

NEWSLETTER

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1. Change to Revenue Department Instruction on Interest/Cross Currency Swap Transaction

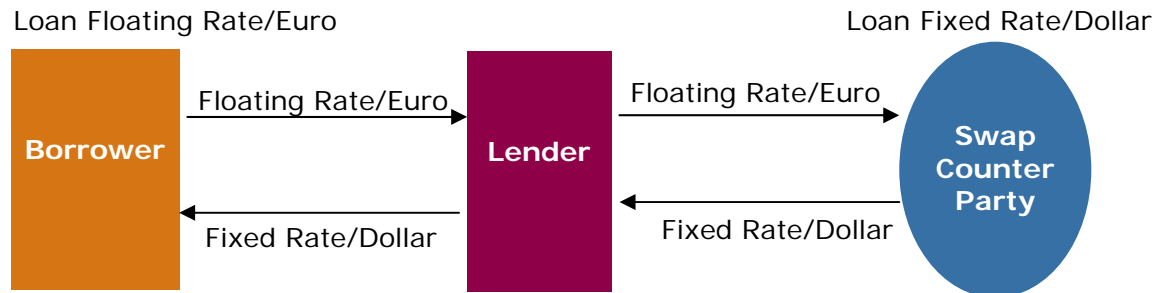
The Revenue Department changes its Instruction on Interest/Cross Currency Swap Transaction. The existing Instruction states that if a borrower enters into an interest rate swap, a cross currency swap or a cross currency interest rate swap with borrower's lender in order to exchange one stream of cash flows against another stream of cash flows, the exchanged cash flow (gain) derived from the swap is deemed an interest income. Consequently, if an offshore party is a recipient of the interest income, the payment of this interest income is normally subject to the withholding tax.

Under the new Instruction, the Revenue Department stipulates that in the case where a borrower enters into an interest rate swap, a cross currency swap or a cross currency interest rate swap with borrower's lender in order to exchange one stream of cash flows against another stream of cash flows, the exchanged cash flow (gain) derived from the swap is deemed an interest income only if there is the circumstance that indicates that both parties have the intention to enter into the loan agreement, but enter into the swap transaction additionally in order to convert the consideration that the party is supposed to receive from the loan agreement (or interest income) into the consideration (gain) derived from the swap instead.

In the real transactions, a lender may lend the money to a borrower as well as act as an intermediary to find a swap counterparty to exchange the stream of cash flows with those of the borrower. Naturally, the lender may not want to lend the money in one currency with the floating rate only to agree to swap with the borrower to the loan in another currency with the fixed rate as the consequence will be as if the lender grants the loan in the second currency with the fixed rate to the borrower.

When a bank or financial institution grants the loan to a borrower as well as provides the swap service to such borrower, the bank or financial institution normally does not keep the swap position by itself, but re-exchanges with a swap counterparty it can find.

However, due to the credit risk and the confidentiality of swap counterparty, the borrower may need to act a middleman in exchanging a stream of the cash flows with those of the swap counterparty and then re-exchange such cash flows with those of the borrower. For more information, please contact us.



TAX UPDATE

2. Continued VAT Rate Reduction at 7% for Two More Years

The existing Royal Decree Re VAT Rate Reduction from 10% to 7% will have expired by September 30, 2008. The new Royal Decree is enacted to reduce the VAT rate from 10% to 7% for two more years from October 1, 2008 to September 30, 2010.

While the Revenue Code stipulates the VAT rate to be 10%, the Revenue Code also grants the Executive Branch of Government the power to reduce the VAT rate as it deems appropriate by issuance of a Royal Decree.

For more information, please contact us.

LEGAL UPDATE

3. New Procedural Regulations for Consumer Case

The President of the Supreme Court with the consent of the meeting of Supreme Court Justices issues the New Regulations of the President of the Supreme Court Re Procedure for Consumer Case by virtue of the Consumer Procedural Act, B.E. 2551 (2008) to set out the procedures for the consumer case in which a consumer may file the lawsuit against a business operator with the help of the court official.

For more information, please contact us.

