



MPG

2  
0  
1  
9

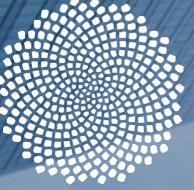
# 2019-2020 Tax Update

MPG Breakfast Talk Series, Bangkok, 26 November 2019

FREE ENTRANCE  
Limited Seats Available

Copyright © 2019 Mahanakorn Partners Group, All rights reserved.





**MPG**

# About Us

The Mahanakorn Partners Group (MPG) is a leading professional services firm, whose mission is to be a One-Stop Platform to assist virtually any company or individual with a wide-range of Legal, Accounting, Auditing, Tax Advisory, and Business Consulting service offerings.

MPG is headquartered in Thailand, with an ASEAN presence and a global footprint. Our lawyers, accountants, auditors, business consultants and administrative staff are committed to supporting our clients in seamlessly navigating through the complexities of business, regulatory and legal matters, domestically and internationally.

# Areas of Practice



## Corporate Services

Company Registration,  
Corporate Secretarial,  
BOI, FBL, Business  
Licenses, Trademarks



## Accounting & Audit

Accounting Packages,  
Bookkeeping, Payroll, Half  
Year Report, Personal  
Income Tax, Annual Audit



## Legal Services

Civil & Commercial Law,  
Criminal Defense, Property  
Law, IP, Notary Services, etc.



## Global Mobility

Visas & Work Permits,  
Permanent Residency,  
Cross-Cultural Training



## Banking & Finance

Advisory and Structuring of  
Debt/Equity Model, TAS,  
Trade Finance & Project  
Finance Advisory



## Management Consulting

Business Process Optimization, IT  
Administration, Market Entry  
Strategies, Project Management



## Tax Advisory

Tax Structuring, Transfer  
Pricing, Tax Planning, Cross-  
Border Tax Compliance

# Our Worldwide Presence

---



# 2019-2020 Tax Update

## TOPICS

- ✓ Roadmap of TFRS (2019-2020):
  - 2019 TFRS 15 'Revenue from contracts with customers'
  - 2020 TFRS 16 'Leases'
  - 2021 Conceptual Framework for Financial Reporting (Revision)
- ✓ Transfer Pricing Law, 2019 Amendments
- ✓ Labor Protection Act B.E. 2541 – New Severance Pay Rate
- ✓ International Business Centre Regime

## ABOUT THE SPEAKER

Mr. Kusa Songtish (กุศ ส่องทิศ) is a CPA (Certified Public Accountant) and serves as Head of Auditing at MPG. He has accumulated over a decade of auditing experience throughout his career, his expertise extending, but not limited, to such diverse industries as Manufacturing, Distribution, Logistics and Construction. Khun Kusa has advised several multinational enterprises as well as the local affiliates of Fortune 500 Companies on Tax and Regulatory matters.

