

Efficient Tax Collection and Administration:
The Proposed Reform of Tax Withholding under Thai Law

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Abstract

The government could levy a personal income tax (the “PIT”) to achieve the revenue target if it applied the principle of economic efficiency of taxation. This principle requires taxpayers not to avoid and evade paying tax, but to comply with substantive tax law with low cost to themselves. In addition, this principle requires tax-gatherers to administer substantive tax law (through tax collection) with low cost and without the abuse of power and bribery. Thus, in order to achieve these requirements, efficient tax collection should produce the low costs of tax collection and tax compliance, and prevent tax avoidance and evasion, arbitrariness and bribery.

The characteristics of efficient tax collection (which are believed to entail low costs of tax collection, cheap compliance costs, voluntary tax compliance, and absence of abuse of power and bribery) must be simple, certain and convenient. In levying the PIT in Thailand, the government has adopted the methods of tax withholding and self-assessment.

Tax withholding can help generate the low cost of tax collection due to the fact that the private sector acts as an unpaid tax collector for the public sector. If the system of tax withholding did not exist in Thailand, the cost of PIT collection by the Thai government would certainly be higher. Under the system of tax withholding, the payers of income (e.g. employers) must deduct tax from income paid, and remit the amount of tax deducted to the government. However, in doing so, the payers of income may incur costs, e.g. costs for complying with legal requirements and employing staff.

This paper makes suggestions to improve tax withholding so that this method will contribute to **greater efficiency of tax collection**, i.e. (a) benefits to tax-gatherers and taxpayers, and (b) reduction in burdens on the payers of income.

Tax withholding would benefit to tax-gatherers and taxpayers more if (a) more items of income were taxed at source, (b) withholding tax rates were the same for all types of income, and (c) withholding tax rates were equal to those in the tax-rate schedule.

Tax withholding imposes (a) additional costs on the payers of income and (b) penalties for non-compliance with the rules concerned. The following measures are proposed to lessen the two burdens on the payers of income:

- (a) withholding tax rates should be the same for all types of income,
- (b) there should be measures to reduce the degree of complexity in tax withholding, and
- (c) there should still be penalties for non-compliance with the rules governing tax withholding, but they should not be extremely severe.

If there were measures to reduce the complexity of tax withholding and penalties for non-compliance with the rules governing tax withholding were not extremely severe, these would reduce compliance costs for the payers of income and entail their voluntary tax compliance.

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1. Introduction

The World Bank (1991:61) points out that:

“Reform of tax structure is generally more effective when accompanied by improvements in tax administration. A strong tax administration is necessary to carry out the intent of any new legislation effectively.”

I agree with this point on the grounds that the government cannot levy income tax until (a) its tax policies are enacted as tax laws, and (b) tax laws are subsequently **administered by means of efficient tax collection**. Furthermore, the reform of components of substantive tax law could not achieve the redistributive purpose and the revenue target to the desired extent if such components were neither enacted appropriately nor administered effectively.

Simple, certain and convenient methods of tax collection (tax withholding, self-assessment and electronic payments) are believed to be **efficient tax collection** to help generate efficiency in tax administration. Furthermore, these methods are likely to reduce administrative and compliance costs and to prevent tax avoidance and evasion.

This paper examines one method of tax collection (tax withholding or withholding at source) under Thai law to find out whether or not this method is simple, certain and convenient. It will then propose solutions to reform the method of tax withholding if the examination is discovered that such method is not simple, certain and convenient.

2. Characteristics and effects of efficient tax collection

The government could levy income tax to achieve the revenue target if it applied the principle of economic efficiency of taxation. This principle requires taxpayers not to avoid and evade paying tax, but to comply with substantive tax law with low cost to themselves. In addition, this principle requires tax-gatherers to administer substantive tax law (through tax collection) with low cost and without the abuse of power and bribery. Thus, in order to achieve these requirements, efficient tax collection should produce the low costs of tax compliance and administration and prevent tax avoidance and evasion, arbitrariness and bribery. Morse and Williams (2004:8) support the view, as they note:

“The fourth Smithian canon is cost-effectiveness. The effectiveness of a tax system is partly a matter of success in enforcement, and partly **a matter of the total cost of running it and complying with it.**”

Complex tax legislation and complex methods of tax collection are difficult to understand, making it hard to comply with and administer, and contributing to high compliance and administrative costs. Sandford (1980:155) supports the view that “compliance costs ... grow with the complexity of the tax.” The Musgraves (1984:290) also support the view that “the cost of administration ... rises with the complexity of tax law.” Similarly, Slemrod and Yitzhaki (1996:179) note that administrative costs arise from “lack of clarity of the tax law.” Complexity also leads to tax avoidance and evasion, arbitrariness and bribery. The World Bank (1991: 26, 26-27) supports the view that complex tax codes are easy for taxpayers to evade, and difficulties in administering tax codes generate corruption.

Simplicity and certainty of tax laws and simple, certain and convenient methods of tax collection are therefore believed to have the opposite effects. This view is well supported. For example, the Musgraves (1984:291) “the saving in compliance cost ... goes with simplification.” Similarly, the World Bank (1991:7) notes that ““simplifying tax laws and procedures can facilitate compliance and make tax administration more efficient.”

What are simple, certain and convenient methods of tax collection?

‘Simple’ should mean easy, plain and straightforward without complication. ‘Certain’ should mean transparent. Smith supports these two meanings. As Smith (2000:888) notes, “the time of payment, the manner of payment, the quantity to be paid, ought to be clear and plain to the contributor, and to every other person.” Tanzi and Zee also support these two meanings. As Tanzi and Zee (2001:6) note, “the system should have simple and transparent administrative procedures so that it is clear if the system is not being enforced as designed.”

