Retirement in Thailand: Visas, work permits, foreign property ownership and taxation basics

by

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Introduction: In this article, we discuss retirement visas in Thailand, working in Thailand for retirees, other more recent visa concepts, foreign ownership of property, and the basics of Thai income tax, inheritance tax and gift tax.

<u>Retirement visas and work permits</u>

Retirement visa:

- An applicant must be aged over 50
- The applicant must show savings of 800,000 Baht in a Thai bank account or income of 65,000 Baht per month, or a mixture of both
- The money must be deposited in the account for at least three months prior to the application being made.
- If the applicant has a spouse to whom he/she is married or children aged under 20, they can join with the principal applicant. Those aged over 20 must establish their own visa status eg as a student or otherwise.
- Thailand is in process of permitting same sex marriage /recognizing same sex marriages registered outside Thailand (see below)
- A retirement visa is granted for one year at a time, renewable before expiry
- If the applicant holds a retirement visa and wishes to work, it is necessary to terminate the retirement visa, and apply for a B visa and a work permit (see below).

Retirement visa holders who wish to work: If a retirement visa holder wishes to work, the following rules apply:

- In general, all foreigners must have a valid visa and work permit to work in Thailand

- If a retiree wants to work in Thailand, he/she must cancel the retirement visa and apply for a B visa (B stands for business or employment) and also apply for a general work permit, or apply under one of the special visa categories below.

- Work permits are mot "stand alone" except in a few special cases eg journalists or ministers of religion. A work permit must be sponsored by a company (an applicant may also be a shareholder or director of that company).

- A work permit will name: the employer that the applicant works for, describe the duties the WP holder may carry out, and the location for performance of work. If any of these matters change, the WP holder must apply to the Ministry of Labour in advance for approval of the changes, and if approved, the MOL will endorse the changes in the work permit.

- A work permit is valid for up to one year (two years if the employer is a company with Board of Investment promotion) and must be renewed before expiry.

- A work permit musty be produced for inspection to an authorised official.

- A work permit must be surrendered within seven days of resignation.

- If a foreigner's visa expires/is terminated, then the work permit automatically expires.

LTR (long term resident) visas: LTR (Long term resident) visas have been offered since September 2022. All applications are submitted to and granted by the Board of Investment, rather than the Immigration Bureau.

NOTE: The rules for LTR visas are in the process of revision. It is possible that some of these rules may be softened. (eg the limit on the number of dependents, and the requirements for years of previous experience)

There are four types of LTR visa. The first two are particularly relevant to retirees. The other two schemes are included here for the sake of completeness.

All LTR applicants: are eligible to claim the following rights:

- A five year visa, followed by a second five year visa (subject to compliance with applicable requirements)
- Where the applicant works for a Thai company, a waiver from the usual rule that a company must employ four Thais for every foreigner employed
- Applicants need only report their address annually, instead of every 90 days
- A multiple re-entry visa is included
- Exemption from the requirement to obtain a work permit
- Use of the One Stop Service Centre to process the visa application

1. *Wealthy foreigners:* They must:

- have assets of at least US$1 million
- have received personal income of at least US$80,000 a year for the previous two years
- Have invested at least US$500,000 in Thai government bonds or real property in Thailand

2. *Wealthy pensioners:* They must:

- Be aged 50 or more

- Have personal income of at least US$80,000 a year at the date of application OR
- Have income of at least US$40,000 a year and invest at least US$250,000 in Thai government bonds, foreign direct investment or real property in Thailand

3. *Work from Thailand professionals:* They must have:

- Personal income of at least US$80,000 a year for the last two years OR
- Had income of at least US$40,000 a year for the last two years
- A master's degree or higher or own intellectual property or receive series A funding

The employer of a Category 3 applicant must be:

- A public company listed on a stock exchange OR
- A private company in operation for at least three years with total revenue of at least US$150,000 in the last three years

An applicant under category 3 must have had at least five years of experience in relevant fields of current employment during the last 10 years

4. *Highly skilled professionals;* They must have:

- Personal income of at least US$80,000 a year for the last two years OR
- Income of at least US$40,000 a year for the last two years, or before retirement
- A master's degree or higher in science or technology or special expertise that is relevant (where the applicant works for a Thai government agency, no need to prove minimum personal income)

The employer of such a person must be: a Thai or foreign enterprise; a higher education institution, specialized training institution or a government agency in one of 14 specified fields.

