



PROBLEMS ON LOCAL TAX COLLECTION FROM THE PRIVATE
HIGHER EDUCATIONAL INSTITUTIONS IN THAILAND:
CASE STUDY ON BUILDING AND LAND TAX COLLECTION

BY
MR. MONTREE TANGTANACHAI

AN INDEPENDENT RESEARCH PAPER SUBMITTED IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF MASTER OF LAWS
(TAXATION LAW)

GRADUATE SCHOOL OF LAW
ASSUMPTION UNIVERSITY

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Higher Educational Institutions in Thailand: Case Study
on Building and Land Tax Collection

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Major : Taxation Law (English Program)


Advisor : Dr. Poom Moolsilpa


Faculty of Law, Assumption University approves this Independent Study as the partial fulfillment of the requirement for the Degree of Master of Laws.


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ABSTRACT

The overall objective of this research is to focus on Problems on Local Tax Collection from the Public Higher Educational Institutions in Thailand: Case Study on Building and Land Tax Collection.

According to Provision of Plan and Stage for Decentralization to Local Administrative Authority Act B.E. 2542 in Section 23 and Section 25, Municipalities, Tambon Administrative Organizations, Pattaya City and Bangkok Metropolitan Administration are in charge of the building and land tax and local development land tax in their respective areas of jurisdiction.

Nowadays, the private higher educational institutions have suffered the burden of building and land tax collection. Private education institutions have paid building and land tax every year. In some local administrations may have allowed tax reduction to the institutions by depending on consideration of local administrative officer. The institute's properties would not certainly be property in the meaning of 'property of government' according to Section 9 (2) and even Council of State decided that would not be 'property of public school' according to Section 9 (3). Furthermore, it has implemented to the issue of educational operation that concerns with deriving the own profits.

So, the building and land tax exemption for the private higher educational institutions seems to be the opposite matter between need in tax privileges to the private sector and state policy promoting and supporting participation of private sector.



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Chapter 1

Introduction

1.1 Background and General Statement of the Problems

The main tax revenue of the local administrative authorities comes from local tax such as building and land tax¹ (real estates), local development land tax (lands), signboard tax and animal slaughtering tax.

The local tax in Thailand can be considered as building and land tax, local development tax, signboard tax and animal slaughtering tax. Building and land tax is imposed on the owners of a house, building structure or land, which is rented or otherwise, put to commercial use. Under the House and Land Tax Act B.E. 2475 (1932) the payments are calculated in annual tax are levied at the rate of 12.5 percent of actual or assessed annual rental value of the property. A local development land tax is imposed on any person who either owns land or is in possession of land. Under the Local Development Tax Act B.E. 2508 (1965), the tax rate is rates per unit varying according to the appraised value of the property determined by the local authorities. There is an allowance granted for land utilized for personal dwellings, the raising of livestock and the cultivation of crops by the owner. The extent of the allowance differs according to the location of the land.² Signboard tax is levied on signboards showing names, symbols or marks of business, or advertisements. Rates specified in the Signboard Tax Act are computed on signboard size ranging from Baht 3 to Baht 40 per 500 square centimeters (but not less than Baht 200 per signboard). The Animal slaughtering tax is levied on a butcher who slaughters cattle, goats, sheep, pigs, chicken, ducks, or geese. The tax rate is between 10-30 baht per animal.

¹ Interview with Prapas Kong-ied, Judge of Central Tax Court, 20 October, 2007.

² Taxation in Thailand, in <http://www.boi.go.th>, access date June 1, 2007.

According to the House and Land Tax Act B.E. 2475 in Section 9 provides that property should be exempted to pay building and land tax such as property of governments which is utilized for the purposes of government or for public,³ and property of public schools which have not operated education derived the own profits and used exclusively in educational purposes.⁴

Nowadays, the private higher educational institutions have suffered the trouble in building and land tax collection. The institute's properties would not certainly be property in the meaning of "property of government" and even Council of State decided that would not be "property of public school". Furthermore, it has implemented the issue of educational operation that is concerned with the own profits.

Its applications have encountered the problems about the outmoded matters of existing House and Land Tax Act B.E. 2475, not being in line with the intentions of Constitution Law B.E. 2540 and latest Constitution Law B.E. 2550.

The Constitution Law B.E. 2540 (1997) prescribed that government should support and promote private sector for educational management, on the other hand the previous governments had not carried out any policy in which to persuade and support the private sector for educational management. Otherwise, Local Administrative Authorities empowered by law can provide and assess tax by their discretion for building and land tax collection levied the private sector. It incurred the problem on tax collection assessed by the Local Administrative Authorities.

Moreover, tax collections in each local authority have assessed standard rental value that is different depending on the consideration of local tax officer. In contrast of building and land tax payment rate (baht per square meter) between private higher educational institutions and entertainment businesses, restaurants or snooker clubs of which businesses object to the profit, the tax payment of private educational

³ House and Land Tax Act B.E. 2475, section 9 (2).

⁴ Ibid., section 9(3).

institutions are higher than one another. It consists of private educational institutions limiting the profits by the government and being forced in educational standard, it causes the institutions' expenses much more and not deems to be the intention of Constitution Law provided government have a duty to support and promote education.

1.2 Hypothesis of the Research

Its applications have encountered the problem about the outmoded matters of existing House and Land Tax Act B.E. 2475, and the problem about consideration in tax collection by discretion of Local Administrative Authorities. It is essential to interpret existing House and Land Tax Act B.E. 2475, understand its application, and propose amendments and additions in order to be in line with the intentions of Constitution Law B.E. 2540 and latest Constitution Law B.E. 2550 and other law concerning with private higher educational institution.

1.3 Objectives of the Research

1. To study the tax collection of Local Administrative Authorities for Local Tax, to know its characteristics for how the system operates.
2. To analyze the legal problems regarding the local tax collection from “higher educational institutions as enacted in the House and Land Tax Act B.E. 2475” in order to know the significance of higher educational institutions on the law, including tax reduction and tax exemption for educational institutions on the Local Tax.
3. To study the legal problems in terms of higher educational institution on the local tax according to foreign law.
4. To find a solution to the problems that exists in tax collection of the Local Administrative Authorities.

1.4 Research Methodology

This research paper will be analyzed and researched utilizing documentary research i.e. House and Land Tax Act B.E. 2475 (1932), Local Development Tax Act B.E. 2508 (1965), United Kingdom's local tax law and United States of America's local tax law including text books, journals, applicable theses, articles, documents and electronic information regarding local tax relating to the above documents.

1.5 Scope of the Research

This research paper encompasses the study of the local tax collection from educational institution levied by the Local Administrative Authorities according to House and Land Tax Act B.E. 2475. By analyzing and comparing that the tax collection from educational institution between Thailand and foreign law according to United Kingdom local tax law and United States of America local tax law including the study of decisions of foreign courts.

1.6 Expectation of the Research

1. To know the tax collection of Local Administrative Authorities on local tax, to know its characteristics of how the system operates.
2. To know the significance of "Educational Institution" as enacted in House and Land Tax Act B.E. 2475 including tax reduction and tax exemption for educational institution on the local tax.
3. To know the legal opinion and interpretation of different laws including foreign legislation.
4. To find a solution to the problems that exists in tax collection of the local administration.

Chapter 2

Principles of Local Tax Collection from the Private Higher Educational Institutions in Thailand

2.1 Introduction

Generally when any persons derive income following conditions of the law whether the person would be an individual or juristic person, they have responsibility to pay tax. It is necessary that government have to levy the tax from resources in finance and to spend the tax in order to administer public services. There are considered widely from essential departments which levy the tax, they can be divided as follows:

1. Revenue Tax levied by Revenue Department, there are Personal Income Tax, Corporate Income Tax, Value Added Tax, Specific Business Tax and Stamp Duty;
2. Customs Duty levied by Customs Department, there are duties and fees of commodity to import or export;
3. Excise Tax levied by Excise Department, there are Cosmetics and Perfume Tax, Electronic Tax, Tobacco Tax, Liquor Tax, Beverage Tax, Petroleum Tax, Cards Tax, etc; and
4. Local Tax levied by Local Administrative Authorities (Provincial Administrative Organizations (PAOs), Municipalities, Sub-district (Tambon) Administrative Organizations (TAOs), Bangkok Metropolitan Administration, and Pattaya City).

Moreover, the tax collections of the government in some license fees have been levied by other departments. For example, the Ministry of Commerce has organized Premium Rice and Sugar fee, the Ministry of Industry has levied Mine License Fee, Ministry of Communications has levied Annual Car Tax, Ministry of Agriculture has levied Fishery Tax and Fees, the Ministry of Foreign Affairs has levied a Passport License Fee.⁵

⁵ Direk Kuansamakom, "Public Higher Educational Institution and Tax Exemption," Tax Magazine vol. 25 (January 2006): 111-112.

