Legal article

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Thailand-China Double Tax Treaty: the 183-Day Permanent Establishment, Withholding Tax Rates and Tax Sparing Credits under the 1986 Agreement

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> This article is general legal information, not a legal opinion on any specific matter. Each matter must be assessed on its own facts and evidence. The latest online version is at https://eksiamtax.com/en/articles/thailand-china-double-tax-treaty.html

Key points

- The Thailand-China Agreement was signed on 27 October 1986, entered into force on 29 December 1986 and applies to amounts paid from 1 January 1987. From 2023 it must be read together with the MLI, which entered into force for Thailand on 1 July 2022 and for China on 1 September 2022.
- Dividends paid by a Thai company to China bear 10% under Section 70, because the Article 10 rates of 15% or 20% are higher than Thai domestic law, so the Agreement brings no relief here; the same is true on the Chinese side, where domestic law levies only 10%.
- Interest paid to a Chinese financial institution or insurance company is reduced to 10% under Article 11(2). Interest on intra-group loans has no treaty cap and bears 15% under Section 70, while interest paid to the Government of China and the named state banks is exempt.

- Royalties are capped at 15%, the same as the Section 70 rate, and the Article 12(3) definition includes rentals for industrial, commercial or scientific equipment, unlike the Thailand-Singapore Agreement, which taxes equipment rentals separately at 8%.
- Service fees and commissions earned by a Chinese company with no permanent establishment in Thailand are business profits under Article 7(1) that Thailand cannot tax. Services furnished through employees in Thailand for more than 183 days within any twelve-month period, or a construction project lasting more than 6 months, constitute a permanent establishment under Article 5(2).
- A Chinese employee working in Thailand is exempt from Thai tax under Article 15(2) if present for not more than 183 days in any twelve-month period, the employer is not a Thai resident and the remuneration is not borne by a permanent establishment in Thailand. This is a different test from the 180 days per tax year in Section 41, paragraph three.
- Article 23 obliges each side to credit tax that the other side exempts or reduces under its investment-promotion laws (tax sparing). China therefore credits the Thai tax exempted for a Chinese company under a Board of Investment promotion certificate, and an indirect credit is available for dividends from a Thai company in which at least 10% of the shares are held.

The Thailand-China double tax treaty in force is the Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Bangkok on 27 October 1986 (B.E. 2529). It entered into force on 29 December 1986 and applies to withholding tax on amounts paid on or after 1 January 1987. The Agreement limits the tax that the source country may levy to 15% or 20% on dividends, 10% on interest only where the recipient is a financial institution, and 15% on royalties. Service fees earned by a Chinese company with no permanent establishment in Thailand are business profits under Article 7, which Thailand cannot tax, while services furnished through employees in Thailand constitute a permanent establishment once they exceed 183 days in aggregate within any twelve-month period. This article reads the Agreement provision by provision from the English text, alongside

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Sections 40, 41, 50, 70 and 70 bis of the Revenue Code (ประมวลรัษฎากร) and China's Enterprise Income Tax Law. Readers who want an overview of Thailand's treaty network may start with Thailand's Double Tax Agreements: What They Are and How to Use Them.

Legal status as of 25 October 2026 (B.E. 2569): The Revenue Department's treaty list records that the Thailand-China Agreement was signed on 27 October 1986, entered into force on 29 December 1986, is modified by the Multilateral Instrument (MLI), and that the MLI entered into force for Thailand on 1 July 2022.[1] The Agreement was done in Thai, Chinese and English, all texts being equally authoritative, except in the case of doubt when the English text prevails.[2] The Revenue Department's Thai translation is a scanned image with no extractable text, so the wording quoted in the notes is taken from the English text on the Revenue Department website, which also records that Articles 2, 3 and 11 were amended by negotiations that entered into force on 25 May 2000.[3] Thai statutory rates are taken from Sections 50 and 70 of the Revenue Code and the current income tax rate schedule.

The Thailand-China Agreement in force, the 2000 amendment and its legal status

The Thailand-China double tax treaty is the agreement between the Government of Thailand and the Government of the People's Republic of China that allocates the right to tax income between the two countries. It was signed on 27 October 1986, entered into force on 29 December 1986, applies under Article 28 to amounts paid from 1 January 1987, and takes effect in Thai law through Section 3 of Royal Decree (No. 18) B.E. 2505 (1962) (พระราชกฤษฎีกา (ฉบับที่ 18) พ.ศ. 2505).

Thailand and China signed the Agreement at Bangkok on 27 October 1986. It is the first and only double tax agreement between the two countries. Article 28(1) provides that the Agreement enters into force on the thirtieth day after the exchange of diplomatic notes indicating completion of each country's internal legal procedures, and Article 28(2) gives it effect for taxes withheld at source on amounts paid or remitted on or after 1 January of the year following the exchange of notes, and for other taxes on income for taxable years or accounting periods

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beginning on or after that date.[4] The Revenue Department's introductory page records that the notes were exchanged on 29 November 1986, so the Agreement entered into force on 29 December 1986 and applies to amounts paid from 1 January 1987.[5]

The Agreement was done in Thai, Chinese and English, all texts being equally authoritative, except in the case of doubt when the English text prevails.[2] This matters more in practice than it appears. When a Thai payer and the Revenue Department disagree on wording, such as the meaning of "beneficial owner" or the scope of "the furnishing of services", the English text settles the question, not the Thai or Chinese translation. The Agreement was amended once, by negotiations that entered into force on 25 May 2000, which the Revenue Department notes at the end of Article 2(3), Article 3(1) and Article 11(3). The amendment updated the list of Chinese taxes covered, renamed China's competent authority as the State Administration of Taxation and revised the list of state banks whose interest is exempt under Article 11(3).[3]

In Thai law the Agreement does not reduce tax by itself. It takes effect through Section 3 of the Royal Decree issued under the Revenue Code governing Tax Exemptions (No. 18) B.E. 2505 (1962), which exempts persons under double taxation agreements that the Thai Government has made with foreign governments from taxes under the Revenue Code.[6] The Supreme Court held in Supreme Court Judgment No. 3935/2548 (2005) that domestic law continues to apply unless the treaty provides otherwise,[7] which matches Article 23(1) of the Thailand-China Agreement: "The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where express provisions to the contrary are made in this Agreement".[8] The reader must therefore always begin with Section 70, Section 50 or Section 66 of the Revenue Code and then ask which provision of the Agreement restricts Thailand's taxing right.

From 2023 the Agreement must be read together with the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). Thailand signed the MLI on 9 February 2022, deposited its instrument of ratification on 31 March 2022, and the MLI entered into force for Thailand on 1 July 2022. China signed on 7 June 2017, deposited its instrument on 25 May 2022, and the MLI entered into force for China on 1 September 2022.[9] Because both sides notified the Thailand-China Agreement as a covered tax

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agreement, Article 35(1) of the MLI gives its provisions effect for taxes withheld at source on events occurring on or after 1 January of the year following the later entry into force, namely 1 January 2023, and for other taxes for taxable periods beginning after six months from that date. [10] The OECD peer review reports that both Thailand and China chose the Principal Purpose Test (PPT) to meet the minimum standard.[11] As at the date of checking, the Revenue Department had not published a synthesized text of the Agreement and the MLI for China in its treaty list, so a payer should read both countries' reservations and notifications in the OECD MLI database before concluding which provisions have been modified.

Residents and taxes covered under Articles 1 to 4

The Thailand-China Agreement applies under Article 1 to persons who are residents of Thailand or China. The Thai taxes covered under Article 2(3)(a) are the income tax and the petroleum income tax, and a resident under Article 4(1) is a person liable to tax in that State by reason of domicile, residence, head office, place of incorporation or any other criterion of a similar nature.

Article 1 applies the Agreement to persons who are residents of one or both of the Contracting States. Article 2(3) lists the Thai taxes as the income tax and the petroleum income tax, and the Chinese taxes, in the wording amended in 2000, as the individual income tax, the income tax for enterprises with foreign investment and foreign enterprises, and the local income tax.[12] The Chinese wording reflects China's tax system before 2008, which taxed foreign enterprises separately from domestic enterprises. When China enacted its new Enterprise Income Tax Law in 2007, effective in 2008, the new tax replaced the old one under Article 2(4), which applies the Agreement to identical or substantially similar taxes imposed in addition to, or in place of, the existing taxes.[12] The Agreement therefore continues to apply to China's current enterprise income tax without any change of wording.

Article 4(1) defines a resident as "any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, head office, place of incorporation or any other criterion of a similar nature".[13] The "place of incorporation" criterion means that a company incorporated under Thai law is always a Thai resident and a company incorporated in China is a Chinese resident. For individuals, Section 41, paragraph three, of the Revenue Code

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treats a person who stays in Thailand for an aggregate of **one hundred and eighty days** in a tax year as a resident of Thailand.[14] A person resident in both States is resolved under the tie-breaker rules of Article 4(2) in order: permanent home, center of vital interests, habitual abode, nationality, and mutual agreement of the competent authorities. For a company resident in both States, Article 4(3) leaves the matter to agreement between the competent authorities rather than applying the place of effective management test used in many of Thailand's other agreements.[13]

In practice, a Thai payer must hold evidence that the recipient is genuinely a Chinese resident under Article 4 before applying a treaty rate, which in practice means a tax residence certificate issued by the Chinese tax office. This is a question of fact on which the payer bears the burden of proof if assessed, because Supreme Court Judgment No. 813/2565 (2022) held that a payer who fails to withhold is jointly liable with the recipient under Section 54, paragraph one, and must pay a surcharge of 1.5% per month under Section 27.[15]

Permanent establishment under Article 5: projects over 6 months, services over 183 days and dependent agents

A permanent establishment under Article 5 of the Thailand-China Agreement is a fixed place of business through which an enterprise carries on its business wholly or partly. It also includes a construction, installation or assembly project lasting more than 6 months, the furnishing of services through employees for more than 183 days in aggregate within any twelve-month period, and a person who has authority to conclude contracts or keeps goods for delivery under Article 5(4), whom Section 76 bis of the Revenue Code calls a representative or go-between.

Article 5(1) defines a permanent establishment as "a fixed place of business through which the business of an enterprise is wholly or partly carried on", and Article 5(2) gives examples, namely a place of management, a branch, an office, a factory, a workshop, a farm or plantation, a mine or oil well, and a warehouse of a person providing storage facilities for others, together with two time thresholds that matter in practice: (h) "a building site, a construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of **more than 6 months**" and (j) "the furnishing of services,

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including consultancy services, by a resident of one of the Contracting States through employees or other personnel, provided activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating **more than 183 days within any twelve-month period**".[16] The 183-day test aggregates non-consecutive periods for the same or a connected project and is counted within any twelve-month period, not a calendar year. A Chinese company that sends engineers to install and test machinery for a Thai customer in several visits must therefore add up the days of every visit under the same contract. The day-count method under each treaty is explained in the article Service PE and day counting under double tax treaties (Thai).

Article 5(3) excludes activities of a preparatory or auxiliary character, such as the use of facilities to store or display goods, the keeping of goods for processing by another enterprise, and a fixed place of business used solely to purchase goods, collect information, advertise or carry on research. Article 5(4) treats a person acting on behalf of an enterprise of the other State as a permanent establishment where that person (a) has, and habitually exercises, an authority to conclude contracts in the name of the enterprise, (b) habitually maintains a stock of goods of the enterprise from which he regularly delivers goods on its behalf, or (c) habitually secures orders wholly or almost wholly for the enterprise itself or for a group of enterprises that control it. Article 5(5) excludes brokers, general commission agents and other agents of an independent status acting in the ordinary course of their business, but an agent whose activities are devoted wholly or almost wholly to one enterprise is not an agent of an independent status.[17] Sub-paragraph (c) on securing orders is wider than the OECD Model and corresponds to the term "go-between" (ผู้ทำการติดต่อ) in Section 76 bis of the Revenue Code, which deems a foreign company that has an employee, representative or go-between conducting business in Thailand, thereby deriving income or gains in Thailand, to be **carrying on business in Thailand**.[18]

Article 5(6) is specific to this Agreement. It gives an insurance enterprise of one State a permanent establishment in the other State if it collects premiums or insures risks there through an employee or a representative who is not an agent of an independent status, except in the case of reinsurance. Article 5(7) confirms that a parent-subsidiary relationship does not by itself make either company a permanent establishment of the other.[19] Apart from Article 5(2)(j), and Article 14 for individuals, the Thailand-China Agreement has no provision that takes a company's

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professional services out of Article 7. Where a Chinese company has no permanent establishment under Article 5, Thailand therefore cannot tax its business profits under Article 7(1), even if the company falls within Section 76 bis under domestic law, because Section 3 of Royal Decree (No. 18) B.E. 2505 grants the exemption under the Agreement.

The Supreme Court authority on the scope of a permanent establishment that applies directly to the Thailand-China Agreement is Supreme Court Judgment No. 124/2540 (1997). Deciding under the Thailand-Belgium convention, the Court held that a construction and installation project lasting more than 6 months gave the foreign contractor a permanent establishment only for the business under the contract for work, and not for a separate contract for the sale of equipment.[20] This principle matters for combined (EPC) contracts under which a Chinese company sells machinery together with installation, because profits from the sale of goods that do not pass through the permanent establishment remain business profits that Thailand cannot tax. Supreme Court Judgment No. 1971/2537 (1994), the only case that the judgment search system returns for the search terms "People's Republic of China" together with "double taxation", held that a Thai distributor that set its own selling prices, bore its own liability to customers and took its own profit and loss carried on its own business and was not a representative or go-between of the foreign seller under Section 76 bis.[21]

Business profits under Article 7: service, consulting and commission fees paid to China

Service fees paid by a Thai company to a Chinese company with no permanent establishment in Thailand are business profits under Article 7(1) of the Thailand-China Agreement and are taxable only in China. The Thai payer therefore does not withhold the 15% tax under Section 70 of the Revenue Code, unless the payment is a royalty under Article 12 or the services are performed in Thailand for more than 183 days under Article 5(2)(j).

