



Tax & Legal Services Newsletter

[Additional tax deduction for investments in machinery](#)

Royal Decree No. 690, issued on 20 January 2020 and effective as from 21 January 2020, provides for a corporate income tax deduction equal to 150% of the amount paid as expenses (i.e. an additional 50% deduction) for qualifying investments in machinery:

- The additional deduction is available for expenses paid as from 1 September 2019 through 31 May 2020 for investments in machinery; however, the additional deduction is not available for companies operating a leasing business that make an investment in machinery that will be leased.
- The machinery must be located in Thailand, must never have been used before, and must be in a condition that allows it to be ready for use by 31 December 2020.
- The machinery must not be granted tax benefits under other decrees or legislation, including royal decrees issued under the Thai Revenue Code, the law on investment promotion, the law on increasing the competitiveness of the country, or the law on the eastern special development zone.
- To qualify for the additional deduction, a company must prepare information on the investment project and a payment plan for the project, and must submit these to the Director General of the Revenue Department according to rules that will be prescribed by the director general.

Reduction of land and structures tax

A royal decree issued on 20 January 2020 that applies retroactively as from 1 January 2020 provides the criteria for reducing the land and structures tax for certain categories of land or structures:

- A 50% tax reduction applies to land and structures bequeathed to a natural person if the land and structures are utilized for residential purposes, the natural person is listed in the household register, and the ownership registration was completed before 13 March 2019. A 50% tax reduction also applies to power plants, etc.
- A 90% tax reduction applies to immovable property held for sale by a financial institution for a period not exceeding five years; land or structures that are under development as housing, condominium buildings, or industrial estates for a period not exceeding three years; land or structures of private schools; land or structures used as locations for providing services to the public in general; land or structures within an airport; and roads or elevated structures of an expressway, etc.

Reporting of data regarding persons carrying out specific transactions

Ministerial Regulation No. 355, released on 23 December 2019, sets out reporting rules to implement legislation (Act Amending the Thai Revenue Code No. 48) requiring financial institutions and e-money service providers to report data relating to specific transactions of persons that make, in the aggregate, (i) at least 3,000 annual electronic deposits/transfers; or (ii) at least 400 annual deposits/transfers, where the total value of all transactions is at least THB 2 million. The reporting rules cover, e.g., the list of information that must be reported, the number of transactions and the value of transactions that must be reported, etc. The reporting person must submit the required data regarding persons carrying out specific transactions via the Revenue Department's electronic system using the data reporting format that will be prescribed in separate guidance from the Director General of the Revenue Department.

Deduction for cost of repairs of property in natural disaster area

Ministerial Regulation No. 354 was released on 23 December 2019 to provide for a personal income tax deduction for costs to repair property that was damaged by a tropical storm and was located in an area designated by the tax authorities as a natural disaster area or an emergency disaster victim assistance area. In the case of repairs to a building or property assembled and fixed to a building or a condominium unit, the deduction will be equal to the amounts actually paid (not exceeding THB 100,000). The individual taxpayer claiming the deduction must be the owner, the lessee, or the person making use of the property. In the case of repairs to vehicles, the deduction will be equal to the amounts actually paid (not exceeding THB 30,000). The individual taxpayer claiming the deduction must be the owner or lessee of the vehicle and must comply with the provisions specified by the law.

Double deduction for investments in systems for electronic documents

The Director General of the Revenue Department released a notification (No. 359) on 20 December 2019 that applies retroactively as from 30 April 2019 to implement the double deduction that was introduced by Royal Decree No. 683. The double deduction is available for corporate income tax purposes for expenses paid for investments in property for electronic document preparation systems, tax remittance systems, and cash registers, as well as for electronic data storage service fees, paid between 30 April 2019 and 31 December 2019. The notification provides that, e.g., companies that wish to claim the double deduction must report the details of the investment and payments before filing tax returns for the accounting period for which the double deduction is

claimed, and no later than 31 May 2020. In addition, a company must prepare a report containing data on the installation and cancellation of installation of the property to have available for inspection by the assessment officer.

Revision of deduction for parental health insurance and life insurance premiums

On 26 December 2019, the Director General of the Revenue Department released Notification No. 360 to revise the criteria for deducting insurance premiums for an individual taxpayer's parental health insurance. The prior law required the individual to submit relevant documents issued by the insurer, indicating that the individual paid the health insurance premiums, to claim the deduction. However, the notification grants individuals the right to claim the deduction as from 2020 if they merely inform the insurer that they wish to claim the deduction. To claim the deduction for 2019, the individual must have a receipt or certificate that is issued by the insurer and that includes a statement containing information specified in the notification.

Also on 26 December 2019, the Director General of the Revenue Department released Notification No. 361 to revise the criteria for individual taxpayers to deduct life insurance premiums. The prior law required the individual to submit relevant documents issued by the insurer, indicating that the individual paid the life insurance premiums, to claim the deduction. However, the notification grants the individuals the right to claim the deduction for life insurance premiums if they merely inform the insurer that they wish to claim the deduction for life insurance premium payments made as from 1 January 2020. In case of life insurance premium payments made before 1 January 2020, if the individual chooses not to notify the insurer that it wishes to claim the deduction, the individual must have relevant documents issued by the insurer indicating that the individual paid the life insurance premiums.

Supreme Court decision on VAT relating to donations of production rejects

The Supreme Court issued a decision on the VAT treatment of donations of products that become defective during the production process.

The taxpayer, a company that benefitted from investment promotion incentives, imported raw materials to produce for export. Some losses occurred during the production process relating to defective products that were not suitable for use in the taxpayer's business. The company requested permission from the Board of Investment to donate the defective products to the Suankaew Temple Foundation. Upon obtaining approval and making the donation, the company considered that it had no liability for VAT under the Revenue Code (section 81 (1) (u)). However, the Thai Revenue Department took the view that the donation would not be exempt, as it is not a disposition, distribution, or transfer of goods (whether or not for a benefit or consideration) that is within the definition of a "sale" under the Revenue Code (section 77/1 (8)). In addition, the Revenue Department considered that donation would not be exempt under the Revenue Code (section 81 (1) (v)) because the Suankaew Temple Foundation is not a qualified public charity, as prescribed by law. Therefore, the revenue department took the position that the company's donation was within the scope of VAT.

The Supreme Court ruled that the Revenue Code (section 81 (1) (u)) provides a VAT exemption for the sale of goods and the provision of services exclusively for the benefit of a religious or a public charity. The court took the view that the company donated the defective products to the Suankaew Temple Foundation for purposes of supporting the community and that the foundation

used the products for the benefit of a religious or a public charity. Therefore, the donation was exempt from VAT under the Revenue Code (section 81 (1) (u)).

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