2.2 Local Tax Administration

Because local administrations have a responsibility to provide basic public services, they need to raise revenue to support these activities. The primary sources of local administrations revenue are local levied taxes, surcharges on government tax, shared revenue, transferred revenue, and government grants.

According to the Provision of Plan and Stage for Decentralization to Local Administrative Authority Act B.E. 2542 in Section 23 and Section 25, Municipalities, Tambon Administrative Organizations, Pattaya City and Bangkok Metropolitan Administration are in charge of the building and land tax and local development land tax in their respective areas of jurisdiction.

2.2.1 Local Administrative Authorities

Thailand is organized in 76 provinces and 811 districts. Each province is administered by an appointed governor (except Bangkok, where the governor is elected). In addition, there are almost 8,000 local governments, including Provincial Administrative Organizations (PAOs), Municipalities, Sub-district (Tambon) Administrative Organizations (TAOs), Bangkok Metropolitan Administration, and Pattaya City.

PAOs consist of elected councils, which in turn choose executive committees. Most urban areas are organized in municipalities, consisting of 20 metropolitan areas (apart from Bangkok and Pattaya), with a population of 50,000, 86 cities, average population, 10,000 and 1,023 towns. Finally, there are 6,746 tambons (TAOs) organized in five categories: most are small rural communities, but some are larger than some municipalities. Both Municipalities and TAOs have elected councils.

Special Administrative Organizations (SAOs) have been proposed based on the successful model of the Bangkok Metropolitan Administration (BMA), which was established in 1972. BMA operates as a unitary government extending across the geographical equivalent of a province. At present, the Governor of BMA is the only directly elected local government official in Thailand. The Thai Government has agreed to establish other equivalent local governments known as SAOs. These SAOs would be established in areas with high economic and social development with a geographic boundary coterminous with the province or some part thereof. Proposals for transforming Phuket and Pattaya City into a SAO (encompassing the entire provincial area) are under consideration, and other possibilities include Songkhla, Nakorn Ratchasima, Chachoengsao, Chonburi and Rayong.⁶

2.2.2 Revenue of Local Administrative Authorities

In order that local administrative authorities can administer basic public services at most, the previous Constitution Law B.E. 2540 in Section 284⁷ prescribed that they should provide allocating tax resources between the national and local governments, or among 2 local governments. It is prescribed in the Provision of Plan and Stage for Decentralization to Local Administrative Authority Act B.E. 2542. Local tax administration revenue⁸ is classified as tax revenue and non-tax revenue.⁹

⁶ Dana Weist, Thailand's Decentralization: Progress and Prospects, Structure of Thai Local Governments, in <http://www1.worldbank.org/wbiep/decentralization/aplib/weist.pdf>, access date August 9, 2007.

⁷ Constitution Law B.E. 2550, section 283 paragraph 4.

⁸ Provision of Plan and Stage for Decentralization to Local Administrative Authority Act B.E. 2542, section 23-25.

1. Tax Revenue

1) Local Tax collected by the Local Administrative Authorities (only collected by Municipalities, Sub-district (Tambon) Administrative Organizations (TAOs), Bangkok Metropolitan Administration, and Pattaya City unless Provincial Administrative Organizations (PAOs) are as follows:

- (1) Building and Land Tax
- (2) Local Development Land Tax
- (3) Signboard Tax
- (4) Animal Slaughtering Tax

2) Shared Tax¹⁰ collected by the government and shared with the local administration, which includes:

- (1) A five percent share of VAT collected in every province except Bangkok which is then transferred to a PAO in that province;
- (2) 60 percent of mineral and petroleum tax distributed by the source of revenue; and
- (3) VAT additionally transferred to all local administrations according to the Decentralization Act.

3) Transferred Tax¹¹ is collected by government agencies and transferred to local administrations and includes:

- (1) Motor Vehicle Tax and fees collected from provincially registered motor vehicles, which are then transferred to the respective local administrations.

⁹ FINANCIAL FACTS & Expenditure, in <http://203.155.220.239/th/index.php>, access date October 18, 2007.

¹⁰ Tax Policy Bureau, Fiscal Policy Office, Ministry of Finance, A Guide to Thai Taxation 2005, in <http://www.oefa.thaiembdc.org/Project/Info/Guide%20to%20Th%20Tax.pdf>, access date August 10, 2007.

¹¹ Ibid.

(2) Real estate registration fee distributed by the source of revenue.

2. Non-Tax Revenue

1) Regular Revenue collected by the Local Administrative Authorities are as follows:

- (1) License Fees
- (2) Fees
- (3) Fines
- (4) Service Charges
- (5) Rental of BMA Assets
- (6) Income from Public Utilities and Enterprises
- (7) Miscellaneous Income
- (8) Hotel Tax, Petrol Stations Tax and Retail Tobacco Tax

2) Special Revenue:

- (1) Loans and grants from other government agencies, NGOs, cooperation and assistance from international agencies.
- (2) Accumulated fund allocated with the governor's authority.
- (3) Income from special enterprises.

2.3 Structures of Local Tax

The main tax revenue of the local administrative authorities comes from local tax such as building and land tax (real estates), local development land tax (lands), signboard tax and animal slaughtering tax.

Despite this complex local government structure, local revenues and local property taxes in Thailand are not very important. Two local taxes can be considered as property taxes, namely, building and land tax, and local development land tax. Additional to these two taxes, there is also a property transfer fee on market value of transfer property. These two taxes are important as revenue sources for local self-government units. The building and land tax accounted for 80 percent of total locally levied tax revenue, while the local development land tax accounts for about 9.5

percent. Their significance in terms of total local tax and total government tax revenues is much less, however.

2.3.1 Building and Land Tax

The Building and Land Tax evolved from Market Tax or House-Boat tax, and then it is levied subject to the matters of The House and Land Tax Act B.E. 2475 (1932). Its beginning was enforced in areas of Bangkok Provincial and Thonburi Provincial, and expanded to others provinces.

In the past, building and land tax had been collected by responsibility of Revenue Department of Ministry of Financial, before Local Revenue Act B.E. 2497 was denounced. Therefore, the building and land tax was transferred from the Revenue Department to Local Administration.

Building and land tax is levied with owners of a building, other structures and land appurtenant thereto being rented or being used as commercial structures. Taxable property under the House and Land Tax Act B.E. 2475 includes the building unoccupied by the owner, industrial and commercial buildings and land used in connection therewith. The tax rate is 12.5% of the assessed annual letting value of the property.

1. Taxpayers

A building and land tax is imposed on the owners of a house, building structure or land appurtenant thereto, which is rented or otherwise put to commercial use. Owners of buildings and other structures and land appurtenant thereto are liable to pay the building and land tax. The tax rate is 12.5 percent of actual or assessed annual rental value of the property. Where the land and the buildings thereon belong to different owners, the owner of the buildings is liable for the whole amount of the tax.

By the way, although you are not the owner of a house you might be liable to pay tax together with another. There is in case of selling any buildings which remain an arrear to pay building and land Tax, so the seller will be charged as a joint debtor with the buyer. Therefore, the seller should have thoroughly verified the tax burden of such building.

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The date for filing building and land tax returns must be announced annually within the first four months of the calendar year. A tax return must be filed within 30 days of the assessed taxpayer date, at the municipal or district office of the provincial administrative organization where the buildings and land are located.

A penalty of 2.5% of the tax liability is payable when the tax is paid during the first month after the due date for payment, 5% for the second month, 7.5% for the third month and 10% for the fourth month.

2. Tax Base

Local administrative authorities are responsible of assessing the tax base on annual rental value, actual or imputed, of the taxable property. These values are supposed to be declared annually by owners. The actual or imputed rental income from building and land utilized for all purposes, except for owner-occupied residences, is taxable under the building and land tax. However, some classes of property are not rented and in these cases it is usual for the Ministry of Interior to direct that the annual value shall be a prescribed percentage of the capital value of the property. That is, to assist the authorities in tax collection, the tax prescribes an “annual rate” which is defined as the sum for which the property might be expected to lease from year to year. Owners can appeal to local authorities if dissatisfied with the assessment.

1) Taxable Property and Non-Taxable Property

Taxable property under the building and land tax comprises houses not occupied by owner, industrial and commercial buildings and the land appurtenant thereto. Structural additions to taxable property also become subject to taxation. Property is taxable as building and land Tax can be divided into 3 categories:

- (1) “Building and other structures”, buildings are such as commercial building, house, shop, office, company, bank, hotel, theatre, hospital, school, apartment, condominium, warehouse, etc. While the meaning of other structures are port, bridge, reservoir, Pagoda, statue, oil tank, etc;
- (2) “Land constructed buildings or other structures”, that is supposed that Mr. A constructs a building onto land, so both are taxable properties ; and
- (3) “Land appurtenant of land constructed buildings or other structures”, there is consecutive land extending from land constructed buildings or other structures (in part b), it is supposed that the house of Mr. A includes footpath, field, garden or swimming pool, these are provided to be land appurtenant thereto.

