NARIT & ASSOCIATES
Attorneys at Law

LEGAL AND TAX SERVICES
BANGKOK, THAILAND

NEWSLETTER

No. 26
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Corporate Legal Counsels Forum '09 -
Legal Aspects of Managing Contract and Subcontract Risks
Friday, March 27, 2009
Nai Lert Park Hotel, Bangkok, Thailand

Labor Law and HR Restructuring in the Turbulent Business Environment -
Tax Issues in Employment and Remuneration
Friday, April 24, 2009
Centara Hotel at CentralWorld, Bangkok, Thailand

TAX UPDATE

1. The Cabinet Approves the Tax Stimulus Package

The Thailand's new Cabinet has recently approved the tax stimulus package as a further attempt to boost the economy in the face of the global financial crisis, especially aimed at improving the small and medium enterprises (SME), tourism and real estate businesses. The package of tax cuts are detailed 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 has the assessable income (other than a salary income) in the amount of Baht 1,000,000 or more, will have to pay the personal income tax at the minimum rate of 0.5% of the assessable income even after the assessable income is lower than the deductible expense. For example, Mr. A posts the sale of Baht 1,500,000, but due to an economic downturn Mr. A incurs the actual expense of Baht 2,000,000, which means Mr. A has the loss from his business. In other word, his net income becomes negative. Under the tax law, Mr. A still has to pay the personal income tax at the minimum rate of 0.5% of the assessable income (gross income) or Baht 7,500 (i.e. 0.5% of Baht 1,500,000).

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 for a venture capital (VC) are amended. The time for registering a venture capital with the Securities and Exchange Commission (SEC) is extended to December 2011. A venture capital is no longer required to invest in a small and medium enterprise not less than 20% of the registered capital in the first year. In case a venture capital manages to list the shares of the small and medium enterprise that it invests in the Stock Exchange of Thailand (SET), the capital gain derived from the sale of those shares will be exempted from the income tax.

Tax Cut for Real Estate Business

4. The additional tax deduction is granted to an individual taxpayer who in 2009 purchases the new property, which has never been used, in the amount equal to the purchase price but not exceeding Baht 300,000.

Tax Cut for Tourism Industry

5. 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 domestic accommodation and seminar as its deductible expense in its corporate income tax computation.

Tax Cut for Debt Restructure

6. The tax privileges will be provided for the debt restructure in the private sector by exempting the tax and reducing the registration fee of the Department of Lands for the debt release and the transfer of property to repay the debt in the debt restructures of financial institutions and other creditors according to the criteria set out by the Bank of Thailand that occur in 2009.

Tax Cut for Corporate Restructure

7. The VAT, specific business tax and stamp duty exemptions, and the reduction of the registration fee of the Department of Lands will be provided for the limited companies and the public limited companies who transfer the part of the business to each other, provided that such transfer must complete by 2009.

For more information, please contact us.

TAX UPDATE

2. Interesting Revenue Ruling on Short Selling or Shorting a Stock

The Revenue Department recently issues an interesting ruling on short selling or shorting a stock. Short selling or shorting a stock refers to the practice in which the investor does not own the stock at the time of the sale, but “borrow” or “rent” from his or her broker who will lend the shares for some lending fees in return. When the price of the shares increased, the shares will later be sold to the market and the proceeds will be given to such investor.

Eventually, the investor will have to buy back the same shares for return to his or her broker. If the price of shares falls, such investor can buy back the shares at the lower price and earns the difference. On the other hand, if the price of the shares increases, the investor will have to buy at the higher price and loss the difference.

Naturally, the investor will short sell the shares only when the investor is bearish about the shares. Typically, the investor must pay the lender of shares any dividends declared during the course of the loan.

The Revenue Department rules that any amount paid by the borrower of securities (investor) to compensate the share dividend to the lender of securities (stock broker who lends the shares) is not the dividend income, but the other income. Consequently, the payment of such amount to compensate the share dividend is not subject to any withholding tax.

Furthermore, the Revenue Department classifies the lending fee for securities into two types of incomes. First, if the securities lending fee is calculated based on the lending period and the value of loaned securities, it will be deemed the interest income. Secondly, if the securities lending fee is not calculated based on the lending period and the value of loaned securities, it will be deemed the service income. The interest income and the service income are subject to the different rates of the withholding tax.

For more information, please contact us.

INSURANCE & TAX UPDATE

3. Revenue Department's New Regulations Making Premium for Health Insurance Ineligible for Tax Deduction

The Revenue Department issues the new regulations to make the other types of insurance sold along with the life insurance, i.e. health insurance and accident insurance, ineligible for tax deduction. The new regulations impose the two criteria for an individual taxpayer in obtaining the life insurance tax deduction.

