

Independent Research Paper Title : Problems on Collection of Property Tax for
Common Area of a Condominium
Author : Mr. Chawapol Prakobkit
Major : Master of Law (Taxation Law)
Advisor : Mr. Prapas Kong-ied

ABSTRACT

The objective of this research is to focus on problems on collection of property tax for common area of a condominium. According to the provision of the Building and Land Tax Act B.E.2475, the owner of such building and other structures shall be liable for building and land tax. It also provides tax exemption and tax exclusion. Under the Condominium Act B.E.2522, a common property means any part of condominium or other property which is not a condominium unit including a land which located a condominium and such a common property must be using or being benefit for a joint ownership. In addition, each condominium unit owner has ownership of his unit and being joint ownership of common property of a condominium in the portion upon to area of his unit as well as the unit owner has a joint duty to pay all kinds of taxes at the rate up to the usable area. At present, there is a legal opinion of the Council of State number 46/2536 said that a condominium unit owner as a lessor shall be responsible to pay building and land tax for their condominium unit and common property.

It is found that there are tax collection problems which result from such legal opinion. First, it related to the condominium unit dwelled by unit owner without any rental unit in such condominium. Secondly, in case of rental condominium unit which is dwelled by the lessee and common property is used by the lessee under Lease Agreement. This is because there is no provision specifically mention and clarify the tax collection for a condominium. As a result, it created a great number of documents in building and land tax collection for a condominium. In comparison, French law shall not impose building and land tax on common property but it imposes

on a condominium unit as *taxe d'habitation* and *taxe foncière* from a condominium unit owner.

Thus, it can be said that government should amend Building and Land Tax Act B.E.2475 in the way that it will stipulates clearer and deeper about tax collection for a condominium. It should say that the juristic person of the condominium is a person who has authority to collect building and land tax for a condominium. Besides, Minister of Interior should issue a Notification of Ministry of Interior regarding to the tax collection for the common area of the condominium for all condominium unit owners. Moreover, government should create a new P.RD.2 form which all condominium unit owners can submit all information in one form.