Property is non-taxable according to the House and Land Tax Act B.E. 2475 and the following get exemptions:

- (4) Royal Palaces owned by the Crown property regardless of personal property of His Majesty;¹²
- (5) Property of government which is utilized the purposes of government or for public¹³ such as buildings located the a

¹² House and Land Tax Act B.E. 1932, section 9 (1).

Ministry or any Department, public bridge, public port, public hall, etc;

- (6) Property of public hospitals and school not operated for deriving own profits and exclusively utilized under the purpose of health care and education;¹⁴
- (7) Religious bodies' property and exclusively utilized under religious' purpose or in residence of priest¹⁵ such as temple, church, mosque, etc;
- (8) Building unoccupied for period of 12 months or more, and the owner or others person does not occupy except occupied by guard who honestly is not dweller.¹⁶ For an example, Mr. A owns 2 buildings; a building for residence and another building unoccupied. The second one should be exempted by the law;
- (9) Building of National Housing Authority which hire-purchaser dwells without utilized for warehouse or industrial activities; and¹⁷
- (10) Building occupied by the owner or dweller, and not utilized for warehouse or industrial activities.¹⁸

3. Tax Rates, and Reductions and Exemptions

The rate of building and land tax is a proportional tax, specified at the rate of 12.5% of the actual or imputed annual rental value of property on owners of buildings or land, used for any purpose, with the exception of owner occupied residences. If buildings on the land

¹³ Ibid., section 9 (2).

¹⁴ Ibid., section 9(3).

¹⁵ Ibid., section 9(4).

¹⁶ Ibid., section 9(5).

¹⁷ Ibid., section 9(6).

¹⁸ Ibid., section 10.

are owned by a person other than the owner of the land, the owner of the buildings is liable for the tax.

“Annual Rental Value” means rental fee leaser may derive from lessee. For example, Mr. A had derived rental fee annually 10,000 baht so he must be taxed 1,250 baht. Even if tax officers considered that the rental fee is not appropriately the number, they are empowered to correct or to reassess such amount regardless of rental fee actually derived.¹⁹

In the case of a house, if it was residence and operated for own business that cannot assess following actual annual rental value, so the taxable amount is imputed annual rental fee might be rented and assumed in the rate of 12.5% annually.

Otherwise, annual rental value in previous years have been considered upon the computation of taxable amount consecutively, nevertheless such previous taxable amount does not work as well as the assessed taxable amount.²⁰

Due to different understanding for interpretation in the matter of House and Land Tax Act B.E. 2575, Cabinet may has passed a resolution (called as ‘Cabinet Resolution’) about building and land tax collection provided Ministry of the Interior can enact ‘Ministry of the Interior Notification’, including ‘Document of Ministry of the Interior’ in order to provide the moderate standard rental value bath per square metre for assessment of tax official.

¹⁹ The decision of Supreme Court 185/2502.

²⁰ The decision of Supreme Court 726/2491.

1) Imputed annual rental value

Besides assessment under annual rental value, because the House and Land Tax Act B.E. 2475 was amended by the House and Land Tax Act (Edition 4) B.E. 2534 and Ministry of the Interior Notification on Criteria for Annual Rental Value Assessment dated on March 30, B.E. 2535 provided criteria widely for assessment in annual rental value of taxable property without details. So, local administrative authorities need to provide their own criteria as the same standard. For example, BMA by the Governor enacted BMA Notification 63/2538 provide that official treats following this regulation for building and land tax assessment, it can conclude briefly as:

- (1) Tax assessment for general property divided as 2 characteristics, they are first-assessed property and assessed property; and
- (2) Tax assessment for specific property, tax official would be assessed property that criteria provided only in the notification and consider to emphasize at business activities and properties' character regardless of the property of activities being allowed licenses by the government such as gas station, stadium, mall, theatre, hotel, factory, hospital, bank, gas storage, etc.

2) Reduction

In addition, to encourage manufacturing investment the Act also provides reductions, so annual rental fee should be reduced in the following cases:

- (1) If buildings or factories in which machinery had installed fundamental producing part e.g. machine, producing machine or others machine to operate some industrial such as factory, mill, sawmill, etc. These should reduce the annual rental fee in rate on one-third of annual rental fee. For example, a mill has installed a machine that has the annual rental fee of 30,000 baht, it is reduced by 10,000 baht and just pay House and Land Tax 12.5% of 10,000 baht;
- (2) Reductions are also made, pro rata, where buildings become unoccupied during the year;
- (3) Similarly, if a building has just been carried out, this annual rental fee is reduced subject to valuation proportional of unavailable time periods. For example, Mr. A constructs a house and occupies it in the beginning of July, the annual rental fee should be reduced proportionally, pro rata, in rate on a half of the annual rental fee; and
- (4) Damaged buildings are reduced subject to valuation proportional to the extent of damage.

3) Exemption

Government and religious property is exempt, as are, importantly, buildings occupied by owners and unoccupied (for 12 months or longer). Properties which get tax exemptions are non-taxable property (in part 2) according to House and Land Tax Act B.E. 2475 as the following:

- (1) Royal Palaces owned by the Crown property ;
- (2) Property of government;
- (3) Property of public hospitals and educational institutions;
- (4) Religious property;
- (5) Building unoccupied for more than 12 months; and

(6) Building occupied by the owner or dweller.

One of the main weaknesses of this tax is its exemption on owner-occupied residential buildings. This exemption not only encourages the wealthy to build larger houses but it also creates serious administrative problems in determining whether or not buildings are really used for residential purposes. Similarly, the exemption for vacant buildings is difficult to verify, as is, more generally, the veracity of the self-declared rental values even for taxable property.

4. Tax Procedure

Building and land tax should be paid annually through Local Administrative Authorities (City of Bangkok Metropolis, City of Pattaya, Municipality and District Administration Authorities unless Provincial Administration Authorities). Those are started from an announcement of such Local Authorities, taxpayers have received, namely 'P.R.D.2' Form, building and land tax filing form noticed within February of every year. Such announcement shall be noticed in the Government Gazette and published in newspaper or at office of the Local Authorities.

Meanwhile, the taxpayers have to file the P.R.D.2 Form within the period of time and even to fulfill the items in the forms. Then, they are delivered to the local tax assessment officer who will compute taxable amount, and give notice to the taxpayers so that is paid within 30 days after notification. Even if the taxpayers have not paid the tax within the period of time, they are liable for surcharges.

A penalty of 2.5% of the tax liability is payable when the tax is paid during the first month after the date due for payment, 5% for the second month, 7.5% for the third and 10% for the fourth month.²¹

2.3.2 Local Development Land Tax

This tax is based on the value of the land, excluding improvements, and ranges from between 0.25% and 0.95% annually. Assessments are calculated on the area of the land and on the median value of land as assessed by district authority. Taxable property includes land, mountains and water basins. Land used for the personal residence of the owner is exempt from the local development land tax. Cultivated land in excess of the exempt area is subject to only one half of the statutory rate. Idle land is subject to twice the statutory rate.

1. Tax Base and Taxpayer

All persons or groups of persons, individual or corporate, who own land or are in possession of land not owned by other individuals, are liable to pay the tax. The tax is assessed on the land value of the property, no account being taken of any improvements thereon or of any crops. This land value is the product of the area of the property and the “median value” of land within the tax district or part of the tax district in which the particular property is situated. The median value is computed by a local committee from at least three recent sale prices of land located in the district without account being taken of improvement, value of structures or crops which may be included in such sale prices. Once determined, the median price of land for a given district is used for a period of four years. This median price is made known to the general public and if dissatisfied, landowners can

²¹ Thavorn Rujivanarom, Thai Tax 2006 Booklet, in <http://www.pwc.com/Thailand>, access date August 15, 2007.

appeal for its revision. In this case, however, appeal is to the provincial governor. If no transactions of land occurred in the area, the median value would be calculated by reference to the closest neighboring areas which have similar land conditions and usage. The provincial governor has authority to appoint an appraisal committee for each jurisdiction. Members of the committee vary with different types of local government.

Taxable Property

Taxable property comprises all land, including mountains and water basins. Again, government and religious land is excluded, as is land used for personal residence, or (subject to maximum areas, which vary by location) land used for cultivation.

2. Tax Rates and Exemptions

The Ministry of Interior sets the tax rate schedule for use by all local government tax administrations. The rate of this tax is progressive with the size of land holding but the rate itself is low when compared to the median value of land on which this tax rate is based. The assessed value once determined will be used for a period of four years. The tax is imposed as a fixed amount per rai (1600 square meters) on a progressive scale increasing with the “median price” of the land, with many brackets. The implicit rates are regressive, ranging from about 0.25% to 0.5%. Idle land is supposed to be charged at twice the normal rate and land used for annual crops at half the rate, with landowners doing their own farming subject to a low maximum rate.

