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Official language is Thai language

ROYAL DECREE

Issued under the Revenue Code
Regarding Revenue Tax Exemption (No. 364)
B.E. 2542

BHUMIBOL ADULYADEJ REX.

Given on the 29th Day of December B.E. 2542 (1999);
Being the 54th Year of the Present Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to exempt income tax for seller and securities purchaser in certain cases.

By virtue of Section 221 of the Constitution of the Kingdom of Thailand and Section 3(1) of the Revenue Code as amended by the Revenue Code Amendment Act (No.10) B.E. 2496, the King's Most Excellent Majesty hereby enacts a Royal Decree as follows:

Section 1 This Royal Decree is called the "Royal Decree Issued under the Revenue Code Regarding Revenue Tax Exemption (No. 364), B.E. 2542 (1991)"

Section 2 This Royal Decree shall be effective for the accounting period which begins in or after the 1st of January, B.E. 2542 (1999).

Section 3 In this Royal Decree,

"The business of buying or selling securities under the Repurchase Agreement" means the business which an agreement is made between the seller and securities purchaser, where seller agrees to sell the securities to the purchaser under the agreement to re-purchase in the future. Meanwhile, the securities purchaser agrees to buy the securities under the agreement of re-sell in the future. The time limit and price are agreed in advance. This is provided under the rules, procedures and conditions as prescribed by Director-General.

"Securities" means securities under the Law of Securities and Exchange.

"Manufactured dividend" means money which securities purchaser pays to the seller since there is a dividend payment from the securities purchased from the seller. Such securities have been held before re-sell to the securities seller.

“Manufactured interest” means money which securities purchaser pays to the seller since there is an interest payment from the securities purchased from the seller. Such securities have been held before re-sell to the securities seller.

(See the Notification of the Director-General of the Revenue Department on Income Tax (No. 105))

Section 4 The income tax under Division 3, Chapter 3, Title 2 of the Revenue Code shall be exempted for the securities seller who trades securities under the Repurchase Agreement. The exemption is on income arising from selling such securities to the securities purchaser. This is provided under the rules, procedures and conditions as prescribed by Director-General.

In the case where the securities seller under the first paragraph is a company or juristic partnership established under the foreign law that is not carrying on business in Thailand, and if receives manufactured dividend or manufactured interest from selling securities in such business. The seller of securities shall be withheld 10 percent of the received manufactured dividend or 15 percent of the received manufactured interest in order to obtain the exemption under the first paragraph.

(See the Notification of the Director-General of the Revenue Department on Income Tax (No. 105))

Section 5 The income tax under Division 3, Chapter 3, Title 2 of the Revenue Code shall be exempted for the dividend received from a company established under the Thai law or shared profit from mutual funds under the Law of Securities and Exchange, for:

- (1) A company established under the Thai law who sells the securities under the Repurchase Agreement and repurchases the securities that issued by the same juristic person, or the same mutual fund project, the same type, category, and at the amount of sold securities. The exemption is equal to a half amount of dividend income or shared profit received.
- (2) A company as mentioned in (1) who is a registered company or holds shares of a dividend payer company at least twenty-five percent of voting shares. Besides, the dividend payer company must not be a shareholder of such company, whether directly or indirectly. The exemption is equal to a whole amount of dividend income or shared profit received.

The company under (1) and (2) must be a person who is exempt from income tax under Section 4 and holds shares or investment units which incur dividend or shared profit for not less than three months as from the date of acquisition of the shares or investment units to the date in which such income arises, and still holds shares or investment units for not less than three months from the date in which such income arises. This shall include the period between selling and repurchasing such shares or investment units.

Section 6 The income tax under Division 3, Chapter 3, Title 2 of the Revenue Code shall be exempted, for the securities purchaser whose business is involved with trading of securities under the Repurchase Agreement, for income and transferring of assets as follows:

- (1) The payment for subscription of new shares which the securities seller pays to the securities purchaser, in order to exercise the right through the purchaser, to subscribe new shares of the company who is the owner of securities.
- (2) The transferring of new shares back to the securities seller, which is a result from the exercise of the right in subscribing new shares of the company who is the owner of securities, by the securities purchaser under (1).

Section 7 The Minister of Finance shall have charge and control of the execution of this Royal Decree.

Countersigned by

Chuan Leekpai

Prime Minister

Remarks :- The reason for the promulgation of this Royal Decree is that the purpose of securities trading under the Repurchase Agreement is to lend money, however, trading the securities is liable to corporate income tax. As a result, it is expedient to exempt corporate income tax in relevant transactions due to the inconsistency between tax burden and purpose of such business. This shall encourage the growth of financial market and capital market. It is necessary to enact this Royal Decree.

(Government Gazette, Volume 116, Part 138 Gor, dated 31 December B.E.2542 (1999))