

Act on the Establishing Tax Courts and Procedure Thereof, B.E. 2528 (1985)

Translation

Bhumibol Adulyadej, Rex.

Given under our Hand this 20th Day of August, B.E. 2528 (1985);

Being the 40th Year of our Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is desirable to establish the tax courts and their procedure;

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the National Assembly, as follows:

Section 1

This Act shall be cited as the "Act on the Establishing Tax Courts and Procedure Thereof, B.E. 2528 (1985)".

Section 2

This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3

In this Act:

"Tax" means every kind of tax, duty or severance tax, and includes any of the followings:

- (1) Tobacco stamps under the law on tobaccos;
- (2) Playing card stamp fees under the law on playing cards;
- (3) Importation deferential duties under the law on investment promotion;
- (4) Deferential duties under the law on exportation and importation of goods;
- (5) Exportation deferential duties under the law on agricultural aid fund;
- (6) Allowances borne by the exporters under the law on rubber plantation aid fund;
- (7) Other fees or monies designated by the royal decrees to be the taxes pursuant to this Act;

"Tax court" means the Central Tax Court or a provincial tax court;

"Tax case" means a civil case subject to the jurisdiction of a tax court.

Section 4

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

Chapter 1 Tax Courts

Section 5

There shall be established in Bangkok a Central Tax Court. The commencement of its operation shall be made by a royal decree.

The Central Tax Court shall be competent to exercise jurisdiction over Bangkok, Changwat Samut Prakan, Changwat Samut Sakhon, Changwat Nakhon Pathom, Changwat Nonthaburi and Changwat Pathum Thani. Any case coming to pass outside the territorial jurisdiction of the Central Tax Court may be brought before the Central Tax Court, but the Central Tax Court, at its discretion, may refuse to deal with the case, save where such case is transferred to it in pursuance of the provisions of this Act or Code of the Civil Procedure.

Section 6

A provincial tax court may be established in any Changwat by an Act which must also indicate the territorial jurisdiction of such court.

Jurisdiction of a provincial tax court may cover the administrative districts of several Changwats.

Section 7

A tax court shall be competent to exercise civil jurisdiction over:

- (1) A case in which an appeal is lodged against a decision of an officer or board under the taxation-related law;
- (2) A dispute as to a State's claim for payment of taxes;
- (3) A dispute as to tax refunds;
- (4) A dispute as to a right or duty arising from an obligation incurred for the sake of the collection of taxes;
- (5) A case laid on it by the law.

Section 8

Where the taxation-related law requires an objection to or appeal against any order or decision to be lodged with an officer or board in compliance with the criteria, procedure and time limit prescribed, a case under Section 7 (1) may be brought before a tax court only when such criteria, procedure and time limit has been abided by and the objection or appeal has completely be decided.

Section 9

Where the taxation-related law requires a claim for tax refunds to be entered in conformity with the criteria, procedure and time limit prescribed, a case under Section 7 (3) may brought before a tax court only when such criteria, procedure and time limit has been complied with.

Section 10

From and after the commencement of operation of a tax court, no other court of first instance may admit for trial and adjudication any case subject to jurisdiction of such tax court.

A problem as to whether a case is subject to jurisdiction of a tax court or other court of justice, whether arising before a tax court or other court of justice, shall be referred to the President of the Supreme Court of Justice for decision. The court decision shall be final.

Section 11

Every party to a case pending before a provincial tax court may jointly apply to the court for transferring the case to the Central Tax Court. Such application may not be granted, unless the consent of the Central Tax Court has been obtained.

Section 12

The tax courts shall be the courts of first instance pursuant to the Statute of the Courts of Justice. And the provisions of the Statute of the Courts of Justice shall also apply *mutatis mutandis*.

Chapter 2

Tax Judges

Section 13

In the Central Tax Court, there shall be one President and the Vice Presidents in the number determined by the Minister of Justice.

In each provincial tax court, there shall be one chief judge.

Section 14

The President of the Central Tax Court, the Vice Presidents of the of the Central Tax Court, the judges of the of the Central Tax Court, the chief judge of a provincial tax court and the judges of a provincial tax court shall all be appointed by the King from the judicial officers under the law on organization of judicial officers who possess knowledge or expertise as to taxation.

Section 15

A chamber competent to deal with the cases brought before a tax court must be constituted by, at least, two judges.

Section 16

A sole tax judge shall be competent to carry out any procedural act or render any order. But he may not hear or adjudicate any case.

Chapter 3

Tax Court Procedure

Section 17

The proceedings before a tax court shall be governed by the provisions of this Act and the ordinances set forth in Section 20. Where no such provision is applicable, the provisions of the Code of Civil Procedure shall apply *mutatis mutandis*.

Section 18

If a party wishes to designate as an address for service any person domiciled in the territorial jurisdiction of a tax court, the party shall make an application therefor to the court before which his case is pending. Upon having granted the application, the court may serve the pleadings or other documents on the designee.

If any party is not domiciled in the territorial jurisdiction of the tax court before which his case is pending, the court, with a view to smoothing the service of pleadings and other documents, may order him to, within a time limit determined by the court, designate as an address for service any person domiciled in the territorial jurisdiction of the court.

If the party fails to abide by the order under paragraph 2, the service of any pleading or document may instead be made by means of posting up at the trial chamber an announcement requiring the party to appear and receive the pleading or document in person. Such service shall become valid upon the elapse of seven days from the date the announcement is posted up.

