



Technical update

I. Tax

Additional tax deduction for SMEs to acquire a computer program

To encourage small and medium enterprises (“SMEs”) to use legally registered computer software in their business operations, the Government published Royal Decree No. 725 in the Government Gazette on 8 November 2021. Royal Decree No. 725 allows SMEs to deduct a greater amount of expenses incurred for acquiring a computer program for its corporate income tax purposes. We set below the key points of this law.

1. Entities that are entitled to the additional deduction under this Royal Decree are SMEs which are companies or legal partnerships whose registered paid-up capital on the last date of the accounting period does not exceed THB 5 million, and income from selling goods or providing services in the accounting period does not exceed THB 30 million. In addition, they must comply with the following rules and conditions:
 - do not receive tax benefits, whether in whole or in part, related to computer programs under other Royal Decrees issued under the Revenue Code; and
 - are not entitled to corporate income tax exemptions, whether in whole or in part, under the law on investment promotion, the law on enhancing the country's competitiveness for target industries, or the law on the Eastern Special Development Zone.
2. Expenses which can be claimed for the additional deduction under this law must be incurred for:
 - purchasing a computer program;
 - hiring another person to develop a computer program; or

- using the computer program services of another person.
3. The above expenses must be paid to a seller, developer, or service provider of a computer program registered with the Digital Economy Promotion Agency.
 4. SMEs can claim a tax deduction of 2 times (1 time as a normal deduction of depreciation of a new computer program or deductible amount of software service fee and 1 time as an additional deduction) the amount actually paid for the above expenses. However, the amount claimed for the additional deduction is capped at THB 100,000.
 5. The additional deduction under this Royal Decree shall be available for those accounting periods which start on or after 1 January 2021, and no later than 31 December 2022.
 6. Rules, procedures, and conditions prescribed by the Director-General of the Revenue Department must be complied with.

Additional deduction for the purchase of antigen test kits

On 8 November 2021, the Government published Royal Decree No. 733 in the Government Gazette which became effective on the following day, regarding an additional deduction for the purchase of antigen test kits. This additional deduction is a tax measure approved by the Cabinet in September 2021 to encourage business operators to participate in the prevention and control of COVID-19.

Royal Decree No. 733 allows companies or legal partnerships to claim a tax deduction of 1.5 times (1 time as a normal deduction and 0.5 times as an additional deduction) the amount paid for the purchase of test kits and reagents related to diagnosing infection by SARS-CoV-2 (the COVID-19 pathogen) and COVID-19 antigen self-test kits for their own employees.

The additional deduction under this Royal Decree shall be available for expenses paid from 14 September 2021 to 31 March 2022.

Additional deduction for the employment of ex-convicts

On 8 November 2021, the Government published Royal Decree No. 726 in the Government Gazette to extend the period for tax benefits provided for the employment of ex-convicts, which ended on 31 December 2020, for another year to continue promoting and supporting companies or legal partnerships that employ ex-convicts for a period of time. We set below the key points of this law.

1. The ex-convicts under this law are defined as prisoners under the law on corrections who are of Thai nationality and who were released from prison after serving their sentences, had their jail terms suspended after being in jail, or had their jail terms reduced.
2. Companies or legal partnerships can claim a tax deduction of 1.5 times (1 time as a normal deduction and 0.5 times as an additional deduction) the amount actually paid to employ the above ex-convicts. However, the amount claimed for the additional deduction shall not exceed THB 15,000 per person per month.
3. To qualify for the additional deduction, the ex-convicts to be employed under this law must have been released from prison not more than 3 years before.
4. Companies or legal partnerships that claim the additional deduction must also comply with the following rules and conditions:
 - must submit a withholding payroll tax return ("Form PND. 1") via the Revenue Department's e-filing system by the deadline prescribed under the Revenue Code from the first month that

such ex-convicts are employed until the last month of the accounting period in which the additional deduction is claimed; and

