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Singapore-Thailand Revised Tax Treaty And Protocol Enter Into Force

The revised tax treaty (in the following “revised treaty”) and the respective protocol signed on 11 June 2015 come into force and replaces the existing tax treaty signed in 1975.

The key changes compared to the previous treaty are:

- Extended definition of a permanent establishment (PE), accordingly supervisory activities and the provision of services could give rise to a PE.
- Reduction of withholding tax (WHT) rates on dividends, interest and royalties.
- Inclusion of a branch Remittance tax (BRT) of 10 % on the gross amount of remittance.

Taxpayers are well advised to review their current operational business set-up and to assess whether adjustments are needed, particularly considering the newly included PE criteria.

In the following the key changes will be explained in more detail:

1. Changes in PE definition

a. In addition to a building site, a construction, assembly or installation project, supervisory activities in connection therewith has been included in the PE definition. Further, the time threshold has been extended from 6 to 12 months.

b. Inclusion of a service PE clause, according to which employees or other personnel engaged by a company of a Contracting State providing services, including consultancy services in the other Contracting State would create a service PE if the service activities continue (for the same or connected projects) within the other Contracting State for a period or periods aggregating more than 183 days within any 12-months period.

c. Elimination of the PE exemption for a fixed place of business solely for the purpose of advertising, supply of information, for scientific research or similar activities.

2. Reduction of WHT Rates For

a. Dividends from 20 % to 10 % if the recipient is the beneficial owner of the dividends and tax resident in the other Contracting State.

b. Interest from 25 % to 15 % if the recipient is the beneficial owner of the interest and tax resident in the other Contracting State.

c. Royalties from 15 % to 5 %, 8% or 10 % depending of the nature of the granted rights if the recipient is the beneficial owner of the royalties and tax resident in the other Contracting State.
Furthermore, the definition of royalties has been extended including the use of or the right to use industrial, commercial and scientific equipment.

3. Branch Remittance Tax (BRT)

The revised treaty clarifies that Thailand has the right to impose a 10 % BRT on after-tax profits paid or deemed paid to the head office.

4. Elimination of Double Taxation in Case of Dividend Payments

According to the revised treaty Singapore tax residents who own directly or indirectly at least 10 % (formerly 25%) of the shares of the dividend paying company resident in Thailand are allowed to credit the tax paid in Thailand against the Singapore tax payable. The credit will also take into account the Thai tax paid by that company on the portion of its profits out which the dividend is paid.

5. Removal of the Limitation of Relieve Clause

Due to the removal of the limitation of relieve clause any exemption from tax or reduced tax rate will apply regardless of the amount remitted to or received in the Contracting State where the recipient is a resident.

The provisions will become effective as follows:

Nature of taxes	Singapore	Thailand
Taxes withheld at source	Amounts liable to be paid, deemed paid or paid (whichever is the earliest) on or after 1 January 2017	Income derived on or after 1 January 2017
Other taxes on income and capital	Tax chargeable for any year of assessment beginning on or after 1 January 2018	Taxes chargeable for any tax year or accounting period beginning on or after 1 January 2017

In case of further questions please do not hesitate to contact us.

Luther LLP

Heike Riesselmann
German Certified Tax Advisor
International Tax Services

Phone: + 65 6408 8067
Mobile: +65 9489 0338

heike.riesselmann@luther-services.com

Alexandre Gourdan, LL.M. (New York University)
Avocat au Barreau de Paris (France) / Attorney-at-law (New York)
Registered Foreign Lawyer Singapore
Accredited Tax Practitioner (Income Tax & GST) (Singapore)

Phone: +65 6408 8104
Mobile: +65 9772 6288

alexandre.gourdan@luther-lawfirm.com