The Nation

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Column: BIZ INSIGHT: Tax trends in Thailand; VAT compliance risks

BIZ INSIGHT

Tax trends in Thailand; VAT compliance risks

Sirisuk Manmettakul

THAILAND has made significant moves to reduce the corporate income tax rate from 30 per cent to 23 per cent in 2012 and 20 per cent in 2013 and 2014, aiming to stimulate the economy and enhance its regional and global competitiveness.

The 20-per-cent rate makes Thailand one of the most attractive countries in Asia for investors, second only to Singapore, whose tax rate is 17 per cent.

Experts are convinced the Thai government is well aware that maintaining the lower corporate income tax rate is necessary to remain internationally competitive.

The 20-per-cent rate should remain long term, and is likely to remain until at least next year, according to an announcement from the National Council for Peace and Order.

Reductions in the corporate income tax rate are often combined with efforts to widen the tax base by eliminating exemptions and increasing other tax rates, particularly the VAT. So, the 7-per-cent VAT rate has been extended for another year until the end of September 2015 – but it may not be able to continue long term. The VAT rate may need to be put back up to 10 per cent, or higher, mainly due to Thailand's deficit situation and the composition of tax collections.

According to the Revenue Department, tax collection has been under expected levels by Bt1.02 billion for the first eight months of the year. Also, the government's budget deficit, at 2.5 per cent of GDP last year, will increase this year. Indirect taxes represent the greatest revenue collected, followed by corporate tax. As VAT collection increases, the government must try to increase the effectiveness and efficiency of collection to minimise any avoidance.

So, companies can benefit from monitoring Thailand's intention to introduce new indirect taxes and evaluate the impact on their business that this exposure could cause. If a company's products or services are liable for VAT, the product price and service fees are likely to increase, affecting customer demand and profit.

If, on the other hand, a company decides to absorb any VAT increase, it will also experience a profit reduction. A VAT increase would also lead to an increase in exposure to VAT liabilities.

There are several examples from our recent experience that show the Revenue Department focuses more on indirect taxes rather than corporate income tax. The first example is that a 200-per-cent penalty will be imposed on a company whose goods were short in the inventory report, even if the company voluntarily paid the VAT on the stock shortage.

In our recent experience, the department not only challenges companies for the amount of VAT on stock shortages and classes the shortage as sales, but also challenges for the 200-per-cent penalty on the VAT shortfall. The maximum exposure is the VAT and a 200-per-cent penalty on the VAT of stock shortages, or 21 per cent of the stock shortage value given the current 7-per-cent VAT rate. This would be 30 per cent if the VAT rate changed to 10 per cent.

The common second example is issuing invoices and failing to implement VAT, which would result in a penalty. Some companies might think that issuing a VAT invoice – even when unsure if VAT should be applied – is a conservative approach to collecting VAT and submitting it to the Revenue Department. This is a common misunderstanding that could result in a severe penalty.

Not every transaction is subject to VAT, an example

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being sales promotions, which are subsidy income or are discounts after sales. Issuing a tax invoice without the lawful right to do so under Section 86/13 would result in a 200-per-cent penalty on the tax on the tax invoice and the penalty would be imposed immediately.

The purchaser or the tax invoice recipient who uses the VAT as a tax credit would also be over-claiming the input VAT and would suffer a tax shortfall – 100-per-cent penalty and 1.5-per-cent surcharge per month.

Those are just two common examples of VAT incompliance. Complying with indirect taxes often takes more time than with direct taxes, because an indirect tax is related to levels of transactions and the frequency of filing is monthly rather than yearly.

When the government increases the indirect tax rate, the tax exposure and the risk of VAT incompliance will also be greater, which can result in higher penalties and surcharges.

Companies may want to consider more structural solutions such as assessing tax risk to evaluate company exposure, and forming a plan to standardise tax procedures to reduce incompliance and manage tax risks. It's important to do things right from the beginning, or as soon as possible, to minimise any exposure and impact from future indirect tax rate increases.

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