

Call in for a Coffee

RSM Nelson Wheeler, Thailand

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Introduction

Welcome to RSM's sixteenth edition of "Call in for a Coffee". Many of our readers contact us regularly to discuss both the process and advantages of becoming a Thai resident. RSM can assist Westerners residing in Thailand that may wish to become Thai residents and this edition concentrates on the Thai residency process.

Eligibility to become a Thai Resident

Generally, there are two (2) types of Foreigners that qualify for Thai Residency status and these can be defined as :-

- (i) Annual Quota Immigrants ; and,
- (ii) Non-Quota Immigrants.

Annual Quota Immigrants

Foreigners granted approval from the Immigration Committee and Minister of the Interior under Section 40 of the Immigration Act B.E. 2522 ("the Act") are permitted to become residents of Thailand. The Ministry of Interior with the approval of Cabinet, are empowered to publish in the Government Gazette the annual immigrant quota. This is normally published in December each year.

Non-Quota Immigrants

Aliens may be permitted to enter and stay in Thailand under special circumstances as stipulated in Sections 17 and 43 of the Act contrary to Section 40 of the Act provided that such aliens bring in foreign exchange for investment and they are accepted.

Resident Permit : Advantages

- Eligibility to stay in Thailand permanently without extension of visas.
- Eligibility to acquire a condominium without having to remit funds from abroad.
- Eligibility to have name listed in the House Registration Book.
- Eligibility to apply for naturalization as a Thai (citizenship) upon completion of all requirements.
- Eligibility to be a director of a public limited company even if this results in a majority of the directors being Non Thai.
- Work permits are easier to obtain.
- Easier access to borrow funds from Thai or Foreign Banks to purchase property in Thailand.

How to apply for Resident Permit - The Process

Foreigners applying for resident permits in accordance with the annual quota basis, subject to Section 40, should note that the annual quota granted is a maximum of 100 persons per country (nationality) per annum.

To apply under Section 40, an alien must :-

1. Currently hold a passport of his/her nationality with a non-immigrant visa type that allows him/her to stay in

Thailand on the basis of a one year visa extension for a total of at least 3 years up to the submission date at submission of the application.

2. Not be a person who is prohibited under the Act. With reference to Section 44, the following aliens are prohibited to obtain a resident permit: -

- 2.1 Persons who have been sentenced to imprisonment by judgement or justifiable legal order of a Thai Court or a Court of another jurisdiction except for minor offences, an offence committed through negligence, or other offences as stipulated in the Ministerial Regulations.

- 2.2 A person who has a mental deficiency, physical infirmity or a disease as prescribed by Ministerial Regulations.

Application Categories

To apply for a resident permit under Section 40 of the Act, an alien may apply under the following categories:-

- Investment ;
- Working Business ;
- Humanity Reasons ; and,
- Expert.

Special Procedures for Investors who wish to become Thai residents

Subject to Section 43, a resident permit may be granted to a person who remits 10 million THB or more from abroad for investment, provided that the number of applicants successfully applying in this category do not exceed 5% of the annual quota number announced. Documents evidencing his/her financial status must be provided. In addition, aliens granted resident permits under this scheme, must maintain their investment for at least three years after their resident permits are granted. We understand that this category is currently under suspension and will provide an update when we obtain further clarification.

Fees for applying for permanent residence

- 1) Residence permit applications - 7,600 THB (this fee is not refundable).
- 2) Issuing a residence book
 - (i) an applicant who is married to a Thai National-95,700 THB
 - (ii) an applicant who is not married to a Thai National - 191,400 THB
- 3) Re-entry permit for permanent residents wishing to travel outside Thailand.
 - (i) Single re-entry permit (valid for 1 year) – 1,000 THB
 - (ii) Multiple re-entry permit (valid for 1 year) – 3,800 THB
 - (iii) Endorsement in residence book for temporary departure – 1,900 THB

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- 4) Loss of residence book or renewal due to residence book being full - 1,900 THB
- 5) To re-apply for residence permit when revoked due to late return to Thailand or departure/return without re-entry permit.
 - (i) Application fee – 7,600 THB
 - (ii) If application approved, or reissue of residence book – 95,700 THB

Procedures after applications are accepted

The Immigration officer will grant applicants a 180 days extension of stay on the date of submission of the application and subsequent extensions will be granted for 90 days until the result of the application is announced by the Immigration Commission.

Applicants will receive an appointment card to attend an interview with the immigration officers.

The interview incorporates a test of the applicant's understanding of the Thai language which includes speaking and listening. Applicants who fail to attend the interview without an appropriate reason will have their applications cancelled automatically.

Applicants over 14 years old must have a criminal record check both from their country of birth and within Thailand. Fingerprint sheets are sent to the Criminal Records Division for a criminal record check in Thailand and passports are checked against the Thai "black list system". The authorities will also check whether there are any foreign warrants issued for their arrest against the Foreign Affairs Division's list.

Applications for Consideration

Applications will be submitted for consideration to the Immigrant Commission which consists of representatives from the Interior Ministry, the Ministry of Foreign Affairs, the Royal Thai Police Headquarters, the Ministry of Labour and Social Welfare, the Supreme Court, the Board of Investment, the Security State Council, the Tourist Authority of Thailand, and the Immigration Bureau. Final approval is required from the Interior Minister.

Before approval for a residence permit application is granted, the Commission will take into consideration the application's qualifications in terms of income, assets, knowledge, professional expertise, relationship with a Thai citizen, national security, personality, health, understanding of the Thai language and other appropriate conditions due to current economic and social surroundings and government policy.

Free Consultation

If you have any issues requiring clarification with respect to legal, financial, taxation, accounting, auditing or "how to become a Thai Resident", please contact the RSM Team and "Call In For A Coffee" for a free consultation.

Translation of business ideas into realistic projects requires expert advice. RSM can assist you in formulating practical solutions to obstacles which may be encountered while undertaking business in Thailand.

RSM News

RSM Nelson Wheeler Audit Limited is proud to announce that as of February 2004 it has received approval from the Securities Exchange Commission to audit companies that are listed on the Thai Stock Exchange. Khun Prawit Wipusirikup, a recent addition to the RSM Audit Team will be the SEC approved Auditor and this recent development will allow RSM to enhance its client base and move into the Thai market.

Furthermore, on 2nd March 2004 RSMNW sponsored an event at the Queen Vic Bar in the British Embassy to welcome a Delegation of Business Representatives from Wales. This is the first time that an event of this nature has been held at this venue in the British Embassy since February 2003.

Contact Details

We are located at:
26th Floor, Sathorn City Tower,
175 South Sathorn Road,
Bangkok, 10120 Thailand

Telephone: 66 (0) 2670-9002
Facsimile: 66 (0) 2670-9027-8

Website: www.rsmnw.com

Email Contact Addresses:

- gareth.hughes@rsmnw.com
Management & Corporate Advisory
- mark.butters@rsmnw.com
Business Advisory, Legal & Accounts
- surachai.damnoenwong@rsmnw.com
Audit & Assurance
- prawit.wipusirikup@rsmnw.com
Audit & Assurance
- napakarn.nanthanasuk@rsmnw.com
Legal Services
- steven.herring@rsmnw.com
International Taxation Consultant