The local development land tax shall be collected from the possession of the landowner on land only in accordance with the Local Development Tax Act B.E. 2508 (1965) as follows:

The land owner who possesses the land as at the 1st of January each year shall have the duty to pay the local development land tax at the rate computed on the median value of the land of the year concerned according to rate prescribed by the government agency pursuant to the law.

The median value of the land is appraised on the last purchase price in good faith of lands in the same area of not less than 3 previous purchases within the period not exceeding 1 year before the date of appraisal, which shall then be averaged to obtain the median value of the land without taking into account the value of the building and structure.

Owners of land and/or buildings in designated areas may be subject to annual taxes levied by the local government. Under the Local Development Tax Act B.E. 2508, rates per unit vary according to the appraised value of the land. However, land for the personal residence of the owner, animal husbandry, or land cultivation is exempted from this Act. For land taxable under the House and Land Tax Act B.E. 2475, which is based on the value of the land and buildings or any other improvements, annual tax is levied at the rate of 12.5 percent of the assessed assumed rental value of the property, and only owner-occupied residences are exempt.

Exemptions

The following categories of land are exempted from the local development land tax collection:²²

- 1) Land owned by government agencies;

²² Local Development Tax Act B.E. 2508, section 8.

- 2) Land on which royal palaces are located;
- 3) Land on which public health, education or public charitable are located;
- 4) Land owned by religious bodies or for religious use;
- 5) Land utilized by non-profit cemeteries;
- 6) Land subject to building and land tax;
- 7) Land which is privately owned but used by the government for public purposes; and
- 8) Land on which embassies, consulates or offices of international agencies are located.

3. Tax Procedure

Landowners are required to file tax returns at the district office where the land is located if outside a municipality, or at the municipal office of the department if the land is located within the municipality. Returns must be filed in January of every year and tax is to be paid within April of every year or within 30 days of assessment if it is notified after March.

2.3.3 Signboard Tax

Under the Signboard Tax Act B.E. 2510 (1967) as amended the tax is levied on signboards showing names, symbols or marks of business, or advertisements. Rates specified in the Signboard Tax Act are computed on signboard size ranging from Baht 3 to Baht 40 per 500 square centimeters (but not less than Baht 200 per signboard).

1. Tax Base and Taxpayers

An annual signboard tax is imposed on signs or billboards, which display a name, trademark or product for the purpose of advertising or providing information about a business. Owners of signboards are subject to the tax, and the rate of tax varies on the size of the board and the language written on the board.

2. Tax Rates and Exemption

Signboards that display Thai words are levied at the rate of Baht 10 per 500 square centimeters. Signboards displaying both Thai and foreign words are taxed at Baht 100 per 500 square centimeters and, for foreign words alone, the rate increases to Baht 200 per 500 square centimeters. However, at present the rate is reduced to Baht 3, Baht 20 and Baht 40 respectively.

Exemptions

The categories of signboards that are tax exempted are the following:

- (1) Public places or organizations owned by the government;
- (2) Private schools subjected to law on private school or private higher educational institution subjected to law on private tertiary education, displayed within the compound of the schools or the institutions;
- (3) For religious bodies or charitable organizations and associations;
- (4) Erected within the area of occasional fairs;
- (5) Displayed in theaters or movie houses which publicize shows;
- (6) On products or containers;
- (7) That are confined to the internal place of a business;
- (8) Farmers' produce signs; and
- (9) Attached to a vehicle, man or animal

3. Tax Procedure

Owners of signboards are required to file tax returns in March of each year and tax must be paid within 15 days after notification of the tax assessment. Failure to pay tax may result in the seizure and sale of the property by the local authorities in order to collect the arrears.

2.3.4 Animal Slaughtering Tax

Animal Slaughtering tax is levied on a butcher who slaughters cattle, goat, sheep, pig, chicken, ducks, or geese. Tax rate is between 10-30 baht per animal.

2.4 Exemption of Local Taxes for Higher Educational Institutions

2.4.1 Higher Educational Institutions

National Education Act B.E.2542 (1999) Section 4 provided that Educational Institution means nursery, school, study centre, college, institution, university, educational organization or other organization of government or private sector have authorizations or objects to educational operation.

In B.E. 2459 (1916) Thailand established Chulalongkorn University to be the first institution of higher education in Thailand and it was raised from a civil service school. In B.E. 2477 (1934) Thammasat University was established and later other universities were established. The former systems of universities were operated to emphasize in higher professional for working in the government ministry and government department, it assumed that the former universities were established and operated for social needs in professional practice, service and existence to Thai people. Private organizations had required establishing educational institution in the terms of university and college, so the government had enacted the Private College Act B.E. 2512 (1969) and then it had become Private Tertiary Education Act B.E. 2522 (1979). Assumption Commerce School has established in B.E. 2481 (1938), then granted by Ministry of Education to open Bachelor of Business

Administration and raised as Assumption Business Administrative College (ABAC) and become presently Assumption University.

Higher Educational Institutions in Thailand consists presently of 78 Public Universities, 33 Private Universities, 29 Private Colleges, five Private Institutes and 18 Community Colleges.²³

1. Public Educational Institutions

A public educational institution is an institution that is predominantly funded by public means through a national or regional government.²⁴

2. Private Educational Institutions

In past, Private Educational Institutions established in Thailand were subject to the Private College Act B.E. 2512, then in B.E. 2522 such Act was amended by Private Tertiary Education Act B.E. 2522 and amended by Edition 2 B.E. 2535. Private Educational Institutions now have established are subject to the Private Tertiary Education Act B.E. 2546, they are situated as juristic persons and aim at managing education, learning research, servicing academically social and maintaining art and culture. So far the Commission on Higher Education has responsibility to control and observe the quality of the private education institution both allowance for establishment of the institutions and approval on educational standard and pursuit on the quality and standard of the allowed institutions in order to conform to the criteria provided by the commission.

Private Tertiary Education Act B.E. 2546 provided that the Private Educational Institutions classified into 3 sorts are universities,

²³ Commission on Higher Education, in <http://www.mua.go.th>, access date August 1, 2007.

²⁴ Meaning of Public University in Thailand, in <http://th.wikipedia.org>, access date August 24, 2007.

colleges and institutes.²⁵ The establishing and opening institutions have to get an allowance from the government issued by Minister of Education.²⁶ Furthermore, whenever the institutions have had administration, they would get recognition in educational standard including recognition of educational standing²⁷ and recognition of qualifications to each faculty of the institutions in order that they can support themselves.

2.4.2 Exemption of Local Taxes for Higher Educational Institutions

1. Building and Land Tax

House and Land Tax Act B.E.1932 have exempted as, Section 9(2) has prescribed that 'Property of government which is utilized the purposes of government or for public' and Section 9(3) has prescribed that 'Property of public school do not to operate for deriving own profits and utilized under the purpose education'.

1) Public Educational Institutions

* The local administrative authorities empower to levy the building and land tax, it has been implemented according to the law about exemption that only public higher education institutions should get building and land tax exemption because they are government property and have the purposes of government or for the public. Therefore, the public higher educational institutions practically are exempted to pay building and land tax by Section 9(2) of the Act.

²⁵ Private Tertiary Education Act B.E. 2546, section 9.

²⁶ Ibid., section 10.

²⁷ Ibid., section 54.

2) Private Educational Institutions

On the other hand, nowadays, the private higher educational institutions have suffered the burden of building and land tax collection. Private education institutions have paid building and land tax every year. In some local administrations they may have allow tax reduction to the institutions depending on consideration of local administrative officer.

The institutes' properties would not certainly be property in the meaning of 'property of government' according to Section 9(2) and even Council of State decided that would not be 'property of public school' according to Section 9(3). Furthermore, it has interpreted the issue of educational operation that is concerned with deriving the own profits.

2. Local Development Land Tax

In Local Development Tax Act B.E. 2508 (1965) Section 8(4) prescribed that "land on which public health, education or public charitable are located, owner of the land should be exempted from local development land tax for such land." This Section has specified local development land tax exemption for both public and private higher educational institutions.

3. Signboard Tax

In the Signboard Tax Act B.E. 2510 (1967) Section 8(7) has exempted for public places or organizations owned by the government, it means public higher educational institutions should not be levied the tax from signboards owned by the institutions. Section 8(9) provides exemption those signboards, owned by private higher educational institutions, which displayed within the compound of the institutions. So if private higher educational

institutions are institution subject to the provision of Private Tertiary Education Act B.E. 2546, they should be exempted for the signboard tax for the signboard displayed exclusively within the compound of the institution.

4. Animal Slaughtering Tax

Absolutely other local taxes are not concerned directly with higher educational institutions both public and private institutions.



