

Revenue Departmental Order
No. Tor Por 4/2528

Regarding Instruction for Payers of Assessable Income under Section 40
of the Revenue Code to Withhold Income Tax

By virtue of Section 3 Tredecim of the Revenue Code and the Ministerial Regulation No. 144 B.E. 2522 issued under the Revenue Code Regarding Income Tax, the Director-General of Revenue Department hereby instructs payers of assessable income under Section 40 of the Revenue Code who do not have a duty to withhold income tax pursuant to Part 2 of Chapter 3 of the Revenue Code to withhold income tax in accordance with the rules, conditions and rates as follows:

Clause 1 The Revenue Departmental Order No. Tor 4/2528 Regarding Instruction for Payers of Assessable Income under Section 40 of the Revenue Code to Withhold Income Tax, dated 3 January B.E. 2528 shall be repealed.

Clause 2 Payers of assessable income shall, every time when paying assessable income, compute and withhold income tax at the percentage rate prescribed in this Order.

Clause 3 A company, juristic partnership or any other juristic person, but not including a group of farmers under the law on Cooperatives, that pays assessable income to a company or juristic partnership shall withhold income tax at a rate of 0.75 percent only for the payer and the purchase of goods as follows:

(1) rubber sheets or latex produced from any part of Para rubber tree only in the case that the purchaser is an exporter or a manufacturer of finished products made from rubber sheet or latex, regardless of whether the rubber component is a major part of the product;

(2) cassava, either in the form of roots or having been processed to tapioca starch, flour, noodles, bar, stick, flakes, pieces, ball, or any other form, only in the case that the purchaser is an exporter of such products;

(3) jute, only in the case that the purchaser is an exporter or a manufacturer-of ramie sacks, ramie sack fabric, ramie threads used for the weaving of sacks or fabric, ropes, or any products produced from jute, regardless of whether the jute component is a major part of the product;

(4) corn, only in the case that the purchaser is an exporter or a manufacturer-of vegetable oil or any kind of the animal feed (food of any kind);

(5) cane, only in the case that the purchaser is a manufacturer of any kind of sugar;

(6) coffee beans, either toasted or untoasted, only in the case that the purchaser is an exporter or a manufacturer of instant products consisted of coffee;

(7) oil palm, for that (which)ever part of the palm, only in the case that the purchaser is a manufacturer of palm oil or vegetable oil;

The purchase of goods under the first Paragraph for who pays assessable income from 2 May B.E. 2560 onwards.

(Amended by the Revenue Department Order No. Tor Por 281/2560, dated 2 June B.E. 2560)

Clause 3/1 A company, juristic partnership or other juristic person, that pays assessable income under Section 40(2) of the Revenue Code to a payee that is:

(1) a company or juristic partnership carrying on business in Thailand other than that stated in (2), shall withhold income tax at a rate of 3.0 percent;

(2) a foundation or an association carrying on revenue-generating business, but not including foundations or associations prescribed by the Minister under Section 47(7)(b) of the Revenue Code, shall withhold income tax at a rate of 10.0 percent;

Clause 3/2 A company, juristic partnership or other juristic person that pays assessable income under Section 40(3) of the Revenue Code to a payee that is:

(1) a company or a juristic partnership carrying on business in Thailand other than that stated in (2), shall withhold income tax at a rate of 3.0 percent;

(2) a foundation or an association carrying on revenue-generating business, but not including foundations or associations prescribed by the Minister under Section 47(7)(b) of the Revenue Code, shall withhold income tax at a rate of 10.0 percent;

(Amended by the Revenue Department Order No. Tor Por 101/2544, dated 27 June B.E. 2544)

The provision under the first paragraph shall not apply to the payment of assessable income by way of transferring non-cash property as consideration for acquiring rights under a contract made with a state enterprise before converting capital, wholly or partly, to shares of limited companies or public companies under the law governing capital of state enterprises. The said contract shall be made before this Order comes into force and effect, but not including any amendment to the contract made thereafter, for material contract provisions regarding the time period that the right may be acquired or the value of the property subject to delivery.

