

# Tax Refund Part 2

by

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In Part 1, we dealt with the refund of personal and corporate income tax. In this Part 2, we will explore the refund of other taxes.

## **Value Added Tax – VAT**

VAT was introduced in Thailand in 1992 at 7%. In fact, VAT has three rates. The 7% normal rate, 0% for export and there are many activities which are exempt from VAT where the operator cannot use the VAT as tax credit, such amount becomes a cost to the business or acquisition of asset. Therefore, the most favorable rate is 0% because you do not pay any VAT and can use the input tax from suppliers and contractors as credit as well.

VAT is designed to eliminate double taxation which existed in the business or sales tax system many years ago. The VAT allows you can claim the credit every month and if you cannot fully utilize the credit, it can be carried forward month by month indefinitely.

However, there are certain type of businesses that may have excess VAT credit and wish to ask for refund.

1. Exporter either for goods or services. Electronic companies in Thailand as well as auto manufacturers which export almost 100% of their product will have substantial excess VAT credit.

2. A start-up company with large manufacturing plant. The acquisition of equipment and installation plus commissioning could take many years. During the pre-operating period, the company has no sales and therefore should apply for VAT refund during such pre-operation.

3. Over payment of VAT could also be due to miscalculation.

In spirit, the government would like to make speedy refund of VAT but in practice the authority encountered many difficulties.

(1) The Revenue Department has to double check to make sure that the application is supported by documentary evidence such as tax invoice and the issuer thereof actually paid VAT to the government.

(2) The authority also check the output tax of the applicant whether he is entitled to the 0% tax rate or whether he actually has excess tax credit.

(3) There are many tax fraud such as fake tax invoices which lead to prosecution.

(4) Whether the carry forward of tax credit from month to month is correctly done.

All the above have to be verified before a refund application can be approved. Nevertheless, the audit for VAT refund is relatively simpler than in the case of corporate income tax because in the latter case, the auditor has to check revenues and expenses to compute profit. There are other complicated issues for example whether a business activity is subject to VAT or specific business tax (SBT). As an illustration, a financial institution such as a bank could be subject to both VAT and SBT for its various activities. SBT is imposed on interest received from loan. Recently, many banks would like to earn fee income such as sales of life insurance, unit trust in mutual fund or engages in auto financing where these activities are subject to VAT. The similarity of such business could confuse the tax payer and interpretation of the tax law is not entirely clear.

If you plan to ask for VAT refund, normally you merely indicate on the monthly VAT return, form Phor.Phor. 30. The refund can either be in cash or direct payment into your bank account. Alternatively, you can also file form Khor. 10 with following supporting documents:

- 1) Company Affidavit in case the applicant is a corporation.
- 2) Tax invoice relating to the amount of refund.
- 3) Related document to support the refund.
- 4) Power of Attorney to authorize a person to sign and follow up the refund.

Lastly, do not forget to inquire with the authority from time to time after the application is filed.

### **Specific Business Tax or SBT**

SBT is imposed principally on financial institution as well as developer of real estate. The process of refund is as follows:

1. Application shall be filed within three years.
2. Use form Khor.10 and filing shall be at the tax office where you pay the SBT.

Following documents are required to support the application:

- (1) Company Affidavit in case the applicant is a corporation.
- (2) Receipt of the SBT.
- (3) Documents related to the refund.

### **Refund of Stamp Duty**

If you overpaid stamp duty by not less than Baht 2, you are entitled to file for refund and if it is proved there is an overpayment, then the refund shall be granted. However, the application shall be filed within six months. In my experience of 40 years tax practice, I have never been involved in a stamp duty refund.

Refund can also be made in case the stamp duty that you have brought are defaced or damaged by water or moisture, then you can ask for refund by complying with instruction of Finance Ministry No. 5327/2548 dated 16 December 1940.

### **Useful Tips**

1. An applicant should ensure that he follows up his application every two or three months to make sure his document is actively reviewed by the authority.
2. Thailand refund system is slow compared to other countries because the government need to make sure that the applicant does not owe any tax. In the US, the refund could be faster but if you commit a tax fraud, then penalty would be hash.

3. Prescription or statute of limitation. Normally this is three years either for income tax, VAT or SBT.

4. An applicant is entitled to be paid interest at 0.625% per month. In practice, he always waives this amount to ensure a speedy processing of his application. Finally, if you get Baht 80 out of Baht 100 that you are applying for, you are already lucky.

Good luck to all tax payers.

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