

Q&A ON THE TAXATION OF FOREIGN INCOME

3rd January 2024





New rules for taxation of foreign income from 1st January 2024

In a significant development in Thailand's tax landscape, the Revenue Department has introduced instructions No. Paw 161 and Paw 162 to alter the tax treatment of foreign income remitted into the country by individual taxpayers, effective January 1, 2024.

The instructions state that a tax resident of Thailand who derives assessable income from an employment or business carried on abroad, or from a property situated abroad shall, upon bringing such assessable income into Thailand, pay tax on such income.

A person that stays in Thailand for 180 days or more in a tax year shall be considered a tax resident of Thailand for that year.

Disclaimer: The information in this brochure is for general guidance only. You should not act on the information in this brochure, and you should obtain specific professional advice to help you in making any decisions or in taking any action.

Section 41 of the Revenue Code governs the taxation of foreign source income. Prior to these instructions, the section has been interpreted as limiting the taxation of foreign income to income that is derived and remitted into Thailand in the same tax year.

Foreign income earned in 2023 or prior years that is brought into Thailand after 31 December 2023 will not be subject to tax.

Double tax agreements play a role in shaping a country's tax treatment of income derived from foreign sources. Thailand has over 60 double tax agreements, which can modify the tax treatment under the Revenue Code.

Section 41 of the Revenue Code

The instructions were issued by the Revenue Department as guidelines to revenue officers when conducting tax audits or advising taxpayers on the taxation of foreign income under Section 41 of the Revenue Code.

The law remains unchanged. Section 41, translated in English, reads as Section 41 A taxpayer who in the previous tax year derived assessable income under Section 40 from an employment, or from business carried on in Thailand, or from business of an employer residing in Thailand, or from a property situated in Thailand shall pay tax in accordance with the provisions of this Part, whether such income is paid within or outside Thailand.

A resident of Thailand who in the previous tax year derived assessable income under Section 40 from an employment or from business carried on abroad or from a property situated abroad shall, upon bringing such assessable income into Thailand, pay tax in accordance with the provisions of this Part.

Any person staying in Thailand for a period or periods aggregating 180 days or more in any tax year shall be deemed a resident of Thailand.

This translation is from the Revenue Department's website.

Tax advantage for LTR visa holders

Thailand has a Long-Term Resident visa (LTR Visa) program that commenced from 1 September 2022. The program provides a range of tax and non-tax benefits to attract 'high-potential' foreigners.

One tax benefit an LTR visa holder receive is an income tax exemption under Royal Decree No 743 issued under the Revenue Code. The exemption applies to income from an employment or from business carried on abroad or from a property situated abroad shall, that has been brought into Thailand.

There are three categories of LTR Visa holders eligible for the exemption: Wealthy Global Citizens, Wealthy Pensioners and Work from-Thailand Professionals.

Q&A on the taxation of foreign income

The Revenue Department has issued a Q&A on the taxation of foreign income. On the pages that follow we provide an unofficial English translation of the Q&A.



Subject - Principle

Question: What are the principles of the Revenue Department's Instruction No. Paw 161 and Paw 162?

Answer: Revenue Department's Instruction No. Paw 161 and Paw 162 explains the legal principles under Section 41, paragraph 2, of the Revenue Code, which states that an individual has a duty to pay personal income tax from foreign-sourced income when the following conditions are met:

1. A person derives assessable income from sources abroad from 1 January 2024 in a tax year in which they spend 180 days or more in Thailand; and
2. Such person brings such assessable income into Thailand in the same tax year that it was earned or in subsequent tax years.

Result: If both conditions are met, such income must be included in the computation of the individual's personal income tax for the tax year in which the income was brought into Thailand.

Example: Mr. A stayed in Thailand for a total of 200 days during the 2024 tax year and has assessable income from leasing property abroad. This meets condition (1) above i.e. he derives assessable income from a foreign source in a tax year in which he spends 180 days or more in Thailand.

If Mr. A later transfers such assessable income to a bank account in Thailand during the 2025 tax year, it is deemed that condition (2) above is met. As a result, Mr. A shall be liable to personal income tax on such income brought into Thailand in the 2025 tax year.

Examples of a person deriving assessable income and bringing it into Thailand under different scenarios

Case	Assessable income arises		Period of stay in Thailand (in the tax year in which the assessable income arises)		Bringing money into Thailand		Pay tax? (Yes / No)
	Before 1 Jan 2024	From 1 Jan 2024	< 180 days	≥ 180 days	Before 1 Jan 2024	From 1 Jan 2024	
1		✓		✓		✓	Yes
2		✓	✓			✓	No
3	✓			✓		✓	No
4	✓		✓			✓	No



Subject – Effectiveness

Question: When does the Revenue Department’s Instruction No. Paw 161 and Paw 162 come into effect?

