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Global Tax Alert

Thailand enacts International Business Centers regime to replace existing incentive regimes

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Executive summary

On 28 December 2018, Thailand's International Business Centers (IBC) regime was enacted through Royal Decree and became effective as of 29 December 2018.[1] Major developments include a parity of tax incentives on income earned from both local and overseas associated enterprises, a removal of tax incentives earned from international trading activities (i.e., out-out trading[2]) and an increase in minimum local spending. Tax incentives under the IBC regime replace all previous tax incentives under the Regional Operating Headquarters (ROH) I and II, International Headquarters (IHQ), Treasury Center (TC) and International Trading Center (ITC) regimes.

This measure is in response to the *Harmful Tax Practices – 2017 Progress Report on Preferential Regimes* (Inclusive Framework on BEPS:[3] Action 5) in which Thailand's regional/international headquarters, trading and treasury hub regimes were identified as harmful tax practices.

Detailed discussion

Entities under the existing ROH II, IHQ, TC and/or ITC regimes

Entities that were previously granted incentives under ROH II, IHQ, TC and/or ITC regimes remain eligible for these tax incentives under the existing conditions until their current status expires (up to 15 years for an IHQ/ITC), while those with

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ROH I status (which does not have a time limit) can only enjoy the incentives until the end of the accounting year 2020. Alternatively, these entities (except an ITC) may choose to convert their status to an IBC if they meet the conditions.

Tax incentives at the corporate level

- A reduced corporate income tax (CIT) rate of 8%, 5% or 3% on the net profits from its qualifying service fee and royalty incomes earned from its Thai and overseas associated enterprises, provided that it meets annual local spending requirements of THB60 million (US$1.85 million), THB300 million (US$9.23 million) or THB600 million (US$18.5 million), respectively (see Note 1 below)
- Exemptions:
  - CIT on qualifying dividends received from its associated enterprises
  - Specific Business Tax (SBT) on qualifying incomes from treasury services
- Withholding tax (WHT) on dividends distributed by the IBC to its overseas shareholders paid out of reduced-CIT profits of the IBC's operation and/or of the defined qualifying profits from ROH/IHQ operations within one year after the approval of the conversion to an IBC
- WHT on qualifying interest paid by the IBC to an overseas loan provider in connection with the loan obtained for re-lending due to its treasury activities

Incentive period

- 15 accounting years

Tax incentive at an individual level

- 15% flat personal income tax rate on wages/salaries earned by of qualifying foreigners working full time for the qualifying IBC

Requirements (must meet all of the following conditions):

- Be a Thai-incorporated company
- Have at least THB10 million (US$310K) paid-up capital at the end of each accounting year
- Provide qualifying support services or treasury services to its associated enterprises
- Have at least 10 skilled full-time employees[4] (or at least 5 employees if only engaging in treasury services)
- Meet minimum local spending of at least THB60 million per accounting period unless converted from ROH or IHQ (see *Note 1 below*)
- Obtain approval from the Director-General of the Revenue Department

Claw-back rule

- If an IBC is unable to meet one of the conditions in any accounting year, it will not be entitled to the tax incentives for that particular accounting year.
- However, if failure to meet the conditions for more than one accounting year continues, the IBC status may be revoked and the tax incentives could be clawed back from the first accounting year in which the incentive was granted.

Comparative chart

Main tax incentives and conditions	IHQ/ITC/TC	IBC
CIT		
▸ Qualifying service, TC and royalty incomes	0% (overseas)/10% (local)	8%, 5% or 3%[i] (both overseas and local)
▸ Dividend income from local and overseas sources	Exempt (only dividends from overseas)	Exempt (both overseas and local)
▸ Capital gains	Exempt	Normal CIT rate
▸ Trading income	Exempt	Normal CIT rate
WHT		
▸ Dividend distribution to overseas	Exempt	Exempt
▸ Interest payment to overseas	Exempt	Exempt
SBT		
▸ Qualifying TC income	Exempt	Exempt

Main tax incentives and conditions	IHQ/ITC/TC	IBC
Personal income tax ▸ Qualifying expatriates	15%	15%
Minimum paid-up capital	THB10 million	THB10 million
Minimum annual local spending	THB15 million (US$460K)	THB60 million[ii]
Minimum number of employees	None	10 persons (5 persons for TC)

Notes:

i. *A qualifying IBC is entitled to reduced CIT rates of 8%, 5% or 3%, provided it meets the minimum annual local spending requirements of THB60 million, THB300 million or THB600 million, respectively. However, there is no minimum local spending requirement to a reduced 8% CIT rate for an ROH I that converts to an IBC; while an ROH II and IHQ that convert into an IBC are required to have minimum local spending of at least THB15 million per accounting year to be entitled to the reduced 8% CIT.*

ii. *Not applicable to an ROH I that converts to an IBC. ROH II and IHQ that convert to an IBC are required to have at least THB15 million per accounting year.*

Further detailed conditions and application procedures under the IBC regime are expected to be released shortly.

Endnotes

1. See EY Global Tax Alert, *Thailand introduces International Business Center regime to replace existing incentive regimes*, dated 16 October 2018.
2. Defined as procurement of goods outside of Thailand from a company and sale to another company without transporting such goods into Thailand.
3. Base Erosion and Profit Shifting.
4. Knowledgeable and experienced employees.

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