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Thailand's new tax policy on foreign-sourced income

To enhance domestic liquidity and encourage the repatriation of offshore wealth, the Revenue Department is preparing to introduce a ministerial regulation that will temporarily exempt personal income tax on certain foreign-sourced income. The move reflects a recalibration of Thailand's tax policy and a renewed focus on economic stimulus through increased capital inflows.

Traditionally, Thailand's tax regime allowed individuals who earned income abroad to delay taxation by postponing the remittance of such income to Thailand. Under the pre-2024 regime, only foreign income remitted into Thailand within the same tax year it was earned was taxable. However, effective on 1 January 2024, the Revenue Department imposed a stricter interpretation that all foreign-sourced income brought into Thailand by Thai tax residents, regardless of when it was earned, is subject to personal income tax.

Currently, in a marked policy reversal, the Department is proposing a temporary exemption to support economic recovery. According to Mr. Pinsai Suraswadi, the Director-General of the Revenue Department, a new ministerial regulation is being drafted to exempt tax for foreign-sourced income that is brought into Thailand within a two-year window which is the year the income is earned and the following year.

The aim of the proposed exemption is to incentivize the return of an estimated 2 trillion THB held by Thai tax residents in offshore investments, such as foreign property, insurance policies, and investment funds. These foreign assets reportedly generate hundreds of billions of baht in annual income.

The exemption will apply to individuals who qualify as Thai tax residents, defined as persons residing in Thailand for at least 180 days in a calendar year, whether continuously or cumulatively. If such individuals earn income from abroad and remit it to Thailand within two years from the year of earning, that income will be exempt from personal income tax. Income remitted in the third year or later will be subject to the usual taxation. Importantly, the exemption will not apply retroactively to income earned before the regulation is enacted.

Regarding the legal basis, Thailand's personal income tax system follows both the residency rule and the source rule. Pursuant to Section 41 of the Thai Revenue Code (TRC), Thai tax residents are liable to pay tax on income derived from work, business, or assets located outside Thailand if such income is remitted into the country.

Under the revised policy, the taxability of foreign-sourced income continues to hinge on three cumulative conditions:

1. The taxpayer must reside in Thailand for at least 180 days within a tax year.
2. The income must be earned from a foreign source.
3. The income must be remitted into Thailand.

The upcoming ministerial regulation will carve out a temporary exception to this third condition, provided the income is remitted within the designated two-year timeframe.

Regarding the impacts with Double Tax Agreements (DTAs), Thailand maintains DTAs with numerous jurisdictions. Under these agreements, Thai residents may claim foreign tax credits for taxes already paid in the source country. However, the credit is capped at the amount of Thai tax payable on that income.

The treatment of deductions and expense allowances for foreign income remains consistent with domestic income. Notable deductions include:

- 50% deduction on salaries and wages, capped at THB 100,000.
- Standard personal allowance of THB 60,000, with an additional THB 60,000 for a non-earning spouse.
- Life insurance premiums (for policies with terms of 10+ years) are deductible up to THB 100,000.

However, no expense deductions are permitted for passive income such as interest, dividends, and capital

gains.

Should you have any question, please do not hesitate to contact us via info@bgloballaw.com