



## International tax

# Thailand Highlights 2013

### Investment basics:

**Currency** – Thai Baht (THB)

**Foreign exchange control** – Repatriation payments normally may not be made in baht but can be made in any other currency. If a payment is intended to be in baht, the amount is converted into the foreign currency at the point of repatriation as generally required by the Bank of Thailand. Most remittances can be made through a commercial bank and documentation evidencing the purpose of the remittance is required. The Bank of Thailand must approve the remittance of funds exceeding the ceiling set by the bank.

**Accounting principles/financial statements** – Thai Accounting Standards apply. For areas unaddressed, IAS, IFRS and US GAAP may be consulted. Financial statements audited and signed off by a licensed individual certified accountant must accompany an entity's annual income tax return.

**Principal business entities** – These are the public and private limited company, partnership, sole proprietorship, joint venture and branch of a foreign corporation.

### Corporate taxation:

**Residence** – A limited company is considered resident if it is incorporated in Thailand. A partnership is considered resident if it is registered as a partnership with the Ministry of Commerce.

**Basis** – Residents are taxed on worldwide income; nonresidents are taxed only on Thailand-source income. Foreign-source income derived by resident taxpayers is subject to corporate income tax in the same manner as Thailand-source income. A registered foreign branch or partnership is taxed the same as a limited company, but only on Thailand-source income.

Unregistered entities with a taxable presence in Thailand also are taxed the same manner as limited companies, but only on Thailand-source income.

**Taxable income** – Corporate income tax is imposed on an entity's net taxable profits, which normally consist of business/trading income, passive income and capital gains/losses. Expenses that relate specifically to generating profits for the business or the business itself may be deducted in determining net taxable profits.

**Taxation of dividends** – Dividends paid by a limited company to another limited company in Thailand may be exempt from corporate income tax if certain conditions are satisfied. Otherwise, 50% of the dividends are subject to corporate income tax at the normal rate. Any tax withheld on the payment of the dividends may be used to offset the final corporate income tax due for the company in the relevant tax year. If certain conditions are satisfied, dividends received from a foreign affiliate are exempt from further corporate income tax in Thailand.

**Capital gains** – Capital gains are subject to the normal corporate income tax rate with no restrictions on the use of capital losses to offset net taxable profits.

**Losses** – Net operating losses may be carried forward for up to five accounting periods. If the net operating losses relate to a business promoted by the Thailand Board of Investment during a tax holiday period, the losses may be carried over to the first year after the tax holiday period and subsequently up to five accounting periods.

**Rate** – The corporate tax rate is reduced from 23% to 20% as from 1 January 2013.

Regional operating headquarters may benefit from a 0% to 10% tax rate. A bank deriving profits from an International Banking Facility pays a 10% rate for "out-out" deposits.

Certain public limited companies and small and medium-size limited companies are subject to lower progressive rates up to a certain amount of net taxable profits.

Foreign companies that carry on an international transportation business and that have an office in Thailand can be taxed at a rate of 3% of gross proceeds rather than at

the normal corporate income tax rate (and is exempt from the tax on profit remittances).

**Surtax** – No

**Alternative minimum tax** – No

**Foreign tax credit** – Foreign income tax paid on profits that also are subject to corporate income tax in Thailand normally may be credited up to the income tax paid in Thailand on such foreign income.

**Participation exemption** – No

**Holding company regime** – A tax exemption is available for dividend income received from foreign affiliates, provided the foreign profits were subject to income tax at a minimum rate of 15%.

**Incentives** – Tax holidays of three to eight years are available for business activities promoted by the Board of Investment. Regional operating headquarters and their foreign expatriate employees may benefit from a 0% to 10% rate on net taxable profits and a personal income tax rate of 15%, respectively.