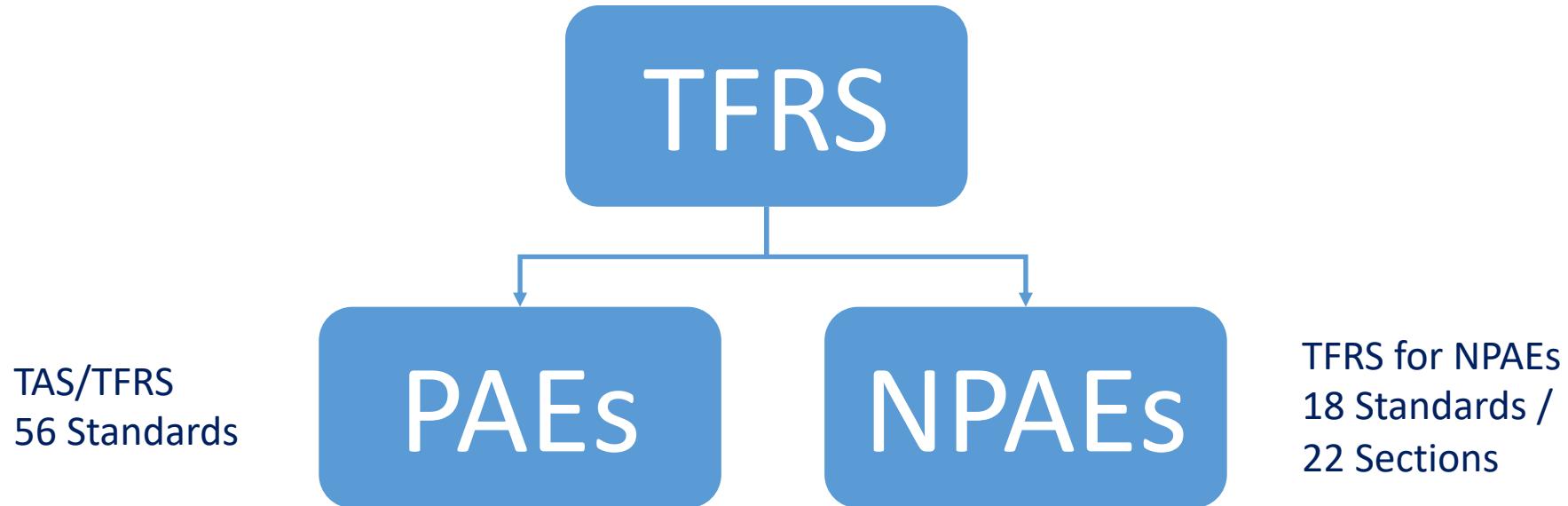
# Roadmap of the TFRS

---



- ✓ 2019 TFRS 15 Revenue from contracts with customers
- ✓ 2020 TFRS 16 Leases
- ✓ 2021 Conceptual Framework for Financial Reporting (Revision)

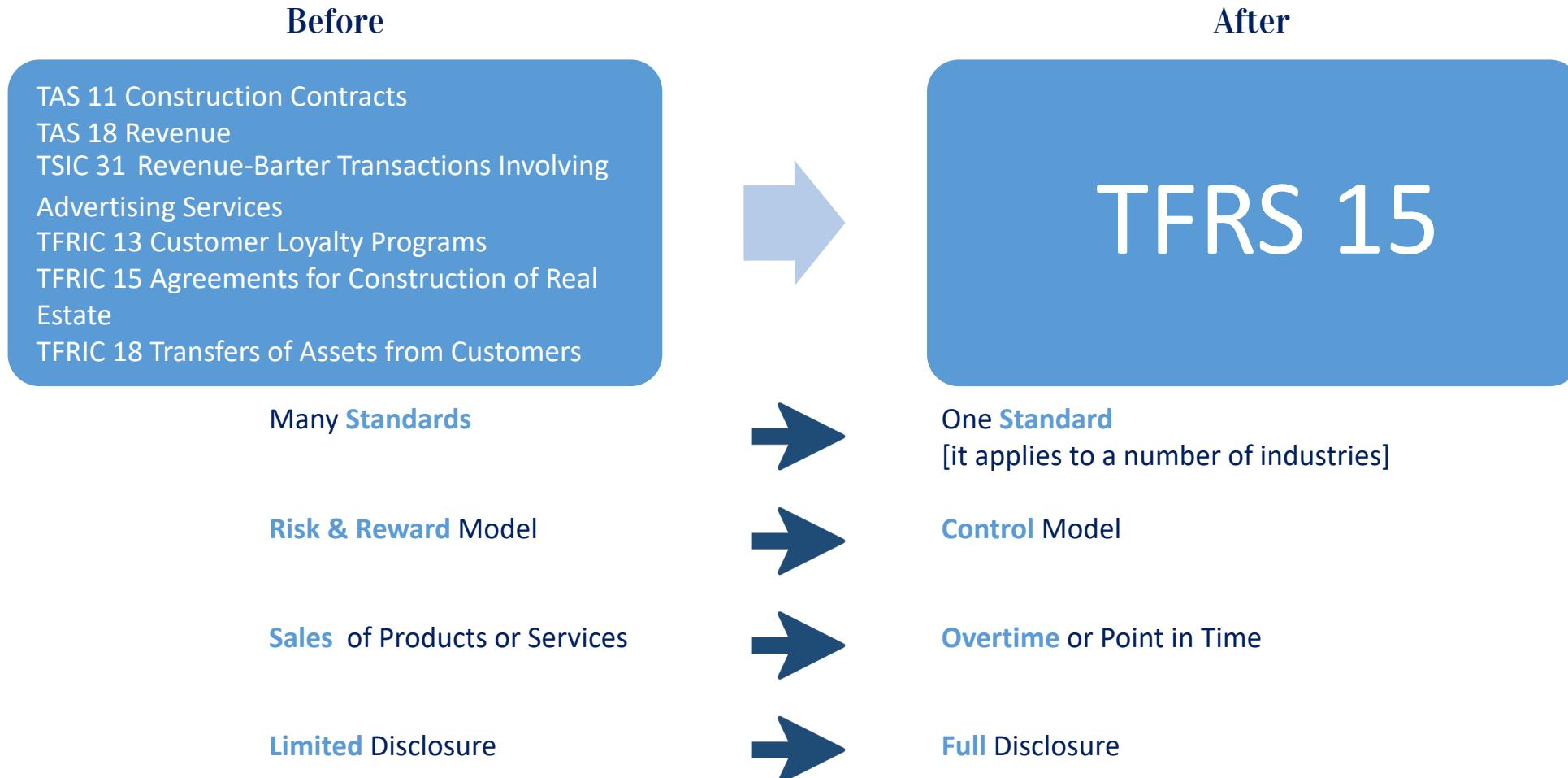
# Overview of the TFRS



PAEs = Publicly Accountable Entities (its shares are traded in a public market)

