

Know Your Supplier: Protecting Input VAT in Thailand's Digital Economy

Every month, VAT-registered businesses calculate output and input VAT and file a VAT return (Form Phor.Phor.30) to pay the net VAT due or to claim a refund. A recurring and costly dispute arises where a business has paid input VAT to its supplier, only to have that input VAT rejected on the grounds that the tax invoice was issued by “a person not entitled to issue tax invoices.” This article explains how the Revenue Department and the courts approach these disputes, what evidence a taxpayer should prepare to withstand scrutiny—including in online and remote transactions—and why a digital economy calls for faster detection of suppliers who issue invoices but fail to remit the VAT they collect.

Businesses rightly invest in tax planning to structure their affairs efficiently, but managing tax disputes deserves equal attention. A genuine, well-structured transaction can still be challenged years after the event, and the outcome often turns not on the strength of the underlying commercial position but on whether the taxpayer is ready to defend it. Input VAT on supplier invoices is a clear example: planning and dispute readiness are two halves of the same discipline, and a gap in either can be costly.

The Common Dispute and Its Legal Context

In a typical case, a manufacturer purchases supplies from a vendor, pays the VAT in full, receives a tax invoice, claims the input VAT, and remits the net VAT to the Revenue Department. Before transacting, the manufacturer confirms on the Revenue Department's website that the vendor is VAT-registered and entitled to issue tax invoices, and keeps complete payment and inventory records evidencing a genuine purchase. Despite this diligence, the Revenue Department later disputes the input VAT, asserting that its investigation found the vendor did not actually operate the business, or collected the VAT but failed to remit it, and that the invoices were therefore issued unlawfully. The department then disallows the input VAT, requires the business to recalculate its VAT, and assesses additional tax together with surcharge and penalty.

This type of dispute is grounded in section 82/5(5) of the Revenue Code, which disallows input VAT under a tax invoice issued by a person not entitled to issue tax invoices, read together with section 86/13. The provision itself does not require the buyer to prove that an underlying sale genuinely took place. That requirement has been built around the provision rather than written into it, drawing on two further sources. The first is a broad reading of “a person not entitled to issue tax invoices” under section 86/13, which the courts have extended to a VAT-registered operator that did not in fact make the sale. The second is the fake tax invoice rules in section 89(7), under which an invoice whose issuer cannot be proven is treated as a fake tax invoice, with the burden falling on the party claiming the benefit to establish the issuer's genuine existence). The obligation to prove a real transaction is largely a product of interpretation and administrative practice, not of the express words of section 82/5(5).

How the Courts and the Revenue Department Approach It

In practice, both the Revenue Department and the courts look beyond the form of the documents to the substance of the transaction. To be entitled to issue a tax invoice, a supplier must not only be VAT-registered but must also have genuinely sold and delivered the goods and received payment; a tax invoice is not valid merely because the issuer appears on the register. Two recent Supreme Court (Tax Division) decisions (nos. 2508/2568 and 5018-5019/2568) confirm this consistent approach. In each, the taxpayer—as the party benefiting from the input VAT—bore the burden of proving that the issuing company had actually sold and delivered the goods and received payment. Unable to do so, the taxpayer was held to have used an invoice issued by a person not entitled under section 86/13; the input VAT was disallowed under sections 82/5(5) and 87/3; and, because the invoices were unlawful, the taxpayer's good-faith argument was rejected and the penalty was upheld.

In both decisions, the courts declined to reduce or waive the penalty, holding that a taxpayer that has used unlawfully issued invoices cannot be regarded as having acted in good faith. Where an invoice is treated as a fake tax invoice, the Revenue Code sets the penalty at twice the amount of the tax, in addition to surcharge—so the consequences of an adverse finding extend well beyond the disallowed credit itself.

Structural Concerns and a Question of Fairness

This approach has two consequences. First, it weakens reliance on the VAT registration system. The register and the Revenue Department's public verification facility establish only the issuer's formal status; they do not operate as a legal safe harbor. A buyer that does exactly what the State invites it to do—confirm registration, pay through the banking system, and obtain a complete tax invoice—still has no assurance that its input VAT is secure, which undermines the purpose of maintaining a registration system.