First, for the life insurance containing other insurance protections, i.e. health insurance and accident insurance, the premium for other insurance protections is ineligible for tax deduction. In such case an insurance company must clearly specify the amount of the premium for life insurance separately from that of other insurance protections.

For instance if a taxpayer purchases the life insurance that also offers the health insurance protection, an insurance company must clearly specify the amount of the premium for life insurance separately from that of the health insurance and only the amount of the premium for life insurance will be eligible for tax deduction. The amount of the premium for health insurance is ineligible for tax deduction

Secondly, for the life insurance that gives (returns) any money or benefit to a policy holder during the coverage period, the following conditions shall apply:

1. If the life insurance gives (returns) any money or benefit to a policy holder on the yearly basis, such money or benefit must not exceed 20% of the annual premium.
2. If the life insurance gives (returns) any money or benefit to a policy holder at the end of the period specified by an insurer other than one year, i.e. 2, 3 or 5 years, such money or benefit must not exceed 20% of the premium paid during such period.
3. If the life insurance gives (returns) any money or benefit to a policy not according to condition 1 nor 2, the total amount of such money or benefit given (returned) to a policy holder from the first year to the last year, must not exceed 20% of the total premium paid during such period.

It is understood that the first change is put in place in response to the practice by the life insurance industry in which other insurance protections are bundled together with the life insurance to claim for additional tax deduction. The second change is intended to deal with life insurance policy that gives or returns a policy holder the high amount of money in proportion to the yearly premium. The Revenue Department feels that such life insurance policy is designed for the purpose of abusing this tax deduction. The new regulations became effective on January 1, 2008.

For more information, please contact us.

UP COMING EVENTS

Mr. Narit Direkwattanachai will be addressing the business and industry forum on the following topics:

Corporate Legal Counsels Forum '09 -
Legal Aspects of Managing Contract and Subcontract Risks
Friday, March 27, 2009
Nai Lert Park Hotel, Bangkok, Thailand

Labor Law and HR Restructuring in the Turbulent Business Environment -
Tax Issues in Employment and Remuneration
Friday, April 24, 2009
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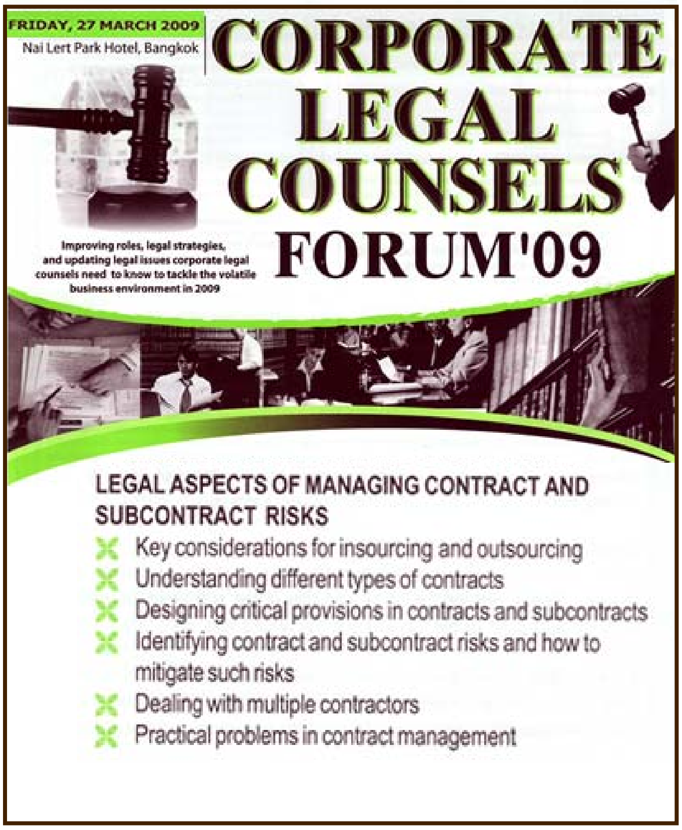
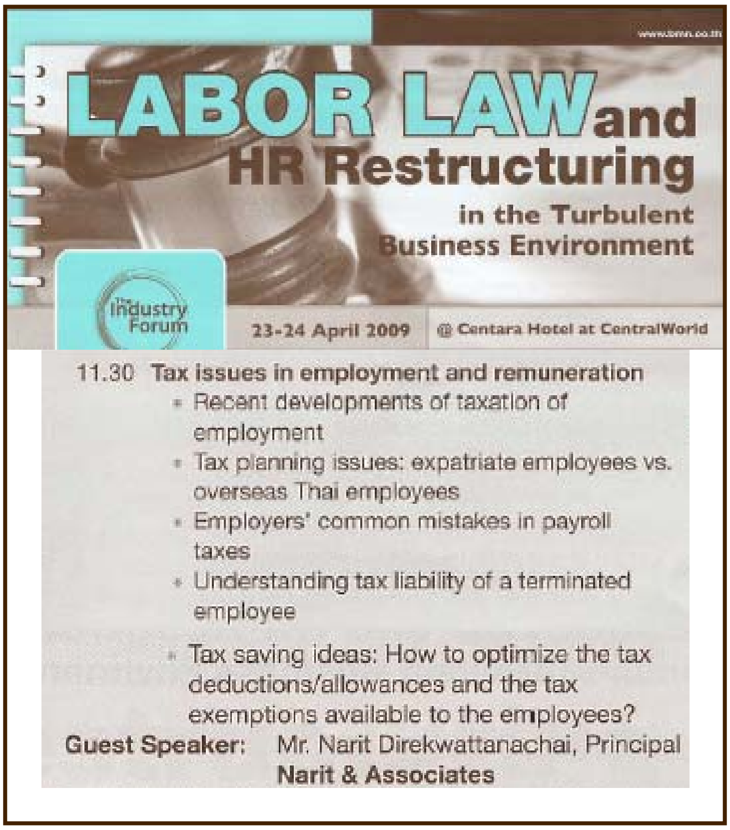
For more information about the event, please contact us.





