



VAT ON ELECTRONIC TAX INVOICES

BY

MR. JETAWAT VISITHISART

AN INDEPENDENT RESEARCH PAPER SUBMITTED IN  
PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF MASTER OF LAWS  
(TAXATION LAW)

GRADUATE SCHOOL OF LAW  
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Independent Research Paper Title : VAT on Electronic Tax Invoices  
Author : Mr. Jetawat Visithisart  
Major : Taxation Law (English Program)  
Advisor : Dr. Petcharat Supanimitkulkit

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Faculty of Law, Assumption University approves this Independent Research Paper as the partial fulfillment of the requirement for the Degree of Master of Laws.

  
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## ABSTRACT

The increasing in globalization continuously drives the electronic commerce to play a vital role in the world of economy. Not only the business sectors, but also the government sectors, have been persuaded to get along with the electronic commerce. In return, the old traditional operations are transformed to the new-technology electronic operations. Though the new trend of electronic system is not totally replaced the old one, it rapidly becomes a famous operating system. For example, the Electronic Tax Invoice is the new trend of electronic operations.

Since the electronic commerce has played an important role in today's business world, the response of the electronic commerce for tax purposes is, therefore, increasingly important for both businesses and tax planners. The Electronic Tax Invoice is introduced to react with the electronic commerce. It is an electronic tributary document, which exchanges among companies in order to collect VAT from the companies when buying or selling products or services. It has the same legal value as the traditional Paper-Based Invoice. However, the collection of the VAT on Electronic Tax Invoice is not apparently described by Thai Revenue Code on the Electronic Transaction Act B.E. 2544 or Subordinate legislation, and also there is no conclusion whether the regulation is imposable in Thailand or not.

This paper will compare and explain on the regulation and legal provisions of tax collecting system between VAT on Electronic Tax Invoice in Thailand and Goods and Services (GST) on Electronic Tax Invoice in the Republic of Singapore. Additionally, it will also provide an analysis on the problems of the VAT Collection on Electronic



Tax Invoice in Thailand and GST Collection on Electronic Tax Invoice in Singapore, including questions on law and fact. Finally, it will propose the acceptable solutions and recommendations for the problems in Thailand.



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# Chapter 1

## Introduction

### 1.1 Historical Background

Thailand imposed Business Tax (BT) in B.E. 2475 and repealed in December B.E. 2534. The economic situation during that time was significantly changed. The national revenue had rapidly increased. All industries were continuously growing. In return, there was a big development, which had turned Thailand's market from an importer to an exporter. Consequently, the imposed Business Tax did not fully support the particular economic situation in Thailand, which was constantly growing.

However, there are many appropriate ways to improve Thailand's economy. For instance, the system of taxation should be adjusted in order to provide a best support to the current economic situation as well as the future economic circumstances.

Value Added Tax (VAT) has been implemented in Thailand since B.E 2535. Regarding to the new laws, many concerning businesses have a great impact due to the Law enforcement including The Revenue Code, Revenue Department Order, Notification of the Director-General of Revenue Department.

VAT is an indirect tax on consumption that is assessed on the creases value of goods at each point in the chain of production and distribution, from the raw material stage to final consumption. To encourage an international trade and economy, exports (by mean of sending out abroad) are subject to zero VAT rate or refundable VAT.

However, electronic commerce is playing an increasingly vital role in the world economy. The treatment of electronic commerce for tax purposes is, therefore, increasingly important for both business and tax planners; Electronic Tax Invoices are occurred. It is an electronic tributary document exchanged between companies (to collect VAT through the companies that sell/buy products or services). The electronic document "electronic Invoice" has the same legal value than traditional on paper Invoice. Digital signature is necessary to guarantee integrity, authenticity and no

repudiation of electronic Invoices. Strategic alliance with Information and Communications Technology (ICT) companies is to promote the electronic invoice adoption. So, the term “electronic invoice” is to be understood in a wide sense and includes all kinds of electronic invoices; such as, invoices sent by E-Mail or via the Internet and invoices saved on an electronic data carrier (DVD, CD-ROM etc.). Of the aforementioned, invoices sent by E-Mail will certainly become the most popular form of electronic invoices.

Invoices are considered important commercial documents for the following reasons<sup>1</sup>:

1. Business controls are built around them because, unless the organization receives the invoices, no payments can be effected.
2. Banks rely on invoices to provide financing, such as invoice discounting, where there is a requirement that the original invoice be kept by the bank.
3. Tax purposes, e.g. VAT in Europe: such as Romania, Bulgaria, France, Belgium, Germany, Spain and etc... as well as Thailand or Goods and Services Tax (GST) in Asia Pacific: such as Singapore, Australia and etc... These tax invoices convey information on the evidence that the supplier has charged the tax, or in the case of the customer, that he is entitled to claim tax.

These business or legislative controls were imposed on invoices because they contain financial or monetary values. This is particularly relevant to tax authorities where VAT or GST is imposed in the commercial trade. As a tax invoice, the VAT or GST amounts on the invoice relate to the tax to be collected or refunded by the authorities.

One of the main regulatory/legislative issues surrounding electronic tax invoicing is around the laws on VAT and GST. This is because the tax authorities require the

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<sup>1</sup> Saw Hooi Him, Overcoming Regulatory Barriers to Electronic Invoicing, gtnews, in <http://www.gtnews.com>, access date August 1, 2007.

ability to have secure access to reliable and verifiable data to administer their tax systems. This has a major impact on electronic tax invoicing because:

1. Legislation within the countries requires the original paper invoices to be retained for specific periods, including other relevant commercial documents like debit and credit notes, receipts, etc. for record-keeping purposes.
2. In certain jurisdictions, there is a need for the invoices to be personally signed and/or to be accompanied by an official company stamp or seal.

Furthermore, each tax authority within their national boundaries tends to operate independently. This gives rise to key issues around the lack of standardization or harmonization of the VAT and GST laws across different countries. For example, in Europe, there were 27 sets of regulations on VAT across the EU member states. In Asia Pacific, each country has its own unique legislation around GST laws. The lack of harmonization creates cost barriers to electronic tax invoicing. This is because the organization can be faced with higher implementation costs for electronic tax invoicing as they will need to integrate to the different billing and the different languages required for each country.

Changes in regulation to promote electronic tax invoicing have taken place in Asia Pacific. Australia and Singapore are examples of countries in Asia Pacific that have made progress in their legislation for electronic invoicing.

In Singapore; for example, the Electronic Transaction Act (Chapter 88) [2] introduces legislation to eliminate barriers to electronic commerce resulting from uncertainties over writing and signature requirements, and to promote the development of the legal and business infrastructure necessary to support the implementation of secure electronic commerce and recognition of reliable electronic records. The other key areas addressed by the Act are:

1. Help establish uniformity of rules, regulations and standards regarding the authentication and integrity of electronic records.



2. Promote public confidence in the integrity and reliability of electronic records and electronic commerce through the use of electronic signatures to lend authenticity and integrity to correspondence in any electronic medium.
3. Electronic filing of documents with government agencies and statutory corporations.

To support the efforts of this Act and establish uniformity of rules on electronic invoicing, the tax authorities in Singapore have introduced guidelines on "Keeping Machine-sensible Records & Electronic Invoicing" and "Keeping of Records in Imaging System". The former document has as its introduction, "This guide is meant to assist businesses who wish to keep machine-sensible records or who wish to issue electronic invoices." The guide identifies several requirements the business application will need to adhere to for electronic "retained records". With effect from 18 November 2003, guidelines have been simplified to the extent that businesses can keep business records in machine-sensible form and imaging system, and issue electronic tax invoices without seeking prior approval from the Comptroller of Income Tax and GST, provided the conditions in the guidelines mentioned above are complied with.

These requirements deal with key aspects on accuracy and completeness including sufficient transaction level details of retained records; ability to retrieve and print retained records on legible and readable hard copies; internal controls to ensure integrity, accuracy, reliability and completeness of retained records and the storage system; security measures to prevent the risk of accidental or malicious damage of retained records with the proper back-up and recovery procedures; and for tax invoices the need to keep all the required data elements specified within the regulation and whenever required, to provide the tax authorities with the necessary hardware, software, personnel and documentation to locate, retrieve, read and reproduce the retained records at all times.

Regarding to above information, a clear meaning of VAT/GST on Electronic Tax Invoices is an electronic transmission and storage of tax invoices without the

submission Electronic, hereby, means electronic equipments, which are used for the data processing and storage.

Since there is an unclear explanation on the VAT on Electronic Tax Invoices under Section 77/1, Sections 86 – Sections 86/14 of Thai Revenue Code on the Electronic Transaction Act B.E. 2544, and also no conclusion whether the regulation is imposable in Thailand or not.

This paper will compare and explain on the regulation and legal provisions of tax collecting system between VAT on Electronic Tax Invoices in Thailand and Goods and Services (GST) on Electronic Tax Invoices in the Republic of Singapore. Additionally, it will also provide an analysis on the problems of the VAT Collection on Electronic Tax Invoices in Thailand and GST Collection on Electronic Tax Invoices in Singapore, including questions on the law and fact. Finally, it will propose the acceptable solutions for the problems in Thailand.

## **1.2 Hypothesis of the research**

Although, they have rules that can use with original and copy paper which follow Sections 86 to Sections 86/14 under Thai Revenue Code and the Electronic Transaction Act B.E. 2544, the collection of the VAT on Electronic Tax Invoice does not apparently described by those legislation. In order to levy VAT via the electronic transaction, the general principles in the Revenue Code and Subordinate legislation should be considered for this case.

## **1.3 Objectives of the research**

1. To studies the meaning of VAT on Electronic Tax Invoices.
2. To studies the general characteristic of VAT on Electronic Tax Invoices.
3. To compares the concept and legal provisions of the tax collecting system for VAT on Electronic Tax Invoices between Thailand and the Republic of Singapore.

4. To analyze the problems related to VAT on Electronic Tax Invoices in Thailand.
5. To research and propose acceptable solutions of VAT on Electronic Tax Invoices in Thailand.

#### **1.4 Research Methodology**

The methodology of this research is documentary research. It is a study of Electronic Transaction Act B.E. 2544, the Civil and Commercial Code, Thai Revenue Code, Good and Services Tax Act under the Inland Revenue Authority of Singapore, including the decision of courts, the thesis, article and other necessities information which related to the above documents. Also, it analyzes the present problems for concluding and offering the acceptable of tax measurement.

#### **1.5 Scope of the research**

The scope of this research is focused on Section 77/1 and Sections 86 to Sections 86/14 under the Revenue Code and the Electronic Transaction Act B.E. 2544 which about tax invoices comparing with Good and Services Tax Act under the Inland Revenue Authority of Singapore.

#### **1.6 Expectation of the research**

1. To know the meaning of VAT on Electronic Tax Invoices.
2. To know the general characteristic of VAT on Electronic Tax Invoices.
3. To identify the legal entity of the VAT on Electronic Tax Invoices under Thai Revenue Code and the Electronic Transaction Act BE. 2544.
4. To identify the problem of the tax collecting system of the VAT on Electronic Tax Invoices under Thai Revenue Code and the Electronic Transaction Act BE. 2544.
5. To identify the specific tax measure for collecting tax of the VAT on Electronic Tax Invoices.



6. To improvement and modification of Law concerning on the tax collecting of the VAT on Electronic Tax Invoices.



## Chapter 2

### Principle, Development, Concept and Theory of Value Added Tax under Thai Legislations

#### 2.1 The meaning and structure of Value Added Tax, Tax Invoices, Electronic Tax Invoices

##### 2.1.1 Value Added Tax (VAT)

Thailand imposed the VAT and Special Business Tax (SBT) in 1992. In the most general terms, any transaction involving the exchange of goods or services in Thailand is subject to either the VAT or the SBT. A business registered under Thai VAT system generally receives a "credit" for the VAT. It pays when buying goods or services ("input tax") and a liability for the VAT when customers when purchase the goods or services ("output tax")<sup>2</sup>.

A business registered under the VAT must file a monthly return with the Revenue Department. If the output tax exceeds the input tax, including the balance of input tax credits carried over from previous filings, the business must remit the amount by which the output tax exceeds the input tax and accumulated credits. If the input tax together with the accumulated credits exceeds the output tax, the business carries over the balance of credits to the next month after deducting the output tax.

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<sup>2</sup> eThailand.com, Thailand Value Added Tax (VAT), in <http://www.ethailand.com>, access date August 2, 2007.

## 1) Person liable to VAT payment

Any person or entity that regularly supplies goods or provides services in Thailand and has an annual turnover exceeding 1.8 million Baht is subject to VAT in Thailand<sup>3</sup>. The service is deemed to be provided in Thailand if the service is performed in Thailand regardless where it is utilized or if it is performed elsewhere and utilized in Thailand. An importer, both register and non-register is also subject to the VAT in Thailand. VAT will be collected by the Customs Department at the time goods are imported. Certain businesses are excluded from VAT and will be subjected to SBT instead<sup>4</sup>.

According to VAT regulation, taxable goods mean all types of property, tangible or intangible, whether they are available for sales, for own use, or for any other purposes<sup>5</sup>. It also includes any types of articles imported into Thailand. Services refer to any activities conducted for the benefits of a person or an entity, which are not the supply in terms of goods<sup>6</sup>.

## 2) Tax Bases

Tax Bases are the assessed value of set of assets, investments or income streams or the assessed value of a single asset that are subject to taxation<sup>7</sup>. The tax base for sale of goods or provision of

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<sup>3</sup> See appendix 1 Sections 82, 82/1, 82/2.

<sup>4</sup>The Revenue Department of Thailand, Value Added Tax, in <http://www.rd.go.th/publish/6043.0.html>, access date August 26, 2007.

<sup>5</sup> See appendix 1 Sections Section 77/1(9).

<sup>6</sup> See appendix 1 Sections 77/1(10).

<sup>7</sup> See appendix 1 Sections 79.



services is the total value received or receivable by a supplier from the sales or services inclusive of Excise Tax. The value of the tax base includes money, property, compensation, consideration for services, or any benefit ascertainable in terms of money. However, this paper is related just only one part of them that is Tax Base of VAT.

General Goods and Services; Tax base of VAT is the total value received or receivable from the supply of goods or services. Value means money, property, consideration, service fees, or any other benefits, which is ascertainable in term of money specified in Section 79 Paragraph 2<sup>8</sup>. Tax Bases will also include any Excise Tax arises in the connection with such supply. However, Tax Bases are exclusive of the VAT itself and do not include any discounts or allowances, but only if discounts or allowances are clearly shown in the tax invoices.

The Tax Base of VAT is a tax base for selling product or provides any services, which use for tax calculation standard according to VAT rates<sup>9</sup>;

\*  
Imported Goods: Tax base = C.I.F. price + Import duty + Excise Tax (if any) + other taxes and fees (if any).

Exported Goods: Tax base = F.O.B. price + Excise Tax (if any) + other taxes and fees (if any)<sup>10</sup>

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<sup>8</sup> See appendix 1 Sections 79 Para. 2.

