

# Eastern Economic Corridor Breakfast Briefing

18 August 2023





# AGENDA

## Eastern Economic Corridor - Breakfast Briefing

**01** THE BOARD OF INVESTMENT OF THAILAND (“BOI”)

**02** CORPORATE INCOME TAX (“CIT”)

**03** TRANSFER PRICING (“TP”) and PILLAR 2

The background of the slide is a photograph of an industrial facility, likely a power plant or refinery, situated near a body of water. The scene is captured during sunset or sunrise, with a warm, golden glow in the sky. A prominent tall, cylindrical smokestack is visible on the right side of the image, emitting a plume of white smoke. The industrial structures are complex, with various pipes, scaffolding, and metal frameworks. In the distance, a bridge and some hills are visible across the water. A large black diagonal shape cuts across the bottom right of the image, containing the text.

# EASTERN ECONOMIC CORRIDOR ("EEC")

# EASTERN ECONOMIC CORRIDOR (“EEC”)

EEC covers industries in the area of Chachoengsao, Chonburi and Rayong Provinces.

The targeted activities in the Eastern Economic Corridor (EEC) are as follows:



Next-Generation Automotive Industry



Intelligent Electronics Industry



High-value and Medical Tourism Industry



Advance Agriculture and Biotechnology Industry



Aviation Industry



Biofuels and Biochemicals Industry



Digital Industry



Medical and Comprehensive Healthcare Industry



Education and Human Resource Development Industry



Automation and Robotics Industry



Defense Industry



Food Processing Industry



Projects in EEC are activities that use advanced technology to increase national competitiveness. Additional CIT incentives are available to companies locating in the EEC, IF the promoted activity is qualified for a CIT incentive under A1+, A1, A2, A3 and A4 categories.

Activities	Basic Incentives	In case of human resources development / R&D			
		Additional Incentives	In case of projects located in specific areas		
			EECi, EECd, EECa, EECmd, EECg, EECtp	or	Industrial Estates / Industrial Zones
Activities in Group A1+	10 - 13 years corporate income tax exemption	Additional 2-year corporate income tax exemption	Additional 1-year corporate income tax exemption		Additional 1-year corporate income tax exemption
Activities in Group A1 and A2	8-year corporate income tax exemption	50% reduction of corporate income tax for an additional 3 years	50% reduction of corporate income tax for an additional 2 years		-
Activities in Group A3 - A4	3-5 years corporate income tax exemption			Additional 1-year corporate income tax exemption	

**Notes:**

- Projects operating in compliance with criteria for human resource development, research and technology, and location are eligible for additional corporate income tax benefits.
- Projects located in EECa, EECi, EECd, EECmd, EECg, EECtp or industrial estates/zones can choose to receive one of the additional CIT privileges.
- Projects receiving corporate income tax exemption over 8 years in total are not eligible for additional CIT incentives under Section 35 (1).
- Projects in group A1+ are eligible for up to 13 years of CIT exemption while projects under groups A1-A4 are eligible for up to 8 years of CIT exemption.
- A 50% CIT reduction is available for a maximum period of 5 years.
- Projects in EEC that require additional support other than BOI incentives may request EEC to consider giving more government subsidy on a case-by-case basis.

\*EECa: Eastern Airport City, EECi: Innovation Platform, EECd: Digital Park, EECmd: Medical Hub, EECg: Genomics Thailand, EECtp: Tech Park Ban Chang

**Remarks:** For certain special activities in special economic zone in EEC, the EEC committee is directly authorized to grant special CIT incentives. However, a new regulation to broaden the EEC committee’s authority is still under consideration and it is expected to be effective in early next year.



### PIT EXEMPTION

- Foreign personnel working for the promoted entity in the EEC Promoted Zones are eligible to a **reduced PIT rate of 17%**.
- Foreign executives working for **International Business Center**, headquarters or international trading companies in the EEC are eligible to **15% PIT incentives**.
- Must comply with the prescribed qualification.



### IMPORT DUTIES

- Exemption of import duties on machinery.
- Exemption of import duties on raw materials for production and R&D.
- Exemption of import duties on raw materials used in production for export.



### SPECIAL DEDUCTIONS

- Additional tax deductions granted for certain expenses such as R&D on technology and innovation, production line upgrade.
- Investments that are new to Thailand or using advanced manufacturing technologies in targeted industries may be entitled to special incentives.

## ADDITIONAL PRIVILEGES - EEC



### FINANCIAL TRANSACTION

- Business operators are exempt from the Law on Foreign Currency Exchange Control and can use foreign currencies in the EEC promoted zones.



### LAND AND REAL ESTATE OWNERSHIP

- Foreign entities can own land and properties for their business operation.
- Foreign entities are also allowed to own properties for residential purposes.
- Foreign entities are entitled to enter lease/sublease/lease-out contract of land or real estate within the EEC promoted zones for 50 years and renew upon approval for 49 years.



### IMMIGRATING TO AND RESIDING IN THAILAND

- Foreign experts/executives/specialists, including their spouses and dependent persons, can enter and reside in the Kingdom of Thailand with visa validity of 4 years at one time, subject to renewal.

# LONG-TERM RESIDENT VISA (LTR)



# FOUR CATEGORIES OF HIGH-POTENTIAL FOREIGNERS



Wealthy Global Citizen



Wealthy Pensioner



Work from Thailand professional group



Highly-Skilled Professional

## Highly Skilled Professional

- Personal income of at least USD 80,000/year in the past two years.
- If personal income is below USD 80,000/year but not less than USD 40,000/year in the past two years, the applicant must have a master's degree or above in science and technology or special expertise relevant to the job assignment in Thailand. There is no minimum income requirement for a professional working for a Thai government agency.
- The employer is engaged in any of the targeted industries,
- The applicant must have at least five years of work experience in the targeted industry or equivalent qualifications.

