

Petroleum Income Tax Act, B.E.2514 (1971)

As amended until Petroleum Act (No.6), B.E. 2550 (2007)

Translation

Bhumibol Adulyadej P.R.

Given on the 26th Day of March, B.E. 2514

Being the 26th Year of the Present Reign

Section 1

This Act shall be called the "Petroleum Income Tax Act, B.E.2514 (1971)".

Section 2

This Act shall come into force on the day following the date of its publication in the Government Gazette.

Section 3

Those provisions of all other laws, regulations and rules in so far as they are stipulated herein or are contrary to or inconsistent with the provisions hereof shall be replaced hereby.

DIVISION 1

General Provisions

Section 4

In this Act:

"petroleum" means petroleum which is produced in Thailand as defined in the petroleum law;

"crude oil" means crude oil as defined in the petroleum law;

"exported crude oil" means crude oil that the company holding a concession or having a joint interest in it exports or sells to another person for export, and also includes that part of crude oil refined in Thailand which is treated as exported crude oil under the petroleum law;

"petroleum business" means a petroleum operation under the petroleum law and includes transfer of all or any of the properties or rights for such business, not with standing whether such transfer is made in the usual course of business, and also includes any activity incidental to such business or transfer;

"income" means money, properties or other benefits acquired that can be calculated as money, and also includes the tax and duty paid for by other persons, but shall not include the tax which the seller company has used as credit against its own tax under Section 32;

"Thailand" means Thailand under the petroleum law;

"concession" means concession under the petroleum law;

"sale" means sale under the petroleum law;

"disposal" means the delivery of crude-oil to a refinery or storage place for the purpose of refining the company's crude oil, the appropriation of petroleum subject to royalty for use in any activity of the company other than for sale, or transfer of petroleum which is subject to royalty without consideration;

"tax reference price" means the posted price as defined in the petroleum law minus discounts, if any;

"market price" means the price in an open market or, in the absence of such price, a price that would be charged between persons acting independently without relationship in capital or management;

"royalty" means royalty under the petroleum law;

"company" means a company under the petroleum law that,

- (1) holds a concession or has a joint interest in it; or
- (2) purchases crude oil produced by the company under (1), all of which is intended for export;

"Director-General" means the Director-General of the Revenue Department;

"Minister" means the Minister in charge of this Act.

(The definition of "disposal" repealed. See the amended version in Section 3 of the Petroleum Income Tax Act (No. 4), B.E. 2532.)

Section 5

If a person who is required to comply with any time limit prescribed by this Act is prevented from compliance by necessary circumstances, the Director-General, with the approval of the Minister, shall have the power to give an order for an extension or postponement of the time limit to suit the circumstances.

Section 6

Wherever necessary for the administration of taxes, the Director-General shall have the power to issue a written order authorizing an officer to search for or seize the books of account, documents or other evidences connected with or reasonably believed by the Director-General to be connected with, the revenue and expenditure of the petroleum business.

Any search or seizure under paragraph 1 shall be conducted between sunrise and sunset or during the working hours of the person subjected to search and seizure; provided that the search or seizure that is begun but not completed during such period may be continued beyond such period or, in the case of extreme emergency, the Director-General may order or authorize a search or seizure to be conducted at any time.

Section 7

Wherever necessary for the administration of taxes, the Director-General shall have the power to issue a written order requiring the company to produce books of account or records, to render statements or to give any information connected with, or reasonably believed by the Director-General to be connected with, the petroleum business of the company.

The order issued under paragraph 1 may require compliance prior to the first accounting period of the company.

Section 8

Accounts and supporting records and documents on the company's petroleum business shall be kept in Thai and in the Thai currency. The Director-General may, however, upon the company's request, allow them to be kept in a foreign language or in a foreign currency.

Section 9

If the books of account, records, statements or other documents connected with, or reasonably believed by the Director-General or the assessment officer to be connected with, the revenue and expenditure of the petroleum business are in a foreign language, the Director-General or the assessment officer may order the persons responsible for payment of taxes under this Act to have their Thai translation prepared within a reasonable period of time.

Section 10

Summonses, notices of assessment, and other documents addressed to any person for the execution of this Act shall be delivered to that person between sunrise and sunset or during working hours of the addressees, or by registered mail.

If delivery cannot for whatever reasons be made as prescribed under paragraph 1, such summonses, notices and documents may be delivered by posting them at a conspicuous spot on the door of the house, office, domicile or place of residence of the addressee, or by advertising their summary in newspapers.

If the summonses, notices or documents have been delivered as prescribed under paragraph 2 and three days have elapsed, they shall be deemed received.

Section 11

Any officer who, by virtue of an official position, acquires information relating to the business of a taxpayer or of any other persons concerned shall not divulge or otherwise communicate such information to any person, unless authorized to do so by law.

Section 12

A limited company or any other juristic person of a status equivalent to a limited company, whether incorporated under the Thai law or a foreign law, that is subject to tax under this Act shall be exempt from:

- (1) taxes and duties imposed by the Revenue Code, and
- (2) taxes and duties imposed by any other laws except the petroleum law.

Provided that such taxes and duties are based on net profits, or income incredible in computing net profits, or on income subject to tax under this Act.

Section 13

A limited company or any other juristic person of a status equivalent to a limited company, whether incorporated under the Thai law or a foreign law, shall be exempt from:

- (1) taxes and duties imposed by the Revenue Code, and
- (2) taxes and duties imposed by any other laws.

Provided that such taxes and duties are based on dividends, or shares of profit paid out of the profit, or income subject to tax under this Act.

Section 14

Taxes payable or remittable under this Act that are not paid or remitted when due for payment or remittance shall be treated as tax arrears.

For recovering tax arrears, the provisions of the Revenue Code relating to the procedures for recovering arrears of taxes and duties shall apply.

Section 15

Reduction or exemption of the tax under this Act shall be granted to persons under agreements on avoidance of double taxation concluded between the Thai Government and foreign Governments.

Section 16

The Director-General shall have the power to:

- (1) prescribe tax returns and other forms;
- (2) appoint assessment officers and other officers;
- (3) prescribe rules and regulations requiring taxpayers or their representatives to keep books of account and records, render statement or do whatever necessary for the collection and payment of taxes.

Appointments under (2) and prescriptions under (3) shall be published in the Government Gazette.

Section 17

The Director-General may, by a written instrument, delegate his authorities under Sections 5, 6, 7, 8, 9, 26 (1) and 77 to a director or chief of a division in the Revenue Department or to a Regional Revenue officer.

Section 18

The Minister shall have the power to prescribe discounts on the posted price under the petroleum law at the rate not exceeding seven per cent for a period not exceeding nine years from the date the company begins production of petroleum.

The rules and methods for prescribing the discounts under paragraph 1 shall be laid down in the Ministerial Regulation.

- Ministerial Regulation No.4
- Ministerial Regulation No.5

(Repealed; See the amended version in Section 3 of the Petroleum Income Tax Act (No. 2), B.E. 2516.)

If the term of the concession concerning the petroleum production has been extended under the petroleum law because of an interruption of petroleum production not caused by the fault of the concessionaire, the period of extension shall be excluded from the period prescribed in paragraph one.

(Paragraph 3 was added by Section 3 of the Petroleum Income Tax Act (No. 6), B.E. 2550 (2007))

Section 19

The Minister of Finance shall have the charge and control of this Act and the power to issue Ministerial Regulations for the execution of this Act.