Answer: The Revenue Department’s Instruction No. Paw 161 and Paw 162 is effective for assessable income derived and brought into Thailand from 1 January 2024 onwards.

Example 1: In the 2023 and 2024 tax years, Mr. A is a tax resident of Thailand and earned interest as assessable income from funds deposited with a bank overseas during 2023 and rental as assessable income from leasing condominiums overseas during 2024.

Mr. A decides to bring both types of assessable income into Thailand in the 2025 tax year. Mr. A will not be liable to personal income tax on the interest as it is assessable income derived before 1 January 2024 but he must include the assessable income from leasing condominiums in his personal income tax calculation for the 2025 tax year as it is assessable income derived from 1 January 2024 onwards.

Example 2: In the 2024 tax year, Mr. A is a tax resident of Thailand. He earns assessable income from overseas dividends. He will remit such income into Thailand in 2025. Mr. A must include this income in the calculation of his personal income tax for the 2025 tax year as it is considered assessable income derived from 1 January 2024 onwards.

Question: Will assessable income that is received before 2024 but brought into Thailand in 2024 be taxable?

Answer: it is not taxable, as it is assessable income derived before 1 January 2024.

Example:

Mr. A stayed in Thailand for a total period of more than 180 days during the 2022 tax year and conducted consulting overseas, for which he received a consulting fee of Baht 50,000. Mr. A transferred the consulting fee into Thailand in 2024. Mr. A has no duty to include such income in the calculation of his personal tax for 2024 since it is the assessable income derived before 1 January 2024.



Subject – Resident of Thailand

Question: What does being a resident of Thailand mean ?

Answer: A person who stays in Thailand for a total of 180 days or more during 1 January to 31 December of that year, regardless of whether their stay occurs in a single consecutive period or is comprised of multiple periods. The nationality or ethnicity of the person is not taken into consideration.

Examples:

- Mr. A is in Thailand every day from January to December 2024 for a total of 366 days. Mr. A is a resident of Thailand for the 2024 tax year.
- Ms. B is in Thailand for only certain months in 2024 for a total of 184 days. Ms. B is a resident of Thailand for the 2024 tax year.
- Mr. C is in Thailand from January to December 2024 for a total of 179 days. Mr. C is not a resident of Thailand for the 2024 tax year.
- Mrs. D spends a continuous period of 250 days in Thailand, the first 100 days being in 2024 and the subsequent 150 days in 2025. As such, Mrs. D is not a resident of Thailand for the 2024 and 2025 tax years since Mrs. D is in Thailand for less than 180 days in each respective tax year.



Question: If a person stays in Thailand for less than 180 days in a tax year, but he earns assessable income from foreign sources during that period, is he required to pay personal income tax when he brings such income into Thailand?

Answer: He is not required to pay personal income tax even if such assessable income is brought into Thailand.

Example: Mr. A stayed in Thailand for a total of 65 days during 2024. Mr. A derived assessable income from renting out assets located abroad and in the same year remitted this income into his bank account in Thailand. Mr. A shall not be liable for personal income tax on this rental income in the 2024 tax year since Mr. A was not a tax resident of Thailand when he derived the income.

Subject - Assessable income

Question: What is considered as assessable income subject to tax under the provisions of Section 41, paragraph 2 of the Revenue Code?

Answer: Assessable income from foreign sources subject to personal income tax is determined by the provisions of Section 40 (1) to (8) of the Revenue Code.

However, if the assessable income falls under a tax exemption as outlined in the Revenue Code, there is no obligation to pay tax on such exempt income e.g. inheritance or income received as support from parents, descendants, or spouse that does not exceed Baht 20 million for the entire tax year.

Subject – Bringing assessable income into Thailand

Question: What does bringing assessable income into Thailand mean?

Answer: This includes any action that brings assessable income into Thailand, such as transfers to Thai bank accounts, other mode of on-line transfers, actually bringing cash into the country etc.

Example: Ms. B, a tax resident of Thailand, transfers Baht 200,000 to a bank account overseas and receives interest on deposits from said bank amounting to Baht 10,000. Ms. B later on transfers such interest to a Thai bank account. This action is considered as bringing assessable income into Thailand.



Subject – Principal

Question: Is transferring funds abroad and subsequently transferring it back into Thailand subject to tax?

Answer: Transferring funds abroad and subsequently transferring it back into Thailand is not considered as assessable income and shall not be subject to tax.

