



COVID-19 - Webcast

Thai Government Relief Measures

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Fabian Doppler and **Rangsarit Suwanarat** are Partners at **FRANK Legal & Tax**, a Bangkok based international law firm.

FRANK Legal & Tax was firm founded in 2012. It focuses its practice on corporate and commercial law, real estate and litigation.

We also offer accounting services and visa / work permit applications support.



A blue-tinted background image of a woman with long dark hair, wearing a white face mask and holding a small bottle of hand sanitizer in her right hand, with her left hand open below it.

Government Relief Measures

Cabinet Approval – Phase 1

Cabinet Approval – Phase 2

Cabinet Approval – Phase 1

“The Royal Thai Government has implemented phase one of relief measures to ease the financial burden of people and companies in Thailand.”

Drafted by the Ministry of Finance to help reduce the financial burdens that Thai companies are currently facing.

Based on the principles of “Timely, Targeted and Temporary as Necessary”.

- Approved by the Thai Cabinet on **10 March 2020**
- Primary focus of relief measures:
 - Travel and Tourism Industries
 - Thai SMEs

Cabinet Approval – Phase 2

"Tax relief measures"

- Approved by the Thai Cabinet on **24 March 2020**
- Primary focus of relief measures:

Providing tax, social security contribution relief measures for individuals and business operators affected by the Covid-19 outbreak

Tax Relief for Corporations

1. Tax Reductions

(WHT, CIT, Import Duty, Jet Fuel Excise)

2. Extended Filing Dates and Deadlines

3. Expedited Refunds

Tax Reductions for Corporations

WITHHOLDING TAX REDUCTION

Withholding tax imposed on payment for **services, hire of work, commissions (paid to juristic persons) and liberal professional fees** will be **reduced from 3% to 1.5%**.

Applicable for payments made from 1 April to 30 September 2020. The withholding tax will subsequently be reduced to 2% from 1 October 2020 to 31 December 2021 (if the payment is made via e-Withholding Tax system).

Tax Reductions for Corporations

CORPORATE INCOME TAX

1. SMEs may deduct 300% of salary expenses paid in April 2020 to July 2020 for corporate income tax purposes. Key requirements:

- Employees are insured under the law on the Social Security Fund
- Receive wages of **not more than THB 15,000** per person per month
- Company's annual revenue does not exceed THB 500 million
- The total number of employees does not exceed 200 persons

Tax Reductions for Corporations

CORPORATE INCOME TAX

2. Eligible SMEs participating in low-interest loan measures (see slide below) to help entrepreneurs can deduct 150% for interest expenses that occur between 1 April 2020 and 31 December 2020. Key requirements:

- Company's annual revenue does not exceed THB 500 million
- The total number of employees does not exceed 200 persons
- Company has only a single set of accounts

Tax Reductions for Corporations

IMPORT DUTY

Import duties on goods used for treatment, diagnosis or prevention of coronavirus infection (COVID-19) as per the list specified by the Ministry of Public Health will be exempt from the effective date of the Notification of the Ministry of Finance to 30 September 2020. The Notification is yet to be formally released.

JET FUEL EXCISE

Jet fuel excise will be reduced from THB 4.726 per liter to THB 0.20 per liter for airlines operating domestic flights until 30 September 2020.

Extended Tax Filing Dates for Corporations

Extended tax filing dates will be granted to provide relief measure as follows:

- Deadline for filing and payment of **annual corporate income tax return (PND.50)** for non-listed companies is **extended to 31 August 2020**
- **BOI** accordingly extends submission date for application for **corporate income tax incentive utilization** to **31 July 2020** or at least 30 days before the annual corporate income tax filing deadline
- Deadline for filing and payment of **mid-year corporate income tax return (PND.51)** for non-listed companies is extended to 30 September 2020.

Extended Tax Filing Dates for Corporations

- The filing and tax payment deadline for other taxes collected by the Revenue Department, such as **value added tax** and **specific business tax**, will be extended as per further notice.

