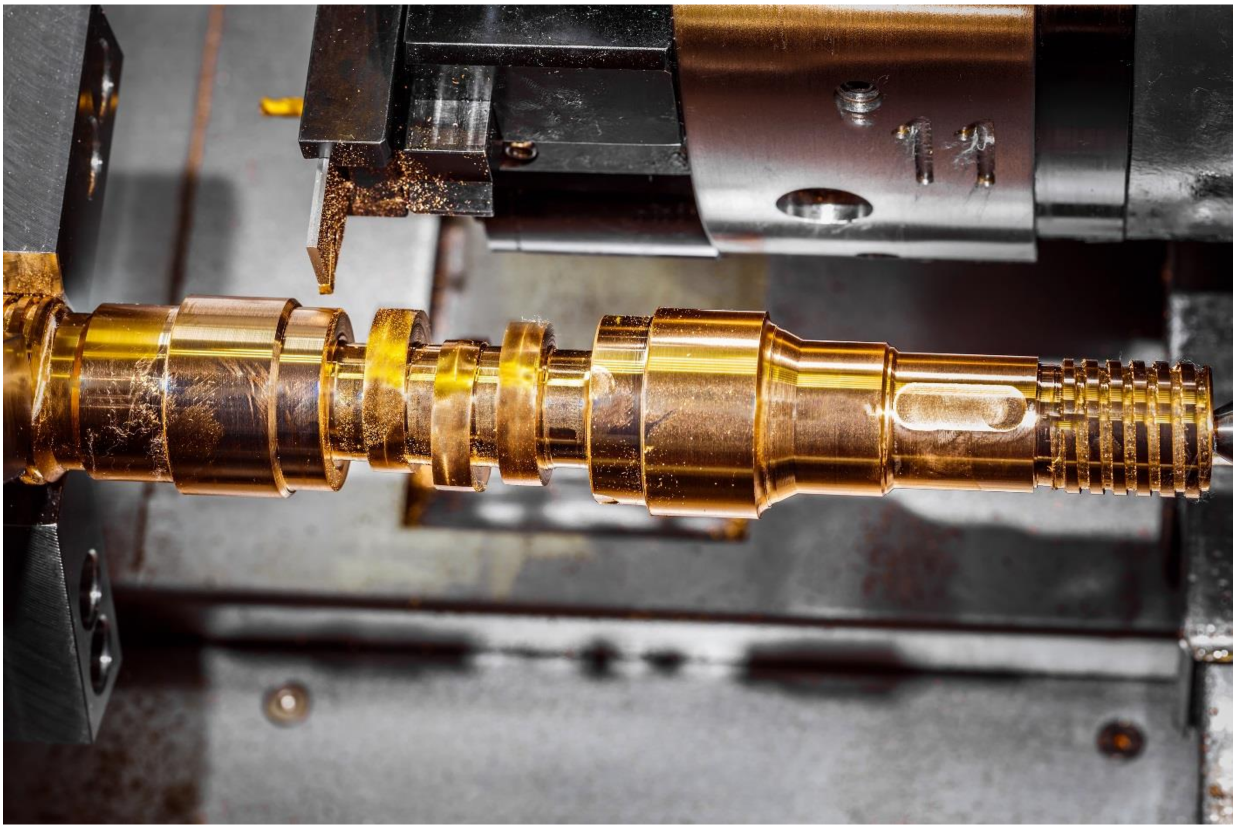
Regulations and Tax Deductions for Investment in Machinery



On 20 January 2020, the Thai Official Gazette No. 137 introduced the Thailand Tax Royal Decree No.690 (issued under the Revenue Code regarding Revenue Exemption B.E. 2553) to give corporate entities a 50% additional expense deduction for investments made in new machinery. Corporate entities which operate the business of leasing and investing in machinery for the purpose of leasing will not qualify for this additional deduction.

The deduction is only applicable to investments in machinery made from 1 September 2019 to 31 May 2020. The Machinery Registration Act B.E. 2514 (1971) defines machinery as anything which consists of a part that either generates, converts or delivers energy; however, this definition does not include vehicles registered under the Motor Vehicle Act B.E. 2522 (1979).