All categories of applicant must have health insurance of at least USD 50,000 coverage or Social Security benefits ensuring treatment in Thailand, or with at least a USD 100,00 deposit.

## Privileges for the LTR visa holders

- Fast-track services at Thailand's international airports.
- The regular 90-day report to the immigration authorities only has to be provided annually.
- The LTR visa will automatically include a multiple re-entry permit.
- An LTR visa holder under the highly skilled professional category is entitled to a final withholding tax rate of 17%.
- An exemption from personal income tax on foreign-source income for Wealthy Global Citizens, Wealthy Pensioners or Work from Thailand Professionals under the regulations prescribed in the Thai Revenue Code.
- Processing of a work permit via the BOI One Stop Service Center.



# THE UPDATED TARGETED INDUSTRIES FOR LTR VISA

The BOI recently announced the changes in the conditions for the LTR Visa - Highly Skilled Professionals type. The foreigner is required to provide a contract of employment or services with a domestic or foreign enterprise with an assignment to work in Thailand or provide evidence of employment with higher educational or research institutes, specialized training institutes, or public agencies in Thailand. The employment must be under the targeted industries as follows:



Next-Generation Automotive Industry



Smart Electronics Industry



Affluent Tourism Industry



Agricultural and Biotechnology Industry



Transportation and Logistics Industry



Automation and Robotics Industry



Aviation Industry



Biofuels and Biochemicals Industry



Digital Industry



Medical Industry



Defense Industry



Petrochemical and Chemical Industry



International Business Center (IBC)



Industries that facilitate the Circular Economy directly and significantly e.g. the production of energy-from-waste, water resources management etc.



Human Resource Development, Research and Development for targeted industries



Other industries in which the applicants must be working with special expertise\*



Other targeted industries in accordance with the 20-year National Strategic Plan





# BOI APPROVES NEW 5 YEAR INVESTMENT STRATEGY

The next 5 years (2023-2027) of investment promotion strategy centers on upgrading Thailand’s industrial capacity with a focus on high technology and innovation, to build the industrial base of the future and to make Thailand the center of international business and the technology hub of the region.



The BOI’s investment promotion policies will be based on the following seven pillars:

1. Restructure industries and strengthen supply chains
2. Accelerate transitions to smart & sustainable industries
3. Promote Thailand as an “Intl Business Hub” and a “Regional Trade and Investment Gateway”
4. Strengthen Competitiveness of SMEs and Startups and connect them to the World
5. Promote investment based on the potential of each area to generate inclusive growth.
6. Promote Development of Community and Society
7. Promote Thai Overseas Investment to Expand Business Opportunities

# CHANGES TO CRITERIA AND CONDITIONS FOR GRANTING LAND OWNERSHIP TO BOI-PROMOTED COMPANIES

The updated criteria and conditions for applying for the permission to own land for the establishment of offices and residences and operating promoted business are summarized below:

Condition	BOI Announcement No. 6/2565	BOI Announcement No. Por.10/2566
Size of land for the establishment of offices and residences.	<ul style="list-style-type: none"> <li>Land for the establishment of offices for the promoted projects must not exceed 5 rai.</li> </ul>	-
	<ul style="list-style-type: none"> <li>Land for the residences of executives or experts must not exceed 10 rai.</li> </ul>	<p>Land for the residences of executives or experts must not exceed 100 square wah per family and each plot of land must not be an adjoining area exceeding 1 rai.</p> <p>The land ownership will be granted of not exceeding 1 rai per the paid-up registered capital of THB 50 million and the total land size must not exceed 10 rai.</p>
	<ul style="list-style-type: none"> <li>Land for the residences of employees must not exceed 20 rai.</li> </ul>	<p>Land for the residences of employees must not exceed 1 rai per 300 employees.</p> <p>The land ownership will be granted of not exceeding 1 rai per the paid-up registered capital of THB 50 million and the total land size must not exceed 20 rai.</p>

**Remark:**

- Regarding the permission to grant land ownership for the residences of executives, experts and/or employees, the BOI will consider from the total land size for use in the establishment of residences of executives, experts, and employees.
- The land ownership will be considered based on a case-by-case basis. The total size of land will be granted based on an entity level regardless of number of BOI promotion certificates.



# TAX COMPLIANCE FOR BOI COMPANIES

In order to obtain investment promotion, the BOI applicant must follow the conditions prescribed by the Board as specified in the BOI promotion certificate in which the following incentives will be granted:

BOI Incentives
Exemption of corporate income tax on the net profit and dividends derived from the promoted activity.
A 50 percent reduction of the corporate income tax for certain activities.
Additional 25 percent deduction of the cost of installation or construction of facilities.
Double deduction from the costs of transportation, electricity, and water supply.
Permit to bring into the Kingdom skilled workers and experts to work in investment promotion activities.
Exemption/reduction of import duties on machinery.
Reduction of import duties for raw or essential materials
Exemption of import duties on materials imported for R&D purposes.
Exemption of import duty on raw or essential materials imported for use in production for export.

