

PETROLEUM INCOME TAX ACT (No.9),

B.E. 2562

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;

Given on the 15th Day of April, B.E. 2562;

Being the 4th Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is deemed expedient to amend the law on petroleum income tax;

Be it, therefore, enacted by the King's most Excellent Majesty, by and with the advice and consent of the National Legislative Assembly serving as the National Assembly, as follows:

Section 1. This Act is called the "Petroleum Income Tax Act (No.9), B.E. 2562".

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. The provision of Section 8 of Petroleum Income Tax Act, B.E. 2514 shall be repealed and replaced with the following:

"**Section 8.** All accounts, records and supporting documents on the company's petroleum operation shall be kept in the Thai language and in the Thai currency. Unless the company files a request, the Director-General may grant an approval to keep in the foreign language or in a company's functional currency which is not the Thai currency, or change the functional currency, in accordance with the rules, procedures and conditions as prescribed by the Minister in the Government Gazette.

Company received an approval by the Director-General under paragraph one shall use the foreign language or the functional currency that is not the Thai currency as from the first day of the approved accounting period, and shall constantly use until it is approved by the Director-General to change."

Section 4. The following provision shall be added as Section 8/1 of the Petroleum Income Tax Act, B.E. 2514.

“**Section 8/1.** When the Director-General grants an approval to the company to use its functional currency which is not the Thai currency or to change its functional currency under Section 8, the company shall calculate the value of monies, assets, debts and other items in the financial statements as of the last day of the accounting period prior to the accounting period which the Director-General grants the approval, and all other items including the remaining annual loss under Section 28 (1) used in the calculation of income tax remaining as of that date, to be in its functional currency in accordance with the rules, procedures and time periods prescribed by the Minister in the Government Gazette.”

Section 5. The provisions in (12) and (13) of Section 26 of Petroleum Income Tax Act, B.E. 2514 shall be repealed and replaced with the following:

“(12) monies, debts or claims bearing values in the foreign currency which are received or paid during the accounting period, shall be converted to the Thai currency at the rate such foreign currency is bought or sold.

In the absence of buying or selling of the foreign currency, such foreign monies, debts or claims shall be calculated at the average exchange rate prevailing in the month prior to the month of receipt or payment, using an average daily exchange rate at which the commercial banks buy or sell the foreign currencies, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may grant an approval to calculate using other exchange rate which is in accordance with the rules of accountancy, providing that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General grants the approval to use the exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;

(13) monies, debts or claims bearing values in the foreign currency remaining on the closing date of the accounting period shall be converted to the Thai currency, using the average buying or selling rate of the commercial banks on the last operational day of the accounting period, as the case may be, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may grant an approval the calculation using other exchange rate that is in accordance with the rules of accountancy, provided that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use other exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;”

Section 6. The following provisions shall be added as Division 2/1: Calculation of Net Profit for Income Tax of Company Using the Functional Currencies which are not the Thai Currency, Section 33/1 to Section 33/5 of the Petroleum Income Tax Act, B.E. 2514.

“DIVISION 2/1

Calculation of Net Profit for Income Tax of Company Using the Functional Currencies which are not the Thai Currency

Section 33/1. A company receiving an approval to use the currency which is not the Thai currency as its functional currency under Section 8 shall calculate the net profit for filing the income tax by using such functional currency, and the provisions of Division 2 Income Tax and Net Profit Calculation, except Section 26 (10), (12) and (13), shall apply *mutatis mutandis*.

Section 33/2. The value of properties other than inventories of merchandise shall be carried at cost. If the cost is in other currency that is not the functional currency, it shall be converted to be the functional currency by the same procedures prescribed in Section 33/3. Such cost may be decreased by means of capital expenditure allowances under Section 26 (7), but shall not be decreased by revaluation. It may be increased by revaluation only as provided by the Revenue Code.

Section 33/3. Monies, debts or claims bearing values in other currency which is not the functional currency received or paid during an approved accounting period of the company under Section 8 shall be converted to the functional currency at the rate that the other currency being not the functional currency is bought or sold.

In the absence of a buying or selling of the other currency which is not the functional currency, such other monies, debts or claims shall be calculated at the average exchange rate of a month prior to the month of receipt or payment, using the average of daily exchange rate at which the commercial banks buy or sell such currency, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may approve the calculation using other exchange rate that is in accordance with the rules of accountancy, providing that

this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use the exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General.