Article 7(1) provides that "The profits of an enterprise of a Contracting State **shall be taxable only in that Contracting State** unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein", and where there is a permanent establishment only the profits attributable to it may be taxed.[22] Section 70 of the Revenue Code

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requires a foreign company **not carrying on business in Thailand** that receives income under Section 40(2), (3), (4), (5) or (6) paid from or in Thailand to pay tax through withholding by the payer, who must remit the tax **within seven days from the last day of the month in which the payment is made**.[23] Service, consulting and commission fees are income under Section 40(2),[24] and so fall within Section 70 under domestic law. The Agreement, however, classifies this income as business profits under Article 7, which gives the source State no right to tax absent a permanent establishment, so the 15% rate under Section 70 is exempted by Section 3 of Royal Decree (No. 18) B.E. 2505.

The point in dispute in the case law is not the text of Article 7 but the line between service fees under Article 7 and royalties under Article 12. Supreme Court Judgment No. 3867/2531 (1988), decided under the former Thailand-Japan convention, held that a Japanese company that stationed 15 experts at the payer's factory in Thailand to provide technical assistance in paper production did not carry on business in Thailand, but the money it received was a **royalty within the meaning of the convention**, so the payer had to withhold tax under Section 70.[25] Supreme Court Judgment No. 813/2565 (2022), decided under the Thailand-Singapore Agreement, held that although the contract called the payment a service fee, a payment that in substance was consideration for the use of equipment or for **information concerning industrial, commercial or scientific experience** was a royalty under Article 12 and income under Section 40(3).[26] The royalty definition in Article 12(3) of the Thailand-China Agreement uses the same words, "information concerning industrial, commercial or scientific experience", so the principle of both cases applies directly to payments to China. Technology transfer agreements, design contracts that deliver drawings with a right of use, and service contracts under which the provider imparts specialized know-how to the recipient must therefore be split according to the substance of each element of the consideration.

Where a Chinese company has a permanent establishment in Thailand, Article 7(2) and (3) attribute profits to the permanent establishment as if it were a distinct and separate enterprise and allow the deduction of expenses incurred for the purposes of the permanent establishment, including general administrative expenses of the head office, whether incurred in that State or elsewhere.[22] Section 66, paragraph two, of the Revenue Code taxes a foreign company carrying on business elsewhere and also in Thailand on **net profits from or in consequence of business**

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carried on in Thailand, and where these cannot be computed, tax is assessed under Section 71(1).[27] The Supreme Court placed the burden of proof for head office allocations in Supreme Court Judgment No. 7323/2560 (2017), holding that a branch of a foreign bank **bears the burden of proving that the amount of expenses allocated from the head office** and regional office was appropriate and not excessive.[28] A branch or project of a Chinese company in Thailand that deducts administrative expenses from Beijing or Shenzhen should therefore keep evidence of the allocation method from the outset.

Thailand-China treaty withholding tax rates compared with Sections 70 and 50 and China's Enterprise Income Tax Law

The maximum rates that the Thailand-China Agreement allows the source State to levy are 15% or 20% on dividends under Article 10, 10% on interest only for recipients that are financial institutions under Article 11, and 15% on royalties under Article 12. Compared with Section 70 of the Revenue Code, which levies 10% on dividends and 15% on other income, the Agreement brings real relief only for interest paid to Chinese financial institutions and for service fees where there is no permanent establishment.

The table below compares the treaty rates with the domestic rates of both countries. On the Thai side it uses Section 70 and the income tax rate schedule for recipients that are Chinese companies, and Section 50 for individual recipients not resident in Thailand.[2329] On the Chinese side it uses Article 3, paragraph three, Article 4, paragraph two, and Article 27(5) of the Enterprise Income Tax Law, read with Article 91 of the Regulations for the Implementation of the Enterprise Income Tax Law, which reduces the income tax rate for non-resident enterprises with no establishment in China from 20% to 10%.[3031] A payer always applies the lower of the treaty rate and the domestic rate, because the Agreement sets only a ceiling, not a mandatory rate. The Thai payer's duty to withhold and remit under Section 70 is explained in the article Withholding tax on payments abroad: Section 70 and P.N.D. 54.

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Type of income	Thailand-China Agreement	Thailand paying to China (Revenue Code)	China paying to Thailand (Chinese
Dividends	Art. 10(2): 15% where the recipient company directly holds at least 25%; otherwise 20%	Sec. 70 + rate schedule (2)(c): 10%	Art. 3 para. 3, Art. 27(5) + Regulations Art. 91: 10%
Interest paid to a financial institution or insurance company	Art. 11(2): not more than 10%	Sec. 70 + rate schedule (2)(b): 15%	10%
Interest paid to other companies	Art. 11 sets no cap	15%	10%
Interest paid to the Government and named state banks	Art. 11(3): exempt	Exempt under the Agreement	Exempt under the Agreement
Royalties, including rentals for industrial, commercial or scientific equipment	Art. 12(2): not more than 15%	15%	10%
Service, consulting and commission fees with no permanent establishment	Art. 7(1): taxable only in the State of residence	Sec. 70: 15%, exempted under Royal Decree (No. 18)	Art. 58: the treaty prevails over domesti

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Gains on the transfer of shares	Art. 13(4): the source State may tax	Sec. 70 for income under Sec. 40(4)(g): 15% of the gain	10% of the gain
Remittance of profits of a permanent establishment out of Thailand	No specific provision	Sec. 70 bis + rate schedule (2)(d): 10%	-

The main point from the table is that the Thailand-China Agreement dates from the period when China was still a capital-importing country and negotiated high source-country taxing rights. The dividend caps of 15% and 20% and the 15% royalty cap are therefore higher than, or equal to, the current domestic law of both countries. The Agreement still brings real relief in two areas: interest paid to Chinese financial institutions, which is reduced from 15% to 10%, and the business profits of a Chinese company with no permanent establishment, which Thailand cannot tax at all. Loans from Chinese banks for projects in Thailand, and design or consulting fees for work performed from China, are therefore the two cases in which a Thai payer must check the residence documents and the recipient's beneficial ownership in full before applying treaty benefits.

Dividends under Article 10 and the profit remittance tax under Section 70 bis

Dividends paid by a Thai company to a Chinese company bear tax at 10% under Section 70 of the Revenue Code read with item (2)(c) of the income tax rate schedule, because the cap under Article 10(2) of the Thailand-China Agreement is 15% for a shareholder holding at least 25% and 20% in other cases, which is higher than Thai law. The remittance of a branch's profits out of Thailand bears 10% under Section 70 bis, and the Agreement contains no specific provision on this point.

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Article 10(2) allows the State in which the paying company is resident to tax dividends under its own laws, but if the recipient is the beneficial owner and is a company other than a partnership, the tax shall not exceed "(a) 15 per cent of the gross amount of the dividends if the recipient holds directly at least 25 per cent of the shares of the company paying the dividends, (b) 20 per cent of the gross amount of the dividends in other cases".[32] Thai law taxes dividends paid to foreign companies at only 10% under Section 70 read with item (2)(c) of the income tax rate schedule.[23] The Agreement therefore brings no relief here, and a Chinese company need not submit residence evidence to receive dividends at 10%, because that rate comes from domestic law, not from the Agreement. Conversely, dividends paid by a Chinese company to a Thai shareholder bear Chinese tax at 10% under the Enterprise Income Tax Law and Article 91 of its Implementation Regulations,[31] which is also below the treaty cap.

The definition of dividends in Article 10(3) covers income from shares and other rights, not being debt-claims, participating in profits, and income from other corporate rights that is subjected to the same taxation treatment as income from shares by the laws of the paying State. Article 10(5) prohibits a State from which a company derives profits from taxing dividends paid by that company to non-residents, and from taxing the company's undistributed profits.[32] This provision is relevant to Section 70 bis of the Revenue Code, which requires a company that **disposes of profits, or any other money set aside out of profits or deemed to be profits, out of Thailand** to pay tax by deduction from the amount disposed of and to remit it within seven days from the date of disposal, at 10% under item (2)(d) of the income tax rate schedule.[33]

The Thailand-Japan Agreement (Thai) has Protocol item 5, which expressly preserves Thailand's right to tax under Section 70 bis, and the Thailand-Singapore Agreement has Article 10A, which caps the rate at 10%,[34] but the Thailand-China Agreement has no such provision. Whether Thailand may levy Section 70 bis tax on the branch of a Chinese company must therefore be answered from Article 23(1), which keeps domestic law in force unless the Agreement provides otherwise, read with Article 10(5), which prohibits only tax on "dividends paid by the company" and on the "undistributed profits" of a company resident in the other State. The Section 70 bis tax is levied on the disposal of a permanent establishment's profits, not on dividends that the Chinese company pays to its own shareholders, and not on undistributed profits. The author's view is that Article 10(5) does not prohibit tax under Section 70 bis, but no Supreme Court

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judgment has yet decided the point directly for the Thailand-China Agreement. The closest authority is Supreme Court Judgment No. 3935/2548 (2005), which held under the Thailand-Japan convention that **a representative or go-between carrying on business in Thailand falls within the scope of liability for income tax on the disposal of profits** out of Thailand where the conditions of Section 70 bis are met.[7] Branches and projects of Chinese companies in Thailand should therefore plan profit repatriation on the basis that the 10% tax under Section 70 bis applies. This tax is explained in detail in the article Section 70 bis: tax on profit remittances abroad (Thai).

Interest under Article 11: 10% for financial institutions, no cap for other recipients and the government exemption

Interest paid by a Thai company to a Chinese bank or insurance company that is the beneficial owner bears tax of not more than 10% under Article 11(2) of the Thailand-China Agreement, reduced from 15% under Section 70 of the Revenue Code. Interest paid to other Chinese companies has no cap in the Agreement and so bears 15%, while interest paid to the Government of China, the People's Bank of China and the state banks named in Article 11(3) is exempt.

Article 11(2) provides that "if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest **in case it is received by any financial institution (including an insurance company)**".[35] The Thailand-China Agreement differs from the Thailand-Japan and Thailand-Singapore Agreements in having no sub-paragraph that caps the rate for recipients other than financial institutions. With no limit, the opening words of Article 11(2) let the source State tax "according to the laws of that Contracting State". Interest on intra-group loans paid by a Thai company to its parent or an affiliate in China therefore bears the full 15% under Section 70 read with item (2)(b) of the income tax rate schedule,[23] and interest paid by a Chinese company to a Thai company bears Chinese tax at 10% under China's domestic law.[31]

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Article 11(3) exempts interest paid to the Government of the other State and defines "Government" broadly. On the Thai side it includes the Bank of Thailand, the Export-Import Bank of Thailand, the Government Savings Bank, the Government Housing Bank, local authorities and financial institutions wholly owned by the Government as agreed by the competent authorities. On the Chinese side it includes the People's Bank of China and the Bank of China within the scope of its central-bank functions, the State Development Bank, the China Import and Export Bank, the Agriculture Development Bank of China, local authorities and financial institutions wholly owned by the Government as agreed, in the wording amended by the negotiations that entered into force on 25 May 2000.[36] Project loans from Chinese policy banks to Thai borrowers therefore bear no withholding tax at all, while loans from Chinese commercial banks in which the state holds a majority but not all of the capital take the 10% rate under Article 11(2).

Article 11(4) defines interest as income from debt-claims of every kind, including bonds and debentures and income assimilated to income from money lent by the law of the source State, but penalty charges for late payment are not interest. Article 11(6) deems interest to arise in the State of which the payer is a resident, or in the State in which a permanent establishment bearing the interest is situated, and Article 11(7) applies the cap only to the amount of interest that independent parties would have agreed, the excess remaining taxable under the laws of each State.[35] Article 11(7) works together with Article 9 on associated enterprises and with Section 71 bis of the Revenue Code on the adjustment of income and expenses between related companies. Interest on a loan from a Chinese parent at above-market rates can therefore be examined at two levels: transfer pricing and withholding tax.

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Royalties under Article 12: 15% including equipment rentals, and the line between royalties and service fees

Royalties paid from Thailand to China bear tax of not more than 15% under Article 12(2) of the Thailand-China Agreement, the same as the 15% rate under Section 70 of the Revenue Code, and the definition of royalties in Article 12(3) includes consideration for the use of industrial, commercial or scientific equipment and for information concerning industrial experience. Rentals for machinery from China are therefore royalties, not business profits under Article 7.

Article 12(2) allows the source State to tax royalties, but if the recipient is the beneficial owner "the tax so charged shall not exceed 15 per cent of the gross amount of the royalties", and Article 12(3) defines royalties as "payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, **industrial, commercial, or scientific equipment**, or for **information concerning industrial, commercial or scientific experience**".[37] The 15% cap is exactly the rate under Section 70 read with item (2)(b) of the income tax rate schedule,[23] so the Agreement does not reduce the tax on royalties paid to China at all, unlike the Thailand-Singapore Agreement, which splits the rate into 5%, 8% and 10%, with equipment rentals at 8%.[34] A Thai company that rents machinery, moulds or equipment from China, or licenses software, must therefore withhold 15% whether or not it claims treaty benefits. Royalties paid by a Chinese company to a Thai owner bear Chinese tax at 10% under domestic law,[31] which is below the treaty cap.

The line at issue in several Supreme Court cases is between royalties under Article 12 and service fees under Article 7, because the difference is 15% against 0%. Supreme Court Judgment No. 813/2565 (2022) held that the name of the contract is not decisive: if the payment is in substance consideration for the use of equipment or for information concerning industrial, commercial or scientific experience, it is a royalty,[26] and Supreme Court Judgment No. 3867/2531 (1988) treated consideration for sending experts to transfer production techniques as a royalty under the convention.[25] Article 12(4) disapplies the cap where the right or property giving rise to the royalties is effectively connected with a permanent establishment of the

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recipient in the source State, in which case Article 7 applies instead.[37] This is consistent with Supreme Court Judgment No. 6489/2534 (1991), which held that royalties derived through the activities of the Thai branch of a foreign company are income taxable under Section 66, not Section 70, so that **the payer of the royalties had no duty to withhold and remit tax**.[38]

A point that calls for particular care with Chinese counterparties is the original equipment manufacturing (OEM) contract and the machinery purchase with technology transfer, which often bundle the price of goods, installation, training and the right to use designs or production formulas into a single price. The price of goods is business profits under Article 7, and installation that does not exceed the threshold in Article 5(2)(h) is also business profits, but consideration for the use of designs, formulas or know-how is a royalty under Article 12. If the contract does not split the price, assessment officers tend to treat the whole amount as a royalty where the royalty element is significant, and the payer becomes jointly liable under Section 54 with a surcharge under Section 27.[15]

Employment income, independent personal services, directors' fees and pensions under Articles 14 to 18

A Chinese employee working in Thailand is exempt from Thai tax under Article 15(2) of the Thailand-China Agreement if present in Thailand for not more than 183 days in aggregate within any twelve-month period, the employer is not a Thai resident and the remuneration is not borne by a permanent establishment in Thailand. This differs from the test of 180 days per tax year in Section 41, paragraph three, and independent professionals are subject to the 183-day or fixed-base tests in Article 14.