## CRITICAL ISSUES

- Revenue and expenses recognition, including the starting date
- Allocation basis for costs and expenses (i.e., BOI and Non-BOI businesses)
- Gain/loss on exchange rate and interest expenses
- Gain/loss on sell of BOI assets
- Dividend income from BOI business
- Utilization of tax loss carry forward for BOI and Non-BOI businesses

## LOSS CARRY FORWARD

- The promoted company that has more than one BOI certificates shall offset profits and losses for all BOI certificates incurred during the current period to be considered as the net BOI taxable profit(loss) for the year.
- If it is the net taxable (profit) for BOI business, it will be exempted from corporate income tax.
- If there is an accumulated loss incurred during the exemption period, it can be deducted from the net profit after the exemption period of not more than 5 years. The remaining loss shall be allocated by proportion to the actual loss of each BOI business.

# 2023 TAX UPDATES



# THAILAND CORPORATE INCOME TAX (CIT) UPDATES 2023



## Extension of tax measures to support Human resource Development for the targeted industries (“Thailand Plus Package”)

On 7 March 2023, the Cabinet approved the draft to extend the period of tax measures to support the relocation of foreign investors’ production bases (Thailand Plus Package), which was originally to end on 31 December 2022. The referred tax measures may be extended to 31 December 2025 to encourage the investment and development of private businesses in Thailand. The detailed of measures are as follows:

- Companies or juristic partnerships will be entitled to 100% additional deduction of expenses for investments in automated systems (i.e., automatic machines and software).
- Companies or juristic partnerships will be entitled to 50% additional deduction of expenses from the payment of salaries, but not exceeding a maximum salary of Baht 100,000, to highly skilled personnel in the area of science, technology, engineering and mathematic.
- Companies or juristic partnerships will be entitled to 150% additional deduction of expenses for the development of highly skilled personnel (i.e., sending employees to the certified by specified authorities).

However, the approved extension of above tax measures have not been enacted into law yet.



## Tax incentive provided to promote the reduction of carbon emissions.

The Royal Decree (No. 760) issued on 18 March 2023 provides a corporate income tax exemption for companies and juristic partnerships for net profits derived from the sale of carbon credits in Thailand under the Thailand Voluntary Emission Reduction Program in relation to a project registered with the Thailand for (3) three consecutive accounting periods and must be claimed in accordance with rules, procedures, and conditions prescribed by the Director-General of the Thai Revenue Department. The royal decree is effective as from 19 March 2023 to 31 December 2027.



## Extending tax incentives to provide articles and medical devices for the treatment and prevention of covid-19.

The Royal Decree (No. 755) issued on 18 July 2022 provides a retroactive extension of the corporate income tax and VAT exemption for companies and juristic partnerships for imports of medicines, medical supplies, and medical equipment used to diagnose or treat COVID-19 that are to be donated to the approved charity organizations from 1 April 2022 to 31 December 2023, in accordance with rules, procedures, and conditions to be prescribed by the Director-General of the Thai Revenue Department.

# THAILAND CORPORATE INCOME TAX (CIT) UPDATES 2023



## Exemption on donation to the Office of the Permanent Secretary for COVID-19 support

Under Royal Decree (No. 751) extends a prior tax incentive program (Royal Decree No. 723) to promote the donation of money and assets to the Office of the Permanent Secretary, the Prime Minister's office to support the rectification of COVID-19.

Income tax shall be exempted on donations made via the electronic donation system from 6 March 2022 through 31 December 2023. However, the exemption shall not exceed two percent (2%) of the juristic person's net profit when combined with other expenses for public charitable purposes or public health benefits under Section 65 ter (3) (b) of the Revenue Code.

Additionally, value added tax (VAT) shall be exempted on the donation of goods by VAT registrants.



## Additional deduction for purchase of bio-degradable plastic products

Under Royal Decree (No. 749), a company or legal partnership can claim a tax deduction of 1.25 times (1 time as a normal deduction and 0.25 times as an additional deduction) the amount paid for the purchase of biodegradable plastic products listed in the DG Notification no. 425 (i.e., bags with straps, plastic spoons, forks, knives, plastic drinking glasses, etc.) from a manufacturer which is a VAT registrant with a certificate to manufacture products from the Office of Industrial Economics, Ministry of Industry. The expenses must be paid from 1 January 2022 to 31 December 2024. In addition, the report of product purchased is required.



## Tax incentives provided for donations to certain medical foundations.

Royal Decree (No. 756) issued on 8 November 2022 provides tax incentives for the electronic donation (e-Donation) system in support of public health that are made from 26 July 2022 to 31 December 2024 to the Chaipattana Foundation. A summary of the key measures in the royal decree is provided below:

- **Incentive for individuals:** Assessable income tax shall be exempted after deduction of expenses and allowances at 2 times of cash donated via e-donation.

Deduction of not exceeding 10% of gross income after deduction of expenses.

- **Incentive for companies:** Additional deduction of 100% of expenses (2 times), regardless of cash or properties or goods donated via e-donation.

Deduction of not exceeding 10% of net profits after qualified donations under Section 65 ter (3) (b) of the TRC.



# THE EXTENSION OF THE TAX MEASURES TO SUPPORT THE E-TAX SYSTEMS

The Cabinet approved the extension of the tax measures to support the e-tax systems for another 3 years (1 January 2023 to 31 December 2025), aiming to promote the continuous use of the e-tax invoice, e-receipt, and e-withholding tax systems, as well as encourage taxpayers to deduct and remit taxes through the e-withholding tax system.

## Reduced withholding tax (“WHT”) rates for the users of the e-withholding tax system

The measure to reduce WHT rates for payments made through the e-withholding tax system was previously extended to cover the period through 31 December 2022 under the Departmental Instruction no. Law Paw 336/2564, reducing the statutory WHT rates to 2%. This latest Cabinet resolution has the effect of extending the period to 31 December 2025, and further reducing the rate to 1%.

