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Official language is Thai language

Royal Decree
Issued under the Revenue Code
Governing the Reduction of Tax Rates and Exemption of Taxes (No. 405)
B.E.2545 (2002)

Bhumibol Adulyadej, Rex.

Given on the 5th day of August B.E.2545(2002),
Being the 57th year of the present Reign

By Royal Command of His Most Excellent Majesty King Bhumibol Adulyadej, it is proclaimed that :

Whereas it is deemed proper to reduce the tax rates and exempt taxes in certain cases, H.M. the King, by virtue of Section 221 of the Constitution of the Kingdom of Thailand and Section 3(1) of the Revenue Code, as amended by the Revenue Code Amendment Act (No.10) B.E.2496 (1953), is therefore graciously pleased to direct the enactment of the Royal Decree as follows:

Section 1 This Royal Decree ~~shall be~~ is called the “Royal Decree Issued under the Revenue Code Governing the Reduction of Tax Rates and Exemption of Taxes (No. 405) B.E.2545 (2002)”.

Section 2 This Royal Decree shall come into force on and from the day following the date of its publication in the Government Gazette.

Section 3 In this Royal Decree,

The term “alien” means an individual whose nationality is not Thai.

The term “Regional Operating Headquarters” means a company ~~established~~ incorporated under Thai law in order to operate a business of providing management or technical services, or providing supporting services to associated enterprises or branches of its own, irrespective of whether they are located ~~inside~~ Thailand or in foreign countries.

The term “related company or juristic partnership” means a company or a juristic partnership that has applied the results of the research and development ~~by~~of the regional operating headquarters to the manufacture of goods or provision of services to the regional operating headquarters, its associated enterprises or foreign branches of the regional operating headquarters.

(Amended by Royal Decree No. 508 B.E.2553 (2010) which has been in force since 6 November B.E.2553 (2010))

The term “provision of supporting services” means the ~~following provision of~~ supporting services in the following cases:

- (1) general management, business planning and business coordination;
- (2) procurement of raw materials and ;
- (3) product research and ~~product~~ development;
- (4) technical supportSupporting technical assistance;
- (5) marketing and sales promotion;
- (6) personnelhuman resource management and training in regional areas;

- (7) giving of financial advisory services advice;
- (8) analysis of and research on economic and investment;
- (9) management and control of credit;
- (10) other supporting services as prescribed by the Director-General of the Revenue Department.

The term “associated enterprise” means a company or a juristic partnership that has relations with it related to the regional operating headquarters in the following manners:

(1) a company or a juristic partnership that holds shares in the regional operating headquarters at not less than twenty five percent of the total capital thereof;

(2) a company or a juristic partnership that the regional headquarters holds shares in or is a partner which owns of the juristic partnership at not less than twenty five percent of the total capital;

(3) a company or a juristic partnership that the company or juristic partnership under (1) holds shares in or is a partner which owns of the juristic partnership at not less than twenty five percent of the total capital;

(4) a company or a juristic partnership that has the power to control the business or supervise the operations and management of the company or juristic partnership regional operating headquarters;

(5)

(6) a company or a juristic partnership whose business or operations and management is under controlled or supervised by the company or juristic partnership under (4)

Section 4 The rate of personal income withholding tax shall be reduced to 15 percent of the assessable income received by an alien for the employment of the regional operating headquarters, which, after having computed under Section 50(1) of the Revenue Code, is subject to the payment of tax at the rate fixed in the Schedule of Income Tax Rates annexed to Chapter 3 in Title 2 of the Revenue Code higher than 15 per cent of the assessable income

In the case the assessable income under paragraph one, after having computed under Section 50(1) of the Revenue Code, is subject to the payment of withholding tax at the rate of less than 15 per cent of the assessable income, ~~the~~ alien who is the income earner shall be exempted from including the income in the computation of income tax under Section 5, provided that ~~the alien~~ allows the income payer to withhold income tax at the rate of 15 per cent of ~~the~~ income.

