

Taxes: What Buying a House in Thailand Will Really Cost

by Nilobon Tangprasit
Natthawut Ayuwan and
James Finch of
Chavalit Finch & Partners, Ltd.

The only difference between a tax man and a taxidermist is that the taxidermist leaves the skin.
--Mark Twain

Here you are flipping through this magazine and looking for something light, like a celebrity addiction or the report of a disaster you didn't have to live through. Anything to get away from one's own troubles, of course. So what are the chances you're going to read a whole article on how we lawyers calculate taxes on real estate?

The answer to the question lies precisely in the nature of your troubles, mentioned above. Since what you've picked up is a publication that extols the life of home ownership in Thailand, we're guessing that you may be facing the realities that go along with this life. And taxes fall in this category. Maybe we can help, and this isn't rocket science.

What almost everybody asks us is what are the taxes on the purchase of a house and the lease of the land on which it sits. Since we aren't writing a textbook here,

the best way to show you how to calculate the taxes on the acquisition of your own house by giving you a couple of examples.

Example One

So here's the main one. . We're going to call it Example One. Let's say the overall price for the house is 5 million baht. And the size of the lot is 100 square wah (400 square meters). The house is two stories with a total floor space of 200 square meters. The seller built it two years ago.

The first thing we always do is break the transaction into two: land and house. Since in practice foreigners can't buy land in Thailand, we will have a lease for the land. Generally what you can expect for this is a thirty-year lease, renewable twice. What we register at the land office is just the first thirty-year leg. If you're in a development outside of town, a realistic price for the lease on a piece of land of 400 square meters might be a thousand baht a month or 360,000 for the entire thirty-year period of the lease. The fee on this lease at the land office will be one percent, or 3,600 baht. There is an additional stamp duty of one baht per thousand, or 360 baht, for a total of 3,960 baht, and that's the amount we will pay as fees on the lease at the land office.

Simple, huh? But here's a little twist. The rent will be imputed as income to your landlord, and there will be taxes on this. If your landlord in this deal is the seller, he or she may absorb these, but this is a matter of negotiation.

Example Two

These taxes in Example One will be negligible, so



to give you an idea of the impact these taxes can have on a real estate deal here's Example Two, just limited to the calculation of taxes on a lease: everything is the same as in Example One, except the rent is 20,000 baht a month and the landlord is a bachelor (taxes will be slightly different in the case of a married landlord). We've assumed here that the landlord will be an individual and not a company, because most of these deals are with individuals. If it's with a company the tax rates will depend on the company's registered capital.

Here's what the taxes will be. First, there is income tax. Of course, since Thailand taxes income at graduated rates, the actual tax depends on the level of income of the landlord. Here are the tax rates:

Net Income Range (Baht)	Net Income in each Stage (Baht)	Tax Rate (%)
1-100,000	100,000	5
100,001-500,000	400,000	10
500,001-1,000,000	500,000	20
1,000,001-4,000,000	300,000	30
4,000,001 onwards	Everything additional is taxed at this rate	37

A landlord will have to pay tax twice a year. Here is how this will be calculated:

Half Year Tax	Baht	Baht
(1) Half Year rent	20,000x 6 (months)	120,000
(2) Deduct expense of 30% (This rate is allowable by the law)	120,00x30%	[36,000]
(3) Income after expenses	120,000-36,000	84,000
(4) Deduct personal Allowance		[15,000]
(5) Net Income (3)-(4)	84,000-15,000	69,000
(6) Tax Rate 5% (Half Year Tax)	69,000x5%	3,450
Year End Tax		
Calculate the whole year rent tax and deduct the half year tax in (6).		
(7) Whole Year Rent Income	20,000x12	240,000
(8) Deduct expense 30%	240,00x30%	[72,000]
(9) Income after expense	240,000-72,000	168,000
(10) Deduct personal Allowance		[30,000]
(11) Net Income (9)-(10)	168,000-30,000	138,000
(12) Tax Calculation will be as follows:	100,000x5%=5,000 38,000x10%=3,800 8,800	8,800
(13) Deduct Half Year tax in (6)	8,800-3,450=5,350	5,350

Thus in Example Two, in which the rent is 20,000 baht a month, the yearly personal tax to the landlord will be 8,800 baht.



Added to the income tax on the lease is property tax on the rent, 12.5%. The tax authorities, incidentally, expect this to be paid by the landlord, unless otherwise agreed by the parties.

So, for Example Two, the income tax to the landlord is 8,800 baht a year. Added to this are the property tax of 12.5%, of the yearly rent (240,000 x .125) or 30,000 baht. Unlike the fees paid to the land office, discussed above, these taxes are paid yearly (and the amount would in this case be 8,800 + 30,000= 38,800), so the taxes over the life of the lease would be 38,800 x 30 or 1,164,000 baht.

Okay, now that you have an idea of how the taxes are calculated on a lease, we're going to return to Example One.

