

# Call in for a Coffee



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& Impact of the new regulations of the  
Ministry of Commerce on Board Meetings**

# RSM Thailand

## Introduction

Welcome to RSM's September 2008 edition of Call in for a Coffee. This edition focuses on the 2008 tax stimulus package new accelerated depreciation allowances & impact of the new regulations of the Ministry of Commerce on Board Meetings.

## 2008 Tax Stimulus Package New Accelerated Depreciation Allowances

CIFAC readers will recall that on 6 March this year we reported to you about the Government's approval of the 2008 tax stimulus package.

The personal, corporate and property conveyance tax reductions that were announced under the stimulus package were enacted in April 2008 (refer to CIFAC Edition No 69), and now, effective August 2008, the new accelerated depreciation allowances have been enacted.

### Accelerated Rates for Computer Software

Effective 7 August 2008, small businesses can apply accelerated rates of depreciation allowances for the purchase of new computer software programs.

For the purposes of depreciation, small businesses are those with fixed assets (excluding land) less than Bt 200 million and with fewer than 200 employees.

The new depreciation allowances for software are as follows:

- Initial deduction of 40% of the computer software cost on the date of acquisition; and
- Depreciation of the remaining cost value at the rate of 33.33% pa from the date of acquisition.

### Accelerated Rates for Machinery and Equipment

For new machinery and equipment purchased from 7 August 2008 and installed ready for use on or before 31 December 2010, both small and large businesses can apply the following accelerated rates:

- Initial deduction of 40% of the plant & equipment cost on the date of acquisition; and,

- Depreciation of the remaining cost value at the rate of 20% pa from the date of acquisition.

### Low Cost and Short-Life Assets

It has been a long-standing practice in some countries to treat low cost and short-life assets as assets not subject to depreciation, and to allow companies to claim an immediate tax deduction for such assets. Up until now, there have been no rules permitting a Thai company to immediately write-off low cost and short-life assets, and such practices were not acceptable to the Thailand Revenue Department.

For purchases of low cost and short-life assets during the period from 7 August 2008 to 31 December 2010, small businesses (with fixed assets (excluding land) less than Bt 200 million and with fewer than 200 employees) can claim 100% depreciation allowance on assets that have a purchase value of Bt 500,000 or less.

The above 100% depreciation allowance on assets not exceeding Bt 500,000 applies to all types of assets other than immovable property and intangible assets.

You should note that as computer software programs are, in reality, an intangible asset, companies cannot depreciate computer software programs as a low cost and short-life asset.

### Investment Allowances for Energy-Saving Plant & Equipment

You should note that the proposed new investment allowances that were approved by the Government under the tax stimulus package for energy-saving plant and equipment have not as yet been enacted.

**The information herein was contributed by Steven Herring, an experienced and Senior International Tax Consultant, for RSM Advisory (Thailand) Limited.**

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## Impact of the new regulations of the Ministry of Commerce on Board Meetings

In accordance with a circular recently issued by the Ministry of Commerce, which has already been adopted by Business Registration Offices, the regulations relating to the appointment of proxies to attend board meetings and the use of circular resolutions have been amended.

- 1. Proxies attending board meetings**  
The appointment of a proxy to attend a board meeting on behalf of a director is no longer permitted. Consequently, a director of the company is required to attend the Board meeting in person.
- 2. Circulated Board Resolutions**  
The Ministry of Commerce considers that written board resolutions without holding a physical board meeting are in breach of the provisions of the Civil and Commercial Code and has advised that the circulation of board resolutions is now prohibited. The board of directors must therefore hold a physical meeting to adopt a resolution and directors who live overseas may be required to attend the meeting in person in order to achieve a quorum.

Accordingly, existing articles of association which contain provisions in respect of a proxy attending board meetings on behalf of a director and the circulation of board resolutions will become void and should be removed. The registration of new articles of association which contain these prohibited provisions will be rejected by the Registrar at the Department of Business Development.

These new regulations may cause problems for those companies whose directors reside in several countries and where arranging for the whole Board to meet in one location may be difficult.

**Readers are encouraged to seek advice from their legal counsel to determine the effect of these regulations on their own business.**

## RSM Thailand

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