

CHANDLER MHM

Newsletter

THAI VAT TO BE IMPOSED ON E-SERVICES PROVIDED FROM OUTSIDE THAILAND

On 9 June 2020, the Thai Cabinet approved a draft act to amend the Revenue Code in relation to e-services provided from foreign countries. According to the Director-General of the Revenue Department, this draft amendment has been prepared based on the Organization for Economic Co-operation and Development's International VAT/GST Guidelines in order to improve the efficiency of VAT collection from foreign e-service providers.

Under this amendment to the Revenue Code the definition of "goods" will be amended to exclude intangible property transferred by an internet network or other electronic platform, such as online movies, online entertainment media, mobile games or other digital products. These will all be categorized as a "service" under the Revenue Code¹.

Based on the draft amendment, if the e-service provided by a service provider outside Thailand is used in Thailand by a recipient (i.e. a user and/or purchaser) who is not a VAT operator, the foreign e-service provider shall be liable for VAT without being able to claim for the input tax. If the e-service is provided via an electronic platform the platform operator shall be liable for the VAT imposed for the provision of the service. However, if the recipient of the e-service in Thailand is a VAT operator, that recipient has a duty to remit the VAT which the foreign e-service provider is liable for.

In addition, a foreign e-service provider, which provides an e-service to a Thai recipient who is not a VAT operator, will be required to register as a VAT operator in Thailand.

Furthermore, this draft amendment also contains a new provision to facilitate the use of electronic documents in relation to any process under the Revenue Code. The criteria for the use of electronic documents will be prescribed in a Ministerial Regulation to be published.

This draft amendment was approved by a cabinet resolution early this month. The next step would be for this draft amendment to be considered and approved by the Thai Parliament before being published in the Royal Gazette. Once enacted, this amendment may impact on the price of online services and/or digital products provided from overseas due to the additional tax liability. At the same time this should level the playing field between Thai and foreign e-service providers. The establishment of a new method of submitting tax documents via a digital platform will facilitate all taxpayers. However, the process and criteria in order to register as a VAT operator under this draft amendment still needs to be clarified. Chandler MHM will monitor developments in this area and provide a further update once the amendment is published in the Royal Gazette.

If you would like to discuss the issues raised in this article further or related issues, please contact the authors listed in the right-hand column.

Key Contacts



Nuanporn Wechsuwanarux
TEL +66-2-009-5000 Ext. 3329
nuanporn.w@mhm-global.com



Panupan Udomsuvannakul
TEL +66-2-009-5000 Ext. 3119
panupan.u@mhm-global.com



Suphakorn Chueabunchai
TEL +66-2-009-5000 Ext. 3110
suphakorn.c@mhm-global.com



Theerapat Sombatsatapornkul
TEL +66-2-009-5000 Ext. 3209
theerapat.s@mhm-global.com

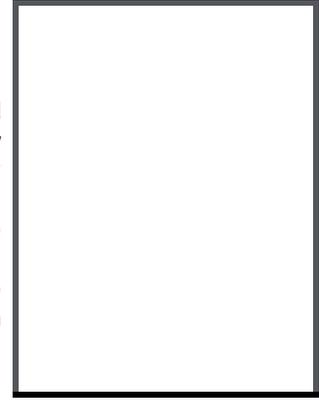
CHANDLER MHM

Chandler MHM Limited
36th Floor, Sathorn Square
Office Tower
98 North Sathorn Road
Silom, Bangrak, Bangkok 10500
Thailand
www.chandlermhm.com

¹ Section 77/1 (10) of the Revenue Code: "service" means any actions in return for consideration which is not sale of goods.

About the authors:

Nuanporn Wechsuanarux is the head partner for CMHM's Technology, Media and Telecommunications practice group and plays an important role in the Corporate and M&A practice group and the Energy and Natural Resources practice group. She acquired experience as a legal advisor to top-tier international law firms, and as a corporate secretary and head of legal at a Thai real estate development and hospitality public company. Her expertise includes working on a wide range of M&A transactions, joint ventures, corporate restructurings, structuring foreign investments, cross-border transactions, project finance transactions and infrastructure projects. Nuanporn has advised investors on the development and operation of projects within the power, alternative energy, mining, and petroleum sectors. Nuanporn also assists various clients in the technology sector with the development and operation of their businesses in Thailand.



This publication is intended to highlight an overview of key issues for ease of understanding, and not for the provision of legal advice. If you have any questions about this publication, please contact your regular contact persons at Mori Hamada & Matsumoto or Chandler MHM Limited. If you should have any inquiries about the publications, or would like more information about Chandler MHM Limited, please contact bd@mhm-global.com.