The reduced WHT rate of 1% as mentioned above applies to the payments to company or partnership limited as following:

- Income under Section 40(2): Income derived from performance of work, e.g., commission, bonus.
- Income under Section 40(3): Goodwill, copyright etc.
- Income under Section 40(5)(a): Property rental except boat rental
- Income under Section 40(6): Income derived from liberal professions, i.e., engineering, architecture.
- Income under Section 40(7): Income derived from a contract of work
- Income under Section 40(8): Income derived from hire of work, prizes received from competitions, lucky draws or others of a similar nature

## Double deduction of expenses relating to the investment in the e-tax systems

Companies and juristic partnerships could be eligible for a double deduction for corporate income tax purposes, where expenses are incurred from the investment in, or the use of e-tax invoice, e-receipt, and e-withholding tax systems; subject to the following types of expenses and conditions:

- Expenses relating to the investment in the e-tax invoice and e-receipt systems (i.e., Investment in the e-information preparation system and data receiver system, purchases of computer program, computer, or other equipment to be used with the computer or to record e-certificate.)
- Expenses relating to the investment in the e-withholding tax system, including the expenses from purchasing computer programs, computers, e-certificate storage equipment.
- Expenses for the use of e-tax invoice, e-receipt system, and e-withholding tax systems paid to service providers.

The background of the slide is a photograph of a person's hands signing documents. The person is wearing a dark top and has dark nail polish. They are holding a black pen in their right hand and are in the process of signing a document. Their left hand is resting on the document. The document is white and has some text and a table visible. The lighting is dramatic, with strong shadows. The overall color scheme is dark with a red and white logo in the top left and white text in the bottom right.

# TAX AUDIT TRENDS

## THAILAND TAX AUDIT

There are three main types of tax audits (tax investigations) that are conducted by the Revenue Department's officers in Thailand:



### Business Operation Visit (BOV) Audit

The Revenue Department's tax audit officers have the power to enter a place of business for the purpose of determining whether the business has complied with its tax obligations under the Revenue Code. In addition, the officers have the power to request the owner/shareholder of the business, or any person present at the place of business to do as the tax audit officers consider necessary for this purpose.



### Tax Refund Audit

The Revenue Department's tax audit officers have the power to issue a written notice to a person claiming a tax refund or other person involved requiring him or her to provide testimony, documents, and records for inspection as the tax audit officers may deem appropriate.



### Tax Audit

Investigations under Summons and tax assessment letter are conducted when the tax audit officers have any reason to believe that false or inadequate information has been reported in a tax return for which the audit officers have power to issue a summons requiring a taxpayer to appear for providing statements, accounting records, documents, and other evidence for investigation for the previous two (2) fiscal years, or for the previous 5 fiscal years when tax audit officers have reason to believe a taxpayer intentionally evaded tax.



# CURRENT TAX AUDIT TRENDS IN THAILAND

**Insufficient documentation for exporting/shipment in free trade zone - Deemed domestic sales and subject to 7% VAT**



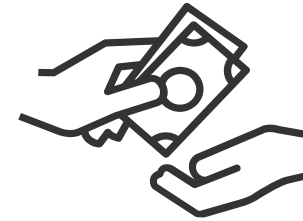
In case the VAT registrant takes domestic goods into the Customs free trade zones, it may be deemed as export of goods and the VAT registrant is entitled to the VAT at zero rate. The following evidence shall be promptly presented upon a request of an assessment officer:

1. Evidence presenting that the purchaser in the export processing zone has purchased the goods from the VAT registrant such as Proforma Invoice, Purchase Order, Order Note or any other documents of similar nature;
2. Evidence presenting that the amount under the invoice which is in the name of the VAT Registrant will be paid, for example, L/C (Letter of Credit), T/T (Telex Transfer) or T/P (Term of Payment) has been arranged or document stating that there has been a transfer of fund to a bank account or a bank statement; and
3. A copy of application to take the goods to Custom free zone in the form prescribed by Customs under the name of the VAT registrant which has passed the Customs procedures and been endorsed by the Customs official, or export declaration with blue corners in case that the VAT registrant has claimed for the tax compensation or tax refund under the Customs law.

# CURRENT TAX AUDIT TRENDS IN THAILAND

## Forgiveness of a debt/ bad debt written-off

- Bad debt written-off will be allowed to be deducted as expenses for tax purposes only if the creditor follows criteria provided by the TRD (Ministerial Regulation No. 186 amended by Ministerial Regulation No. 374). Otherwise, the amount of bad debt will be considered as non-deductible expenses.
- Forgiveness of debt is taxable for the debtor. In case the outstanding loan balances are forgiven, it would be treated as income in the books of the debtor for corporate income tax purposes.



Creditor may be eligible to treat the bad debt written-off as deductible expenses if the condition under MR. No. 186 amended by MR. No. 374 are met..

