

Luther.

Memo: Personal Income Tax in Thailand

October 2023



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A. Introduction



The *Thailand Revenue Code* is the body of tax law that codifies procedures regarding tax assessment, the collection of revenue taxes and personal income tax.

Unless an exemption applies (e.g. under a DTA), every individual deriving assessable income from employment or business activities carried-out in Thailand is subject to Thai personal income tax.

This guide summarises key aspects of the tax regime in Thailand and highlights the most important issues for employers and employees. If you would like to receive further information from us, please let us know. In the meantime, we hope that you will find this guide useful.

B. Personal income tax

The taxation of income depends on the individual's residential status in Thailand.

Under the *Thai Revenue Code*, **residents** are taxed on (i) all income derived (earned or generated) in Thailand, irrespective of it being paid (received) in Thailand or outside of Thailand and (ii) income that is derived (earned or generated) outside of Thailand, when it is remitted into Thailand in the year in which it is derived.

Non-residents are taxed only on income that is derived (earned or generated) in Thailand, irrespective of it being paid (received) in Thailand or outside of Thailand.

1. Resident status

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. Persons staying in Thailand for a period of time below this threshold are considered non-residents.

2. Tax rates

Thailand employs a progressive tax system for personal income tax.

The current rates are as follows:

| Taxable income (THB) | Tax rate |
|-----------------------|----------|
| 0 – 150,000 | Exempted |
| 150,001 – 300,000 | 5% |
| 300,001 – 500,000 | 10% |
| 500,001 – 750,000 | 15% |
| 750,001 – 1 million | 20% |
| 1,000,001 – 2 million | 25% |
| 2,000,001 – 5 million | 30% |
| 5,000,001 or more | 35% |

3. Assessable income

Under the *Thai Revenue Code*, assessable income is categorized as follows (including any amount of tax paid by the payer of income or by any other person on behalf of a taxpayer):

- Income derived from employment (whether in the form of salary, wage, per diem, bonus, bounty, gratuity, pension, house rent allowance, monetary value of rent-free residence provided by an employer, payment of debt liability of an employee made by an employer, or any money, property or benefit derived from employment).
- Income derived from a post or from performance of work (whether in the form of fee, commission, discount, subsidy, meeting allowance, gratuity, bonus, house rent allowance, monetary value of rent-free residence provided by a payer of income, payment of debt liability of a taxpayer made by a payer of income, or any money, property or benefit derived from a post or from performance of work).
- Income derived from goodwill, copyright or any other rights, annuity or annual payment of income derived from a will, any other juristic act, or court decision.
- Income derived from interest, dividend, bonus paid to a shareholder or partner of a company or juristic partnership, a decrease of the capital holdings in a company or juristic partnership which does not exceed the total amount of profits and reserves, an increase of capital holdings in a company or juristic partnership that is determined from the total amount of profits or reserves, a benefit derived from the amalgamation, acquisition or dis-solution of a company or juristic partnership, or gains derived from the transfer of partnership holdings or shares, debentures, bonds, or bills or debt instruments.
- Money or any other gain derived from rent of property, breach of a hire-purchase contract, or breach of an installment sale contract.
- Income from liberal professions (namely, laws, arts of healing, engineering, architecture, accounting, fine arts).
- Income derived from a contract of work where the contractor has to provide essential materials besides tools.
- Income from business, commerce, agriculture, industry, transport or any other activity not specified in above list.

4. Capital gains

In general, capital gains are taxable as ordinary income.

However, there are three exceptions from the taxation of capital gains:

- Income from wages and salary, including the benefits provided by an employer (e.g. income from stock options, personal income tax paid and absorbed by the employer, living allowances, monetary value of rent-free accommodation), but excluding business travel expenses and medical treatment.
- Capital gains on the sale of non-interest bearing government bonds or debt instruments (although there are exceptions).
- Capital gains on the sale of government bonds.

Capital losses cannot be offset against capital gains.

An individual may elect to bear only withholding tax at a flat rate of 15% on the gains derived from the sale of bonds, debentures, bills, or debt instruments issued by a company or other juristic entities and to exclude the gains from assessable income in his annual personal income tax return.

A wider range of tax incentives may be available to those investors who set up their business in designated industrial estates or zones.

