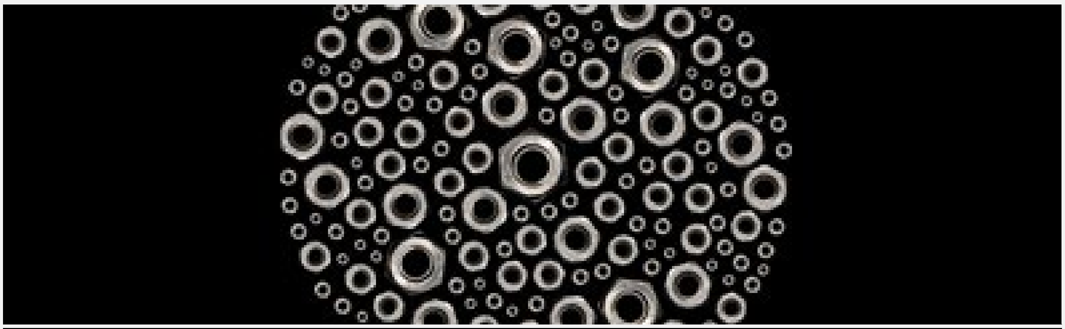

Tax & Legal Newsletter
August 2022

Further extension of tax incentive for COVID-19 donations made to prime minister's office

A Thai royal decree (No. 751) issued on 18 July 2022 (following the 26 April 2022 approval of a draft royal decree by the Thai cabinet) grants a further extension of the income tax deduction and VAT exemption for donations that are made by individuals, companies, and juristic partnerships via the electronic donation system to the prime minister's office to support COVID-19 measures. The royal decree provides for both an income tax deduction and a VAT exemption for donations of money and assets, but provides only for a VAT exemption in the case of donations of inventory. The income tax deduction and VAT exemption previously were available for donations made up to 5 March 2022 under certain conditions and have been retroactively extended to apply to donations made from 6 March 2022 up to 31 December 2023, in accordance with rules, procedures, and conditions prescribed by the Director-General of the Thai Revenue Department.

Extension of additional corporate income tax deduction for purchases of COVID-19 antigen test kits

A Thai royal decree (No. 752) issued on 18 July 2022 (following the 26 April 2022 approval of a draft royal decree by the Thai cabinet) provides a company or juristic partnership with an additional corporate income tax deduction of 50% (i.e., a total deduction of 150%) for expenses incurred to purchase COVID-19 antigen test kits for its employees and staff. The additional deduction previously was available for purchases made up to 31 March 2022, and Royal Decree No. 752 retroactively extends the additional deduction to apply to purchases made from 1 April 2022 to 31 December 2022.

Tax exemptions provided for sales of assets to REITs under buy-back arrangements

A Thai royal decree (No. 753) issued on 18 July 2022 (following the 10 May 2022 approval of a draft royal decree by the Thai cabinet) provides exemptions from corporate income tax, VAT, specific business tax, and stamp duty for a company or juristic partnership with respect to certain sales of assets to the trustee of a real estate investment trust (REIT) under "buy-back" arrangements (i.e., arrangements under which the company or juristic partnership agrees to subsequently repurchase the assets). The royal decree also provides exemptions from VAT, specific business tax, and stamp duty for the trustee of the REIT in respect of the related "sell-back" transactions. The aim of the exemptions is to allow entities to increase liquidity, in light of the economic downturn caused by the COVID-19 pandemic. The royal decree entered into force on 19 July 2022 (the date following the date of its publication in the government gazette).

To be eligible for the tax exemptions, the following conditions must be satisfied:

- The sales of assets must comply with the requirements and conditions specified by a notification of the Capital Market Supervisory Board;
- The company or juristic partnership must sell the assets to the trustee of the REIT within two years after the entry into force of the royal decree, with an agreement to repurchase the assets;
- The trustee of the REIT must sell the assets back to the company or juristic partnership within five years from the date of purchase of the assets; and

The sale of assets under buy-back arrangements must comply with rules, procedures, and conditions prescribed by the Director-General of the Thai Revenue Department.