Example: Mr. A transferred Baht 200,000 to an overseas investment account. Mr. A later on closes this investment account and remits back Baht 200,000 into Thailand. Such funds are not considered as assessable income and Mr. A will not be liable to pay personal income tax on this transaction.

Question: If you deposit money in a bank overseas, earn interest on that deposit, and subsequently remit both principal and interest back to Thailand, must the principal and interest be included in the calculation of personal income tax or not?

Answer: The principal is not subject to tax, but tax is payable on the part brought into Thailand that is interest, being assessable income pursuant to Section 40(4)(a) of the Revenue Code, and the person resides in Thailand for 180 days or more in the year the interest is received.

Example: In 2024, Mr. A stays in Thailand for more than 180 days. In the same year, Mr. A deposited Baht 50,000 in a bank abroad and received interest on the deposit amounting to Baht 5,000. In 2025, Mr. A remits both the deposit and interest received back to Thailand. Mr. A is obligated to include the interest on the foreign deposit in the calculation of his personal income tax for the 2025 tax year since the interest is considered as assessable income arising from 1 January 2024 onward.





Subject - Unrealized profits

Question: If shares are purchased overseas and the value of such foreign shares rises at the end of the year without selling them, is tax payable and how?

Answer: There is no liability to pay tax since the shares have not yet been sold and no benefit was actually received in excess of the amount invested (no assessable income has arisen pursuant to Section 40(4)(g) of the Revenue Code).

Example 1: Mr. C is deemed a tax resident of Thailand in 2024 as he stayed in the country for more than 180 days. On 15 March 2024, Mr. C paid Baht 100,000 to purchase 100 “A” shares abroad with a value of Baht 1,000 per share. As of 31 December 2024, the share price increased to Baht 1,100 per share. His unrealized gain of Baht 10,000 as at 31 December 2024 is not taxable since he has not sold the shares and the gain is not considered as assessable income pursuant to Section 40(4)(g) of the Revenue Code.

Example 2: Later in 2025, Mr. C is deemed a tax resident of Thailand in 2024 as he stayed in the country for more than 180 days. Mr. C sold 80 “A” shares abroad for Baht 1,200 per share on 1 June 2025.

As a result, Mr. C has realized a gain of Baht 16,000 on 1 June 2025, which is considered assessable income pursuant to Section 40(4)(g) of the Revenue Code, being as benefit received in excess of the capital investment from the sale of the shares. There is no assessable income arising from the 20 “A” shares that Mr. C has not sold yet.

Example 3: Later in 2026, Mr. C remitted the Baht 16,000 profit he received from the sale of 80 “A” shares in 2025 into Thailand. Mr. C will be obligated to include such profit on the sale of “A” shares in the calculation of his personal income tax for 2026, since it is considered as assessable income derived from 1 January 2024 onwards.

Subject – Accumulated funds received while not residing in Thailand

Question: If an individual resides, works, or engages in activities abroad for an extended period of time and later on would like to return to live in Thailand, are they required to pay taxes upon bringing back the money earned or accumulated from the overseas work or business activities into Thailand?

Answer: There is no tax obligation in this case since the accumulated funds were derived from assessable income generated during a tax year in which the individual was present in Thailand for less than 180 days.

Example: Mrs. D, a Thai national, went on to live in China in 2007. However, Mrs. D would like to travel back and reside permanently in Thailand in 2024. Therefore, she will bring all of her savings from doing business in China into Thailand. Mrs. D will not be liable to pay personal income tax for such savings that will be brought into Thailand in 2024 since these savings are considered as accumulated funds derived from assessable income generated during tax years in which Mrs. D was not deemed a tax resident of Thailand.

Subject – Elimination of double taxation

Question: If the assessable income has been taxed overseas and such income is subject to Thai tax when it is brought into Thailand, will this give rise to double taxation? Can taxes paid overseas on foreign income be credited against Thai income tax to eliminate double taxation?

Answer: No double taxation will occur. If the individual is a Thai tax resident (residing in Thailand for 180 days or more), tax paid overseas can be credited against the tax that will be paid in Thailand in the year which the income is brought into Thailand pursuant to the provisions of the Double Tax Agreement between Thailand and the respective foreign country.



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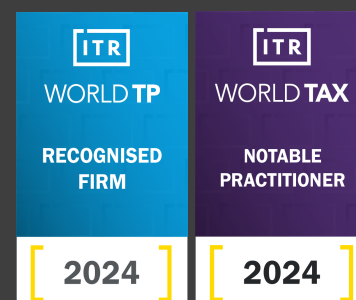
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RECOGNITIONS

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