As regards ‘convenient’ methods, Smith (2000:889) notes, “every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay it.” However, the place, time and methods of collection and payment of taxes should be convenient not only for taxpayers but also for tax-gatherers.

Effects of efficient tax collection on economic efficiency of taxation

If collecting methods are established under the terms ‘simple, certain and convenient’, taxpayers and tax-gatherers will save time and money in paying and levying tax. Consequently, the costs of tax compliance and administration will be reduced. Low compliance costs are likely further to reduce resentment and resistance to pay tax, discouraging tax evasion.

Furthermore, tax evasion will be probably discouraged because it is easily discovered under certain or transparent methods. Certain or transparent methods also provide fewer opportunities for tax-gatherers to abuse their power and to take bribes.

Moreover, tax avoidance is likely to be prevented because simple and certain methods will reduce complication in collection. This will further reduce tax loopholes and avoid disputes in collection methods.

It can be concluded that the simple, certain and convenient methods of tax collection generate low compliance and administrative costs and prevent tax avoidance and evasion, arbitrariness and bribery. This encourages economic efficiency of taxation.

Effects of efficient tax collection on equity of income redistribution

Simple, certain and convenient methods of tax collection facilitate greater equitable redistribution of income. This is because:

- (a) they would prevent avoidance and evasion (such prevention promotes both economic efficiency of taxation and income redistribution)¹; and
- (b) they would raise more tax revenue because there would be (i) more people willing to pay tax because of lower costs on compliance, (ii) less tax avoidance and evasion, and (iii) less arbitrariness and bribery.

Greater tax revenue would contribute to a greater transfer of resources via the tax system to the system of public expenditure. Consequently, the poorest would be better off from improvements in public services. Furthermore, low- and middle-income groups would also be better off from better public services funded by greater tax revenue. Moreover, lower costs of tax compliance incurred by these groups would encourage equity of income redistribution as well because these groups would bear a smaller burden in the taxing process.

3. Tax withholding (or “Withholding at source”) in Thailand

In levying a personal income tax (the “PIT”) in Thailand, the government has adopted the methods of tax withholding and self-assessment. As noted earlier, the characteristics of efficient tax collection (which are believed to entail low costs of tax administration and tax compliance, and to prevent avoidance schemes, arbitrariness and bribery) must be simple, certain and convenient.

It is argued that tax withholding is an effective method of collecting income tax. (Nightingale, 2000:72; Whitehouse and Vaines, 2002:106; and Richupan, 1980:65) Here, I will examine whether the method of tax withholding in Thailand embodies the characteristics of efficient tax collection and brings about low costs of tax collection,

¹ Tax avoidance and evasion cause economic inefficiency of taxation because they result in a large loss in tax revenue as well as high administrative costs to enforce complex rules of law to prevent them. Tax avoidance and evasion also thwart income redistribution from the rich to the poor because the rich have more scope for opting out of taxes by using tax professionals and avoidance schemes, and the rich tend to evade taxes more than the poor. Thus, the prevention of tax avoidance and evasion promotes both economic efficiency of taxation and income redistribution.

cheap compliance costs, voluntary tax compliance, and absence of abuse of power and bribery.

3.1 Features of tax withholding

In principle, withholding at source is a method whereby tax on certain types of income is withheld at the time of payment and remitted to the government by the payer of income. The tax withheld can be offset against final tax liability at the time of filing a tax return. The taxpayer whose final tax liability is less than the tax withheld is entitled to a tax refund, whereas the taxpayer whose final tax liability exceeds the tax withheld has to pay the excess.

Under Thai law, the payer of certain types of income must withhold tax at each time of payment (Section 50, The Revenue Code of Thailand), and remit the tax withheld to the government within a prescribed period.²

Despite tax withholding, Thai law still requires all individuals and married couples whose assessable incomes exceed a specified amount to complete and file end-of-year tax returns. To calculate the total amount of assessable income of a taxpayer for completing an end-of-year tax return, the tax withheld and remitted will be deemed the assessable income of the taxpayer and offset/credited against the final tax liability of the taxpayer. (Section 60, The Revenue Code of Thailand) The taxpayer whose tax withheld at source exceeds his/her final tax liability can claim a tax refund (Section 63, The Revenue Code of Thailand); whereas the taxpayer whose final tax liability exceeds the tax withheld has to pay the excess.

Presently, many types of income, which cover eight categories of assessable income under the Thai Revenue Code, are taxed through withholding at source at various

² The tax withheld from some types of income has to be remitted to the government within seven days of the date of paying income. (Section 52, The Revenue Code of Thailand)

The tax withheld from other types of income has to be remitted to the government within seven days of the end of the month in which the assessable income is paid. (Clause 13, Departmental Regulation No.Taw.Paw. 4/2528)

rates. In the case where the recipient of the income is liable to the PIT, the payer of income must withhold tax at source at a rate varying according to the type of income.

The following are the rules, conditions and rates of withholding at source on certain types of income paid to a person liable to personal income tax.

