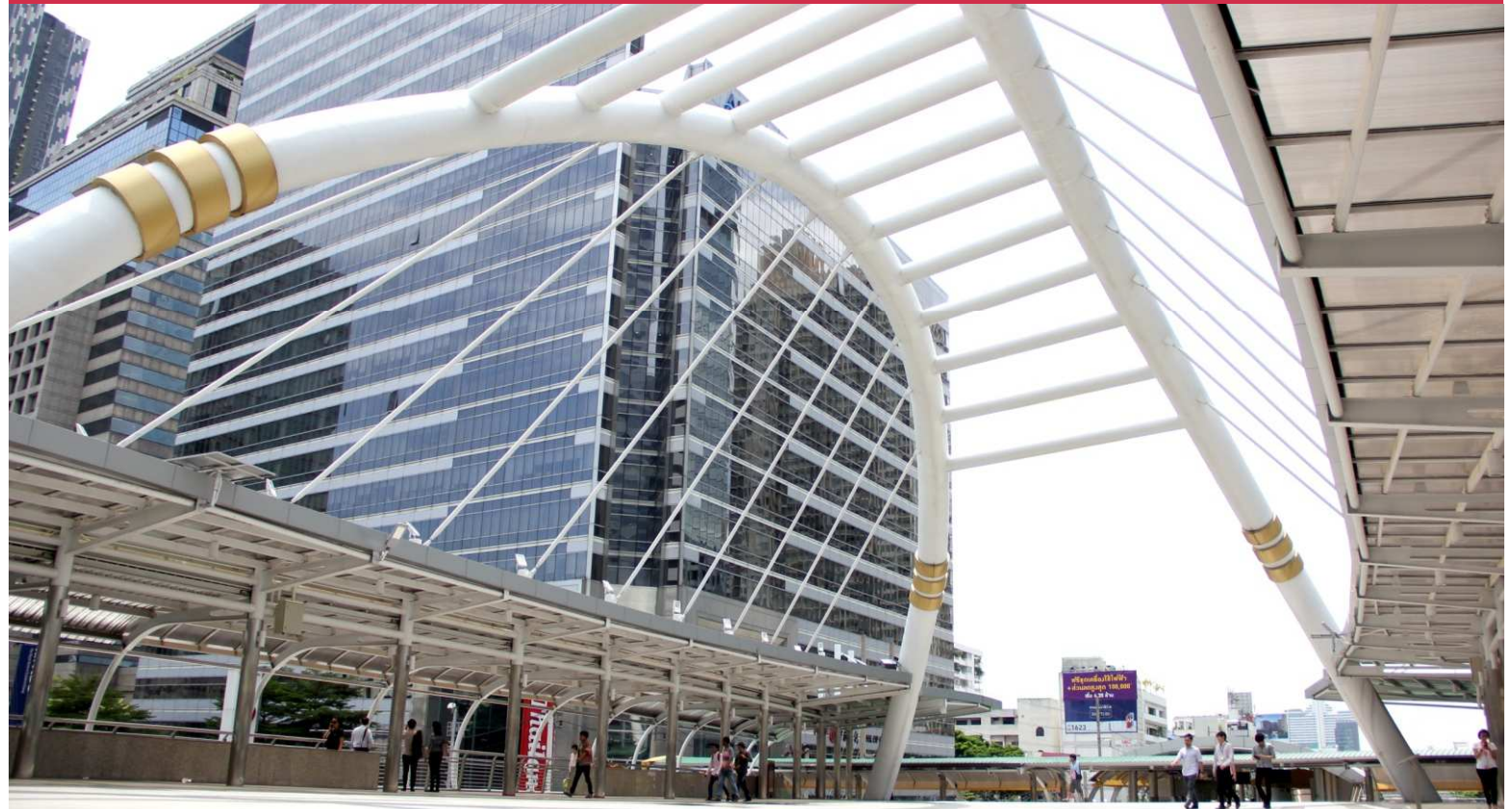


Are you comfortable with your VAT/WHT Documentation?

29-30 October 2013

*15th Annual
Conference
Maximise
Shareholder Value
through Effective
TAX Planning 2014*



Agenda

1. VAT Documentation

- 1.1 Stock shortfall
- 1.2 Exports
- 1.3 Discounts
- 1.4 Use of tax invoices
- 1.5 Tax invoice/Credit note/Debit note

2. WHT Documentation

- 2.1 Breaking down price
- 2.2 WHT certificate

3. Law update

New items required on VAT documentation

(Notices of Director-General of Revenue Department relating to VAT(No. 194 – 197))

4. Conclusion

VAT Documentation

1

1. VAT Documentation

1.1 Stock shortfall : Laws and regulations

Section 89 (10) of the Revenue Code

- In case **goods are short of the goods and raw materials record**,
- the penalty shall be twice the amount of tax computed on the tax base missing from the report.

Paw. 81/2542, Clause 15

- When goods are inspected either **by a registrant or an assessment officer**,
- it appears that goods are missing from a goods and raw materials record,
- the penalty shall be twice the amount of tax payable computed on the market price of goods

1. VAT Documentation

1.1 Stock shortfall

Definition of “Shortfall”

- The amount of products remaining at the place of business is lower than the amount in the Goods and Raw Materials report.

Could the reasons for such difference be attributed to:

- Missing?
- Lost?
- Stolen?

1. VAT Documentation

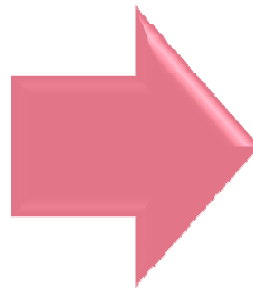
1.1 Stock shortfall

Type of stock count

Cycle count

Internal Audit

Annual count



???