The Ministerial Regulations shall be effective upon their publication in the Government Gazette.

- Ministerial Regulation No.2
- Ministerial Regulation No.3
- Ministerial Regulation No.4
- Ministerial Regulation No.6

DIVISION 2

Income Tax and Computations of Net Profits

Section 20

The company shall pay income tax for each accounting period at the rate specified by the Royal Decree that shall not be lower than 50 percent and not be higher than 60 percent of the net profit derived from the petroleum business.

(Repealed; See the amended version in Section 4 of the Petroleum Income Tax Act (No. 4), B.E. 2532.)

Section 21

For a transfer of petroleum business, if the transferee company pays an income in the nature of rights, annuity or any other recurring income in consequent of such transfer, and if the total amount of such income is not definitely determinable, the person receiving such income shall pay income tax at the rate specified by the Royal Decree, that shall not be lower than 50 percent and not be higher than 60 percent of the income after the deduction of cost allowed under Section 33.

Section 22

In calculating net profit, the following items shall be included as revenue:

- (1) gross income from the sale of petroleum;
- (2) value of petroleum disposed of;
- (3) value of petroleum delivered as payment of royalty in kind;
- (4) gross income arising from a transfer of any property or right related to petroleum business, if the total amount of such gross income is definitely determinable;
- (5) Any other income arising from conducting petroleum business.

In the case of transfer of a concession under Section 48 of the Petroleum Act, B.E. 2514, the gross income arising from such transfer under (4) shall be taken at the latest book value of the transferor company on the date of transfer.

Section 23

All ordinary and necessary expenditures shall be deducted from the revenue under Section 22.

Section 24

Subject to the provisions of Section 25 and Section 26, ordinary and necessary expenditures shall be limited specifically to the expenditures that the company can prove to be ordinary and necessary, in a reasonable amount, and only expended for its petroleum business, whether incurred within or outside Thailand; and within these limits, ordinary and necessary expenditures shall include:

- (1) rent or other considerations for hire of property;
- (2) labor cost, service charges, cost of materials consumed and other similar expenditures paid or incurred for the exploratory or production drilling;
- (3) entertainment expenses;
- (4) bad debts written off;
- (5) contributions to a provident or pension fund;
- (6) allowance for capital expenditure;
- (7) royalty, whether in cash or in kind, for exported crude oil;
- (8) head office expenditure reasonably allocable to the petroleum business of the company;
- (9) cost of property or right after deduction of capital expenditure allowance, for revenue under Section 22 (4).

(Provision (7) repealed and provision (10) added. See the amended version in Section 5 and Section 6 respectively of the Petroleum Income Tax Act (No. 4), B.E. 2532.)

Section 25

The items that shall not be treated as ordinary and necessary expenditures include:

- (1) capital expenditure, or expenditure laid out for making an addition to, or an alteration, extension or improvement of properties,
Capital expenditure under paragraph 1 means the expenditure laid out for acquiring an asset or advantages, whether directly or indirectly, if such assets or advantages benefit the business for more than one accounting period; and also includes all losses and ordinary and necessary expenditures incurred or paid prior to the first accounting period under Section 26 (1), paragraph 2;
- (2) an expenditure of personal nature, a gift or a donation;
- (3) Losses recoverable through insurance or any contract of indemnity;

- (4) an expenditure made in consideration for the company's capital or assets;
- (5) any reserve or contribution to any fund, except as provided in Section 24 (5);
- (6) income tax, penalty and surcharge payable under this Act or payable abroad;
- (7) an expenditure paid or incurred for such business or for acquiring income not subject to tax under this Act;
- (8) any expenditure which the company cannot prove the identity of the recipient;
- (9) royalty for petroleum, except the royalty specified in Section 24 (7);
- (10) interest;
- (11) area reservation fees and surcharge payable under the petroleum law;
- (12) fines for criminal offences.

(Provision (9) repealed; See Section 7 of the Petroleum Income Tax Act (No. 4), B.E. 2532)

Section 26

The computation of revenue, expenses and net profits under this Division shall be subject to the following:

- (1) Net profits shall be computed for each accounting period. The first accounting period shall begin on the day that the company makes its first sale or disposal of petroleum subject to royalty; provided that the company, with the Director-General's approval, chooses to use as the beginning date of the first accounting period any day of the same month before the date of its first sale or disposal of such petroleum, it shall begin on the date so chosen. Each subsequent accounting period shall begin on the closing date of the preceding accounting period.

An accounting period shall be twelve months long, but may be shorter for the following cases:

- (a) if the company takes any day as the closing date of the first accounting period;
 - (b) if the company ceases its petroleum business, the date of dissolution shall be the closing date of the accounting period;
 - (c) if the company changes the closing date of an accounting period with the approval of the Director-General. In the case the company transfers any rights under a concession prior to the beginning date of the first accounting period under paragraph 2, this date of transfer shall be treated as the beginning and closing date of the accounting period for computing net profits arising from the transfer of such rights. No accounting period shall be deemed to exist between such closing date and the beginning date of the first accounting period under paragraph 2.
- (2) Subject to the provisions of this Division, the accounting methods, rules and practices for the computation of revenue, expenses and net profits of the company shall be in accordance with the sound and usual accounting methods, rules and practices of the petroleum industry.
 - (3) The proceeds from the sale of petroleum under Section 22 (1) shall be based on the same realized price used for calculating royalty under the petroleum law, but no adjustment for the difference in transportation costs under that law shall be considered; provided that, in the case of exported crude oil, if the realized price is lower than the tax reference price, the proceeds from the sale shall be based on the tax reference price.
 - (4) The value of petroleum under Section 22 (2) shall be based on the same market price used for calculating royalty under the petroleum law, but no adjustment for the difference in transportation costs under that law shall be considered;

- (5) The value of petroleum under Section 22 (3) shall be computed in accordance with the provisions of the petroleum law pertaining to the computation of the value of petroleum delivered as payment of royalty in kind;
- (6) If a company having a joint interest in a concession incurs expenses in petroleum exploration or in developing a petroleum reservoir to acquire such interest but, such expenses are not paid to the other companies having the joint interest in the concession, such expenses shall not be treated as the income of such other companies;
- (7) Capital expenditure allowances may be deducted only for such categories, at such rates, and under such conditions, as prescribed by the Royal Decree;
- (8) Labor cost service charges, cost of materials consumed, and other similar expenses paid or incurred for exploratory or production drilling may, at the company's option, be treated as capital expenditure laid out in the accounting period in which such expenses are paid or incurred;
- (9) The deduction of entertainment expenses shall be in accordance with the conditions laid down by the Ministerial Regulations;
- (10) The value of properties other than inventories of merchandise shall be carried at cost. If the cost is in a foreign currency, it shall be converted into the Thai currency in accordance with the method described in (12). Such value may be decreased by means of capital expenditure allowances under (7), but may not be decreased by revaluation. It may be increased by revaluation only as provided by the Revenue Code;
- (11) The value of inventories of merchandise at the end of an accounting period may be carried at cost, or at cost or market price, whichever is lower. The value so determined shall be the value of such inventory carried forward to the next accounting period.

Any accounting method once adopted for determining the cost under paragraph 1 shall be consistently applied. Deviation from it may be made only with the approval of the Director-General.

- (12) The currencies, debts or claims bearing values in a foreign currency which are received or paid during an accounting period shall be valued in the Thai currency at the rate which that foreign currency is bought or sold.

