

Act on the Establishment of and Procedure for Tax Court, B.E. 2528 (1985)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 20th Day of August, B.E. 2528;

Being the 40th Year the Present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:
Whereas it is expedient to establish tax court as well as the procedure for tax cases;
Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1

This Act shall be called the "Act on the Establishment of and Procedure for Tax Court B.E. 2528 (1985)".

Section 2

This Act shall come into force from the date following its publication in the Royal Gazette.

Section 3

In this Act:

"Taxation" means all kinds of taxes, duties and royalties and also includes

- (1) tobacco stamps under the law concerning tobacco;
- (2) playing card fees under the law concerning playing card;
- (3) import fees under the law concerning investment promotion;
- (4) fees under the law concerning import and export;
- (5) export fees under the law concerning farmers and fund;
- (6) aid fund for rubber exporters under the law concerning rubber plantation aid fund;
- (7) fees or any other taxes and duties that Royal Decree proclaims to be under the jurisdiction of the tax courts.

"Tax Courts" means the Central Tax Court and the Provincial Tax Courts.

"Tax Cases" means civil cases under the jurisdiction of the tax courts.

Section 4

The Minister of Justice shall be in charge of this Act.

Chapter 1
Tax Courts

Section 5

The Central Tax Court shall be established in Bangkok Metropolis. The date on which it shall be inaugurated shall be proclaimed by Royal Decree.

The Central Tax Court shall have jurisdiction throughout Bangkok Metropolis, Samutprakarn, Samutsakorn, Nakorn Pathom, Nonthaburi and Pathumthani Provinces. Any

tax cases, however, arising outside the jurisdiction of the Central Tax Court may be filed with the Central Tax Court. It shall be the discretion of the Central Tax Court to determine whether to reject such cases, unless such cases have been transferred to the Central Tax Court by the provision of this Act or the Civil Procedure Code.

Section 6

The establishment of a provincial tax court shall be made by an Act, which shall specify its jurisdiction.

The jurisdiction of a provincial tax court may cover various provinces.

Section 7

The tax courts shall have jurisdiction over the following civil matters:

- (1) cases in respect to appeals against any decision of any competent official or the committee relating to any taxation law;
- (2) cases in respect to claims by State over tax debts;
- (3) cases in respect to tax refunds;
- (4) cases in respect to rights or duties incurred under an obligation made for tax collection's purposes;
- (5) cases that are prescribed to be under the jurisdiction of the tax courts.

Section 8

In the case specified in Section 7 (1), where taxation law provides that an objection or appeal against any order or decision of a competent official or committee shall be initially proceeded under the prescribed rules, methods and period, the case may not be submitted to the tax court unless such proceeding has already performed and that objection or appeal has already been decided.

Section 9

In the case specified in Section 7 (3), where taxation law provides that tax refunds shall be initially proceeded under the prescribed rules, methods and period, the case may not be submitted to the tax court unless such proceedings has been performed.

Section 10

Once a tax court is inaugurated, no other courts of first instance shall accept a case that falls under the jurisdiction of the tax courts for adjudication.

In the case where there is a question whether the case arising is under the jurisdiction of the tax court or any other courts of justice, the President of the Supreme Court shall give a decision. Such decision shall be final.

Section 11

Parties in a case which is pending in a provincial tax court may agree to file a petition with such court to transfer the case to the Central Tax Court. However, a provincial tax court cannot grant the request without prior consent of the Central Tax Court.

Section 12

The tax courts shall be the courts of first instance under the law governing the Organization of Courts of Justice and the provisions of the Law Governing the Organization of Courts of Justice shall apply *mutatis mutandis*.

Chapter 2

Judges in the Tax Courts

Section 13

In the Central Tax Court, there shall be a Chief Justice and Deputy Chief Justices in such a number to be determined by the Minister of Justice.

Each provincial tax court shall have one Chief Judge.

Section 14

A Chief Justice, Deputy Chief Justices and Judges of the Central Tax Court as well as a Chief Judge and Judges of a provincial tax court shall be appointed by the King from the judicial officials under the law on judicial service who possess knowledge and expertise in the matters pertaining to taxation.

Section 15

Two judges are required to be present for trial and adjudication.

Section 16

Except for the hearing and adjudication, a judge in the tax court shall be empowered to perform any proceeding or issue any order.

Chapter 3 **Procedure of Tax Cases**

Section 17

Proceedings in the tax courts shall comply with the provisions of this Act and the Rules issued under Section 20. Any matter of proceedings not specifically provided in this Act and such Rules shall comply with the provisions of the Civil Procedure Code *mutatis mutandis*.

Section 18

A party may appoint any person who resides in the jurisdiction of the tax court to receive pleadings or documents on that party's behalf by submitting a request to the competent court. Such pleadings or documents may be served on the appointed person after the approval of such a court.

If any party has no domicile or place of business in the jurisdiction of the tax court in which the case is pending, the court may, for the sake of convenience, order that party to appoint, within the prescribed period, a person who resides in its jurisdiction to receive pleadings or documents on that party's behalf.

If the party refuses to comply with the order of the court issued under paragraph two, the service of pleadings or documents may be conducted by posting at the court or by notifying the concerned party to collect pleadings or document from the court in lieu of service by other means. Pleadings and documents served by such means shall be effective after seven days have elapsed from the posting date.

