Changes in tax incentives for international HQs

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BIZ INSIGHT

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THE Board of Investment has introduced investment promotion schemes for international headquarters and international trading companies effective on January 1, which were followed by the tax incentives for the schemes released early this month by the Revenue Department.

The IHQ scheme is a major improvement on the first regional operating headquarters scheme introduced in 2002 and the second ROH scheme issued in 2010.

Some highlights of the changes and tax issues of interest are as follows.

Treasury Centre

This has been introduced as a new covered activity. This is the first time that tax incentives have been mentioned for TC-like activities. Now, subject to Bank of Thailand approval, a corporation can operate as a treasury centre for its group of companies.

This had not proven popular because no tax incentives were provided, but now the income from a TC's provision of financial management services to foreign associates is exempt from corporate income tax, while income from such services provided to associates in Thailand is subject to a reduced 10-percent rate.

A IHQ is exempt from specific business tax on interest income from loans to associates for the purpose of financial management. No tax is withheld on interest paid by a IHQ to a foreign entity not doing business in Thailand, provided such interest relates to a loan borrowed by a IHQ and re-lent to associates in Thailand for the purpose of financial management.

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No separate entity

It is not necessary to have a separate entity to concurrently receive the tax incentives of an international trading company (ITC). Provision of services related to a ITC can be rendered by a IHQ.

The key tax benefit is a tax exemption on income from the procurement and sale of goods outside of Thailand without transporting those goods to Thailand, or importing them into Thailand as a transit or transhipment under customs law. This helps businesses reduce their administrative burden in maintaining two companies.

IHQ criteria relaxed

The conditions for a IHQ to qualify for tax exemptions and reductions have been lessened. Income derived from the provision of management or technical services, support services or financial management services – collectively referred to as supporting services – and royalties received from associates in Thailand are subject to a reduced tax rate of 10 per cent for the amount that does not exceed the supporting services plus royalties received from foreign associates.

This condition is more easily met than that of the ROH scheme. For an ROH, the exempted income must be more than 50 per cent of the total income of the company – all types of income including passive income regardless of whether it is derived from ROH activities.

The required number of foreign countries with associates has been reduced from three to one.

Flat tax rate for expats

Qualified expatriates employed by a IHQ or ITC may pay personal income tax at 15 per cent for the life of the IHQ or ITC, such as 15 years. This is one of the key considerations that will encourage multinational companies to establish their operating and administrative headquarters in Thailand.

Among key tax concerns, the transfer pricing rates are a top issue. To enjoy the tax incentives, a IHQ has to provide services only to its associated entities. An associated entity can be an entity related to the IHQ by shareholding or management relationship. This is the same definition of a related party used for transfer pricing purposes.

The transactions between a IHQ and its associates in Thailand and foreign countries have to be dealt with on an arm's length basis.

Recently, the Cabinet approved a draft transfer pricing bill that will amend the Revenue Code to prevent tax evasion from transfer pricing applied between related parties.

The aim is to add provisions to the Revenue Code that will define the criteria for determining transfer pricing that should be applied between related entities, allow a tax officer to make adjustments to assessable income and allowable deductions, and determine the period of eligibility for tax refunds.

One of the requirements is that entities with related party transactions have to prepare and submit documents as required by law within 150 days after the end of the accounting period.

Failure to do so will leave a company subject to a penalty of up to Bt400,000.

A IHQ should be prepared to manage its transfer pricing risks and compliance.

VAT is another tax issue that a IHQ should consider. A zero VAT rate should apply for services provided to foreign associates, provided that those services are performed in Thailand by a IHQ and the foreign associate's use of such services takes place entirely outside Thailand.

To qualify for the zero VAT rate, a IHQ must prove to tax authorities that the results of the service are delivered outside of Thailand.

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