



Manual for Proceeding of Tax Cases

Public Volume



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Introduction

The Central Tax Court is a specialized court established under the Act for the Establishment of and Procedure for Tax Court B.E. 2528 (1985). The reason for an establishment is the characteristics of tax cases, which are different from those general civil cases and required specific procedures unlike those as provided by the Civil Procedure Code of Thailand, so that tax cases can be tried by the knowledgeable judges who have particular understanding in tax problems for more speedy trial of tax cases.

Tax Court means the Central Tax Court or the Provincial Tax Courts ;

1) The Central Tax Court was inaugurated on 7th August 1986, and at the moment is located at the Civil Court building on the 1st , 2nd , 9th and 13th floor on Ratchadapisek Road, Kwang Chompol, Chatuchak sub-district, Bangkok

2) The Provincial Tax Courts have not yet been inaugurated.



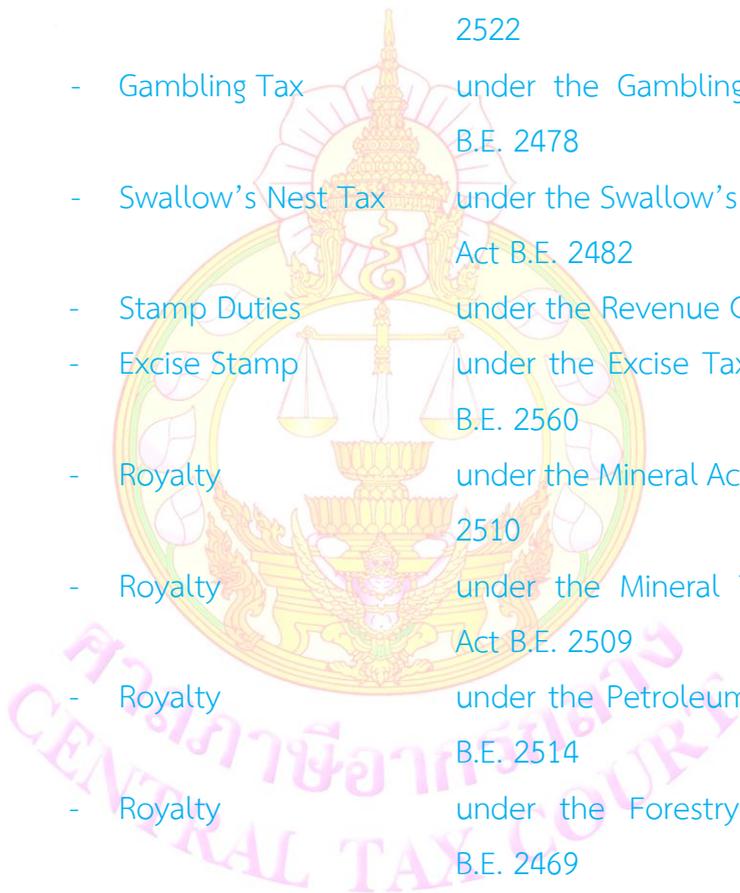
Definition of “Taxation”

Taxation means any money collected by the government for its administration or development of the country from person, non-juristic body of person, juristic person, an undivided estate, property or business, and irrespective of whatsoever is called, such as taxation, fees or royalties. It can be classified into the following types:-

- Personal Income Tax under the Revenue Code
- Corporate Income Tax under the Revenue Code
- Value Added Tax under the Revenue Code
- Specific Business Tax under the Revenue Code
- Land and Building Tax under the Land and Building Act B.E. 2562
- Signboard Tax under the Signboard Tax Act B.E. 2510
- Custom Tax under the Custom Tax Act B.E. 2560
- Excise Tax under the Excise Tax Act B.E. 2560
- Petroleum Tax under the Petroleum Income Tax Act B.E. 2514



