

# NEWSLETTER

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## LEGAL UPDATE

### 1. Thailand's New Property Tax to be Proposed to Cabinet

The Ministry of Finance is planning to propose the Land and Structure Tax Bill (the "Bill") to the Cabinet for consideration. Once the Bill is enacted, the Bill will repeal house and land tax and local development tax, which are existing property taxes, and introduce the new land and house tax (the "Land and Structure Tax"). Table 1 provides the details of existing house and land tax as compared to those of existing local development tax and Table 2 lays all the details of the proposed Thailand's new property tax.

**Table 1: Existing House and Land Tax vs. Existing Local Development Tax**

	Existing House and Land Tax	Existing Local Development Tax
1. How is property tax imposed?	<p>House and land tax is imposed on the land and house or structure that is used for the commercial purpose or for the purpose of letting out.</p> <p>The rate for house and land tax is 12.5% of either</p> <ul style="list-style-type: none"><li>(i) the rent if the property is actually leased out or</li><li>(ii) the amount that the property would get if the property were leased out, which is called the annual value.</li></ul> <p>In other words, house and land tax is computed based on the property's ability to generate a rent, not based on the value of the property.</p>	<p>Local development tax is property tax levied on any vacant land plot without any structure or building and an owner of land plot must pay this tax to the local government in the area where the land plot is situated.</p> <p>To determine the local development tax, the official uses the land median price of 1978 to 1981 as the basis, which is apparently well below the current market rate as it has not been updated for well over three decades.</p>
2. Who is a tax collector?	A local government in an area where property is located.	A local government in an area where property is located.

3. Why do they want to repeal this property tax?

#### Existing House and Land Tax

A residential house is now completely exempt from house and land tax. A building that is closed is also exempt from house and land tax. The broad residential exemption makes it possible for many landlords of residential houses to avoid/evade this house and land tax altogether because without an audit local government officials simply do not know whether residential houses are owner-occupied or leased out.

The Ministry of Finance officials also feel that the residential exemption for property tax should not be extended to rich and middle class homeowners.

Under the Bill, the exemption for the residential house will be taken away so as everyone, except the poor, has to pay the new Land and Structure Tax.

#### Existing Local Development Tax

The basis for computation of local development tax is flawed since land prices in Thailand have steadily increased since 1978 to 1981. The amount of local development tax is very low. This low amount of local development tax obviously does not penalize any landowner who does not put a land plot into any economically useful purpose (i.e. renting out to a farmer, renting out for a residential purpose or a commercial purpose or developing) to benefit an economy. Consequently, many land plots are left simply empty and unused (or at least are underutilized). Landowners are not pressurized in anyway to put empty land plots to any economically useful purpose. Economists feel leaving land plots empty is wasteful for the country.

Given the amount of local development tax is extremely low, many landowners simply do not pay local development tax at all and some local government officials are not so keen to make a collection. Whenever any empty land plot changes a hand, a buyer may require a seller to pay overdue local development tax retroactively.

**Table 2: New Land and Structure Tax**

New Land and Structure Tax	
1. What is the basis for computation of Land and Structure Tax?	Unlike the income generating ability of property under the existing house and land tax regime, Land and Structure Tax will be computed based on the value of the property.
2. How much are the rates of Land and Structure Tax?	<p>These rates of course are not final yet, but based on the existing proposal, there are likely to be as follows:</p> <ul style="list-style-type: none"> <li>• 0.25% of the value of the property for an agricultural use;</li> <li>• 0.5% of the value of the property for a residential use;</li> <li>• 1% of the value of the property for a commercial use; and</li> <li>• 2% of the land value of the property for an empty land.</li> </ul>
3. Will there be any residential exemption to Land and Structure Tax?	<p>The residential exemption to the Land and Structure Tax will be given on a much more limited basis so as most of properties in Bangkok and its vicinity will probably not be exempt from the Land and Structure Tax.</p> <p>Obviously, wealthy and middle homeowners will not be covered by the residential exemption. These homeowners should be prepared to foot this bill.</p>
4. What will happen to corporate Thailand?	<p>An existing property tax planning, under which a simple property lease contract is split into (i) a property lease contract, (ii) a furniture lease contract and (iii) a services contract to minimize house and land tax, will no longer make any property tax saving since the new Land and Structure Tax will be computed based on the value of the property, not the income generating ability of the property.</p> <p>Without existing property tax planning, landlords will have to foot a bigger property tax bill, landlords may in turn pass some or all of the increase to companies that lease their premises over a period of time after introduction of the Land and Structure Tax.</p>
5. What should property owners do?	<p>Once the Land and Structure Tax is imposed, any unused (or underutilized) property will need to be utilized in one way or another. An unused property can be sold, leased out or used for a commercial purpose to pay for the Land and Structure Tax. Now it is a time to turn any unused property into an income producing property.</p> <p>For any empty land plot that cannot be leased out, an owner might want to put up some trees, and crops to qualify the land as an agricultural use, which will be subject to the lower rate of Land and Structure Tax.</p>

## 2. Nationwide Company Registration

Up to this point, a limited company with a head office in any province will have to be registered with a local office of the Department of Business Development in its home province. Now the department announces that regardless of where a head office of a limited company (or a juristic partnership) is located, incorporators may register the incorporation of the limited company at any office of the department in any province, except any registration of a limited company (or a juristic partnership) that engages in any business that is subject to special control i.e. securities, good warehousing, frozen room, silo, insurance brokerage, and asset management still has to be registered at department's local office in its home province.

For more information, please contact our lawyers for consultation.

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