Experience: Applicants in category 4 must have:

- Five years' experience within the last 10 years in the targeted industry OR
- Hold a doctorate or higher in the relevant fields in the targeted industry or be an applicant working for a Thai government agency

5. *Spouses and children:* A joint applicant of a principal applicant, must be a legal spouse (same sex unions are recognized, but the supporting rules have not yet been issued) or child aged under 20. The total of the spouse and children must not exceed four persons.

Health insurance requirements: All applicants, their spouses and children must arrange health insurance cover of at least US$50,000 per person with approved insurers, or supply a deposit of at least US$100,000 per person.

Income tax concessions: The following income tax concessions are noteworthy:

- Highly skilled professionals are only required to pay income tax at a flat rate of 17%.
- Applicants in categories 1-3 are entitled to an income tax exemption for income derived from a post or business conducted abroad or arising from assets located abroad that have been brought into Thailand. Spouses and children are not entitled to this exemption.

Thailand Elite visa: This scheme is offered by the Thailand Elite Visa company, which is owned by the government. Initially, it started as a scheme to offer concessionary access to shops, spas, limousine services, golf courses, internet banking, fast track visa processing at Thai airports, etc.

These rights still apply, but more importantly, it offers access to long term visas, in return for lump sum fee payments.

Cost of Elite visas: Different rights are offered, depending on the cost and term of the visa. Fees payable are between 900,000 Baht – 5 million Baht for a visa of up to 20 years including certain services depending on the fees paid and the length of the visa acquired. Additional fees are charged to family members.

Thailand Elite visa requirements: An applicant must comply with the following:

- No visa overstay records in Thailand
- Not disqualified from staying in Thailand under Thai law
- Hold a foreign passport from an accepted country
- Not have been declared a person of unsound mind, incompetent, or quasi-incompetent;
- Not have been sentenced to imprisonment in any country (except for an offence committed through negligence)

Foreign ownership of land

Foreigners may not generally own land in Thailand. This includes foreign retirees. The alternatives are:

1. *Purchase a condominium*

    - Note that all the purchase monies must be brought into Thailand (unless the foreigner has a residence permit)

    - Foreigners may purchase up to 49% of the usable space in a condominium development (NB the rule is NOT 49% of the units in the building)

    - NB Issues may arise on the death of a condominium owner and inheritance of the condo by his/her beneficiaries.

2. *Lease a condominium or house*

- A lease of property can be granted for up to 30 years with one option to extend the lease for up to 30 years (NB the rule is one extension, not two)

- A lease for more than three years must be registered at the Land Department, as should the option. NB this will incur Land Department fees.

- Will the lease/the option bind the seller's successors?

3. *Purchase the house/lease the land*

- This structure is only possible in practice with the co-operation of the seller

- A lease/an option to extend must be the same length as in 2 above

Same sex marriage: Note that early in 2024, Thailand passed an enabling Bill to permit same sex marriage. The specific rules relating to same sex marriage, and issues such as employment, visas and dissolution of marriage have not been issued yet.

<u>Personal income tax</u>

Note that there are proposals under current discussion for Thai tax residents to be liable to pay Thai tax on all income, whether or not brought into Thailand.

Concept of residence: Taxpayers are classified into resident and non-resident. Resident means a person who resides in Thailand for a period or periods aggregating 180 days or more in the calendar year. Any taxpayer, whether or not Thai tax-resident, is liable to pay tax on income from sources in Thailand, regardless of where the money is actually paid.

A Thai tax-resident may also be subject to tax on income from sources overseas, if that income is brought into Thailand. In contrast, a tax non-resident will not be subject to tax on income sourced from overseas.

