



## Tax & Legal Newsletter

### April 2021

#### Personal income tax exemption for COVID-19 reliefs

Ministerial Regulation No. 372 issued on 19 March 2021 provides an exemption from personal income tax for income received in the 2020 tax year in the form of cash payments or other benefits under one of the following government schemes in response to the COVID-19 pandemic:

- Cash received from both the Ministry of Finance's project to remedy and compensate individuals affected by the COVID-19 pandemic and the Ministry of Labor's project to compensate employees of business operators affected by the pandemic that have not received any support from the ministry;
- Cash or other benefits received in the form of subsidies for the cost of accommodation; food; entrance fees; goods purchased under the "One Tambon One Product" (OTOP) program; spa and massage services; and car or ship hire costs and airfares under the "Rao Tiew Duay Gun" campaign to promote domestic tourism;

- Other benefits received in the form of subsidies for the cost of travel packages booked via travel agencies under the “Gum Lung Jai” campaign; and
- Other benefits received in the form of subsidies towards the cost of food, beverages, or other products purchased via the government’s electronic platform under the “Khon La Kreung” campaign to promote domestic consumption.

### **Notification provides criteria for income tax deduction for expenses incurred on commercial bank reorganization**

The Director-General of the Thai Revenue Department issued a notification (No. 404) on 22 March 2021 providing the rules and criteria for obtaining an income tax deduction for expenses incurred on the amalgamation or partial/entire transfer of the business of a commercial bank. These include:

- For expenses related to investment in computer programs or the alteration/improvement of permanent buildings (excluding land and permanent buildings utilized for residential purposes) in connection with the amalgamation or partial/ entire business transfer, the criteria for tax deductibility are as follows:
  1. The expense must relate to the investment in or alteration/improvement of property in connection with the amalgamation or partial/ entire business transfer but must not relate to repairs to maintain the present condition under section 65(5) of the Thai Revenue Code. The expense must be paid in the period from the date of amalgamation or business transfer through 31 December 2022;
  2. A deduction is available for the amount actually expended in the accounting period in which the property is first depreciated under section 65(2) of the Thai Revenue Code; and
  3. Evidence of payment must be available for review by the tax officer.
- The commercial bank that comes into existence as a result of the amalgamation or which is the recipient of the partial/ entire business transfer, must prepare a report providing details of the properties or expenses eligible for the deduction following the format prescribed by the Director-General. The documentation must be maintained at the place of business, available for review by the tax officer. The properties must be included in the asset register or similar documents maintained by the commercial bank.

### **Private letters of ruling issued**

### **Write off of bad debts**

Company A had made sales to Company B but THB 265 million of the purchase consideration remained unpaid. Company A took legal action in a civil court against Company B to recover the debt. The parties concluded under the court procedure that Company B would pay Company A THB 115 million and Company A agreed not to pursue the outstanding balance of THB 150 million. The court issued a consent judgement and a written statement confirming the parties' intention of compliance with the judgement in 2020. Company A requested a ruling from the Thai Revenue Department on whether the outstanding balance of THB 150 million could be treated as a bad debt expense in 2020 if Company A merely received the payment of THB 115 million from Company B as agreed in the consent judgement.

The Thai Revenue Department held that Company A could not treat the outstanding balance of THB 150 million (which Company A had agreed not to pursue further) as a bad debt expense in 2020 since the necessary procedure for the write off of bad debts under section 65 (9) of the Thai Revenue Code and Ministerial Regulation No. 186 B.E.2534 had not been satisfied.

### **VAT registration**

Mr A carried on a business of the sale of automotive parts and other products. In 2020, Mr A sold and delivered goods with a sales price of THB 1,798,375. He also received during 2020 THB 327,225 as payment for goods delivered in 2019. Therefore, in 2020, Mr A's net sales receipts were THB 2,125,600, which exceeded the tax base of THB 1.8 million for small and medium-sized enterprises (being the VAT registration threshold at the time). Mr A requested confirmation from the Thai Revenue Department of whether he was required to register for VAT.

The Thai Revenue Department held that since the total value of goods which were sold and delivered in 2020 was THB 1,798,375, such amount would be VAT income arising in 2020, despite the fact that in the year 2020, Mr A also received payment for the products previously sold and delivered in 2019 of THB 327,225, and both amounts totalled to THB 2,125,600 (exceeding THB 1.8 million per annum). Therefore, Mr. A would not be liable for VAT registration.

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