- Yearly Vehicle Tax under the Land Transportation Act B.E. 2522
- Yearly Tax under the Vehicle Act B.E. 2522
- Gambling Tax under the Gambling Act B.E. 2478
- Swallow's Nest Tax under the Swallow's Nest Act B.E. 2482
- Stamp Duties under the Revenue Code
- Excise Stamp under the Excise Tax Act B.E. 2560
- Royalty under the Mineral Act B.E. 2510
- Royalty under the Mineral Tariff Act B.E. 2509
- Royalty under the Petroleum Act B.E. 2514
- Royalty under the Forestry Act B.E. 2469
- Special Importation Fee under the Investment Promotion Act B.E. 2520





- Special Fee under the Import and Export of Commodities Act B.E. 2522
- Fee under the Rubber Authority of Thailand Act B.E. 2558
- Exportation Fee } under the Farmer Aid Fund
- Importation Fee } Act B.E. 2554
- Fee or any other Tax and Duty proclaimed as taxation by the Royal Decree under the Act for the Establishment of and Procedure for Tax Court B.E. 2528

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Territorial Jurisdiction of the Central Tax Court

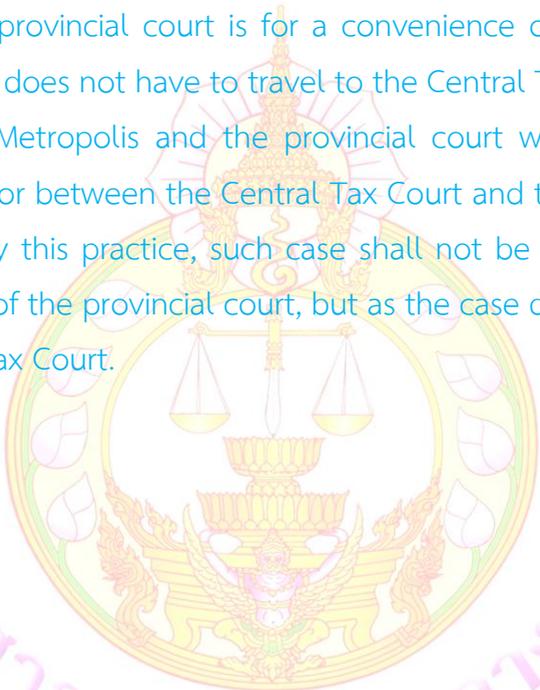
The Central Tax Court has the authority to try and adjudicate cases throughout the Kingdom of Thailand. The filing of a plaint can be divided into 2 methods as follows:-

1) In case where an assessment arises in Bangkok Metropolis, Samut Prakarn, Samut Sakorn, Nakorn Pathom, Nonthaburi and Pathum Thani Provinces, one who desires to sue the Revenue Department, Excise Department, Custom Department, or other tax collection government units is required to file with the Central Tax Court which is located only in Bangkok Metropolis. No case shall be filed with Samut Prakarn Provincial Court, Samut Sakorn Provincial Court, Nakorn Pathom Provincial Court, Nonthaburi Provincial Court and Pathum Thani Provincial Court.

2) In case where an assessment is made outside provinces stated in 1), one who intends to file a plaint against the Revenue Department, the Excise Department, the Custom Department or other tax collection government units and other person jointly (for instance, a person who is the Commission of Appeal in such provinces), may file his plaint with the provincial court of a location in which any defendant



is domiciled. In such case, the provincial court has the duty to notify and forward a plaint to the Central Tax Court for an order to accept or refuse such plaint. The filing of a plaint with the provincial court is for a convenience of the party where he does not have to travel to the Central Tax Court in Bangkok Metropolis and the provincial court will act as a coordinator between the Central Tax Court and the party to a case. By this practice, such case shall not be deemed as the case of the provincial court, but as the case direct to the Central Tax Court.



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The seal of the Central Tax Court is circular, featuring a golden scale of justice in the center, flanked by two golden lions. Above the scale is a golden crown. The entire emblem is set against a background of a golden sunburst. The seal is surrounded by a green and yellow border with white lotus petals. Below the seal, the text 'ศาลภาษีอากรกลาง' and 'CENTRAL TAX COURT' is written in a purple, stylized font.



