

# A Guide on VAT on Electronic Service Provided to Non-VAT Registrants in Thailand by Non-resident Business Person

(Second Edition)

Published by the Revenue Department May 2022

### Overview

This guide provides detailed information about VAT on electronic service provided to non-VAT registrants in Thailand by non-resident business person as stipulated in the Revenue Code with effect from 1 September 2021. This guide covers the following topics:

- (1) Scope of VAT on Electronic Service
- (2) Key Elements
- (3) VAT Registration
- (4) VAT Filing and Payment
- (5) Output Tax Report
- (6) VAT Refund
- (7) Compliance and Enforcement
- (8) Others
- (9) Frequently Asked Questions (FAQs)
- (10) Further Information

**Disclaimer:** The Revenue Department shall not be responsible or held accountable in any way for any damage, loss or expense whatsoever, arising directly or indirectly from any inaccuracy or incompleteness in the contents of this guide. The Revenue Department shall not be responsible or held accountable in any way for any decision made or action taken by you or any third party in reliance upon the contents in this guide. This guide aims to provide a better general understanding of taxpayers' tax obligations and is not intended to comprehensively address all possible tax issues that may arise. All information is current at the time of preparation and is subject to change when necessary.

# Table of Contents

Glo	ssary	1
1. S	Scope of VAT on Electronic Service	2
	Key Elements	
2	2.1 Electronic Service Provided from Abroad	3
2	2.2 Determining whether the service is used in Thailand	6
2	2.3 Determining the VAT registration status of customer	7
2	2.4 Income threshold for VAT registration	7
2	2.5 The provision of services through an electronic platform	8
3. V	/AT Registration	11
3	.1 Procedure and timeline for VAT registration	11
3	.2 Documents for VAT registration	11
3	.3 Changes of items in VAT registration	13
4. V	/AT filing and payment	13
4	.1 VAT liability (Tax point)	15
4	.2 VAT calculation	15
4	.3 Exchange rate conversion	15
4	.4 VAT filing	15
4	.5 VAT payment	16
5. C	Output Tax Report	18
6. V	/AT Refund	22
7. C	Compliance Services	22
7	.1 Civil Penalty	22
7	'.2 Criminal Penalty	23
8. 0	Others	24
9. F	requently Asked Questions (FAQs)	24
10	Further Information	26

# Glossary

### **Electronic Services**

Electronic service refers to service including incorporeal property which is delivered over the Internet or any other electronic network and the nature of which renders their service essentially automated and impossible to ensure in the absence of information technology.<sup>1</sup> Examples of such electronic service include online games, mobile application, and online advertising service.

### **Electronic Platform**

Electronic platform refers to market, channel, or any other procedure that many service providers use to provide their services to the service recipients.<sup>2</sup> (Electronic platform acts as an intermediary between service providers and service recipients and facilitates service transactions, i.e. a continuous process comprising offering service, receiving payment of service and, delivering service.<sup>3</sup> Such electronic platform can be in the form of website, mobile application, or others.)

### **VAT Registrant**

A VAT registrant refers to a person selling goods or providing services in the course of his business or profession and registered as VAT registrant in Thailand.

### VAT for Electronic Service (VES) System

The VAT for Electronic Service (VES) system refers to the electronic system which the Revenue Department offers to service providers and electronic platforms providing electronic service from abroad (non-resident electronic service providers and electronic platforms) that are subject to VAT on such service provided to non-VAT registrants in Thailand. The system allows users to register for VAT, file VAT returns, pay VAT, request for VAT refund, and complete other VAT obligations electronically.

<sup>&</sup>lt;sup>1</sup> Section 77/1 (10/1) of the Revenue Code

<sup>&</sup>lt;sup>2</sup> Section 77/1 (10/2) of the Revenue Code

<sup>&</sup>lt;sup>3</sup> Additional process as prescribed by the Director-General

# 1. Scope of VAT on Electronic Service

The Revenue Code Amendment Act (No.53) B.E. 2564 (2021)<sup>4</sup> mainly stipulates that non-resident electronic service providers and electronic platforms, who receive income of more than 1.8 million baht per year from providing electronic services to **non-VAT registered customers** in Thailand, shall register for VAT, file VAT returns, and pay VAT. The amount of VAT payment is based on output tax without input tax deduction starting from 1 September 2021.<sup>5</sup> The electronic service providers and electronic platforms are not allowed to issue a tax invoice and are not required to keep input tax report.

<sup>4</sup> https://www.rd.go.th/fileadmin/user\_upload/kormor/eng/rca53\_2564.pdf

<sup>&</sup>lt;sup>5</sup> The implementation date of the regime

# 2. Key Elements

Under the Revenue Code, electronic services provided from abroad to customers in Thailand are subject to valued added tax (VAT) in Thailand. Electronic services provided from abroad to customers who are VAT registrants in Thailand are subject to VAT and the reverse charge method is applied. Electronic services provided from abroad to non-VAT registered customers in Thailand are also subject to VAT; however, the service providers or electronic platforms who meet the criteria are required to register, charge and remit VAT on such services provided to non-VAT registered customers.

Non-resident electronic service providers shall register for VAT in Thailand when the following criteria are met:

- (1) Providing electronic services from abroad;
- (2) Such service is used in Thailand by a non-VAT registered customer; and
- (3) Having income from such service of more than 1.8 million baht in a calendar year (in case of sole proprietor/non-juristic partnership) or an accounting period (in case of company/juristic partnership).