Chapter 3

Principles of Local Tax Collection in Foreign Countries

3.1 Local Tax Collection of the Educational Institutions in the United Kingdom

The United Kingdom is divided into four home nations or constituent countries: England, Scotland, Wales, and Northern Ireland. The latter three each has a unicameral legislature, devolved from the United Kingdom Parliament, which relates specifically to each constituent country: the Scottish Parliament, the National Assembly for Wales, and the Northern Ireland Assembly. Each also has its own Executive, led by a First Minister, which controls separate law making and constitutional powers devolved from Westminster. However, despite being the largest of the United Kingdom's four constituent countries, England, (with the exception of the Greater London Authority), has no devolved executive; it is ruled directly by the UK government.

3.1.1 Local Tax Administration

There is no single system of local government in the United Kingdom. The United Kingdom is made up of constituent countries, England, Scotland, Wales and Northern Ireland. Each has a different system of local government. Each nation is further subdivided for the purposes of local government.

Historically, the four nations were divided into counties as areas for local government administration. Although these are still used to some extent for this purpose and as geographical areas, they are no longer the sole basis for local government administration.

Scotland, Wales and Northern Ireland use a pattern of unitary authorities, meaning there is a single tier of local government. There are 32 council

areas in Scotland, 22 counties and county boroughs in Wales, and 26 districts in Northern Ireland.

The pattern in England is more complex, the result of numerous reforms and reorganization over the centuries. The top level of local government within England is now the region. It is subdivided into 9 regions, one of these is London. Each region has a government office and assorted other institutions.

Counties are further divided into districts (also known as boroughs in some areas). Districts are divided into wards for electoral purposes. Districts may also contain parishes and town council areas with a small administration of their own. Other area classifications are also in use, such as health service and Lord-Lieutenant areas. (Councils of counties are called “X County Council”, whereas district councils can be “District Council”, “Borough Council”, or “City Council” depending upon the status of the district. Unitary authorities may be called County Councils, Metropolitan Borough Councils, Borough Councils, City Councils, District Councils, or sometimes just Councils. These names do not change the role or authority of the council).

Local government provides services such as police, fire, recycling, refuse collection and removal, schools, leisure centres, park and ride schemes, parks and open spaces, street cleaning, subsidizing of public transport, tourism, museums, social housing grants, housing and council tax benefits, environmental health and food safety in pubs, restaurants and shops, planning services, support for voluntary groups, meals on wheels, facilities for young people, adapting homes for disabled people, play centres for children, CCTV installation, sports facilities, issuing taxi licences, flood defences, and many others.

Local councils are funded by a combination of central government grants, Council Tax (a locally set tax based on house value), Business Rates, and fees and charges from certain services including decriminalized parking enforcement. The proportion of revenue that comes from Council Tax is low, meaning that if a council wishes to increase its funding modestly, it has to put up Council Tax by a large amount. Central government retains the right to “cap” Council Tax if it deems it to be too much. This is an area of debate in British politics at the moment, with councils and central government blaming each other for council tax rises.

The Council Tax is the main form of local taxation in England, Scotland and Wales. It is paid by some residents to the local authority. It was introduced in 1993 (by way of the Local Government Finance Act 1992) as a successor to the Community Charge (the ‘poll tax’).

3.1.2 Structure of Local Tax Collection

The Council Tax is a system of local taxation collected by local authorities. It is a tax on domestic property. Generally, the bigger the property is, the more tax will be charged. Some property will be exempted from council tax. Council Tax is collected by the district-level council.

1. Principle of Council Tax

Council tax, on 1 April 1993, the community charge system of local taxation, or poll tax, was replaced by the council tax, which is largely a property-based tax rather than an individual-based tax. Properties are banded according to an assessment of their market value (as at 1 April 1991), with local authorities individually determining the rate

levels levied on these bands. Table 12 shows the value bands and the distribution of dwellings in England.²⁸

Although it is the only tax which is set by local government, the Council Tax contributes only a small proportion (25%, on average) of local government revenue. The majority comes from central government grants and from business rates which are collected centrally and redistributed to local authorities. A significant proportion of local government services are stipulated by central government in the form of statutory provision. Local councils are obliged by law to provide these services. The remainders of services are discretionary and are determined by the local council.

1) Tax Base, Tax Rate and Taxpayers

Council Tax is divided into a number of components. Depending upon where the dweller lives, there can be a separate charge made by the Greater London Authority, County Councils, Police Authorities, Fire Authorities, Transport Authorities, National Park Authority, Olympic Delivery Authority, District Councils, Scottish Water and Civil Parishes. These all set their precepts independently. Each of the levying authorities sets a precept (total amount) to be collected for their area.

Each local authority keeps a list of all the domestic property in its area. This is called the valuation list. Each property is valued at April 1991 prices and put into a valuation band. A different amount of council tax is then charged on each band. Each year, every local authority will set a rate of council tax for each valuation band.

²⁸ A Survey of the UK Tax System IFS Briefing Note No.9, in <http://www.ifs.org.uk/taxsystem/taxsurvey2000.pdf>, access date September 3, 2007.

Usually one person, called the liable person, is liable to pay council tax. Nobody under the age of 18 can be a liable person. Couples living together will both be liable, even if there is only one name on the bill. This applies whether the couple is married, cohabiting or in a civil partnership.

Usually, the person living in a property will be the liable person, but sometimes it will be the owner of the property who will be liable to pay. The owner will be liable if:

- (1) The property is in multiple occupation, for example, a house shared by a number of different households who all pay rent separately; or
- (2) The people who live in the property are all under the age of 18; or
- (3) The people who live in the property are all asylum seekers who are not entitled to claim benefits including council tax benefit
- (4) The people who are staying in the property are there temporarily and have their main homes somewhere else; or
- (5) The property is a care home, hospital, hostel or women's refuge.

2. Tax Reduction

Not everyone will have to pay the full amount of council tax. There are three ways in which your council tax bill may be reduced. These are:

- 1) The reduction scheme for disabled people. If there is someone (adult or child) living in a household who is substantially and permanently disabled the council tax bill for the property may be reduced. To claim a reduction you must show that a disabled person lives in the property, and also that the property has at least one of the following:

- (1) An extra kitchen or bathroom to meet the needs of a disabled person ;
- (2) Any other room (except a toilet) which is mainly used by a disabled person to meet their needs; or
- (3) Enough indoor space for a disabled person to use their wheelchair.

An application for this reduction must be made in writing to the local authority. Many local authorities will have a special application form. Some will ask for supporting evidence, for example, a doctor's letter.

2) Discounts

If only one adult lives in a property they will get a 25% discount on the council tax bill. When working out how many people live in a property, some people are not counted. These are called disregarded people. If everyone who lives in the property is disregarded, there will still be a council tax bill, but there will be a 50% discount. People are disregarded when they are:

- (1) Aged 17 or under;
- (2) Living in the property temporarily and for whom this is not their normal home;
- (3) People who are severely mentally impaired ;
- (4) Full-time students on a qualifying course of education, including student nurses ;
- (5) A spouse, civil partner or a dependant of a student who is a non British Citizen and who is not allowed under immigration rules, either to work in the UK or claim benefit
- (6) Long-term hospital patients and care home residents;
- (7) School or college leavers still aged under 20 who have left school or college after 30 April. They will be disregarded until

1 November of the same year whether or not they take up employment;

- (8) Aged 18 and someone is entitled to Child Benefit for them; or
- (9) Members of a religious community.

3) Council tax benefit and second adult rebate

A person who is liable to pay council tax may be able to claim Council Tax Benefit. The amount of benefit they may get will depend on their income and capital.

If you have someone living with you who are not liable to pay the council tax on your property, you may be able to claim a benefit called a 'second adult rebate'. You will not be able to claim a second adult rebate as well as Council Tax Benefit. If you are entitled to both, you will receive whichever is the higher.

3. Tax Exemption

Some property is exempt from council tax altogether. It may be exempt for only a short period, for example, six months, or indefinitely. Properties which may be exempt include:

- 1) Property which is empty. It has to be unoccupied and substantially unfurnished. The exemption applies for a maximum of six months and the property has to be vacant for the whole of this period (although up to six weeks of occupation during the period is allowed);
- 2) Property which is vacant because it needs major repairs or alterations to make it habitable. The exemption applies for a maximum of 12 months whether the work is actually finished or not by then;
- 3) Condemned property;
- 4) Property which has been legally re-posessed by a mortgage lender;

- 5) Property unoccupied because the person who lived there now lives elsewhere because they need to be cared for, for example, in hospital, in a care home or with relatives;
- 6) Property which is unoccupied because the person who lived there has gone to care for someone else;
- 7) Any property that only students live in. This may be a hall of residence, or a house;
- 8) A caravan or boat which is used as a main residence but which is unoccupied. This exemption lasts for up to six months. A holiday caravan or boat is exempt if it's on a property where council tax is paid;
- 9) A property where all the people who live in it are aged under 18;
- 10) A property where all the people who live in it are either severely mentally impaired or are students or where there is a mixture of both; or
- 11) In England, a self-contained 'granny flat' where the person who lives in it is a dependent relative of the owner of the main property.