Speaker Profile

Mr. Narit Direkwattanachai is the Principal at **NARIT & Associates**, a Bangkok-based international law firm with main areas of practice in Corporate & Commercial, Mergers & Acquisitions, Tax, Real Estate, Construction and Commercial Dispute. Mr. Direkwattanachai earned an LLB (1st class honors) from **Chulalongkorn University**, an LLM (Chevening Scholar) from the **University of Cambridge**, UK and an MBA in Finance (GRSP Scholar) from the **Georgia Institute of Technology**, USA.

Having the right balance between his financial literacy and legal expertise, Mr. Direkwattanachai regularly advises publicly held companies, Thai subsidiaries of multinational corporations and foreign investors across a broad range of matters, including acquisitions of local companies, formation of joint venture companies, investment/divestment, international sales, distributorship, commercial contract tax planning, transfer pricing, cross border tax planning, remittance of profit and tax dispute.

Prior to establishing **NARIT & Associates**, Mr. Direkwattanachai worked with **Baker & McKenzie**, Bangkok office, **Baker & McKenzie**, Sydney office, and the Investment Banking Group of **DBS Bank**, Singapore. He can be reached at narit@naritlaw.com

GENERAL COUNSEL SERVICES

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General Counsel Services arrangement is a great solution for corporate companies who do not have in-house lawyers or have a stretched legal department, but require additional legal support in the cost-effective and flexible way.

NARIT & Associates proudly presents our General Counsel Services, unique outsourced in-house general counsel legal services, a new approach to your business at more affordable rates. General Counsel Services is a unique arrangement in which for a monthly fixed retainer fee, the clients are provided with the legal services that are traditionally rendered by the in-house legal counsels.

General Counsel Services brings the best of both worlds together, namely all the benefits and comfort of having in-house legal counsel as well as outsourcing flexibility and expertise of outside law firms. Corporate clients are benefited from an unlimited access to our legal advice, raising any legal questions to us as many as they wish.

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COST SAVING

Outsourced general counsel services costs the company less than hiring a fulltime in-house legal counsel. The lower costs and the other benefits of in-house general counsel can be achieved without the need to add another (expensive) person to the company payroll with its associated concerns and overhead costs.

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Your outsourced general counsel from us is well acquainted with your business issues facing your company and consequently provides focused, relevant, practical, and cost effective legal advice that is becoming increasingly crucial to your business.

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If your legal needs do not justify hiring a full time in-house general counsel, all you need is part-time legal advice on various business issues, our General Counsel Services can fill the gap to satisfy your need.

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Temporary general counsel services are also available to fill in the gap when your permanent general counsel takes her maternity leave, is on prolonged sick leave or leaves a job.

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We structure our general counsel scheme based entirely on your particular needs. So your retainer scheme or project based scheme is tailor made to meet your particular needs.

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

NARIT & ASSOCIATES
Attorneys at Law

LEGAL AND TAX SERVICES
BANGKOK, THAILAND

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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