1. VAT Documentation

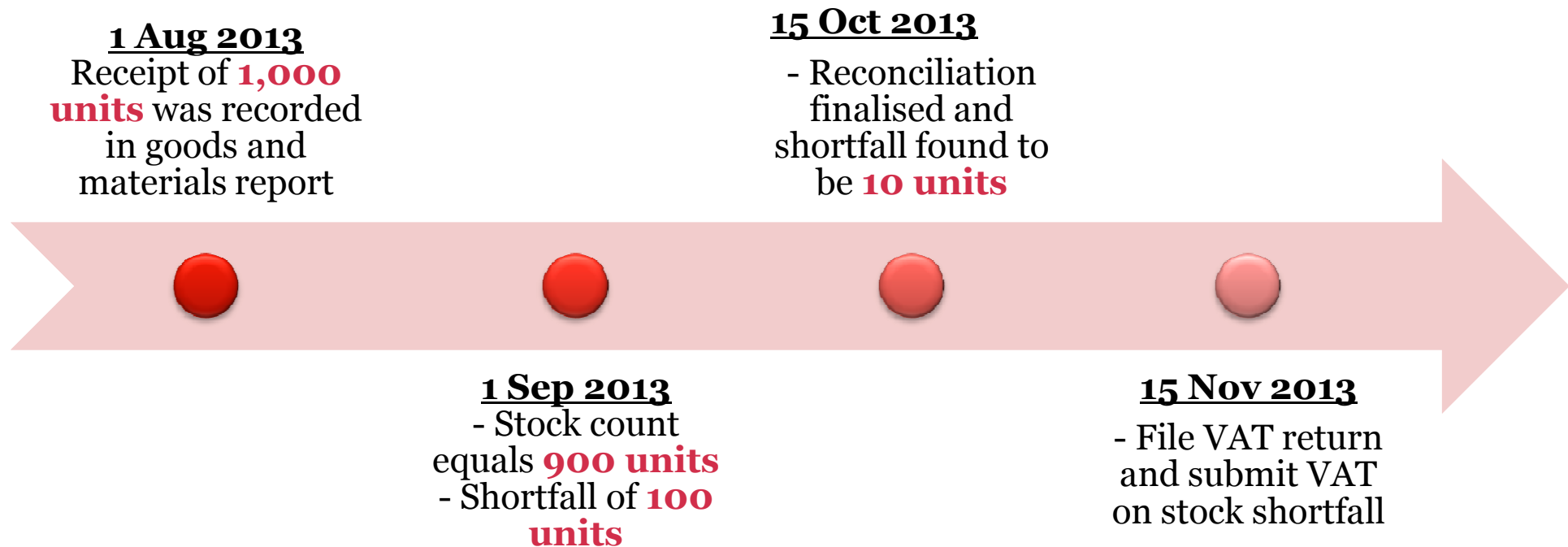
1.1 Stock shortfall : Laws and regulations

Ministerial Regulation No. 189 Clause 8

- In case goods are short of the goods and raw materials record, the tax point should occur when the fact is discovered.

1. VAT Documentation

1.1 Stock shortfall : (1) Determination of stock shortfall



Questions:

1. When should the tax point for stock shortfall occur?
2. Would the Company be liable to any penalty ?

1. VAT Documentation

1.1 Stock shortfall : (2) Determination of stock shortfall

Products	Balance per stock report	Stock count	Difference
A	100	110	+ 10
B	100	93	- 7
Total	200	203	+ 3

Fact:

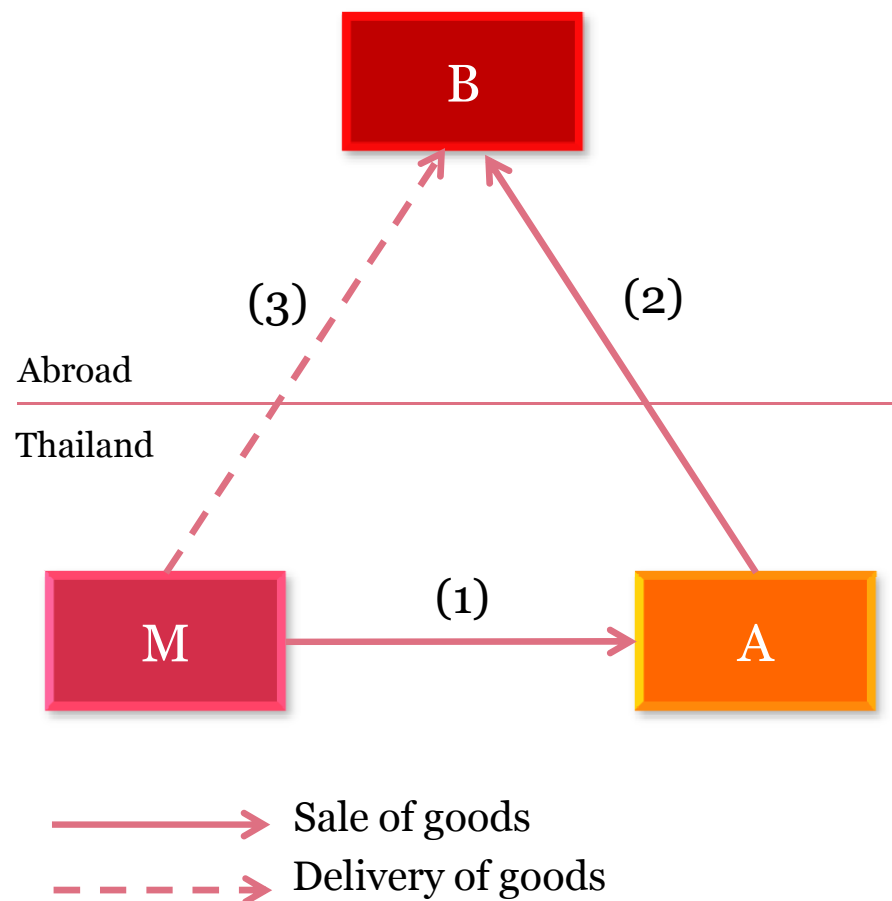
Products A and B (similar category) were in the stock count. It was found that product A was higher by 10 units while product B was lower by 7 units.