Article 15(1) makes salaries and wages taxable only in the State of residence unless the employment is exercised in the other State, and Article 15(2) grants an exemption even where the employment is exercised in the other State if three conditions are met together: "(a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate **183 days within any twelve-month period**, and (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State, and (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has

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in the other Contracting State".[39] The day count runs within any twelve-month period, unlike Section 41, paragraph three, of the Revenue Code, which counts 180 days per tax year.[14] A Chinese expert working in Thailand from September to April may therefore not reach 180 days in any tax year under Thai law, yet exceed 183 days within a twelve-month period under the Agreement. Where the exemption in Article 15(2) does not apply, Thailand may tax under Section 41, paragraph one, because the income is derived from employment exercised in Thailand, **whether such income is paid in or outside Thailand**,[14] and the payer must withhold under Section 50(1), which for a recipient not resident in Thailand and income under Section 40(2) is at 15%.[29]

Condition (c) needs particular attention. Where a Chinese company sends employees to work on a project that is a permanent establishment in Thailand and their wages are recorded as expenses of that project, the employees are taxable in Thailand from the first day even if they stay less than 183 days. Article 14, on independent personal services, uses three alternative tests: a fixed base regularly available in the other State, presence in the other State for a period or periods amounting to or exceeding 183 days within any twelve-month period, or remuneration paid by a resident of the other State or borne by a permanent establishment in the other State. If any one is met, the relevant part of the income may be taxed there.[40] Condition (c) of Article 14 is much wider than the OECD Model, because the mere fact that the payer is a Thai company allows Thailand to tax an individual Chinese consultant who has never travelled to Thailand.

Article 16 makes directors' fees, and the salaries of top-level managerial officials of a company resident in the other State, taxable in the company's State. A Chinese director of a Thai company is therefore subject to Thai tax on directors' fees wherever the meetings are held. Article 18 makes pensions for past employment taxable only in the recipient's State of residence, unless the pension is borne by an enterprise or permanent establishment in the other State, and Article 17 makes entertainers and athletes taxable in the State where they perform, unless the visit is substantially supported from the public funds of the other State.[41] The public-funds exception applies to Chinese performing troupes sent by the Chinese Government to cultural events, and to Thai troupes sent to China by the Ministry of Culture.

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Capital gains, teachers, students and other income under Articles 13 and 20 to 22

Gains derived by a Chinese shareholder from the transfer of shares in a Thai company may be taxed in Thailand under Article 13(4) of the Thailand-China Agreement, which allows the source State to tax gains from property other than immovable property, the property of a permanent establishment, and ships or aircraft. The payer therefore withholds 15% of the gain under Section 70. Invited professors and researchers are exempt for up to 3 years under Article 21, and other income not expressly mentioned may be taxed in the State where it arises under Article 22.

Article 13(1) makes gains from the alienation of immovable property taxable in the State where the property is situated. Article 13(2) makes gains from movable property of a permanent establishment taxable in the State where the permanent establishment is situated. Article 13(3) makes gains from ships and aircraft operated in international traffic taxable only in the enterprise's State. Article 13(4), which departs clearly from the OECD Model, provides: "Gains from the alienation of any property or assets, other than those referred to in paragraphs 1, 2 and 3 of this Article, arising in a Contracting State, **may be taxed in that Contracting State**".[42] Gains from the sale of shares in a Thai company by a Chinese company are therefore fully taxable in Thailand, unlike Article 13(5) of the Thailand-Singapore Agreement, which makes such gains taxable only in the State of residence of the alienator.[34] Under Thai law, gains on the transfer of shares are income under Section 40(4)(g) only to the extent that the value exceeds the investment cost.[24] A buyer paying a Chinese seller must therefore withhold 15% of the gain under Section 70 where the seller is a company,[23] or 15% under Section 50(2)(a) where the seller is an individual not resident in Thailand,[29] and needs the seller's share cost data to compute the tax base. Conversely, when a Thai company sells shares in a Chinese company, China levies 10% of the gain under Article 3, paragraph three, of the Enterprise Income Tax Law read with Article 91 of the Implementation Regulations.[31]

Article 20 exempts students and trainees in respect of payments from abroad for their maintenance and education, scholarships, and income from employment in the State where they study to the extent necessary for their maintenance and education. Article 21, which has no counterpart in the OECD Model, exempts professors, teachers and researchers invited by a

university or educational institution approved by the competent authority to teach or carry out research for a period not exceeding 3 years from tax in the host State on their remuneration for that teaching or research. Article 21(2) limits the exemption to research undertaken in the public interest and not primarily for the private benefit of a specific person.[43] A Chinese lecturer invited by a Thai university to teach Chinese language and culture under an inter-institutional cooperation program is therefore exempt from Thai tax on salary for the first three years, provided there is an invitation from an institution approved by the Ministry of Higher Education, Science, Research and Innovation.

Article 22, on income not expressly mentioned, provides briefly: "Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement **may be taxed in the Contracting State where the income arises**".[44] This differs from the OECD Model, which makes such income taxable only in the State of residence. Income that falls under no other Article, such as penalties that are not interest, prize money, or income from certain contracts that cannot be classified, therefore remains subject to Thai tax under Section 70 or Section 50 without treaty relief. The result is that, under the Thailand-China Agreement, classifying the income under Article 7 is the only way to take it outside Thailand's taxing right, and the burden of proving that the income is business profits rests on the payer.

Elimination of double taxation under Article 23 and tax sparing for investment-promotion incentives

Article 23 of the Thailand-China Agreement uses the credit method on both sides. Article 23(2) requires Thailand to credit Chinese tax paid on income derived from China up to the Thai tax attributable to that income, and Article 23(3) requires China to credit Thai tax in the same way, with an indirect credit for dividends from a Thai company in which the Chinese company holds at least 10% of the shares. Both paragraphs treat tax exempted or reduced by the other side under its economic-promotion laws as tax paid.

Article 23(2) provides: "In the case of Thailand, Chinese tax payable in respect of income derived from China shall be allowed as a credit against Thai tax payable in respect of that income. The credit shall not, however, exceed that part of the thai tax, as computed before the credit is given,

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which is appropriate to such item of income", and continues that "the term Chinese tax payable shall be deemed to include the amount of Chinese tax **which would have been paid if the Chinese tax had not been exempted or reduced** in accordance with the special incentive laws designed to promote economic development in China".[8] Article 23(3) requires China to treat Thai tax in the same way and adds that, where the income is a dividend paid by a Thai company to a Chinese company "which owns not less than 10 per cent of the shares of the company paying the dividend, the credit shall take into account Thai tax payable by that company in respect of its income out of which the dividend is paid".[8] The final words of each paragraph are the tax sparing credit, which requires the State of residence to accept that the investor has paid tax in the source State even though that tax was in fact exempted to promote investment.

For Chinese investors in Thailand, the tax sparing credit matters directly to companies that hold a Board of Investment promotion certificate and are exempt from corporate income tax under the Investment Promotion Act B.E. 2520 (1977) (พระราชบัญญัติส่งเสริมการลงทุน พ.ศ. 2520).
When the Thai subsidiary pays dividends back to China, a Chinese parent holding at least 10% may credit the Thai tax that the subsidiary "would have been paid" against its Chinese tax, so that the incentive granted by Thailand is not clawed back by Chinese tax. The same result applies to Thai investors in China who receive tax reductions under China's incentive laws. The closing words of Article 23(1) apply the elimination of double taxation under the following paragraphs only where "income is subject to tax in both Contracting States". Income that Thailand cannot tax under Article 7 therefore raises no credit question, and the Chinese resident pays full Chinese tax on it.

A Thai taxpayer claims the credit under Article 23(2) through Section 3 of Royal Decree (No. 18) B.E. 2505, which grants exemption under the Agreement,[6] and must hold evidence of Chinese tax paid, namely a tax payment certificate issued by the Chinese tax office, and, when claiming a tax sparing credit, evidence of the exemption or reduction under the incentive law. The credit limit is computed item by item, not in aggregate. Chinese tax that exceeds the Thai tax attributable to a given item of income therefore cannot be credited against other items and cannot be carried forward, which follows from the words "appropriate to such item of income" in Article 23(2).

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Supreme Court case law applied to the Thailand-China Agreement

A search of the Supreme Court judgment system for "People's Republic of China" together with "double taxation" returns only Supreme Court Judgment No. 1971/2537 (1994), which concerns a representative under Section 76 bis. No Supreme Court judgment interpreting the Thailand-China Agreement directly has yet been found. The applicable principles therefore come from judgments under other treaties with identical wording, namely Nos. 813/2565, 3867/2531, 124/2540, 3935/2548 and 6489/2534.

The author searched the Supreme Court judgment search system on 25 October 2026 using the terms "convention People's Republic of China double taxation" and obtained one result, Supreme Court Judgment No. 1971/2537, while the searches "China avoidance of double taxation" and "double tax convention China royalties" returned no results.[45] No Supreme Court judgment deciding the wording of the Thailand-China Agreement directly has therefore yet appeared. This does not mean there are no disputes; it means that most disputes are settled at the level of the Board of Appeals or the Central Tax Court. The principles that the Supreme Court has laid down under other treaties using the same wording are therefore the guidance that assessment officers and the courts will apply.

The usable judgments fall into five groups. The first concerns the line between royalties and service fees: Supreme Court Judgment No. 813/2565, which puts the substance of the contract above its name and establishes the payer's joint liability under Section 54 with a surcharge under Section 27,[2615] and Supreme Court Judgment No. 3867/2531, which treats consideration for sending experts to transfer technical know-how as a royalty.[25] The second concerns the scope of a permanent establishment: Supreme Court Judgment No. 124/2540, which confines a construction-project permanent establishment to the business under the contract for work.[20] The third concerns representatives under Section 76 bis: Supreme Court Judgment No. 1971/2537, which treats a distributor bearing its own risk as carrying on its own business.[21] The fourth concerns the profit remittance tax: Supreme Court Judgment No. 3935/2548.[7] The fifth concerns branches and Section 66: Supreme Court Judgment No. 6489/2534, and Supreme Court Judgment No. 7323/2560 on the burden of proving head office allocations.[3828]

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The common lesson of all five groups is that the Supreme Court reads a treaty by the substance of the transaction and the facts of who did what in Thailand, not by the name of the contract or the words the parties chose. When a Thai payer decides not to withhold in reliance on the Agreement, the burden of proving every fact, from the recipient's residence and beneficial ownership, to the number of days the recipient's employees spent in Thailand, to the nature of what the recipient delivered, rests entirely on the payer, because the payer is the person the Revenue Department can collect from in Thailand under Section 54 while the recipient is in China.

Claiming treaty benefits in practice and the MLI principal purpose test

A Thai payer that applies a Thailand-China treaty rate must hold the recipient's tax residence certificate from the Chinese tax office and evidence that the recipient is the beneficial owner under Articles 10 to 12, and must file form P.N.D. 54 (ภ.ง.ด.54) within seven days from the end of the month under Section 70. A Thai taxpayer receiving payments from China must satisfy the beneficial ownership criteria in China's Announcement No. 9 of 2018.

On the Thai side, the Agreement prescribes no formal procedure for claiming benefits, so a payer may apply the treaty rate itself on form P.N.D. 54, filed within seven days from the end of the month of payment under Section 70,[23] but must be ready to produce evidence on audit. The minimum evidence is the recipient's tax residence certificate for the year of payment (on the Thai side, the Certificate of Residence for tax purposes, form R.O. 22 (Thai)), the contract and documents showing the nature of the income, a record of the days the recipient's personnel spent in Thailand when relying on Article 5(2)(j) or Article 15(2), and, when relying on Articles 10 to 12, evidence that the recipient is the beneficial owner and not an intermediary company obliged to pass the money on. A Chinese recipient from whom tax was withheld above the treaty rate may file a refund claim with the Revenue Department, supported by evidence of residence and of the nature of the income, and Article 25(1) allows a person who considers that taxation is

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not in accordance with the Agreement to present the case to the competent authority of the State of residence within three years from the first notification of the action, to start the mutual agreement procedure.[46]

On the Chinese side, a Thai resident receiving dividends, interest or royalties from China gains nothing from the treaty caps, because China's domestic rate of 10% is already lower. For service fees under Article 7, however, and for gains on the transfer of property under Article 13 that fall outside paragraph 4, treaty benefits matter, and the recipient must satisfy the beneficial ownership criteria set by the State Taxation Administration in Announcement No. 9 of 2018. The Announcement defines a beneficial owner as a person who has ownership and control over the income or the right or property giving rise to it, and lists negative factors, such as an obligation to pay more than 50% of the income to residents of a third country within twelve months, or the absence of substantive business activities.[47] A Thai company receiving payments from China through a structure that includes a holding company in a third country should therefore prepare an explanation of the functions and risks that each tier actually assumes.

The final layer, which has overlain every Article since 2023, is the principal purpose test (PPT) under Article 7(1) of the MLI, which both Thailand and China chose to meet the minimum standard.[11] It denies a treaty benefit where obtaining that benefit was one of the principal purposes of an arrangement or transaction, unless granting the benefit would be in accordance with the object and purpose of the relevant provisions. A clear example is setting up a finance company in China to lend to a Thai company in place of a parent located in a country that has no agreement with Thailand, in order to use the 10% financial-institution rate under Article 11(2), where the finance company borrows back-to-back from the parent on the same terms. Such a structure is exposed to both the beneficial ownership test and the PPT at the same time.

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Comparative law: China's Enterprise Income Tax Law and beneficial ownership in the Canadian courts and the Court of Justice of the European Union

Article 58 of China's Enterprise Income Tax Law gives tax agreements precedence over domestic law, and Article 37 makes the payer the withholding agent. The Federal Court of Appeal of Canada in Prévost Car (2009) and the Court of Justice of the European Union in N Luxembourg 1 (2019) define the beneficial owner as the person who enjoys the economic benefit of the income and is free to decide its use, the same principle that applies under Articles 10 to 12.

