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Official language is Thai language

Ministerial Regulation

No. 186, (B.E. 2534)

Issued under the Revenue Code

Regarding the Write-Off of Bad Debts From Debtor Accounts

By virtue of Section 4 of the Revenue Code as amended by the Revenue Code Amendment Act (No. 20), B.E. 2513 and Section 65 bis (9) of the Revenue Code as amended by the Revenue Code Amendment Act (No. 25), B.E. 2525 the Minister of Finance hereby issues a ministerial regulation as follows:

Clause 1 The Ministerial Regulation No. 181, (B.E. 2532) Issued under the Revenue Code Regarding the write-off of bad debts from debtor accounts shall be repealed.

Clause 2 Bad debt may be written off from a debtor account of companies or juristic partnerships according to the rules, procedures and conditions stipulated in this Ministerial Regulation

(Amended by the Ministerial Regulation No.261, (B.E. 2549) which has come into force from 11 August B.E.2549)

Clause 3 Bad debt that is to be written off from a debtor account must be the debt that has the characteristics as follows:

(1) Must be a debt from the operation of business or in consequence of the operation of business or a debt which has been included as income in the computation of net profits, but not including a debt owed by a director or managing partner or a former director or managing partner, irrespective of whether such debt arises before or while such person is the director or managing partner;

(2) Must be a debt that is not barred by prescription and there is clear evidence for taking a lawsuit against the debtor.

Clause 4 The write-off of bad debts from debtor accounts where the debt of each debtor is more than 500,000 baht must be carried out as follows:

(1) Reasonable action shall be taken for the recovery of debt and there must be clear evidence that action for the recovery of debt is taken but the debt is not paid as it appears that:

(a) The debtor is dead, becomes a disappeared person or there is evidence of his disappearance, and there is no property for the repayment of debt,

(b) The debtor has dissolved business and is indebted to other creditors who have preferential rights over the whole property of the debtor in an amount exceeding of the property of the debtor;

(2) A civil lawsuit has been taken against the debtor, or an application for participation in debt servicing has been filed in the case where the debtor has been sued by other creditors for

civil action, and in such case a decree or order of the court has already been given but the debtor has no property to repay the debt; or

(3) A bankruptcy action has been taken against the debtor, or an application for participation in debt servicing has been filed in the case where the debtor is sued by other creditors for bankruptcy action, and in such case a composition has been made with the debtor with the approval of the court or the debtor has been adjudicated a bankrupt and there has already been the first distribution of the debtor's property.

Clause 5 The write-off of bad debts from debtor accounts where the debt of each debtor is not more than 500,000 baht must be carried out as follows:

(1) Action has been taken according to Clause 4(1);

(2) Action has been taken against the debtor in a civil case and endorsed by the court, or an application for participation in debt servicing has been filed in the case where the debtor has been sued by other creditors for civil action and such application has already been endorsed by the court; or

(3) A bankruptcy action has been taken against the debtor and endorsed by the court, or an application for participation in debt servicing has been filed in the case where the debtor has been sued by other creditors for bankruptcy action and such application has already been endorsed by the court.

In the case under (2) or (3), the director or managing partner of the company or juristic partnership that is a creditor must have an order to approve the write-off of such debt from debtor account within 30 days from the end of such accounting period.

Clause 6 The write-off of bad debts from debtor accounts of banks or finance companies under the law governing the undertaking of finance business, securities business and credit foncier business where the debt of each debtor is not more than 200,000 baht may be carried out without satisfaction of the rules in Clause 4 or Clause 5, if it appears that there is evidence that reasonable action for the recovery of debt has been taken but the debt is not paid and that the expenses in taking a lawsuit against the debtor would not commensurate with the debt that will be paid.

The provision in the first paragraph shall also apply to the write-off of bad debts from debtor accounts of companies and juristic partnerships which are not those banks or finance companies, where the debt of each debtor is not more than 100,000 baht.

“Clause 6 bis The write-off of bad debts from debtor's accounts of financial institution creditors in respect of the debts that those creditors have discharged for the debtors from 1 January B.E. 2558 onward in consequence of the debt restructuring in accordance with the criteria on debt restructuring of financial institutions as prescribed by the Bank of Thailand may be carried out without satisfaction of the rules in Clause 4, Clause 5 or Clause 6.

