



# Tax & Legal News Flash

KPMG in Thailand



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## Additional requirement for CIT reduction or exemption on royalty income under the International Headquarters regime

Royal Decree No. 666 B.E. 2561 (2018) ("Royal Decree No. 666"), which became effective on 23 November 2018, has amended Royal Decree No. 586 to impose an additional requirement that beneficiaries of the International Headquarters ("IHQ") regime must satisfy to be eligible for a reduced or exempt Thai Corporate Income Tax ("CIT") rate on royalty income.

Royal Decree No. 586 previously provided that beneficiaries of the IHQ regime were entitled to a reduced CIT rate of 10% on royalty income received from associated companies incorporated under Thai law, and CIT exemption on royalty income received from associated companies incorporated under foreign law.

As a result of Royal Decree No. 666, beneficiaries of the IHQ regime must now satisfy an additional requirement in order to claim this CIT reduction or exemption. The IHQ's royalty income must now be derived from Research and Development ("R&D") activities which have been performed in Thailand only. The eligible R&D activities can be performed by either the IHQ itself or by an R&D service provider in Thailand that meets certain conditions prescribed by the Director-General (not yet available). The new requirement imposed by Royal Decree No. 666 will apply to royalty income earned by the IHQ from 1 July 2018.

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### KPMG observations

Royal Decree No. 666 follows concerns expressed by the OECD and EU about a number of Thai tax regimes, including the IHQ regime, which Thailand had committed to amend. In particular, the OECD's Forum on Harmful Tax Practices had criticized tax regimes that provide preferential tax treatment for royalty income without requiring that income to be derived from substantial R&D activities undertaken in the same country. The OECD's comments were made as part of Action 5 (Harmful Tax Practices) of its Inclusive Framework on Base Erosion and Profit Shifting. Thailand joined the Inclusive Framework in 2017, therefore committing to follow the minimum BEPS standards, including Action 5.

### Key contacts

**Benjamas Kullakattimas**  
Head of Tax,  
KPMG in Thailand  
[benjamas@kpmg.co.th](mailto:benjamas@kpmg.co.th)

**John Andes**  
Partner,  
International Tax Services  
[jandes@kpmg.co.th](mailto:jandes@kpmg.co.th)

**Tatiana Bespalova**  
Partner,  
International Tax Services  
[tbespalova1@kpmg.co.th](mailto:tbespalova1@kpmg.co.th)

**Thanita Pubordeepong**  
Director,  
International Tax Services  
[thanitap@kpmg.co.th](mailto:thanitap@kpmg.co.th)

Royal Decree No. 666 was enacted a month after the Thai Revenue Department had announced that it will no longer accept new applications for the IHQ regime, and a new scheme called International Business Centre (“IBC”) will be introduced instead to replace existing regimes, including IHQ. Please refer to our previous Tax & Legal News Flash on this topic [here](#).

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