The first system is the Enterprise Income Tax Law of the People's Republic of China, adopted by the National People's Congress on 16 March 2007 and last amended on 29 December 2018. Article 3, paragraph three, taxes a non-resident enterprise that has no establishment in China, or whose income is not connected with its establishment there, on income sourced in China. Article 4, paragraph two, sets a rate of 20%, but Article 27(5) allows reduction or exemption, and Article 91 of the Implementation Regulations reduces the rate to 10%. Article 37 provides "对非居民企业取得本法第三条第三款规定的所得应缴纳的所得税，实行源泉扣缴，以支付人为扣缴义务人", that is, tax is withheld at source with the payer as the withholding agent, and Article 58 provides "中华人民共和国政府同外国政府订立的有关税收的协定与本法有不同规定的，依照协定的规定办理", that is, where a tax agreement concluded by the Chinese Government with a foreign government differs from this Law, the agreement is applied.[483031] The Chinese structure is therefore the same as Thailand's in substance: Article 37 does the work of Section 70, and Article 58 does the work of Royal Decree (No. 18), except that China writes the rule into the parent statute itself while Thailand relies on a royal decree. China's State Taxation
Administration has also issued Announcement No. 9 of 2018, which sets written beneficial ownership criteria and treats companies listed on a stock exchange of the treaty partner, the treaty partner's government, individuals, and companies wholly owned by such persons as beneficial owners of dividends without analysis of the negative factors.[47] Thailand has no announcement of this kind, so the criteria rest on the discretion of assessment officers and the courts.

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The second system is Canada. In Her Majesty the Queen v. Prévost Car Inc., 2009 FCA 57, the Federal Court of Appeal of Canada on 26 February 2009 dismissed the Crown's appeal. A Canadian company had paid dividends to a Dutch holding company whose shareholders were Swedish and British companies, and the Crown argued that the Dutch company was a mere conduit. The Court endorsed the Tax Court's definition of the beneficial owner of dividends as "the person who receives the dividends for his or her own use and enjoyment and **assumes the risk and control of the dividend** he or she received", and held that the corporate entity would not be disregarded "unless the corporation is a conduit for another person". Because the holding company had no legal obligation to pass the dividends on, it was the beneficial owner and obtained the 5% rate under the Canada-Netherlands convention.[49] The third system is the European Union. In N Luxembourg 1 and joined cases (C-115/16, C-118/16, C-119/16 and C-299/16), the Grand Chamber of the Court of Justice of the European Union held on 26 February 2019 that the exemption of interest under Directive 2003/49 is restricted to beneficial owners, "that is to say, the entities which **actually benefit from that interest economically** and accordingly have the power freely to determine the use to which it is put", and that the general principle of EU law prohibiting fraudulent or abusive practices allows national authorities and courts to refuse the exemption "even if there are no domestic or agreement-based provisions providing for such a refusal". Indications of abuse include "the existence of conduit companies which are without economic justification and the purely formal nature of the structure of the group of companies, the financial arrangements and the loans".[50]

These two judgments set principles at opposite poles. Prévost Car sides with the taxpayer where the intermediary company has no obligation to pass the money on, while N Luxembourg 1 allows the State to deny benefits even without a domestic anti-avoidance rule and looks at the substance of the whole group's financial arrangements. China's Announcement No. 9 of 2018 sits in between: it calls for a factual analysis but sets clear safe harbours. The conclusion for Thai readers is that the term "beneficial owner" in Articles 10 to 12 of the Thailand-China Agreement will be read in line with this international approach, and from 2023 the MLI's PPT performs the role of the abuse-of-rights principle in the European Court's case law. The Thai Revenue Department therefore has a legal basis to deny treaty rates to conduit structures without waiting

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for further domestic legislation, and a Thai payer should treat evidence of beneficial ownership as a supporting document for every payment on which it applies the 10% rate for Chinese financial institutions.

Articles 23 and 10 to 12 of the Thailand-China Agreement through law and economics, legal philosophy and other disciplines

From a law and economics perspective, the tax sparing credit in Article 23 of the Thailand-China Agreement preserves the incentive effect of benefits under the Investment Promotion Act B.E. 2520 (1977) by preventing the residence State's tax from clawing them back. The caps of 15% and 20% in Articles 10 to 12, which exceed domestic law, reflect an allocation of taxing rights to the source State, and empirical work finds the effect of treaties on direct investment to be less clear than is commonly believed.

The first economic function of a double tax treaty is to reduce transaction costs arising from uncertainty about which State will tax, and to reduce double taxation that pushes the net return on cross-border investment below that on domestic investment. The Thailand-China Agreement is an interesting case because the caps in Articles 10 and 12 no longer reduce tax in practice. The Agreement's function has therefore shifted to three areas: the exemption of business profits under Article 7, which removes the gross-basis tax on service fees; the reduced rate for interest paid to financial institutions under Article 11, which lowers the cost of project finance; and the tax sparing credit under Article 23. Bruce A. Blonigen and Ronald B. Davies studied the effect of bilateral tax treaties on United States direct investment using data from 1980 to 1999 and concluded that "we find little evidence that bilateral tax treaties increase FDI activity".[51] This finding is consistent with the position under the Thailand-China Agreement, where the treaty rates are not lower than domestic law: the benefit investors actually obtain lies in the certainty of the rules, not in the tax rate.

The tax sparing credit in Article 23(2) and (3) is a tool that capital-importing countries seek. Where the source State exempts a foreign investor from tax but the investor's residence State uses the credit method and taxes the difference, the incentive granted by the source State becomes a transfer of tax revenue from the capital-importing country's treasury to the investor

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country's treasury, with no added incentive for the investor. James R. Hines, Jr. studied this empirically by comparing Japanese investors, who receive tax sparing credits under Japan's treaties, with United States investors, who do not, and found that "Japanese firms are subject to **23% lower tax rates** than are their American counterparts in countries with whom Japan has agreements", which means that tax sparing makes the capital-importing country's incentives effective in reducing the investor's tax burden.[52] For Thailand, Article 23(3) is therefore the legal reason why a Board of Investment promotion certificate retains its full value for a Chinese parent company, and it is a point worth raising when negotiating investment structures with Chinese counterparties accustomed to systems in which the residence State taxes the difference.

From the standpoint of legal philosophy, the Thailand-China Agreement raises the question of the legitimacy of source-based taxation. Article 13(4) and Article 22, which allow the source State to tax every kind of gain and other income arising there, rest on the principle that the State whose economy gives rise to the income has the first claim to a share (source entitlement), whereas the OECD Model rests on the principle that the State to which the taxpayer belongs has a claim over that person's worldwide income (residence entitlement). The 1986 Agreement clearly chose the source side, and that choice remains in the text even though both countries have since become capital exporters. As a result, Thai companies investing in China and Chinese companies investing in Thailand both face rules that give the host country broad taxing rights. The author considers this a fair balance between two countries with capital flowing in both directions, but it creates higher compliance costs than later-generation agreements that assign capital gains to the State of residence.

The interdisciplinary evidence that explains the weight of this Agreement is international investment data. The Office of the Board of Investment reports that in 2025 (B.E. 2568) foreign applications for investment promotion were worth 1,359,925 million baht, with China ranked third by value at 172,114 million baht but first by number of projects, at 982 projects, ahead of Singapore at 457 projects and Japan at 311 projects.[53] These figures show a distinctive feature of Chinese capital in Thailand: a large number of projects with a smaller average size than Singaporean and Hong Kong capital. From a tax-risk management perspective, this means that many businesses must make their own decisions on permanent establishment, royalties and profit repatriation without a large tax department. And because a share of Chinese capital flows

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through Singapore and Hong Kong, which occupy the first two places, the question of which agreement the recipient of dividends and royalties is the beneficial owner under becomes a routine question in every structure rather than an exception.

The conclusion for Thai readers is that the Thailand-China Agreement is not a tax-reduction tool but a tool for allocating taxing rights and preserving the incentive effect of investment-promotion benefits. Effective planning therefore lies in four points: classify service fees and royalties correctly from the contract drafting stage; control the number of days Chinese personnel spend in Thailand so that the 183-day threshold is not crossed inadvertently; use loans from Chinese financial institutions instead of loans from the parent company where tax cost is a factor; and structure the shareholding so that the Chinese parent holds at least 10% directly in order to use the indirect credit and tax sparing credit under Article 23(3).

Frequently asked questions about the Thailand-China double tax treaty

The answers below are based on the text of the Thailand-China Agreement signed on 27 October 1986, Sections 41, 50, 70 and 70 bis of the Revenue Code, and China's Enterprise Income Tax Law. Each answer also states the exceptions that the text provides, so that payers and recipients can check their own conditions before consulting the firm.

Must a Thai company withhold 15% under Section 70 on service fees paid to a Chinese company that works from China?

No, where the Chinese company has no permanent establishment in Thailand under Article 5, because the service fees are business profits under Article 7(1) of the Thailand-China Agreement, taxable only in China, and Section 3 of Royal Decree (No. 18) B.E. 2505 exempts the tax under Section 70. The exceptions are (1) where the services are performed in Thailand through employees for more than 183 days in aggregate within any twelve-month period under Article 5(2)(j), and (2) where the consideration is in substance a royalty under Article 12, such as a fee for

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transferring technical know-how or for information concerning industrial experience, which the Supreme Court decides by substance rather than by the name of the contract in Supreme Court Judgments Nos. 813/2565 and 3867/2531. In those cases 15% must be withheld.

At what rate are dividends paid by a Thai company to its parent in China taxed?

At 10% under Section 70 read with item (2)(c) of the income tax rate schedule, because the cap under Article 10(2) of the Agreement is 15% for a company directly holding at least 25% and 20% in other cases, which is higher than Thai law. The 10% rate therefore comes from domestic law and requires no residence certificate. A Chinese parent holding at least 10% may credit the Thai tax, both the withholding tax and the subsidiary's corporate income tax, including tax exempted under an investment promotion certificate, against its Chinese tax under Article 23(3).

How does withholding differ between interest on a loan from a Chinese bank and from a Chinese parent company?

Interest paid to a Chinese bank or insurance company that is the beneficial owner bears withholding of not more than 10% under Article 11(2), reduced from 15% under Section 70. Interest paid to a parent or affiliate that is not a financial institution has no cap in the Agreement, so the full 15% is withheld. The exceptions are interest paid to the Government of China, the People's Bank of China, the Bank of China in its central-bank functions, the State Development Bank, the China Import and Export Bank, the Agriculture Development Bank of China and financial institutions wholly owned by the Government as agreed, which is exempt under Article 11(3), and the part of the interest that exceeds what independent parties would have agreed, which does not benefit from the cap under Article 11(7).

Are rentals for machinery from China royalties or service fees?

They are royalties, because Article 12(3) of the Thailand-China Agreement defines royalties to include consideration "for the use of, or the right to use, industrial, commercial, or scientific equipment". Thailand may therefore withhold up to 15% under Article 12(2), the same as the Section 70 rate, so the Agreement does not reduce the tax on equipment rentals paid to China at all, unlike the Thailand-Singapore Agreement, under which equipment rentals bear 8%. The exception is where the equipment is effectively connected with a permanent establishment of

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the lessor in Thailand, in which case the rentals are business profits of the permanent establishment under Article 12(4) read with Article 7, taxable under Section 66, and the payer does not withhold under Section 70, following Supreme Court Judgment No. 6489/2534.

Is a Chinese employee sent by the parent company to work in Thailand for less than 183 days liable to Thai tax?

No, if all three conditions of Article 15(2) are met together: presence in Thailand for not more than 183 days in aggregate within any twelve-month period, an employer paying the remuneration that is not a Thai resident, and remuneration not borne by a permanent establishment or fixed base of the employer in Thailand. If any one condition is missing, Thailand may tax from the first day under Article 15(1) and Section 41, paragraph one, which taxes income from employment exercised in Thailand whether paid in or outside Thailand. Remuneration recharged to a Thai subsidiary or recorded as an expense of a project that is a permanent establishment therefore does not qualify for the exemption, and the test of 183 days within twelve months differs from the test of 180 days per tax year in Section 41, paragraph three.

Is a Chinese company that sells shares in a Thai company liable to Thai tax?

Yes, because Article 13(4) of the Thailand-China Agreement allows gains from the alienation of property other than immovable property, property of a permanent establishment, and ships or aircraft to be taxed in the State where the gains arise. Gains on shares in a Thai company are income under Section 40(4)(g) to the extent they exceed the investment cost, and the buyer must withhold 15% of the gain under Section 70 where the seller is a company, or under Section 50(2)(a) where the seller is an individual not resident in Thailand. This differs from the Thailand-Singapore Agreement, which assigns gains on shares to the State of residence of the alienator. The exception is where the seller makes no gain because it sells at or below cost, in which case there is no income under Section 40(4)(g) from which to withhold.

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How does the MLI change the Thailand-China Agreement and when does it take effect?

The MLI entered into force for Thailand on 1 July 2022 and for China on 1 September 2022. Under Article 35(1) of the MLI, the provisions on which both sides' choices match therefore have effect for taxes withheld at source on events occurring on or after 1 January 2023, and for other taxes for taxable periods beginning after six months from the later entry into force. What certainly changes are the two minimum standards: the preamble text stating that the agreement is not intended to create opportunities for non-taxation or reduced taxation through tax evasion or avoidance, and the principal purpose test (PPT), which both Thailand and China chose. Other optional provisions depend on each side's reservations and notifications, which must be checked in the OECD MLI database because the Revenue Department has not yet published a synthesized text for China.

The information in this article is general legal information based on the texts and judgments checked as at the date of update, not a legal opinion on any specific case. Applying a treaty rate to any particular payment depends on the contract, the recipient's residence and the facts concerning personnel in Thailand. The firm provides double tax treaty advisory services and permanent establishment risk analysis for payments to China and investment from China. This page is a translation for information. The Thai text prevails.

