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Imposition of VAT on electronic services (e-services) provided from abroad

The Thai Revenue Department has amended the tax legislation to impose VAT on electronic services provided from abroad that are used in Thailand by service recipients that are not VAT-registered in Thailand, through the Act to Amend the Revenue Code (No. 53) that was published in the government gazette on 10 February 2021. The provisions of the act in relation to the imposition of VAT will apply to income received or expenses paid as from 1 September 2021; these provisions are summarized below.

Amendment of definitions

"Goods" will mean tangible and intangible property that is capable of being valued and owned, whether it is held for sale, for use, or for another purpose, including all imported property. The definition will not include intangible property delivered via the internet or any network platform.

"Electronic services" will mean services including the delivery of intangible property provided via the internet or any network platform, if a substantial portion of the services is rendered automatically and such services would not be possible in the absence of the information technology.

"Electronic platform" will mean a marketplace, channel, or any other platform used by service providers to provide electronic services to the recipients.

VAT requirements for e-service providers and platform operators

1. Service providers supplying electronic services from abroad that are used in Thailand by service recipients that are not VAT registrants in Thailand will be liable to remit VAT to the Revenue Department. No input VAT deduction may offset the output VAT.
2. In the case of service providers supplying electronic services from abroad through an electronic platform, the operator of the electronic platform will be liable for remitting VAT on behalf of all service providers operating through the electronic platform on an aggregate basis, without providing separate details of the services supplied by each service provider. The electronic platform operators in this case will be subject to requirements and liabilities that are similar to those of service providers.

VAT requirements for payers of e-service fees

In the following cases, the payer of service fees (generally, the recipient of the services) to a supplier that provides electronic services from abroad that are used in Thailand is required to remit VAT to the Revenue Department under a reverse-charge mechanism:

- Where the payer of the service fees for electronic services is a VAT registrant in Thailand; or
- Where the supplier is providing any kind of services other than electronic services, regardless of whether the payer of the service fees is a VAT registrant in Thailand.

Exemption from VAT registration requirements

Business operators providing services from abroad that are used in Thailand will not be required to register for VAT if the following requirements are met:

- The operator provides electronic services only to users that are VAT registrants in Thailand; or
- The operator provides a type of services that does not fall within the definition of electronic services, regardless of whether the user is a VAT registrant in Thailand

Prohibition on issuance of tax invoices

Business operators providing electronic services from abroad that are used in Thailand by users that are not VAT registrants in Thailand will be prohibited from issuing tax invoices.

Tax measures in response to COVID-19

Thailand's government has introduced the following tax measures in response to COVID-19:

Reduction of land and building tax for tax year 2021

Royal Decree (No. 2) was issued on 31 January 2021 regarding a reduction of the tax on specified land and buildings for tax year 2021. The decree includes the particulars summarized below:

- A 90% tax reduction will apply to the amount of tax calculated under the Land and Building Tax Act 2019 (section 42 or section 95, depending on the circumstances) that is payable for tax year 2021 for the following land and buildings:
 - Land or buildings used for agricultural purposes;
 - Land or buildings used for residential purposes;
 - Land or buildings used for purposes other than agricultural or residential purposes; and
 - Vacant or unused land or buildings.
- The tax reduction will not affect the existing tax relief that is available under sections 96 and 97 of the Land and Building Tax Act 2019.

Reduction of fee for registration of rights and juristic acts for residential property

On 26 January 2021, the Thai Cabinet approved a measure on the reduction of the fee for the registration of rights and juristic acts ("registration fee") relating to certain residential real property, containing the particulars summarized below:

- A reduction of the registration fee from 2% to 0.01% and from 1% to 0.01% will apply for the transfer of real property and the mortgage of real property, respectively, for the following types of property:
 - Land with a detached house, semi-detached house, townhouse, or commercial building acquired from a land developer under the law governing land development; and
 - A condominium acquired from a registered condominium business operator with a value not exceeding THB 3 million per unit, in a case where the registration of the transfer and the mortgage of the unit take place at the same time.
- The reductions will be effective from the date following the date of publication in the government gazette of a notification from the Ministry of Interior, until 31 December 2021.

Extension of deadlines for electronically filed personal income tax, withholding tax, and VAT returns

On 26 January 2021, the Thai Cabinet approved the following extensions of the deadlines for filings and payments relating to withholding tax and VAT:

- For withholding tax returns (PND.1, PND.2, PND.3, PND.53, and PND.54) that are due in the months of February 2021 to June 2021, which normally are due within seven days from the end of the month in which the payment is made, the deadline is extended to the last day of the month in which the tax return is required to be filed. The extension applies only for returns submitted via the online platform.
- For VAT returns (P.P.30 and P.P.36) that are due in the months of February 2021 to June 2021, which normally are due by the 15th day and the seventh day, respectively, of the relevant month, the deadline is extended to the last day of the month in which the tax returns are required to be filed. The extension applies only for returns submitted via the online platform.