NPAEs = Non-Publicly Accountable Entities

# TFRS 15: Revenue from contracts with customers





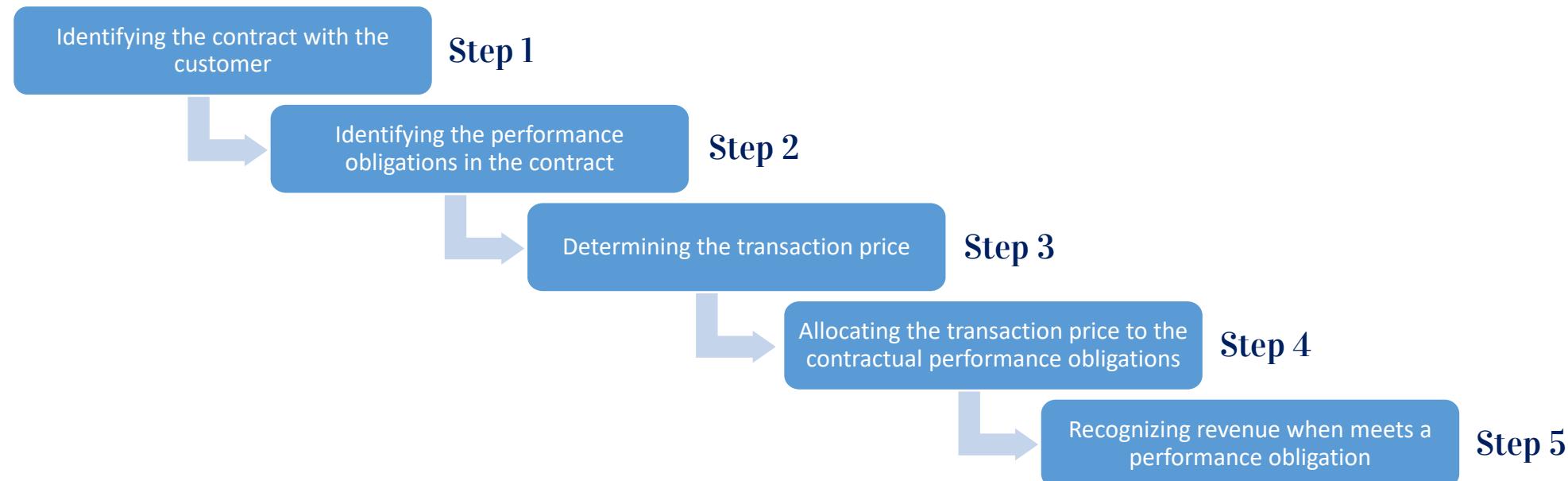
MPG

# The Five-Step Model

9

The TFRS 15 affects all companies that have contracts to provide goods and/or services to their customers

## The Five-Step Model:



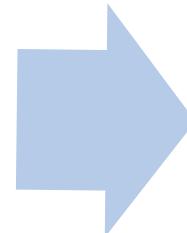
# TFRS 15: Case Study

Example : A sells equipment to B, including a two-year maintenance service, for a total amount of THB 2 million  
Standalone price of equipment (THB 2 million) + two-year maintenance service (THB 1 million)

N.	Five Steps	Description
1	Identifying the contract with the customer	<ul style="list-style-type: none"><li>Contract No [XYZ] for the sales of equipment and provision of maintenance service for two years</li></ul>
2	Identifying the performance obligations in the contract	<ul style="list-style-type: none"><li>Selling the equipment</li><li>Providing maintenance service</li></ul>
3	Determining the transaction price	<ul style="list-style-type: none"><li>THB 3 million</li></ul>
4	Allocating the transaction price to the performance obligations in the contract	<ul style="list-style-type: none"><li>Equipment <math>[2/3 \times 2 =]</math> THB 1.33 million</li><li>Maintenance service <math>[1/3 \times 2 =]</math> THB 0.67 million</li></ul>
5	Recognizing revenue when meets a performance obligation	<ul style="list-style-type: none"><li>Revenue from sales of equipment = THB 1.33 M</li><li>Revenue from service (1<sup>st</sup> year) <math>[0.67/2]</math> = THB 0.34 M</li></ul>