<sup>9</sup> See appendix 1 Sections 79/3.

<sup>10</sup> The Revenue Department of Thailand, Value Added Tax, in <http://www.rd.go.th/publish/6043.0.html>, access date August 26, 2007.

### 3) VAT Rates

According to the Revenue Code, the basic rate for most VAT transactions was 10 percent<sup>11</sup>. Later, according to Ministerial Regulation 353, B.E. 2542, the basic rate for the VAT transaction is reduced to 7 percent and several types of transactions, notably the export of goods or services that are liable to zero VAT rate.

Those activities are including export of goods; services rendered in Thailand and utilized outside Thailand; aircraft or sea-vessels engaging in international transportation; supply of goods and services to government agencies or state-owned enterprises under foreign-aid program; supply of goods and services to the United Nations and its specialized agencies as well as embassies, consulate-general and consulates; supply of goods and services between bonded warehouses or between enterprises located in Free Zones<sup>12</sup>.

### 4) Transactions subject to VAT Payment

International trade in most services and goods are, as mentioned above, subject to VAT. Exports of goods or services which including sales to diplomatic missions and some other exempt organizations are subjects to zero rate tax specified Section 80/1 of the Revenue Code. Therefore, exporters will normally be entitled to a refund of all the VAT they have paid.

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<sup>11</sup> See appendix 1 Sections 80.

<sup>12</sup> Bangkok International Associates, Thailand business and legal guide, in <http://www.bia.co.th>, access date August 15, 2007.

Services performed for overseas consumers, where there is a written evidence or agreement, are subject to zero rate VAT. Services performed abroad for a Thai company are subject to 7% VAT effective from 2003 and are treated as an import. A separate VAT return must be filed by the Thai company importing the service and the VAT paid at that time. This payment can be credited at the time the next regular VAT return is filed<sup>13</sup>.

Importers pay the current VAT rate exclusive to Customs Taxes at the time they import the goods. The VAT on imports is based on the total goods value including shipping and customs duties. The Customs Department will issue a Tax Invoice which may lack some of the details of a private issued Tax Invoices, which can nevertheless be used as a private issued Tax Invoices<sup>14</sup>.

The full burden of VAT falls to the consumer who cannot claim a refund and to a certain extent; traders who have not registered for VAT and who thus cannot claim the credit. Some VAT payments cannot be claimed even by regressed traders. This would include, for example, VAT paid on automobiles or for entertainment. VAT paid on employees' benefits also cannot be claimed by an employer<sup>15</sup>.

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<sup>13</sup> See appendix Section 84/1.

<sup>14</sup> Bangkok International Associates, CHAPTER 13 Value Added Tax & Specific Business, in <http://www.bia.co.th/017.html>, access date; September 25, 2007.

<sup>15</sup> See appendix Section 82/5(4).

## 5) Exemptions

Types of transactions under Sections 81 to Sections 81/3 of the Revenue Code and Ministry Regulation, the following persons or services are exempt from VAT<sup>16</sup>:

- (1) Small businesses whose annual turnover is less than 1.8 million Baht, provided that income in any month does not exceed 300,000 Baht<sup>17</sup>.
- (2) Sales and import of unprocessed agricultural products and related goods such as fertilizers, animal feeds, pesticides, etc<sup>18</sup>;
- (3) Sales and import of newspapers, magazines, and textbooks<sup>19</sup>;
- (4) Healthcare services provided by government and private hospitals as well as clinics<sup>20</sup>,
- (5) Educational services provided by government and private schools and other recognized educational institutions<sup>21</sup>,
- (6) medical and auditing services, litigation services and other similar professional services<sup>22</sup>,
- (7) Rent of immovable property<sup>23</sup>,

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<sup>16</sup> Bangkok International Associates, CHAPTER 13 Value Added Tax & Specific Business, in <http://www.bia.co.th/017.html>, access date; September 25, 2007.

<sup>17</sup> See appendix Section 81/1.

<sup>18</sup> See appendix Section 81(1), (a, b, c, d, e).

<sup>19</sup> See appendix Section 81(1), (f,).

<sup>20</sup> See appendix Section 81(1), (j).

<sup>21</sup> See appendix Section 81(1), (g).

<sup>22</sup> See appendix Section 81(1), (i).

<sup>23</sup> See appendix Section 81(1), (r).



- (8) Cultural services such as amateur sports, libraries, museums and zoos<sup>24</sup>;
- (9) Services in the nature of employment of labors, research and technical services and services of public entertainers<sup>25</sup>;
- (10) Goods exempted from import duties under the Industrial Estates Act imported into a Free Zone and under Chapter 4 of the Customs Tariff Act<sup>26</sup>;
- (11) Imported goods that are under the supervision of the Customs Department which will be re-exported and be entitled to a refund of import duty<sup>27</sup>; and
- (12) Other services such as religious and charitable services, services of government agencies and local authorities<sup>28</sup>.
- (13) Gold bullion<sup>29</sup>.

However, the significance of VAT exempt activities and zero rated activities providers of goods or services that are zero rated may have to pay VAT on goods and services they purchase, but cannot claim for a VAT credit. Thus it is often better to be zero rated than tax exempt, as providers of zero rated goods and services especially exporters can reclaim all the VAT they have paid.

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<sup>24</sup> See appendix Section 81(1), (l, n).

<sup>25</sup> See appendix Section 81(1), (m, o, p).

<sup>26</sup> See appendix Section 81(2).

<sup>27</sup> See appendix Section 81(2).

<sup>28</sup> See appendix Section 81(1), (u).

<sup>29</sup> See appendix Section 81(1), (v).

## 6) Period of Supply

The period of supply of goods or providing services is important because it determines when the registered trader should account for VAT. The period of supply or providing will be decided as follows:

Goods; General goods, the earliest of: the delivery time; or when ownership of goods is transferred; or a payment is made; or a tax invoice is issued<sup>30</sup>.

Hire-purchase or installment sales, the earliest of: the time each payment is due; or a payment is made; or a tax invoice is issued.

Supply of goods on consignment, the earliest of: the time the consignee makes delivery or transfers, ownership of the goods to buyer; or a payment is made; or a tax invoice is issued.

Imports, the earliest of: the time import duty is paid; or a guarantee is put up; or a guarantor is arranged for; or a bill of lading is issued.

Exports, the earliest of: the time export duty is paid; or a guarantee is put up; or a guarantor is arranged for; or a bill of lading is issued; or goods are sent from Thailand to Free Zones; or goods are exported from a bonded warehouse

Services; In general, the earliest of: the time a payment is made; or tax invoices are issued; or service is utilized<sup>31</sup>.

## 7) Computation

“VAT liability = Output Tax - Input Tax<sup>32</sup>,”

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<sup>30</sup> See appendix Section 78).

<sup>31</sup> See appendix Section 78/1.

Output Tax is the VAT on external side of goods or services and collected from the business customers on each sale.

Input Tax is the VAT that a business pays to its suppliers for purchased goods and services and can be reclaimed

## 8) Refund

If the input tax exceeds the output tax in any particular month, the taxpayer may refund for the tax, either in form of cash or a tax credit to be used in the following months<sup>32</sup>. Therefore, in the case of zero-rated businesses, the taxpayer will always be entitled to a VAT refund. With regard to unused input tax, it may be credited against output tax within the following six months. However, a refund can only be claimed within three years from the last date of filing.

Certain input taxes, such as tax in relation to entertainment expenses, are not creditable against VAT. However, those non-creditable input tax payments can instead be used as deductible expenditure against corporate income tax.

## 9) Tax Return and Payment

VAT taxable period is a calendar month. VAT return, therefore, must be filed on a monthly basis. VAT return is using VAT 30 Form together with tax payment, if any, must be submitted to the Area Revenue Branch Office within 15 days of the following month. If taxpayer has more than one place of business, each place of business must file the return and make a payment separately

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<sup>32</sup> See appendix Section 82/3.

<sup>33</sup> See appendix Section 84.



unless there is an approval from the Director-General of the Revenue Department. Services utilized in Thailand supplied by service providers in other countries are also subject to VAT in Thailand. In such a case, service recipient in Thailand is obliged to file VAT return which using with VAT 36 Form and tax payment, if any, on behalf of the service providers<sup>34</sup>.

### 2.1.2 Tax Invoices

The tax invoice is the cornerstone of VAT system. In a complete VAT system, tax is charged by the supplier and paid by the customers at each stage of the commercial chain until the goods or services reach the final consumers<sup>35</sup>. Therefore, the tax invoice is necessary since if the registered traders do not issue a tax invoice, then the registered customers cannot claim a credit for the tax payment. Moreover, if the registered trader does not issue a tax invoice, The Revenue Department will not collect the sales tax due to the government. In other words, the tax invoice is an important document that the registered trader has to issue to buyers and customers when they buy product and provided any services from registered trader. Then, registered trader can claim a credit for the tax paid later. And also, the registered trader has to make it at least 2 copies;

1. Original is given to buyer and customers who received service.
2. Copy is a proving evidence for tax report for the registered trader as follow Section 87/3.

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<sup>34</sup> Bamrung Suvicha Apisakdi Law Associates, Value Added Tax in Thailand, in <http://www.bsawalaw.co.th>, access date: July 15, 2007.

<sup>35</sup> See appendix 1 Section 86.

A registered trader must issue a VAT receipt, referred to as a Tax Invoice, for over 500 Baht transaction or when requested. Tax Invoices are important for the business tax payer, who can usually claim the VAT payment. The requirements for Tax Invoices are very strict. They must contain the name and full address of the purchaser. No errors other than minor spelling errors or corrections are allowed. If there is an error, erasure or alteration of the Tax Invoice it must be cancelled and a new Tax Invoices will be issued.

Moreover, the tax invoice will be useful for the VAT calculation, and then if input tax is greater than output tax, it will be a credit for a registered trader to pay VAT in the next month of calculating month. After they have credited tax, they still have a credit remain. Then, they will be able to use the credit to pay VAT in the later month. On the other hand, if a registered trader does not want to take a tax credit, they have a right to refund within 3 years from the expiring date of file in the tax month.

#### **1) Persons who are responsible to issue a tax invoice**

1. A registered trader who has been paid VAT, which calculate from input tax minus with output tax<sup>36</sup>;
2. According to Section 86/ 3 of the Revenue Code and Notice of Revenue Department No. Paw 87/2542 explained that who sells a property of registered trader by auction, can issue Tax invoices in the name of registered trader who is the owner of the property.
3. Agents who live in the same territory with registered trader and have already appointed for selling and delivering the goods, in order that it is just only an agent contract which for selling the

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<sup>36</sup> See appendix 1 Section 86.

goods that follow the type of each product and the rules, procedures and conditions prescribed by the Director-General (Section 86 paragraph 4 of Revenue Code).

4. Section 86/2, 86 paragraph 2 and 86 / 11 of Revenue Code.
5. A registrant who doing business which exempted from VAT and give notice to register VAT and approved to pay a VAT equal to output tax deducted by input tax in each tax month.

## 2) Type of Tax invoices<sup>37</sup>

1. Tax Invoices: Tax Invoices, Summary tax invoices
2. The other document which can be used as Tax invoices: Debit Note, Credit Note, an auction receipt which is issued by government, a receipt issued by the Revenue Department, Customs Department and Excise Department which is only a part of VAT

## 3) The draw up of the fully tax invoices

Firstly, a general registered A registered traders have duties to issue a tax invoice to the buyers or consumers. This tax invoice should have all details as mentioned in Section 86/4 of The Revenue Code.

Practically, if a registered trader would like to collect a master of order to be a proof in litigation when buyer does not pay the cost. Registered trader should issue tax invoices separately from the order bill. Trader should also give the master of tax invoices

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<sup>37</sup> Thailand the Board of Investment website, The Revenue Code Section 77/1(22), In [http://www.boi.go.th/thai/how/taxation\\_014.asp#2](http://www.boi.go.th/thai/how/taxation_014.asp#2), access date August 25, 2007.



together with the copy of order bill to the buyer when product has been sent. In addition, a master of the order bill should be kept secured for the counter performance. For the convenience, trader might issue a tax invoice and order bill in the same document by following the issue of tax invoices set structure (if any).

Secondly, in the case of tax invoices set, if registered trader would like to issue a tax invoice together with the other documents, such as receipt, order bill or invoice, which has many copies in the same set. Moreover, tax invoices are not the elementary document and should follow the below structure:

1. In the other document which is not a tax invoice, must have the word “this is not a tax invoice” on every documents
2. In the tax invoice set, must have “this is a tax invoice set” on all document set
3. For the copy of all document, must have “copy” on all copy document

Thirdly, if the office, which has issued a tax invoice, is not a head office, on a tax invoice must have the branch name that has issued this tax invoice. From this word, it can be published by using computer, seal, written by ink, typing or the other proceed.

Fourthly, when a registered trader has received a permission to issue a foreign currency instead of tax invoices from the Director-General of the Revenue Department which under Section 86/4 paragraph 2, it is regard to tax invoices under Section 86/4 paragraph 2 of the Revenue Code (The Notification Director-General of the Revenue Department; No 92).

### **2.1.3 Electronic Tax Invoices**

A tax invoice is a document that contains the information about a taxable supply required by the Revenue Code Sections 86 to Sections 86/14 whereas invoices are just documents notifying an obligation to make a payment. It could be in an electronic form. Documents of offer such as insurance renewal form, subscription to magazine or registration form for conference are treated by the Tax Commissioner or the Revenue Department in some countries; such as France, Germany, Iceland, Thailand and etc., The tax invoice is also include all necessary information required by the Revenue Code.

Unfortunately, an Electronic Tax Invoice is not significantly explained in Thailand law system at the present i.e. Section 77/1 (20), Sections 86 – 86/14 of The Revenue Code and the Electronic Transactions Act B.E. 2544 which will explain all details of legislation as follow.

## **2.2 The purpose and concept of VAT on Electronic Tax Invoices**

An important purpose and concept of VAT on Electronic Tax Invoices are for supporting an Electronic Commerce and promoting Function Equivalent Approach between Papers-Based Documentation and Computer Based Information which ease business for Originator and Addressee. And also, it made legal recognition of data message and accept Admissibility and Evidential weight of data message. Moreover, an application of legal requirement to data message will help economical machinery to grow up and succeed in a particular country.

## **2.3 Thai law is enacted for collecting tax from sales contract**

### **2.3.1 The Revenue Code**

Sales Tax is collected from the buyer to the Revenue Department. It is a liability account and burden to the tax payer. If the subtraction of the

Sales Tax is greater than the Purchase Tax, the excess amount will be accounted to the Revenue Department. If the Sales Tax is less than the Purchase tax, the tax payer can refund for the tax payment or earn a tax credit for the later tax month.

Under Section 77 /1 (17) of the Revenue Code which mentioned about the meaning of Output Tax that all registered supplier should charge a VAT from a purchaser of goods or a recipient of services at the liability time and have a duty to pay tax for selling product by reference to the Revenue Code Section 77 /1(8), (d), (e), (f), or (g) or in the case of provide services which under Section 77/1 (10). However, it is not included tax that we have to pay in reference to Section 82/16.

