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**Tax and Duty Compensation of Exported Goods
produced in the Kingdom Act
B.E. 2524 (1981)**

BHUMIBOL ADULYADEJ, REX.
Given on the 9th Day August B.E.2524 (1981)
Being the 36th Year of the Present Reign

His Majesty King Bhumibhol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the law on tax and duty compensation of exported goods produced in the Kingdom.

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1. This Act is called the “Tax and Duty Compensation of Exported Goods produced in the Kingdom Act B.E. 2524 (1981)”

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.¹

Section 3. All the laws, rules, notifications or regulations in so far as they have been provided herein or are contradictory or inconsistent with the provisions of this Act shall be replaced by this Act.

Section 4 In this Act:

“Goods” means the goods produced in the Kingdom;

“Produce” means the assembly, conversion, transformation or any process made to create the goods regardless of any methods;

“Exportation” means

(1) Exporting goods out of the Kingdom in accordance with the Customs Act

(2) Sales of goods to government agencies or state enterprises under the loan projects or foreign aids as prescribed by the committee under Section 11 (7)

¹ Published in the Government Gazette No. 117, Part 37a, Page 12, 28th B.E. 2543 (2000).

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(3) Sales of goods, that are classified into duty exemption category under the law on customs tariff, to international organizations or other agencies with the rights to import goods into the Kingdom as prescribed by the committee under Section 11 (8)

“Compensation” means the amount paid in compensation of the tax and duty on the production cost of the exported goods, to eligible person in a form of Tax Card

“Eligible person” means a person undertaking exportation under this Act;

“Committee” means the Committee Considering the Tax and Duty Compensation of Exported Goods Produced in the Kingdom

“Competent Official” means Person appointed by the Minister for the execution of this Act

“Director-General” means the Director-General of the Customs Department;

“minister” means the minister having charge and control of the execution of this Act.

Section 5. There shall be the Committee Considering the Tax and Duty Compensation of Exported Goods Produced in the Kingdom consisting of the Permanent Secretary of Ministry of Finance as Chairman, Director-General of the Customs Department, Director-General of Fiscal Policy Office, Representative of the Ministry of Agriculture and Cooperatives, Representative of the Ministry of Commerce, Representative of the Ministry of Industry and not more than five qualified persons appointed by the cabinet as committee members.

Qualified committee member shall not be political official, person holding political positions, committee member or person in managing in a political party or primary stakeholder in business that might be eligible for the compensation.

The committee may appoint the Secretary of the committee.

Section 6. The committee members that appointed by the Cabinet shall hold the position for a term of two years and may be reappointed.

The successor shall hold office for the remainder of the term of office of his predecessor until a new appointment.

Section 7. Other than termination upon expiration of term under Section 6 the committee members appointed by the cabinet shall be terminated from office upon;

- (1) death,
- (2) resignation,
- (3) being dismissed by the Cabinet,
- (4) being a bankrupt,

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- (5) being an incapable or quasi-incapable person,
- (6) being a convict by the final decision of the court or a legal order to imprisonment expect for the case of crime being committed with carelessness or minor offense
- (7) being an unqualified person under Section 5 paragraph 2

In the case where an additional committee is appointed while the committee already appointed still hold office, the new committee shall hold office for the remainder of the term of office of such already-appointed members.

Section 8. At the committee meeting, no less than half of the total number of committee present shall constitute a quorum.

The meeting decision shall be pursuant to majority of the votes. Each committee has one vote. If the votes casted are equal, the Chairman of the meeting shall cast one decisive vote.

Section 9. At the committee meeting, if the Chairman of the committee is not present or unable to perform his duties, the Committee members that present shall elect one member to preside over the meeting.

Section 10. The committee shall have power to appoint a subcommittee to take any action as assigned by the committee.

For the subcommittee meeting, the provisions of Section 8 and 9 shall apply mutatis mutandis.

Section 11. The committee shall have the following duties:

- (1) to determine compensation rates and types and/or categories of products that are entitled to compensation
- (2) to consider types and/or categories of products that are not entitled to compensation
- (3) to revoke or modify compensation rate
- (4) to consider criteria, procedure, condition and time period of compensation payment
- (5) to consider tax duties when eligible person redeems tax card under Section 18(4)
- (6) to consider exempt duties that are not compensated under Section 13(5)

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(7) to consider criteria of selling goods to the government agencies or state enterprises under loan projects or foreign aids, is deemed to be an export under this Act, however payment that is fully or partially made according to such sale must be either from the loan projects or foreign aids.

(8) to consider types of goods that are in the category of exemption part of the Custom Tariff law that are sold to international organizations or other organizations with the right to import such goods in to the Kingdom, is deemed to be an export under this Act.

(9) to perform other duties as prescribed under this Act.