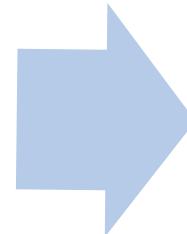
# TFRS 16: Leases

TAS 17



TFRS 16

It requires to identify and classify the type of lessee such as financial leases versus operating leases



No need to classify the lease (financial vs operating) for accounting purposes. The new standard only provides a single lessee accounting model, requiring lessees to recognize assets and liabilities for all leases

Recognition exemptions

# TFRS 16 Impacts & opportunities

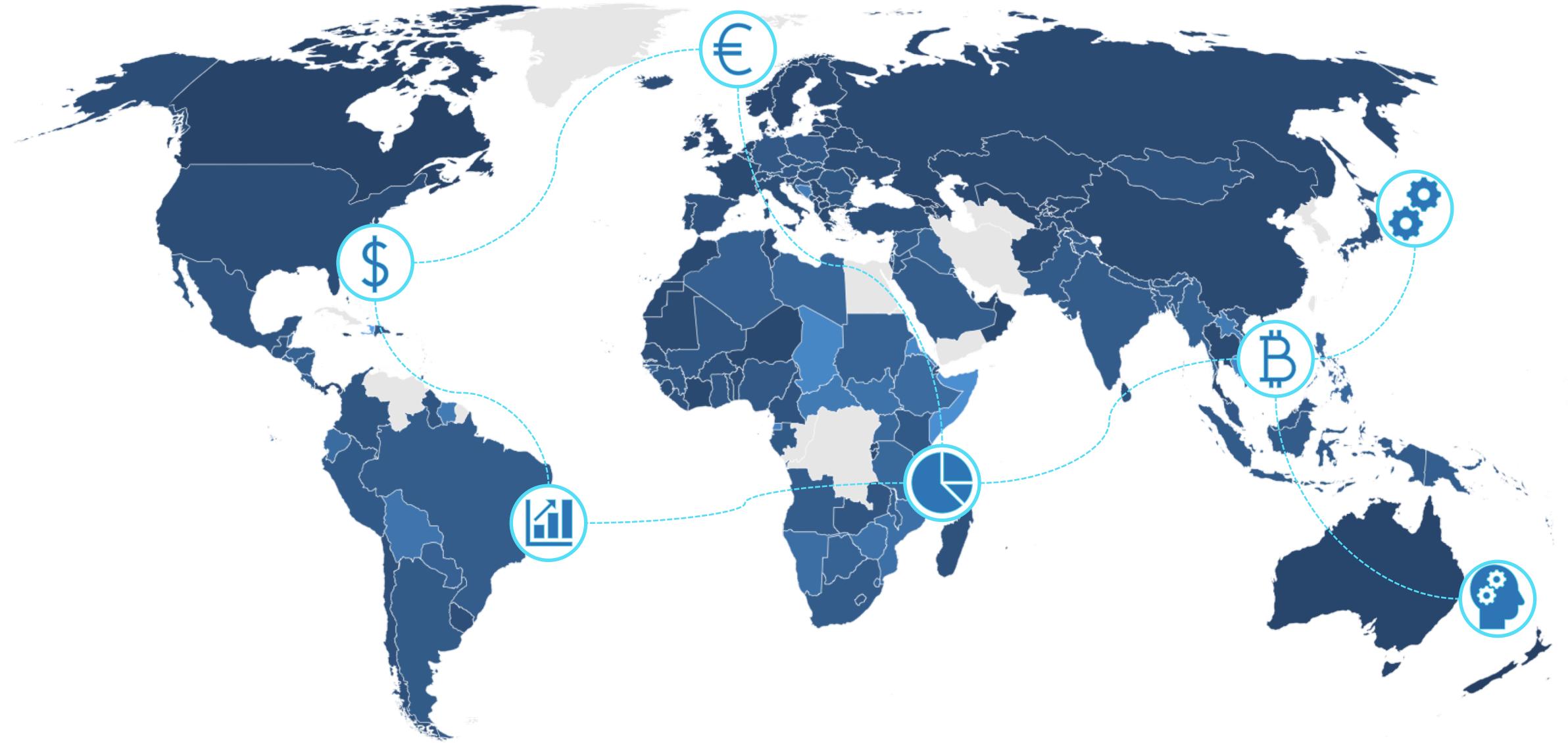
The following are recognition exemptions:

- ✓ Leases with a term of 12 months or less
- ✓ Asset Leases that have a low value (the new Standard does not provide a definition of low value)

Impacts & Opportunities of TFRS 16:

Impacts	Opportunities
Financial Statement <ul style="list-style-type: none"><li>▪ Assets: Right-to-use</li><li>▪ Liabilities: Lease Liabilities</li></ul>	Analyzing Lease Data and Reviewing the Lease Objectives and Economic Substance
Financial Ratio <ul style="list-style-type: none"><li>▪ Debt to Equity Ratio (D/E)</li><li>▪ Return on Assets (RoA)</li></ul>	Proactive Lease Management and Cost Saving Opportunities

# Transfer Pricing Regulatory Framework



# Transfer Pricing: A Definition

## Overview

- ✓ Transfer pricing is the pricing of goods, services and intangibles between related parties.
- ✓ Related parties are parties who control one another, or who are under the common control of another party, whether directly or indirectly.
- ✓ They include branches and head offices. Related parties must deal with each other at arm's length.



## The Arm's Length Principle

It is an internationally accepted standard adopted for transfer pricing between related parties. Revenue Department subscribes to the principle that profits should be taxed where the real economic activities generating the profits are performed and where value is created. A proper application of the transfer pricing rules would ensure this outcome

## Transfer Pricing Documentation

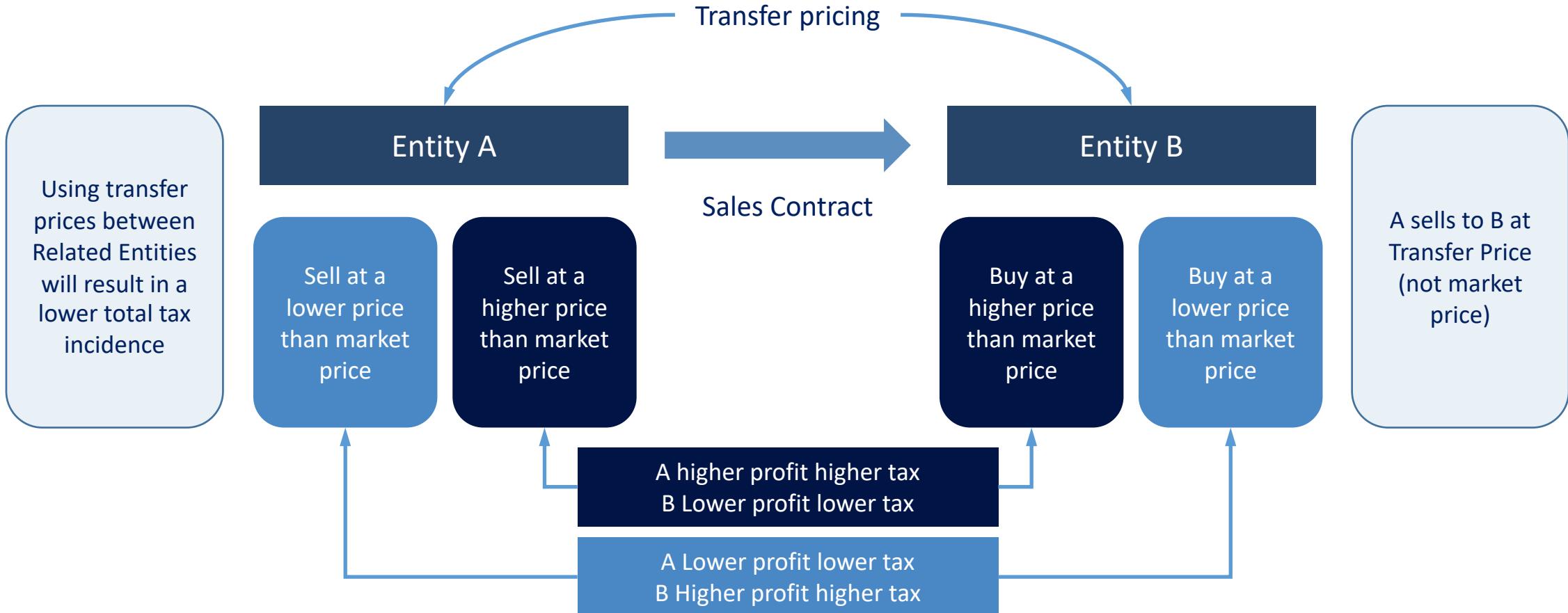
### Purpose of Preparing and Maintaining Transfer Pricing Documentation

- ✓ Taxpayers should prepare and keep contemporaneous transfer pricing documentation. This documentation refers to the records kept by taxpayers to show that their related party transactions are conducted at arm's length.