Non-resident electronic platforms shall register for VAT in Thailand when the following criteria are met:

- (1) Having a continuous process comprising offering service, receiving payment of service, and delivering service of non-resident electronic service providers;
  - (2) Such service is used in Thailand by non-VAT registered customers; and
- (3) Having income from such service of more than 1.8 million baht in a calendar year (in case of sole proprietor/non-juristic partnership) or an accounting period (in case of company/juristic partnership).

### 2.1 Electronic Service Provided from Abroad

Electronic service provided from abroad means electronic service provided by a juristic person incorporated and operating business in other jurisdictions excluding Thailand and not having a permanent establishment in Thailand or electronic service provided by an individual who is not a resident in Thailand.

Electronic service means service including incorporeal property which is delivered over the internet or any other electronic network and the nature of which renders their service essentially automated and impossible to ensure in the absence of information technology. Examples of such electronic service include online games, mobile application service, and online advertising service. <sup>6</sup>

# Examples of such electronic service include:

- Digital products such as mobile applications;
- Software programs;
- Digital images, videos, and financial data;
- Digital music, films, and games;
- Distance teaching via pre-recorded medium such as online courses;
- Electronic data management such website supply, web-hosting, automated and digital maintenance of programmes;
- Providing or supporting a business or personal presence on an electronic network;
- Search engine such as customised search-engine services;
- Listing services for the right to put goods or services for sale on an online market or auction house
- On-demand streaming services where there is no interaction with the content provider
- Advertising services on intangible media platform
- Support services performed, via electronic means, for arranging and facilitating
  the completion of transactions, which may not be digital in nature such as
  commission fees to intermediaries, service fees to consumers and merchants for
  sale of products through the electronic marketplace

### Such electronic service excludes:

- Live teaching services, where the course content is delivered by a teacher over the Internet or an electronic network:
- Professional services involving human intervention and the nature of which is not essentially automated such as consulting services where advice from the consultant is communicated via e-mail or video call.

-

<sup>&</sup>lt;sup>6</sup> Section 77/1 (10/1) of the Revenue Code

These are not exhaustive lists of electronic services and services that are excluded from the definition of electronic service. If a business person provides electronic services from abroad to non-VAT registered customers in Thailand with income from such services of more than 1.8 million baht, such business person shall register for VAT, file VAT returns, pay VAT, and be subject to penalties, if any, similar to VAT registrants in Thailand. However, if the service provided from abroad is not an electronic service such as providing a consulting service via e-mail or offering advertisement design via e-mail, the service recipient in Thailand is still required to remit VAT to the Revenue Department using the VAT remittance form (P.P.36).

However, sales of newspapers, magazines, and textbooks in electronic form (e-Book) are exempted from VAT. Therefore, non-resident service providers of e-Book and non-resident e-Book platforms are <u>NOT</u> required to register for VAT, file VAT returns, and pay VAT in Thailand.

### Example 2-A

Co. A is incorporated in the United States and has a website that provides a music downloading service. If Co. A has a customer in Thailand who is not a VAT-registrant, Co.A is required to register for VAT when its income received from such service exceeds 1.8 million baht in an accounting period.

### Example 2-B

Co. B is incorporated in the United Kingdom and operates an online marketplace through its website. Such marketplace acts as a sales channel where buyers and sellers around the world can transact and the marketplace collects service fees from providing such channel. Co. B provides such service to sellers who are VAT registrants and non-VAT registrants in listing their products on the website. If Co. B provides such service to non-VAT registered sellers in Thailand for more than 1.8 million baht in an accounting period, Co. B is required to register for VAT in Thailand.

# Example 2-C

Mr C is a resident in Singapore and provides a consulting service to Thai clients, who are non-VAT registrants, via e-mail, Mr C is <u>NOT</u> required to register for VAT in Thailand since such service is not an electronic service.

### 2.2 Determining whether the service is used in Thailand

To determine whether an electronic service is used in Thailand, service providers or electronic platforms can rely on the customer's information that they routinely obtain in the normal business activity to determine where the electronic service is used. Such information can be one of the following information about the customer:

- (1) Payment information (e.g. credit card information, bank account details)
- (2) Residence information (e.g. home address, billing address)
- (3) Access information (e.g. mobile country code of SIM card, IP address)

However, if such information is contradictory, the service providers or electronic platforms should obtain at least two pieces of non-conflicting evidence of where the service is used.

### Example 2-D

Co. A, a VAT registrant, provides an electronic service from abroad and maintains only payment information of all customers. Mr D pays for Co. A's service using a credit card issued in Thailand. Co. A can determine that the service is used in Thailand.

### Example 2-E

Co. B, a VAT registrant, provides an electronic service from abroad and obtains Mr E's payment information, which indicates that Mr E paid for the service using a credit card issued in Thailand, and access information, which indicates that Mr E accessed the service via an IP address in Singapore. Since the information obtained is contradictory, Co. B should obtain the third piece of Mr E's information. If the third piece of information does not conflict with the payment or access information, Co. B can determine where the service is used by the two non-conflicting pieces of information. If the third piece of Mr E's information is contradictory to the payment and access information, Co. B should obtain further information until Co. B can determine where the service is used using two non-conflicting pieces of information

## 2.3 Determining the VAT registration status of customer

By default, non-resident electronic service providers and electronic platforms can treat the customer as a non-VAT registrant, unless:

- (1) Non-resident electronic service providers and electronic platforms have information determining that the customer is a VAT registrant;
- (2) The customer has informed non-resident electronic service providers and electronic platforms about their VAT registration number.

