

Thailand issues guidance regarding International Business Center regime

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Executive summary

On 3 May 2019, the Thai Revenue Department issued Notification of the Director-General of the Revenue Department under the Royal Decree 674 (the Notification), providing details of the conditions, application procedures and relevant application forms under the International Business Center (IBC) regime. It is effective retroactively from 29 December 2018.¹ The Notification provides additional details to the main IBC conditions set forth under the Royal Decree 674.

Detailed discussion

Key additional details on the IBC

Foreign employees eligible for the flat 15% personal income tax

To qualify for the flat 15% personal income tax, the individual must:

- ▶ Be employed by the qualified IBC as a full-time employee.
- ▶ Work for the IBC business or International Trading Center (ITC) business. In cases where an IBC undertakes another business in addition to its IBC/ITC business and the foreign employee works for both the IBC/ITC business and the non-IBC/ITC business, income from the IBC/ITC business must be more than 70% of the company's total income.

- ▶ Be identified as an IBC foreign employee as part of the IBC application made to the Revenue Department.
- ▶ Stay in Thailand for a period or periods aggregating 180 days or more during the tax year, except for the first and the last tax years.
- ▶ Obtain a work permit as a technician/specialist from the Ministry of Labor or an approval to work in Thailand from the Board of Investment.
- ▶ Earn remuneration from employment with the qualified IBC of at least in average THB200K (US\$6.2K) per month in the tax year.

Additional reporting requirements for qualifying royalty income

A report should provide details of the developed software patent or copyright and evidence showing that the result is from technological research and development activities performed in Thailand by the IBC or other parties engaged by the IBC.

Tax treatment for the IBC

An IBC may have both IBC and non-IBC activities. The IBC activities may also consist of services and/or royalties. When the IBC consists of different IBC activities as well as non-IBC activities, each category of activities requires separate computations in the following manner. For example, if the IBC has IBC services and royalties and non-IBC activities, there should be three separate computations:

- I. IBC vs. non-IBC
 - Profits and losses of each business must be calculated separately.
 - Any expenses that are not directly allocable to a particular business must be apportioned proportionately based on gross revenue of the IBC and non-IBC businesses.
 - Tax losses incurred from each type of businesses should only be used to offset the income of that business.
- II. IBC activities: Services fee vs. royalties - each category of income, expense and loss follows the same calculation method stated above.

Conversion to the IBC

- ▶ Regional Operating Headquarters (ROH)/International Headquarters (IHQ) companies that wish to convert their current ROH/IHQ status to that of an IBC must submit the online application² form with the following attachments to the Revenue Department:
 - List of associated enterprises overseas
 - List of associated enterprises in Thailand
 - List of all expatriate employees
 - List of full-time skilled employees [at least 10 persons or 5 persons for an ITC]
- ▶ The companies must certify that all conditions/requirements of the existing ROH/IHQ of the current tax year have been met.

Endnotes

1. See EY Global Tax Alert, [Thailand enacts International Business Centers regime to replace existing incentive regimes](#), dated 7 January 2019 and [Thailand repeals grandfathered tax incentives for certain incentive regimes](#), dated 1 April 2019.
2. Paper submissions are acceptable during the time the Revenue Department's online application portal is not yet ready.

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