

Newsletter

LAND AND BUILDING TAX DUE BY THE END OF AUGUST 2020

The National Legislative Assembly approved the Land and Buildings Tax Act, B.E. 2562 (2019) (the "Act") in November 2018. The Act became effective on 13 March 2019. The Act repeals and replaces the House and Land Tax Act, B.E. 2475 (1932), Local Maintenance Tax Act, B.E. 2508 (1965) and the Act Designating the Medium Price of Land for Land Development Tax Assessment, B.E. 2529 (1986). The implementation of tax collection under the Act has been effective since 1 January 2020.

This article will provide an overview of key aspects of the Act, as well as outline temporary reductions that apply to tax payments in 2020.

The 2020 tax year: 10% taxes on land and buildings to be paid by the end of August 2020

90% tax reduction

On 10 June 2020, the Royal Decree Reducing Tax for Certain Land and Buildings, B.E. 2563 (2020) was issued. This reduces taxes on land and buildings for the 2020 tax year by 90% as one of the measures to mitigate the impact of the Covid-19 pandemic.

The 90% reduction applies to all types of land and buildings subject to the land and building tax under the Act. A taxpayer shall only be liable to pay 10% of the amount of tax payable for the 2020 tax year. This is unless the taxpayer qualifies for any other exemptions or further reductions under the Act. This tax reduction only applies to the 2020 tax year.

Extension of timelines under the Act

The deadline for the payment of land and building tax was extended from April to August 2020 by the Ministry of the Interior (the "MOI") in December 2019. The extension was announced to allow the MOI and the Ministry of Finance to issue all relevant subordinate laws under the Act. The extension also applies to the administration of tax collection, including preparation and announcement of appraisal values of land and buildings, tax assessments and the tax payments. The four-month extension of the payment deadline for the land and building tax will only apply in 2020. In 2021, the due date for payment of the land and building tax will revert back to April.

Q/A: Notable features of the new land and building tax system

The new land and building tax system differs significantly from the previous system. A few key points on the new system are summarized as follows:

- **Who must pay?**

A natural person or a juristic person who, as of the 1st January of each year, owns land or buildings, or possesses or exploits land or buildings owned by the state would be liable for land and building tax. This includes individuals who pay tax for such liable person.

- **Which land and buildings are subject to land and building tax?**

The Act provides broad definitions for "land" and "buildings". Condominium units, under the condominium law for which a certificate of ownership has been issued, are defined as buildings under the Act.

Certain types of land and buildings are exempt from tax liability under this Act. Exempt land and buildings under the Act are, amongst others, as follows:

- State and government agency property used for their activities or the public interest;
- common properties of condominiums;

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- land used for public utilities under the laws of land allocation and Industrial Estate Authority of Thailand; and
- roads, open spaces and fences.

- **What is the tax base?**

Under the Act, the tax base is calculated from the appraised value of the taxable property as approved and announced by the relevant government authority from time to time. The appraised value of the land and/or building is the same as applied for the purpose of calculating registration fees under the Land Code.

Exemptions from the tax base for land and buildings used for agricultural or residential purposes

The Act includes exemptions from the tax base in calculating the tax for an individual owner of land or buildings which are used for agricultural or residential purposes, as follows:

Purpose of the Properties	Tax Base Exemptions
Agricultural Purposes	Not exceeding 50 million Baht (If the individual holds more than one property, the 50 million exemption applies to the property which has the highest value, first.)
Residential Purpose	Not exceeding 50 million Baht (For <u>land and buildings</u> owned by an individual whose name is registered in the house registration book as of January 1 in such tax year)
	Not exceeding 10 million Baht (For <u>buildings</u> owned by an individual whose name is registered in the house registration book as of January 1 in such tax year)

- **What are the tax rates?**

The Act imposes different tax rate ceilings depending on the purpose for which the property will be used. The purposes are categorized into four groups. Tax rates will be announced by a Royal Decree. The Act also allows local subdistrict administrative organizations to set the rates higher than those announced by Royal Decree capped by specific tax ceilings. In addition, the Act also provides tax reductions and an exemption during the transition period, i.e. 2020-2022 tax years. The tax rate ceilings applicable to each purpose for which the property is used are as follows:

	Purpose of Properties	Tax Rate Ceiling	Transition Period	
			Tax Rates for 2020 and 2021 Tax Years*	2020 - 2022 Tax Years
1	Agricultural Purposes	0.15%	0.01% - 0.1%	Exempt for individual owners
2	Residential Purposes	0.3%	0.03% - 0.1% (Land and buildings owned by an individual whose name is registered in the house registration book.)	-
			0.02% - 0.1% (Buildings owned by an individual whose name is registered in the house registration book.)	-
			0.02% - 0.1% (Land and buildings other than the above conditions.)	-
3	Purposes other than (1) and (2)	1.2%	0.3% - 0.7%	-
4	Undeveloped Land and Buildings	1.2%	0.3% - 0.7%	-

* The rates vary depending on the value of the property.