### Withholding tax:

**Dividends** – Dividends paid to another Thailand company are subject to a 10% withholding tax or exempt if certain requirements are met. Dividends paid to a nonresident company are subject to a 10% withholding tax. Dividends paid to an individual (resident or nonresident) are taxed at a 10% rate that is considered a final tax. A resident individual can obtain a dividend tax credit, so in certain cases may choose to include the dividends in taxable income for the relevant tax year.

**Interest** – Interest paid to a nonresident company is subject to a 15% withholding tax. Interest paid on loans from a bank, financial institution or insurance agency is taxed at a 10% rate if the lender is resident in a country that has concluded a tax treaty with Thailand, but interest is exempt if it is paid by the government or a Thai financial institution on loans granted under a law intended to promote agriculture, industry or commerce.

A 1% advance withholding tax applies to interest payments made by a corporation to a corporation carrying on business in Thailand, or by a corporation to a financial institution for interest on debentures or bonds, except for interest on deposits or negotiable instruments paid between a bank or finance company.

Interest paid to a resident individual is subject to a 15% withholding tax and is considered a final tax.

**Royalties** – Royalties paid to another Thailand company are subject to a 3% advance withholding tax, which may be credited against the final corporate income tax due for the accounting period. Royalties paid to a nonresident are subject to a 15% final withholding tax unless the rate is reduced under a tax treaty.

**Technical service fees** – Technical service fees paid to another Thailand company are subject to a 3% advance withholding tax, which is used as a credit against the final corporate income tax due for the accounting period. Technical fees paid to a nonresident are subject to a 15% final withholding tax unless the rate is reduced or eliminated under a tax treaty.

**Branch remittance tax** – A 10% branch remittance tax is imposed on after-tax profits paid or deemed paid to a head office.

#### Other taxes on corporations:

**Capital duty** – No, but fees apply for registration of a company.

**Payroll tax** – Tax on employment income is withheld by the employer and remitted to the tax authorities generally on a monthly basis.

**Real property tax** – A tax of 12.5% is levied on the appraised rental value of real property. The tax is deductible in calculating the corporate income tax liability.

**Social security** – The employer and the employee are required to contribute 5% of monthly compensation (up to THB 15,000) paid to the employee (i.e. the monthly contribution cap is THB 15,000 times 5% or THB 750).

**Stamp duty** – Stamp duty generally applies at the rate of 0.1% to leases, the hire of work, transfers of shares/debentures, loans (capped at THB 10,000), etc.

**Transfer tax** – A specific business tax applies to the gross proceeds from the transfer of immovable property at a rate of 3.3% (including a municipal tax of 10%), a withholding tax of 1% of the gross proceeds

from the transfer and a transfer fee of 2% of the appraisal value. An exemption from the specific business tax is available in certain cases involving the entire or partial transfer of a business.

#### Anti-avoidance rules:

**Transfer pricing** – Under Thailand's transfer pricing regime, taxpayers must declare on their annual corporate tax return whether revenue and expense transactions are based on market prices, and the tax authorities may adjust income. Advance pricing agreements may be obtained and, while transfer pricing documentation is not formally required to be maintained, there is an assumption (based on filing requirements and directives to revenue officers) that documentation should be available by the corporate income tax return filing date. A taxpayer may initiate an adjustment (up or down) if there is adequate documentation to substantiate the adjustment.

**Thin capitalization** – No

**Controlled foreign companies** – No

**Other** – No

**Disclosure requirements** – No

#### Administration and compliance:

**Tax year** – The tax year is 12 months (a shorter year is allowed only in the year of incorporation when there is a change of accounting period or in the year of dissolution).

**Consolidated returns** – Consolidated returns are not permitted for corporate income tax purposes; each company must file its own tax return.

**Filing requirements** – A taxpayer must self-assess and make an advance corporate income tax payment for the first six months of the tax year. The half-year return must be filed within two months after the first six months of the tax year. The annual income tax return must be filed within 150 days from the company's year end. Extensions are not available.

