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Real Estate Going Global
Thailand

Tax and legal aspects of real estate investments around the globe

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Contents

All information used in this content, unless otherwise stated, is up to date as of 15 June 2012.

Real Estate Tax Summary – Thailand

General

Ownership of land is generally not open to non-Thai nationals. Foreign investors may directly invest in certain property in Thailand such as condominiums, or may structure investment in land and/or buildings through a local company or property fund. Companies granted investment promotion privileges by the Thailand Board of Investment (BOI) may be permitted to own land.

Rental income

Real estate investment or development companies are generally subject to Thai corporate income tax at 30% on net taxable profits. The rate is temporarily reduced to 23% for accounting periods beginning on or after 1 January 2012 and will be further reduced to 20% for two accounting periods beginning on or after 1 January 2013. After 2014, the general statutory rate at 30% will be applied unless the reduction of the rate is extended.

Small or medium-sized enterprises defined as companies or partnerships with paid-up capital on the last day of the accounting period not exceeding THB 5m and with income from the sale of goods and the rendering of services within the accounting period not exceeding THB 30m, are also subject to reduced rates of tax as follows:

Net profits	Tax rate
THB 0 – 150,000	Nil[1]
THB 150,001 – 1,000,000	15%[2]
THB 1,000,001 or more	23%[3]

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Exemption or reduction in corporate income tax rate is also available for certain real estate activities under privileges granted by the BOI.

Rental income and other income derived from real estate in Thailand are taxable. Expenses incurred wholly and exclusively for the purpose of the business are deductible, except those specifically listed in the corporate income tax law, e.g. excessive entertainment expenses and artificial or fictitious expenses.

There is no required debt/equity ratio for tax purposes. Interest on a loan used to finance the acquisition of a real estate property is deductible from the date the acquired asset is ready for use in business.

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1 For accounting period commencing on or after 1 January 2012.
2 For accounting period commencing on or after 1 January 2012.
3 The reduced rate of 23% is applicable for one accounting period which begins on or after 1 January 2012 and will be further reduced to 20% for the following accounting period which begins on or after 1 January 2013.

Interest incurred on the acquisition or construction of real property before the property is ready for use must be capitalised as part of the cost of the asset, and may be depreciated once the asset is ready for use in business. The interest is then depreciated over the life of the asset and subject to the depreciation rates prescribed below.

A market rate of interest must be charged on intercompany lending between Thailand resident companies.

There is no group taxation in Thailand.

Depreciation

The rate of depreciation for capital expenditures is 5% for buildings, 20% for machinery and other assets and 10% for lease rights, or over the leasing period for leases of definite duration. The depreciation rate will be calculated based on the acquisition cost value.

A revaluation of assets will have no effect for tax purposes. Any write-down in the value of assets will not be tax-deductible. Any increase in the value of assets will not be taxable.

Land cannot be depreciated.

Capital gains on the sale of property

The gain derived from the sale of property is taxed as ordinary income.

Withholding tax on dividends

Dividends distributed by a local company to its foreign shareholders are subject to a dividend withholding tax at 10%. This rate is not reduced under any of the double taxation treaties concluded by Thailand.

Loss carryforward

Net losses may be carried forward over five consecutive years. No carryback of losses is allowed.

Extended loss carryforward is available under privileges granted by the BOI. Under privileges granted by the BOI, losses can be carried forward for five years from the end of the tax holiday period. There is no requirement to first offset such losses against profits generated during the tax holiday.

Real estate transfer tax/other taxes

Transfer of real property is subject to a property transfer fee, and stamp duty or specific business tax.

The standard transfer fee is 2% of the government assessed value of the property.

Stamp duty of 0.5% of the transfer value is payable except where the seller is subject to a specific business tax.

Specific business tax of 3.3% is payable on the transfer value on transfer of real property.

In certain circumstances, the transfer of real property is not subject to specific business tax if the seller is an individual, including:

- The seller has owned the property more than five years before the transfer.
- The seller transfers the real property to a legal heir or an heir by a will.
- The seller transfers the real property to a legitimate child, but not including an adopted child.
- The seller transfers the real property without consideration to a government agency.

In order to permit funding arrangements that are compliant with Sharia law, as of 30 December 2005, the transfer of land or property to a purchaser under a hire-purchase agreement with the Islamic Bank of Thailand is exempt from stamp duty and specific business tax (SBT).

In addition, a transfer of real property is not subject to the SBT if the property is sold to, or sold by, the Property Loan Management Organisation, or limited companies set up by financial institutions under the law in order to manage property loans with the approval of the Bank of Thailand, or the property is sold by the Property Fund (Type I fund), Property Fund for resolving financial institution problem (Type II fund), or Property and Loan Fund (Type IV fund).

The buyer of property which is a corporate entity must deduct from payment made to a seller which is a corporate entity, 1% on account of corporate income tax. The tax can be credited against the income tax of the seller.

Other relevant taxes

House and land tax is payable by owners of a house, building, or structure and land, which is rented or otherwise put to commercial value. The rate is 12.5% of the assessed annual lease value of the property.

Stamp duty is levied at the rate of 0.1% on the rental value over the period specified in a lease contract.

Local development tax is based on the value of land (excluding improvements) and ranges from 0.25% to 0.95%. Land considered 'idle' is subject to tax at twice the standard rate.

Value added tax (VAT)

The current rate of VAT is 7%.

Leasing or selling of immovable property is exempt from VAT. Consequently, a real estate lessor may not recover input VAT incurred in business, including VAT incurred in the construction of real property.

If the company also engages in business subject to VAT, such as the provision of services or lease of movable property, it may be able to partially recover VAT arising on the construction of real property.

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