

Act on Compliance of the Agreement between the Government of the Kingdom of Thailand
and the Government of the United States of America
to Improve International Tax Compliance
B.E. 2560 (2017)

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun

Given on the 16th day of October B.E. 2560

Being the 2nd of the present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to have a law on a compliance of the Agreement between the government of the Kingdom of Thailand and the government of the United States of America to improve international tax compliance.

This Act contains certain provisions in relation to the restriction of rights and liberties of person, in respect of which section 26, in conjunction with section 28, section 32, and section 37 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

The rationale and necessity to restrict the rights and freedom of a person in accordance with this Act are to efficiently comply with the Agreement between the Government of the Kingdom of Thailand and the Government of the United States of America to Improve International Tax Compliance and to implement FATCA, done on March 4, B.E. 2559. The enactment of this Act complies with the criteria under section 26 of the Constitution of the Kingdom of Thailand.

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly serving as the National Assembly, as follows:

Section 1. This Act is called the “Act on Compliance the Agreement between the Government of the Kingdom of Thailand and the Government of the United States of America to Improve International Tax Compliance B.E. 2560 (2017)”

Section 2.¹ This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. In this Act:

“Agreement” means the Agreement between the Government of the Kingdom of Thailand and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA.

“Reporting Financial Institution” means

- (1) a depository institution under the law concerning depository institution;
- (2) a securities company under the law concerning securities company;
- (3) a Specialized Financial Institutions
- (4) an institution that obtains a license to engage in a life insurance business under the law concerning life insurance, and an institution that obtains a license to engage in a non-life insurance business under the law concerning non-life insurance;
- (5) a derivative dealer permitted under the law concerning derivatives;
- (6) an escrow agent established under the law concerning escrow agent;
- (7) a credit card issuer, in accordance with the Declaration of the Revolutionary Council No. 58 Dated 26th January B.E. 2515;
- (8) any entity that conducts a business as a custodial institution, depository institution, or investment entity;

thus, the definition is only limited to an entity that meets the criteria of type , size, or provide financial service or product as prescribed by a royal decree in accordance with the Agreement.

“exchange information” means any information, in possession of a reporting financial institution, as specified in Article 2 of the Agreement.

“competent authority” means the Minister of Finance or his authorized representative.

“Minister” means the Minister having charge and control of the execution of this Act.

Section 4. For an achievement of the Agreement, a reporting financial institution shall be responsible to collect and submit exchange information to a competent authority, in accordance with terms and conditions as specified in a ministerial regulation.

Section 5. A Competent Authority shall hold duties and authorities as follows:

¹ The Government Gazette, Vol. 134, Part 110n/ page 17/ Dated 18th October B.E. 2560

(1) to exchange information with a U.S. competent authority according to a period and procedure as specified in the Agreement;

(2) to disclose an information, exchanged between a Thai competent authority and a U.S. competent authority, to any state agency, requesting in order to comply with a law the agency is subjected;

(3) to order director, manager, managing person, employee, or any other relating person to report, to testify , to submit a written statement, or to submit any account, document, or other relating evidences, in order to comply with this Act;

(4) to perform any other acts as prescribed by this Act, or other laws.

Section 6. In case where any person requests a competent authority to certify their status as a reporting financial institution under this Act, the competent authority shall promptly issue a status certificate for such person.

Application and issuance of a status certification, following clause 1, shall be made in accordance with the rules and procedures prescribed in a ministerial regulation.

Section 7. In case where it appears to a competent authority that a reporting financial institution breaches or does not comply with section 4, the competent authority shall be entitled to order the reporting financial institution to restrain an act deemed breaching nor noncompliance, or to rectify within a specified period

If the reporting financial institution does not comply with the order given by the competent authority, following clause 1, the competent authority shall be entitled to order an administrative fine not exceeding one hundred thousand Baht, and ten thousand Baht per day during the period of continued violation or until rectification has been made.

Section 8. Any person who comes to know information, exchanged between a Thai competent authority and a U.S. competent authority, and discloses of such information to any other person, unless the action is executed in order to comply with a duty or authority given by this Act or other laws, that person shall be punished with imprisonment for a term not exceeding one year, or an administrative fine not exceeding one hundred thousand Baht, or both.

Section 9. The Minister of Finance shall be in charge under this Act, and shall have the power to issue any ministerial regulation for the execution of this Act.

A ministerial regulation shall come into force upon their publication in the Government Gazette.

Countersigned by

General Prayut Chan-o-cha

Prime Minister

Remark : - The reason for the promulgation of this Act is that the Agreement between the Government of the Kingdom of Thailand and the Government of the United States of America for Cooperation in Improving International Tax Compliance and to implement FATCA has been entered into on 4 march B.E. 2559 (2016). Thailand has an obligation to exchange information with the Government of the United States of America for the purpose of improving and developing the efficiency of the country's tax collection in the long term, it is expedient to have the law on the compliance the agreements between the Government of the Kingdom of Thailand and the Government of the United States of America in order to prescribe the rules, procedures and conditions for the exchange of information under the agreement including determining the duties and powers of the competent authority. It is therefore necessary to enact this Act.