(Amended by the Revenue Department Order No. Tor Por 139/2547, dated 12 April B.E. 2546)

Clause 3/3 A company, juristic partnership or any other juristic person, but not including a group of farmers under the law on Cooperatives that is a rice buyer and an exporter, and pays assessable income under Section 40(8) of the Revenue Code, to a payee that is:

(1) a person subject to personal income tax shall withhold income tax at a rate of 0.5 percent for assessable income paid from 1 June B.E. 2560 onwards.

(2) a company or juristic partnership shall withhold income tax at a rate of 0.5 percent for assessable income paid from 2 May B.E. 2560 onwards.

The term “rice” means whole grain rice, broken-milled rice, brown rice, broken-milled brown rice, steamed rice and broken-milled steamed rice regardless of whether it is non-glutinous rice or glutinous rice;

(Amended by the Revenue Department Order No. Tor Por 281/2560, dated 2 June B.E. 2560)

Clause 4 The payers of assessable income under Section 40(4)(a) of the Revenue Code shall has a duty to withhold income tax from such income:

(1) banks under the law governing commercial banking, companies under the law governing operation of the business of finance, securities and credit foncier, and asset management companies under the law governing asset management companies, that pay assessable income under Section 40(4)(a) of the Revenue Code to a payee that is:

(a) a company or juristic partnership carrying on business in Thailand other than that stated in (b), but not including banks under the law governing commercial banking, companies under the law governing operation of the business of finance, securities and credit foncier, and asset management companies under the law governing asset management companies, shall withhold income tax at a rate of 1.0 percent;

(b) a foundation or association carrying on revenue-generating business, but not including foundations or associations prescribed by the Minister under Section 47(7)(b) of the Revenue Code, shall withhold income tax at a rate of 10.0 percent;

(2) a company, juristic partnership or other juristic person, that is not a payer who has a duty to withhold income tax stated in (1), but is a payer of assessable income under Section (40)(4)(a) of the Revenue Code that is only interest from bond and debenture, to a payee that is a bank under the law governing commercial banking, company under the law governing operation of the business of finance, securities and credit foncier, or asset management company under the law governing asset management companies, shall withhold income tax at a rate of 1.0 percent;

(3) a company, juristic partnership or other juristic person, that is not a payer who has a duty to withhold income tax stated in (1), but is a payer of assessable income under Section (40)(4)(a) of the Revenue Code that is only interest from bond, debenture, bill, loan; the part of interest on loan after deduction of withholding tax under the law governing petroleum income tax; the difference between the redemption value and the selling price of a bill or debt instrument issued by the company, juristic partnership or other juristic person and sold for the first time at a price below its redemption value; and income derived from holding units in Sukuk, to a payee that is:

(a) a company or juristic partnership carrying on business in Thailand other than that stated in (b), but not including banks under the law governing commercial banking, companies under the law governing operation of the business of finance, securities and credit foncier, and asset management companies under the law governing asset management companies, shall withhold income tax at a rate of 1.0 percent;

(b) a foundation or an association carrying on revenue-generating business, but not including foundations or associations prescribed by the Minister under Section 47(7)(b) of the Revenue Code, shall withhold income tax at a rate of 10.0 percent.

(Amended by the Revenue Department Order No. Tor Por 205/2556, dated 29 January B.E. 2556)

Clause 5 A company or juristic partnership incorporated under Thai law, and a mutual fund or financial institution established under specific Thai law for the purpose of providing loans in support of agriculture, commerce or industry, but not including joint ventures that pay dividends, share of profits or other gains under Section (40)(4)(b) of the Revenue Code, shall withhold income tax at a rate of 10.0 percent, in the case that the payee is a company or juristic partnership incorporated under foreign law carrying on business in Thailand, or a company or juristic partnership incorporated under Thai law that is not:

(1) a registered company,

(2) a limited company other than that stated in (1) that holds shares in the limited company that pays dividends for at least 25 percent of the total shares with voting rights of the limited company, the payer of dividends and limited company that receives dividends, either directly or indirectly.