In the absence of a purchase or sale of a foreign currency, such currency, debt or claim shall be valued at the monthly average rate of exchange prevailing in the month prior to the month of receipt or payment. The rate shall be, as computed by the Bank of Thailand, the average of daily rate of exchange at which commercial banks buy or sell foreign currencies.

- (13) The currency, debt or claim bearing values in a foreign currency, remaining on the closing date of the accounting period, shall be valued in the Thai currency using the latest average buying or selling rate of commercial banks during such accounting period, as the case may be, as computed by the Bank of Thailand.
- (14) Bad debts may be written off only after reasonable action has been taken to collect it. Any bad debt written off and subsequently recovered shall be included as revenue of the accounting period in which it is recovered.
- (15) Contributions to a provident or pension fund may be deducted as expense only to the extent not exceeding 10 per cent of the salary or wages received by employees during the accounting period, subject also to the following conditions:
 - (a) the fund is set aside exclusively for the benefit of employees;
 - (b) the fund is separately set aside beyond the possession of the company;
 - (c) the fund cannot be appropriated for any purpose other than for its benefit;

- (d) contributions to the fund are irrecoverable by the company: and
- (e) contributions to the fund are made in accordance with the obligation prescribed by a written regulation of the fund.

(Insert provision (16); See the amended version in Section 8 of the Petroleum Income Tax Act (No. 4), B.E. 2532)

Section 27

The balance of revenue after deduction of ordinary and necessary expenditures shall be the annual profit or annual loss, as the case may be.

Section 28

For an annual profit, the following allowances shall be deductible:

- (1) The annual loss of any one or more of the ten accounting periods prior to the current accounting period.
If an annual loss has been used as a deduction in any accounting period, only the balance, if any, can be carried forward for deduction in the subsequent accounting period, but not exceeding ten accounting periods.
- (2) The following donation totaling up to not exceeding 1 per cent of the annual profit after deduction of the allowance under (1):
 - (a) money donated to government and healthcare institutions and government-owned educational institutions;
 - (b) money donated for public benefit to public charity organizations or institutions, or to health-care and educational institutions apart from those mentioned in (a), as prescribed by the Minister in the Government Gazette.

Section 29

For a transfer of a petroleum business, the transferee company shall, from the accounting period in which the transfer takes place onwards, carry over the balance of any annual loss of the transferor company for use as allowance under Section 28 (1), as if no transfer of the petroleum business had taken place.

If the compensation paid by the transferee company to the transferor company for the transfer of the petroleum business is less than the sum of the value of assets after deduction of capital expenditure allowances and the balance of the annual losses of the transferor company, but greater than such value of assets, the balance of the annual losses which the transferee company may carry over in accordance with paragraph 1, shall be limited to the difference between such compensation and such value of assets after deduction of capital expenditure allowance. If the balances of the annual losses are carried over from several preceding accounting periods, the amount of such difference shall be allocated to each accounting period in proportion to the balance belonging to such period.

If the compensation under paragraph 2 does not exceed the value of assets after deduction of capital expenditure allowances, the transferee company cannot carry over any balance of an annual loss of the transferor company for allowance under Section 28 (1).

The provisions under paragraphs 2 and 3 shall not apply for a transfer of a concession under Section 48 of the Petroleum Act B.E. 2514.

Section 30

The balance of an annual profit after deduction of the allowance under Section 28 shall be the net profits subject to income tax under Section 20.

Section 31

If there is any tax under Section 20 payable by the company in any accounting period, the royalty under Section 25 (9) may be used as credit against such tax, but only in an amount not exceeding the tax.

For use as credit under paragraph 1 the royalty for any period under the petroleum law may be used as credit only in the accounting period within which such period lies.

(Repealed; See Section 9 of the Petroleum Income Tax Act (No. 4), B.E. 2532.)

Section 32

If a company holding a concession or having a joint interest in it, sells crude oil to a buyer company which purchases crude oil all of which is intended for export, and if the buyer company pays tax under Section 20, the seller company may use such tax as credit against its own tax for the same accounting period for an amount not exceeding the amount of tax payable by the seller company.

If the buyer company purchases crude oil at a price lower than the tax reference price and sells it at a price higher than the tax reference price, the credit that the seller may take under paragraph 1 shall not exceed that part of the tax paid by the buyer company that is allocable to the difference between the tax reference price and the price at which the buyer company purchases crude oil. If the buyer company purchases crude oil at the tax reference price or at a price higher than the tax reference price, the credit under paragraph 1 is not allowed.

Section 33

Deduction of cost from income under Section 21 shall be limited to the balance of the annual loss under Section 28(1) of the company that transferred the petroleum business, and shall be in accordance with the rules, methods, and conditions prescribed by the Ministerial Regulations.

DIVISION 3

Income Return

Section 34

The company shall file an income return for every accounting period.

Each company having joint interest in a concession shall file an income return only to the extent of its share of the revenue belonging to the company.

(Repealed; See the amended version in Section 10 of the Petroleum Income Tax Act (No 4), B.E. 2532.)

Section 35

The director authorized to act on behalf of a company shall be responsible for filing for the company an income return required under this Division.

If a company formed under a foreign law and subject to tax under this Act has no director authorized to act on behalf of it present in Thailand, the person residing in Thailand who acts on behalf of the company in connection with the income subject to tax shall be responsible for filing for the company an income return.

Section 36

For an amalgamation of companies, if the original companies have not filed income returns under Section 34, the company newly formed by the amalgamation shall be responsible for filing returns for the original companies.

Section 37

For a transfer of a petroleum business, if the transferor company does not file an income return within the time limit and the assessment officer has given notice of such failure to the transferee company, the transferee company shall file an income return for the transferor company.

Section 38

If a company ceases its petroleum business, the person responsible for filing a return for the company under Section 35 shall be responsible for filing an income return. If there is a

liquidator, the person responsible for filing returns for the company under Section 35 and the liquidator shall be jointly responsible for filing income return.

Section 39

An income return shall be in the form prescribed by the Director-General. The person responsible for filing an income return shall fill in all entries required in the return and shall submit with the return all supporting documents specified by the Director-General.

Section 40

An income return shall be submitted to the officer at the place designated by the Director-General.

Section 41

An income return shall be filed within five months from the closing date of each accounting period. The income return under Section 37 shall be filed within the period prescribed by the assessment officer. This period shall be at least thirty days from the date of receiving a notice of the transferor company's failure to file an income return.

The income return under Section 59 shall be filed within the period prescribed by the assessment officer.

(Paragraph 1 repealed; See the amended version in Section 11 of the Petroleum Income Tax Act (No 4.), B.E. 2532.)

DIVISION 4

Payment of Tax

Section 42

The tax chargeable under Section 20 shall be paid to the officer at the place designated by the Director-General.

The company may request to pay the tax under paragraph 1 in any foreign currency. The Director-General, with the approval of the Minister, may at his discretion approve the request according to the prescribed conditions and procedures.

Section 43

For any tax payable, the company that has to file an income return under Division 3 shall pay the tax within five months from the closing date of the accounting period, when filing its income return.

In the case under Section 35, paragraph 2, the person responsible for filing an income return shall be responsible jointly with the company formed under a foreign law for the payment of the tax.

(Insert Section 43 bis; See Section 12 of the Petroleum Income Tax Act (No. 4), B.E. 2532.)