Eligible are the following businesses:

- Businesses that are closed due to the order of the authorities (force majeure); and
- Businesses affected by the COVID-19 outbreak, to be determined on a case by case basis whether a filing extension is justified

Extended Tax Filing Dates for Corporations

- Deadline of **excise payment** is **extended** for **petroleum and petroleum-related business operators** to the **15th day of the month following** the month that petroleum or petroleum products are brought out of the factory or bonded warehouse.

The extension is applicable for excise tax liabilities occurring from 1 April 2020 to 30 June 2020

- The deadline for **excise tax form filing and payment** occurring during the period from 1 March 2020 to 31 May 2020 is extended to 15 July 2020 for operators of **excisable entertainment businesses** (such as pubs, bars, spas, massage parlors, gambling places, etc.) that are temporarily closed due to the COVID-19 outbreak.

Expedited VAT Refunds for Corporations

VAT operators who participate in the 'Good Exporter' program will receive **VAT refunds** faster than normal.

The VAT refund will be granted within 15 days (as opposed to a standard 30-day period).

Required that VAT returns are filed:

- via e-filing system and
- within 45 days (compared to a standard 60-day period) for paper filings.

*Dissemination of VAT
refunds to domestic
entrepreneurs within 15
days after filing the form.*

Tax Relief for Individuals

1. Tax Reductions (PIT)

2. Extended Filing Dates and Deadlines

3. Expedited Refunds

Tax Reductions for Individuals

PERSONAL INCOME TAX

1. Personal income tax is exempt on taxable income received by **medical and public health personnel** from the Ministry of Public Health in the 2020 tax year for work related to COVID-19.
2. Investment in **Super Saving Fund ("SSF")** may be tax deductible expense (replacing LTFs)
3. Threshold for **deductible allowance for health insurance premiums** has been increased from THB 15,000 to **THB 25,000** for the 2020 tax year onwards. The total deduction combined with life insurance premiums and life insurance savings must not exceed THB 100,000

Extended Tax Filing Dates for Individuals

Due date for filing and payment of [annual personal income tax return \(PND.90/91\)](#) is extended from 31 March 2020 (or 8 April 2020 for e-filings) to [31 August 2020](#)

Expedited Refunds for Individuals

Refund of the deposit for **electricity** and **water supply** usage is expedited

Donations related to COVID-19

Donations given to support COVID-19 measures (via the RD's e-Donation) system during 5 March 2020 to 5 March 2021 will be treated as follows:

- **Individuals:** deductible expense for PIT for up to 10% of total income
- **Juristic persons:** deductible expense for CIT for up to 2% of profits
- **Donations** are VAT exempt

Support during Debt Restructuring

Tax relief measures to support debt restructuring of non-bank creditors and their debtors

Exemption of taxes and fees is provided **to support debt restructuring of non-bank creditors** (i.e. credit cards, personal loans, microloans and nano loans, provincial retail loans, hire purchase, leasing and other creditors who entered into debt restructuring agreements with financial institutions for the debt restructuring) incurred from **1 January 2020 to 31 December 2021**.

Tax exemptions will be granted to both creditors and debtors:

- *Exemption of personal income tax or corporate income tax on income derived by debtors from debt forgiveness*
- *Exemption of **specific business tax and stamp duty for debtors and creditors** on income derived from the transfer of assets, goods, service provision and execution of dutiable instruments due to debt restructuring.*

Tax relief measures to support debt restructuring of non-bank creditors

- *Tax exemptions in relation to income derived from the transfer of immovable property (personal income tax, corporate income tax, specific business tax and stamp duty for debtors), if such transfer is made in relation to the restructuring*
- *Normal rules imposing conditions and restrictions for deduction of bad debts written off should not apply to creditors that write off forgiven debts as a result of debt restructuring*
- *The fee for registration of the transfer or mortgage of immovable property and condominium with the Department of Land as a result of debt restructuring is reduced to 0.01% (effective date of this tax reduction to be confirmed)*