The Machinery Must

1. Not be previously used and should be ready for use by 31 December 2020;
2. Be subject to wear and tear, and these expenses can be deducted under section 65 bis (2) of the Revenue Code;
3. Be located in the Kingdom of Thailand;

4. Not have received tax privileges under the Royal Decree issued under the Revenue Code, whether in whole or in part;

5. Not be utilized in a business which is exempt from Corporate Income Tax under the laws on: investment promotion (Investment Promotion Act B.E. 2520 as amended by Act No.2 B.E. 2534 and Act No 3 B.E. 2544); on increasing the country's competitiveness for target industry (Act to Enhance the Competitiveness of Targeted Industries B.E. 2560); or the law on special development zones in the eastern region (Eastern Special Development Zone Act B.E. 2561 (2018)).

Preparation Requirements

Companies or juristic partnerships entitled to the income tax exemption under the Royal Decree are required to:

- ✓ Establish investment projects and payment plans; and
- ✓ Notify the Director-General of the Revenue Department (the Director General) in accordance with the rules and conditions to be prescribed by the Director General.

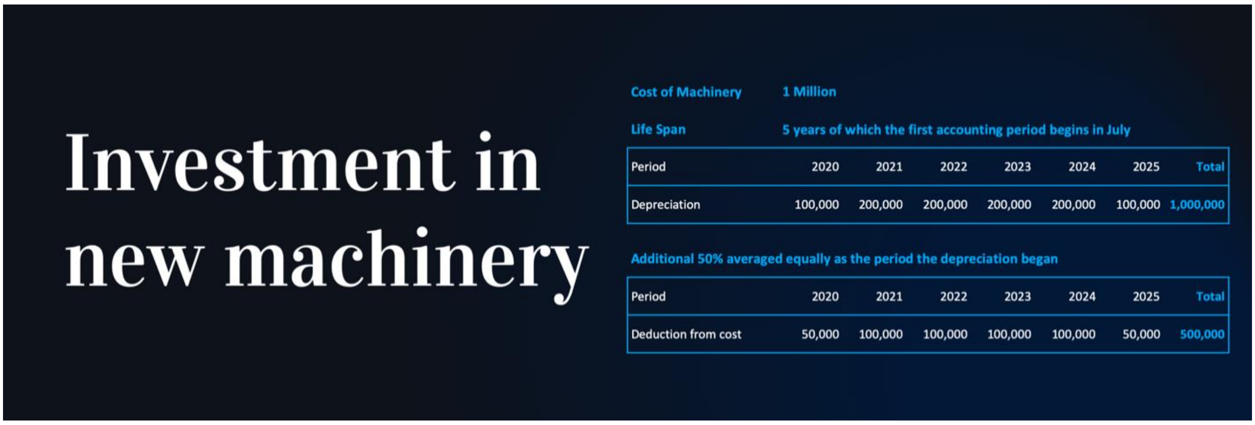
Failure to comply with the above procedures and requirements will result in the withdrawal of the tax benefit with effect from the first accounting period it was used, and tax returns from the relevant accounting period will need to be re-filed. If the machinery is sold, damaged or no longer exists, the tax benefit will end in the accounting period in which any of these events occur and there will be no need to re-compute the tax benefit.

Updated Eligibility Criteria

Further criteria and conditions for this tax benefit have been elaborated upon under the Notification of the Director-General of the Revenue Department No. 366, dated 13 February 2020.

- ✓ A contract, hiring order, purchase order or any other agreement of similar nature made between September 1, 2019 and May 31, 2020, is a prerequisite to support the investment which has been made in the new machinery.
- ✓ It is required that the machinery be included in the fixed asset register for the corporate entities.
- ✓ Should corporate entities utilize this tax benefit, they must prepare an investment project and payment plan by 31 May 2020 using the prescribed form on the Revenue Department website. Furthermore, such entities must prepare a report that lists the specific machinery relevant to the tax benefit (and provide supporting documents), as well as other information required in the Notification.

✓ The 50% additional deduction will be averaged equally over each accounting period for 5 consecutive accounting periods, commencing in the same accounting period as that in which the depreciation began.



