

Call in for a Coffee Songkran Edition

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RSM Nelson Wheeler

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Introduction

The Directors and staff of RSM Nelson Wheeler would like to wish you and your families a Happy Songkran. Recently, we have received many inquiries with respect to “Applications for Tax Clearance Certificates” and accordingly, this area is dealt with in this issue.

What is a Tax Clearance Certificate ?

A tax clearance certificate is a certificate issued by the Director-General of the Revenue Department, the provincial governor or the assignee to a foreigner who is leaving Thailand to indicate that he or she has paid taxes due or made such arrangements to settle future tax liabilities.

Who is required to have a Tax Clearance Certificate ?

Foreigners who are leaving Thailand are required to submit an application for a Tax Clearance Certificate and supporting documents if:

- They are required to pay taxes under normal circumstances or past tax liabilities are due before they leave Thailand;
- They are required to file a tax return and pay tax on behalf of a company or juristic partnership incorporated under foreign laws which has been carrying on business in Thailand;
- They have taxable income, whether paid in Thailand or not, from being a public performer in Thailand.

A “Public performer” covers, though is not confined to, actors, tv & radio presenters, singers, musicians, athletes or entertainers.

Types of Tax Clearance Certificates

There are two types of Tax Clearance Certificates, namely Por 3 and Por 3.1.

➤ **Por 3** Tax Clearance Certificate is issued to a foreigner who is temporarily leaving Thailand. It is valid for a single exit and must be used within 15 days of the date of issuance. If the foreigner does not leave Thailand during the specified period, the Tax Clearance Certificate becomes invalid unless it is renewed before the expiry date.

➤ **Por 3.1** Tax Clearance Certificate is issued to a foreigner who enters and leaves Thailand on a regular basis due to his or her business or profession. It is valid for multiple entries within the period specified in the Tax Clearance Certificate but not exceeding 180 days of issuance. The renewal of the Form Por 3.1 is not allowed.

When, where and to whom is the submission made?

A foreigner applying for a Tax Clearance Certificate is required to submit an application within 15 days before leaving Thailand. Applications are made on the following basis:-

- Submit an application to the Area Revenue Chief at the Area Revenue Office which has jurisdiction over the area of residence of the foreigner (if the foreigner is domiciled or has residence or place of management in Bangkok).
- Submit an application to the Provincial Revenue Officer (if the foreigner is domiciled or has residence or place of management in other provinces).
- Submit an application to the district chief designated by the provincial governor at the District Revenue Office (if the foreigner is domiciled or has residence or place of management in other provinces).

The position with respect to an applicant with outstanding tax liabilities?

If the applicant for a Tax Clearance Certificate makes no payment or has only made a partial payment for his or her tax liabilities or taxes payable after the departure date, he or she is required to provide a guarantor or a guarantee to the Director-General of the Revenue Department or the provincial governor or the assignee. The guarantor or the guarantee will need to be accepted as adequate or suitable before the Tax Clearance Certificate is issued.

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Loss of the Tax Clearance Certificate ?

If the Tax Clearance Certificate is lost, a foreigner is required to contact the office where the application was originally filed for a replacement. However, the new Tax Clearance Certificate is only valid until the expiry date of the missing Tax Clearance Certificate.

When, where and to whom is the Tax Clearance Certificate presented ?

A foreigner who is leaving Thailand is required to present the Tax Clearance Certificate to the officers of the Office of Police Immigration at the Immigration Office on the date of departure.

Penalty for non-compliance?

A foreigner who is leaving or attempting to leave Thailand without submitting a Tax Clearance Certificate application or has submitted the application but is waiting for a Tax Clearance Certificate to be issued is required to pay a surcharge at the rate of 20% of the tax amount as required to be paid under Section 4 ter of the Revenue code. In addition, a criminal action (fine not exceeding 1,000THB, imprisonment not more than 1 month or both) may be brought against the foreigner in accordance with Section 4 novem of the Revenue Code.

Free Consultation

If you have any queries regarding the application for a Tax Clearance Certificate or any other areas covering legal, financial, taxation, accounting, auditing or corporate service that require innovative solutions, 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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