

Q&A

Questions – Answers

Revenue Department Order No. DI.161/2023 Regarding
Personal Income Tax Payment under Section 41 Paragraph
Two of the Revenue Code

Dated 15th September 2023

Question: The Revenue Department's Order No. Di. Por.161/2023, dated 15th September 2023. What are the Principles?

Answer: The Revenue Department's Order No. Di. Por. 161/2023 is an explanation of the legal principle according to Section 41, Paragraph 2, that a person will have a duty to pay personal income tax from foreign income sources. When entering the following Elements.

- (1) A person has assessable income from foreign sources. In the tax year staying in Thailand for 180 days or more, and;
- (2) That person has brought such assessable income into Thailand in that tax year or in subsequent tax years thereafter; Result: "If both of the about conditions are met, that person has a duty to include that assessable income in the calculation for personal income tax in the tax year when the assessable income was brought into Thailand."

"Example: In 2023, Mr. A. stayed in Thailand for a total of 200 days. He earned income from renting his property abroad and deposited the money in his bank account abroad. Subsequently, in 2027, Mr. A. remitted the said income to his bank account in Thailand, so he must include this foreign-earned rental income as assessable for the calculation of his personal income tax in 2027 tax year."

Question: When does the Revenue Department's Order No. Di. Por.161/2023 dated 15th September 2023 come into effect?

Answer: Applicable to all assessable incomes irrespective of when they occur if they are brought into Thailand from 1st January 2024 onwards.

Question: What is meant by Thai tax resident?

Answer: Any person who is present in Thailand for a total of 180 days or more within that tax year, whether in Thailand for a single consecutive period or in Thailand for several non-consecutive periods regardless of the nationality or ethnicity of the person

Example:

- Mr. A is in Thailand every day from January to December 2024 for a total of 366 days. Mr. A is deemed a resident of Thailand in tax year 2024.
- Miss K is in Thailand during odd months in 2024 for a total of 184 days. Ms. K is deemed a resident of Thailand in tax year 2024.
- Mr. C was in Thailand from January to December 2024 for a total of 179 days. Mr. C is not deemed a resident of Thailand in tax year 2024.
- Mrs. D has been in Thailand continuously for a total of 250 days with the first 100 days being in 2024 and the last 150 days being in 2025. Therefore, Mrs. D is not deemed a resident of Thailand in both tax year 2024 and tax year 2025 because Mrs. D was in Thailand for less than 180 days in both tax years.

#4

Question – Answer

The Revenue Department's Order No. Di. Por.161/2023 regarding personal income tax payment according to Section 41 Paragraph Two of the Revenue Code Dated 15th September 2023

Question: What types of assessable income are subjected to income tax according to Section 41, Paragraph 2 of the Revenue Code?

Answer: Assessable income from foreign sources that will be subjected to income tax is assessable income as stipulated in Section 40 (1) to (8) of the Revenue Code. However, if the assessable income receives tax exemption under the law, the taxpayer does not have to pay taxes in Thailand such as assets inherited or gifts received in an amount not exceeding 20 million in that particular tax year.

#5

Question: If you use the money to buy bonds abroad and receive interest from holding such bonds and you later bring the principal and interest back to Thailand, are you required to include both the principal and interest in calculating personal income tax?

Answer: No, the income tax will be paid only on the interest portion which is deemed assessable income according to Section 40 (4) (a) of the Revenue Code provided that the interest income is brought back into Thailand and such person stays in Thailand for more than 180 days.

#6

Question: If it is assessable income received before 2024 but brought back into Thailand in 2024, will it be subjected to taxation?

Answer: Yes, it is if the assessable income occurs in a tax year in which the income earner is in Thailand for 180 days or more and he or she brings in that assessable income into Thailand from 1st January 2024 onwards. The income earner must include the said assessable income in the calculation of personal income tax in the tax year 2024 and must submit the tax return by March 2025.

#7

Question: If the assessable income is received in 2023 and brought into Thailand in 2023, will it be subjected to income tax?

Answer: The tax must be paid if the assessable income occurs in the tax year in which the income earner is in Thailand for 180 days or more and brings that assessable income into Thailand in 2023. The income earner must include the said assessable income in the calculation of personal income tax in the tax year 2023 and submit the tax return by March 2024.

#8

Question – Answer

The Revenue Department’s Order No. Di. Por.161/2023 regarding Personal Income Tax Payment according to Section 41 Paragraph Two of the Revenue Code Dated 15th September 2023

Question: If you are not in Thailand for 180 days or more in a tax year but you have assessable income from a foreign source in the said tax year, must I pay personal income tax when I bring that assessable income back into Thailand?

Answer: No personal income tax is required even if the assessable income is brought back into Thailand.

Example: In 2028, Mr. A is in Thailand for a total of 65 days and he has assessable income from renting out his property abroad. By crediting the rental money into his bank account located abroad in the same year and transferring the said income into his bank account in Thailand, Mr. A did not have to pay personal income tax on the said rental money because he was not a resident of Thailand when the money was generated.

#9

Question: If a person lived and worked or conducts business in a foreign country for a long time but later returned and brought to Thailand his accumulated incomes earned overseas, will such a person have to pay taxes on these earnings?

Answer: No taxes need to be paid. This is because the said accumulated earnings came from assessable income that occurred in the tax year in which the person stayed in Thailand for less than 180 days. Example: Mrs. D. is of Thai nationality and has been living in China since 2007. But in 2024, Mrs. D. wants to travel back to live in Thailand permanently, so he brought back his accumulated earnings from working in China. As such, Mrs. D. is not obliged to pay any personal income tax on money brought into Thailand in 2024 because the said accumulated money comes from assessable income that occurred in the tax year in which Mrs. D. was not a resident of Thailand.

#10

Question: If assessable income brought into Thailand was already taxed abroad and you bring that income back to Thailand, do you have to pay taxes again on this assessable income and end up paying double taxation?

Answer: There is no double taxation in this case. If you are deemed a tax resident of Thailand (staying in Thailand for 180 days or more), the tax paid abroad can be credited against the tax paid in Thailand in the tax year that assessable income was brought into Thailand according to the provisions of the Double Tax Treaty to which Thailand is a contracting party.

#11

Question: Since The Revenue Department's Order Di. Por. No. 161/2023 is not a law, are taxpayers required to comply with this Order?

Answer: Although the Order itself is not the law but is an explanation of Section 41, Paragraph Two of the Revenue Code, taxpayers still have a duty to comply with the Order. The Revenue Department Order, Type P., is an order that the Director-General, in his capacity as a supervisor, orders the revenue officers to consider it as a practice guideline for advising taxpayers to comply with the law correctly.