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Thailand's Tax Policy Shift: Change in Foreign Source Income Tax Treatment for Thai Tax Resident

On September 15, 2023, the Thai Revenue Department (“TRD”) issued the Revenue Departmental Instruction No. Por. 161/2566, which addresses the collection of income tax under Section 41, paragraph 2, of the Thai Revenue Code (“**Por. 161/2566**”). This instruction serves as a guideline for TRD officials to interpret and provide guidance to Thai tax residents who have earned taxable income through work, activities, or assets located in foreign countries. The new tax treatment will be applicable to foreign-source income remitted to Thailand from January 1, 2024, onwards.

Key Changes

Por. 161/2566 represents a significant change in the TRD's approach to collecting personal income tax on foreign-source income earned by Thai tax residents. Previously, Thai residents who spent 180 days or more in Thailand in any calendar year are subject to Thai personal income tax only if they bring foreign-sourced income into the country in the same year it was earned. If the foreign-source income is brought into Thailand in a subsequent year, it will not be subjected to Thai personal income tax.

However, with the implementation of Por. 161/2566, when a Thai tax resident repatriates offshore-sourced income into Thailand, that income will be subject to taxation in the year it is brought into Thailand, irrespective of the year in which it was initially earned.

Rationale and Objectives

The TRD emphasizes that these enhancements in tax collection procedures for ordinary individuals align with Thailand's

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commitment to international agreements and forums. The overarching goal is to foster fairness in tax collection, particularly among individuals whose income streams originate from both domestic and foreign sources. Furthermore, these measures are anticipated to elevate the level of transparency in tax practices.

The TRD has also expressed its intention to engage in dialogues with stakeholders across various sectors to refine and implement these improved tax collection methods for individuals with foreign-source income.

Conclusion

One of the most significant implications of the new policy is that Thai tax residents will now be subject to Thai personal income tax on foreign-source income when it is repatriated into Thailand, regardless of the year in which it was initially earned. This represents a shift from the previous rule where only income brought into Thailand in the same year it was earned was subject to taxation. This means that Thai tax residents may see an increase in their tax liabilities on foreign income brought into Thailand in the future.

On a positive note, the TRD's intention to engage in dialogues with stakeholders indicates a willingness to refine and implement these new tax collection methods. Thai tax residents, especially those with significant foreign income, should stay informed and participate in these discussions to ensure that their concerns are considered in the implementation process. Given the complexity of tax laws and regulations, Thai tax residents, particularly those with foreign income, should consider consulting with tax professionals to understand how the new policy affects their specific situations and to explore potential tax planning strategies.

For more information, please get in touch with our tax practice, or alternatively, please contact the authors.

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Tax Practice Group

Businesses often need proper tax planning and an efficient structure to sustain and enjoy long-term success. Our main goal is to provide a “one-stop service” where we can seamlessly connect with other practices to provide the most appropriate advice to our clients.

We have extensive experience in tax issues related to M&A, restructuring and wealth management especially when clients are faced with new business models, IPOs, as well as buying or selling assets to ensure tax mitigation and optimization. We conduct due diligence to determine whether or not tax planning is possible or required. This involves sharing information about specific tax privileges for which our clients may or may not know they are qualified.

Our clients extend to a wide spectrum of sectors: corporations, family businesses and high net worth individuals / ultra-high net worth individuals, who we believe require attentive services and a responsive team, a value we strive and for which we are known.