**Penalties** – If a firm underestimates its profits for an entire year by more than 25%, a 20% fine is charged on the first half-year installment. In other circumstances, a surcharge of 1.5% per month on outstanding tax applies. A penalty of up to 100% of the tax due will apply when the income tax liability is formally assessed by the tax authorities.

**Rulings** – A taxpayer may request a nonbinding private letter ruling and APAs are available under the transfer pricing regime.

#### Personal taxation:

**Basis** – Thailand residents and nonresidents are taxed on their Thailand-source income. Thai residents are taxed on foreign-source income only if the income is brought into Thailand in the year derived (repatriation in later years is exempt from personal income tax).

**Residence** – An individual is resident in Thailand for personal income tax purposes if present for 180 days or more in a (calendar) tax year.

**Filing status** – A married couple may opt for a joint or separate assessment on employment income. In either case, if the wife derives passive income, it must be included in the husband's personal income tax return.

**Taxable income** – Employment income, including most employment-related benefits, is subject to personal income tax. Profits derived by individuals from the carrying on of a trade or profession generally are taxed under the personal income tax regime.

Dividends and interest are taxed at source at a rate of 10% and 15%, respectively. An individual can elect not to report such investment income on the annual personal income tax return for the tax year.

**Capital gains** – Capital gains are exempt from personal income tax if the shares sold are of a public company registered on the stock exchange of Thailand. Otherwise, gains are subject to the normal progressive personal income tax rates.

**Deductions and allowances** – Subject to certain restrictions, deductions are granted for first time purchase of a personal residence, insurance, mortgage interest, retirement or long-term equity plans, charitable contributions, etc. Personal allowances are available for the taxpayer, his/her spouse and children/parents under certain conditions.

**Rates** – Rates are progressive up to 37%. For expatriates qualifying as employees of a regional operating headquarters, a flat income tax rate of 15% can apply from four to eight years, depending on the status of the regional operating headquarters.

## Other taxes on individuals:

**Capital duty** – No

**Stamp duty** – Stamp duty generally applies at a rate of 0.1% to leases, the hire of work, the transfer of shares/debentures, loans (capped at THB 10,000), etc.

**Capital acquisitions tax** – No

**Real property tax** – A tax of 12.5% is levied on the appraised rental value of real property.

**Inheritance/estate tax** – No

**Net wealth/net worth tax** – No

**Social security** – The employee is required to contribute 5% of monthly compensation, up to THB 15,000 (i.e. the monthly contribution cap is THB 15,000 times 5% or THB 750). The employer also contributes.

## Administration and compliance:

**Tax year** – Calendar year

**Filing and payment** – Tax on employment income is withheld by the employer and

remitted to the tax authorities, generally on a monthly basis. An individual must file an annual personal income tax return on or before 31 March of the following year and must pay any additional income tax due at that time.

**Penalties** – A monthly surcharge of 1.5% applies to underpayments of tax up to the additional tax amount that was due, and a penalty of up to 100% of the tax due will apply when the income tax liability is formally assessed by the tax authorities.

## Value added tax:

**Taxable transactions** – VAT is levied on the sale of goods and the provision of services.

**Rates** – The standard VAT rate is 7%; a 0% rate applies to exported goods and services.

**Registration** – The registration revenue threshold for VAT must exceed THB 1.8 million for any given tax period. Nonresident suppliers that are carrying on business on more than a temporary basis must register.

**Filing and payment** – VAT is payable by the 15th of the month following the month in which it is collected. In cases in which a self-assessment of VAT output is required on the payment of certain income to nonresidents (primarily services or royalties on rights used in Thailand), the VAT is payable on the seventh of the month following the month when the actual payment occurred.

**Source of tax law:** Thailand Revenue Code

**Tax treaties:** Thailand has concluded over 54 income tax treaties.

**Tax authorities:** Thailand Revenue Department

**International organizations:** ASEAN, WTO

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