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Thailand's Competitive Regional Operating Headquarters Regime

In Thailand, the government grants special privileges to certain types of business entities in order to incentivize their creation. One such type of business entity is the Regional Operating Headquarters (ROH), which benefits from a number of tax incentives.

There are, however, some requirements that must be met before a company can be categorized as an ROH. First, the company must be incorporated in Thailand. Second, the company must conduct business in Thailand by providing support services to its associated companies and/or branches, wherever they may be.

Two Schemes of ROH

ROHs are allowed to provide managerial, technical, or support services to their associated enterprises or their domestic or overseas branches. At present, there are two schemes of ROH. ROHs under both schemes are permitted to provide the same scope of services, but merely the requirements and tax benefits will differ.

ROHs can be divided between the 2002 scheme (known as the "old scheme") and the 2010 scheme (known as the "new scheme"). The old scheme was relatively unsuccessful due to its onerous requirements, which forced prospective ROH companies to provide support services to their associated companies and/or branches in at least three countries in their first fiscal year. Additionally, the incentives under the old scheme paled in comparison to other jurisdictions in the region, such as Singapore and Hong Kong.

Therefore, in light of these drawbacks, a revised, new scheme of ROH was implemented by the Cabinet in 2010, with more favorable requirements and incentives. For example, the revised requirements allow prospective ROH companies to meet the above support-services requirement within five fiscal years. Additionally, as shown in the table below, corporate income tax on profits from services provided to foreign affiliates was 10% under the old scheme, but is exempted under the new scheme.

However, while some requirements under the new scheme are more flexible than before, additional requirements have been added to the new scheme, such as the operating expense requirement, which forces the ROH to spend at least THB 15 million annually. Additional requirements include the skilled employee provision, whereby at least 75% of the total employees of the ROH must have specified skills or knowledge from the third accounting period onward. Also, tax incentives under the new scheme are limited to 10 years, whereas under the old scheme, there was no time limit. But when comparing the old and new schemes, the new scheme provides slightly better tax incentives and removes some difficult criteria, even though it introduces some new conditions that a company needs to fulfill.

Tax Incentives and Criteria for Establishing an ROH in Thailand

	Old ROH	New ROH
Tax Incentives		
Corporate Income Tax On profits from services provided to foreign affiliates	10% without time limit	Exempt for 10 years
On profits from services provided to Thai affiliates	10% without time limit	10% for 10 years
Interest (from lending to foreign and Thai affiliates)	10% without time limit	10% for 10 years
Dividends	Exempt without time limit	Exempt for 10 years
Royalties	10% without time limit	10% for 10 years
Personal Income Tax	• 15% on the assessable income received from the ROH for foreign employees at the ROH • Exemption for income derived from employment exercised abroad • Eligible for 4 years	• 15% on the assessable income received from the ROH for foreign employees at the ROH • Exemption for income derived from employment exercised abroad • Eligible for 8 years
	Old ROH	**New ROH**
Criteria		
Launched	2002	2010
Paid-up Capital	At least THB 10 million at the end of each accounting period	At least THB 10 million at the end of each accounting period
Associated Companies in Foreign Countries	Provide qualifying services to associated companies or branches in at least 3 countries in the first accounting period	Provide qualifying services to associated companies or branches in: • At least 1 country in the first and second accounting periods; • At least 2 countries in the third and fourth accounting periods; and • At least 3 countries in the fifth accounting period onward.
Revenue	Revenue paid from associated companies overseas must be at least 50% of total revenue. For the first 3 accounting periods, the revenue may be less than 50% but not less than one-third of total revenue.	10% tax rate on qualifying interest, royalties, and dividends is subject to the condition that the ROH receives revenue from qualifying services provided to, or royalties from, qualifying overseas associated enterprises constituting at least 50% of the total income of the ROH; such royalty income must only be generated from research and technology development activities conducted in Thailand.
Expenses	No conditions	• ROH's operational expenses paid to companies or individuals in Thailand must not be less than THB 15 million annually. These exclude expenses on royalties, raw materials, packaging, and depreciations; or • Investment expenses for ROH in Thailand are not less than THB 30 million per year, excluding investment in securities.
Skilled Employees	No conditions	Employees working in Thailand for the ROH must be skilled employees amounting to at least 75% of the total employees from the third accounting period onward.
Employee Compensation	No conditions	At least 5 employees working in the ROH must earn at least THB 2.5 million per year from the third accounting period onward.
Time Limitation to Apply for ROH Privileges	No time limitation	Must apply for ROH privileges by November 14, 2015.
Extension of Privileges Granted	No extension as there is no time limit for tax incentives	When the ROH meets all of the conditions above in every accounting period, and if operational expenses accumulated to the tenth accounting period exceed THB 150 million, it may apply for an extension of tax incentives for another five accounting periods.
Tax Incentive Clawback	No conditions	• Failure to meet material conditions may result in withdrawal of tax privileges, with effect from the first accounting period. • If an ROH gives notice of dissolution within five accounting periods after the date of its registration as an ROH, tax privileges will be withdrawn with effect from the first accounting period.

Continued on page 10

Regional Operating Headquarters (from page 5)

From 2002 to 2010, it was reported that only around 80 companies were registered as an ROH in Thailand. To date, the number stands at 122 companies. This is very low compared to countries such as Malaysia and Singapore that have around 600 and 1600 companies registered respectively. This large discrepancy may be due to some incentives being unable to compete with those offered by other countries in the region, such as the out-out transaction of the affiliates still not being exempt from tax in Thailand.

Does Thailand Have What It Takes to Be an ROH Hub?

In terms of its business environment, Thailand has many attractive qualities such as its strategic location, skilled labor force, and relatively low wages and other operating costs. Situated in the center of Southeast Asia, Thailand can serve as a regional distribution center due to the government's long-term plans to develop the country's transport infrastructure, including its roads and railways. The country's information technology infrastructure, while still lagging behind some of its neighbors, is also continuing to improve. Although the tax incentives offered by Thailand's ROH regime are not as attractive as those offered by some other countries in the region, Thailand's Board of Investment (BOI) has introduced a number of other incentives alongside the ROH system to attract foreign investors. For example, certain businesses promoted by the BOI will be granted tax exemptions, tariff exemptions, permission to own land, permission to establish a foreign majority-owned company, or permission to conduct businesses usually reserved only for Thai nationals. Also, the Industrial Estate Authority of Thailand (IEAT) offers similar privileges to companies with facilities situated in an industrial area run by the IEAT, including import duty and VAT exemption on machines and equipment, as well as components that are necessary for the manufacture of goods or for commerce, including any material to be used for the construction, assembly, or installation of a factory or building. Materials imported for manufacturing goods or for commerce are also exempted from import duty and VAT. Moreover, products, by-products, and anything else that arises from manufacturing within the IEAT area will be exempted from export duty and VAT.

Therefore, the BOI and IEAT incentives can efficiently support foreign businesses in Thailand in fields that are not covered by the ROH regime.

In sum, Thailand's ROH regime is continuing to evolve in an attempt to position the country as an attractive base for regional operations. With the ROH scheme complemented by the array of incentives offered under other programs, foreign investors can view Thailand as a viable option to serve as a base for their business in Southeast Asia.