- must not claim an income tax exemption, whether in whole or in part, in relation to expenses for the employment of ex-convicts under other Royal Decrees issued under the Revenue Code.
5. The additional deduction under this Royal Decree shall be available for the accounting period which starts on or after 1 January 2021, and no later than 31 December 2021.
 6. Rules, procedures, and conditions prescribed by the Director-General of the Revenue Department must be complied with.
 7. If a company or legal partnership has claimed an additional deduction under this Royal Decree and subsequently fails to comply with the prescribed rules, procedures, and conditions, the right to claim the additional deduction under this Royal Decree shall be terminated. Consequently, the company or legal partnership must include the amount of the additional deduction already claimed as its income in its net profits for corporate income tax purposes in the accounting period in which the additional deduction was claimed.

II. Legal

New guidelines on requesting DBD permission not to hold an annual general meeting of shareholders within the period fixed by law

The Department of Business Development (“the DBD”) has issued new guidelines on allowing a legal entity, such as a limited company, a public limited company, association, or chamber of commerce, not to hold a shareholders’ meeting during the period from 26 April to 30 April 2021, due to an error that occurred when accessing the DBD’s e-registration site to provide the reason for not holding the meeting during the fixed period or due to the DBD e-registration site failing to save such information that was provided.

Any legal entity impacted by this error must submit a letter to the Business Information Division, the DBD, notifying it of the error and providing supporting documents. The DBD will consider and approve such requests on a case-by-case basis.

Reference: [DBD notification](#) dated 6 October 2021

Extending the scope of business of a Trade and Investment Support Office and International Business Centre to provide loans to affiliated companies

On 16 September 2021, the BOI issued Announcement No. Sor 3/2564 on extending the scope of business of a Trade and Investment Support Office (“TISO”) and International Business Centre (“IBC”) to provide loans to affiliated companies as an activity outside the scope of a treasury centre, as follows:

- Providing loans in foreign currency to affiliated companies in foreign countries;
- Providing loans in Thai baht to affiliated companies in Thailand; and
- Providing loans in Thai baht to affiliated companies in Vietnam and countries bordering Thailand for trading or investing in Thailand or in those countries only.

For a TISO, its scope of business must already include one or more other TISO business activities in order to provide loans to affiliated companies.

For an IBC, its scope of business must already include one or more other IBC business activities, except for acting as a treasury centre and conducting international trade activities, in order to provide loans to affiliated companies.

Source: [BOI announcement](#) (in Thai) and [BOI announcement](#) (in English) dated 16 September 2021

Temporary visa extensions

The immigration department has issued a memo to immigration officials stating that they can grant 60-day visa extensions to foreigners who cannot leave the country. Foreigners who wish to extend their visas must submit the application for doing so to the immigration office by 25 January 2022. The terms and conditions for applying are set out by each local immigration office, and visa extensions will initially be granted for a maximum of 60 days. Foreigners who do so have to submit Form TM30 to inform the authorities of their place of residence and are prohibited for working during the extension.

Applications being accepted for Thai permanent residence

Effective 22 November 2021, the immigration office began accepting applications for Thai permanent residence (PR) for 2021. This is done annually by the Minister of Interior and the immigration authorities, allowing a maximum of 100 people of each nationality who are staying and working in Thailand for at least 3 consecutive years to request such status.

Applicants can submit the PR application between 22 November 2021 and 30 December 2021 during office hours.

Consideration period

Details	Period
Application, official fee paid and having fingerprints taken	22 November 2021 to 30 December 2021
Prepare the official order and wait for the results of the inspection from the relevant official agencies	90 Days
Testing: Thai speaking and listening skills and personality	90 days
Processing and proposing acceptance to the board of immigration	120 days

Reference: [Immigration's website](#)

III. Accounting

Initial measurement of property, plant, and equipment

Paragraphs 126 to 127 of the Thai Financial Reporting Standards for Non-publicly Accountable Entities ("TFRS for NPAEs") and the Thai accounting manual of the Thailand Federation of Accounting Professions in regard to property, plant, and equipment ("PPE"), state the following:

- An item of PPE that qualifies for recognition as an asset shall be measured at cost.
- The cost of an item of PPE consists of:
 - (a) its purchase price, including import duties and non-refundable purchase taxes, after deducting trade discounts and rebates.