(1) For income from employment (e.g. wages and salaries) and income from a post, office of employment or service rendered (e.g. commissions), the payer who is a person, a partnership, a company, an association, a non-juristic body of persons, or governmental agency must withhold tax by:

- (i) multiplying the amount of income paid by such number of times of payment that the result will give the total amount which would be payable under the assumption that payments are made throughout the whole year;
- (ii) after the subtraction of deductible expenses and allowances, calculating the tax on the amount at the rates in the tax-rate schedule (0-37%); and
- (iii) dividing the amount of tax as calculated in (ii) by the number of times of payment, resulting in the amount of withholding tax. (Section 50 (1) and Section 53, The Revenue Code of Thailand)

Where the recipient of income is a non-Thai resident and receives income from his/her employment in ‘Regional Operating Headquarters’³, a 15% tax is withheld at source. (Section 4, Royal Decree No.405 (B.E. 2545))

Where the recipient of income from a post, office of employment or service rendered is a non-Thai resident, a 15% tax is withheld at source. (Paragraph 4, Section 50 (1), The Revenue Code of Thailand)

(2) For income from goodwill, copyright or any other rights (e.g. royalty), the payer who is a person, a partnership, a company, an association, a non-juristic body of persons, or governmental agency must withhold tax at the rates in the tax-rate schedule (5-37%). (Section 50 (2) and Section 53, The Revenue Code of Thailand) Where the

³ ‘Regional Operating Headquarters’ means a company incorporated under Thai law in order to provide managerial, technical or supporting services to its associated enterprise or its domestic or foreign branches. (Section 3, Royal Decree No.405 (B.E. 2545))

recipient of income is a non-Thai resident, a 15% tax is withheld at source. (Section 50 (2) (a), The Revenue Code of Thailand)

(3) **For bonus paid to a shareholder or partner of a juristic company or partnership**, the payer who is a juristic company or partnership must withhold tax at the rates in the tax-rate schedule (5-37%). (Section 50 (2), The Revenue Code of Thailand) Where the recipient of income is a non-Thai resident, a 15% tax is withheld at source. (Section 50 (2) (a), The Revenue Code of Thailand)

(4) **For gains on the sale of shares issued by a company which is not listed on the Stock Exchange of Thailand**, the payer who is a person, a partnership, a company, an association or a non-juristic body of persons must withhold tax at the rates in the tax-rate schedule (5-37%). (Section 50 (2), The Revenue Code of Thailand) Where the recipient of income is a non-Thai resident, a 15% tax is withheld at source. (Section 50 (2) (a), The Revenue Code of Thailand)

(5) **For interest income**, the payer who is a partnership, a company, an association, or governmental agency must withhold tax at the rate of 15%. (Section 50 (2) (b), The Revenue Code of Thailand)

(6) **For dividend income**, the payer who is a partnership or a company must withhold tax at the rate of 10%. (Section 50 (2) (e), The Revenue Code of Thailand)

(7) **For income from letting out property**, the payer who is a juristic company or partnership, or any other juristic person must withhold tax at the rate of 5%. (Clause 2 (7) (a), Ministerial Regulation No.144 (B.E.2522); and Clause 6 (1), Departmental Regulation No.Taw.Paw. 4/2528) Where the payer is a governmental agency, a 1% tax is withheld at source. (Section 50 (4), The Revenue Code of Thailand) Where the recipient of income is a non-Thai resident, a 15% tax is withheld at source. (Section 50 (3), The Revenue Code of Thailand)

(8) **For rent of a vessel**, the payer who is a juristic company or partnership, any other juristic person, or governmental agency must withhold tax at the rate of 1%. (Clause 6 (4), Departmental Regulation No.Taw.Paw. 4/2528; and Section 50 (4), The Revenue Code of Thailand) Where the recipient of income is a non-Thai resident, a 15% tax is withheld at source. (Section 50 (3), The Revenue Code of Thailand)

(9) **For income from liberal professions** (e.g. a lawyer's or a doctor's fee), the payer who is a juristic company or partnership or any other juristic person must withhold tax at the rate of 3%. (Clause 2 (8) (a), Ministerial Regulation No.144 (B.E.2522); and Clause 7 (1), Departmental Regulation No.Taw.Paw. 4/2528) Where the payer is a governmental agency, a 1% tax is withheld at source. (Section 50 (4), The Revenue Code of Thailand) Where the recipient of income is a non-Thai resident, a 15% tax is withheld at source. (Section 50 (3), The Revenue Code of Thailand)

(10) **For income from a contract of work whereby the contractor provides essential materials besides tools**, the payer who is a juristic company or partnership or any other juristic person must withhold tax at the rate of 3%. (Clause 2 (9), Ministerial Regulation No.144 (B.E.2522); and Clause 8 (1), Departmental Regulation No.Taw.Paw. 4/2528) Where the payer is a governmental agencies, a 1% tax is withheld at source. (Section 50 (4), The Revenue Code of Thailand)

(11) **For remuneration for hire of work**, the payer who is a juristic company or partnership or any other juristic person must withhold tax at the rate of 3%. (Clause 2 (9), Ministerial Regulation No.144 (B.E.2522); and Clause 8 (1), Departmental Regulation No.Taw.Paw. 4/2528) In the case where the payer is governmental agencies, a 1% tax is withheld at source. (Section 50 (4), The Revenue Code of Thailand)

(12) **For prizes won in contests, competitions, lucky drawings or other similar activities**, the payer who is a person, a juristic company or partnership, any other juristic person, an ordinary partnership or a non-juristic body of persons must withhold tax at the rate of 5%. (Clause 2 (2), Ministerial Regulation No.144 (B.E.2522); and Clause 9 (1), Departmental Regulation No.Taw.Paw. 4/2528) Where the payer is a governmental agency, the payer must withhold tax at the rates in the tax-rate schedule (5-37%). (Section 50 (4), The Revenue Code of Thailand)

