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Recent Developments in International Taxation

Thailand

Picharn Sukparangsee

Bangkok Global Law Offices Limited, Bangkok

picharn@bgloballaw.com

Kantida Jiaranaidilok

Bangkok Global Law Offices Limited, Bangkok

Laksiga Thanaphruet

Bangkok Global Law Offices Limited, Bangkok

Overview

Thailand has undergone several changes in its taxation laws, aiming to address environmental concerns, promote transparency through the exchange of information, enhance revenue generation and encourage sustainable development. Key areas of focus include global minimum tax, exchange of information, land and building tax, sugar tax and eco tax.

Global minimum tax

On 7 March 2023, the Cabinet of Thailand passed its resolution on measures to support the implementation of a global minimum tax as part of the Organisation for Economic Co-operation and Development's (OECD's) base erosion and profit shifting (BEPS) 2.0, Pillar Two, by assigning relevant agencies to consider actions as proposed by the Office of the Board of Investment (BOI) as follows:

No	Government agencies	Actions assigned by the Thai Cabinet
1	BOI	• Amend the National Competitiveness Enhancement Act for Targeted Industries BE 2560 (2017) in order to increase fund sources for the National Competitiveness Enhancement Fund for Target Industries (Enhancement Fund) in part of the fund allocated from income from top-up tax collection according to Pillar Two. This is to support the implementation of investment promotion measures to enhance the competitiveness of the country. • Propose investment promotion measures to enhance the country's competitiveness by subsidising investors whose investment or expenditure lead to increasing competitiveness and creating sustainable investment within the country. Under the National Competitiveness Enhancement Act for Targeted Industries Act BE 2560 (AD 2017) to the National Competitiveness Enhancement Policy Committee for Targeted Industries Policy Committee (Capacity Enhancement Policy Committee) for further consideration and approval. • Propose measures to mitigate impact from new tax collection guidelines under the Investment Promotion Act BE 2520 (AD 1997) to the BOI for further consideration and approval.
2	Thai Ministry of Finance (Revenue Department)	Implement legislation and/or determine appropriate action guidelines as follows: • top-up tax collection according to Pillar Two (the Revenue Department is in the process of drafting the regulation); • top-up tax revenue allocation to the National Competitiveness Enhancement Fund at the rate of at least 50 per cent but not exceeding 70 per cent of such revenue (this is a preliminary discussion that the BOI and the Revenue Department will discuss in detail in order to set a clear rate in the future); and

		• delivery of top-up taxpayer information to the BOI.

Key content from a preliminary discussion by the BOI is set forth below:

- the measures proposed by the BOI are aimed at improving investment promotion measures to be in line with the OECD's new approach to tax collection as a result of becoming a member under the framework of the OECD. International cooperation and the Inclusive Framework on BEPS enables Thailand to maintain its ability to attract investment and maintain production bases for large multinational corporations, which is important to enhance the country's competitiveness in the next phase; and
- the Inclusive Framework on BEPS was established by the OECD as a mechanism for member states to join to determine the direction and means of taking measures to prevent tax BEPS to countries with no or low tax rates. Thailand has been a member of the framework since June 2017.

The Revenue Department indicated that it is in the process of drafting a bill to collect top-up tax, with a bill expected to come into force in 2025. However, Pillar One, focusing on rules for taxing profits and rights, was not included in the Thai Cabinet's resolution.

Exchange of information

To enhance transparency and combat tax evasion, Thailand has adopted measures to strengthen the exchange of information with other countries. Thailand joined the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the 'MAC') in June 2020. The MAC was established jointly by the OECD and the Council of Europe. Its objectives are to promote tax transparency and fairness in tax administration, and to prevent transnational tax evasion and tax avoidance. The Global Forum on Transparency and Exchange of Information for Tax Purposes (the 'Global Forum') consists of OECD member countries, as well as other countries that have agreed to implement the transparency and information exchange of tax. Participating countries are required to comply with global agreements, such as the Common Reporting Standard (CRS). Thus, the Royal Decree on the Exchange of Information BE 2566 (AD 2023) (the 'Royal Decree') was released by the Thai Cabinet on 30 March 2023 in order to implement the CRS.

