

Independent Study Paper Title : The Power of the Commission of Appeals and the Tax Court to Consider the Issue of Tax Disputes

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ABSTRACT

The overall of this research focuses on tax disputes principle and the different of tax assessment. The Commission of Appeal has the power to consider only issues that were assessed by assessment officer and appealed by appellant. And the trial in Tax Court holds as civil case and if there are no applicable provisions or specific requirements, the Civil Procedure Code is adopted mutatis mutandis which based on the Adversary or Adversarial system that adapts the principle of bilateral hearing to consider facts-in-issue seek from parties, every judge was forced to adjudicate the case according to only disputed issues or evidence that were presented to the court by parties; that practice not only makes the consideration of the Commission of Appeal and the Tax Court lack of freedom in using discretion to seek additional facts for the sake of justice but also cannot make a decision in a way that provides benefits and fairness to all parties if that decision is an extraneous issue.

It is found that the regulations, authority structure, legislation and implementation as the settlement of tax disputes which comprises the steps of judicial review by the tax assessment officers, the consideration of the Commission of Appeal and the Tax Court respectively do not succeed according to principles of good taxation those problems caused by confusion and injustice to taxpayers who don't have better understanding in the tax dispute proceedings and those problems should be solved in the future. In view of the inadequacies of the Thai juridical process for tax cases, a question has arisen as to what procedure should be adopted to make certain that settlement of tax disputes be conducted with speed and with due the justice to the parties concerned. The question has inspired the writer with the idea of preparing this

independent study paper for the aim to propose a method suitable for the judgment of tax disputes to ensure utmost fairness to the public.

Therefore define the additional legitimating provisions in the Revenue Code to empower the Commission of Appeals as tax assessment officers in appeal procedure and additional provisions in the Establishment of Tax Court and Tax Procedure Act B.E. 2528 in order to allow the tax court can use Inquisitorial System combine with Adversarial System as necessary, will make the tax cases trial to be sufficient and deliver justice to parties. However, this application may be contrary to the long-established principle in the civil procedure law, in order to prevent any disparity among judges in exercising this power, there must be clear conditions and criteria in allowing the court to give more than what the parties have requested. Nonetheless, the implementation of this proposal will reduce the mistakes decision both in matters of fact and law also it is necessary for bringing better fairness and justice to all parties in interest which subsequently benefits the society as a whole.

