

**Royal Decree Regarding and Exemption from Revenue Taxes (No.405),
B.E. 2545 (2002)**

Translation

BHUMIBHOL ADULYADEJ REX.

Given on 5th day of August B.E. 2545

Being the 57th Year of the Present Reign

By Royal Command of His Most Excellent Majesty King Bhumibhol Adulyadej, it is hereby proclaimed that:

Whereas it is deemed proper to reduce and exempt Income Tax in certain cases;

Be it, therefore, enacted a Royal Decree by the King's Most Excellent Majesty, in exercise of the power under Section 221 of the Constitution of the Kingdom of Thailand, and Section 3 (1) of the Revenue Code as amended by the Revenue Code Amendment Act (No.10), B.E. 2496, as follows:

Section 1

This Royal Decree is called the "Royal Decree Issued under the Revenue Code Regarding Reduction and Exemption from Revenue Taxes (No.405), B.E. 2545 (2002)"

Section 2

This Royal Decree shall come into force on and from the date following the date of its publication in the Government Gazette.

Section 3

In this Royal Decree

"Foreigner" means an individual who does not possess Thai nationality.

"Regional Operating Headquarters" means a company incorporated under Thai law in order to provide managerial, technical or supporting services to its associated enterprise or its domestic or foreign branches.

"Supporting services" means the supporting services in the following cases:

- (1) General management, business planning and business co-ordination
- (2) Procurement of raw materials and parts
- (3) Research and development of products
- (4) Supporting technical assistance
- (5) Marketing strategy planning and sales promotion
- (6) Human resource management and training in the region
- (7) Financial advisory services
- (8) Analyze and research on economics and investment
- (9) Control and management of credit
- (10) Any other services as stipulated by the Director-General of the Revenue Department

"Associated enterprise" means a juristic company or partnership which is related to the Regional Operating Headquarters in the following manners;

- (1) A juristic company or partnership holding shares in the Regional Operating Headquarters not less than 25 percent of total capital.

- (2) A juristic company or partnership in which the Regional Operating Headquarters holds shares or is a partner not less than 25 percent of total capital.
- (3) A juristic company or partnership in which a juristic company or partnership under (1) holds shares or is a partner not less than 25 percent of total capital.
- (4) A juristic company or partnership which has the power to control or supervise the operation and management of the Regional Operating Headquarters.
- (5) A juristic company or partnership which the Regional Operating Headquarters has the power to control or supervise the operation and management.
- (6) A juristic company or partnership which a juristic company or partnership in (4) has the power to control or supervise the operation and management.

Section 4

There shall be reduced the withholding of Personal Income Tax rate and shall withhold at the rate of 15.0 percent of income, for assessable income, which a foreigner receives from his employment in Regional Operating Headquarters, which after computation in accordance with Section 50 (1) of the Revenue Code, is subject to withholding tax at the rate specified in the table under Chapter 3 of the Revenue Code in excess of 15.0 percent of income.

In the case where assessable income in Paragraph 1 which after computation in accordance with Section 50 (1) of the Revenue Code, is subject to withholding tax at the rate less than 15.0 percent of income, the foreigner shall be exempted from bringing such income into computation under Section 5 if such foreigner agrees to allow the payer to withhold Personal Income Tax at the rate of 15.0 per cent of such income.

Section 5

A foreigner whose income has been withheld at the rate of 15.0 per cent of income under Section 4, shall upon filing a tax return be exempted from bringing such assessable income into computation of income tax only if such foreigner does not claim any refund or credit for the taxes withheld whether in full or in part.

In case where a foreigner derives assessable income under Sections 40 (4) and (8) of the Revenue Code and has the right to pay tax under Sections 48 (3) and (4) of the Revenue Code, such foreigner shall be entitled to exemption in Paragraph 1 only if, at the time of filing, such foreigner does not bring assessable income under Sections 40 (4) and (8) and assessable income under Section 4 into computation of his Personal Income Tax liability and does not claim any refund or credit whether in full or in part.

In order to be granted exemption under Paragraphs 1 and 2, the foreigner shall also file and declare items of assessable income which have been exempted from Personal Income Tax.

Section 6

There shall be exempted from Income tax, under Division 2 Chapter 3, Title 2 of the Revenue Code for a foreigner working permanently for Regional Operating Headquarters on assessable income derived from employment arising from his secondment abroad. Only if such payment is not claimed as deductions for expense, directly or indirectly, in the computation of profits of Regional Operating Headquarters or associated enterprise carrying on business in Thailand.

Section 7

A foreigner shall be granted exemptions under Section 4, Section 5 and Section 6 if he is employed by Regional Operating Headquarters qualified under Section 10. The exemption shall be granted during his employment in Thailand for two consecutive years, whether or not there is a temporary absence from Thailand during such period.

A foreigner who returns to work in Regional Operating Headquarters within one year after the expiration of his previous employment shall not be entitled to exemption in Paragraph 1 for his successive employment.

Section 8

The income tax rate under (a) of (2) for juristic companies or partnerships of the Income Tax table to Division 3, Title 2 of the Revenue Code shall be reduced to 10 percent of net profits of Regional Operating Headquarters for the following revenue:

- (1) Revenue from the provision of services by the Regional Operating Headquarters to associated enterprise or foreign branch of Regional Operating Headquarters.
- (2) Interest received from associated enterprise or foreign branch of Regional Operating Headquarters, however, only on interest arising from loan which Regional Operating Headquarters has borrowed to re-lend.
- (3) Royalty received from associated enterprise or foreign branch of Regional Operating Headquarters or from related juristic company or partnership, however, only on royalty arising from the result of technological research and development carried out in Thailand by Regional Operating Headquarters.

Related juristic company or partnership in (3) means a juristic company or partnership which brings the result of technological research and development carried out by Regional Operating Headquarters to produce goods or provide services to Regional Operating Headquarters, associated enterprise or foreign branch of Regional Operating Headquarters.

Section 9

There shall be exempted from income tax under Division 3, Chapter 3 of Title 2 of the Revenue Code for Regional Operating Headquarters on assessable income which is dividend received from associated enterprises incorporated under Thai or foreign laws.

Section 10

Regional Operating Headquarters shall be exempted under Section 8 and Section 9 if possesses the following qualifications;

- (1) Has paid-up capital on the last day of an accounting period at least 10 million Baht.
- (2) Provides services to associated enterprises in foreign countries or its foreign branches in at least 3 countries.
- (3) Has revenue under Section 8(1) and (3) which is paid from or in foreign country aggregating at least 50 percent of total revenue. Except during the first 3 accounting periods, starting from an accounting period which Regional Operating Headquarters notifies the Revenue Department under (4), the revenue may be less than 50 percent but not less than one-third of total revenue. In case of force majeure which the Regional Operating Headquarters cannot be blamed or in case of necessity, the Director General of the Revenue Department shall have the power to lower the rate mentioned for one accounting period.
- (4) Has notified the operation of Regional Operating Headquarter under rules, procedures and conditions stipulated by the Director General of the Revenue Department.
- (5) Follows any other rules, procedures and conditions stipulated by the Director General of the Revenue Department.

Section 11

There shall be exempted from Income tax, under Division 3, Chapter 3 of Title 2 of the Revenue Code for a juristic company or partnership incorporated under foreign laws and not carrying on business in Thailand, for assessable income which is dividend received from Regional Operating Headquarters under Section 10, only if paid out of net profits arising from revenue under Section 8.

Section 12

The Minister of Finance shall have the care and charge of this Royal Decree.

Countersigned by

Pol. Lt. Col. Taksin Shinawatra

Prime Minister

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