(13) **For remuneration to a public entertainer**, the payer who is a person, a juristic company or partnership, any other juristic person, an ordinary partnership or a non-juristic body of persons must withhold tax at the rate of 5%. (Clause 2 (3) (b), Ministerial Regulation No.144 (B.E.2522); and Clause 9 (2) (b), Departmental Regulation No.Taw.Paw. 4/2528) Where the payer is a governmental agency, a 1% tax is

withheld at source. (Section 50 (4), The Revenue Code of Thailand) Where a public entertainer is a non-Thai resident, the payer who is a person, a juristic company or partnership, any other juristic person, an ordinary partnership or a non-juristic body of persons must withhold tax at the rates in the tax-rate schedule (5-37%) (Clause 2 (3) (a), Ministerial Regulation No.144 (B.E.2522); and Clause 9 (2) (a), Departmental Regulation No.Taw.Paw. 4/2528); except where a non-Thai public entertainer receives an income from acting in a movie or a television programme made in Thailand by a company established under foreign law and granted permission to do so in Thailand by a relevant governmental agency, a 10% tax is withheld at source. (Clause 2 (3) (a), Ministerial Regulation No.144 (B.E.2522), as amended by Clause 1, Ministerial Regulation No. 238 (B.E.2545); and Clause 9 (2) (a), Departmental Regulation No.Taw.Paw. 4/2528, as amended by Clause 1, Departmental Regulation No.Taw.Paw. 111/2545) Where the income of a non-Thai public entertainer is paid by a governmental agency, a 1% tax is withheld at source. (Section 50 (4), The Revenue Code of Thailand)

(14) **For advertising fees**, the payer who is a juristic company or partnership or any other juristic person must withhold tax at the rate of 2%. (Clause 10, Departmental Regulation No.Taw.Paw. 4/2528) Where the payer is a governmental agency, a 1% tax is withheld at source. (Section 50 (4), The Revenue Code of Thailand)

(15) **For purchase price of aquatic animals**, the payer who is a person, a juristic company or partnership, any other juristic person, an ordinary partnership, a non-juristic body of persons, or a governmental agency must withhold tax at the rate of 1%. (Clause 2 (10), Ministerial Regulation No.144 (B.E.2522); Clause 11, Departmental Regulation No.Taw.Paw. 4/2528, and Section 50 (4), The Revenue Code of Thailand)

(16) **For purchase price of goods and income from rendering services of warehouse, undertaking the supervision, transportation, hotel and insurance against loss**, the payer who is a governmental agency must withhold tax at the rate of 1%. (Section 50 (4), The Revenue Code of Thailand)

(17) **For income from the business of providing services**⁴, the payer who is a juristic company or partnership or any other juristic person must withhold tax at the rate of 3%. (Clause 2 (13), Ministerial Regulation No.144 (B.E.2522), as amended by Clause 1, Ministerial Regulation No. 234 (B.E.2544); and Clause 12/1, Departmental Regulation No.Taw.Paw. 4/2528, as amended by Clause 1, Departmental Regulation No.Taw.Paw. 104/2544)

(18) **For prizes, discounts or any other benefits for the purpose of promoting sales**⁵, the payer who is a juristic company or partnership or any other juristic person must withhold tax at the rate of 3%. (Clause 2 (14), Ministerial Regulation No.144 (B.E.2522), as amended by Clause 3, Ministerial Regulation No. 229 (B.E.2544); and Clause 12/2, Departmental Regulation No.Taw.Paw. 4/2528, as amended by Clause 3, Departmental Regulation No.Taw.Paw. 101/2544)

(19) **For transport charges (excluding fares for public transport)**, the payer who is a juristic company or partnership or any other juristic person must withhold tax at the rate of 1%. (Clause 2 (17), Ministerial Regulation No.144 (B.E.2522), as amended by Clause 2, Ministerial Regulation No. 234 (B.E.2544); and Clause 12/4, Departmental Regulation No.Taw.Paw. 4/2528, as amended by Clause 2, Departmental Regulation No.Taw.Paw. 104/2544)

(20) **For income from the sale of an immovable property acquired by bequest or gift**, the payer who is a person, a partnership, a company, an association, a non-juristic body of persons, or governmental agency must withhold tax by:

- (i) subtracting the amount of income paid with a 50% standard deduction as expenses, resulting in the net income;

⁴ “Providing services” means carrying out any action where a benefit that is of value may be sought therefrom, and which is not a sale of goods. (Clause 1, Departmental Regulation No.Taw.Paw. 104/2544)

⁵ Withholding at source does not include the case where the recipient of prizes, discounts, or benefits is the purchaser of goods or services who is an end user and has no intention to resell such goods or services. (Clause 3, Departmental Regulation No.Taw.Paw. 101/2544)

- (ii) dividing the net income by the number of years of holding the property, and computing tax on the quotient at the rates in the tax-rate schedule (5-37%); and
- (iii) multiplying the amount of tax as calculated in (ii) by the number of years of holding the property, resulting in the amount of withholding tax. (Section 50 (5) (a) and Section 53, The Revenue Code of Thailand)

(21) For income from the sale of an immovable property acquired with or without a view to trading or profits, the payer who is a person, a partnership, a company, an association, a non-juristic body of persons, or governmental agency must withhold tax by:

- (i) subtracting the amount of income paid with a standard deduction as prescribed in Royal Decree⁶, resulting in the net income;
- (ii) dividing the net income by the number of years of holding the property, and computing tax on the quotient at the rates in the tax-rate schedule (5-37%); and
- (iii) multiplying the amount of tax as calculated in (ii) by the number of years of holding the property, resulting in the amount of withholding tax. (Section 50 (5) (b) and Section 53, The Revenue Code of Thailand)

⁶ According to Royal Decree No. 165, the standard deduction shall be made as expenses as follows:

Number of years of holding property	Percentage of income
1 year	92
2 years	84
3 years	77
4 years	71
5 years	64
6 years	60
7 years	55
8 years or more	50

The above rules can be summarized in the following table.