Question:

Should this be regarded as a stock shortfall?

1. VAT Documentation

1.2 Exports : Scenario 1



Facts:

- (1) M sells goods to A in Thailand
- (2) A sells goods and issues tax invoice to B
- (3) M delivers goods to B abroad as requested by A

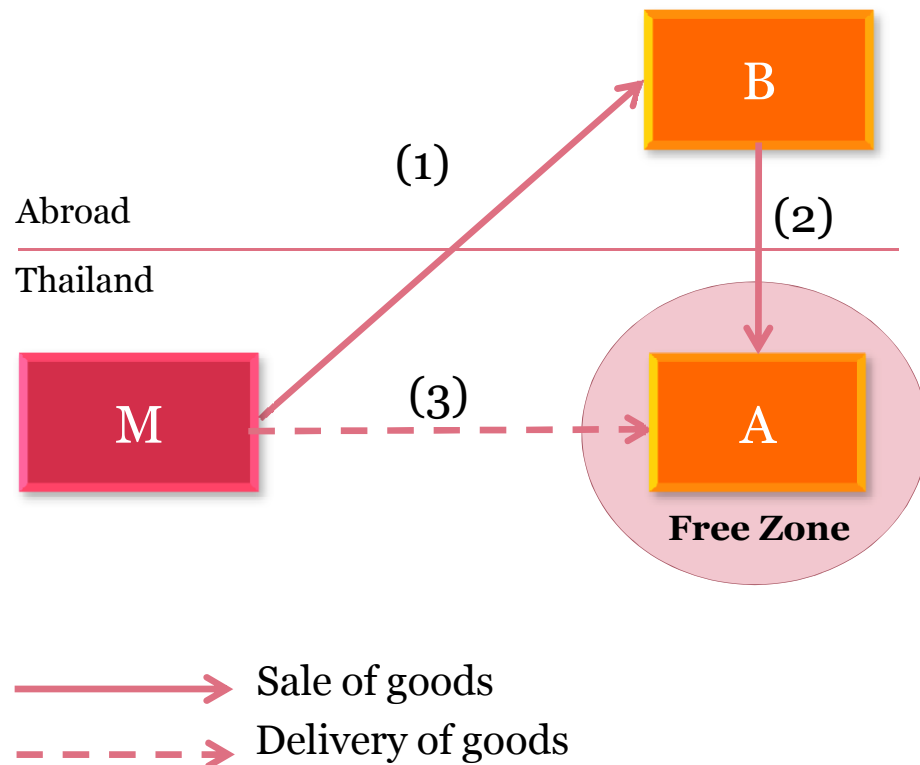
Question:

What rate of VAT should apply on sale by M to A?

- a. 0%
- b. 7%
- c. Exempt

1. VAT Documentation

1.2 Exports : Scenario 2



Facts:

- (1) M sells goods to B abroad
- (2) B sells goods to A
- (3) As requested by B, M delivers goods to A who carries on business in Free Zone.

Question:

Does the sale between M and B qualify for 0% VAT?

1. VAT Documentation

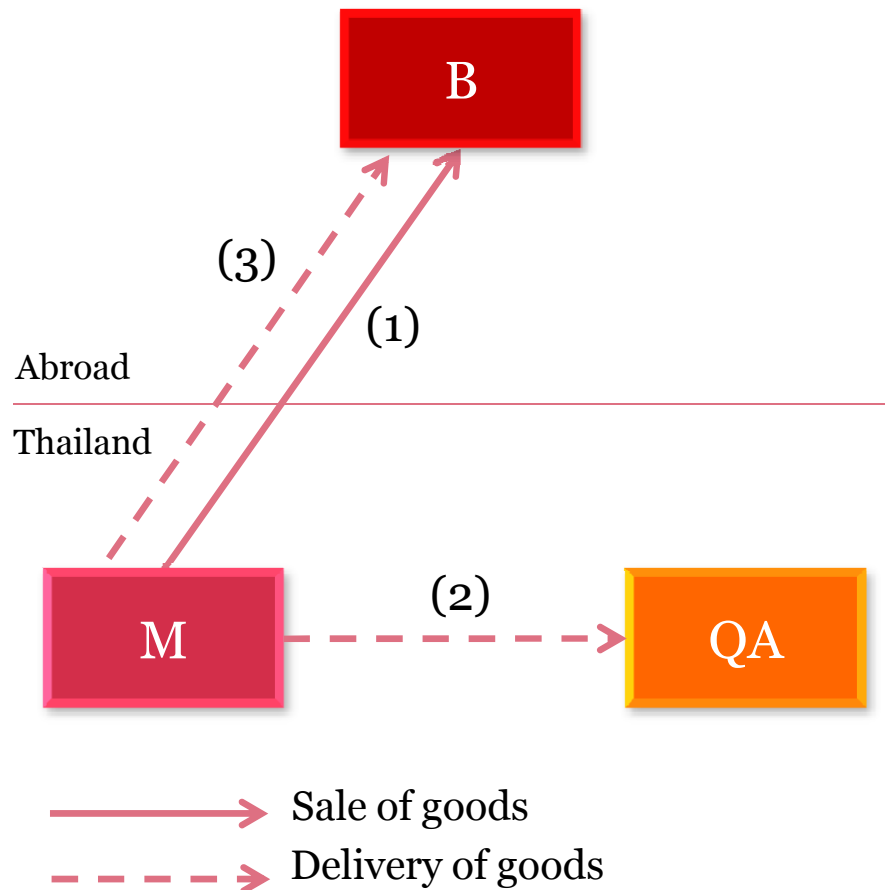
1.2 Exports : Scenario 3 : Laws and regulations

Paw. 97/2543 Clause 5

- The VAT registrant will be subject to 7% VAT, if the conditions of sale are as follows;
 - Goods are sold to purchaser in foreign country, and
 - Goods are delivered to agent of purchaser in Thailand
- The VAT registrant above will be subject to 0% VAT if the agent of purchaser in foreign country stores the goods for period of no longer than 180 days from the time the VAT registrant submitted export entry to the Customs Department.