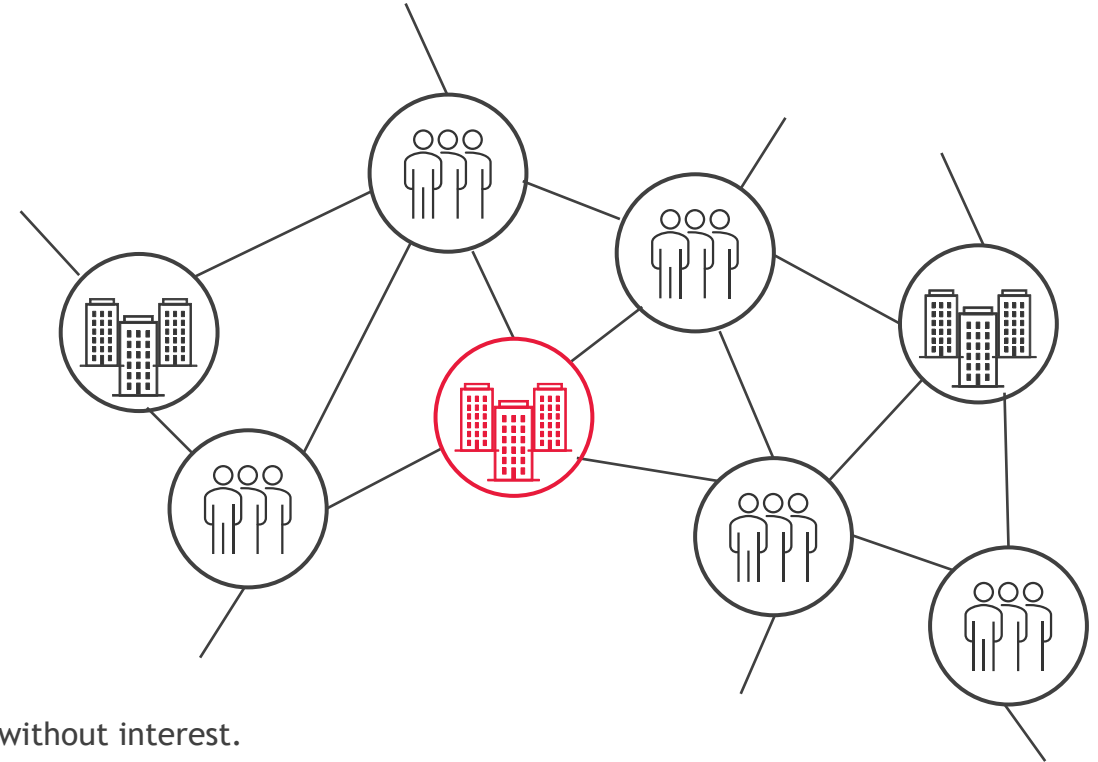


Forgiveness of a debt would be treated as income in the books of the debtor for corporate income tax purposes.

## CURRENT TAX AUDIT TRENDS IN THAILAND

### Related party transactions

- Sales and purchase transactions/ Import and export.
- Inter-company recharge/Management fee/ Royalty fee/ License fee/ etc.
- Shared services among group entities.
- Interest in an amount lower than market rate without justifiable ground/ loan without interest.





# TRANSFER PRICING UPDATES (“TP”)

# DEVELOPMENT IN TRANSFER PRICING REGULATIONS IN THAILAND

## BACKGROUND

- In May 2002, Revenue Department Order No. Por.113/2545 was issued providing detailed TP guidelines.
- Section 65 bis (4); Section 70 ter; Section 65 bis (7); Section 65 ter (13), (14) and (15) and Section 79/3 were issued requiring all taxpayers to follow arm's length standards for related party transactions.
- In January 2017, Thailand became the 139th member of the Organization for Economic Co-operation and Development ("OECD").
- In June 2017, Thailand became the 98th member of the Base Erosion and Profit Shifting ("BEPS").
- In November 2018, Transfer Pricing Act was enacted and published under the Thai Revenue Code Amendment Act No. 47.

## DEVELOPMENT

- In November 2019, regulations under Section 71 ter of the Revenue Code were issued requiring disclosure of related party transactions in a form (TP disclosure form) with the annual corporate tax return.
- In November 2020, two Ministerial Regulations ("MR") under the Thai Revenue Code were issued providing rules and guidance on the application of TP laws: ("MR 369") grants TRD officers rights to adjust income and/or expenses; MR 370 clarifies revenue threshold for exemption from preparing TPDF.
- In January 2021, Director-General Notification No. 400 ("DGN 400") was issued specifying the rules, procedures, and conditions on the adjustment of income and/or expenses.
- In September 2021, DGN 407 was issued clarifying TP documentation requirement which must be prepared in Thai language; DGN 408 was issued requiring Multinational Enterprise ("MNE") groups to submit Country-by-Country Report ("CbCR") which must be prepared in English language.
- In January 2022, DGN 419 was issued requiring CbCR e-filing and providing the comprehensive guidance for the registration and submission process.

## WHAT IS NEXT?

Thailand as a member of OECD's Inclusive Framework on Base Erosion and Profit and Shifting (BEPS) has committed to implement the minimum standards of the BEPS package which includes application of Action Plan 13 which mandates a three-tiered transfer pricing documentation (CbCR, Master File and Local File). With the transfer pricing law, Local File and CbCR now in place, Master File regulations are also expected to be implemented soon.

# TRANSFER PRICING FILINGS IN THAILAND

## Master File

### Contents

- Organizational structure
- Description of business
- Intangibles
- Inter-company financial arrangements
- Financial and tax position

**Preparation** - prepared one file for the group. Does not need to be prepared by each entity in the group. Translations may be requested by the tax department.

**Update** - updated regularly with change in intercompany arrangements.

**Submission** - required to be submitted upon request.

## Local File

### Contents

- Local structure and business description
- Controlled transactions
- Inter-company arrangements
- Functions performed
- Risk borne
- Assets utilized
- Industry overview
- Comparability analysis
- Benchmarking study
- Financial information

**Preparation** - prepared each year by companies with related party transactions.

**Update** - updated annually

**Submission** - required to be submitted within 60 days of request in Thai Language.

## Disclosure form

### Contents

- Details of related party domestic and international
- Details of related party transactions

**Preparation** - prepared each year by companies with an annual revenue of THB 200 million or above.

**Update** - annually if the revenue threshold is met.

**Submission** - Required to be submitted within 150 days from end of financial year, with the annual corporate income tax return in Thai Language. Online filing.