Section 33/4. Monies, debts or claims bearing values in other currency that is not the functional currency remaining on the closing date of the accounting period shall be converted to the functional currency at the average exchange rate that commercial banks buy or sell on the last operational day of the accounting period, as the case may be, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may approve the calculation using other exchange rate that is in accordance with the rules of accountancy, providing that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use the exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General.

Section 33/5. Gains or losses from currency exchange rates arising from the calculation under Section 8/1 or from the conversion of the functional currency to the Thai currency, for the payment of tax under Section 42, shall not be regarded as revenues or expenses in calculating net profit for income tax.”

Section 7. The following provision shall be added as paragraph three of Section 42 of the Petroleum Income Tax Act, B.E. 2514.

“Unless an approval is granted under paragraph two, a company that use the functional currency which is not the Thai currency under Section 8 shall pay tax under paragraph one in the Thai currency by calculating with the average exchange rate of the buying rate and the selling rate of the commercial banks, as computed by the Bank of Thailand on the last operational day before the tax payment date.”

Section 8. The following provision shall be added as paragraph two of Section 56 of the Petroleum Income Tax Act, B.E. 2514.

“An assessment of taxes, penalties, and surcharges, or any other operations of an assessment officer pursuant to this Act on the company that has been granted an approval under Section 8 to use the functional currency which is not the Thai currency, the assessment officer shall carry out by applying the functional currency of the company.”

Section 9. The provisions of (12) and (13) of Section 65 octo of the Petroleum Income Tax Act, B.E. 2514, as amended by the Petroleum Income Tax Act (No. 3), B.E. 2522 shall be repealed and replaced by the following:

“(12) monies, debts or claims bearing values in a foreign currency which are received or paid during an accounting period, shall be converted to the Thai currency at the rate such foreign currency is bought or sold.

In the absence of buying or selling of the foreign currency, such foreign monies, debts or claims shall be calculated at the average exchange rate prevailing in the month prior to the month of receipt or payment, using an average daily exchange rate at which the commercial banks buy or sell the foreign currencies, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may grant an approval to calculate using other exchange rate which is in accordance with the rules of accountancy, providing that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use other exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;

(13) monies, debts or claims bearing values in the foreign currency remaining on the closing date of the accounting period shall be converted to the Thai currency, using the average buying or selling rate of the commercial banks on the last operational day of the accounting period, as the case may be, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may grant an approval the calculation using other exchange rate that is in accordance with the rules of accountancy, provided that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use other exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;”

Section 10. The following provision shall be added as Section 65 octo/1 of the Petroleum Income Tax Act, B.E. 2514:

“Section 65 octo/1. In the case where a company under this Division being a company receives an approval under Section 8 to use the functional currency which is not the Thai currency, the calculation of revenues, expenses and net profits of such company to pay income tax shall be calculated using the functional currency under Section 65 octo, but Section 65 octo (10), (12) and (13) shall not be applied and shall instead proceed as follows:

(1) the value of properties other than inventories of merchandise shall be carried at cost. If the cost is in other currency which is not the functional currency, it shall be converted to the functional currency by the same procedures prescribed in (2). Such cost may be devalued by means of capital expenditure allowances under Section 65 octo (7), but shall not be devalued by revaluation. It may be increased by revaluation only as provided by the Revenue Code;

(2) monies, debts or claims bearing values in other currency that is not the functional currency received or paid during the accounting period shall be converted to the functional currency at the rate which such other currency that is not the functional currency is bought or sold;

In the absence of buying or selling of such other currency which is not the functional currency, such other currency, debts, or claims shall be calculated at the average exchange rate prevailing in the month prior to the month of receipt or payment, using an average daily exchange rate at which the commercial banks buy or sell the foreign currencies, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may grant an approval to calculate using other exchange rate which is in accordance with the rules of accountancy, providing that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use other exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;

(3) monies, debts, or claims bearing values in other currency which is not the functional currency remaining on the closing date of the accounting period shall be converted to the functional currency, using the average buying or selling rate of the commercial banks on the last operational day of the accounting period, as the case may be, as computed by the Bank of

Thailand. Unless the company files a request, the Director-General may grant an approval the calculation using other exchange rate that is in accordance with the rules of accountancy, provided that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use other exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;

(4) gains or losses derive from currency exchange rates arising from calculations under Section 8/1 or from converting the value of the functional currency to the Thai currency for payment of tax under Section 42 shall not be regarded as incomes or expenses in calculating net profit for paying income tax.”