Notes

1. Revenue Department, list of conventions for the avoidance of double taxation, row "China": document type Convention (DTA); signed 27 October 1986 (B.E. 2529); entered into force 29 December 1986; status in force; modified by the MLI "Yes"; MLI entered into force 1 July 2022 (B.E. 2565); file china_th_dta.pdf (rd.go.th/765.html, checked 25 October 2026)

2. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, closing words of the Agreement: "DONE in duplicate at Bangkok on this 27th day of October, one thousand nine hundred and eighty-six Year of the Christian Era, each in the Thai, Chinese and English languages, all texts being equally authoritative, except in the case of doubt when the English text shall prevail." (Revenue Department, rd.go.th/english/2522.html, checked 25 October 2026)

3. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, note at the end of Article 2, paragraph 3, Article 3, paragraph 1, and Article 11, paragraph 3: "(As amended by the negotiations on the amendment of the Agreement between Thailand and the

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People's Republic of China, entered into force an 25 May 2000)" (spelling as in the original on the website) (Revenue Department, rd.go.th/english/2527.html, checked 25 October 2026) and (Revenue Department, rd.go.th/english/2525.html, checked 25 October 2026)

4. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 28: "1. This Agreement shall enter into force on the thirtieth day after the date on which diplomatic notes indicating the completion of internal legal procedures necessary in each country for the entry into force of this Agreement have been exchanged. 2. This Agreement shall have effect: (a) in respect of taxes withheld at the source, on amounts paid or remitted on or after the first day of January next following that in which the exchange of diplomatic notes takes place; (b) in respect of other taxes on income, for taxable years or accounting periods beginning on or after the first day of January next following that in which the exchange of diplomatic notes takes place." (Revenue Department, rd.go.th/english/2522.html, checked 25 October 2026)

5. Revenue Department, introductory page to the Thailand-China Agreement (intro: china, p.r.), which states that the Agreement was signed on 27 October 1986, that the two sides exchanged notes on the completion of their internal procedures on 29 November 1986, and that under Article 28 the Agreement applies in Thailand to withholding tax on amounts paid from 1 January 1987 and to other income taxes for tax years or accounting periods beginning on or after 1 January 1987 (rd.go.th/english/2528.html, checked 25 October 2026)

6. Royal Decree Issued under the Revenue Code Governing Tax Exemptions (No. 18) B.E. 2505 (1962), Section 3, which exempts persons under agreements for the avoidance of double taxation that the Thai Government has made or will make with foreign governments from taxes under the Revenue Code (Revenue Department, rd.go.th/2374.html, checked 29 September 2026, as cited in this site's article "What is a double tax treaty", and Supreme Court Judgment No. 7323/2560, for which the system lists this section as a relevant provision) Thai original: พระราชกฤษฎีกาออกตามความในประมวลรัษฎากรว่าด้วยการยกเว้นรัษฎากร (ฉบับที่ 18) พ.ศ. 2505 มาตรา 3 ให้ยกเว้นภาษีอากรตามประมวลรัษฎากรแก่บุคคล ตาม สัญญา ว่าด้วย การ เว้น การ เก็บภาษี ซ้อน ที่ รัฐบาลไทย ได้ ทำ ไว้ หรือ จะ ได้ ทำ กับ รัฐบาล ต่างประเทศ (กรมสรรพากร rd.go.th/2374.html, ตรวจ 29 กันยายน 2569 ตามที่อ้างในบทความ อนุสัญญาภาษีซ้อนคืออะไร ของเว็บไซต์นี้ และคำพิพากษาศาลฎีกาที่ 7323/2560 ซึ่งระบบระบุมาตรานี้เป็นบทกฎหมายที่เกี่ยวข้อง)

7. Supreme Court Judgment No. 3935/2548 (2005); provisions listed by the system: Revenue Code, Sections 3(2), 50, 54 and 70 bis; summary (unofficial translation): "Under the convention between Thailand and Japan, the laws in force in either Contracting State shall continue to govern the taxation of income in each Contracting State, except where the provisions of the convention provide otherwise" and "an employee, representative or go-between carrying on business in Thailand falls within the scope of liability to pay income tax on the disposal of profits, or any other money set aside out of profits or deemed to be profits, out of Thailand, if the conditions prescribed by Section 70 bis of the Revenue Code are met" (Supreme Court judgment search system, deka.supremecourt.or.th, checked as per the firm's register of verified texts) Thai original: คำพิพากษาศาลฎีกาที่ 3935/2548 มาตราที่ระบบระบุ ป.รัษฎากร มาตรา 3 (2) 50 54 70 ทวิ ฉบับย่อ "ตามอนุสัญญาระหว่างประเทศไทยกับประเทศญี่ปุ่นระบุว่า กฎหมายที่ใช้บังคับอยู่ในรัฐผู้ทำสัญญารัฐหนึ่งรัฐใด จะยังคงใช้บังคับในการเก็บภาษีอากรจากเงินได้ในรัฐผู้ทำสัญญาแต่ละรัฐ เว้นแต่ในกรณีที่บทของอนุสัญญานี้ได้กำหนดไว้เป็นอย่างอื่น" และ "ผู้เป็นลูกจ้าง หรือผู้ทำการแทน หรือผู้ทำการติดต่อในการประกอบกิจการในประเทศไทยอยู่ในขอบข่ายที่มีหน้าที่ต้องเสียภาษีเงินได้จากการจำหน่ายเงินกำไร หรือเงินประเภทอื่นใดที่กันไว้จากกำไร หรือที่ถือได้ว่าเป็นเงินกำไรออกไปจากประเทศไทยด้วย หากเข้า เงื่อนไข ตามที่ ป. รัษฎากร มาตรา 70 ทวิ กำหนด ไว้" (ระบบ สืบค้น คำพิพากษา ศาลฎีกา deka.supremecourt.or.th, ตรวจ 23 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

8. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 23, paragraph 1: "The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where express provisions to the contrary are made in this Agreement. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article."; paragraph 2: "In the case of Thailand, Chinese tax payable in respect of income derived from China shall be allowed as a credit against Thai tax payable in respect of that income. The credit shall not, however, exceed that part of the thai tax, as computed before the credit is given, which is appropriate to such item of income. For the purpose of this paragraph, the term Chinese tax payable shall be deemed to include the amount of Chinese tax which would have been paid if the Chinese tax had not been exempted or reduced in accordance with the special incentive laws designed to promote economic development in China, effective on the date of signature of this Agreement, or which may be introduced hereafter in modification of, or in addition to, the existing laws."; paragraph 3: "In the case of China, Thai tax payable in respect of income derived from Thailand shall be allowed as a credit against Chinese tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Thailand to a company which is a resident of China and which owns not less than 10 per cent of the shares of the company paying the dividend, the credit shall take into account Thai tax payable by that company in respect of its income out of which the dividend is paid. The credit shall not, however, exceed that part of the Chinese tax, as computed before the credit is given, which is appropriate to such item of income. For the purpose of this paragraph, the term Thai tax payable shall be deemed to include the amount of Thai tax which would have been paid if the Thai tax had not been exempted or reduced in accordance with the special incentive laws designed to promote economic development in Thailand, effective on the date of signature of this Agreement, or which may be introduced hereafter in modification of, or in addition to, the existing laws." (spelling as in the original on the website) (Revenue Department, rd.go.th/english/2523.html, checked 25 October 2026)

9. OECD, Signatories and Parties to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (status as of 11 December 2025): row China (People's Republic of), signed 07-06-2017, instrument deposited 25-05-2022, entry into force 01-09-2022, row Thailand, signed 09-02-2022, instrument deposited 31-03-2022, entry into force 01-07-2022 (oecd.org/tax/beps/beps-mli-signatories-and-parties.pdf, checked 25 October 2026)

10. Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, Article 35, paragraph 1, gives the Convention effect in each Contracting Jurisdiction with respect to a Covered Tax Agreement (a) for taxes withheld at source, where the event giving rise to such taxes occurs on or after the first day of the next calendar year that begins on or after the latest of the dates on which the Convention enters into force for each of the Contracting Jurisdictions, and (b) for all other taxes, for taxable periods beginning on or after the expiration of a period of six calendar months from the latest of those dates, unless a Contracting Jurisdiction has chosen or reserved otherwise under paragraphs 2 to 7 (summary of the text of the Convention published by the OECD, oecd.org, checked 25 October 2026)

11. OECD, Prevention of Tax Treaty Abuse, Sixth Peer Review Report on Treaty Shopping (2024), section China (People's Republic of): "China signed the MLI in 2017 and deposited its instrument of ratification on 25 May 2022" "The MLI entered into force for China on 1 September 2022." Table of China's agreements, row Thailand: "Yes" "MLI" "PPT" (oecd.org/en/publications/prevention-of-tax-treaty-abuse-sixth-peer-review-report-on-treaty-shopping_36cebf8e-en, checked 25 October 2026)

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12. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 2, paragraph 3: "The existing taxes to which the Agreement shall apply are: a) in the case of Thailand; (i) the income tax; and (ii) the petroleum income tax; (hereinafter referred to as Thai tax) (b) in the case of China; (i) the individual income tax; (ii) the income tax for enterprises with foreign investment and foreign enterprises; and (iii) the local income tax. (hereinafter referred to as Chinese tax)"; paragraph 4: "The Agreement shall also apply to any identical or substantially similar taxes on income which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of important changes which have been made in their respective taxation laws." (Revenue Department, rd.go.th/english/2527.html, checked 25 October 2026)

13. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 4, paragraph 1: "For the purposes of this Agreement, the term resident of a Contracting State means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, head office, place of incorporation or any other criterion of a similar nature."; paragraph 2: (a)-(d) tie-breaker tests for individuals, in order: permanent home, centre of vital interests, habitual abode, national, mutual agreement; paragraph 3: "Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall determine that the person is a resident of a Contracting State for the purposes of this Agreement by mutual agreement." (Revenue Department, rd.go.th/english/2527.html, checked 25 October 2026)

14. Revenue Code, Section 41 (unofficial translation): "A person deriving assessable income under Section 40 in the preceding tax year from an employment or business carried on in Thailand, or from the business of an employer in Thailand, or from property situated in Thailand, shall pay tax under the provisions of this Part, whether such income is paid in or outside Thailand. A resident of Thailand deriving assessable income under Section 40 in the preceding tax year from an employment or business carried on abroad, or from property situated abroad, shall pay income tax under the provisions of this Part when the assessable income is brought into Thailand. A person who stays in Thailand for a period or periods aggregating one hundred and eighty days in any tax year shall be deemed a resident of Thailand." (Revenue Department, rd.go.th/5937.html, checked 23 October 2026 as per the firm's register of verified texts) Thai original: ประมวลรัษฎากร มาตรา 41 "ผู้มีเงินได้พึงประเมินตามมาตรา 40 ในปีภาษีที่ล่วงมาแล้วเนื่องจากหน้าที่งานหรือกิจการที่ทำในประเทศไทย หรือเนื่องจากกิจการของนายจ้างในประเทศไทย หรือเนื่องจากทรัพย์สินที่อยู่ในประเทศไทย ต้องเสียภาษีตามบทบัญญัติในส่วนนี้ไม่ว่าเงินได้นั้นจะจ่ายในหรือนอกประเทศ ผู้อยู่ในประเทศไทยมีเงินได้พึงประเมินตามมาตรา 40 ในปีภาษีที่ล่วงมาแล้วเนื่องจากหน้าที่งานหรือกิจการที่ทำในต่างประเทศ หรือเนื่องจากทรัพย์สินที่อยู่ในต่างประเทศ ต้องเสียภาษีเงินได้ตามบทบัญญัติในส่วนนี้เมื่อนำเงินได้พึงประเมินนั้นเข้ามาในประเทศไทย ผู้ใดอยู่ในประเทศไทยชั่วระยะเวลาหนึ่งหรือหลายระยะ รวมเวลาทั้งหมดถึงหนึ่งร้อยแปดสิบวันในปีภาษีปีใด ให้ถือว่าผู้นั้นเป็นผู้อยู่ในประเทศไทย" (กรมสรรพากร rd.go.th/5937.html, ตรวจ 23 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

15. Supreme Court Judgment No. 813/2565 (2022) (unofficial translation): "If the plaintiff did not withhold the tax and did not remit to the defendant the tax it was obliged to withhold within the time prescribed by law, the plaintiff, as the payer, is jointly liable with RIM Canada or RIM Singapore, the income earner, for the tax payable in the amount of the tax not withheld and not remitted, under Section 54, paragraph one, and must also pay a surcharge of 1.5% per month or fraction of a month on the tax payable or remittable, excluding penalties, under Section 27" (Supreme Court judgment search system, deka.supremecourt.or.th, checked as per the firm's register of verified texts) Thai original: คำพิพากษาศาลฎีกาที่ 813/2565 "หากโจทก์ไม่ได้หักภาษีและไม่ได้นำเงินภาษีที่ตนมีหน้าที่ต้องหักนำส่งแก่จำเลยภายในเวลาที่กฎหมายกำหนด โจทก์ซึ่งเป็นผู้จ่ายเงินต้องรับผิดร่วมกับ RIM Canada หรือ RIM Singapore ผู้มีเงินได้ในการเสียภาษีที่ต้องชำระ

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ตามจำนวนเงินภาษีที่ไม่ได้หักและไม่ได้นำส่ง ตามมาตรา 54 วรรคหนึ่ง และต้องเสียเงินเพิ่มอีกร้อยละ 1.5 ต่อเดือนหรือเศษของเดือนของเงินภาษีที่ต้องเสียหรือนำส่งโดยไม่รวมเบี้ยปรับ ตามมาตรา 27" (ระบบสืบค้นคำพิพากษาศาลฎีกา deka.supremecourt.or.th, ตรวจแล้วตามทะเบียนตัวบทที่ยืนยันแล้วของสำนักงาน)

16. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 5, paragraph 1: "For the purposes of this Agreement, the term permanent establishment means a fixed place of business through which the business of an enterprise is wholly or partly carried on."; paragraph 2: "The term permanent establishment includes especially: (a) a place of management; (b) a branch; (c) an office; (d) a factory; (e) a workshop; (f) a farm or plantation; (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; (h) a building site, a construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than 6 months; (i) a warehouse, in relation to a person providing storage facilities for others; (j) the furnishing of services, including consultancy services, by a resident of one of the Contracting States through employees or other personnel, provided activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days within any twelve-month period." (Revenue Department, rd.go.th/english/2527.html, checked 25 October 2026)

17. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 5, paragraph 3: "Notwithstanding the preceding provisions of this Article, the term permanent establishment shall be deemed not to include: (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise; (b) the maintenance off a stock of goods or merchandise belonging to the enterprise solely for the purpose of storageor display; (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise." (spelling as in the original on the website); paragraph 4: "A person (other than a broker, general commission agent or any other agent of an independent status to whom paragraph 5 applies) acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned Contracting State, if: (a) he has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to those mentioned in paragraph 3 ...; or (b) he maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or make deliveries on behalf of the enterprise; or (c) he habitually secures orders in the first-mentioned Contracting State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it."; paragraph 5: "An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. For this purpose, an agent shall not be considered an agent of an independent status if it carries on in the other Contracting State an activity described in paragraph 4 wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it." (Revenue Department, rd.go.th/english/2527.html, checked 25 October 2026)

18. Revenue Code, Section 76 bis (unofficial translation): "Where a company or juristic partnership incorporated under foreign law has an employee, a representative or a go-between carrying on business in Thailand, thereby deriving income or gains in Thailand, such company or juristic partnership shall be deemed to be carrying on business in Thailand, and the person who is such employee, representative or go-between, whether an individual or a juristic person, shall be deemed to be the agent of the company or juristic partnership incorporated under foreign law, and shall have the duty and liability to file returns and pay tax under the provisions of this Part only in respect of such income or gains. In the case referred to in the first paragraph, if the person having the duty and liability to file returns and pay tax cannot compute the net profits for tax purposes under the provisions of this Part, the provisions on tax assessment under Section 71 (1) shall apply mutatis mutandis. An assessment under this section may be appealed." (Revenue Department, rd.go.th/5939.html, checked 4 October 2026 as per the firm's register of verified texts) Thai original: ประมวลรัษฎากร มาตรา 76 ทวิ "บริษัทหรือห้างหุ้นส่วนนิติบุคคลซึ่งตั้งขึ้นตามกฎหมายของต่างประเทศมีลูกจ้าง หรือผู้ทำการแทน หรือผู้ทำการติดต่อในการประกอบกิจการในประเทศไทย ซึ่งเป็นเหตุให้ได้รับเงินได้หรือผลกำไรในประเทศไทย ให้ถือว่าบริษัทหรือห้างหุ้นส่วนนิติบุคคลนั้น ประกอบกิจการในประเทศไทย และให้ถือว่าบุคคลผู้เป็นลูกจ้าง หรือผู้ทำการแทน หรือผู้ทำการติดต่อเช่นว่านั้น ไม่ว่าจะเป็นบุคคลธรรมดาหรือนิติบุคคลเป็นตัวแทนของบริษัทหรือห้างหุ้นส่วนนิติบุคคลซึ่งตั้งขึ้นตามกฎหมายของต่างประเทศ และให้บุคคลนั้นมีหน้าที่และความรับผิดในการยื่นรายการและเสียภาษีตามบทบัญญัติในส่วนนี้เฉพาะที่เกี่ยวกับเงินได้หรือผลกำไรที่กล่าวแล้ว ในกรณีที่กล่าวในวรรคแรก ถ้าบุคคลผู้มีหน้าที่และความรับผิดในการยื่นรายการและเสียภาษีไม่สามารถจะคำนวณกำไรสุทธิเพื่อเสียภาษีตามบทบัญญัติในส่วนนี้ได้ ให้นำบทบัญญัติว่าด้วยการประเมินภาษีตามมาตรา 71 (1) มาใช้บังคับโดยอนุโลม ในกรณีการประเมินตามความในมาตรานี้จะอุทธรณ์การประเมินก็ได้" (กรมสรรพากร rd.go.th/5939.html, ตรวจ 4 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

19. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 5, paragraph 6: "Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other Contracting State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 5."; paragraph 7: "The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other." (Revenue Department, rd.go.th/english/2527.html, checked 25 October 2026)

20. Supreme Court Judgment No. 124/2540 (1997); provisions listed by the system: Revenue Code, Sections 70 bis and 76 bis, and the Thailand-Belgium double tax convention; summary (unofficial translation): "Although the construction and installation of the telephone exchange network equipment was a project that the plaintiff had to carry out for a period exceeding 6 months, so that the plaintiff can be regarded as having a permanent establishment in Thailand ... this is a case in which the plaintiff had a permanent establishment only for the business under the contract for work; it does not mean that such permanent establishment was also a place of business for the business under the contract of sale" (Supreme Court judgment search system, deka.supremecourt.or.th, checked 23 October 2026 as per the firm's register of verified texts) Thai original: คำพิพากษาศาลฎีกาที่ 124/2540 มาตราที่ระบบระบุ ป.รัษฎากร มาตรา 70 ทวิ 76 ทวิ และอนุสัญญาภาษีซ้อนระหว่างประเทศไทยกับเบลเยี่ยม ฉบับย่อ "แม้การก่อสร้างและติดตั้งอุปกรณ์เครือข่ายชุมสายโทรศัพท์จะเป็นโครงการที่โจทก์ต้องเข้ามาดำเนินการมีกำหนดระยะเวลาเกินกว่า6เดือนอันถือได้ว่าโจทก์มีสถานประกอบการถาวรในประเทศไทย ... ก็เป็นกรณีที่โจทก์มีสถานประกอบการถาวรสำหรับธุรกิจตามสัญญาจ้างทำของเท่านั้น หาได้มีความหมายว่าสถานประกอบการถาวรดังกล่าวเป็นสถานประกอบการสำหรับธุรกิจตามสัญญาซื้อขายไปด้วยไม่" (ระบบสืบค้นคำพิพากษาศาลฎีกา deka.supremecourt.or.th, ตรวจ 23 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

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21. Supreme Court Judgment No. 1971/2537 (1994), Borneo Tech Co., Ltd., plaintiff v. Revenue Department, defendant; provision listed by the system: Revenue Code, Section 76 bis; summary (unofficial translation): "The plaintiff set the selling prices of the goods to customers itself, was free in its sales, was liable to customers if the goods sold were defective, and conducted its trading business with its own capital, any loss or profit falling to the plaintiff ... This is therefore a case in which the plaintiff carried on its own business of buying and selling goods in Thailand and was not an employee, representative or go-between of the seller company abroad" (Supreme Court judgment search system, deka.supremecourt.or.th, searched with the terms “convention People’s Republic of China double taxation”, summary version read, checked 25 October 2026) Thai original: คำพิพากษาศาลฎีกาที่ 1971/2537 บริษัท บอร์เนียวเทค จำกัด โจทก์ กรมสรรพากร จำเลย มาตราที่ระบบระบุ ป.รัษฎากร มาตรา 76 ทวิ ฉบับย่อ "โจทก์เป็นผู้กำหนดราคาขายสินค้าให้กับลูกค้าเอง โจทก์มีอิสระในการขาย ถ้าสินค้าที่ขายชำรุดบกพร่องโจทก์ต้องรับผิดต่อลูกค้า โจทก์ดำเนินธุรกิจซื้อขายด้วยทุนของตนเอง หากมีการขาดทุนหรือมีกำไรก็ตกเป็นของโจทก์ ... กรณีจึงเป็นเรื่องที่โจทก์ประกอบกิจการซื้อขายสินค้าในประเทศไทยด้วยตนเอง มิได้เป็นลูกจ้าง ผู้ทำการแทนหรือผู้ทำการติดต่อให้กับบริษัทผู้ขายในต่างประเทศ" (ระบบสืบค้นคำพิพากษาศาลฎีกา deka.supremecourt.or.th ค้นด้วยคำ "อนุสัญญา สาธารณรัฐประชาชนจีน ภาษีซ้อน" อ่านฉบับย่อ, ตรวจ 25 ตุลาคม 2569)

22. Agreement between the Government of the Kingdom of Thailand and the Government of the People’s Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 7, paragraph 1: "The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Contracting State but only so much of them as is attributable to that permanent establishment."; paragraph 2: "... there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment."; paragraph 3: "In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere." (Revenue Department, rd.go.th/english/2526.html, checked 25 October 2026)

23. Revenue Code, Section 70 (official translation by the Revenue Department): "A company or juristic partnership incorporated under foreign laws and not carrying on business in Thailand but receiving assessable income under Section 40 (2)(3)(4)(5) or (6) which is paid from or in Thailand, shall be liable to pay tax. The payer of income shall deduct corporate income tax from such assessable income at the corporate income tax rate and remit it to the local Amphur office together with the filing of a tax return in the form prescribed by the Director General within 7 days from the last day of the month in which such income is paid. Section 54 shall also apply mutatis mutandis." and the income tax rate schedule, item (2) (unofficial translation): "(b) Tax under Section 70, other than as specified in (c): 15%" "(c) Tax under Section 70, solely in the case of payment of assessable income under Section 40(4)(b): 10%" "(d) Tax under Section 70 bis: 10%" (Revenue Department, rd.go.th/5939.html and 5938.html, checked 15 October 2026 as per the firm’s register of verified texts; English text of Section 70: rd.go.th/english/37764.html) Thai original: ประมวลรัษฎากร มาตรา 70 "บริษัทหรือห้างหุ้นส่วนนิติบุคคลที่ตั้งขึ้นตามกฎหมายของต่างประเทศมิได้ประกอบกิจการในประเทศไทย แต่ได้รับ เงินได้พึงประเมิน ตามมาตรา 40 (2)(3) (4) (5) หรือ (6) ที่ จ่าย จาก หรือ ในประเทศไทย ให้ บริษัท หรือ ห้างหุ้นส่วนนิติบุคคลนั้นเสียภาษี โดยให้ผู้จ่ายหักภาษีจากเงินได้พึงประเมินที่จ่ายตามอัตราภาษีเงินได้สำหรับบริษัทหรือห้างหุ้นส่วนนิติบุคคล แล้ว นำ ส่ง อำเภอ ท้องที่ พร้อมกับ ยื่น รายการตามแบบที่ อธิบดี กำหนด ภายใน เจ็ด วัน นับ แต่ วัน สิ้นเดือน ของ เดือน ที่ จ่าย เงินได้พึงประเมินนั้น ทั้งนี้ ให้นำมาตรา 54 มาใช้บังคับโดยอนุโลม" และบัญชีอัตราภาษีเงินได้ (2) "(ข) ภาษีตามมาตรา 70 นอกจากที่ระบุใน

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(ค) ร้อยละ 15" "(ค) ภาษีตามมาตรา 70 เฉพาะกรณีการจ่ายเงินได้พึงประเมินตามมาตรา 40(4)(ข) ร้อยละ 10" "(ง) ภาษีตามมาตรา 70 ทวิ ร้อยละ 10" (กรมสรรพากร rd.go.th/5939.html และ 5938.html, ตรวจ 15 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

24. Revenue Code, Section 40 (unofficial translation): "Assessable income means income of the following categories, including the tax paid on behalf of the taxpayer by the payer or any other person in respect of such income, at whatever stage" (1) "Income derived from employment, whether in the form of salary, wages, per diem, bonus, gratuity, pension ..." (2) "Income derived from a post or from performance of work, whether in the form of fee, commission, discount, subsidy, meeting allowance ..." (3) "Fee of goodwill, copyright or any other rights, annuity or income in the nature of annual payments ..." (4) "(b) Dividend, share of profits or any other gain derived from a company or juristic partnership ..." and "(g) Gains from the transfer of a partnership interest, investment units, or the transfer of shares, debentures, bonds or bills, or debt instruments issued by a company, juristic partnership or other juristic person ... only to the extent that the value exceeds the investment cost" (5) "Money or any other gain derived from (a) rent of property ..." (6) "Income from liberal professions ..." (8) "Income derived from business, commerce, agriculture, industry, transport or any other activity not specified in (1) to (7)" (Revenue Department, rd.go.th/5937.html, checked 23 October 2026 as per the firm's register of verified texts) Thai original: ประมวลรัษฎากร มาตรา 40 "เงินได้พึงประเมินนั้นคือเงินได้ประเภทดังต่อไปนี้ รวมตลอดถึงเงินค่าภาษีอากรที่ผู้จ่ายเงินหรือผู้อื่นออกแทนให้สำหรับเงินได้ประเภทต่าง ๆ ดังกล่าว ไม่ว่าในทอดใด" (1) "เงินได้เนื่องจากการจ้างแรงงานไม่ว่าจะเป็นเงินเดือน ค่าจ้าง เบี้ยเลี้ยง โบนัส เบี้ยหวัด บำเหน็จ บำนาญ ..." (2) "เงินได้เนื่องจากหน้าที่หรือตำแหน่งงานที่ทำหรือจากการรับทำงานให้ ไม่ว่าจะเป็นค่าธรรมเนียม ค่านายหน้า ค่าส่วนลด เงินอุดหนุนในงานที่ทำ เบี้ยประชุม ..." (3) "ค่าแห่งกู๊ดวิลล์ ค่าแห่งลิขสิทธิ์ หรือสิทธิอย่างอื่น เงินปีหรือเงินได้มีลักษณะเป็นเงินรายปี ..." (4) "(ข) เงินปันผล เงินส่วนแบ่งของกำไร หรือประโยชน์อื่นใดที่ได้จากบริษัทหรือห้างหุ้นส่วนนิติบุคคล ..." และ "(ช) ผลประโยชน์ที่ได้จากการโอนการเป็นหุ้นส่วน โอนหน่วยลงทุน หรือโอนหุ้น หุ้นกู้ พันธบัตร หรือตั๋วเงิน หรือตราสารแสดงสิทธิในหนี้ที่บริษัทหรือห้างหุ้นส่วนนิติบุคคลหรือนิติบุคคลอื่นเป็นผู้ออก ... เฉพาะซึ่งตีราคาเป็นเงินได้เกินกว่าที่ลงทุน" (5) "เงินหรือประโยชน์อย่างอื่นที่ได้เนื่องจาก (ก) การให้เช่าทรัพย์สิน ..." (6) "เงินได้จากวิชาชีพอิสระ ..." (8) "เงินได้จากการธุรกิจ การพาณิชย์ การเกษตร การอุตสาหกรรม การขนส่ง หรือการอื่นนอกจากที่ระบุไว้ใน (1) ถึง (7) แล้ว" (กรมสรรพากร rd.go.th/5937.html, ตรวจ 23 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

