Introduction

Executives' Best Tax Companion

Every executive knows that once a company records a profit, it has to share certain amounts with the almighty government in the form of taxes. Besides taxing on company's income, the government imposes the tax on the supply of good/service called consumption tax, which the company must collect from a consumer and remit to the government. This consumption tax consists of value added tax and specific business tax. Another consumption tax on luxury good/service is excise tax. In addition, the importation of a good into Thailand is subject to tax. Certain legal documents are also taxed in form of stamp duty. Last but not least, the local government imposes property tax on immovable property located within its area. Tax is therefore one of major expenses of a business.

Not surprisingly, most of the companies, if not all, try to find every possible legitimate trick to minimize the taxes in the same manner they attempt to keep other expenses low. The right trick applied to paying lower taxes can mean substantial money saving potential, which at the end can result in a fatter bottom line and keep shareholders smiling each year! Of course, there is a thin line between the lawful tax planning and the tax evasion. A tax planning is a perfectly legal way to minimize the tax bill giving you tax saving, while the tax evasion is against the law and could potentially get you in trouble with a tax authority.

This book is written for executives, professionals, business owners, and investors who are eager to learn Thailand taxation without delving too deep into the Thai legal jargons – and yes, it's possible. This book will explain, in plain English, the fundamental principles of Thailand taxation that can help executives identify the key tax issues, apply the right trick and take advantage of the tax saving opportunities.

Why Executives Need to Know Tax?

Most likely an accountant would be the one who is going to prepare the tax filing paperwork. So, why an executive needs to bother to know tax, when it should have already been taken care by the accountant? Well, there are good reasons for this.

Tax as Vehicle to Increase Shareholder Value

Each executive is a driving force behind the company's success in creating the shareholder value. Any decision made by an executive often influences a significant part of the company's strategic planning. In some cases, tax consideration plays a paramount role in shaping the plan and that's where an outstanding executive uses tax as one of the value drivers to further maximize the shareholder value.

Notably, tax is one of the main expenses of a business. Some knowledge about tax will not only help an executive understand and identify tax saving opportunities, but also highlight some most common pitfalls in tax management. Knowing all details may not be terribly necessary for executives. If only executives are aware with certain key tax concepts, they will be better equipped to make business decisions that are more tax efficient for the best interest of shareholders.

More often, the executives seek to balance the tax impact with other non-tax factors in making the best decisions. The company might not pursue the zero tax strategy if doing so would increase the long term administrative costs and diminish operational efficiency. For instance, an executive would consider relocating the operation to the deep South of Thailand because he wants to get a considerable tax incentive granted by the Thai government, but at the end, the executive decides not to do so because his staff may run a risk of working in the middle of gunfire. So, rather than always focusing on minimizing taxes, a good executive will seek to manage the tax impacts by balancing the expected tax savings against the costs and risks (especially to the life of employees) incurred. Essentially, the structure of any tax minimization strategy must be consistent with the genuine nature of the transaction (Any tax planning must be in line with the actual transaction). A taxpayer cannot claim to enter into one type of transaction in order to just avoid tax, while in reality the taxpayer does another type of transaction. Tax is therefore one of factors that each executive needs to weight in creating the value for the shareholders.

Capitalizing Tax Saving Opportunity

Executive's understanding of tax will allow the executive to identity and capitalize on tax saving opportunities for a company. Not knowing the framework of tax means the company may miss out tax saving opportunities that exist. It is not uncommon to find many businesses operate inefficiently as far as tax is concerned due to lack of tax knowledge.

Watch Out for Pitfalls and Costly Penalty

Over the years, companies are bombarded with tax bills from the Revenue Department and other tax authorities arising from the violation of tax law – it usually adds (jaw-dropping) penalties and interest (known as surcharge) when the tax bills become delinquent. This tax violation and its aftermath not only cost the company money, but also waste productive hours and put executives under stress! If only executives have some knowledge about tax, most of penalties and surcharges can in fact be avoided by early identifying of tax pitfalls and restructuring a transaction in the way that it will be treated more preferable by tax law.

Lack of tax knowledge is not unexpected but common cause given tax law is quite complex. Many businesspeople rightly complain that tax law is complicate, written in unknown language and difficult to understand, let alone to merely follow. Well, do you think the tax authority wants to hear this excuse? In any circumstance, it is important that an executive should always ensure the company does not violate any law; otherwise in some circumstances, the executive may end up being criminally liable for company's violation of tax law.

Be warned: even if these tax pitfalls technically can be avoided, such restructure of the transaction must be made prior to the execution of the transaction. Once the transaction is made by the parties, it may be way too late to rectify the situation. So an executive with some understanding of the tax framework can help the company restructure the transaction to avoid those tax pitfalls.

Be Alert of Other's Misinterpretation

A taxpayer will be held accountable for his or her own interpretation of a provision of tax law regardless of whether such interpretation is made in good faith at the advice of taxpayer's internal accountant, auditor or advisor. What it is trying to say is that regardless whoever helps interpret tax law, once any executive signs a tax return of the company, he or she will be held accountable for such tax return. Even if the accounting professionals help sort out tax problems, it is still a good idea to verify that the accounting professionals get them right. After all the tax authority does not hold the accounting professionals accountable for their interpretation, but it is the company who is liable for any resulting tax plus surcharges and penalties, if anything is wrong. Understanding of the tax law framework will alert an executive to seek the further clarification with a tax expert whenever any doubt on tax law arises.