4. Tax Procedure

Council tax bills should be sent out in April. They have the right to pay by 10 instalments. Local authorities may accept weekly or fortnightly payments. Some may also offer a reduction in the total bill if it is paid all at once, at the beginning of the year.

When they have not paid an instalment of council tax on the date it is due, the local authority must issue a reminder, asking for payment within seven days. If it fails to pay within this period, they lose the right to pay by instalments and a full year's council tax becomes payable. If they don't pay this within the next seven days, the local authority can ask the magistrates to issue a liability order.

A liability order allows a local authority to make arrangements for the arrears to be paid by deductions from income support, jobseeker's allowance or wages, or for bailiffs to seize their goods to the value of the amount owed. Alternatively, they could be sent to prison by the magistrate's court if you do not pay.

If the local authority issues you with three reminders for late payment of installments within the same financial year, they will also lose the right to pay by installments. A full year's council tax becomes payable when the third reminder is issued. However, in practice, the local authority may continue to accept payment by installments, as long as they are paid on time.

3.1.3 Exemption of Local Tax Collection from Higher Educational Institutions

There are, however, a range of exemptions and relief available. For example, there are reductions in the council tax bill for properties with only one resident adult (25% reduction) or if the property is empty (50% reduction). Properties that are exempt from council tax include student halls of residence. If they are a full-time student in advanced education, they will have to pay council tax if they are the liable person for a property. However, if all the people living in the property are students no council tax will be payable and if some of the residents are students the council tax may be reduced.

So, both public and private higher educational institutions would be levied council tax for properties' institutions. Properties which are exempt from council tax include student halls of residence, and if some of the residents are students the council tax may be reduced.

3.2 Local Tax Collection of the Higher Educational Institutions in the United States of America

In the American federalist system, citizens are usually subject to three levels of government, federal, state, and local; the local government's duties are commonly split between county and municipal governments.

3.2.1 Local Tax Administration

Local government in the United States (sometimes referred to as municipal government) is generally structured in accordance with the laws of the various individual states. Typically each state has at least two separate tiers: counties (known in Louisiana as parishes and as boroughs in Alaska), and municipalities. In turn there are several different types of municipal governments, generally reflecting the needs of different levels of population densities; although the types and nature of these municipal entities varies from state to state, typical examples include the city, town, and village. Many rural areas and even some suburban areas of many states have no municipal government below the county level. In a few states, there is only one level of local government: Hawaii has no legal municipalities below the county level; and Connecticut and Rhode Island have cities and towns but no county government.

In addition to the above, there are also often local or regional special districts that exist for specific purposes, such as to provide fire protection, sewer service, transit service or to manage water resources. In many states, school districts manage the schools. Such special purpose districts often encompass areas in multiple municipalities.

1. County Governments

A county of the United States is a local level of government smaller than a state and not smaller than a city or town, in a U.S. state or

territory. The word "county" is used in 48 of the 50 states, while Louisiana uses the term "parish" and Alaska uses the word "borough." Including those, there are 3,077 counties in the US, an average of 62 counties per state. The site of a county's administration and courts is called the county seat. In many states, counties are subdivided into townships or towns and may contain other independent, self-governing municipalities.

2. Municipal Governments

Municipalities are generally formally incorporated entities in built-up areas. They usually operate with a degree of autonomy. A municipality is an administrative entity composed of a clearly defined territory and its population and commonly referring to a "city, town, or village", or a small grouping of them. A municipality is typically governed by a mayor and a city council or municipal council.

Both types of government often operate in the same area, albeit with different responsibilities. Generally in heavily urbanized areas the city government will have considerable powers, with the county government conversely having relatively few (or even none). Unlike in some other countries, both types of government often have powers to tax both local residents and businesses and to incur public debt. In some areas this means the power to raise a local income tax. County governments in some states also have the ability to add a percentage to the state sales tax.

3.2.2 Structure of Local Tax Collection in Los Angeles, California

California has several different and overlapping forms of local government. Cities, counties, and the one city and county can make ordinances (local laws), including the establishment and enforcement of civil and criminal penalties.

Los Angeles County, is located on the Pacific Ocean in the state of California, has the largest population (10,331,939 as of January 2007) of any county in the nation, and is exceeded by only eight states. Approximately 27 percent of California's residents live in Los Angeles County. There are 88 cities within the County, each with its own city council.

Los Angeles' municipality or City of Los Angeles is the second largest City in the United States in terms of population and is 470 square miles containing 11.5% of the area of the Los Angeles County,²⁹ governed by A Mayor-Council.

Under the State Constitution, charter cities are generally independent of the State Legislature in matters relating to municipal affairs, and in their ability to raise revenues, Charter cities are subject to State Constitutional restrictions as Limitations on Taxes and Appropriations. Revenue is raised through local property tax and sales tax, and the issue of public bonds.

1. Local Taxes of Los Angeles County and City of Los Angeles

State law mandates that all property is subject to taxation unless otherwise exempted. Your property taxes support necessary services provided to the residents of Los Angeles County. These include law enforcement, fire protection, education, parks and recreation, and other vital services.

A number of City of Los Angeles' taxes are allocated in accordance with State law (most importantly, property taxes includes all categories of the City allocation of one percent property tax

²⁹ Appendix A City of Los Angeles Information Statement, in <http://www.lacity.org>, access date November 12, 2007.

collections) or collected and supported by the State (such as a sales tax collected by the State on behalf of cities or counties, and motor-vehicle license fees), including Licenses, Permits, Fees and Fines. There, State budget decisions can have a material impact on City finances.

2. Principle of Property Tax

The property tax is set by, and calculated by, Los Angeles County. The County collects the ad valorem taxes. Taxes arising from the one percent levy are apportioned among local taxing agencies on the basis of a formula established by State law. Under this formula, the City of Los Angeles receives a base year allocation plus an allocation on the basis of growth in assessed value. The County deducts the pro rata cost of collecting property taxes from the City's allocation.

1) Tax Base, Tax Rate and Taxpayers

The amount of tax which a property owners pay on the value of his/her property. The tax is calculated by multiplying the assessed value of the property by the tax rate, which is one percent plus any voter approved increase.

Secured Property Taxes are taxes on real property, such as vacant land, structures on land, i.e. business/office building, home, apartments, etc., annual property tax bills are mailed in early October of each year. The bill is payable in two installments. Unsecured Property Taxes are taxes on assessments such as office furniture, equipment, airplanes and boats, as well as property taxes that are not liens against the real property; unsecured tax bills are delinquent if the payment is not received by 5:00 p.m. or postmarked by August 31st of the tax year. If August 31st falls on a Saturday, Sunday or a legal holiday, the deadline is the next business day.

2) Tax Exemption

In Los Angeles, California, generally properties that are owned and used by educational, charitable, religious or government organizations may be exempt from certain property taxes. You may also qualify for certain exemptions. The exemption claim should be filed with the Los Angeles County Assessor appraising the value of that property as this following exemption:³⁰

(1) Exemption for Historical Aircraft

For purposes of “aircraft of historical significance” is any aircraft that is an original, restored, or replica of a heavier than air powered aircraft that is 35 years or older.

Aircraft of historical significance shall be exempt from taxation if all of the following conditions are satisfied:

- A. The assessee is an individual owner who does not hold the aircraft primarily for purposes of sale;
- B. The assessee does not use the aircraft for commercial purposes or general transportation; and
- C. The aircraft is available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

(2) Exemption for Homeowners

California property tax laws provide two alternatives by which the homeowners’ property tax exemption, up to a maximum of \$7,000 of assessed value, may be granted eligible owner of a dwelling which is occupied as the owner’s principal place of residence as of 12:01 a.m., January 1 each year.

³⁰ Constitution of State of California, article XIII section 2, and Revenue and Taxation Code, section 220.5.

(3) Exemption for Nonprofit Organizations

Constitution of the State of California and the Revenue and Taxation Code has provided exemption with some non-profit organizations' property such as local governments, churches, colleges, non-profit hospitals, and charitable institutions, may also be eligible as the following:

- A. Church Exemption;
- B. Cemetery Exemption;
- C. College Exemption;
- D. Religious Exemption; and
- E. Exemption for Property Used Exclusively by a Public School.

3) Tax Procedure

It takes three separate Los Angeles County offices, Assessor, Auditor-Controller, and Treasurer and Tax Collector to produce and account for your property tax bill and payment.

The Los Angeles County Assessor establishes the assessed value of your property by appraising the value of that property under applicable State laws. The assessed value is then placed on a list with all other properties in Los Angeles County and this list is called the "Assessment Roll." The Assessor also approves and applies all exemptions, which are added to the Assessment Roll. The Assessment Roll is then presented to the Los Angeles County Auditor-Controller for further processing.

The Los Angeles County Auditor-Controller adds direct assessments to the Assessment Roll then applies the tax rates, which consists of a general (1%) levy and debt service (voter & bonded) tax rates to the value to create an Extended Assessment Roll. The Extended Roll is

then sent to the Los Angeles County Treasurer and Tax Collector for individual tax bill distribution and payment collection.

