

CHAPTER 13 VALUE ADDED TAX & SPECIFIC BUSINESS TAX

Value added tax was introduced in Thailand in 1992. In general, it replaced business tax which had been in operation since 1961.

However, certain businesses and certain commercial transactions remained liable to specific business tax (as business tax is now called), as set out below.

Liability to register for VAT Traders with gross income of 1,800,000 Baht or more per year are liable to register for VAT.

Traders not otherwise required to register for VAT may register voluntarily for VAT if they wish. This would be appropriate for e.g. exporting businesses which are zero rated, to enable the trader to reclaim input VAT paid on materials or services purchase.

A person or entity who is liable to VAT must register for VAT before the commencement of business operations or within 30 days after its income reaches the threshold. The application must be submitted to the Area Revenue Office if the business is situated in Bangkok, or to the District Revenue Office if it is situated elsewhere.

Should the taxpayer have several branches, the application must be submitted to the Revenue Office where the head office is situated.

Tax rate With effect from 1 May 2005, the VAT rate on the sale of goods, the provision of services, or imports, is 7%.

Calculation of value added tax VAT is calculated as follows:

Output tax - Input tax = Tax due

Where output tax is the VAT which the operator collects from the purchaser when a sale is made, and input tax is the VAT which an operator pays to a seller of goods or a provider of services used in the operator's business.

Monthly VAT returns At the end of each month, the VAT trader adds up all VAT invoices it has paid and adds up all VAT invoices it has issued, including all the 'input' and 'output' taxes it has paid and collected. If the trader has paid more taxes than it has collected, the trader can apply for a refund or a credit. Because some Tax Invoices arrive late and because some Tax Invoices need to be corrected, it is common that amended VAT returns must be filed. If the trader has collected more taxes than it has paid, it pays the difference to the Revenue Department.

VAT invoices A VAT trader must issue a VAT receipt, referred to as a Tax Invoice, for each transaction over Baht 500 or when requested to do so. Tax Invoices are important, because the payor, if in business, can usually claim back the VAT paid. The requirements for a Tax Invoice are very strict: they must contain the name and full address of the purchaser and 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 one issued. It is not sufficient to sign or initial a correction.

Zero rate VAT The following transactions attract zero rate VAT:

1. Exports
2. Services provided in Thailand to persons in foreign countries.
3. International transportation by air and sea by Thai juristic persons. Foreign juristic persons may apply a 0% rate where their country applies 0% to Thai juristic persons that operate business in that country.
4. Sale of goods or services to governmental agencies or state enterprises under foreign loan or aid schemes.
5. Sale of goods or services to the United Nations and its agencies, foreign embassies and consulates.
6. Sale of goods or services between bonded warehouses, between operators in export processing zones, or between the former and the latter.

Exempt from VAT The following persons or services are exempt from VAT:

1. Small businesses whose annual turnover is less than 1.8 million Baht;
2. Sales and import of unprocessed agricultural products and related goods such as fertilizers, animal feeds, pesticides, etc.;
3. Sales and import of newspapers, magazines, and textbooks;
4. Healthcare services provided by government and private hospitals as well as clinics,
5. Educational services provided by government and private schools and other recognized educational institutions,
6. medical and auditing services, litigation services and other similar professional services,
7. Rent of immovable property
8. Cultural services such as amateur sports, libraries, museums and zoos;
9. Services in the nature of employment of labour, research and technical services and services of public entertainers;
10. Goods exempted from import duties under the Industrial Estates Act imported into an Export Processing Zones (EPZs) and under Chapter 4 of the Customs Tariff Act;
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; and

12. Other services such as religious and charitable services, services of government agencies and local authorities.
13. Gold bullion.
14. Research or technical services in social science or science, provided that the service supplier is an individual or non juristic person, and the services are not for commercial purposes (this is subject to further elaboration).

Significance of VAT exempt activities and zero rated activities Providers of goods or services that are VAT exempt may have to pay VAT on goods and services they purchase, but cannot claim an input VAT credit.

Thus it is often better to be zero rated than tax exempt, as providers of zero rated goods and services (usually exporters) can reclaim all the VAT they have paid.

Transactions subject to VAT Internal trade in most services and goods are, as can be seen above, subject to VAT. Exports of goods or services (including sales to diplomatic missions and some other exempt organizations) are subjects to zero rate tax. Therefore exporters will normally be entitled to a refund of all the VAT they have paid.

Services performed for overseas consumers, where there is written evidence or agreement, are subject to zero rate VAT. Services performed abroad for a Thai company are subject to 7% VAT 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.

Importers pay the current VAT rate at the time they import the goods. This is in addition to customs taxes. The VAT on imports is based on the total goods of the invoices including shipping and customs duties. The Customs Department will issue a Tax Invoice which may lack some of the details of a privately issued Tax Invoice, but which can nevertheless be used as a privately issued Tax Invoice.