Table 1⁷

Types of income	Withholding tax rate (%)
1. Income from employment	
(i) Thai resident	5-37
(ii) Non-Thai resident	15
2. Income from a post, office of employment or service rendered	
(i) Thai resident	5-37
(ii) Non-Thai resident	15
3. Royalties	
(i) Thai resident	5-37
(ii) Non-Thai resident	15
4. Bonus paid to a shareholder or partner of a juristic company or partnership	
(i) Thai resident	5-37
(ii) Non-Thai resident	15
5. Gains on the sale of shares not listed on the Stock Exchange of Thailand	
(i) Thai resident	5-37
(ii) Non-Thai resident	15
6. Interest income	15

⁷ **Source:**

(1) Section 3 tredecim, Section 4, and Section 50, The Revenue Code of Thailand

(2) Royal Decree No.405 (B.E. 2545)

(3) Ministerial Regulation Nos.144 (B.E.2522), 229 (B.E.2544), 234 (B.E.2544), and 238 (B.E.2545)

(4) Departmental Regulation Nos.Taw.Paw. 4/2528, Taw.Paw.101/2544, Taw.Paw.104/2544, and Taw.Paw.111/2545

7. Dividend income	10
8. Income from letting out property	
(i) Thai resident	5 or 1
(ii) Non-Thai resident	15
9. Rent of a vessel	
(i) Thai resident	1
(ii) Non-Thai resident	15
10. Income from liberal professions	
(i) Thai resident	3 or 1
(ii) Non-Thai resident	15
11. Income from a contract of work whereby the contractor provides essential materials apart from tools	3 or 1
12. Remuneration for hire of work	3 or 1
13. Prizes in contests, competitions and lucky draws	5 or 5-3
14. Public entertainer remuneration	
(i) Thai resident	5 or 1
(ii) Non-Thai resident	5-37, 1, or 10
15. Advertising fees	2 or 1
16. Purchase price of aquatic animals	1
17. Purchase price of goods and income from rendering services, paid by government agencies	1
18. Income from providing services paid by juristic persons	3
19. Prizes, discounts or benefits from promoting sales	3
20. Transport charges	1
21. Income from the sale of immovable	

property	5-37
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3.2 Advantages of tax withholding

Withholding at source benefits not only tax-gatherers but also taxpayers. Tax-gatherers benefit from this method of tax collection in terms of the stability of tax revenue, the prevention of tax evasion, reduction in the abuse of power and bribery, and low administrative costs. In the meantime, it is convenient and cheap for individual taxpayers to be taxed at source.

Revenue collection

Black (1997:344) argues that withholding at source improves “the speed and reliability of the government’s income tax revenue.” I agree with this view because withholding at source lessens a loss of tax revenue due to tax evasion. Similarly, it reduces “the risk of tax revenue being lost through bad debts.” (Nightingale, 2000:72) I also agree with the argument that withholding improves the government’s cash flow (Lymer, 2003: 1/10) because it brings money into the government’s treasury regularly. Similarly, the government does not need to wait until the end of the tax year for tax collection. (Lymer, 2003: 1/10) Altogether, withholding at source brings about stability of tax revenue.

Tax evasion and corruption

Whitehouse and Vaines (2002:106) may be correct in saying that withholding at source is “an effective tax collection system which reduces the opportunity and incentive for tax evasion.” This is because the payer of income is responsible for the tax due, not the taxpayer who is the recipient. (Lymer, 2003: 4/12) Current withholding at source under Thai law covers increasing types of income and payment, which makes it more difficult for individuals to evade paying tax, e.g. by failing to report income from legal activities.

Lent and Hirao (1970:26) took a survey in Thailand in 1970, noting that the “practice of underreporting of business profits and professional income is one of the most serious defects of the Thai personal income tax.” They also found that “income tax evasion is prevalent among lawyers, physicians, accountants, architects, public

entertainers, and others.” (Lent and Hirao, 1970:27) Withholding at source now applies to income from liberal professions, public entertainer remuneration, advertising fees, and income from other businesses, e.g. income from hire of work, provision of services, and transport charges. The extension of this scope helps minimize tax evasion (by failing to report or underreporting income) and improve revenue collection.

From the above, it is clear that withholding at source helps reduce administrative costs to prevent and detect tax evasion. Withholding at source also provides less opportunity for tax-gatherers to abuse their power and take bribes because tax-gatherers are not directly responsible for tax collection.

Convenience, administrative and compliance costs

According to Adam Smith, having a great number of tax-gatherers produces high administrative costs. (James and Nobes, 2000:20) Under withholding at source, the payer of income acts as an unpaid tax collector for the government. This reduces the number of tax-gatherers and thus the wages and salaries paid to them. Consequently, this system lowers administrative costs in collecting revenue.

Frequent visits of tax-gatherers are also likely to produce high administrative costs. Under withholding at source, the payer of income is required to remit the tax withheld to the government. This method, therefore, reduces the number of tax-gatherers’ visits to individual taxpayers to assess and collect tax; in other words, tax-gatherers do not deal with the individual taxpayer directly under withholding at source. This convenience helps reduce administrative costs in collecting revenue. This also reduces compliance costs. According to Adam Smith, “frequent visitations from tax-gatherers” also increase compliance costs. (James and Nobes, 2000:21)

Additionally, compliance costs are reduced by withholding at source because “the tax payment coincides with the receipt of income.” (Trotman-Dickenson, 1983:82) To put it more simply, this convenience of tax payment enables certain groups of taxpayers to avoid completing tax returns at the end of the tax year.⁸ This convenience

⁸ Withholding at source enables certain groups of taxpayers (to be described below) to avoid completing and filing tax returns at the end of the tax year. In the meantime, Thai law still requires other groups of taxpayers to complete and file end-of-year tax returns despite withholding at source.

also prevents tax evasion. This is because if the payer of income did not withhold tax from income weekly or monthly, taxpayers would pay a large amount of tax at the end of the tax year. This might create a disincentive for taxpayers to pay tax. Furthermore, this convenience prevents bad debts to the government. This is because taxpayers might not have enough money to pay tax at the end of the tax year due to overspending of their income during the year.

