



RSM FOCUS

Welcome to issue 3 of RSM Focus – RSM Thailand's Monthly Newsletter covering taxation and technical issues that face expatriate corporate and personal investors seeking to do business in Thailand

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Corporate income tax exemption and reduction for SMEs

THE POWER OF BEING UNDERSTOOD
AUDIT | TAX | CONSULTING



Introduction

Welcome to the third edition of RSM Focus. This edition features a topical article relating to corporate income tax exemption and reduction for SMEs prepared by Tossaporn Kiattidamrongkul, Associate Accounting Director.

Corporate income tax exemption and reduction for SMEs

In order to encourage SME's to prepare books of account that are consistent with their business activities, encourage the filing of accurate tax returns and to relieve their tax burdens, the Revenue Department has granted such entities an opportunity to register as an operator at the Revenue Department before 15 March 2016.

Relevant Laws

- Royal Enactment for exemption and operation support on taxation under the Revenue Code B.E. 2558
- Royal Decree No.595 B.E. 2558
- Notification of the Director-General, dated 8 January 2016
- Explanation of the Revenue Department, dated 4 January 2016

Under Royal Enactment for exemption

Qualified Entities

- Companies or juristic partnerships which are entitled to be liable to tax based on net profit are detailed below.
 1. Company Limited
 2. Public Company Limited
 3. Limited Partnership
 4. Juristic Ordinary Partnership
 5. Companies or juristic partnerships incorporated under foreign law and doing business in Thailand which is not transportation through different countries
 6. Joint Venture
- Having revenues from business operations or as a result of business operations which are calculated under the accruals basis not exceeding 500 million Baht in the past accounting period and scheduled for a full 12 months for which the last day of the accounting period ended on/before 31 December 2015.
 - Accounting period to be considered for revenues not exceeding 500 million Baht is the last 12-month accounting period.
 - The previous accounting period to the last accounting period is not considered
 - The next accounting period with revenues exceeding 500 million Baht does not breach the conditions.

Examples:

- A Company has a normal accounting period, and its revenues cover the accounting period from 1 January 2015 to 31 December 2015.
- B Company has a normal accounting period, but has been granted approval to change the last day of its accounting period to be 30 September from the accounting period commencing on 1 October 2015 to 30 September 2016 onwards. Its revenue base includes its revenues for the accounting period commencing on 1

January 2014 to 31 December 2014. The accounting period from 1 January 2015 to 30 September 2015 is less than 12 months.

- C Company has the last day of its accounting period on 31 March. Its revenue base are its revenues for the accounting period commencing on 1 April 2014 to 31 March 2015.
- To register as an operator at the Revenue Department (RD) between 15 January 2016 and 15 March 2016 via the RD's website only.

The rights to be exempted

- To be audited by the Revenue Department;
- To be subject to Revenue Department enquiries;
- To be assessed by the Revenue Department;
- To be ordered to pay tax by the Revenue Department;
- Criminal offences under Revenue Code.

Types of tax and exemption periods

- **Corporate Income Tax:** For the revenues for the accounting period beginning with a date prior to 1 January 2016 and criminal offences under Revenue Code with respect to corporate income tax
- **Value Added Tax:** For the tax base that occurred in December 2015 and the months before December 2015 and criminal offences under Revenue Code with respect to Value Added Tax.
- **Specific Business Tax:** For the revenues that occurred in December 2015 and the months before December 2015 and criminal offences under Revenue Code with respect to Specific Business Tax.
- **Stamp Duty:** For the instruments executed prior to 1 January 2016 and criminal offences under Revenue Code with respect to stamp duty.

In the case of a Company already being assessed, ordered to pay tax or having criminal action already instigated against it, the case will continue in accordance with Thai Law.

Not subject to the case

- Cases where the tax audit will continue include:
 1. An entity being audited in accordance with a summons issued before 1 January 2016. Assessment officers can conduct the audit, inquire, assess or order the entity to pay tax for the accounting period under the summons only, including criminal actions under Revenue Code pertaining to tax liabilities identified during the audit.

Example : D Company is being audited by the assessment officers under a summons dated 30 December 2015 for corporate income tax for the accounting period from 1 January 2014 to 31 December 2014. D Company will be exempt from being audited for other periods under Royal Enactment. Assessment officers have the power to examine the accounting period 1 January 2014 to 31 December 2014 included in the summons only, but will have no power to issue a summons for other accounting periods beginning with a date prior to 1 January 2016 for which a summons has not been issued prior to 1 January 2016.

2. In the event of an entity being audited by the assessment officers under Section 88/3 of the Revenue Code which had proceeded before 1 January 2016, the assessment officers can conduct the audit, inquire, assess or order the entity to pay tax for the tax months already being audited only, including criminal actions under Revenue Code pertaining to tax liabilities identified during the audit.

Example: E Company is being audited by the assessment officers in respect of Value Added Tax (VAT) for the year 2014 (January 2014 to December 2014) on 10 July 2015 and the tax inspection has not yet been completed. The assessment officers have the power to examine, inquire, assess or order the Company to pay tax for the period of January 2014 to December 2014, but have no power to perform audits on VAT for other tax months prior to January 2016 which are not already included in the scope of the VAT audit.

