Technical update

I. Tax

E commerce tax rulings

E-commerce is the sale of goods or the provision of services through computer networks and telecommunication systems or electronic media.

Those engaging in e-commerce have the same rights and duties to pay taxes as other operators. Those conducting such a business while residing in Thailand, regardless of whether they are individuals or legal entities registered in Thailand, and which have income from the sale of goods or the provision of services, must include such income in the income tax calculation and have a duty to register for VAT in accordance with the law.

We set out below some Revenue Department's rulings on e-commerce.

1. **Advertising foreign websites on the website of a company in Thailand (Ruling No. KorKhor 0706/Por./6172 dated 2 July 2003)**

   Question:

   A company operates on the internet and has a website to provide information as well as to advertise foreign websites. If users click on the links to the foreign websites, the owner of the foreign website pays compensation to the company based on the number of users referred by the company. What percentage of VAT does the company have to pay?

Answer:

The company is obliged to pay 7% VAT under Section 80 of the Revenue Code, as the advertisement of foreign websites on the company's website is considered to be provided in Thailand under Section 77/1 (10) and Section 77/2, paragraph 2, of the Revenue Code. Although it is a service that is performed in Thailand for a service recipient abroad, it does not result in the service being entirely used in foreign countries, because customers in Thailand may view information on foreign websites due to the advertisement.

2. **Corporate income tax and VAT implications of paying for web address registration and renting space on a server (Ruling No. KorKhor 0706/(KorMor.09)/026 dated 7 January 2003)**

Question:

A company engages in the tin smelting business and sells tin both domestically and internationally. It requested registering a web address under the name of thai.com with Company V located in the United States in order to have a contact place on the internet. The company also rents space on the server from Company E located in the United States to collect information through the name thai.com. What are the corporate income tax and VAT implications of payments made to those foreign companies, as they are not conducting business in Thailand?

Answer:

Payments for web address registration and server space rental to foreign companies located in the United States are compensation for services provided using modern technology and having a relatively high investment cost. Therefore, such compensation is considered assessable income under Section 40 (8) of the Revenue Code. The payer is not obliged to withhold tax from such income under Section 70 of the Revenue Code. In addition, as those foreign companies provide services in foreign countries which are used in Thailand, the payer of the service fees to those foreign companies is obliged to remit 7% VAT in accordance with Section 77/1(5), Section 83/6(2), and Section 85/3(2) of the Revenue Code.

3. **VAT implications of the provision of services email (Ruling No. 0702/Por./4070 dated 27 May 2009)**

Question:

A company conduct a consulting business, and searches for information in Thailand, such as government information, legal information, and also prepares market trend analyses. The company provides information in English and sends it to customers abroad by email. Customers use the information entirely in foreign countries. No information is used in Thailand. The company charges a service fee based on the number of working hours spent or on a monthly basis, as specified in the contract. The copyright to the information belongs jointly to the company and the customers. The company has no right to sell the information or let other people use the information. What is the rate of VAT that should be applied to service fees charged by the company?

Answer:

If the company sends government or legal information regarding Thailand, and performs market trend analyses for customers abroad by email, and the customers use this information entirely outside Thailand, it is considered a service performed in Thailand and used in a foreign country.

Therefore, the company is entitled to apply 0% VAT under Section 80/1(2) of the Revenue Code, in conjunction with clause 2(1) of the Notification of the Director-General of the Revenue Department regarding VAT No. 105.

4. **VAT on services performed in Thailand (Ruling No. KorKhor 0702/Por.8679 dated 19 December 2008)**

Question:

Company T, which was established under Thai law, conducts business creating a website about economic, trade, and investment news in the ASEAN area. Company T sells the news to Company C, a company in the United Kingdom which has a branch in Thailand, by linking its website with Company C's website. Company C can access Company T's website, but Company T is unable to connect to Company C's website. Those who wish to use the information on Company C's website must subscribe to it. Company C's website can be used worldwide, including Thailand. Company T charges a fee monthly for selling the news or a fee for connecting to its website from Company C's. What is the rate of VAT that should be applied to the service fees that Company T charges to Company C?

Answer:

The provision of news services by Company T to Company C is considered a service provided in Thailand, which is subject to 7% VAT under Section 77/2 and Section 80 of the Revenue Code.

II. Legal

New way for a foreign legal entity conducting an unrestricted business activity under the Foreign Business Act to request a corporate registration number

At present, a foreign legal entity which was established under foreign law and will conduct an unrestricted business activity in Thailand under the Foreign Business Act, 2542 B.E. (1999), must submit a request to the head office of the Department of Business Development ("DBD") for a corporate registration number on paper and notify the DBD of the place where the foreign entity will store its accounting and supporting documents.

