CHAPTER 1

Taxes, Taxes Everywhere

The man we love to hate, hate to love, either way, a taxman is always part of our everyday life. Think about typical activities we do every day. From the moment you buy a new cup of coffee from your favourite coffee shop, value added tax is embedded in the price you pay. As you refill the gasoline for your vehicle at a gas station, you are faced with excise tax and VAT. When you dine out at a restaurant, VAT is added in your check. Adding to the list, at the end of month the taxman comes to take some portion of your hard earned wages for withholding income tax, before the remaining amount goes to your bank account.

See, tax is everywhere, embedded in our every activity. It is something that people have to face in their everyday life. Benjamin Franklin, the founding father of America, highlighted this inevitability of avoiding the burden of taxes,

"In this world nothing can be said to be certain, except death and taxes."

Tax for Revenue

The reason that tax seems to be everywhere and certain is that it is the basic funding (desperately) needed to operate our government. In other words, the government is primarily financed itself through taxation allowing it to function properly as defined in our constitution. No government in the world can run its office without the tax revenue (except for certain countries sitting on a huge oil reserve). Taxes raise money for the government to spend for a variety of services for the benefits of its citizens. The government uses tax money to build new infrastructure, such as roads, bridges, water supply system or railroad network. Money collected is also needed to fund public security and maintain defense forces, helping the nation to become stronger. Providing affordable health system and education, as well as supplying social assistance are other public services also financed from the tax revenue. No doubt about it: the public goods and services that are purchased with taxes have substantially increased the quality of life for every citizen. Given all these benefits, it is a good practice for all citizens to pay their fair share of tax for the goods and services received in return. As Justice Oliver Wendell Holmes famously wrote,

"Taxes are the price we pay for civilization"

The problem arises when the government spends excessively until the tax revenue is not sufficient to cover the public expenditure. This situation leads to a budget deficit in the government budget and eventually becomes a nation's debt. To finance its debt, the government can do the followings: printing new money – which is bad because it causes inflation, borrowing money from money market or selling bonds – which can grow debt as government must pay interest, or looking for a new additional source of revenue. Well, the latest option will almost certainly mean that tax will have to rise!

Tax for Redistribution of Wealth

Spread the wealth around! In short and plain, this means transferring wealth from the richer society to the poorer one. The government uses tax as a tool to reduce the inequality of income and wealth, and a progressive tax system has historically been proven effective. It is done by lowering taxes for middle and low income people while raising them at the top. The argument is that every taxpayer shall contribute his or her *fair* share of tax towards ability, meaning those who are better off should contribute more in proportion of their income, those with less should pay less, and those with the least are not expected to pay at all.

Adam Smith in his book "The Wealth of Nations" laid the ground for this idea,

"It is not very unreasonable that the rich should contribute to the public expense, not only in proportion to their revenue, but something more than in that proportion"

Over the time this particular idea on wealth redistribution is subject to much controversy and debate. Opponents would argue that the plan seems to punish those who are success with higher taxes and give away to those who do not earn it. So, instead of providing incentives to work more, it actually may act as a disincentive for people to working and earning more. Certain countries in Eastern Europe adopt the flat tax rate for simplicity.

Tax for Shaping Social Behavior

Taxes can also be used to affect the society behavior, particularly to contain the consumption of harmful substances. For example, the government introduces heavy excise tax on the sale of alcohol and tobacco, so that the prices of goods become high to the point that it discourages people from buying. Another

CHAPTER 2

A Brief Course of Thailand Taxation

Here's a brief course of Thailand taxation, how the tax law is made and administered, who's and who's behind the Thailand taxation. As this chapter in some sense is more theoretical than practical, just try to absorb as much as you can – it lays a good foundation for effective learning on tax throughout this book.

Tax Law Making Process

In Thailand, any power to impose any tax must statutorily derive from the Act of Parliament, the Emergency Decree or any notification of a coup-maker recognized by the court as having the equivalent ranking to the Act of Parliament. Ideally, the government can only tax the people with the consent of the people's representatives in Parliament.

In some instances when the response must be made quickly such as tax reform during the financial crisis, an Emergency Decree may be passed by the Cabinet, the executive branch of

As the initial stage, a taxpayer needs to prepare for an appeal to the appellate body under the relevant tax law. The idea of having an appellate body is to double-check an assessment official and to screen tax disputes before they make their way into a court room. When the appellate body reaches its judgment unsatisfactory to the taxpayer, then the taxpayer may appeal the judgment of the appellate body to the court. Therefore a taxpayer cannot simply go on the offensive and sue an official of a tax collecting agency right away. A taxpayer can only challenge a tax collecting agency in court only after the taxpayer appeals the tax assessment of an official to an appellate body and only for those issues that are raised during the appeal to the appellate body – other new issues cannot be presented.

For a dispute pertaining to any taxes under the Revenue Code – personal income tax, corporate income tax, VAT, specific business and stamp duty, a taxpayer has to make an appeal to the Appellate Committee under the Revenue Code within 30 days upon receipt of an assessment of the official. Otherwise the tax assessment becomes final without any room for further challenge in the future by the taxpayer.

In Bangkok, this Appellate Committee under the Revenue Code consists of the Director-General of the Revenue Department or his representative, a representative of the Office of Attorney-General and a representative of the Ministry of Interior Affairs. Outside Bangkok, this Appellate Committee under the Revenue Code consists of the Provincial Governor or his representative, the regional revenue officer or his representative, and the provincial public prosecutor or his representative.

Importance of Appeal

The appeal made by a taxpayer to the Appellate Committee under the Revenue Code is terribly important. For whatever aspect of the tax assessment

CHAPTER 3

Types of Thailand Taxes

Taxes are the blood life for the Thai government. Of course, the Kingdom also derives non-tax incomes, i.e. the profits (if any) from state enterprises, concession fees and official fees. Taxes however remain the most important source of the income of the Kingdom. In this section, we will introduce various types of Thailand taxes from which the Thai government raises the vast majority of its revenue. But first, let's find out how taxes are collected in Thailand.

Tax Collection System in Thailand

Thailand is a country with a unitary system of government, meaning the sovereignty to run the entire country lies in the hands of the central government (the national government). This central government directly exercises its power over its citizen, however, it may choose to delegate some responsibilities to local governments for certain matters; one of them is the tax collection. Thailand tax collection system has undergone devolution, in

Failure to Index for Inflation

The current income tax bracket was enacted in year 1992 and since then it always remains the same. Apparently the government fails to index the tax brackets for inflation which causes taxpayers to carry heavy tax burden. One of the causes of inflation is that the government through the central bank prints more money to inflate the currency. As a matter of fact the central bank is happy with a little bit of inflation.

If the government properly indexes the tax bracket (say against the Consumer Price Index and on yearly basis), taxpayers would have been paying less tax – even when their income increases, and more money after tax will be available to meet living costs.

