

Lowering the risk of tax liabilities

A property purchase should be well planned and discussed with your lawyers and/or tax advisors in order to avoid pitfalls. This should provide the required peace of mind with regard to tax liabilities which usually occur in connection with the registration of a title transfer.

Whenever purchasing and registering a transfer of property with the land department in Thailand, certain taxes and fees – income tax, transfer fee, specific business tax or stamp duty – must be paid.

Each party's individual responsibilities for those taxes and fees are regularized by the relevant laws, but are subject to negotiation and individual agreement between the parties.

A fair arrangement seems to be to agree that the seller is solely responsible for all occurring taxes and stamp duty, while the payment of transfer fees is split evenly between the buyer and seller.

When approaching your seller to discuss each party's individual tax and fee responsibilities, be prepared for the seller to ask you to under declare the property's sale and purchase price when applying for registration of title transfer with the land department office.



A prospective buyer talks to an exhibitor from Thailand during the International property expo at the Hong Kong Convention and Exhibition Centre. The exposition showcases various properties from the Asia-Pacific region to Europe and the US with advice from international experts on where, what and how to invest, including legal, tax, financial and immigration issues. Photo: AFP / Laurent Fievet

This is done in order to lower the occurring taxes and fees. Such under declaring of a property's sale and purchase price usually helps a seller to (illegally) lower their tax liabilities.

Bearing this in mind, the difference between a property's sale and purchase price, the assessed value and the declared price needs to be understood.

The assessed value is the value determined by the relevant

authorities and is usually far lower than the sale and purchase price agreed between buyer and seller.

The declared price is the sale and purchase price reported by both seller and buyer to the land department when applying to register the title transfer.

It is important to understand the difference between these three values. They basically provide the different calculation basis for the applicable taxes and

fees – the (declared) sale and purchase price is used to calculate the taxes and the assessed value the fees.

Furthermore, every property buyer should consider that the applicable laws require parties to declare the agreed sale and purchase price in full to the authorities.

Any attempt to declare a lower price to a land department officer could be deemed as a

criminal act and may have serious consequences, including prosecution of the involved parties.

On top of this, a property buyer should keep in mind that under declaring a property's sale and purchase price when buying may have negative repercussions when it comes to selling.

The resale of an undervalued property might stall as a potential buyer might be cautious about purchasing a unit that has a questionable tax history.

In summary, whenever purchasing property the applicable laws, including, but not limited to, tax laws and regulations should be diligently examined and strictly complied with in order to avoid a rude awakening when the tax man scrutinizes your investment.

With this in mind, it might be of interest to know that the Thai government has significantly lowered the applicable taxes and fees payable on property transfers as an incentive to boost property transactions.

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