

Independent Research Title : Export of services subject to zero rate under the Revenue Code

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ABSTRACT

The main objective of an independent research is to describe the meaning of export of services subject to zero rate according to Section 80/1(2) of the Revenue Code and clauses 2 (1) of the Notification of the Director-General on VAT (Number 105)

The meaning of export of services is prescribed in Section 80/1(2) of The Revenue Code. The provision of services performed in Thailand and used in foreign countries could be zero rated if it is subject to rules, procedures and conditions, prescribed by the Notification of the Director-General.

Provision of services performed in Thailand and used in foreign countries includes provision of services performed in Thailand for manufacturing goods in a duty free zone for manufacturing goods for export.

Services provided in Thailand for persons in foreign countries must be the services which are performing in Thailand and the results of services are entirely used in foreign country. This is the meaning of export of service is subject to zero rate under the Revenue Code. The problem is the interpretation “entirely or totally used services in the foreign country”. In the case of provision of service performed by the service provider in Thailand by making a report in a form of document and sending it to foreign customer. Then the customer concludes a transaction with the manufacturer in

Thailand. The problem is whether it is an export of services is subject to zero rate or it is service used in Thailand.

The Revenue Department views that meaning of totally or entirely consumed services in the foreign country is not included the results of services which are exploited in Thailand, the cases where the results of such services are exploited in Thailand since it is partly consumed services in Thailand. Therefore, it is not regarded as export of service is subject to zero rate according to section 80/1(2) of the Revenue Code and clauses 2(1) of the Notification of the Director-General on VAT (Number 105) so the service provider in the foreign country is not subject to VAT in Thailand according to Section 80 under the Revenue Code.

On the other hand, the decision of the Central Tax Court stated that in the case where the results of such services are exploited in Thailand, such services are not used services in Thailand. The service provider is not subject to VAT in Thailand. The Central Tax Court pointed out that this is a provision of services performed in Thailand and totally or entirely consumed services in the foreign country. This is an export of services so the service provider is not subject to VAT in Thailand.

Tax rulings and the decision of the Central Tax Court has different ideas about the meaning of the term “entirely used services in the foreign country” under Section 80/1[2] under the Revenue Code and clause 2(1) of the Notification of the Director-General on VAT (Number 105). If services are entirely used in the foreign country, it should be regarded as an export of services. If services are partly used in Thailand, it is not an export of services. It means that the service provider or supplier is liable to VAT in Thailand.

The interpretation of export of services subject to zero rate should be consistent with the destination principle. Goods and services should be subject to VAT in the place where goods and services are used or consumed. So in the case of goods and services are exported, such transactions should be exempt or no taxes on such transactions. Section 80/1(2) of the Revenue Code and clause 2(1) of the Notification of The Director-General on VAT(Number 105) are prescribed conditions and the meaning

of export of services subject to zero rate. This is the domestic problem, so we should amend the domestic law.