3. In the case of being an issuer or user of fake tax invoices or an entity avoiding tax by presenting false expenditures.
4. In the case of already being subject to criminal action at the level of inquiry official, public prosecutor or court

Requests for tax refunds

- Requests for tax refunds during the exemption period are detailed below.
 1. Where an application to request for a tax refund has been submitted prior to 1 January 2016 and the assessment officers have issued a summons for a tax audit under Section 88/3 of the Revenue Code prior to 1 January 2016, the assessment officers have the power to examine, inquire assess tax and refund tax based on their audit. In the event that there are additional tax liabilities, including penalties and surcharges as a result of incorrect tax payments, the assessment officers have the power to issue a notice for a tax assessment including penalties and surcharges.
 2. Where an application to request for a tax refund has been submitted prior to 1 January 2016 but the assessment officers have not yet issued a summons for a tax audit under Section 88/3 of the Revenue Code or where an application to request a tax refund has been submitted since 1 January 2016, the assessment officers have the power to examine or issue a summons for a tax investigation, inquire assess tax and refund tax based on their audit. In the event that there are additional tax liabilities including penalties and surcharges as a result of incorrect tax payments the assessment officers have the power to issue a notice for a tax assessment including penalties and surcharges..

Criteria and Conditions

- After registration and being granted exemption by the Revenue Department, the following actions must be completed.
 - To file all annual corporate income tax returns (PND.50) from 1 January 2016 onwards.
 - To file VAT returns (PP.30) from 1 January 2016 onwards.
 - To file specific business tax returns (PT.40) from 1 January 2016 onwards
 - To file the returns for the payment of stamp duty in cash that must be filed from 1 January 2016 onwards.
 - To prepare accounts and financial statements in compliance with the business operations (one book of accounts) from 1 January 2016 onwards
 - Not to evade tax from 1 January 2016 onwards.

In case of non-compliance

- Director-General of the Revenue Department will revoke the granted exemptions and it will be deemed that these exemptions have never been granted.
- The assessment officers have the power to examine, inquire, assess or order the entity to pay tax and initiate criminal actions under the Revenue Code

Credit requests

From 1 January 2019 onwards, the Ministry of Finance and the Bank of Thailand will take necessary action to allow financial institutions under their supervision to use accounts and financial statements which companies or juristic partnerships have lodged with the Revenue Department as evidence for credit requests.

Under Royal Decree No.595

Exemption and reduction of tax rate

- Companies or juristic partnerships which register under the Royal Enactment for exemption and operational support or taxation, as qualified below, will be granted exemption and reduction of their corporate income tax rate.
 - With revenues from sale of goods or providing of services not exceeding 30 million Baht and paid up share capital not exceeding 5 million Baht.
 - Not subject to their exemptions granted under Royal Enactment for exemption and operational support on taxation being revealed by the Revenue Department.
 - No accounting periods with revenues in excess of 30 million Baht or paid up share capital over 5 million Baht.
- Period of which the tax rate reductions will apply.
 - accounting periods commencing on/after 1 January 2016 to 31 December 2016 will be fully exempt (i.e. all net profits exempted from corporate income tax in the year).
 - accounting periods commencing on/after 1 January 2017 to 31 December 2017 will be exempt from computing corporate income tax from the fund 300,000 Baht of net profit and subject to corporate income tax at the rate of 10% on any net profits in excess of 300,000 Baht.

Observations

1. Companies which have a normal accounting period ended 31 December, but have registered for dissolution by 28 December 2015 will be deemed to have an accounting period of less than 12 months. They will not be granted exemption under the Royal Enactment because this does not meet the intention of the law which requires companies or juristic partnerships to continue to operate.
2. Newly incorporated juristic persons with their first fiscal year being less than 12 months will not be entitled to register as an operation with the Revenue Department.
3. Revenues not exceeding 500 million Baht mean revenues subject to tax under Section 65 of the Revenue Code, including revenues for both BOI and non-BOI business.
4. Failure to file an annual corporate income tax return (PND.50) for the year 2015 on a timely basis will not be deemed to be a breach of the conditions, with the exception of intentional tax evasion.
5. Failure to file an annual corporate income tax return (PND.50) on a timely basis after being granted exemption will not be deemed to be a breach of the conditions, with the exception of intentional tax evasion.

Summary of corporate income tax (CIT) exemption and reduction for SMEs

1. **Not register as an operator at the RD** → Can be retrospectively audited
 - a. Companies or juristic partnerships with income in the accounting period ended on/before 31 December 2015 not exceeding 500 million Baht will be liable to CIT at the rate of 20% for the years 2015 and 2016.

- b. Companies or juristic partnerships which qualify as SMEs with paid up capital not exceeding 5 million Baht and sales/services income not exceeding 30 million Baht for the year 2015, will be liable to tax as follows.

Net profit (THB)	Royal Decree No.530	New Royal Decree to be announced
	Tax rate for accounting period commencing on/after 1 Jan 2015 and 1 Jan 2016 (2 fiscal years)	
0 - 300,000	Exempt	Exempt
300,001 - 3,000,000	15%	10%
3,000,001 and over	20%	10%

2. **To register as an operator at the RD** → Cannot be retrospectively audited

- a. Companies or juristic partnerships with income in the accounting period ended on/before 31 December 2015 not exceeding 500 million Baht will NOT be retrospectively subjected to a tax examination (for the year 2015 backwards) and will be liable to CIT at the rate of 20% for the years 2015 and 2016.
- b. Companies or juristic partnerships which qualify as SMEs with paid up capital not exceeding 5 million Baht and sales/services income not exceeding 30 million Baht for the year 2015, will be liable to tax as follows.

Net profit (THB)	Tax rate for accounting period commencing on/after			
	1 Jan 2015	1 Jan 2016	1 Jan 2017	1 Jan 2018 onwards
0 - 300,000	Same as 1 (b)	Exempt	Exempt	Exempt
300,001 - 3,000,000			10%	15%
3,000,001 and over			10%	20%

RSM Thailand

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