The negative effect of failing to index tax bracket has been compounding over years and it clearly diminishes the benefit of additional money earned. Not surprisingly many view this as government's sneaky act to steal money out of its citizen. You bet if the tax bracket is finally indexed, the government will find its tax revenue drops significantly. This is the reason why indexing is not in government's priority list (despite the fact that the inflationary pressure is creeping in).

Tax Exempt Income

Anyone who earns any tax exempt income is not required to pay tax. For various reasons, certain types of income are exempted from personal income tax. A rice farmer is exempt from personal income tax as traditionally a rice farmer is viewed as the backbone of the nation. As a matter of fact, the government uses taxpayers' money to subsidize rice farmers in many ways. A profit derived from the sale of the stock in the Stock Exchange of Thailand is exempt from personal

Section 2

Figuring Out Personal Income Tax

Each year from January to end of March, every citizen (including a foreigner who derives an income here in Thailand) has responsibility to file an annual personal income tax return to the Revenue Department. American President John F. Kennedy called this:

"the annual price of citizenship"

How much a citizen has to pay his or her income tax depends on not only the income itself, but also personal deductible expenses and applicable deductions:

Net Income = Income – Deductible Expense(s) – Deduction(s)

So, basically there are two incentives to pay less tax legitimately. First incentive is to claim more expenses, and secondly is to claim more deductions whenever applicable to your situation. This section will walk you through the ways to turn your expenses that you would incur anyway into a tax cutting factor, and to make use various tax deductions to reduce your tax liability. Remember what matters most: at the end it is not about how much money you earn, rather, how much money left after a tax bill is paid.

NARIT's Tip

Behold the Power of Tax Planning

It is worthwhile to note that even though the rule to spend and to deduct is revealed (after reading this section), it only makes most if a taxpayer does a careful tax planning ahead of time before the tax annual filing period. So, work with a tax expert to structure you tax planning best suited to your profile. The legal fee to put together an effective tax planning in most cases is well justified by the tax saving reaped.

landlords and self-employed liberal professionals tend to have a higher expense than do salaried workers.

Categories of Income

As mentioned earlier, the Revenue Code specifies the amount of the deductible expenses based on the category of income. There are 8 categories of income in total; each will be explained in detail next.

NARIT's Tip

Knowing Your Type of Income

It is crucial for a taxpayer to determine which category of income his or her income falls into. While the difference between some categories is crystal clear, other definition may not be clear cut. Not surprisingly, a taxpayer always claims to earn certain type of income where he or she is allowed for a bigger deductible expense. However, an assessment official of the Revenue Department may have a different opinion. This is another area where a taxpayer and the department keep litigating for years.

Therefore, in order to be on a safe side, a taxpayer has to study the positions of the Revenue Department in the revenue rulings and the positions of the Supreme Court in the decisions of the Supreme Court to determine the correct type of income.

CHAPTER 2

Getting More Deductions

Another generous tax break from the government comes in the forms of deductions. Deductions work as additional income cutter bringing the taxable net income lower, and so does the tax. Certain types of deductions are made available by the government for a taxpayer who engages in any activity that the government wishes to promote or encourage. So, get yourself familiar with these deductions, and with some prudent tax planning, it can mean more saving in your pocket.

Personal Deduction

A not-to-be missed tax deduction is simply a personal deduction. Each taxpayer is entitled to claim a personal deduction for him/herself, the spouse and the child. The amount of personal deduction is set out by the Revenue Code as to reflect the minimum amount of money required to buy necessities (i.e. food, clothing, housing, education, etc) to achieve a basic standard of living. So, a personal deduction is set at Baht 30,000 for each

CHAPTER 3

Excluding Certain Incomes to Legally Lower Tax

For certain types of incomes, tax law offers a special treatment by allowing an individual taxpayer to exclude these incomes from his or her annual tax return. So, effectively the taxpayer who exercises this right could bring his or her total personal income down and be subject to a lower tax bracket. Those incomes that are excluded from the annual tax return are still taxable, but taxed at the flat rate at the source and the tax collected is called withholding income tax.

What is Withholding Income Tax?

The withholding income tax is the tax that tax law requires a payer of an income to deduct tax at source upon the payment of such income. Previously, Thailand's top tax rate was as high as 65% of the net income but the collection rate was very low. (If you wonder what the collection problem is like, you can

SECTION 3

TAX FOR BUSINESS SETUP

Whenever someone establishes a business in Thailand, there is always a question about which form of entity will best serve the purpose of a business. This kind of question typically pops up almost instantly as soon as any business idea arises. In addition to issues like limited liability, price of incorporation and so on, the consideration should be given to the tax implications of each form. How the business entities are taxed will depend on how the businesses are structured. Since each form of entities is taxed differently, the form of business entity therefore will determine the amount of income tax a business owner has to pay.

There are eight basic forms of business entities through which businesses can operate in Thailand: a sole proprietorship, an ordinary partnership, a registered ordinary partnership, a limited partnership, a limited company, a public limited company, a branch office of a foreign company, and a joint venture. Each is discussed in more details later on.

For the income tax purpose, however, there are two different ways business entities can be taxed: the business owner is taxed at owner's level or the business itself is taxed as a separate tax entity. When the business itself is taxed as a separate tax entity, it is taxed on its net income, separately from its shareholders (or owners). The business, as a separate tax entity, must pay its own income taxes at the prescribed rate and file its own tax return. When the income is distributed to its shareholders (or owners), it is taxed again in the hand of the shareholders (or owners) at their personal income tax rate. So, one way to eliminate this double taxation is by way of imputation system.

The imputation system is a tax break introduced by the Revenue Department, where individual shareholders (or individual owners) are allowed to use the income tax paid by the company as dividend credit in their personal income tax filing. Thailand uses the imputation system to eliminate the economic double taxation, taxing at both separate legal entity's level and individual owner's level. This benefits shareholders in the lower tax brackets, as they can get some money back from the Revenue Department. Most business entities can use this imputation system,

CHAPTER 1

Sole Proprietorship

A sole proprietorship is one owner operating a business on his or her own account. A sole proprietor may hire any help he or she needs, but the business is solely owned by the proprietor. A business is not a legal entity separate from the owner. Many prefer to run as a sole proprietorship because it's the simplest among other entities. A sole proprietorship is easy to set up (and also to close). You can simply open the shop and start the business right away; no corporate formalities are required. (In case you are curious what corporate formalities are, see NARIT's Note: *Importance of Corporate Formalities* on next page.) An individual business owner does not need to register any legal entity with the government, although in some regulated businesses, a new business owner may be required to report his or her business to or obtain a license from a relevant regulator.