Section 44

If the assessment officer makes an assessment under Division 6, the person liable for the payment of tax shall pay the tax within thirty days from the date of receiving the notice of assessment. For an assessment under Section 59, tax shall be paid within the time specified by the assessment officer.

DIVISION 5

Tax Withholding

Section 45

The company paying income under Section 21 shall,

- (1) withhold tax, at a rate specified under Section 21, every time payment is made,
- (2) file tax-withholding returns, and
- (3) remit the tax required to be withheld under (1).

The tax withholding under (1) shall be in accordance with the rules, methods, and conditions prescribed by the Ministerial Regulations.

Section 46

The director authorized to act on behalf of a company shall file for it a tax-withholding return under this Division.

In the case where a company formed under a foreign law is required to withhold tax, and such company has no director authorized to act on behalf of the company present in Thailand, the person residing in Thailand who acts on behalf of the company in connection with the income described in Section 21 shall file a tax-withholding return for the company.

Section 47

For an amalgamation, if the companies paying income under Section 21 fail to file tax-withholding returns, the company newly formed by the amalgamation shall be responsible for filing the tax-withholding return for the original companies.

Section 48

For a transfer of a petroleum business, if the transferor company fails to file a tax-withholding return within the time limit and if the assessment officer has given notice of such failure to the transferee company, the transferee company shall file a tax-withholding return for the transferor company.

Section 49

If a company ceases its petroleum business, the person responsible for filing a return on behalf of the company under Section 46 shall be responsible for filing a tax-withholding return. If there is a liquidator, the person responsible for filing a return for the company under Section 46 and the liquidator shall be jointly responsible for filing a tax-withholding return.

Section 50

A tax-withholding return shall be in the form prescribed by the Director-General.

The person responsible for filing a withholding return shall fill in all entries required in the return and shall submit with the return all supporting documents specified by the Director-General.

Section 51

A tax-withholding return shall be filed within seven days from the date of paying income under Section 21.

The return under Section 48 shall be filed within the period prescribed by the assessment officer. This period shall not be less than thirty days from the date of receiving the notice of the transferor company's failure to file a tax-withholding return.

The return under Section 59 shall be filed within the time prescribed by the assessment officer.

Section 52

The company that has to file a tax-withholding return shall remit tax within seven days from the date of paying the income under Section 21 when filing the tax-withholding return under Section 51.

In the case under Section 46, paragraph 2, the person who has to file a tax-withholding return shall be responsible jointly with the company formed under a foreign law for remitting the tax.

Section 53

If the assessment officer makes an assessment under Division 6, the person who has to remit the tax shall comply within thirty days from the date of receiving a notice of the assessment. For an assessment under Section 59 the tax shall be remitted within the time specified by the assessment officer.

Section 54

Filing of returns and remitting of tax under this Division shall be made to the officer at the place designated by the Director-General.

- Notification of the Director-General of Revenue (October 8, B.E. 2524)
- Notification of the Director-General of Revenue (August 5, B.E. 2535)

Section 55

The person who has to withhold tax but fails to do so, or withholds tax inaccurately shall be liable jointly with the person having income under Section 21 for the payment of the tax.

If the person who has to withhold tax has done so, but fails to remit the tax, or remits the tax inaccurately, the person having income under Section 21 shall be discharged of liability for the payment up to the amount of tax withheld, and the person who has withheld tax shall be solely liable for the payment of that amount.

DIVISION 6

Authority of the Assessment Officer

Section 56

The assessment officer is empowered to assess tax, penalty, and surcharge under this Act, if

- (1) the person who has to file income returns fails to file them within the time specified by law;
- (2) the person who has to file income returns files an income return that is inaccurate or includes errors that affect tax liability;
- (3) a company or the person who has to file income return fails to comply with a summons issued by the assessment officer, or refuses to answer the questions put by an officer authorized to investigate without justifiable grounds, or is unable to produce records necessary for computing tax;
- (4) a company fails to withhold tax, to file a tax-withholding return, or to remit tax, as provided by Division 5.

Section 57

For executing the provision of Section 56, the assessment officer is empowered to:

- (1) prepare an income return if no return has been filed, using the evidence that is believed to be correct;
- (2) adjust any particular in the income return or in any document filed in support of the return;
- (3) adjust the amount of revenue and expenses of the company to arrive at the amount that the company should have received or paid, had it carried on its business independently, but it had not because there existed a relationship in the capital or management between the company and another company or person;
- (4) determine the price or value of any property or of the business at the market price on the date of transfer, if the property or business is transferred for no

consideration or for a consideration less than the market price without justifiable grounds;

- (5) determine net profits or income using his best knowledge or judgment in the case of Section 56 (3).

Section 58

In exercising his authority under Section 56 or Section 57, the assessment officer shall have the power to:

- (1) issue a summons to the person responsible for filing an income return or a tax-withholding return, and to a witness for question;
- (2) issue an instruction to the person responsible for filing an income return or a tax-withholding return and a witness to give answers in writing, or to produce books of account, records, statements, or other relevant documents, for examination.

Provided that a period of at least seven days from the date of receiving the summons or instruction shall be given to the recipient for compliance.

Section 59

Wherever necessary for protecting tax revenue the assessment officer shall have the power to order that an income return or a tax-withholding return be filed, and to make an assessment, order tax payment or tax remittance to be carried out prior to the time limits prescribed by this Act.

Section 60

After making his assessment, the assessment officer shall give a written notice of the assessment to the company or the person responsible for the payment or remittance of tax. An appeal is allowed against this assessment. No appeal, however, can be made against the assessment made under Section 56 (3).

For the appeal under paragraph 1, the provisions of the Revenue Code on appeals shall apply.

Section 61

The assessment by the assessment officer is subject to the following time limits:

- (1) five years from the last day of the time limit for filing income returns under Section 41, paragraph 1, or from the last day of the time limit for filing tax-withholding returns under Section 51, paragraph 1, or from the last day of the time limit as extended or postponed by the Director-General under Section 5, as the case may be. This applies only if the company files a return within such time limit;
- (2) five years from the date on which the company files an income return or a tax-withholding return. This applies only in a case where the company files a return after the last day of such time limit as described in (1); however, no assessment can be made after ten years from the last day of such time limit;
- (3) ten years from the last day of the time limit for filing an income return or a tax-withholding return in the case where the company fails to file a return, or file a false return in order to evade or in an attempt to evade the payment or remittance of tax, or files an income return or a tax-withholding return but excludes an amount over 25 per cent of the revenue or the tax remittable as declared in the return.

DIVISION 7

Penalty

Section 62

A company shall pay penalties in the cases and at the rates as follows:

- (1) If it fails to file an income return within the time limit under Section 41, or within the time limit as extended or postponed under Section 5, the penalty shall be equal to the amount of tax;
- (2) If it files an income return that is inaccurate or includes errors resulting in tax deficiency, the penalty shall be 20 per cent of the amount of the tax additionally assessed;
- (3) if it fails to withhold tax or to file a tax-withholding return within the time limit under Division 5, or if it files an inaccurate tax-withholding return which results in the tax remitted is less than the amount remittable, the penalty shall be 20 per cent of the total tax not withheld, or not reported, or not included in the return, as the case may be.