### Contemporaneous Documentation

- ✓ Contemporaneous transfer pricing documentation refers to documentation and information that taxpayers have relied upon to determine the transfer price prior to or at the time of undertaking the transactions.

# Transfer Pricing Structure & Benefits



# 2019 Thailand's Transfer Pricing Law

Impact	Description
When did the law amendment become effective?	<ul style="list-style-type: none"><li>▪ The law, Revenue Code Amendment Act (No. 47) B.E. 2561 (2018), was published in the Royal Gazette On 21 November 2018.</li><li>▪ This law entered into force on January 1, 2019, and is applicable to accounting periods starting on or after that date.</li></ul>
Who will be affected by the law?	<p>Two or more entities are defined “<b>Related Parties</b>” in the New Revenue Code if they satisfy any of the following conditions:</p> <ol style="list-style-type: none"><li>1. Entity A holds 50% or more of the shares in Entity B, either directly or indirectly</li><li>2. A Partner (shareholder) in Entity A holds 50% or more of the shares in B, either directly or indirectly</li><li>3. Dependency relationship: an entity's existence is dependent on the existence of the related entity, in terms of capital, management, or control (corollary: a dependent entity cannot be operated independently from the others)</li><li>4. The Related Parties have an annual turnover equal to or exceeding THB 200 million</li></ol>

# 2019 Thailand's Transfer Pricing Law (cont'd)

Impact	Description
What documents are required?	<ol style="list-style-type: none"> <li>1. A Transfer Pricing Disclosure Form                             <ul style="list-style-type: none"> <li>▪ Information on all related parties and transaction</li> <li>▪ The formal form was issued by the Tax Revenue Department on 7 November 2019.</li> </ul> </li> <li>2. A Full Transfer Pricing Disclosure Form                             <ul style="list-style-type: none"> <li>▪ Overview business entities</li> <li>▪ Related parties and transactions</li> <li>▪ Functional and pricing analysis</li> </ul> </li> </ol>
When is the Form to be submitted?	<ol style="list-style-type: none"> <li>1. With annual tax returns (Form PND 50)</li> <li>2. Upon request, up to 180 days after request</li> </ol>
What is the penalty in the event of non-compliance?	Fines up to THB 200,000
How long to retain documentation?	Documents must be kept for at least five (5) years from the date of filing

On 13 December 2018, an amendment to the Labour Protection Act B.E. 2541 was approved by the National Legislative Assembly (NLA). Upon approval by His Majesty the King, the amendments have been published in the Royal Gazette on 5 April 2019, and came into force on 5 May 2019. The new regime seeks to expand employee rights, and the text provides greater clarity on previously ambiguous provisions.

## Revision of Severance Pay (Section 118)



Direct results of the law amendment:

1. New & Revised rate of Severance Pay in the event of termination
2. The definition of termination was further elaborated
3. Accounting Estimate required in the Financial Statement

# New & Revised Rate of Severance Pay

## Definition & Rationale of Severance Pay

Severance Pay is an amount of money an employer owes to an employee in lieu of notice, in exchange for the employee's agreement to sever an employment contract forthwith.

An employer must give an employee reasonable notice of termination unless, of course, it is with just cause, in which event no notice may be required. Severance pay compensates employees for past contributions to the business, proportionally to the length of service.

Rate	Length of Employment	Severance Pay Amount
1	120 days < 1 year	30 Days Worth
2	1 year < 3 years	90 Days Worth
3	3 years < 6 years	180 Days Worth
4	6 years < 10 years	240 Days Worth
5	10 years < 20 years	300 Days Worth
6	≥ 20 years	400 Days Worth

# LPA 2541: Key Changes

## Before

### Temporary Suspension of Business

- ✓ Where an employer suspends his/her business operation, the employer was required to pay wages to the employee for the entire period of suspension.

### Business Leave

- ✓ At the discretion of the employer. Moreover, an employer was not required to pay an employee on business leave.

### Maternity Leave

- ✓ 90 days per pregnancy.

### Relocation of Business

- ✓ An employer who relocates his/her business is required to notify an employee not less than 30 days prior to the relocation date.

### Severance Pay

- ✓ The cap of severance pay is 300 days.

### Payment in Lieu of Advance Notice

- ✓ Under both the previous law and the new Act, an employer may terminate an indefinite duration contract of employment immediately without needing to grant prior notification, by paying wages in lieu of advance notice. However, the new Act clarifies the time of payment by stating that the monetary compensation must be paid to the employee on the termination date.

