



Tax & Legal Newsletter

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Rules, procedures, and conditions provided for corporate income tax incentive to promote investment in and use of electronic tax systems

A notification from the Director-General of the Thai Revenue Department on income tax (No. 435) issued on 28 June 2023 sets forth the rules, procedures, and conditions for the corporate income tax incentive to promote investment in and use of electronic tax systems. The incentive is available for qualifying expenses paid during the period from 1 January 2023 through 31 December 2025, based on a royal decree (No. 766) issued on 31 May 2023. An additional corporate income tax deduction of 100% (i.e., a total deduction of 200%) is available for amounts expended for investments in electronic systems for the preparation or receipt of electronic data or for the remittance of tax, as well as for service fees paid to qualified service providers offering electronic data preparation services and tax remittance services. The salient features of the notification are as follows:

- Companies and juristic partnerships may claim an additional 100% corporate income tax deduction for amounts expended for investments in a system for the preparation or receipt of electronic data or for the remittance of withholding tax, income tax, or VAT, and for the procurement of computer software, equipment for storing electronic certificates, computers, or other equipment used together with a computer for preparing, delivering, receiving, or maintaining electronic tax invoices or electronic receipts, for use in the operations of the

company or juristic partnership. To claim the additional deduction, the following criteria must be met:

- The expenses must be for investments in assets and not for repairs to maintain assets in their normal working order, and must be paid between 1 January 2023 and 31 December 2025. The additional deduction will be available based on the amount expended and will be claimed over the same period over which the assets are depreciated, beginning in the accounting period in which the depreciation of the assets under the Thai Revenue Code commences; and
 - A report regarding the installation and removal of such assets must be available for review by a tax assessment officer.
- Companies and juristic partnerships may claim an additional 100% corporate income tax deduction for amounts expended for service fees paid to qualified service providers offering electronic data preparation and transmission services or tax remittance services, as well as for service fees paid for obtaining an electronic certificate or storage space for electronic data, provided the following criteria are met:
 - The expenses must be paid for the purposes of the preparation, delivery, receipt, or storage of electronic tax invoices or receipts, or for the remittance of tax, for use in the operations of the company or juristic partnership;
 - The expenses must be paid between 1 January 2023 and 31 December 2025; and
 - Evidence substantiating the payment of the service fees (to a qualified service provider offering electronic data preparation and transmission services or tax remittance services, or to obtain an electronic certificate or storage space for electronic data) must be available for review by a tax assessment officer.

Companies and juristic partnerships wishing to claim the additional deduction based on the notification must submit the details of their relevant investments or payments via the form prescribed by the Director-General of the Thai Revenue Department. The form must be submitted electronically through the Thai Revenue Department's online portal prior to the submission of an income tax return for the accounting period for which the taxpayer wishes to claim the deduction (but no later than 31 May 2026).

Companies and juristic partnerships that claim the additional tax deduction based on the notification but that subsequently fail to satisfy the criteria specified in the notification are subject to a "claw back" rule that requires them to include the amount of the additional deduction (which already has been claimed) as income in the calculation of their net profit for income tax

purposes, for the accounting period in which the additional deduction was claimed.

Private letter ruling issued on treatment of COVID-19 antigen test kits and COVID-19 vaccines provided to employees

The Thai Revenue Department issued a private letter ruling on 6 June 2023, in which it ruled on whether the COVID-19 antigen test kits and COVID-19 vaccines provided by a company for the welfare of its employees are considered taxable benefits to be included in the employee's personal income tax computation under section 56 of the Thai Revenue Code.

The Thai Revenue Department ruled that expenses incurred by the company to provide COVID-19 antigen test kits and COVID-19 vaccines for its employees during the COVID-19 outbreak were for protection and prevention of the spread of COVID-19, to ensure the continuity of its business operations, and not for the personal benefit of the employees. Thus, expenses of this nature will not be considered as providing employee benefits that are subject to personal income tax.

The tax authorities generally follow private letter rulings, but they are not binding for purposes of legal proceedings.

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