

Call in for a Coffee

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RSM Nelson Wheeler, Thailand

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Introduction

Welcome to RSM's seventeenth edition of "Call in for a Coffee". This issue deals with three potential matters of concern for expatriates. The first topic covers the 90 day visa reporting requirement and was written by Mr. Barry Petersen of Lang Suan House Co. Ltd for the New Zealand -Thai Chamber of Commerce. The second item looks at the splitting of employment income and was written by Mr. Hans Blom, an independent tax consultant. The third article relates to the difficulties that resident expatriates may encounter if they wish to borrow from Thai Banks for the purpose of purchasing property in Thailand.

Warning to Expatriates – The 90 Day Visa Reporting Requirement

Facts

A number of expatriates with valid work permits and visas have recently arrived at Don Muang Airport with the intention of going on vacation overseas and have had to pay fines for failing to notify the appropriate authorities that they had not left Thailand during the preceding 90 days.

The Law

Pursuant to section 37(5) of the Immigration Act B.E. 2522, an alien who has been permitted to stay in the Kingdom temporarily is required upon completion of each 90 day period, to send a written notice to the Immigration Department to advise of his/her residential address at the completion of every 90 day period.

The Fine

Failure to report within the specified time of 90 days may result in a fine of up to 5,000 baht as well as an additional 200 baht per day until the reporting failure has been rectified pursuant to Section 76 of the Act.

This section is currently being policed by all departments of the Royal Thai Police.

Expatriates contravening the act have been escorted to a small room in the immigration section of the airport and required to pay a fine to rectify the overstay reporting requirement.

We strongly advise our readers to confer with the consultant's responsible for taking care of their work permit and visa requirements to ensure that they are not fined.

Splitting of Income between Thailand and Overseas

A number of expatriates working in Asia may have a split employment contract whereby that they are typically paid a portion of their salary in their seconded country in addition to a portion in their home country. This is a difficult grey area with no real guidelines as to the correct tax treatment and accordingly RSM cannot offer a conclusive opinion nor can RSM promote schemes of this nature.

However, ordinarily, if the income is connected to the non – seconded country duties and :-

- (a) not paid by or on behalf of the seconded country employer ;
- (b) the overseas home country duties are not performed in or on behalf of the seconded country; and,
- (c) the remuneration for the overseas home country duties is not remitted to the seconded country, the income derived under the non - seconded country contracts should not be subject to tax in the seconded country.

Care should be taken that such an arrangement is realistic and properly documented. Obviously, the split employment must be realistic, which means that the employee must work overseas. To document the split income (or deal with the employment contract), the following measures should be taken to ensure that the correct split employment requirements are adhered to:-

1. Different business cards (for each contract).
2. Separate employment contracts.
3. Different lines of reporting between each country.
4. The time worked in both countries should be commensurate with the overall salary.

Again we reiterate that RSM does not and cannot endorse schemes of this nature. Ultimately the decision as to whether these types of schemes are acceptable rests with the appropriate Revenue Authorities.

RSM! Nelson Wheeler (Thailand) Limited

Mortgages and Purchasing Property in Thailand

Whether you are an expatriate living in Thailand or an overseas investor wishing to purchase a property here, you are likely to form the opinion that the route is long and filled with pitfalls.

As most of you will know, it is not possible for a foreigner to own land directly in Thailand. It is however, possible to purchase a condominium provided that funds are brought into Thailand specifically for this purpose. To benefit our clients in the area of mortgage funding, RSM does have certain contacts with entities in Thailand which we understand under certain circumstances may be able to facilitate mortgages of up to 70% of the appraisal value of a property (house or condominium).

Please note however that loans may only be granted to Thai corporations or individuals who to all intents and purposes are residents of Thailand for tax purposes.

To qualify, individuals will need to meet as a minimum the following general criteria:

- have a minimum income/salary of Thai Baht 100,000 per month
- the allowance must be to a Thai entity as described above
- the borrower must be a resident in Thailand for tax purposes
- the resident must have a current work permit and visa

RSM can facilitate an initial appraisal meeting with its contacts to ascertain availability but cannot and will not guarantee that mortgage finance of the nature described will be forthcoming.

There are of course other means to obtain financing for these projects, and if you own assets or property offshore, then some of the major foreign banks with headquarters in Thailand or overseas may be in a position to help you but they most probably would require some form of overseas collateral.

Summary

RSM can assist its readers with the reporting requirements for work permits and visas, providing tax planning advice in addition to introductions to potential mortgage brokers residing in the Kingdom.

If you wish to contact any of our featured writers in addition to or alternatively our mortgage broker contacts, please do not hesitate to let us know and we would be happy to supply their details.

RSM News

The RSM International Asian Pacific Conference was recently held in Bangkok at the Shangri-La Hotel with delegates attending from all over the world. The highlight of the conference was the reception at the Shangri-La Hotel to celebrate RSM's 3rd anniversary in Thailand with more than 300 guests attending. His Excellency the Australian Ambassador to Thailand, Mr. Miles Kupa presided as RSM's Special Guest of Honour.

Stephen Darley has returned to Bangkok to lead the Corporate Advisory Services Division of RSM, having concluded a four month assignment in Singapore.

This coincides with a noticeable increase in advisory work and in client demands for experienced and connected professional insight.

Free Consultation

If your company has any issues requiring clarification with respect to legal, financial, taxation, accounting, auditing, wealth management or other problems, 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.

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