



BDO ADVISORY LIMITED

Key Taxation Updates for Investors and Project Owners

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PRESENTATION OUTLINE

- “First home” tax incentives
- New “old” 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



FIRST HOME TAX MEASURES

- proposed tax regime features

- A tax credit against personal income tax payable for individuals purchasing their first home: **building with land or condominium only**
- The tax credit shall equal 10% of the purchase price actually paid but not exceeding Baht 500,000: **Baht 5 million home price ceiling**
- Tax credit shall be taken equally over five consecutive years (from the transfer registration date)

For example: The tax credit for the purchase of a Baht 2m condo unit is Baht 200,000. The tax credit is Baht 40,000 per annum for 5 years.

FIRST HOME TAX MEASURES

- proposed tax regime features

PIT calculation example: monthly income Baht 21,500

Income per annum	258,000
<u>Less:</u> standard deduction	60,000
personal tax allowance	30,000
child not studying	7,500
social security contributions	9,000
Net income	151,500

First Baht 150,000 is already exempt.

Tax payable is 10% of Baht 1,500 = Baht 150.



FIRST HOME TAX MEASURES

- proposed tax regime features

Criteria

1. It must be a brand new building with land or a condominium unit which has never been registered partly or wholly before.
2. The property price must not exceed Baht 5 million.
3. The transfer of ownership must be registered from 21 Sep 2011 - 31 Dec 2012.
4. The taxpayer is required to be the owner for not less than five consecutive years from the transfer date.
5. A married couple is eligible for tax concession for only one property.
6. The taxpayer shall submit a letter certifying that he/she has never been a property owner.



FIRST HOME TAX MEASURES

- proposed tax regime features

Taxpayer qualifications

1. Taxpayer must not have owned any immovable property before.
2. Taxpayer must not be a chief of house in the house register book except evidence can be proved that the tax payer (including spouse) is not the owner of such property.
3. Taxpayer has never claimed a tax deduction for interest incurred on a housing loan.
4. Taxpayer did not exercise the right of tax exemption on income paid for the value of property under MR. No.271 (2009).
5. Taxpayer did not exercise the right of tax exemption on income for sale of previous property and purchase new property under MR No.241 (2003).



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

INCOME TAX

- a tax planning strategy

Example: A house is built and sold for B10m. The official appraised price is B8m. Actual construction costs are Baht 9m.

	Company	Person
Taxable revenue	10	8
Costs	9	9
Profit	1	-
Tax on profit	0.3	-



NEW 2011 ACCOUNTING STANDARDS

- income recognition for sale of real estate

NPAEs - TFRS for NPAEs

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

PAEs - TFRS (TAS 18)

- 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	TFRS for NPAEs	TFRS (TAS 18)	Tax Practice (Taw.Paw.155/2549)
The Full Accrual Method	✓	✓	✓ (the registration of the transfer in the same accounting period as the sale)
The Percentage of Completion Method	✓	X	✓
The Installment Method	✓	X	✓

NEW 2011 ACCOUNTING STANDARDS

- income recognition for property developers

Example: A condominium is built for sale over 2 years, starting 1 July 2011. The profit is Baht 10m. The company has a financial year ending 31 December.

	% completed	PAE	NPAE
2011	15%	-	1.50
2012	65%	-	5.00
2013	100%	10.00	3.50
Total		10.00	10.00



TAX PLANNING

- a view from Phuket

The Phuket Governor was reported in 2009 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
<p>Foreign corporates Rental income paid from or within Thailand to a foreign company <u>not</u> carrying on business in Thailand</p>	15% on gross income
Rental income received by a foreign company carrying on business in Thailand	Max 30% on net profits
<p>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</p>	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

BDO THAILAND

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Paul has 25 years experience providing tax advisory services, including more than 13 years in Thailand. Paul is a regular contributor to *Property Report South East Asia* 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

THAILAND

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