

Abstract

This thesis focuses on using tax rulings to protect taxpayers' rights. Tax ruling is an important tool to make an implementation of tax law and performance of the Revenue Department become clear and accurate. Taxpayers would be aware of legal interpretation approach and legal result in advance and would be able to duly pay tax as prescribed by law. This is to protect the important rights of taxpayers as studied and recommended by Organization for Economic Cooperation and Development (OECD). However, the current procedure of issuance of tax rulings of the Revenue Department is inefficient. Currently, tax rulings are not binding on the Revenue Department. The Revenue Department is not bound to comply with its decisions stipulated in tax rulings. This causes damages to both taxpayers and the Revenue Department in many manners. Therefore, the binding status of tax rulings on the Revenue Department is necessary to resolve the current situation.

Non-binding tax rulings can be resolved by an issuance of legislation to endorse the legal status of tax rulings and to enforce the Revenue Department to be bound by tax rulings. This, however, may not be the best solution. Although tax rulings would become clear and referable to taxpayers if the Revenue Department is bound by its decisions stipulated in tax rulings, it may cause many disadvantages. They include lack of flexibility in issuance of tax rulings by the Revenue Department, increase of disputes between taxpayers and the Revenue Department, support to bad faith taxpayers and causing difficulties in setting the rules.

The study on procedure of an issuance of tax ruling of the Tax Collector Department in The Netherlands reveals that this procedure mainly emphasizes on the binding status of tax rulings on Tax Collector Department. This is because The Netherlands focuses on the protection of taxpayer's especially right to certainty. That is the Tax Collector Department agrees to be bound by tax rulings issued by it even though there is no legislation endorsing the binding status on the Tax Collector Department. Moreover, tax ruling procedure has been developed to the level that the

Tax Collector Department agrees to waive its administrative privilege as the authority having the power over taxpayers and to issue tax rulings in the manners of determination agreements with taxpayers. This causes many advantages for instance, substantially binding status on the Tax Collector Department while providing flexibility to the Tax Collector Department in issuance tax rulings without causing any disputes between taxpayers and the Tax Collector Department in the future as this kind of tax ruling is based on the negotiation and discussion.

In order to resolve the non-binding status of tax rulings on the Revenue Department situation, this thesis recommends that the determination agreement be implemented to ensure that tax ruling is contractually binding on the Revenue Department instead of legally binding status which may cause many difficulties. Determination agreements implemented in The Netherlands should be referred to as the guideline. It is proposed that the Revenue Department issues the Order prescribing rules and procedures in issuance of tax rulings in the manners of determination agreements including the matters that taxpayers are entitled to request for clarification without any amendment to existing laws. This will be benefits to the efficiency in protection of taxpayers' rights in Thailand.