Therefore, we can say that Output tax is the term used to describe the VAT on the sales side of goods or services. Output tax is the VAT on the external side of goods or services. Output tax is the VAT you collect from the customers on each sale.

## **2.4 Thai law is related with the VAT system on Electronic Tax Invoices**

### **2.4.1 The Revenue Code**

Section 77/1 (22), Sections 86 to 86/14 of the Revenue Code, they are not significantly specified that a registered supplier can make an Electronic Tax Invoice for every instance sales of goods or provision of services and give them to their customers or not. These regulations do not provide a clear concept for the understanding on Electronic Tax Invoices.

However, the decision of Tax Adjudicates Commission had made a final decision No. 29/2537 (23 February 2537) that a registrant who is using computer for preparing tax invoices under Section 86/4 of the



Revenue Code or use cash register computer machine which approved by Director-General of Revenue Department for preparing the summary tax invoices under Section 86/6 and Section 86/7 of the Revenue Code. Whenever the time of liability to VAT which follows Section 86 of The Revenue Code happens, if a registrant is follow the rules, methods and conditions, such as the details of tax invoices and the information of summary tax invoices which recorded in the diskette for saving all information of that tax invoices and summary of tax invoices; imposed by Director-General of Revenue Department, it will be a copy of tax invoices and copy of summary tax invoices. But it did not mean that a registered supplier can use an Electronic Tax Invoice at during this time.

Particularly, under Section 86 of the Revenue Code imposed that a registered trader should prepare a tax invoice and a copy for every instance sale of goods or provision of services promptly at the time the liability to VAT occurred. And also, Section 86/12 of the Revenue Code mentioned that the duplicate of a tax invoice, debit note or credit note shall contain the same format as in the tax invoice, debit note, or credit note as the case may be. The term mentioned that it is a duplicate of which tax invoices, debit note, or credit note shall be present in an obvious spot.

These regulations are still not clear whether a registered trader can use an Electronic Tax Invoice or not. Therefore, a registered trader in Thailand has been using an original and keeps the copy during this time. From information of the Revenue Code as mentioned above, it did not allow the registered trader to use an Electronic Tax Invoice obviously.

### 2.4.2 Electronic Transaction Act B.E. 2544

The Electronic Transaction Act B.E. 2544 is a good regulation which created the basis or rules for legal recognition of data message or admissibility and evidential weight of data message. It is not just only promote Electronic Commerce Transaction, but it is also including other transactions also. It is containing 46 Sections, 6 Divisions which each Division is very important and related to VAT on Electronic Tax Invoices. Although, Electronic Transaction Act B.E. 2544 was enacted for supporting the Civil and Commercial Code, but an Electronic Tax Invoice is a part of Juristic Act. The Electronic Transaction Act B.E. 2544 might be applying to solve this problem. Thus, this paper will focus on some registration of this Act that easy to understand and related with this problem. The following sentences will be concluding the important details of this Act;

1. Since 3 April B.E. 2545 this act has been enforcing<sup>38</sup>.
2. The limitation of enforcement: Under Section 3 of this Act, shall apply to all transactions performed by using a data message except the transactions prescribed by a Royal Decree to be excluded from this Act completely or partly.
3. Definition and Crucial Term is under Section 4 of the Electronic Transactions Act BE. 2544.
4. The electronic data acceptance is the same to paper –based data specified in Electronic Transactions Act BE. 2544, Section 8.
5. The regulation which identifies these actions to be signed by the law specified in Electronic Transactions Act BE. 2544, Section 9.
6. If any information be presented or retained in its original form as an original document which under this Act, it shall be deemed that it

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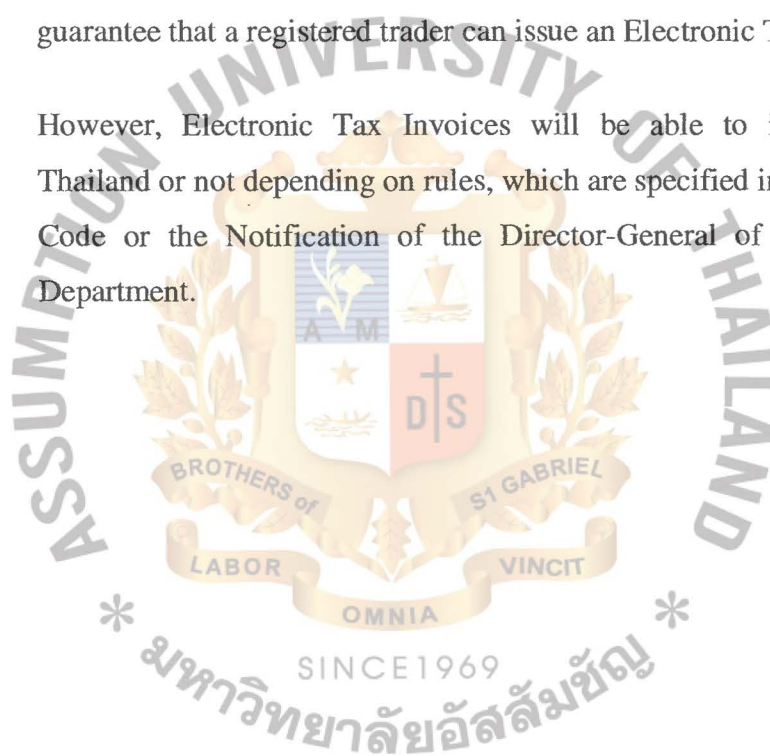
<sup>38</sup> See appendix 2 Electronic Transactions Act BE. 2544 Section 2.

has already submitted or preserved as the master copy under Section 10 of the Electronic Transactions Act BE.

7. The regulation or rule which can refer to store the paper document that imposed by Section 12 of Electronic Transactions Act BE. 2544.

Referring to the details of legislation of the Revenue Code and the Electronic Transaction Act B.E. 2544 mentioned above, VAT on Electronic Tax Invoices seems not to be able to use or apply for registrant currently as there is no provision of the law, which can guarantee that a registered trader can issue an Electronic Tax Invoice.

However, Electronic Tax Invoices will be able to implement in Thailand or not depending on rules, which are specified in the Revenue Code or the Notification of the Director-General of the Revenue Department.





## Chapter 3

### The Principle of VAT on Electronic Tax Invoices under Inland Revenue Authority of Singapore (IRAS)

#### 3.1 The Republic of Singapore

##### 3.1.1 Background of the Revenue Structure of Singapore

The period since the early 1980s has witnessed several significant measures in the Revenue Structure of Singapore. Three new sources of revenue which have been introduced are the foreign workers levy (1982), Certificate of Entitlement (COE) which is a right to own a motor vehicle (May 1990), and the comprehensive Goods and Services Tax (GST), a VAT has been introduced with effect from 1 April 1994.

In general there has been a rate reduction<sup>39</sup> in existing taxes, but these have not been accompanied by base broadening measures<sup>40</sup>. Indeed, the social engineering aspects of tax policies and range and scope of fiscal and non-fiscal incentives for businesses has grown substantially since the early 1980s. As a result, static resource allocation effects and equity aspects have been subordinated to achieve paternalistic government's socio-economic objectives. Large budgetary surpluses generated by rapid economic growth and by government's ability to

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<sup>39</sup> Often the effective rate reduction, particularly in income and property taxes, has been accomplished by providing one-off rebates rather than formal reductions in rates.

<sup>40</sup> The 1986 Economic committee Report did recommend a more neutral broad-based tax system with fiscal incentives assigned only a minor role, but this has not been followed. This committee was set up to cope with the short-lived 1985 recession.

contain current expenditure have meant that economic efficiency (as opposed to commercial profitability) considerations have not always received due recognition.<sup>41</sup>

Therefore, the Inland Revenue Authority of Singapore, the largest tax revenue collector, is responsible for the assessment, collection and enforcement of taxes, duties and levies under the various revenue Acts.

The types of taxes levied in Singapore are: company income tax, personal income tax, property tax, estate duty and stamp duty. There is no capital gains tax, defense surcharges etc. The 2% payroll tax previously payable by employers in respect of their employees rendering services in Singapore has been suspended since 1 April 1985.

This chapter is aim on GST which electronic tax invoice is the most important instrument in the GST system.

### **3.1.2 Goods and Services Tax:**

A GST was implemented from April 1, 1994 as a part of the strategy to shift the tax mix away from taxation of income and profits to that of consumption, the Singapore government introduced GST on April, 1, 1994. The government was quite aware of the need for careful political management leading up to the introduction of the GST. The campaign slogan for the GST was “A fairer tax, a brighter future”. Links between GST and fairness and between GST and brighter future were however not explained.

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<sup>41</sup>Mukul G. Asher, Tax Reform in Singapore, in <http://wwwarc.murdoch.edu.au>, access date October 25, 2007.

Along with the introduction of the GST in Singapore, it is a tax on domestic consumption. The tax is paid when money is spent on goods or services, including imports. In general, goods sold or services performed in Singapore are taxable. The only exceptions are financial services or the sale or lease of residential properties which are exempt supplies<sup>42</sup>.

In Singapore, it has been announced that the GST rate is increased from 5% to the current 7 %. Globalization has created many opportunities but also poses new challenges for Singapore. In particular, income gaps are widening and Singaporeans in the lower trench of the income group are finding it more difficult to cope. Rising GST will generate extra resources to help the lower income, the elderly as well as invest in the future and create more opportunities for all Singaporeans to do well and prosper.

By the way, the registered supplier must register for GST in Singapore, if:

1. At the end of a quarter if there taxable supplies exceed S\$1 million for a quarter and the immediate past 3 quarters. Quarter refers to March, June, September or December; or
2. At any time if there taxable supplies are expected to exceed S\$1 million for the next 12 months.
3. If they are required to register for GST in Singapore, they must apply within 30 days of becoming liable.

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<sup>42</sup> AsiaBiz, Singapore GST (Goods & Services Tax), in <http://www.asiabizsetup.com/singapore-gst-registration-qa.aspx>, access date September 25, 2007.



4. GST registration for companies with annual turnover below \$1 million is not mandatory. A company may however choose to register voluntarily if it makes economic sense for them to do so this really depends on their business scenarios and operations. Some factors to consider include:

5. Whether their customers are GST-registered; if their customers are GST-registered, then there is greater reason for a Singapore business to be GST-registered as this will enable their customers to claim the GST incurred.

6. Whether their suppliers are GST-registered; if their suppliers are GST-registered, then a Singapore company will be incurring GST on the purchases. If they want to claim the GST-incurred, then they may wish to register.

7. Whether they have the resources to fulfill the regular GST filing and record-keeping requirements – Companies need to file their GST returns either monthly or quarterly. They need to ensure that GST invoices are issued to their customers; and to keep proper records of the GST claimed<sup>43</sup>.

### 3.2 Tax Administration

The Singapore government has paid considerable attention to the tax administration issues. Even as it continues to provide extensive and growing set of fiscal incentives, and continues to exempt transactions which have proved to be administratively complex such as the capital gains, it has enacted comprehensive anti-avoidance legislation to limit the scope of aggressive tax planning ; and restructured its tax administration to improve administration and compliance efficiency.

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<sup>43</sup> AsiaBiz, Singapore GST (Goods & Services Tax), in <http://www.asiabizsetup.com/singapore-gst-registration-qa.aspx>, access date September 25, 2007.



As a result of the restructuring, the Inland Revenue Department (IRD) was transformed into a Statutory Board called the Inland Revenue Authority of Singapore on 1 September, 1992.

The main reasons given for the switch were that the official assessment system for income and other direct taxes, along with increasing number of income taxpayers due to rapid growth leading to higher wages and profits, had increased the workload significantly while the staff strength had lagged behind. In 1991, the backlog of assessments was nearly 50 percent (this meant that at the end of the 1990 cycle, half of tax returns were not assessed) and the arrears were growing at an annual rate of 7 percent. At the end of 1990, the amount of accumulated tax unpaid was 20 percent of the annual tax assessment<sup>44</sup>.

The turnover rate for professionals was high, and staff morale low. The official reasoning on much of the information on restructuring of tax administration was that constraints on personnel and financial management imposed by the civil service could be overcome by adopting the Statutory Board format.

IRAS is governed by a Board of Directors, chaired by the Minister of Finance, Chief Executive Officer of the IRAS, and five other appointed members.

IRAS is paid an agency fee by the Singapore government for its services. The fee is negotiated and is currently determined by a two –tire formula. The first tier consists of a fixed percentage (1.65 percent of the projected tax collection) of the tax collection for the year. The second tier is performance based. An incentive bonus of the 2 percent of the difference between the actual and projected revenue is paid if the actual collection exceeds projected collection. Conversely, if actual collection is below projected, a deduction in fee would be deducted. Details of how the projected revenues are set, and what allowance is made for the business cycles and other

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<sup>44</sup> Mukul G. Asher, Tax Reform in Singapore, in <http://wwwarc.murdoch.edu.au>, access date October 25, 2007

contingencies, as well as the other performance indicators which the IRAS is to meet, are however not available. In their absence, it is difficult to evaluate the above arrangement. The accountability of the IRAS is based on the financial statements, and annual statements on tax assessed and collected provided to the parliament and audited by the Auditor General.<sup>45</sup>

### **3.3 The general concept and an objective of VAT on Electronic Tax Invoices in the Republic of Singapore**

As mentioned above, GST is a tax on domestic consumption. It is charged on any supply of goods or services made in Singapore by a taxable person<sup>46</sup> in the course or furtherance of any business carried on by a taxable person.

In general, goods and services supplied in Singapore are taxable at 7%. The only exemptions from GST are on certain financial services (specified in the Act) and the sale or lease of residential properties. These supplies are referred to as exempt supplies. A supply of goods and services can be zero-rated (i.e. attract GST at 0%) if the goods are exported or if the services are international services<sup>47</sup>.

Only a GST- registered trader can charge and collect GST on all supplies of goods or services made in Singapore apart from exempt or zero-rated supplies. The GST-registered trader need to account and pay the GST collected to Comptroller of GST at prescribed regular intervals. For import of goods, GST is payable directly to Customs and Excise Department at the point of importation into Singapore.

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<sup>45</sup> Mukul G. Asher, Tax Reform in Singapore, in <http://www.warc.murdoch.edu.au>, access date October 25, 2007.

<sup>46</sup> Inland Revenue Authority of Singapore, Goods & Services Tax guide on E-Commerce, in <http://www.iras.gov.sg>, access date October 25, 2007.

<sup>47</sup> See appendix 3 Section 21(3).

If persons who supplying goods or services in Singapore via internet or any other electronic media, they are accountable for the collection of GST as in traditional commerce. This also applies notwithstanding that the transactions are effected through a third party e-commerce service provider. And also, if they are required to register for GST, they will be able to make taxable supplies of goods and/or services in Singapore with an annual turnover exceeding or likely to exceed \$1,000,000<sup>48</sup>.