The full burden of VAT falls on 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 reclaimed even by regressed traders. This would include, for example, VAT paid on automobiles or for entertainment.

VAT refund In each month, if input tax exceeds output tax, the taxpayer may claim the refund, either in form of cash or a tax credit to be used in the following months. 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.

Partial transfers of a business A partial transfer of a business is exempt from VAT, specific business tax and stamp duty subject to conditions specified in regulations.

Fine and surcharge for late submission The fine for late submission of a return is double the amount of tax due that month. There is also a surcharge of 1.5% of the tax payable per month.

Specific business tax

History In 1992, most businesses liable to business tax were made subject to value added tax in its place. However, certain businesses and certain commercial transactions remained liable to business tax, which was renamed specific business tax after 1992. To make matters more complicated, VAT applies to certain transactions of these businesses, but SBT applies to others. For example, if a bank receives interest, it is liable to SBT on the interest received. But if it supplies a service that is not liable to SBT (see below), it must charge VAT on that service.

Businesses liable to SBT SBT applies to certain transactions carried out by the following businesses:

1. Commercial banks.
2. Finance businesses, securities businesses and credit foncier businesses.
3. Life assurance.
4. Pawnbroking.
5. Businesses with regular transactions similar to commercial banking, such as: lending money, providing guarantees, currency exchange, issue purchase or sale of negotiable instruments or transfers of money overseas.
6. Sale of immovable property in a business or for profit.
7. Sale of shares or other securities on the Securities Exchange of Thailand.
8. Any other business, as specified in regulations.

Transactions still liable to VAT Note that the following transactions of the businesses listed above are liable to VAT, not SBT;

- (a) a specific transaction, not related to the business listed above, or
- (b) a specific transaction directly related to a business listed above, but which is liable to VAT in accordance with regulations. This includes:
 - (i) Lease of moveable property;
 - (ii) Providing credit card services or similar services;
 - (iii) Providing investment consultancy services;
 - (iv) Leasing property on hire purchase;
 - (v) Securities brokerage and agency services;

- (vi) securities underwriting services; and
- (vii) providing any other service directly related to the business listed above, where the SBT tax base is not listed in the Revenue Code.

Transactions not subject to SBT Under a regulation issued in December 2013, as well as the transactions not liable to SBT referred to above, the following transactions were declared SBT exempt, backdated to 1 January 2012:

- interest generated from inter-company loans, where the parties are associated companies and are not engaged in commercial banking, finance, securities, credit foncier, or life insurance. “Companies” here includes juristic partnerships. “Affiliated companies or juristic partnerships” is given an extended definition.
- interest at commercial rates from deposits with banks or promissory notes purchased from financial institutions.
- interest from employee welfare loans made from accumulated funds or any other funds for employees.

SBT tax base The tax base for a business subject to SBT is as follows:

SBT is computed on monthly gross receipts of the following businesses, or on the value of the land/buildings/shares sold, at the following rates:

Business	Income liable to BST	SBT rate (inclusive of municipal tax)
Commercial banking	(1) Interest, discounts, service fees, other fees, gross profits from purchase or sale of, or obtained from, negotiable instruments or other instruments of indebtedness. (2) gross profits from currency exchange issue of negotiable instruments or other instruments of indebtedness or remittance of currency to foreign countries	3.3%
Finance, securities or credit foncier businesses	Gross receipts under (1) and (2) above	3.3%
Life assurance	Gross receipts from interest, service fees and other fees	2.75%
Pawnbroking	Gross receipts from interest, fees, and income from selling pawned goods	2.75%
Businesses with regular transactions	Gross receipts under (1) and (2) above	3.3%

similar to commercial banking		
Sale of immoveable property in a commercial manner or for profit	Gross income before deduction of any expenses	3.3%
Shares of companies listed on the SET	Gross income before deduction of any expenses	0.1% (currently exempt)
Repurchase Agreement	Difference between the purchase price and the sale price	3.3%
Factoring	Interest, discounts, service fees and other fees	3.3%

SBT returns A return for SBT due should be submitted monthly with payment of tax due, within the 15th of the month following the month of assessment. Returns must be submitted, regardless of whether any SBT is payable. Where a taxpayer has several branches, a return must be submitted for each branch.

Transfer of entire business A transfer of an entire business is exempt from VAT, specific business tax and stamp duty subject to conditions specified in regulations.

Partial transfer of business A transfer of part of a business is exempt from VAT, specific business tax and stamp duty, where the transfer is made after 1 January 2011, and meets the following criteria:

- it is between affiliates (as defined) that are private or public companies;
- the status of affiliate must be maintained for 6 months from the end of the accounting period in which the transfer is made;
- the net asset value of the transferee at the date of the transfer must not be less than the NAV transferred;
- the assets transferred must be in the normal course of business of the transferor, the transfer must be at market value of the assets; and
- the transferee must use the assets in the same manner.

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