



E-Service Tax Law in Thailand: What are the implications?

In nearly all areas of the economy, technology moves faster than the law. Assertive tech companies, by making the most of their newly developed capabilities, often can enjoy a few years' worth of relatively unregulated success before lawmakers make an earnest effort to re-stabilize the playing field. This regulatory process is currently playing out in Thailand's e-service sector, where a newly implemented tax law is set to affect foreign service providers as well as their individual and SMEs clients.

Thailand's new e-services tax law has been years in the making and is intended to correct an unfair advantage within the market. Before its implementation, e-service users in Thailand were obliged to remit VAT to the Revenue Department on behalf of e-service firms, and there was no provision which required the firms to remit VAT, register for VAT or be subject to any penalty due to non-compliance with VAT obligations, thereby affording such e-service users a competitive advantage over regularly taxed Thai companies in the same sector. The e-services tax law prescribed under the Revenue Code Amendment Act (No. 53) B.E. 2564 (2021) (the "**e-Service Tax Law**"), [spelled out in detail](#) by the Revenue Department, aims to put foreign and domestic e-service providers on an equal tax footing.

In essence, the e-Service Tax Law holds foreign e-service firms responsible for paying VAT on the services they provide to clients based in Thailand. There are some important caveats, however – and it is worth taking a closer look in order to see how the e-Service Tax Law is actually intended to function, and how its effects are likely to play out in the real world.

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How the e-Service Tax Law works

The text of Thailand's e-Service Tax Law was published in the Royal Gazette on February 10, 2021, with enforcement beginning a few months later, on September 1, 2021. Although other countries in Southeast Asia have made similar moves in recent years, the fundamental inspiration for Thailand's new law can be found within the digital service tax raised by OECD .

The e-Service Tax Law is aimed at foreign e-service operators and electronic platforms whose annual revenue from providing e-services within Thailand exceeds 1.8 million baht. Companies in that category must henceforth register for VAT within Thailand, file VAT returns and pay the standard VAT rate on the provision of those services. It is worth noting that Thailand's VAT rate, normally 10%, has been reduced to 7%, and that this lower, standard rate will remain in place until September 30, 2023.

Thailand's e-services Tax Law is part of a growing trend toward the increased regulation of cross-border internet services. To date, more than 60 countries have begun collecting VAT on e-services delivered by foreign firms. In Thailand, as elsewhere, affected e-services include advertising, online shopping and booking platforms, music and video streaming, video games, and other kinds of applications.

According to the Finance Ministry, over 60 foreign e-service providers have already registered through the new, simplified VAT collection system set up by the Revenue Department. In its first year alone, the e-Service Tax Law is expected to bring in an additional 5 billion baht for the government, providing much-needed funding during a time of need.

New rules apply

The Revenue Department defines e-service as "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".

An e-platform is defined as a "market, channel or any other procedure that many service providers use to provide their e-services to the service recipients". As emphasized by the Revenue

Department, the e-platform acts as an intermediary between service providers and service recipients which facilitates service transactions. Such an electronic platform can be in the form of a website, mobile application, or others.

In most respects, e-services and e-platforms are treated similarly under the new tax law. However, one difference is especially noteworthy. According to the e-Service Tax Law, foreign or non-resident electronic platform operators will be liable to pay VAT on behalf of non-resident electronic service providers if the service providers provide electronic services through a platform having continuous processes starting from offering service, receiving payment of service and delivering service.

To sum up, the VAT implication under the e-Service Tax Law in case of payment for e-services by users in Thailand to non-resident providers will be as follows:

- (1) E-service users who are VAT registrants will remit VAT; and
- (2) E-service users who are not VAT registrants, whether they are juristic or natural persons, the non-resident providers will remit VAT.

Thus, non-resident providers should identify the VAT registrant status of their e-service users in their transactional processes to determine the applicable Thai VAT associated with the e-services fees or remuneration.

Failure to comply with the e-Service Tax Law may result in a tax penalty at two (2) times the VAT payable and surcharge at 1.5% per month of the VAT payable. In this regard, the surcharge will be capped at the amount of VAT payable.

In addition to the tax penalty and surcharge, criminal charges, i.e., imprisonment for up to seven (7) years and/or fines up to THB 200,000, or both, may also be imposed – depending on the circumstances surrounding the offense.

Implications for SMEs

Importantly, the e-Service Tax Law results in clients that have not registered for VAT's being discharged from their obligation to remit VAT on behalf of the e-service providers. Clients that have already registered must file VAT returns and pay VAT on behalf of the e-

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service providers as usual, after which they can claim input tax credit in their VAT monthly calculation.

Thai SMEs are likely to have mixed experiences under the e-Service Tax Law. As their e-service and e-platform providers face new VAT requirements, these costs might largely or entirely be added to the cost of each service, as many online sellers are not registered for VAT. According to some estimates, SMEs may currently spend around 10 billion baht on online advertisements each year, and increased costs for these and other services could turn into a real inconvenience.

Affected businesses should understand the intricacies of this new law in order to adapt their behavior accordingly, while meeting their obligations to the Revenue Department. Our tax law specialists at **Kudun & Partners** have up-to-date knowledge and expertise in this area, and can guide you through all of the relevant issues. [Contact us today to get started.](#)

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