

**LAW OF INFORMATION ENERGY
PETROLEUM INCOME TAX ACT (No. 3) B.E. 2522**

**Bhumibol Adulyadej P.R.
Given on the 30th Day of December, B.E. 2522.
Being the 34th Year of the Present Reign.**

By Royal Command of His Majesty King Bhumibol Adulyadej, it is hereby proclaimed 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 Assembly, as follows:

Section 1. This Act shall be called the "Petroleum Income Tax Act (No.3), B.E. 2522".

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

Section 3. The following provisions shall be added as Division 7 bis; Section 65 bis, Section 65 ter, Section 65 quarter, Section 65 quinque, Section 65 sex, Section 65 septem, Section 65 octo, Section 65 novem, Section 65 decem, Section 65 undecim, Section 65 duodecim and Section 65 tredecim of the Petroleum Income Tax Act, B.E. 2514.

DIVISION 7
Provisions for Specific Cases

Section 65 bis. The provisions in this Division shall apply to the companies that have entered into petroleum contracts before B.E. 2512 and have duly executed the contracts for the purchase and sale of natural gas with the Natural Gas Authority of Thailand before B.E. 2522. It also applies to other companies to be prescribed by the Royal Decrees.

The definitions of “income”, “disposal” and “company” in Section 65 ter shall replace the definitions of those words in Section 4 and the provisions in Section 65 quarter, Section 65 quinque, Section 65 sex, Section 65 septem, Section 65 octo, Section 65 novem, Section 65 decem and Section 65 undecim shall replace the provisions in Section 20, Section 21, Section 24, Section 25, Section 26, Section 31, Section 41 and Section 43 respectively, for the companies under paragraph

The definition of “tax reference price” in Section 4 and the provisions in Section 13, Section 18, and Section 32 shall not apply to the companies under paragraph 1.

The provisions in other Divisions of this Act shall apply to the companies under paragraph 1 insofar as they are not contrary to or inconsistent with the provisions in this Division. Wherever it refers to “income”, “disposal” or “company”, it shall mean “income”, “disposal” or “company”, respectively, under this Division. Wherever it refers to Section 20, Section 21, Section 24, Section 25, Section 26, Section 31, Section 41, and Section 43, it shall mean Section 65 quarter, Section 65 quinque, Section 65 sex, Section 65 septem, Section 65 octo, Section 65 novem, Section 65 decem and Section 65 undecim, respectively, under this Division.

Section 65 ter. In this Division:

“income” means money, properties, or other benefits acquired that can be calculated as money, and it shall also include the tax and duty paid for by other persons;

“disposal” means the export of petroleum from the Kingdom, the delivery of petroleum to a refinery or a storage place for petroleum refining of the company, appropriation of petroleum subject to royalty for use in any activity of the company other than for sale, or transfer of petroleum subject to royalty without consideration;

“company” means a company under the petroleum law that holds a concession or has a joint interest in the concession.

Section 65 quarter. The company shall pay income tax as follows:

(1) an income tax for each accounting period at the rate specified by the Royal Decree that shall not be lower than 35 per cent and not be higher than 48 per cent of the net profit derived from the petroleum business;

(2) an income tax of 23.08 per cent of the profit remaining after payment of the income tax under (1) or any other category of money set aside from such profit, or the money regarded as such profit. This applies only to the amount disposed of outside the Kingdom.

For the computation of the income tax under (2), the income tax under (2) shall be regarded as profit for disposal out of the Kingdom as well.

Section 65 quinque. In the case where there is a transfer of petroleum operation, if the transferee company pays an income in the nature of rights, annuity, or any other recurring income in consequent of such transfer, and if the total amount of such income is not definitely determinable, the person receiving such income shall pay income tax at the rate specified by the Royal Decree, that shall not be lower than 50 per cent and not be higher than 60 per cent of the income after the deduction of cost allowed under Section 33.

Whoever receiving interest on loans from the company shall pay income tax on this interest at the rate specified in paragraph 1. The tax withheld and remitted under Section 45 may be used as credit against the tax payable.

Whoever receiving dividends or shares of profit from the company which is liable to income tax under Section 65 quarter (1) but not liable to income tax under Section 65 quarter (2), shall pay income tax at 23.08 per cent of those dividends or shares of such profit. The tax withheld and remitted under Section 45 may be used as credit against the tax payable.

Section 65 sex. . Subject to Section 65 septem and Section 65 octo, ordinary and necessary expenditures shall be limited specifically to the expenditures that the company can prove to be ordinary and necessary, in a reasonable amount, and only expended for its petroleum operation, whether incurred within or outside the Kingdom; and within these limits, ordinary and necessary expenditures shall include:

- (1) rent or other considerations for hire of property;
- (2) labour cost, service charges, cost of materials consumed, and other similar expenditures paid or incurred for the exploratory or production drilling;
- (3) entertainment expenses;
- (4) bad debts written off
- (5) contribution to a provident or pension fund;
- (6) allowance for capital expenditure;
- (7) royalty, whether in cash or in kind;
- (8) head office expenditure reasonably allocable to the petroleum operation of the company;

(9) cost of property or rights after deduction of capital expenditure allowance, for revenue under Section 22 (4);

(10) interest on loans that the company can prove the identity of the recipients and tax for the payment of such interest has been withheld as prescribed under Section 45.