3.3 Disadvantages of tax withholding

The advantages of withholding at source may be undermined by five disadvantages, namely (a) abundance of tax rules, (b) a number of withholding tax rates, (c) inequity of taxation, (d) tax loopholes and revenue loss, and (e) the burden on the payer of income.

Abundance of tax rules

At present, there are at least 11 pieces of legislation dealing with withholding at source: the Revenue Code, two Royal Decrees, four Ministerial Regulations, and four Departmental Regulations. There are more than 50 main rules (and many sub-clauses) on withholding at source in these laws.

Numerous tax rules are likely to create complexity, confusion, difficulty, and high costs in making the deduction of tax at source as well as in checking the correct amount of tax withheld. This does not comply with principles of simplicity and certainty.

Many tax rates

There are many withholding tax rates under Thai law. Thai withholding tax rates depend on the type of income, the recipient of income (Thai or non-Thai resident), and the payer of income (a person, a juristic person, a non-juristic body of persons, or governmental agencies).

The requirement for completing and filing end-of-year tax returns costs them time (and sometimes money). In addition, dealing with tax returns of low-income taxpayers by tax-gatherers increases administrative costs disproportionately to the tax revenue received from them.

Many tax rates are likely to make the system of withholding at source complex, not complying with principles of simplicity and certainty. Consequently, the system is difficult and confusing to comply with, imposing considerable costs on the payers of income. Additionally, the complexity of the system is likely to increase the costs of tax-gatherers in checking the correct amount of tax withheld.

Inequity of taxation

Withholding at source can cause inequity of taxation for two reasons. Firstly, some incomes are taxed at source, whereas others are not taxed at source. Secondly, there are differences between withholding tax rates.

Despite the extension of scope of withholding at source in Thailand, current deductions at source in Thailand cannot cover all types of payment. For example, under Thai law, withholding at source does not cover all payments for sale of goods, whereas certain payments for sale of goods are subject to withholding at source as follows:

- (a) payment for aquatic animals made by a person, a juristic person, a non-juristic body of persons, or governmental agency,
- (b) payment for sale of goods made by government agency, and
- (c) payment for sale of an immovable property made by a person, a juristic person, a non-juristic body of persons, or governmental agency.

Withholding tax rates under Thai law are very different depending on the type of income, the recipient and the payer of income. Comparing two persons with equal income, one whose income is taxed at source at rates of 5-37% (e.g. a salary earner) has disposable income during the tax year less than another whose income is subject to a 3% withholding tax (e.g. a contractor, a member of a liberal profession). Therefore, horizontal inequity emerges since individuals with equal income are taxed at source at different tax rates. In addition, difference in withholding tax rates may encourage individuals to re-arrange their financial affairs to benefit from lower withholding tax rates.

It has been found in Thailand that in 2000, tax withheld by the private sector on wages and salaries accounted for 52.8% of the total amount of tax withheld. (Source: The Revenue Department of Thailand) Meanwhile tax withheld by the private sector on (a)

interest income, (b) income from selling immovable properties, and (c) income from a hire of work and other income accounted for 30.9%, 5.5%, and 6.6% of the total amount of tax withheld respectively. (Source: The Revenue Department of Thailand) In addition, tax withheld by the public sector accounted for 4% of the total amount of tax withheld. (Source: The Revenue Department of Thailand) The reasons why tax withheld by the private sector on wages and salaries plays the greatest role in Thailand's withholding at source are that:

- (a) the majority of Thai taxpayers are waged or salaried, and
- (b) withholding tax rates on wages and salaries are much higher than those on other incomes.

Given this, Thai waged and salaried earners receive unfair treatment from the system of withholding at source. Improvement for fairer treatment and for the prevention of tax avoidance should be made.

Tax loopholes and revenue loss

Thai law still requires all individuals to complete and file tax returns at the end of the tax year despite withholding at source. In addition, under Thai law, an individual may elect to pay tax on certain types of income through withholding at source and not include such income as assessable income in the tax return for the computation of final tax at the end of the tax year (or in an end-of-year tax return).

At the taxpayer's election, interest income need not be included in an end-of-year tax return, provided that such income is already taxed at source at the rate of 15%. (Section 48 (3), The Revenue Code of Thailand) This is a tax loophole in Thai law for reducing tax liability. This is because if the taxpayer elects to include interest income in an end-of-year tax return for computing his/her final tax, this income and other assessable incomes (if any) in the tax return will be charged with tax at the rates in the tax-rate schedule (5-37%).⁹

⁹ In computing the tax liability at the end of the tax year, the tax withheld on interest income can be offset against the final tax liability of the taxpayer.

In addition, the taxpayer may elect not to include the following income in an end-of-year tax return, provided that such income is already taxed at source:

- (a) a Thai resident's dividend, share of profits or gains derived from a juristic company or partnership (Section 48 (3), The Revenue Code of Thailand),
- (b) the difference between the redemption value and the selling price of bills or debt instruments (Section 48 (3), The Revenue Code of Thailand),
- (c) gains obtained from transfer of bonds, debentures, bills or debt instruments (Section 48 (3), The Revenue Code of Thailand),
- (d) income obtained from sale of immovable property acquired by bequest, gift, or acquired not with a view to trading or profits (Section 48 (4), The Revenue Code of Thailand),
- (e) income derived from the employer in a single payment by reason of termination of employment (Section 48 (5), The Revenue Code of Thailand),
- (f) a non-Thai actor's income derived from his/her acting in a movie or on television made in Thailand (Section 3, Royal Decree No.409 (B.E. 2545)),
- (g) a non-Thai resident's income derived from his/her employment in 'Regional Operating Headquarters' (Sections 4 and 5, Royal Decree No.405 (B.E. 2545)).