(Amended by the Revenue Department Order No. Tor Por 58/2539)

Clause 6 A company, juristic partnership or other juristic person, that pays rent or any other gains derived from rental of property under Section (40)(5)(a) of the Revenue Code, but not including value of buildings or dwellings in that the payer acquires ownership, to a payee that is:

(1) a person subject to personal income tax, shall withhold income tax at a rate of 5.0 percent;

(2) a company or juristic partnership carrying on business in Thailand other than that stated in (3), shall withhold income tax at a rate of 5.0 percent;

(3) a foundation or association carrying on revenue-generating business, but not including foundations or associations prescribed by the Minister under Section 47(7)(b) of the Revenue Code, shall withhold income tax at a rate of 10.0 percent;

(4) a person subject to personal income tax, or company or juristic partnership carrying on business in Thailand other than that stated in (3), only in the case of the rent of vessels under the law governing promotion of merchant marine on international marine shipping, shall withhold income tax at a rate of 1.0 percent;

The provisions under the first paragraph shall not apply to a payment of rent under a leasing agreement as follows:

(1) the lessor is a company or juristic partnership that (which) has paid-up capital of at least 60 million baht and is a VAT (value added tax) Registrant subject to value added tax in accordance with Section 82/3 of the Revenue Code;

(2) the lessee is a juristic person;

(3) the lease term shall rent (last) at least 3 years; except in the case that the rental property is seized by the lessor from other lessee that the lease term may be shorter than 3 years;

The term “rental of property as leasing” means a rental agreement whereby the lessor who is the owner of the property rents the property with a promise that when the lease term expires, the lessee has a right to elect between purchasing the rental property or return the property to the lessor.”

(Repealed by the Revenue Department Order No. Tor Por 259/2559, dated 1 May B.E. 2559)

Clause 7 A company, juristic partnership or other juristic person, that pays income from a liberal profession under Section (40)(6) of the Revenue Code to a payee that is:

(1) a person subject to personal income tax or corporate income tax other than that stated in (2), domiciled in Thailand, or is a resident of Thailand, or is carrying on business in Thailand, as the case may be, shall withhold income tax at a rate of 3.0 percent;

(2) a foundation or an association carrying on revenue-generating business, but not including foundations or associations prescribed by the Minister under Section 47(7)(b) of the Revenue Code, shall withhold income tax at a rate of 10.0 percent.

Clause 8 A company, juristic partnership or other juristic person, only in the case that pays assessable income from hire of work or service to a payee that is:

(1) a person subject to personal income tax, only in the case that the income derived from hire of work or service under Section 40(7) or (8) of the Revenue Code, shall withhold income tax at a rate of 3.0 percent;

(2) a company or juristic partnership incorporated under Thai law, but not including foundations or associations, shall withhold income tax at a rate of 3.0 percent;

(3) a company or juristic partnership incorporated under foreign law, carrying on business in Thailand, having a permanently established branch in Thailand, shall withhold income tax at a rate of 3.0 percent;

Only income from hire of construction work whereby the hired person provides essential materials besides tools shall be subject to the rules stated above for its contract that becomes effective from 1 November B.E. 2530 onward.

(Amended by the Revenue Department Order No. Tor Por 21/2530)

Clause 9 A person, company, juristic partnership, other juristic person, ordinary partnership, or non juristic body of persons that pays assessable income under Section 40(8) of the Revenue Code to a payee that is:

(1) a person subject to personal income tax or corporate income tax for a prize won in a contest, competition, drawing, or any other action with similar nature, shall withhold income tax at a rate of 5.0 percent;

(2) an actor or actress:

(a) in case his or her place of domicile is outside of the country, shall withhold income tax at the rates prescribed in the Income Tax Schedule for individuals, except film or television actors or actresses whose place of domicile is outside of the country only in the case that the filming or video-taping takes place in Thailand, whereby the company or juristic partnership incorporated under foreign law obtains a permit issued by the Subcommittee on the Review of Requests Foreign Film-making in Thailand, in accordance with the rules and regulations set forth by the Committee on the Support of Thai Films Industry regarding the request for a permission to film foreign movies in Thailand B.E. 2544, shall withhold income tax at a rate of 10.0 percent; (Amended by the Revenue Department Order No. Tor Por 111/2545, dated 30 September B.E. 2545)

(b) any case other than those stated in (a), the income shall be withheld at a rate of 5.0 percent.

The term “actor or actress” means an actor or actress who act in television series, movies, radio and television, singer, musician, professional athlete or any other actor who act for any kind of entertainment.

(Amended by the Revenue Department Order No. Tor Por 31/2534)

Clause 10 A company, juristic partnership or other juristic person, that pays assessable income from advertisement to a payer subject to personal income tax or corporate income tax, shall withhold income tax at a rate of 2.0 percent.

Clause 11 A person, company, juristic partnership, or other juristic person, ordinary partnership, or non juristic body of persons, that is - an exporter or producer of aquatic animal products, whereby producer is required to obtain a permit to establish a factory under the law governing factories, pays assessable income for the purchase of aquatic animals either living or non-living, or parts of aquatic animals either fresh, chilled, frozen, or processed in any way in order to prevent rotten or spoiling condition during shipping, to a payee subject to personal income tax or corporate income tax, shall withhold income tax at a rate of 1.0 percent.

Clause 12 A person, company, juristic partnership, or other juristic person, ordinary partnership, or non juristic body of persons, that pays assessable income for hire of work or service to a hired person that is a company or juristic partnership incorporated under foreign law, carrying on business in Thailand, but having no permanently established branch in Thailand, shall withhold income tax at a rate of 5.0 percent. (Amended by the Revenue Department Order No. Tor Por 104/2544, dated 15 September B.E. 2544)

Clause 12/1 A company, juristic partnership or other juristic person, that pays assessable income under Section 40(8) of the Revenue Code, specifically income for provision of service other than those stated in Clause 8, Clause 9(2), Clause 10, Clause 12, Clause 12/3, and Clause 12/4, but not including service fee for hotel accommodation, restaurant and life insurance premium, to a payee that is:

(1) a person subject to personal income tax, shall withhold income tax at a rate of 3.0 percent;

(2) a company or juristic partnership carrying on business in Thailand, but not including foundations or associations, shall withhold income tax at a rate of 3.0 percent.

The term “provision of service” means any action undertaken for consideration that is not a sale of goods.

The term “restaurant” means business of selling food or beverages of any kind, including contract to prepare or cook food or beverages, either within or from a location where consumption can be accessed by the general public.

Clause 12/2 A company, juristic partnership or other juristic person that gives any price discount, rebate, or any benefit in connection with its sale promotion to a payee that is:

(1) a person subject to personal income tax, shall withhold income tax at a rate of 3.0 percent;

(2) a company or juristic partnership carrying on business in Thailand, but not including foundations or associations, shall withhold income tax at a rate of 3.0 percent.

The provisions under the first paragraph shall not apply to price discounts, rebates or any benefit in connection with its sale promotion given to a purchaser of goods or services that is a consumer or an enterprise that will directly utilize the purchased goods or services for its own business operation, and not for resale.

Clause 12/3 A company, juristic partnership or other juristic person, that pays life insurance premium to a company or juristic partnership that carries on a business of insurance under the law governing insurance in Thailand, shall withhold income tax at a rate of 1.0 percent.

(Amended by the Revenue Department Order No. Tor Por 101/2544, dated 27 June B.E. 2544)

Clause 12/4. A company, juristic partnership or other juristic person, that pays shipping fees, but not including transportation fees for public transportation, to a payee that is:

(1) a person subject to personal income tax, shall withhold income tax at a rate of 1.0 percent;

(2) a company or juristic partnership carrying on business in Thailand, but not including foundations or associations, shall withhold income tax at a rate of 1.0 percent.