5. Exemptions

The assessable income of the following categories shall be exempt for the purpose of income tax calculation:

- Per diem or transport expenses that an employee or a person performing work spends honestly, necessarily, exclusively, and wholly in carrying out his duties.
- Transport expenses and traveling per diem at the rates prescribed by the Government in the Royal Decree governing the rates of transport expenses and traveling per diem.
- The part of traveling expenses paid by the employer to the employee which the employee spent wholly and necessarily in traveling from a different place to take up employment for the first time or for returning to his place of origin after the termination of the employment. However, this exemption shall not cover traveling expenses received by an employee who returns to his place of origin and then takes up employment with the same employer within three hundred

fifty-five days from the last working day of the previous employment.

- Where a contract of employment which was bona fide entered into before the entry into force of the *Royal Act on Income Tax B.E. 2475 (1932) as amended* requires that the employer shall pay to the employee upon the termination of employment a single payment of gratuity, fee, commission or bonus, such payment shall be excluded for the purpose of income tax calculation, notwithstanding the whole amount that is paid after the entry into force of the provisions of this part.
- Special post allowance, house rent allowance and rent-free residence granted to an official of a Thai embassy or consulate abroad.
- Income from a sale or discount received from purchase stamp duties or government post-age stamps.
- Board or committee meeting allowance and teaching and examination fees paid by the government or public educational institutions.
- The following interest is repayable on demand:
 - Interest from Government savings lotteries, or interest on demand deposit with the Government Savings Bank;
 - Interest on savings deposit with a cooperative;
 - Interest on savings deposit with a bank in Thailand.
- Sale of a movable property acquired from inheritance or acquired not in a commercial or profitable manner, but not including ship or vessel with freight of six tons or over, steam boat or motor boat with freight of five tons and over, or floating house.
- Income derived from an inheritance.
- Award for the purpose of education or technical research, government lottery and government savings prize, prize given by government authority in contest or competition to a person other than a professional contestant or competitor, or reward paid by government authority for the purpose of prevention of wrongdoing.
- Special pension, special gratuity, inherited pension or inherited gratuity.
- Compensation against wrongful acts, amount derived from insurance or from funeral assistance scheme.
- Income of a farmer from sale of rice cultivated by the farmer and/or his family.
- Income derived from an undivided estate liable to tax under Section 57 Bis.
- Income prescribed for exemption by Ministerial Regulations.
- Red Cross lottery prize, income from a sale or discount received from purchase of Red Cross lotteries.
- Income from sale of investment units in a mutual fund.
- Income of a mutual fund.

- Compensatory benefit received by the taxpayer from the social security fund under the law governing social security.
- Income derived from the transfer of ownership or possessory right in an immovable property without any consideration to a legitimate child, not including an adopted child, but only for the portion not exceeding twenty million baht per a legitimate child throughout the tax year.
- Income derived from maintenance and support or gifts from ascendants, descendants, or spouse, but only for the portion not exceeding twenty million Baht throughout the tax year.
- Income derived from maintenances and support under moral purposes or gifts received in a ceremony or on occasions in accordance with custom and tradition from persons who are not ascendants, descendants or spouse, but only for the portion not exceeding ten million baht throughout the tax year.
- Income derived from gifts whereby a donor has expressed his or her intention or appeared to have an intention of using the gifts for religious, educational, or public benefit activities in accordance with the rules and conditions as prescribed by a Ministerial Regulation.

6. Computation

The taxable income of an individual is arrived at after all deductions and allowances have been applied to the assessable income. The income tax thereon will then be calculated at the progressive tax rates (please see above).

7. Deductible expenses

Taxpayers can deduct the standard amount or actual expenses from the income received as follows:

| Income type | Deductible expenses |
|--|---|
| Employment income | 50% of the assessable income capped at THB 100,000 |
| Income from hiring of services | 50% of the assessable income capped at THB 100,000 |
| Income from goodwill, copyright and other rights | 50% of the assessable income capped at THB 100,000 or the actual expenses |
| Income from interest, dividend | Expenses cannot be deducted |
| Rental income | 10 – 30% of income or actual expenses |
| Income from liberal professions | 30 – 60% of income or actual expenses |
| Construction income | 60% of income or actual expenses |
| Income from business, commerce, agriculture, transportation, or other income | 60% of income or actual expenses |

Resident taxpayers can deduct personal and specific allowances in accordance with the table below.

8. Allowances

For the assessable income under the *Thailand Revenue Code*, after deduction of expenses, allowances may be further deducted in order to relieve tax burden.

