

THE ACT ON THE ESTABLISHMENT OF AND PROCEDURE FOR TAX COURT
B.E. 2528

BHUMIBOL ADULYADEJ, REX.
Given on the 20th Day of August B.E. 2528
Being the 40th Year of the Present Reign

His Majesty King Bhumibol Adulyadej has the Royal Proclamation to announce that:

Whereas it is expedient to establish and to have procedure for tax court.

Therefore, His Majesty the King Bhumibol Adulyadej has graciously been pleased to enact this Act, with the advice and consent of the Parliament, as follows:

Section 1 This Act shall be called the “Act on the Establishment of and Procedure for Tax Court B.E. 2528”.

Section 2¹ This Act shall come into force as from the date following the date of its publication in the Government Gazette onwards.

Section 3 In this Act:

“Taxes” means taxes, duties and all types of royalties and it shall include:

- (1) Tobacco stamps under the law governing tobacco;
- (2) Playing card stamp fees under the law governing playing cards;
- (3) Import surcharges under the law governing investment promotion;
- (4) Surcharges under the law governing import and export of goods;
- (5) Export fees under the law governing agriculture welfare fund;
- (6) Allowances to be paid by exporters under the law governing rubber replanting aid fund;
- (7) Fees or other monies prescribed by the Royal Decree as taxes under this Act.

¹ The Government Gazette, Volume 102 Section 120 Special Edition, p.46 (1985, September 5).

“Tax Courts” means the Central Tax Court and the Provincial Tax Courts.

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

“Court of Appeal for Specialized Cases” means the Court of Appeal for Specialized Cases under the law governing the establishment of the Court of Appeal for Specialized Cases.

“President of the Court of Appeal for Specialized Cases”³ means the President of the Court of Appeal for Specialized Cases under the law governing the establishment of the Court of Appeal for Specialized Cases.

“Judicial Administration Commission”⁴ means the Judicial Administration Commission under the law governing rules and regulations of judicial service of the court of justice.

Section 4⁵ The President of the Supreme Court shall be in charge under this Act.

CHAPTER 1 TAX COURTS

Section 5 The Central Tax Court shall be established in Bangkok Metropolis, and the date of inauguration of the Central Tax Court shall be publicized by the Royal Decree.

The Central Tax Court shall have jurisdiction throughout Bangkok Metropolis, Samut Prakarn, Samut Sakorn, Nakorn Pathom, Nonthaburi and Pathum Thani Provinces. However, all tax cases arising outside the jurisdiction of the Central Tax Court may be filed to the Central Tax Court, thus, at the discretion of the Central Tax Court to determine whether to reject such filed cases, unless such cases have been transferred to the Central Tax Court under the provisions of this Act or under the provisions of the Civil Procedure Code.

Section 6 The establishment of a provincial tax court shall be made by an Act and specified with the jurisdiction of such court.

The jurisdiction of a provincial tax court may cover administrative areas of several provinces.

Section 7 The tax courts shall have jurisdiction over civil cases in the following matters:

² Section 3 contained the definitions of “The Court of Appeal for Specialized Cases” as added by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

³ Section 3 contained the definitions of “The President of the Court of Appeal for Specialized Cases” as added by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

⁴ Section 3 contained the definitions of “Judicial Administration Commission” as added by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

⁵ Section 4 was amended by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

- (1) Cases of appeals against any decision of any competent official or the Committee under taxation law;
- (2) Dispute cases relating to rights of claims of the State over tax costs;
- (3) Dispute cases relating to application for tax refunds;
- (4) Dispute cases relating to rights or duties under obligations made for the purpose of tax collection;
- (5) Cases prescribed by law to be under the jurisdiction of the tax courts.

Section 8 Regarding cases under Section 7 (1), in the event that it is prescribed by the tax law that an objection or appeal against any order or decision of a competent official or the Committee shall be lodged under the prescribed criteria, methods and period of time, then, the case may not be submitted to the tax court unless having complied with such criteria, methods and period of time, and such objection or appeal has already been decided.

Section 9 Regarding cases under Section 7 (3), in the event that it is prescribed by the tax law that a petition for tax refund may be filed to the tax courts under the prescribed criteria, methods and period of time only when such criteria, methods and period of time have been complied.