(Repealed; See the amended version in Section 13 of the Petroleum Income Tax Act (No 4), B.E. 2532)

Section 63

Any company that fails to pay or remit tax within the time limit under Division 4 or Division 5, or pays or remits tax less than the amount payable or remittable, shall pay a surcharge of 1 per cent per month or fraction of a month of the amount of tax unpaid, un-remitted, or deficient. This amount does not include the penalties under Section 62. The surcharge shall not be computed in the manner of compound interest.

In the case the Director-General orders an extension or postponement of the time limit for the payment or remittance of tax under Section 5, and if the tax is paid or remitted within the extended or postponed time limit, the surcharge under paragraph 1, shall be lowered to 0.5 percent per month or fraction of a month.

In all cases under paragraph 1 and paragraph 2 the surcharge shall accrue from the last day of the time limit for filing an income return under Section 41, paragraph 1, or from the last day of the time limit for filing a tax-withholding return under Section 51, paragraph 1, as the case may be. For an assessment under Section 59, the surcharge shall accrue from the last day of the time limit prescribed by the assessment officer.

The surcharge under this Section shall not exceed the amount of tax payable or remittable exclusive of penalty.

Section 64

Penalty and surcharge may be waived or lowered according to the rules and procedures prescribed by the Ministerial Regulations.

Section 65

For recovering the payment of penalty and surcharge, all penalty and surcharge under this Division shall be treated as tax.

DIVISION 7 BIS

Provisions for Specific Cases

(Insert Division 7 bis; See Section 3 of the Petroleum Income Tax Act (No.3), B.E.2522.)

Section 65 bis

The provisions in this Division shall apply to the companies that have entered petroleum contracts before B.E. 2512 and have duly executed the contracts for the purchase and sale

of natural gas with the Natural Gas Authority of Thailand before B.E. 2522. It also applies to other companies to be prescribed by the Royal Decrees.

The definitions of "income", "disposal" and "company" in Section 4 shall be repealed and replaced by the definitions of those words in Section 65 ter and the provisions in Section 20, Section 21, Section 24, Section 25, Section 26, Section 31, Section 41 and Section 43 shall be repealed and replaced by the provisions in Section 65 quarter, Section 65 quinque, Section 65 sex, Section 65 septem, Section 65 octo, Section 65 novem, Section 65 decem and Section 65 undecim , respectively, for the companies under paragraph 1.

The definition of "tax reference price" in Section 4 and the provisions in Section 13, Section 18, and Section 32 shall not apply to the companies under paragraph 1.

The provisions in other Divisions of this Act shall apply to the companies under paragraph 1 insofar as they are not contrary to or inconsistent with the provisions in this Division. Wherever it refers to "income", "disposal" or "companies", it shall mean "income", "disposal" or "companies", respectively, under this Division. Wherever it refers to Section 20, Section 21, Section 24, Section 25, Section 26, Section 31, Section 41, and Section 43, it shall mean Section 65 quarter, Section 65 quinque, Section 65 sex, Section 65 septem, Section 65 octo, Section 65 novem, Section 65 decem and Section 65 undecim, respectively, under this Division.

Section 65 ter

In this Division:

"income" means money, properties, or other benefits acquired that are ascertainable in terms of money, and also includes the tax and duty paid for by other persons;

"disposal" means the export of petroleum from the Kingdom, the delivery of petroleum to a refinery or a storage place for petroleum refining of the company, appropriation of the petroleum subject to royalty for use in any activity of the company other than for sale, or the transfer of petroleum subject to royalty without consideration;

"company" means a company under the petroleum law that holds a concession or has a joint interest in the concession.

Section 65 quarter

The company shall pay income tax as follows:

- (1) an income tax for each accounting period at the rate specified by the Royal Decree that shall not be lower than 35 percent and not be higher than 48 percent of the net profit derived from the petroleum business;
- (2) an income tax of 23.08 percent of the profit remaining after payment of the income tax under (1) or any other category of money set aside from such profit, or the money regarded as such profit. This applies only to the amount disposed of outside the Kingdom.

For the computation of the income tax under (2), the income tax under (2) shall be regarded as profit for disposal out of the Kingdom as well.

Section 65 quinque

In the case where there is a transfer of petroleum business, if the transferee company pays an income in the nature of rights, annuity, or any fixed income for such transfer, and if such income is not definitely determinable, the person receiving such income shall pay income tax at the rate specified by the Royal Decree (Royal Decree on September 3, B.E. 2514 as December 30, B.E. 2514) that shall not be lower than 50 per cent and not be higher than 60 per cent of the income after the deduction of cost under Section 33.

Whoever receiving interest on loans from the company shall pay income tax on this interest at the rate specified in paragraph 1. The tax withheld and remitted under Section 45 may be used as credit against the tax payable.

Whoever receiving dividends or shares of profit from the company which is liable to income tax under Section 65 quarter (1) but not liable to income tax under Section 65 quarter (2), shall pay income tax at 23.08 percent of those dividends or shares of such profit. The tax withheld and remitted under Section 45 may be used as credit against the tax payable.

Section 65 sex

Under Section 65 septem and Section 65 octo, ordinary and necessary expenditures shall be limited specifically to the expenditure that the company can prove to be ordinary and necessary, in a reasonable amount and, expended specifically for the petroleum business, whether incurred within or outside Thailand. Within these limits, ordinary and necessary expenditures shall include:

- (1) rent or other consideration for hire of property;
- (2) labor cost, service charges, cost of materials consumed, and other similar expenditure paid or incurred for the exploratory or production drilling;
- (3) entertainment expenses;
- (4) bad debts written off;
- (5) contribution to a provident or pension fund;
- (6) allowance for capital expenditure;
- (7) royalty, whether in cash or in kind;
- (8) head office expenditure reasonably allocable to the petroleum business of the company;
- (9) cost of property or rights after deduction of capital expenditure allowance, for revenue under Section 22 (4);
- (10) interest on loans that the company can prove the identity of the recipients and tax for the payment of such interest has been withheld as prescribed under Section 45.

Section 65 septem

Items not to be treated as ordinary and necessary expenditure shall include:

- (1) capital expenditure or expenditure for making an addition to, alteration, extension, or improvement of properties;
Capital expenditure under paragraph 1 means the expenditure laid out for acquiring assets or advantages, whether directly or indirectly, if such assets or advantages benefit the business for more than one accounting period, and also includes all losses and ordinary and necessary expenditure incurred or paid before the first accounting period under Section 65 octo (1), paragraph 2;
- (2) an expenditure of personal nature, a gift, or a donation;
- (3) losses recoverable through insurance or any contract of indemnity;
- (4) an expenditure made in consideration for the company's capital or property;
- (5) any reserves or contribution to any fund, except as provided in Section 65 sex (5);
- (6) income tax, penalty and surcharges which the company is liable to under this Act, or abroad;
- (7) an expenditure paid or incurred for such business or for acquiring income not subject to tax under this Act;
- (8) any expenditure that the company cannot prove the identity of the recipient;
- (9) surface reservation fees and surcharge payable under the petroleum law;
- (10) fines for criminal offences.

Section 65 octo

The computation of revenue, expenses, and net profit under this Division shall be as follows:

- (1) Net profit shall be computed for each accounting period. The first accounting period shall begin on the day the company makes its first sale or disposal of petroleum subject to royalty; provided that the company, with the approval of the Director-General, chooses to begin on any day of the same month before the date of its first sale or disposal of such petroleum, it shall begin on such date so chosen. Subsequent accounting periods shall begin on the closing date of the preceding accounting period.

