

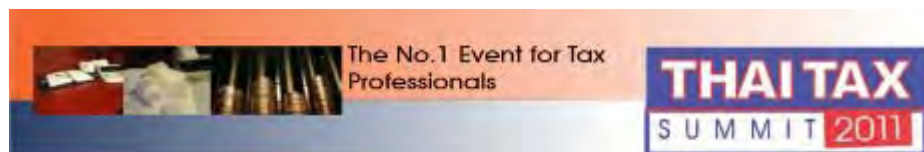
NEWSLETTER

No. 47
Edition October 2010

INSIDE THIS EDITION

1. **More Favorable Rule on Tax Deductibility for Car Rental Companies** 1
2. **Accelerated Depreciation for Tourism Business Operators** 1
3. **A Stay at Hotel Becomes Tax Deductible** 2
4. **Continued VAT Rate Reduction at 7% for Two More Years** .. 2

UP COMING EVENT



Wednesday, January 19, 2011
Royal Orchid Sheraton Hotel, Bangkok, Thailand

Disclaimer: The materials on this document have been prepared for informational purposes only and are not intended to be legal advice. The reader should not act in any way on the basis of the information without seeking where necessary appropriate professional advice concerning their own individual circumstances. NARIT & ASSOCIATES assumes no responsibility for, and disclaims all liabilities (including responsibility for any action or inaction taken) to the fullest extent permitted by law.

TAX UPDATE

1. More Favorable Rule on Tax Deductibility for Car Rental Companies

The Revenue Code imposes certain limits on tax deductibility on the expenses incurred on a sedan car and a passenger vehicle with a number of seats not exceeding 10 seats (the "Sedan Car") to curb corporate excessive spending on Sedan Cars. One of the limits is Baht 36,000 cap on the monthly rent for the Sedan Car that is tax deductible. If a company spends any amount beyond the cap, any amount in excess of the cap is non-deductible for the tax purpose. If a limited company rents any Sedan Car from either leasing company or car rental company for its use, the tax deductible rent is capped to Baht 36,000 per one month inclusive of VAT. The current rule does not provide any exemption to the Baht 36,000 rent cap on Sedan Cars.

In October 2010, the government introduces an exception to this cap exclusively for car rental companies to relieve a tax burden and stimulate an investment in a business. Under the new exemption, this Baht 36,000 rent cap will no longer apply to the rent paid by a limited company operating a car rental business who rents the Sedan Car from any person for the purpose of renting the Sedan Car out to a customer. This means it is now possible for any car rental company to take a lease of the Sedan Car with the monthly rent of more than Baht 36,000 and then sublease the Sedan Car to a customer without having to face any non-deductible expense. With this new exception, a car rental company will have more flexibility in acquisition of rental Sedan Cars.

For more details, please contact our lawyers for consultation.

TAX UPDATE

2. Accelerated Depreciation for Tourism Business Operators

The new Royal Decree is enacted to offer the accelerated depreciation for tourism business operators. On the asset acquisition date, a tourism business operator may claim depreciation for the immovable property as defined in Article 4(5) of the Royal Decree No. 145 except vehicles at the rate of 60% of the cost of the asset that the tourism business operator purchases or takes transfer the ownership of the asset for the purpose of using in its own business.

For the remaining cost of the asset, the tourism business operator may claim depreciation at a regular rate of 20% of the cost of the asset per one year.

It is noted that this accelerated depreciation cannot be used in conjunction with other tax privileges, i.e. an asset under an energy conservation privilege, an asset used in a BOI tax exempt business, an asset derived from research and development expenses that are eligible and claimed for double deduction, and an asset derived from the expense that a listed company claims for tax exemption.

For more details, please contact our lawyer for consultation.

TAX UPDATE

3. A Stay at Hotel Becomes Tax Deductible

As an end of the year is approaching, like every year end many individual taxpayers typically attempt to find legitimate tax deductions generously offered by the government, i.e. RMF, LTF or life insurance to lower his or her final tax bill. Amid the political crisis and unrest, this year the government introduces one new deduction, a tourism restoration deduction, to boost the tourism industry. This means a cost for individual taxpayer's stay at a hotel in Thailand or individual taxpayer's trip within Thailand with a licensed tour operator becomes a tax deduction for the taxpayer up to Baht 15,000, provided that a service fee or an accommodation fee must be paid from June 8, 2010 to December 31, 2010.

For more details, please contact our lawyers for consultation.

