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CORPORATE TAX RATE CHANGES AND HALF-YEAR TAX FILING

LEADING THE WAY

PwC THAILAND

It's that time of the year when companies have to start preparing for their half-year tax filing. The procedure has always seemed quite simple and straightforward. However, now that the corporate income tax rate has changed from 23% to 20% this year, will your company still find filing as straightforward as it appears?

To understand the basics, it is necessary to consider Section 67 bis of the Revenue Code. It states that a company must file its half-year tax return (form PND 51) within two months from the end of the first six months of the accounting period. The company has to prepare an estimate of the net profit or loss arising from its business carried on during the full 12-month accounting period and the tax is computed and paid on one-half of the estimated taxable profit.

Another important concept related to the half-year tax filing is Section 67 ter of the Revenue Code, which outlines the related surcharges. It states that in a case where a company, without a reasonable excuse, failed to file a half-year return or filed a half-year return but the estimated net profit declared was lower than the net profit for the full accounting period by at least 25% of the latter, it must pay a surcharge of 20% of the tax underpaid.

The term "reasonable excuse" is very subjective and difficult to interpret. For that reason, the Revenue Department has provided guidelines. One of the most common is the one contained in Revenue Department Instruction No. Paw 50/2537 (Paw 50), which states that a company will have a reasonable excuse if it has prepared a net profit estimate and has filed a return for paying the half-year tax in an amount not less than one-half of the corporate income tax liability of the previous accounting period.

How would applying the Paw 50 guidelines work in practice? Let's assume that during 2012, the company had a net taxable profit of 1,000 baht and a tax liability of 230 baht (23% of the net taxable profit). In 2013, the company decided to pay the half-year tax based on half of last year's net taxable profit. In this scenario, the estimated half-year net taxable profit will be 500 baht and the tax liability of 20% will be 100 baht. Would this be a "reasonable excuse" in accordance with Paw 50?

To answer the question, we will have to refer back to Paw 50, which states that the company will have a reasonable excuse if it pays not less than one-half of its tax liability of the previous year. Therefore, in the scenario above, Paw 50 will not apply. The correct approach to applying Paw 50 would be to start from the previous year's tax liability.

If the company then underestimates its taxable profit, it would not need to worry about having a reasonable excuse if it follows Paw 50. Please be aware that the term "tax liability" is the amount of tax before any withholding tax has been taken into account. It is therefore different from the term "tax payable". Using the example above, the company should establish its tax liability at a minimum of 115 baht (half of last year's tax liability) and then estimate its net profit based on the tax liability. In this scenario, the estimated half-year net taxable profit would be 575 baht.

The difference in the tax liabilities under the two scenarios is summarised in the table.

If the company finds that by applying Paw 50 it may not truly reflect its performance during this period, it could consider alternative methods. Companies may use the actual performance for the first six or seven months and the forecast performance for the remainder of the year in order to estimate net taxable profit and the half-year tax payable. However, the company must endeavour to ensure that it will not underestimate its net profit by more than 25% of the actual taxable profit for the year.

If during the year, the company feels it underestimated its net profit by more than 25% of the actual amount and does not have a reasonable excuse, what should it do? Should it wait until the year-end and pay the penalty of 20%?

In this case, if after filing the half-year tax return, the company knows that it has underestimated the profit, it should submit an additional half-year tax return so that there will be no problem at the year-end. There will then be a surcharge

TWO SCENARIOS

	Scenario 1: Pay tax based on last year's net profit	Scenario 2: Pay tax based last year's tax liability
FY 2012		
Taxable profit	1,000.00	1,000.00
Half of taxable profit	500.00	500.00
Tax liability @ 23%	230.00	230.00
Half of tax liability	115.00	115.00
FY 2013		
Estimated taxable profit	1,000.00	1,150.00
Half of estimated taxable profit	500.00	575.00
Half year tax liability @ 20%	100.00	115.00

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of 1.5% per month of the tax shortfall. However, this is still a better option than having to pay the maximum penalty of 20%.

In conclusion, it has already been demonstrated that this year's half-year tax filing may not be as straightforward as it seems. Companies should take into consideration the effect of the change in the tax rate on the "reasonable excuse scenario" before filing their tax return.

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