Non-resident electronic service providers and electronic platforms are <u>NOT</u> required to verify the validity of the customer's VAT registration or tax identification number. However, service providers and electronic platforms should consider the basic validity of the number such as the completeness of the number of digits (It must contain exactly 13 digits) or the reasonableness of number (e.g. it should not be consecutive (1234...)). However, service providers and electronic platforms can also visit the Revenue Department's website (VAT registrants lookup page (TH): <a href="https://eservice.rd.go.th/rd-ves-web/search/vat">https://eservice.rd.go.th/rd-ves-web/search/vat</a>) to verify the validity of the customer's VAT registration and tax identification number. If a customer intentionally provides a false tax identification number, service providers and electronic platforms can report to the Revenue Department at ves@rd.go.th.

Non-resident electronic service providers and electronic platforms are <u>NOT</u> required to pay VAT from services provided to VAT registrants. VAT-registered customers are required to remit the VAT by submitting the VAT remittance form (P.P. 36). However, service providers and platforms should maintain information of both VAT registered and non-VAT registered customers in case evidence is requested.

### 2.4 Income threshold for VAT registration

Non-resident electronic service providers and electronic platforms are liable to register for VAT when the revenue received from the provision of electronic services to non-VAT registered customers in Thailand exceeds 1.8 million baht<sup>7</sup> in an accounting period (for corporation/juristic partnership) or a calendar year (for individual/non-juristic partnership).

For 2021, the first year of law enforcement, a corporation shall calculate the value of tax base of 1.8 million baht from income received from the first day of the accounting period which does not end before 1 September 2021. For an individual vendor, income shall be calculated from 1 January 2021. In case electronic service providers and electronic platforms

<sup>&</sup>lt;sup>7</sup> Income of 1.8 million baht must be calculated on a cash basis.

start operating business during the year, income shall be calculated from the first day of your business. You are required to register for VAT within 30 days from the day you have satisfied the income threshold.

### Example of income threshold calculation for 2021

- A corporation has an accounting period starting from 1 January 2021 31 December
   2021. You should calculate income from 1 January 2021.
- A corporation has an accounting period starting from 1 April 2021 –31 March 2022. You should calculate income from 1 April 2021.
- A corporation has an accounting period starting from 1 October 2020 –30 September 2021. You should calculate income from 1 October 2020.

### 2.5 The provision of services through an electronic platform

The law states that, in some cases, the provision of electronic services through an electronic platform may require the platform to register for VAT, file VAT returns, and pay VAT for the electronic services provided. In such cases, platforms will have the same tax liability as non-resident electronic service providers.

When will electronic platforms have to pay VAT on behalf of non-resident electronic service providers?

An electronic platform will be liable to pay VAT on behalf of non-resident electronic service providers if the service providers provide electronic services through a platform with continuous processes starting from offering service, receiving payment of service and delivering service. If an electronic platform operates all the three processes and meets the income threshold for VAT registration in Thailand, the platform operator is required to register for VAT, file VAT returns, and pay VAT to the Revenue Department on behalf of all service providers who have provided electronic services through the platform.

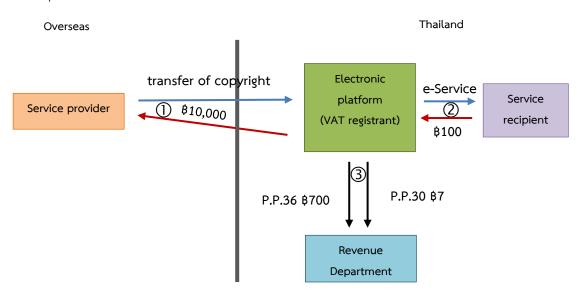
How will electronic platform operators in Thailand pay VAT on behalf of service providers?

If a service provider in Thailand has provided electronic services through an electronic platform that has been registered in Thailand, the service provider will be responsible for paying VAT. If a non-resident service provider has provided electronic services through an electronic platform that has been registered in Thailand and the platform has provided continuous processes including offering service, receiving payment of service and delivering

service for the service provider, in this case, the platform is regarded as a provider of services to customers in Thailand. Subsequently, the platform will be required to:

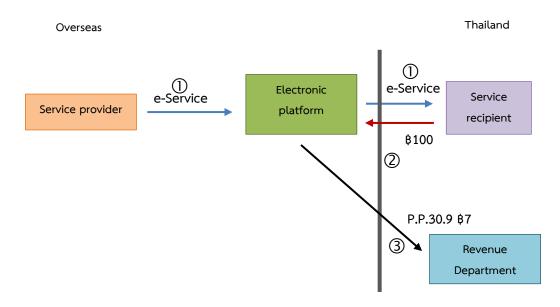
- (1) File the VAT return (P.P.30) and pay VAT for income received from providing services of the non-resident service provider to customers in Thailand
- (2) Submit a VAT remittance form (P.P.36) and remit VAT for service fees paid to the non-resident service provider.

