

BIZ INSIGHT

Corporate-tax cut could have unexpected negative impacts

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THE STANDARD rate of corporate income tax (CIT) was fixed at 30 per cent for many years. In an effort to promote and reinforce the competitiveness of Thai companies in the global market, the rate was reduced to 23 per cent in 2012 and, since the beginning of 2013, a further reduction was made to 20 per cent. While the reduction in the rate has been widely welcomed by the business community, surprisingly, one result of the change may not turn out quite as expected. This is because one negative outcome caused by the rate reduction might possibly have been overlooked: the amount of income tax payable might be less than the amount of the tax credits which have been withheld at source during the course of the tax year.

A situation can arise where the profitability level of a business remains unchanged and the amount of withholding tax (WHT) credit available at the end of the year remains the same while the income tax liability is reduced due to the tax-rate reduction from 30 per cent to the current rate of 20 per cent. Thus, the amount of WHT credit might be greater than the income tax liability at the yearend, and the purpose of alleviating the tax burden of a taxpayer after the CIT rate reduction might not be well served.

Let's assume that during 2013, a company engaged in the service business has revenue of Bt1,000 and a net taxable profit of Bt100. At the end of 2013, the company has a WHT credit available of Bt27. In the case where the company was subject to the normal tax rate of 30 per cent, it would be liable to pay tax of Bt30 (income tax of Bt30 less WHT credit of Bt27). However, due to the rate reduction, the income tax liability will

now be only Bt20. Therefore, the company will have excess WHT credit of Bt7. Based on this example, the company would appear to have saved its tax cost by Bt10 (10 per cent tax rate reduction on net profit of Bt100). Assuming the same amount of WHT credit of Bt27, the tax saving would be in the form of a reduction in tax payable of Bt3 and an excess WHT credit of Bt7, which can be claimed as a cash refund.

A claim for a tax refund will inevitably trigger a tax audit by the Revenue Department. However, the procedure for claiming a tax refund might not be as simple or straightforward as it may appear. Not only is the process of a tax audit time-consuming but also a great amount of resources from both the taxpayer and the Revenue Department are required during the course of the tax audit. Furthermore, the cash-flow of the taxpayer would have to be retained

still bring about a tax investigation? The answer is "yes", as it could be questioned why the refund was not claimed and the tax officer may also want to look into the taxpayer's tax return in order to verify and confirm whether all taxes have been correctly paid.

In both cases, if the excess WHT credit can be claimed in full at the end of the tax audit process, the company will still enjoy the benefit of the reduction in the CIT rate but other administrative costs will have been incurred during the time-consuming process of the tax audit. On the other hand, if the Revenue Department discovers significant areas of non-compliance with the tax law, it may result in only a partial refund of WHT being granted or, in the worst case, additional tax to be paid by the company. Consequently, the reduction in the CIT rate may not eventually benefit a taxpayer, who receives a significant amount of WHT credits during the year.

To accomplish the true purposes of the tax rate reduction and the WHT system, such adverse outcome should be considered by the Revenue Department in order to determine what solutions could be achieved in order to avoid or prevent such an outcome. One possible solution would be to reduce the WHT rates to be in line with the current corporate tax rate.

In the meantime, taxpayers should prepare themselves in order to ensure that they have properly complied with the tax laws and regulations and that all supporting documents, including WHT certificates, etc, have been maintained and will be available upon request by the Revenue Department during the inevitable tax audit caused by the unexpected impact of the excess WHT credit arising from the reduction in the CIT rate.

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with the Revenue Department until the completion of the tax audit.

What if the taxpayer decides not to claim a tax refund? Would such a deci-