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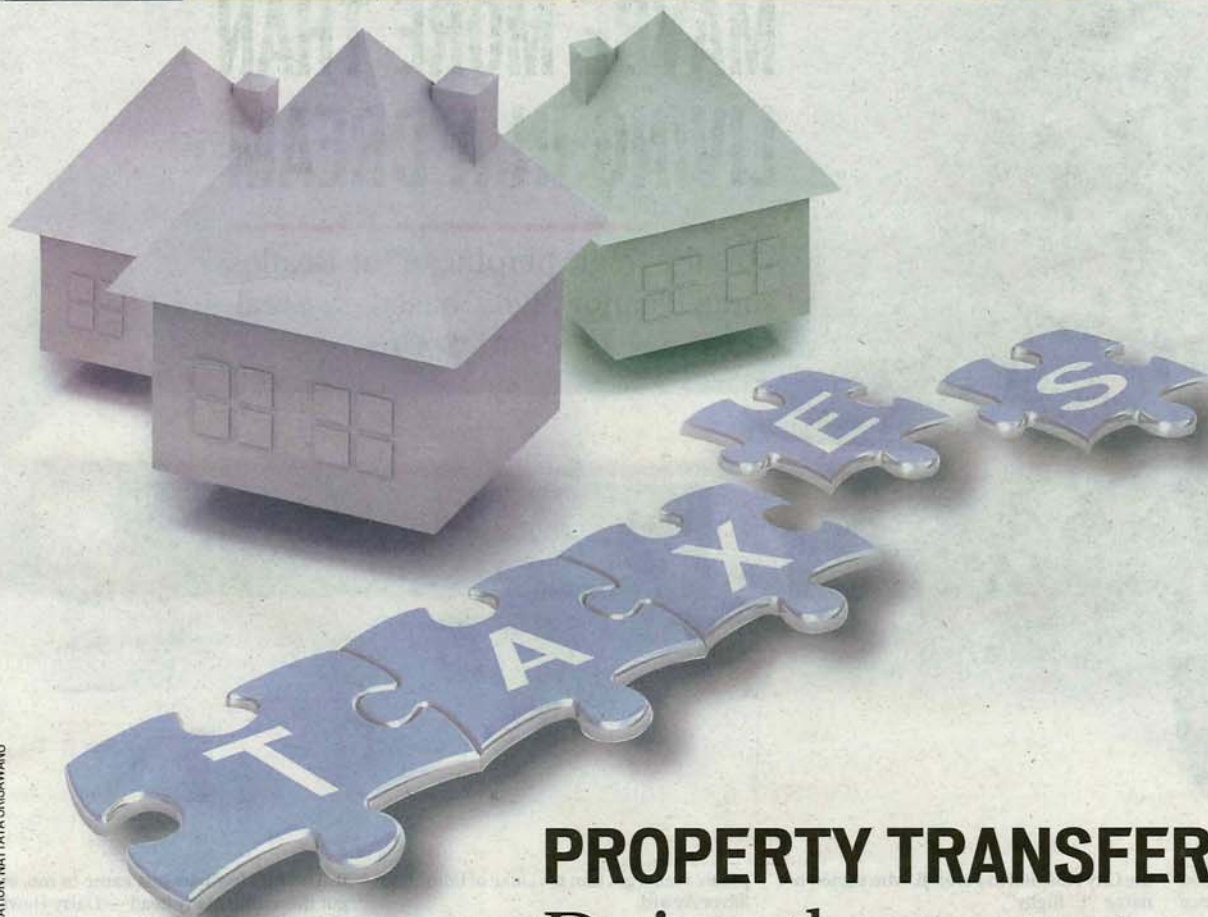


ILLUSTRATION: NATTAVA SRISAWANG

PROPERTY TRANSFER TAXES 3: Doing the two-step

This is the last article on the effect of the drastically reduced property transfer taxes in Thailand. This time we cover the taxes on another of the most common transactions: where a developer transfers land to a Thai individual and the house on the land to a foreigner. The Thai then leases the land to the foreigner.

This often happens because the developer's licence to subdivide and sell lots — called a land allocation licence — may be limited to selling lots, and not leasing them. Many foreign buyers now insist on having the land leased to them as a way around the limitations of the developer's land allocation licence.

Before we go to the example, we would like to remind you that in this series of articles we have arbitrarily set the transaction price and this amount is often negotiable. Here is a word of warning about setting the transaction price artificially low to save taxes: When you sell the property down the road the base price for the purposes of calculation of capital gains will be this lower price and you may have to pay more in taxes.

As you can see from the table, saving a

few baht on taxes today may cost you in the future.

BY WAY OF EXAMPLE

Now, let's turn to the example. The house and land sell for a combined five million baht and the developer acquired the land a couple of years ago. What are the taxes under the new, temporary, rules?

First, let's transfer the land to the Thai. Assume the transaction price is two million baht and the assessed price is one million baht.

The transfer fee, at a rate of 0.01% of the assessed price, is 100 baht. The specific business tax, at a rate of 0.11% of the transaction price, is 2,200 baht. This gives a subtotal of 2,300 baht.

Now, let's transfer the house from the developer to the foreigner. Assuming the transaction price is three million baht and the assessed price is two million baht, the transfer fee, at a rate of 0.01% of the assessed price, is 200 baht. The specific business tax, at a rate of 0.11% of the transaction price, is 3,300 baht.

This gives a subtotal of 3,500 baht. Finally, let's lease the land from the Thai to the foreigner. Assuming a reasonable

CAPITAL GAINS ARE TAXED AT REGULAR PERSONAL RATES		
NET INCOME RANGE (BAHT)	NET INCOME AT EACH STAGE (BAHT)	TAX RATE (%)
1 - 150,000	150,000	Exempted from Jan 1, 2008
150,001 - 500,000	350,000	10
500,001 - 1,000,000	500,000	20
1,000,001 - 4,000,000	3,000,000	30
4,000,001 onwards	N/A	37

rent of 3,000 baht a month, the transaction price will be 3,000 x 12 months x 30 years for a total of 1,080,000 baht. The transaction fee, at a rate of 1% of the transaction price, is 10,800 baht. The stamp duty, at one baht per 1,000 baht, is 1,080 baht. This gives a subtotal of 11,880 baht.

The total tax on this transaction is, therefore, 2,300 + 3,500 + 11,880, or 17,680 baht. Suffice it to say that the same kinds of taxes before March 29, 2008, or after March 28, 2009, will be 86,000 + 139,000 + 11,880, or 236,880 baht — as calculated here in past weeks.

British author DH Lawrence said "the living moment is everything". This probably

referred more to the intellectual movement at work in the West during the early 20th century than it does to whether you buy real estate now in Thailand.

But think about it: If you have decided to take the plunge and the only question is when, tax issues may make it worthwhile to act before March 28 of next year. ■

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