

Topics March 2024

Question – Answer Subject: Payment of Personal Income Tax according to Section 41 paragraph 2 of the Revenue Code

Issue - Principle

1. **Question** : What are the principles of the Revenue Department Orders No. Paw.161 and Paw.162 ?

Answer : The Revenue Department Orders No. Paw.161 and Paw.162 is the explanation of the legal principle according to Section 41 paragraph 2 that a person is liable to pay Personal Income Tax from income derive from foreign sources, when complete the following elements:
 (1) A person has assessable income from foreign sources from 1 January B.E. 2567 (2024) onwards, which in that tax year the person stays in Thailand for 180 days or more, **and**
 (2) A person has brought assessable income into Thailand in that tax year or in subsequent tax years.

Result : If all the above elements are complete, that person has a duty to include that assessable income in calculating Personal Income Tax in the tax year in which that assessable income is brought into Thailand.

Example In the tax year B.E. 2567 (2024), Mr. A stay in Thailand in total of 200 days, Mr. A has assessable income from leasing property in foreign country, This case is considered that element (1) is met, that is Mr. A has assessable income from foreign sources in the tax year which he is in Thailand for 180 days or more. If later in tax year B.E. 2568 (2025), Mr. A transfer the said assessable income to a bank account in Thailand. In this case, it is considered that element (2) is met, Which is Mr. A. brought that assessable income into Thailand in the said tax year or subsequent tax years. Therefore, the result is that Mr. A. must include the said assessable income that have brought into Thailand in the calculation for Personal Income Tax for tax year B.E. 2568 (2025).

Example of the case where a person brings income back into Thailand in each form.

Case	Assessable Income arises		Period of stay in Thailand <u>in the tax year in which the assessable income arises</u>		Bring income into Thailand		Pay taxes or not?
	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

Issue – Enforcement

2. Question : When do Revenue Department Orders No. Paw.161 and Paw.162 will be enforce?

Answer : Enforce for assessable income arising and bring into Thailand from 1 January B.E. 2567 (2024) onwards.

Example 1 : In tax years B.E. 2566 (2023) and B.E. 2567 (2024), Mr. A is a resident of Thailand and Mr. A has assessable income from interest on bank deposits abroad in tax year B.E. 2566 (2023) and has assessable income from renting condominiums located in foreign country in the tax year B.E. 2567 (2024). Later, in the tax year B.E. 2568 (2025), Mr. A. brings both assessable incomes back into Thailand. Mr. A. has no duty to pay tax on interest on bank deposits abroad because it is **assessable income that occurred before 1 January B.E. 2567 (2024)**, but Mr. A has a duty to include assessable income from renting a condominium located in foreign country to calculate Personal Income Tax for the tax year B.E. 2568 (2025) because it is **assessable income arising from 1 January B.E. 2567 (2024) onwards**.

Example 2 : In tax year B.E. 2567 (2024), Mr. A. is a resident of Thailand and has assessable income from dividends from abroad. Later, in the tax year B.E. 2568 (2025), Mr. A. brings the assessable income from dividends from abroad back into Thailand. Mr. A. has a duty to include the assessable income of dividends from abroad in the calculation for Personal Income Tax for tax year B.E. 2568 (2025) because it is assessable income from 1 January B.E. 2567 (2024).

3. Question : If it is assessable income received before B.E. 2567 (2024) but brought into Thailand in B.E. 2567 (2024), will it be subject to tax?

Answer : Not subject to tax because it is assessable income that occurred before 1 January B.E. 2567 (2024).

Example : In tax year B.E. 2565 (2022), Mr. A. stayed in Thailand for a total period of more than 180 days and Mr. A. went to give consultation abroad and receive a consulting fee of 50,000 Baht. Then, in tax year B.E. 2567 (2024), Mr. A. transfers the said consulting fee back into Thailand. Mr. A. has no duty to include assessable income from consulting fees abroad in the calculation to pay Personal Income Tax for tax year B.E. 2567 (2024) because it is assessable income that occurred before 1 January B.E. 2567 (2024).

