How the digital economy is affecting tax compliance

18 October 2016
What is the digital economy

Digital Economy

Paperless Office

Digital Signature

eMarketplace

Data Processing

Cloud Computing

FinTech

eBusiness
Traditional trading
Trading in the digital economy
Digital transformation

1. eContract
2. eService
3. ePayment
4. eTax Document
1. **eContract**

**Traditional**

Flying to Thailand to sign contract

**Digital economy**

*eContract?*
1. eContract: Electronic Transactions Act, B.E. 2544

- Electronic transactions
- Digital signatures
- Service businesses
- Related government sectors
- Board of Electronic Transactions
- Penalties
1. eContract: Electronic Transactions Act, B.E. 2544

- **Nature of eContract**

<table>
<thead>
<tr>
<th>Coverage</th>
<th>• Civil and commercial transactions made by the use of data messages</th>
</tr>
</thead>
</table>
| Characteristic                | • Intangible data
|                               | • Reliable content
|                               | • Digital signature
| Outcome                       | • Similar to written contract.                                       |
1. eContract

Digital economy

1) Signing contract on printed agreement then scan as a pdf file
2) Signing via email
3) Internal approval application
4) Online purchase with agreement terms and conditions
1. **eContract: Electronic Transactions Act, B.E. 2544**

- **Stamp duty on eContracts**

<table>
<thead>
<tr>
<th>Definition of instrument</th>
<th>• Any document subject to duty under the Revenue Code.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Definition of paper</td>
<td>• Parchment or any other material used for writing and instrument</td>
</tr>
<tr>
<td>Type of instrument</td>
<td>• Law requires a stamp duty to be affixed.</td>
</tr>
<tr>
<td>Requirement</td>
<td>• Stamp duty must be paid in accordance with Revenue Department regulations.</td>
</tr>
</tbody>
</table>

**Question**

What is the current practice of the Revenue Department?
Digital transformation

1. eContract
2. eService
3. ePayment
4. eTax Document
2. eService: User’s perspective

Key tax considerations:

- **WHT**: Royalties?
- **VAT**: Used in Thailand?

Examples:

- Online advertisements
- Cloud service
- Taxi application
2. eService: User’s perspective

Key consideration
Royalty or service?

- Use of software?
- Lease of industrial, commercial, or scientific equipment?
- Transfer of information concerning industrial, commercial, or scientific experience?

Royalty or not?

Where is the service used?

7% VAT or out of scope
2. eService: Case 1 (online advertisements)

Traditional
Gor Kor 0802(Gor)/Por.11650 Dated 11/12/1992

Digital economy
Gor Kor 0706/Por./9322 Dated 10/11/2006

Hotel in Thailand advertises on a website
Newspaper Co.

UK

Thailand

Tax considerations:
• No WHT
• No VAT (out of scope)

Hotel in Thailand advertises on a website

Key tax considerations changes?
2. **eService: Case 2** *(cloud service) – Shared assets (server)*

**Traditional**

Gor Kor 0706/5353 Dated 12/06/2003

**Digital economy**

Tax considerations:
- 15% WHT (Exempted under DTAs)
- No VAT (out of scope)
2. eService: Case 3 (Taxi Application)

Taxi considerations:
- No WHT
- No VAT

Traditional

Digital economy

Application owner

Net travelling fees (after commission)

Bill collector

Taxi

Net travelling fees (after commission)

Via credit card

Travelling fee payment

Passenger

Back office support service in Thailand

Subsidiary of application owner

Travelled fees

Overseas

Thailand

By cash

Maximise Shareholder Value 2017
PwC
2. eService: Service provider’s perspective

Case 1 (remote IT service)

Gor Kor 0702/Por./1727 Dated 05/03/2009

User

Web application for overseas users only

Overseas

Thailand

Tax considerations:
- 0% VAT if
  1. Application is developed in Thailand.
  2. Application is exported to server outside Thailand.
  3. Only overseas users can access this application.
2. eService: Service provider’s perspective

Case 2 (remote IT service)

Where the service is used?
1. Service providers in Thailand remotely access users’ computers overseas.
2. Service providers in Thailand remotely update systems for overseas users.

