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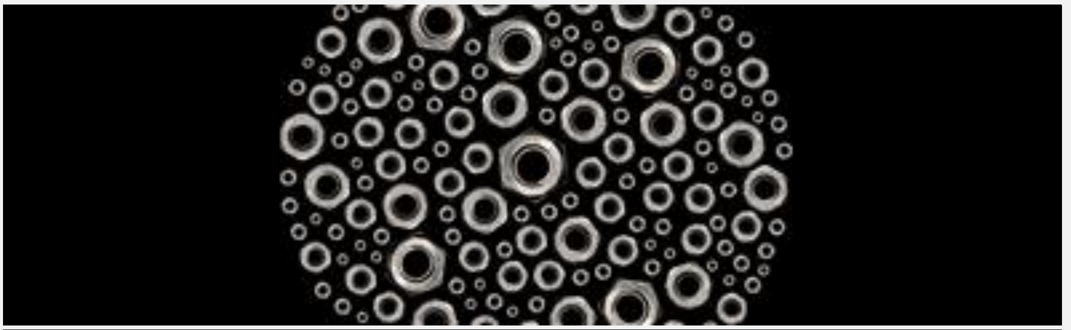

Tax & Legal Newsletter
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Certain tax incentives are available to support business operators located in special economic development zones in southern Thailand

Several Thai royal decrees and notifications from the Director-General of the Thai Revenue Department on income tax were issued during June and July 2024 to extend the period during which certain tax incentives intended to support business operators located in special economic development zones (SEZs) in southern Thailand are available, and to set forth the relevant rules, procedures, and conditions for the incentives. The extensions generally cover the period from 1 January 2024 through 31 December 2026 and generally are available to business operators located in SEZs in the Narathiwat province, Pattani province, or Yala province. The incentives provided under Royal Decree No. 783 also are available to business operators located in SEZs in the Satun province or in certain areas of the Songkhla province.

<u>Tax exemption for net profits of companies and juristic partnerships operating businesses in qualified targeted industries</u>

A royal decree (No. 787) and a notification from the Director-General of the Thai Revenue Department on income tax (No. 448) were issued to provide a tax exemption for the net profits of companies or juristic partnerships operating as small or medium-sized enterprises (SMEs) in qualified targeted industries specified in the royal decree that are located in an SEZ, to promote and support continued investment by SMEs in SEZs for new technology and innovation used in the targeted industries.

Qualified companies or juristic partnerships will be exempt from income tax on their net profits for a total of five accounting periods as from the date the approval for the exemption is granted by the Director-General of the Thai Revenue Department. To be considered qualified, a company or juristic partnership must follow rules and fulfill conditions set forth in the royal decree and the notification. For example, the company or juristic partnership must be located in an SEZ and must be incorporated during the period from 1 January 2024 to 31 December 2026, must have paid-up capital at the last day of the accounting period that does not exceed THB 5 million, and must derive income from sales of goods and the provision of services during the accounting period that does not exceed THB 30 million. Additionally, companies and juristic partnerships must follow rules set forth by the National Science and Technology Development Agency (NSTDA) and must be approved by the NSTDA. Applications for the tax exemption must be filed with the Director-General of the Thai Revenue Department by 31 December 2027, and approval must be granted.

Further details on the applicable rules, procedures, and conditions for the tax exemption are set forth in the royal decree and the notification.

<u>Additional tax deduction for expenditure paid for investment, addition, alteration, expansion, or improvement of assets relating to business operations</u>

A royal decree (No. 786) and a notification from the Director-General of the Thai Revenue Department on income tax (No. 449) were issued to provide an additional corporate income tax deduction for companies or juristic partnerships that operate a business in an SEZ, for expenditure paid for the investment, addition, alteration, expansion, or improvement of assets relating to the business operations in the SEZ (excluding any repairs to maintain such assets in their present condition). An additional tax deduction may be granted equal to 100% of amounts actually paid from 1 January 2024 to 31 December 2026. To qualify, the assets must never have been used before and must meet conditions specified by the royal decree and the notification. Eligible assets include, for example, machines, components, equipment, tools, appliances, decorations and furniture, computer software, and certain qualified vehicles. The assets may not benefit (wholly or partially) from other tax incentives under any other royal decree.