“Financial institutions” means

- (1) financial institutions under the law governing financial institution business;
- (2) asset management companies under the law governing asset management companies;
- (3) other juristic persons prescribed by Director-General of the Revenue Department with the approval of the Minister.

Debtor of financial institutions including also the debtor's guarantor

(Amended by the Ministerial Regulation No.321, (B.E. 2559) dated 12 September B.E.2559)

Clause 6 Ter The write-off of bad debts from debtor accounts of other creditors in respect of the debts which have been discharged for the debtors in consequence of the debt restructuring as approved by the court in accordance with the law governing bankruptcy may be carried out without satisfaction of the rules in Clause 4, Clause 5 or Clause 6.

(Amended by the Ministerial Regulation No.216, (B.E. 2541) coming into force on and from 10 April B.E.2541 onward.)

Clause 6 Quarter The write-off of bad debts from debtor accounts of other creditors in respect of the debts which have been discharged for the debtors between 1 January B.E. 2556 to 31 December B.E. 2557 in consequence of the debt restructuring by other creditors that have carried out debt restructuring by applying the criteria on debt restructuring of financial institutions as prescribed by the Bank of Thailand may be carried out without satisfaction of the rules in Clause 4, Clause 5, or Clause 6

"Financial institutions" means

- (1) state financial institutions established under specific laws
- (2) financial institutions under the law governing financial institution business
- (3) Thai Asset Management Corporation under the law governing Thai Asset Management Corporation;
- (4) asset management companies under the law governing asset management companies;
- (5) other juristic persons prescribed by Director-General of the Revenue Department with the approval of the Minister.

"Other creditors" means non-financial institution creditors who have entered into negotiations jointly with financial institutions in the restructuring of debts for debtors and have executed written agreement with the financial institution creditors.

"Debtors" means the debtors of other creditors who are also debtors of financial institutions, and shall be include the debtor's guarantors

(Amended by the Ministerial Regulation No. 306, (B.E. 2557) dated 29 December 2557)

Clause 6 quinque Regarding the write-off of bad debts from debtor accounts of financial institutions in respect of the debts classified as loss and doubtful of loss for which a provision is made at one hundred per cent according to the rules prescribed by the Bank of Thailand, for the portion that a provision is made in the accounting period ending on or before 31 December B.E.

2540, the write-off may be carried out without satisfaction of the rules in Clause 4, Clause 5, or Clause 6.

Regarding the write-off of bad debts from debtor accounts of financial institutions in respect of the debts classified as loss and doubtful of loss for which a provision is made at one hundred per cent according to the rules prescribed by the Bank of Thailand, for the portion that a provision is made in the accounting period ending on or before 31 December B.E. 2534 until the accounting period ending on 31 December B.E. 2539,

(1) with respect to the part that a provision has already been made and treated as expenditure in the computation of net profits or net loss in such accounting period, the bad debt may be written off from debtor account without satisfaction of the rules in Clause 4, Clause 5, or Clause 6,

(2) with respect to the part that a provision has been made but may not be treated as expenditure in the computation of net profits or net loss in such accounting period, the write-off of bad debt from debtor account shall be carried out in accordance with the rules in Clause 4, Clause 5 or Clause 6.”

(Amended by the Ministerial Regulation No. 221, (B.E. 2542) which shall be applicable for the accounting periods ending on or after 31 December B.E. 2542)

“Financial institutions” means

(1) commercial banks under the law governing commercial banking;

(2) finance companies, finance and securities companies or credit foncier companies under the law governing the undertaking of finance business, securities business and credit foncier business;

(3) asset management companies in which the financial institutions under the law governing asset management companies or the Financial Institutions Development Fund holds shares directly or indirectly more than 50 per-cent of all voting shares, provided that the indirect shareholding shall be in accordance with the rules, procedures and conditions prescribed by Director-General of the Revenue Department;

(4) other juristic persons prescribed by Director-General of the Revenue Department with the approval of the Minister.

(Amended by the Ministerial Regulation No. 225, (B.E. 2542) which shall be applicable for the accounting periods ending on or after 31 December B.E. 2542)

Clause 6 Novem In a case of writing off bad debts from a debtor account of a creditor, who is the seller or the consigner of goods, where the goods caught fire or got damaged from or due to the fire to the extent that they are unable to be resold, provided that the creditor has not received the payment of the goods and the debtor has already been discharged by the creditor after the goods caught fire or are properly destroyed, the creditor may carry out without meeting the requirements of the rules prescribed in Clause 4, Clause 5 or Clause 6 provided that the

creditor shall include income derived from the sale of goods or the consignment of goods in the calculation of net profits for the purpose of paying Corporate Income Tax.