Duties under (1) (2) (3) (4) (5) and (6) can be performed only assigned by the Minister and notified in the Government Gazette.

According to the second paragraph of Section 16, the notification of compensation rates under (1) shall be effective on the day prescribed in the notification but it shall not be enforced before the day of its publication in the government gazette.

Section 12. The export of goods is entitled for compensation, when the committee has set compensation amount in accordance with Section 11(1) except the following goods that are not qualified for compensation

- (1) Minerals under the law governing minerals
- (2) Goods that are subjected to taxes or fees on the date of export
- (3) Non-eligible goods under the consideration of the committee

Section 13. Any tax compensation such as taxes and duties contained in value of instrument, apparatus, spare parts, machinery, fuel and energy that are used in the production of goods but not included;

- (1) Income tax
- (2) Royalties or other charges collected from using of natural resource
- (3) Any tax that is eligible for redemption under the law except that the right to receive the redemption does not apply and the compensation considered appropriated by the Committee.

(4) Any tax that is collected by the local government and obtained as a local source of income

- (5) Any other taxes as considered by the committee

Section 14. Compensation rate shall be prescribed in general except under special circumstances the rate can be determined differently.

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The determination of compensation rate under the first paragraph may be prescribed based on export unit, export price, or harmonized code regarding to Customs Tariff Law or on types or categories of export goods or on other methods.

In the case of prescription based on export price, the export price in accordance with the Custom laws considers as export price, however, the Minister may determine to use average price as export price, and such average price will be applied for not more than one year.

Section 15. The Customs Department, the Revenue Department and the Excise Department shall reserve their tax collection amount, by not depositing such revenue collection to the budget reserve regarding to Budget Procedure and Treasury Reserves laws, in order to pay for compensation according to the rules stipulated by the Minister.

The reserve rate of tax collection under the first paragraph must not over one percent of the tax collection, except under special circumstances, the Minister may order to reserve tax collection for more than one percent but not over two percent.

Section 16. Any person who requires the committee to determine compensation rate on the goods that are not entitled to compensation, may submit a request to the committee for such purpose according to the regulation stipulated by the committee.

Regarding to the submission under the first paragraph, the committee may announce the compensation rate to have retroactive effect. However, the compensation will not be retroactive to the goods that exported for more than six month before the submission date.

Section 17. Any person who is entitled for the compensation, may submit the compensation form as prescribed by the Customs department, and the form must be submitted within one year after the goods have been exported. Except the retroactive effect of compensation under Section 16 paragraph 2, a person who is entitled for compensation that has exported goods before the date of compensation rate announced in the government gazette may submit a form within one year after the announcement date.

Section 18. The payment of compensation shall be subject to the criteria, procedure, condition and time period of compensation payment as prescribed by the committee under Section 11(4). In this regard, the customs department shall issue tax card to the entitled person to use for taxes and duties payment as follows;

(1) Taxes and duties under the supervision of the Customs department, the Revenue department and the Excise Department, which the entitled person is subject to pay.

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(2) Withholding taxes that the entitled person is subject to withholding under the Revenue code.

(3) Taxes and duties that the Customs department, the Revenue department and the Excise Department are collected on behalf of the local governments, which the entitled person is subject to pay.

(4) Any other taxes that the committee has decided that tax card is applied.

Section 19. Tax card can be classified into two types which are;

- (1) a specified price tax card
- (2) a non-specified price tax card

Form, type, price and detail of the tax card shall be in accordance with the criteria as prescribed in the Ministerial regulations.

Section 20. The tax cards are valid for three years from the date of issuance, however, further three-year extension may be granted by the Director General under following circumstances;

(1) Tax cards cannot be used to pay any tax and duty since the entitled person is granted tax exemption under the Investment Promotion Act.

(2) The entitled person cannot redeem the tax cards within prescribed time period.

Regarding the request for extension under the first paragraph, the Director General may approve the further three-year extension but the total request must not be more than two times.

The request for extension must be submitted before the expiry date of tax card and must be in accordance with the rules stipulated by the Customs Department.

Section 21. In the case the entitled person cannot redeem the tax card, such person may request an approval form to the Director General for transfer of rights to another person by submitting the form in accordance with the conditions and criteria set by the committee. However, the request for transfer of rights must be done before tax card is issued.

Section 22. Tax card must be specified the name of the holder and cannot be transferred without the approval of the Director General in following circumstances;

(1) Transfer to heir who is the business transferee of the deceased person whose name is on the tax card.

(2) Transfer to the business transferee of the person whose name is on the tax card.

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(3) Transfer to a new company or juristic partnership arising from amalgamation between another juristic person and the juristic person whose name is on the tax card.

(4) Transfer to the transferee who is related to business of the person whose name is on the tax coupon.

Pursuant to (4), the approval of the Director General requiring the committee approval.

