

# Lorenz & Partners

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## The Thai Withholding Tax System

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## 1. Introduction taxpayer

A Thai Company which pays taxable income to individuals/companies is generally required to withhold income tax based on the provision of the Revenue Code of Thailand and remit the same to the Revenue Department. Details of this procedure separated by income tax categories are described as follows:

### 1.1. Income from salary and wages

The withholding tax rate is progressive, depending on the amount of salary or wage paid **(0-37%)**

### 1.2. Income from services provided (i.e. fees, brokerages, meeting fees, and commission fees)

The withholding tax rate is progressive, depending on the amount of income **(0-37%)** or

**15%** if the recipient of income is a foreigner, who does not stay in Thailand over 180 days.

### 1.3. Income from interest

**15%** of the payment

### 1.4. Income from dividend

**10%** of the payment

### 1.5. Income from rent

**5%** of the payment

### 1.6. Income from liberal profession (i.e. laws, arts of healing, engineering, and architecture)

**3%** of the payment or

**15%** of the payment if the recipient of income is a foreigner, who does not stay in Thailand over 180 days.

### 1.7. Income from a contract of work and labour, whereby the contractor provides essential material, besides tools

**3%** of the payment

## 1.8 Income from Royalty

The withholding tax rate is progressive, depending on the amount of royalty paid **(0-37%)**

**15%** if the recipient of income is a foreigner, who does not stay in Thailand over 180 days.

At the end of the year, each taxpayer has to submit a tax computation to the Revenue Department. This tax computation needs to contain all income generated during the year. On this basis, the total personal income tax is calculated by the Revenue Department, considering the tax already withheld during the year, which is deducted from the calculation. Depending on how much tax was withheld, a payback or an additional payment might be possible.

However, if an individual taxpayer earns income in form of **interest, or dividend** he has the right to choose whether this payment is to be considered in his tax computation.

## 2. Thai Corporate Taxpayer

A Thai Company, submitting payments to another Thai Company, is not required to withhold income tax except the Revenue Code says so. The important exemptions are:

2.1. Income from services provided (i.e. fees, brokerages, meeting fees, and commission fees)

**3%** of the payment

2.2. Income from interest

**1%** of the payment paid to a Thai Company

**0%** of the payment paid to a Thai Bank

2.3. Income from dividend

See Newsletter Number 72

- 2.4. Income from rent
  - 5%** of all rental payments made and
  - 10%** of rental payments made to associations and foundations
- 2.5. Income from liberal profession (i.e. laws, arts of healing, engineering, and architecture)
  - 3%** of the payment
- 2.6. Income from payments to contractors who provide essential materials besides tools
  - 3%** of the payment
- 2.7. Income from royalty
  - 3%** of the payment
- 2.8. Income paid by Government Agency
  - 1%** of the payment
- 2.9. Income paid from the sale of goods
  - 0%** of the payment

### **3. Foreign Company (in case of “not carrying on business in Thailand”)**

A foreign company, which does not carry on business in Thailand, (by having a branch office, employment, representative or go-between in Thailand), but derives income in Thailand, is generally subject to Thai Income Tax.

- 3.1. Income from services provided (i.e. fees, brokerages, meeting fees, and commission fees)
  - 15%** of the payment
- 3.2. Income from interest
  - 15%** of the payment

- 3.3. Income from dividend  
**10%** of the payment
- 3.4. Income from rent  
**15%** of the payment
- 3.5. Income from liberal profession (i.e. laws, arts of healing, engineering, and architecture)  
**15%** of the payment
- 3.6. Income from royalty  
**15%** of the payment

However, the withholding tax rate might be lower due to a double taxation agreement between Thailand and a foreign country (“DTA”).

- (1). Compared to the other tax rates, the tax payable on dividends is with 10% rather low. The reason for this can be found in the tax policy of the Thai Government. Since the Corporate Income Tax is already at the rate of 23% (since January 2012, formerly 30%), the tax rate on dividends is not meant to be subject to a full taxation again.
- (2). If a foreign company rents property to a Thai Company, the Thai Company is generally required to withhold tax at the rate of 15% on rental income.

On the other hand, if a foreign company is carrying on business in Thailand by renting property to a Thai Company, such Company has to withhold tax at the rate of 5% on the rent payment. Additionally, the foreign company has to pay corporate income tax at the rate of 23% (since January 2012, formerly 30%) on its net profits from rental business.

