



## Tax & Legal Newsletter

### December 2021

#### Director-General of Thai Revenue Department to be competent authority for purposes of exchange of tax information

An act amending the Thai Revenue Code (No. 54) dated 7 November 2021 that is effective as from 9 November 2021 provides that the Director-General of the Thai Revenue Department will be the competent authority that will exchange information obtained in the course of their duties with the competent authorities of other contracting countries, for the purposes of compliance with international obligations under treaties for the avoidance of double taxation and the prevention of tax evasion that Thailand has entered into, or will enter into in the future, with other countries.

#### Additional tax deduction provided for investments in computer software by SMEs

A royal decree (No. 725) dated 7 November 2021 provides that companies or juristic partnerships with paid-up capital as of the last day of the relevant accounting period that does not exceed THB 5 million and that derive gross income from sales of goods and the provision of services during the accounting period that does not exceed THB 30 million are entitled to an additional tax deduction of 100% (i.e., a total deduction of 200%) with respect to investment expenditure incurred to acquire or develop computer software or service fees paid to computer software sellers, developers, or service providers registered with the Digital Economy Promotion Agency. The additional deduction is equal to the amount actually paid, but may not exceed THB 100,000. The additional deduction is available for the accounting period commencing on or after 1 January 2021 but no later than 31 December 2022, in accordance with rules, procedures and conditions prescribed by the Director-General of the Thai Revenue Department.

## Extension of tax incentives to support business operators located in special economic development zones in southern Thailand

The Thai government has announced that it will extend the period of certain tax exemptions and tax reductions, along with certain other tax incentives for business operators located in the special economic development zones (SEZs) in Narathiwat province, Pattani province, Yala province, Songkhla province (only for the Jana district, Thepha district, Na Thawi district, and Saba Yoi district), and Satun province for three additional years, covering the period from 1 January 2021 to 31 December 2023. Several royal decrees issued in November 2021 (Nos. 727, 728, 729, 730, and 731) provide for the extension of various incentive measures.

A summary of the key measures in the royal decrees is provided below.

### Royal Decree No. 727

- There is a reduction of the personal income tax rate for individuals who have their place of businesses in an SEZ. Such individuals may elect to pay a 0.1% final tax on their income that is assessable income under sections 40(7) and (8) of the Thai Revenue Code (which relate to certain income derived from a contract of work and certain income derived from business, commerce, etc.), without the need to include such income in the normal tax computation.
- There is a reduction of the corporate income tax rate for companies or juristic partnerships that have their place of business in an SEZ for income derived from manufacturing or sales of goods, as well as for income derived from services provided in the zone. The rate is reduced from the standard corporate income tax rate of 20% to 3% on net profits.
- There is a reduction of the tax rate for personal income tax withheld at source in respect of income from the sale of immovable property located in an SEZ, to 0.1% of the gross proceeds.
- There is a reduction of the specific business tax rate applicable to the sale of immovable property located in an SEZ in a commercial or profitable manner, to 0.1% of the gross proceeds.

### Royal Decree No. 728

Individuals and companies or juristic partnerships that have their place of business in an SEZ are entitled to an additional tax deduction of 100% (i.e., a total deduction of 200%) for expenses incurred for the purchase and installation of CCTV at their business premises located in an SEZ.

### Royal Decree No. 729

Companies or juristic partnerships that have their place of business in an SEZ are entitled to an additional tax deduction of 100% (i.e., a total deduction of 200%) for expenses incurred for investments, additions, changes, expansions, or improvements of assets related to the production or sale of goods or the provision of services in an SEZ (excluding any repairs to maintain such assets in their present condition).

### Royal Decree No. 730

Companies or juristic partnerships that are incorporated from 1 January 2021 to 31 December 2023, that have paid up capital as of the last day of the accounting period that does not exceed THB 5 million, and that derive income from sales of goods and the provision of services during the accounting period that does not exceed THB 30 million will be exempt from corporate income tax for five accounting periods. The tax exemption will be provided only to qualified targeted industries specified in the decree that are located in the SEZ.

### Royal Decree No. 731

- Individuals who derive employment income assessable under section 40(1) of the Thai Revenue Code from companies or juristic partnerships that have their place of business in an SEZ may elect to pay personal income tax in respect of such employment income at a rate of 3%, without the need to include such income in the normal tax computation.
- Companies or juristic partnerships that do not have their place of business in an SEZ are entitled to an additional tax deduction of 100% (i.e., a total deduction of 200%) for expenditure relating to investments in shares or a partnership interest (either for an increase of capital or for the establishment of an entity) and investments for the establishment of companies or juristic partnerships that have their place of business in an SEZ. The investment will need to be utilized for operations in the SEZ, in accordance with rules, procedures, and conditions prescribed by the Director-General of the Thai Revenue Department.

