L&P

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BOI Promotion: International Trading Centre (ITC)

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I. Introduction

An International Trading Centre ("**ITC**") is a company registered in Thailand performing international trade business (purchase and sale of goods, materials or parts) or providing services to overseas customers.

This newsletter outlines the qualifying criteria and tax privileges granted to ITCs by the Revenue Department and the Board of Investment ("**BOI**").[1]

II. Qualifying Criteria

In order to qualify for the BOI (non-tax) promotion, an ITC must fulfil the following requirements:

- Registered and fully paid-up capital of at least THB 10 million; and

- Provision of services relating to international trade that meet the criteria set for the promotion of ITC, i.e.:

  - The supply of goods;
  - Packaging;
  - Transporting;
  - Insurance;
  - Consulting and providing technical services and product training (*only admissible if related to the products sold – no isolated services*);
  - Other services as determined by the Director General of the Revenue Department (*not specified at this stage*).

The BOI promotion for ITCs does **not** cover local retail trading activities. Therefore, local retail trading is not eligible for the below mentioned incentives. If both international and local trading shall be performed, a Foreign Business License may be required for the local retail trading part (if the company is majoritarian foreign-owned). The BOI promotion provides non-tax benefits such as:

- 100 % foreign ownership;
- Land ownership;
- Exemption of import duty on machinery;
- Eased requirements for hiring of expatriates.

III. Tax Privileges

An ITC that – in addition to the aforementioned criteria (II.) – has annual local expenses (*excluding cost of sales*) of at least THB 15 million will be granted the following tax privileges for up to 15 years:

- Exemption from corporate income tax ("**CIT**") on profit earned or received abroad, including sales, procurement and services ("out-out");

- Exemption from withholding tax on dividends paid to its corporate shareholders abroad who are not carrying on business in Thailand (provided such dividends are paid out of the ITC's net profits or CIT exempt income); and

- Reduced personal income tax of 15% flat for expatriates who work for the ITC, receive a minimum salary of THB 2.4 million per year and

[1] This promotion was approved by the Thai Cabinet on 23 December 2014, and the detailed conditions were announced by Royal Decree No. 587 on 28 April 2015 and came into effect on 1 May 2015.

reside in Thailand for at least 180 days in each tax year. This tax privilege is applicable in the years when the ITC receives tax benefits.

It should be noted that the local expenses of THB 15 million must be attributable to the CIT-exempted income of the ITC, i.e. only expenses related to the out-out activities will be included in the calculation of the THB 15 million.

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

In case the ITC does not meet the qualifying criteria in any given accounting period, the incentives will not be granted for that accounting year only, i.e. incentives are not being cancelled retroactively.

IV. Approval Process

In order to obtain the tax benefits mentioned above, an approval needs to be obtained from the Director-General of the Revenue Department.
Existing International Procurement Offices ("IPO") can upgrade their status to ITC.

V. Conclusion

Thailand is competing with neighboring countries for foreign investors who are seeking to establish their trading hub in Southeast Asia. Countries like Singapore or Hong Kong 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 ITCs – and thereby de facto granting an exemption from the Residential Tax System – Thailand is trying to attract more foreign investment. The straightforward provisions are expected to attract more foreign investors who may consider Thailand as an attractive country to set up their international operations hub.

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.

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