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21st Century Tax Court's Role in the Protection of Taxpayers' Rights

รายงานวิจัยฉบับสมบูรณ์

เสนอต่อ ศาลภาษีอากรกลาง

โดย สถาบันวิจัยและให้คำปรึกษาแห่งมหาวิทยาลัยธรรมศาสตร์

Abstract

As there are various issues concerning the tax court's role in protecting taxpayers' rights, and there is a growing public demand on this issue domestically and internationally, there are four objectives in this research. Firstly, it is to study ideas concerning the taxpayers' rights, tax justice, and the tax court's role in protecting taxpayers' rights in comparison to four trading partners of Thailand, i.e. the U.S.A., Australia, Germany and Japan. Secondly, it is to investigate current issues in tax justice. Thirdly, it is to ascertain impact of the tax justice on taxpayers in Thailand. Fourthly, it is to analyze the tax court's role in providing justice and protecting taxpayers' rights as well as to provide possible solutions in order to enhance capacities of the Thai tax court.

Taxpayers' rights in this research derive from the 1990 OECD report on Taxpayers' rights and obligations – A survey of the legal situation in OECD countries, which consists of six rights, i.e. 1) the right to be informed, assisted and heard, 2) the right of appeal, 3) the right to pay no more than the correct amount of tax, 4) the right to certainty, 5) the right to privacy, and 6) the right to confidentiality and secrecy. In order to study the tax court's role in protecting these rights, this research applies both the qualitative and quantitative method by exploring current issues and conducting survey on satisfaction of stakeholders, i.e. judges in the tax court, officials in related agencies, public prosecutors, business persons (Thai and foreigner), taxpayers using services of the tax court, lawyers, provincial chambers of commerce including tax scholars. The descriptive analysis is used to ascertain problems and difficulties affecting taxpayers, which are derived from tax law and the tax court's role. In comparison with those four countries, recommendations are provided in order to enhance capacities of the Thai tax court in protecting taxpayers' rights.

Finding of this research reveals that crucial issues in Thailand are slow and expensive procedures, difficulty in access to information by taxpayers, passive role of the tax court and expertise of judges in the tax court. In order to cope with these issues and to enhance capacities of tax court in protecting taxpayers' rights in the 21st century, it is necessary to apply following main legal measures along with administrative measures. Firstly, in terms of the tax court, it is required to enhance the capacity of the Thai tax court in protecting taxpayers' rights by setting up a system that helps to improve expertise of judges in the tax court. For instance, the recruitment of judges for tax court should be improved in order to enhance experts in the tax court. It is also important to set up a system that judges in the tax court are able to learn and accumulate their expertise in taxation continuously. Secondly, in order to eliminate conflicts between the tax court and other courts in the matter of jurisdiction, the tax court's jurisdiction should be expanded to cover all cases involving taxes. Thirdly, it is necessary to amend laws involving a dispute settlement on administrative level because most of the issues are originated from this level. Fourthly, in order to lower barriers for taxpayers to access tax justice, the tax litigation fee should be reduced. Lastly, in order to provide taxpayers more protection, it is necessary to empower the tax court in various areas such as the power to reduce surcharge or the power to give a deferral of tax payment.

Keywords: Taxpayers' Rights, Tax Court, Tax Justice, Protection of Rights.