- (3). Under most DTA (e.g. Thailand and Germany) withholding tax rate on interests is reduced from 15% to 0% if the lender is a (German) Bank. The rate on capital gain is reduced the same way, if the seller of a Thai Company's stock is a German Company.
4. Foreign Company (in case of "carrying on business in Thailand")  
Foreign companies, which are carrying on business in Thailand (by having a branch office, employment, representative or go-between in Thailand and derive income in Thailand), are subject to pay tax in form of withholding tax. Important withholding tax rates are described below by categories of income:
- 4.1. Income from services provided (i.e. fees, brokerages, meeting fees, and commission fees)  
**5%** of the payment
- 4.2. Interest paid  
**1%** of the payment
- 4.3. Income from dividend  
**10%** of the payment
- 4.4. Income from rent  
**5%** of the payment
- 4.5. Income from liberal profession: namely, laws, arts of healing, engineering, and architecture  
**3%** of the payment
- 4.6. Income from payments to contractors who provide essential materials besides tools  
**5%** of the payment; **3%** of the payment if such foreign contractor has a permanent branch office in Thailand. According to Departmental

Instruction No. paw 8/2528, the foreign contractor shall be treated as having a permanent branch office in Thailand only if:

- a). He is the owner of this office in Thailand, **or**
- b). he carries on other business in Thailand **besides engaging in contract works**, for instance, purchase and sale of goods, **or**
- c). he has **a provident fund set up** for the benefit of his employees in Thailand.

Generally, the objective of the provident fund is voluntarily set up by the employees and the employer in order to promote savings, so that employees retired or dismissed from work would have a means of living without depending on State's welfare or families. The provident fund can be established by at least one employer and one employee. The law requires the fund to be managed by a Fund Management Company, who is neither the employee, nor the employer. For the employee, the contribution is deducted from wages at the rate not less than 2% but not exceeding 15%. For the employer, the contribution is made at the rate not less than the contribution from employee but not exceeding 15% of wages.

4.7. Income from royalty

**3%** of the payment

4.8. Repatriation of profit

**10%** of the payment made from the branch in Thailand to the foreign company.

Additionally, foreign companies, which carry on business in Thailand, are required to pay corporate income tax at a rate of 23% (since January 2012, formerly 30%) on their net profit as a result of doing business in Thailand but can use the tax withheld as the credit against income tax.

## **WITHHOLDING TAX:**

### **Definitions:**

- 1 hire of service: contract to perform a service (mostly on hourly basis)  
example: Call centre
  
- 2 hire of work: contract to perform and to finish work, to deliver a work, result example: constructing a building
  
- 3 resident: Individual who stays in Thailand over 180 days,  
Sec. 41 (III) RC
  
- 4 non resident: all other individuals
  
- 5 liberal professions: namely laws, arts of healing, engineering, architecture, accountancy, fine arts or such other liberal professionals as may be specified by Royal Decree
  
- 6 non liberal professions: any other individuals or private persons, work or service
  
- 7 DTA: **Double Taxation Agreement (with Thailand)**
  
- 8 carrying on business: a foreign company with business in Thailand, but having no office or branch and no permanent establishment
  
- 9 not carrying on business: a foreign company has no business within Thailand

10 permanent established: a foreign company with a permanent branch, place of management, an office, a factory, a workshop, a mine, quarry or other place of extraction of natural resources.

Quotation of the law:

**Hire of service (15%)**      **REVENUE CODE, Section 50 (1), last sentence:**  
All persons, partnerships, companies, associations or bodies of persons *with* assessable income under Section 40 **shall deduct income tax at each time of payment of the income in accordance with the following rules:**

**(1)** In the case of assessable income ..., which is paid to a recipient who is not a resident of Thailand, deduction shall be made at the rate of 15 percent of the income.

**Rent (15 %)**      **(3)** In the case of assessable income under Section 40 (5) (= *money or any other benefits derived from letting out properties on hire, breach of hire purchase contract, or breach of a contract of installment sale*) **(15%)**

**Liberal profession (15 %)** **(6)** (= *income from liberal professions*) paid to a recipient who is **not** a resident of Thailand, deduction shall be made at the rate of **15 percent** of the income.

**REVENUE CODE, Section 69 bis:**

**Government pays (1%)** Subject to the provisions of Section 70, in case **the Government**, a governmental organization, municipality, sanitation district or other local government authority **pays assessable income** under Section 40 to any juristic company or partnership, tax shall be deducted at source at rate of **1 percent**.

**REVENUE CODE, Section 70:**

A juristic company or partnership **organized under a foreign law and not carrying on business in Thailand** which received assessable income under Section 40 (2), (3), (4), (5), or (6) which is paid either from or in Thailand shall pay tax. The payer of the assessable income shall deduct the tax from the income tax rate for **juristic companies and partnerships**, and shall remit the tax and at the same time file a return in the form prescribed by the Director General to the local Amphur within seven days from the last date of the month in which the payment is made. In this connection, the provisions of Section 54 shall apply mutates mutandis.

**Interest**

The provisions of the first paragraph shall **not** apply in the case (0%) where a juristic company or partnership incorporated under foreign law receives assessable income in the nature of interest paid by the Government or by, a financial institution organized by a specific law for the purpose of lending money to promote agriculture, commerce, or industry.

