



# TAX LITIGATION IN THAILAND

Presented by  
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# TAX LITIGATION IN THAILAND

- Tax audit can take place if any tax non-compliance is found by a tax official or a tax refund is requested by a tax payer.
- A tax payer must provide all tax documents as instructed by the tax official of the Revenue Department.
- A tax official issues its letter whether or not a tax payer complies with tax law.
- In case the tax official imposes tax on the tax payer, the tax payer can file an appeal at the tax appeal committee at the level of the government.
- If the tax appeal committee rules in favour of the Revenue Department, the taxpayer can file a lawsuit against the Revenue Department with the Central Tax Court of Thailand or the Court.

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- In the Court, a Complaint is filed by a plaintiff and an Answer is filed. A party having the burden of proof, normally a plaintiff, must present its evidence to the Court. Each of witnesses of the Plaintiff and each witnesses of the Defendant answer examination question, cross-examination questions and re-examination questions respectively to judges. A closing statement is filed by the Plaintiff and/or the Defendant with the Court.
- If the Court issues its judgment in favour of the tax payer or the Revenue Department, the losing party can appeal against the decision of the Court to the Specialized Court of Appeal.
- If the Specialized Court of Appeal rules in favour of the tax payer or the Revenue Department, the losing party can appeal only against the decision of the Specialized Court of Appeal to the Supreme Court only if an order for the appeal is issued by the Supreme Court.
- The Supreme Court issues its decision which is technically final.

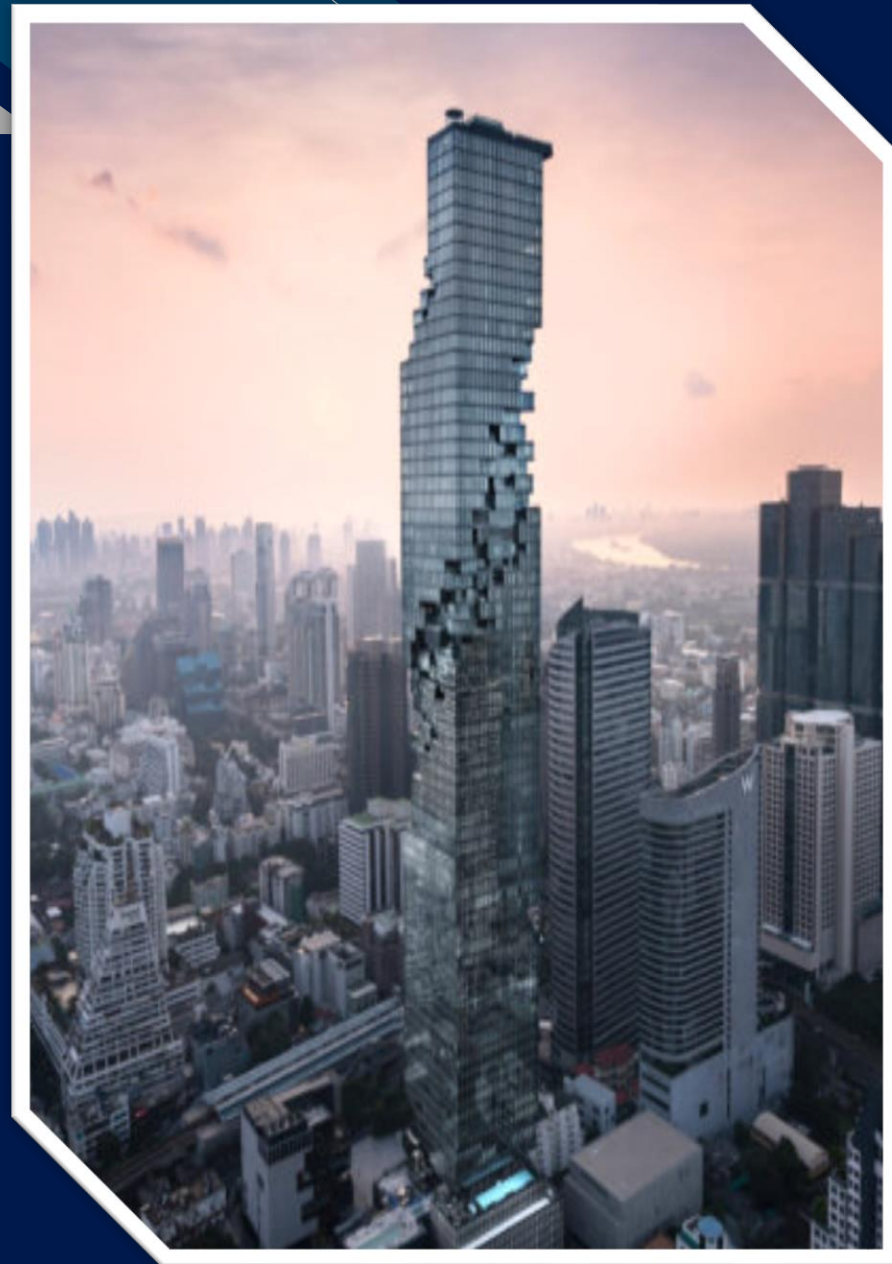
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- Tax authority is not required by law to follow the decision of the Court, but the decision is a guideline of the tax authority.
- Tax laws and regulations have been amended after some decisions of the Supreme Court.
- Tax laws include Revenue Code, Customs Act, Excise Tax Act and Land and Building Tax Act.
- The Central Tax Court is one of special courts such as Labour Court and Intellectual Property and International Trade Court.
- Legal proceedings at the Central Tax Court are speedy and can be completed within 12 months from the date of filing a plaint.
- Based on the latest statistic cases report of the court of justice for year 2015-2017, it is shown that there are 202, 220 and 206 cases concerning VAT and income taxes brought to the Central Tax Court in year 2015, 2016, and 2017 respectively.



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- Only a lawyer can act as a litigation lawyer in a tax case in Thailand.
- Tax officials frequently disapprove aggressive tax avoidance transactions
- A judicial review is applicable by the Court to defeat overseas tax avoidance arrangement.
- Court proceedings are open to the public. However, documents in the case are generally available for the parties concerned only.
- Documents in a foreign language must be translated into Thai for legal proceedings.
- Trade secret can be kept confidential and not disclosed in a tax case.



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- Evidences of the tax case are not limited to documents previously disclosed in the tax audit.
- If the taxpayer prevails, attorney fees awarded by the Court are lower than lawyer fees paid by a company to the lawyer.
- Tax Model of the OECD is reviewed by the Revenue Department but, in certain matters, the Revenue Department may have different views.
- Provisions of many DTAs may be similar and interpretation of provisions of the DTA including business profits, royalty and interest may be different.
- MAP does not impact domestic dispute resolution.



# Thank You very much for your kind attention



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