

Topics October 2020

Right of tax deduction according to the measure “Shop Dee Mee Kuen”

The Royal Gazette has published the Ministerial Regulation No. 368 issued under the Revenue Code On Revenue exemption, dated 22 October 2020 about the “Shop Dee Mee Kuen” (Shop and payback) for natural person by deducting the goods and services fees which occurred between 23 October to 31 December 2020 not exceed 30,000 baht for purchases of goods and services subject to value added tax (vat) or books or e-books that the seller of goods or service provider is not a value added tax registrant or product of one Tambon, One Product (OTOP) that been registered with the community Development Department. However, some products and services that are not tax deductible are liquor, beer, wine, tobacco, oil and gas for refilling vehicles, car purchases. Motorcycles and boats, newspapers and magazines, both in book and in the form of electronic information via the internet, tour arrangement services paid to tour operators under the law on tourism business and tour guides. And service fees paid as accommodation in hotels to hotel business operators under the hotel law However, those who are eligible for tax deduction must never exercise their rights under the “hall” scheme and are not entitled to the purchasing power of the State Welfare Card holder.

Land and Building Tax Act B.E. 2562 (2019)

Now, there is the Land and Buildings Tax Act B.E. 2562 (2019) which is enforced since 13 March B.E. 2562 (2019) to replace the Local Maintenance Tax Act B.E. 2508 (1965) and the Building and Land Tax Act B.E.2475 (1932) due to the such of 2 laws has been in force for a long time and collecting taxes not appropriate in the current situation.

Table of comparing between the differences between the Land and Buildings Tax Act B.E. 2562 (2019), the Local Maintenance Tax Act B.E. 2508 (1965) and the Building and Land Tax Act B.E.2475 (1932)

The Local Maintenance Tax Act B.E. 2508 (1965) old law.	The Building and Land Tax Act B.E. 2475 (1932) old law.	the Land and Buildings Tax Act B.E. 2562 (2019).
-	Shall <u>include</u> components that appear as machines, mechanisms or product generator for use in certain industries such as mills, sawmills, etc. <u>to calculate tax payment</u> (Section 13).	Definition “building” means a house, building, edifice or any other building which is capable of personal habitation or use or which is used as a place for storing goods or operating industry or commerce and <u>shall also include a condominium unit or floating house</u> which is capable of personal habitation or which is available for exploitation; (Excluding components, machinery or equipment such as electric poles, solar panels, therefore, do not need to be included in the calculation of taxes) (Section 5).
Calculate from the <u>Median Value</u> of land according to the Schedule of local maintenance tax rate.	Calculate the <u>tax base from the annual fee</u> (the annual fee is the rent fee that can be calculated for that year).	Calculation of the <u>tax base by consider the type of property utilization</u> , divided into agriculture, main residence or other, left land and buildings, others (commercial, industrial, Office buildings, hotels, restaurants, etc.)

The Local Maintenance Tax Act B.E. 2508 (1965) old law.	The Building and Land Tax Act B.E. 2475 (1932) old law.	the Land and Buildings Tax Act B.E. 2562 (2019).
Use the <u>Regressive Rate</u>	<u>Tax rate % 12.5</u>	Use the <u>Progressive Rate</u> by consider the type of property utilization.
There are numerous exemptions and tax deduction.	The authority to exercise discretion is given to the local official in assessing tax.	<p>The <u>Local Administrative Organization</u> shall conduct a survey and the <u>Treasury Department</u> has the duty to <u>examine and determine the estimate cost and send it back to the Local Administration Organization to send the form to report the information of land and buildings / condominiums (Por.Dor.Sor. 3-4) and tax assessment form. (Within February of each year).</u> In case of disagreement, shall <u>object the information within 15 days from the date of receiving the information form.</u></p> <p>In February of every year, The <u>Local Administrative Organization</u> will sends a tax assessment notification (Por.Dor.Sor. 6) together with the land and building's tax calculation form (Por.Dor.Sor. 7) or the condominium's tax calculation form (Por.Dor.Sor. 8). And in the case of disagree with the tax assessment notification, shall submit an objection to the local administrator (Por.Dor.Sor. 9) within 30 days from the date of receipt of assessment notification.</p> <p>If the local administration does not agree with the objection, the taxpayer has the right to appeal to the Appeal Committee</p>