Issue – Resident of Thailand

4. Question : What is the meaning of Resident of Thailand?

Answer : Persons who live in Thailand for a total of 180 days or more, between 1 January and 31 December of that year, regardless of whether they live in Thailand for a single consecutive period or in Thailand for several periods combined, regardless of the nationality or ethnicity of that person.

Example :

- Mr. A. lives in Thailand every day from January to December B.E. 2567 (2024), a total of 366 days. Mr. A. **is a Resident of Thailand in tax year B.E. 2567 (2024)**.
- Ms. B. is lives in Thailand only in certain months in B.E. 2567 (2024), a total of 184 days. Ms. B. **is a Resident of Thailand in tax year B.E. 2567 (2024)**.
- Mr. B. lives in Thailand from January to December B.E. 2567 (2024), a total period of 179 days. Mr. B. **is not a Resident of Thailand in tax year B.E. 2567 (2024)**.
- Mrs. D. has been living in Thailand continuously for a total of 250 days, with the first 100 days being in B.E. 2567 (2024) and the last 150 days being in B.E. 2568 (2025). As

such, Mrs. D. **is not a Resident of Thailand in both tax years B.E. 2567 (2024) and Tax year B.E. 2568 (2025)** because Mrs. D. was in Thailand for less than 180 days in each tax year.

5. Question : If a person is not living in Thailand for 180 days or more in the tax year, but have assessable income from foreign sources in that tax year, such person has to pay Personal Income Tax when bringing that assessable income back into Thailand or not?

Answer : Such person **does not have to pay Personal Income Tax**, even if the assessable income is brought back into Thailand.

Example : In B.E. 2567 (2024), Mr. A. was in Thailand for a total of 65 days. Mr. A. had assessable income from renting property located foreign country in that year and in the same year, Mr. A. transferred the said income to a bank account in Thailand. Mr. A. does not have to pay Personal Income Tax on such rental income in tax year B.E. 2567 (2024) because Mr. A. was not a resident of Thailand at the time of the assessable income occurred.

Issue – Assessable Income

6. Question : What types of assessable income are subject to Income Tax according to Section 41 paragraph 2 of the Revenue Code?

Answer : Assessable income from foreign sources that is subject to Personal Income Tax is considered from assessable income according to Section 40 (1) to (8) of the Revenue Code. **However**, if it is assessable income that is exempt from tax according to the Revenue Code. There is no need to bring assessable income that is exempt from tax to pay tax in Thailand, such as receiving an inheritance or income received for support from parents, descendants, or spouses, only the income that does not exceed twenty million Baht in that tax year, etc.

Issue - Bringing assessable income into Thailand

7. Question : What is the meaning of Bringing assessable income into Thailand?

Answer : Acting by any means to bring that assessable income into Thailand, such as transferring assessable income through a bank account, transferring assessable income through the ONLINE system, or bringing assessable income with you into the country, etc.

Example : Ms. B. is a Resident of Thailand. She transferred 200,000 Baht to a bank account abroad and received interest on deposits from that bank in the amount of 10,000 baht. Later, Ms. B. ordered the interest to be transferred to a bank account in Thailand. It is considered that Ms. B. brought interest which **is classified as bringing assessable income into Thailand**.

Issue – Principal

8. Question : When transferring money abroad and bringing it back into Thailand, is it subject to paying taxes?

Answer : **Not subject to tax**, in the case of transferring investment funds abroad and transferring such funds back into Thailand will not be considered as assessable income.

Example : Mr. A. transferred 200,000 baht to an overseas investment account. Later, Mr. A. closed the said investment account and brought the 200,000 baht back into Thailand. Such money **is not considered** assessable income. Mr. A. has no duty to pay income tax on bringing such money back into Thailand.

9. Question : If you deposit money in a bank abroad and receive interest from that deposit and later bring the principal and interest back into Thailand, the principal and interest must be included in the calculation of personal income tax or not?

Answer : The principal is not taxed, *but* income tax must be paid only on the interest, which is assessable income according to Section 40 (4) (a) of the Revenue Code, that is brought back into Thailand in the tax year in which such interest is received, and that person is a person who has been living in Thailand for more than 180 days.

