



## Tax & Legal Services Newsletter

### Tax Measures Encouraging Operation of Business as a Juristic Person

Director-General Notification No. 5, which was issued on 5 June 2017 and applies as from that date, sets out the requirements for a transfer of assets by an individual to form a new company to qualify as tax exempt under Royal Decree No. 630. The notification provides that land and buildings must be transferred at the capital value used for the purpose of collecting fees for the registration of rights and juristic acts under the Land Code, or at the acquisition cost referred to in the sale and purchase agreement, whichever is higher.

In addition, a cabinet resolution was released on 13 June 2017 that would extend the tax exemption to transfers of assets by an ordinary partnership or body of persons to form a new company.

### Tax Measures Encouraging Electronic Payments

Royal Decree No. 640, which was issued on 10 May 2017 and applies from 11 May 2017, encourages taxpayers to make electronic payments by granting a double deduction for capital expenditure in computing the net profits for Corporate Income Tax on the acquisition of electronic data capture (EDC) equipment, provided no rental fees for the use of such equipment are charged to a merchant that processes transactions via EDC. Qualified equipment under the rules must have the characteristics specified under the law (e.g. the equipment must be a new asset that has never been used before and the

equipment must be depreciated over a period of no less than three years, etc.) and are paid during the period 1 November 2016 to 31 December 2018.

In addition, a double deduction is granted for corporate income tax and personal income tax purposes for collection fees arising from debit card payments via the EDC that are incurred between 1 November 2016 and 31 December 2021. To be eligible, a taxpayer that is an individual must earn income not exceeding THB 30 million in the tax year, and a taxpayer that is a juristic person must have paid-up capital not exceeding THB 5 million and income from sales and services in the accounting period not exceeding THB 30 million in the tax year.

### **Guidance on E-Tax Invoices and Receipts**

The Revenue Department issued regulations that govern the preparation, delivery and retention of tax invoices or receipts in an electronic form (e-tax invoices/receipts), to facilitate the national e-payment system, on 19 June 2017. The salient features of the regulations, which apply as from 20 June, can be summarized as follows:

- VAT registrants required to issue tax invoices, summary tax invoices, credit/debit notes and receipts may file a request to prepare, deliver and retain e-tax invoices/receipts with the Director-General of Revenue, provided they have first obtained a certificate issued by the relevant certification authority.
- VAT operators eligible to issue e-tax invoices/receipts (eligible VAT operators) must issue the e-tax invoices/receipts using secure and reliable hardware and software systems.
- E-tax invoices must be delivered by methods that are in accordance with the Electronic Transactions Act.
- Eligible VAT operators must submit e-tax invoices/receipts on a monthly basis, along with tax reports to the Revenue Department in the form prescribed by the department.
- E-tax invoices issued by eligible VAT operators to the VAT operators who purchase goods or services must be retained in an electronic form.
- Eligible VAT operators may appoint a service provider to prepare, deliver and retain e-tax invoices/receipts on their behalf.
- Eligible VAT operators that no longer wish to issue tax invoices/receipts in an electronic form may request a cancellation of their registration by notifying the Revenue Department.

### **Tax Measures on Additional Deduction for Investment in New Assets**

Following the issuance of Royal Decree No. 604, which allows a double deduction of expenditure on certain assets, a notification of the Director-General of Revenue on income tax (No. 300) was issued on 13 June 2017, to set out additional requirements on building construction or modification. Under the notification, companies that requested permission for construction or modification of a building prior to 3 November 2015 must execute the construction contract between 3 November 2015 and 31 December 2016. In addition, the capital expenditure must not be incurred before 3 November 2015.

**Supreme Court Decision:  
Redemption of RMF Units**

A Supreme Court decision involves a situation where an individual purchased investment units in a retirement mutual fund (RMF) from 2002-2006, in an amount exceeding the eligible tax-deductible amount specified by the law. The individual claimed a partial tax allowance in his tax return for the deductible portion of the RMF units purchased.

Later during 2006, the individual partially redeemed the nondeductible portion of the investment units in the RMF, and derived gains from the redemption. The gains derived were reported in the tax return filed for personal income tax purposes, and did not affect the eligible tax-deductible portion. However, the tax authorities' assessment officer considered that the individual was disqualified from a tax deduction for both portions of the investment units, since the redemption was made within the first five years of the holding period.

The Supreme Court held that, although the individual purchased investment units in the RMF in an amount exceeding the eligible tax-deductible amount specified by the law, he still was entitled to redeem the excess portion of the investment units (i.e. the nondeductible portion) within the first five years of the holding period, and that this did not affect the qualified tax-deductible portion. Consequently, the qualified portion of the RMF investment units still was eligible for the tax deduction.

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