



How to Get Property Tax Exemption for Foreign Owners



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As Thailand introduces new property tax called land and structure tax, a tax exemption for residential property is severely limited to *one* piece of property. This new land and structure tax will replace house and land tax and local development tax in 2020. Under the existing house and land tax, *all* personally used residential property is exempt from house and land tax without any condition. However, the new land and structure tax regime offers the exemption on the more limited basis.

Scenario 1. Baht 50 Million for Land and House

Under the new land and structure tax regime, one individual person is entitled to the tax exemption for only one piece of residential property for the value up to Baht 50 Million. This property owner must reside and has his/her name in a household registration on January 1 of the applicable tax year.

Scenario 2. Baht 10 Million for House/Structure on Another Person's Land Plot

Any individual who owns only a house or a structure built on another person's land plot (i.e. leasehold land plot) will be exempted for one piece of residential property for the house/structure value only up to Baht 10 Million. Likewise, the property owner must reside and has his/her name in a household registration on January 1 of the applicable tax year.

registration book. If an owner is a permanent resident of Thailand, that book will be a blue book just like Thai citizens. However, if an owner is not a permanent resident of Thailand, that book will be a yellow book. As we are getting closer and closer to the end of 2019, we would expect that many foreign property owners will attempt to put their names in the household registration of the property that each of them owns.

But a thorny issue here is, a foreign property owner who is a nonpermanent resident of Thailand generally does not have to put one's name in the Thai household registration at all.

Putting a Nonpermanent Resident in a Thai Household Registration

The People Registration Act, B.E. 2534 (1991) (the "Act") does not clearly address an issue of adding a nonpermanent resident into a Thai household registration. The Ministerial Regulation Re Stipulating a Person with Thai Citizenship to Comply with the People Registration and Stipulating Rates of Official Fees, B.E. 2551 (2008) issued by virtue of the Act (the "Ministerial Regulation") lays down how a person without Thai citizenship has to comply to add one's name into a household registration. Generally, Clause 6 allows a nonpermanent resident who is lawfully and temporarily allowed to stay in the Kingdom under immigration law (aka a holder nonimmigrant visa) an option of putting his/her name into a household registration in the same manner as those illegal immigrants or those whose receive a waiver to stay for a special case.

Clause 106 of the Rules of Office of Central Registration Re Making of People Registration, B.E. 2535 (1992) (the "Rules") provides that a nonpermanent resident who is lawfully and temporarily allowed to stay in the Kingdom under immigration law wishing to add one's name in a household registration must file a motion to a district registrar or a local registrar where one has a domicile and the registrar must investigate a necessity for putting one's name in the household registration as well as request for necessary evidence to identify a person of a controlling authority or the evidence of such foreign country. Clause 107 empowers the registrar to reject such motion if the documentary evidence or the witnesses are not trustworthy or the person has a circumstance in a manner that is not good faith.

Registrar's Discretion

So it comes down the registrar's discretion, which obviously varies from one district office/municipal office to another. The registrar may or may not consider a period of visa (permission to stay temporarily in the Kingdom). This means in some districts a property owner with a shorter term visa might not be able to put his/her name in the household registration. Some district office even suggests that in principle a nonpermanent resident ought to have a visa (permission to stay temporarily in the Kingdom) of at least one year, largely rejecting those who are on a shorter visa. While success is never guaranteed here, it is worth to try to put nonpermanent resident's name in the household registration of residential property that he or she owns to be qualified for land and structure tax exemption for value of Baht 50 Million (land and house or condominium unit) or for value of Baht 10 Million (land/structures on someone else's land plot).

It is noted that in the past many nonpermanent residents have managed to put their names to get an exemption of 3.3% specific business tax upon a sale of property. But we have not found any specific ruling on whether the Revenue Department accepts or rejects an idea that having a nonpermanent resident's name in a yellow book household registration helps save specific business tax.

Caveat

It is noted that many bodies under the Act (i.e. the Board of Land and Structure Tax, the Provincial Board of Land and Structure Tax, the Ministry of Interior Affairs, the Bangkok Metropolis Appellate

in the nonpermanent resident being exempt from land and structure tax up to specified values or not. So we'll need to wait and see how they settle this issue.

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