

Thailand's (outdated) House and Land Tax, often overlooked and potentially very costly

If you or your company own a condominium unit or villa here in Thailand that was used, *even if only for one day*, by someone other than its legal owner (with or without you having received rental income), then you or your company have incurred liability under the House and Land Tax Act (A.D. 1932) (“HLT”). The HLT is imposed on the owner of such structures, if they receive or should have received, rental income. Local authorities in Thailand have the right to collect this tax from certain structure property owners. It is one of the few taxes that enable the local municipalities, rather than the national revenue authorities, to collect tax.

An important exemption from the HLT applies to *“houses or other structures (are) inhabited by the owners thereof (...). But note again, if your property is subject to assessable rental income for even one day, then the HLT is payable in an amount of 12.5% of the total rental value for the entire year. The amount of HLT is 12.5% is an amount equal to the annual “rental value.” It is calculated based on the total annual rental value of the foregoing year. The annual “rental value” is defined as the “sum for which the property might reasonably be expected to let from year to year. When there is a lease, the rent is the basis of the annual value (...).”* Thus, for example, if you allow an acquaintance stay a few days in your villa or condominium without you, the authorities have the discretion to determine that you did, or should have, charged rent. They may then charge you an amount equivalent to 12.5% of total amount of money that they think you did, or could have, earned by renting it during the *entire preceding year*.

Any owner of property subject to HLT is required to submit a “Por. Ror. Dor. 2” form within 30 days after having received notice from the relevant authorities (or within the time frame outlined in the same notification). This form provides your official declaration of the annual rental value of the property for the foregoing year.

The relevant municipality may then use this information to determine the annual rental value of the property and the amount of tax to be paid. However, if the municipal authorities do not agree with the rental value figures submitted, or if no figures are submitted, they are empowered to assess and assign the rental value themselves.

By not submitting the above-mentioned form, the right to appeal the decision (*i.e.* “assessment”) of the relevant municipal authorities is waived. Further, a fine not exceeding Thai Baht 200, is applicable. Providing false and wrongful information, or making a false statement for the purpose of evading the proper calculation of the annual value, could also result in punishment with imprisonment not exceeding six months, or a fine not exceeding Thai Baht 500, or both.

Unfortunately the municipal authorities’ discretion to assess the HLT also sometimes provides an opportunity for a “discussion and negotiation” with the liable tax payer regarding the amount HLT payable. This and other inefficiencies relating to the HLT has inspired the government to consider drafting a more modern and comprehensive property tax that would change the basis of the taxation of property with structures from the assessed *rental* value of the immovable property to the assessed value of the property itself.

In such case, the municipal authorities would no longer be empowered to determine the tax payable themselves. The assessment of the value of the property would be performed by the already existing Valuation Committee under and in accordance with the Land Code, using the same valuation method is actually already in use as the basis for calculating the fees and also the personal income tax payable at the land department upon transfer of immovable property in accordance with Section 49bis of the Revenue Code. This method is based on valuations using actual market value pursuant to Section 103 *et seq.* of the Land Code, as opposed to rental value.

A comprehensive and modernized real estate tax that would replace the outdated and inefficient HLT would be a welcome improvement to Thailand’s real estate tax regimen. However, it remains to be seen if and when the Thai government will implement a modern real estate tax. Until such time, the HLT remains applicable.

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