### Example 2-F\*



- 1. A non-resident service provider transfers the entire copyright in the software to an electronic platform that has been registered in Thailand and receives \$10,000 for the compensation for the copyright of the software from the electronic platform.
- 2. A domestic platform supplies electronic services to a service recipient in Thailand and receives \$100 of compensation from the electronic platform.
- 3. A domestic platform is required to:
- 3.1 Submit the VAT return (P.P.30) and pay VAT for the compensation of \$100 (file a return and pay \$7 of VAT =  $100 \times 7\%$ ) received from the provision of services to the service recipient in Thailand.
- 3.2 Submit the VAT remittance form (P.P.36) for the compensation of \$10,000 (file a return and pay \$700 of VAT =  $10,000 \times 7\%$ ) paid to the non-resident service provider.

Example 2-G\*



- 1. A non-resident service provider supplies electronic services through a non-resident electronic platform to a service recipient in Thailand.
- 2. A non-resident service provider collects \$100 for service fee, the service recipient paid \$100 through the platform.
- 3. The non-resident platform is required to submit the VAT return form (P.P.30.9) for the service fee of  $\beta$ 100 (file a return and pay  $\beta$ 7 of VAT = 100 x 7%) received from the provision of service to the service recipient in Thailand.

\*Note: Example 2-G assumes that the electronic platform offers the service, receives the payment of service, and delivers the service to non-VAT registered customers in Thailand.

# 3. VAT Registration

## 3.1 Procedure and timeline for VAT registration

Non-resident electronic service providers and electronic platforms which provide electronic services to non-VAT registrants in Thailand shall apply for VAT registration via the VES system (<a href="https://eservice.rd.go.th/rd-ves-web/landing">https://eservice.rd.go.th/rd-ves-web/landing</a>) within 30 days from the day when income from such service exceeds 1.8 million Baht.

### VAT Registration Date; for example,

- If you have income exceeding 1.8 million Baht before or on 3 August 2021, you should register for VAT by 1 September 2021;
- If you have income exceeding 1.8 million Baht after 3 August 2021, you should register for VAT within 30 days from the day you have income from providing electronic services to non-VAT registrants in Thailand exceeding 1.8 million Baht.

Non-resident electronic service providers and electronic platforms can voluntarily register for VAT even though the income from providing electronic services to non-VAT registrants in Thailand does not exceed 1.8 million Baht per year or accounting period. The VAT registration application shall be submitted electronically via the VAT for Electronic Service (VES) system on the Revenue Department's website (<a href="https://eservice.rd.go.th/rd-ves-web/landing">https://eservice.rd.go.th/rd-ves-web/landing</a>). The VAT registration application shall be submitted separately by each entity. If you have multiple branches and each branch provides electronic services to non-VAT registered customers in Thailand, such branch with income of more than 1.8 million baht shall register for VAT through the VES system.

### Date of becoming a VAT registrant

A business person becomes a VAT registrant and receives a tax identification number on the date of VAT registration application submission, but not before 1 September 2021.

### 3.2 Documents for VAT registration

### Juristic Person

(1) Certificate of incorporation, translated in English and containing the name of the business person, country and date of juristic person incorporation. The document shall have been notarised for no longer than six months by the Ministry of Foreign Affairs or a Notary Public or other agencies under the relevant laws of the country of incorporation.

(2) Certificate of tax residency in the country of incorporation, translated in English (if applicable)

### Individual

- (1) A copy of passport, translated in English (only the part showing information regarding the name of the passport holder, passport holder's photo, and passport number, or a copy of the business person's identification card, which has been notarised for no longer than six months by the Ministry of Foreign Affairs or a Notary Public or other agencies under the relevant laws of that country.
- (2) Certificate of tax residency in the country where the individual is a tax resident, translated in English (if applicable)

All documents must be submitted to the Revenue Department by uploading via the VES system on the Revenue Department's website. When the VAT registration is complete, the VAT registrant will be notified of the VAT registration via the VES system and the list of VAT registrants on the VES system will be announced on the Revenue Department's website (https://eservice.rd.go.th/rd-ves-web/search/company).

The VAT registration information can be edited until 11:59:59PM (Thai local time GMT+7) on the date of the VAT registration application submission. After that time, if the business person wishes to change the registration information excluding business email address, the business person can notify the change at ves@rd.go.th. However, after the Revenue Department has announced and approved the business person as a VAT registrant on the Revenue Department's website, if the business person wishes to change essential particulars (i.e. name of VAT operator, business email address, or business website), the business person shall submit the P.P.09.9 form via the VES system. If the business person wishes to change other information, the business person can notify the change at ves@rd.go.th.

For more information on VAT registration, please see the Notification of the Director-General of the Revenue Department Regarding Value Added Tax (No.241) Re: Prescribing rules, procedures and conditions for submission of an application for value added tax registration and notification of change of value added tax registration for business persons who have provided electronic services from abroad or non-resident electronic platform operators

### 3.3 Changes of items in VAT registration

# 3.3.1 Changes in essential particulars, temporary cessation, moving place of business, cessation of business, transfer of entire business, and merger

If non-resident electronic service providers and electronic platforms have changed essential particulars in VAT registration or one of the following events has occurred, VAT registrant shall notify the Revenue Department via the VES system within 15 days from the date the change or one of the following events occurs:

- (1) changes in essential particulars in value added tax registration which are changes in the business person's name, business email address, or address on the Internet or other electronic networks used in business operations (business website). This excludes change of items related to juristic persons such as change of directors of the limited company or change of the contact person(s) etc.
  - (2) temporarily cessation of business for more than 30 days consecutively
  - (3) moving of a place of business
- (4) cessation of business, including a transfer of the entire business to another business person and a merger into a new business person. In this case where the entire business is transferred to another VAT registrant, the VAT registrant who transfers the business shall notify the transfer and business cessation to the Revenue Department at the same time. In the case where the transferee is not a VAT registrant, such transferee shall proceed to register for value added tax in accordance with the rules prescribed in 3. above.

