

TAXES ON SELLING PROPERTIES IN THAILAND

2014



I. TAX ON SELLING PROPERTY

Many individuals who have invested in property in Thailand are often very unaware of the tax liabilities that may arise on selling the property.

Typically, foreigners have invested in property either through buying a condominium unit which they hold in their own name or having taken out a lease on a landed property.

As our analysis shows below, an individual or other legal structure will always be subject to taxation on the sale of the property. The general tax rates (excluding company or individual personal tax which may also apply eventually) are shown below. Perhaps surprisingly, for an individual selling a property, the taxation system is actually very complex.

Category	Sale of Freehold Land & Property	Transfer of Leasehold Land	Sale of Building	Liability to Tax
Transfer Fee	2%	N/A	2%	Seller/Buyer
Lease Registration Fee	N/A	1%	N/A	Lessor/Lessee
Specific Business Tax	3.3% or N/A	N/A	3.3% or N/A	Seller
Stamp Duty	0.5% or N/A	0.1%	0.5% or N/A	Seller
Withholding Tax	1% or 5 - 35%	N/A	1% or 5 - 35%	Seller

Transfer Fee

This cost is often borne equally by the seller and buyer but this needs to be agreed by both parties. The transfer fee is based on the official appraised value irrespective of the contracted sale price.

Lease Registration Fee

This is paid on the total rental payable over the lease term. This cost is often borne equally by the lessor and lessee but this needs to be agreed by both parties.

Specific Business Tax (SBT)

SBT is payable by all companies and those individuals who hold the property for less than 5 years. It is based on the official appraised value or the contracted sale price, whichever is the higher.

An individual is also exempt from SBT if the property has been used as the principal place of residence of the seller whose name must also appear on the household registration certificate for at least one year.

Stamp Duty

This fee is only payable where SBT is not applicable and, in the case of a sale of property, it is based on the official appraised value or the contracted sale price, whichever is the higher. Where leasehold land is being transferred, stamp duty is payable on the remaining value of the lease.

Withholding Tax (WHT)

WHT is remitted by the buyer (on behalf of the seller) from the proceeds of sale. Where the seller is a company, the WHT on the sale of property is calculated at 1% of the Land Department's official appraised value or the contracted sale price, whichever is greater. Where the seller is an individual, the WHT is based on the individual's marginal tax rate (except that the first Baht150,000 is taxed at 5% instead of allowing the tax-free threshold) after deducting from the official appraised value a standard deduction based on the number of years of ownership.

All of the taxes and fees outlined in the table above with respect to the sale of property (including the lease of land) are payable at the Land Department. WHT payable in respect of a non-resident seller is normally a final tax. The 1% WHT liability of a resident Thai company can be used as a credit against final income tax payable upon lodgement of an annual tax return. A resident individual seller of property can, however, elect to treat the WHT as a final tax or lodge an annual return by declaring the actual gain on sale in order to obtain a refund of any overpaid tax. In practice, however, this method is rarely used.

Not all the taxes will necessarily be applied in every case. In particular, stamp duty is only applicable in cases where specific business tax is not applied.

II.SALE OF A PROPERTY

Sample calculation of withholding tax for the sale of a condominium unit

I. In the case where the seller is a company, both Thai and foreigner:

The seller will be subject to withholding tax at the rate of 1% of the sale price or the official appraised value of the unit, whichever is greater, upon the registration of the transfer of the unit.

II. In the case where the seller is an individual, both Thai and foreigner:

The seller will be subject to withholding tax at the rate calculated, based on the official appraised value of the unit (irrespective of whether the contracted sale price is higher than the official appraised value) as follows:

- (i) The official appraised value of the unit is obtained.
- (ii) A standard deduction for expenses is allowed against this appraised value based on the number of years in possession (see Schedule A).
- (iii) This resulting calculation is then divided by the number of years in possession (maximum of 10 years).
- (iv) Initial tax is then calculated on this gain in accordance with the Personal Income Tax Schedule (see Schedule B).
- (v) This initial tax calculation is then multiplied by the number of years in possession.

The result of the calculation shall be the amount of total withholding tax payable.

For example

If the seller sells the unit within 2 years of acquisition, and the official appraised value is Baht 5,000,000, the withholding tax will be:

(i) Official appraised value	=	Baht 5,000,000
(ii) Deduction of expenses based on the number of years in possession (2 years)	=	84% of the price
	=	84% of 5,000,000
	=	4,200,000
5,000,000 – 4,200,000	=	800,000
(iii) Divided by the number of years in possession (2 years)		
800,000 / 2	=	400,000
(iv) Calculation of the tax in accordance with Personal Income Tax Schedule		
300,000 x 5%	=	15,000
100,000 x 10%	=	10,000
	=	25,000
(v) Multiplied by number of years in possession (2 years)		
25,000 x 2	=	50,000
Withholding tax amount is Baht	=	50,000

Notwithstanding the calculation in the method above, the total withholding tax payable shall not exceed 20% of the total price.

