

# PwC Tax Insight # 21/2016

## TAX & LEGAL UPDATE

TAX & LEGAL Services

\*Issued Date: 17 November 2016



### **Heading :**

***The following report  
may be of interest to :***

### **Summary :**



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### **Computation of annual profit and loss of BOI companies according to the BOI Announcement No. Por 9/2559**

All Clients

The long-awaited resolution of the BOI net-off case finally occurred when the Supreme Court issued its decision in the case no. 15345/2558. The decision confirmed that a loss on one or more BOI projects must be offset against the profits of other BOI projects when determining the net taxable profit/loss for an accounting period.

Subsequently, the Ministry of Finance granted an extension for corporate income tax filing without penalties and surcharges to 1 August 2016 to those BOI companies with multiple promoted projects which failed to compute net profit/loss according to the Supreme Court. In addition, a further extension to 15 August 2016 was granted under the Order of the National Council for Peace and Order No. 45/2559, which also contained the order that the Ministry of Finance and the BOI hold discussions to clarify this matter.

The Board of Investment then reached an agreement with the Revenue Department and issued the Announcement No. Paw 9/2559 on 1 November 2016 ('Paw 9') to set the guideline for the computation method to be used by BOI companies with multiple promoted projects. This announcement principally follows the Supreme Court decision of one promoted business for one promoted company. That is, a BOI company is required to compute only one annual profit or loss for all its promoted projects.

Since the level of income tax exemption and the promotional period granted by the BOI for each project may vary, it will not be possible to clearly identify how much of the annual combined profit or loss would be attributable to each project. The BOI then sets out the rule on how to allocate the profit or loss to each project. Under Paw 9, the net result of the combined annual profit or loss of the promoted projects must be allocated to each relevant BOI project on a proportional basis. The allocated profits will be exempt from corporate income tax according to the BOI certificates while the allocated losses can be deducted against the net profits arising over the five years immediately following the expiry date of the tax holiday. In this case, a BOI company can elect to make the deduction against the net profit of any one year or several years, according to the BOI certificates.

Below is example of the computation according to Paw 9:

	<b>Profit (loss)</b>			
	Project 1	Project 2	Project 3	Combined annual result
1 <sup>st</sup> year	100	40	(50)	90
Allocated profit	64.29	25.71	-	
2 <sup>nd</sup> year	(90)	60	(20)	(50)
Allocated loss	(40.90)	-	(9.09)	

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In the case of companies carrying on both BOI and non-BOI businesses, the computation of net profit and loss will continue to be according to the Notification of the Revenue Department dated 5 February 1987.

Although the BOI's Announcement Paw 9 has been published, there are several unanswered questions that need to be clarified by the Revenue Department.

**For further information, please contact:**

Your regular PwC contact person.