Period	2020	2021	2022	2023	2024	2025	Total
Depreciation	100,000	200,000	200,000	200,000	200,000	100,000	1,000,000

Additional 50% averaged equally as the period the depreciation began

Period	2020	2021	2022	2023	2024	2025	Total
Deduction from cost	50,000	100,000	100,000	100,000	100,000	50,000	500,000

Measures providing corporate income tax reliefs to spur investment in the Special Economic Zones, new machinery, and the hotel industry were promulgated in the Government Gazette on June 22, 2020.

Issue No. 695: Income tax deduction for companies or juristic partnerships for investment in new machinery

Companies or juristic partnerships may receive a 150% corporate income tax deduction for expenditure on new machinery assets purchased between January 1, 2020 and December 31, 2020. The tax deduction does not apply to businesses that purchase machinery for the purpose of renting or leasing them out.

The Royal Decree No. 695 extends and augments the scope of the Royal Decree No. 690, which permitted companies to deduct expenses on new machinery purchased between September 19, 2019 and May 31, 2020 at a rate of 50%.

Machinery is defined according to the Machinery Registration Act B.E. 2514 (1971) as anything which consists of a part that either generates, converts or delivers energy. This definition does not include vehicles registered under the Motor Vehicle Act B.E. 2522 (1979).

The machinery must also meet the following requirements:

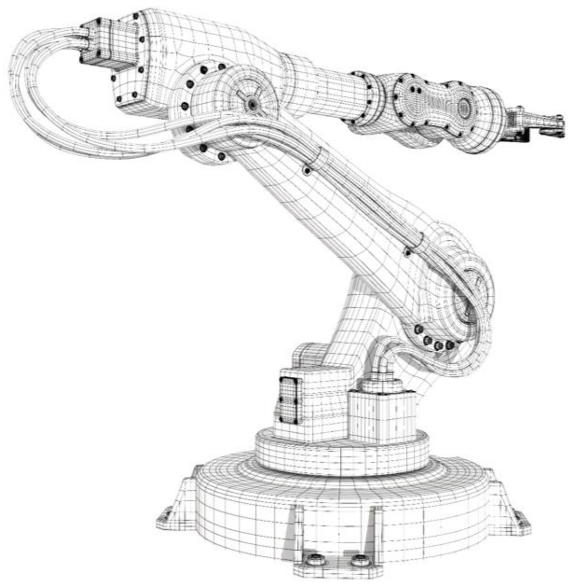
1. The machinery has never been used before.

2. The machinery is entitled to deduct costs for the wear and depreciation of property under Section 65 bis (2) of the Revenue Code

3. The machinery shall be in a condition ready for use by December 31, 2020.

4. The machinery shall be located in Thailand.

5. The machinery shall not be entitled to any tax deduction under another Royal Decree.



6. Businesses exempt from corporate income tax under the law governing investment promotion, targeted industry businesses, or Eastern Economic Corridor businesses are not eligible.

In order to claim the deduction, companies must:

1. Provide an investment plan and payment plan to the Revenue Department.

2. Comply with the terms and conditions under additional regulations to be issued.

In any accounting period, if the company or juristic partnership fails to comply with the Revenue Department's conditions, or the machinery does not satisfy the above criteria, the tax benefit will be revoked and tax returns from the relevant accounting period will need to be re-filed. If the machinery is sold, damaged or no longer exists, the tax benefit will end in the accounting period in which any of these events occur, and there will be no need to re-compute the tax benefit.

Advancements in Automation and Robotics to Improve Productivity

Thailand made extensive progress in developing an intricate and prominent ecosystem of robotics. Although the presence of automation and robotics in the country's automotive and manufacturing industries is strong, the COVID-19 pandemic has seen the rapid growth of robotics in service sector environments. In addition, an increasingly older demographic has seen innovation expand to the care of senior citizens. Thailand's strong foundation in automation and robotics is evident in its government support and focus on producing a highly skilled workforce.

