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THAILAND INTRODUCES THE INTERNATIONAL BUSINESS CENTER ("IBC") IN RESPONSE TO THE HARMFUL TAX PRACTICES.

On 10 October 2018, the Thai Cabinet has approved the cancellation of existing tax incentivized regional and international headquarters regimes. The cancellation was proposed by the Ministry of Finance in response to the implementation plan of the Inclusive Framework on the Base Erosion and Profit Shifting of the Organization for Economic Cooperation and Development ("OECD"), which requires the member countries including Thailand to cease and amend any tax measures that considered to be harmful practices.

As a result, the Thai Cabinet decided to cancel the following tax regimes, which are considered by the OECD, to erode the tax bases of other countries and replaced them with the International Business Center ("IBC") regimes.

1) Regional Operating Headquarters ("ROH") including ROH I and ROH II under Royal Decree No. 405 and No. 508, issued under the Revenue Code, respectively;

2) International Headquarters ("IHQ") and Treasury Center ("TC") under Royal Decree No. 586 issued under the Revenue Code; and

3) International Trading Center ("ITC") under Royal Decree No. 587 issued under the Revenue Code.

Due to the cancellation, the application for ROH I, IHQ and ITC will no longer be accepted as from 10 October 2018. As for the entities under the ROH I, they can only enjoy the tax incentives until the end of accounting year 2020, while the entities under the IHQ and ITC will remain eligible for tax incentives for a period of 10 to 15 years which is similar to the incentive of the ROH II. However, the application for new ROH II will not be accepted since 15 November 2015.

In which case, the existing beneficiaries of the ROHs, IHQ and ITC will be able to continue benefitting from the incentives in normal circumstances until their expiry date and may choose to convert their status into an IBC.

However, not all entities will be qualified for an IBC as they must comply with the following requirements:

1) The entities must have a minimum registered capital of THB 10 Million, which is fully paid-up;

2) The entities must have a minimum expenditure in Thailand of THB 60 Million in each accounting period or THB 15 Million for the entities with previous ROH and IHQ status that converted into IBC.;

3) The entities must employ at least 10 employees or 5 employees in the case where entities only provide treasury service under the IBC.

After being qualified as an IBC, the entities will be entitled to the following privileges:

1) Reduction of Corporate Income Tax (“CIT”) rate on income received from provision of service or treasury service to the affiliated entities within and outside Thailand or on a Royalty fee received from the affiliated entities within and outside Thailand to the following rates:

   - 8 % if the expenditure is equal to or exceeding THB 60 Million
   - 5 % if the expenditure is equal to or exceeding THB 300 Million
   - 3 % if the expenditure is equal to or exceeding THB 600 Million

2) Exemption from the CIT on the dividend income received from affiliated entities within and outside Thailand.

3) Exemption from the Specific Business Tax (“SBT”) on income received from the provision of treasury service to the affiliated entities within and outside Thailand.

4) Reduction of the Personal Income Tax rate to 15% for a full-time foreign employee who work for an IBC.

5) Exemption from the CIT on dividend or interests received from an IBC for an entities or juristic partnership which does not operate business in Thailand.

Currently, the Board of Investment of Thailand (“BOI”) has not confirmed on whether or not there will be an alternation to the existing incentive schemes of BOI or whether there will an introduction of the new scheme. However, these improvements are believed to promote Thailand as a global business center of Southeast Asia as well as to promote the good image of Thailand, particularly in term of tax collection, as the regimes which considered to be harmful practices have been removed.

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