

Legal Update

CABINET'S APPROVAL ON CORPORATE INCOME TAX REDUCTION

On 11 October 2011, the Cabinet has approved the reduction of corporate income tax commencing according to the summary of significant provisions thereof as follows:

1. The corporate income tax ("CIT") of the companies or limited partnerships would be reduced to be 23% (currently is 30%) of the net profit for the 2012 fiscal year period ending on or after 31 December 2012, and would be reduced to be 20% of the net profit for the 2013 fiscal year period commencing on or after 1 January 2013 onwards.
2. The CIT of any Small and Medium Enterprise company or limited partnership ("**SME**"), having paid-up capital as of the end of its fiscal year of not exceeding Baht 5,000,000 and having income derived from sale of goods or services in each fiscal year of not exceeding Baht 30,000,000, would be exempted / reduced at the following rates:
 - (1) Exemption for the first Baht 150,000 of net profit;
 - (2) 15% of the net profit for the portion of net profit during Baht 150,001 to Baht 1,000,000 for the fiscal year commencing on or after 1 January 2012 onwards;
 - (3) 23% of the net profit for the portion of net profit exceeding Baht 1,000,000 for the 2012 fiscal year ending on or after 31 December 2012; and
 - (4) 20% of the net profit for the portion of net profit exceeding Baht 1,000,000 for the fiscal years commencing on or after 1 January 2013 onwards.

Provided that if any SME having paid-up capital or income exceeding the amounts or conditions as stated above, it shall not be entitled to the above tax benefits and in subsequent years, it shall be required to pay CIT at the same rates as prescribed for companies and limited partnerships stated in item 1. above.

3. For the listed companies having their securities listed on the Stock Exchange of Thailand (**SET**) within 31 December 2009 which have currently been entitled to pay CIT at the rate of 25% of net profit, CIT shall be reduced to be 23% of net profit for the 2012 fiscal year ending on or after 31 December 2012 and shall be reduced further to be 20% of net profit for subsequent fiscal years commencing on or after 1 January 2013 onwards.
4. For the listed companies having their securities listed on the Market for Alternative Investment (**MAI**), CIT at 25% shall be applied for the portion of net profit of not exceeding Baht 50,000,000 for its 2011 fiscal year ending on or after 31 December 2011 in accordance with the following criteria:
 - (1) It is registered as a listed company on MAI during 1 January 2010 to 31 December 2011; or
 - (2) It is registered as a listed company on MAI before 1 January 2010 and has never been received benefits on CIT reduction to be 20% of net profit; or
 - (3) It is registered as a listed company on MAI before 1 January 2010 which has been received benefits on CIT reduction to be 20% of net profit and has completely utilized such tax benefits for three (3) consecutive fiscal years within the 2010 fiscal year ending on or after 31 December 2010.

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TAX MEASURE FOR FLOOD RELIEF DONATIONS

On 11 October 2011, the Cabinet has also approved the tax measure for flood relief donations by allowing tax deduction of 1.5 times of the amount contributed by the donors for flood relief during 1 September 2011 until 31 December 2011 by having the Royal Decree to be issued under the Revenue Code. Summary of this tax measure is as follows:

- In case the donor is a natural person subject to personal income tax, a deduction of 1.5 times of a cash donation is allowed for purpose of personal income tax calculation, but not exceeding 10% of net income (after deductions in total).
- If the donor is a partnership of company subject to corporate income tax, a deduction of 1.5 times of either cash or property donations is allowed for purpose of corporate income tax calculation, but not exceeding 2% of net profit.

In addition to the above tax measure, the further tax measures which could be used as a tool to help those who have been suffering from the floods have also been considered, such as:

- Deferral of tax payments and tax return filing for certain periods could help flood victims to preserve cash needed for the repairs.
- Customs duties on imported materials for the replacement of damaged spare parts or machines should be exempted regardless of whether a business has been granted an investment promotion from the Office of the Board of Investment (BOI).
- Compensation payment of Baht 5,000 each to more than 600,000 households in Bangkok affected by the flood which has been further approved in the Cabinet on 8 November 2011. The compensation payment shall be made within 45 days after the Cabinet's approval based on the conditions of either (i) the houses were hit by a flash flood causing damage to property; or (ii) the houses were affected by floodwater for at least seven (7) consecutive days causing damage to property. These houses must be in the declared disaster emergency areas in Bangkok and a letter of eligibility for the compensation must be issued by relevant district office.

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