Jurisdiction of the Central Tax Court

The Central Tax Court has the jurisdiction to try and adjudicate civil cases only on the followings:-

1) A case to appeal against a decision of an officer or the commission according to law relating to taxation, such as an application for a cancellation of an assessment of an officer under the Revenue Code (an assessed person is required to have made an appeal against an assessment of an officer or the Commission of Appeal first, upon a decision made by then, a case is then allowed to be filed for an action with the Central Tax Court.)

2) A case in dispute relating to claims by the government for tax obligations such as the Revenue Department sues the taxpayer to pay the overdue taxes.

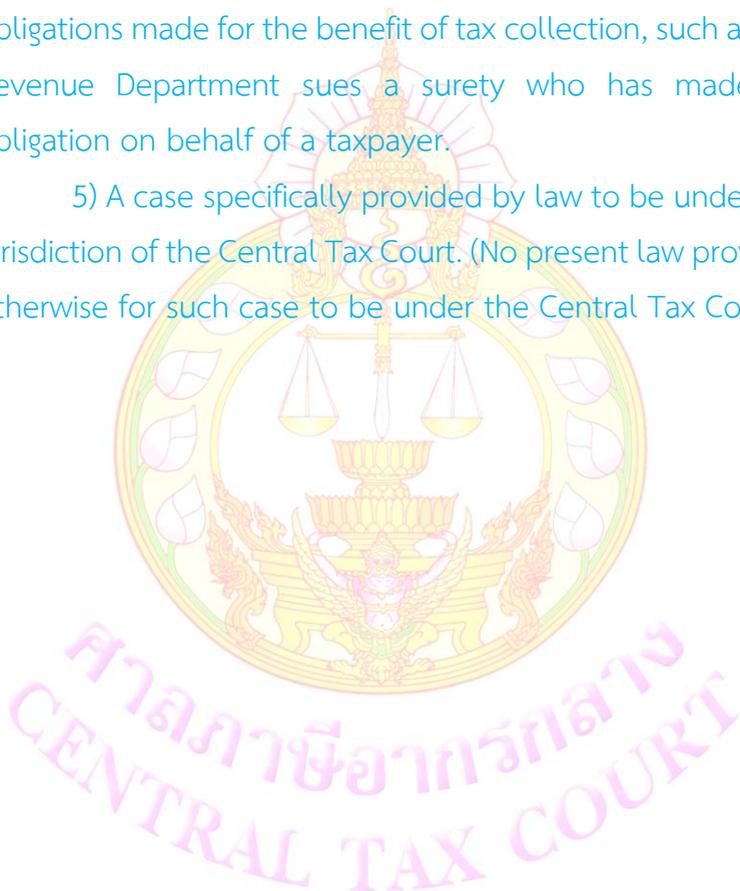
3) A case in dispute relating to a tax refund such as a charge for a refund of the value added tax or for a refund of other taxes paid by the taxpayer with his view that he was not supposed to have a duty to make such payment. (However, for a charge for this refund, one who enters an action is required to have submitted an application for a tax refund to the concerned government agencies before



acquiring a right to further enter an action into the Central Tax Court.)

4) A case in dispute relating to a right or duty on obligations made for the benefit of tax collection, such as the Revenue Department sues a surety who has made an obligation on behalf of a taxpayer.

5) A case specifically provided by law to be under the jurisdiction of the Central Tax Court. (No present law provides otherwise for such case to be under the Central Tax Court.)





Compliances before Filing a Case with the Court

In case where the Central Tax court has the jurisdiction for trial and adjudication on tax cases as aforementioned, a taxpayer, prior to filing a case with the Court, is required to follow the steps provided by law as follows:-

1. In case where the law requires an assessed person to make an objection or an appeal against an order or a decision by the officer or the Commission of Appeal according to law governing taxation.

Where the law relating to taxation requires the assessed person to make an appeal against such assessment when he is not satisfied with the assessment, an appeal against the assessment shall be made by the assessed person first. Upon a decision made by the officer or the Commission of Appeal, the case then can be brought to file for an action with the Court.