The taxpayer's election to have certain incomes taxed at source without including them in an end-of-year tax return generates tax loopholes, inequity in taxation, and revenue loss.

Payers' burden in tax collection

Ault (1999:44) is correct when he says, "simplicity is not without cost." As discussed earlier, withholding at source brings simplicity, convenience and cheap costs to tax-gatherers and taxpayers. However, this system imposes **burdens** on the payers of income. Firstly, this system imposes **additional costs** on the payers of income. I agree with Dalton when he writes that the costs of withholding at source fall on employers rather than on the Inland Revenue. (Dalton, 1966: 113) This is because collection of tax is mainly undertaken by the payers of income. Secondly, **penalties** will be imposed on the payers of income for non-compliance with relevant rules. It may be argued that penalties

imposed on the payers are incentives to ensure that the payers of income will comply with the rules of withholding at source promptly and accurately. However, high costs and extremely severe penalties may lead to the payers' resentment and resistance to comply with the requirements of withholding at source. Sandford (1980:155-156) says that this resentment may lead to "an anti-tax mentality and an antipathy to the tax system." Consequently, a small business owner may not only fail to comply with the requirements that withholding imposes on him/her but also avoid or evade paying income tax as a personal income taxpayer. (Sandford,1980:156)

As indicated earlier, numerous tax rules and rates are possible factors in increasing the compliance costs of the payers of income. Costs to the payers of income may also be increased since the payers of income have to employ staff to deal with withholding at source to ensure that the correct amount of tax is withheld.

Another burden on the payers of income is penalties. Under Thai law, the payers will be penalised if they (a) fail to make deduction and remittance or (b) make inadequate deduction and remittance. (Section 54, The Revenue Code of Thailand) In such cases, the payer's penalty is a joint liability with the taxpayer to settle the tax omitted from deduction and remittance or the deficiency, as the case may be. (Section 54, The Revenue Code of Thailand) Where the payer of income has withheld tax at source, the tax liability of the recipient of the taxable income will be discharged to the extent of the amount of tax withheld, and the liability to pay such amount shall rest solely with the payer. (Section 54, The Revenue Code of Thailand)

In order to avoid severe penalties, the payers of income have to use sufficient staff and resources to look after deduction, remittance and the preparation of withholding tax returns.

4. Proposed improvement in tax withholding

In Section 2, this paper established that simple, certain and convenient methods of tax collection are the characteristics of efficient tax collection because these characteristics can promote economic efficiency of taxation. In Section 3, this paper further found that

the system of withholding at source could not completely satisfy the criteria of simplicity, certainty and convenience.

In this Section, suggestions will be made as to how to improve withholding at source so that this method will contribute to **greater efficiency of tax collection**, i.e. (a) benefits to tax-gatherers and taxpayers, and (b) reduction in burdens on the payers of income.

4.1 Improvements in the interests of tax-gatherers and taxpayers

Withholding at source will benefit to tax-gatherers and taxpayers more if (a) more items of income are taxed at source, (b) withholding tax rates are the same for all types of income, and (c) withholding tax rates are equal to those in the tax-rate schedule.

(a) Extension of scope of withholding at source

Although many types of income are subject to withholding at source in Thailand, current deductions at source in Thailand cannot cover all types of payment. It is therefore recommended that withholding at source in Thailand should cover as many types of payment as possible. For example, all payments for sale of goods, particularly payments made by juristic persons, should be subject to withholding at source.

The extension of the scope of withholding at source will minimize tax evasion (by failing to report or underreporting income), provide less opportunity for tax avoidance and for abuse of tax authorities' power, bring about equity of taxation, reduce administrative costs in collecting tax and preventing and detecting tax avoidance and evasion, and improve revenue collection.

(b) No difference in withholding tax rates

There are many different withholding tax rates under Thai law. This makes withholding at source complex, which does not comply with the principles of simplicity and certainty. The complex system increases administrative costs in checking the correct amount of tax withheld. Additionally, there is horizontal inequity because individuals with equal income are taxed at source at different tax rates. This difference in withholding tax rates may provide an opportunity for taxpayers to re-arrange their financial affairs to benefit from lower withholding tax rates.

Therefore, if withholding at source covers payments extremely extensively with the same tax rates, it will lower administrative costs, make the tax system fairer, discourage resource reallocation to benefit from the exemption of withholding tax and from lower withholding tax rates, and improve revenue collection.¹⁰ In addition, if there are no different withholding tax rates, this will close tax loopholes, reduce horizontal inequity of taxation, and minimize revenue loss resulting from the Thai taxpayer's election not to include income taxed at source in an end-of-year return.

(c) Withholding tax rates equal to those in the tax-rate schedule

In order to remove difference in withholding tax rates, withholding tax rates for all types of payment should be equivalent to rates in the tax-rate schedules. I also propose a system of two tax-rate schedules, i.e. one for low incomes and another for high incomes.¹¹ The proposed schedule for low-income groups contains two rates (0% and 8%), whilst the proposed schedule for high-income groups also contains two rates (8% and 35%). On this basis, all payments for low-income groups should be taxed at source at the rate of 8%. Meanwhile, all payments for high-income groups should also be taxed at source at the rate of 8%. This proposed way of withholding at source is likely to help resolve the problem of difference in withholding tax rates.

However, to make the amount of tax withheld be equivalent to final tax liability, 'withholding' at source from wages and salaries should be done on a cumulative basis and taxed at two rates (0% and 8%) in the proposed schedule for low-income groups or at two rates (8% and 35%) in the proposed schedule for high-income groups. On this basis, people whose employment income is taxed at source should not be required to complete and file end-of-year tax returns. The lack of any requirement for completing and filing tax returns will not only be convenient but also reduce compliance costs for taxpayers. It will also reduce administrative costs for checking tax returns.