## Country-by-Country report (CbCR)

### Contents

- Revenue related and unrelated party
- Profits before tax
- Taxes paid/ accrued
- Capital structure
- Retained earnings
- Employee count
- Other financial operation details.

**Preparation** - prepared each year by group with a consolidated revenue of THB 28 billion or more.

**Update** - annually if the consolidated revenue threshold is met.

**Submission** - Required to be submitted by parent company or surrogate company within 12 month, and within 60 days in specific case in English Language. Online filing.



# NEW LOCAL FILE REQUIREMENTS

Required Information	Por. 113/2545 (2002)	D.G. Notification No. 407 (FYE 2021 onwards)
▶ Language	Not specified	Thai language
Information regarding business operations		
▶ Shareholding Structure	✓	✓
▶ Business operations and business strategies	✓	✓
▶ Budgets, business plans and financial projections	✓	
▶ Document showing total sales, result of operation of reporting entity	✓	
▶ Policy on price fixing, profitability by products, marketing information, profit allocation each party	✓	
▶ Organization chart including the number of employees		✓
▶ Value chain analysis		✓
▶ Key trading partners and key competitors		✓
▶ Industry analysis		✓
▶ Business restructuring		✓
▶ Transfer of Intangibles and impact on profitability		✓

## NEW LOCAL FILE REQUIREMENTS (CONT'D)

Required Information	Por. 113/2545 (2002)	D.G. Notification No. 407 (FYE 2021 onwards)
<b>Information regarding controlled transactions</b>		
▶ Reasons for entering into intercompany transactions	✓	
▶ Evidence of negotiation basis and negotiation process with related parties	✓	
▶ List of all intercompany transactions (categories, amounts, related parties, tax jurisdictions)		✓
▶ Description of intercompany transactions, their pricing policies and assumptions used to set prices		✓
▶ List of intercompany agreements and summary of their key terms		✓
▶ Function, risk and asset analysis of reporting entity and related party	✓	✓
▶ TP methods and reason for selecting TP method	✓	✓
▶ Financial information used for application of the selected transfer pricing method		✓
▶ Benchmarking analysis		✓

# FREQUENTLY ASKED QUESTIONS

## 01

When should the company prepare TP documentation? How does it help during an event of tax audit?

## 02

Can the company use regional or global benchmarking analysis conducted by head office?

## 03

In the TP disclosure form, what is the meaning of business restructuring?

## 04

Does the TP arrangements have impact on the customs valuation?

## 05

How often does the TP report need to be updated?



# COMMON CHALLENGES



TRD officer has authority to adjust revenue and expense or the pricing margin of the Company using Thai benchmarking set. These adjustments can be made for the period before the formal regulations were issued based on the guidelines.



Outstanding related party trade receivables and payables for more than 12 months are considered as loans and deemed interest charged even though there is no formal intercompany loan agreement.



Preparing a transfer pricing report is not enough. In practice it has to be implemented and monitored at a transaction level.



Transfer pricing adjustments made by companies at year end or in following year, have several issues and should be avoided.



Arrangements for services and transactions without substance or benefits to the service recipients.

# COMMON ISSUES WE HAVE IDENTIFIED



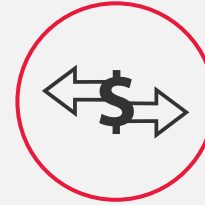
The Company did not disclose the related party companies/affiliated companies in the form properly.



Technical service fee may be considered as royalty transaction by the TRD officer due to transfer of know-how.



Inter-firm agreement/contract. The Company does not have formal agreement with related parties.



Recharge, advance, reimbursement transactions should be disclosed in the TP disclosure form or not.



Transfer pricing adjustment from head office by issuing debit note or credit note at the year end to maintain a specific profit margin in Thailand.

# THAILAND UPDATES ON TRANSFER PRICING

## Notice of the Director-General of Revenue Department relating to income tax no. 407

Prescribed documents or evidence showing information necessary for transfer pricing analysis of transactions rules between related companies:

1. Documents or evidence showing information regarding the reporting entity,
2. Documents or evidence showing information regarding the reporting entity's related transaction,
3. Other documents or evidence showing information necessary for transfer pricing analysis.

A reporting entity is not required to submit benchmarking analysis if the company has following characteristics:

1. Annual revenue for the accounting period has not exceeded THB 500 million,
2. Has not entered into any transactions with related companies that is subject to different tax rate,
3. Has not entered into any transaction with overseas related companies,
4. Has not incurred into any tax losses in the previous accounting periods which were carried forward as expense for CIT purpose in the reporting accounting period. Or,

The reporting entity has entered into advance pricing agreement for the transaction between Thailand and other country.

Note: If the above-mentioned characteristics are meet, the reporting entity is still required to prepare the transfer pricing local file including other information required by the notification, only the benchmarking analysis will be exempted.

The documents and/or evidence should be submitted to the Large Business Tax Administration Division or Area Revenue Office of the reporting entity for the accounting period commence on or after 1<sup>st</sup> January 2021 in Thai Language. The submission of the documents and information will be considered completed when the reporting entity receives an official receipt from the revenue department.