1. VAT Documentation

1.2 Exports : Scenario 3



Facts:

- (1) M sells goods to B abroad
- (2) M delivers goods to quality assurance service provider, company engaged by B to perform quality check
- (3) M delivers goods to B abroad

Question:

1. Would quality assurance service provider be regarded as an agent of the purchaser (B)?
2. What should the VAT rate be?
 - a. 0%
 - b. 7%
 - c. Exempt

1. VAT Documentation

1.3 Discounts : Laws and regulations

Section 79 of the Revenue Code

- Discount is not included in tax base if:
 - Discount is given at the time of sale of goods
 - Discount is shown separately on tax invoice

1. VAT Documentation

1.3 Discount

Tax Invoice

Tax Invoice No. TI00001

Date 1 September 2013

M Co.,Ltd.

Address: YYYYYYYYYY Tax ID: 1110987654321

Customer Name: A Co.,Ltd.

Address: XXXXXXXXXX Tax ID: 1234567891011

Item	Particulars	Quantity	Amount (Baht)
1	Product A	1	2,000
Total amount			2,000
7% VAT			?????
Total			?????

Facts:

- A agrees to buy goods at **2,500 Baht** but receives discount **500 Baht**.
- M issues tax invoice showing value of goods after discount.

Question:

What is the tax base that should be used in this case?

1. VAT Documentation

1.3 Discount

What should the Company do in order to pay VAT on 2,000 rather than 2,500?

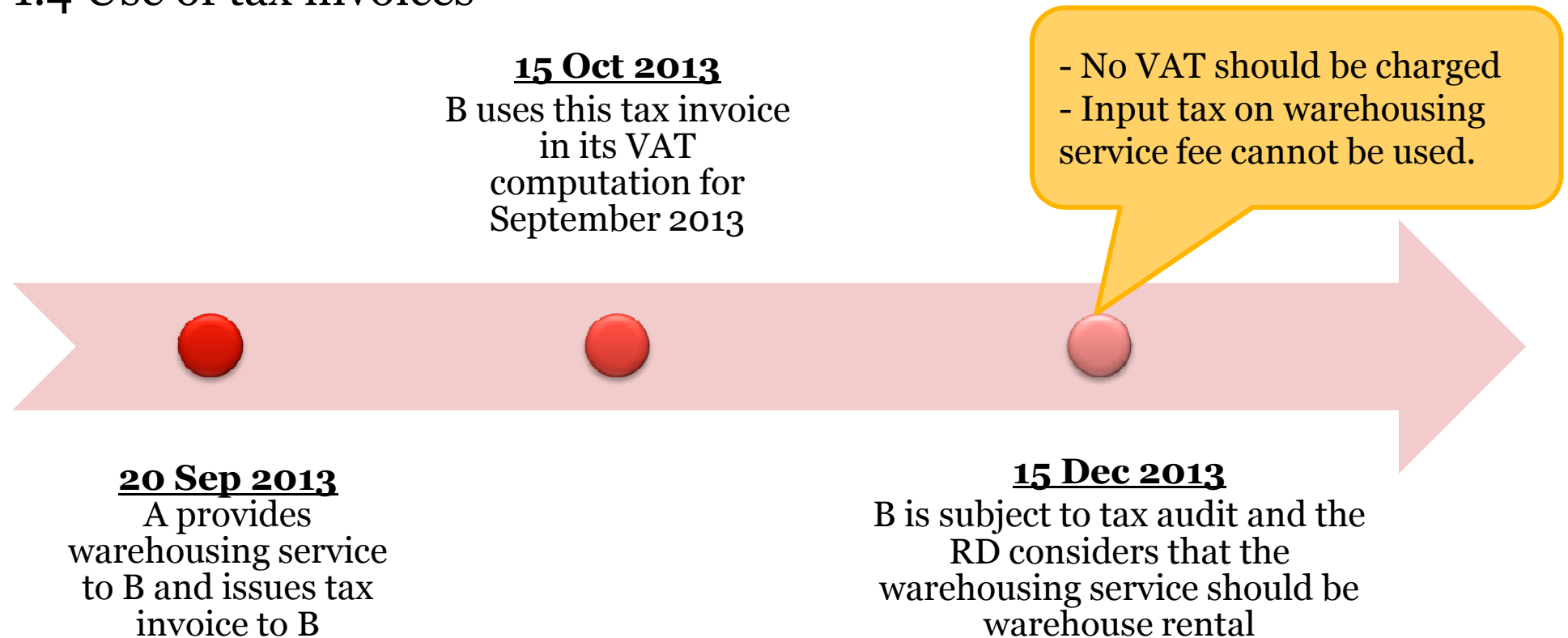
Correct description on tax invoice?

Issue credit note?

Other?

