What to know and do about bad debts in Thailand – Part I

Is your company unable to collect money from a person that owes you certain funds? In that case your company might be eligible to write-off that Bad Debt. From a corporate accounting perspective, a "**Bad Debt**" is generally defined as an account receivable that is uncollectable.

From a tax perspective, however, Bad Debt is also not automatically and in all cases eligible to be erased from your company's accounts receivable ledger or "written-off". If your company writes-off a Bad Debt then it would be relieved of the tax burden it incurred. Thus, the Revenue Code of Thailand ("**RC**") contains certain hurdles for a creditor before such creditor is able to use the Bad Debt as an expense that reduces the taxable profit.

It is paramount, however, for your company to clear these Bad Debt write-off hurdles when a debt turns bad. If your company does not do so it will have to pay income tax on that debt even though it was never collected. Section 65 of the RC defines "net profit" as the result of taxable income from business or arising out of business in one accounting year less certain expenses. Section 65 requires that this calculation is done on an "accrual basis". Accrual basis, as opposed to cash basis, is a method of accounting in which each item is entered as it is earned or incurred regardless of when actual payments are received or made. Cash basis recognizes income when funds are physically received. Since the RC follows the accrual basis the RC treats all your company's receivables as "income" even if they have not yet been physically received by your company.

On the other hand, where a receivable later meets the criteria to be considered as a Bad Debt then, in accordance with Section 65 RC, it is treated as an expense. This of course reduces the net profit and tax burden of the creditor. To be eligible for such "conversion," such receivable must meet the definitions and requirements outlined in

RC Sections 65bis and 65ter. RC Section 65bis(9) states that "*[w]riting off bad debts from a debtor's account shall be done only if it follows rules, procedures and conditions prescribed by a Ministerial Regulation (…)*" The relevant Ministry of Finance regulation is No. 186 (1991) ("**MR**"). MR Clause 3 defines the qualifications of a Bad Debt that is eligible to be written off as follows:

"(1) Debts that arose from carrying on a business or in connection with business or have been included as revenue in the computation of net profits, but not including debts owed by a person who is or used to be a director or managing partner whether or not debts arose before or during the time such person is a director or managing partner; and

(2) The claim for debts is not barred from court action by time limitation and is sufficiently evidenced for the purpose of suing the debtor."

Please note that the following "prescriptions periods" or time limitations beyond which court action is barred, exist in Thailand in accordance with the Civil and Commercial Code of Thailand ("**CCC**") depending on the kind of claim:

(a) Ten years is the basic prescription period in Thailand if the law does not establish a shorter period for a specific claim in (CCC Section 193/30);

(b) Five years for certain claims relating to, for example, interest, salaries (CCC Section 193/33);

(c) Two years for most commercial transactions (CCC Section 193/34).
Note: after the expiration of the above mentioned periods, the debt will not be eligible for deduction.

In Part II of this two part blog we will examine the additional requirements for writing off your company's Bad Debt under the MR.

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