There are two categories of allowances:

| Personal allowances | Deductible expenses |
|--|---|
| Personal allowances for taxpayers | THB 60,000 |
| Spouse allowance | THB 60,000 |
| Child allowance (maximum of three children each) | THB 30,000 per child |
| Parent allowance | THB 30,000 per parent (ages over 60) |
| Maternity and pregnancy allowance | Actual payment but not exceeding THB 60,000 |
| Care of disabled or incapacitated family member | THB 60,000 each |
| Care of a disabled or an incapacitated person other than a family member | THB 60,000 |

| Special allowances | Deductible expenses |
|--|---|
| Social security fund contributions | Maximum of THB 9,000 per year |
| Life insurance premium | Not more than THB 100,000 per year |
| Health insurance premium | Not exceeding THB 15,000 per year (when combined with life insurance premium does not exceed THB 100,000) |
| Health insurance premium for parents | Not exceeding THB 15,000 |
| Mortgage interest incurred for the purpose of purchase or construction of a residential building in Thailand | Maximum of THB 100,000 per year |
| Contributions to the Provident Fund | Contributions with a limit of 15% of total wages but not exceeding an allowance of THB 500,000 |
| Contributions to the Retirement Mutual Fund | Contributions with a limit of 15% of total assessable income subject to tax with a maximum allowance of THB 500,000 |
| Donations to specified charities | Actual donated amount up to 10% of taxable income after all other allowances are deducted |

9. Withholding tax

Any person paying assessable income shall be required to deduct income tax at source on each occasion of payment.

In case of income derived from employment, the employer is responsible for deducting income tax at source at the time of salary payment to employees and must remit the amount to the respective district office of the Revenue Department within seven days from the last day of the month in which taxable income was paid.

10. Tax administration

Thailand applies a self-assessment system, which means that taxpayers shall be required to declare their tax liabilities in the prescribed tax returns and pay the tax due at the time of filing.

The taxable period of an individual is from 1 January to 31 December. Income earned during the financial year is assessed to tax in the assessment year, which is the year following the financial year.

Personal income tax returns must be filed within three months from the end of the fiscal income year after the end of the fiscal income year (PND 90 or 91). Personal income tax filings may be done on paper or online. **In response to COVID-19 in 2020, the cabinet extended the deadline for income tax return to 30 June, but only for e-filings.**

11. Penalties and surcharges

An individual who submits inaccurate tax returns will be subject to a penalty rate of 100% and 200% in the case of failing to file the tax return. If the taxpayer submits a written request and the assessment officer considers that the taxpayer did not intend to evade the taxes and cooperated with the officer during the tax audit, the penalty will be reduced by 50%.

Any individual who fails to pay the tax within the specified time will be liable to pay a surcharge of 1.5% per month, or a fraction of the amount of tax to be paid or remittable, excluding the amount of the tax imposed.

If the Director-General extends the time limit for payment or remittance of tax and tax is paid or remitted within an extended time, the surcharge will be reduced to 0.75% per month or fraction thereof.

Any person who knowingly or willfully reports false information or gives false statement or responds to questions with false information or submits false evidence to evade taxes or tries to evade taxes will be liable to imprisonment for three months to seven years and a fine of THB 200,000.

12. Tax investigation, assessment and appeal

The Thai Revenue Department is empowered to demand documents and records for inspection for a period of two years. If it is found, or if there is reason to believe, that there was tax evasion, or where a tax audit is conducted for the

purpose of paying a tax refund, this period can be extended to five years.

However, under the *Thai Civil and Commercial Code B.E. 2535 (1992)*, the Thai Revenue Department can assess tax for a period of up to ten years.

If a taxpayer disagrees with the assessment of the Thai Revenue Department, he may file an appeal with the Board of Appeal within 30 days from the date of receiving the assessment notice. If a taxpayer does not agree with the ruling of the Board of Appeal, he may then file an appeal with the Tax Court within 30 days from the date of receiving the ruling. If a taxpayer does not agree with the judgement of the Tax Court, he may then file a special appeal with the Special Appeal Court within 30. The decision of the Special Appeal Court will be final. However, if the issue is considered to be significant, a further appeal may be filed with the Supreme Court (subject to the Supreme Court's approval).

An appeal does not defer payment of tax. If tax is not paid within the time prescribed by law, it will be deemed to be in arrears unless the appellant has been authorised by the Director-General to wait for a decision of the appeal of judgement (in which case the payment must be made within 30 days from the date receiving the decision of the appeal or judgement).