If a company or juristic partnership that claims the tax incentive under the royal decree subsequently fails to satisfy the criteria specified in the royal decree in any accounting period, the tax incentive will cease to apply and the company or juristic partnership will be subject to a “claw back” rule that will require it to include the amount of the additional deduction (which already has been claimed) as income in the calculation of its net profits for income tax purposes, for the accounting period in which the tax deduction was claimed, unless the assets are sold, destroyed, lost, or rendered obsolete. In such a case, the tax incentive will cease to apply as from the accounting period in which the assets are sold, destroyed, lost, or rendered obsolete and the company or juristic partnership is not required to include the amount of the additional deduction as income in the calculation of its net profits.

Further details on the applicable rules, procedures, and conditions for the corporate income tax incentive are set forth in the royal decree and the notification.

<u>Tax rate reduction for income derived by employees hired to work in SEZs, and additional tax deduction for investments in companies or juristic partnerships operating in SEZs</u>

A royal decree (No. 784) and a notification from the Director-General of the Thai Revenue Department on income tax (No. 447) were issued to provide two tax incentives: a withholding tax rate reduction for assessable income derived during the period from 1 January 2024 through 31 December 2026 by skilled employees or experts hired to work in an SEZ, and an additional corporate income tax deduction for investments made during the period from 1 January 2024 through 31 December 2026 in companies or partnerships operating in an SEZ. To qualify to receive the rate reduction or to claim the additional tax deduction, taxpayers must follow rules and procedures and fulfill conditions set forth in the royal decree and the notification. The salient provisions are as follows:

- Regarding the withholding tax rate reduction for personal income tax purposes, withholding tax at a rate of 3% may be imposed on assessable income derived from employment by skilled employees or experts in an SEZ. To qualify, individuals must fulfill the conditions specified in the notification.
- To qualify for the additional corporate income tax deduction for investments in companies or juristic partnerships operating in an SEZ, the investing company or juristic partnership must not have had any place of business in an SEZ for at least one year prior to the investment and must not sell or transfer the shares or partnership interests in the companies or juristic partnerships operating in an SEZ, unless the sale or transfer is made under circumstances specified in the notification. Qualified companies or juristic partnerships may receive an additional tax deduction equal to 200% of the amount actually expended for investing in shares or partnership interests, by way of an increase of the capital of companies or juristic partnerships operating in an SEZ or by way of establishing new companies or juristic partnerships in an SEZ.

Further details on the applicable rules, procedures, and conditions for the tax incentives are set forth in the royal decree and the notification.

<u>Corporate and personal income tax rate reductions for certain income derived from business operations in SEZs (including Satun province and certain areas of Songkhla province)</u>

A royal decree (No. 783) and a notification from the Director-General of the Thai Revenue Department on income tax (No. 446) were issued to provide a reduced corporate or personal income tax rate for certain income derived from business operations in SEZs, including SEZs in the Satun province or in certain areas of the Songkhla province (the Chana, Nathawee, Sabayoi, or Thepha districts), during the period from 1 January 2024 through 31 December 2026.

For qualified companies or juristic partnerships operating in an SEZ, a reduced corporate income tax rate of 3% of net profits may be imposed on income derived from manufacturing or sales of goods, or from the provision of services within the SEZ.

The personal income tax rate may also be reduced with respect to certain assessable income earned by individuals who have their place of business in an SEZ. Such individuals may elect to pay a 0.1% final tax on their assessable income derived from manufacturing or sales of goods, or from the provision of services within the SEZ, without the need to include such income in the annual personal income tax return.

For sales by individuals of immovable property located within an SEZ, the withholding tax rate may be reduced to 0.1% of gross proceeds (in a case where the assessable income is subject to withholding tax at a rate greater than 0.1% under the Revenue Code) for assessable income derived from 1 January 2024 through 31 December 2026. Individuals who have tax on their income from sales of immovable property located in an SEZ withheld at the rate of 0.1% will not be required to include such assessable income as taxable income for personal income tax purposes, provided that the individual chooses not to request a refund or credit (either wholly or partially) with respect to the tax withheld.

Further details on the applicable rules, procedures, and conditions for the tax incentives are set forth in the royal decree and the notification.

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