- (b) any costs directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management.
 - (c) the initial estimate of the costs of dismantling and removing the item and restoring the site on which it is located, the obligation for which an entity incurs either when the item is acquired or as a consequence of having used the item during a particular period for purposes other than to produce inventories during that period.
- Examples of directly attributable costs are:
 1. costs of employee benefits (as defined in Thai Accounting Standard 19, Employee Benefits) arising directly from the construction or acquisition of the item of PPE;
 2. costs of site preparation;
 3. initial delivery and handling costs;
 4. installation and assembly costs;
 5. costs of testing whether the asset is functioning properly, after deducting the net proceeds from selling any items produced while bringing the asset to that location and condition (such as samples produced when testing equipment); and
 6. professional fees.
 - Examples of costs that are not costs of an item of PPE are:
 1. costs of opening a new facility;
 2. costs of introducing a new product or service;
 3. costs of conducting a business in a new location or with a new class of customer;
 4. costs of training staff for acquiring new machinery or a factory; and
 5. administrative and other general overhead costs.

Scenario

On 1 January 2020, Company A began the construction of a new factory. Costs relating to the factory, incurred in the year ended 31 December 2020 are as follows:

Items	Component	Total (Baht)
1	Purchase of materials to construct the factory	12,000,000
2	Architects' fees directly related to the construction	3,500,000
3	Salary of a factory manager who Company A hired from overseas for consulting and overseeing construction of the factory	1,800,000
4	Costs of relocating staff who will work at the new factory	1,200,000
5	Accommodation costs for a foreign engineer who will be consulted on building the new factory	300,000
6	Costs of moving the property of the factory manager from overseas	250,000
Items	Component	Total (Baht)
7	The salary of the secretary of the factory manager	150,000

8	Costs related to the formal opening of the factory	125,000
	Total	19,325,000

Issues

- a) How should Company A calculate and record the initial cost of the factory?
- b) What costs should be recognized as expenses in the financial statements?

Response

According to TFRS for NPAEs, and the accounting manual noted above, Company A must calculate and record the initial cost of the factory as follows:

Items	Component	Cost of factory (Baht)	Reason
1	Purchase of materials to construct the factory	12,000,000	Costs include cost of purchase
2	Architects' fees directly related to the construction	3,500,000	These expenses are direct costs of getting the asset ready for use
3	Salary of a factory manager who Company A hired from overseas for consulting and overseeing construction of the factory	1,800,000	These expenses are direct costs of getting the asset ready for use
4	Costs of relocating staff who will work at the new factory	-	Specifically disallowed by TFRS for NPAEs, and Company A must record these as expenses
4	Accommodation costs for a foreign engineer who will be consulted on building the new factory	-	Same as above
5	Costs of moving the property of the factory manager from overseas	-	Same as above
6	The salary of the secretary of the factory manager	-	Same as above
7	Costs related to the formal opening of the factory	-	Same as above
	Total cost of factory	17,300,000	

Any costs not capitalized as part of factory costs will be expensed to the statement of profit or loss as incurred.

References: [TFAC website](#) and TFRS for NPAEs, and [TAS 16 manual](#)

IV. IFRS

IFRS IC agenda decision on non-refundable VAT on lease payments

The IFRS Interpretations Committee (IFRS IC) had been asked whether or not non-refundable VAT on lease payments, either because of the nature of the leased property or because of the situation of the lessee, forms part of these lease payments.

At its September meeting, the IFRS IC discussed this issue again, particularly in light of the comment letters received following the publication of a tentative agenda decision, and decided not to include this topic in its work plan because there was insufficient evidence that the matter has widespread and significant effect.

