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Investment Promotion for International Business Centers (IBC)

November 2018

I. Introduction

On 10 October 2018, the Thai Cabinet approved concepts of draft Royal Decrees for International Business Centers ("**IBC**"), which will replace the Regional Operating Headquarters ("**ROH**"), International Headquarters ("**IHQ**") and International Trading Centers ("**ITC**") schemes.[1] Even though the Royal Decrees have not yet been issued, all pending and new applications for ROH, IHQ and ITC tax incentives are closed since 10 October 2018.[2]

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.

II. Qualifying Criteria

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

- Registered and fully paid-up capital of at least THB 10 million; and
- Annual expenses in Thailand of at least THB 60 million; and
- Employment of at least 10 employees (or at least 5 employees in case of an IBC providing financial management services).

III. Tax Privileges

An IBC that meets the aforementioned criteria 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**
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 or income that is exempt from CIT*);
  - 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*).

[1] The information in this newsletter is based on the Draft Royal Decree re: International Business Center (IBC), which was announced on 10 October 2018.

[2] IHQ and ITC (non-tax) promotion can, however, currently still be applied for with the BOI.

- Exemption from specific business tax on income from treasury center function
- Reduced personal income tax ("**PIT**") of 15% flat for expatriates who work for the IBC (criteria is yet to be defined),

When calculating the CIT, 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 apportion does not reflect the reality of business, the IBC may request approval of the Director-General of the Revenue Department to use other, more accurate and realistic ways of calculation.

IV. 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 IHQ/ITC companies can file an application to register as IBC to receive the aforementioned tax benefits, or continue under their existing promotion.[3] Applications for tax benefits under the IHQ and ITC schemes have been suspended with immediate effect.

As for the BOI promotion, the BOI has not made any announcement as to whether there will be any changes or cancellation made to the current IHQ/ITC scope. It is expected that once the Royal Decrees come into force, the IBC will be part of the BOI-promoted list of activities, replacing IHQ/ ITC.

V. 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 IBC – and thereby de facto granting an exemption from the Residential Tax System – Thailand was able to attract more foreign investment. The tax incentives under IBC may not be as beneficial as compared to the previous scheme 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 the IBC 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

[3] Existing ROH that do not wish to convert will remain eligible for tax incentives until 2020, or, as the case may be, until completion of their 10- or 15-year promotion period. Existing IHQ and ITC, that do not wish to convert will remain eligible for tax incentives until completion of their 15-year promotion period.