An accounting period shall be twelve months long, but may be shorter in the following cases:

- (a) if the company chooses any day as the closing date of the first accounting period;
- (b) if the company ceases its petroleum business, the date of dissolution shall be the closing date of the accounting period;
- (c) if the company changes the closing date of an accounting period, with the approval of the Director-General.

In the case the company transfers any rights under a concession before the beginning date of the first accounting period under paragraph 2, this date of transfer shall be treated as the beginning and closing dates of the accounting period for computing net profits arising from the transfer of such rights. No accounting period shall be deemed to exist between this closing date and the beginning date of the first accounting period under paragraph 2.

- (2) Subject to the provisions of Division 2 and this Division, the accounting methods, rules and practices for the computation of revenue, expenses, and net profit of the company shall be in accordance with sound and usual accounting methods, rules and practices of the petroleum industry.
- (3) The proceeds from the sale of petroleum under Section 22 (1) shall be based on the received or entitled price received from the sale of petroleum or petroleum products.
- (4) The value of petroleum under Section 22 (2) shall be computed from the market price.

In the case of delivery of petroleum to a refinery or a storage place for petroleum refining of the company, the value of petroleum under paragraph 1 shall be determined on the day of sale or export of the refined products. The total shall be the income for that accounting period in which such sale or export occurs. If there is a disposal of petroleum by other means, the value of the petroleum under paragraph 1 shall be determined at the time of disposal. The total shall be included as the income for the year in which such disposal occurs.

In determining of the market price and quantity of petroleum whose value shall be included as income under paragraph 2, an average calculated from the total income obtained from the sale of refined products or the total value according to the market price of the exported refined products, whichever the case may be, shall be the value of the petroleum. This shall follow the sound and usual accounting practices of the petroleum industry. But it shall not be regarded that there is a sale or export of the refined products in any accounting period after that of delivery of that petroleum to the refinery, unless the companies can prove that there has not yet been a sale or export of the refined products.

- (5) The value of petroleum under Section 22 (3) shall be computed in accordance with the provisions of the petroleum law pertaining to computation of the value of petroleum delivered as royalty in kind.

- (6) If a company with a joint interest in a concession incurs expense in petroleum exploration or development to acquire such interest, but such expense are not paid to the other companies having joint interest in the concession, such expense shall not be regarded as income of such other companies.
- (7) Capital expenditure allowances shall be deductible only for such categories, at such rates, and under such conditions, as prescribed by the Royal Decree.
- (8) Labor cost, service charges, cost of materials consumed, and other expenses paid or incurred in exploratory or production drilling may, at the company's option, be regarded as capital expenditure for the accounting period in which such expenses are paid or incurred.
- (9) Entertainment expenses shall be deductible as expense according to the conditions prescribed by the Ministerial Regulations.
- (10) The value of properties other than inventories of merchandise shall be carried at cost. If the cost price is in a foreign currency, it shall be converted to the Thai currency in accordance with the methods described in (12). Such value may be decreased by mean of the capital expenditure allowances under (7), but may not be decreased by revaluation. It may be increased by revaluation only as provided by the Revenue Code.
- (11) The value of inventories of merchandise at the end of an accounting period shall be carried at cost, or at cost or market price, whichever is lower. The value so determined shall be the value of such inventories to be carried forward to the new accounting period.

Any accounting method once adopted in computing the cost under paragraph 1, shall be consistently applied, unless the Director-General approves any change.

- (12) Currency, debts, or claims bearing value in a foreign currency received or paid during an accounting period shall be valued in the Thai currency at the rate at which that foreign currency is bought or sold.

In the absence of a purchase or sale of a foreign currency, such currency, debt, or claim shall be valued at the monthly average rate of exchange prevailing in the month prior to the month of receipt or payment, using the average of daily rate of exchange at which commercial banks buy or sell foreign currencies as computed by the Bank of Thailand.

- (13) The currency, debts, or claims bearing value in a foreign currency remaining on the closing date of the accounting period shall be valued in the Thai currency, using the latest average buying or selling rate, as the case may be, of commercial banks during such accounting period as computed by the Bank of Thailand.
- (14) Bad debts can be written off only after reasonable action for recovery thereof has been taken. Any bad debt written off and subsequently recovered shall be included as revenue for the accounting period in which it is recovered.
- (15) Contributions to a provident fund or pension fund may be deducted as expenses only to an extent not exceeding 10 per cent of the salaries or wages received by the employees during the accounting period, subject to the following conditions:
 - (a) the fund is established exclusively for the benefits of the employees;
 - (b) the fund is set aside beyond the possession of the company;
 - (c) the fund cannot be used for purposes other than for the benefit of the fund;
 - (d) contributions to the fund are irrecoverable by the company; and
 - (e) contributions to the fund are made in accordance with the written regulations governing the fund.

Section 65 novem

In the case where a company has income subject to income tax under Section 65 quarter (2), or has to withhold tax under Section 45 for an income under Section 65 quingue, paragraph 3, in any accounting period, the company shall receive credit for deduction from such tax for the petroleum produced for domestic use in the amount of money at the following rates:

- (1) 4.375 percent of the gross income received from the sale of petroleum, or from the value of petroleum disposed of or delivered as royalty under Section 22 (1), (2) and (3), for petroleum produced from the exploration blocks that the Department of Mineral Resources has designated as offshore exploration blocks having a water depth in excess of two hundred meters.
- (2) 6.25 percent of gross income received from the sale of petroleum, or from value of petroleum disposed of or delivered as royalty under Section 22 (1), (2) and (3) , for petroleum produced from exploration blocks other than (1).

The deduction of credit from tax under paragraph 1 shall be subject to the following limitations:

- (1) Credit derived during any accounting period shall not exceed the tax under Section 65 quarter (1) and (2) for the profit occurs during such accounting period, or tax under Section 65 ter (1) and Section 65 quingue, paragraph 3, as the case may be.
- (2) Credit to be deducted in any accounting period shall not exceed the tax payable under Section 65 quarter (2) for such accounting period, or not exceed the tax payable under Section 65 quingue, paragraph 3, for such accounting period, which must be withheld under Section 45, as the case may be. Any balance of credit shall be carried forward for deduction in the following accounting periods.

Section 65 decem

An income return for income subject to tax under Section 65 quarter (1) or Section 65 quingue shall be filed within five months from the closing date of the accounting period. For income subject to income tax under Section 65 quarter (2), the return shall be filed within seven days from the date of disposal.

An income return under Section 37 shall be filed within the time prescribed by the assessment officer, which shall not be later than thirty days from the date the company receives the notice of the transferor company's failure to file an income return.

The filing of return under Section 59 shall be made within the time prescribed by the assessment officer.

Section 65 undecim

For any tax payable, the company having the duty to file the income return under Division 3 shall pay the tax within five months from the closing date of the accounting period at the time of filing the income return; except in the case of filing the income return for tax payable under Section 65 quarter (2), the tax shall be made within seven days from the date of disposal at the time of filing the income return.

In the case under Section 35, paragraph 2, the person responsible for filing an income return shall be responsible jointly with the company formed under a foreign law for the payment of the tax.

Section 65 duodecim

The provisions of Section 12 shall not apply to:

- (1) income accrued to the company from other businesses other than petroleum business;
- (2) interest on loan that any person receives from the company.

