



Tax & Legal Services Newsletter

Land and Construction Tax Act to be enforced from 2020

On 16 November 2018, the National Legislative Assembly approved the Land and Construction Tax Act, which contains rules that will replace the local development tax and will apply as from 1 January 2020.

Land will fall within one of the following four groups and tax rate structures under the Act:

- Land used for agricultural purposes: 0.01% on land valued up to THB 75 million; 0.03% on land valued over THB 75 million up to THB 100 million; 0.05% on land valued over THB 100 million up to THB 500 million; 0.07% on land valued over THB 500 million up to THB 1 billion; and 0.1% on land valued over THB 1 billion.
- Land used for residential purposes: 0.02% on land valued up to THB 50 million; 0.03% on land valued over THB 50 million up to THB 75 million; 0.05% on land valued over THB 75 million up to THB 100 million; and 0.1% on land valued over THB 100 million;
- Land used for commercial purposes: 0.3% on land valued up to THB 50 million; 0.4% on land valued over THB 50 million up to THB 200 million; 0.5% on land valued over THB 200 million up to THB 1 billion; 0.6% on land valued over THB 1 billion up to THB 5 billion; and 0.7% on land valued over THB 5 billion; and
- Wasteland: A progressive tax rate from 0.3% to 3% (the tax rate will increase by 0.3% annually if the land is not utilized).

In addition, the Act will grant various tax exemptions (e.g. a three-year exemption on land used for agricultural purposes where the owners are individuals and an exemption for first-time homeowners on property valued at THB 50 million or less) and tax relief for three years where the tax payable under the Act exceeds the local development tax that would have been paid, i.e. taxpayers will be liable for 25%, 50% and 75% of such excess for the first, second and third year, respectively.

Transfer pricing law enacted

The Act Amending the Thai Revenue Code (No. 47) published on 21 November 2018 and that applies for accounting periods commencing on or after 1 January 2019, introduces the following transfer pricing measures:

- Tax assessment officers have the authority to adjust the income and expenses of related companies for purposes of corporate income tax, cross-border withholding tax and profit remittance tax to arrive at the income and expenses that would result the parties operated independently (i.e. to reflect the arm's length standard);
- Tax refunds resulting from a transfer pricing adjustment made by a tax assessment officer can be requested within three years from the due date for filing the tax return or within 60 days of receiving written notice of the adjustment; and
- Companies with revenue that meets the stipulated threshold (i.e. not less than THB 200 million) and have a relationship with related companies are required to prepare a report that contains detailed information about the related companies and the value of intercompany transactions for each accounting period, and submit the report with the annual corporate income tax return. Tax assessment officers may request such companies and juristic partnerships submit documents or other evidence necessary for a transfer pricing analysis within five years from the report submission date.

Amendment to tax deduction for children

A new law (Act Amending the Revenue Code (No. 46) issued on 11 November 2018 aims to encourage married couples to have more children and reduce the elderly population ratio by expanding the personal income tax allowance for children as from tax year 2018. For 2018 onwards, an individual taxpayer may deduct THB 60,000 for a second child and each subsequent child born in or after 2018 (without limitation on the number of children) in computing personal income tax for tax year 2018, onward. Previously, Thai law allowed a deduction of THB 30,000 per child, up to three children.

Petroleum tax revisions

A Petroleum Income Tax Act (No. 8) issued on 21 November 2018 and that applies for accounting periods commencing on or after 1 January 2018, include the following:

- The rules for bad debt write-offs are revised to be in accordance with rules to be laid down under the relevant ministerial regulation. Previously, taxpayers were allowed to write off the debt provided all necessary steps were taken to collect the debt; and

- A provision on petroleum tax refund requests is introduced.

Rules for using “tax single sign-on” system

A notification issued by the Ministry of Finance dated 16 July 2018 sets out the rules and procedures for using the tax single sign-on system. To use the system, an applicant must register via the internet and appear in-person before an official of the Thai Revenue Department, Excise Department or Customs Department and submit the necessary documentation, e.g. an application and system terms and conditions signed by the applicant.

Donations through “e-donation” system

A notification issued by the Thai Revenue Department on 9 November 2018 (which applies retroactively to donations made as from 16 December 2017) allows donors to deduct the amount of donations made through the e-donation system for purposes of computing personal income tax or corporate income tax. E-donations may be made through “QR code” or bar code scanning, under which banks will collect the donation data and forward it to the Revenue Department. E-donations made through other channels must be reported by the donor through the Revenue Department’s website. Information about the donations made via the e-donation system can be used to substantiate a tax deduction for the donation without the need to procure other documents. Users of the e-donation system must first register via the Thai Revenue Department’s website to receive a username and password.

Reporting requirement under counter corruption laws abolished

According to a press release issued by the National Counter Corruption Commission on 31 October 2018, companies that contract with state agencies no longer are required to prepare and submit an income and expense report on projects with the state agencies to the Thai Revenue Department with their annual corporate income tax return. This announcement follows the repeal of the Act on Counter Corruption B.E. 2554 (2011) during 2018.

Tax measure to encourage economic growth

On 4 December 2018, the cabinet approved a tax measure aimed at encouraging Thailand’s economic growth by allowing individuals to deduct the value of certain goods supplied to them between 15 December 2018 and 16 January 2019 for purposes of their personal income tax computation for the tax year in which the payment was made, up to a maximum deduction of THB 15,000 for tax years 2018 and 2019 combined. Purchases of the following goods are eligible for the deduction:

- Car, motorcycle and bicycle tire products purchased from VAT-registered persons that are manufacturers (or distributors that obtain such tires from manufacturers) that procure tire materials from the Rubber Authority of Thailand;
- Books, including e-books downloaded from the internet (but not magazines and newspapers) that are purchased from companies or juristic ordinary partnerships; and

- OTOP products registered with the Community Development Department (OTOP is Thailand's local entrepreneurship stimulus program aimed at supporting locally made and marketed products).

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