



## Tax & Legal Newsletter

### September 2021

#### Rules and criteria provided in relation to tax measures to encourage domestic training seminars for employees

A notification from the Director-General of the Thai Revenue Department (No. 405) issued on 4 August 2021 provides rules and criteria for the 100% additional deduction for corporate income tax purposes (i.e., a total deduction of 200%) that is allowed by Royal Decree No. 716 (issued on 26 May 2021) for qualifying expenses incurred from 1 January 2021 to 30 September 2021 in relation to training seminars in Thailand for employees. The key rules and criteria are summarized below:

- Supporting documents in connection with the domestic training seminar must be available for inspection by the assessment officer;
- For expenses for seminar rooms, hotel rooms, transportation, or other expenses related to the domestic training seminar paid to tour operators or tour guides under the law governing tourism business, there must be evidence supporting that the business operator has been registered with the relevant registration officer; and
- Companies or juristic partnerships claiming the tax deduction granted under the measures are not eligible for the tax deduction for certain employee training expenses allowed under Royal Decree No. 437, issued on 15 October 2005.

## Rules, procedures, and conditions set forth regarding VAT registration for business operators providing electronic services from abroad or electronic platform operators located abroad

A ministerial regulation (No. 377) issued on 23 August 2021 and a notification from the Director-General of the Thai Revenue Department (No. 241) issued on 16 August 2021 set forth the rules, procedures, and conditions for the VAT registration and for the notification of changes in details of the VAT registration for certain business operators providing electronic services from abroad and electronic platform operators located abroad. The ministerial regulation and notification were issued in light of amendments to the tax legislation regarding the imposition of VAT that apply to income from electronic services received as from 1 September 2021. The key rules, procedures, and conditions set forth in the ministerial regulation and notification are summarized below:

- A service provider providing electronic services from a foreign country to be used in Thailand by a non-VAT-registered user, or an electronic platform operator located abroad that operates a platform through which service providers supply electronic services from abroad to be used in Thailand by a non-VAT-registered user, is required to apply for VAT registration within 30 days from the date the annual gross revenue derived from such transactions exceeds THB 1.8 million, using the application form prescribed by the Director-General of the Revenue Department (Form P.P.01.9) and providing the required documents specified on the Revenue Department's website;
- An applicant that is subject to "prohibitions" (e.g., a person whose VAT registration has been revoked by the Director-General of the Revenue Department, a person with no actual place of business operations, or a person that failed to deliver required documentary evidence to revenue officers) will not be allowed to register for VAT; and
- If there is any change in the key details regarding the VAT registration (e.g., name and address of the VAT operator, suspension of business for more than 30 successive days, relocation of the place of business, or cessation of business), the change must be reported using the form prescribed by the Director-General of the Revenue Department (Form P.P.09.9) via the Revenue Department's website within 15 days from the date of the change.

## Extension of reduce withholding tax rates for certain payments via e-withholding tax system

On 11 August 2021, the Thai Revenue Department issued a revenue department regulation (No. Tor.Por. 336/2564, amending Revenue Department Regulation No. Tor.Por. 4/2528) to reduce the withholding tax rates from 5% and 3% to 2% for payments of certain types of assessable income made via the e-withholding tax system from 1 October 2020 to 31 December 2022. The rates originally were reduced from 1 October 2020 to 31 December 2021 in response to COVID-19, and the reductions have been extended to 31 December 2022.

### **Extension of 7% VAT rate for two years**

A royal decree (No. 724) issued on 26 August 2021 provides that the reduction of Thailand's statutory VAT rate from 10% to 7% (inclusive of local tax) will be extended for an additional two years. The extension is effective from 1 October 2021 until 30 September 2023.

### **Extension of deadline for tax refunds in MAP cases, regardless of statute of limitations under Revenue Code**

On 23 August 2021, the Thai Ministry of Finance issued a notification that is effective as from the same date and that provides an extension of the deadline to request a corporate or individual income tax refund for certain eligible persons whose standard period to request a tax refund has expired. If the person is the subject of a mutual agreement procedure (MAP) under a tax treaty, the deadline to request a tax refund is extended to 60 days after the date on which the person receives a letter from Thailand's competent authorities notifying the person of the result of the MAP, regardless of the statute of limitations under the Thai Revenue Code.

### **Refund of withholding tax allowed for interest from government savings bonds issued by Ministry of Finance**

A ministerial regulation (No. 376) issued on 23 August 2021 allows a person whose income from government savings bonds issued by the Thai Ministry of Finance has been subject to withholding at source under a withholding tax scheme to submit a request for a tax refund via the electronic system operated through relevant financial institutions that have entered into an agreement with the Revenue Department for processing electronic tax refunds.

### **Waiver or reduction of certain penalties authorized**

On 31 August 2021, the Thai Revenue Department issued a revenue department regulation (No. Tor.Por. 337/2564) authorizing a revenue officer to waive or reduce the penalty for taxpayers that fail to file VAT or specific business tax (SBT) returns by the relevant deadline, or that submit tax returns with errors, in respect of tax returns that are due from 1 September 2021 through 31 December 2021. The authorization is in response to COVID-19. If the filing is made within three months from the deadline, the penalty will be waived or reduced as follows:

- The penalty will be waived if the tax and surcharge due are paid in full; and
- The penalty will be reduced to 2% of the total penalty that otherwise would apply if tax is paid that is equal to at least 25% of the amount payable.

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