Example : In tax year B.E. 2567 (2024), Mr. A was in Thailand for a total period of more than 180 days. Mr. A deposited 50,000 baht in a bank abroad and received interest on the deposit in the amount of 5,000 baht in tax year B.E. 2567 (2024). Later, in tax year B.E. 2568 (2025), Mr. A. Transfer all the money back into Thailand. Mr. A. has a duty to include only assessable income from interest on deposits abroad, which has been assessable income since 1 January B.E. 2567 (2024), to be included in the calculation for Personal Income Tax for tax year B.E. 2568 (2025).

Issue – Unrealized Gain

10. Question : Use the money to purchase stocks abroad. At the end of the year, the price of overseas stocks increases without having sold those stocks yet. Does it subject to pay tax or not?

Answer : Not subject to pay tax because the said shares have not yet been sold, which is a benefit received in excess of capital, so it is not considered assessable income according to Section 40 (4) (g) of the Revenue Code.

Example 1 : In tax year B.E. 2567 (2024), Mr. C. stayed in Thailand for a total period of more than 180 days and Mr. C. used the money to buy A shares abroad on 15 March B.E. 2567 (2024), in the amount of 100 shares, 1,000 Baht per share, for a total of 100,000 Baht. Later, on 31 December B.E. 2567 (2024), the stock price increased to 1,100 baht per share. Therefore, Mr. C. has an unrealized profit (UNREALIZED GAIN) increasing by 10,000 baht on 31 December B.E. 2567 (2024), and Mr. C. has not yet sold the said shares in any way. Therefore, it is not considered as assessable income according to Section 40 (4) (g) of the Revenue Code.

Example 2 : Later in tax year B.E. 2568 (2025), Mr. C. stayed in Thailand for a total period of more than 180 days and Mr. C. sold 80 A shares abroad on 1 June B.E. 2568 (2025) at a price of 1,200 Baht per share. Therefore, Mr. C. had a profit (REALIZED GAIN) in the amount of 16,000 baht on 1 June B.E. 2568 (2025), which is considered as assessable income from the benefit received from the sale of such shares, which is valued at income in excess of capital according to Section 40 (4) (g) of the Revenue Code. But for the additional A shares of 20 shares that Mr. C has not yet sold, they are not considered assessable income according to Section 40 (4) (g) of the Revenue Code.

Example 3 : Later in tax year B.E. 2569 (2026), Mr. C. brought profits from the sale of A shares 80 shares on 1 June B.E. 2568 (2025), which is considered assessable income according to Section 40 (4) (g) of the Revenue Code, back into Thailand. Mr. C. have a duty to include assessable income from the sale of shares abroad in the calculation of Personal Income Tax for the tax year B.E. 2569 (2026) because it is assessable income that has occurred since 1 January B.E. 2567 (2024).

Issue – Savings received while not residing in Thailand

11. Question : If a person lives and works or conducts business in a foreign country for a long time. Later, he wanted to return to live in Thailand, so he brought the savings from working or operating a business abroad back into Thailand. Will such person have to pay taxes on bringing the savings into Thailand?

Answer : No tax must be paid in the case of bringing savings from working or operating a business abroad into Thailand because such savings derived from assessable income that occurred in the tax year in which the person was in Thailand for less than 180 days.

Example : Mrs. D. is of Thai nationality and went to live in China in B.E. 2550 (2007). But in B.E. 2567 (2024), Mrs. D. wants to return to live in Thailand permanently, so she has brought all savings from business operations in China back into of Thailand. As such, Mrs. D. is not obliged to pay Personal Income Tax on money that bring into Thailand in B.E. 2567 (2024) due to such savings comes from assessable income occurring in a tax year in which Mrs. D. is not a Resident of Thailand.

Issue - Elimination of Double Taxation

12. Question : If assessable income brought into Thailand is income that has already been paid income tax abroad, if that income is brought back, the income must be paid for tax in Thailand again. Will there be double taxation? And can income tax paid abroad be used to eliminate double taxation or not?

Answer : There is no double taxation in the case of being a tax resident in Thailand. (Reside in Thailand for more than 180 days) can take tax paid abroad as a credit against tax payable in Thailand in the tax year in which the assessable income is brought into Thailand according to the provisions of the Double Tax Agreement that Thailand is a contracting party with that country.