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Official language is Thai language

REVENUE DEPARTMENT'S INSTRUCTION

No. Por. 13/2529

Re: Imposition of Corporate Income Tax on Companies or Registered Partnerships
Established under Foreign Laws and Carrying Out Business in Thailand under Section 66 and
Section 76 *bis* of the Revenue Code

To set guidelines to be adhered to by revenue officers for the imposition of corporate income tax on companies or registered partnerships established under foreign laws and carrying out business in Thailand under section 66 and section 76 *bis* of the Revenue Code, the Revenue Department hereby instructs as follows:

Clause 1 This Instruction applies to companies or registered partnerships established under foreign laws and carrying out business in Thailand under section 66 and section 76 *bis* of the Revenue Code, which are required to file a return within one hundred and fifty days from the last day of an accounting period in the form prescribed by the Director-General of the Revenue Department (Phor.Ngor.Dor. 50 Form) together with a balance sheet, revenue account and profit and loss account which have been audited and certified by a certified public accountant under section 3 *septiens* of the Revenue Code in accordance with section 68 and section 69 of the Revenue Code.

Clause 2 The computation of net profits for the purpose of payment of corporate income tax of a company or registered partnership under Clause 1 shall be based on income from or due to the business carried out in an accounting period, deducted by expenses according to the conditions stipulated in section 65 *bis* and section 65 *ter* of the Revenue Code.

In respect of expenses paid by a branch in Thailand to its head office or to another branch in a foreign country as compensation for the assistance or services given or rendered for the business of the branch in Thailand, such expenses may be treated as expenses for the computation of net profits, and not treated as non-deductible expenses under section 65 *ter* (14) of the Revenue Code, only if there exists clear evidence that such expenses have the following characteristics:

(1) the expenses relate to the assistance or services given or rendered by such head office or other branch relating to the business of the branch in Thailand;

(2) the expenses relate to the research and development which are conducted for the branch in Thailand, or the results of such research and development are actually applied for the benefit of the business of the branch in Thailand;

(3) any expenses which have already been treated as expenses in the computation of net profits of the head office or another branch may not again be treated as expenses of the branch in Thailand;

(4) the allocation of the expenses made by the head office or another branch to the branch in Thailand must conform to the generally accepted rules and methods, and must also be consistently applied to the branches in other countries;

(5) the expenses do not belong particularly to the head office or another branch, such as office rentals, water and electricity charges, stationery expenses, cost of appliances and wear and tear and depreciation of appliances and equipment.

The expenses in the amounts, and according to the rules and procedures described in paragraph two must, in order to be treated as expenses of the branch in Thailand, be substantiated by evidence or certificates issued by a competent official of the foreign country or by other reliable persons acceptable to the Director-General of the Revenue Department, and such evidence or certificates must contain information in sufficient detail to show that the expenses are actually necessary and reasonable for the operation of business of the branch in Thailand.

The computation of net profits for the purpose of payment of corporate income tax under paragraph one, paragraph two and paragraph three shall not prejudice the method of the computation of net profits for the purpose of payment of corporate income tax under the agreement for the avoidance of double taxation entered into between the Thai government and a foreign government as amended by the Revenue Department's Instruction No. Por. 14/2529.

Clause 3 A company or registered partnership under Clause 1 may file a return and pay corporate income tax under section 66, paragraph two or section 76 *bis*, paragraph two of the Revenue Code, only if the Director-General of the Revenue Department has considered and viewed that such company or registered partnership is unable to compute

net profits and permitted or ordered it to file a return reporting corporate income tax in the form prescribed by the Director-General of the Revenue Department.

Clause 4 In the case where any company or registered partnership under Clause 1 has filed a return and paid corporate income tax under section 66, paragraph two or section 76, paragraph two of the Revenue Code before the Director-General of the Revenue Department has granted permission or order under Clause 3 by adapting or adding contents in a return form prescribed by the Director-General of the Revenue Department for use in filing particulars in other cases and filing such return for the first-mentioned purpose, it shall be deemed that such company or registered partnership did not file a return reporting corporate income tax in the form prescribed by the Director-General of the Revenue Department.

Clause 5 In the case where a company or registered partnership under Clause 1 has filed a return and paid corporate income tax under Clause 4, an assessment officer shall assess corporate income tax in accordance with the criteria stipulated in Clause 1 and Clause 2. If such company or registered partnership does not have evidence to prove the expenses, the expenses shall be in accordance with the following criteria:

(1) for the business of performing work, 30 percent of the total amount of income before deduction of all expenses in an accounting period but not exceeding 40,000 baht may be deducted as expenses. This rate correlates with the rate of a standard deduction for expenses under section 42 *bis*, paragraph one of the Revenue Code;

(2) for the business of renting property, the following percentages of the total amount of income before deduction of all expenses in an accounting period may be deducted as expenses:

(a) 30 percent, in the case of renting out houses, buildings or other structures or vehicles;

(b) 10 percent, in the case of renting out other properties than (a).

The above rates correlate with the rate of a standard deduction for expenses under section 5 (1) of the Royal Decree (No. 11), B.E. 2502 (1959);

(3) for the business of liberal professions, 30 percent of the total amount of income before deduction of all expenses in an accounting period may be deducted as

expenses. This rate correlates with the rate of a standard deduction for expenses under section 6 (2) of the Royal Decree (No. 11), B.E. 2502 (1959);

(4) for contracting businesses whereby a contractor has to invest by providing essential materials besides tools, 70 percent of the total amount of income before deduction of all expenses in an accounting period may be deducted as expenses. This rate correlates with the rate of a standard deduction for expenses under section 7 of the Royal Decree (No. 11), B.E. 2502 (1959);

(5) for carriage businesses, 80 percent of the total amount of income before deduction of all expenses in an accounting period may be deducted as expenses. This rate correlates with the rate of a standard deduction for expenses under section 8 (15) of the Royal Decree (No. 11), B.E. 2502 (1959);

(6) for the business of purchase and sale, 80 percent of the total amount of income before deduction of all expenses in an accounting period may be deducted as expenses. This rate correlates with the rate of a standard deduction for expenses under section 8 (25) of the Royal Decree (No. 11), B.E. 2502 (1959).

(Amended by the Revenue Department's Instruction No. Por. 21/2531)

Clause 6 Any rule, instruction, ruling or practice which is in conflict or inconsistent with this Instruction shall be repealed.

Given on the 7th Day of April B.E. 2529 (1986)

Viroj Laohaphan

Director-General of Revenue Department