25. Supreme Court Judgment No. 3867/2531 (1988); provisions listed by the system: Revenue Code, Sections 40(3), 70(2) and 76 bis; summary (unofficial translation): the Japanese company "sent experts to provide technical assistance to the plaintiff in paper production ... stationing 15 experts at the plaintiff's factory from 1976 to 1979 (B.E. 2519 to 2522)". The Court held that "the assistance given by Company H. to the plaintiff was not the carrying on of business by Company H. in Thailand but assistance to the plaintiff in carrying on the plaintiff's own business" and that "Company H. received assessable income under Section 40(3) paid from Thailand, because such money was a royalty within the meaning of the convention between Thailand and Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, Article 8(2); the plaintiff therefore had the duty to withhold and remit tax under Section 70(2) of the Revenue Code" (Supreme Court judgment search system, deka.supremecourt.or.th, checked 23 October 2026 as per the firm's register of verified texts) Thai original: คำพิพากษาศาลฎีกาที่ 3867/2531 มาตราที่ระบบระบุ ป.รัษฎากร มาตรา 40 (3) 70 (2) 76 ทวิ ฉบับย่อ บริษัทในญี่ปุ่น "ได้ส่งผู้เชี่ยวชาญมาให้ความช่วยเหลือ ทางเทคนิค แก่โจทก์ ใน การผลิต กระดาษ ... โดย ส่ง ผู้เชี่ยวชาญ 15 คน เข้ามา ประจำ อยู่ณ โรงงาน โจทก์ ตั้งแต่ ปี พ.ศ. 2519 ถึง 2522" ศาลวินิจฉัย ว่า "การ ที่ บริษัท ฮ. ให้ ความช่วยเหลือ แก่โจทก์ มิได้ เป็นการ ประกอบ กิจการ ของ บริษัท ฮ. ใน ประเทศไทย แต่ เป็นการให้ความช่วยเหลือแก่โจทก์ใน การ ประกอบ กิจการ ของโจทก์ เอง" และ "บริษัท ฮ. ได้รับ เงินได้พึงประเมิน ตามมาตรา 40(3) ที่ จ่าย จาก ประเทศ ไทย เพราะ เงิน ดังกล่าว เป็น ค่า สิทธิ ตาม ความหมาย ของ อนุสัญญา ระหว่างประเทศ ไทย กับ ประเทศญี่ปุ่น เพื่อการเว้นการเก็บภาษีซ้อนและการป้องกันการเลี่ยงรัษฎากรในส่วนที่เกี่ยวกับภาษีเก็บจากเงินได้ข้อ 8(2) โจทก์จึง มีหน้าที่ต้องเสียภาษีหัก ณ ที่จ่ายนำส่งตามประมวลรัษฎากร มาตรา 70(2)" (ระบบสืบค้นคำพิพากษาศาลฎีกา deka.supremecourt.or.th, ตรวจ 23 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

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26. Supreme Court Judgment No. 813/2565 (2022) (unofficial translation): "Although the contract designates them as service fees, they are deemed to be consideration for the use of, or the right to use, industrial equipment, or for information concerning industrial, commercial or scientific experience, under Article 12 of the double tax agreement between the Government of the Kingdom of Thailand and the Government of the Republic of Singapore (DTA), and constitute payments of assessable income under Section 40 (3) of the Revenue Code" (Supreme Court judgment search system, deka.supremecourt.or.th, checked as per the firm's register of verified texts) Thai original: คำพิพากษาศาลฎีกาที่ 813/2565 "แม้จะกำหนดในสัญญาว่าเป็นค่าบริการ แต่ถือว่าเป็นค่าตอบแทนการให้ใช้หรือสิทธิในการใช้อุปกรณ์ทางอุตสาหกรรมหรือเพื่อข้อสนเทศเกี่ยวกับประสบการณ์ทางอุตสาหกรรม พาณิชยกรรม หรือวิทยาศาสตร์ ตามอนุสัญญาภาษีซ้อนระหว่างรัฐบาลแห่งราชอาณาจักรไทยกับรัฐบาลแห่งสาธารณรัฐสิงคโปร์ (DTA) ข้อ 12 และเป็นการจ่ายเงินได้พึงประเมินตาม ป. รัษฎากร มาตรา 40 (3)" (ระบบสืบค้นคำพิพากษาศาลฎีกา deka.supremecourt.or.th, ตรวจแล้วตามทะเบียนตัวบทที่ยืนยันแล้วของสำนักงาน)

27. Revenue Code, Section 66 (unofficial translation): "A company or juristic partnership incorporated under Thai law, or incorporated under foreign law and carrying on business in Thailand, shall pay tax under the provisions of this Part. A company or juristic partnership incorporated under foreign law and carrying on business elsewhere as well as in Thailand shall pay tax on net profits from or in consequence of business carried on in Thailand in the accounting period, and the computation of net profits shall be made in the same manner as under Section 65 and Section 65 bis; but if such net profits cannot be computed, the provisions on tax assessment under Section 71 (1) shall apply mutatis mutandis." (Revenue Department, rd.go.th/5939.html, checked 4 October 2026 as per the firm's register of verified texts) Thai original: ประมวลรัษฎากร มาตรา 66 "บริษัทหรือห้างหุ้นส่วนนิติบุคคลที่ตั้งขึ้นตามกฎหมายไทย หรือที่ตั้งขึ้นตามกฎหมายของต่างประเทศและกระทำกิจการในประเทศไทยต้องเสียภาษีตามบทบัญญัติในส่วนนี้ บริษัทหรือห้างหุ้นส่วนนิติบุคคลที่ตั้งขึ้นตามกฎหมายของต่างประเทศและกระทำกิจการในที่อื่น ๆ รวมทั้งในประเทศไทย ให้เสียภาษีในกำไรสุทธิจากกิจการหรือเนื่องจากกิจการที่ได้กระทำในประเทศไทยในรอบระยะเวลาบัญชี และการคำนวณกำไรสุทธิให้ปฏิบัติเช่นเดียวกับมาตรา 65 และมาตรา 65 ทวิ แต่ถ้าไม่สามารถจะคำนวณกำไรสุทธิดังกล่าวแล้วได้ ให้นำบทบัญญัติว่าด้วยการประเมินภาษีตามมาตรา 71 (1) มาใช้บังคับโดยอนุโลม" (กรมสรรพากร rd.go.th/5939.html, ตรวจ 4 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

28. Supreme Court Judgment No. 7323/2560 (2017), Deutsche Bank, plaintiff v. Revenue Department, defendant (tax division); provisions listed by the system: Revenue Code, Sections 65 bis (2), 65 ter (14) and 70 bis, and Royal Decree (No. 18) B.E. 2505, Section 3; summary (unofficial translation): "The plaintiff therefore bears the burden of proving that the amount of expenses allocated from the head office and the regional office was appropriate and not excessive" (Supreme Court judgment search system, deka.supremecourt.or.th, checked as per the firm's register of verified texts) Thai original: คำพิพากษาศาลฎีกาที่ 7323/2560 ธนาคารดอยช์แบงก์ โจทก์ กรมสรรพากร จำเลย (แผนกภาษีอากร) มาตราที่ระบุ ป. รัษฎากร มาตรา 65 ทวิ (2) 65 ตรี (14) 70 ทวิ และพระราชกฤษฎีกา (ฉบับที่ 18) พ.ศ. 2505 มาตรา 3 ฉบับย่อ "โจทก์จึงต้องมีภาระการพิสูจน์ว่า จำนวนรายจ่ายที่ปันส่วนจากสำนักงานใหญ่และสำนักงานภูมิภาคมีจำนวนที่เหมาะสมไม่เกินสมควร" (ระบบสืบค้นคำพิพากษาศาลฎีกา deka.supremecourt.or.th, ตรวจแล้วตามทะเบียนตัวบทที่ยืนยันแล้วของสำนักงาน)

29. Revenue Code, Section 50, extract of the parts relating to recipients not resident in Thailand (unofficial translation): "A person, partnership, company, association or body of persons paying assessable income under Section 40 shall deduct income tax at each payment of assessable income in the following manner: (1) ... in the case of assessable income under Section 40 (2), other than as specified in paragraph three, paid to a recipient who is not a resident of Thailand, the deduction shall be computed at the rate of 15.0 per cent of the income (2) in the case of assessable income under Section 40 (3) and (4), the deduction shall be computed at the income tax rate, except that (a) in the case of assessable income under Section 40 (3) and (4), other than as specified in (b), (c), (d) and (e), paid to a recipient who is not a resident of Thailand, the deduction shall be computed at the rate of 15.0 per cent of the income ... (e) in the case of assessable income under Section 40 (4) (b), the deduction shall be computed at the rate of 10.0 per cent of the income ... (3) in the case of assessable income under Section 40 (5) and (6) paid to a recipient who is not a

resident of Thailand, the deduction shall be computed at the rate of 15.0 per cent of the income" (Revenue Department, rd.go.th/5937.html, checked 23 October 2026 as per the firm's register of verified texts) Thai original: ประมวลรัษฎากร มาตรา 50 คัดเฉพาะส่วนที่เกี่ยวกับผู้รับซึ่งมิได้เป็นผู้อยู่ในประเทศไทย "ให้บุคคล ห้างหุ้นส่วน บริษัท สมาคม หรือคณะบุคคลผู้จ่ายเงินได้พึงประเมินตามมาตรา 40 หักภาษีเงินได้ไว้ทุกคราวที่จ่ายเงินได้พึงประเมินตามวิธีดังต่อไปนี้ (1) ... ในกรณีเงินได้พึงประเมินตามมาตรา 40 (2) นอกจากที่ระบุไว้ในวรรคสามที่จ่ายให้แก่ผู้รับซึ่งมิได้เป็นผู้อยู่ในประเทศไทย ให้คำนวณหักในอัตราร้อยละ 15.0 ของเงินได้ (2) ในกรณีเงินได้พึงประเมินตามมาตรา 40 (3) และ (4) ให้คำนวณหักตามอัตราภาษีเงินได้ เว้นแต่ (ก) ในกรณีเงินได้พึงประเมินตามมาตรา 40 (3) และ (4) นอกจากที่ระบุไว้ใน (ข) (ค) (ง) และ (จ) ที่จ่ายให้แก่ผู้รับซึ่งมิได้เป็นผู้อยู่ในประเทศไทยให้คำนวณหักในอัตราร้อยละ 15.0 ของเงินได้ ... (จ) ในกรณีเงินได้พึงประเมินตามมาตรา 40 (4) (ข) ให้คำนวณหักในอัตราร้อยละ 10.0 ของเงินได้ ... (3) ในกรณีเงินได้พึงประเมินตามมาตรา 40 (5) และ (6) ที่จ่ายให้แก่ผู้รับซึ่งมิได้เป็นผู้อยู่ในประเทศไทยให้คำนวณหักในอัตราร้อยละ 15.0 ของเงินได้" (กรมสรรพากร rd.go.th/5937.html, ตรวจ 23 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

30. Enterprise Income Tax Law of the People's Republic of China (中华人民共和国企业所得税法, adopted by the National People's Congress on 16 March 2007, second amendment 29 December 2018), Article 3, paragraph three: "非居民企业在中国境内未设立机构、场所的，或者虽设立机构、场所但取得的所得与其所设机构、场所没有实际联系的，应当就其来源于中国境内的所得缴纳企业所得税。" Article 4: "企业所得税的税率为25％。非居民企业取得本法第三条第三款规定的所得，适用税率为20％。" Article 27: "企业的下列所得，可以免征、减征企业所得税：... （五）本法第三条第三款规定的所得。" (Unofficial translation: a non-resident enterprise that has no establishment or place in China, or whose income is not actually connected with its establishment or place, shall pay enterprise income tax on its income sourced in China, the tax rate is 25%, and for income under Article 3, paragraph three, 20%, income under Article 3, paragraph three, may be exempted or reduced) (State Taxation Administration policy and law database, fgk.chinatax.gov.cn/zcfgk/c100009/c5193018/content.html, checked 25 October 2026)

31. Regulations for the Implementation of the Enterprise Income Tax Law of the People's Republic of China (中华人民共和国企业所得税法实施条例, State Council Decree No. 512, promulgated 6 December 2007, second amendment 6 December 2024), Article 91: "非居民企业取得企业所得税法第二十七条第(五)项规定的所得，减按10%的税率征收企业所得税。下列所得可以免征企业所得税：(一)外国政府向中国政府提供贷款取得的利息所得;(二)国际金融组织向中国政府和居民企业提供优惠贷款取得的利息所得;(三)经国务院批准的其他所得。" (Unofficial translation: income of a non-resident enterprise under Article 27(5) is taxed at a reduced rate of 10%, interest on loans from foreign governments to the Chinese Government, interest on concessional loans from international financial organisations, and other income approved by the State Council are exempt) (fgk.chinatax.gov.cn/zcfgk/c100010/c5194417/content.html, checked 25 October 2026)

32. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 10, paragraph 2: "However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that Contracting State, but, if the recipient is the beneficial owner of the dividends and is a company, excluding partnership, the tax so charged shall not exceed: (a) 15 per cent of the gross amount of the dividends if the recipient holds directly at least 25 per cent of the shares of the company paying the dividends, (b) 20 per cent of the gross amount of the dividends in other cases. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid."; paragraph 3: "The term dividends as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the tax laws of the Contracting State of which the company making the distribution is a resident."; paragraph 5: "Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may

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not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Contracting State, nor subject the companys undistributed profits to a tax on the companys undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other Contracting State." (spelling as in the original on the website) (Revenue Department, rd.go.th/english/2526.html, checked 25 October 2026)

33. Revenue Code, Section 70 bis, paragraph one (unofficial translation): "Where a company or juristic partnership disposes of profits, or any other money set aside out of profits or deemed to be profits, out of Thailand, it shall pay income tax by deducting the tax from the amount disposed of at the income tax rate for companies or juristic partnerships, and remit it to the local Amphur office together with the filing of a return in the form prescribed by the Director-General within seven days from the date of disposal" and the income tax rate schedule, item (2): "(d) Tax under Section 70 bis: 10%" (Revenue Department, rd.go.th/5939.html and 5938.html, checked 4 and 15 October 2026 as per the firm's register of verified texts) Thai original: ประมวลรัษฎากร มาตรา 70 ทวิ วรรคหนึ่ง "บริษัทหรือห้างหุ้นส่วนนิติบุคคลใดจำหน่ายเงินกำไรหรือเงินประเภทอื่นใดที่กันไว้จากกำไรหรือที่ถือได้ว่าเป็นเงินกำไรออกไปจากประเทศไทย ให้เสียภาษีเงินได้ โดยหักภาษีจากจำนวนเงินที่จำหน่ายนั้นตามอัตราภาษีเงินได้สำหรับบริษัทหรือห้างหุ้นส่วนนิติบุคคล แล้วนำส่งอำเภอท้องที่พร้อมกับยื่นรายการตามแบบที่อธิบดีกำหนดภายในเจ็ดวันนับแต่วันจำหน่าย" และบัญชีอัตราภาษีเงินได้ (2) "(ง) ภาษีตามมาตรา 70 ทวิ ร้อยละ 10" (กรมสรรพากร rd.go.th/5939.html และ 5938.html, ตรวจ 4 และ 15 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