The Royal Decree specified the general framework regarding the exchange of information as requested by the competent authorities of the parties of the MAC and double tax agreement (DTA) with Thailand, the automatic exchange of information, the scope of power of the competent authorities of Thailand and penalties.

Exchange of information as requested by the competent authorities of the MAC and the DTA parties with Thailand

Thai competent authorities have the power to exchange information only if the information is relevant and beneficial to the authorities in relation to tax collection and the enforcement of tax laws. Such information must relate to persons who are subject to investigation, litigation or execution in the tax field by the requesting party.

However, the competent authorities have the right to reject such a request if, for example, such an exchange of information results in the disclosure of trade secrets as specified in section 10 of the Royal Decree.

Automatic exchange of information

The Royal Decree prescribes the reporting information person(s), reporting information and submission period. The reporting person(s) must inform the Director General of the Revenue Department (the 'Director General') of the report on the financial information of taxpayers. The reporting person(s) are financial institutions, securities companies, government financial institutions, authorised life insurance licensees, derivatives business operators, escrow agents, credit card operators, trustees and other persons with financial accounting information as prescribed by the Minister of Finance. The reportable information for the automatic exchange of information as specified in the Royal Decree consists of three types of information. First, information regarding the account holder or the person with control over the account holder such as name, address, taxpayer identification number, date and place of birth, and additional information as specified by the Director General. Second, financial account information, such as account number, account balance or cash value in an insurance policy and interest received, as well as additional information or benefits as prescribed by the Director General. Third, information about the reporting person, such as name and identification number. The reporting person shall report the reportable information to the Director General by 30 June of the following year.

1. The penalties under the Royal Decree are set forth below:

Section	Charge	Penalty
26	Any person who fails to give a statement or submit the requested information without a reasonable clause to the authority	Fine not exceeding THB 200,000
27	The financial institution that fails to report or submit incorrect information on financial accounts and submits without a reasonable clause or does not revise the Director General's order	Fine not exceeding THB 200,000
28	Any person who intentionally gives false information or conceals the facts in conducting or providing information	Fine from THB 50,000 to THB 200,000
29	Any reporting person who fails to retain records and evidence of the collected information from the financial accounts under the Royal Decree	Fine not exceeding THB 300,000
30	Any person who discloses information from their duties under the Royal Decree to others unless it is a disclosure in accordance with	Imprisonment not exceeding one year, fine not exceeding THB 100,000 or both

	the duties and powers under the Royal Decree	

Land and building tax

Thailand implemented the Land and Building Tax Act BE 2562 (AD 2019) (the 'LBTA') to replace the Household and Land Tax Act BE 2475 (AD 1932). The LBTA came into effect on 13 March 2019 and payments under this LBTA are required from 1 January 2020, onwards. According to the Royal Decree prescribing Land and Building Tax Rates BE 2564 (AD 2021) dated 13 December 2021 issued under the LBTA, the land and building tax rates for each type of property stipulated under the Royal Decree are provided below:

No	Purpose of use of properties	Tax rates (%)
1	Agricultural purpose	0.01–0.1
2	Residential purpose	0.03–0.1 (Land and buildings owned by an individual whose name is registered in the house registration book)
		0.02–0.1 (Buildings owned by an individual whose name is registered in the house registration book)
		0.02–0.1 (Land and buildings other than the above conditions)
3	Purposes other than (1) and (2)	0.3–0.7
4	Vacant or unused land and buildings	0.3–0.7

Please note that the tax rates may vary depending on the value of the property.

According to the Royal Decree on Land and Building Tax Reduction (No 2) BE 2564 (AD 2021), land and building tax payments are reduced by 90 per cent for tax year 2021 for the following types of land and buildings:

- land or buildings used for agricultural purposes;
- land or buildings used for residential purposes;
- land or buildings used for other purposes; and
- vacant or unused land or buildings.