Back to Example One

Remember estimated cost in all taxes for the thirty year life of the lease will be 3,960 baht in fees and duties at the land office and, because the rent is so low, a negligible amount in income and property tax to your landlord. Tax rates or your landlord's income may, however, change. Also, when you or your heirs go to renew the lease in thirty years, all of these factors may have changed, as well.

Since foreigners can own houses, just not the land, we will have a separate contract for the land. The purchase price in this contract will be 4,640,000 baht, because the total price is 5 million and the lease amount has been subtracted from this (5,000,000-360,000=4,640,000). We will assume the assessed price of the house is 1,090,000, or 5,450 per square meter x 200 square meters.

The fee at the land office will be based on the assessed price and it is two percent of this (1,090,000x .02), 21,800 baht.

The specific business tax applicable to this transaction will be 3.3 percent of the assessed price or the transaction price, whichever is higher, so, in this case it would be 4,640,000 x .033, or 149, 820 baht.

In addition, there is a withholding tax to the seller at source. The land authority will collect this tax on the house transfer registration together with the fee and specific tax described above. This is calculated as follows: First, take the assessed price or the transactional price, whichever is higher and

(1) Deducting the accepted selling expenses, based on how long the house has been owned by the seller (up to 10 years): 92% in case of up to 1 year acquisition; 84% in case of up to 2 year acquisition; 77% in case of up to 3 year acquisition; 71% in case of up to 4 year acquisition; 65% in case of up to 5 year acquisition; 60% in case of up to 6 year acquisition; 55% in case of up to 7 year acquisition; 50% in case of up to 8 year acquisition onward. (if the seller has owned the house more than ten years, no such expenses are allowed and the tax rate is just that in (4) below
(2) Dividing by the number of years owned (up to 10)
(3) Calculating income tax based on the progressive rates above:
(4) Multiplying by the number of years owned.

Let's calculate the withholding tax based on our example. First, the base price we're going to use is 2,500,000 baht, because this is somewhat negotiable and ends up being something between the assessed price and the transaction price. Also, remember the seller has owned the house in Example One for two years, so the deduction is 84%. Using the numbers of the steps above it will be:

- (1) 2,500,000 minus (.84 x 2,500,000) equals 400,000
- (2) 400,000 divided by 2 (years owned) equals 200,000
- (3) Applying progressive income tax rates above to 200,000 (5% of first 100,000 plus 10% of remaining 100,000) is 15,000 baht
- (4) Multiplying by number of years owned (15,000 x 2) equals 30,000

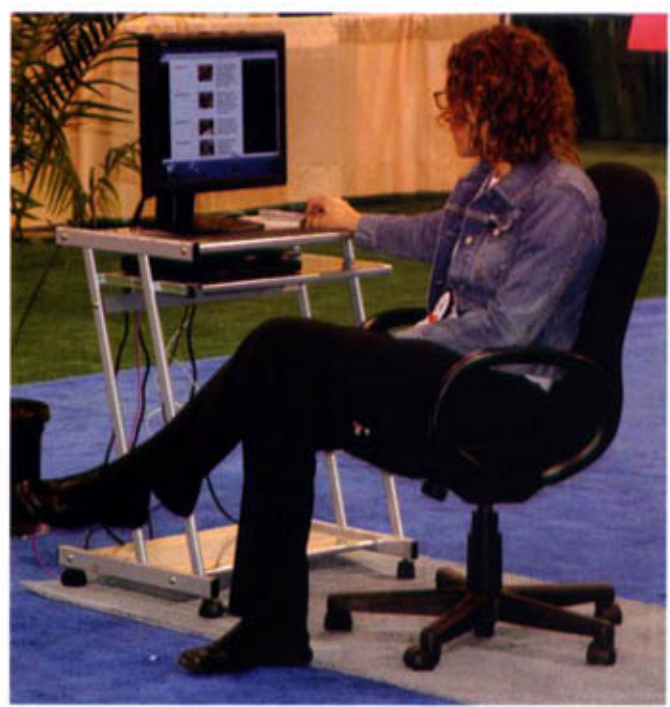
Thus, you're supposed to withhold 30,000 baht from the purchase price of the house and pay it as taxes to the government.

Again, we've assumed the seller is an individual and

not a company. If it's a company the withholding tax will be one percent of the above base price.

By the way, you'll notice above that some of what is paid is called a fee, some a tax. As all of it is money paid to the government, we have generically referred to it as taxes.

So what's the importance of knowing all of the above? First, it'll help you with your budget. But also you should know the kinds of numbers that are being discussed when you discuss prices with the seller. The contracts you sign to buy the house and lease the land should say exactly who is responsible for these taxes. Next time we'll discuss other common transactions, like sales to a company or a two-step transaction for the land, from the owner to another Thai and then leased to you.



Chavalit Finch & Partners, Ltd. are lawyers specializing in real estate and business transactions. They can be contacted by email at finch@chavalitfinchlaw.com, on the web at www.chavalitfinchlaw.com or by telephone at 032 522237, 032 522273

Their offices are located at 19/51 Hua Hin Soi 19, (Wat Klaiangwon), Petch Kasem Road, Hua Hin, Prachuab Kirikhan 77110, Thailand.