13. Tax clearance certificate

The following individuals must apply for a tax clearance certificate:

- Liable to pay tax or tax arrears before departing Thailand.
- Has a duty to file a tax return and pay tax on behalf of the company or juristic partnership incorporated under foreign laws and has been carrying on business in Thailand.
- Receive income from being public entertainers in Thailand.

A foreigner must apply for a tax clearance certificate within 15 days before leaving Thailand. The tax clearance certificate must be presented to the Immigration Office on the departure date.

Failure to apply for the tax clearance certificate will be liable to pay a surcharge of 20% of the tax payable. The foreigner may also be subject to a fine not exceeding THB 1,000 or imprisonment of not more than one month, or both.

C. Annex

Tax forms for personal income tax

| Form | Purpose | Frequency |
|---------------|---|------------|
| PND 90 | Personal income tax return for income earners in general cases, including income from property rent and investing in the stock exchange | Annually |
| PND 91 | Personal income tax return form for taxpayers who receive income under section 40 (1) of the Thai Revenue Code | Annually |
| PND 93 | For submitting personal income tax return in advance before the original tax return submission deadline | Annually |
| PND 94 | Biannual personal income tax return form for taxpayers under section 40 (5) (6) (7) (8) of the Thai Revenue Code | Biannually |
| PND 95 | For employment income earned from a regional headquarter, international headquarter or international trading company in Thailand which provides reduced tax rates | Annually |

D. Our services

We are able to assist in ensuring full compliance with the *Thailand Revenue Code* and other laws. This includes advice and training to facilitate your daily work and minimise your compliance risks.

We would further be happy to assist with general compliance matters, such as accounting, payroll, corporate secretarial services, as well as general legal and tax advice.

We hope we can be of assistance to you. Should you have any questions, please do not hesitate to contact us

Luther in Asia

Expertise

Our office works closely together with the other Luther offices in Asia and Europe. We take a holistic approach, dealing with Asia-wide compliance issues, assisting with the creation of international holding structures and ensuring tax-efficient repatriation of profits.

We provide the complete range of legal and tax advice to clients doing business in and from Asia. To offer a seamless service, we have teams in Europe as well as in Asia, led by partners with many years of experience on both continents. That way, we can immediately answer questions concerning investment decisions and provide our clients with an accurate assessment of the particularities of their projects, no matter where they are located.

Our lawyers unite substantial practical knowledge in important legal areas and cover the entire spectrum of law in Asia and beyond. We support foreign investors in the assessment of location and investment criteria, the structuring of investment projects, acquisitions and joint ventures. Finding and implementing solutions for sensitive areas like technology transfer and know-how protection also form part of our work. Alongside our clients we negotiate with future partners and local authorities and ensure the enforcement of their rights, in and out of court as well as in arbitration proceedings.

The services of our lawyers are complemented by our accountants, HR professionals and tax consultants offering all the services one would necessarily associate with a “one-stop shop” concept, from outsourced administration to accounting, payroll and tax compliance. Additionally, we provide corporate secretarial services, especially in Asian “common law” countries.

Collectively, our lawyers, tax consultants and professionals combine the competence and experience necessary to comprehensively assist comprehensively on all business matters in Asia. Our tax experts advise on individual and corporate tax compliance as well as on withholding tax issues, on Double Taxation Agreements and on complex international tax structures. Our accountants and professionals carry out the time-consuming administrative tasks of accounting and payroll functions a business must undertake, allowing our clients to concentrate on growing their business.

Singapore

Singapore is a leading international trade and financial hub. As such, it serves as Asian headquarters for many international companies operating within the Asia-Pacific region.

With a staff strength of more than 90, Luther is by far the largest continental European law firm in Singapore. More than 26 lawyers from Singapore, Germany, France and other jurisdictions cover the full range of corporate and commercial legal work as well as the structuring of investments within South and South East Asia.

Our team is supported by excellent local Singaporean lawyers, notary publics, tax advisors, accountants, corporate secretaries and other professionals.

Shanghai

Shanghai is the main hub for doing business in China, and with a team of more than 20 international lawyers, Luther is the largest German-speaking law firm in the city. Our China team consists of German and Chinese legal experts most of whom have over a decade of experience in developing and entering the Chinese market.