As part of the Thai government's plan for a digital economy and society, the DBD has announced that there will be a new way for a foreign legal entity to request a corporate identification number effective 1 July 2021.

Under the new method, the foreign legal entity must submit a request for a corporate registration number online through the DBD's website: www.dbd.go.th.

- **Step 1 -** The person responsible for the operation of the foreign legal entity or his / her grantee applies for a username and password through the DBD's website.
- **Step 2 -** That person logs onto the DBD's website using the username and password issued by the DBD.
- **Step 3 -** That person fills in the information and submits the supporting documents required to request a corporate identification number.
- **Step 4 -** Upon receipt of all required information and documents, the DBD will issue a corporate identification number to the foreign entity within one week.

Under this new online system, a foreign legal entity can submit applications regarding the following matters:

1. Amendment of information about the foreign legal entity, such as changes in location, the name of the entity, or the person responsible for operations in Thailand.
2. Cessation of doing business in Thailand.

References:

DBD's announcement dated 7 June 2021

DBD's announcement dated 27 May 2016

III. Accounting

Revenue recognition for instalment sales

The COVID-19 pandemic has had a dramatic impact on many businesses and the overall economy. As the crisis continues, companies and individuals may increasingly find themselves in the position of needing more liquidity in an environment that does not lend itself to selling off property, luxury goods, or other products in traditional ways. Instalment sales may be an excellent way to attract buyers looking to take advantage of the current environment to purchase if they do not have the means to cover the full purchase price upfront.

An instalment sale is a financing arrangement under which the buyer makes payments in instalments over a certain period of time and receives the goods at the beginning of that period. As a result, revenue and expenses are recognized at the time of cash collection, not at the time of the sale.

Instalment sales can be summarized as follows:

1. An instalment sale allows the buyer to make payments over an extended period of time.
2. Revenue and expenses are recognized at the time of cash collection, not at the time of sale.
3. Ownership is not fully transferred at the point of sale.
4. There is a degree of uncertainty in the collection of cash.

Instalment method of revenue recognition

The instalment method of revenue recognition involves the gross profit being deferred until the cash from the sale is received. Unlike the cost recovery method, which defers the profit until the cash collected exceeds costs, the instalment method recognizes a proportionate amount of profit upon the receipt of each instalment.

Scenario

On 30 June 2020, Company A, a machinery company, makes a sale for a piece of machinery with a retail price of THB 600,000. The cost to the company is THB 360,000. Therefore, the gross margin for the goods is 40%.

Company A makes an agreement with a customer under which the customer is required to make instalments of THB 50,000 each month for the piece of machinery for 12 months, including 6% interest, until the amount is paid in full, from 31 July 2020 until 30 June 2021.

	Thai baht
Sale	600,000
Cost of sale	360,000
Gross profit margin	**240,000**

The amount of revenue recognized upon the receipt of each instalment equals the product of the gross profit rate on the instalment sale and the amount received in instalments, as follows:

Gross profit on sale = $\frac{600,000 - 360,000}{600,000}$ = 40%

Instalment period	Due date	Interest rate	Opening balance	Instalment amount	Income	Interest	Balance
1	31 July 2020	6%	600,000	50,000	46,934.91	3,065.09	550,0000
2	31 August 2020	6%		50,000	47,174.68	2,825.32	500,0000
3	30 September 2020	6%		50,000	47,499.24	2,500.76	450,0000
4	31 October 2020	6%		50,000	47,658.32	2,341.68	400,0000
5	30 November 2020	6%		50,000	47,969.63	2,030.37	350,0000
6	31 December 2020	6%		50,000	48,146.83	1,853.17	300,0000
7	31 January 2021	6%		50,000	48,392.79	1,607.21	250,0000
8	28 February 2021	6%		50,000	48,771.92	1,228.08	200,0000
9	31 March 2021	6%		50,000	48,889.15	1,110.85	150,0000
10	30 April 2021	6%		50,000	49,166.75	833.25	100,0000
11	31 May 2021	6%		50,000	49,390.07	609.93	50,0000
12	30 June 2021	6%		50,000	49,653.94	346.06	-
			Total	**600,000**	**579,648.25**	**20,351.75**	

Issue

How should the Company record transactions related to instalment sales in its financial statements for 2020?

Response

Under the instalment method, both revenue and the associated cost of goods sold are recognized at the time of the initial sale, but gross profit recognition is deferred until cash payments are received. This method requires the accountant to track the gross margin percentage for each reporting period, so the correct percentage can be recognized when the associated cash receipts arrive at a later date.