Second, the evidentiary burden is onerous and retrospective. By the time an audit takes place, often more than a year later, the buyer must reconstruct the reality of a past transaction. For goods, there may at least be delivery and inventory records; for services, which leave no physical trail, the burden can be close to impossible to discharge.

There is also a question of fairness. By the nature of VAT systems in general, it is the supplier—as the person who collects, and is legally liable to remit, the output VAT—who answers to the Revenue Department for nonremittance. But when a supplier collects VAT and absconds without remitting it, the appropriateness of transferring the entire consequence to a diligent buyer, and then pursuing that buyer for the supplier's default, can be questioned. Thai law does not provide an express good-faith safe harbor for a buyer that could not have known of the supplier's wrongdoing; the focus of the analysis remains on whether the reality of the transaction can be proven, not on how diligent the buyer was.

How Digital Commerce Can Deepen the Thai VAT Problem

These concerns become especially acute in online and remote transactions. Such commerce is built on the premise that buyers and sellers never meet: goods are ordered through a marketplace and shipped by a third-party courier, and services are contracted and delivered entirely online, often across borders. In this setting, the expectation that a buyer should have to prove the existence of the seller and its operations is unrealistic. A business that orders goods through a platform and receives them, or engages a provider online and receives a service, has no practical means of inspecting the seller's premises or operations—that verification is, in substance, performed by the platform at onboarding, not by each buyer, who, by the nature of digital commerce, never meets its counterparty.

The deeper question is how this approach applies to digital commerce. The principle reflected in these decisions was developed in a conventional setting, in which a buyer could, in principle, know its supplier in person. Applied to online and remote transactions, the same principle means that a buyer who has confirmed the supplier's VAT registration, received the goods or service, and paid through the banking system may still be expected to establish, after the event, that the issuer was the genuine source of the supply—rather than being able to rely on the registration system alone. In a remote dealing, the buyer can do so only through the electronic record of the transaction. The fact that the goods were received and taken into inventory, or that a service was delivered and used, is itself strong evidence that a real supply took place; but identifying whether a particular issuer is the genuine source is something the state—which operates the register and holds the relevant filing and payment data—may be better positioned to detect.

A Case for Faster, System-Level Detection

The Revenue Department already operates the infrastructure needed to detect such conduct at the source: the e-Tax Invoice and e-Receipt system, electronic VAT filing, and a growing data-analytics capability. Mismatches between the output VAT a supplier reports and the input VAT its customers claim can increasingly be identified close to real time. Detecting suppliers that issue invoices but fail to remit, and intervening early, would allow the loss to be contained at its source rather than recovered years later from buyers who acted in good faith.

A faster, data-driven enforcement model—paired with a clearer good-faith safe harbor for buyers that hold a complete transaction trail and a validly issued tax invoice—would better balance the protection of revenue with fairness to compliant businesses. Where an invoice is issued through the Revenue Department's own e-Tax Invoice system, the questions of who issued it and whether it is genuine are largely answered at the point of issuance. Building on that foundation would do more to prevent fraud than shifting the burden onto buyers after the fact.

Know Your Supplier in Practice: Preparing Sufficient Proof

Until the legal position changes, however, businesses cannot rely on invoices, payments, and VAT remittances alone. A comprehensive know-your-supplier file should be assembled at the time of the transaction, while the evidence still exists, and should aim to establish both the supplier's genuine existence and the reality of the specific dealing. In practice, this includes:

- **Supplier due diligence at onboarding:** The VAT registration certificate (Phor.Phor.20), company registration and registered objectives, evidence of a real place of business, and—for significant or higher-risk suppliers—a site visit or photographs.
- **Transaction evidence linking this supplier to this purchase:** Purchase orders, quotations, contracts, delivery or transport documents, and goods-receipt and inventory records; for services, the deliverables, work product, system or access logs, correspondence, and acceptance records.
- **Evidence of payment to the contracting party:** Transfers to the supplier's own bank account, avoiding cash and unrelated third-party accounts, reconciled to the invoice.
- **The tax invoice itself:** Complete under section 86/4 and, where possible, issued through the e-Tax Invoice system.
- **For online and remote dealings:** Platform order records and the platform-verified merchant identity, electronic order and acceptance confirmations, payment-gateway records, and courier tracking running from the seller to the buyer; and

- **Contemporaneous record of registration check:** Such as a dated screenshot, to evidence good faith.