1. VAT Documentation

1.4 Use of tax invoices

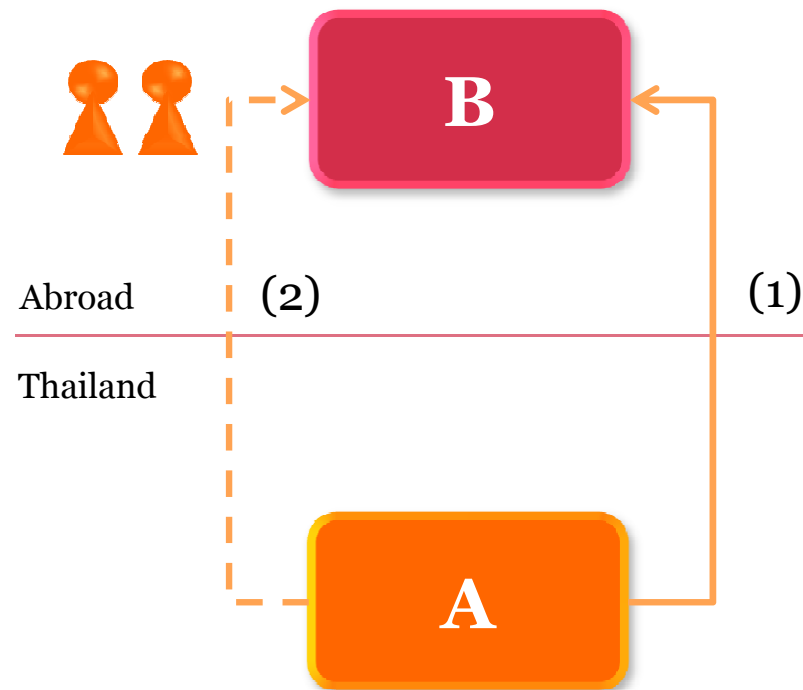


Question:

Would A and B be liable to pay penalty, surcharge or fine?

1. VAT Documentation

1.4 Use of tax invoices



Facts:

- (1) A hires B to provide training services to its employees
- (2) A sends employees to receive training abroad
- (3) A submits 7% VAT on training fees on behalf of B under form PP36

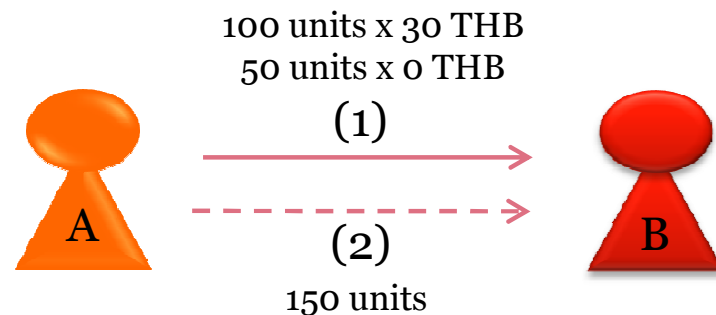
Question:

Can A use input tax as per PP36 as input tax credit?

1. VAT Documentation

1.5 Tax invoice/Credit note/Debit note : Return of goods

August 2013

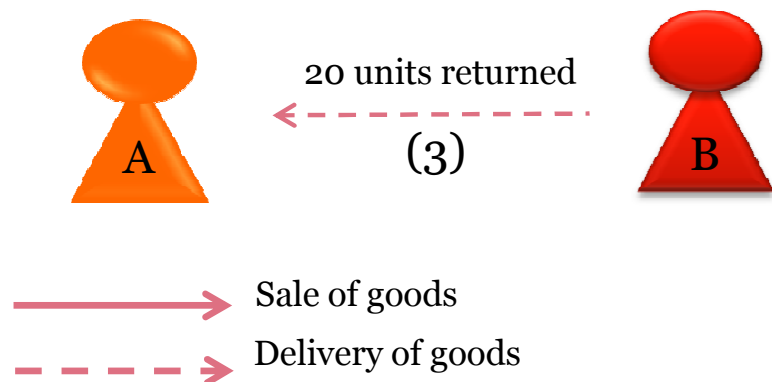


Facts:

- (1) A sells 100 units of goods to B for 3,000 THB (100 units x 30 THB) with a further 50 units free of charge
- (2) A delivers 150 units of goods to B.

The actual unit cost to the buyer should be **20 THB** (3,000 THB/150 units)

October 2013



- (3) B returns 20 units of goods to A and receives a refund of 400 THB (20 units x 20 THB).

Question:

What should the returned goods be valued at?

- 30 THB
- 20 THB

1. VAT Documentation

1.5 Tax invoice/Credit note/Debit note : Inadequate information

Debit Note

D/N No. DN00001 Date 1 September 2013

M Co.,Ltd.

Address: YYYYYYYYYY

Tax ID: 1110987654321

Customer Name: A Co.,Ltd.

Address: XXXXXXXXXXXX

Tax ID: 1234567891011

Reference Tax Invoice: T/I00001

Item	Particulars	Quantity	Price per unit	Amount (Baht)
1	Products A	1,000	2,000	2,000,000
2	Products B	1,000	1,000	1,000,000
Correct value (1)				3,000,000
Total value per original tax invoice(2)				2,500,000
Difference (1) – (2) = (3)				500,000
7% VAT (4)				35,000
Total (3) + (4) = (5)				535,000

Reason for issue of D/N: The price of goods sold increased because actual quantity was more than that per tax invoice.

Question:

Can this D/N be used in VAT computation?

1. VAT Documentation

1.5 Tax invoice/Credit note/Debit note : Inadequate information

Debit Note

D/N No. DN00001 Date 1 September 2013

M Co.,Ltd.

Tax ID: 1110987654321

Address: YYYYYYYYYY

Customer Name: A Co.,Ltd.

