

## NEWSLETTER

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### INSIDE THIS EDITION

1. **Tax Stimulus Package Becomes Effective ..... 1**
2. **Continued Reduction of Property Registration Fees and  
Specific Business Tax for One More Year Becomes Effective .... 4**

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## 1. Tax Stimulus Package Becomes Effective

The tax stimulus package that was approved by the Cabinet earlier this year (2009) now becomes effective. As usual, these tax privileges come with certain terms and conditions, and each of them must be used with care. Typically, any failure to meet any of terms and conditions will make it possible for a revenue official to disallow taxpayer's claim for a tax privilege. The details of tax stimulus package are summarized here below.

### **Tax Cuts for Small and Medium Enterprises/Community Enterprises**

1. The minimum assessable income that is subject to the personal income tax at the minimum rate of 0.5 % is increased from Baht 60,000 to Baht 1,000,000. For an individual taxpayer who earns an assessable income (other than a salary income), a gross income, in the amount of Baht 1,000,000 or more in any calendar year will have to pay the personal income tax at the minimum rate of 0.5% of the assessable income (gross income) even if the assessable income is lower than the deductible expense.

For example, Mr. A posts the sale of Baht 1,000,000, but due to an economic downturn Mr. A incurs the actual expense of Baht 1,200,000, which means Mr. A has the loss from his business. Under the previous tax law, Mr. A would still have to pay the personal income tax at the minimum rate of 0.5% of the assessable income or Baht 5,000. The tax of Baht 5,000 is now exempted. This exemption is put in place to stimulate the country's economy and to relieve a tax burden for small and medium enterprises as Thailand struggles to pull itself out of a recession.

2. The tax exemption for the community enterprise is increased from Baht 1,200,000 to 1,800,000 in 2009 and 2010.
3. The conditions of tax privileges granted to a venture capital (VC) are amended. First, the time for registering a venture capital with the Securities and Exchange Commission is now extended to 31 December 2011. Second, a VC is no longer required to invest in a small and medium enterprise not less than 20% of the registered capital in the first year.

Third, in case a VC manages to list the shares of a small and medium enterprise that it invests in the Stock Exchange of Thailand, the capital gain derived from the sale of those shares will be exempted from the income tax. To qualify for this exemption on capital gain, a small and medium enterprise must have the fixed assets (excluding the land) of exceeding Baht 200 Million or must hire the work force in excess of 200 workers. Moreover, the shares that are eligible for capital gain tax exemption must be the shares that a VC held prior to the listing of shares of a small and medium enterprise in the Stock Exchange of Thailand and during such holding period, such small and medium enterprise had the fixed asset (excluding the land) of not exceeding Baht 200 and had the workforce not in excess of 200 workers.

### **Tax Cut for Tourism Industry**

4. Amid a severe downturn in the nation's tourism industry, the government rolls out this tax cut to stimulate the use of services from the tourism industry. A corporate taxpayer can hold the seminar/training in Thailand in 2009 to enhance the knowledge within the country and claim 200% of the actual expenses for seminar and accommodation rooms in Thailand as its deductible expense in its corporate income tax computation.

### **Tax Cut for Debt Restructure**

5. The tax privileges will be provided for the debt restructure in the private sector by exempting the income tax.
  - 5.1 Tax Free Debt Release for Financial Institution's Debtor - The income tax exemption is granted to a debtor of a financial institution for a debt release made by a financial institution in accordance with the debt restructure criteria set out by the Bank of Thailand. A debt release must be made in 2009.
  - 5.2 Tax Free Transaction for Financial Institution's Debtor and Financial Institution – The income tax, the value added tax, the specific business tax and the stamp duty are exempted for the incomes that a debtor of a financial institution and a financial institution derive from transfer of property, sale of good or performance of service and execution of instruments in accordance with the debt restructure of a financial institution according to the criteria set out by the Bank of Thailand for transfer of property, sale of good or performance of services or execution of instrument made in 2009.

- 5.3 Tax Free Debt Release for Non-Financial Institution's Debtor – The tax relief is also provided to a debtor of a non-financial institution creditor for a debt release made by a non-financial institution creditor, which applies the debt restructure criteria set out by the Bank of Thailand mutatis mutandis. A debt release must be made in 2009.
- 5.4 Tax Free Transaction for Non-Financial Institution's Debtor and Non-Financial Institution Creditor - The income tax, the value added tax, the specific business tax and the stamp duty are exempted for the incomes that a debtor of non-financial institution and a non-financial institution creditor derive from transfer of property, sale of good or performance of service and execution of instruments according the debt restructure, which applies the debt restructure criteria set out by the Bank of Thailand mutatis mutandis for transfer of property, sale of good or performance of services or execution of instrument made in 2009.
- 5.5 Tax Free Property Conveyance for Financial Institution's Debtor - The income tax, the specific business tax, and the stamp duty are exempted for the income that a debtor of a financial institution derives from transferring debtor's immovable property that has been mortgaged as collateral with the financial institution to any third person who is not a financial institution and for the instruments related to conveyance of immovable property only to the extent that the debtor of the financial institution remits the proceeds to repay the debt to the financial institution creditor who restructures the debt according to the debt restructure criteria set out by the Bank of Thailand. Tax free property conveyance is only applicable in 2009.

### **Tax Cut for Corporate Restructure**

6. The VAT, specific business tax and stamp duty exemptions will be provided for the limited companies and the public limited companies that transfer the part of the business to each other, provided that such transfer must complete by 2009.

For more information, please contact us.

## 2. Continued Reduction of Property Registration Fees and Specific Business Tax for One More Year Becomes Effective

The property registration fees reductions package introduced by the previous administration has expired since March 29, 2009. In attempt to provide a continued stimulus to the country's real estate sector, in late 2008 and earlier this year (2009), the Cabinet approved to extend the reduction of the property registration fees and the specific business tax for one more year. The continued reduction of property registration fees now becomes effective. On the top of renewing the existing reductions available in the previous package, the current administration introduces a new fee reduction for the residential houses and commercial building located outside housing complexes/land development complexes.

1. Transfer registration fee reduction from 2% to 0.01%.
2. Mortgage registration fee reduction from 1% to 0.01%.
3. Specific business tax reduction from 3% to 0.1% for the sale of real estate.

For more information, please contact us

### GENERAL COUNSEL SERVICES

### OUTSOURCED LEGAL SERVICES AT COST SAVING, FIXED RATE

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Please contact our attorney, should you require any legal assistance.

# NARIT & ASSOCIATES

Attorneys at Law

LEGAL AND TAX SERVICES

B A N G K O K , T H A I L A N D

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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.

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