



# Status of draft digital service tax law

## The following report may be of interest to:

All clients

### Summary:

The draft law requiring overseas digital service providers to remit VAT to the Thai Revenue Department has already been examined and amended by the Board of the Council of State. The Revenue Department has now placed this draft on its website for public hearing between 14 and 29 January 2020. Thereafter, the draft law will be revised (if necessary) and follow the normal process for enactment.

The following are the key conditions for VAT collection under the draft law:

1. Digital services are provided from overseas.
2. Services are provided by electronic means and are used in Thailand.
3. The recipient of the service is not a VAT registrant.

Once this law becomes effective, the overseas digital service providers or operators of electronic platforms will be required to file VAT returns and pay output tax to the Thai Revenue Department without any input tax deduction.

Under this draft law, the following definitions are included:

*'Electronic services'* means a service delivered via the internet network or any other electronic network where the nature of the service is substantially automated, such that the service cannot be performed without the use of information technology.

*'Electronic platform'* means a market, channel or other process that many service providers use to provide electronic services to the recipients.

### PwC observation

From this draft law,

1. Based on the given definition of *'Electronic services'*, this should include (among others) supply of downloadable software, music, games via internet or any electronic network. We expect that the Revenue Department should provide more details or examples of electronic services within the scope in the subordinated regulations.

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## TAX & LEGAL Services

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2. If the three key conditions for VAT collection are met, overseas digital service providers will be required to pay VAT. However, this draft does not mention a turnover threshold. According to the current VAT law, only persons who have an annual turnover in excess of Baht 1.8 million are required to register as VAT operators.
3. Services are provided by electronic means and are used in Thailand. However, this draft does not specify what is meant by *'used in Thailand'*. Would the address or IP address of the user or location where the services are used determine *'used in Thailand'*?
4. The draft does not change which will be made to allow non-resident suppliers to pay tax. Currently the Revenue Department cannot accept payment by electronic funds transfers.
5. It remains unclear how VAT collection can be enforced where the supplier has no business presence or assets in Thailand.
6. If the recipient of service undertakes both business exempt from VAT and business subject to VAT, it may be possible that VAT could be paid twice, i.e. once by the overseas digital service providers and on reverse charge basis by the payer.

We hope to see more guidelines when the subordinate regulations are announced.

At this stage, the draft law is under the public hearing process and the Revenue Department encourages all stakeholders to provide their opinions/comments.



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