Social Security Relief

Social Security Relief is provided for both employers and employees:

1.
Reduced
social security
contributions

2.
Extended
deadlines

3.
Unemployment
Support

Reduced Social Security Contribution

*SSO rates reduced
for both employers
and employees*

Reduce the rate of contributions for employers and insured persons to the **Social Security Fund** from a **rate of 5%** to a **rate of 1%** for the **three-month salary cycles from March 2020 to May 2020**, and a **rate of 4% from June 2020 to August 2020**

The Government's contribution remains at 2.75%

The Social Security Fund will provide a credit line (at 3% interest, for a period of 3 years) to Thai companies that have registered for Social security, in the total amount of 30 Billion THB

Extended Dates and Deadlines

Extending the deadline for remitting employer and insured persons' contributions for the wage periods in March, April and May 2020 for 3 months:

1

Payment period of March 2020

- remittance must be made within 15 July 2020

2

Payment period of April 2020

- remittance must be made within 15 August 2020

3

Payment period of May 2020

- remittance must be made within 15 September 2020

Unemployment Support

*Unemployment
support of up to
THB 15,000*

- Effective from March 1, workers who have lost their jobs because their **employers have folded** will be given **50% of their salaries** -- with a **ceiling of up to THB 15,000** a month, for a maximum of 180 days
- Workers suspended resulting from the government's order that certain businesses close temporarily (**force majeure**), will also be paid **50% of their salaries** -- with the same **THB 15,000 ceiling**, for no more than 60 days
- Workers who have been **forced to resign due to the virus outbreak** will receive **45% of their salaries** -- again with the **THB 15,000** ceiling -- for up to 90 days, while workers who have been laid off stand to receive 70% of their wages, but no more than 15,000 baht, for 200 days

Bank Loans and Financial Support

1.
SME
Development
Bank

2.
Government
Savings
Bank

3.
Bank for
Agriculture and
Agricultural
Cooperatives

4.
Bank of
Thailand

Loans to SMEs

Loans amounting to THB 10 Billion will be provided by **Small and Medium Enterprise Development Bank** to SMEs in the **tourism sector**, i.e. guided tours, spas, relevant transportation, hotels, accommodation and restaurants.

The repayment term is up to a maximum of five years. The loan application can be submitted by 30 December 2020.

Each SME will be eligible to apply for a maximum of THB 3 million loan with the **interest rate of 3% per annum** for the first two years.

Emergency Loans to Individuals

The [Government Savings Bank](#) and the [Bank for Agriculture and Agricultural Cooperatives](#) provide emergency loans to individuals who are affected by the COVID-19 outbreak

Each individual is eligible to apply for a maximum non-secured loan of [THB 10,000 with a fixed interest rate of not exceeding 0.1% per month](#) and 6-month grace period for principal and interest payments. And apply for a maximum loan of [THB 50,000 with a fixed interest rate of not exceeding 0.35% per month](#) and the repayment term must not exceed three years.

Borrowers are [allowed to refinance](#) their unsecured loans into longer-term loans with lower interest rates and Suspending the principal.

Suspending the principal, reducing the interest rate for the debts of the Government Saving Bank and Government Housing Bank.

The loan applications may be submitted by 30 December 2020

Bank of Thailand Measures

The Bank of Thailand has also set guidelines for minimum assistance that financial institutions must offer to debtors to ease their financial burden amid the Covid-19 pandemic

Effective from **1 April 2020**, all lenders, comprising commercial banks, specialized financial institutions (SFIs) and non-bank and leasing companies, are required to comply with the **guidelines** covering six types of loan products. The six types of loan products include:

- **Credit cards;**
- Personal and car type loans;
- Auto and motorcycle loans;
- Machinery leasing;
- Mortgages and
- **SME, nano finance and micro finance loans.**

Reduced Rental for State Property

Rental Fees for State Property are extended to
September for tourism and tourism-related
businesses

Mechanisms Under Labor Law

1.