The term “public transportation” means general transportation of passengers.

(Amended by the Revenue Department Order No. Tor Por 104/2544, dated 15 September B.E. 2544)

Clause 12/5 A person, company, juristic partnership, or other juristic person, ordinary partnership, or non juristic body of persons; that pays assessable income under Section 40(8) of the Revenue Code, only when such payment is for a purchase of ruby, emerald, topaz, garnet, opal, , zircon, chrysoberyl, jade, and other gems with similar nature, only in the case that they have not been cut, but not including artificially or newly made materials imitating such gem, diamond, pearl, and artificially or newly made imitation of diamond or pearl, to a person

subject to personal income tax that is not an ordinary partnership, or non juristic body of, and not a VAT Registrant entitled to value added tax exemption pursuant to the Royal Decree Issued under the Revenue Code Regarding Value Added Tax Exemption (No. 311), B.E. 2540, shall withhold income tax at a rate of 1.0 percent.

The provisions under the first paragraph shall not apply to a payment for purchase of gemstone, ruby, emerald, topaz, garnet, opal, sapphire, zircon, chrysoberyl, jade, and other gems with similar nature, only in the case that they have not get been cut, but not including artificially or newly made materials imitating such gems; diamonds, pearls, and artificially or newly made imitation of diamonds or pearls, to a payer of income whose purchase of such goods is for his or her own consumption without any intention to resale.

This provision applies to the payment of assessable income paid from 26 May B.E. 2553 to 31 December B.E. 2554, and from 11 January B.E.2556 to 31 December B.E.2557.

(Amended by the Revenue Department Order No. Tor Por 209/2556, dated 20 February B.E. 2556)

Clause 12/6 A person, company, juristic partnership, or other juristic person, ordinary partnership, or non juristic body of persons, that pays assessable income under Section 40(8) of the Revenue Code, only when such payment is for a purchase of diamond, ruby, emerald, topaz, garnet, opal, black spinel, zircon, chrysoberyl, jade, pearl, and other gems with similar nature, only in the case that they have not get been cut, but not including artificially or newly made materials imitating such gem, to a person subject to personal income tax that is not an ordinary partnership, or non juristic body of persons, and not a VAT Registrant entitled to value added tax exemption pursuant to the Royal Decree Issued under the Revenue Code Regarding Value Added Tax Exemption (No. 311), B.E. 2540, shall withhold income tax at a rate of 1.0 percent.

The provisions under the first paragraph shall not apply to a payment for purchase of diamond, ruby, emerald, topaz, garnet, opal, black spinel, zircon, chrysoberyl, jade, pearls, and other gems with similar nature, only in the case that they have not get been cut, but not including artificially or newly made materials imitating such gems, to a payer of income whose purchase of such goods is for his or her own consumption without any intention to resale.

This provision applies to the payment of assessable income paid from 6 August B.E. 2559 onwards.

Clause 12/7 Payers of assessable income shall withhold income tax if an agreement value is 1,000 baht or above, regardless of whether the payments are made in installments of less than 1,000 baht

(Amended by the Revenue Department Order No. Tor Por 266/2559, dated 30 December B.E. 2559)

Clause 13 A person having a duty to withhold income tax shall remit the amount withheld according to the form prescribed by the Director-General at an Area Revenue Branch where the person is located within 7 days from the last day of the month in that the assessable income is paid, regardless of whether an income tax has already been withheld.

(Amended by the Revenue Department Order No. Tor Por 115/2545, dated 10 October B.E. 2545)

Clause 14 This Order shall apply to a payment of assessable income made on the day that this Order is dated onward.

(Amended by the Revenue Department Order No. Tor Por 19/2530)

Dated: the 26th day of September B.E. 2528

Withi Tantayakul

Director-General, the Revenue Department