Section 65 tredecim

In the case the company receives income from businesses other than petroleum business, the company shall pay tax on such income under the Revenue Code.

The company shall maintain separate accounts, evidences, reports, and other documents relating to income from other businesses mentioned in paragraph 1 from those relating to income from the petroleum business.

In the case the company has expense which relates to both other businesses and petroleum business; such expense shall be apportioned between such other businesses and the petroleum business.

The company shall comply with reasonable allocation and apportionment methods between businesses as reviewed and approved by the Director-General.

The value of petroleum under Section 22 (2) which the company used in businesses other than petroleum business in any accounting period shall be deducted as expense in computing net profit and net loss under the Revenue Code for income from businesses other than petroleum business in such accounting period.

The following provisions (Section 65 quattuordecim to Section 65 unviginti) was added by Section 3 of the Petroleum Income Tax Act (No.5), B.E.2541 (1998)

Section 65 quattuordecim

The provisions of this Division shall apply to the companies that have entered into production sharing contracts with the Joint Authority.

The definitions of "petroleum", "petroleum operation", "income", "disposal", "royalty" and "company" in Section 65 quindecim shall replace the definitions of those words in Section 4, and the provisions in Section 65 sedecim, Section 65 septendecim, Section 65 duodeviginti, Section 65 undeviginti, Section 65 viginti and Section 65 unviginti shall replace those provisions in Section 20, Section 21, Section 22, Section 24, Section 25 and Section 26 respectively for the companies under paragraph 1.

The definitions of "tax reference price" in Section 4 and the provisions in Section 18 shall not apply to the companies under paragraph 1.

The provisions in other Divisions of this Act shall apply to the companies under paragraph 1 insofar as they are not contrary to or inconsistent with the provisions in this Division. Wherever it refers to "petroleum", "petroleum operation", "income", "disposal", "royalty" and "company", it shall mean "petroleum", "petroleum operation", "income", "disposal", "royalty" and "company", respectively, under this Division. Wherever it refers to Section 20, Section 21, Section 22, Section 24, Section 25 and Section 26, it shall mean Section 65 sedecim, Section 65 septendecim, Section 65 duodeviginti, Section 65 undeviginti, Section 65 viginti and Section 65 unviginti, respectively, under this Division.

Section 65 quindecim

In this Division:

"the Joint Authority" means the Thai-Malaysia Joint Authority under the Thai-Malaysia Joint Authority Act B.E. 2533;

"the Joint Development Area" means the Joint Development Area under the Thai-Malaysia Joint Authority Act B.E. 2533.

"petroleum" means crude oil or other hydrocarbons and natural gas in a natural state and natural gas liquid at well head, and it shall also include bitumens rocks and other embedded resources which can be extracted for oil.

"petroleum operation" means the petroleum operation under the production sharing contract, and it shall include the transfer of all or any of the properties or rights for such operation, notwithstanding whether such transfer is made in the usual course of business, and also include any activity incidental to such operation or transfer;

"income" means money, properties or other benefits acquired that can be calculated as money, and it shall also include the tax and duty paid for by other persons;

"disposal" means the delivery of crude oil in the part of the company to a refinery or a storage place for the purpose of refining the company's crude oil, the delivery of natural gas to a gas separation plant, gas liquefied plant, gas compression plant or a storage place for such activities of the company, appropriation of petroleum in the part of the company for use in any activity of the company other than for sale, or transfer of such petroleum without consideration;

"royalty" means the royalty that the company must pay to the Joint Authority under the Thai-Malaysia Joint Authority Act B.E. 2533.

"company" means the person who has been awarded the production sharing contract or having joint interest in the production sharing contract made with the Joint Authority whether it is a juristic person or not;

"production sharing contract" means the production sharing contract issued under the Thai-Malaysia Joint Authority Act B.E. 2533;

Section 65 sedecim

The company shall pay income tax for each accounting period at the following rate of the net profit derived from the petroleum operation:

During the first accounting period to the eighth accounting period, at the rate of 0 percent;

During the ninth accounting period to the fifteenth accounting period, at the rate of 10 percent;

From the sixteenth accounting period onwards, at the rate of 20 percent.

Section 65 septendecim

In calculating net profit, the following items shall be included as revenue:

In the case the transfer is made during the first accounting period to the eighth accounting period, at the rate of 0 percent.

In the case the transfer is made during the ninth accounting period to the fifteenth accounting period, at the rate of 10 percent.

In the case the transfer is made from the sixteenth accounting period onwards, at the rate of 20 percent.

Section 65 duodeviginti

In calculating net profit, the following items shall be included as revenue:

- (1) gross income from the sale of petroleum;
- (2) value of petroleum disposed of;
- (3) gross income arising from a transfer of any property or right related to petroleum operation, if the total amount of such gross income is definitely determinable;
- (4) Any other income arising from conducting petroleum operation.

Section 65 undeviginti

Subject to Section 65 viginti and Section 65 unviginti, ordinary and necessary expenditures shall be limited specifically to the expenditures that the company can prove to be ordinary and necessary, in a reasonable amount, and only expended for its, petroleum operation,

whether incurred within or outside the Kingdom; and within these limits, ordinary and necessary expenditures shall include:

- (1) rent or other considerations for hire of property;
- (2) labor cost, service charges, cost of materials consumed, and other similar expenditures paid or incurred for the exploratory or production drilling;
- (3) entertainment expenses;
- (4) bad debts written off;
- (5) contribution to a provident or pension fund;
- (6) allowance for capital expenditure;
- (7) head office expenditure reasonably allocable to the petroleum operation of the company;
- (8) cost of property or rights after deduction of capital expenditure allowance, for revenue under Section 65 duodeviginti (3).

Section 65 viginti

Items not to be treated as ordinary and necessary expenditures shall include:

- (1) capital expenditure or expenditure laid out for making an addition to, or an alteration, extension, or improvement of properties;
Capital expenditure under paragraph 1 means the expenditure laid out for acquiring properties or benefits, whether directly or indirectly, if such properties or benefits effect the operation for more than one accounting period, and it shall also include all losses and ordinary and necessary expenditures incurred or paid prior to the first accounting period under Section 65 unviginti (1), paragraph 2;
- (2) an expenditure of personal nature, a gift or a donation;
- (3) losses recoverable through insurance or any contract of indemnity;
- (4) an expenditure made in consideration for the company's capital or property;
- (5) any reserve or contribution to any fund, except as provided in Section 65 undeviginti (5);
- (6) income tax, penalty and surcharge which the company is liable to under this Act, or abroad;
- (7) an expenditure paid or incurred for such operation or for acquiring income not subject to tax under this Act;
- (8) any expenditure that the company cannot prove the identity of the recipient;
- (9) interest;
- (10) fines for criminal offences,
- (11) royalty for petroleum, whether in cash or in kind.

Section 65 unviginti

The computation of revenue, expenses, and net profit under this Division shall be as follows:

- (1) The computation shall be for each accounting period.
The first accounting period shall begin on the day the company makes its first economic petroleum production under the production sharing contract; provided, however, that the company, with the approval of the Director-General, chooses to use as the beginning date of the first accounting period any day of the same month before the date of its first sale or disposal of such petroleum, it shall begin

on the date so chosen. Each subsequent accounting period shall begin on the closing date of the preceding accounting period.

