Q & A
Regional Operating Headquarter

What is ROH?
Regional Operating Headquarters or ROH is a juristic company incorporated in Thailand providing managerial, administrative and technical services as well as other supporting services to ROH’s foreign branches or associated enterprises.

What are the criteria for ROH (Previous scheme) in order to qualify for tax privileges?
ROH shall meet the following criteria to qualify for the privileges:
1. Minimum paid-up capital must not be less than 10 Million Baht at the end of each accounting period;
2. Provide services to its branches or associated enterprises in at least 3 countries;
3. Half of its total income is derived from administrative, technical and other supporting services provided to its branches or associated enterprises in other countries and royalties received from outside of Thailand for the use of ROH’s R&D. This criteria can be mitigated to one-third of the total revenue in the first three accounting periods of its operation as ROH. In the case of Force Majeure, the Director-General of the Revenue Department may lower the income threshold for one accounting period; and
4. Notify the Revenue Department of its incorporation as ROH. The benefits will be given starting from the notified accounting period onwards.

What are the tax privileges for ROH (Previous scheme)?
ROH incorporated in Thailand will enjoy the following privileges:
1. Corporate income tax at the rate of 10 percent of net profits for income derived from services provided to ROH’s foreign branches or associated enterprises;
2. Corporate income tax at the rate of 10 percent of net profits for royalties derived from ROH’s foreign branches or associated enterprises for the use of Research and Development (R&D) done in Thailand by ROH. This benefit is also extended to royalties received from a third party providing services to ROH’s branches or associated enterprises using ROH’s R&D;
3. Corporate income tax at the rate of 10 percent of net profits on interest received from ROH’s foreign branches or associated enterprises for loans granted, provided that such loans are made from other sources and extended to ROH’s branches or associated enterprises;
4. Tax exemption for dividends received from ROH’s associated enterprises;
5. Tax exemption for dividends paid out of ROH’s concessionary profits to its shareholders not carrying on business in Thailand;
6. Accelerated depreciation for buildings at the rate of 25 percent on the date of acquisition. The residual value can be depreciated within 20 years.
What are the qualify criteria for ROH Tax privileges (New scheme)?

1. Paid-up capital at the end of each accounting period of a company operating as ROH must be at least 10 million Baht.
2. Provide services to associated enterprises in foreign countries
   - At least one country in the first and the second accounting periods
   - At least two countries in the third and the fourth accounting period starting from the first accounting period the company wishes to receive tax benefits.
   - At least three countries from the fifth accounting period onwards
3. Have total business spending of at least 15 million baht per year (The business spending refers to total operating costs which are paid to individuals or companies in Thailand, but exclude royalties and know-how fees paid overseas, raw materials, components and packaging) or Have investment spending (actual payment) of at least 30 million baht per annum paid in Thailand which is directly related to ROH.
4. Foreign associated enterprises must have executive or senior manager and employees working for ROH services and have actual business operation.
5. Maintain at least 75 percent of skilled staff from total employees by the end of the third accounting period (Skilled staff shall be in accordance with the criteria set by the Director-General of the Revenue Department)
6. Remuneration per worker of at least 2.5 million Baht per annum for at least 5 employees by the end of the third accounting period.
7. Notify the Revenue Department about ROH’s incorporation within 5 years from the date the law becomes effective.
8. If ROH company meets all 7 required criteria from (1-7) in every accounting periods and if accumulated business spending exceeds 150 million Baht by the tenth accounting period, the company may apply for ROH privilege extension for another 5 accounting periods.
9. If ROH fails to meet required criteria in certain accounting period, ROH will disqualify for tax privilege from the date it was incorporated as ROH with the Revenue Department.

What are the tax privileges for ROH (New scheme)?

ROH operated under new model will enjoy the following privileges:

1. Corporate income tax exemption on net profits for income derived from services provided to ROH’s foreign branches or associated enterprises for 10 years.
2. 10 percent corporate income tax on net profits for income derived from services provided to ROH’s domestic branches or associated enterprises for 10 years.

ROH will receive additional tax privileges if the company derived income from the provision of services abroad to its associated enterprises or branches abroad or received royalty from its associated enterprises or branches abroad as a result of R&D and technology development services carried out in Thailand. This income must account for at least 50 % of total revenue*, tax privilege will be valid for 10 years starting from the first accounting period.

(Total revenue* means ROH income plus non-ROH income)

1. Exemption of corporate income tax on dividend received from its associated enterprises incorporated under Thai and foreign law.
2. Exemption of corporate income tax on dividend paid from net profits to companies incorporated under foreign law and not operating its business in Thailand.

3. Reduction of corporate income tax to 10% on royalty received from companies, juristic partnerships, associated enterprises or foreign branches of ROH. This royalty must arise from provision of R&D and technical development carried out by ROH in Thailand.

4. Reduction of corporate income tax to 10% on interest received from associated enterprises or foreign branches of ROH. This interest must arise from loan taken out by ROH to relend to its branches or associated enterprises.

