

BOARD OF TAXATION'S RULING

No. 40/2560

Re: Tax Penalties and/or Surcharges and Criminal Fines
under Section 65 *ter* (6) of the Revenue Code

The Revenue Department has requested the Board of Taxation to rule on the case where:

1. the Board of Taxation has granted a Ruling no. 10/2528 Re: Penalties and/or Surcharges and Criminal Fines under Section 65 *ter* (6) of the Revenue Code, dated 17th June B.E. 2528 (1985) that tax penalties and/or surcharges and criminal fines under section 65 *ter* (6) of the Revenue Code mean tax penalties and/or surcharges and criminal fines under the Revenue Code only;

2. the Supreme Court's Judgment No. 1109/2559 has ruled that criminal fines and tax surcharges under section 65 *ter* (6) of the Revenue Code are not merely fines and surcharges under the Revenue Code but include criminal fines and tax surcharges under other laws as well;

3. even though the Supreme Court's Judgment under 2. has a binding effect upon the parties in the lawsuit only, such judgment, of course, has had an impact on payments of corporate income tax of other companies or registered partnerships. Therefore, it is deemed expedient to consider if it is appropriate to revise the Board of Taxation's Ruling No. 10/2528 Re: Penalties and/or Surcharges and Criminal Fines under Section 65 *ter* (6) of the Revenue Code.

The Board has considered and granted a ruling in the meeting no. 45/2560, dated 27 February 2017 that since tax penalties and/or surcharges and criminal fines are imposed as punishment of an offender, they should not be allowed to be tax expenses because they would encourage the offender to violate the laws . Therefore, the term "tax penalties and/or surcharges and criminal fines" under section 65 *ter* (6) of the Revenue Code shall mean tax penalties and/or surcharges and criminal fines under all types of tax legislation, and the Board of Taxation's Ruling No. 10/2528 Re: Penalties and/or Surcharges and Criminal

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Fines under Section 65 *ter* (6) of the Revenue Code, dated 17th June B.E. 2528 (1985) shall be repealed.

This Ruling shall come into force as from the day following the date of its publication in the Government Gazette.

Given on the 9th Day of March B.E. 2560 (2017)

Prapas Kong-ied

Deputy Permanent Secretary of Ministry of Finance, Chief of the Revenue Cluster

For Permanent Secretary of Ministry of Finance

Chairman of the Board of Taxation