### **3.4 The registration of Tax Invoices in the Republic of Singapore**

Under Regulation 10 of the GST (General) Regulations, a GST-registered trader is required to provide a tax invoice to their GST-registered customers for standard-rated supplies. The particulars required on the tax invoice are prescribed under Regulation 11 of the same legislation. By the way, the following is referring to the particulars required;

#### **3.4.1 Tax Invoices:**

The registered traders are required to issue tax invoices for all taxable supplies made to taxable persons. The tax invoice must be issued within 30 days from the Time of Supply. There GST-registered customer will then rely on the registered traders tax invoices to claim the GST that they have charged them<sup>49</sup>.

However, they are not required to issue tax invoices for the following types of supplies:

1. Zero-rated supplies
2. Deemed supplies

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<sup>48</sup> Inland Revenue Authority of Singapore, Goods & Services Tax guide on E-Commerce, in <http://www.iras.gov.sg>, access date October 25, 2007.

<sup>49</sup> Inland Revenue Authority of Singapore, PART IV: Criteria for Issuing of Electronic Tax Invoices, in <http://www.iras.gov.sg>, access date October 25, 2007.



3. Out of scope supplies
4. Supplies of goods under the Gross Margin Scheme

### 3.4.2 Simplified Tax Invoices

The registered traders may issue a simplified tax invoice in place of a tax invoice where the value of your supply does not exceed S\$1,000. As in the case of a tax invoice, the simplified tax invoice should also be issued within 30 days from the time of supply.

There simplified tax invoices should contain the following details:

1. The name, address and GST registration number of the GST-registered person;
2. The date of issue of the invoice;
3. A description sufficient to identify the goods or services supplied; and
4. The total amount payable including the total tax chargeable.

### 3.4.3 Time of Supply

The time of supply events determine when the registered traders should account for GST in there GST returns. In most cases, the earliest of the following would determine the time of supply:

1. when goods are delivered or made available to customer
2. when services are performed;
3. when tax invoices issued; or
4. when payment is received.

For example:



The time of supply is the earliest of the 3 events i.e. 20 Jun 2004. Thus, if the accounting period covered in your GST return is 1 Apr 2004 to 30 Jun 2004, you have to account for the transaction in this GST return.

The exception to the normal time of supply rule is the 14-Day rule.

In addition, the registered traders may wish to note that goods are considered “made available”, so long as any one of the following criteria is satisfied.

1. Title or ownership of the goods has been passed.
2. Possession or control of the goods is with the customer (in cases where the title has not been passed, or where the title is void).
3. All rights pertaining to the goods have been transferred and there are no reversionary rights.

Hence, a mere reservation of goods without any transfer of title, or passing of possession of goods, does not mean that goods have been made available<sup>50</sup>.

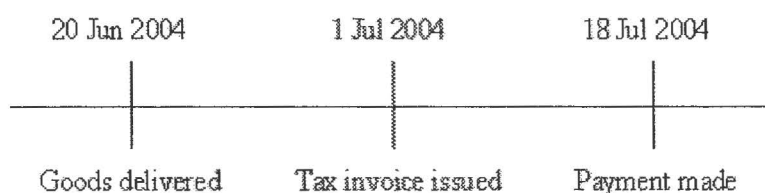
#### 3.4.4 14-Day Rule

When the date of delivery of goods or performance of services is the first event before date of payment and date of tax invoices, and a tax invoice is issued within 14 days from the date of delivery of goods or performance of services, the time of supply will be the date of tax invoices instead of the first event i.e. date of delivery of goods or performance of services.

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<sup>50</sup>Inland Revenue Authority of Singapore, Principles of Time of Supply, in <http://www.iras.gov.sg>, access date September 25, 2007.

For example:



The normal rules state that the time of supply is 20 Jun 2004. However, as the tax invoice is issued within 14 days from the delivery of the goods, the time of supply is 1 Jul 2004. You should account for the transaction in the GST return covering 1 July 2004 to 30 September 2004, and not in the GST return covering 1 April 2004 to 30 June 2004.

Where the tax invoice is not issued within 14 days from the date of delivery of goods or performance of services, it has to be issued within 30 days from the time of supply (i.e. by 20 Jul 2004 in the example)<sup>51</sup>.

### 3.4.5 Goods supplied on approval or sale or return terms

When goods are supplied under the agreement on approval or sale or return terms, the sale has not taken place until the customer approves the goods and confirms the sale. In this instance, the removal of the goods to the customer before the acceptance of the sale will not trigger a tax point. Rather, the time of supply is the earliest of the following events:

1. The date when the sale is confirmed (e.g. upon receipt of a letter of acceptance); or

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<sup>51</sup> Inland Revenue Authority of Singapore, Principles of Time of Supply, in <http://www.iras.gov.sg>, access date September 25, 2007.



2. 12 months after removal of the goods; or
3. The date of tax invoices.

If a tax invoice is issued within 14 days after the event above (whichever is the earlier), the date of the tax invoice will trigger the tax point.

The above treatment must be distinguished from a sale transaction where a cooling period is given to allow the customer to return the goods. Notwithstanding the cooling period, a sale has taken place based on the normal time of supply rules in paragraph 1 above. The supplier has to account output tax accordingly. If the goods are returned during the cooling period, the supplier has to issue a credit note to the customer to reverse the sale. Upon issue of the credit note, the supplier can reduce the output tax (previously accounted) in its current return.

#### **3.4.6 Time of Supply for Continuous Supply of Services**

Where your supply of services stretches for a period of several months or even years, e.g. maintenance services, and the payment is determined or received periodically, date of performance of services cannot be used to determine the time of supply. The time of supply will then be based on the earlier of:

1. When payment is received; or
2. When tax invoices are issued<sup>52</sup>.

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<sup>52</sup> Inland Revenue Authority of Singapore, Principles of Time of Supply, in <http://www.iras.gov.sg>, access date September 25, 2007.

### 3.5 The registration of VAT on electronic Tax Invoice in the Republic of Singapore

Under Section 43 of GOODS AND SERVICES TAX ACT mentioned about production of tax invoices by computer:

1. For the purposes of any provision contained in or having effect under this Act which relates to tax invoices, a person shall be treated as issuing, or as providing another person with, a tax invoice if the requisite particulars are recorded in a computer and transmitted by electronic means and without the delivery of any equivalent document or counterpart in paper form.
2. Any provision in this Act relating to tax invoices shall be treated as complied with by the production by means of a computer of any material other than a document in writing, by delivering any such material so produced or by making any such transmission as is mentioned in subsection (1) where the person producing or delivering the material or making the transmission and, in the case of delivered material or a transmission, the person receiving it has complied with such requirements as may be imposed by the Comptroller from time to time."

However, the same regulations are applies to an electronic tax invoices. In addition, if the registered traders are storing the electronic tax invoice in a machine-sensible form and do not wish to keep them in hard copies, they must ensure the criteria in this guide as follow are met.

For Income Tax purposes, the record keeping requirements relate to the keeping of records which will enable the taxpayer's income and allowable deductions to be readily ascertained. For GST purposes, record keeping requirements include the keeping of business and accounting records, tax invoices and receipts issued, tax invoices received, import and export documentation, credit notes and debit notes.

### 3.6 Procedure

As a GST registered trader, they are required to issue tax invoices for goods or services supplied to another taxable person. The tax invoice must be provided to the buyer within 30 days of the supply being made.

Details to be shown on the tax invoice include the following:

1. The words “Tax Invoices” in a prominent place;
2. An identifying number;
3. The date of issue of the invoice;
4. The registered trader name, address and registration number;
5. The customer’s name (or trading name) and address;
6. The type of supply e.g. credit sale, hire-purchase, loan;
7. A description of goods or services supplied;
8. For each description, the quantity of goods or extend of services and the amount payable (excluding tax);
9. Any cash discount offered;
10. The total amount payable excluding tax, the rate of GST and the total tax chargeable shown separately;
11. The total amount payable, including tax; and
12. If applicable, the breakdown of exempt, zero-rated or other supply, stating separately the gross amount payable in respect of each.

If their invoice in a foreign currency, items 10 and 11 should be converted into Singapore dollar using the selling exchange rate prevailing in Singapore at the time of supply. The exchange rate can be obtained from the rates published in the Straits Times or a bank. If registered trader wishes to use another basis of determining



exchange rates, they should apply in writing to the Comptroller of GST for approval<sup>53</sup>.

### **3.6.1 Issue of Electronic Tax Invoices:**

The registered trader does not need to seek approval from IRAS to issue electronic tax invoices. However, there are criteria to be complied with for the issuance of electronic tax invoices.

If registered trader wish to issue tax invoices electronically and store the electronic tax invoices issued in machine-sensible form and do not wish to keep the tax invoice in hard copies, they are required to comply with the criteria as set out in Part of Criteria for Issuing of Electronic Tax Invoices and Criteria for Keeping of Records in Machine-Sensible Form as follow. However, if they wish to keep hard copies of the electronic tax invoice that they issue, they will only need to comply with the criteria set out in Criteria for Issuing of Electronic Tax Invoices of this guide<sup>54</sup>.

### **3.6.2 Criteria for Issuing of Electronic Tax Invoices:**

The following are the criteria that registered traders are required to comply with for issuing of electronic tax invoices:

1. Registered trader must establish internal controls to ensure that the electronic tax invoice issued and transmitted to customers are complete and accurate;

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<sup>53</sup> Inland Revenue Authority of Singapore, Goods & Services Tax guide on E-Commerce, in <http://www.iras.gov.sg>, access date October 25, 2007.

<sup>54</sup> Inland Revenue Authority of Singapore, Keeping Machine-sensible Records & Electronic Invoicing, in <http://www.iras.gov.sg>, access date October 25, 2007.

2. Registered trader must establish controls to ensure that the electronic tax invoice cannot be manipulated before and during transmission;
3. Registered trader must establish internal controls to ensure that all output GST resulting from these electronic transactions will be fully accounted to the Inland Revenue Authority of Singapore in your GST returns;
4. Registered trader must ensure that the electronic tax invoice issued and transmitted to customers contain all the details required under Regulation 11 or Regulation 13 of the Goods & Services Tax (General) Regulations 1993, where applicable; and
5. Registered trader will not issue tax invoices in paper form to customers whom registered trader already issued electronic tax invoices. In the event that registered trader need to issue the tax invoice in paper form, registered trader must take the necessary measures to prevent double claiming of input tax by their customers (e.g. invalidate either the paper form or electronic form of the tax invoice issued).
6. Registered trader will print and keep a hard copy of the electronic tax invoice issued if you do not intend to store the tax invoice in electronic media<sup>55</sup>.

### **3.6.3 Criteria for Keeping of Records in Machine-Sensible Form:**

The following are the criteria that registered trader are required to comply with to keep records in machine-sensible form:

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<sup>55</sup> Inland Revenue Authority of Singapore, Keeping Machine-sensible Records & Electronic Invoicing, in <http://www.iras.gov.sg>, access date October 25, 2007.

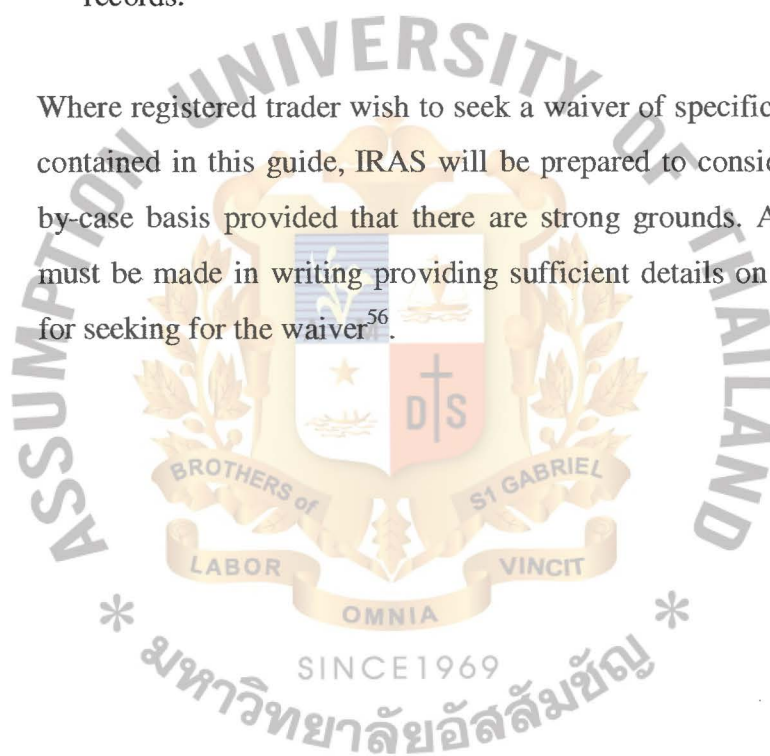
1. the retained records are accurate and capture all transactions completely, including all transactions executed electronically (where applicable);
2. the retained records contain sufficient transaction-level details (including date and time of transactions) to allow for the verification of the details underlying the transactions;
3. the retained records are retained in their original format; or if converted to another format then documentation relating to the conversion process are maintained;
4. any passwords or additional records generated by computer systems such as digital signatures and the keys needed to verify the retained records, including decryption keys, are kept and maintained to the same standards as the retained records;
5. the retained records are capable of being retrieved and printed on legible and readable hard copies;
6. the internal controls established by the company are adequate to ensure that all business transactions executed electronically, including those executed through Internet, are completely and accurately captured and retained in the electronic storage system;
7. the internal controls established by the company are adequate to ensure the reliability of the electronic storage system;
8. the internal controls established by the company are adequate to ensure the integrity, completeness, accuracy and availability of the machine-sensible records;
9. there is adequate security measures taken to prevent the risk of accidental or malicious damage to the retained records;
10. there is proper back-up and recovery procedures to ensure the availability of the retained records in the event of damage or loss of the original data;
11. whenever required by IRAS, you must provide the resources such as appropriate hardware, software, personnel and documentation,



necessary to locate, retrieve, read and reproduce any retained records at all times. Specifically, the following must also be complied with when requested by IRAS:

- a. Access to machine sensible records in specified file format to facilitate examination;
- b. Provision of facilities to print the retained records;
- c. Identify the details underlying the machine-sensible records, including field names, codes used and relationships between records.

Where registered trader wish to seek a waiver of specific requirements contained in this guide, IRAS will be prepared to consider on a case-by-case basis provided that there are strong grounds. An application must be made in writing providing sufficient details on your grounds for seeking for the waiver<sup>56</sup>.



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<sup>56</sup> Inland Revenue Authority of Singapore, Keeping Machine-sensible Records & Electronic Invoicing, in <http://www.iras.gov.sg>, access date October 25, 2007.