Section 10 Upon the inauguration of the tax courts, other courts of first instance shall be prohibited to accept a case under the jurisdiction of the tax courts for trial.

In case, there is an issue whether any legal case is under the jurisdiction of the tax courts or not, and no matter whether such issue has arisen in the tax courts or in other courts of justice, such courts shall suspend the trial of such legal cases and shall propose such issue to the President of the Court of Appeal for Specialized Cases for adjudication, and the decision of the President of the Court of Appeal for Specialized Cases shall be final. In such a case, if according to the decision of the President of the Court of Appeal for Specialized Cases, the competent court must be changed, then, the original court shall transfer cases to such court, and it shall be regarded that the proceeding already conducted by the original court prior to the issuing of judgment shall not be impaired unless otherwise ordered by the court to which the cases have been transferred, thus, for the purpose of justice.⁶

Section 11 Regarding a pending case in a provincial tax court, all parties to the case may agree to file a petition to transfer such case to the central tax court for trial; however, such court shall be prohibited to give permission as requested unless receiving a prior consent from the central tax court.

Section 12 The tax courts shall be the courts of first instance under the Charter of Courts of Justice, and the provisions of the Charter of Courts of Justice shall apply *mutatis mutandis*.

CHAPTER 2 JUDGES IN THE TAX COURTS

⁶ Section 10 Paragraph 2 was amended by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

Section 13 In the Central Tax Court, one chief justice and one deputy chief justice shall be appointed, and in case of necessity and for benefits of the authorities, the Judicial Administration Commission shall, with the approval of the President of the Supreme Court, may appoint more than one but not exceeding three deputy chief justice of the Central Tax Court.⁷

In a provincial tax court, one chief judge of the provincial court tax shall be appointed.

Section 14 The chief justice, the deputy chief justice, and judges of the Central Tax Court, chief judge and judge of provincial tax courts shall be appointed by His Majesty the King from judicial officers who have knowledge or expertise on tax-related matters under the law governing rules and regulations of judicial officers.

Section 15 In the hearing and trial of the tax courts, at least 2 judges shall be present to constitute a quorum of the judges for trial of tax cases.

Section 16 Except for the hearing and trial of cases, in order to conduct proceeding, any judge of the tax court shall have power to take actions or to issue any orders.

CHAPTER 3 PROCEDURE OF TAX CASES

Section 17 Proceedings in the tax courts shall be in compliance with the provisions of this Act, and with the requirements under Section 20. In the event that there are no such provisions and requirements, then, the provisions of the Civil Procedure Code shall apply *mutatis mutandis*.

Section 18 In case, parties to the case intend to appoint any person who has been domiciled in the jurisdiction of the tax courts to receive pleadings or documents on their behalves by submitting an application to the trial court. Upon receiving the Court's permission, such pleadings or documents may be sent on the appointed person.

In case, either party to the case has no domicile or place of business operation in the jurisdiction of the tax courts responsible for the trial thereof, the court may, for the sake of convenience in sending of such pleadings or documents within the prescribed time limit, order such party to the case to appoint a person who has been domiciled in the jurisdiction of the court to receive pleadings or documents on his or her behalf.

In case, either party to the case failed to comply with the court order under Paragraph 2, the service of pleadings or documents may be conducted by posting them at the trial court for notification thereof to such party to the case to collect such pleadings or documents in lieu of service thereof by other methods. The service of pleadings or documents by such method shall be effective when a period of 7 days as from the date of posting up thereof has been elapsed.

⁷ Section 11 Paragraph 1 was amended by the "Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558".

Service of pleadings or documents to the appointed person may be conducted in the same manner as the service thereof to parties to the case or the service thereof by other methods as provided in the Civil Procedure Code. Service of pleadings or documents to the person appointed as per the provisions of this Paragraph shall be effective when a period of 7 days as from the date of service thereof has been elapsed, or when a period of 15 days as from the date of service thereof by other methods has been elapsed.

Section 19 The tax courts may, as it is deemed necessary or upon request by parties to the case, shorten or extend the period of time prescribed in this Act or fixed by it as may be necessary and for the purpose of justice.