## After

### Temporary Suspension of Business

- ✓ The new Act clarifies that an employer is required to pay wages during temporary suspension of business operations at least once a month at the employee's workplace or other places consented to by the employee.

### Business Leave

- ✓ An employee is entitled to at least 3 working days of business leave per year, and the employer must pay a maximum of 3 working days.

### Maternity Leave

- ✓ 98 days per pregnancy, with up to 45 days wages during the leave.

### Relocation of Business

- ✓ Notification be given at least 30 days prior to date of relocation and must contain sufficient information regarding the relocation.

### Severance Pay

- ✓ The cap of severance pay has been increased to 400 days.

### 15% Interest on Statutory Payments

- ✓ Where an employer defaults on payments owed to employees, the employee is entitled to receive interest at the rate of 15% per year.

## Employee Benefits

The new TFRSs for NPAEs require employers to recognize an employee benefit liability for the Severance Pay obligation using the '*best estimate*' method. The Federation of Accounting Professions has provided NPAEs with guidelines on the recognition of this liability, striving to keep the computation of the liability simple.

In the event a company has not yet recognized a provision for severance payments before the issuance of TFRS for NPAE (accounting periods on or after 1 January 2011), then it should do so using one of the following four methods:

- ✓ Recognizing the full amount in **Current Expenses**;
- ✓ Amortizing the obligation using a **Straight Line Method**;
- ✓ Adjusting through the **Retained Earnings** on 1 January 2011; or
- ✓ Making a **Retroactive Adjustment**.

In the event a company has already recognized a provision for severance payments, then it is required to assess whether there is any under- or overstatement, and adjust the current year's profit and loss accordingly.

## Simple Computation Method

The Federation of Accounting Professions' guidelines indicate a simple computation method, which does not factors in:

- ✓ Salary increases;
- ✓ New employees hired as a replacement; or
- ✓ Death.

## Background to the changes

In 2017, Thailand joined the OECD's Inclusive Framework on **Base Erosion and Profit Shifting** (BEPS). BEPS Action 5 is one of the four BEPS minimum standards which all Inclusive Framework members have committed to implement. One section of the Action 5 minimum standard pertains to **preferential tax regimes** where a peer review is undertaken to identify features of regimes that can facilitate base erosion and profit shifting.

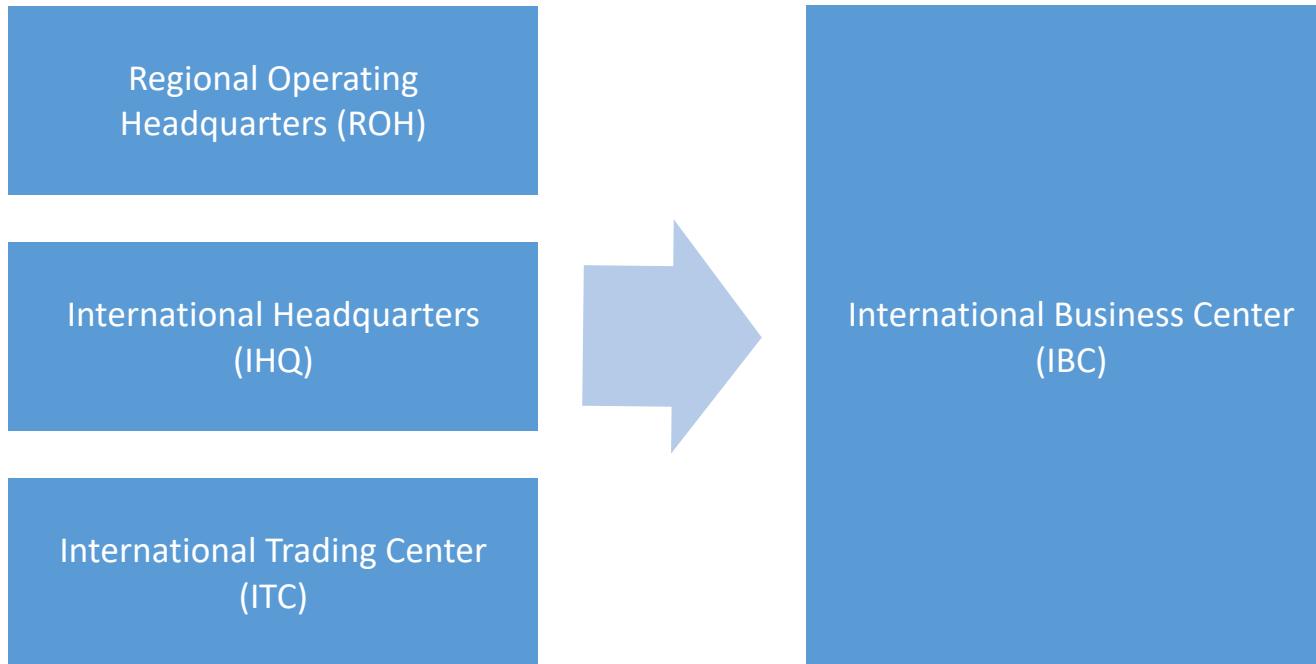
The application format for the new IBC regime was announced in April 2019 and officially presented on 2 May 2019 under Royal Decree No. 674. To qualify for tax incentives, companies must now meet a **higher expenditure threshold** amounting to **Baht 60 million per annum** for new applicants. Current beneficiaries of the ROH, IHQ and ITC regimes willing to transition into the new IBC regime face a reduced minimum annual expense requirement of **Baht 15 million**, to encourage such a conversion.

