

BDO ADVISORY LIMITED

Latest Property and Land Taxation Developments in Thailand

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PRESENTATION OUTLINE

- New property tax proposals
- Current regime for transfer taxes and fees
- Income recognition by property developers - 2011 changes
- Tax planning for WHT on rentals paid to foreigners

HOUSE AND LAND TAX

- current property tax regime

- 12.5% tax on buildings used for commercial purposes.
- Tax is assessed on the yearly value of the rental receipts for the hire of the building.
- The building owner is generally liable to the tax.
- If land is not subject to the house and land tax it may be subject to local development tax.

NEW PROPERTY TAX

- proposed tax regime features

- New tax will be collected on asset value rather than rental value.
- Fewer exemptions and concessions.
- Plan to tax home owners for the first time.
- The taxable value of new buildings or condominium units would be progressively reduced every year by a rate of 1% for the first ten years and after that the deduction would be limited to 10%.

NEW PROPERTY TAX

- proposed tax regime features

Type of property	Rate not exceeding
Land and buildings generally	0.50%
Principal place of residence not used for commercial purposes	0.10%
Land used for agricultural purposes	0.05%

At the maximum rate of 0.5 per cent, the owner of a commercial property worth Baht 10 million would pay Baht 50,000 a year in tax

Unutilised land will be subject to higher rates of tax (max. 2%)

NEW PROPERTY TAX

- implications for real estate owners

- Propose to phase in tax for home owners e.g. only 50% payable first year, 75% payable second year
- Propose to phase in increased tax burden for existing house and land tax payers e.g. only 50% of additional tax payable first year, 75% payable second year
- Challenge the asset value for the tax base
- Time to consider usage of vacant land
- Less emphasis on rental contract splitting to minimise tax

TRANSFER TAXES AND FEES

- a snapshot of current taxes and rates

Tax	VAT	SBT	SD	WHT	Regn Fee
Sale of Land and/or Building by a corporate	-	3.3%	0.5% ¹	1%	2%

¹Not payable if transfer subject to SBT

Unless otherwise agreed between the parties, SBT and WHT is the liability of the seller and registration fee is shared equally

SPECIFIC BUSINESS TAX 3.3%

- implications for sale of real estate

- Must fall within scope of the Royal Decree and only applies to transactions requiring registration at the land department
- A number of exceptions apply in the Royal Decree e.g. for home owners
- Exemptions apply in certain circumstances e.g. business transfers, transfers by property funds, debt restructuring
- Tax base is gross receipts before deduction of expenses
- Collected at land department at time of registration

SPECIFIC BUSINESS TAX 3.3%

- tax planning strategies

For the foreign owner

- Using a corporate vehicle to acquire the property that can be on-sold to the next buyer (normally in resort areas where next buyer is a foreigner)
- If purchased in own name e.g. condo in foreign quota, consider obtaining house registration - yellow book

For the developer

- Split out movable property and other revenues sold not subject to SBT
- Consider construction contract instead

SPECIFIC BUSINESS TAX 3.3%

- tax planning strategies

Construction contracts

- Subject to 7% VAT instead of 3.3% SBT (other registration fees and taxes also do not apply)
- Input VAT can be credited against VAT charged on construction price
- VAT requires greater administration and increases risk of penalties, surcharges and fines for non-compliance
- Consider legal issues of construction contract compared to sale and purchase contract e.g. name in construction permit

INCOME TAX

- a tax planning strategy

- Selling houses in a commercial manner as an individual rather than using a corporate vehicle has tremendous income tax advantages
- Section 49 bis of the Revenue Code provides that the sales price of immovable property for personal income tax purposes shall be determined based on its official appraised price, regardless of the market price
- Official appraised price of houses, especially in resort areas, are typically much lower than the actual costs of construction and sales price
- For claiming expenses, necessary and reasonable expenses may be deducted - corporate tax rules apply

NEW 2011 ACCOUNTING STANDARDS

- income recognition for sale of real estate

TAS 26 - at present

- 1 The Full Accrual Method
- 2 The Percentage of Completion Method
- 3 The Installment Method

TAS 18 - the future

The Full Accrual Method
NO OTHER OPTIONS

Full accrual method - the seller has transferred all significant risks and benefits of ownership in the real estate to the buyer

NEW 2011 ACCOUNTING STANDARDS

- income recognition for property developers

Method of Revenue Recognition	Accounting At present (TAS 26)	Accounting 2011 (TAS 18)	Tax at present (Taw.Paw.155/2549)
The Full Accrual Method	X	X	X (the registration of the transfer in the same accounting period as the sale)
The Percentage of Completion Method	X	-	X
The Installment Method	X	-	X

TAX PLANNING

- a view from Phuket

The Phuket Governor was reported last year as saying that foreign business operators in Phuket will be reviewed to establish if their businesses are abiding by the law and paying tax.

Real estate firms were specifically mentioned as coming under scrutiny. The prices quoted for apartments for sale on the internet would be used as a basis for reviewing taxes paid by sellers.

The Revenue Department would also look into the real estate sector's earnings from the leasing of apartments to foreigners to see if they were avoiding tax, the Governor was reported as saying.

TAXATION OF FOREIGN PROPERTY OWNERS

- rental income

Income	Tax basis
Foreign corporates Rental income paid from or within Thailand to a foreign company <u>not</u> carrying on business in Thailand	15% on gross income
Rental income received by a foreign company carrying on business in Thailand	Max 30% on net profits
Foreign individuals Rental income received from a property situated in Thailand regardless of whether such income is paid within or outside Thailand Withholding tax of 15% on gross income should be deducted by the payer	Net income

TAXATION OF FOREIGN PROPERTY OWNERS

- personal income tax planning strategy

Taxable net income	Thai Baht
Gross rental income	1,000,000.00
Less: rental expenses (30% standard deduction)	(300,000.00)
Less: taxpayer allowance	<u>(30,000.00)</u>
Total deductions and allowances	<u>(330,000.00)</u>
Net income	<u><u>670,000.00</u></u>
Tax calculation	
Tax payable on net income	69,000.00
Less: withholding tax credits (15% of gross rental income)	<u>(150,000.00)</u>
Tax payable (refundable)	<u><u>(81,000.00)</u></u>

PRESENTER PROFILE

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Paul has over 20 years experience providing tax advisory services, including more than 12 years in Thailand. Paul is a regular contributor to Property Report Thailand on Thai tax issues for international property investors and is often invited to speak at international property conferences on Thai tax planning for real estate investment.

Paul has been included in Thailand's Real Estate Power 99, published by Ensign Media, profiling the individuals they consider to be the major players in Thai real estate today.

BDO PROFILE

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