Section 20 For facilitation of prompt and fair conducting of proceeding, the Chief Justice of the Central Tax Court shall, with the approval of the President of the Supreme Court, shall be empowered to issue any requirements relating to the conducting of proceeding and hearing of evidence to be enforced in the tax courts.

Such requirements shall come into force after their publication in the Government Gazette.

Section 21 The tax court may request any specialists or experts to appear in court and to give their opinions for its trial.⁸

The provisions contained in Paragraph 1 shall not deprive the rights of parties to the case to request their specialists or experts to give their contradictory or additional opinions to the opinions of such specialists or experts under Paragraph 1.

Section 22 When the tax court has notified either party to the case of the date of hearing, but such party to the case failed to appear in court as scheduled, such party to the case shall be obligated to inquire the tax court regarding the next date of hearing. In case, such party to the case failed to do so, it shall be regarded that such party to the case has been informed of the next date of hearing.

Section 23 The specialists or experts who are requested by the tax court to appear in court and to give their opinions in tax cases shall be entitled to receive allowances, transportation and accommodation expenses in accordance with regulations prescribed by the Judicial Administration Commission.

CHAPTER 4 APPEAL AND SUPREME COURT APPEAL¹⁰

⁸ Section 21 Paragraph 1 was amended by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

⁹ Section 23 was amended by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

¹⁰ Chapter 4: Appeal was amended by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

Section 24¹¹ Any appeal of judgment or order of the tax courts shall be lodged to the Court of Appeal for Specialized Cases; whereas, the provisions of the Civil Procedure Code or the Criminal Procedure Code, as the case may be, shall apply *mutatis mutandis*.

Section 25¹² Regarding the trial and ruling of tax cases in the Court of Appeal for Specialized Cases and consequences of the judgment or order of the Court of Appeal for Specialized Cases, provisions of this Act and the Civil Procedure Code shall apply *mutatis mutandis*.

Section 26¹³ Regarding a Supreme Court appeal of judgment or order of tax cases to the Supreme Court, the provisions of this Act and the Civil Procedure Code shall apply *mutatis mutandis*.

Regarding the trial and ruling of tax cases in the Supreme Court, the provisions of this Act and the Civil Procedure Code shall apply *mutatis mutandis*.

Section 27¹⁴ (Repealed)

Section 28¹⁵ (Repealed)

Section 29¹⁶ (Repealed)

TRANSITORY PROVISIONS

Section 30 Cases within the jurisdiction of the tax courts which are pending in the Civil Court or other courts on the inauguration date of the Tax Section in the Civil Court, such court shall still have powers of trial, and it shall be regarded that such cases are not tax cases under this Act.

¹¹ Section 24 was amended by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

¹² Section 25 was amended by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

¹³ Section 26 was amended by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

¹⁴ Section 27 was repealed by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

¹⁵ Section 28 was repealed by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

¹⁶ Section 29 was repealed by the “Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558”.

Section 31 During the period when the Central Tax Court has not yet been inaugurated, the Tax Section in the Civil Court shall be established with the same powers and jurisdiction to those of the Central Tax Court, and shall be inaugurated within 240 days as from the date when this Act shall come into force.

When the Tax Section of the Civil Court has been inaugurated, the provisions contained in Section 10 and Section 33 shall apply *mutatis mutandis*.

The Chief Justice of the Civil Court shall have the same powers and duties to those of the Chief Justice of the Central Tax Court.

Any requirements as issued by the Chief Justice of the Civil Court under Section 20 shall be valid until the Chief Justice of the Central Tax Court shall issue new requirements to supersede such requirements.

Section 32 When the Central Tax Court has been inaugurated, all pending cases in the Tax Section of the Civil Court shall be transferred for proceeding and trial in the Central Tax Court, and the Central Tax Court shall have powers to issue a warrant of execution, a warrant of arrest against judgment debtors, or to execute adjudication in any matter relating to the execution of judgment or order in such transferred cases.