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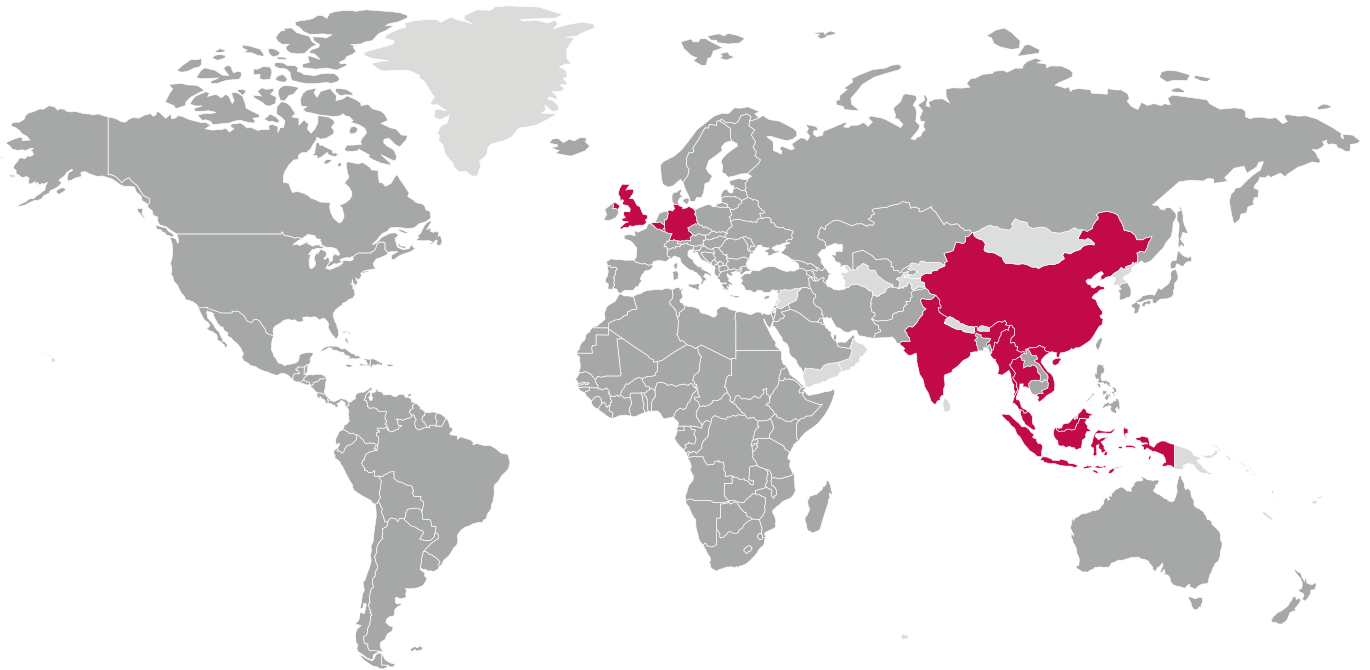
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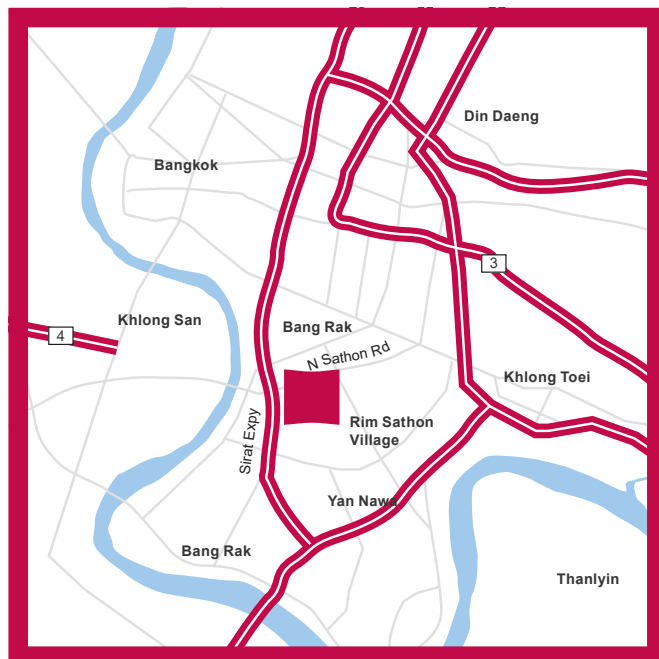


- Luther locations
- Best friends

Our locations

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Our office in Bangkok



Our office in Bangkok

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