Seamless Communication with Your Legal Advisor

Executives who understand the general concept of taxation often find it easier and more efficient to work with a tax advisor. Any case or problem arisen can be presented in rather straightforward manner, key tax issues are identified and at the end, the tax advice can be delivered at the company's expectation. The more tax knowledge an executive has, the better he or she can make use of the tax advisor, and hopefully the less tax advice the company will have to pay for.

Taxation: A Winning Factor in Competition

Running a business without tax savvy is like driving an old car with a limited horsepower – sometimes to end up in a garage for repair and improvement to a certain extent possible. The company does not have what it takes to win the race, especially in the today's stiff competitive market where every single cent counts. (Remember, in any race, it's not how you start the race, it's how to finish strong.)

Many business failures in fact can be curtailed if more attention is paid to the company taxation. Remember, when tax enters into the company's balance sheet, tax alone constitutes as one of the largest expense items in the profit and loss account. It is a long list of various types of taxes imposed on the company, including corporate income tax, employee payroll tax, value added tax (VAT), specific business tax, customs duty, excise tax, property tax, stamp duty, etc, where the sum can significantly slash off the company's profits by a big volume. It is well understood therefore that the lower-taxed company will have a competitive edge over its competitors.

All in all, a tax burden hits the company's bottom line and ultimately affects the prices of products or services sold to its consumers. Effectively, the company passes some of this cost to consumers. An executive needs to analyze whether the company has a tax advantage or disadvantage in relation to its competitors. If the company is structured to gain a more favorable tax status than that of its competitors, the structure can give the company an overall cost savings over its competitors. Everything else having been considered, the company can use these cost savings to either reinvest or translate into price cutting promotion, making its products more attractive compared to those of competitors.

Furthermore, the government wants its share of pie to be paid within certain deadlines every year, otherwise a penalty and a surcharge (interest) kick in. This means taxes are not only a big expense, but also must be paid urgently within the respective deadline. A company with a low level of cash flow must act quickly in order to avoid a cash trapped situation and to remain sound after making the tax payment.

This Book as Executives' Best Tax Companion

Thailand tax rules may seem hideously complex, hard to learn, often leading to uncertainty and obscurity. Even the finest tax experts sometimes get lost in translation, not to mention the executives who are generally non-tax specialists. This is where executives will find this book their best tax companion. While it is not an easy task, the book tries to translate the Thailand tax law into an easy to understand, practical guideline in plain English. Executives can save time, energy and resources by skipping the complexity but focusing more on its practicality. Numerous examples and tax cases are presented throughout the book to enhance executives' understanding of Thailand's tax law and its practice.

This book can (and should) be used is for anyone who deals with Thailand tax planning in any business transactions, whether at multinational companies, publicly held companies, small and medium enterprises, or individual business owners, including:

- Board Chairmen, Executive Chairmen, Chief Executive Officers, Presidents, Managing Directors, Managing Partners, Country Managers, Chief Operating Officers, Chief Administrative Officers, Corporate Officers and General Managers;

- Corporate Legal Counsels, General Counsels, Chief Legal Officers, Vice Presidents – Legal Affairs, Heads of Legal Department, Legal Directors, Legal Advisors, In-house Legal Counsels, Legal & Compliance Managers, Legal Consultants, and Private Practitioners;

- Chief Financial Officers, Finance Directors, Financial Vice Presidents, Heads of Accounting & Finance Departments, Financial Controllers, Finance Managers and Treasurers;

- Heads of Tax Compliance, Corporate Tax Planning Directors, Tax & Investment Managers, Chief Accounting Officers, Chief Accountants, Accounting Directors, Accounting Managers, Accountants and Auditors;

- Members of Board of Directors and Executive Directors;

- Business Development Vice Presidents, Business Development Directors, and Heads of Corporate Planning;
- Chief Human Resources Officers, Human Resources Vice Presidents, HR Managers, HR Consultants, Recruitment Agencies, and Managers of Compensation & Benefits;
- Entrepreneurs who own businesses;
- Foreign investors who (plan to) do businesses in Thailand; and
- Anyone who cares to gain knowledge of Thailand taxation.

Filled with in-depth insights and practical advice, from this reliable source, executives will learn:

- the overview of Thailand taxation: how it is made and administered;
- the tax considerations and benefits of each business structure;
- what kinds of deductible business expenses that should be disallowed;
- top deductions for businesses that can reduce overall company's tax burden;
- the tax privileges with BOI promotion;
- how to apply depreciation to shelter part of company's income from tax;
- how to retain talents with various employment tax benefits;
- advance tax planning with an offshore company;
- the VAT and specific business taxes; and
- how to identify potential tax issues and avoid costly penalty and surcharge.

Icons Used in This Book

We also develop various icons that help to highlight certain useful information so as to enhance your learning throughout this book. Here's is a rundown of what those icons mean.

NARIT's Note

NARIT's Note provides some additional insight or background story on the concept being discussed.

NARIT's Tip

NARIT's Tip offers a proven strategy that you should not miss to take advantage most out of this book.

NARIT's Alert

If you see NARIT's Alert, it means we try to alarm you to the occasions that may disadvantage to you. It is intended to grab your attention so that a pitfall can be avoided and help you stay out of trouble.

NARIT's Example

Through NARIT's Example, you will be handed a key to unlock the theory that is just explained by applying it to real life situations.

NARIT's Glossary

Don't understand legal and tax terms? Tax lingo is probably not in your dictionary, so look for NARIT's Glossary for a plain English definition of the terms explained.

Get the excitement? Let's venture forth into the rest of the book to embrace the Thailand strategic tax planning every executive needs to know.