## **Chapter 4**

### **Legal Problems of VAT on Electronic Tax Invoices**

The VAT system is known as a "self-assessment" type of tax. Since the tax payment is liable on the vendor, the vendor need to have a fair knowledge on the tax collecting system. Thus, the registered trader is responsible to calculate VAT payment (right to claim or refund) monthly, which will be submitted on the 15<sup>th</sup> of the following month. The VAT calculation is the deduction of input tax and output tax specified in Section 82/1 Paragraph 1 of the Revenue Code. If the net amount of VAT calculation is positive, the registered trader must pay the difference in a particular month specified in Section 82/3 Paragraph 2. If the net amount of VAT calculation is negative, the registered trader is exempt for the VAT payment in the particular month though he is remaining to submit the actual tax form for the tax credit. Moreover, the registered trader has a right to claim for the VAT payment or keep the tax credit for the following months specified in Section 82/3 Paragraph 3.

However, the collection of the VAT on Electronic Tax Invoices does not apparently described by the Revenue Code. In order to levy VAT via the electronic transaction, the general principles in the Revenue Code and Subordinate legislation should be considered for this case; such as Royal Decree, covering the Director-General of Revenue Department, the process and tax ruling of the Revenue.

Therefore, this chapter is going to demonstrate and explain on questions of law and fact when using the Electronic Tax invoices in Thailand.

#### **4.1 The questions on law when VAT is collected on Electronic Tax Invoices**

##### **4.1.1 What is the purpose of tax invoices?**

Before access to the problem of VAT on electronic tax invoices, we have to know the rationale behind the insistence on tax invoices of the Revenue Department. In general, the most effective VAT system in the world is known as "invoice based subtractive system". The VAT

payable to the Revenue Department is calculated by subtracting the tax vendor pay to their suppliers from the tax vendor charge their customers (used as evidence for claiming input tax payment). The tax invoice is a proof of the tax that the vendors have to pay to their suppliers and it provides an audit trail to assist Revenue Department in detecting tax evasion.

The Revenue Code Section 77/1 (22) is divided tax invoices into 2 groups as follow;

Tax Invoices: Tax Invoices, Summary Tax Invoices

The other related Tax-Invoice documents: Debit Notes, Credit Notes, an auction receipts which is issued by government, a receipt issued by the Revenue Department, Customs Department and Excise Department which is only a part of VAT.

#### **4.1.2 Whether the Electronic Tax Invoices will be affected to the objective of the normal Tax Invoices or not?**

##### **1) The elementary details that must be included in a tax invoice;**

The important details of tax invoices, which have to specified, are the word “tax invoices”, number of tax payers who are pertaining to the seller, address of seller, address of buyer, order number of tax invoices, the order number of book (if any), date of issue tax invoices, Type, quantity and value of the product, the amount of VAT which is calculated from the total value of the product. Moreover, the details in a tax invoice should be written in Thai, in the Thai baht currency unit, and Thai or Arabic numerals. However, according to the Director-General of the Revenue Department, a certain business is permitted for foreign language and currency unit.



In Singapore, the tax invoice is containing certain information about the supply that registered trader have made and it is similar to their normal invoices except for the additional details required as mentioned in chapter 3. Practically, tax invoices issuers do not need to know whether a customer is registered only. Without the registration information of a customer, a tax invoice could be issued to a customer who asks for it. Instead of providing a tax invoice, a serially-printed receipt needs to be issued. It means that whenever registered trader supply standard-rated goods or services to another registered trader, they must issue tax invoices which containing all necessary details (Appendix 6) within 30 days from the Period of Supply. Their GST-registered customer will then rely on registered trader tax invoices to claim the GST that registered traders have charged to them.

Therefore, it should not be against the aim of tax invoices though those details are added in an electronic tax invoice.

## **2) Period of Supply**

For the purpose of tax invoices, it is not just only all important details that should be contained in the electronic tax invoices. But it is also including the delivery of the electronic tax invoices to the purchaser of goods or the recipient of services.

In Thailand, tax invoices shall be delivered to the buyer or the recipient of services at the time the liability to VAT occurs<sup>57</sup>.

Contradictory, in Singapore, under the Regulation 10 of the Goods and Services Tax Act 1993 (General) Regulations, a GST-registered trader is required to provide tax invoices to their GST-

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<sup>57</sup> See appendix 1 Section 86.

registered customers for standard-rated supplies<sup>58</sup>. The particular required on the tax invoice is prescribed under Regulation 11 of the same legislation. It means that supplying period determines the period that a registered trader should be accounted for GST in their GST returns. In most cases, the supplying period would be determined chronologically to:

1. when goods are delivered or made available to customer;
2. when services are performed;
3. when tax invoices issued; or
4. when the payment is received.

The exception to the normal time of supply rule is the 14-Day rule.

The tax invoices date must be later than the delivery date of goods and services. The tax invoices must be issued within 14 days from the delivery date of goods or performance of services. The supply period will be the date of tax invoices instead of the first event i.e., the delivery date of goods or performance of services according to Regulation 12 of the same legislation. Where the tax invoice is not issued within 14 days from the delivery of goods or performance of services, it has to be issued within 30 days from the time of supply.

From my understanding, the supply period should be the issued date of the electronic tax invoices under the Regulation 10, 11 and 12 of Goods and Services Tax Act 1993.

Thus, after added the new rules about the electronic tax invoices in the Revenue Code or amended the legislation under Section 12 (1), (2) of Goods and Services Tax Act 1993, if a registered trader completes all information that specified in Section 86/4 of Revenue

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<sup>58</sup> See appendix 3 Section 10.

Code including data and service delivery to the purchasers or recipients at the liabilities period to VAT arises which should be the issued date, it would not be against to the intension of law.

Additionally, any provisions which referred to other types of tax invoices or other related Tax-Invoice documents should be covered from those legislation or rules for using electronic transaction. A registered trader shall use an electronic transaction to issue a Summary Tax Invoices by completing all details that specified in Section 86/6 Revenue Code.

#### 4.1.3 How to solve it?

Firstly, for using the rules for electronic transaction in the Revenue Code; it should be amended or re-imposed e.g. *“...any provisions which referred to tax invoices shall be treated as complied with by the production by means of a computer of any material other than a document in writing...<sup>59</sup>”* I recommend this method because it is significant to use and can be definitely solved. The disadvantage of this strategy is the time consuming for a proposal or revision of the legislation.

Secondly, the issuance of the Notification of The Director-General of Revenue Department; the advantage of this method is to explain clearly besides the legislation. It should describe the delivery time and restriction for a registered trader to use an electronic tax invoice, but this method is a subordinate legislation which is not the fundamental law. So, the first method has more creditable.

Thirdly, the issuance of the Notification of Revenue Department though the Notification of Revenue Department is not the fundamental

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<sup>59</sup> See appendix 3 Sections 43.



law. After the permission to be used as the fundamental law, the electronic tax invoices can use as evidence; such as if the party is excuse the fact to support their accusation or defense, they will be able to bring witness or evidence to court<sup>60</sup>. The advantage of this method is short lead time for an announcement and can be used as evidence in the court. The disadvantage of this method is not clear comparing to the fundamental law.

Fourthly, even if the Electronic Transaction Act B.E. 2544 was enacted for supporting the Civil and Commercial Code, an electronic tax invoice is a part of Juristic Act. So, it would be able to apply for solving this problem right away. The disadvantage of this process is a possibility of having a misunderstanding or a dispute between registered trader and the Revenue Department.

There are some related rules on the electronic tax invoices. Although it is not directly on the issuance of an electronic tax invoice, it is about the electronic documentation for electronic data processing specified in the Revenue Department's Announcement No. Paw. 121/ 2545. However, the detail in depth will explain later in the Section of question on fact (4.2.1. Can it be trusted or reliable?)

Those above regulations will probably be able to solve. The amendment to the law or a new added regulation on the Revenue Code that any transaction made there under relating to tax invoices will be able to make or issue and submit via computer or any material other than a written document

However, the problem is not only on an issuance of the new regulation or the Director-General of Revenue Department, but it is also including

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<sup>60</sup> See appendix 4 Sections 84 and 85.

the question on fact which is one of the main problems in issuing Electronic Tax Invoices.

## **4.2 The questions of fact when VAT is collected on Electronic Tax Invoices**

### **4.2.1 Can it be trusted or reliable?**

This issue is an enormously important problem. In case of using an Electronic Tax Invoice, it should have the reliability as much as the currently existing Tax Invoices which is paper-based tax invoices.

Unlike Electronic Tax Invoices, it is not so difficult to distinguish between a real and an imitated one. The current tax invoices consisted of the information that imposed under the law, and held by the customer and the registered trader. According to the law, no change is permitted on the tax invoices.

On the other hand, with the present technology the Electronic Tax Invoices can be used even by an unskilled person. Thus, there should be the vivid regulations in order to make it reliable.

For the rules of electronically collecting and storing documents according to the Revenue Code, the list and message which appear in an electronic form should be completed and correct as same as paper-based tax invoices. Moreover, an electronic form should be printed immediately by assessment officer, buyer, and the person who receives service request.

The messages which appear in an electronic form are not allow for any change. Message collection should identify origin or source where the message created and sent, unit of sending data, code of office, date of sending, time of sending, destination of data, unit of data received, received date and receive time.

The electronic collection and storage of the documents must have security in both hardware and software by providing a password to the person who has right to access for accessing data system. They should have a report for record the using by identify officer's password, job duty, date and time. And also shown level of work performance of an officer and identify the number of officers who can access data for each level.

The program which uses data record cannot mend any information without clue. For the amendment, no data is permitted for a deletion. The amendment must show both before and after data. Additionally, there must also contain information, which can be examine and identify password of officer who amend information.

Furthermore, registered traders must show all system flowcharts including the explanation of system, security system, printing system and example of documents which electronically processing and storing, such as; tax invoices, receipt and invoice.

#### **4.2.2 How do we know who makes an electronic tax invoice?**

According to the Revenue Code, all documents have to be signed. Even the electronic transaction, the electronic signature should be reliable and able to identify the owner.

The 'name' in electronic means alphabetic character, numeric character, sound or symbol in form of electronic. The name is using with electronic information for showing relationship between person and electronic information.

The owner of a signature means the holder of information for creating electronic signature on behalf of owner or others. The Electronic Transaction Act B.E. 2544 will be applied for this case. It is about



reliable signature. Using signature, it will identify the owner and also examine alter transaction as Section 26 of The Electronic Transaction Act B.E. 2544. The law imposed the duty of three people who reliable and involved with using electronic signature, the duty composed of duty of the owner electronic name under Section 27 of the same legislation, duty of the issuer electronic receipt and duty of the parties who involved with Section 30 of the same legislation. For Section 31 of the same legislation imposed the result of the law on electronic name and electronic receipt of foreign countries can be use.

### 4.3 Advantages and Disadvantages

Electronic Tax Invoices have more advantages comparing to traditional paper-based tax invoices. The rapid electronic transmission of documents in a secure environment may provide:

1. structured data for auditing
2. improved traceability of orders
3. decreased reliance on paper reducing storage and handling costs
4. rapid access/retrieval
5. improved cash flow
6. Security/easier dispute handling.
7. Thai registered traders will be able to choose it to use; whether to issue paper or electronic VAT invoices.
8. Environmentally friendly and paperless

However, electronic tax invoices have both advantages and disadvantages. Before repealing the old system, there are few things we ought to consider;

1. Some necessary information e.g. password, code, etc. will lose easily by accident or hacker.
2. Hardware and Software must be more secured.
3. It is difficult to be trusted that electronic tax invoices are real or original.

4. It is hard for small business and medium-size business to receive a credit form Revenue Department.
5. Have many steps to protect themselves.
6. It is difficult to control.

Though this list is not exhaustive, it indicates some of the principal benefits and disadvantages.



## Chapter 5

### Conclusion and Recommendations

#### 5.1 Conclusion

It has many receipts and tax invoices in document format approximately 75 million lists per month. The cost of each is around 10 baht per list. Therefore, it costs about 750 million baht. If we imply an electronic tax invoice in Thailand, it will be reduce those expenses and get more convenient<sup>61</sup>. Furthermore, it is one of the solutions of global warming.

Paper-based Tax Invoices has always been an arduous and cost intensive process for registered traders. Tax Invoices are often lost in transit or routed to incorrect locations, delaying payment and reducing the quality of the accounts payable process. To help eliminate these inefficiencies, the registered traders are able to join the electronic tax invoices delivery network which provides numerous benefits such as:

1. Quicker and easier to deliver tax Invoices to the Revenue Department.
2. Ability to send attachments or backup documents like time sheets, receipts etc with the tax invoices.
3. To eliminate the cost that involved in stationary, printing, postage, paper and etc.
4. Ability to send tax invoices to the Revenue Department without complicated system.

Although, the Notification of Revenue Department have already been remarking about electronic transaction, the electronic tax invoices could not use in common. According to the Revenue Department's Announcement No. Paw. 121/ 2545, the

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<sup>61</sup> Ministry of Finance, "Revenue Department responses with the new technology by supporting for the electronic documents," Tax Route 21 (March 2003): 1-6.



registered trader can arrange, collect accounting report and all electronically since 26 December B.E. 2545. This notice is conforming to Electronic transaction Act which imposed on 3 April B.E. 2545. The receipt or tax invoices can be stored in electronic format, but the original paper invoice must be sent to the registered customer.

Therefore, the rules for using electronic tax invoices should be added in the Revenue Code. Nevertheless this procedure is time consuming. Therefore, there should allow using and storing tax invoices as data format by issuing the Notification of The Director-General of Revenue Department which is proper for the case.

After the issuance of the fundamental law or subordinate legislation, there should issue the Notification of Revenue Department. This regulation is making state agency have more clearly regulation to proceed and control it. And also, it can be an evidence to use in the court. Moreover, Electronic Transaction Act B.E., which normally implies to Juristic Act, is applied.

## 5.2 Recommendations

The electronic tax Invoice is an online service which allows the registered traders to submit their invoices via the Internet. With this form, the registered traders do not only save on postage or messenger charges for tax invoices sent to the Government, but the turnaround time for tax invoices processing will also reduce significantly, which means registered trader can expect more prompt payment. Best of all, with the aid of the Internet technology, they can achieve all these without leaving their computer.

However as mentioned in chapter 4; before registered traders can issue electronic tax invoices, it should be supported by law first; for instance it has to amended or re-imposed the legislation by add the following sentences *"...any provisions which referred to tax invoices shall be treated as complied with by the production by means of a computer of any material other than a document in writing...* in the Revenue Code.

Moreover, it should be describe the date of the supply which called the tax point (the time when a supply is treated as taking place; the liability and rate of tax are determined by the supplier at the tax point) by the issuance of the Notification of The Director-General of Revenue Department.

In case of the liability to VAT on sale of goods shall be governed by the following rules: in all cases of sale of goods, full liability shall arise upon the delivery goods, except where any of the following acts occurs before such a delivery, the liability shall be deemed to arise upon the occurrence of such acts: issuance of an electronic tax invoice and etc...<sup>62</sup>

In all cases of provision of services, full liability shall arise when the consideration for the service is received, except issuance of an electronic tax invoice and etc... the liability shall be deemed to arise upon the occurrence of such acts<sup>63</sup>.