Section 65 septem. Items not to be treated as ordinary and necessary expenditures shall include: (1) capital expenditure or expenditure laid out for making an addition to, or an alteration, extension, or improvement of properties; Capital expenditure under paragraph 1 means the expenditure laid out for acquiring properties or benefits, whether directly or indirectly, if such properties or benefits effect the operation for more than one accounting period; and it shall also include all losses and ordinary and necessary expenditures incurred or paid prior to the first accounting period under Section 65 octo

(1), paragraph 2;

(2) an expenditure of personal nature, a gift or a donation;

(3) losses recoverable through insurance or any contract of indemnity;

(4) an expenditure made in consideration for the company's capital or property;

(5) any reserve or contribution to any fund, except as provided in Section 65 sex (5);

(6) income tax, penalty and surcharge which the company is liable to under this Act, or abroad;

(7) an expenditure paid or incurred for such operation or for acquiring income not subject to tax under this Act;

(8) any expenditure that the company cannot prove the identity of the recipient;

(9) surface reservation fees and surcharge payable under the petroleum law; (10) fines for criminal offences,

Section 65 octo. The computation of revenue, expenses, and net profit under this Division shall be as follows:

(1) Net profit shall be computed for each accounting period.

The first accounting period shall begin on the day the company makes its first sale or disposal of petroleum subject to royalty; provided, however, that the company, with the approval of the Director-General, chooses to use as the beginning date of the first accounting period any day of the same month before the date of its first sale or disposal of such petroleum, it shall begin on the date so chosen. Each subsequent accounting period shall begin on the closing date of the preceding accounting period.

An accounting period shall be twelve months long, but may be shorter in the following cases:

(a) if the company chooses any day as the closing date of the first accounting period;

(b) if the company ceases its petroleum business, the date of dissolution shall be the closing date of the accounting period;

(c) if the company changes the closing date of an accounting period, with the approval of the Director-General.

In the case the company transfers any rights under a concession prior to the beginning date of the first accounting period under paragraph 2, this date of transfer shall be treated as the beginning and closing date of the accounting period for computing net profit arising from the transfer of such rights. No accounting period shall be deemed to exist between such closing date and the beginning date of the first accounting period under paragraph 2.

(2) Subject to the provisions of Division 2 and this Division, the accounting methods, rules and practices for the computation of revenue, expenses, and net profit of the company shall be in accordance with sound and usual accounting methods, rules and practices of the petroleum industry.

(3) The proceeds from the sale of petroleum under Section 22 (1) shall be based on the received or entitled price received from the sale of petroleum or petroleum products.

(4) The value of petroleum under Section 22 (2) shall be computed from the market price.

In the case of delivery of petroleum to a refinery or a storage place for petroleum refining of the company, the value of petroleum under paragraph 1 shall be determined on the day of sale or export of the refined products. The total shall be the income for that accounting period in which such sale or export occurs. If there is a disposal of petroleum by other means, the value of the petroleum under paragraph 1 shall be determined at the time of disposal. The total shall be included as the income for the year in which such disposal occurs.

In determining of the market price and quantity of petroleum whose value shall be included as income under paragraph 2, an average calculated from the total income obtained from the sale of refined products or the total value according to the market price of the exported refined products, whichever the case may be, shall be the value of the petroleum. This shall follow the sound and usual accounting practices of the petroleum industry. But it shall not be regarded that there is a sale or export of the refined products in any accounting period after that of delivery of that petroleum to the refinery, unless the company can prove that there has not yet been a sale or export of the refined products.

(5) The value of petroleum under Section 22 (3) shall be computed in accordance with the provisions of the petroleum law pertaining to computation of the value of petroleum delivered as royalty in kind.

(6) If a company with a joint interest in a concession incurs expenses in petroleum exploration or in developing a petroleum reservoir to acquire such interest,

but such expenses are not paid to the other companies having joint interest in the concession, such expenses shall not be treated as income of such other companies.

(7) Capital expenditure allowances shall be deductible only for such categories, at such rates, and under such conditions, as prescribed by the Royal Decree.

(8) Labour cost, service charges, cost of materials consumed, and other similar expenses paid or incurred in exploratory or production drilling may, at the company's option, be treated as capital expenditure for the accounting period in which such expenses are paid or incurred.

(9) The deduction of entertainment expenses shall be in accordance with the conditions prescribed by the Ministerial Regulations.

(10) The value of properties other than inventories of merchandise shall be carried at cost. If the cost price is in a foreign currency, it shall be converted into the Thai currency in accordance with the methods described in (12). Such value may be decreased by means of capital expenditure allowances under (7), but may not be decreased by revaluation. It may be increased by revaluation only as provided by the Revenue Code.