		<p>of Tax Assessment.</p> <p>If the taxpayer disagree with the <u>appeal decision</u>, the taxpayer has the right to sue in a lawsuit in the <u>Central Tax Court</u>.</p>
Pay tax within 30 April of each year.	Pay tax within 30 days from the date of receipt of assessment notification. (Section 38)	File tax payment within 30 April of each year (within August for the year 2020).
-	-	There is a tax collection from the owner of the <u>condominium</u> including in the case of rent. (Section 5 and 35 (3))
-	In the case that land and houses or other buildings belong to different owners, <u>the owner of a building or other building</u> is liable to pay tax (Section 40).	<u>In the case of the owner of the land and the owner of the building</u> are not the same person, let each party pay tax by the owner of the land is taxed on the base of the land tax and the owner of the building is taxed on the base value of the building tax. (Section 48)
The law said only that possession in land that is not privately owned must also be subject to the local maintenance tax (Section 5)	-	The use of land or buildings which are state's property is also subject to tax. Even if the beneficiary will not receive possession and the taxation of land or buildings does not cause to receive the right under the other legal, such as land possessory right (Articles 5 and 9).

Offence of duty avoidance under custom law

Customs Act B.E. 2560 (2017) has impose a penalty about offenders of duty avoidance under Section 243 Any person who imports goods, which have been passed through or being passed through a customs formality, into or exports such goods out of the Kingdom in any manner to avoid or attempt to avoid a duty payment with an intention to defraud the government’s duty payable for such goods, shall be liable to an imprisonment for a term not exceeding ten years, or a fine from half but not exceeding four times of an additional duty or both. The court may order to forfeit such goods irrespective of whether or not there is a person inflicted with the punishment according to a judgment. Any person who attempts to commit the offence under paragraph one, shall be liable to the equivalent penalty.

However, a criminal offense under customs law is a comparable offense, If the alleged offender has also agreed to settle the case, When completing the criteria specified in the criteria for comparison, no litigation under the Customs Act B.E. 2560, as follows:
Offense of duty avoidance or attempt to avoid a duty payment which causing a lack of duty.

The nature of the commission of the offense under Section 243	Criteria for comparison with no litigation
1. Duty not exceeding 50,000 Baht	To be fined <u>half the amount</u> of duty deficit and to pay for the lack of tax in full with penalty and surcharge under the law
2. Excess duty 50,0000 Baht but not exceeding 100,000 Baht	To be fined <u>one time</u> of the duty deficit and to pay for the lack of tax in full with penalty and surcharge under the law
3. Excess duty 100,000 Baht	To be fined <u>two times</u> of the duty deficit and to pay for the lack of tax in full with penalty and surcharge under the law
4. Amendments, additions, shorten the text of the document, forging a badge, signature, abbreviated signature or other marks of customs officials which causing a lack of duty.	To be fined <u>four times</u> of the duty deficit and to pay for the lack of tax in full with penalty and surcharge under the law
5 . Offense of duty avoidance ,In the event that it can be seen that it is a hidden item with goods to declare by an ingenious method for as not to allow the authorities officer to detect the hidden objects.	To be fined <u>four times</u> of the duty deficit and give hidden item to be the land

2. Person in section 243 Customs Act, B.E. 2560 (2017) means person is “who” natural person or juristic person ,in case juristic person in section 253 , In case a person committing an offence is a juristic person, if the offence is caused by an order or an act of its board, manager or any person responsible for an operation of such juristic person; or in case such person omits from ordering or acting under his duty that leads to a delinquency of the juristic person, he shall be liable to a penalty specified for such offence.

3. The action is to avoid the duty refers to the bringing of goods that must be paid for duty through customs clearance by entering the Kingdom or shipping out of the kingdom ,but use one of the forms of tax evasion. There are many forms of duty avoidance offenses. For example as follow ;

- 1) An offense of duty evasion by declaring incorrect Customs Tariff and duty which causes less duty to be paid than the fact that has to be paid.
- 2) An offense of amendments, additions, shorten the text of the document, forging a badge, signature, abbreviated signature or other marks of customs officials which causing a lack of duty.
- 3) In the event of an offense of evasion, in the event that it can be seen that the delivery of the order is accompanied by the declared by ingenious for the officer will not be detected at the hidden.
- 4) An offense of duty evasion by declaring the type of merchandise or name or brand or model with lower than the actual price of the imported goods. Which distort the type of product and the actual price In order to classify the rating and the lower the rate, the fact will pay less duty.

4. Intent is an offense under common criminal law. A person will be liable in a crime only if it has done it intentionally under Section 59 of the Criminal Code.

Section 59 To commit an act intentionally is to do an act consciously and at the same time the doer desired or could have foreseen the effect of such doing.