This risk mitigation approach will not guarantee success, but it can materially strengthen the taxpayer's position if the supplier is later found to be problematic. Any response to a Revenue Department inquiry should be handled carefully and strategically, since early statements can shape the course of an assessment.

Challenging a VAT Assessment: The Procedural Steps

Where the Revenue Department disallows input VAT and issues an assessment, the taxpayer is not without recourse. Thai law provides a structured process for challenging the assessment, but it is subject to strict time limits and procedural requirements that must be observed:

1. **Administrative appeal:** Within 30 days of receiving the assessment notice, the taxpayer may file a written appeal with the Tax Appeal Committee. Failure to file within the deadline extinguishes the right to contest the assessment further. The appeal should set out clearly the grounds on which the assessment is disputed and should be supported by documentary evidence.
2. **Payment or security pending the appeal:** Filing an appeal does not automatically suspend the obligation to pay. The taxpayer may request an extension of time to pay or permission to pay in installments, but the assessed tax remains due unless relief is granted.
3. **Decision of the Tax Appeal Committee:** The Tax Appeal Committee will consider the appeal and issue a decision. This may take considerable time, and the taxpayer should use the period to assemble and organize all supporting evidence.
4. **Filing a case with the Tax Court:** If the Tax Appeal Committee's decision is unfavorable (in whole or in part), the taxpayer may file a case with the Tax Court within 30 days of receiving the Committee's decision. The Tax Court conducts a full hearing on the merits, and the taxpayer bears the burden of proving that the input VAT was properly claimed.
5. **Appeal to the Court of Appeal for Specialized Cases:** Appeals from the Tax Court's judgment lie with the Court of Appeal for Specialized Cases (Tax Case Division). The appeal must be filed within one month of the date the judgment is read in court.
6. **Further appeal to the Supreme Court (permission required):** Prior to revision of the procedural law, parties were allowed to appeal to the Supreme Court, but now such appeals can only go ahead with permission from the Supreme Court itself. The party must petition for leave to appeal within one month from the reading of the Court of Appeal's judgment. The Supreme Court will grant permission only where the case involves an important question of law, a conflict in judicial interpretation, or a matter of public interest. If permission is denied, the judgment of the Court of Appeal for Specialized Cases is final.

At each stage, the quality of the evidence and the coherence of the taxpayer's narrative matter. Early strategic decisions—what to concede, what to contest, how to frame the factual case—shape the trajectory of the dispute. A taxpayer that has maintained a robust know-your-supplier file from the outset will be in a materially stronger position at each level of challenge than one that must reconstruct the record after the event.

Dispute Readiness as a Counterpart to Tax Planning

This area illustrates why dispute management belongs alongside tax planning at the centre of a business's tax strategy, not as an afterthought once an assessment arrives. Considerable effort is often spent on structuring transactions and optimizing a tax position, yet a genuine and properly structured purchase can still be questioned years later, and by then the commercial reality may be difficult to reconstruct. The two disciplines are complementary. Planning decides how a transaction is structured and which suppliers are engaged; dispute readiness ensures that, if the position is later tested, the evidence is in place and the response is handled with strategy and care. Businesses that treat the two as a single, continuous process—building the evidentiary record at the time of planning and preserving it for the life of the assessment risk—are far better placed to protect their input VAT than those that turn to the question only when an inquiry lands.

How We Can Help

Our tax team advises on both tax planning and tax disputes: structuring and planning transactions to manage VAT exposure and put the right documentation in place from the outset, and representing clients in input VAT disputes, audits, and appeals before the Revenue Department and the courts. We also help businesses design and implement know-your-supplier protocols and respond to Revenue Department inquiries and assessments. Please feel free to contact us for advice tailored to your circumstances.

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