Section 5 When the income tax filing is due, the alien whose income is withheld as income tax at the rate of 15 per cent of the assessable income under Section 4 shall be exempted from including the assessable income in the computation of income tax to the extent that the alien does not, wholly or partly, request for a refund or a credit of the tax so withheld.

In the case that the alien has assessable income under Section 40 (4) and (8) of the Revenue Code and the income tax of which has already been withheld under Section 50 of the Revenue Code, and is therefore entitled to choose to pay tax on the income separately under Section 48 (3) and (4) of the Revenue Code, the alien is entitled to the exemption under paragraph one, provided that the alien does not include the assessable income under Section

40 (4) and (8) of the Revenue Code and the assessable income that the income tax has been withheld under Section 4 for the computation of income tax, and the alien must not request, wholly or partly, for a refund or a credit of the tax so withheld.

To be entitled to the exemption under paragraph one and two, the alien must file in an information return on the assessable income exempted from the income tax computation.

Section 6 The income tax under Division 2, Chapter 3, in Title 2 of the Revenue Code, shall be exempted for the alien who regularly works at a regional operating headquarters, for the income received for the employment in which the alien is sent to work overseas. However, the assessable income must not be deducted as an expense, either directly or indirectly, in the computation of income tax of the regional operating headquarters or its associated enterprises carrying on business in Thailand.

Section 7 The alien who is eligible for the exemption under Section 4, Section 5 and Section 6 must be an alien who regularly works at the regional operating headquarters which has qualifications under Section 10. The alien is entitled to the exemption while the alien is working for a consecutive period of no more than four years, whether or not the alien travels out of Thailand from time to time.

(Amended by Royal Decree No. 461 B.E.2549 (2006) which has been in force since 16 August B.E.2545 (2006))

Section 8 The income tax rate under (a) of (2) for a company or a juristic partnership of the Schedule of Income Tax Rates annexed to Chapter 3 in Title 2 of the Revenue Code shall be reduced to 10 per cent for the regional operating headquarters, but only for the following kinds of income:

(1) Income for the provision of services by the regional operating headquarters to its associated enterprises or foreign branches.

(2) Interest received from its associated enterprise or foreign branch his only applies to interest on loan that the regional operating headquarters has borrowed for re-lending.

(3) Royalties received from its associated enterprise, foreign branch or from a related company or juristic partnership. This only applies to royalties from research and development of technology in Thailand by regional operating headquarters.

Section 9 The regional operating headquarters shall be exempted from income tax under Division 3, Chapter 3, in Title 2 of the Revenue Code for a dividend received from its associated enterprise established under Thai law or foreign law.

Section 10 The regional operating headquarters that is eligible for the privileges under Section 8 and Section 9 is required to have the following qualifications:

(1) Having a paid-up capital of at least ten million Baht on the last day of each accounting period.

(2) Providing services to its foreign associated enterprises or foreign branches in at least three countries.

(3) Having income under Section 8 (1) and (3) that is paid from or in foreign country in the total of at least fifty percent of the total income. This does not apply to the first three accounting periods after the regional operating headquarters registration where it must have the said income of at least one-third of the total income. In the event of force majeure which is not the fault of the regional operating headquarters, or there is other necessary causes, the

Director-General of the Revenue Department shall be empowered to consider granting a lower percentage. However, such relaxation shall be applied for only one accounting period.

(4) Having registered as a regional operating headquarters in accordance with the rules, procedures and conditions as prescribed by the Director-General of the Revenue Department.

(5) Having complied with the rules, procedures and conditions as prescribed by the Director-General of the Revenue Department.

Section 10/1 The regional operating headquarters that has registered under Section 10 (4) and is granted the reduction of rate and exemption of income tax under Section 8 or Section 9 is not entitled to the reduction of rate and exemption of income tax under Section 11/2, Section 11/3 or Section 11/4.

(Amended by Royal Decree No. 508 B.E.2553 (2010) which has been in force since 6 November B.E.2553 (2010))

Section 11 A company or a juristic partnership established under foreign law and does not operate business in Thailand shall be exempted from income tax under Division 3, Chapter 2, in the Title 2 of the Revenue Code for the dividend received from a regional operating headquarters under Section 10 to the extent that the dividend is paid from net profit arisen from the income under Section 8.

