



Recent Clarification on New Property Tax

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Thailand's New Land & Structure Tax (New Property Tax) is still work in process, with the property's usage will have to be categorized as (i) agricultural use; (ii) residential use; (iii) other (commercial) use; or (ii) empty/underutilized category - all of which are subject to different rates of tax. Without crucial subordinate legislation introducing clear/precise definitions of each category, a property owner does not know for sure how the usage of one's property will be determined to fall under one category or another. Those pieces of such subordinate legislation have just been enacted.

Recently at the end of May 2020, the Minister of Finance and the Minister of Interior Affairs issue the Joint Notification of the Ministries of Finance and Interior Affairs Re Criteria for Residential Use (the "Residential Notification") and the Joint Notification of the Ministries of Finance and Interior Affairs Re Criteria for Agricultural Use ("the Agricultural Use") by virtue of the Land and Structure Tax Act, B.E. 2562 (the "L&S Tax Act"). These two notifications offer clarification in writing on interpretation of commercial use (other use), residential use and agricultural use that the Ministry of Finance has been giving hints for months by now. They confirm an understanding of property owners as well as offer clear distinctions among certain uses of property.

A. Commercial Use vs. Residential Use

The Residential Notification finally draws the clear line between the commercial use, which is subject to higher tax rates, and the residential use, which is subject to much lower tax rate. We summarize the circumstance in the below table for easy understanding.

Commercial Use vs. Residential Use

Circumstance	Use under the L&S Tax Act
1. An individual owner leases out a residential condominium unit or a residential house on a monthly basis or a longer basis.	Residential Use
2. An individual owner leases out a residential condominium unit or a residential house for a period shorter than a monthly basis to render the temporary residence for travelers or other for a remuneration.	Commercial use (except a homestay, which is considered the residential use.)
3. A limited company or a juristic partnership leases out a residential condominium unit or a residential house on a monthly basis or a longer basis.	Residential Use
4. A limited company or a juristic partnership leases out a residential condominium unit or a residential house for a period shorter than a monthly basis to render the temporary residence for traveler or other for a remuneration.	Commercial use
5. A hotel operator leases out a room in a hotel.	Commercial use
6. An individual owner or a limited company or a juristic partnership leases out a room in an apartment (other than a serviced apartment with a hotel license) on a monthly basis or a longer basis.	Residential use
7. An individual owner or a limited company or a juristic partnership leases out a room in a serviced apartment with a hotel license.	Commercial use

Basically, the Residential Notification defines the residential use as a land plot or a structure having a residential objective, including a land plot or a structure that is continuously used too except for:

1. a land plot or a structure of a land developer during a development phase or after the completion but cannot sold yet;
2. a land plot or a structure of a condominium developer during a development phase or after the completion but cannot sold yet;
3. a hotel under the hotel law;
4. a land plot or a structure that is rendered as temporary residence for travelers or other persons with a remuneration, not including a case where a remuneration is charged on an monthly basis or a longer basis or a homestay; or
5. a land or a structure waiting be sold by a financial institution (a commercial bank) under the financial institution law, a specific financial institution (i.e. Government Savings Bank) under the specific organizing law, a people financial institution under the people financial institution law and an asset management company under the asset management law.

Does a property holding company owning a residential condominium unit or a residential house have to pay tax at the residential rates or the commercial rates?

Property Holding Company

The property holding company owns a residential condominium unit or a residential house will pay tax as residential rates provided that the property holding company refrains from leasing out the property on a period shorter than a monthly basis. The property holding company may use the residential property (a residential condominium unit or a residential house) for its business (i.e. use of its Director or staff or entertaining its customer) or lease out on a monthly basis or a longer basis and the residential rates still apply. In other words, if a limited company or a juristic partnership happens to own any residential condominium unit or any residential house, the residential rates should apply by default unless such residential condominium unit or such residential house (i) is leased out as temporary residence for travelers or other persons with a remuneration on any period shorter than a monthly basis (i.e. a daily basis or a weekly basis) or (ii) is operated as a hotel or a serviced apartment with a hotel license.

B. Agricultural Use

The Agricultural Notification introduces the minimum number of trees per rai that an owner has to grow on the property for the property to be treated as the agricultural use and the requirements on each type of livestock farming on the property for the property to be treated as the agricultural use. It is noted that agricultural is subject to the lowest rates of tax. For instance, to be eligible for agricultural rates an owner has to grow at least 50 lemon trees in one rai of land.



What happens if an owner fails to reach the minimum number of crops in one rai?

Based on the wording of the Ministerial Regulation Re Stipulating a Land Plot or a Structure as Empty or Underutilized, an owner of the property should pay tax at the empty & underutilized rates on a ground that the property itself is underutilized. However, it still is unclear whether a local government official will apply the empty & underutilized rates (the highest rates, which will be subject to a further increase every three years until the maximum rate is reached if no utilization effort on the property has been made) or the commercial use (other use) rates (the commercial rates stay the same).

COVID-19 Pandemic Tax Cut

The government will reduce land & structure tax for 2020 by 90%, which means a property owner only has to pay 10% of the full amount of tax in 2020. This tax cut is offered to property owners in the light of an economic downturn coming with COVID-19 pandemic.



Agriculture (Corporate)

Property Value (Baht)	%
< 75 Million	0.01
> 75 Million but <= 100 Million	0.03
> 100 Million but <= 500 Million	0.05
> 500 Million but <= 1,000 Million	0.07
Exceeding 1,000 Million	0.1

Agriculture (Individual)

Property Value (Baht)	%
< 50 Million	0 (Exempt)
> 50 Million but <= 125 Million	0.01
> 125 Million but <= 150 Million	0.03
> 150 Million but <= 550 Million	0.05
> 550 Million but <= 1,050 Million	0.07
Exceeding 1,050 Million	0.1

Residential – Land + Structure (with Household Registration)

Property Value (Baht)	%
< 50 Million	0 (Exempt)
> 50 Million but <= 75 Million	0.03
> 75 Million but <= 100 Million	0.05
Exceeding 100 Million	0.1

Residential (Structure Only with Household Registration)

Property Value (Baht)	%
< 10 Million	0 (Exempt)

> 10 Million but <= 50 Million	0.02
> 50 Million but <= 75 Million	0.03
> 75 Million but <= 100 Million	0.05
Exceeding 100 Million	0.1

Residential (No Household Registration)

Property Value (Baht)	%
< 50 Million	0.02
> 50 Million but <= 75 Million	0.03
> 75 Million but <= 100 Million	0.05
Exceeding 100 Million	0.1

Other Use (Commercial)

Property Value (Baht)	%
< 50 Million	0.3
> 50 Million but <= 200 Million	0.4
> 200 Million but <= 1,000 Million	0.5
> 1,000 Million but <= 5,000 Million	0.6
Exceeding 5,000 Million	0.7

Empty/Underutilized

Property Value (Baht)	%
< 50 Million	0.3
> 50 Million but <= 200 Million	0.4
> 200 Million but <= 1,000 Million	0.5
> 1,000 Million but <= 5,000 Million	0.6
Exceeding 5,000 Million	0.7