The pleadings or other documents shall be served on the designee by the same means as those provided for the party or by the alternative means set forth in the Code of Civil Procedure. The service of any pleading or document on the designee pursuant to this

paragraph shall become valid upon the elapse of seven days from the date the pleading or document is served or fifteen days from the date any of the alternative means is taken.

Section 19

A tax court may reduce or extend a time limit determined by this Act or by it to the extent necessary and for the sake of justice.

Section 20

In the interest of the smooth, expeditious and fair proceedings, the President of the Central Tax Court, with the approval of the President of the Supreme Court of Justice, shall be empowered to issue and apply to the tax courts any ordinances governing the conduct of proceedings and the admissibility of evidence.

Such ordinances shall take effect upon their publication in the Government Gazette.

Section 21

A tax court or Supreme Court of Justice may require a specialist or expert to render any opinion in support of the trial and adjudication of any case.

The provision of paragraph 1 does not debar any party from introducing his specialist or expert to give an opinion rebutting or supplementary to that under paragraph 1.

Section 22

When any party is informed by the tax court of the date of a trial and fails to make a personal appearance before the tax court on such date, it shall be his duty to visit the tax court and inquire of the date of the next trial in person. If he also fails to so visit, it shall be taken that he has already been informed thereof.

Section 23

A specialist or expert required by a tax court or Supreme Court of Justice to appear and give opinion shall have his costs, travel expenses and residence expenses reimbursed pursuant to the rules laid down by the Ministry of Justice.

Chapter 4

Appeal

Section 24

Subject to the provisions of this Act or Code of Civil Procedure, an appeal against a judgment or order of a tax court may be lodged with the Supreme Court of Justice within a period of one month from the pronouncement of such judgment or order.

Section 25

As for a case in which the value or amount in dispute does not exceed fifty thousand baht, no party may file an appeal on a basis of a question of facts, unless a tax judge participating in the trial of his case has expressed a dissenting opinion or has confirmed the reasonability of his appeal, or, failing which, the President of the Central Tax Court has permitted his appeal in writing.

Section 26

An appeal to a court of first instance and a final appeal against any of the following tax court's orders shall be filed in accordance with the provisions of the Code of Civil Procedure;

- (1) An order imposing imprisonment, detention or a fine upon any person in virtue of the Code of Civil Procedure;

- (2) An order imposing provisional measures or order governing the enforcement of a judgment or order.

Section 27

The President of the Supreme Court of Justice shall establish in his Court a tax case division competent to address the appeals against the judgments or orders of the tax courts.

Section 28

Finding expedient, the President of the Supreme Court of Justice may refer any question of law in a tax case to the Plenary Session of the Supreme Court of Justice for decision.

Section 29

The provisions of this Act, and the provisions of the Code of Civil Procedure governing the trial and adjudication in second instance and last resort, shall apply *mutatis mutandis* to the Supreme Court of Justice's trial and adjudication.

Transitory Provisions

Section 30

A case subject to jurisdiction of a tax court and pending before the Civil Court or other court on the date of commencement of operation of the Civil Court's tax case division shall further be dealt with by such court and shall never be recognized as a tax court under this Act.

Section 31

Whilst the operation of the Central Tax Court does not yet commence, a tax case division shall be established in the Civil Court and shall assume the competence and jurisdiction of the Central Tax Court. The division shall commence its operation within two hundred and forty days from the coming into force of this Act.

Once the operation of the Civil Court's tax case division commences, Section 10 and Section 33 shall apply *mutatis mutandis*.

The President of the Civil Court shall be invested with the same authority as the President of the Central Tax Court.

Any ordinances issued by the President of the Civil Court in virtue of Section 20 shall be effective until they are replaced by the new ordinances of the President of the Central Tax Court.

Section 32

When the Central Tax Court commences its operation, all cases pending before the Civil Court's tax case division shall be transferred to the Central Tax Court. In this respect, the Central Tax Court shall be empowered to issue the writs of enforcements or warrants of arrest of the judgment debtors, or decide any matters dealing with the enforcement of the judgments or orders having been rendered in the cases transferred.

Section 33

Whilst a provincial tax court in charge of any districts does not yet commence its operation, the Central Tax Court shall also be competent to exercise jurisdiction over the said districts. In this respect, the plaintiff may submit a plaint to the provincial court responsible for the district in which the defendant is domiciled and the provincial court shall communicate the plaint to the Central Tax Court for consideration. Upon having

accepted the plaint, the Central Tax Court may order the proceedings to be held before such provincial court or before it as it thinks fit.

The Central Tax Court may require the provincial court in which a plaint is entered or another provincial court to carry out any procedural act not giving rise to the adjudication of the issues in dispute. In this regard, the provincial court shall apply the tax case procedure to its proceedings.

Countersigned by:

General P. Tinasulanon

Prime Minister

Remark:

The grounds for promulgation of this Act are as follows:

The characters of the tax cases are different from those of the ordinary civil cases, for the former cases are based on the disputes between the private sectors and the public sectors in consequence of the assessment or collection of taxes. If they are dealt with by the judges specialized in the tax problems, their proceedings would become more expeditious. It is expedient to establish the tax courts commissioned to address the tax cases and bestowed with the special procedure, and to exclude certain processes and methods existing in the Code of Civil Procedure with a view to smoothing the proceedings. It is therefore necessary to enact this Act.

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