Section 11/1 The income tax shall be reduced or exempted under the rules in Section 4, Section 5 or Section 6 for the alien who regularly works at the regional operating headquarters for a consecutive period of no more than eight years, whether or not the alien travels out of Thailand from time to time. This only applies to senior executives or senior experts who work at the regional operating headquarters which has registered to the Revenue Department as prescribed by the Director-General of the Revenue Department.

The regional operating headquarters under paragraph one must possess the qualifications under Section 11/6 or Section 11/7, as the case may be, and has income from provision of services or royalties in the amount specified in Section 11/2 paragraph 2.

Section 11/2 The income tax rate of the regional operating headquarters under (a) of (2) for a company or a juristic partnership of the Schedule of Income Tax Rates annexed to Chapter 3 in Title 2 of the Revenue Code shall be reduced to 10 percent of its net profit for a consecutive period of ten years, but only for the following kinds of income:

(1) Income for the provision of services by the regional operating headquarters to its associated enterprises established under Thai law.

(2) Interest received from its associated enterprise or foreign branch.

(3) Royalties received from its associated enterprise, foreign branch or from a related company or juristic partnership. This only applies to royalties from research and development of technology in Thailand by regional operating headquarters.

The regional operating headquarters that is eligible for the reduction of income tax rate under (2) or (3) in any accounting period must have income from provision of services to its associated enterprise or foreign branch or royalties received from its associated enterprise, foreign branch or from related companies or juristic partnerships, specifically the royalties arisen from the result of the research and development of technology in Thailand by the

regional operating headquarters, that is paid from or in foreign country in the total of at least fifty percent of the total income in the accounting period.

Section 11/3 The regional operating headquarters shall be exempted from income tax under Division 3, Chapter 3, in the Title 2 of the Revenue Code for the income received for the provision of services by the regional operating headquarters to its foreign associated enterprise or foreign branch for a consecutive period of ten years.

Section 11/4 The regional operating headquarters shall be exempted from income tax under Division 3, Chapter 3, in the Title 2 of the Revenue Code for the income received for the provision of services or royalties as specified in Section 11/2 paragraph 2 to the extent that the income is dividends received from its associated enterprise established under Thai law or foreign law for a consecutive period of ten years.

Section 11/5 For the purposes of the reduction of rate and the exemption of income tax under Section 11/2, Section 11/3 or Section 11/4, the counting of accounting period shall be as follows:

(1) In the case that the accounting period starts on or after the registration of regional operating headquarters under Section 11/6 (6), such accounting period shall be counted as the first accounting period, or

(2) In the case that the registration of regional operating headquarters under Section 11/6 (6) takes place during any accounting period, such accounting period shall be counted as the first accounting period even though the period thereof is less than twelve months.

Section 11/6 The regional operating headquarters that is eligible for the privileges under Section 8 and Section 9 is required to have the following qualifications:

(1) Having a paid-up capital of at least ten million Baht on the last day of each accounting period.

(2) Providing services to its foreign associated enterprises or foreign branches in a number of countries as follows:

- (a) One country in the first and the second accounting period
- (b) Two countries in the third and the fourth accounting period
- (c) Three countries from the fifth accounting period onwards

(3) Having the following expenses:

(a) Expense for the operation of the regional operating headquarters that is paid for the receiver in Thailand in the amount of at least fifteen million Baht in each accounting period. The expense does not include depreciation, operating expense paid to foreign countries, costs of raw materials, costs of goodwill, costs of copyright or other rights, costs of accessories and costs of packaging, or

(b) Capital expenditure under Section 65 Ter (5) of the Revenue Code that the regional operating headquarters paid to the receiver in Thailand in the amount of at least thirty million Baht in each accounting period. The expenditure does not include investments in securities under the law governing securities and exchange.

(4) Having associated enterprises or foreign branches that carry on business in accordance with the objective of the establishment and there must be executives and personnel who genuinely work in the establishment. This must be in concurrence with the information reported to the Revenue Department.

