

NEWSLETTER

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1. Secondment of Employee to Host Company in Thailand May Trigger Thai Tax Liability

In many occasions, due to a specific business need, an employee of a multinational company is often assigned to move position/job on a temporary basis in the other organization of its current employer. This kind of move is referred to as the secondment of an employee. One of the common issues in relation to the secondment of an employee is, of course, the taxation of the employee's salary, especially if the move involves 2 different taxation regimes/countries.

One revenue ruling sheds more light on Revenue Department's perspective on the secondment of an employee to a host company in Thailand. In this case, the home company in Japan dispatches an employee to work for its affiliated company in Thailand (a host company) without charging any fee to the host company, while the employee remains on a payroll of the home company. The employee receives two portions of compensation.

1. A salary in Japan, which the host company has to reimburse to the home company.
2. A salary in Thailand, which the host company pays directly to the employee.

The Revenue Department construes that the home company operates business in Thailand through a dependent agent in Thailand (the employee) and the home company has to pay Thai corporate income tax on any income derived in Thailand. The department concludes that two portions of the salary are income that the home company has to pay corporate income tax to Thailand. And the employee as a dependent agent of the foreign company in Thailand has a duty and liability to file returns and pay corporate income tax for an on behalf of the foreign company (the home company).

So structuring any secondment package must be done with care to avoid triggering tax liability on the home company.

For more information, please contact our lawyers for consultation.

LEGAL UPDATE

2. Charges for Issuing an Advance Ruling to an Importer

The Ministerial Regulation is issued to specify an official fee for seeking (i) an advance ruling on price of imported good, (ii) an advance ruling on origin of imported good and (iii) advance ruling on import tariff from the Customs Department. The official fee is Baht 2,000. Officially, seeking the advance ruling from the Customs Department in any regard will help an importer avoid a potential dispute with the Customs Department. As long as the importer acts according to the advance ruling, a customs officer cannot make any assessment in such regard because the advance ruling is binding to the department.

For more information, please contact our lawyers for consultation.

TAX UPDATE

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3. Revenue Ruling on Tax Free Share Transfer from Parent to Child

The Revenue Department issues a rulings confirming that any transfer of shares in a limited company by a parent to a child prior to February 1, 2016 was not subject to any gift tax (income tax). (A new gift tax became effective on that day.) The department also states that when a child sells those shares in the future, the proceeds from a share sale shall be subject to personal income tax.

For more information, please contact our lawyers for consultation.

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