Section 23. The transferee under Section 22(1) shall bring the transferor's tax card to issue a new card before the expiry date of the transferor's tax card or within one year after the death of the person whose name is on the tax card, depending on which ever date is the later.

The transferee under Section 22(2) (3) and (4) shall bring the transferor's tax card to issue a new coupon before the expiry date of the transferor's tax card. However, in the case where appropriate, the Director General may allow to issue a new card within sixty day after the expiry date of the tax card.

The expiry date of the new tax card under the first paragraph is the date that appears on the original card, and further extension may be granted in accordance with Section 20.

Section 24. In the case where the tax cards are damaged, lost or stolen, the person whose name is on the card shall submit the request for issuing the new card in accordance with the rules stipulated by the Customs Department.

The new tax card that issued under the first paragraph shall only be valid for the remaining period under the original card.

Section 25. In order to comply with this Act, the committee member and competent official have duties as follows;

(1) Issue an inquiry letter to any person and summon them to give statement, forward written explanations, account, license or any other documents for consideration.

(2) Enter into the office, manufacturing place and storage location of the person who requests for determination of compensation rate or who submits for compensation between the sunrise to sunset or during working hours to examine documents, evidences or other objects related to the requested form. In this regards, it shall have a power to investigate any fact or to call for account, license or any other documents from such person or relevant persons.

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Section 26. In order to comply with this Act, the committee member and competent official shall be the public official in accordance with the criminal code.

Section 27. In the performance of duties, a competent official must produce an identity card to a relevant person.

The competent official identity card shall be in accordance with the form set by the Ministerial Regulation.

Section 28. Any person who submits the request for determination of compensation rate under Section 16 or a person who submits the request for the compensation under Section 17 does not facilitate the operation of the committee member or competent official, the Director General or the committee may fully or partly revoke the determination of compensation rate request or the compensation request.

Section 29. In the case where the goods are returned and the purchase price will be refund to customers, the entitled person who has already received the compensation must return such compensation in the ratio of the returned goods to the Customs Department within 60 days after the goods are imported or within 60 days after the goods are returned in case of domestic sale.

In the case where the entitled person does not return such compensation within the time specified under the first paragraph, the additional payment of two percent per month shall be paid, or if there are the additional payments on the remaining period of the month, the entitled person shall pay such amount until the compensation is paid in full.

Section 30. Any person who refuses to give summons or fails to submit the documents or evidences to the committee member or competent official who performs duties under Section 25, or disrupts or does not facilitate the operation of the committee member or competent official shall be subject to imprisonment not exceeding one month or a fine not exceeding five thousand Baht or both.

Section 31. Any person who gives false information, offers false summon, presents the false response or produces a false evidence to the committee member or competent official for the purpose of compensation rate determination or of compensation payment for themselves or for others by using such false statement or evidence shall be subject to imprisonment not exceeding five years or a fine not exceeding five thousand Baht or not

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exceeding four times of such compensation amount, or both, and the fine may be imposed on the amount that is higher.

Section 32. In the case where a person committing an offense under Section 30 or Section 31 is a juristic person, business operator or corporate representative shall be penalized in accordance with the provisions of law except such person can prove that does not involve in the offense of the juristic person.

Section 33. Notifications of Ministry of Finance and Orders of Ministry of Finance providing exporters with assistance on tax matters, providing assistance to sellers who sale goods to government agencies or state enterprises under the loan projects or foreign aids, providing assistance to sellers who sell goods to international organizations, including notifications of compensation rate that were enforced before this Act is in effect, shall be continually enforced, and shall be deemed as notifications issued under this Act until further notice. In this regards, all Notifications and Orders issued under this Act shall continue to be in force insofar as they are not contrary to or inconsistent with the provisions of this Act.

All requests related to assistance on tax matters, which was submitted under the Notifications or Orders issued under the first paragraph and is pending until this Act is enforced, shall be the requests that are submitted under this Act and the applicant shall have the rights and benefits in accordance with the rules and condition as prescribed under the prior Notifications and Orders.

Section 34. The Minister of Finance shall have charge and control of the execution of this Act, and shall have an authority to appoint competent official and issue a Royal Decree pursuant to this Act.

Royal Decree will come into force following the date of its publication in the Government Gazette.

Countersigned by
General Prem Tinsulanonda
The Prime Minister

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Remarks: The rationale for publication of this Act is to promote exports of product that produced in Thailand into overseas markets as well as to support value creation of export products in order to increase the competitiveness of Thai entrepreneurs in the international trade arena. This Act will relieve tax burden of the indirect taxes that are in the cost of production by refunding of taxes and duties paid on exported goods. Since in the present there is no law that regulates on this matter, this Act shall set the tax compensation system for such exporters to run efficiently and properly. Therefore, it was necessary to enact this Act.