



Change in interpretation of Thai tax law regarding foreign-sourced income and the rethink urged on the proposed change

According to tax collection regarding foreign sourced income by the Revenue Department of Thailand (“RD”), for decades Section 41, Paragraph 2 of the Revenue Code has been interpreted in a way that meant assessable income derived by a Thai tax resident from employment abroad, overseas businesses, or foreign-based property would only be subject to personal income tax if it was brought into Thailand within the same tax year.

The RD recently issued the RD Order No. Por 161/2566 regarding tax collection on accessible income in accordance with Section 41, Paragraph 2 of the Revenue Code on 15 September 2023. It provides a new guidance to tax officers, stating that foreign-sourced income brought into Thailand on or after 1 January 2024 will be subject to personal income tax, regardless of the tax year in which the income was originally earned. It is to be noted that any regulation, order, or revenue ruling that is contrary to the Order No. Por 161/2566 of the RD shall be repealed.

Given these changes, it is highly advisable for taxpayers, especially those engaged in cross-border business activities, to proactively seek professional advice and stay informed about

any further clarifications or amendments to tax guidelines. In addition, the shift in the interpretation of Section 41 is seen as the RD's response to close the loophole that allowed individuals to avoid personal income tax by remitting income earned abroad in an initial year to a subsequent tax year.

The Order No. Por 161/2566 of the RD has an enormous effect on foreign-sourced income to be brought into Thailand.

However, the RD subsequently issued its exemption that foreign-sourced income prior to 1 January 2024 which will be brought into Thailand in 2024 is exempted from tax in Thailand.

In addition, the double tax income is raised since some individuals may have paid taxes in foreign countries. Thailand has a lot of double tax treaties with other countries in order to prevent double taxation and that those treaties are applied in relation to foreign-sourced income.

It should be followed how the RD would enforce its Order No. Por 161/2566.

A tax advice should be sought from a tax advisor.