Debtor means a debtor who was the purchaser or the consignee of goods and had establishment in the area where the fire occurred as a result of the political rallies between 1 March B.E. 2553 and 31 May B.E. 2553.

(Amended by the Ministerial Regulation No. 284, (B.E. 2554) which has come into force as from 26 October B.E. 2554)

Clause 6 Decem The write-off of bad debts from debtor accounts of creditors which debtors suffered from flood of other creditors in respect of the debts which have been discharged for the debtors suffered from flood in consequence of the debt restructuring by other creditors that have carried out debt restructuring by applying the criteria on debt restructuring of debtors suffered from flood as prescribed by the Bank of Thailand and the restructuring contract were made between 25 July B.E. 2554 to 31 December B.E. 2555 provided that only discharging for the debtors under the restructuring contract which has been made between 25 July B.E. 2554 to 31 December B.E. 2558 may be carried out without satisfaction of the rules in Clause 4, Clause 5 or Clause 6

“Financial institutions” means

- (1) State financial institutions established by specific law
- (2) Financial institutions under the law governing financial institution
- (3) Thai Asset Management Corporation under the law governing Thai Asset Management Corporation;
- (4) Asset management companies under the law governing asset management companies;
- (5) Credit card companies which is non-financial institutions under the law governing financial institutions
- (6) Personal loan companies under the governing of non-financial institution under the law of financial institution business
- (7) Other juristic persons prescribed by Director-General of Revenue Department with the approval of the Minister.

“Other creditors” means non-financial institution creditors who have entered into negotiation with financial institution under the debts restructuring with the debtors suffered from flood and agree in writing with financial institution creditors

“Debtor suffered from flood of other creditors” means debtor suffered from flood of other creditors, who, in turn, was a debtor of financial institution and also suffered from flood, and shall include the guarantor of debtor suffered from flood of other debtors.

(Amended by the Ministerial Regulation No. 298, (B.E. 2556) which has come into force as from 24 January B.E. 2556)

Clause 6 undecim The write-off of bad debts by non-life insurer creditors who are entitled to claim compensation under reinsurance treaty and such creditors have impaired the assets following the criteria of the Office of Insurance Commission provided that only assets from reinsurance for loss or property damage suffered by flood occurred in Thailand between 1 July B.E.2554 to 31 December B.E. 2554 may be commit without satisfaction of the rule in Clause 4, Clause 5 or Clause 6

Non-life insurance means a company incorporated under Thai law granted with non-life insurance business license governing by non-life insurance law which includes also a branch of foreign company granted with non-life insurance business license under non-life insurance law

Assets from reinsurance mean flood compensation which non-life insurance company has the right to claim compensation under reinsurance treaty from Reinsurance Company

(Amended by the Ministerial Regulation No. 319, (B.E. 2559) which shall be applicable for the accounting periods ending on or after 1 January B.E. 2554)

Clause 7 The debt of any debtor which has been taken completely according to the rule, procedures and conditions as stipulated in this Ministerial Regulation in any accounting period shall be written off as bad debt from debtor account and treated as expenditure in such accounting period, except for the cases under Clause 5(2) and (3) where it shall be treated as expenditure in the accounting period that the court endorses the lawsuit, the application for participation in debt servicing or the application for repayment of debt, and for the case of Clause 6 ter where it shall be treated as expenditure in the accounting period that the court gives an order of approval of the business reorganization plan of the debtor, and for the case under Clause 6 Novem where it shall be treated as expenditure in the accounting period that the creditor, who is the seller or the consigner of goods have discharged for the debtor who is the purchaser of consignee of goods, as the case may be.”

(Amended by the Ministerial Regulation No. 284, (B.E. 2554) which has come into force as from 26 October B.E. 2554)

Clause 8 This Ministerial Regulation shall be applicable to the accounting periods ending on or after 31 December B.E. 2534.

Given on the 29th Day of October B.E. 2534

Virabongsa Ramangkura
Deputy Minister, acting for the
Minister of Finance

(Government Gazette, Volume 108, Part 194, dated 7th November B.E. 2534)