TAX SERVICES – MERGERS & ACQUISITIONS TAX STRUCTURING

Our tax lawyers are familiar with mergers and acquisitions deals. We have substantial experiences in representing clients in acquisitions, sales, mergers and restructures of businesses.

A tax consequence of the proposed transaction is one of the major factors that the parties need to understand prior to making the deal. The consideration from the tax perspective can significantly weight in on how the parties would like to structure their deal, either the share sale or the business/asset sale with the payment in either cash or share (or sometimes combinations of both).

FOR ACQUIRER/BUYER

We advise acquirers/buyers on the tax status of target companies and the tax consequence of the proposed transaction so that acquirers/buyers can make the decision on whether the acquisition should be the business/asset sale or the share sale.

Our effort is made to save the transaction costs for clients. In addition, we advise acquirers/buyers on depreciation and amortization strategies in the deal structure that provide substantial tax advantages once they assume control of the purchased business as well as the tax aspects of financing the purchase.

Looking forward to the future, acquirers/buyers of the business want to acquire the business in the structure that will give them the substantial tax saving when acquirers/buyers exit/sell/dispose the business in the future.

We help acquirers/buyers select the tax efficient structure that suits their needs. In achieving these objectives for our clients, we employ certain tax saving strategies.

FOR SELLER

As far as tax is concerned, normally the most important issue for the sellers is how to find the legitimate ways to minimize the capital gain tax, VAT, specific business tax, stamp duties and official fees imposed on the sale of business.

Our extensive experiences help us achieve these aims for our clients. It is crucial for sellers to find a tax planning strategy fits the circumstance of their transaction to save the tax, otherwise sellers will find themselves with the huge tax liabilities, which come primarily from realization of the capital gain and the transfer of assets.

FOR MERGERS & RESTRUCTURE

Normally, when companies merge with each other or one company transfers the business to another company, the tax consequences from their merger or business transfer will be numerous, from corporate income tax, VAT, specific business tax, stamp duties and official fees.

Without the proper tax planning, more or less the merger or the business transfer will end up with the significant tax liabilities. These tax liabilities primarily arise from the deemed capital gain and the imposition of VAT/specific business tax on asset transfer.

Therefore, it is important for the relevant parties to structure a merger deal or a business transfer deal in the most tax efficient manner. Our firm can help clients structure the mergers deal or the restructure deal in the least possibly taxed way.

OTHER TAX SERVICES

- International Tax Planning**
- Property/Real Estate Taxes**
- Commercial Contract Tax Planning**
- Investment Tax Incentives**
- Finance and Securities Taxes**
- Corporate Tax Compliance**
- Transfer Pricing**
- Tax Restructuring**
- Tax Dispute**
- International Expatriate Services**
- Wealth Tax Management**

Please contact our attorneys, should you require any tax assistance.

FIRM PROFILE

NARIT & ASSOCIATES is international law firm based in Bangkok, Thailand with principal areas of practice on Corporate & Commercial, Mergers & Acquisitions, Tax Planning, Litigation & Dispute Resolution, Business Contracts/Agreements, Real Estate & Construction, Insurance and Employment.

We have experiences in advising our clients, from publicly held companies, Thai subsidiaries of multinational corporations to foreign and private investors, across a broad range of matters, including acquisitions of local companies, formation of joint venture companies, international sales, investment/divestment, distributorship, commercial contract tax planning, cross border tax planning, transfer pricing, remittance of profit and tax dispute.

As we aspire to be a fast growing legal service provider in Thailand, we are pleased to offer our high quality legal services at a very competitive rate, as compared to those of other international law firms.

Contact our lawyer to find out how we can help you.

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For more detailed information,
please visit our website at

www.naritlaw.com

CONTACT INFO

OFFICE ADDRESS:
65/31 Chamnan Phenjati Business Center
2nd Floor, Rama IX Road
Huay Khwang, Huay Khwang
Bangkok 10320

TEL: +66 86 785 0793
+66 2248 2872
FAX: +66 2248 2873
E-MAIL: enquiry@naritlaw.com
WEBSITE: www.naritlaw.com