By the way, after amended or re-imposed that legislation; the following are the measurement which registered traders are required to issue electronic tax invoices:

1. The registered trader must establish internal controls to ensure that the electronic tax invoices issued and transmitted to customers are complete and accurate;
2. The registered trader must establish controls to ensure that the electronic tax invoices cannot be operated before and during transmission;
3. The registered trader must establish internal controls to ensure that all output tax resulting from these electronic transactions will be fully accounted to the Revenue Department in their tax returns;
4. The registered trader must ensure that the electronic tax invoices issued and transmitted to customers contain all the details required under Regulation 77/1 (22) and Regulation 86 to 86/14 of the Revenue Code where applicable; and

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<sup>62</sup> See appendix 1 Section 78.

<sup>63</sup> See appendix 1 Section 78/1.

5. The registered trader will not issue tax invoices in paper form to customers whom they already issued electronic tax invoices. In the event that they need to issue the tax invoice in paper form, they must take the necessary measures to prevent double claiming of input tax by their customers (e.g. invalidate either the paper form or electronic form of the tax invoice issued).
6. The registered trader will print and keep a hard copy of the electronic tax invoice issued if they do not intend to store the tax invoice in electronic media<sup>64</sup>.
7. The criteria of the registration of the registered traders who are working via internet, Internet Service Provider, web hosting and e-marketplace should be approved by the Ministry of Commerce by issuing Trustmark. Consequently, it is one of the methods to increase customer's trust.
8. The arrangement or collection of documents in electronic format must have a trusted security system of hardware and software; such as security system for accessing control by use password and login.
9. The information which in an electronic format is not permitted for a change on the reuses. Moreover, it must show an origin that the information has created and sent, total amount of information has sent, password of the institute, delivery time, and destination which including amount of electronic information that received and receiver<sup>65</sup> time.

In case of completely implemented the Electronic tax invoice, we must have the verification and control by the Revenue Department, the Bureau of Information Technology and the Bureau of Electronic Processing Administration.

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<sup>64</sup> Inland Revenue Authority of Singapore, Keeping Machine-sensible Records & Electronic Invoicing, in <http://www.iras.gov.sg>, access date October 25, 2007.

<sup>65</sup> Ministry of Finance, "Revenue Department responses with the new technology by supporting for the electronic documents," Tax Route 21 (March 2003):



Bureau of Information Technology is responsible for planning and developing Information and Communication Technology for the organization. The bureau is also responsible for processing tax collection data and support technology for each office. Bureau of Electronic Processing Administration is responsible for servicing and processing electronic tax return filing and payment, and issuing electronic certificates to registered trader, as well as developing electronic tax return filing and payment system.

The electronic tax invoice should be secured and able to prove from the flowcharts. The new technologies and techniques should be used to implement this strategy. Firstly, the encryption method which provides the security for transmitted data. Secondly, electronic certificates which supply registered trader the liability. Moreover, the database system should be well designed to provide the fast and flexible for storing, fetching and managing the data.

Last but not least, the reason why the regulation on Functional Equivalent Approach should be imposed is; it will make an electronic transaction which have certain fact causation in law. However, these rules have to issue as a Technology Neutrality. Then it will be more benefit to the society.

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## Appendix A

## The Revenue Code

**Section 77 /1(8)** The Revenue Code mentioned that “Sale” means disposition, distribution or transfer of goods whether or not for a benefit or consideration and shall include:

- (d) Appropriation of goods for use in any manner, except by a supplier for use directly for his own business following the rules, procedures and conditions prescribed by the Director-General; (DG.N.-VAT No1; D.I.No.Paw. 48/2537).
- (e) Quantity of the goods on hand falling short of the goods and raw materials record under Section 87 (3) and Section 87, second paragraph;
- (f) Having stock-in-trade and or any other property for the purpose of business outstanding on the date of dissolution of business, but not including stock-in-trade and or property of the suppliers whose businesses are amalgamated or whose entire business is transferred to another supplier, provided that the new supplier formed because of the amalgamation or the transferee shall be liable to value added tax under Section 82/3;
- (g) Any other event as prescribed by a Ministerial Regulation. (M.R. No. 188, Paw. 90/2542).

**Section 77/1(9)** “Goods” means corporeal or incorporeal objects susceptible of having value and of being appropriated, whether for sale, use or for any purpose, and includes everything imported.

**Section 77 /1(10)** The Revenue Code mentioned that “Service” means any activity performed with a view to benefits of value other than sale of goods, and includes making use of the supplier’s own service by any mean...

**Section 77/1 (17)** The Revenue Code mentioned that “Output tax” means value added tax which a registrant collects or is liable to collect from a purchaser of goods or recipient of services under the first paragraph of Section 822/4 and value added tax to which a registrant is liable in the case of sale of goods under (8) (d), (e), (f) or (g), or



in connection with the provisions of a service under (10), but not including the tax payable under Section 82/16.

**Section 77/1 (22)** The Revenue Code mentioned that “Tax invoice” includes a summary tax invoice, debit note, credit note, receipt issued by a governmental agency in a sale by auction or by any other method under Section 83/5, and receipts issued by the Revenue Department, Customs Department, or Excise Department only for value added tax.

**Section 78** The Revenue Code mentioned that subject to Section 78/3, liability to value added tax on sale of goods shall be governed by the following rules:

(1) In all cases of sale of goods other than as dealt with in (2), (3), (4) or (5), full liability shall arise upon the delivery of goods, except where any of the following acts occurs before such a delivery, the liability shall be deemed to arise upon the occurrence of such acts:

- (a) transfer of the ownership of the goods,
- (b) receiving payment of the price of the goods,
- (c) issuance of a tax invoice

Provided, however, that the liability that arises shall be proportionate to the extent of such acts.

**Section 78/1** The Revenue Code mentioned that Subject to Section 78/3, liability to value added tax on provision of services shall be governed by the following rules:

(1) In all cases of provision of services other than as dealt with in (2), (3) or (4), full liability shall arise when the consideration for the service is received, except where any of the following acts occurs earlier, the liability shall be deemed to arise upon the occurrence of such acts:

- (a) issuance of a tax invoice, or
- (b) use of the service whether by the supplier or any other person.

Provided, however, that the liability that arises shall be proportionate to the extent of such acts, as the case may be.

**Section 79** The Revenue Code mentioned that Subject to section 79/1<sup>1</sup>, the tax base for sale of goods or provision of services means total value received or receivable by a supplier from such sales or provisions inclusive of excise tax as defined in Section 77/1(19), if any.

Value of the tax base means money, property, compensation, consideration for services, or any benefit ascertainable in term of money.

Value of the tax base shall be exclusive of;

- (1) a discount or an allowance which is granted by a registrant at the time of sale goods or provision of services, and is deducted from the price of goods or services, such deduction being expressly shown in a tax invoice issued on each occasion: Provided that in the case of sale goods or provision of services by a registrant who is entitled to issue a summary tax invoice under Section 86/6 or 86/7, the registrant may omit expressly showing such deductions in the summary tax invoice,
- (2) A rebate or subsidy prescribed by the Director-General with the approval of the Minister,
- (3) Output tax,
- (4) Compensation answering to the descriptions and conditions given or prescribed by the Director –General with the approval of the Minister.<sup>2</sup>

**Section 79/1** The tax base for sales of goods or provision of services in specified businesses shall be governed by the following rules:

- (1) The tax base for sale of goods by way of export shall be the value of the exported goods determined by reference to F.O.B. price plus excise tax defined under section 77/1 (19) and other taxes and fees listed by Royal Decree, but not including export duty...

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<sup>2</sup> DG.N.-VAT NO. 40

**Section 79/3** The Revenue Code mentioned that Value of the tax base for sale of goods and provision of services under Section 79 shall be computed by reference to the value at the time the liability to value added tax arises...

**Section 80** The Revenue Code mentioned that the tax rate of 10<sup>3</sup> percent shall be applied in computing value added tax on the following transactions, except in the cases provided in Section 80/2:

- (1) sale of goods,
- (2) provision of services,
- (3) imports

**Section 81 (1)** The Revenue Code mentioned that sale of goods not for export or provision of services as follow:

(A) Sale of agricultural procedure which not including logs, firewood, or products from sawmilling, food products contained in cans, vessels or packages and manufactured on an industrial scale according to the descriptions and conditions given or prescribed by the Director-General<sup>4</sup>.

(B) Sale of animals whether live or lifeless, and in the case of lifeless animals, whether in the form of meat, offal, egg, milk or animal by-product, only if fresh or temporarily preserved during transportation by chilling, freezing or any other means of treatment or preparation, or preserved for a retail or wholesale trade by chilling, freezing, drying, grinding, slicing or any other method: but not including food products contained in cans, vessels or packages and manufactured on an industrial scale according to the descriptions and conditions given or prescribed by the Director-General<sup>5</sup>.

(C) Sale of fertilizers.

(D) Sale of fish meals, animal feeds.

<sup>3</sup> New rate, see R.D. No. 353 B.E. 2542

<sup>4</sup> DG.N.-VAT No. 3 .B.T.R. No 23/2536.

<sup>5</sup> DG.N.-VAT No. 3 .B.T.R. No 23/2536.



(E) Sale of drugs and chemical products for plants and animals whether for their maintenance or for preventing, destroying or eradicating plant and animal enemies or diseases.

(F) Sale of newspapers, magazines or textbooks.

(G) Provision of education services by government educational institutions, educational institutions under the law governing private colleges and universities, or a private school under the law governing private schools.

(i) Provision of services by practicing arts of healing, auditing, advocacy in courts, or any other liberal professional designated by the Director-General with the approval of the Minister, only if such liberal professional is regulated by law.

(J) Provision of services in healing and nursing by a clinic under the law governing clinics.

(L) Provision of library, museum, or zoological garden services.

(M) Provision of services under an agreement on hire of service.

(N) Provision of services of organizing amateur sports contests.

(O) Provision of services of public entertainers, only if being the service in the branch and corresponding to the descriptions designated or given by the Director-General<sup>6</sup> with the approval of the Minister.

(P) Provision of services of domestic transport.

(U) Sale of goods or provision of services exclusively for the benefit of a religion or a public charity in Thailand, of which the profits are not applied for other purposes.

(V) Sale of goods or provision of services designated by a Royal Decree No. 239.

**Section 81/1** The Revenue Code mentioned that A supplier carrying on business of sale of goods or provision of services liable to value added tax, if the value of the tax base of such business does not exceed the value of the tax base for a small business fixed by a Royal Decree, shall be exempt from value added tax.

**Section 82** The Revenue Code mentioned that the following persons shall be liable to value added tax under this Chapter:

(1) a supplier,

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<sup>6</sup> DG.N-VAT No.13

- (2) an importer.

**Section 82/1** The Revenue Code mentioned that for the purpose of collecting value added tax, the following persons shall also be liable to the tax-

(1) In the case of a supplier residing outside Thailand and selling goods or providing services in the ordinary course of business with an agent in Thailand such an agent.

(2) In the case of sale of goods or provision of services liable to tax at the rate of zero percent under Section 80/1(5), if the ownership in the goods or the right in the service is afterwards transferred to a person not being the United Nations, its specialized agency, an embassy, legation, consulate-general or consulate: the transferee of such goods or such right.

**Section 82/2** The Revenue Code mentioned that in the case of supplier residing outside Thailand, the person with the responsibility in carrying on business including an employee or a representative residing in Thailand who has direct or indirect authority to manage the business on his behalf shall be liable to value added tax jointly with the person under Section 82.

**Section 82/3** The Revenue Code mentioned that Subject to Sections 82/7,82/8 and 82/16, a supplier shall pay value added tax equal to output tax deducted by input tax in each tax month.

If output tax exceeds input tax, the tax payable shall be equal to the difference.

If input tax exceeds output tax, the difference shall be treated a tax credit and the supplier is entitled to receive a tax refund or to apply the credit for paying value added tax under Division 8.

**Section 82/4 P 1** The Revenue Code mentioned that ever a registrant shall collect value added tax from a purchaser of goods or a recipient of services t the time the

liability to value added tax arises by reference to the tax base under Division 3 and the tax rates under Division 4

**Section 82/5 (4)** The Revenue Code mentioned that Input tax originated from entertainment expenses or expenses of a similar nature according to the rules and conditions prescribed by the Director-General;

**Section 84** The Revenue Code mentioned that a registrant shall have the right to apply tax credit resulting from computation of tax under Section 82/3 in each tax month for payment of value added tax according to the rules, procedure and conditions prescribed by a Royal Decree, or to claim for a refund at the time of filling a tax return for a tax month under Section 83 or 83/1, except in the case where a supplementary tax return is filed because of an incorrect or inadequate filling under Section 83/4, a refund may be claimed at the time of filling such a supplementary tax return.

**Section 84/1** The Revenue Code mentioned that a claim for refund of value added tax on sale of goods or provision of services may be made under the following conditions:

- (1) In the case where a tax refund is due on sale of goods or provision of services, but the registrant fails to claim a refund in accordance with Section 84, he is entitled to enter a claim for a tax refund within three years from the expiry of the time limit for filling a tax return for that tax month.
- (2) In respect of sale of goods and provision of services in other cases, a claim for a tax refund shall be entered within three years from the date of paying tax.

**Section 86** The Revenue Code, "Subject to Section 86/1 and 86/8, a registrant shall prepare a tax invoice and a copy thereof<sup>7</sup> for every instance sale of goods or provision of services promptly at the time the liability to value added tax arises. The tax invoice shall be delivered to the purchaser of goods or the recipient of services and its copy shall be kept in accordance with Section 87 / 3.

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<sup>7</sup> See B.T.R. No.25 / 2537



A registrant exempt from value added tax registration who has been recorded for temporary registration under \section 85/3 may issue a tax invoice only if the issuance follows the rules, procedures and conditions prescribed by the Director-General<sup>8</sup>.

A tax invoice shall be issued in respect of each place of business, unless the Director-General<sup>9</sup>,

**Section 86/2** of Revenue Code mentioned that “a registrant residing outside Thailand and having an agent to act on his behalf, who wished to let his agent issue a tax invoice in his name, shall apply for permission from the Director-General in accordance with the regulation prescribed by him.

After permission has been applied for and granted, the agent may issue a tax invoice on behalf of a registrant according to the rules, procedures and conditions prescribed by the Director-General. Such agent shall have the same duty and responsibility as, and jointly with, the registrant in relation to the tax invoice.”

**Section 86/4** The Revenue Code mentioned that Subject to Section 86/5 and 86/6, a tax invoice shall contain at least the following particulars:

- (1) the word, “Tax Invoice”, in a conspicuous spot,
- (2) name, address and tax-payer identification number of the registrant issuing a tax invoice, and in the case where the agent issues a tax invoice in the name of a registrant under Section 86, fourth paragraph, or Section 86/2, or the auctioneer issues a tax invoice in the name of a registrant under Section 86/3, the name, address and tax identification number of the agent shall also be specified,
- (3) name, address of the purchaser of goods or the recipient of services,
- (4) Serial number of the tax invoice, and of the pad, if any,
- (5) Name, type, category, quantity, and value of the goods and services,
- (6) Amount of value added tax computed on the value of goods and services, which shall be clearly separated from such a value,
- (7) Date of issuance of the tax invoice,

<sup>8</sup> DG.N.-VAT No. 44, D.I. No. Paw.45, Paw.51

<sup>9</sup> DG.N.-VAT No 68;D.I. No. \paw. 51 /2537

- (8) Any other information specified by the Director-General.

