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Headline: Inheritance tax woes

Inheritance tax woes

Some say it's a fair wealth redistribution while others deem it is unfair double taxation and not worth the admin costs, write **Post reporters**

It should come as no surprise that the recent headlines about a new inheritance and gift tax has caused some wealthy families to give serious thought to their estate planning.

Take the case of Cindy, a 46-year-old spa business owner. After hearing news about the new tax, her parents' first response was to talk with their family lawyer and begin separating their assets among their three children.

"I suppose the law is forcing people to think about things that they don't really like to think about," she says.

Like most people, the thought of additional taxes does not exactly fill Cindy with joy.

"It's basically double taxation. Our assets, whether it's money or property, is already taxed by the government. I just think the idea of this new tax is unfair," she says.

"I wasn't born rich, neither was my family. But my parents have worked all their lives at their small clothing shop until we've got what we have today. That's all."

The idea this tax might help address larger social ills also rings false, she says. "How is this law going to help reduce income inequality? Making the wealthy poorer doesn't mean that the poor become wealthier."

Some wealthy business people have different opinions.

Tan Passakornnatee, chief executive of green tea producer Ichitan Group, agrees with the government's idea to use the tax as a tool to narrow economic inequality.

However, he urges the government to look carefully at the practices of other countries imposing the tax and to decide on a fair rate in order to encourage the rich to follow the law and prevent tax avoidance. He expresses concerns about possible capital outflows.

"Taiwan used to impose this tax up to 40%, which caused capital outflows that surely affected its economy. Then it reduced the rate to 5-10% and the capital flooded back in," Mr Tan says.

He says the government needs to ensure transparency.

"The government needs to make sure that it will make the most use of this tax money while preventing all kinds of corruption that may occur."

> "I think the taxable value should start from 20 million baht rather than 50 million baht
>
> VICHAI TONGTAENG
> Lawyer and veteran investor

Vichai Tongtaeng, a lawyer and veteran investor, agrees with the tax but says the minimum value of assets to be taxed is set too high.

"I think the taxable value should start from 20 million baht rather than 50 million baht," he says.

"I suppose a businessman like me or the rich should not be affected by this tax. The government could use this tax money to help the poor."

The Prayut Chan-o-cha government is set to implement the tax next year.

According to several tax experts at international law firms, the possible implementation of the tax has alarmed the affluent to start planning and transferring their estate, mainly fixed assets, to their heirs sooner than they had planned.

"Some affluent parents are now starting to distribute equities to their children, while some investors are investing offshore right away," says one expert. This is because the new tax is to apply only to assets located in Thailand, he adds.

WEALTH REDISTRIBUTION

Tax reform is high on the military government's agenda.

The Revenue Department intends to impose up to 10% inheritance tax on heirs who receive assets worth more than 50 million baht from a deceased person. Taxable assets include residences, land, vehicles, bonds, equities and deposits at financial institutions. Non-registrable assets such as jewellery, amulets and luxury watches are excluded.

Gift tax, a parallel tax aimed at closing a loophole in inheritance tax, is imposed when the donor dies within two years of a transfer of assets to a beneficiary.

According to Gen Prayut, this new tax is aimed at income redistribution and reducing economic inequality. It is not intended to burden the poor.

Deputy Prime Minister MR Pridiyathorn Devakula recently announced that assets passed down to a wife or a husband after the death of a spouse will be exempt from this tax. Agricultural land passed down to a beneficiary after the death of a parent who is a farmer will also be exempt.

The tax proposal is being considered by the Council of State and will be passed on to the Finance Ministry before being proposed to the cabinet and National Legislative Assembly.

Thailand is not totally unfamiliar with this tax. The country began to collect a death tax in 1933 but eliminated it in 1944. The key reason was that tax revenue was small but administrative costs were high.

FEAR OF MASSIVE OUTFLOWS

Unlike property taxes or personal income taxes, the concept of inheritance and gift tax is controversial, not only in Thailand but in many jurisdictions around the world.

According to studies and academics, the tax promotes equality among people, creates a fairer tax burden, redistributes wealth better and so reduces income inequality.