(11) The value of inventories of merchandise at the end of an accounting period shall be carried at cost, or at cost or market price, whichever is lower. The value so determined shall be the value of such inventories to be carried forward to the new accounting period.

Any accounting method once adopted in computing the cost under paragraph 1 shall be consistently applied. Deviation from it may be made only with the approval of the Director-General.

(12) The currencies, debts or claims bearing values in a foreign currency received or paid during an accounting period shall be valued in the Thai currency at the rate that foreign currency is bought or sold.

In the absence of a purchase or sale of a foreign currency, such currencies, debts or claims shall be valued at the monthly average rate of exchange prevailing in the month prior to the month of receipt or payment, using the average of daily rate of exchange at which commercial banks buy or sell foreign currencies, as computed by the Bank of Thailand.

(13) The currencies, debts or claims bearing value in a foreign currency remaining on the closing date of the accounting period shall be valued in the Thai currency, using the latest average buying or selling rate, as the case may be, of commercial banks during such accounting period, as computed by the Bank of Thailand.

(14) Bad debts can be written off only after reasonable action for recovery thereof has been taken. Any bad debt written off and subsequently recovered shall be included as revenue for the accounting period in which it is recovered.

(15) Contributions to a provident fund or pension fund may be deducted as expenses only to an extent not exceeding 10 per cent of the salaries or wages

received by the employees during the accounting period, subject also to the following conditions:

- (a) the fund is established exclusively for the benefits of the employees;
- (b) the fund is set aside beyond the possession of the company;
- (c) the fund cannot be used for any purpose other than for the benefits of the fund;
- (d) contributions to the fund are irrecoverable by the company; and
- (e) contributions to the fund are made in accordance with the written regulations governing the fund.

Section 65 novem. In the case where a company has income subject to income tax under Section 65 quarter (2), or has to withhold tax under Section 45 for an income under Section 65 quinque, paragraph 3, in any accounting period, the company shall receive credit for deduction from such tax for the petroleum produced for domestic use in the amount of money at the following rates:

(1) 4.375 per cent of the gross income received from the sale of petroleum, or from the value of petroleum disposed of or delivered as royalty under Section 22 (1), (2) and (3), for petroleum produced from the exploration blocks that the Department of Mineral Resources has designated as offshore exploration blocks having a waterdepth in excess of two hundred meters.

(2) 6.25 per cent of gross income received from the sale of petroleum, or from value of petroleum disposed of or delivered as royalty under Section 22 (1), (2) and (3), for petroleum produced from exploration blocks other than (1).

The deduction of credit from tax under paragraph 1 shall be subject to the following limitations: (1) Credit derived during any accounting period shall not exceed the tax under Section 65 quarter

(1) and (2) for the profit occurs during such accounting period, or tax under Section 65 ter (1) and Section 65 quinque, paragraph 3, as the case may be.

(2) Credit to be deducted in any accounting period shall not exceed the tax payable under Section 65 quarter (2) for such accounting period, or not exceed the tax payable under Section 65 quinque, paragraph 3, for such accounting period, which must be withheld under Section 45, as the case may be. Any balance of credit shall be carried forward for deduction in the following accounting periods.

Section 65 decem. An income return for income subject to tax under Section 65 quarter (1) or Section 65 quinque shall be filed within five months from the closing date of the accounting period. For income subject to income tax under Section 65 quarter (2), the return shall be filed within seven days from the date of disposal.

An income return under Section 37 shall be filed within the time prescribed by the assessment officer, which shall not be later than thirty days from the date the company receives the notice of the transferor company's failure to file an income return.

The filing of return under Section 59 shall be made within the time prescribed by the assessment officer.

Section 65 undecim. For any tax payable, the company having the duty to file the income return under Division 3 shall pay the tax within five months from the closing date of the accounting period at the time of filing the income return; except in the case of filing the income return for tax payable under

Section 65 quarter (2), the tax shall be made within seven days from the date of disposal at the time of filing the income return.

In the case under Section 35, paragraph 2, the person responsible for filing an income return shall be responsible jointly with the company formed under a foreign law for the payment of the tax.

Section 65 duodecim. The provisions of Section 12 shall not apply to:

(1) income accrued to the company from other operations other than petroleum operation; (2) interest on loan that any person receives from the company.

Section 65 tredecim. In the case the company receives income from other operations other than petroleum operation, the company shall pay tax on such income under the Revenue Code.

The company shall maintain separate accounts, evidences, reports, and other documents relating to income from other operations mentioned in paragraph 1 from those relating to income from the petroleum operation.

In the case the company has expense which relates to both other operations and petroleum operation, such expense shall be apportioned between such other operations and the petroleum operation.

The value of petroleum under Section 22 (2) which the company used in operations other than petroleum operation in any accounting period shall be deducted as expense in computing net profit and net loss under the Revenue Code for income from operations other than petroleum operation in such accounting period.”

**Countersigned General Kriangsak Chomanan
Prime Minister**