TAX UPDATE

4. Continued VAT Rate Reduction at 7% for Two More Years

The existing Royal Decree Re VAT Rate Reduction from 10% to 7% has expired since September 30, 2010. The new Royal Decree is enacted to reduce the VAT rate from 10% to 7% for two more years from October 1, 2010 to September 30, 2012.

While the Revenue Code stipulates the VAT rate to be 10%, the Revenue Code also grants an executive branch of government the power to reduce the VAT rate as it deems appropriate by issuance of a Royal Decree.

For more details, please contact our lawyers for consultation.

UP COMING EVENT

Summit Date: 19-20 JANUARY 2011
Workshop Date: 21 JANUARY 2011
Venue: ROYAL ORCHID SHERATON HOTEL BANGKOK, THAILAND

THAI TAX SUMMIT 2011

THE NO. 1 EVENT FOR TAX PROFESSIONALS
FEATURING THE LATEST TAX UPDATES AND NETWORKING OPPORTUNITIES WITH TOP-NOTCH TAX EXPERTS

THAI TAX SUMMIT 2011

Dear Executive,

Today's corporate tax practitioners and professionals are under more pressure than ever to address the evolving global business environment and new implications from the harmonization of tax regimes. Not only are tax laws going to be more complex and provide increasing challenges to all business managers, but tax departments are also facing increasing pressure from key stakeholders to provide more and better information faster and to manage world-wide/regional compliance more effectively, while reducing risk and adding value to business.

In this fast-evolving regulatory environment, many companies are seeking new ways to minimize their tax risk, to manage their taxes effectively and to always have up-to-date information about new tax legislation. Companies understand that proper tax management will result in proactive strategic planning in the form of lower tax rates, improved cash flows and greater profitability for the business. To provide in-depth and practical perspectives of Thai tax regulations & efficient strategies, **Asia Business Forum** is pleased to organize "**Thai Tax Summit 2011: The No.1 Event for Tax Professionals**", a two-day conference, which will include the latest tax updates and changes in tax policy at both national and international levels; examine the regulatory pressures from the changing global/region's economic landscape on businesses, and address tax strategies, crucial issues and opportunities for companies in delivering significant tax savings while minimizing tax risk. In addition, corporate tax leaders' advice will be highlighted on how tax departments can find ways to deal with changing regulations, while positioning their organization to support the business in a dynamic commercial environment and much more.



The No.1 Event for Tax Professionals



DAY ONE WEDNESDAY, 19 JANUARY 2011

MAIN PLENARY SESSIONS

STREAM A:
TAXATION FOR MERGERS & ACQUISITIONS

3:00 Networking Coffee Break
 3:15-4:15
**STRATEGIC TAX PLANNING FOR M&A
 INBOUND INVESTMENT**

- Techniques of tax planning for M&A
- Key factors to successful M&A deals
- Tax strategies for successful structuring of M&A agreements in Thailand
- Maximizing values and benefits and avoiding obstacles from taxation on M&A

Narit Direkwattanachai
Principal
NARIT & Associates

ORGANIZED BY: 
www.abf-asia.com

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

DISPUTE RESOLUTION

DEBT COLLECTION

Debt collection seems to be one of the troubles many businesses face in Thailand. Our firm can assist clients on debt collection resulting from either trade debt or borrower's default on payment of the loan. If the lawyer's demand notice still yields no positive result, our firm is ready to represent client to take further legal action to the court or file the claim to the arbitration body.

After the completion of court or arbitration process, we can assist clients on debt recovery as follows:

- Asset search
- Asset recovery
- Enforcement of judgment or enforcement of arbitration award

SHAREHOLDER'S DISPUTES

Our firm has experience and expertise in representing both majority shareholder/partner and minority shareholder/partner in the shareholders' disputes/partnership disputes. Eventually, the shareholders' disputes/partnership disputes have to be resolved one way or another, either through a lengthy negotiation that yields a settlement satisfactory to both parties, pursuing any legal actions (courtroom) to revoke certain corporate actions, and even filing a criminal charge against the counterparty.

We also assist clients in the following matters:

- Corporate fraud
- Investment fraud
- Finance

BREACH OF CONTRACT/MISREPRESENTATION

In the business world, another area of disputes is breach of contract, misrepresentation and wrongful inducement. Our firm can advise and represent clients on these issues. Typically, a non-default party has two options either to enforce the default party to perform the obligations and claim any damage for a delay of performance or to exercise the right to terminate the contract and claim for any damage suffered by the non-default party. The non-default party may request the court to impose the injunction on the default party, requiring the default party to do or refrain from doing certain things.