The Los Angeles County Treasurer and Tax Collector receives the Extended Roll, prints and mails the property tax bills to the name and address on the Extended Roll. The Treasurer and Tax Collector collect secured and unsecured taxes.

In addition to annual taxes, you may be responsible for paying supplemental property taxes. State law requires the Assessor to reappraise property upon a change in ownership or new construction. The supplemental assessment reflects the difference between the new assessed value and the old or prior assessed value. If the property is reassessed at a higher value than the old assessed value, a supplemental bill will be issued. If the property is reassessed at a lower value than the old assessed value, a refund will be issued.

If any questions occur concerning the assessment of property, contact the Assessor's Office to discuss the assessments and request an informal review. If you disagree with the Assessor's property assessment, you can appeal the assessed value with the Assessment Appeals Board.

3.2.3 Exemption of Local Tax Collection for Higher Educational Institutions

1. Public Higher Educational Institutions

The Public School Exemption is used by public schools, including charter schools. Public schools most often use the exemption for leased and personal property. Section 3(d) of article XIII, and Sections 202, 202.2, 202.5, 202.6, 254, and 259.10 of the Revenue and Taxation Code cover this exemption. The property may be used for a variety of purposes, including education, administration, and

administrative support functions. Charter schools must submit a copy of the charter when applying for this exemption.

2. Private Higher Educational Institutions

The College Exemption is available to private nonprofit colleges and universities and may be used for owned or leased real and personal property. It is governed by Section 3(e) and 5 of Article XIII of the Constitution of the State of California and Section 202.2, 203 and 258 of the Revenue and Taxation Code (See also sections 251, 254, 255, 260, 270, and 271 of the Revenue and Taxation Code) are summarized as the follows:

- 1) The institution qualifies as a college or seminary of learning under the laws of this state;
- 2) The institution is not conducted for profit;
- 3) The institution requires for regular admission the completion of a four-year high school course or its equivalent;
- 4) The institution confers upon its graduates at least one academic or professional degree, based on a course of at least two years in liberal arts and sciences, or on a course of at least three years in professional studies, such as law, theology, education, medicine, dentistry, engineering, veterinary medicine, pharmacy, architecture, fine arts, commerce, or journalism;
- 5) The grounds for which the exemption is claimed are those within which its buildings are located; and
- 6) The property for which the exemption is claimed is used exclusively for the purposes of education.

Chapter 4

Analysis of the Problems on Local Tax Collection for the Private Higher Educational Institutions in Thailand

4.1 Analysis of the Problem on the Matters of Building and Land Tax Exemption

Building and land tax has levied with owners of a building, other structures and land appurtenant thereto are rented or being used in commercial. Taxable property under the House and Land Tax Act B.E. 2475 includes the building unoccupied by the owner, industrial and commercial buildings and land used in connection therewith. The tax rate is 12.5% of the assessed annual letting value of the property.

A relevant issue with the private higher educational institutions is the institutions' land and building for example studying building, office building, library, stadium, swimming pool, etc. would be subject to the tax exemption according to House and Land Tax Act B.E. 2475 in Section 9(3), or not. It has provided that "non-taxable property is a property of public school not operating for deriving own profits and utilized under the purpose education".

The case of the exemption of House and Land Tax for the private higher educational institutions have occurred the Decision No. 526/2543 of the Council of State on argument between Assumption University, which is a private higher educational institutions, and Bangkok Metropolis Administration. "In fact, the status of Assumption University happened that was previously established and administered by religious organization titled by St. Gabriel's Foundation of Thailand. Then, Assumption University split out the Foundation and has become a juristic person according to Section 4 of Private Tertiary Education Act B.E. 2522 (annulled, now as Private Tertiary Education Act B.E. 2546). After that, Assumption University has been situated as a private education institution in tertiary level as well as other public universities. Assumption University becomes private sector, so the institute's properties would not be property in the meaning of "property of public school"

according to House and Land Tax Act B.E. 2475 in Section 9(3).’ Furthermore, the Decision defined to the issue of educational operation concerning with the profits that ‘the institute’s management results during year 1994 to year 1998 have consistently been rising by deriving 313,770,106 Baht in year 1994, deriving 419,689,808 Baht in year 1995 and deriving 670,331,537 Baht in year 1998. Consequently, Assumption University have objected to operate concerning with the own profits and is not public school which has not operated education concerning with the profits and especially used in educational purposes.”

The discretion of the Council of State can conclude that private higher educational institutions are not subject to the exemption according to Section 9 (3) of House and Land Tax Act B.E. 2475 (amended by House and Land Tax Act Edition 4 B.E. 2534); therefore, the private higher education institutions have the burden of building and land tax.

In fact, Supreme Court Decision No. 5576/2548 is decided by Centre Tax Supreme Court that ‘plaintiff is a private university got profits in B.E. 2545 over 700,000,000 baht and more than previous year 300,000,000 baht. The Court decided that the plaintiff have operated concerning with own profits more than being public service, because the plaintiff have utilized educational buildings for leasing to other activities regardless of educational activities such as mall, restaurant, optical shop, photo shop, beauty shop, bank, etc. It is not suitable to be exempted by Section 9(3) of House and Land Tax Act B.E. 2475.”

It reflects private educational institutions limited the profits by the government to force in educational standard; it causes the institutions’ expenses much more and not deems to be the intention of Constitution Law provided that government has a duty to support and promote education.

According to Section 81 of Constitution Law B.E. 2540 prescribed that “government should manage educational training and supporting to private sector to participate educational training which initiate knowledge together with merit, establishing law on

national education in order to improve education regarding the development of economic and social, promoting knowledge, developing the appropriate character concerning to political and administration in democratic regime under the constitutional monarchy, encouraging research in various sciences, stimulating scientific development and technology for developing country, improving professional of teacher and promoting local knowledge, art and culture.”

The latest Constitution Law B.E. 2550 in Section 80 (4) prescribes that “government should support and promote decentralization in order that local administrative authorities, communities, religious bodies and private sector manage and participate to manage academic activities for improvement of educational standard to be in agreement with state basic policy.”

National Education Act B.E.2542 (1999) Section 46 prescribes that the “government should appropriately support subsidy, tax reduction or tax exemption and other privileges which may be an advantage in education throughout private educational institutions, including supporting and promoting academic activities for standard of private educational institution and the can be self-existence.”

Section 12 of National Education Act B.E.2542 (1999) prescribes that “government, private and local administrative authorities have the right to operate the basic education according to the provision of regulation in order that attractive policy facilitates to every institutions to operate academic activities and shares the burdens of government’s responsibility out.” Section 13 and 14 prescribed that educational operators have rights to get the privileges both support from government, subsidy supported by government accordance with the provision and tax reduction and tax exemption for educational expenses.

Section 58 Paragraph 2 of National Education Act B.E.2542 (1999) prescribes that “government or local administrative authorities should promote and persuade resources gathering for education, there are appropriately and essentially support, patronize and tax reduction or tax exemption measure.”

So, the building and land tax exemption for the private higher educational institutions seems to be the opposite matter between need in tax privileges to the private sector and state policy promoting and supporting participation of private sector.

Although in B.E. 2545-2546 had revised by the bill of Private Tertiary Education Act B.E. ...of which Act provided in Section 70 that should exempt building and land tax collection for private higher educational institutions, but such provision in the part of building and land tax exemption had been not approved by the legislature.

After the Private Tertiary Education Act B.E. 2546 (2002) has been enforced and used for a while, the Act is not to conform to National Education Act B.E. 2542 (1999) amended by National Education Act Edition 2 B.E. 2545 (2002) in many issues and it incurred the problem in practice. The status of private higher educational institutions immediately should be recognized legal status, whenever they have fulfilled qualifications following the provision of law.³¹

Therefore, the solution of this problem on exemption tax for the private higher educational institutions is firstly government should prescribe the specific legal measures so as to support and to promote the certain academic by amending the House and Land Tax Act B.E. 2475 (1932) granting tax excepting and lowering the rate of building and land tax for the purpose of fairness to the taxpayers. Apart from this, the House and Land Tax Act B.E. 2475 should be amended to make clear of the provisions and reduce the problem of interpretation as much as possible. However, the provisions of law for the taxation must be strictly and justly interpreted, since its provisions prescribing the unavoidable punishment of both civil and criminal liabilities by the state.

³¹ “Revise Private Tertiary Education Act”, Daily News (January 2007): 23.

4.2 Analysis of the Problem on Building and Land Tax Enforcement of Local Administrative Authorities

The Constitution of the Kingdom of Thailand B.E. 2540 includes several provisions addressing the perspective of the local government. These provisions lead to improvement of local government, particularly the empowerment of local communities, as well as the solving of local problems by the local communities. Regarding local, governmental management, the pertinent organization maintains freedom in governance, as well as financial performance. Therefore, the local administrations in which they can self-support efficiently in all areas of management are local tax collection.³²

In theory, local tax collected by Local Administrative Authorities, whatever it may be, Municipalities, Tambon Administrative Organizations, such as Bangkok Metropolitan Authority and Pattaya City. Local tax is a primary source of income which ensures success in the local administration. The building and land tax generates local revenue from the owners of building and land. The payments are calculated at the rate of 12.5% of the property's annual rental value.

