

## Tax & Legal Newsletter

### July 2022

#### Income tax exemption provided for gains from investments in target industry companies

A Thai royal decree (No. 750) issued on 13 June 2022 provides exemptions from personal income tax and corporate income tax for both Thai and foreign investors with respect to capital gains derived from transfers of certain direct and indirect investments in companies operating in targeted industries (“target industry companies”), to encourage investments in such companies. The targeted industries are specified in a notification from the Committee on Policy for National Competitive Enhancement for Targeted Industries.

The exemptions are available for direct transfers of shares in target industry companies and for indirect transfers of shares in such companies via the transfer of shares or trust units of a corporate venture capital (CVC) fund or private equity (PE) trust investing in target industry companies, as well as for gains derived from the dissolution of such a CVC fund or PE trust. The royal decree is effective as from 15 June 2022 (the date following the date of publication of the royal decree in the government gazette) until 30 June 2032, and the tax incentives provided can be summarized as follows:

- Exemptions from personal income tax and corporate income tax are available for capital gains derived from the transfer of shares in a target industry company, as well as for capital gains derived from the transfer of shares or trust units in a CVC fund or PE trust that has a shareholding interest in a target industry company. The tax exemptions apply only to the portion of the capital gains corresponding to the percentage of revenue derived from targeted activities (in the case of a direct transfer) or the amount invested by the CVC fund or PE trust in the target industry company (in the case of an indirect transfer). The exemptions are subject to certain conditions, including the following:
  - The shareholder or unitholder must have held the shares or trust units for at least 24 months prior to the transfer; and
  - The shareholder, CVC fund, or PE trust must have invested in a “qualifying target industry company” that derives at least 80% of its

revenue from targeted activities for at least two consecutive accounting periods (i.e., fiscal years).

- Exemptions from personal income tax and corporate income tax are available for capital gains derived from the dissolution of a CVC fund or PE trust that holds shares in a target industry company. The capital gains tax exemption applies only to the portion of capital gains (i.e., the amount of distributions received exceeding the investment cost) that are attributable to the retained earnings derived by the CVC fund or PE trust from its holding of shares in a qualifying target industry company.

The Director-General of the Revenue Department is expected to issue a notification to prescribe certain rules, criteria, and conditions relating to the calculation of the portion of the capital gains that is eligible for a tax exemption in the case of an indirect transfer.

### **Additional corporate income tax deduction for purchases of biodegradable plastic products extended**

A Thai royal decree (No. 749) issued on 13 June 2022 (following the 5 April 2022 approval of a draft royal decree by the Thai cabinet) and a notification from the Director-General of the Revenue Department on income tax (No. 425) issued on 24 June 2022 provide a company or juristic partnership with an additional corporate income tax deduction of 25% (i.e., a total deduction of 125%) for expenses incurred for the purchase of certain biodegradable plastic products. A previous additional corporate income tax deduction measure to promote the use of such products expired on 31 December 2021, and Royal Decree No. 749 applies to certain purchases from 1 January 2022 to 31 December 2024.

The additional tax deduction is available for purchases of biodegradable plastic products including plastic carrying bags; plastic garbage bags; plastic glasses; nonreusable plastic bowls, plates, and trays; plastic spoons, forks, and knives; plastic straws; plastic nursery bags; mulching film; plastic bottles; plastic cup lids; and plastic cup lid film. The products must be purchased from 1 January 2022 to 31 December 2024 from a VAT-registered manufacturer that has obtained a certificate from the Office of Industrial Economics.

A company or juristic partnership wishing to claim the additional tax deduction must prepare a report showing the details regarding the purchase of biodegradable plastic products and must maintain the report and other supporting documents for the transactions and make them available for audits and inspections by tax officers. The report must contain, at minimum, the details prescribed in the notification.

### **Additional extension available for e-tax filing and payment in cases involving system failures and technical issues beyond taxpayers' control**

The Ministry of Finance issued a notification on 20 June 2022 regarding an additional extension that may be available for the deadlines for certain tax return filings, tax payments, and remittances via the online platform if a delay in electronic filing ("e-tax filing") and payment is caused by certain system failures and technical issues beyond the taxpayer's control. The notification is applicable to e-tax filing and payment as from 1 January 2022.

The additional extension is available for purposes of the personal income tax, corporate income tax, withholding tax, VAT, and specific business tax, and is granted to qualifying taxpayers for seven additional business days beyond the standard e-tax filing deadline (which is eight calendar days after the standard deadline for filing a paper tax return). Applications for the additional extension must be made by taxpayers on a case-by-case basis.

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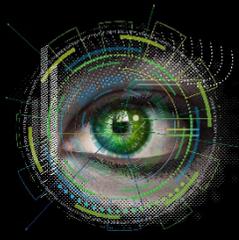
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