

Tax on Foreign Company (Part I)

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Tax is a complicated subject. Foreign companies doing business in Thailand for a period of time could easily understand their tax liabilities. However, those doing a short project will encounter more complication especially where payments are according to the progress of work and the accrual method of accounting. In general, a foreign company is subject to the following taxes:

1. Tax as a Resident Company (Section 66 and 76 bis of Revenue Code). They have to pay corporate tax at 30% on profit plus value added tax (VAT) at 7%. There is also a remittance tax at 10% under Section 70 bis for disposal of profit.

2. Foreign Non-Resident Companies not doing business in Thailand but receiving revenue from or in Thailand are liable to pay tax through withholding at 10-15% under Section 70.

Thai law applies throughout the Kingdom plus territorial seas and continental shelf according to principle of international law. Therefore, non-resident companies receiving fee income, royalty for licensing of intellectual properties or goodwill, interest and dividend, rental or professional fees could be subject to withholding tax to be deducted by the payers in Thailand.

Tax on Foreign Resident Company

A foreign company can either set up branch office to carry out the business by appointing an agent or employee in Thailand to generate income and profits. Taxes payable thereon are:

(1) Corporate Tax

All profits generated from the business in or related to Thailand would be subject to corporate tax. Section 76 bis of the Revenue Code provides that a foreign company is doing business in this country if:

1. It has an employee, representative or go-between in Thailand.
2. Such person carries out business for the foreign company.
3. The business generates income or profit.

The agent or representative is liable to file income tax return plus audited financial statement on behalf of the foreign company and pays corporate tax thereon at 30% on the profit.

In computing the profit, the foreign company can claim all expenses related to the Thai operation to be supported by documents and certificate such as receipts and vouchers. If it suffers any loss, the loss can be carried forward for five years but there is no allowance for carry backward.

(2) Tax Accounting

The company has to pay tax on accrual basis and file income tax return within 150 days from the end of the accounting year to be supported by financial statement audited by a local auditor. In addition, it has to pay mid-year estimated tax at the end of the 8th month on the half year profit as forecast. An accounting year is normally 12 months.

(3) Tax at 5% on Gross Receipt

Section 71 (1) of the Revenue Code empowers the authority to impose tax at 5% on gross receipt before any deduction if the foreign company has no books of account nor supporting documents to be examined by the authority to determine the taxable profit.

(4) Remittance Tax

A foreign company that shows profit from operation is liable to pay remittance tax if such profit is paid or disposed out of Thailand. The tax rate is 10% according to Section 70 bis of the Revenue Code. Even though the profit is not actually paid in cash from Thailand, if there is any book entry where the

amount is deducted from the retained earnings, it deemed there is a constructive remittance and the tax is payable.

Branch of a foreign company cannot pay dividend because all profits have to be sent to the head office for distribution to shareholders and therefore the remittance tax is imposed in lieu of dividend tax which is normally done under Section 70.

(5) Value Added Tax

Where the revenue is Baht 1,800,000 per year or more, a foreign company has to pay VAT at 7%. To do so it shall apply for VAT registration. There are certain activities exempt from VAT such as agricultural trading or domestic transportation. In that case, the VAT exempt company cannot use the VAT credit received from suppliers and contractors.

VAT is payable monthly within the 15th day of the following month. Foreign companies doing business in Thailand temporarily is also subject to VAT. However, if it is a non-resident company and has no VAT registration, then customers in Thailand doing business with such foreign company would be liable under Section 83/6 of the Revenue Code to remit the VAT on behalf of such foreign non-resident company.

(6) Specific Business Tax

Although many business activities are subject to VAT, the tax law imposes specific business tax at the rate of 3.3% on certain activities such as banking, insurance and real estate trading. In that case, VAT would be exempt.

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