Service of pleadings or documents to the appointed person may be conducted in the same manner as provided in the Civil Procedure Code. The services such as aforesaid shall be effective after seven days have elapsed after the posting date or fifteen days have elapsed after the date of service by other means.

Section 19

Where necessary and in the interest of justice, the tax court may shorten or extend the period of time as prescribed in this Act or fixed by the court.

Section 20

To ensure the convenience, expediency and fairness of the proceedings, the Chief Justice of the Central Tax Court, subject to the approval of the President of the Supreme Court, shall be empowered to issue rules of the court on proceedings and hearing of evidence in the tax cases.

Such rules aforesaid shall come into force after their publication in the Royal Gazette.

Section 21

The tax court and the Supreme Court may call any knowledgeable persons or experts to appear and give opinions for its consideration.

In a case as provided in paragraph one, the parties shall not be debarred to call their knowledgeable persons or experts to appear and give contradictory or additional opinion.

Section 22

When the tax court has notified a party of the hearing date, it shall be the duty of a party who does not appear on the schedule to inquire the court about the next hearing date. Otherwise, such a party shall be assumed to have noted the date specified.

Section 23

The knowledgeable persons and experts whom the tax court or the Supreme Court calls to appear and give opinions shall be entitled to allowance, transportation and accommodation expenses in according to the Regulations issued by the Ministry of Justice.

Chapter 4

Appeal

Section 24

Subject to the provisions of this Act or the Civil Procedure Code, an appeal against any judgment or order of the tax court shall be submitted to the Supreme Court within one month from the date of pronouncing the judgment or order.

Section 25

No party shall appeal against the judgment of the tax court on the questions of fact in the case where the value of the asset or the amount in dispute does not exceed fifty thousand Baht unless the judge who sat in the case has made a dissenting opinion or has certified that there is a reason to appeal. Otherwise, written approval of the Chief Justice of the Central Tax Court is required.

Section 26

The provisions of the Civil Procedure Code shall apply to an appeal against the following orders of the tax court:

- (1) an order to imprison, detain or fine any person under the provision of the Civil Procedure Code;
- (2) an order in respect to provisional measures before judgment or to execution of judgment or order.

Section 27

The President of the Supreme Court shall set up a Tax Section in the Supreme Court for the adjudication of tax cases that appeal from the tax court.

Section 28

If the President of the Supreme Court deems it appropriate, questions of law of tax cases can be decided in the general meeting of the judges.

Section 29

The provisions of this Act and of the Civil Procedure Code governing the proceedings of cases in the Court of Appeal and the Supreme Court shall apply *mutatis mutandis* to the proceedings of tax cases in the Supreme Court.

Transitional Provisions

Section 30

Cases within the jurisdiction of the tax court, which are pending in the Civil Court or other courts on the inauguration date of a Tax Section in the Civil Court, shall be determined and disposed of by such courts. Cases such aforesaid shall not be deemed to be tax cases under this Act.

Section 31

During the period before the Central Tax Court has been inaugurated, a Tax Section must be set up in the Civil Court within two hundred and forty days from the date that this Act comes into force. The competency and the jurisdiction of a Tax Section in the Civil Court shall correspond with the Central Tax Court.

The provision of Section 10 and Section 33 shall apply *mutatis mutandis* to a Tax Section in the Civil Court.

The powers and duties of the Chief Justice of the Civil Court are in the same manner as of the Chief Justice of the Central Tax court.

The rules of the court issued under Section 20 by the Chief Justice of the Civil Court shall come to an end after the Chief Justice of the Central Tax Court issues a new one.

Section 32

From the inauguration date of the Central Tax Court, all tax cases pending in a Tax Section in the Civil Court shall be transferred to the Central Tax Court. In this circumstance, the Central Tax Court shall be empowered to issue a writ of execution, a warrant of arrest for any judgment debtor, and to decide the matter regarding the execution of judgment or order of such cases.

Section 33

During the period before a provincial tax court has been inaugurated, the Central Tax Court shall have jurisdiction in the locality. The plaintiff may file a plaint at the provincial court where the defendant is domiciled, then the provincial court shall notify the Central Tax Court of that matter. After the Central Tax Court has accepted such a plaint for adjudication, the trial and adjudication may be conducted at the provincial court or at the Central Tax Court, as it thinks fit.

The Central Tax Court may request the provincial court where the plaintiff has filed the plaint or any other provincial court to conduct any proceedings which do not amount to adjudication of the matter in dispute. In such a case, the provincial court must apply the tax case procedure established under this Act to the proceedings.

Countersigned by

General Prem Tinsulanonda

Prime Minister

Remarks

The reason for the promulgation of this Act is as follows:

The tax case has a particular character different from other civil cases, as it is a dispute between the government and private sector arising from tax assessment or levy. It will be more expedient if the proceedings are conducted by the specially knowledgeable and understandable judges who possess the competent knowledge concerning issues of tax. It is appropriate to establish the tax court by having particular procedures excluding certain procedures specified in Civil Procedure Code in order to make the proceedings more expeditious and convenient. It is, therefore, necessary to enact this Act.

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