# THAILAND UPDATES ON TRANSFER PRICING (CONT'D)

## Filing deadline for CbCR

Situation	Filing deadline (Per notification)
In case the Thai entity is the Ultimate Parent Entity (“UPE”)	12 months after the end of accounting period
In case The Thai entity has been selected as a Surrogate Parent Entity (“SPE”) by the UPE	12 months after the end of accounting period
In any of the following cases, 1. The UPE is registered in a country that does not have CbCR requirement. 2. The UPE is registered in a country which does not have MCAA on exchange of information with Thailand or has but is not enforced yet. 3. There is a systematic failure in exchange of information.	Within 60 days from receiving a written notification from of tax officer

Director General Notification 408	
Threshold	Consolidated group revenue of THB 28,000 million or not less than the average of THB 28,000 million if the basis period is less than 12 months,
Reporting language	English
Reporting currency	THB (Thai Baht)
Reporting format	XML Schema
Reporting period	Accounting period started on or after 1 <sup>st</sup> January 2021

UPE can appoint Thai entity as the SPE to file CbCR if,

- The country of tax residency of the UPE does not have applicable CbCR filing requirements;
- The UPE has appointed the Thai entity as the SPE in writing and notified the appointment to the TRD;
- The taxpayer has same accounting period as the UPE.



# PILLAR TWO UPDATE

# BACKGROUND: WHERE IT ALL BEGAN

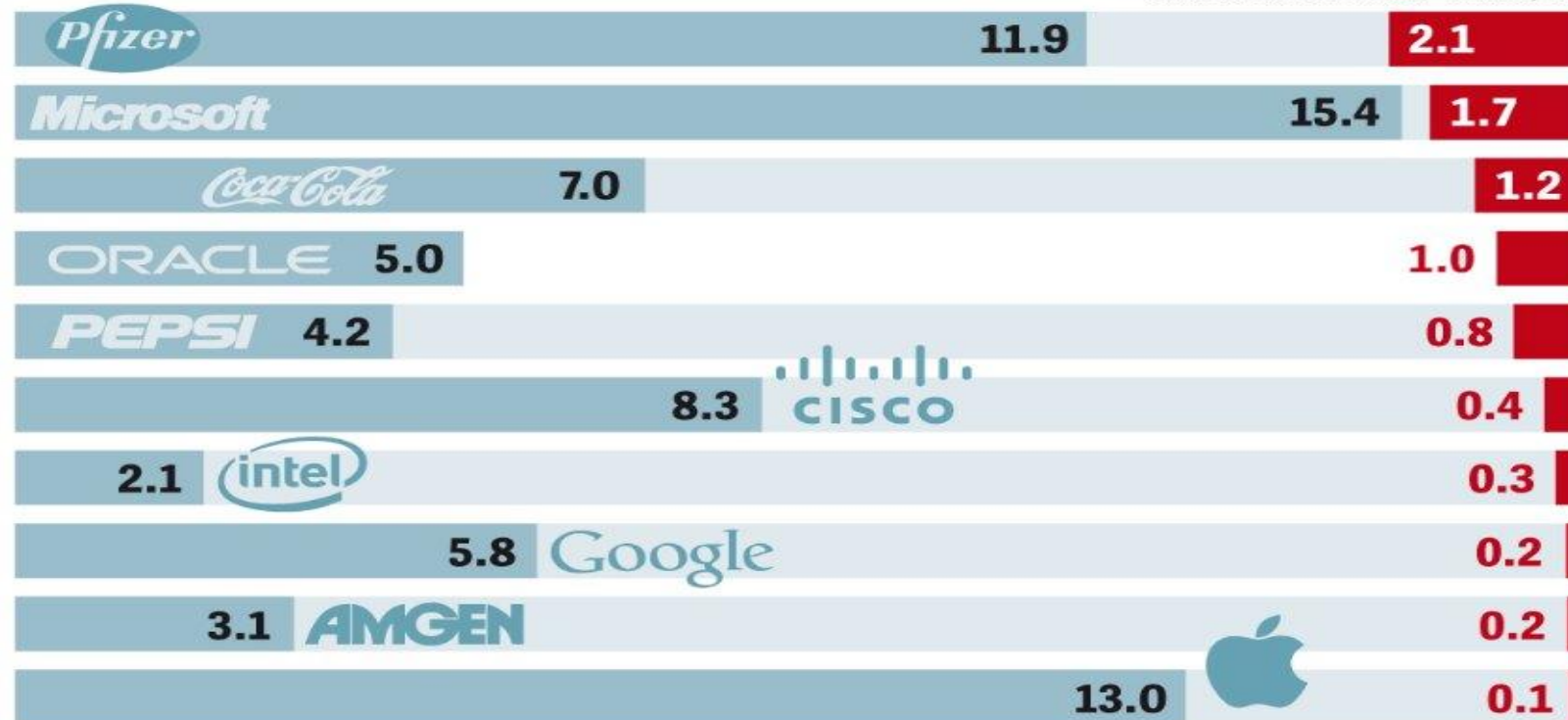
## High profits...

Profits earned abroad by select US companies in 2010, in billions of dollars

## ... low taxes

Taxes paid on those profits earned overseas, in billions of dollars

Quelle: Martin A. Sullivan; "Tax Analysts"



# CALL TO END BEPS

‘GLOBAL action is needed to stop harmful race to the bottom.’

**June 2012** - G20 leaders met in Los Cabos to start the unprecedented Project.

**October 2015** - The 15 BEPS Actions were finalized but gaps remain. MNEs continued to earn significant income in a jurisdiction without paying corporate income tax there. New business models that rely heavily on IPs made it easier for MNEs to still shift profits to low-tax jurisdictions.