A sole proprietor does not have to keep the full accounting book. There is no need for a sole proprietor to hire an auditor to audit an accounting book of a business. A non VAT registered sole proprietor is only required to keep the income and expenditure records. Due to its simplicity, a sole proprietorship could be the right choice for certain businesses, such as new start

Sole Proprietor's Tax Bracket

Net Income (Baht)	Tax Rate
0-150,000	Exempt (0%)
Exceeding 150,000 to 500,000	10%
Exceeding 500,000 to 1,000,000	20%
Exceeding 1,000,000 to 4,000,000	30%
Exceeding 4,000,000	37%

After finishing an intensive training from the famous L'Académie Culinaire de France, Salisar is eager to apply her skill to make money. She has done quite a bit of researching and feels there is a niche in the City of Pattaya where lots of French and other European retirees live. So, she is considering opening a French bistro, Le Grand Pan à Pattaya, but with a limited budget, Salisar wants to keep everything simple. Instead of spending money on hiring a lawyer and an accountant, she plans to spend her saving on buying kitchen equipment, rent and renovation. Moreover she does not want to waste lot of time on bookkeeping as she prefers to work as *chef de cuisine* in the kitchen developing her recipe to make delicious French gourmet. So, she decides to run as a sole proprietorship.

In the first year of business Le Grand Pan à Pattaya proves to be successful. Salisar makes tasty authentic French cuisine, serves good wine and her signature dessert, chocolate fondant, is mouth watering. Her customers absolutely love it and have always been loyal to her. *C'est parfait!*

At the end of the year, there is revenue of Baht 8 Million and total expense of Baht 4 Million. So, how much tax Salisar owes?

As a sole proprietor, Salisar has two options to calculate her tax.

Option 1: Actual Cost Method

	Baht
Revenue	8,000,000
Less: Personal Deduction	-30,000
Less: Actual Expense	-4,000,000
Assessable Income	3,970,000

Tax

Profit	Baht
First 150,000	0
Exceeding 150,000 to 500,000	35,000
Exceeding 500,000 to 1,000,000	100,000
Remaining 2,970,000	891,000
Total Payable Taxes	1,026,000

So, under actual cost method, Salisar owes the government Baht 1,026,000 in tax, cutting her profit by almost 26%.

Option 2: Standard Deduction Method

Not easily giving up her profit, Sarah tries to look for an alternative method. Salisar knows that tax law allows a restaurant operator like her to deduct her expense at the rate of 70% of total sales, so it is equal to Baht 5.6 Million (Baht 8,000,000 x 70%). Below is the breakdown.

CHAPTER 2

Partnership

In Thailand, there are 3 types of partnership: an ordinary partnership, a registered ordinary partnership, and a limited partnership. Each comes with a set of features mainly differentiated in terms of partner's role, legal entity, tax entity and liability protection.

1. Ordinary Partnership

An ordinary partnership is formed by two partners or more for the purpose of sharing a profit (or a loss). A partner may be an individual person or a legal entity, such as a limited company. A handshake can symbolize the beginning of a partnership, and yes, it is statutorily recognized by law. There is no need for a written partnership agreement, however in most cases, it proves a wise investment to formalize the partnership. (See NARIT's Alert: *Unintentional Partnership* and NARIT's Tip: *What Should Go Into Partnership Agreement?*)

3. Office location
4. Personal information of each partner
5. What constitutes partner's contribution?
6. Partnership's seal
7. In case of limited partnership, which partner serves as managing director and what is his/her scope?

Before you get the green light to use your partnership name, the Department of Business Development (DBD) wants to ensure that the chosen name has not already been in use, so a reservation of your chosen name shall be submitted first. Once the department confirms that none uses your chosen name, then you can use your chosen name and go straight to the local office of DBD to submit the registration form, pay for the fee and obtain the certification of registration.

3. It's Hybrid: Limited Partnership

A limited partnership is a business organization formed by at least two partners. Essentially a limited partnership is a hybrid form between a registered ordinary partnership and a limited company. It is taxed in the manner similar to a registered ordinary partnership, but allows the partners to take advantage of limited liability protection of a limited company.

Similar to the registered ordinary partnership, a limited partnership must be registered with the Department of Business Development to become a legal entity separate from the partners.

CHAPTER 3

Limited Company and Public Limited Company

Limited Company

Most businesses in Thailand are set up as limited companies. A limited company is a commercial organization formed by at least three incorporators (or called shareholders). The shareholders can be either an individual shareholder or a parent company. The capital that is invested in the company is divided into shares, which can be subscribed at the initial issuance or purchased from the existing shareholders. In return for investing, the holders of shares receive ownership right in the company in proportion to their stake, and therefore possess certain degree of control over the company. Of course, the more outstanding shares a holder owns, the greater control he or she can exercise over the company's management.

A limited company is a legal entity distinct from the shareholders, and as such, the company is responsible for its own acts and obligations. The shareholders of a limited company stand to lose only their investment in the amount of their share

While the control of the company is left with the directors, but remember that the directors themselves are appointed by the shareholders, so essentially all directors, including the CEO and other executives, report to shareholders and owe the fiduciary duty to all shareholders.

NARIT's Glossary

Director's Fiduciary Duty

Director's fiduciary duty is a duty by virtue of being a director to a company, to act in good faith for the best interest of the principal, in this case the shareholders. A director has the moral duty to exercise his or her power that shareholders have entrusted in him or her, for the shareholders benefit, and should not put himself or herself in the conflicting position with the interest of the shareholders. Two basic fiduciary duties are the duty of loyalty and the duty of care.

NARIT's Note

Company Law in Brief

Since a limited company may be of interest of many executives, it is worth spending time talking about Thailand's company law.

In order to incorporate a limited company in Thailand, company law requires at least three persons whom are referred to as incorporators or promoters. Eventually, these three incorporators (or promoters) must become the shareholders upon incorporation. Thai law still does not allow one person to form a limited

Let's start with a simple example on how the corporate income tax is figured out.

Milestone Co., Ltd. is a limited company that specializes in producing fashion outfits with its operating facilities located in Samutprakarn, Thailand. At the end of its accounting period, Milestone Co., Ltd. has the following figures in its income statement.

		Baht
Gross Sales (Net)		15,000,000
Less: Cost of Goods Sold		
(Manufacturing Costs)		-2,000,000
Gross Profit		13,000,000
Less: Operating Expenses		
Raw Material Purchased	1,100,000	
Direct Labor Cost	960,000	
Administrative Expenses	160,000	
Shipping Expenses	250,000	
Rent on Factory Facilities	300,000	
Utilities Expense	80,000	
Depreciation Expense	150,000	
Total Operating Expenses		-3,000,000
Net Profit (Taxable)		10,000,000

How much corporate income tax Milestone Co., Ltd. needs to pay? Based on Baht 10 Million net profit, in this case, Milestone Co., Ltd. will owe the Revenue Department income tax of Baht 3 Million (30% x Baht 10 Million).

