

The National Executive Council's Decree No. 95

Notified on the 29th Day of February B.E. 2515

Translation

In computing the revenue, expenditure, and net profit for payment of petroleum income tax under the Petroleum Income Tax Act, B.E. 2514, it was stipulated that the allowance for capital expenditure may be deducted.

However, under the said law allowance for capital expenditure deductible shall be only for the categories, at the rates, and under the conditions prescribed by the Royal Decree. The Chairman of the National Executive Council hereby orders as follows:

1. In this decree:

"Costs" means the costs of properties or other benefits representing the capital expenditure, including the amount of loss and ordinary and necessary expenditure in the part of capital expenditure.

"Net costs" means the costs after the deduction of the allowance for capital expenditure under this decree.

2. Under paragraph 3 and paragraph 4 the allowance for capital expenditure shall be deducted at the percentages of the costs according to the following categories of capital expenditure:

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| (1) Building | |
| Permanent buildings | 5 per cent |
| Temporary buildings | 100 per cent |
| (2) Aircraft and aviation equipment | 33 1/3 per cent |
| (3) Cost of acquisition of concession and petroleum deposits | < cent per 10 > |
| (4) Costs of leasing right acquisition | |
| - In the absence of a lease agreement, or the lease agreement presents with option for renewal and whereas governing renewal also provides for continuation of leasing agreement | 10 per cent |
| - In the case of a lease agreement with no renewal option, or with renewal option but for only a limited period of time | 100 per cent divided by the number of years of lease and total renewal option of years exercised, or 10 percent, whichever is higher |
| (5) Costs of acquisition of rights in processing, formulas, goodwill, trade mark, operations under the license, patent, copyright or other rights | |
| - For cases without validity limit | 10 per cent |
| - For cases with validity limit | 100 per cent divided by the number of years of validity. |
| (6) Other capital expenditure other than (1), (2), (3), (4), and (5) and which are not capital expenditure | |

expended in the acquisition of land:

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| (a) capital expenditure expended in acquiring tangible property | 20 per cent |
| (b) capital expenditure other than (a) | 10 per cent |

The provisions in paragraph 2 (6) as amended by the Royal Decree Prescribing Categories, Rates and Conditions for the Deduction of Capital Expenditure Allowance with Respect to the Petroleum Income Tax Act, B.E. 2516 were repealed by Section 3 of the Royal Decree Prescribing Categories, Rates and Conditions for the Deduction of Capital Expenditure Allowance with Respect to the Petroleum Income Tax Act (No.2), B.E. 2522 and replaced by the following:

"(6) Other capital expenditure other than (1), (2), (3), (4), and (5) and which are not capital expenditure incurred in the acquisition of land:

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| (a) capital expenditure expended in acquiring tangible property | 20 percent |
| (b) capital expenditure other than (a) | 10 percent |

which expended in the exploration block prescribed by the Department of Mineral Resources as an offshore exploration block having a water depth in excess of 200 meters under the law on petroleum	20 percent
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(c) capital expenditure expended in acquiring tangible property prior to the production and disposal of natural gas of the concessionaire only for the Gas Sale Agreement made with the Gas Organization of Thailand before B.E. 2522	20 percent
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(d) capital expenditure other than (a), (b) and (c)	10 percent"
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In the case of a capital expenditure expended for the purpose of acquiring a tangible property, if the company adopts in its account for the purpose of allowance deductions an accounting method according to which the rates of allowance under the percentage of the cost value and the net cost value varies from year to year during the useful life of the property, the company may in some years deduct capital allowance according to such method in excess of the rates above prescribed. Provided that the number of years of the useful life of the property for this purpose shall not be less than 100 per cent divided by the above prescribed percentage.

3. The deduction of allowance under paragraph 2 shall be under the following conditions:

1. capital expenditure expended prior to the first accounting period of the company shall be allowance deductible as capital expenditure incurred on the first day of the first accounting period.
2. loss incurred prior to the first accounting period and ordinary and necessary expenditure incurred prior to the first accounting period of the company shall be treated as capital expenditure of the first accounting period.
3. In the case of a transfer of the petroleum business, the transferee company shall carry the net cost value of the transferor company for the deduction of allowance as if no petroleum business had been transferred; provided, however, that
 - (a) if the compensation paid by the transferee company to the transferor company is less than the net cost value of the transferor company, the transferee company shall carry such net cost value for deduction only in an amount equal to such compensation. If the capital expenditure consists of

several items, the compensation shall be apportioned according to the net cost value of each item,

- (b) if the compensation paid by the transferee company to the transferor company exceeds the sum of the net cost value and the balance of the annual loss of the transferor company, the transferee company, shall treat for deduction the excess as a capital expenditure under paragraph 2 (6) (b).
4. The rate of allowance under paragraph 2 is applicable to an accounting period of twelve months. If any accounting period is less than twelve months, or there incurred capital expenditure during the accounting period, the allowance shall be determined by dividing the allowance rate under paragraph 2 by twelve and multiplied by the number of months in the accounting period, or the number of months in the accounting period counting from the month which incurred such capital expenditure, as the case may be. The fraction of one month shall be treated as one month.
4. In deducting the allowance under this decree, the company may adopt any suitable accounting method used in the petroleum industry practice. Once the accounting method is adopted It shall be consistently applied, and changes may be made only with the approval of the Director-General of Revenue.

In deducting the allowance in the Company's accounts, any rate may be adopted. If the rate the company adopted is lower than those prescribed in paragraph 2, such rate shall be consistently applied and changes may be made only with the approval of the Director General of Revenue. In such case, the allowance may be deducted in their books at the rate at which option is exercised by the company, or at the rate as approved, as the case may be.

5. This decree shall have the same force as a Royal Decree issued under Section 26(7) of the Petroleum Income Tax Act B.E. 2514.
6. The Minister of Finance shall have the charge and control of the execution of this decree.
7. This decree shall be effective on the day following the date of its publication in the Government Gazette.

Notified on the 29th Day of February B.E. 2515

Field Marshal Thanom Kittikachorn

Chairman of the National Executive Council

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