Actually at present, the local tax is in force in Thailand, are collected by the local government. Since there are many problems concerning the administration of the two taxes as well as the question on the justice of the appraisal methods, these should be some reform regarding these two taxes.³³

The building and land tax collections in each local authority have assessed standard rental value that is a different value depending on the consideration of local tax official. In contrast of building and land tax payment rate (baht per square meter)

³² Soraya Korpetch, "The Efficiency of Local Government Organization in Building and Land Tax" (Master of Public Administration Thesis, NIDA; 2004).

³³ Thida Peanusaha, "Title-Problems of Property Tax Administration" (Master of Accountancy Thesis, Chulalongkorn University; 1976).

between private higher educational institutions and entertaining business, restaurant or snooker club of which businesses object to the profit, the tax payment of private educational institutions are higher than one another.

Due to many requirements of private educational institution, the former cabinet had passed a resolution about building and land tax collection from private educational institution, so Ministry of the Interior has sent a suggestive document about this to local administration authorities.

Cabinet Resolution on April 19, B.E. 2548 passed a resolution allowing the Ministry of the Interior to consider building and land tax for exemption and reduction in lowest rate to every level educational institution. Then, Ministry of the Interior dispatched a document to Provincial Governor called Document of Ministry of the Interior No. 0808.3/w.2738 dated on August 11, B.E. 2549, prescribed that 'Provincial Government must notice to local administrative authorities about instructions as this following;

1. Provide the local administrative authorities levy building and land tax appropriately for private higher educational institutions in rate of the normal standard rental value (baht per square per month) according to Document of Minister of the Interior No. 0313.5/w.1000 dated on March 11, B.E. 2545, and the rate should have been depending on different character of use such as education building, library, stadium, etc.
2. Provide the local administrative authorities notice the understanding about tax payment to private higher educational institutions in order that they can file the tax payment within February and can be examined by tax official for tax exemption or tax reduction.
3. Provide the local administrative authorities to assess tax following using areas. For example, any private higher educational institution' buildings are empty during summer holidays, the local administrative authorities should relief the building and land tax under the fact."

This document is only an instruction for the local administrative authorities. It is not the law which they have to treat, so it should be amended to make clear of the provisions and reduce the problems of interpretation as much as possible. However, the provisions of law for the taxation must be strictly and justly interpreted.

If that is to promote private sector to manage and participate to manage academic activities improving educational standard accordance with state basic policy, the local administrative authorities should be able to reduce the central government's burden in supporting public educational services. If the government will agree with the tax exemption, there should be a revision to the relevant law regarding to building and land tax.



Chapter 5

Conclusion and Recommendations

5.1 Conclusion

Nowadays, the private higher educational institutions have suffered the burden of building and land tax collection. Private education institutions have paid building and land tax every year. In some local administrations may have allowed tax reduction to the institutions by depending on consideration of local administrative officer. The institute's properties would not certainly be property in the meaning of 'property of government' according to Section 9 (2) and even Council of State decided that would not be 'property of public school' according to Section 9 (3). Furthermore, it has implemented to the issue of educational operation that concerns with deriving the own profits.

According to Section 81 of Constitution Law B.E. 2540 provided that government have to do managing educational training and supporting to public sector to manage educational training in order to improve education. The latest Constitution Law B.E. 2550 in Section 80 (4) also provided that government should support and promote decentralization in order that the private sector can manage and participate to manage academic activities for improvement of educational standard to be in agreement with state basic policy. Furthermore, National Education Act B.E. 2542 Section 46 provided that the government should appropriately support subsidy, tax reduction or exemption and other privileges which may be an advantage in education throughout private educational institutions, including supporting and promoting academic activities for educational standard and they can be self-existent.

The building and land tax exemption for the private higher educational institutions, therefore, seems to be the opposite matter between need in tax privileges to the private sector and state policy promoting and supporting participation of private sector.

After Private Tertiary Education Act B.E. 2546 (2002) has enforced and used for a while, the Act is not to conform to National Education Act B.E. 2542 (1999) amended by National Education Act Edition 2 B.E. 2545 (2002) in many issues and it incurred the problem in practice. In taxation issues, it should have tax exemption of building and land tax for private higher educational institutions and tax exemption for income as well as public higher educational institutions. Governments should emphasize development more than controlling and should have considered widely in both of public and private institutions, and enact honestly.

Actually at present, the local tax is in force in Thailand, are collected by the local government. Since there are many problems concerning the administration of the two taxes as well as the question on the justice of the appraisal methods, these should be some reform regarding these two taxes.

If that is to promote private sector to manage and participate to manage academic activities improving educational standard accordance with state basic policy, the local administrative authorities should reduce the central government's burden in supporting public educational services. If government will agree with the tax exemption, there should be revised the relevant law regarding to building and land tax.

5.2 Recommendations

The building and land tax collection from private higher education institutions is on the contrary thing between state policy supporting the participation of the institutions and needs of the institutions to get an exemption in the building and land tax. There should be a revision to the relevant law with building and land tax, if government will agree with the tax exemption.³⁴ In practice, the collection of the building and land tax is inefficient due to un-amended provisions dating from B.E. 2475. This study suggests the amendment of the House and Land Tax Act B.E. 2475, to ensure the Act is clear-cut and to decrease the discretion of the state official's authority in adjusting the tax rate, so that it coincides

³⁴ Pirek Kuansamakom, op.cit., p. 116.

more accurate with the realistic social and economic scenario. These improvements will ensure fairness to the taxpayers and will enable the generation of income for public service.³⁵

Therefore, the solution of solving this problem on exemption tax for the private higher educational institutions is, firstly government should prescribe the specific legal measures so as to support and to promote academics by amending the House and Land Tax Act B.E. 2475 (1932) granting tax excepting and lowering the rate of building and land tax for the purpose of fairness to the taxpayers. Apart from this, the House and Land Tax Act B.E. 2475 should be amended to make clear of the provisions and reduce the problem of interpretation as much as possible. However, the provisions of law for the taxation must be strictly and justly interpreted, since its provisions prescribing the unavoidable punishment of both civil and criminal liabilities by the state.

The solution should imitate the model of foreign local tax law; for example in UK properties that are exempt from local tax include student halls of residence and if some of the residents are students the local tax may be reduced. Or in the USA, properties that are exempt should be fulfilled the conditions contained by the matters of local tax law such as maybe fulfilled this 3 conditions:

1. The institution is not conducted for profit;
2. The properties of which the institution is claimed are used exclusively for the purposes of education; and
3. The grounds for which the exemption is claimed are those within which its buildings are located.

But these solutions may not be the need of private higher educational institutions, which is tax privileges as well as public institutions. It may be the amendment of matter in Section 9(3) prescribed that 'property of public hospitals and school not operated for deriving own profits and exclusively utilized under the purpose of health care and

³⁵ Chalot Mantanspong, "Legal Problems Concerning with Collection of House and Land Tax" (Master of Laws Thesis, Ramkhamhaeng University; 1999).

education.’ The revised Section 9(3) is prescribed that ‘property of public hospitals and educational institutions utilized under the purpose of health care and education.’

The current building and land tax also have many shortcomings, namely:

1. The appraising procedure is not up to standard. In some places, the appraisal is still under the control of a politician which could cause unjust practices to the community;
2. Tax collection procedure is inefficient. There are large amounts of uncollected tax every year. Tax audit and tax avoidance control are not carried out efficiently. The numbers of the taxpayers are the same every year, while actually these should increase to a certain extent due to ever increasing property owners;
3. Spending budgets of some local governments are larger than the tax receipts; and
4. Both tax rates and tax base of the existing building and land tax seem to cause injustice to taxpayers. The lower income group pays more tax than the higher income group.

Therefore, the second solution to solving this problem is that it is recommended that the building and land tax and the local development land tax should be united into the Property Tax (might be Land and Building Tax Act B.E. ...). The Property Tax would be the tax law collected from local property to be uniform, revenue-adequate, income elastic, equitable, incentive-oriented, structurally simple and fair for used in both the local and national development.

In conclusion, if government admits that they cannot manage education throughout every level and cannot respond to different needs of society, the supports to public educational institutions to help bearing the burdens of government should be necessary. The following question is what government should have paid whether redemption or subsidy to public educational institution such as tax or other measures.³⁶ Inasmuch as the managing cost of private educational institution decreases, it has attracted more to the institution to do useful for social causes. Eventually the direct beneficiary from this public education service is Thai citizens.

³⁶ “Government and Public Education,” Khaosod newspaper (November 1, 2005): 3.

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