

Independent Study Title : The Problem on the Interpretation of Business of
the Employer in Thailand under Section 41 of the
Revenue Code

Author : Ms. Wanlaya Veelawan

Degree : Master of Laws (Taxation Law)

Academic Year : 2007

Advisor : A. Prapas Kong-ied

ABSTRACT

The study of a problem on the meaning of business of the employer in Thailand under Section 41 of the Revenue Code. Source Rule of Thailand has the objectives to pointing out that this section still unclear due to the interpretation of tax law ,it should be strictly interpreted because it has an effect with the benefit of the people. Therefore, the tax collection from any person has to be specified by the law. It is clearly stated that the state has a right to tax when the law is used for collecting tax is unclear or it can be interpreted in such a way that give benefits to the taxpayer. It cannot be interpreted for the bad effects to the taxpayers.

After it found out that this problem caused section 41 paragraph 1 in the meaning of business of employer in Thailand which will be interpreted in 2 ways there are the First idea, the word “in Thailand ” used for “both the business and the employer” ; or the second idea “In Thailand” apply only with the word “the employer.” Presently,Thai Revenue Department used the second idea. It has a problem about overlapping of the right to tax between Thailand and foreign country which is double taxation between source and source country and the taxpayer can not eliminate double taxation because of in this case the employee resides in Thailand not more than 180 days in tax years. He is not a resident of Thailand Thus he can not used the DTA

the first idea the word “ In Thailand ” used for “ both the business and the employer.” It means only the business of the employer in Thailand and exclude the business of the employer in foreign country. Then the problem of double taxation will be solved.