(5) Having personnel who performs duties in the regional operating headquarters having the minimum skills and knowledge as prescribed by the Director-General of the Revenue Department.

(6) Having registered as a regional operating headquarters in accordance with the rules, procedures and conditions as prescribed by the Director-General of the Revenue Department within 5 years from the date that the Director-General of the Revenue Department determines.

(7) Having complied with the rules, procedures and conditions as prescribed by the Director-General of the Revenue Department.

Section 11/7 From the third accounting period onwards, the regional operating headquarters that is eligible for the privileges under Section 11/2, Section 11/3 and Section 11/4 must possess the qualifications under Section 11/6 and the following qualifications:

(1) Having personnel in accordance with Section 11/6 (5) working in the regional operating headquarters in the amount of at least seventy five percent of all personnel, and

(2) Having paid remuneration to the personnel working in the operation of the regional operating headquarters in the amount of at least two million Baht annually for at least five persons.

Section 11/8 The regional operating headquarters registered under Section 11/6 (6) to receive the income tax rate reduction or exemption under Section 11/2, Section 11/3 or Section 11/4 is not eligible for the income tax rate reduction and exemption under Section 8 or Section 9.

The regional operating headquarters cannot register to be the regional operating headquarters under Section 10 (4) and 11/6 (6) at the same time, nor can it be entitled to the income tax rate reduction and exemption under Section 8 or Section 9 along with the income tax rate reduction and exemption under Section 11/2, Section 11/3 or Section 11/4.

Section 11/9 If, in the tenth accounting period, the regional operating headquarters that has qualifications under Section 11/6 and consequently has qualifications as specified under Section 11/7 for a consecutive period of ten years in the income tax rate reduction or exemption has an accumulated operating expense paid in Thailand in the amount exceeding one hundred and fifty Baht, the regional operating headquarters shall be entitled to the income tax rate reduction and exemption under Section 11/2, Section 11/3 or Section 11/4 for an additional five accounting periods.

Section 11/10 If it appears that the regional operating headquarters lacks any qualifications under Section 11/6 or Section 11/7 in any accounting period, the right to income tax rate reduction and exemption under Section 11/2, Section 11/3 or Section 11/4 shall end retroactively from the first accounting period. This rule does not apply to lacks of qualifications under Section 11/6 (3) or (5) or Section 11/7 (1) in which the said right shall be suspended in the year only.

In the case that the regional operating headquarters has filed for a dissolution of regional operating headquarters within five accounting periods counted from the date of the registration under Section 11/6 (6), the right to income tax rate reduction and exemption under Section 11/2, Section 11/3 or Section 11/4 shall retroactively end from the first accounting period.

(Amended by Royal Decree No. 535 B.E.2555 (2012) which has been in force since 15 February B.E.2555 (2012))

Section 11/11 A company or a juristic partnership established under foreign law and does not operate business in Thailand shall be exempted from income tax under Division 3, Chapter 3, in the Title 2 of the Revenue Code for the dividend received from a regional operating headquarters under Section 11/6 or Section 11/7, as the case may be that has income from the provision of services or royalties under Section 11/2 paragraph 2.

(Amended by Royal Decree No. 508 B.E.2553 (2010) which has been in force since 6 November B.E.2553 (2010))

Section 12 The Minister of Finance shall have be in charge and control of the execution of this Royal Decree.

Countersigned:
(Police Lt. Col. Thaksin Shinawatra)
Prime Minister

Remarks :- The reason in enacting this Royal Decree is because the Government has a policy to support the investment of foreign companies in the form of the establishment of a regional operating headquarters in Thailand in order to develop Thailand as an investment hub in the Southeast Asian Region. Additionally, in order to promote the said investment, it is deemed suitable to grant tax privileges to the regional operating headquarters and the aliens who work at such regional operating headquarters, including companies or juristic partnership holding shares in the regional operating headquarters. Hence, it is necessary to enact this Royal Decree.

(Ref.: Government Gazette, Decree Issue, Volume 119, Part 79 Kor., 15th August 2002)