

»» Overview of the e-Service Tax Law ««

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What is the e-Service tax law about ?

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The Revenue Code Amendment Act (No. 53) B.E. 2564 (2021) stipulates that non-resident service providers and electronic platforms with **income from providing electronic services to non-VAT registered customers in Thailand of more than 1.8 million baht per year** are required to register for VAT, filing VAT returns, and remit VAT to the Revenue Department under a pay-only basis without deducting input tax or issuing a tax invoice.

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When does the e-Service tax law come into effect ?

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Non-resident service providers and electronic platforms with income from providing electronic services to non-VAT registered customers in Thailand of more than 1.8 million baht per year are required to register for VAT and pay VAT to the Revenue Department **starting from 1st September 2021**.

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

A

The VAT registration in Thailand **would not be a determining factor for having a PE in Thailand.**

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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 ?

A

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

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If a non-resident provides a payment service to non-VAT registered customers in Thailand, is the non-resident required to register and pay VAT in Thailand ?

A

No. The payment service is not an electronic service.

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What does electronic service mean ?

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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. Examples of such electronic service include online games, mobile application, and online advertising service.

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Does the e-Service tax law apply to the sales of goods through an online channel and the goods is imported to Thailand via customs ?

A

The e-Service tax law **does not apply to the sales of goods through an online channel** and the goods is imported to Thailand via customs since the importation of physical goods has to go through Thai customs and the Customs Department collects the VAT from the importation for the Revenue Department.

What Non-resident Electronic Service Providers And Electronic Platforms Need To Do

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When should non-resident electronic service providers and electronic platforms register for VAT?

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

For 2021, the first year of law enforcement, a corporation shall calculate the value of tax base of 1.8 million baht

- » income received from the first day of the accounting period which does not end before September 1st, 2021
- » an individual vendor, income shall be calculated from January 1st, 2021.

In case electronic service providers and electronic platforms 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.**

What Non-resident Electronic Service Providers And Electronic Platforms Need To Do

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When must a VAT return be filed ?

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The VAT operators shall file the value added tax return (P.P.30.9) and pay VAT on a monthly basis via the Simplified VAT System for e-Service (SVE) on the Revenue Department's website (www.rd.go.th). The tax return shall be filed within the 23rd day of the next month. The VAT operators shall file the tax returns regardless of whether or not they have an income from providing electronic services to customers in Thailand in the tax month. If a VAT operator has already filed the tax return but later found that the tax return was incomplete, the VAT operator can file an additional tax return.

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How should the VAT be paid to the Revenue Department ?

A

VAT should be paid in Thai Baht through one of the following methods via the Simplified VAT System for e-Service (SVE):

- » Wire transfer to the Revenue Department's bank account
- » Credit card

What Non-resident Electronic Service Providers And Electronic Platforms Need To Do

