round. Therefore, AIS was the sole bidder and this new auction round only took 15 minutes, compared to 4-5 days in the last round. AIS finally won the 900 MHz 4G band contract for 15 years.

FBL Restrictions loosened

*Banks and insurance
businesses are already
regulated by other laws.*

On 16 February 2016, the latest amendment of the Foreign Business Act has been announced in the Royal Gazette, specifying the businesses that are not required to obtain a Foreign Business License (FBL). The Foreign Business Act (No. 2) B.E. 2559 (2016) specifies that the FBL is no longer required for the following businesses:

- Financial institutions and other businesses under the financial institute law;
 - Commercial banking business;
 - Service business such as representative offices of banks;
- Life insurance businesses;
- Non-life insurance businesses.

These types of businesses are already regulated by other authorities (e.g. Bank of Thailand and Office of Insurance Commission).

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

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