

Business Signs (part II): is Thai language required in yours?

In our last column we had a look at the common legal misnomer regarding businesses organized under a Thai limited company that asserts: “You must have ‘company, limited’ on your business sign.” In this column, we examine a second very common legal misnomer regarding business signs in Thailand. It goes something like: “All business signs must have Thai words that mean the same thing as any non-Thai words and above any such non-Thai words.” Once again, as a generalized proposition, this is incorrect (*note, there are indeed cases where Thai language requirements may apply to your business’ sign*). In our opinion, it is clear that this legal misnomer is based on an inadequate understanding of the Signboard Tax Act (1967) and as amended (the “STA”). Thus, once again, we turn to this, the relevant law.

Pursuant to Section 9 of the STA, the signboard tax is a local administrative tax collected by the relevant local administrative office (i.e. Testsabaan, Or. Bor. Tor or District Office, depending on where you are located in Thailand). The STA is a “self-assessing tax”. In general, with some specific exceptions and applicability rules, when you put up your business sign you are required to report to the competent local administrative office and pay the tax within fifteen days thereafter.

Section 12 of STA provides that the tax is payable annually in advance no later than 31 March for that year. However, pursuant to Section 7 of the STA, if this is the first year of your business sign is used, then the tax payable is a pro-rata proportion of the annual tax payable for that sign. Depending on which quarter of the first year the tax becomes payable i.e. if the tax becomes payable in May (the second quarter of the calendar year) then you pay three quarters of the annual tax payable for such a sign.

Under Section 25 of the STA, a late payment of your annual sign tax is subject to a fine of 2% per month of your total payable sign tax. Failure to file the tax return by the due date is punishable by a fine of 10% of the tax payable, which will be reduced to 5% if

the sign owner files before he given official notice of the failure to file. A fine of 10% of the arrears tax is applicable if the sign owner files an incorrect return, unless the sign owner requests to correct such before assessment. And, under Section 35 of the STA, a penalty of Thai baht five to fifty thousand is applicable for “intentionally” not filing the sign tax payment application.

Under Section 7bis of the STA, the tax payable (subject to a minimum tax payable of Thai baht two hundred) is calculated by the area of the sign multiplied by the applicable per area rate. Pursuant to Ministerial Regulation 5 (1992) under the STA, the tax rate per each five hundred square centimetres of sign used, is one of three following, currently reduced, amounts:

- 1) Thai baht three;
- 2) Thai baht twenty; or
- 3) Thai baht forty;

And here is the key point for our purposes; the rates are applicable as follows:

- (1) is applied, if the sign is in the Thai language only;
- (2) is applied, if the sign is in the Thai language *and* any other non-Thai language *and/or* has any picture *and/or* has any logo is also in the sign;
- (3) is applied, if any part or all of the Thai language in the sign is under/lower down the sign than any non-Thai language in the sign.

And this is, in our opinion, the source of the confusion regarding a supposed legal requirement to include Thai in your business sign. True, if your sign contains only a non-Thai language or a non-Thai language and Thai but the Thai is not completely above the non-Thai language, you are liable to a higher a tax amount under the STA.

However, two things should be carefully noted. First, once you calculate it, the payable tax amount for a sign that has Thai wording lower than non-Thai wording or even for a sign that contains only non-Thai wording is, indeed higher but the difference is relatively negligible. Second, you are generally *not required* to include any

Thai language wording above any non-Thai language in your business sign. Indeed, you are generally *not required* to include *any* Thai language in your sign at all.

In closing and as noted above, however, there are some specific exceptions with regard to what business signs the signboard tax applies and also some cases where Thai language must be used in business signs. To clarify if and how your business sign is liable to this tax, and whether and how Thai language wording must be used in your case, you should to consult competent tax and legal counsel directly.

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