Employer fixes Annual
Leave, Section 30 LPA

2.

Force Majeure,
Section 8 CCC

3.

Cease Business
Operations, Section
75 LPA

4.

Lay-Off of Employees,
Section 118, e.a. LPA

5.

Mutual Agreements
between Employers
and Employees

Employer Set Forth Annual Leave

Employer fixes annual leave under [Section 30 LPA](#):

Accordingly, the employer may fix or appoint the dates of annual leave for the employees.

However, deviating rules may be provided by the employer's work rules or employment agreements.

*“Annual Holiday ...
Shall Be Fixed In Advance
By The Employer”*

Force Majeure

Section 8 of the Thai Civil and Commercial Code:

“**Force majeure**” denotes any event the happening or pernicious result of which could not be prevented even though a person against whom it happened or threatened to happen were to take such appropriate care as might be expected from him in his situation and in such condition.

➤ **SOMETHING THAT CANNOT BE REASONABLY FORESEEN OR PREVENTED**

Example: Quarantine of the employees who have risk of contracting covid-19, order from the government to cease business operations.

➤ **NO WORK NO PAY**

Section 75 Labor Protection Act (LPA)

In order to invoke Section 75 LPA, a written **notice to the Labor Inspector** is required 3 days in prior to the date of suspension of business.

Section 75 of the LPA states that:

“When it is necessary for an Employer **for whatever cause other than a force majeure** which affects his/her business and causes the Employer incapable to operate his or her business as normal so as to temporarily suspend the business in whole or in part, the **Employer shall pay wages to an employee in amount of not less than seventy-five percent of wages of working days received by the employee before** the suspension of business for the entire period which the Employer does not require the employee to work.”

Section 75 Labor Protection Act (LPA)

ELEMENTS OF THE PROVISION:

1. *“Necessary” cause*
2. *Affects the business*
3. *Incapable to operate*
4. *Business suspended in whole or in part*
5. Not Force Majeure

Case Study: Closure of an Advertising Company

Case: An advertising company servicing restaurants in Phuket has severe cash flow problems after all clients have cancelled their engagements. The company decides to suspend its business operations until further notice.

1

No force majeure, as by law advertising businesses are currently still permitted to operate normally

2

Section 75 LPA may be invoked by management

Mutual Agreements btw. Employers and Employees

1. Unpaid Leave / Suspension of Employment

Often with the promise to rehire after the crisis has passed

2. Reduction of Salary

3. Short-Time Working Arrangements

Short-time working arrangements (“Kurzarbeit”) are not financially supported by Thai government

- All the above need to be agreed on mutually between employer and employee

Mutual Agreements/ Home Office

4. Home Office (Full Salary):

Unless otherwise agreed, full salary payments must be made to employees. Lower salary payments + lower working hours require employees' consent.

- *Debatable whether they need to be agreed on mutually between employer and employee. A one-sided instruction by employer to work at home may be regarded as a detrimental change in working conditions and therefore requiring consent (no court precedents)*

Appropriate work equipment should be provided.

5. Home Office (Reduced Salary)

Home office solutions with reduced salaries

- *Need to be agreed on mutually between employer and employee*

Dismissals and Layoffs

Termination of an employment can take various forms, in particular:

Employee decides to
leave the company
(resignation)

Termination by
employer with cause
(dismissal)

Termination for
business reasons,
without fault of the
employee (layoff)

Employee Lay-Off

Legal requirements for lawful lay-off:

- ❖ Lawful notice (or payment in lieu of notice)
- ❖ Payment of unused annual leave
- ❖ Section 118 LPA: Severance Pay
 - ✓ Reduces overhead but is a burden on cash flow in the short run

*Minimum notice period for dismissal must equal to at least **1 payment** period.*