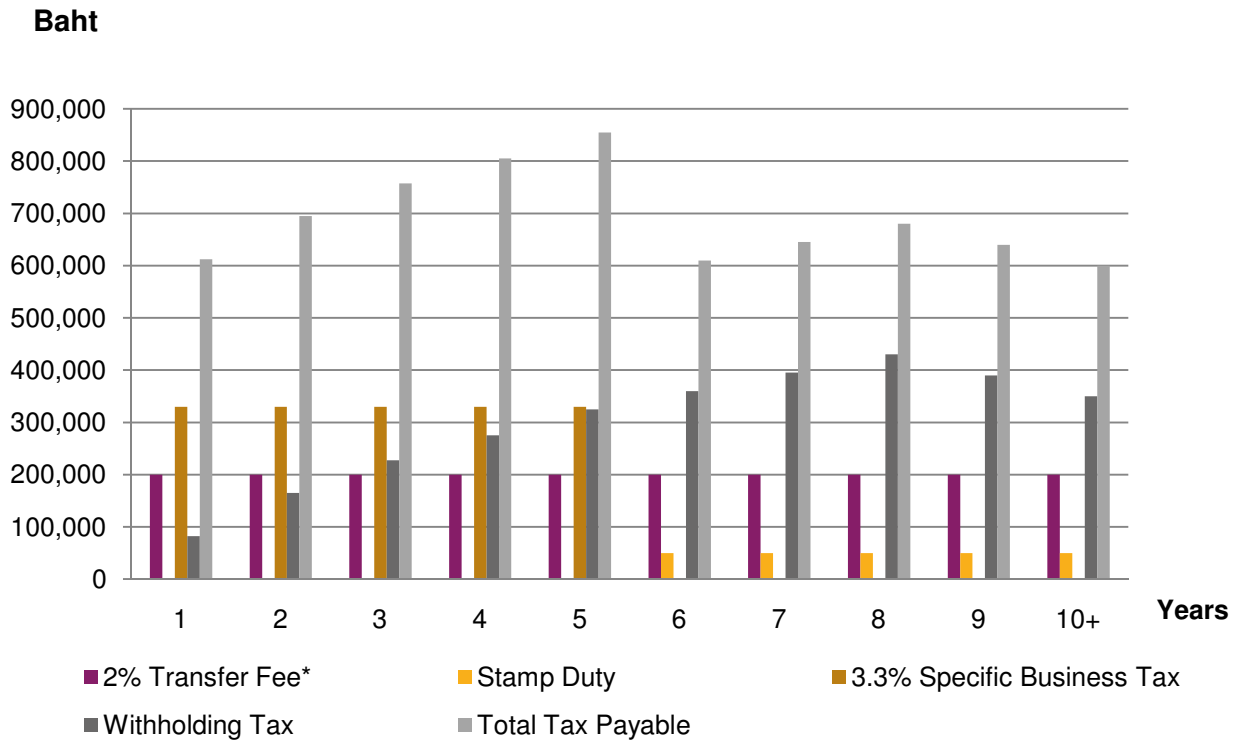
Schedule A (Resale of Unit) Standard Deduction for Expenses		Schedule B (Resale of Unit) Personal Income Tax Schedule	
Years in Possession	Expenses (% of Selling Price)	Income (Baht)	Tax Rate
1	92%	1 - 300,000	5%
2	84%	300,001 - 500,000	10%
3	77%	500,001 - 750,000	15%
4	71%	750,001 - 1,000,000	20%
5	65%	1,000,001 - 2,000,000	25%
6	60%	2,000,001 - 4,000,000	30%
7	55%	4,000,001 - over	35%
8 or more	50%		

Sample: Tax calculation assuming a Baht-10-million sale price and appraised value of Baht 10 million.

Tax	Years Held									
	1	2	3	4	5	6	7	8	9	10+
2% Transfer Fee*	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Stamp Duty	0	0	0	0	0	50,000	50,000	50,000	50,000	50,000
3.3% Specific Business Tax	330,000	330,000	330,000	330,000	330,000	0	0	0	0	0
Withholding Tax	82,500	165,000	227,500	275,000	325,000	360,000	395,000	430,000	390,000	350,000
Total Tax Payable	612,500	695,000	757,500	805,000	855,000	610,000	645,000	680,000	640,000	600,000

* Depending on the wording in the contract, this fee is often split between the buyer and seller

Property Tax Payable



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