Tax incentive provided to encourage donations to medical foundations

A Thai royal decree (No. 754) issued on 18 July 2022 (following the 26 April 2022 approval of a draft royal decree by the Thai cabinet) provides individuals, companies, and juristic partnerships with an additional income tax deduction of 100% (i.e., a total deduction of 200%) for donations (either in cash or in property) in support of public health made to the Phramongkutklao Hospital Foundation, Tropical Medicine Hospital Foundation, Siriraj Hospital Cancer Foundation, Rajabithi Hospital Foundation, Somdej Phra Pinklao Foundation, or the Queen Sirikit Hospital Foundation via the electronic donation (e-Donation) system from 26 April 2022 to 31 December 2022. The decree also provides an exemption from income tax, VAT, specific business tax, and stamp duty for individuals, companies, and juristic partnerships with respect to income derived from a transfer of property or a sale of goods, or with respect to the execution of an instrument, in connection with such donations, in accordance with rules, procedures, and conditions prescribed by the Director-General of the Thai Revenue Department.

Extension of tax incentive for importation of medicines, medical supplies, and medical devices used to diagnose or treat COVID-19

A Thai royal decree (No. 755) issued on 18 July 2022 (following the 26 April 2022 approval of a draft royal decree by the Thai cabinet) provides a retroactive extension of the VAT exemption for imports of medicines, medical supplies, and medical equipment used to diagnose or treat COVID-19 that are to be donated to eligible bodies for charitable purposes. The royal decree also provides a retroactive extension of the corporate income tax deduction and VAT exemption for companies and juristic partnerships with respect to such donations. The tax incentive period is extended for another year and nine months from the previous deadline of 31 March 2022, i.e., the incentive applies to importations and donations made from 1 April 2022 to 31 December 2023, in accordance with rules, procedures, and conditions to be prescribed by the Director-General of the Thai Revenue Department.

Criteria set forth for determining eligibility for tax incentives provided in SEZs

A notification from the Director-General of the Thai Revenue Department on income tax (No. 426) that was issued on 11 July 2022 and is effective as from the same date sets forth the criteria for determining eligibility for certain personal and corporate income tax incentives provided in relation to special economic zones (SEZs), in accordance with a royal decree (No. 731) dated 7 November 2021.

Royal Decree No. 731 provides for the extension of certain tax incentive measures through 31 December 2023. Under Royal Decree No. 731, qualifying individuals who derive employment income from companies or juristic partnerships that have their place of business in an SEZ may elect to pay personal income tax in respect of such employment income at a rate of 3%, without the need to include such income in the normal tax computation. Notification No. 426 sets forth the criteria for determining an individual's eligibility for claiming a reduction in the personal income tax rate and withholding tax rates in respect of such employment income. An individual must have the following qualifications, depending on whether the individual is considered a "skilled employee" or an "expert":

- In the case of skilled employees, the employee must have completed a bachelor's degree, higher vocational certificate, technical certificate, or higher level of certification and must have qualified at the national skill standard test (second level) in each specific field under the Skill Development Promotion Act B.E. 2545. In addition, the employee must have at least five years of working experience, which must be confirmed by a certificate issued by an employer.
- In the case of experts, the employee must have completed a bachelor's degree or higher level degree and must have at least eight years of working experience, which must be confirmed by a certificate issued by an employer.

The entity employing the individual employee that wishes to obtain the tax incentive is required to prepare a report to provide the name of the employee to the revenue office for the area where its business operations are located before the reduced tax rate is applied to a payment to the employee for employment. The report must contain, at a minimum, the particulars and statements specified in the template attached to Notification No. 426. The report and supporting documents must be maintained at the place of business for inspection by assessment officers.

Royal Decree No. 731 also provides that companies or juristic partnerships that do not have their place of business in an SEZ may be entitled to claim an additional tax deduction of 200% (i.e., a total deduction of 300%) for expenditure relating to investments in shares or a partnership interest (either for an increase of capital or for the establishment of an entity) and investments for the establishment of companies or juristic partnerships that have their place of business in an SEZ. Notification No. 426 sets forth the criteria for determining the eligibility for the additional deduction, as follows:

- The company or juristic partnership must not have operated within the SEZs for at least one year before making such investments; and
- The company or juristic partnership must not sell or transfer the shares in a company that operates in an SEZ, except under certain circumstances.

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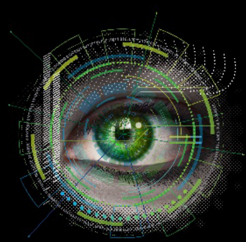

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