If VAT registrants who are juristic persons, wish to merge, such VAT registrants shall notify the business cessation, and the new business person resulting from the merger shall apply for value added tax registration within 15 days from the date of the merger.

When notifying the changes via the VES system, supporting documents related to the changes must also be submitted to the Revenue Department by uploading to the VES system.

In notifying the changes of items in value added tax registration above, a VAT registrant shall present the correct and complete items as in Form P.P.09.9 and submit the English version of the documents and evidence listed below.

- (1) In case of change of the business person's name: attach a photo of the document showing the change of the name.
- (2) In case of moving of a place of business: attach a photo of the document showing the change of address.
- (3) In case of cessation of business, including a transfer of the entire business to another business person and a merger into a new business person: attach a photo of the document showing the cessation of business, including a transfer of the entire business to another business person and a merger into a new business person.

In the case where the Revenue officer requests that the documents and evidence under the previous paragraph to be certified, the VAT registrant must also present documents and evidence that have been certified for no longer than the past six months from the Ministry of Foreign Affairs or the Notary Public or other agencies under the relevant laws of that country.

### 3.3.2 An individual VAT registrant dies

In the case where a VAT registrant being an individual dies, the person responsible for the business operation of the deceased shall notify the Revenue Department via the VES system as soon as possible, and the notification shall be deemed as notification of the business termination of the VAT registrant. The person responsible for the business operation of the deceased shall proceed with matters regarding the business as necessary until the Director-General orders the name of the VAT registrant who dies to be striked off the value added tax register. In such case if the administrator of the estate or the heir of the deceased wishes to carry on the business of the VAT registrant who dies, such person shall apply for value added tax registration

# 4. VAT filing and payment

## 4.1 VAT liability (Tax point)

The full or partial VAT liability of a non-resident providing electronic services from abroad to non-VAT registrants in Thailand arises when the service fee is paid in whole or in part, whichever the case may be.<sup>8</sup> In the case that a VAT operator receives payment via credit card, the VAT liability arises when a proof of credit card usage is issued.<sup>9</sup>

### 4.2 VAT calculation

VAT amount shall be calculated by multiplying the service value in Thai Baht by the VAT rate of 7 percent.

### 4.3 Exchange rate conversion

In the case that a VAT operator receives service payment in foreign currency, the VAT operator shall convert the payment into Thai currency as follows:

- (1) If foreign currency is sold for Thai currency in the month that VAT liability arises, the Thai currency from the currency sale shall be deemed as the value of the service.
- (2) If foreign currency is not sold for Thai currency in the month that VAT liability arises, that currency shall be converted into Thai currency using the average (transfer) buying rate of commercial banks<sup>10</sup> which the Bank of Thailand calculates on the last business day of the month in which the VAT liability arises.<sup>11</sup>

## 4.4 VAT filing

VAT operators shall file VAT return (P.P.30.9) and pay VAT on a monthly basis via the VES system. VAT returns shall be filed from the 1<sup>st</sup> to 23<sup>rd</sup> of the following tax month (If the 23<sup>rd</sup> day is not a business day, the due date is the first business day following the 23<sup>rd</sup> day). VAT return shall be filed every month even though electronic service providers and electronic platforms have no income from the operation of business in that tax month.

In case that a VAT operator has filed a VAT return and later found that it was incorrect, the VAT operator shall submit an additional VAT return.

<sup>&</sup>lt;sup>8</sup> Section 78/1(3) of the Revenue Code

<sup>&</sup>lt;sup>9</sup> Ministerial Regulation no. 189 (B.E. 2534) Issued by virtue of the Revenue Code Regarding VAT liability in certain cases

<sup>&</sup>lt;sup>10</sup> https://www.bot.or.th/App/BTWS STAT/statistics/BOTWEBSTAT.aspx?reportID=123&language=ENG

<sup>&</sup>lt;sup>11</sup> Section 79/4 of the Revenue Code

## 4.5 VAT payment

After a VAT operator has submitted a tax return, there will be a reference code for each tax filing and payment. The reference code and payment details will be shown on the screen of the tax filing and payment system.

VAT shall be paid in full in Thai baht through one of the following channels:

(1) International wire transfer to the following bank account:

Krungthai Bank account

Account Number 1847018742

Account Name KRUNGTHAI FOR THE REVENUE DEPARTMENT

SWIFT Code KRTHTHBK

(2) Credit card;

(3) Debit card.

On the due date for tax payment (the 23<sup>rd</sup> day of the next tax month. If the 23<sup>rd</sup> day is not a business day, the due date is the first business day following the 23<sup>rd</sup> day.), the tax payment shall be completed no later than 3:30PM (Thai local time GMT+7) via international wire transfer<sup>12</sup> or no later than 8:30PM (Thai local time GMT+7) via credit card or debit card.

The Revenue Department will issue a payment receipt only when it receives the tax payment. The tax payment will be considered completed on the date that the payment is successfully transferred to the bank account in (1).

