



Tax & Legal Newsletter

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Rules, procedures, and conditions provided for claiming income tax deduction with respect to COVID-19 donations made to Prime Minister's Office

A notification from the Director-General of the Thai Revenue Department (No. 36) issued on 4 October 2021 provides rules and conditions for claiming the personal or corporate income tax deduction with respect to certain donations made to the Prime Minister's Office via the electronic donation (e-Donation) system from 6 March 2021 to 5 March 2022 to support the administration's efforts to control the coronavirus (COVID-19) outbreak, in accordance with a royal decree (No. 723) issued on 12 September 2021. The personal income tax deduction is available for cash donations only, while the corporate income tax deduction is available for donations made in cash, property, or goods. The key rules, procedures, and conditions set forth in the notification are summarized below:

- Cash donations must be made only to the specific account of the Prime Minister's Office;
- Donations of property or goods must be made only in property or goods of the types and kinds specified by the Prime Minister's Office;
- For property purchased by companies or juristic partnerships for donation, evidence of the purchase that supports the quantity and value of the property must be available, and deductions will be allowed based on the value specified in such evidence;
- For donations made from property recorded in the fixed assets register of the company or juristic partnership, the deduction will be allowed based on the net asset value of the property (after depreciation);
- For donations made from goods (whether self-produced or bought for trade) of the company or juristic partnership, deductions will be allowed based on the value of such goods

specified in supporting evidence but may not exceed the value of the inventory brought forward; and

- The value of property or goods purchased for donation may not exceed the normal purchase price of such property or goods.

Local transfer pricing documentation requirements set forth regarding information necessary for transfer pricing analysis of transactions between related companies or juristic partnerships

A notification from the Director-General of the Thai Revenue Department (“Director-General”) on income tax (No. 407) issued on 30 September 2021 sets forth certain local transfer pricing documentation requirements. Thailand’s transfer pricing laws require companies or juristic partnerships with annual revenue of no less than THB 200 million to prepare documentation to support that their transactions with related companies or juristic partnerships are priced on an arm’s length basis. This documentation is required to be submitted within a certain period after receiving a notification letter from the tax assessment officer with the approval of the Director-General. The notification sets forth the required content of the local transfer pricing documentation (“local file”) and is effective for accounting periods of companies or juristic partnerships that begin on or after 1 January 2021. The following documentation is required:

- (1) Documents or other support providing information regarding the reporting entity, such as a description of business operations, a local organization chart, a description of the shareholding structure, an explanation of business restructurings, etc.;
- (2) Documents or other support providing information regarding the reporting entity's controlled transactions, such as a list of controlled transactions by category; an explanation of each category of controlled transactions; a list of all the agreements related to each category of controlled transactions, including a summary of material information and pricing conditions under the agreements; an analysis of functions, assets, and risks of the reporting entity and contractual parties with respect to the controlled transactions, etc.; and
- (3) Other documents or support separate from those described in (1) and (2) above, providing information necessary for the transfer pricing analysis in relation to transactions between related companies or juristic partnerships, as may be requested via a notification letter asking for additional information to be submitted that is sent by a tax assessment officer with approval from the Director-General.

Income tax exemption provided for remuneration paid to government personnel and third parties who are exposed to risk of COVID-19

A ministerial regulation (No. 378) issued on 29 September 2021 provides an income tax exemption for certain government personnel who are exposed to a risk of COVID-19 in carrying out their duties. The exemption is provided with respect to remuneration received in the calendar year 2021, from the Ministry of Public Health relating to the performance of duties involving the observation, investigation, prevention and control, and treatment of COVID-19 and COVID-19 patients, and for providing injections of COVID-19 vaccines outside of medical facilities. The regulation also provides an income tax exemption for remuneration paid

by the Ministry of Public Health to government personnel and third parties providing medical and public health consultations in response to the COVID-19 pandemic. These tax exemptions are subject to further authorization by the Ministry of Finance.

Country-by-country reporting rules specify persons that are required to file reports

A notification from the Director-General of the Thai Revenue Department on income tax (No. 408) issued on 30 September 2021 that is effective for accounting periods beginning on or after 1 January 2021 sets forth rules requiring certain companies or juristic partnerships to file country-by-country (CbC) reports. The notification provides that the CbC report must be submitted in English to the tax assessment officer with the annual corporate income tax return (Form PND 50, which is due 150 days after the end of the accounting period). The CbC reporting requirements apply to multinational groups of companies or juristic partnerships (“MNE groups”) whose consolidated group revenue for the accounting period prior to the reporting accounting period is more than THB 28 billion, and a company or juristic partnership in the MNE groups may be required to file a CbC report in Thailand under the following circumstances:

- It is the ultimate parent entity (UPE) of the group and is incorporated under Thai law;
- It is an entity that is incorporated under Thai law and is nominated as the surrogate parent entity (SPE) to file the CbC report on behalf of the UPE, under certain circumstances; or
- It is an entity carrying on business in Thailand that is not the UPE or SPE and certain other conditions are fulfilled (e.g., the UPE is not required to file a CbC report in its country of residence).

There are still a number of actions required by the Thai Revenue Department to fully implement the CbC reporting obligation, including the issuance of guidance on certain notifications that will be required, and signing and implementation of the [Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports](#).

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

Mark Kuratana

Global Employer Services

Tel: +66 (0) 2034 0000 ext 40125

Email: mkuratana@deloitte.com

Alisa Arechawapongsawat

Transfer Pricing

Tel: +66 (0) 2034 0000 ext 40171

Email: aarechawapongsawat@deloitte.com

Nu To Van

Indirect Tax (Customs & VAT)

Tel: +66 (0) 2034 0000 ext 40163

Email: ntovan@deloitte.com

Chairak Trakhulmontri

Transfer Pricing

Tel: +66 (0) 2034 0000 ext 40157

Email: ctrakhulmontri@deloitte.com

Stuart Simons

Transfer Pricing

Tel: +66 (0) 2034 0000 ext 40135

Email: ssimons@deloitte.com

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

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

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

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

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



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