2. SET Listed Public Limited Company

The Stock Exchange of Thailand (SET) is the main stock market in Thailand with its operation started back in 1975. There are approximately 500 companies whose shares are traded on the SET. From time to time, the Revenue Department offers a slightly reduced tax rate for an SET listed public limited company on an interim basis, where it taxes the company at 25% rate on its first Baht 300 million profit and reverts back to 30% rate for the remaining profit. While 5% tax reduction may sound minimal, it could amount to millions of tax saving particularly for companies whose profits is (expected) in the range of hundreds of millions.

Let's see on the calculation below how much a shareholder of an SET listed public limited company is actually paying for taxes. For the first Baht 300 Million profit, the shareholder of an SET listed public limited company is effectively paying tax at the rate of 32.5% and for the remaining profit thereof, he or she is taxed at 37%.

Shareholder's Effective Tax Rate of SET Listed PLC on Profit Basis of Baht 100

Corporate Income Tax Rate:	25% for First Baht 300 Mil Profit	30% for Remaining Profit
Profit	100	100
Less: Corporate Income Tax	-25	-30
After-Tax Profit	75	70
Less: 10% Withholding Tax	-7.5	-7.0
Net Amount Dividend		
After Withholding Tax	67.5	63
Total Tax	32.5	37
Shareholder's Effective Tax Rate	**32.5%**	**37%**

CHAPTER 4

Branch Office

A foreign incorporated company who wishes to expand its business in Thailand may establish a Thailand branch office of such foreign company, in any parts of Thailand. A branch office of a foreign company is deemed an integral part of the foreign company, not a separate entity from the foreign company. A branch office is required to keep the accounting book pertaining to the operation of the branch. In this chapter, we will discuss first the foreign business law under which a branch office has to operate, the tax on branch office, and presented later are details on a representative office and a regional office of a multinational corporation.

Foreign Business Law

Opening and operating any branch of a foreign company in Thailand is subject to the Foreign Business Act B.E. 2542 (1999), or simply known as the foreign business law. Under the foreign business law, a branch office of a foreign company who plans to

CHAPTER 5

Joint Venture

A joint venture is a strategic alliance of two or more parties who agree to co-operate for a business in a commercial or profitable manner. Whether it is for the purpose of increasing the existing market share or breaking down the barrier to entry in a new market, a joint venture becomes a popular vehicle that allows the parties to achieve those goals within relatively shorter time than what it would otherwise take should each party do it alone. It is doable and possible because the JV parties will compliment each other in terms of capital, expertise, knowhow, technology, intellectual property, network and resources. So, when it is done with full commitment of all parties, it is definitely a recipe for winning and survival in the highly competitive environment.

Another beauty of a joint venture is that it can be an effective tool to minimize the business and political risks when entering into a new market in a foreign land. By joint venturing with a local business, the foreign party can easily and quickly gain access to its local partner's resources and connections. It speeds up the learning curve, and therefore it is the fastest way to make presence (and also profit) in the foreign market.

Section 4

Issues with Double Taxation

In this chapter, we will examine first the economic double taxation at the company level and shareholder level and how to deal with them. In the process of eliminating or at least mitigating the double taxation, the Revenue Code adopts certain mechanisms including:

1. Exclusion of dividend income from individual shareholder's personal income tax computation;

2. Inclusion of dividend income from individual shareholder's personal income tax computation; and

3. Imputation system, in which some or all of the income tax paid by a company may be attributed or imputed to the individual shareholder by way of a dividend tax credit. Eventually the dividend tax credit is used to reduce individual shareholder's personal income tax payable upon the distribution of dividend.

Later, we will discuss how the economic double taxation touches the capital gain upon the sales of shares and upon dissolution of company.

Creating Legitimate Expense to Avoid Income Tax

In the real world, an SME company may try to avoid income tax by incurring expenses to be paid to the persons related to the shareholders of the company. But whoever gets paid from an SME company still has to pay income tax, so this strategy must be well planned. Furthermore, such expenses have to be the legitimate business expenses of the SME company otherwise the assessment official of the Revenue Department may disallow such expenses and demand those expenses be added back to the net profit of the company for the tax purpose.

CHAPTER 1

Dividend Payout

In this chapter, we will focus our discussion on the issues of double taxation on dividend payout. As a starter, we will explain first how double taxation works, and later look at various legal ways to deal with this double taxation.

How Double Taxation Works?

Upon earning any profits, a company, either a limited company or a PLC, must pay corporate income tax on the profits at the corporate level. As long as the profit is retained in the company, no further taxes apply. However, whenever the company later decides to pay out the after-tax profit to its shareholders in form of dividends, this after-tax profit is then taxed again in the hands of the shareholders at their individual income tax rate. Essentially, the same profits are taxed twice at the corporate level and shareholders level. Yes, it is the gruesome double taxation of profits.

Inclusion of Dividend Income without Dividend Imputation on Company's Profit Basis of Baht 100

Corporate Income Tax Rate:	30%
Profit	100
Less: Corporate Income Tax	-30
After-Tax Profit	70
Less: 10% Withholding Tax	-7
Net Amount Dividend After Withholding Tax	63

Distributed after-tax profit is deemed Shareholder's income

Shareholder Income Tax Rate:	0%
Dividend Income	70
Less: Personal Income Tax	0
Net Dividend After Personal Income Tax	70

Total Tax Remitted to Government by Company (on behalf of Shareholder)
= 10% Withholding Tax = 7 Baht

Tax Refund = Total Tax Remitted to Government by Company – Shareholder's Personal Income Tax
= 7 – 0 = 7 Baht

For an individual who is a non Thai tax resident and does not have a domicile in Thailand, this method 2, i.e. inclusion of dividend without imputation is mandatory. That is to say, an individual shareholder who is not a Thai tax resident and does not have a domicile must always include the dividend income in his or her personal income tax computation in the annual tax return and does not get dividend credit. For a Thai tax resident, he or she has the liberty to select between exclusion (method 1 explained previously) or inclusion with dividend imputation (method 3 to be explained next).

CHAPTER 2

Capital Gain on Sale of Shares

Profits are not always taken out of the company. When an executive sees there is a chance for the company to grow, a company, either a limited company or a PLC may decide to keep this after-tax profit in the company for reinvestment. It is commonly booked as a retained earning on the company's balance sheet (to be exact, it is under the shareholder's equity). So, the retained earning account essentially tells the management how much money is available for future reinvestment or distribution. The company is expected to make new money out of this reinvestment, which in turn will boost the market value of the company and be reflected in the price of the shares.

Shareholders at some point may wish to sell their shares for a capital gain, and on the other side, potential buyers want to buy the shares from the existing shareholders. The question is: how much the shares are worth? Of course existing shareholders want to sell as high as it can go, while the potential buyers want to purchase as low as possible. That's why we need some short of basis for evaluating the value of the shares.

CHAPTER 3

Capital Gain upon Dissolution of Company

When the shareholders decide to bring the company to an end, they should be aware of tax consequences arising from the company dissolution. At the time the company is dissolved, if the company posts profits, which can come either from operating result or sales of assets or property, the company must pay income tax on the profits at the corporate level. Any remaining after corporate income tax is deemed the capital gain upon dissolution of the company. If you may recall, this amount is actually the retained earning of the company.