As a result, instalment sales should be recorded under TFRS for NPAEs as follows:

Date	Description	Debit	Credit
30 June 2020	Instalment accounts receivable	600,000	
	Deferred gross profit		240,000
	Inventory		360,000
	Recording the transaction of instalment sales at the time of the sale		
31 July 2020	Cash at bank	50,000	
	Instalment accounts receivable		50,000
	When the Company collects money from the customer		

Date	Description	Debit	Credit
31 July 2020	Cost of sales (50,000 x 60%)	30,000	
	Deferred gross profit (50,000 x 40%)	20,000	
	Instalment sale		46,934.91
	Interest income		3,065.09
	Recording revenue and cost of sales and deferred gross profit		

Notes:

1. The journal posted each month would follow the format above except that the figures would use the figures in the table.
2. Deferred gross profit is a contra account.
3. Instalment accounts receivable are recognized as current assets, since the full term of the instalment sale represents the normal operational cycle of Company A.
4. Under clause 3.5 of Revenue Department Regulation No. Taw. Paw. 1/2558, the computation of revenue and expenses of a company making instalment sales where ownership of the item sold has not yet been transferred to the purchaser and the term of the contract is more than one accounting period, the company must include profits derived from the sale in the computation of total revenue in the accounting period in which the payment or the instalment sale is due. Any gain derived from instalment sales shall be included as revenue for each instalment, according to generally accepted accounting principles.

References: TFRS for NPAEs and the Revenue Department

IV. IFRS

IASB publishes amendments to IAS 12, "Deferred Tax related to Assets and Liabilities arising from a Single Transaction"

On 7 May 2021, the IASB published the amendments to IAS 12, "Deferred Tax related to Assets and Liabilities arising from a Single Transaction". These amendments are intended to establish a general principle for the accounting treatment of deferred tax related to leases, and thus to reduce diversity in practice in this area.

The amendments are mandatory for financial periods beginning on or after 1 January 2023. Early application is permitted (subject to their endorsement by the European Union).

However, if an entity wishes to change its accounting policy starting with the interim financial statements to 30 June 2021, enabling it to recognise deferred tax for leases accounted for in accordance with IFRS 16, it may do this by applying the principles set out in IAS 8 on changes in accounting policy. The impact of the change in accounting policy would then be recognised retrospectively in the opening balance of retained earnings for the first period presented. In other words, the entity may not yet apply the specific transition provisions set out in the amendments to IAS 12.

IFRS IC publishes agenda decision on Attributing Benefit to Periods of Service (IAS 19)

At its May meeting, the International Accounting Standards Board (IASB) approved the tentative agenda decision on Attributing Benefit to Periods of Service (IAS 19 – *Employee Benefits*) that was finalised by the IFRS Interpretations Committee (IFRS IC) at its April meeting and published in the IFRIC Update for that month (available here).

Readers will remember that the original request concerned a defined benefit plan under which employees are entitled to a lump sum benefit payment when they reach retirement age, provided that they are employed by the entity at that point.

The amount of the payment depends on the employee's length of service but is capped at a set number of consecutive years of service.

In the fact pattern submitted to the IFRS IC:

- the employees are not entitled to a retirement benefit from the plan until they reach the retirement age of 62, provided that they are still employed by the entity at this point;
- the amount of the benefit is one month of final salary for each consecutive year of service prior to retirement;
- the amount of the lump sum is capped at 16 years of service (in other words, the maximum retirement benefit to which an employee may be entitled is 16 months of their final salary);
- the amount is calculated using only the number of consecutive years of service immediately before the retirement age.

The request asked which periods of service the benefits should be attributed to, if the employee has rendered service to the entity for more than 16 consecutive years. In other words, should these

benefits be attributed to the last 16 consecutive years of service immediately prior to retirement, or should they be attributed to the entire length of service, i.e. more than 16 years?

At its May meeting, the IASB approved the conclusions of the IFRS IC, which were based on the provisions of IAS 19 (paragraphs 70 to 74 and the first part of example 2, illustrating paragraph 73). The IFRS IC had concluded that the entity should attribute retirement benefits to each year in which the employee renders service between the ages of 46 and 62 (or, if employment commences at or after the age of 46, from the date the employee first renders service until the age of 62).

Redeliberations continue on Primary Financial Statements project

At the meeting of the International Accounting Standards Board (IASB) in late May, the Board members continued their redeliberations on the proposals set out in the General Presentation and Disclosures exposure draft, which was published in December 2019.

Two topics were discussed in the light of the comments received:

- the definition of the “financing” category for companies that do not provide financing to their customers or invest in financial assets as part of their main business activities (banks and insurance companies will be discussed separately later);
- the presentation of a subtotal for “profit or loss before financing and income tax”.

