



# Tax News Flash

KPMG in Thailand



## Issue 87 : November 2020 Tax Relief Measures for Debt Restructuring

Royal Decree No. 709, which came into effect from 13 July 2020, has been issued to provide tax benefits for debt restructuring.

An exemption from taxes and fees has been granted to support debt restructuring for income derived from certain events that are performed or executed within the period of 1 January 2020 to 31 December 2021. The details of tax exemptions are summarized below.

Tax benefits	Taxes exempt	Beneficiaries	Conditions
A tax exemption on income derived from the transfer of assets, sale of goods, service provision and execution of dutiable instruments for debt restructuring.	<ul style="list-style-type: none"> <li>Personal income tax</li> <li>Corporate income tax</li> <li>Value added tax</li> <li>Specific business tax</li> <li>Stamp duty</li> </ul>	<ul style="list-style-type: none"> <li>Debtors</li> <li>Financial institutions</li> <li>Other creditors</li> </ul>	The transactions must be performed or executed due to debt restructuring performed as per the procedures prescribed by the Bank of Thailand.
<p>A tax exemption on:</p> <ul style="list-style-type: none"> <li>Income derived from the transfer of immovable property to a person who <u>is not</u> the creditor for an amount up to the amount of the loan payable or the obligation under the debt guarantee agreement.</li> <li>The execution of the dutiable instrument due to the transfer of immovable property.</li> </ul>	<ul style="list-style-type: none"> <li>Personal income tax</li> <li>Corporate income tax</li> <li>Specific business tax</li> <li>Stamp duty</li> </ul>	<ul style="list-style-type: none"> <li>Debtors of financial institutions</li> <li>Debtors of other creditors</li> </ul>	

Other creditors are defined below:

- 1) Creditors who are not classed as financial institutions, as prescribed by the law governing financial institutions, including companies operating the following businesses:
  - a. credit card business.
  - b. personal loans business.
  - c. nano finance business.
  - d. PICO finance business.
  - e. hire-purchase business and having securities listed in the Stock Exchange of Thailand.
  - f. leasing business and having securities listed in the Stock Exchange of Thailand.

- 2) Creditors other than 1) who coordinate with a financial institution in debt restructuring and agree in writing with creditors who are financial institutions.

In addition, Royal Decree No. 709 and the pre-existing Royal Decree No. 623 together also provide tax benefits on debt forgiven in accordance with the criteria for debt restructuring as prescribed by the Bank of Thailand. The tax benefits are summarized as follows:

<b>Tax benefits</b>	<b>Taxes exempt</b>	<b>Beneficiaries</b>	<b>Conditions</b>
A tax exemption on income derived from debt forgiven by financial institutions ( <i>Royal Decree No. 623</i> ).	Personal income tax or corporate income tax.	Debtors of financial institutions.	Debt restructuring must be performed as per the procedures prescribed by the Bank of Thailand.
A tax exemption on income derived from debt forgiven by other creditors ( <i>Royal Decree No. 709</i> ).	Personal income tax or corporate income tax.	Debtors of other creditors.	<ul style="list-style-type: none"> <li>• Debt restructuring must be performed as per the procedures prescribed by the Bank of Thailand.</li> <li>• The debt must be forgiven within the period of 1 January 2020 to 31 December 2021.</li> </ul>

Following the issuance of Royal Decree No. 709, the Ministry of Finance issued Ministerial Regulation No. 367 on 20 August 2020 allowing other creditors to waive the procedures prescribed in Clauses 4, 5 and 6 of Ministerial Regulation No. 186 (“General Procedures”) in order to write off debts forgiven within the period from 1 January 2020 to 31 December 2021 as a result of the debt restructuring, as mentioned above.

General Procedures for bad debt write-off (under Ministerial Regulation No. 186) which can be exempted according to Ministerial Regulation No. 367 are as follows:

<b>Threshold of debt</b>	<b>Required conditions</b>
Not exceeding THB 100,000	A reasonable action for the recovery of debt has been taken but the debt has not been paid and the expenses in taking a lawsuit against the debtor would not be commensurate with the debt to be paid.
Not exceeding THB 500,000	<ol style="list-style-type: none"> <li>1) There is evidence that reasonable action for the recovery of debt has been taken but the debt has not been paid and it appears that <ul style="list-style-type: none"> <li>- The debtor is dead, becomes a disappeared person or there is evidence of the debtor’s disappearance and there is no property to repay the debt; or</li> <li>- The debtor dissolved business and is indebted to other creditors who have preferential rights over the property of the debtor in an amount exceeding of the property of the debtor;</li> </ul> </li> <li>2) Action has been taken against the debtor in a civil case and endorsed by the court, or an application for participation in debt servicing has been filed in cases where the debtor has been sued by other creditors for civil action, and such an application has already been endorsed by the court, or</li> <li>3) There has been a bankruptcy action taken against the debtor; and endorsed by the court; or an application for participation in debt servicing has been filed in cases where the debtor is being sued by other creditors for a bankruptcy action and the application has been endorsed by the court.</li> </ol>

More than THB  
500,000

- 1) There is evidence that reasonable action for the recovery of debt has been taken but the debt has not been paid and it appears that
  - The debtor is dead, becomes a disappeared person or there is evidence of the debtor's disappearance and there is no property to repay the debt; or
  - The debtor dissolved business and is indebted to other creditors who have preferential rights over the property of the debtor in an amount exceeding of the property of the debtor;
- 2) There has been a civil case filed by the creditor and endorsed by the court, or there has been an application for participation in debt servicing that has been filed and endorsed by the court, and in that case, there has been an order or an order of the court, but the debtor has no property to pay the debt, or
- 3) There has been a bankruptcy action taken against the debtor and endorsed by the court; or an application for participation in debt servicing has been filed in cases where the debtor is being sued by other creditors for a bankruptcy action, and in such cases a composition has been made with the debtor with the approval of the court or the debtor has been adjudicated as bankrupt and there has already been the first distribution of the debtor's property.

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