Like many other cases, this capital gain is no exception to tax. When the capital gain is distributed to the shareholders, then it is taxed again at the shareholder's personal income tax rate. This is another classic case of double taxation. It is not such a pretty deal for shareholders, isn't? The shareholders therefore should examine the tax consequences when dissolving a company with a tax lawyer so that the shareholders can structure the dissolution in the most tax efficient way.

Section 5

Watch Out for Disallowed Expenses and How to Avoid Them

Recap: How Corporate Taxpayers Are Taxed

For an executive who plans to stay long enough in the business, the following formulas shall not be forgotten.

Net Profit = Income – Deductible Expense(s)

Corporate Income Tax = Net Profit × Tax Rate

They essentially tell us that whenever the company makes money, it shall pay corporate income tax to the government. How much tax the company owes? To determine the tax amount, first, the company must subtract all deductible expenses from the income generated from the sales. The company is allowed to deduct money spent on office stationary, equipment, buildings, or other long-term assets that the company uses for the business. What's left over is called the company's net profit, which will be taxed at the corporate income tax rate. In some cases, the calculation can get extra complex, but the concept is rather simple: the more expenses a company can legitimately claim, the lower the company's net profit – and thus the corporate income tax that the company ultimately has to pay – will be.

NARIT's Note

Definition of Corporate Taxpayers

It is noteworthy that corporate taxpayers are a limited company, a public limited company, a registered ordinary partnership, a limited partnership, a Thailand branch of a foreign company and a joint venture.

A foundation and an association who have not been recognized yet as charity organizations by the Minister of Finance do not use this formula, so they are not mentioned here. A non-charity foundation and a

CHAPTER 1

Capital Expenditure and Depreciation

What is Capital Expenditure?

When the company purchases fixed assets or acquires any benefits with a useful life of more than one accounting year, those assets or benefits are called capital assets. They can be furniture, office supplies, building, land, vehicles or machinery. The money spent to acquire capital assets is called capital expenditure, which is considered as part of the company's investment to get the business up and running.

Obviously when paying any expenditure to acquire any asset, the company may want to write such expenditure off in the same year when it is paid so it can realize the tax benefit immediately. The company certainly hopes to book the expenditure as an expense of that year, to lower the net profit as well as the tax due. But capital expenditure has different tax treatment than the regular expense. Tax law prohibits the company from writing the entire amount of capital expenditure off in the same year when it is paid. That is to say that capital expenditure is one of the disallowed expenses under the Revenue Code. Booking full cost

deduction over years, which hopefully can help bring down the taxes in the later years.

Keeping Up with Accelerated Depreciation

For certain assets, tax law assigns this accelerated depreciation on permanent basis, which means the company can always take advantage of significant depreciation deduction up front for these assets. But from time to time, tax law also offers accelerated depreciation on other assets on a temporary basis that has special terms and conditions.

So, executives who are eager to use accelerated depreciation should always check and review the availability and conditions of accelerated depreciation or amortization. Perhaps the executive can use the help from a professional accountant to set up a plan on how best to take advantage of the accelerated depreciation.

Asset's Useful Life and Depreciation Rates

The Revenue Code also sets forth the asset's useful life and applicable depreciation rates. The company starts to depreciate an asset once the asset is installed and ready for use, until the end of the asset's useful life or when the asset is sold or when the company decides to dispose of it, whichever comes first. At the end of depreciation period, the company still continues using the asset, but it cannot get any depreciation deduction.

How much depreciation each year should be allowed for any type of asset? The Depreciation Table outlines the useful life of an asset, as well as depreciation and amortization rates that the

CHAPTER 2

Writing off Bad Debt from Tax Accounting Book

If your company is fortunate enough to have customers who always pay the bill on time, then this chapter may be unexciting to you and feel free to skip this entire chapter altogether. However, if you are concerned that some of your customers delay the payment or the payment is not received at all, then this chapter may give you some comfort as you will find some useful tips to turn uncollectible bills to a tax deduction.

Whenever a customer does not pay a bill to a company or any account receivable becomes uncollectible, the company typically has to book first as a doubtful debt. The company cannot automatically write off this bad debt as an expense. So, at this point, the bad debt is deemed a disallowed expense under the Revenue Code. The company has to follow certain criteria set out by tax law before such bad debt can be written off as a business expense. Of course, the company is probably not too thrilled to write off a bad debt. But in some circumstances it may be inevitable. Writing off a bad debt may bring some relief to the company, as the company can deduct it as an expense, which is useful to offset the profit of that year. Before we go on how to write off a bad debt, let's first visit the background of a bad debt.

CHAPTER 4

Royalty, Franchise Fee, Service Fee and Expenses with Profit Sharing Nature

When a company enters into any agreement with the profit sharing nature, a company should be cautious of another type of disallowed expense: an expenditure that is determined on and payable from profits after the end of the accounting period. This kind of expenditure might arise from these types of agreements:

- license agreement;
- franchise agreement;
- service agreement; and
- other agreements with profit sharing nature.

Tax law prohibits a company from booking the expense that is calculated from the profit of the company as a deductible expense. On the surface, this kind of expense does not seem like a disallowed expense, but it is! That’s why many companies are in disbelief to find themselves in the situation where their expenses

CHAPTER 5

Non Business Expenses are Disallowed

The concept of a disallowed expense is quite straight forward. Any expense incurred by a company must be for the purpose of acquiring a profit or for the purpose of a business. The expenses not exclusively expended for the purpose of acquiring profit or for the purpose of business are disallowed expenses. This means, the company is not allowed to deduct these expenses from its computation of its net profit.

Company is for Profit

To understand to logic behind a disallowed expense, let's start with a simple concept of company formation. What is the purpose of formation of a limited company? The answer is quite clear to almost everyone. A limited company is incorporated to make a profit. Likewise, other corporate taxpayers, a public limited company, a registered ordinary partnership, a limited partnership and a joint venture are formed with the purpose of generating the profit.

SECTION 6

GET THE MOST OUT OF TAX PRIVILEGES

As various administrations come and go, from time to time our government introduces the tax privileges of all kinds with certain terms and conditions. Some of these tax privileges are granted on a temporary basis, while others are given on a more permanent basis. Listing and describing all of these tax privileges are definitely beyond the intended purpose of this book. However, a corporate executive should be aware of and look out for these tax privileges as such whenever these tax privileges come out, his or her company does not miss out on these valuable privileges.

Under the Revenue Code, the tax privileges come out primarily in three forms: (i) tax deferment in form of accelerated depreciation, (ii) tax exemption meaning you do not have to pay, and (iii) tax reduction meaning you pay tax at a reduced rate. The information in this section will help an executive figure out which tax privileges entitled to take (or already missed out?), and just as important, what terms and conditions strictly required for such privileges.