Section 33 During the period when a provincial tax court has not been inaugurated in any locality, the Central Tax Court shall have jurisdiction in such locality. In a civil case, the plaintiff may file a plaint with the provincial court where the defendant has been domiciled. The provincial court shall then notify the Central Tax Court of the matter. After the Central Tax Court has accepted the case for adjudication, it may conduct the hearing and judgment at the provincial court of such locality or at the Central Tax Court, as the Central Tax Court may think fit.

The Central Tax Court may request the provincial court of the locality where the plaintiff has filed the plaint or any other provincial court to conduct any proceeding which is not the ruling of disputed case. In such a case, the provincial court shall apply the procedure of tax cases to the proceedings in such court.

Counter-Signature:

General Prem Tinsulanonda

Prime Minister

Note:- Reason for promulgation of this Act: Whereas, tax cases have their distinct and different characteristics from other general civil cases because they are disputes between private enterprises and the public sector caused by tax assessment or collection, and if they were tried by the judges who had particular knowledge and understanding on the matters relating to taxation, then, the trial of tax cases would be more expeditious. It is deemed expedient to establish the tax courts for trial of tax cases with particular procedures, except for some processes and methods as prescribed in the Civil Procedure Code in order to make the proceeding more flexible, therefore, it is necessary to enact this Act.

The Act on the Establishment of and Procedure for Tax Court (No.2) B.E. 2558.¹⁷

Section 2 This Act shall come into force as from the date following the date of its publication in the Government onwards.

Section 10 Cases that the tax courts had issued their judgments or orders prior to the inauguration date of the Court of Appeal for Specialized Cases shall be appealed to the Supreme Court, and the provisions of the Act on the Establishment of and Procedure for Tax Court B.E. 2528 which had been enforced prior to the date when this Act shall come into force, shall apply to the trial of the Supreme Court.

The provisions governing appeal under the Act on the Establishment of and Procedure for Tax Court B.E. 2528 which had been enforced prior to the date when this Act shall come into force, shall apply to all tax cases which had been pending in the Supreme Court prior to the inauguration date of the Court of Appeal for Specialized Cases and to the trial of the Supreme Court.

Section 11 The Tax Case Division of the Supreme Court which had been established under the Act on the Establishment of and Procedure for Tax Court B.E. 2528 prior to the effective date of this Act shall still exist as may be necessary unless otherwise prescribed and announced by the Judicial Administration Commission under the law governing rules and regulations of judicial service of the court of justice.

Section 12 During the period when the Court of Appeal for Specialized Cases has not yet been inaugurated, the issues whether any cases shall be within the jurisdiction of the Tax Court or not under Section 10 Paragraph 2 of the Act on the Establishment of and Procedure for Tax Court B.E. 2528 as amended by this Act shall be decided by the President of the Supreme Court, and the decision of the President of the Supreme Court shall be final.

Section 13 All rules and regulations issued in accordance with the Act on the Establishment of and Procedure for Tax Court B.E. 2528 which had been enforced prior to the effective date of this Act shall still be enforced insofar as they were not contrary to or inconsistent with the Act on the Establishment of and Procedure for Tax Court B.E. 2528 as amended by this Act until new

¹⁷ The Government Gazette, Volume 132 Section 120 (A), p.27 (2015, December 14).

regulations, announcement or orders under the Act on the Establishment of and Procedure for Tax Court B.E. 2528 as amended by this Act shall come into force.

Section 14 The President of the Supreme Court shall be in charge under this Act.

Note:- Reason for promulgation of this Act: Whereas, the criteria for appeal and Supreme Court appeal under the Civil Procedure Code has been revised, and civil cases to be referred to the Supreme Court shall be approved by the Supreme Court. Regarding the current system of appeal of tax cases, it was provided by law that both parties to the case shall be entitled to appeal directly to the Supreme Court which was not in conformity with the revised criteria. Moreover, the Court of Appeal for Specialized Cases has been established for trial of specialized cases. It is deemed expedient to revise the criteria for appeal and Supreme Court appeal in tax cases to be in conformity and under the same system, including the revision of the related procedures to be more appropriate, therefore, it is necessary to enact this Act.

Corrected by: Pattama

Checked by: Wasin

5th March 2010

Revised by: Napaporn

31st October 2013

Checked by: Nattaporn

3rd December 2013

Added by: Nusara

17th December 2015