Assessable income: Income liable to personal income tax includes income both in cash and in kind, including benefits provided by an employer or others, such as a rent-free house or car or the amount of tax paid by the employer on behalf of the employee. Assessable income is divided into eight categories.

Permitted deductions from gross income: These range from 10%-50% depending on the nature of the income.

Personal allowances There are certain annual personal allowances that are deductible from income.

Non-residents: There is no withholding tax on income earned by non-residents for services performed outside Thailand, but paid from Thailand.

Dividends and shares of profit paid to a non-resident individual are subject to a flat rate of 10% withholding tax.

Current personal income tax rate bands: The current income tax rate bands are shown below:

Net income (Thai Baht)	PIT rate
0 to 150,000	Exempt
150,001 to 300,000	5%
300,001 to 500,000	10%
500,001 to 750,000	15%
750,001 to 1,000,000	20%
1,000,001 to 2,000,000	25%
2,000,001 to 5,000,000	30%
Over 5,000,000	35%

Date for tax payment A taxpayer is liable to submit a personal income tax return and pay the income tax due before March 31 of the year following the year of assessment.

In some cases a taxpayer must during the first six months of the tax year file a half - yearly return and pay half of the estimated annual tax due before September 30 in the year of assessment.

Where no tax return need be filed: The minimum income threshold for being required to file a tax return is as follows:

For a taxpayer who has only employment income:

- if single, if the annual income exceeds 100,000 baht; and
- If legally married, and the total of the taxpayer's and spouse's income exceeds 200,000 baht

For a taxpayer who has employment income and any other income, or who has only other income that is not employment income:

- if single, if annual income exceeds 60,000 baht ; and
- if legally married, and the sum of the taxpayer's and spouse's income exceeds 120,000 baht.

Inheritance tax

Thailand inheritance tax came into effect in Thailand in February 2016.

Who is liable to pay inheritance tax: The persons liable for IHT are:

- Thais or non-Thais who reside in Thailand, who inherit property anywhere in the world worth more than 100 million Baht

- Non-Thais who are not resident in Thailand who inherit property in Thailand worth more than 100 million Baht

- Thai or non-Thai companies or juristic partnerships with more than 50% of their capital owned by Thais, or more than 50% of their management being Thais, that inherit property anywhere in the world exceeding 100 million Bt

What assets are subject to inheritance tax? The assets liable to Thai IHT are:

- Immoveable property

- Shares in public companies

- Bank deposits or equivalent

- Motor vehicles

What are the IHT rates? The IHT rates are:

- 5% of the amount exceeding 100 million Baht, where the beneficiary is an ascendant or descendant of the deceased

- 10% of the amount exceeding 100 million Baht, in any other case

Time for filing an IHT return and paying the tax: When must an IHT return be filed and the tax paid?

- An IHT return must be filed within 150 days of the recipient receiving the asset/assets concerned. The tax may be paid by instalments within five years provided that a surcharge is imposed after two years

- Penalties arise if a return is not filed, or the tax not paid.

<u>Gift tax</u>

Gift tax also came into effect in Thailand in February 2016. It applies to gifts made during the life of the donor.

When does gift tax arise? Gift tax arises on money or assets given to any person, that exceeds the tax threshold (see below)

What gifts are exempt from gift tax?

- Income from the transfer of immoveable property to a legitimate/legitimated child not exceeding 20 million Bt in a tax year (the calendar year)

- Maintenance or gifts paid to an ascendant, descendant or spouse not exceeding 20 million Bt in a tax year

- Maintenance or gifts paid to any other person on occasions of tradition or custom, not exceeding 10 million Baht in a tax year

- Income from gifts to a person intended to be used for education, religion or public benefit is not subject to tax

Income or gifts exceeding the thresholds above is subject to PIT at 20%

Gratuitous transfers: Any gratuitous transfer of immoveable property to a legitimate/legitimated child is subject to a 5% withholding tax on the amount exceeding 20 million Bt

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