In case of international wire transfer, if the amount of tax payment transferred is less than the full amount of tax payable, the amount of tax payment transferred shall be returned to the taxpayer entirely, and it shall be deemed that the taxpayer has not made any tax payment to the Revenue Department. If the taxpayer pays the full amount of tax payable after the due date, the taxpayer shall be subject to penalty and surcharge. Tax payment received by Krungthai Bank will be the amount after deducting all related transactional fees. All overseas bank charges and intermediary bank charges in Thailand, if any, are to be borne by taxpayers.

If you are unable to pay in Thai baht, please contact Krungthai Bank at corporatefxsales@krungthai.com and use the email subject line "VAT for Electronic Service for the Revenue Department".

<sup>&</sup>lt;sup>12</sup> Please advise the transferring bank to directly transfer the payment via SWIFT to Krungthai Bank, which is the Revenue Department's payment receipt agent; otherwise, there may be unforeseeable fees.

### Example of a pay-in slip issued by the Revenue Department

# E-SERVICE e-Filling and tax payment for VAT on e-Service

Pay-in Slip/ซุดชำระเงิน (For Taxpayer Record/สำหรับผู้เสียภาษีเพื่อเป็นหลักฐาน)

Date วันที่ 16 September 2021	Tax Amount (Baht) ภาษีที่ต้องชำระ (บาท)	1,234,567.89	TAX ID เลขประจำตัวผู้เสียภาษี	9990000000123
Name Dummy Digital Platform	Surcharge Amount (Baht) เงินเพิ่ม (บาท)	0.00	REF CODE รหัสควบคุม	238662650814092
Due Date 23 September วันครบกำหนดชำระ 2021	Penalty Amount (Baht) เบี้ยปรับ (บาท)	0.00	PAYMENT AMOUNT	
	Criminal Fines Amount (Baht) คำปรับอาญา (บาท)	0.00	(Baht) ยอดชำระ (บาท)	1,234,567.89

Payment Method

Money Transfer to Krungthai Bank Public Company Limited

Account Number: 184-7-01874-2

By Telegraphic Transfer (TT) / SWIFT

#### Payment Terms & Conditions

- For International Fund Transfer, the sender's bank must send via SWIFT MT103 directly to Krung Thai Bank Public Company Limited which is the Revenue Department's Agent.
- All overseas bank charges and the intermediary bank charge in Thailand, if any, are to be borne by taxpayer.
- Tax payment details as indicated in Pay-in Slip (TAX ID, REF CODE, TAX AMOUNT (Baht)) must be provided in remittance information/payment details field (SWIFT MT103 field #70) every time the transfer is made.
- Payment will be posted into the Revenue Department's account within the next day from the date of fund received if the complete information is provided. Incomplete/Incorrect details may result in fund reject.
- Payment is acceptable in THB or in foreign currency. If the fund received is in foreign currency, Krung Thai Bank PCL's exchange rate on the date of the fund received will be applied.
- The fund received for tax payment will be rejected if
  - No data or incomplete/incorrect data on tax payment details specified; or
- > The fund received is less than the tax amount.
- If the fund received is rejected, it shall be deemed that the taxpayer has not made any tax payment to the Revenue Department.
- In case where the amount transferred exceeds the amount of tax payable, the Revenue Department shall keep the entire transferred amount. The service user can file a request for refund for the excess amount. However, in case where the amount transferred is less than the amount of tax payable, the amount transferred shall be returned to the service user after deducting all related transactional fees as specified by Krung Thal Bank PCL.
- Payment must be received by Krung Thai Bank PCL. before the due date and by 3:30 PM (Thai local time GMT+7) of the day, otherwise, fund will be rejected and tax payment will be considered as overdue. The Bank's business days follow Thai local date and time
- The Revenue Department may take any legal actions in case of incomplete or late tax filing or failure to file a tax return.

Here is the information to inform your bank to make International fund transfer to Krungthai Bank Public Company Limited;			
Account Name:	KRUNGTHAI FOR THE REVENUE		
	184-7-01874-2		
	KRUNGTHAI BANK PCL.		
	кктнтнвк		
	PAY IN FULL		
	TAXPAYMENT		
Detail inTag#70 (MT103)	TAXID999000000123		
	REFCODE238662650814092		
	AMOUNT1,234,567,89		

	hai Bank's intermediary bank name list for interna er tax payment services;	ational fund
CUR	BANK	SWIFT CODE
USD	BANK OF NEW YORK MELLON, NEW YORK	IRVTUS3N
GBP	BARCLAYS BANK PLC., LONDON	BARCGB2
EUR	COMMERZBANK A.G., FRANKFURT	COBADEFF
AUD	COMMONWEALTH BANK OF AUSTRALIA, SYDNEY	CTBAAU2S
CNY	INDUSTRIAL AND COMMERCIAL ANK OF CHINA, CHINA	ICBKTHBKCLR
SGD	UNITED OVERSEAS BANK LIMITED, SINGAPORE	UOVBSGSG
HKD	HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED, HONG KONG	HSBCHKHHHKI

### Disclaimer

- Krungthai Bank PCL. shall reserve the right to refuse to process any remittance if the Bank suspects that the transaction may be illegal or may relate to any money laundering or financing of terrorism activity. In such event, the sender agrees not to claim against the bank for any damage.
- In case there is a regulation or an order of an official or a governmental authority that requires the bank to disclose information or financial transactions, the Sender agrees and consents to the bank to disclose such information and/or provide such financial transaction to the official or governmental authority.