Examples

- 1) A case of income tax, value added tax, specific business tax and stamp duties where an appeal against the assessment is submitted to the Commission of Appeal within



30 days from the date of receiving the notification of assessment.

2) A case of excise tax where an appeal against the assessment is submitted to the Commission of Appeal within 30 days from the date of receiving the notification of assessment.

3) A case of custom tax where an appeal against the assessment is submitted to the Commission of Appeal within 30 days from the date of receiving the notification of assessment.

4) A case of land and building tax where an obligation and request for reconsideration of the assessment is submitted to the local administrator within 30 days from the date of receiving the notification of assessment. In case the local administrator does not agree with such request, taxpayer can appeal such decision to the Commission of Appeal within 30 days from the date of receiving the notification of such decision. In this regard, the appeal shall be submitted to the local administrator.

Local administrator means Mayor, Chief Executive of the Subdistrict Administrative Organization (SAO), Bangkok



Governor, Pattaya Mayor, other local administrator as required by law but shall not include Chief Administrator of the Provincial Administrative Organization (PAO).

5) A case of signboard tax where an appeal against the assessment is submitted to the Provincial Governor or the Bangkok Governor within 30 days from the date of receiving the notification of assessment.

2. In case of tax refund where the law relating to taxation specifies conditions which tax refund must be made according to rules, methods and prescribed period of time, a case can be presented to the Court only when such rules, method and prescribed period of time has been satisfied.

As application for refund of tax of each kind subject to different rules, methods and prescribed period of time, one who wishes to get tax refund is required to examine rules, methods and period of time prescribed by each governing law, and comply with all terms completely and correctly before bring his claim to the Court.



Content of a Complaint

A complaint to be filed with the Court is required to be made in accordance with the printed form prescribed by the Court and to contain essential details as follows:-

1) the names of a plaintiff – defendant, clear domiciles of each plaintiff and defendant.

2) the positions of a plaintiff or defendant, for instance, as a person or a juristic person or a department of the government agencies etc.

3) an assessed person on whom an assessment is made by which government agency, as to when, as to which ground cited by the assessment officer as allegation for such assessment, and as to what amount of tax to be paid according to the result of assessment.

4) an appeal against an assessment is required to be made first to an officer on the Commission of Appeal within the period of time prescribed by law relating to such appealed matter. In addition, an appeal shall be made on very point in issues to contend with, and be specified as to what decision made by an officer or the Commission of Appeal on what ground.



5) Upon a decision made by the officer or the Commission of Appeal and after an assessed person has been notified of such decision by the officer or the Commission of Appeal and assessed person does not agree with the decision, or in case the Commission of Appeal cannot complete an appellate procedure within a specified period the law stated that an assessed person can bring his claim to the court after such period; for example, Land and Building Act B.E. 2562, Excise Tax Act B.E. 2560, Custom Tax Act B.E. 2560. The issues to be filed for an action with the Court shall be those having been tried and raised at the stage of proceeding with an officer and the Commission of Appeal. In case any point in issues has not been raised up as a defense in the stage of proceeding with the officer and the Commission of Appeal, the Court may not accept it for a decision.

6) The point in issue which an assessed person shall raise as a defense, for instance, where an assessed person does not carry out his business in trade of immovable properties, assignment of such immovable properties is made



between the parents and their children or among sibling where an assigner does not receive any payment.

In addition, if there is any additional point of issues to be raised as a defense, for instance, an assessment made by an officer is not correct according to the Revenue Code, or the assessment officer is not legitimate according to law, or the case is precluded by prescription.

An assessed person is required to present the reasons and point of laws which he views that they are likely to be a correct with the court. Also such person is required to specify reasons and details to constitute the point raise as defense, otherwise it shall not be accepted by the Court.

7) An application for a relief or an application accompanied with a plaint is required, for instance, an application for a cancellation of an assessment by the assessment officer and of a decision by the Commission of Appeal, for dispensing or reducing the penalties or for having the opposing party pay litigation costs, etc.