What does “Associated enterprise” mean?
The Revenue Department has two criteria in determining whether or not one company can be considered as an ROH’s associated enterprise:

1. **Shareholding basis.** A company shall be regarded as ROH’s associated enterprise if:
   i. ROH holds at least 25 percent of that company’s issued capital; or
   ii. The company holds at least 25 percent of ROH’s issued capital; or
   iii. The company holds at least 25 percent of ROH and other company’s issued capital. In this case, ROH and the other company are regarded as associated enterprises.

   ![Diagram of Shareholding basis]

   ROH and Co. B are associated enterprises.

2. **Control basis.** A company shall be regarded as ROH’s associated enterprise if:
   i. ROH has control over that company; or
   ii. The company has control over ROH; or
   iii. The company has control over ROH and the other company. In this case, ROH and the other company are regarded as associated enterprises.

   “Control” in this context is understood according to General Accepted Accounting Principles.
Which services provided by ROH to its associated enterprises or branches would qualify for tax privileges?

Services that ROH provides to its branches or associated enterprises that qualify for tax privileges are: Managerial and administrative, technical services, and supporting services. Supporting services include:

1. General administration, business planning and coordination
2. Procurement of raw materials and components
3. Research and development of products
4. Technical support
5. Marketing and sales promotion planning
6. Personnel management and regional training
7. Financial advisory services
8. Economic or investment research and analysis
9. Credit control and administration
10. Any other activities stipulated by the Director-General of the Revenue Department

Which companies qualify for ROH privileges?

Companies that are eligible for ROH privileges are:

1. A company incorporated in Thailand, currently operating and intending to become ROH; or

How can an operating company become ROH?

1. An existing Thai incorporated company that wishes to become ROH (Previous scheme) and receive tax privileges must notify the Revenue Department by submitting the notification form at the Large Taxpayer Office (LTO). Tax privileges will be granted to ROH starting from the notified accounting period onwards.

2. Company that wishes to operate as ROH (new scheme) must register with the Revenue Department within five years from the date the new ROH tax law becomes effective. The ROH must follow rule, regulation and conditions as specify in the Director General announcement. The ROH company will receive tax benefits within that accounting period or the following accounting period. On the other hand ROH can choose to use accounting period to start on the date when he application was made, thus, the first accounting period can be less than twelve months.

Application must be handed in at large taxpayer office at the Revenue Department Headquarters or at the Area Revenue Office where company is situated. An electronic application form can be downloaded at www.rd.go.th

In the case where a Thai incorporated company that is subject to Foreign Business Act (FBA) 1999 wishes to become ROH, the company must request for its scope of business amendment to cover the activities of ROH at Department of Commercial Registration, Ministry of Commerce. The request will be considered within 60 days from the date of submission. The company may start its operation as ROH once the approval is given.
Under the FBA, “foreigner” means:
1. natural person not of Thai nationality;
2. juristic person not registered in Thailand;
3. juristic person registered in Thailand having the following characteristics:
   a) having half or more of the juristic person’s capital shares held by persons in 1. or 2.; or
   b) having half or more of the capital of fund derived from persons in 1. or 2.; or
   c) being limited partnership or registered ordinary partnership whose managing partner or manager is not of Thai nationality;
4. Juristic person registered in Thailand having half or more of its capital shares held by persons in 1., 2. or 3. or a juristic person having the persons in 1., 2., or 3. above investing with a value of half or more of the total capital.

The shares of a limited company represented by bearer share certificates are treated as the shares of foreigners, unless the Ministry of Commerce provides otherwise in Ministerial Regulations.

What does a new company that wishes to be entitled for ROH tax privileges have to do?
The company shall incorporate under the Civil and Commercial Code at the Ministry of Commerce, then apply for Tax Identification Number (TIN), register for VAT and notify to be ROH at the Revenue Department.

In the case where a Thai newly incorporated company that wishes to become ROH is subject to Foreign Business Act (FBA) 1999, the company must request for an approval from the Department of Commercial Registration, Ministry of Commerce, before starting its operation.

What shall foreign companies that wish to establish ROH in Thailand and be granted non-tax privileges have to do?
Foreign companies that wish to be granted non-tax privileges given under Promotion Investment Act in addition to tax privileges given by the Revenue Department must apply for investment promotion privileges from the Board of Investment (BOI) BEFORE notifying the Revenue Department of their intention to become ROH.

Non-tax privileges that will be granted include:
- Land ownership;
- Majority or total foreign ownership;
- Hiring of expatriates; and
- Repatriation of foreign currency.

Foreign companies interested in applying for investment promotion privileges, please contact the Board of Investment.
What are the BOI non-tax privileges for ROH (New scheme)?

1. Removal of the previous condition that obliges companies with a minimum of 50% foreign shareholding to have registered capital of at least 20 million baht to be eligible for approval on management position for foreigners.
2. Updated criteria for first-time position approval, extending the period for BOI-promoted companies that have not yet begun operations from 1 year to 2 years, or the same as those which have begun operations.
3. Reduction of time required for position approval and visa & work permit approval from 40 days to 5-20 days.
4. Reduction of the list of documents required for visa & work permit approval from 10 documents to 5-7 documents.

How shall an ROH calculate its Corporate Income Tax if it also has income that is not entitled to tax privileges under the scheme?