# TWO-PILLAR SOLUTIONS

## Pillar One

...will require the covered MNEs to pay tax in the jurisdictions where they operate their business and the location of the customers regardless of absence of physical presence in those jurisdictions.

## Pillar Two

...imposition of the global minimum tax at 15%.

- Applicable to MNEs covered by the CbCR
- Members of IF on BEPS are not required to adopt but once the country adopts it, it must follow the OECD Guidelines to ensure uniform application of the rules.

## Thailand

In March 2023, the Cabinet approved in principle the measures supporting the adoption of Pillar 2 in Thailand and mandates the BOI to adopt measures to minimize the impact of Pillar 2, and the Ministry of Finance, thru the Revenue Department, to enact the relevant laws that would collect the top-up tax, etc.



## BOI measures on Pillar 2

- The BOI relief measure is effective immediately for both existing BOI companies and new BOI applicants with the consolidated group revenue of more than EUR 750 million (THB 28,000 million) or falling within the scope of a Country-by-Country Report ("CbCR"). The key conditions in the Announcement of the BOI No. 1/2566 are provided below.

### Existing BOI companies

- Must have at least 1 year remaining income tax holiday (ITH) period.
- It can opt to be subject to 50% CIT rate (10%). If the option is chosen, the reduced CIT rate can be enjoyed for twice the remaining ITH period but not exceeding 10 years.
- Start date of the new regime: (i) if BOI revenue has already been generated, first revenue earning date from the issuance of the new BOI certificate; (ii) if no revenue has been generated yet, from the first revenue earning date.

### BOI promotion applicants

In the application of new BOI promotion, the applicant must declare whether they would like to receive **CIT exemption** or **CIT reduction** incentives.

1. **CIT exemption:** Will follow the current procedure with option to convert to 50% tax rate.
2. **CIT reduction:** Once chosen, the BOI promoted entity can no longer revert to ITH.

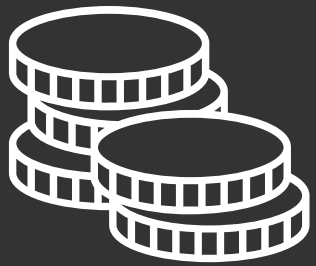


# About BDO

# BDO GLOBAL STATISTICS 2022

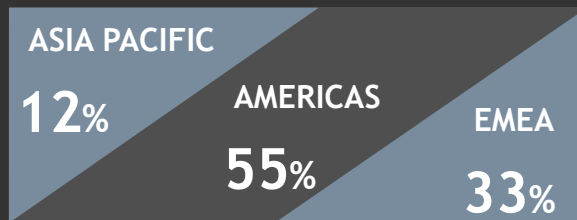
## GLOBAL REVENUE

**US\$ 12.8 billion**



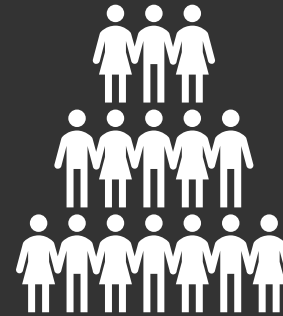
**+12.1%**  
REVENUE INCREASE  
(at constant exchange rates)

PERCENTAGE  
REVENUE BY  
REGION



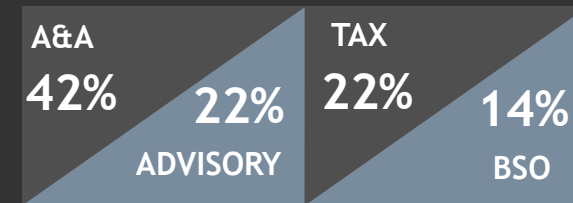
## PEOPLE

**1,803** OFFICES    **164** COUNTRIES & TERRITORIES



**111,307**  
PEOPLE **+14.4%**

FEE SPLIT  
BY SERVICE  
LINES



# BDO in Thailand



**200 people**



**Offices in Bangkok & Phuket**

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Our company has started to operate since Thailand in 2020 and we're proud to be the fastest-growing accounting and advisory firm in Thailand. Our company is based in Bangkok and Phuket, with Thai CPA's, SEC registered auditors, and advisory experts that provides professional service to companies in Thailand and nearby countries.

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- External Audit
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- International Financial Reporting Standards (IFRS)
- Other Assurance Services
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**Teerasak Chuasrisakul**  
Partner - Head of Audit and Assurance



**Narin Churamongkol**  
Partner - Audit



**Kraisaeng Thiranulak**  
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**Amornjid Baolorpet**  
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**Supachanya Thongpan**  
Partner - Audit and Assurance

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- Transfer Pricing
- E-Services Tax
- VAT and Indirect Taxes Services
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- Global Employer Services
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**Melea Cruz**  
Partner - Tax and Legal



**Pakamon Charubhakti**  
Partner - Tax and Legal



**Ishan Shah**  
Director - Tax and Legal

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- Buying & Selling
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- Payroll Solutions
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- Financial Reporting
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Noel Ashpole  
Managing Partner



Narumol (Kae) Sakritchanan  
Partner - Business Services and  
Outsourcing



Uwe Heitmann  
Managing Partner of BDO Phuket



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- Business Strategy
- Financial Modelling Advisory
- Forensic Advisory including Investigations
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- Valuation Advisory Services
- Operational Improvement and Effectiveness
- Risk Advisory Services
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**Matthew Cutt**  
International Liaison Partner



**Frank Janik**  
Partner - Advisory

Thank you!

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