New Taxation Practice on Foreign-sourced Income

by N-Able Group

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Under the current practice of the Thai Revenue Department, **foreign-sourced income** (which is defined as income derived from work or employment performed outside of Thailand, business conducted outside of Thailand, or property situated outside of Thailand) would be taxed in Thailand **only if**:

(1) The earner lived in Thailand for 180 days or more in a calendar year and that earner received that income (and hence is considered as a Thai tax resident) **and both conditions are met**;

(2) The earner received that foreign-sourced income and remitted or brought it into Thailand in the same calendar year. Therefore, if the foreign-sourced income was received in a particular year, but brought or remitted into Thailand in the following year, it would not be taxable in Thailand.

However, this principle is about to be changed according to the recent issued practice of the Thai Revenue Department, which will apply as from the tax year 2024 (where the tax returns for that year must be filed in early 2025) onwards. Under this new practice, foreign-sourced income will be taxed in Thailand **only if**:

(1) The earner lived in Thailand for 180 days or more in a calendar year and that earner received that income (and hence is considered as a Thai tax resident) and both conditions are met; and

(2) The earner remitted or brought that income into Thailand even though the year that he/she received that income and the year that he/she remitted it into Thailand were different.

Therefore, as it can be seen, the difference between the current and new practice is that, under the current one, the foreign-sourced income would be taxable in Thailand if it was derived and remitted or brought into Thailand in the same calendar year, given that the earner lived in Thailand for 180 days or more in that year. However, under the new practice, the foreign-sourced income would be taxable in Thailand if it was remitted or brought into Thailand, given that the earner lived in Thailand for 180 days or more in that year, even if it was remitted or brought into Thailand in the year that is later to the year that it was received. Accordingly, that income would be taxable in Thailand **in the year that it was remitted or brought into Thailand**.

Notes on the new practice:

1. The new practice will apply as from the tax year 2024 (where the tax returns for that year must be filed in early 2025) onwards. Therefore, for the tax year 2023 (where the tax returns for that year must be filed in early 2024), the current practice would still apply.
2. The new practice is not a law. It is merely an interpretation of the law, which the tax authorities would rely on. In other words, it is open for taxpayers to DISAGREE with it or even NOT abide by it. If a taxpayer does not follow the Rule, it DOES NOT mean that he/she has done anything illegal.
3. The fact that someone transferred funds into his/her Thai bank account from abroad does not always mean that such transferred funds would be considered taxable income. This is because, if those transferred funds were considered as savings, they would not be taxable (i.e., only income that is taxable). However, this may be difficult in practice to justify whether those transferred funds were considered income or savings. Yet, in the case where the Thai tax authorities conduct a tax audit on any taxpayer, the authorities could argue that the funds that such a taxpayer transferred into his/her Thai bank account from abroad were ENTIRELY considered taxable income, unless the taxpayer could prove otherwise, which could be very difficult in practice.
4. Even though the new practice would apply, it was found that it could be very difficult in practice for the Thai tax authorities to be aware that someone transferred funds into his/her Thai bank account from abroad since the banks DO NOT disclose the account information of taxpayers to the tax authorities unless certain conditions are met. However, in the case of a tax audit, the tax authorities could directly request the taxpayer to present his/her bank statements to the authorities.
5. In general, the Thai tax authorities do not conduct a tax audit on taxpayers, who are foreigners, unless certain conditions are met (such as that taxpayer claims a tax refund). However, this could be changed in the future after the new practice comes into effect.

6. The provisions under the double tax agreements (DTA) override the domestic tax law. Therefore, if the DTA ONLY allows the sourced country of that income to collect income tax on that income, that foreign-sourced income would be exempt from Thai personal income tax even though it was remitted into Thailand by the earner who lived in Thailand for 180 days or more in a year.

7. In the case where the foreign-sourced income is taxable in both the sourced country and Thailand, the taxpayer could claim the tax that he/she paid on that income in the sourced country as a tax credit against his/her Thai tax payable on that income subject to certain conditions. In that case, it would be recommended that such taxpayer maintains any supporting documents to prove that he/she has paid the income tax on that foreign-sourced income in the sourced country. Those documents would be, for example, an income tax payment certificate issued by the tax authorities of the sourced country of the income.

We, N-Able Group, are a real proficient expert in Thai personal income tax matters, especially for the issues that concerns FOREIGNERS. If you have any further questions or need detailed advice on the new practice of the Thai tax authorities on collecting personal income tax on foreign-sourced income, please do not hesitate to contact us through the following channels:

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