Tax considerations:
- VAT 0%, 7%?
Digital transformation

1. eContract
2. eService
3. ePayment
4. eTax Document
3. ePayment:

Traditional

Gor Kor 0702/1788 Dated 05/03/2010

Pay fees for using service

Transfer fees collected from Japanese user to service provider

Pay collection fee to Co. A

Tax considerations:
- No WHT
- No VAT (out of scope)

Japan

Thailand
3. ePayment: Case 1 (Payment Platform)

Tax implication similar to traditional business?
3. ePayment: Case 1 (Payment Application)

Tax considerations:

- How to determine the VAT rate?
- How to collect VAT and issue tax invoices to users in Thailand?
3. ePayment: Case 1 (Payment Application)

Payment Application (Intermediate)

Revenue 70
Service provider (App developer)

Payment Application (Intermediate)

Revenue 100 Expense 30
Service provider (App developer)

Tax considerations:
• How to recognise income by the service provider?

Rev 70 or Rev 100 Exp 30
3. ePayment: Case 2 (eCurrency)

Tax considerations:
- How is a eCurrency gain or to be recognised in CIT computations?
- How to issue tax invoices if applying a eCurrency price?
Digital transformation

1. eContract
2. eService
3. ePayment
4. eTax Document
4. eTax documents: Revenue Department order no. Por. 121/2545

• Documents under the Revenue Code

Definition

• Documents which are prepare or submit same to the assessment officer.

Examples

• Balance sheet, working account, profit and loss account, sales account, etc.
4. eTax documents: Revenue Department order no. Por. 121/2545

- **Requirements**

<table>
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<tr>
<th>Accessible</th>
<th>• Accessible and for usage whereby the meaning of the statement does not change.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Format</td>
<td>• Kept in a format at the time of creation, sending, or receiving, or can show the statement created, sent, or received correctly.</td>
</tr>
<tr>
<td>Inspection</td>
<td>• Can be displayed or printed immediately.</td>
</tr>
</tbody>
</table>
4. **eTax documents: eTax invoice – The Revenue Department Regulation related to the preparation delivery and collection of electronic tax invoice and electronic receipts**

- **Type of electronic tax invoice**
  - Tax invoice
  - Debit note
  - Credit note
4. eTax documents: eTax invoice

Issuance of tax invoice

- Revenue Department - new
- Operator - existing law
4. eTax documents: eTax invoice – Relevant Revenue Department regulations

Source: http://www.rd.go.th
4. eTax documents: eTax invoice – Relevant Revenue Department regulations

Traditional tax invoice

Digital tax invoice

Source: http://www.rd.go.th
4. eTax documents: eTax invoice

- Issues
  - Liability
    - Liable person? (Revenue Department or Supplier)
    - When to issue eTax invoice?
  - Maintenance
    - How to maintain eTax and traditional tax invoices?
4. eTax documents: Electronic filing (efiling)

The Revenue Department

- Personal income tax (PND1, PND2, PND3, PND90/91, PND94)
- Corporate income tax (PND50, PND51, PND52, PND53, PND54, PND55)
- Value added tax (PP30, PP36)
- Specific business tax (PT40)
- Project Revenue and Expenditure Accounts (BC1)

Department of Business Development

- Financial statement
- Shareholders list (BOJ 5)
- Financial Statement Submission Form (Sor Bor Chor 3)
- Report on Financial Statement Relating to International Investment Position (Sor Bor Chor 3/1)
4. eTax documents: Evolution of tax information and returns: Revenue Department

Old practice

Preparing paper documents to be sent in person

Today Thailand 4.0

Submitting via the internet and paying online
- 100% of all types of PND. and PP submissions can be efiled
- RD provides One Click Service
- Full availability of tax payment information for both income and expense

- 70% of all types of PND. and PP submissions can be efiled
- 50% of companies registered for efiling

- 2 April 2001 initial launch of accepting online submissions by Revenue Department

Beginning of the Revenue Department
Summary of key considerations

I. eContract

1. Are eContracts considered an instrument?
2. Are eContracts subject to stamp duty?

II. eService

Service provider
- VAT 0%, 7%
Service recipient
- WHT
- VAT

III. ePayment

Service provider
- Business model

IV. eTax Document

Regulations
Thailand’s digital economy

Promotion of digital economy and digital society by the government

National electronic payment system (Prompt Pay)

eTax system

Drafting of new regulations related to digital economy
Any questions, please contact...

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