# 5. Output Tax Report

VAT operators are responsible for preparing output tax report and detail of transaction in output tax report with at least a list and text in the form below. VAT operators shall keep and maintain the output tax report and detail of transaction in output tax report including its relevant documents for at least 5 years from the date of making the report and detail of transaction.<sup>13</sup> VAT operators are not required to submit output tax report and detail of transaction in output tax report unless requested by the Revenue Department.

For more information on output tax report, please see the Notification of the Director-General of the Revenue Department Regarding Value Added Tax (No.239) Re: Requirement for a VAT registrant to prepare a report that is different from the report under Section 87 of the Revenue Code.

### **Output Tax Report**

Tax Month......Year....

Name of VAT RegistrantTax I		ID Number		
		Service Value Excluding VAT		
Date	Description	Foreign	Thai Baht	
		currency	(THB)	
	Total Value			
Exchar	nge rate for converting to THB (the last day of the month)			
	VAT payable (THB)			

(Date means the date of payment of service. Description means the type of service e.g. application, advertising fee. Foreign currency means the currency charged for VAT.)

Net VAT payable

<sup>&</sup>lt;sup>13</sup> Section 87/3 of the Revenue Code

# Example

# Output Tax Report

(For Value Added Tax Registrant under Clause 8 of the Notification of the Director-General of the Revenue Department regarding Value Added Tax (No.104) amended by the Notification of the Director-General of the Revenue Department regarding Value Added Tax (No. ..))

Tax Month September Year 2021

Name of VAT Registrant <u>Good Taxpayer Co., Ltd Tax ID Number</u> <u>0235698798012</u>

Date	Description	Service Value Excluding VAT			
Date	Description	USD	Thai Baht (THB)		
	Game Service 1	20	500		
1	Advertising Fee	-	300		
1					
30	30				
	Total Value	100	5,300		
Exchar	Exchange rate for converting to THB (the last day of the month) 30				
	VAT payable (THB) 210 (100x30x7%)				
	Net VAT payable				

# Detail of transaction in output tax report

	Tax Month	Year	
Name of VAT Registrant	t		. Tax ID Number

			Customer's		Service Value Excluding VA	cluding VAT
No.	Date	/ / / / / / / / / / / / / / / / / / / /	Foreign currency	Thai Baht (THB)		
	Total Value					
	Exchange rate converting to THB (the last day of the month)					
	VAT payable (THB)					
	Net VAT payable					

# Example

# Detail of transaction in output tax report

Tax Month September Year 2021

Name of VAT Registrant Good Taxpayer Co., Ltd Tax ID Number 0235698798012

			Customer's		Service Value	Excluding VAT
No.	Date Transaction No. Name/ID/Email Description	Description				
			(any word that can	·	USD	Thai Baht (THB)
			identify customer)			
1	1	GA0895	100us389	Game Service 1	15	-
12	1	AD0154	M5689	Advertising Fee	-	300
25	1	GA0901	105us500	Game Service 1	5	-
26	1	GA0902	107us600	Game Service 1	-	500
30	5	AD0267	Y0828	Advertising Fee	0	2,400
	•••					
82	9	AD0310	M198829	Advertising Fee	0	200
	•••					
280	30	GA0972	101th998	Game Service 1	0	60
	Total Value 100				100	5,300
	Exchange rate converting to THB (the last day of the month) 30					
	VAT payable (THB) 210 (100x30x7%)				371 (5,300×7%)	
	Net VAT payable					<b>581</b> (210+371)

### 6. VAT Refund

VAT operators have the right to request a VAT refund in various cases such as overpayment of VAT collected from VAT registered customers, overpayment of VAT collected from customers who are not in Thailand, overpayment of VAT collected from non-electronic services, and overpayment of VAT resulting from miscalculation or redundancies. To receive the refund, the VAT operator shall have a bank account of which the name of the bank account holder matches the VAT operator's name shown in the VAT registration.

# 7. Compliance Services

The Revenue Department's Large Business Tax Administration Division is responsible for supervising and auditing non-resident electronic service providers and electronic platforms who are VAT registrants in Thailand. Correspondence regarding supervision or audit between the Division and the service providers and electronic platforms will be conducted electronically via the VES system or e-mail (ves@rd.go.th).

If non-resident VAT operators fail to comply with the law, the VAT operators are subject to the same civil and criminal penalties as VAT operators in Thailand. Additionally, if non-resident VAT operators wish to submit an appeal, they can submit the tax appeal form electronically via the VES system.