Tax ID: 1234567891011

Address: XXXXXXXXXXXX

Reference Tax Invoice:

Item	Particulars	Quantity	Price per unit	Amount (Baht)
1	Products A	1,000	2,000	2,000,000
2	Products B	1,000	1,000	1,000,000
Correct value (1)				3,000,000
Total value per original tax invoice(2)				2,500,000
Difference (1) – (2) = (3)				500,000
7% VAT (4)				35,000
Total (3) + (4) = (5)				535,000

Reason for issue of D/N: The price of goods sold increased because the quantity exceeded that agreed upon.

Fact:

No serial number of the original tax invoice.

Question:

Without the particulars required, could the D/N still be used in VAT computation?

1. VAT Documentation

1.5 Tax invoice/Credit note/Debit note : Inadequate information

Paw. 80/2542, Clause 6

- The VAT registrant who receives a debit note or credit note which contains any information that is inadequate in the matter of substance, is entitled to
 - treat VAT in the debit note as his input tax, or
 - deduct VAT in the credit note from the input tax record.
- Not fall under the prohibition under Section 82/5 (2).

Question:

If there was no explanation of the reason for issuing D/N, would the D/N so issued be usable?

1. VAT Documentation

1.5 Tax invoice/Credit note/Debit note : Application of 6 month rule

30 April 2013

M issued tax invoice and D/N to A

15 June 2013

A filed VAT return for May 2013, but the tax invoice and D/N were not included

31 May 2013

A received tax invoice and D/N note from M due to delay in delivery by the post office.

15 July 2013

A used tax invoice and D/N in its VAT computation for **June** 2013 and filed VAT return

Question:

Could the tax invoice and D/N received be used as input tax in VAT return for June 2013?

1. VAT Documentation

1.5 Tax invoice/Credit note/Debit note : Application of 6 month rule

DG Notification on VAT (No. 4)

- The input tax which is not deducted in the tax month because:
 - (1) necessary circumstances arising out of an established business practice,
 - (2) force majeure,
 - **(3) receiving a tax invoice in a tax month not being one specified in the tax invoice,**
- can be carried forward for deduction in a subsequent tax month, but not more than six months.
- The notations "shall be treated as an input tax in the month of"

Section 77/1 (22) of the Revenue Code

- Debit note and credit note are included in definition of tax invoice

1. VAT Documentation

1.5 Tax invoice/Credit note/Debit note : Exchange rate used on tax invoice

Section 9 of the Revenue Code

- If the tax base is denominated in foreign currency, the seller should use the exchange rate according to:
 - (1) Daily exchange rates quoted by **commercial banks** for valuation of foreign currency in terms of Thai currency;
 - (2) Exchange rates based on the daily reference rate quoted by the **Bank of Thailand** for valuation of foreign currency.

1. VAT Documentation

1.5 Tax invoice/Credit note/Debit note : Exchange rate used on tax invoice

Tax Invoice				
Tax Invoice No. T100001 Date 1 September 2013				
M Co.,Ltd. Address: YYYYYYYYYY Tax ID: 1110987654321				
Customer Name: A Co.,Ltd. Address: XXXXXXXXXX Tax ID: 1234567891011				
Item	Particulars	Quantity	Price per unit (USD)	Amount (Baht)
1	Product K	30	100	96,000 (3,000 USD x 32)
			Total amount	96,000
			7% VAT	6,720
			Total	102,720

Facts:

1. M sells 30 units of goods to A at a price of 100 USD per unit according to the price list
2. As agreed, the selling price is 96,000 THB using the exchange rate fixed at 32 THB/USD
3. M issues tax invoice as illustrated to A

Question:

What exchange rate should be used for this transaction?

- a. Exchange rate as agreed (32THB/USD)
- b. Exchange rate under Section 9 (33 THB/USD)
- c. No exchange rate to be applied because selling price is in Baht

1. VAT Documentation

1.5 Tax invoice/Credit note/Debit note : Exchange rate used on C/N, D/N

Tax Invoice

Date: 1 February 2013

M Co., Ltd.
Address: YYYYYYYY Tax ID: 110987654321
Customer Name: A Co., Ltd.
Address: XXXXXXXXXX Tax ID: 1234567891011

Item	Description	Quantity	Price per unit	Amount (Baht)
1	Air Conditioner	1	18,000	18,000
2	Installation	1	2,000	2,000
Total amount				20,000
7% VAT				1,400
Total				21,400

Exchange Rate: 30 Baht

Facts:

- **1 February 2013 (Exchange rate: 30 Baht)**
 - M sells 100 units of goods to A at 100 USD per unit.
 - M issues tax invoice..
- **1 April 2013 (Exchange rate: 31 Baht)**
 - A returns goods to M.
 - M issues credit note.

Credit Note

Date: 1 April 2013

M Co., Ltd.
Address: YYYYYYYY Tax ID: 110987654321
Customer Name: A Co., Ltd.
Address: XXXXXXXXXX Tax ID: 1234567891011
Reference Tax Invoice: T/10000 Date: 1 August 2012

Item	Description	Quantity	Price per unit	Amount (Baht)
1	Products A	1,000	2,000	2,000,000
2	Products E	1,000	1,000	1,000,000
Total value per original tax invoice (A)				3,000,000
Correct value (B)				3,000,000
7% VAT on the difference (C)				35,000

Reason of D/N issuance: The price of goods is higher than the price agreed.

Exchange Rate: ?????

Question:

Which exchange rate should the Company use for credit note?

WHT Documentation

2

2. WHT Documentation

2.1 Breaking down price

Tax Invoice

Tax Invoice No. T100001

Date 1 September 2013

M Co.,Ltd.

Address: YYYYYYYYYY **Tax ID:** 1110987654321

Customer Name: A Co.,Ltd.