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**REVENUE DEPARTMENT'S REGULATION**  
**No. Taw. Paw. 4/2528, clause 5,6(2),7 (1) and 8**  
**(2),(3):**

**Dividends (10%)** **CLAUSE 5:** Every juristic company or partnership **organized under the Thai law** [...] not including a joint-venture, who pays **dividends**, shares of profits or

any other benefits under Section 40 (4) (b) of the Revenue Code shall deduct tax at source at the rate of **10% if the payment is made to a recipient being a juristic company or partnership organized under a foreign law and carrying on business in Thailand or a partnership organized under the Thai law**, but not including

- (1) A listed company,
- (2) A **limited company** other than (1) that holds at least **25 percent** of the total shares with voting rights in the limited company paying the dividends provided that the latter company does not hold any share in the limited company receiving the dividends whether directly or indirectly.

**Rent (5%)**

CLAUSE 6 (paragraph 1): Every juristic company or partnership or any juristic person who pays rent, to a recipient being-

- (2) a juristic company or partnership carrying on business in Thailand other than that specified in (3) shall deduct tax at source at the rate of **5.0 percent**;

\*

**Liberal profession (3%)**

**CLAUSE 7:** Every juristic company or partnership or any other Juristic person who pays professional income under Section 40 (6) of the Revenue Code (Income from **liberal professions only**) to a recipient being

- (1) a person liable to personal income tax or corporate income tax (...), only if such person is **domiciled in or**

a resident of Thailand or carrying on business in Thailand, as the case may be, shall deduct tax at source at the rate of **3.0 percent**.

**Hire of work  
(3 %)**

**clause 8:** Every juristic company or partnership or any other juristic person who pays assessable income in the nature of remuneration for **hire of work** to a recipient being:

(1) a person liable to personal income tax, only if the remuneration is the assessable income under Section 40 (7) (= Income derived from a contract of work whereby the contractor provides essential materials besides tools) or (8) (= Income from business, commerce, agriculture, industry, transport or any other activities) of the Revenue Code, shall deduct tax at source at the rate of **3.0 percent**;

(2) a juristic company or partnership organized **under Thai law ...** , shall deduct at source at rate of **3.0 percent**;

(3) a juristic company or partnership **organized under a foreign law and carrying on business in Thailand with a permanent branch office in Thailand** shall deduct tax at source at the rate of **3.0 percent**.

**REVENUE DEPARTMENT'S REGULATION No.**

**Taw. Paw. 4/2528, clause 12:**

**Hire of work**

assessable  
(5 %)

Every person, (juristic company ...), who pays income in the nature of remuneration for **hire of work** to a contractor being a juristic company or partnership organized **under a foreign law and carrying business in Thailand without a permanent branch office in Thailand**, shall deduct tax at source at the rate of **5.0 percent**.

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**MINISTERIAL REGULATION No. 144 (B.E. 2522), clause 2 (5),(9):**

There shall be computed and deducted tax at source on every occasion of paying assessable income at such percentage of the amount of the assessable income according to category of assessable income as follows:

(5) Payment of assessable income to a juristic company or partnership under a **foreign law and carrying on business in Thailand: 5.0 percent**.

(9) Payment of remuneration for **hire of work: 3.0 percent**.

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**DOUBLE TAXATION AGREEMENT Germany- Thailand (DTA)**

**DTA**

**Article 7 (1):** The profits of an enterprise of a Contracting State shall be taxable only in that State *when the company is registered, but if the enterprise carries on business in the other Contracting State through a permanent*

establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in that other State but only so much of them as is attributable to that permanent establishment.

**Article 14:**

(1) Subject to the provisions of Article 15, 16 and 17 remuneration derived by an **individual who is a resident of a Contracting State** in respect of **personal services (including** the practice of a liberal profession) shall be taxable **only** in that State unless the services are rendered in the other Contracting State. If the services are so rendered, such remuneration as is derived there from may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph 1, remuneration derived by an individual who is a resident of a Contracting State in respect of such service rendered in the other Contracting State shall be taxable only in the first mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, **AND**
- (b) the remuneration is paid by, or on behalf of, a person who is not a resident of the other State, **AND**
- (c) the remuneration is not borne by a permanent establishment which the person paying the remuneration has in the other State.

## Countries having a DTA:

Austria	Hungary	Netherlands	Sri Lanka
Australia	Indonesia	New Zealand	Sweden
Bangladesh	Israel	Norway	Switzerland
Belgium	Italy	Pakistan	Taiwan
Canada	India	Philippines	United Kingdom
China	Japan	Poland	United States of America
Czech Republic	Laos	Romania	Uzbekistan
Denmark	Luxembourg	Singapore	Vietnam
Finland	Malaysia	South Africa	
France	Mauritius	South Korea	
Germany	Nepal	Spain	

*We hope that the information provided in this newsletter was helpful for you.*

*If you have any further questions please do not hesitate to contact us.*

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