

ABSTRACT

Thesis Title : Problems and Propositions to Improve Indirect Tax Administration in Thailand : Specific Business tax from sale of immovable property as a means of business or for profit.

Student's Name : Miss Tuangphorn Ananthasirikiat

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Advisory Committee :

1. Assoe.Prof. Permbun KaewKiew Chairperson
2. Mr.Tanee Sakolvitayanont

The Thai Constitutional Law B.E. 2540 (1997) title IV concerning the Duties of Thai People section 69 stipulated that "person shall serve his country as a soldier, pay tax, assist the government, be educated to defense and protect, and continue to support the art and tradition of the nation together with the local intellect, and conserve natural resources and environment as the law prescribed." Ministry of Finance is authorized to regulate the collection of tax in accordance with the provision of tax law. Tax is categorized into four different areas following

- 1) Personal Income Tax
- 2) Income Tax on Juristic Entity
- 3) Value Added Tax
- 4) Specific Business Tax and
- 5) Stamp Duty

The income tax of natural person and juristic person is deemed to be a direct tax but value added tax, specific tax and stamp duty is an indirect tax. In addition, person who sale the immovable property may, according to the Revenue Code, have to pay 2 kinds of tax including 1. Personal income tax and 2. Specific Business tax together with the additional fee for making a registration of the rights and transfer of title in front of the officer incharged as the Land Law prescribed. Thus, this become a burden to the people to pay double tax. When the person sells his immovable property, he must pay the personal income tax as a withholding tax and the fee for registration. However, if the government wish to charge the Specific Business tax on the same immovable property and same revenue, the definition must be made and state clearly. Otherwise, it will be unjust it the tax payer and reflect the aspect of a bad tax law. According to the section 91/2 (6) of the revenue Code, the specific business tax will occur from the commercial sale of immovable property. No matter how the property is acquired. However, the execution must be carried on under the principle, method and condition as prescribed in the Royal Decree. The said Royal Decree means the national executive's decree book 342 B.E. 2542 (1999). This is a subsidiary law which defines the word "commercially sale of immovable property" stated in the principle law. Hence, the consequence is questionable. It is seem to be contradict to the purpose of the law. There are some cases when the person who sells the immovable should not deemed a merchant of immovable property and must not pay the Specific Business tax such as the juristic person receive the money of compensation for its land resumed by authority, or the person sells the immovable property which is used to be his domicile and his name appears in the house hold registration not less than one year.

For these reasons, the meaning and regulation of the sale of immovable property commerce or profit should be improved in order to find a clearer definition which is accurately distinct the real merchant of immovable property. In this juncture, it is necessary to consider the enforcement of the person who wants to conduct the real estate business to enter is a registration or contemplate the frequency of the sales which done in limited time. Also, the suitability of tax rate penalty must be readjusted. Moreover, for developing the efficiency of administration to control the regulation under the law so as to produce desired result for collecting more tax to increase the national income, administrator must emphasize its effort on public relations and distribution of the information on tax to the people to make a clear understanding and encourage them to pay tax willingly. However, the provision of tax law must be well interpreted and fair because the people will not only liable to Civil and Criminal penalty, but also income the debts.