However, some critics oppose the idea,

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saying it has more cons than pros. They say it is fundamentally unfair and imposes double taxation on individuals.

Others criticise the practical aspects, arguing that calculation of estate values is complicated and probably vulnerable to corruption. The wealthy, who have the most to lose from an inheritance tax, also happen to have the greatest facility to evade the tax through offshore accounts or legal vehicles.

Gregory Lamont, a tax and legal services partner at PwC Thailand, says only 21 countries impose an inheritance and estate tax. As the tax would be applied only to assets in Thailand, he worries there might be a massive outflows of funds to tax havens such as Hong Kong and Singapore.

Hong Kong and Singapore, the major Asian financial centres, abolished such taxes in 2006 and 2008, respectively.

Critics and legal experts also ague that this tax can harm small and medium-sized businesses. Heirs of businesses may be forced to sell their shares or even businesses in order to pay tax. Cases involving land and residences could have the same result.

Administrative costs are high, while revenue generated from the tax is often small.

"Take the US. The country has the most sophisticated estate tax, yet in 2013 it generated only 0.7% of all government revenue. One would expect that Thailand wouldn't even get close to 0.7% but would spend a lot on administrative costs," Mr Lamont says.

Thanasak Chanyapoon, a tax expert at Lawalliance Ltd, says: "Many people like to think that this inheritance tax can bridge the gap between the rich and poor. But making the rich poorer is not wealth redistribution.

"Consider this. How many rich people die each year and how long will it take before the authorities collect tax from their estates?"

LENIENCY ON THE WAY

Revenue Department director-general Prasong Poontaneat admits an inheritance tax may trigger major capital outflows out of Thailand or prompt the well-heeled to transfer their assets overseas.

However, he questions whether it is worth to do so, as the proposed 10% rate is relatively low compared with rates in several countries.

Mr Prasong says assets transferred offshore would also create difficulties when the owners want to take those assets back home, as they would have to declare their source of origin or how they acquired them.

"Even if you move your assets out of the country to dodge tax, sooner or later you or your heirs will have to bring them back to your homeland," he says.

Mr Prasong says the inheritance and gift tax will be calculated based on net wealth or after deducting any debts.

The scenario of heirs being forced to hastily sell off assets such as land or houses in order to pay the inheritance tax is unlikely to happen.

The law will allow heirs to leave inherited assets in the estate because there is no estate tax. However, if the assets generate income, the beneficiary will be subject to income tax.

EXPERTS' ADVICE

A well-designed inheritance and gift tax holds several characteristics.

According to Mr Lamont, it should apply to worldwide assets and must have an effective date that makes it difficult for sophisticated taxpayers to avoid it.

"Any delay between the announcement and effective date will only result in attempts by the wealthy to move assets," he says.

In cases where the beneficiary is a juvenile and unable to settle the tax alone, the law should allow the person to reach a certain age, may be 28, before the tax is imposed.

As the new tax could induce corruption during the value appraisal of assets, the government should encourage transparency by allowing a third party to take part in the procedure.

And if the heirs find the value appraisal is too high while the Revenue Department feels it is too low, both parties should be able to go to court for a settlement.

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DEATH AND TAXES

Thailand

- **Inheritance tax** is imposed on a beneficiary who inherits the assets of the deceased person.
- **Gift tax** is imposed on a beneficiary only when the donor dies within two years after the transfer of assets.

Assets: Residences, land, vehicles, bonds, equities and deposits
Value: Worth at least 50 million baht
Tax rate: Ceiling capped at 10%

International

Country	Estate tax	Inheritance tax	Gift tax	Rate
USA	✓	✓	✓	Progressive, maximum 50%
UK		✓	✓	Fixed 40%
Japan		✓	✓	Progressive 10-70%
France		✓	✓	Progressive 5-40%
South Korea		✓	✓	Progressive 10-50%
Taiwan	✓		✓	Progressive 2-50%

Source: Assoc Prof Chompunuch Permpoonwiwat and team at Srinakharinwirot University

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