The IFRS IC agenda decision, which in consequence contains no analysis, was endorsed by the International Accounting Standards Board (IASB) at its October 2021 meeting, and published as an addendum to September's IFRIC Update (accessible [here](#)).

IFRS IC rules on the subsequent accounting treatment of warrants initially classified as financial liabilities

Following approval by the IASB in October, the IFRS IC published its final decision (available [here](#)) on the accounting treatment of warrants classified as financial liabilities on initial recognition. The request asked whether the issuer could subsequently reclassify the warrant as an equity instrument.

The warrants in question provided the holder with the right to buy a fixed number of the issuer's equity instruments for a variable exercise price that will be fixed at a future date and remain so for the residual term of the contract. At initial recognition, the issuer classified these instruments as financial liabilities because the variability in the exercise price did not meet the 'fixed-for-fixed condition' (i.e. exchanging a fixed amount of cash for a fixed number of its own equity instruments) for classification in equity under IAS 32.16.

The request asked if it was possible to reclassify the warrant as an equity instrument following the fixing of its exercise price, given that the fixed-for-fixed condition would at that stage be met.

In its decision, the IFRS IC observed that IAS 32 does not address the question of reclassifying financial liabilities as equity instruments after initial recognition when the instrument's contractual terms are unchanged, and that similar questions arise in other circumstances.

Nonetheless, the reclassification of instruments by the issuer has been identified as one of the practical issues the Board will consider addressing in its Financial Instruments with Characteristics of Equity (FICE) project. The Committee therefore proposed it should be considered as part of the FICE project. An exposure draft will be published at a date not yet announced in the IASB's work plan.

Fifth compilation of IFRS IC agenda decisions

On 28 October 2021, the IFRS Foundation published the fifth compilation of IFRS Interpretations Committee (IFRS IC) agenda decisions, taken between April and October 2021. The compilation is available [here](#).

The decisions summarised in this document concern the following standards:

- IFRS 9 – Financial instruments
- IFRS 16 – Leases
- IAS 2 – Inventories

- IAS 10 – Events after the reporting period
- IAS 19 – Employee benefits
- IAS 32 – Financial instruments: presentation

Ongoing IASB deliberations on the presentation of financial statements

During its October meeting, the IASB continued to redeliberate the proposals in the December 2019 exposure draft primarily focusing on the replacement of IAS 1 on the presentation of the financial statements.

The subjects discussed were:

- the classification and presentation of income and expenses from associates and joint ventures in the statement of profit or loss;
- the presentation of operating expenses in the statement of profit or loss and disclosures in the notes;
- the operating profit or loss before depreciation and amortisation as a specified subtotal in the statement of profit or loss.

Classification and presentation of income and expenses from associates and joint ventures in the statement of profit or loss

Readers will remember that the December 2019 exposure draft proposed that the share of profit or loss of integral associates and joint ventures would be presented below operating profit as defined by the IASB in the draft text, in connection with the new “operating” category in the income statement. The share of profit of non-integral associates and joint ventures would be presented in profit before financing and tax, in the “investing” category. IFRS 12 would need to be amended to provide guidance for distinguishing between 'integral' and 'non-integral' entities.

This distinction, along with the classification in the statement of profit or loss of income and expenses of entities accounted for under the equity method, was by no means unanimously supported, as an analysis of the comment letters received by the IASB showed.

October's redeliberations arrived at the following tentative decisions (taken unanimously):

- confirmation of the proposal to require an entity to classify income and expenses from equity-accounted associates and joint ventures outside the operating category;
- withdrawal of the proposal to require an entity to present the subtotal ‘operating profit or loss and income and expenses from integral associates and joint ventures’.
- withdrawal of the proposal to require an entity to identify and present income and expenses from integral associates and joint ventures separately from income and expenses from non-integral associates and joint ventures.