In addition, according to the Royal Decree on Land and Building Tax Reduction (No 3) BE 2566 (AD 2023), land and building tax payments are reduced by 15 per cent for tax collection for tax year 2023 for the following types of land and buildings:

- land or buildings used for agricultural purposes;
- land or buildings used for residential purposes;
- land or buildings used for other purposes; and
- vacant or unused land or buildings.

In addition, there shall be a further tax reduction at the rate of 15 per cent of the amount of tax computed after the tax reduction for tax year 2023.

Sugar tax

In an effort to address health concerns related to excessive sugar consumption, promote healthier dietary choices and generate revenue for public health initiatives, Thailand introduced a sugar tax in 2017. The tax is levied on sugar-sweetened beverages and certain food products containing high levels of added sugar.

Recently, the Excise Department of Thailand started to increase the sugar tax according to the amount of sugar under the third phase after the Thai Government delayed the increase of such tax rates for six months. Therefore, the excise tax rates collected on the sugar content of beverages in the third phase became effective from 1 April 2023 according to the resolution of the Thai Cabinet meeting on 20 September 2022.

The following rates apply to the third phase of the sugar tax, which started from 1 April 2023, to 31 March 2025:

- sugar content 0–6 grams, the tax rate is THB 0 per litre from the current THB 0 per litre;
- sugar content 6–8 grams, the tax rate is THB 0.3 per litre from the current THB 0.1 per litre;
- sugar content 8–10 grams, the tax rate is THB 1 per litre from the current THB 0.3 per litre;
- sugar content 10–14 grams, the tax rate is THB 3 per litre from the current THB 1 per litre;
- sugar content 14–18 grams, the tax rate is THB 5 per litre from the current THB 3 per litre; and
- sugar content from 18 grams, the tax rate is THB 5 per litre from the current THB 5 per litre.

Eco tax

Thailand has recognised the importance of addressing environmental issues and has implemented environmental taxes to incentivise sustainable practices and discourage activities that harm the environment.

Currently, Thailand has no specific tax law governing carbon emissions. However, the Thai Cabinet has passed its resolution regarding tax measures to reduce global warming, which are listed below.

Royal Decree issued under the Revenue Code Regarding Tax Exemption (No 760) BE 2566 (AD 2023)

The Royal Decree issued under the Revenue Code on Tax Exemption (No 760) BE 2566 (AD 2023) was issued to support and encourage the private sector to implement projects to reduce greenhouse gas emissions. The net profit generated from the sale of carbon credits in Thailand under the voluntary greenhouse gas emission reduction project registered with the Thailand Greenhouse Gas Management Organization from 20 March 2023 to 31 December 2027 is exempt from corporate income tax for three consecutive accounting periods.

Please note that the period to calculate the above accounting period starts from the accounting period that the Greenhouse Gas Management Organization issued a carbon credit sales certificate under the project to participants for the first accounting period.

Royal Decree issued under the Revenue Code Regarding Tax Exemption (No 761) BE 2566 (AD 2023)

This Royal Decree essentially extends the period of tax measures to promote the implementation of the Community Forest Partnership Program and reduce global warming by providing the following:

- corporate income tax exemption for companies or juristic partnerships for income equal to the amount donated via the electronic system (e-Donation) of the Revenue Department to the Community Forest Support Partnership Program to reduce global warming of the Ministry of Natural Resources and Environment (MNRE), but when combined with expenses for public charities and public benefits, it must not exceed two per cent of net profit; and
- additional income tax exemption for individuals (formerly not granting individual rights) with a personal income tax exemption for income just assessed after deducting expenses and deducting donations made through the e-Donation of the Revenue Department to the Forest Department to support the project to support community forests to reduce global warming of the Ministry of Foreign Affairs, an amount equal to the amount donated, but not more than ten per cent of the assessable income after deducting expenses and other deductions, effective from 1 January 2023 to 31 December 2027 (from the original end of 31 December 2022), in order to create incentives for the business sector and the public to participate in supporting the implementation of the project of community forest partners to reduce global warming to a greater extent. It is continuous and efficient.