### 7.1 Civil Penalty

Non-resident electronic service providers and electronic platforms may be subject to the penalty in the following scenarios:

Offence	Penalty
1. Conducting business without VAT	A fine twice the tax due in tax month for the
registration	duration of failure to comply with such provision, or
	1,000 Baht per month, whichever is greater
2. Late filing of VAT returns	A fine twice the tax due in tax month
3. Filing incorrect tax return affecting	Fine for the affected amount of tax
the amount of tax due	

If non-resident electronic service providers or electronic platforms fail to pay or remit tax within the tax filing deadline, they shall be liable to a surcharge of 1.5 percent of payable tax excluding fine per month or part of month

The calculation of surcharge shall accrue from the day following the tax filing deadline to the date of tax payment but the calculated surcharge shall not exceed the amount of tax payable.<sup>14</sup>

# 7.2 Criminal Penalty

Non-resident electronic service providers and electronic platforms may be subject to criminal offenses in the following scenarios:

Offence	Penalty
1. Failure to register for VAT and conducting business	A sentence of no more than 1
without VAT registration	month or a fine of no more than
	5,000 Baht or both <sup>15</sup>
2. Non-filing of VAT returns	A fine of no more than 2,0 0 0
	Baht <sup>16</sup>
3. Failure to make reports as prescribed by the Director-	A sentence of no more than 6
General	months or a fine of no more than
	10,000 Baht or both <sup>17</sup>
4. Intention to evade or trying to evade value added tax,	A sentence from 3 months up to 7
issuing tax invoice, debit note or credit note without	years and a fine from 2,000 Baht
authorisation	up to 200,000 Baht <sup>18</sup>

<sup>&</sup>lt;sup>14</sup> Section 89/1 of the Revenue Code

<sup>&</sup>lt;sup>15</sup> Section 90/2 of the Revenue Code

<sup>&</sup>lt;sup>16</sup> Section 90 of the Revenue Code

<sup>&</sup>lt;sup>17</sup> Section 90/3 of the Revenue Code

<sup>&</sup>lt;sup>18</sup> Section 90/4 of the Revenue Code

### 8. Others

For the service providers who provide service from abroad but have no obligation to register for VAT in Thailand

The following service providers, who provide service from abroad to customers in Thailand, are  $\underline{NOT}$  required to register for VAT or to submit VAT returns to the Revenue Department<sup>19</sup>:

- (1) A service provider providing an electronic service to a VAT registrant;
- (2) A service provider providing a non-electronic service to any person.

However, in these cases, the customers are required to remit VAT by submitting a VAT remittance form (P.P. 36) to the Revenue Department.

# VAT filing and payment using the VAT remittance form (P.P. 36)

From 1 September 2021 onwards, non-VAT registered customers who make payment for electronic services provided from abroad will not be required to remit VAT to the Revenue Department from such service as the law requires service providers who provide electronic services from abroad and electronic platforms to remit VAT instead of such customers.

However, the following service recipients in Thailand are still required to remit VAT to the Revenue Department by submitting a VAT remittance form (P.P. 36):

- (1) VAT registrants using electronic or non-electronic services from abroad;
- (2) Non-VAT registrants using non-electronic services from abroad.

### 9. Frequently Asked Questions (FAQs)

1. If a non-resident electronic service provider or electronic platform is required to issue tax invoices in the country of incorporation, is the service provider or electronic platform able to issue the tax invoices for customers in Thailand?

Yes. However, the electronic service providers or electronic platform are not allowed to issue tax invoices under the Revenue Code.

-

<sup>&</sup>lt;sup>19</sup> Section 85/3 of the Revenue Code

2. Does the VAT registration of non-resident electronic service providers and electronic platforms constitute a permanent establishment (PE) for income tax purposes in Thailand?

The VAT registration in Thailand would not on its own be a determining factor for whether it has PE in Thailand. Thailand will continue to rely on its domestic income tax law and the provisions of its Double Taxation Agreements to determine whether the non-resident has a PE in Thailand for income tax purposes.

3. If a customer informs the non-resident electronic service provider of false VAT registration number with an intention to avoid VAT, is the service provider liable to a penalty?

No. The service provider is not required to verify the validity of the customer's VAT registration number. However, the service provider should consider the basic validity of the number such as the completeness of the number of digits (It must contain exactly 13 digits) or the reasonableness of number (e.g. it should not be consecutive (1234...)).

4. Is the non-resident electronic service provider or electronic platform required to display a VAT registration certificate (P.P.20) on their website used to offer electronic services?

No. The law does not require the service provider or electronic platform to display the certificate. Instead, the VAT registered electronic service providers and electronic platforms will be listed on the Revenue Department's website.

5. If a non-VAT registered customer pays for a three-month movie streaming service on 1 July 2021, is the service provider of the streaming service required to file a VAT return and pay VAT to the Revenue Department for the service provided in September 2021?

No. The service payment occurs before 1 September 2021 which is the implementation date of the law; therefore, the service provider is NOT required to file a VAT return and pay VAT from the service fee received.

6. If a VAT registered customer in Thailand uses an electronic service provided from abroad for both VAT and non-VAT businesses, what should the customer do?

The customer shall remit VAT from the service fee by using the P.P.36 VAT remittance form. However, the VAT remitted can be used as input tax only for the VAT business. If the customer is unable to distinguish for which business the electronic service is used, the customer shall allocate the VAT remitted as input tax according to the rule prescribed by the Revenue Department.<sup>20</sup>

7. Is sales of newspapers, magazines, and textbooks in electronic form (e-Book) from abroad subject to VAT registration, filing, and payment under the Revenue Code Amendment Act (No.53) B.E. 2564 (2021)?

No. The sales of newspapers, magazines, and textbooks in electronic form (e-Book) from abroad are exempt from VAT and the sellers of e-Book are <u>NOT</u> allowed to register for VAT.

### 10. Further Information

If you have further questions regarding the Revenue Code Amendment Act (No.53) B.E 2564, please contact the Revenue Department at ves@rd.go.th or Tel. 1161.

-

<sup>&</sup>lt;sup>20</sup> Section 82/6 of the Revenue Code