The Ministry of Finance issued the notification dated 28 January 2021 to extend the deadline for the filing of personal income tax returns (PND.90 and PND.91)

for tax year 2020, which normally would be due in March 2021, to 30 June 2021. The extension applies only for returns submitted via the online platform.

Extension of withholding tax rate reduction for the e-withholding tax

On 12 January 2021, the Thai Cabinet approved a draft ministerial regulation to extend the period during which the withholding tax rates are reduced (from 5% and 3% to 2%) for certain payments made via the e-withholding tax. The rate originally was reduced from 1 October 2020 to 31 December 2021, and the reduction has been extended to 31 December 2022.

Increase of thresholds for conditions to write off bad debts

On 19 January 2021, the Thai Cabinet approved a draft ministerial regulation to modify the tax rules and conditions regarding write-offs of bad debt, including an increase in certain thresholds to better reflect the current economic environment. The new regulation apply retroactively to bad debts written off as from accounting periods beginning on or after 1 January 2020, which includes the particulars summarized below.

1. The conditions to write off bad debt under clause 4 of the existing ministerial regulation (No. 186), which currently apply to debt exceeding THB 500,000 per debtor, would be modified to apply to debt exceeding THB 2 million.
2. The conditions to write off bad debt under clause 5 of Ministerial Regulation No. 186, which currently apply to debt not exceeding THB 500,000 per debtor would be modified to apply to debt not exceeding THB 2 million per debtor.
3. The conditions to write off bad debt under clause 6 of Ministerial Regulation No. 186, which currently apply to debt not exceeding THB 100,000 per debtor, would be modified to apply to debt not exceeding THB 200,000 per debtor.
4. The conditions to write off bad debt from a financial institution's debtors account on credit facility debts for which a 100% provision has been set according to conditions prescribed by the Bank of Thailand would be modified for debtors with the following characteristics:
 - Debtors with aggregate principal or interest payments outstanding for no less than 360 days or 12 months; or
 - Debtors that meet the criteria for debt (assets) written off, as prescribed by the Bank of Thailand.

A double deduction for donations made to qualified funds

On 12 January 2021, the Thai Cabinet approved a draft royal decree that provides an additional deduction of 100% (i.e., a total deduction of 200%) for donations made to the Science and Technology Development Fund, the Scientific Research and Innovation Fund, the Metrology System Development Fund, and the Health System Research Fund via the electronic donation system. The decree includes the particulars summarized below:

- For individuals, a total of 200% of the amount donated to such funds ("double deduction") is allowed as a deductible expense or allowance. However, when combined with double deductions allowed under other royal decrees, the total deductible donations may not exceed 10% of the individual's net income (assessable income after deducting all allowances and deductions).
- For companies and juristic partnerships, a double deduction is allowed as a deductible expense. However, when combined with double deductions allowed under other royal decrees, the total deductible donations may not exceed 10% of the entity's net profit before the

- deduction of donations made to support charity, the public interest, education, and sports under section 65 bis (3)(b) of the Revenue Code.
- The double deduction is available only for donation payments made via the electronic donation system, from the effective date of the royal decree (which will be provided when the royal decree is published in the government gazette) to 31 December 2022.

Extension of additional deduction for expenses to improve electronic tax systems

On 12 January 2021, the Thai Cabinet approved a draft royal decree to extend the period during which an additional deduction of 100% (i.e., a total deduction of 200%) can be claimed by companies and juristic partnerships for expenses paid to improve or develop their e-tax invoice, e-tax receipt, and e-withholding tax systems. The extension will not apply to expenses for the installation of a point-of-sale (POS) system. The period during which the additional deduction is available will be extended to 31 December 2022 (from 31 December 2019).

Procedure for payment of stamp duty in cash for electronic instruments

On 15 January 2021, the Director-General of the Thai Revenue Department issued a notification (No. 61) to prescribe procedures for the payment of stamp duty in cash for certain electronic instruments. The procedures can be summarized as follows:

- The notification applies for electronic instruments, as defined by the law, from 1 July 2019 to 31 December 2021;
- Persons liable for stamp duty may elect to pay stamp duty in cash at a Revenue Branch Office by submitting the application form to make a stamp duty payment in cash (Aor. Sor. 4 form); and
- Stamp duty will be deemed duly paid once the tax officer has issued a receipt and supporting evidence.

Rules and criteria for debt restructuring

The Director-General of the Thai Revenue Department issued a notification (No. 29) on 30 December 2020 regarding the rules and criteria for debt restructuring under Royal Decree No. 709 (B.E. 2563). The rules and criteria prescribed by the notification can be summarized as follows:

- The measures and rules relating to debt restructuring of financial institutions prescribed by the Bank of Thailand must be followed with respect to the debt.
- Financial institution and non-financial institution creditors, as well as debtors, must jointly prepare a letter of indebtedness for debts for which restructuring is required, in accordance with the rules for debt restructuring for financial institutions prescribed by the Bank of Thailand. The letter must contain, at a minimum, the details prescribed under the notification of the Director-General of the Thai Revenue Department.
- Debtors of financial institution and non-financial institution creditors must serve the letter of indebtedness based on the following requirements:
 - They must notify the land officer at the area where the right and juristic act are registered by submitting the letter of indebtedness to the land officer upon the registration of the right and juristic act. If debtors of financial institution and non-financial institution creditors elect to pay tax prior to the registration of the right and juristic act, the letter of indebtedness is not required to be submitted.
 - They must notify the Director-General of the Revenue Department by submitting the letter of indebtedness to the Revenue Branch Office where (i) the debtor is domiciled, (ii) the debtor's place of business is located, or (iii) the real property transferred is located.

