



Ekniti Nitithanprapas
Ministry of Finance
Rama 6 Rd.,
Phayathai,
Bangkok, 10400
Kingdom of Thailand

By Email to:

Dear Ekniti Nitithanprapas

Re: The Asia Internet Coalition (AIC) submit comments on the Draft Act Amending the Revenue Code

The Asia Internet Coalition (AIC) is an industry association made up of leading internet and technology companies. The AIC seeks to promote the understanding and resolution of Internet policy issues in the Asia Pacific region. Our members are AirBnB, Amazon, Apple, Expedia, Facebook, Google, Line, LinkedIN, Rakuten, Twitter and Yahoo (Oath). The Asia Internet Coalition (AIC) welcomes the opportunity to respond to the Draft Act Amending the Revenue Code (No. ...) B.E.

We fully understand and support the needs of the Thai Government to collect VAT where it is due, however the system needs to be clear, simple, and easy to use for all. Please see attached the paper "Collection of VAT In The Digital Economy". This short, 2-page paper, summarises the issues concisely and explains "To encourage compliance by non-resident suppliers and to facilitate VAT collection, the OECD recommended a simplified VAT registration and compliance regime for the non-resident supplier of digital supplies made to end consumers (i.e. "B2C supplies"). For digital supplies made by non-residents to businesses (i.e. "B2B supplies"), the OECD recommended that the business customer account for the VAT compliance through the "reverse charge mechanism" wherein the business customer will declare the VAT on behalf of the non-resident supplier and at the same time claim a credit for the VAT. The non-resident supplier would therefore not be required to register and account for VAT in the customer's jurisdiction for B2B supplies. The OECD also highlights that the simplified VAT registration and collection of VAT from the non-resident supplier should relate to indirect tax only and be independent from the determination of whether the non-resident supplier should be subject direct or income taxes."

The Draft Act Amending the Revenue Code does not follow the OECD recommendation of the reverse charge mechanism wherein the business customer declares the VAT on behalf of the non-resident supplier and claims a credit for the VAT. Instead, we understand that

where a foreign operator provides services through electronic means in a foreign county to a B2C customer (who is defined to be a non VAT registrant), and those services are used in Thailand, the foreign operator is required to register for VAT if it provides more than THB 1.8m (approximately US\$ 55k) per year. Further, the electronic platform is responsible for remitting the VAT on behalf of the foreign supplier, no tax invoice required to be issued, and there is no ability to claim input tax credits by foreign supplier.

Additionally, we have some concerns regarding definitions in the Draft Act. “B2C” supplies is defined as a supply made to a non VAT registered customer. This is burdensome for businesses as it requires companies to collect the VAT IDs of all customers and have 2 prices depending on whether the customers are VAT registered or not. This will require businesses to adapt their systems, and may discourage some businesses from offering their services in Thailand. If Thailand proceed with the Draft Act in this form, if businesses do wish to continue offering their services in Thailand, it will take a considerable amount of time (and investment) for the company to amend their systems to allow for this.

In respect of the agency model, we would expect the law to apply as follows (based on the draft wording):

1. Company acting as agent for foreign developers - A company would be required to charge and remit the VAT on the end customer sale if end customer not a VAT registrant.
2. Company acting as agent for Thai developers - Company would be required to charge and remit the VAT on the commission to the developer if Thai developer is not a VAT registrant. Company not required to charge VAT to end customer on behalf of Thai developer.
3. Company acting as agent for Thai developers in the sale of online services to overseas end customers – Company would be required to charge Thai VAT on the commission to the Thai developer if Thai developer is not a Thai VAT registrant.

From the three different points above, it is evident that the system is complex, and not the simple system anticipated. The new draft does not differentiate between foreign and Thai companies which adds complexity. This complex system will require changes to many company’s business models, which will eliminate the benefit of digital economy of scale, and as submitted above, will make Thailand a less attractive market.

We understand that the law is intended to take effect 180 days after it is published in the Royal Gazette, and understand it could be published next year, therefore may come in to effect from mid 2019. Even our members, who have experience, staff and resources other companies may not have access to will be unable to comply with this time frame, we respectfully suggest that if the Draft Act is adopted in its current form, business would need 2 years in order to adapt their systems to comply.

We strongly believe that Thailand is presently in a very good place for capitalising on the Digital Economy and achieving Thailand 4.0. However, the implementation of this Draft Act in its present form could seriously restrict the growth of Thailand's Digital Economy and the ability of Thai consumers and businesses to use global platforms to access global markets.

We hope that our comments have been useful and look forward to receiving clarification on the points raised. Thank you once again for the opportunity to provide comments on the Draft Act.

Yours sincerely



Jeff Paine

Managing Director

Asia Internet Coalition