Readers will remember that the exposure draft proposed:

- that the “financing” category of the statement of profit or loss should include income and expenses from cash and cash equivalents, income and expenses on liabilities arising from financing activities (loans, lease liabilities, trade payables, etc.) and interest income and expenses on other liabilities (the interest component of pension liabilities, the unwinding of discounts on long term liabilities, etc.) with a view to enabling investors to compare entities’ performance independently of the impact of those entities’ financing decisions;
- that “financing activities” should be defined as those that involve the receipt or use of a resource from a provider of finance, with the expectation that (a) the resource will be returned to the provider of finance and (b) the provider of finance will be compensated through the payment of a finance charge that is dependent on both the amount and the duration of the credit. An amendment to IAS 7 was intended to specify the definition of “financing activities” to be used in the statement of cash flows in relation to borrowings, and would be based on the definition above;
- that entities should be required to present a new subtotal in the statement of profit or loss, namely “profit or loss before financing and income tax”, thus creating a clear distinction between the “operating”, “integral associates and joint ventures” and “investing” categories on the one hand, and the “financing” and “income tax” categories on the other.

On the first topic, the IASB provisionally decided:

- not to amend IAS 7 and to retain the current definition of financing activities. The Board felt that the addition originally proposed would not in fact reduce diversity in practice where transactions involve a financing activity and another activity (operating or investing) and that the addition could in some cases result in a less relevant presentation in the statement of cash flows by preventing entities from using the financing category for the part of the cash outflow that does in fact relate to a financing activity;

- to redefine the items to be presented within the "financing" category of the statement of profit or loss in line with the objective for this category, as set out in the exposure draft. The IASB, with the help of the staff, will explore a new approach under which the following would be classified in this category:
    - all income and expenses from liabilities arising from transactions that involve only the raising of finance; and
    - interest income and expenses from other liabilities.

This means that the definition of "financing activities" presented in the exposure draft will be removed – as stakeholders pointed out several practical difficulties with interpreting this definition – and will be replaced by a simpler, clearer approach. However, the change is not expected to result in a substantially different classification than the one the IASB was aiming for with the proposals set out in the exposure draft.

On the second topic, the IASB provisionally decided:

- to retain a separate "investing" category within the statement of profit or loss, with the exact definition to be discussed at a later date, in addition to the two broad categories of "operating" and "financing". Readers will remember that the objective of the investing category is to communicate information about returns from investments that are generated individually and largely independently of other resources held by the entity;
- to retain the requirement to present a subtotal for "profit or loss before financing and income tax";
- to require entities to classify income and expenses related to cash and cash equivalents in the "investing" category. Many stakeholders questioned whether it was appropriate to have different presentation requirements for, on the one hand, income from investments in cash and cash equivalents as defined in IAS 7 (which should be presented in financing according to the proposals in the exposure draft) and, on the other, income from short-term investments (which should be presented in investing according to the proposals in the exposure draft), given that some entities treat all these as a component of net debt. In its redeliberations, the IASB concluded that it is easier to justify presenting all income and expenses from excess cash and investment of this excess cash in the "investing" category. In practice, this would mean that entities would no longer be permitted to include a "cost of net financial debt" subtotal in the statement of profit or loss.

Redeliberations on the Primary Financial Statements project are expected to continue over the next few months.

IASB publishes exposure draft to replace IFRS Practice Statement 1 – Management Commentary

On 27 May, the IASB published an exposure draft (available here) that is intended to replace IFRS Practice Statement 1 – *Management Commentary*, published in December 2010.

The management commentary is generally viewed as a key document that complements the financial statements. The IASB's proposals are intended to encourage entities to produce a single document that brings together all the information that is useful to investors for assessing an entity's long term prospects in order to understand how the entity's business model creates value and generates cash

flows. The proposals focus particularly on improving information on the environmental and social impacts of an entity's activities and on intangible elements that are not reflected in the balance sheet.

The revised Practice Statement would still not be mandatory, but would continue to provide a framework for publishing a management commentary, to which stakeholders may refer if they wish.

The comment period is open until 23 November 2021.

Disclaimer

The information contained, and views expressed, herein are for general guidance only, and are not to be construed as representing a professional opinion of Mazars. No responsibility is accepted for any errors or omissions, howsoever caused, that this publication may contain, or for any losses sustained by any person as a result of reliance on any information contained herein.

mazars

Contacts

Jonathan Fryer
jonathan.fryer@mazars.co.th

Pongphan Narasin
pongphan.narasin@mazars.co.th

Chalermpon Tanopajai
chalermpon.tanopajai@mazars.co.th

Tippawan Pumbansao
tippawan.pumbansao@mazars.co.th

Mazars is an internationally integrated partnership, specialising in audit, accountancy, advisory, tax and legal services*. Operating in over 90 countries and territories around the world, we draw on the expertise of more than 42,000 professionals – 26,000+ in Mazars' integrated partnership and 16,000+ via the Mazars North America Alliance – to assist clients of all sizes at every stage in their development.
*where permitted under applicable country laws.

www.mazars.co.th