¹⁰ Withholding at source plays an important role in tax collection in Thailand. In 2000, 90% of personal income tax revenue was derived from withholding at source. (Source: The Revenue Department of Thailand)

¹¹ My research paper on the proposed two tax-rate schedule system is published in Dhurakij Pundit Law Journal, Issue No 1: January – June 2006, pp. 119-141.

However, wage and salary earners who have income from other sources, the self-employed, those with complex financial affairs, those with fluctuating income and those with multiple sources of income should still be required to complete and file end-of-year tax returns. This is because income of these groups may sometimes be taxed at source at the proposed rate of 8% and not taxed on a cumulative basis.

4.2 Improvements for reduction in burdens on the payers of income

As we saw, withholding at source imposes (a) additional costs on the payers of income and (b) penalties for non-compliance with the rules concerned. The following measures are proposed to lessen the two burdens on the payers of income:

- (d) withholding tax rates should be the same for all types of income,
- (e) there should be measures to reduce the degree of complexity in withholding at source, and
- (f) there should still be penalties, but they should not be extremely severe.

(a) No difference in withholding tax rates

Many different rates of withholding at source are difficult and confusing to comply with, imposing considerable costs on the payers of income. No difference in withholding tax rates is likely to reduce the payers' costs in making deduction of tax at source. Low compliance costs will further reduce the payers' resentment and resistance to complying with the rules concerned.

(b) Measures to reduce the complexity in withholding at source

Reducing the complexity in withholding at source would reduce compliance costs for the payers of income, and prevent the payers' failing to meet their obligations. Presently, there are at least two measures to help achieve these goals, i.e.

- the provision of 'tax codes' and 'tax tables', and
- the filing of withholding tax return via the Internet and computer software.

In the UK, the Inland Revenue provides employers with a 'tax code' for each employee. A 'tax code' represents the amounts of allowances and reliefs that the employee is entitled to. (Author not identified, 1995: 5106) Employers have to use 'tax codes' along with a set of 'tax tables' provided by the Inland Revenue in calculating the

amount of tax to be withheld. (Author not identified, 1995: 5106) Regarding ‘tax tables’, Simon’s Direct Tax Service (1995: 5106) notes,

“The tables operate on a cumulative basis. For each week or month they show, by reference to each code, the cumulative amount of tax due from the beginning of the tax year in respect of the cumulative emoluments from the beginning of the tax year. Thus the tax to be deducted in a particular week or month is the difference between the amount shown in the tables for that week or month and the cumulative amount of tax deducted in previous weeks or months.”

The use of ‘tax codes’ and ‘tax tables’ helps employers to deduct the correct amount of tax from employees’ earnings at source. (Author not identified, 1995: 5106) By contrast, there is no provision of ‘tax codes’ and ‘tax tables’ by the Thai tax authorities. The Revenue Department of Thailand should adopt the system of ‘tax codes’ and ‘tax tables’ into the Thai withholding system. The adoption is likely to help reduce compliance costs and prevent employers making incorrect deductions.

Another measure to help reduce compliance costs for the payers of income is the filing of withholding tax return via the Internet and computer software. In Thailand, the payers of income are allowed to file withholding tax returns together with attachments (or the details of tax deducted at source) on computer diskette or CD-ROM.

As indicated earlier, Thai rules on withholding at source can be found in many tax statutes and delegated legislation, which create complexity in withholding at source. Therefore, in addition to the two measures above, this paper proposes that the rules on withholding at source should be put into one tax statute to reduce the complexity in withholding at source. A single tax Act is likely to ease the tax-gatherers’ administration and to make it convenient for the payers of income to comply with the rules. Any changes (e.g. the amendment of withholding tax rates) should fit into this proposed Act. However, administrative bodies should be empowered by this Act to make delegated legislation, such as technical rules regarding conditions or directions for tax administration, and tax penalties.

Furthermore, this paper proposes that the law should not require an individual to deduct the tax if it is inconvenient for the payment to be taxed at source (e.g. payments

for sale of goods).¹² Moreover, the law should allow the private sector (such as a company or any juristic person who is subject to corporation tax) to be entitled to subtract costs incurred in withholding at source from its profit for the purposes of corporation tax. Such costs may be fixed as a percentage of the amount of tax withheld by the private sector in a tax year (e.g.1%). This is likely to obtain better voluntary compliance of the payers of income. Finally, if governmental agencies are the payers of income, they should be required to withhold tax from all types of payment.

(c) Existence of penalties

It may be argued that the penalties imposed on the payers of income are incentives to ensure that the payers of income will comply with the withholding-at-source rules promptly and accurately. However, extremely severe penalties may lead to the payers' resentment and resistance to comply with their obligations. This paper proposes that penalties should exist, but not be extremely severe. This will improve the payers' compliance.

5. Conclusion

In addition to the self-assessment system, tax withholding is another chief method of PIT collection in Thailand. If the system of tax withholding did not exist in Thailand, the cost of PIT collection by the Thai government would certainly be higher.

Tax withholding can help generate the low cost of tax collection due to the fact that the private sector acts as an unpaid tax collector for the public sector. Under the system of tax withholding, the payers of income (e.g. employers) must deduct tax from income paid, and remit the amount of tax deducted to the government. However, in doing so, the payers of income may incur costs, e.g. costs for complying with legal requirements and employing staff.

The low cost of tax collection is not the only factor indicating whether tax collection is efficient. In other words, efficient tax collection should also generate the

¹² But individual employers are required to withhold income tax from employees' earnings at source.

cheap cost of tax compliance and voluntary tax compliance. This paper therefore proposes that in order to be an **efficient method of tax collection**, tax withholding should cover the types of payment extensively with few tax rates. Additionally, reducing the complexity of tax withholding would reduce compliance costs for the payers of income and entail their voluntary tax compliance.

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