



# Revenue Department News

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**Date** : 10<sup>th</sup> October 2017  
**Subject** : The Revenue Department clarifies Notifications of the Director-General of  
The Revenue Department No.4 and No.5

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There have been observations about the 2 Notifications of the Director-General of the Revenue Department: Notification of the Director-General of the Revenue Department (No.4) subject: Rules, procedures and conditions for exemption of income tax, value added tax, specific business tax and stamp duty and Notification of the Director-General of the Revenue Department (No.5) subject: Rules, procedures and conditions for exemption of income tax, value added tax specific business tax and stamp duty following Royal Decree issued under the Revenue Code (No. 630) B.E. 2560. The 2 notifications were released within a span of only 2 months. The difference of the 2 notifications is the determination of the asset price. Notification (No.4) prescribes the market value for assessment whereas Notification (No.5) prescribes either assessment price or cost of assets depending on which price is higher. Questions have been raised whether the span of 2 months between the notifications is intended to reduce the asset transfer fee based on the market price to an assessment price and to benefit specific groups of taxpayers.

The Revenue Department would like to clarify as follows:

1. It is the policy of the Ministry of Finance to encourage individuals to register as juristic persons. Juristic persons must prepare book-keeping, have a TA and pay corporate income tax according to their actual revenue and expense for the purpose of transparency and fairness. However, the conversion from individuals to juristic persons involves individuals transferring assets used for business to new juristic persons of which tax burden may be incurred. Hence, such tax burden may impose an obstacle towards the objective of this policy.

2. To achieve the policy objective, the Revenue Department has enacted Royal Decree issued under the Revenue Code (No. 630) B.E. 2560 to exempt income tax for individuals for income derived from the transfer of assets to new juristic persons in which the return is a common stock.

3. The Revenue Department has issued Notification of the Director-General of the Revenue Department (No.4) subject: Rules, procedures and conditions for exemption of income tax, value added tax, specific business tax and stamp duty following Royal Decree issued under the Revenue Code (No. 630) B.E. 2560 on 20<sup>th</sup> March 2017 (B.E. 2560) to define rules, procedures and conditions for tax exemption in which the market price is applied to the transfer of assets to juristic persons.

4. However, Notification (No.4) did not clarify the price and the transferred assets that are land and real estate. Therefore, the Revenue Department issued Notification (No.5) on 5<sup>th</sup> June 2017 (B.E. 2560) stipulating that the price of assets that are land and real estate will be based either on the assessment price or cost of assets depending on which price is higher. Furthermore, the assets must be used for business purpose.

5. For the transfer of real estate, Ministry of Interior issued a notification to reduce the transfer fee from 2 percent to 0.01 percent the assessment price. As Notification (No.5) does not change the transfer fee calculation base of Ministry of Interior, there is no impact on the fee collection by Ministry of Interior.

6. The modification of the Notification of the Director-General of the Revenue Department does not benefit any specific group of taxpayers. It is aimed to clarify the law, eliminate possible disputes and encourage individuals carrying on business to register as juristic persons to reflect the actual business performance as well as bring transparency and fairness to the tax system.

For further enquiries, please contact any Area Revenue Office or RD Intelligence Center at Tel. 1161.

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