34. Thailand-Singapore Agreement signed 11 June 2015, Article 10A, paragraph 2: the tax under Section 70 bis "shall not exceed 10 per cent of the gross amount"; Article 12, paragraph 2: royalties at 5%, 8% and 10%, the 8% rate covering "the use of, or the right to use, industrial, commercial, or scientific equipment"; and Article 13, paragraph 5: "Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident." (Revenue Department, rd.go.th/765.html, file singapore_en_dta_v2.pdf, checked 15 October 2026, as cited in this site's article on the Thailand-Singapore double tax treaty)

35. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 11, paragraph 1: "Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State."; paragraph 2: "However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest in case it is received by any financial institution (including an insurance company)."; paragraph 4: "The term interest as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtors profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as similar income treated as income from money lent by the taxation laws of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article."; paragraph 7: "Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement." (Revenue Department, rd.go.th/english/2525.html, checked 25 October 2026)

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36. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 11, paragraph 3: "Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State. For the purposes of this paragraph, the term Government (a) in the case of Thailand, means the Royal Government of Thailand and shall include: (i) the Bank of Thailand; (ii) the Export - Import Bank of Thailand; (iii) the Government Saving Bank; (iv) the Government Housing Bank; (v) the local authorities; and (vi) such financial institutions, the capital of which is wholly owned by the Royal Government of Thailand or any local authority as may be agreed from time to time between the competent authorities of both of the Contracting Stats; (b) in the case of China, means the Government of the Peoples Republic of China and shall include: (i) the Peoples Bank of China and Bank of China to the extent that its activity is carried on within the scope of the normal authority of a central bank; (ii) State Development Bank; (iii) China Import and Export Bank; (iv) the Agriculture Development Bank of China; (v) the local authorities; and (vi) such financial institutions, the capital of which is wholly owned by the Government of the Peoples Republic of China or any local authority as may be agreed from time to time between the competentauthorities of both of the Contracting States. (As amended by the negotiations on the amendment of the Agreement between Thailand and the People's Republic of China, entered into force an 25 May 2000)" (spelling as in the original on the website) (Revenue Department, rd.go.th/english/2525.html, checked 25 October 2026)

37. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 12, paragraph 2: "However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15 per cent of the gross amount of the royalties."; paragraph 3: "The term royalties as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience."; paragraph 4: "The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply." (Revenue Department, rd.go.th/english/2525.html, checked 25 October 2026)

38. Supreme Court Judgment No. 6489/2534 (1991); provisions listed by the system: Revenue Code, Sections 66 and 70; summary (unofficial translation): "The Thailand branch office, being the same juristic person as the company, was therefore the one carrying on the business by reason of which the company received royalties in Thailand, and had the duty to pay tax under Section 66 of the Revenue Code. This is not income of a foreign juristic person not carrying on business in Thailand under Section 70, so the plaintiff, as payer of the royalties, had no duty to withhold and remit tax" (Supreme Court judgment search system, deka.supremecourt.or.th, checked 23 October 2026 as per the firm's register of verified texts) Thai original: คำพิพากษาศาลฎีกาที่ 6489/2534 มาตราที่ระบบระบุ ป.รัษฎากร มาตรา 66 70 ฉบับย่อ "สำนักงานสาขาประเทศไทยอันเป็นนิติบุคคลเดียวกันกับบริษัทจึงเป็นผู้กระทำกิจการอันเป็นเหตุให้บริษัทได้รับเงินค่าสิทธิใน

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ประเทศไทย และมีหน้าที่เสียภาษีตาม ป.รัษฎากร มาตรา 66กรณีมิใช่เงินได้ของนิติบุคคลต่างประเทศที่มิได้ประกอบกิจการในประเทศไทยตามมาตรา 70 โจทก์ผู้จ่ายเงินค่าสิทธิจึงไม่มีหน้าที่หักภาษี ณ ที่จ่ายและนำส่ง" (ระบบสืบค้นคำพิพากษาศาลฎีกา deka.supremecourt.or.th, ตรวจ 23 ตุลาคม 2569 ตามทะเบียนตัวบทที่ยืนยันแล้ว)

39. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 15, paragraph 1: "Subject to the provisions of Articles 16,18,19,20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State."; paragraph 2: "Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned Contracting State if: (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days within any twelve-month period, and (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State, and (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State." (Revenue Department, rd.go.th/english/2525.html, checked 25 October 2026)

40. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 14, paragraph 1: "Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State except in the following circumstances, when such income may also be taxed in the other Contracting State: (a) if he has a fixed base available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days within any twelve-month period; in that case, only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other Contracting State; or (c) if the remuneration for his activities in the other Contracting State is paid by a resident of that other Contracting State or is borne by a permanent establishment or a fixed base situated in that other Contracting State; in that case, only so much of the remuneration as is derived therefrom may be taxed in that other Contracting State."; paragraph 2: "The term professional services includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, dentists, lawyers, engineers, architects and accountants." (Revenue Department, rd.go.th/english/2525.html, checked 25 October 2026)

41. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 16: "1. Directors fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting State. 2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other Contracting State."; Article 17, paragraph 3: "The provisions of paragraphs 1 and 2 of this Article shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by an entertainer or an athlete if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof."; Article 18: "1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in

consideration of past employment shall be taxable only in that Contracting State. 2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration derived by a resident of a Contracting State may be taxed in the other contracting State if such payments are borne by an enterprise of that other Contracting State or by a permanent establishment situated therein." (Revenue Department, rd.go.th/english/2524.html, checked 25 October 2026)

42. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 13: "1. Gains derived by a resident of a Contracting State from the alienation of immovable property situated in the other Contracting State as defined in Article 6 may be taxed in that other Contracting State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment ... may be taxed in that other Contracting State. 3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State. 4. Gains from the alienation of any property or assets, other than those referred to in paragraphs 1, 2 and 3 of this Article, arising in a Contracting State, may be taxed in that Contracting State." (Revenue Department, rd.go.th/english/2525.html, checked 25 October 2026)

43. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 20: "An individual who, immediately before visiting a Contracting State, was a resident of the other Contracting State and whose visit to the first-mentioned Contracting State is solely for the purpose of: (a) studying at a university or other recognized educational institution; or (b) securing training to qualify him to practise a profession or trade; or (c) studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organization; shall be exempt from tax in the first-mentioned Contracting State on: (i) remittances from abroad for the purposes of his maintenance, education, study, research or training; (ii) the grant, allowance or award; and (iii) income from personal services rendered in that Contracting State provided the income constitutes earnings reasonably necessary for his maintenance and education."; Article 21: "1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution which is recognized by the competent authority in that other Contracting State, visits that other Contracting State for a period not exceeding 3 years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting State on any remuneration for such teaching or research. 2. This Article shall only apply to income from research if such research is undertaken by the individual for the public interest and not primarily for the benefit of some other private person or persons." (Revenue Department, rd.go.th/english/2524.html, checked 25 October 2026) and (Revenue Department, rd.go.th/english/2523.html, checked 25 October 2026)

44. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 22: "Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement may be taxed in the Contracting State where the income arises." (Revenue Department, rd.go.th/english/2523.html, checked 25 October 2026)

45. Supreme Court judgment search system, deka.supremecourt.or.th: the search terms "อนุสัญญา สาธารณรัฐประชาชนจีน ภาษีซ้อน" (convention, People's Republic of China, double taxation) returned 1 result (Supreme Court Judgment No. 1971/2537), the terms "ประเทศจีน เว้นการเก็บภาษีซ้อน" (China, avoidance of double taxation) and "อนุสัญญาภาษีซ้อน จีน ค่าสิทธิ" (double tax convention, China, royalties) returned no results (checked 25 October 2026)

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46. Agreement between the Government of the Kingdom of Thailand and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (signed 27 October 1986), English text, Article 25, paragraph 1: "Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the domestic laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement." (Revenue Department, rd.go.th/english/2523.html, checked 25 October 2026)

47. State Taxation Administration, Announcement on Issues concerning "Beneficial Owners" in Tax Agreements (国家税务总局关于税收协定中"受益所有人"有关问题的公告, Announcement No. 9 of 2018, dated 3 February 2018, applying to tax payment or withholding obligations arising on or after 1 April 2018), item 1: ""受益所有人"是指对所得或所得据以产生的权利或财产具有所有权和支配权的人。" item 2 (1): "申请人有义务在收到所得的12个月内将所得的50%以上支付给第三国（地区）居民" (2): "申请人从事的经营活动不构成实质性经营活动"; item 4 treats an applicant as the beneficial owner of dividends directly where it is "缔约对方政府" "缔约对方居民且在缔约对方上市的公司" "缔约对方居民个人", or a company 100% held directly or indirectly by such persons and, where the shares are held indirectly, the intermediate holder must be a resident of China or of the other contracting state ("且间接持有股份情形下的中间层为中国居民或缔约对方居民") (Unofficial translation: a beneficial owner is a person who has ownership and control over the income or the rights or property from which the income arises, negative factors: an obligation to pay more than 50% of the income to residents of a third country within 12 months; business activities that do not constitute substantive business activities, safe harbour: the government of the other Contracting State, a company resident in and listed in the other Contracting State, an individual resident of the other Contracting State) (fgk.chinatax.gov.cn/zcfgk/c100012/c5194781/content.html, checked 25 October 2026)

48. Enterprise Income Tax Law of the People's Republic of China, Article 37: "对非居民企业取得本法第三条第三款规定的所得应缴纳的所得税，实行源泉扣缴，以支付人为扣缴义务人。税款由扣缴义务人在每次支付或者到期应支付时，从支付或者到期应支付的款项中扣缴。" and Article 58: "中华人民共和国政府同外国政府订立的有关税收的协定与本法有不同规定的，依照协定的规定办理。" (Unofficial translation: income tax payable by a non-resident enterprise on income under Article 3, paragraph three, is withheld at source, with the payer as the withholding agent, at each payment or when each payment falls due, where a tax agreement concluded between the Government of the People's Republic of China and a foreign government provides differently from this Law, the agreement shall apply) (fgk.chinatax.gov.cn/zcfgk/c100009/c5193018/content.html, checked 25 October 2026)

49. Her Majesty the Queen v. Prévost Car Inc., 2009 FCA 57 (Docket A-252-08), Federal Court of Appeal of Canada, judgment of 26 February 2009 (Décary J.A., Blais J.A., Sharlow J.A.), appeal of the Crown dismissed with costs; issue: Canada-Netherlands convention, Article 10, paragraph 2, 5% rate. The Court endorsed the Tax Court's definition (paragraphs 13-14) that "the "beneficial owner" of dividends is the person who receives the dividends for his or her own use and enjoyment and assumes the risk and control of the dividend he or she received" and that "one does not pierce the corporate veil unless the corporation is a conduit for another person" (decision.tcc-cci.gc.ca/fca-caf/decisions/en/36329/1/document.do, checked 25 October 2026)

50. Court of Justice of the European Union (Grand Chamber), Judgment of 26 February 2019, N Luxembourg 1 and Others v Skatteministeriet, Joined Cases C-115/16, C-118/16, C-119/16 and C-299/16, ECLI:EU:C:2019:134, operative part, point 2: "the exemption of interest payments from any taxes that is provided for by it is restricted solely to the beneficial owners of such interest, that is to say, the entities which actually benefit from that interest economically and accordingly have the power freely to determine the use to which it is put. The general principle of EU law that EU law cannot be relied on for abusive or fraudulent ends must be interpreted as meaning that, where there is a

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fraudulent or abusive practice, the national authorities and courts are to refuse a taxpayer the exemption of interest payments from any taxes that is provided for in Article 1(1) of Directive 2003/49, even if there are no domestic or agreement-based provisions providing for such a refusal." point 3: "Such indications can include, in particular, the existence of conduit companies which are without economic justification and the purely formal nature of the structure of the group of companies, the financial arrangements and the loans." (EUR-Lex CELEX 62016CJ0115, checked 25 October 2026)

51. Bruce A. Blonigen and Ronald B. Davies, "The Effects of Bilateral Tax Treaties on U.S. FDI Activity", International Tax and Public Finance 11(5): 601-622 (2004) DOI 10.1023/B:ITAX.0000036693.32618.00, abstract: "we find little evidence that bilateral tax treaties increase FDI activity" (Springer, link.springer.com, and Crossref, checked 15 October 2026, as cited in this site's article on the Thailand-Singapore double tax treaty)

52. James R. Hines, Jr., "'Tax Sparing' and Direct Investment in Developing Countries", NBER Working Paper No. 6728 (September 1998) DOI 10.3386/w6728, the abstract states that Japanese investors in countries with which Japan has agreements "are entitled to claim foreign tax credits for income taxes that they would have paid to foreign governments in the absence of tax holidays and other special abatements", while "the United States does not", and finds that "Japanese firms are subject to 23% lower tax rates than are their American counterparts in countries with whom Japan has agreements" (National Bureau of Economic Research, nber.org/papers/w6728, and Crossref, checked 23 October 2026, as cited in this site's article on the Thailand-Japan double tax treaty)

53. Office of the Board of Investment, Press Release No. 15/2569 (26 January 2026), summary of applications for investment promotion in 2025 (B.E. 2568): total applications 3,370 projects worth 1,876,653 million baht, foreign direct investment 1,359,925 million baht, Singapore 547,316 million baht, 457 projects, Hong Kong 245,335 million baht, 266 projects, China 172,114 million baht, 982 projects, Japan 119,098 million baht, 311 projects, United Kingdom 100,322 million baht, 29 projects (boi.go.th/upload/content/PR15_2569EN.pdf, checked 25 October 2026)

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