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GES NewsFlash

Thailand – Immigration Changes for Foreign Nationals and Personal Income Tax Changes

January 5, 2010

Summary – Immigration Changes

Work Permit application for foreign worker

The Department of Employment has announced new regulations concerning the work permit applications for foreign workers which are as follows;

Foreigners working for financial institutions or government authorities

Work permits shall be issued in accordance with a certificate verified by the financial institution or the government authority.

Foreigners working for employer which is a juristic person

- For a juristic person incorporated under the law of Thailand, work permits shall be approved for one foreigner per each amount of paid-up registered share capital of THB 2 million. For example, a company with registered capital of THB 2 million that currently employs one foreigner will have to increase its registered capital (paid-up) by THB 2 million for each additional foreigner it wishes to employ. The maximum number of foreigners working for the same juristic person cannot exceed 10 people on this basis.
- For a juristic person incorporated under a foreign law (i.e. a branch office registered in Thailand) work permits will be approved for one foreigner for each amount of THB 3 million of investment or operating funds that the juristic person brings into Thailand. The maximum number of foreigners working for the juristic person incorporated under a foreign law cannot exceed 10 people on this basis.

The amount of the required investment will be reduced by one-half if a foreigner is legally married to a Thai national.

In both cases additional work permits beyond 10 may be granted on a case-by-case

basis, based on the Labour Department's consideration of the conditions below:

- Use of technology of which Thai citizens are not capable to use or insufficient numbers of personnel
- Need for specific knowledge for a project in a timely manner
- Activities relating to entertainment, music or other characteristics for a fixed period of time.
- In the case of an employer that has paid corporate income tax to the government of more than THB 3 million or equivalent for the previous year.
- The employer has exported products and brought in foreign currency of not less than THB 30 million in the previous year.
- If the employer is a juristic person, it employs at least 100 Thai nationals.

For registered offices of a foreign corporate entity (e.g. Representative or Regional office) that is:

- Providing information or advising in regard to products or services of the head office not more than 2 work permits are allowed; or
- Purchasing or providing goods or services in Thailand to the head office, not more than 5 work permits are allowed unless the head office orders more than THB 100 million in goods and services. Additional work permits can be approved under the conditions set out above.

Summary - Personal Income Tax Changes

Regulations for tax exemption on purchase of immovable property

Notification of Director-General of the Revenue Department No. 178 has been published following the Ministerial Decree No. 271 in regard to the exemption available for personal income tax on the purchase of qualifying immovable property on the actual payment made but not to exceed THB 300,000 under the following circumstances:

- Should be a purchase of building or land with building or unit of condominium for residence and the transfer of ownership must be registered with the Land Department between 1 January and 31 December 2009. The property must not have been registered for the transfer of ownership before.
- In cases where an individual acquires more than one immovable property the total tax exemption available shall not exceed THB 300,000.
- In cases where more than one person acquire the property and become joint-owners, the tax exemption shall be allocated to each purchaser in accordance with the proportion of ownership of each owner and the aggregate amount of tax exemption for all owners shall not exceed THB 300,000.
- In cases involving spouses where only one of the spouses generates income, the tax exemption shall be equal to the actual payment made but

shall not exceed THB 300,000.

- In cases where spouses each have his/her own income and the marital status remains through the tax year;
 - If personal income tax return is filed jointly; the tax exemption shall be the actual payment made but shall not exceed THB 300,000.
 - If the personal income tax return is filed separately; the tax exemption for each person shall be half of the actual payment made but the total amount for both spouses shall not exceed THB 300,000.
- In cases where spouses each have his/her own income but the marital status does not remain through the tax year;
 - If the marriage occurs after purchasing property; the tax exemption for each person shall be the actual payment made but shall not exceed THB 300,000.
 - If the marriage occurs before purchasing property; the tax exemption for each person shall be equal to the half of the actual payment but the aggregate amount shall not exceed THB 300,000.
- Taxpayer must obtain written confirmation from the seller for the payment made.

Deloitte's View

Immigration Changes

Although the regulations mentioned above have been introduced, the Department of Employment has been requesting additional documents to support the application of the new work permit. These documents include the Social Security Fund and VAT returns from the previous month as well as the financial statements as proof of the business operation.

Personal Income Tax Changes

This is a one- time deduction for 2009 that is provided to help boost the real estate market.

People to Contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals as follows:

Mark Kuratana

Tel: 662 676 5700 Ext: 11385

Manjula Jarugumilli

Tel: 662 676 5700 Ext: 11903

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