An accounting period shall be twelve months long, but may be shorter in the following cases:

- (a) if the company chooses any day as the closing date of the first accounting period;
- (b) if the company ceases its petroleum operation, the date of dissolution shall be the closing date of the accounting period;
- (c) if the company changes the closing date of an accounting period, with the approval of the Director-General.

In the case the company transfers any rights under the producing sharing contract prior to the beginning date of the first accounting period under paragraph 2, this date of transfer shall be treated as the beginning and closing date of the accounting period for computing net profit arising from the transfer of such rights. No accounting period shall be deemed to exist between such closing date and the beginning date of the first accounting period under paragraph 2.

- (2) Subject to the provisions of this Division, the accounting methods, rules and practices for the computation of revenue, expenses, and net profit of the company shall be in accordance with sound and usual accounting methods, rules and practices of the petroleum industry.
- (3) The proceeds from the sale of petroleum under Section 65 duodeviginti (1) and the value of petroleum disposed of under Section 65 duodeviginti (2) shall be computed from the market price in accordance with the rules prescribed by the Director-General
- (4) If a company with a joint interest in the production sharing contract incurs expenses in petroleum exploration or in developing a petroleum reservoir to acquire such interest, but such expenses are not paid to the other companies having joint interest in the production sharing contract, such expense shall not be treated as income of such other companies.
- (5) Capital expenditure allowances shall be deductible only for such categories, at such rates, and under such conditions, as prescribed by the Royal Decree.
- (6) Labor cost, service charges, cost of materials consumed, and other similar expenses paid or incurred in exploratory or production drilling may, at the company's option, be treated as capital expenditure for the accounting period in which such expenses are paid or incurred.
- (7) The deduction of entertainment expenses shall be in accordance with the conditions prescribed by the Ministerial Regulations.
- (8) The value of properties other than inventories of merchandise shall be carried at cost. If the cost price is in a foreign currency, it shall be converted into the Thai currency in accordance with the methods described in (10). Such value may be decreased by means of capital expenditure allowances under (5), but may not be decreased by revaluation. It may be increased by revaluation only as provided by the Revenue Code.
- (9) The value of inventories of merchandise at the end of an accounting period shall be carried at cost, or at cost or market price, whichever is lower. The value so determined shall be the value of such inventories to be carried forward to the new accounting period.

Any accounting method once adopted in computing the cost under paragraph 1 shall be consistently applied. Deviation from it may be made only with the approval of the Director-General.

- (10) The currencies, debts, or claims bearing values in a foreign currency received or paid during an accounting period shall be valued in the Thai currency at the rate that foreign currency is bought or sold.

In the absence of a purchase or sale of a foreign currency, such currencies, debts or claims shall be valued at the monthly average rate of exchange prevailing in the month prior to the month of receipt or payment, using the average of daily rate of exchange at which commercial banks buy or sell foreign currencies, as computed by the Bank of Thailand.

- (11) The currency, debts or claims bearing value in a foreign currency remaining on the closing date of the accounting period shall be valued in the Thai currency, using the latest average buying or selling rate, as the case may be, of commercial banks during such accounting period, as computed by the Bank of Thailand.

- (12) Bad debts can be written off only after reasonable action for recovery thereof has been taken. Any bad debt written off and subsequently recovered shall be included as revenue for the accounting period in which it is recovered.

- (13) Contributions to a provident fund or pension fund may be deducted as expense only to an extent not exceeding 10 percent of the salaries or wages received by the employees during the accounting period, subject also to the following conditions:

- (a) the fund is established exclusively for the benefits of the employees;
- (b) the fund is set aside beyond the possession of the company;
- (c) the fund cannot be used for any purpose other than for the benefits of the fund;
- (d) contributions to the fund are irrecoverable by the company; and
- (e) contributions to the fund are made in accordance with the written regulations governing the fund.

- (14) In the case where the company has also been awarded a concession for exploration blocks which are subject to the provisions of the Petroleum Income Tax Act B.E. 2514 prior to its amendment by the Petroleum Income Tax Act (No.5), B.E. 2541, such company shall compute the revenue, expenses, and net profit for the exploration blocks subject to such Act and the exploration blocks subject to the Petroleum Income Tax Act B.E. 2514 as amended by the Petroleum Income Tax Act (No.5), B.E. 2541 as if it were a separate company.

In computing the revenue and expense for the exploration blocks under paragraph 1, the items of revenue and expense which cannot be clearly apportioned shall be averaged in accordance with the conditions, rules and procedures as stipulated in the Ministerial Regulation."

DIVISION 8

Punishment

Section 66

Whoever furnishes false information, makes false statement, gives false answers, produces false evidence, or commits any act in order to evade or in an attempt to evade the payment or remittance of tax shall be liable to a term of imprisonment from three months to seven years and a fine from three thousand Baht to two hundred thousand Baht.

Section 67

Whoever fails to file an income return or a tax-withholding return in order to evade or in an attempt to evade the payment or remittance of tax shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding six thousand Baht, or both.

Section 68

Whoever fails to facilitate, or obstructs the officer when performing his duty under Section 6 shall be liable to a term of imprisonment not exceeding one month or a fine not exceeding one thousand Baht, or both.

Section 69

Whoever fails to comply with the instructions of the Director-General under Section 7 shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding six thousand Baht, or both.

Section 70

Whoever fails to comply with the instructions of the Director-General or the assessment officer under Section 9 shall be liable to a term imprisonment not exceeding one month or a fine not exceeding one thousand Baht, or both.

Section 71

Any officer who violates Section 11 shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding six thousand Baht, or both.

Section 72

Whoever fails to comply with the rules or regulations under Section 16 (3) shall be liable to a term of imprisonment not exceeding one month or a fine not exceeding one thousand Baht, or both.

Section 73

Whoever fails to withhold a tax specified in Section 45 shall be liable for a fine not exceeding two thousand Baht.

Section 74

Whoever withholds tax but, by neglect, fails to remit the tax in accordance with Division 5 shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding six thousand Baht, or both.

Section 75

Whoever unreasonably fails to comply with the summons or instructions issued by the assessment officer under Section 58, or refuses to answer when questioned by the officer authorized to conduct an examination shall be liable to a term of imprisonment not exceeding one month or a fine not exceeding one thousand Baht, or both.

Section 76

If a company commits an offence under this Act, the manager or the directors of that company or the persons responsible for the management of these affairs that are relevant to the committing of the offence shall be liable to the punishment for such offence as prescribed in the relevant sections of the Act, unless it is proved that they took no part in the committing of the offence.

Section 77

The Director-General is authorized to compound, by fixing a fine only, any offence under Section 67 through Section 70 and Section 72 through Section 76, if he deems that the offender should not suffer imprisonment. If the offender pays the fine in the amount fixed by the Director-General within thirty days, the case shall be treated as concluded.

If the offender does not agree to pay the fine, or if he agrees but fails to pay the fine within the time limit as mentioned above, prosecution shall be proceeded with.

Countersigned by

Field Marshall Thanorm Kittikajorn

Prime Minister

Disclaimer

This translation is intended to help Thais or foreigners to understand Thailand laws and regulations only, not to use as references, because it is only the original Thai version of legislation that carries legal effect. www.ThaiLaws.com, therefore, shall not be held responsible in any way for any damage or otherwise the user may incur as a result of or in connection with any use of this publication for any purposes. It's the responsibility of the user to obtain the correct meaning or interpretation of this publication or any part thereof from Thai version or by making a formal request to the appropriate or related authorities.