### Additional tax deduction provided for donations made to Equitable Education Fund

A royal decree (No. 732) dated 7 November 2021 (following the 29 June 2021 approval of a draft royal decree by the Thai cabinet) provides that individuals and companies or juristic partnerships are entitled to an additional personal or corporate income tax deduction for donations that are made via the electronic donation (e-Donation) system to the Equitable Education Fund (EEF) from 1 January 2021 to 31 December 2023. The key provisions of the decree are summarized below:

- For individuals, a deduction of 200% of the amount donated to the EEF (“double deduction”) will be allowed. However, when combined with any donations made to support the Ministry of Education’s approved projects, the total deductible donations may not exceed 10% of the individual’s net income (i.e., assessable income reduced by all applicable allowances and deductions).
- For companies or juristic partnerships, a double deduction will be allowed for donations to the EEF. However, when combined with any donations made to support the Ministry of Education’s approved projects, the total deductible donations may not exceed 10% of the entity’s net profits before the deduction of donations made to support public charity or donations to support the public interest, education, and sports under section 65 bis(3)(b) of the Thai Revenue Code.

## **Additional tax deduction provided for procurement of COVID-19 antigen rapid test kits**

A royal decree (No. 733) dated 7 November 2021 provides that companies or juristic partnerships are entitled to an additional tax deduction of 50% (i.e., a total deduction of 150%) for expenses incurred for the purchase of COVID-19 antigen rapid test kits and COVID-19 testing solutions for their own employees from 14 September 2021 to 31 March 2022.

## **Exemption provided from specific business tax and stamp duty in respect of compensation derived from expropriation of immovable property**

A royal decree (No. 736) dated 7 November 2021 provides an exemption from the specific business tax for juristic persons in respect of compensation received under the provisions of the laws on expropriation and acquisition of immovable property, as well as an exemption from stamp duty with respect to the expropriation of an immovable property, as from 30 May 2019.

## **Increase of thresholds for write off of bad debts for VAT purposes**

A notification from the Director-General of the Thai Revenue Department on VAT (No. 242) issued on 15 November 2021 amends a previous notification from the Director-General of the Thai Revenue Department on VAT (No. 85), by increasing the thresholds for the write off of bad debts for VAT purposes. The increases are in line with increases to the thresholds for the conditions to write off bad debts in accordance with the Thai Revenue Code that were made by a ministerial regulation (No. 374) issued on 29 April 2021, to better reflect the current economic environment. The new notification will apply to bad debts written off on or after 1 December 2021. A summary of the key provisions of the new notification is provided below:

- The threshold for bad debts written off under clause 3 of the applicable notification is increased from debt exceeding THB 500,000 to debt exceeding THB 2 million;
- The threshold for bad debt written off under clause 4 of the applicable notification is increased from debt not exceeding THB 500,000 to debt not exceeding THB 2 million; and
- The threshold for bad debt written off under clause 5 of the applicable notification is increased from debt not exceeding THB 100,000 to debt not exceeding THB 200,000.

The notification also allows judgments or orders rendered by foreign courts to be considered as evidence for bad debts written off in Thailand, in accordance with rules, procedures, and conditions prescribed by the Director-General of the Thai Revenue Department.

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## **Contacts**

Should you have any comments or questions arising from this newsletter, please contact either the listed contacts below, or any member of the [Thailand Tax & Legal team](#).

**Anthony Visate Loh**  
**International Tax & Legal**  
Tel: +66 (0) 2034 0000 ext 40112  
Email: aloh@deloitte.com

**Alisa Arechawapongsawat**  
**Transfer Pricing**  
Tel: +66 (0) 2034 0000 ext 40171  
Email: aarechawapongsawat@deloitte.com

**Chairak Trakhulmontri**  
**Transfer Pricing**  
Tel: +66 (0) 2034 0000 ext 40157  
Email: ctrakhulmontri@deloitte.com

**Darika Soponawat**  
**Business Tax (Tax Compliance)**  
Tel: +66 (0) 2034 0000 ext 40115  
Email: dsoponawat@deloitte.com

**Dr. Kancharat Thaidamri**  
**Transfer Pricing**  
Tel: +66 (0) 2034 0000 ext 40118  
Email: kthaidamri@deloitte.com

**Korneeka Koonachoak**  
**Business Tax (Value Chain Alignment)**  
Tel: +66 (0) 2034 0000 ext 40122  
Email: kkoonachoak@deloitte.com

**Mark Kuratana**  
**Global Employer Services**  
Tel: +66 (0) 2034 0000 ext 40125  
Email: mkuratana@deloitte.com

**Nu To Van**  
**Indirect Tax (Customs & VAT)**  
Tel: +66 (0) 2034 0000 ext 40163  
Email: ntovan@deloitte.com

**Stuart Simons**  
**Transfer Pricing**  
Tel: +66 (0) 2034 0000 ext 40135  
Email: ssimons@deloitte.com

**Thirapa Glinsukon**  
**Business Tax (Tax Compliance)**  
Tel: +66 (0) 2034 0000 ext 40159  
Email: tglinsukon@deloitte.com

**Wanna Suteerapornchai**  
**Business Tax (M&A)**  
Tel: +66 (0) 2034 0000 ext 40144  
Email: wsuteerapornchai@deloitte.com



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