In a case where financial institution and non-financial institution creditors and debtors have jointly prepared a letter of indebtedness for debts for which restructuring is required that is in accordance with the rules for debt restructuring for financial institutions prescribed by the Bank of Thailand, pursuant to the provisions of the previous notification of the Director-General of

the Revenue Department (No. 21) dated 29 July 2020 regarding the rules and criteria for debt restructuring under Royal Decree No. 709, the letter of indebtedness will remain effective, provided it was prepared prior to 31 December 2020.

Rules, procedures, and conditions for producing, delivering, receiving, and maintaining electronic tax invoices or electronic receipts on a blockchain network

The Director-General of the Thai Revenue Department issued a notification (No. 30) on 20 January 2021 that is effective from 1 February 2021 to 31 July 2021 to prescribe rules, procedures, and conditions for producing, delivering, receiving, and maintaining electronic tax invoices or electronic receipts on a blockchain network. The details are summarized below.

Qualification of blockchain network service providers

Entities wishing to register as a blockchain service provider must have certain qualifications and are subject to certain rules and conditions:

- They must be a participant in the Revenue Department's "Tax Sandbox" campaign (under which technology is applied to improve tax collection);
- They must have a blockchain network infrastructure that is certified and approved by the Electronic Transactions Development Agency (ETDA);
- Their blockchain network must have a sufficient level of security and reliability from both a hardware and a software perspective, and there must be measures to control the access to data; and
- They must file a blockchain operator application form (as specified by the Revenue Department) with the Director-General of the Revenue Department by 28 February 2021, together with the certificate from the ETDA, for the Revenue Department's consideration and approval.

Issuance of electronic tax invoices or receipts via a blockchain network

Issuers of electronic tax invoices or electronic receipts that are customers of blockchain network service providers must follow the rules set out below:

1. They must issue electronic tax invoices or electronic receipts that contain the essential information required under the Revenue Code (sections 86/4, 86/9, 86/10, and 105 bis, depending on the circumstances).
2. They must generate the electronic tax invoices or electronic receipts referred to above in item 1 in one of the following ways:
 - Through an electronic form produced in an Excel file format and imported into the blockchain network;
 - Through procedures set forth in a previous notification regarding the production of electronic tax invoices and electronic receipts (Director-General Notification No. 15, dated 18 October 2019), and an import into the blockchain network; or
 - Through the blockchain network, based on the formats and procedures specified by the service provider.
3. They must deliver the electronic tax invoices to the purchasers of goods or recipients of services as required under section 86 of the Revenue Code, or deliver the electronic receipts to purchasers, hire-purchasers, or payers as required under section 105 of the Revenue Code, via the blockchain network that is the network system specified by the

recipients of the electronic tax invoices or electronic receipts pursuant to the electronic transactions laws.

4. In a case where electronic tax invoices and electronic receipts are delivered from the service provider to the service recipients, the issuers of the electronic tax invoices and electronic receipts will no longer be required to deliver the electronic tax invoices and electronic receipts to the Revenue Department under the provisions of Director-General Notification No. 15 dated 18 October 2019.

Storage and maintenance of electronic tax invoices or electronic receipts

Registered VAT operators that issue electronic tax invoices or electronic receipts via blockchain network service providers, and purchasers of goods or recipients of services receiving the electronic tax invoices and electronic receipts from such registered operators, are required to store and maintain the electronic tax invoices and electronic receipts, in any of the following manners:

1. In any electronic format, as long as the data from the original format has not been changed;
2. In the original format of the documents; or
3. In a printed format, pursuant to the electronic transactions laws for blockchain networks. The printed electronic tax invoices or electronic receipts must include the following message (produced electronically): "This document has been produced and data has been delivered electronically to the Revenue Department" and, in this case, the printed electronic tax invoices or electronic receipts may be relied upon as the originals.

Cancellation of original electronic tax invoice to issue new electronic tax invoice

To cancel an original electronic tax invoice to issue a new electronic tax invoice, the issuer must prepare the new tax invoice in electronic form, with the new electronic tax invoice number and the new date (day/month/year) when the new electronic tax invoice is issued. The following wording must be included in the new electronic tax invoice: "Issuing the new electronic tax invoice to cancel and replace the original electronic tax invoice no. ..., dated (day/month/year of the original tax invoice)." The cancellation also must be recorded in the output tax report in the month in which the new electronic tax invoice is produced.

Similar rules apply for the cancellation of electronic receipts to issue new electronic receipts.

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