BANKRUPTCY & BUSINESS REORGANIZATION

Whenever the court has order the debtor to be under an absolute receivership or a business reorganization, the creditor may ask for repayment of his debt only by complying with the procedure prescribed in the bankruptcy law even though the creditor may be a judgment creditor, or a creditor who has filed a civil action which is, however, still under trial.

The creditor must take an action within the deadline otherwise the claim for repayment of debt will be invalidated by the bankruptcy law. Once any counterparty is on the verge of bankruptcy, the creditor is recommended to have an eye on debtor's possible financial demise.

We can assist the creditor file the claim for repayment of debt to preserve creditor's right.

LABOR DISPUTES

We can advise and represent clients on the labor disputes which typically arise in the following circumstances.

- Employee's fraud and misappropriation of employer's assets
- Employee's unauthorized use of employer's assets, information and trade secret
- Termination, layoff, restructuring (downsizing), severance pay and notice payment
- Lawful termination and unfair termination

TAX DISPUTE

We advise and represent clients on a variety of tax disputes from the Revenue Department to the Customs Department. Our services cover:

1. Making representations on behalf of clients to tax a relevant tax authority in the pre-assessment stage;
2. Providing advice concerning the legality of tax assessment made by a relevant tax authority;
3. Preparation of notice of objection to tax assessments and request for re-determination to the tax appellate body; and
4. Representation in the tax court.

CONSTRUCTION & REAL ESTATE DISPUTES

The problem between the contractor and the owner seems to happen all the times. Some disputes could be settled right away, while other unavoidably may have to make their way to courtroom or arbitration. Our firm can assist either contractor or owner (hirer) in the construction dispute arising from below situations:

- Contractor's delay in completion of work according the milestones
- Delivered work is different from the agreed specifications
- Delivered work fails to meet the agreed standards
- Owner's delay in payment of the construction price to the contractor for no good reason
- Owner's delay in delivery of the construction site to the contractor
- Owner's insisting to use the unusable designs despite the protest by the contractor
- Use of the engineering consultant who is less than neutral and fair
- Owner's refusal to accept the delivery of work from the contractor on the ground of small defects
- An effort by the owner to bargain the contraction price long after the contract has been sealed
- Parties' disagreement over the price increase and the additional time for the additional scope of work

With respect to the real estate disputes, a real estate developer might fall behind the construction schedule, the problem between a property buyer and a developer may arise from time to time.

OTHER BUSINESS DISPUTES

In addition to the above matters, we can advise and represent client on other business disputes, i.e. unfair business practice, business tort claim, trade secret and intellectual property, corporate fraud, investment fraud, finance, and international sales disputes.

Contact our lawyers without delay if you have or about to have any dispute before the dispute (likely) goes bad and gets worse.

NARIT & ASSOCIATES

Attorneys at Law

CORPORATE & COMMERCIAL,
DISPUTE RESOLUTION & TAX

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

THE FIRM

NARIT & Associates is a Bangkok-based international law firm serving both Thai and foreign companies by combining international perspectives with profound local expertise, in the areas of corporate & commercial, mergers & acquisitions, tax, real estate & construction, commercial dispute and general practice.



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.

OFFICE ADDRESS

65/31 Chamnan Phenjati Business Center
2nd Floor, Rama IX Road,
Huay Khwang, Huay Khwang,
Bangkok 10320, THAILAND

TEL +66 86 785 0793
+66 2248 2872

FAX +66 2248 2873

EMAIL enquiry@naritlaw.com

WEBSITE www.naritlaw.com

NARIT & ASSOCIATES

Attorneys at Law

CORPORATE & COMMERCIAL,
DISPUTE RESOLUTION & TAX

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

CORPORATE & COMMERCIAL

Business Setup
Construction
Contracts/Agreements
Employment
General Counsel Services
Mergers & Acquisitions
Real Estate

DISPUTE RESOLUTION

Debt Collection
Shareholder's Dispute
Breach of Contract/Misrepresentation
Bankruptcy & Business Reorganization
Labor Disputes
Construction & Real Estate Disputes
Other Business Disputes

TAX

International Tax Planning
Mergers & Acquisitions Tax Structuring
Property/Real Estate Taxes
Commercial Contract Tax Planning
Investment Tax Incentives
Finance and Securities Taxes
Corporate Tax Compliance
Transfer Pricing
Tax Restructuring
Tax Dispute
International Expatriate Services
Wealth Tax Management

For more detailed information,
please visit our website at

www.naritlaw.com