When calculating Corporate Income Tax, ROH has to separate non-qualified tax privileges income and expenses from the qualified income and its related expenses. If the expenses can not be separated, ROH must apportion non-qualified and qualified expenses by the ratio of the received income. However, if such method of apportion does not reflect the reality of business, ROH may seek for the Director-General of the Revenue Department’s approval to use other more accurate and realistic way of calculation.

How should ROH file its tax return?

ROH has to file Corporate Income Tax by using the Form CIT 50 for the annual filing and Form CIT 51 for the half-yearly filing. Nevertheless, if ROH has other income that is subject to normal tax rate of 30% or special rates granted by BOI, it has to file 2 returns for each form:

1st return – for income that is granted reduction/exemption under ROH scheme,
2nd return – for income that is subject to normal tax rate of 30% or special rates granted by BOI.

ROH will have to prepare only one Balance sheet and separate income statements, one for each return, and file everything at the same time to the District Revenue Office where ROH is situated.

What are the tax privileges for expatriates working for ROH?

1. The privileges for expatriates working for ROH (Previous scheme) are as follows:

   (1) Expatriate may choose to be taxed at the rate of 15 percent. By doing so, the income received must not be calculated together with other income and claimed for refunds. This privilege is available only to expatriates employed by ROH and are limited to 4 consecutive years of employment in Thailand. It does not matter how extensively the beneficiaries have to travel abroad during the employment period. To be entitled for the benefits once again, expatriates have to discontinue employment with any ROH in Thailand for more than 365 days.
(2) Expatriates who are being sent to work in another country by ROH will receive a tax exemption in Thailand for 4 consecutive years on their income paid by the foreign company for services rendered abroad, provided that such income is neither directly or indirectly deducted as ROH’s nor its associated enterprise’s expenses in Thailand.

2. The privileges for expatriates working for ROH (New scheme) are as follows:

Expatriates working for ROH registered with the Revenue Department will receive tax privilege provided that in any accounting period ROH receives income from services provided to ROH its associated enterprises or branches abroad and/or income from provision of R&D and technology development to foreign country which accounts for at least 50% of total revenue. Tax privileges are as follows.

(1) Expatriates employed by ROH may choose to be taxed at the rate of 15 percent on income deriving from ROH for 8 consecutive years.

(2) Expatriates who are being sent to work in another country by ROH will receive a tax exemption in Thailand for 8 consecutive years on their income paid by the foreign company for services rendered abroad, provided that such income is neither directly or indirectly deducted as ROH’s nor its associated enterprise’s expenses in Thailand.

What does the term “expatriate” mean?
The term “expatriate” means a person who is not a Thai national and is employed by ROH.

What are the procedures in applying for visa and work permit for expatriates working in ROH?
ROH which is granted investment promotion privileges may employ expatriates, together with their spouse and other persons under their care, into Thailand. These expatriates can work only in the approved positions and only for the approved company. There are 3 steps in applying for visa and work permit as follows:

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<td>1.1 Responsible agency approves positions for expatriates; 1.2 Approval is given to the positions requested.</td>
<td>Immigration Bureau approves the expatriates who can work in Thailand during the period requested by the specific company.</td>
<td>Department of Employment approves the work permit for expatriates valid for the period requested by the specific company.</td>
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The 3-step process can be done at 18th floor Chamchuri Square Building, Phayathai Road, Phathuwan Bangkok 10330 Tel. 02 209 1100 Fax. 02 209 1194.
- Foreign Expert Service Unit (Step 1)
- Visa and Work permit Unit (Step 2 and 3)
As for ROH which does not wish to apply for promotion investment privileges from BOI, the ROH must apply for work permit at Work Permit Unit, One Stop Service Center for Visa and Work Permit, and then apply for visa at Immigration Bureau, Royal Thai Police.

If an expatriate has a contract with ROH (Previous scheme) for more than 4 years, will he/she still continue receiving the privileges?  
An expatriate will receive the tax privileges only during the first 4 years of employment in Thailand. He/she will need to pay regular Personal Income Tax, according to the Revenue Code, for the income received after the two-year period. However, if he/she discontinues working for ROH in Thailand for more than 365 days, he/she will receive the tax privileges for another 4 consecutive years. Tax privilege for expatriates will starts and ends on the same day.

Will expatriate who receive tax privilege for four years in the previous scheme receive another eight years of tax privilege according to the new ROH scheme?  
Expatriates who already received four years of tax privilege will receive another eight year of tax privilege, provided that the new ROH meets the new criteria.

What are the new qualifying criteria for expatriates in ROH(new scheme)?  
Expatriates will receive tax benefits if he is a senior expert senior specialist or senior executives and is registered with the Revenue department.

How should an expatriate file the Personal Income Tax return?  
Expatriate who received tax benefits must file the Personal Income Tax return using PND 95 for benefit income. Expatriates who join the office during the year (prior to the Revenue Department approval) has to file PND 90 or 91 depending on the type of his income.

Does the minimum skills requirement applies to Thai or foreign workers?  
Minimum skills and knowledge requirement applies to both Thai and foreign employees with the ratio of 75 % of skilled staff from total employees