

CHAPTER 15 OTHER TAXES

In this Chapter, we discuss other taxes that may be encountered in everyday business transactions.

Stamp duty Stamp duty liability arises and duty stamps must be affixed to various documents including: transfers of land, leases, share transfers, debentures, mortgages, life assurance policies, annuities, power of attorney, promissory notes, letters of credit, travellers cheques and other documents.

Stamp duty has been eliminated from most government forms. Where registration of a document is required, for example, in the case of sales of land, articles and memoranda of association, etc., registration fees in addition to stamp duty are charged.

Where a fraction of one Baht due, the stamp duty is rounded up.

For loan agreements, the maximum stamp duty is Baht 10,000.

Stamp duty rates A summary of stamp duty arising on common business documents or transactions is set out below:

| Document | Stamp duty |
|---|---|
| Leases of land, buildings and houseboats, calculated on the total rent for the term | 0.1% |
| Transfer of shares, based on par value or consideration, whichever is higher | 0.1% |
| Share or debenture certificates | 5 Baht |
| Hire purchase of property | 0.1% |
| Loan agreements or overdraft facilities | 0.05%, subject to maximum duty of Baht 10,000 |
| Arbitration awards | 0.1% of the amount in dispute |
| Hire of work agreement | 0.1% |
| Bills, notes, cheques, | 3 Baht per item |
| Powers of attorney | 10 Baht per single act, per person or group authorized to act |
| Powers of attorney | 30 Baht for multiple acts per person or group authorized to act |
| Guarantees | 1-10 Baht |
| Memorandum or Articles of Association | 200 Baht each, 50 Baht in the case of amended articles or memorandum |
| Signed duplicates | Same as the original stamp duty, but not exceeding 5 Baht per document. |

Method of payment of stamp duty With effect from April 2015, the stamp duty payable on certain types of documents must be paid by producing the document at a Revenue Department office, (i.e. not by affixing stamps on the reverse of the document). This includes:

- Leases of land, buildings, or other construction for which the rent for the entire lease period is Baht 1 million or more;
- Leases of land, buildings, other constructions for which registration at the Land Department is required (this means leases for a term exceeding three years); and
- A hire of work agreement for which the payment due is Baht 1 million or more.

Transfer of an entire business A transfer of an entire business is exempt from VAT, specific business tax and stamp duty subject to conditions specified in regulations.

Time for payment and penalties for late payment Where a document liable to duty is executed in Thailand, duty is payable upon execution. If the document is executed outside Thailand, stamp duty is payable within 30 days of it being brought into Thailand. A duplicate bears fixed duty of 5 Baht. A photocopy is not subject to stamp duty.

Failure to pay duty incurs a surcharge as follows:

| Period late | Surcharge |
|---|-----------------------|
| Up to 15 days | Nil |
| 15-90 days | Double the stamp duty |
| Exceeding 90 day | Five times the duty |
| Non payment discovered during a tax audit | Six times the duty |

If stamp duty on a document has not been paid, it cannot be produced in evidence in court until the duty and any penalty arising has been paid.

Local development land tax Local development land tax is imposed on owners or possessors of land, according to the size of the land and its assessed value. Land subject to the land and house tax, small parcels of land for residential and agricultural purposes and certain other categories of land are exempt from this tax.

Land and house tax A person who leases out land or land and buildings, including apartments and condominiums, is subject to Land and House Tax at the rate of 12.5% of the actual or assessed rental value, whichever is higher. Owner occupied factories and commercial buildings are assessed for this tax at the same rate, according to the assessed rental value.

In order to reduce their net tax liability, many landlords who lease property structure such transactions by using several documents rather than a single lease agreement. As much of the rental payment as possible is allocated to a furniture rental agreement and/or service

agreement, which is subject to VAT currently at 7%, instead of 12.5% land and house tax. The tax authorities will accept this, provided the apportionment of rent and services is reasonable.

New Land Tax The long- promised new Land Tax to replace Land and House tax is likely to be issued at the end of 2018.

Inheritance tax The Inheritance Tax Act came into force on 1 February 2016.

Assets liable to tax: The following assets are subject to inheritance tax:

- immovable property;
- securities;
- monetary deposits or other forms of money
- registered vehicles; and
- other assets as specified in regulations.

Tax threshold: The inheritance received must exceed 100 million baht, after liabilities are deducted.

Tax rates: The tax rate is 10% of the value of the inheritance subject to tax and 5% if the recipient is a descendant or surviving older relative of the deceased.

Tax exemption: transfers of property to a spouse are exempt.

Who is liable to pay? Inheritance tax is levied on the beneficiaries. This includes:

- A person with Thai nationality
- A juristic person registered in Thailand in which Thai shareholders hold more than 50% of the shares at the time the legal entity has the right to receive an inheritance; and a juristic person where more than 50% of those with management powers have Thai nationality. This applies regardless of where the property is located.
- A person who does not have Thai nationality, but who has a residence permit in Thailand, regardless of the location of the property.
- A person who does not have Thai nationality, but who receives property situated in Thailand.

These proposals will not affect the transfer fees/taxes that arise on eg transfers of land and buildings or shares by gift or inheritance. These fees will remain payable as before.

Gift Tax A revised gift tax came into force on 1 February 2016.

Gifts liable to tax: Gifts of property where the recipient is liable to personal income tax rates of 10-35%, are as follows:

- Immovable property or rights to occupy immovable property. No tax arises on transfers of property to a legitimate child (*this excludes an adopted child*) without compensation, the value of which does not exceed 20 million baht in that calendar year;
- Gifts received from any person, excluding the following:
 - (1) gifts received from a surviving older relative (only parents and grandparents, and excluding aunts, uncles, or cousins), a descendant, or spouse, the value of which does not exceed 20 million baht in that calendar year;
 - (2) gifts received under moral obligation or in a ceremony or on occasions in accordance with established custom from a person who is not a surviving older relative, descendant, or spouse, the value of which does not exceed 10 million baht in that calendar year; and
 - (3) income received intended for religious, educational, and public expenditure.

Payment of tax: A taxpayer can elect to pay tax of 5% of the taxable portion, and not include the taxable portion in the calculation of net taxable income at year-end.

Excise taxes Excise taxes are levied on a variety of goods such as soft drinks and juices, alcoholic beverages, spirits, tobacco products, petroleum products, playing cards, air conditioners, marble, granite, and certain businesses including: massage parlours, nightclubs, karaoke bars, cinemas, and racetracks.

As discussed below in Chapter 23 *Telecommunications, IT and the Internet*, the concession fees payable by telecom concession holders to former state enterprises, have now been abolished and replaced by a special excise duty.

Other taxes There also exist other taxes of minor importance to foreign business people and investors.

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