

ABSTRACT

All of incomes from inheritance and gift should be taxed in Thailand tax system. Under the ability to pay principle and the benefit principle, it is not only for the equity of income distribution and decrement of economic difference but also for the protection from tax evasion loopholes. However, according to article 42(10) of Revenue Code, all amount of incomes from inheritance and gift are definitely exempted.

This thesis suggests 3 alternative choices as follows;

1. Amend section 42(10) of the Revenue Code.

The provision of the Revenue Code should identify clearly the specific amount of incomes from inheritance to be exempted and the rest (exceeding exempted amount) should be taxed as usual income.

In the case of income from gift, the Revenue Code should define the meaning and characteristic of the gift and specify the reasonable amount to be exempted from income tax.

Since the incomes from inheritance and gift tax are considered as “windfall” to the person receiving such income; therefore, if considering about equity, they should be subject to tax at the higher amount than labor and capital income. According to this reason, some countries choose to apply inheritance tax and gift tax directly to their tax systems. This is also one of the proper alternatives to be taken into account for Thailand tax system.

2. Applying inheritance tax directly

Inheritance tax is the method of social measure to reduce the gap of individual opportunity. Moreover, inheritance tax has a good characteristic of tax to provide in equity and fair play in democratic society. However, to apply inheritance tax in Thailand, the current laws, particularly section 42(10) of Revenue Code which

determine the exemption of income from inheritance, should be amended to be consistent with the application of inheritance tax.

3. Collecting both gift tax and inheritance tax at the same time.

Gift tax and inheritance tax can be enforced together in order to prevent tax avoidance by giving assets before the death of person. Hence, the transfer of assets without compensation or with unreasonable price will be subject to this type of tax as well.

In addition, the application of gift tax not only affects the person trying to avoid tax payment but also affects someone who gives assets without intention to avoid the tax, in case of the exemption according to section 42(10) of the Revenue Code; consequently, this provision of Revenue Code should be considered to amend as well.