Fully, Completely, Duly and Properly Fulfilled

Most, if not all, of these tax privileges, either deferment, exemption or reduction, always come with the required terms and conditions. It should be noted that the tax privileges should be taken with care. In order to claim for any deferment, exemption or reduction, all required terms and conditions of such tax privileges must be fully, completely, duly and properly fulfilled by a taxpayer, otherwise such tax privileges may be invalidated or challenged by the Revenue Department.

When we say "*fulfilling all required terms and conditions*", it means a taxpayer should not leave any room for the Revenue Department to interpret otherwise. In practice, a corporate executive should structure a transaction in the way that meets all terms and conditions of any tax privilege in question. Prior to claiming any tax privileges, you should understand and convince

CHAPTER 2

Working with Accelerated Depreciations

In order to boost corporate spending, tax law provides the accelerated depreciations/amortizations for certain types of assets on both temporary and permanent basis subject to the terms and conditions. In this chapter, we will cover only those that are given on a permanent basis. These accelerated depreciations/ amortizations are tax deferment, not tax saving in the strict sense. Rather than paying corporate income tax up front in the first year in which the company obtains an asset, the company can book a high depreciation on the first year that will result in a lower tax in the first year. Nevertheless, in subsequent years the depreciation will be lower than that of the first year, which may cause the company to pay the higher tax

Why Accelerated Depreciation is Good?

Accelerated depreciation is always good for the company because you can get the significant amount of depreciation up front, lowering tax in the first year. Eventually, the company still

CHAPTER 3

Tax Exemptions & Reductions

In addition the BOI scheme (to be discussed in next section), to ease the tax burden of corporate taxpayers, tax law provides other tax exemptions and reductions. Some of them are given on a temporary basis to implement the policies of the government at the time, while others are offered to corporate taxpayers on a more permanent basis. In this chapter, we will focus mainly on the tax exemptions and reductions enacted on a more permanent basis. But this does not mean that other temporary tax exemptions and reductions are not available. In fact those temporary tax exemptions and reductions are offered from time to time as the government introduces any new tax cuts; so an executive should (at least have the company's accountant) check those out.

1. Reduced Tax Rates for Baht 5 Million SME

In effort to advance its policy to stimulate and restore the nation's economy, to provide the support to small and medium enterprises (SMEs) as well as to further encourage investment in

SECTION 7

TAKING ADVANTAGE OF BOI PROMOTION

Stimulating private investment in particular foreign direct investment has been a cornerstone of numerous administrations' top agenda since the 1980s. To boost the investment in Thailand, the Thai government lures investors with certain privileges, both tax and non-tax, which are offered to preferred types of investments. This scheme is generally referred to as a Board of Investment (BOI) promotion. The Office of the BOI who serves as the marketing arms of the Thai government, is charged with selecting and granting this BOI promotion to the qualified investors.

In this section, we will reveal one of the most generous promotions the Thai government ever gives so that an executive can (plan to) take advantage of it. We will first discuss about BOI privileges in nutshell, and later cover what are the non-tax and tax privileges offered.

Check for Update on BOI Promotion

Bear in mind that the Board of Investment constantly changes or adds the privileges from time to time. So for the latest updates on the privileges, an executive needs to consult with the BOI official or visit BOI website at www.boi.go.th

CHAPTER 1

BOI in Brief

The Office of the Board of Investment is a government agency that operates under the Ministry of Industry with the main task is to encourage private investors to (of course) invest in Thailand through various promotions offered to eligible investments. The Board of Investment (BOI) will determine which investments are desirable at the time based on the government policies, and later formulate the BOI privileges to be given to such desirable investment made in any of the preferred industries.

Eligible Activities

As for conditions when selecting an investment eligible for BOI promotion, the BOI rules that such investment must be an undertaking that:

- ✓ is critical and beneficial to the economy, society and security of the nation;

CHAPTER 2

Non-Tax Privileges

BOI has worked out really hard to attract the foreign direct investment to Thailand by offering generous non-tax privileges that would otherwise be hard to obtain through a normal, not promoted operation. While many non-tax privileges seem to be structured to favor foreign investors, BOI promotion is actually available to both local companies and foreign owned companies alike. For a Thai owned company, these non-tax incentives will essentially give more flexibility in hiring foreign skill workers and experts.

Let's find out what are those non-tax incentives under BOI promotion.

One Stop Service Center for Visa and Work Permit Services

More liberal immigration and work permit treatments are introduced for foreign skill workers, foreign experts and their

CHAPTER 3

Tax Privileges

Based on a type of eligible activity and the investment zone where a BOI applicant will be operating from, the criteria announced by the Board of Investment will determine how much or to which degree the tax privileges will be granted to each BOI applicant. The logic is that each investment has a different impact on the economic growth, so each of them is offered the different degree of tax privileges. Apparently, the Board of Investment does not weight all types of eligible investments equally.

Decentralizing Policy

Through BOI promotion scheme, the government aims at directing private investments to the nation's least developed areas. The farther you go away from Bangkok and metropolitan areas, the better incentives you will receive from the Board of Investment. Obviously the government wants a business to open a factory or an office in the middle of nowhere and according to the government's objective the farther is the better. This will spread

CHAPTER 4

Computation of Profit/Loss of BOI Business

The corporate income tax exemption, or simply called the tax holiday, enables a BOI promoted company to realize significant tax saving. In practice there are many issues related to computation of profit/loss of BOI business. If a BOI promoted company only engages in the BOI promoted business or activity, corporate income tax computation is not terribly complicate. But the moment a BOI promoted company commences to operate any non-BOI business or activity, the computation gets more challenging. To clarify any ambiguities and misunderstanding that a BOI promoted company may have, the Revenue Department issued the Notification to explain how the computation of profit/loss of a BOI promoted company should be made. The details of the Notification are outlined next. The bottom line is whenever a BOI promoted company engages in any non-BOI business/activity, the tax privileges will not apply to the non-BOI business/activity.

SECTION 8

PLANNING WITH EMPLOYEES TAX

There comes a time when it is necessary for an executive to get help, whether it is brain or brawn, in the course of running the operation. As the business grows, the company needs to hire additional employees, part-time or full-time, to keep up with the amplified workload. In return for the employee contribution, the company pays a salary plus bonus or perks for those who outperform. Many executives would think that the company's concern and responsibility is finished at the time when making full payment for the employee's salary. But, in fact, there are a number of reasons a company and its executives ought to look more closely into not only the timing of the pay out, but also the consideration in which it is paid. This section addresses one important consideration that the company should take into account in designing the employee's pay, that is the involvement of good tax planning on the employee's pay, which, of course, shall be done before the company makes the payment. Good tax planning for employees can be a valuable business strategy to make employees happier and get a far better bottom line than competitors who don't bother to look into.