- **What is the scope of use for each purpose?**

Ministerial regulations and notifications providing the scope of the use of properties according to each purpose, as discussed above, were announced at the end of May 2020. These subordinate regulations also provide examples on how properties can be used, as follows:

	Purpose of Properties	Scope of Use
1	Agricultural Purposes	<p>Use of land or buildings for cultivating crops, rearing livestock, culturing in fresh or salt water farms (but not including fisheries and weaving**), including land and buildings connected thereto. However, connected areas shall not exceed 50% of the area used for agricultural purposes, except for culturing in fresh water.</p> <p>The use of land or buildings also includes fallow land for agricultural rehabilitation purposes.</p> <p>Use of land or construction for certain agricultural activities described in the notification shall comply with the minimum requirement prescribed in annexes to the notification.</p> <p><i>**Agricultural activities as defined under the rules of the Committee on Agriculture and Cooperative Development Policy and Planning issued under Agricultural Economics Act</i></p>
2	Residential Purposes	<p>Use of land or buildings for residential purposes, including use of land or buildings connected thereto, except for:</p> <ul style="list-style-type: none"> - land or buildings of a business operator that is under development or has not been sold according to the land allocation law or the condominium law; - hotels under the hotel law; - land or buildings used for providing temporary accommodation services for travelers or any other persons in exchange for compensation, but not including property where compensation is paid monthly or homestays; and - land or buildings which are properties pending sale by a financial institution or an asset management company. <p>The use of property for residential purposes includes any period that the land or buildings are under construction or renovation.</p>
4	Undeveloped Land and Buildings	<p>Undeveloped land or buildings are categorized into two groups, as follows:</p> <p>Vacant Land:</p> <ul style="list-style-type: none"> - Land which is physically usable but is left vacant for the tax year, except in case where such vacancy is caused by natural disaster or force majeure; and - Buildings that are physically usable but abandoned for the tax year. <p>Land not properly utilized:</p> <ul style="list-style-type: none"> - Land which can physically be utilized for agricultural purposes but was not utilized in compliance with regulations under the Act for the tax year. - Buildings that have been completely constructed or renovated and are physically usable for agricultural, residential or other purposes but are abandoned for the tax year. <p>Land that is being prepared for use or construction that is under construction, forbidden land or buildings under the law or by court order, and land or buildings that are under court proceedings regarding title or possessory rights are not treated as vacant land or land not properly utilized.</p>

- **When is the land and building tax payment due?**

Before the 1st of February of each year, each local administrative organization will announce the appraisal values for properties within their jurisdiction. A tax return will be delivered to each taxpayer in respect to those properties. The tax payments must be made to the local administrative office where the property is located within April of each year.

Owners of taxable properties are liable to pay a surcharge and penalty if payment for the land and building tax is not completed within the specified period. The maximum surcharge is 1% per month of the overdue amount (tax in arrears) and a maximum penalty is 40% of the tax in arrears (surcharge excluded).

A registration of transfer of ownership or possessory rights on taxable properties is prohibited if there is evidence of tax in arrears unless such transfer is the result of a sale by auction executed by court order.

- **What are the tax reductions under the Act?**

In addition to the tax base exemptions, the Act also provides a tax reduction, capped at 90% of the tax amount for certain properties as specified in subordinate regulations.

In addition, the Royal Decree Reducing the Land and Building Tax, B.E. 2563 (2020) provides 50% and 90% tax reductions for land and buildings used for specific purposes, as follows:

A 50% tax reduction will be assessed on land and buildings as follows:

- (1) Inherited land and buildings, buildings, or condominium units which an individual owner or possessor uses for residential purposes and whose name appears in the house registration book, acquired before 13 March 2019;
- (2) power plants and land that is the location of a power plant, including other land or buildings utilized in connection with power generation; and
- (3) Land and buildings that are used as dams and areas in connection with dams, used for power generation;

A 90% tax reduction will be assessed on land and buildings, as follows:

- (1) land or buildings that are immovable property and are pending sale as acquired by a financial institution or an asset management company for not more than five years from the date of acquisition;
- (2) land or buildings of an operator which are under development as a housing or industrial project under the land allocation law for not more than three years from the date of obtaining permission to proceed with said land allocation;
- (3) land or buildings of an operator which are under development as a condominium under the condominium law not more than three years from the date of obtaining permission to proceed with the construction of said condominium;
- (4) land or buildings of an operator which are under development as an industrial estate under the law governing industrial estates for not more than three years from the date of obtaining permission to establish such industrial estate; and
- (5) land or buildings which have not yet been sold by their permitted operator for not more than two years from 13 March 2019 during the implementation under the land allocation law, condominium law, or the law governing industrial estate authority of Thailand.

If you would like to discuss the legal issues raised in this article further or related issues, please contact the authors listed in the right-hand column. For detailed tax advice we would suggest consulting with your tax advisor.