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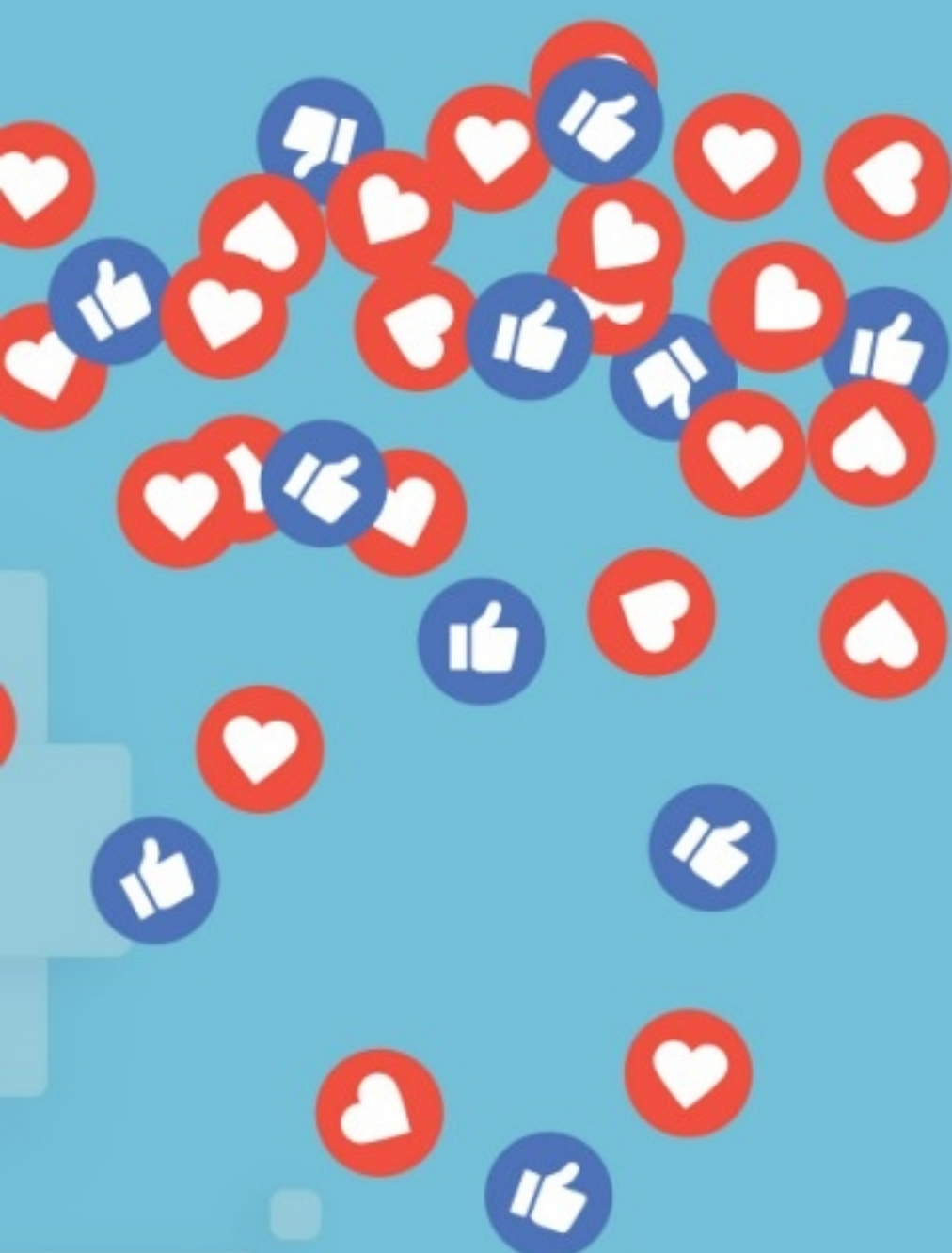
What reports must be prepared ?

A

The VAT operators are required to keep output tax reports with details as specified by the Revenue Department.

The records must be in the reports within three days from the date of service provision. The reports as well as the documents used to produce those reports must be kept for at least five years from the date of tax filing or report making.

The VAT operators are NOT required to submit the output tax reports the Revenue Department unless requested by the Revenue Department.



What Non-resident Electronic Service Providers And Electronic Platforms Need To Do

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If the customer cancels the service and the service provider has already remitted the VAT or if the service provider has overpaid the VAT due to charging from a VAT registrant or miscalculation, what does the service provider need to do?

A

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, or overpayment of VAT resulting from miscalculation or redundancies.

For VAT refund, VAT operator shall submit a request for VAT refund via SVE. The VAT refund request must be submitted within 3 years from the date of VAT payment. VAT registrant shall attach supporting documents to prove that the excess VAT has been paid by uploading the documents via SVE.

What Non-resident Electronic Service Providers And Electronic Platforms Need To Do

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How can the service providers and electronic platforms determine whether the service is used in Thailand?

A

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:

- » Payment information
(e.g. credit card information, bank account details)
- » Residence information
(e.g. home address, billing address)
- » 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.

What Non-resident Electronic Service Providers And Electronic Platforms Need To Do

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What Non-resident Electronic Service Providers And Electronic Platforms Need To Do

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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?

A

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...)).

» Information For Service Recipients «

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Will the e-Service tax law put the tax burden on the service recipients?

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Basically, VAT is a tax collected from the consumption of consumers but **requires the business persons selling the goods or services to remit the tax.**

Price adjustments resulting from the VAT will depend on market mechanism and the business persons' competitive strategies.

However, the e-Service tax law aims **to create a level playing field between Thai and foreign operators and to facilitate service recipients who are not businesses.** Under this law, foreign operators, not the service recipients, are required to file and remit value added tax to the Revenue Department. This will provide convenience to service recipients who are not businesses by removing the tax filing and remittance obligations from the servicerecipients.

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Is a service recipient who is a VAT registrant still required to remit VAT from e-Service provided from abroad?

A

A VAT registrant who uses an electronic service provided from abroad is still **required to remit VAT from the service to the Revenue Department using the VAT remittance form (P.P.36).**