Tax-Efficient Pay Package can Save Big

Every company should aim at paying its employees as tax efficiently as possible to avoid any wasteful cash. The more tax efficient a company is in compensating its employees, the more money a company can save. How to structure a tax efficient pay package? The key is: the company should look for every possibility to make the pay package for employees in the way that employees are least taxed. Paying employees in an inefficient manner will definitely cost a company a whole lot more to attract and retain the best talents.

In case of pay package for expat executives, it is not uncommon for the expats to request a multinational corporation to absorb the personal income tax for them. This means the multinational corporation foots a tax bill for its expatriates. From

CHAPTER 1

Tax Issues for Employee Salary with Perks

In this chapter, we will show you first how to properly calculate the withholding tax that should be deducted from any taxable remuneration and fringe benefits. Later, this chapter looks at some of the common fringe benefits, which ones are taxable and which ones are not. By the end of this chapter, executives shall have good idea on how to structure a tax efficient pay package for the company's employees.

Calculating Withholding Income Tax

Whenever a company (including any other employer) pays any remuneration to an employee, the company is required by tax law to calculate personal income tax of such employee and deduct the withholding tax upon payment of such remuneration. The deducted amount will be then remitted to the Revenue Department by the company. In most cases, the calculation is handled by the company's accountant, but it is not a bad idea for an executive to understand how the number is derived. Just follow

Personal Income Tax

Net Income	Baht
First 150,000	0
Exceeding 150,000 to 500,000	35,000
Exceeding 500,000 to 1,000,000	100,000
Remaining 101,000	30,300
Total Payable Taxes	165,300

Monthly Withholding Tax Deduction = 165,300 ÷ 12 = 13,775 Baht

So, every month the company must deduct the withholding tax of Baht 13,775 from Jack's salary.

Social Security Fund

Besides the withholding income tax, the company is also required to deduct 5% from the employee's salary, provided that the deducted amount shall not exceed Baht 750 and remit it to the Social Security Fund Office as the employee's social security contribution. The company has to contribute the same amount to the Social Security Fund. The government will make some contribution to the Social Security Fund too. The Social Security Fund will provide the minimal healthcare coverage, the unemployment benefits, and the minimal retirement benefits.

Watch for Remuneration That Is Taxable

All too often the company attempts to help its employees save tax by providing non-cash remuneration to its employees (by converting the cash compensation to the non-cash compensation).

CHAPTER 2

Tax Issues for Expats

Since we will be covering the tax issues related to expat employees, it is now more relevant than ever to discuss on how the Revenue Department taxes the personal income. In other words, how it gets to decide which assessable incomes are subject to Thai personal income tax. Understanding these rules is central to the proper tax planning for expats so that tax saving can be achieved.

How Personal Incomes are Taxed

In today's seamless world, people are on the move more than ever before. For the Revenue Department, it means a challenge on how they're supposed to tax those moving targets. Apparently, Thailand cannot tax every individual on the globe. So, the Revenue Code of Thailand lays out the framework on how personal income tax applies to assessable incomes on different sources. The code says that in imposing the personal income tax

SECTION 9

ADVANCE TAX PLANNING WITH OFFSHORE COMPANY

Tax Law's Definition of Offshore Company

Under tax law, an *offshore company* means a company formed or registered under the laws of a foreign country, not the laws of Thailand. Offshore companies are sometimes also referred to foreign companies. Do not get confused with *a foreign owned company* that is registered under Thai company law. Foreign owned companies are locally incorporated companies, in form of limited companies or public limited companies, whose shares are owned by the foreigners. Note that when the majority of shares in any locally incorporated company are owned by non-Thai shareholders, the foreign business law, the Land Code and the condominium law will treat the company as if it were a foreigner. But tax law is nationality blinded. The Revenue Code still treat a locally incorporated, foreign owned company as a Thai company. Tax law does not care who really owns a locally incorporated company, either Thai or foreign shareholders. As long as, a company is registered under Thai company law, such company is a Thai company irrespective of the nationality of its shareholders. The opposite is true: if the company is registered under the laws of foreign country, such company is deemed a foreign or offshore company, even its majority shareholder happens to be Thai.

Offshore Company Doing Business in Thailand

An offshore company may establish a business in Thailand by incorporating a subsidiary company, in form of a limited company or a public limited company, or by opening up a branch office of a foreign company. Without setting up a local subsidiary company and a branch office Thailand, an offshore company still can derive an income from the source in Thailand under two possible circumstances. First, the offshore company may derive the income in Thailand without having any presence at all in Thailand.

CHAPTER 2

Offshore Company Operating Business in Thailand through Agent

Corporate Income Tax is Due when Operating Business in Thailand

Thailand taxes an offshore company on its net profit only if it operates a business in Thailand. According to the established interpretation of the Revenue Department, operating a business in Thailand by an offshore company means officially opening a branch office in Thailand and registering such branch office with relevant government departments (if such registration is required by the relevant legislation. Note that for certain businesses, a branch office registration is not necessary).

An offshore company with a branch office in Thailand is liable to pay corporate income tax at the rate of 30% on the net profit that a branch office derives from Thailand as if the branch office were a local company. The branch office is also required to pay the remittance tax at the rate of 10% of the net profit remitted out of Thailand. Effectively, a foreign company that operates a business in Thailand through a branch office must pay corporate

Section 10

VAT & Specific Business Tax

Like other countries, the Thai government imposes the consumption taxes on consumption of a good or a service in Thailand. Consumption tax is indirect tax that a business operator adds on the price of a good or a service, and is passed over to consumers when they purchase such good or service. So, it's the consumer who ultimately bears the consumption tax.

Consumption tax is terribly crucial to Thailand's fiscal survival. Given many people are not in the personal income tax system, the Thai government introduces consumption tax which is a simple yet effective method to reach and tax people at all levels indiscriminately. As matter of fact, consumption tax becomes one of the main sources of tax revenue for the Thai government. From the consumer's point of view, consumption tax seems to be a more desirable tax system than the income tax system. Instead of getting taxed on what is earned, people are paying tax only when they spend. No spending, no tax. Besides, they do not feel the pinch as much as when they are taxed on their income. During an annual tax return, a taxpayer may feel so unwilling to pay the personal income tax due, but the very same taxpayer is so keen to pay for the price of a luxury car (in return for the car ownership), where a lot of excise tax and VAT are added to the price. The thrill of getting a new car surpasses the pain in paying taxes. (The taxpayer may not even know that he or she just pays excise tax given it is not listed in a tax invoice.) So, the bottom line is, when making a purchase, people pay consumption tax rather unconsciously and more willingly compared to when they pay for the income tax due.

In Thailand, there are three types of consumption tax as follows:

1. **Valued Added Tax (VAT);**
2. **Specific Business Tax (SBT); and**
3. **Excise Tax.**

Any business supplying a good or a service in Thailand typically has to deal with either VAT or specific business tax one way or another, unless a business is exempt from VAT. Since VAT and specific business tax are applicable to almost all industries, the section will focus on these particular consumption taxes. Excise tax will not be covered here because it is only applicable to a limited number of industries, such as liquor, tobacco.

