

Effects of a land and buildings tax on condo owners

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As has been widely reported, the Finance Ministry has proposed a new property tax on land and building owners. However, Prime Minister Prayut Chan-o-cha has decided to delay the new tax, citing concerns about weak economic growth and the bill's impact on the poor.

Despite the prime minister's latest decision, property owners should be aware of the proposed tax bill's provisions so they can prepare for the eventuality that the bill is passed. This article will discuss the proposed bill's impact on a particular segment of property holders: owners of condominium units.

The proposed law represents a stark departure from the current law's stance on property taxes. At present, property tax is governed by the Local Maintenance Tax Act of 1965, under which the government collects a local maintenance tax from real estate owners. If an owner uses his or her property as a personal residence, then the local maintenance tax can be partially reduced or even eliminated, depending on the location and size of the property.

For example, if a person owns land in an area that is densely populated such as central Bangkok, he or she will only be obligated to pay local maintenance tax on that land if the area was more than 100 square wah. This tax is not enforced for condominium units that are used by their owners as personal residences.

Under the proposed new law, however, the government is seeking to increase the tax base to generate additional streams of revenue. Therefore, the proposed law provides for additional factors and considerations such as the value or area of a condominium unit to determine tax eligibility.

The value would be based on an assessment price set by the Treasury Department. According to information currently available but still under review by the Finance Ministry, if the area of a condominium unit exceeded 50 square metres or its value was higher than 1 million baht, the owner would be required to pay the new tax. With such criteria, a large percentage of condominium units in Bangkok would be subject to tax.

In addition, according to currently available information, if an owner of a condominium unit used his or her unit as a place of residence, the applicable tax rate would not exceed 0.1% of the unit's assessed value.

If the same unit owner had a second condominium unit in Thailand with an area of more than 50 square metres or a value that exceeded 1 million baht, the applicable tax rate on such an additional unit would not be higher than 0.5% of its assessed value.

If the law takes effect, the proposed land and building taxes would apply to all condominium owners. Taxpayers would be required to pay the new tax by the end of April each year.

However, one potential consequence of such a law would be a reduction in the number of condominium unit resales.

The Lands Department, upon notification by the relevant government entities, might attach "encumbrances" to a condominium unit if an owner did not pay the tax.

As the official transfer of a condominium unit must be registered at a local Lands Department office, the outstanding tax liability attached to the unit would hold up the transfer until the tax was paid.

Condominium owners would, however, be able to challenge the tax assessments levied against them. Owners could do this by petitioning a local administrative executive to review the assessment. If the owner disagreed with the local administrative executive's decision, an additional appeal could be made to an appeal committee.

Importantly, owners would still be responsible for paying the applicable taxes during the petition and appeal process. The only exception would be if the local administrative executive allowed the taxpayer not to pay the tax pending the appeal. If the taxpayer did not agree with the appeal committee's decision, he or she could file a claim against the relevant government entity.

Whether the tax bill will be passed is uncertain. What is certain, however, is that current and prospective condominium owners should take note of how they may be affected if the law eventually comes into force.