



Expat Counsel



PROPERTY TRANSFER TAXES 2: Managing the split

This week we return to our discussion of property taxes and how they have been reduced for the period from March 29, 2008, to March 28, 2009.

In the example I gave last week, and the one below, I try to simplify things in order to give a very general idea of the taxes and how they have been changed.

Assessed property prices are set by the government, so they are standard. When we say "transaction price", however, this is meant to mean the higher of a) the assessed price, or b) the actual price paid. In fact, this is negotiable and nearly always will fall between the two — higher than the assessed price but lower than the price paid. For the purposes of this article, we will arbitrarily take the transaction price.

Now let's apply the new rates to an example typical of the type of deals we see in today's market. It is slightly more complicated than the one we discussed last week.

In Thailand, if a foreigner buys land with a house on it, the transaction is often

divided into two. This is because foreigners can't normally own land, but they can own houses.

Let's assume land and the house on it were purchased two years ago for five million baht. Also, let's say the rent on the land is 3,000 baht a month and the lease is for 30 years.

ADDING IT ALL UP

The following taxes apply to the lease: The transaction price = 3,000 x 12 months x 30 years, or 1,080,000 baht. The registration fee, at 1% of the transaction price, is 10,800 baht. The stamp duty, at one baht on each 1,000 baht, is 1,080 baht. This gives a subtotal of 11,880 baht.

The taxes on leases have not been reduced so this figure will be the same for the following periods.

If a foreigner buys the house and leases the land under it from the Thai owner, the taxes payable by the owner on the income will be minimal. The owner will only have to pay a small annual municipality tax

based on the land's assessed value and area pursuant to the Municipality Tax Act. Should he/she lease both land and house to the foreigner, the owner will have to pay a land and house tax of 12.5% of the annual rent to the Municipality Office under the Land and House Act. Since this has not changed in connection with the new rules, we will not cover it in any depth here, but you should be aware of it.

Now let's calculate the taxes on the house transfer.

Assume the transaction price is 3,920,000 baht (5,000,000 baht minus the 1,080,000 baht to lease the land) and the assessed price is 3,000,000 baht.

For the period March 29, 2008, to March 28, 2009, the taxes will be as follows: The registration fee, at the rate of 0.01% of the assessed price, will be 300 baht. The specific business tax, at the rate of 0.11% of the transaction price, will be 4,312 baht. This gives a subtotal 4,612 baht.

Here's where the dramatic difference is: For the period before March 29, 2008, and

after March 28, 2009, the taxes on the transfer of the same house would be: The registration fee, at the rate of 2% of the assessed price, would be 60,000 baht. The specific business tax, at the rate of 3.3% of the transaction price, would be 129,360 baht. This gives a subtotal of 189,360 baht.

Thus the total tax on the lease of the land and sale of the house if bought between March 29, 2008, and March 28, 2009, would be 11,880 baht plus 4,612 baht, a total of 16,492 baht. If bought before March 29, 2008, or after March 28, 2009, the total tax would be 11,880 baht plus 189,360 baht, for a total of 201,240 baht.

So you can see, taxes are a bargain at the moment. ■

James Finch of Chavalit Finch and Partners (finch@chavalitfinchlaw.com) and Nilobon Tangprasit of Siam City Law Offices Limited (nilobon@siamcitylaw.com).

For more information visit www.chavalitfinchlaw.com.

Comments? Questions? Contact us at the email addresses above.