Section 11. The provision of (10) and (11) of Section 65 unviginti of the Petroleum Income Tax Act, B.E. 2514 as amended by the Petroleum Income Tax Act (No.5), B.E. 2541 shall be repealed and replaced by following:

“(10) monies, debts, or claims bearing values in the foreign currency received or paid during an accounting period, shall be converted to the Thai currency at the rate such foreign currency is bought or sold.

In the absence of buying or selling of the foreign currency, such monies, debts, or claims shall be calculated at the average exchange rate prevailing in the month prior to the month of receipt or payment, using an average daily exchange rate at which the commercial banks buy or sell foreign currencies, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may grant an approval to calculate using other exchange rate which is in accordance with the rules of accountancy, providing that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use other exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;

(11) monies, debts, or claims bearing values in the foreign currency remaining on the closing date of the accounting period shall be converted to the Thai currency, using the average buying or selling rate of the commercial banks on the last operational day of the accounting period, as the

case may be, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may grant an approval the calculation using other exchange rate that is in accordance with the rules of accountancy, provided that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use other exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;”

Section 12. The following provision shall be added as Section 65 unviginti/1 in Division 7 ter Special Provision for the Joint Development Area of the Petroleum Income Tax Act, B.E. 2514:

“**Section 65 unviginti/1.** In the case where a company enters into a production sharing contract with the Joint Authority under this Division being a company receives an approval under Section 8 to use the functional currency which is not the Thai currency, the calculation of revenues, expenses and net profits of such company to pay income tax shall be calculated using the functional currency under Section 65 unviginti, but Section 65 unviginti (8), (10) and (11) shall not be applied and shall instead proceed as follows:

(1) the value of properties other than inventories of merchandise shall be carried at cost. If the cost is in other currency which is not the functional currency, it shall be converted to the functional currency by the same procedures prescribed in (2). Such cost may be devalued by means of capital expenditure allowances under Section 65 unviginti (5), but shall not be devalued by revaluation. It may be increased by revaluation only as provided by the Revenue Code;

(2) monies, debts or claims bearing values in other currency that is not the functional currency received or paid during the accounting period shall be converted to the functional currency at the rate which such other currency that is not functional currency is bought or sold;

In the absence of buying or selling of such other currency which is not the functional currency, such other monies, debts, or claims shall be calculated at the average exchange rate prevailing in the month prior to the month of receipt or payment, using an average daily exchange rate at which the commercial banks buy or sell the foreign currencies, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may grant an approval to calculate using other exchange rate which is in accordance with the rules of accountancy, providing that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use other exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;

(3) monies, debts, or claims bearing values in other which is not the functional currency remaining on the closing date of the accounting period shall be converted to the functional currency, using the average buying or selling rate of the commercial banks on the last operational day of the accounting period, as the case may be, as computed by the Bank of Thailand. Unless the company files a request, the Director-General may grant an approval the calculation using other exchange rate that is in accordance with the rules of accountancy, provided that this shall be in accordance with the rules, procedures and conditions prescribed by the Minister in the Government Gazette.

In the case where the Director-General has approved the company to use other exchange rate as requested, the company shall comply such approval from the accounting period as prescribed by the Director-General;

(4) gains or losses derive from currency exchange rates arising from calculations under Section 8/1 or from converting the value of the functional currency to the Thai currency for payment of tax under Section 42 shall not be regarded as incomes or expenses in calculating net profit for paying income tax;”

Section 13. The company receiving an approval from the Director-General to keep the accounts, records and documents supporting the accounts in the foreign language and in the foreign currency under Section 8 of the Petroleum Income Tax Act, B.E. 2514 prior to the date on which this Act comes into force shall be deemed to be the company receiving the approval under Section 8 of the Petroleum Income Tax Act, B.E. 2514 which is amended by this Act from the day this Act comes into force.

Section 14. The provisions of Section 26 (12) and (13), Section 65 octo (12) and (13) and Section 65 unviginti (10) and (11) of the Petroleum Income Tax Act, B.E. 2514 which is amended by this Act shall be in force to an accounting period which begins on or after the 1st day of January, B.E. 2562.

Section 15. The provisions of the Petroleum Income Tax Act, B.E. 2514 prior to the amendment by this Act shall remain applicable only for the pending tax collection or tax payable before the day which this Act comes into force.

Section 16. The Minister of Finance shall have the charge and control of the execution of this Act.

Countersigned by:

General Prayut Chan-o-cha

Prime Minister