

Abstract

Taxation is one of significant governmental tools as tax is the revenue used to operate the State's duties both in economic ability and social activity. Collecting tax in the country ruled in democratic regime is the exercising of State power to enforce the collection which is affected the rights of the people in property. Therefore, it is necessary for the State to enact the law for the tax collection. Taxation shall be imposed under the law pursuant to the rule of law. Even though the taxation is the exercising of power under the law, such operation can cause the dispute thereon.

Tax dispute resolution process in Thailand can be divided into two parts; the tax administrative appeal and the appeal in the judicial process. The tax administrative appeal is the control and inspection procedure in the exercising power of the administrative in issuing the tax order whether it is legitimately issued in order to protect the rights of the people who pay the tax, shorten time, lower the expense and decrease the number of cases in the court.

However, the law and the current practice of the tax administrative appeal in Thailand have various problems and obstacles in the appeal process, grounds of the appeal, the appeal trial and the remedies after the appeal. Moreover, in some relevant tax disputes; such as the importation of goods, the law provides different appeal process which can bring the confusion to the tax payer. Such problem not only makes the true valuable objective of the tax administrative appeal to become unsuccessful but also makes the tax administrative appeal to become the obstacle to the tax dispute resolution and the protection of the people's rights.

Although the tax administrative appeal is the preparation process in providing the administrative order that is complied with the Administrative Procedure Act B.E 2539, this Act provides only general rules which are not appropriate to the tax dispute which has its own specific feature. In addition, complying with many laws to only one matter will easily become a problem to the administrative officer and the tax payer because such Act will be applied only when there is no specific law on that matter or the

guarantee of fairness or the standard in the administrative procedure the specific law is below the rule set out in this Act. In practice, the Administrative Procedure Act B.E 2539 is not applied effectively by the administrative officer, the tax payer and even the court.

To solve such problem, I am of opinion that it needs to have the reform of the tax administrative appeal of Thailand by enacting the Act on the Tax Administrative Appeal which is applied to all tax dispute which occurred from the tax orders and that the consequences of this Act are to determine the individual tax and repeal the provisions of every law on the tax administrative appeal without applying the Administrative Procedure Act B.E 2539. In this regard, the Act on the Tax Administrative Appeal will provide the appeal rules for the tax dispute which will ensure the fairness and give the protection to the tax payer so as to achieve the ultimate aim of the tax administrative appeal.