*Does not have to be more than **3 months** (unless agreed otherwise)*

Employee Lay-Off – Severance Pay

LENGTH OF SERVICE	SEVERANCE PAY RATE
120 days ~ <1 year	30 days
1 year ~ < 3 years	90 days
3 years ~ < 6 years	180 days
6 years ~ < 10 years	240 days
10 years ~ < 20 years	300 days
> 20 years	400 days

Employee Lay-Off - Unfair Dismissal

Cases of unfair dismissal (examples):

Beware: every lay-off must follow the correct procedure to avoid legal repercussions, in particular with regards to “**Unfair Dismissal**”, *Section 49 of the Labor Court Establishment and Dispute Procedure Act B.E. 2522.*

- Immediate dismissal without a clear and full explanation of the reason or the termination of the agreement without serious cause nor severance pay.
- The termination of the agreement without payment of the unused annual leave.
- The termination of the agreement based on the (claimed) violation of the work regulations by the employee without any prior warning.

Practical Measures

- ✓ Sanitize workplace frequently
- ✓ Encourage staff to wash hands frequently
- ✓ Provide disinfection gel at reception
- ✓ Flexible working hours to avoid rush hour
- ✓ Provide car parking space to allow employees to commute by car
- ✓ Prepare for potential home office solutions with appropriate software
 - Video conferencing
 - Document collaboration
 - Time / attendance software

We are Here to Assist

1. Legal consultation on new government relief measures
2. Drafting agreements between employees and employers
3. General contract drafting
4. Tax and accounting advisory (e.g. tax submissions)
5. Notifications to Labor Dep. under the COVID-regulations
6. Advisory on employee lay-off
7. Labor Protection Act compliance advisory

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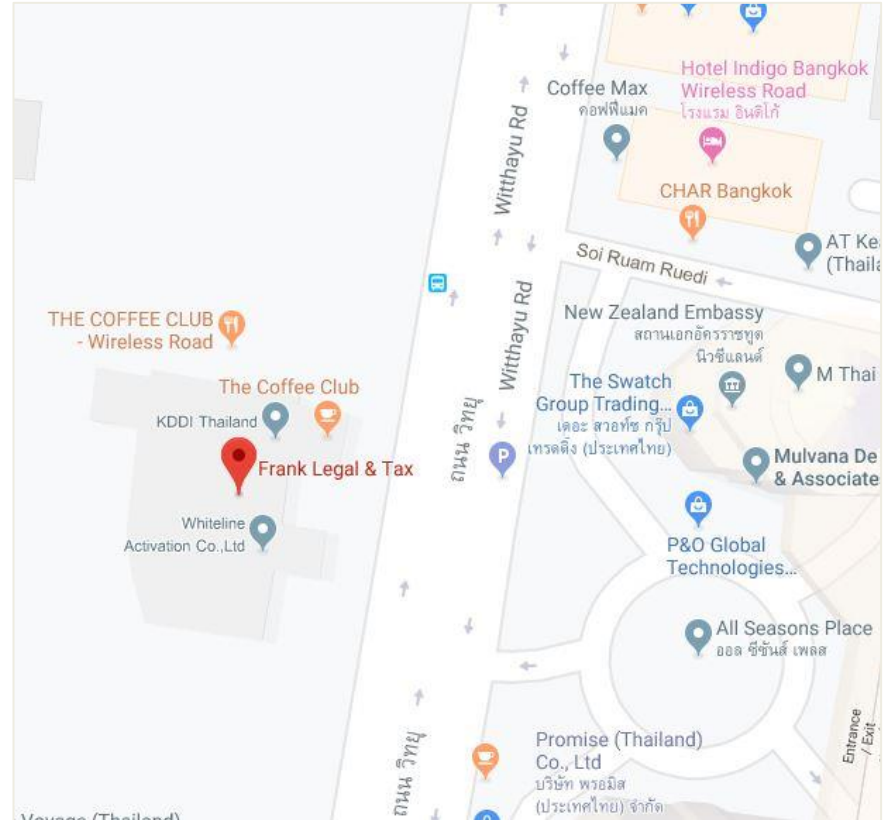


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Thank you!