Why Government still Imposes Excise Tax?

Some people might be puzzled why the government still has to impose excise tax, given VAT and specific business tax have already been imposed? The government feels that for certain goods and services, consumption tax at the rate of VAT is simply too low. The statutory rate of VAT is 10% of the price of good or service, which has been reduced to 7% (at the time of writing). So, basically taxing at 7% of the price is not enough.

Rather then operating VAT at multiple rates, which can complicate the VAT system, the government then levies this excise tax to fill in this gap. The excise tax is also levied on certain goods and services that may cause harmful to health or negatively affect public moral. So, basically the government wants to discourage its people from purchasing these kinds of goods or services. Examples of goods or services where the excise tax is levied are petroleum (gasoline), liquor, tobacco, and luxury goods, such as automobile. For the above goods and services, excise tax will be imposed in addition to VAT. Now you know why cars in Thailand are so expensive and why the gasoline here also costs more than that in many other countries.

CHAPTER 1

Introduction to Value Added Tax

What is VAT?

Value added tax (VAT) is one of the consumption taxes (indirect tax) imposed on the supply of a good or a service in Thailand. In other words, VAT taxes people who consume a good or a service here in Thailand. So, if the consumption of a good or a service is outside Thailand, theoretically VAT should not be applied. In practice, the revenue official can still impose VAT on some cases where consumptions are outside Thailand, because the official feels that the supporting documents are incomplete or insufficient to prove that such consumptions are really made outside Thailand.

Among other consumption taxes, VAT is the most important tax as VAT covers most goods or services. While VAT does not cover every type of business, almost every good or service under the sun is subject to VAT. Unless a business is VAT exempt or operates under the specific business tax regime, the business must operate under the VAT system.

CHAPTER 2

Businesses outside VAT Regime

Even VAT applies almost everything across the board, nonetheless, there are certain businesses that are deemed inappropriate and inconvenient to adopt VAT. Thus, tax law puts those businesses outside the VAT regime, by either exempting the businesses from VAT or putting under the regime of specific business tax. Let's take a look those businesses that are outside the VAT regime

1. VAT Exempt Businesses

Section 81 of the Revenue Code lists the businesses that are exempt from VAT.

Section 81 "Value added tax shall be exempt on the following businesses:

(1) sale of goods but not for export purpose or provision of services as follows -

CHAPTER 3

VAT: Let's Do the Math

Input VAT vs. Output VAT

VAT will be levied on the value added in each stage of a supply chain. In other words, VAT is only imposed when the value is added at each stage. The VAT system is actually not complicate as it sounds, but people often get confused with the concept of input VAT and output VAT. This section is intended to help you get a grip on this concept.

Now assume that you are a VAT operator (also called a VAT registrant), meaning that you have registered with the local revenue office to run the VAT business. When you are making a purchase from a supplier (who is also another VAT operator), the supplier will collect VAT from you and you will have to pay VAT on this purchase. (Note that even non-VAT operator also needs to pay this VAT.) This VAT is your input VAT, which refers to the VAT levied on any expense incurred in your business. But because you are a VAT operator, (you get a privilege that) this input VAT will be returned to you by way of VAT credit that you can claim back later from the Revenue Department. On the other

CHAPTER 4

Tax Point – A Point that VAT Liability Occurs

For a VAT registrant, it is terribly important to get the timing right when recognizing a VAT point, collecting VAT from its customer and remitting VAT (output tax) to the Revenue Department in the monthly tax filing. Sometimes timing is everything. VAT law specifies in detail when a VAT liability incurs from supplying a good or a service – it's called the tax point. From VAT registrant's standpoint, once the tax point occurs, the VAT registrant must take the following actions:

1. Issue a tax invoice to its buyer;

2. Collect VAT (output tax) from its buyer; and

3. Remit VAT (output tax) collected from its buyer(s) to a local revenue office within 15th of the subsequent calendar month. (Of course, the VAT registrant will remit the net amount after deducting input tax from output tax.)

Each VAT registrant needs to know exactly when the tax point of its supply of a good or a service occurs. Otherwise, a VAT registrant may end up failing to issue a tax invoice and to

CHAPTER 5

VAT on Services Rendered by Offshore Services Provider

In addition to VAT on domestic transactions, VAT on the service rendered to a Thai company by an offshore services provider is another issue to watch out for practically anyone in Thailand who receives a service from an overseas services provider. From time to time, a company in Thailand, either a local company or a local subsidiary company of a multinational corporation, is in need of a service from an offshore party. When a Thai party makes any payment to an offshore company in return for any service rendered by the offshore company from the premises out of Thailand but utilized in Thailand, the service may be subject to Thai VAT.

As VAT is consumption tax, any service consumed in Thailand is normally subject to VAT. Even if the service performed by an offshore services provider in a foreign country, so long as used in Thailand, such service is subject to VAT and the offshore services provider has to pay VAT. But the Revenue Department cannot collect VAT from the offshore services provider, so VAT law requires the Thai party who makes the payment for the service fee to the offshore services provider to

CHAPTER 6

VAT Myths Related to Claiming for Input VAT

In comparison to other laws governing other types of taxes, VAT law is relatively new as it just came out as recent as 1992. Despite a new creation, VAT law is detail oriented and everything has to be handled exactly as VAT law specifies. There is a good reason for this.

It was not until 1992 that the Revenue Department became so experienced with all tricks employed by taxpayers to legally avoid or even illegally evade the now repealed commercial tax. Having enough troubles with these sneaky business operators, the revenue officials who drafted the VAT law back then went an extra mile to specify the VAT rules in great detail to ensure that the same avoidance or evasion problem fade away with the old commercial tax. As a result, many of VAT rules are quite rigid and too detailed and VAT operators must strictly comply with all rules relating to VAT. After all, the rules are the rules and the best that VAT operators can do is to try to familiarize and comply with them.

CHAPTER 7

Specific Business Tax and Intra Company Loan

When VAT was introduced in 1992 and the old commercial tax, VAT's predecessor, was repealed, it was believed that for certain businesses it is inappropriate to apply VAT due to difficulty to determine the value added for these certain businesses. Specific business tax was then created to be levied on those businesses. In many aspects, specific business tax is similar to the old commercial tax. Unlike VAT, specific business tax is only applicable to a handful of businesses, mostly related to financial institutions and property transactions. Any business that is subject to specific business tax is not subject to VAT.

Section 91/2 of the Revenue Code lists the businesses that are subject to specific business tax.

Section 91/2 "Subject to Section 91/4, the following businesses carried on in Thailand shall be subject to specific business tax under the provisions of this Chapter:

(1) banking under the law governing commercial banking or any other specific law;