The particulars in a tax invoice shall be in the Thai language, in the Thai currency unit, and using the Thai or Arabic numerals, except in the case of a certain category of business where it is necessary that an invoice is prepared in a foreign language and in a foreign currency unit, it may be so prepared if permitted by the Director-General.

A tax invoice may be issued for several transactions of sale of goods or provision of services, provided that the Director-General may prescribe that for a certain category or categories of goods and services, tax invoice are required to be issued separately from those for the other categories.

**Section 86/6** The Revenue Code mentioned that to facilitate the compliance by a registrant carrying on business of selling goods or providing services by retail to a large number of customers, the Director-General shall have the power to prescribe the descriptions and or conditions whereby such business is classified as a retail business quotation of the price of goods and services in a retail business, shall be made inclusive of value added tax.

A registrant carrying on a retail business shall have the right to issue a summary tax invoice, but an agent of the registrant shall not be allowed to do so.

A summary tax invoice shall contain at least the following particulars:

- (1) the word, "tax Invoice", in a conspicuous spot,
- (2) name or shot name and tax-payer identification number of the registrant issuing a tax invoice,
- (3) serial number of the tax invoice, and of the pad, if any.
- (4) name, type, category, quantity and value of goods or services,
- (5) price of goods or services, with an express statement that value added tax has been included therein,
- (6) date of issuance of the tax invoice,
- (7) any other information specified by the Director-General.

The name, type or category of the goods under the first paragraph may be in code, provided that the registrant shall inform the Director-General of the code in advance at least fifteen days before the code is used.

Particulars of a tax invoice shall be in the Thai language, in the Thai currency unit and using the Thai or Arabic numerals, except in the case of a certain category of business where it is necessary that an invoice be prepared in a foreign language, it may be so prepared if permitted by the Director-General.

A registrant carrying on a retail business who wishes to use a cash registering machine for issuing a summary tax invoice shall file an application to the Director-General of the use of such a machine which shall follow the regulation governing the rules, procedures and conditions prescribed by the Director-General on the use of a cash registering machine.

The provisions of Section 86/4 shall apply to the issuance of a tax invoice under this Section.

**Section 86/7** The Revenue Code mentioned that a registrant carrying on business other than a retail business who wishes to issue a summary tax invoice and or use cash registering machine under Section 86/6 shall file a request for the permission of the Director General together with reasons and necessity. In granting the permission, the Director General may prescribe rules and conditions as he deems proper.

**Section 86 / 11** of Revenue Code mentioned that in the case where the name of a registrant is deleted from the value added tax register because he dissolved his business or the Director- General by order revoked his value added tax registration, the Director- General may allow him to continue to issue a tax invoice, a debit note or credit note temporarily until he ceases to carry on business, but he shall comply with the rules, procedures and conditions prescribed by the Director- General.



**Section 86/12** imposed that “...The duplicate of a tax invoice, debit note or credit note shall contain the same particulars as in the tax invoice, debit note, or credit note as the case may be. The term mentioned that it is a duplicate of which tax invoice, debit note, or credit note shall be present in a conspicuous spot...”





## Appendix B

## Electronic Transactions Act BE. 2544

**Section 2** mentioned that this Act shall come into force after one hundred and twenty days as from the date of its publication in the Government Gazette”

**Section 3** this Act shall apply to all civil and commercial transactions performed by using a data message, except the transactions prescribed by a Royal Decree to be excluded from this Act wholly or partly.

The provisions of paragraph one do not prejudice any law or rule enacted for consumer protection.

This Act shall apply to the transactions in connection with the carrying out of the affairs of the State as prescribed in Chapter 4.”

**Section 4** mentioned that...

“ **...Transaction**” means any act relating to a civil and commercial activity or carrying out of the affairs of the State as prescribed in Chapter 4.

“**Electronics**” means an application of an electron means, an electrical means, an electromagnetic means or any other means of a similar nature including an application of an optical means, a magnetic means or a device in connection with an application of any of the aforesaid means;

“**Electronic transaction**” means a transaction in which an electronic means is used in whole or in part;

“**Information**” means an incident or fact regardless of whether expressed in the form of a letter, number, sound, image or any other form capable of connotation by itself or through any means;

“**Data message**” means information generated, sent, received, stored or processed by electronic means, such, as electronic data interchange (EDI), electronic mail, telegram, telex or facsimile;

“**Electronic signature**” means letter, character, number, sound or any other symbol created in electronic form and affixed to a data message in order to establish the association between a person and a data message for the purpose



of identifying the signatory who involves in such data message and showing that the signatory approves the information contained in such data message;

**“Electronic data interchange”** means the dispatch or receipt of information by an electronic from computer to computer using an agreed standard;

**“Originator”** means a person by whom the data message purports to have been sent or generated prior to storage before being sent pursuant to the method designated by such person, whether such data message is sent by such person, or generated in the name of or on behalf of such person, but does not include an intermediary with respect to that data message;

**“Addressee”** means a person who is intended by the originator to receive the data message and who receives such data message, but does not include an intermediary with respect to that data message;

**“Certificate”** means a data message or other record confirming the link between a signatory and signature creation data;

**“Signatory”** means a person that holds signature creation data and creates the electronic signature either on his own behalf or on behalf of other persons;

**“Relying party”** means a person that may act on the basis of a certificate or an electronic signature...”

**Section 8** mentioned that subject to the provision of Section 9, in the case where the law requires any transaction to be made in writing, to be evidenced in writing or supported by a document which must be produced, if the information is generated in the form of a data message which is accessible and usable for subsequent reference without its meaning being altered, it shall be deemed that such information is made in writing, is evidenced in writing or is supported by a document.”

**Section 9** in the case where a person is to enter a signature in writing, it shall be deemed that such data message bears a signature if:

(1) the method used is capable of identifying the signatory and indicating that the signatory has approved the information contained in such data message as being his own; and

(2) Such method is a reliable one and appropriate for the purpose for which the data message is generated or sent, having regard to the surrounding circumstances or an agreement between the parties”

**Section 10** in the case where the law requires that any information be presented or retained in its original form as an original document, if such information is presented or retained in the form of data message pursuant to the following requirements, it shall be deemed that such information is presented or retained as an original document under the law:

- (1) A reliable method is used with the data message to assure the integrity of the information from the time when it is generated in its final form; and
- (2) The information is capable of being subsequently displayed. The integrity of the information under (1) shall be determined by having regard to its completeness and unitization, apart from the addition of any endorsement or record or any change which may arise in the normal course of communication, storage or display of the information, which does not affect the integrity of that information. In determining the method used for assuring the integrity of the information under (1), all relevant circumstances must be taken into consideration, including the purpose for which such information is generated”

**Section 12** Subject to the provision of Section 10, in the case where the law requires that certain documents or information be retained, if such retention is made in the form of a data message pursuant to the following requirements, it shall be deemed that such document or information is retained pursuant to the requirements of the law:

- (1) that data message is accessible so as to be usable for subsequent reference without its meaning being altered;
- (2) that data message is retained in the format in which it was generated, sent or received, or in a format which can be demonstrated to represent accurately the information generated, sent or received; and
- (3) the information, if any, which specifies the source, origin and destination of a data message including the date and time sent or received, is retained.

The provisions of paragraph one shall not apply to the information the sole purpose of which is to enable the data message to be sent or received.

The State agency responsible for retaining any document or information may prescribe additional details with respect to the requirement in retaining such document or information insofar as they are not contrary to the provisions of this Section”

**Section 26** mentioned that an electronic signature is considered to be a reliable electronic signature if it meets the following requirements:

- (1) the signature creation data are, within the context in which they are used, linked to the signatory and to no other person;
- (2) the signature creation data were, at the time of signing, under the control of the signatory and of no other person;
- (3) any alteration to the electronic signature, made after the time of signing, is detectable; and
- (4) where a purpose of the legal requirement for a signature is to provide assurance as to the completeness and integrity of the information and any alteration made to that information after the time of signing is detectable.

The provision of paragraph one does not limit that there is no other way to prove the reliability of an electronic signature or the adducing of the evidence of the non-reliability of an electronic signature.

**Section 27** mentioned that where signature creation data can be used to create a signature that has legal effect, each signatory shall:

- (1) exercise reasonable care to avoid unauthorized use of its signature creation data;
- (2) without undue delay, notify any person that may reasonably be expected by the signatory to rely on or to provide services in support of the electronic signature if:
  - (a) the signatory knows or should have known that the signature creation data have been lost, damaged, compromised, unduly disclosed or known in the manner inconsistent with their purpose;



- (b) the signatory knows from the circumstances occurred that there is a substantial risk that the signature creation data may have been lost, damaged, compromised, unduly disclosed or known in the manner inconsistent with their purpose;
- (3) where a certificate is issued to support the electronic signature, exercise reasonable care to ensure the accuracy and completeness of all material representations made by the signatory which are relevant to the certificate throughout its life-cycle, or as specified in the certificate.

**Section 28** mentioned that where a certification service is provided to support an electronic signature that may be used for legal effect as a signature, that certification service provider shall perform as follows:

- (1) act in accordance with representations made by it with respect to its policies and practices;
- (2) exercise reasonable care to ensure the accuracy and completeness of all material representations made by it that are relevant to the certificate throughout its life-cycle, or as specified in the certificate;
- (3) provide reasonably accessible means which enable a relying party to ascertain in all material representations from the certificate in the following matters:
  - (a) the identity of the certification service provider;
  - (b) that the signatory that is identified in the certificate had control of the signature creation data at the time when the certificate was issued;
  - (c) that signature creation data were valid at or before the time when the certificate was issued;
- (4) provide reasonably accessible means which enable a relying party to ascertain from the certificate or otherwise as follows:
  - (a) the method used to identify the signatory;
  - (b) any limitation on the purpose or value for which the signature creation data or the certificate may be used;
  - (c) that the signature creation data are valid and have not been lost, damaged, compromised, unduly disclosed or known in a manner inconsistent with their purpose;

- (d) any limitation on the scope or extent of liability stipulated by the certification service provider;
  - (e) the availability of the means for the signatory to give notice upon the occurrence of the events pursuant to Section 27 (2); and
  - (f) a timely revocation service is offered;
- (5) where services under subparagraph (4) (e) are offered, provide a means for a signatory to give notice pursuant to Section 27 (2) and, where services under (4) (f) are offered, ensure the availability of a timely revocation service;
- (6) utilize trustworthy systems, procedures and human resources in performing its services.

**Section 29** mentioned that in determining whether any systems, procedures and human resources under Section 28 (6) are trustworthy, regard shall be had to the following factors:

- (1) financial and human resources, including existence of assets;
- (2) quality of hardware and software systems;
- (3) procedures for processing of certificates and applications for certificates and retention of records in connection with the provision of such services;
- (4) availability of information on the signatories identified in certificates and on the potential relying parties;
- (5) regularity and extent of audit by an independent body;
- (6) the certification issuing organizations or certification service provider with respect to the practice or existence of the factors specified in subparagraphs (1) to (5);
- (7) any other factor prescribed by the Commission.

**Section 30** mentioned that A relying party is required to do the following:

- (1) take reasonable steps to verify the reliability of an electronic signature;
- (2) where an electronic signature is supported by a certificate, take reasonable steps to: (a) verify the validity, suspension or revocation of the certificate; and
- (b) observe any limitation with respect to the certificate.





## Goods and Services Tax Act 1993

**Section 10** mentioned that meaning of “supply”

(1) The Second Schedule shall apply for determining what is, or is to be treated as, a supply of goods or a supply of services.

(2) Subject to any provision made by the Second Schedule and to orders made under subsection (3)

(a) “supply” in this Act includes all forms of supply, but not anything done otherwise than for a consideration;

(b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services.

(3) The Minister may by order amend the Second Schedule and may also provide by order with respect to any description of transaction —

(a) that it is to be treated as a supply of goods and not as a supply of services;

(b) that it is to be treated as a supply of services and not as a supply of goods; or

(c) that it is to be treated as neither a supply of goods nor a supply of services.

(4) Without prejudice to subsection (3), an order made under that subsection may provide that paragraph 5 (3) of the Second Schedule is not to apply, in relation to goods of any prescribed description used or made available for use in prescribed circumstances, so as to make that a supply of services under that paragraph.

(5) For the purposes of this section, where goods are manufactured or produced from any other goods, those other goods shall be treated as incorporated in the first-mentioned goods.

**Section 11** mentioned that Time of supply;

(1) This section and section 12 shall apply for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to tax.

(2) Subject to section 12, a supply of goods shall be treated as taking place

(a) if the goods are to be removed, at the time of the removal;

(b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;

(c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place or 12 months after the removal, whichever is the earlier.

(3) Subject to section 12, a supply of services shall be treated as taking place at the time when the services are performed.

**Section 12** mentioned that further provisions relating to time of supply (1) If, before the time applicable under section 11(2) or (3), the person making the supply issues a tax invoice in respect of it or if, before the time applicable under section 11 (2) (a) or (b) or section 11 (3), he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received, as the case may be, or whichever is the earlier.

(2) If, within 14 days after the time applicable under section 11(2) or (3), the person making the supply issues a tax invoice in respect of it, then, unless he has notified the Comptroller in writing that he elects not to avail himself of this subsection, the supply shall (to the extent that it is not treated as taking place at the time mentioned in subsection (1)) be treated as taking place at the time the invoice is issued.

(3) The Comptroller may, at the request of a taxable person, direct that subsection (2) shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of 14 days there were substituted such longer period as may be specified in the direction.

(4) Where a taxable person provides a document to himself which –

(a) purports to be a tax invoice in respect of a supply of goods or services to him by another taxable person; and

(b) is in accordance with regulations made under section 41 and the Comptroller has approved that it be treated as the tax invoice required by the regulations to be provided by the supplier,

**Section 21(3)** mentioned that a supply of services shall be treated as a supply of international services where the services or the supply are for the time being of any of the descriptions that specified under this ACT.

**Sections 43** mentioned that Production of tax invoices by computer;  
(1) For the purposes of any provision contained in or having effect under this Act which relates to tax invoices, a person shall be treated as issuing, or as providing another person with, a tax invoice if the requisite particulars are recorded in a computer and transmitted by electronic means and without the delivery of any equivalent document or counterpart in paper form.

(2) Any provision in this Act relating to tax invoices shall be treated as complied with by the production by means of a computer of any material other than a document in writing, by delivering any such material so produced or by making any such transmission as is mentioned in subsection (1) where the person producing or delivering the material or making the transmission and, in the case of delivered material or a transmission, the person receiving it has complied with such requirements as may be imposed by the Comptroller from time to time.





