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Subject : Draft Secondary Legislation Issued under the Emergency Decree on the Top-up Tax B.E. 2567 (2024) Prescribing Detailed Rules for the Determination of Multinational Enterprise Groups Subject to the Top-up Tax and the Adjustment of Income, Expenses, and Covered Taxes for the Calculation of the Top-up Tax (Four Draft Instruments)

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The Cabinet, at its meeting held on 30 December B.E. 2568 (2025), approved in principle four draft items of secondary legislation issued pursuant to the Emergency Decree on the Top-up Tax B.E. 2567 (2024). These draft instruments set out detailed rules for determining the scope of multinational enterprise (MNE) groups subject to the Top-up Tax, as well as for the adjustment of income, expenses, and covered taxes for the purpose of calculating the Top-up Tax.

Dr. Kulaya Tantitemit, Director-General of the Revenue Department, stated that “The Emergency Decree on the Top-up Tax B.E. 2567 (2024) has entered into force and applies to large multinational enterprise groups for accounting periods commencing on or after 1 January B.E. 2568 (2025). Accordingly, the Ministry of Finance, through the Revenue Department, has proposed the issuance of secondary legislation to prescribe additional details to ensure that taxpayers subject to the Top-up Tax are able to calculate their tax liabilities accurately, and in full compliance with the Emergency Decree. The four draft instruments are as follows:

(1) Royal Decree prescribing the criteria for determining whether multinational enterprise groups that have undergone organisational restructuring are subject to the Top-up Tax;

(2) Ministerial Regulation prescribing the criteria concerning entities that are not constituent entities;

(3) Ministerial Regulation prescribing the criteria for allocating Top-up Tax to Thailand under the Undertaxed Payments Rule (UTPR) mechanism in cases where no constituent entity of a multinational enterprise group located in Thailand has GloBE income; and

(4) Ministerial Regulation prescribing the criteria for adjusting income, expenses, and covered taxes for the calculation of the Top-up Tax, including the criteria for calculating the Domestic Top-up Tax in Thailand.

The draft secondary legislation issued pursuant to the Emergency Decree on the Top-up Tax B.E. 2567 (2024) has been developed with due reference to the Global Anti-Base Erosion (GloBE) Model Rules, the Commentary, and the Administrative Guidance issued by the Organisation for Economic Co-operation and Development (OECD). This approach ensures that the implementation of Thailand’s Top-up Tax framework is fully aligned with the practices adopted by members of the OECD/G20 Inclusive Framework on BEPS and accepted internationally.”

For further information, please contact the Revenue Department Intelligence Center (RD Intelligence Center) at Tel. 1161 or via email at topuptax@rd.go.th

The Revenue Department is here to serve people
Public Relations, Office of the Secretary
90 Soi Phaholyothin 7, Phaholyothin Road, Bangkok 10400 Tel. 0 2272 9529-30 Fax. 0 2617 3324
RD Intelligence Center Tel. 1161