By a very narrow majority (the President having used his additional casting vote) the IASB also tentatively decided that income and expenses from equity-accounted associates and joint ventures would be presented after the new mandatory subtotal for operating profit and before the new mandatory subtotal for profit before financing and income tax. However, the IASB deferred a decision on whether to include such income and expenses in the investing category until such time as it has considered the definition of the investing category. While profit before financing and income tax should include both the operating and investing categories of the income statement and the single line

of income and expenses from equity-accounted entities, there is therefore still uncertainty as to the level of the income statement at which this line will be presented.

Presentation of operating expenses in the statement of profit or loss and disclosure in the notes

In terms of the aggregation and disaggregation of information, the December 2019 exposure draft proposed:

- to prohibit a “mixed” presentation of operating expenses in the statement of profit or loss (i.e. broken down by both nature and function). The presentation either by nature or by function would not be a free choice for issuers but should be made in the light of a set of factors to be proposed by the IASB;
- an entity opting for a presentation by function would also be required to disclose a disaggregation of its operating expenses by nature in the notes. The level of detail of this information would no longer be left to the entity’s discretion, as currently authorised by IAS 1, since the exposure draft calls for a complete analysis by nature of all operational expenses (but without requiring a “matrix” approach to operating expenses).

Here again, the IASB’s proposals were far from unanimously welcomed, with a fairly marked contrast between users of financial statements, who were generally in favour of the proposals, and preparers, who were generally opposed.

On these sensitive issues, the IASB has essentially set the stage for future decisions by deciding to explore:

- retaining the proposal to require an entity to analyse and present operating expenses in the statement of profit or loss based on their nature or function;
- withdrawing the proposed prohibition on a mixed presentation, instead providing application guidance in order to improve comparability and help achieving faithful representation; and
- retaining the proposal to provide application guidance which entities could use to determine which presentation method would provide the most useful information (but modifying that guidance as a consequence of withdrawing the proposal to prohibit a mixed presentation).

The IASB also tentatively decided, where an entity presents operating expenses by function:

- to explore the possibility of supplementing the exposure draft by providing specific application guidance on how to combine and allocate operating expense in the income statement by the ‘function of expense’ method in order to allocate these expenses to the different functions identified;
- not to develop a definition of the item ‘cost of sales’ (though this is a separate line to be presented in the income statement, if this method of presenting operating expense is adopted);
- to explore providing application guidance to explain that, as a minimum, cost of sales would include inventory expense (if applicable), calculated in accordance with IAS 2.

While the IASB tentatively decided not to explore providing partial cost relief for the disclosure of information about operating expenses by nature when an entity presents an analysis by function in the statement of profit or loss, the Board deferred a decision on the exact extent of information to be provided under these circumstances, pending detailed analysis of feedback.

Operating profit or loss before depreciation and amortisation

As a reminder, in the December 2019 Exposure Draft the IASB had identified specific non-mandatory income statement subtotals that are not management performance measures (MPMs). The operating profit or loss before depreciation and amortisation was hence identified as a 'specified subtotal'. In addition, the IASB had indicated in its call for comments that it was not proposing a definition of EBITDA ("earnings before interest, tax, depreciation and amortisation"), which is nevertheless frequently used in entities' financial reporting. In practice, in some situations, and depending on an entity's definition of EBITDA, the 'operating profit before depreciation and amortisation' subtotal could be equal to EBITDA, in which case EBITDA would not be a MPM. In other cases, these two subtotals in the statement of profit or loss could be different.

At the October meeting, the IASB tentatively decided to change the wording and therefore the interpretation of the specified subtotal presented above and initially proposed in the exposure draft, by excluding from this subtotal impairments of assets within the scope of IAS 36. This specified subtotal would therefore be known as 'operating profit or loss before depreciation, amortisation, and specified impairments'.

The IASB also tentatively decided not explicitly to prohibit the use of 'EBITDA' as a label for this subtotal as now defined, but to explain in the Basis for Conclusions that such a label would rarely be a faithful representation of the subtotal. Finally, the IASB would include no further specific requirements in relation to this subtotal.

The Board will continue to redeliberate the project proposals in the coming months.

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