Appendix D

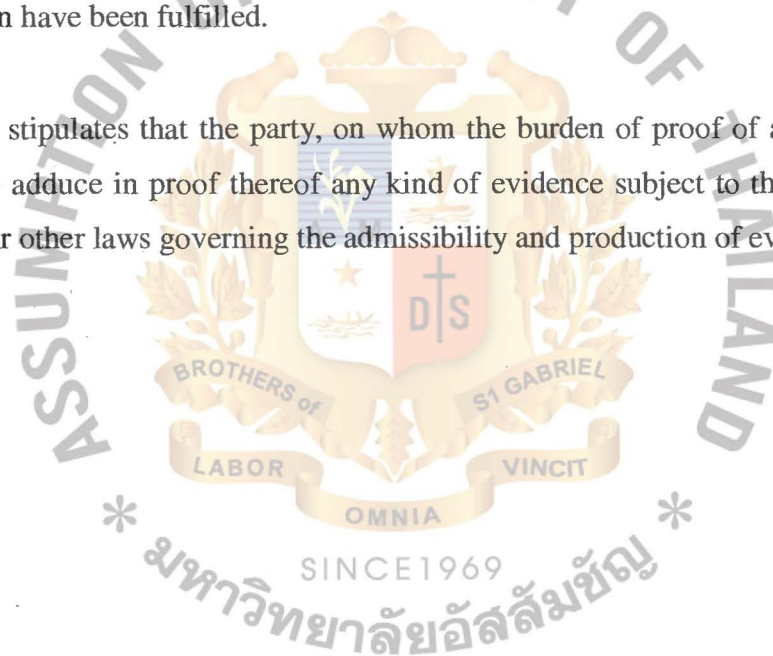
## The Civil Procedure Code

**Section 84 of** stipulates that where a party alleges any fact in support of his plaint or answer, the burden of proof of such fact lies on the party alleging it.

However, (1) a party is not required to prove facts which are generally known or are indisputable, or which, in the opinion of the Court, are admitted by the opposing party;

(2) Where there is a presumption in law favorable to a party, such party shall be required to prove only that the conditions entitling him to avail himself of the presumption have been fulfilled.

**Section 85** stipulates that the party, on whom the burden of proof of a fact lies, has the right to adduce in proof thereof any kind of evidence subject to the provision of this Code or other laws governing the admissibility and production of evidence.





Appendix E



**DEPARTMENTAL INSTRUCTION****No. Paw. 121/2545****Subject: Producing and keeping documents under the Revenue Code that  
Are in the form of electronic information**

The electronic Transactions Act has been in force since the 3<sup>rd</sup> Day of April B.E.2545. Such law contains provisions in relation to legal enforcement of Information in the form of electronic information, the essence of which is that: in the case where the law designated that any information shall be presented and kept in the same condition as it was as the original, if information is presented

And kept in the form of electronic information under the regulation designated under the law governing the electronic transactions, such a case shall be deemed that it is presented or kept as the original under the law; or in the case where the law designated that any document or information if it is kept in the form of electronic information under the law governing the electronic transaction, such a case shall be treated as keeping documents or information as required by law.

Such provisions affect the way of producing and keeping the accounts, reports, and documents under the revenue Code where a taxpayer or a registrant is liable to produce in the form of under the Revenue Code. In producing and keeping such documents, a taxpayer or a registrant may produce the original documents in the form of paper and keep them in the form of paper, or produce and original documents in the form of paper and keep them in the form of electronic information, producing the original documents in the form of electronic information the keep them in the form of electronic information. Whichever way it is, producing and keeping documents under the Revenue Code must be accurate and produce under a reliable procedure.

Therefore, in order to comply with the Revenue Code and to be in line with the law governing the Electronic Transactions and the provide a Revenue Officer with a guideline in conducting inspection and giving advice on producing and keeping

**DEPARTMENTAL INSTRUCTION**

documents under the Revenue Code where the information of which are in the form of electronic, the Revenue Department gives instructions as follows:

**Clause 1.** In this Instruction, unless the text otherwise requires:

(1) “documents under the Revenue Code ” means documents designated by the Revenue Code that taxpayer or a registrant has a duty to prepare or file to the assessment officer such as balance sheets, trading and profit and loss accounts, receivable accounts, special accounts required by the Revenue Code, value added tax reports, reports of income before deducted expenses for calculating a specific business tax, the certificate of tax deduction as source, tax invoices, debit notes, credit notes, duplicate tax invoices, duplicate debit notes, duplicate credit notes, receipts, invoices, documents for calculating duty stamp, and documents used for entering accounts or records.

(2) “information ” means any subject or fact which appears whether in the form of alphabetical, numeral, voice, picture, or any form of a similar nature of which the meaning can be communicated by itself or by any other means.

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BROTHERS of  
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SINCE 1969  
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(3) “Electronic information” means information created, sent, received, stored, or processed by Electronic means such as electronic information interchange, electronic mail, telegraph, telecopy, or facsimile.

“Electronic signature” means alphabet, letter, number, voice, or any symbol created in the electronic form, which shall be used along with the electronic information to indicate the link between a person and electronic information under the objective to identify the signatory relating to the corresponding electronic information, and to indicate that such a person accepted the information in such electronic information.

“Signatory” means a person who holds signature creation data and creates such electronic signature on behalf of himself or the others.

**Clause 2.** In the case where the taxpayer or the registrant prepares documents under the Revenue Code under Section 86/4, Section 86/5, Section 86/6, Section 86/7, Section 86/9, Section 86/10, Section 86/12, Section 105bis, Section 105 quarter of the Revenue Code: provided by whichever means it is used in preparing, the tax payer or the registrant shall submit the original or such a documents under the revenue Code in the form of paper.

**Clause 3.** In the case where the taxpayer or the registrant receives documents under the Revenue Code under Section 86/4, Section 86/5, Section 86/6, Section 86/7, Section 86/9, Section 86/10, Section 86/12, Section 86/14, Section 105bis, and Section 105 quarter of the Revenue Code where the original is in the form of paper, or receives documents showing expenses under Section 65ter of the Revenue Code where the original is in the form of paper, the taxpayer or the registrant is allowed to keep such documents under the Revenue Code in the form of electronic information: provided under the law governing electronic transactions where is must comply with the regulations under Clause 5 and Clause 6.

In the case where an assessment officer who has checked documents under the Revenue Code under the first paragraph which have been kept in the form of

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electronic information and sees that it is necessary to check with documents under the Revenue Code in the form of paper, the assessment officer shall notify the taxpayers or registrant to deliver such documents under the Revenue Code in the form of paper.

**Clause 4.** In the case where the taxpayer or the registrant who is liable to prepare documents under the Revenue Code, Prepare documents under the Revenue Code in the form of paper and keeps such documents in the form of electronic information, or prepares and keeps such documents under the Revenue Code in the form of electronic information, such case shall be allowed: provided under the law governing transactions that complies with the regulations under Clause 5 and Clause 6.

**Clause 5.** In preparing and keeping documents under the Revenue Code in the form of electronic information under the Clause 3 and Clause 4, shall comply with the rules as follows:

- (1) Such electronic information is accessible and remains accessible for later reference without any change to the meaning of the information;
- (2) Such electronic information is retained in the same format as when it was created, sent, or received; or retained in a format which can be demonstrated to represent accurately the information which has been created,
- (3) A part of the information which specified the origin, the source, unit and date and time of sending information, identification of destination, destination of the electronic information, unit and date and time of receiving information is retained.
- (4) Retained information shall be retrievable and can be printed immediately when requested by the assessment officer, purchaser of goods, or a recipient of services: provided that the electronic information is completed and accurate as designated by the Revenue Code, and contained the same information and format as recorded in the form of paper.

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(5) Electronic information shall be exportable and can be exported and saved into a recordable medium monthly or for each accounting period as requested by the assessment officer where the format of which shall be as designated by the Director-General.

(6) In the case where documents under the Revenue Code are prepared in the form of electronic documents and it is requested by law to obtain a signature, the signature that is reliable and the signatory can be identified, reasonable care is required to ensure the accuracy and completeness of all material representation made by the signatory.

The electronic information shall be treated as signed, if documents under the Revenue Code comply with the following:

- (a) There is an application of the method which could identify the signatory and could identify that the signatory acknowledges that information in the electronic information is his, and
- (b) such method reliable and suitable with the objective of creating or sending electronic information whereby the surrounding circumstances or the agreement of the relying shall be taken into consideration.

**Clause 6.** Producing and keeping documents under the Revenue Code in the form of electronic information shall be conducted under reliable methods of both hardware and software as follows:

- (1) there shall be a security system to control accessibility of

Information by having ability to:

- (a) provide the system flowchart,
- (b) show access level of the user by specifying the numbers and levels of the user who can make a record, read, or operate and system at each different level,

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(c) show all amended information when a correction has been Made to indicate information prior to and after amending where there shall be a Report of such amending for auditing purposes,

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(d) require user password at all levels in order to log in to the system such system shall record any change of password,

(e) record all activities by specifying user identification, work done, date and time of access, in the case of amending any information, user identification, numbers and details of amended information shall also be specified,

(f) check users who accesses or amends information recorded in the system and to indicate that such information has been recorded correctly and there shall be no change made to information of documents in the form of electronic information,

(2) in the case where encryption is required to access the system, all decryption shall be recorded and it shall be printable for auditing purposes.

**Clause 7.** In presenting the information to the assessment officer in Relation to the producing and keeping of documents under the Revenue Code which are in the form of electronic information. the assessment officer shall Give advise to the taxpayer or the registrant who produces documents under the Revenue Code under Clause 3 and Clause 4, to report the producing and keeping of documents under the Revenue Code which are in the form of electronic information to the Director-General by using the form Phor.Or.11 (the form for producing and keeping documents in the form of electronic information ) by filing to the area revenue office where the business place is located unless the taxpayer or the registrant office where the business designated by the Revenue Department, is shall be filed to the Director of the Tax Administration office for a Large-Size business.

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**Clause 8.** The Tax taxpayer or the registrant under Clause 7 shall file the form Phor.Or.11 (the form for producing and keeping documents in the form of electronic information) by providing correct and accurate information and shall submit the following documents thereto:

- (1) In the case where the taxpayer or the registrant is a natural person:

Photo copy of the personal identification card of the tax payer or registrant,

- (2) In the case where the taxpayer or the registrant is a body of persons not a juristic person such as an ordinary partnership, fund, foundation not being a juristic body: a photo copy of the personal identification card of the person who has a power to act on behalf of such body of persons who is not a juristic person,

- (3) In the case where the taxpayer or the registrant is a juristic person such as a juristic company or partnership under Section 39, a government organization under Section 2 of the Revenue Code, a co-operative society and other Organizations designated by law to be a juristic person: photo copy of the personal identification card of the managing director or managing partner,

- (4) In the case where the taxpayer or the registrant resides outside Thailand and sells good or provides service in Thailand as the usual course Of his business where its agent is in Thailand, and such agent registers the Value added tax registration on behalf of a registrant residing outside Thailand: A photo copy of the person who has the power of attorney to act on behalf of Such.

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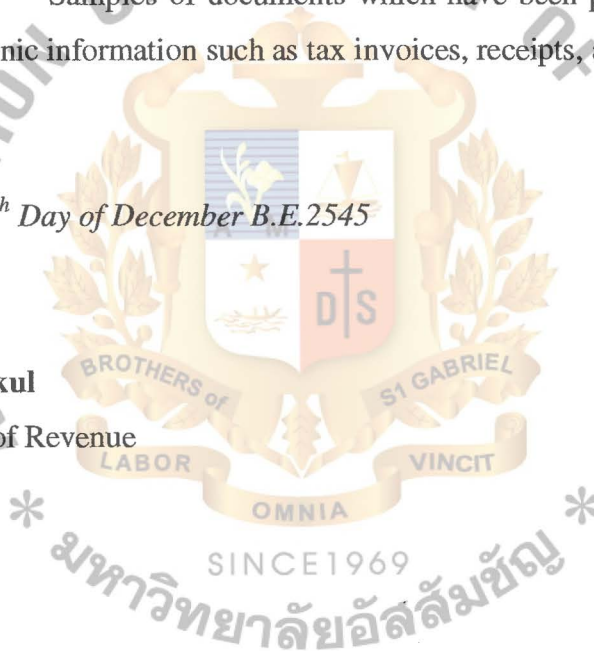
(5) in filing the form Phor.Or.11 (the form for producing and keeping documents in the form of electronic information ) of the tax payer or the registrant under (1) to (4) In the case where the power of attorney is given to another person to file the form Phor.Or.11 (the form for producing and keeping documents in the form of electronic information ): a photo copy of the personal identification card of the person who give the power of attorney and the person who receives the power of attorney.

(6) The system flowchart and description of the system including the security system and the printing guide.

(7) Samples of documents which have been produced and kept in the form of electronic information such as tax invoices, receipts, and invoices.

*Notified on the 26<sup>th</sup> Day of December B.E.2545*

**Suparut Kawatkul**  
Director-General of Revenue





Appendix F



**TAX INVOICE**

YEE SEONG TANG  
1 Ghim Moh Road #08-356  
Singapore 270001

**Invoice Date** 02-Jan-2002  
**Invoice No** 000016127021001  
**Billing Period** 01-Dec-2001 to 31-Dec-2001  
**GST Reg No** 20-0001768-Z

Please email [customer@zone1511.com.sg](mailto:customer@zone1511.com.sg) for billing enquiries.

<b>Summary of Charges (S\$)</b>	<b>Amount ( S\$ )</b>
Balance Brought Forward from Previous Bill	0.04
Payment made	0.00
Outstanding Balance	0.04
Current Charges	0.00
Add Other Fees/Adjustments	0.00
Less Discounts/Rebates	0.00
<b>Total Amount Due</b>	<b>0.04</b>

Payment Method: GIRO

Total amount due will be accumulated and debited to your bank account in the next billing cycle. THANK YOU.

Payment received after 30-Dec-2001 may not be shown on this bill.

Please examine this invoice immediately. If no discrepancy is reported within 5 days, this tax invoice will be considered as correct.

If an overdue amount from your previous bill is outstanding, ZONE1511 may suspend your service. Please pay any overdue amount immediately to avoid service disruption. Interest at 1.5% per month will be charged on a daily basis for overdue accounts.

For details in the terms and conditions of ZONE1511, please refer to our website: [www.zone1511.com.sg](http://www.zone1511.com.sg)

**Remittance Form****For Cheque Payment:**

Please detach this slip and return it together with your payment to the address below. CHEQUES should be crossed and made payable to "ZONE" Telecom Pte Ltd". Please indicate your member number at the back of the cheque. Thank you.

**ZONE Telecom Pte Ltd**

456 Alexandra Road #11-02 NOL Building  
Singapore 119962

**Invoice No** 000016127021001 **Invoice Date** 02-Jan-2002

**Member No** 10017336

**Amount Due** 0.04

**Due Date**

**Amount Enclosed**

**Bank/Cheque No.**