## Summary

On 26 March 2019, the Thai Cabinet passed a resolution approving the issuance of three Royal Decrees aimed at abolishing the tax incentives provided under the Regional Operating Headquarters (ROH), International Headquarters (IHQ) and International Trading Centers (ITC) regimes. The implementation date for the proposed cancellation of these incentives is **1 June 2019 for corporate income tax incentives, and 1 January 2020 for personal income tax incentives**. Replacing the tax measures provided under the old regimes is the International Business Centre Regime (IBC). The new IBC tax incentive regime reflects the Thai government's intention to continue promoting Thailand as a **global investment hub for Southeast Asia**.

With regards to foreigners working for ROH, IHQ and ITC, the tax incentives under the old regimes will be in place until **31 December 2019**, whereas for foreign companies or juristic partnerships holding shares in ROH, IHQ and ITC, the tax measures under the old regimes will not be replaced until **1 January 2021**. ROH1, ROH2 and IHQ that are required to undergo changes in order to become IBC will do so under relaxed conditions. The Revenue Department has begun accepting applications for IBC approval.

# Transition to IBC



## Conditions to qualify as an IBC

- ✓ The company must be set up under Thai law to provide qualifying support services or treasury services to its affiliates.
- ✓ The company must have paid up capital of at least Baht 10 million on the last day of each accounting period.
- ✓ The company must have annual operating expenditure in Thailand of at least Baht 60 million.
- ✓ The company must have at least 10 qualified employees or a minimum of 5 qualified employees in the case that it acts solely as a treasury center.

Under the Royal Decree, qualifying companies under the new IBC regime will be eligible for a number of incentives for a standard period of 15 years, including:

- ✓ A reduced corporate tax rate on qualifying income as follows:
  - A 3% rate if the IBC incurs at least Baht 600 million in expenditures locally per annum.
  - A 5% rate if the IBC incurs at least Baht 300 million in expenditures locally per annum.
  - An 8% rate if the IBC incurs at least Baht 60 million in expenditures locally per annum.
- ✓ Tax exemption on both domestic and foreign sourced dividend income derived from affiliates.
- ✓ Withholding tax exemption on dividends paid to offshore shareholders and on interest payments to foreign beneficiaries in relation to loans for treasury activities.
- ✓ Exemption from specific business tax on qualifying treasury center income.
- ✓ Flat personal income tax rate of 15% for eligible expatriate employees.

To obtain approval to use the tax incentives, a company must apply to the Revenue Department.

## Non-Tax Benefits available

In accordance with the government's policy to promote the new IBC regime, Thailand's Board of Investment (BOI) also offers non-tax incentives.

An IBC promoted by the BOI would be entitled to receive non-tax incentives, such as:

- ✓ Permission for 100% foreign ownership of the IBC.
- ✓ Visa and work permit privileges for foreign nationals working for the IBC.
- ✓ Permission to own land for use in the business of the IBC.

Moreover, machinery used for R&D or in training may receive an import duty exemption.

## Revocation of Benefits

A failure to comply with any one of the conditions in a given year would result in the incentives ceasing to apply for the specific year.

If the prescribed conditions are not met in more consecutive years, the IBC status may be revoked and the incentives granted in previous years may be withdrawn.

# We are passionate about exceeding your expectations.

Legal Services

Corporate Services

Accounting & Tax Advisory

Banking & Finance



[mahanakornpartners.com](http://mahanakornpartners.com)



[info@mahanakornpartners.com](mailto:info@mahanakornpartners.com)

