



Tax & Legal Newsletter

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Rules, criteria, and conditions provided for additional corporate income tax deduction for investments in automation systems

A notification from the Director-General of the Thai Revenue Department (TRD) on income tax (No. 439) dated 14 November 2023 was issued to revise a notification from the Director-General of the TRD on income tax (No. 421) dated 21 March 2022 that provides rules, criteria, and conditions for the additional corporate income tax deduction for companies or juristic partnerships for investments in automation systems. The additional corporate income tax deduction was extended to cover the period from 1 January 2023 through 31 December 2025 by a royal decree (No. 776) dated 13 August 2023; however, the new notification (No. 439) also includes certain provisions that are relevant to investments that were acquired and ready for their intended use by 31 December 2022.

Notification No. 439 sets forth rules, criteria, and conditions for the additional deduction of 100% (i.e., a total deduction of 200%) for amounts expended for investments in automation systems (but excluding amounts paid for repairs to maintain such assets in their present condition), as agreed upon in contracts, purchase orders, contracted work orders, or other similar agreements entered into between 1 January 2021 and 31 December 2025. A company or a juristic partnership wishing to claim the additional deduction must prepare an automation investment project plan, including a payment plan, in the format prescribed by Director-General of the TRD and must submit the plans through the TRD's online portal by the following deadlines:

- For a company or a juristic partnership that invests in machinery or computer programs that were acquired and ready for their intended use by 31 December 2022, the plans must be submitted by 31 December 2024; and
- For a company or a juristic partnership that invests in machinery or computer programs that are acquired and ready for their intended use at a date from 1 January 2023 to 31 December 2025, the plans must be submitted by 31 May 2026.

Rules, criteria, and conditions provided for additional corporate income tax deduction for expenses incurred for employment of highly skilled personnel

A notification from the Director-General of the Thai Revenue Department (TRD) on income tax (No. 440) dated 14 November 2023 sets forth rules, criteria, and conditions for the additional corporate income tax deduction of 50% (i.e., a total deduction of 150%) for salary expenses incurred (not exceeding a maximum salary of THB 100,000 per month, per employee) by companies or juristic partnerships for certain highly skilled personnel. The additional corporate income tax deduction was extended through 31 December 2025 by a royal decree (No. 777) dated 13 August 2023. The additional deduction is available for salary expenses of personnel working in targeted industries that are highly skilled in the fields of science, technology, engineering, or mathematics and that are certified by Thai National Higher Education, Science, Research and Innovation Policy Council.

The salary expenses must be incurred in accordance with an employment contract that is executed from 1 January 2023 to 31 December 2025, pursuant to Royal Decree No. 777, or in the period prescribed by another relevant royal decree that is enacted during this period.

Companies and juristic partnerships wishing to claim the additional deduction based on the notification must prepare reports in the format prescribed by the Director-General of the TRD and maintain those reports, as well as documents substantiating the reports, at their place of business and available for review by a tax assessment officer.

Rules, criteria, and conditions provided for additional corporate income tax deduction for expenses incurred for employee development

A notification from the Director-General of the Thai Revenue Department on income tax (No. 441) dated 14 November 2023 sets forth rules, criteria, and conditions for the additional corporate income tax deduction of 150% (i.e., a total deduction of 250%) for expenses incurred by companies or juristic partnerships for sending employees to attend training courses or offering employee training programs in the areas of science, technology, engineering, or mathematics. The additional corporate income tax deduction was extended through 31 December 2025 by a royal decree (No. 778) dated 13 August 2023. The training must be approved by the Thai National Higher Education, Science, Research and Innovation Policy Council; the Thai Eastern Economic Corridor (EEC) Committee; the Thai Digital Economy Promotion Agency; or the Board of Directors of the Thai Center of Robotics Excellence (CoRE). The expenses must be incurred from 1 January 2023 to 31 December 2025 and the training must commence by 31 December 2025 and must be held with the purpose of benefiting the company or juristic partnership's business.

Updated guidance provided on treatment of foreign source income from previous tax years that is generated before 1 January 2024 and brought into Thailand as from tax year 2024

On 20 November 2023, the Thai Revenue Department (TRD) issued Instruction No. Paw. 162/2566 ("Paw. 162") dated 15 September 2023, to provide guidance for tax officers on inspections, as well as guidance for Thai tax resident individuals, on the personal income tax treatment of assessable income under section 40 of the Thai Revenue Code (TRC) derived in a prior tax year from a position held abroad, a business abroad, or property located abroad (as outlined in paragraph 2 of section 41 of the TRC) and brought into Thailand during the 2024 tax year (i.e., the 2024 calendar year) or a subsequent tax year. This follows the TRD's release of Instruction No. Paw. 161/2566 ("Paw. 161") in September 2023, which indicates that assessable income that is brought into Thailand as from 1 January 2024 will be subject to Thai personal income tax in the year the income is brought into Thailand (prior to Paw. 161, foreign-source income

generally had been considered as being subject to personal income tax only if the income was brought into Thailand in the same year it was derived). Paw. 162 introduces an additional paragraph as paragraph two to clause 1 of Paw. 161, clarifying that “paragraph one does not apply to income from foreign sources generated before 1 January 2024.”

Rules and procedures provided for exchanges of data through FATCA International Data Exchange Service

On 22 November 2023, the Director-General of the Thai Revenue Department (TRD) issued a notification that sets forth rules and procedures for the submission of required information through the International Data Exchange Service (IDES) to be used for the exchange of information described in the intergovernmental agreement signed between Thailand and the US in 2016 to improve international tax compliance and implement the procedures associated with the US Foreign Account Tax Compliance Act (FATCA). Reporting parties that obtained information from 2014 up to 2022 that is required to be reported must submit the information by 30 June 2024, and must submit any required information obtained after 2022 by 30 June of the year following the year in which the information is obtained (according to the ministerial regulation on the information collecting and reporting to the competent authority).

The rules and procedures set forth in the notification include that a reporting party is required to apply for a global intermediary identification number (GIIN) through the FATCA registration system via the TRD website, to provide a digital certificate issued by a certification authority, and to register in the IDES system via the TRD website. The reporting party is required to prepare information on US reportable accounts and on the reporting party, such as the name, address, and US federal taxpayer identification number (US TIN) of the account holders and controlling persons (if any) and the account numbers or any documentation that is acceptable as a substitute in cases where the account number is unavailable. The required information must be submitted in XML format pursuant to the FATCA XML schema in the IDES system. Further details regarding the applicable rules and procedures are available in the notification from the Director-General of the TRD.

Application form provided for verification of status regarding compliance with FATCA

On 22 November 2023, the Director-General of the Thai Revenue Department (TRD) issued a notification that provides an application form for entities wishing to request verification of their status regarding compliance with the US Foreign Account Tax Compliance Act (FATCA), in accordance with the Act on the Agreement between the Government of the United States of America and the Government of the Kingdom of Thailand to Improve International Tax Compliance and to Implement FATCA, BE 2560 (2017) issued to implement the intergovernmental agreement (IGA) signed between Thailand and the US in 2016 to improve international tax compliance and implement the procedures associated with the US FATCA (i.e., to request verification of whether the entity is subject to an obligation to report certain information required under the IGA). The relevant formats are prescribed in clause 2 and the last paragraph of clause 5 of the ministerial regulation on applications for statements of verification of status regarding compliance with the US FATCA and the issuance of such statements, and the application form must be submitted via the TRD website using the username and password that were generated at the time of the entity's e-filing registration.

The request for a statement of verification of status regarding compliance with the US FATCA is successful after a confirmation message from the TRD is received.

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