

# Call in for a Coffee

RSM Nelson Wheeler, Thailand

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## Introduction

Welcome to RSM's second edition of the "Call in for a Coffee" Newsletter. The Thai Legislators have made several changes to their governing laws which affect both businesses and individuals in Thailand. This edition concentrates on the "Tax Concessions for Regional Operating Headquarters in Thailand" and should be used as a guideline only.

## Tax Concessions for Regional Operating Headquarters ("ROH") in Thailand

### Corporate income tax concessions

Royal Decree 405 grants an ROH operating in Thailand the following corporate income tax concessions:

- 10% corporate income tax on service fee income earned by the ROH from affiliated companies and branches;
- 10% corporate income tax on interest income earned by the ROH on funds borrowed by the ROH and re-lent to affiliated companies and branches;
- 10% corporate income tax on royalty income derived by the ROH from affiliated companies and branches, and generated from research and development work performed in Thailand; and
- 0% corporate income tax on dividends received by the ROH from domestic and overseas affiliated companies and branches.

### Personal withholding tax concessions

Royal Decree 405 grants expatriate employees of an ROH operating in Thailand the following personal withholding tax concessions:

- 0% personal withholding tax on the income earned by expatriate employees of the ROH for services undertaken outside of Thailand, provided the income paid to the employees for such services are not deducted by the ROH or an affiliated company or branch in Thailand; and
- 15% personal withholding tax on income earned by expatriate employees on their Thai source income for a period of 2 years, provided the expatriate employee foregoes any claim they may have for withholding tax credits on interest and dividend income.

## Corporate withholding tax concessions

Royal Decree 405 also grants to foreign companies and partnership shareholders, which do not carry on business in Thailand, but which receive dividends from the ROH, the following corporate withholding tax concessions:

- 0% corporate withholding tax on the remittance of dividends paid out of the profits of the ROH to the foreign company or partnership shareholder (i.e. exemption from the requirements of Section 70 of the Revenue Code).

## Depreciation deduction concessions

Royal Decree 406 grants an ROH operating in Thailand the following depreciation deduction concessions:

- 25% deduction against taxable income of the costs of acquisition and construction of buildings and permanent structures, which the ROH uses for its business, with the remainder being depreciated in accordance with the normal rates prescribed under Royal Decree 145 (i.e. over 20 years).

## Qualifications of ROH

To qualify for the above mentioned tax concessions, an ROH in Thailand must meet the following conditions:

- The ROH must be a company formed under the laws of Thailand;
- The ROH must have paid up capital of at least Baht 10 million (US\$250,000 approximately) as at the end of the accounting period;
- The ROH must provide services to affiliated companies or branches in at least 3 countries apart from Thailand; and
- The services rendered to affiliated companies and branches must be at least 50% of the total income of the ROH. This percentage is reduced to 1/3<sup>rd</sup> for the first 3 years of operations.

## Qualifications regarding services

The types of permitted services for an ROH in Thailand are as follows:

- General administration, business planning and coordination services;

- Services in connection with the procurement of raw materials and provision of parts;
- Research and development;
- Technical assistance;
- Marketing and sales promotion;
- Human resource management and training;
- Financial advisory services;
- Economic and investment research and analysis;
- Credit management and control; and
- Other supporting activities as prescribed by the Director-General of the Revenue Department.

### Rules and procedures

Along with the release of the Royal Decrees, the Director-General of the Revenue Department issued his Notification No. 109, prescribing rules and procedures regarding the application of the Royal Decrees. The most significant to note are:

- A company wishing to operate as an ROH must submit an application to the Revenue Department and provide supporting documentation;
- Where a company conducts both ROH and non-ROH businesses, it must calculate and account for its taxable incomes for both businesses separately;
- Where expenses are common to both businesses, they must be apportioned on the basis of the total income of each business;
- Any loss generated by the ROH business cannot be offset against the income of the non-ROH business; and
- Companies operating both ROH and non-ROH businesses must submit separate corporate income tax returns for each business, but use the same taxpayer identification number.

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### Free Consultation

If you have financial, legal or other problems that require innovative solutions, please contact the RSM team and “**Call In For A Coffee**” for a free consultation.

### The Team

Translation of business ideas into realistic projects requires expert advice. RSM can assist you in formulating practical solutions to obstacles which may be encountered while undertaking business in Thailand. RSM’s management team and staff include :

**Gareth Hughes** has experience in all fields of audit, accounting, corporate restructuring and insolvency. His key areas of focus involve overseeing administration, restructuring, business services and audit both locally and internationally.

**Stephen Darley** is experienced in corporate recovery, insolvency, rehabilitation, litigation support, corporate finance and forensic accounting matters.

**Mark Butters** is a specialist in the application of Thai regulatory compliance, corporate services and project management.

**Surachai Damnoenvong** is an accomplished Audit and Accounting Consultant with both local and international experience in the Asian Region.

**Atchara Threeprapin** is proficient in several areas of Thai law including labour, contracts, regulation compliance and International tax planning.

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