Key features of Thailand's automation and robotics industry

- ✓ USD 23 Billion robotic industry, which has a focus on smart manufacturing through AI, 5G connectivity, and cloud communications technologies.
- ✓ It has dedicated robotics and automation programs at six universities that offer international and local collaboration opportunities.
- ✓ Three thousand units of industrial robots, the highest number within ASEAN until 2020.
- ✓ Forty-five robotic systems in the industrial sector per ten thousand workers.

Expansion of productive capacity

Robots and robotic applications have the capability to operate 24 hours a day, entirely self-sufficiently. This expands production and service capabilities beyond what is feasible using human capital. However, it is essential to note the ethical dilemma that arises from substituting human employees with robots. It has been proposed that employment requiring task repetition should be undertaken by robots, which ultimately could initiate a rise in unemployment. However, many businesses have turned to collaborative robotics designed to be used in conjunction with human labor. This solution has become prominent due to the safety and flexibility that a robot and human pair offer. Furthermore, the ability of robotics and automotive technology to complete mundane basic tasks gives rise to an opportunity to upskill the workforce in Thailand. Promoting STEM pathways in tertiary institutions will be vital in ensuring the workforce is sufficiently skilled to meet demand.

Support from the Thailand Board of Investment

In 2021, the BOI approved various incentives to encourage a nationwide Industry 4.0 transformation. The most recent addition involves adopting digital technology to increase productivity. This scheme is created for projects such as machine learning, implementing AI technologies, and employing digital software to manage resources. Businesses can receive a CIT exemption that accounts for 50% of the productivity-improving investment.

Applications to the BOI under the digital technology promotion must be made before or on the last working day of 2022 and meet the following criteria.

1. Be existing projects which are eligible for CIT exemption. This applies to projects that are both BOI and non-BOI promoted.

2. The investment value must be at least one million baht (this excludes the cost of working capital and land).

3. Applications for digital adoption must be made with a plan that does not require investment in machinery and equipment.

Thailand is in a unique position to maintain its status as a pioneer of advanced automation on a global scale. The combination of community entrepreneurship and government support will be essential in continuing the expansion of Thailand's production capacities and competitive advantage.

BOI Issues Incentive Amendments for Several Business Categories

On the 18th January 2023, a notice issued by the Thailand Board of Investment was published, adding the following provisions as Chapters 1-7 of the Schedule annexed to Notice of Board of Investment No. 2/2557 dated 3rd December 2014.

Chapter 4 Metal Products, Machinery, and Transport Equipment

Category	Conditions	Privileges
4.11.7 Ground support equipment producing, repairing, and servicing business	1. No promotion is granted to the production of busses or passenger transport vehicles, airport trolleys, aviation belts, and air transport aviation freight pallets.	**A3**
	2. Promotion is granted where there is a forming process of parts and/or an engineering design in the project.	**A4**
	3. Promotion is granted where there is an assembly process as approved by the Board.	
4.11.8 Business of producing mechanical parts and/or electronic parts for satellite or space objects of various forms		**A2**

4.11.9 Business of designing and developing systems or software relating to satellite and ground station.	Must be designing and developing systems or software, such as a system or software for satellite platforms, payload systems, searching systems, space debris protection systems, space navigation systems, etc.	**A1**
4.11.10 Space launching services business or space launching control system development business		**A1**
4.11.11 Space support business	Must be a space support business, such as a lab for satellite and space object testing and/or parts standard certification, etc.	**A2**

4.29 Fuel cell electric vehicles (FCEV) and equipment for fuel cell system production business: 4.29.1 Fuel cell electric vehicles (FCEV) production business 4.29.2 Fuel cell system parts production business	In the case of producing fuel cell electric vehicles (FCEV), there must be a proposed package plan consisting of: a fuel cell electric vehicle production project and fuel cell production project (whether it belongs to the business itself or to other producers) machinery, installation and production plan, production plan during year 1 to 3, other parts procurement or production plan, hydrogen fueling station development plan, used battery management plan, and local raw materials or part suppliers development plan whose shares are held by Thai nationals with no less than 51 percent of these on technology training and technical assistance.	**A2**

Category	Conditions	Privileges
5.4.12.5 Business of producing printed circuit board of high-density interconnect type	There must be investments in machinery and production processes as approved by the Board.	**A2**

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