Address: XXXXXXXXXX **Tax ID:** 1234567891011

Item	Particulars	Quantity	Price per unit	Amount (Baht)
1	Air Conditioner	1	18,000	18,000
2	Installation charge	1	2,000	2,000
			Total amount	20,000
			7% VAT	1,400
			Total	21,400

Fact:

Company A buys air conditioner and receives invoice specified as shown.

Questions:

1. Is Company A required to withhold tax when making payment?
2. If so, at which rate?

2. WHT Documentation

2.1 Breaking down price (Cont'd)

Tax Invoice

Tax Invoice No. TI00001

Date 1 September 2013

M Co.,Ltd.

Address: YYYYYYYYYY **Tax ID:** 1110987654321

Customer Name: A Co.,Ltd.

Address: XXXXXXXXXX **Tax ID:** 1234567891011

Item	Particulars	Quantity	Price per unit	Amount (Baht)
1	Air Conditioner	1	18,000	18,000
2	Delivery charge	1	2,000	2,000
			Total amount	20,000
			7% VAT	1,400
			Total	21,400

Fact:

The Company buys air conditioner and receives invoice specified as shown.

Questions:

1. Is the Company required to withhold tax when making payment?
2. If so, at which WHT rate?

2. WHT Documentation

2.1 Breaking down price (Cont'd)

Tax Invoice				
Tax Invoice No. TI00001				
Date 1 September 2013				
M Co.,Ltd.				
Address: YYYYYYYYYY Tax ID: 1110987654321				
Customer Name: A Co.,Ltd.				
Address: XXXXXXXXXX Tax ID: 1234567891011				
Item	Particulars	Quantity	Price per unit	Amount (Baht)
1	Air Conditioner Repair			
1.1	-Spare parts	1	18,000	18,000
1.2	-Service fee	1	2,000	2,000
			Total amount	20,000
			7% VAT	1,400
			Total	21,400

Fact:

The Company has air conditioner repaired and receives invoice specified as shown.

Questions:

1. Is the Company required to withhold tax when making payment?
2. If so, at which rate?

2. WHT Documentation

2.2 WHT certificate : Manual correction

Withholding Tax Certificate Section 50 Bis of the Revenue Code		Book No...000.... No.....000.....	
The person liable to withhold tax Name: Company A Co., Ltd. (Clearly specify a person, juristic, company, association or a body of person.) Address: XXXXXXXXXXXXXXXXXXXX (Clearly specify detail of address)			
Taxpayer from whom tax is withheld Name: Company M Co., Ltd. (Clearly specify a person, juristic, company, association or a body of person.) Address: YYYYYYYYYYYYYYYY (Clearly specify detail of address)		Personal Identification No.: Tax Identification No.: 1234567891011	
Sequence No. <input type="checkbox"/> in form <input type="checkbox"/> P.N.D.1a <input type="checkbox"/> P.N.D.1a Ex <input type="checkbox"/> P.N.D.2 <input type="checkbox"/> P.N.D.3 (For the purpose of examination) <input type="checkbox"/> P.N.D.2a <input type="checkbox"/> P.N.D.3a <input checked="" type="checkbox"/> P.N.D.33			
Type of income	Date paid	Amount paid	Tax withheld
1. Salary, wage, pension, etc. under Section 40(1)			
2. Commissions etc. under Section 40(2)			
3. Royalties etc. under Section 40(3)			
4. (a) Interest, etc. under Section 40(4)(a)			
(b) Dividend, share of profit etc. under Section 40(4)(b)			
5. Payment of income subject to withholding tax according to the Revenue Department's Instruction issued under Section 3 Tredacim, such as services fees etc.	02/01/2013	100,000	3,000
6. Others (Please specify)			
		100,000	3,000
Total amount of income and total amount of withholding tax			
Total withholding tax (in letters) Three Hundred Baht only			Three thousand baht only.
Amount paid to : Government Pension Fund / Government Permanent Employee Fund / Private Teachers Aid Fund B..... Social Security Fund B..... Provident Fund B.....			
Payer: <input checked="" type="checkbox"/> (1) Withhold at source <input type="checkbox"/> (2) Pay every time <input type="checkbox"/> (3) Pay one time <input type="checkbox"/> (4) others (Please specify)			
Warning: The person liable to issue a withholding tax certificate fails to comply with Section 50 Bis of the Revenue Code shall be subject to criminal charges under Section 35 of the Revenue Code.		I hereby certify that the particulars given above are true Sign <i>Xyz</i> payer 02/01/2013 Date/month/year issuing tax certificate Affix Corporate Seal	

Fact:


Manual corrections have been made to the amount on WHT certificate.

Questions:

1. Is it a correct method?
2. How can it be ensured that WHT certificate is usable for tax credit purposes?

2. WHT Documentation

2.2 WHT certificate : Different date

Withholding Tax Certificate Section 50 Bis of the Revenue Code		Book No...000.... No.....000.....
The person liable to withhold tax		
Name: Company A Co., Ltd. (Clearly specify a person, juristic, company, association or a body of person)		Personal Identification No.: Tax Identification No.: 1234567891011
Address: XXXXXXXXXXXXXXXX (Clearly specify detail of address)		
Taxpayer from whom tax is withheld		
Name: Company M Co., Ltd. (Clearly specify a person, juristic, company, association or a body of person)		Personal Identification No.: Tax Identification No.: 1110987654321
Address: YYYYYYYYYYYYYYYY (Clearly specify detail of address)		
Sequence No. <input type="checkbox"/> in form <input type="checkbox"/> P.N.D.1a <input type="checkbox"/> P.N.D.1a Ex <input type="checkbox"/> P.N.D.2 <input type="checkbox"/> P.N.D.3		
(For the purpose of examination) <input type="checkbox"/> P.N.D.2a <input type="checkbox"/> P.N.D.3a <input checked="" type="checkbox"/> P.N.D.53		
Type of income	Date paid	Amount paid Tax withheld
1. Salary, wage, pension, etc. under Section 40(1)		
2. Commissions etc. under Section 40(2)		
3. Royalties etc. under Section 40(3)		
4. (a) Interest, etc. under Section 40(4)(a)		
(b) Dividend, share of profit etc. under Section 40(4)(b)		
5. Payment of income subject to withholding tax according to the Revenue Department's Instruction issued under Section 3 Tredecim, such as services fees etc.	30/12/2012	10,000 300
6. Others (Please specify)		
Total amount of income and total amount of withholding tax	10,000	300
Total withholding tax (in letters) Three Hundred Baht only		
Amount paid to : Government Pension Fund / Government Permanent Employee Fund / Private Teachers Aid Fund B.....		
Social Security Fund B..... Provident Fund B.....		
Payer : <input checked="" type="checkbox"/> (1) Withhold at source <input type="checkbox"/> (2) Pay every time <input type="checkbox"/> (3) Pay one time <input type="checkbox"/> (4) others (Please specify)		
Warning: The person liable to issue a withholding tax certificate fails to comply with Section 50 Bis of the Revenue Code shall be subject to criminal charges under Section 35 of the Revenue Code.		
I hereby certify that the particulars given above are true Sign  payer 02.01.2013 Date/month/year issuing tax certificate		Affix Corporate Seal

Fact:

The company makes a payment on 30 December 2012 but receives WHT certificate on 2 January 2013.

(The Company has fiscal year ending on 31 December)

Questions:

1. Is the WHT certificate useable for tax credit purposes?
2. If so, which accounting period should the company use the WHT certificate?

Law update

3

3. Law update

New items required on VAT documentation

Director-General of Revenue Department Relating to VAT (No. 194 – No.197)

From 1 January 2014 onward, these particulars will be required in:

- Full form tax invoice
- Debit note
- Credit note
- Input tax report
- Output tax report

**Purchaser's tax
payer ID no.**

**The statement
"Head Office" or
"Branch No. ..."**

3. Law update

New items required on VAT documentation

Fact 1:

Buyer refuses to provide the Tax ID number to the VAT registrant.

Question 1:

What are the possible solutions to produce a correct tax invoice?

3. Law update

New items required on VAT documentation

Fact 2:

Seller makes small error when writing buyer's Tax ID, e.g. a one digit error or interchanging a digit, etc.

Question 2:

1. Will seller be liable to penalty, surcharge or fine?
2. Will buyer be able to use this tax invoice in VAT computation?

3. Law update

New items required on VAT documentation

Fact 3:

In the case where

- CN/DN are issued **after** 1 January 2014, but
- Referenced tax invoices were issued **before** 1 January 2014

Question 3:

Would these CN/DN be required to contain items specified under DG VAT No. 196?

3. Law update

New items required on VAT documentation

Fact 4:

- Seller delivers goods and issues tax invoice to purchaser on 30 December 2013.
- Purchaser requests an amendment on tax invoice due to incorrect address.
- Seller amends and re-issues tax invoice on 10 January 2014 but specifies the same date as tax invoice previously issued.

3. Law update

New items required on VAT documentation

Old tax invoice		Tax Invoice		
		Tax Invoice No. TI00001 Date 30 December 2013		
M Co., Ltd. Address: YYYYYYYYYY Tax ID: 1110987654321				
Customer Name: A Co., Ltd. Address: XXXXXXXXXX Tax ID: 1234567891011				
No.	Particulars	Quantity	Price per unit	Amount (Baht)
1	Product K	1	2,000	2,000
			Total amount	2,000
			7% VAT	140
			Total	2,140
<div>delivered on 30 December 2013</div>				

New tax invoice		Tax Invoice		
		Tax Invoice No. TI00001 Date 30 December 2013		
M Co., Ltd. Address: YYYYYYYYYY Tax ID: 1110987654321				
Customer Name: A Co., Ltd. Address: ZZZZZZZZZZ Tax ID: 1234567891011				
No.	Particulars	Quantity	Price per unit	Amount (Baht)
1	Product K	1	2,000	2,000
			Total amount	2,000
			7% VAT	140
			Total	2,140
<div>delivered on 10 January 2014</div>				

Question 4: Can new tax invoice be used in VAT computation?

3. Law update

New items required on VAT documentation

Fact 5:

Seller has remaining stock of printed tax invoices containing the old format.

Question 5:

What are the possible measures to add the newly announced items?

- a) Stamp correction
- b) Manual corrections
- c) Destroy old tax invoices and order new ones with the additional items

3. Law update

New items required on VAT documentation

Fact 6:

Buyer provides incorrect information regarding additional items to be included on tax invoice, intentionally or unintentionally.

Question 6:

Will seller be liable to penalty, surcharge or fine?

3. Law update

New items required on VAT documentation

Fact 7:

Buyer is neither liable to tax nor is a payer of income with duty to withhold tax and therefore is not required to have a tax ID number.

Question 7:

Does the seller need to specify buyer's tax ID number on tax invoice?

3. Law update

New items required on VAT documentation

Fact 8:

Seller has only one place of business.

Question 8:

Would the words, “ Head Office” or “Branch No...” of the seller be required to be included in the VAT document?

Conclusion

4

4. Conclusion

To conclude, VAT and WHT compliance are significantly based on the related documentation, e.g. tax invoice, D/N, C/N, agreements, etc. Even the smallest errors could bring about significant tax implications and exposures to the taxpayer. Hence, it is of vital importance to be aware of and ensure the accuracy of such documents.

Q&A

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Thank you