8) Documents required to accompany with a plaint which are :-

- A copy of notification on assessment



- A copy of a decision on appeal by an assessment officer or the Commission of Appeal in case such decision has been made.

- A copy of evidence in receiving an appeal's decision made by the officer or the Commission of Appeal, for instance, an envelope or a copy of acknowledging a decision on appeal, a copy of evidence in accepting an appeal in case the Commission of Appeal cannot complete an appellate procedure within the specified period

- A copy of the certification letter of registration by the Ministry of Commerce in case of a juristic person

- A copy of tax receipt (In case where payment of tax has been made.)

9) Court fees shall be calculated according to each notification letter of assessment as one claim. If the amount in dispute of each claim is not exceeding 50,000,000 baht, it is to be paid at the rate of 2% with the cap of 200,000 baht. If the amount in dispute is exceeding 50,000,000 bath, it is to be paid at 200,000 baht including the surplus at the rate of 0.1%. (according to table no.1 attached to the Civil Procedure Code)



Mediation

The Central Tax Court has brought into use the mediation process. If an assessed person applies to the Court to use mediation after entering a case into action, he/she may file his statement with the Court during the trial, likely by filing a statement before filing an answer or during the taking of evidence. If the Court consider approve, the Court may grant the permission taking a case into the mediation process. If the mediation becomes successful, the Court shall give a judgment without taking evidence, However, in case where the mediation does not work, such case will be taken into the process of taking evidence instead.

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Service of a Summons and Copies of the Plaintiff

Where the plaintiff files his plaintiff and the Court has an order accepting such plaintiff, the next step with which the plaintiff is required to comply is serving a summons and copies of the plaintiff on the defendants to have them make an answer to the Court in defense to an action which can be divided into 2 cases as follows:-

1. Where the case submitted to the Central Tax Court, the plaintiff is required to pay the fees on the service of a summons at the rate prescribed by the Central Tax Court to the officer of the Court. The plaintiff is not set to serve such summons and copies of the plaintiff by himself unless the Court issues an order directing him to procure such service instead.

2. Where a defendant is domiciled in a province outside the territorial jurisdiction of the Central Tax Court, the plaintiff is required to submit a statement to the Central Tax Court for a letter to be forwarded to the provincial court within which the defendant is domiciled to serve a summons and copy of the plaintiff to the defendant where the plaintiff is required to deposit the money as the service fees.



Content of an Answer

An answer to be filed with the Court is required to be made in accordance with the printed form as prescribed by the Court and contains the followings:

1. expressive narration by context to accept or refuse an allegation of the plaintiff by citing the reasons to constitute his refusal, or if the fact as alleged is not correct on any ground, the defendant is required to narrate its details in full, and where any point of law to be raised in defense by the defendant with his view that one cited by the plaintiff is not correct, he is required to narrate it in details to the Court.

2. The matters as stated therein to be put in order correspondingly or corresponded to the plaint for easy understanding.

3. A raise of questions of facts and questions of law as a defense by citing the provisions of laws, declarations, rules, regulations or decisions in support of such citing or defense where copies of which are required to be accompanied with an answer.

4. No conflict in itself, clear and not superfluous.



Filing of an Answer

Upon receipt of a summons and copy of a plaint, the defendant is required to file his answer with the Court within the period of time prescribed by law as follows:-

1. In case where the defendant duly served with a summons and copy of a plaint on himself or a person on his behalf, the defendant is required to file his answer within 15 days from the date of receiving such summons and copy of a plaint.

2. In case where the defendant duly served with a summons and copy of a plaint posted by the officer of the Court, the defendant is required to file his answer to the Court within 30 days from the date of such summons and copy of a plaint duly posted.

If the plaintiff enters an action into the Central Tax Court, the defendant is required to file his answer only with the Central Tax Court, not any provincial court.

However, if the plaintiff enters an action into a provincial court, the defendant has an option to:-

1. file his answer direct to the Central Tax Court, for instance, the plaintiff files to sue the Revenue Department



and a person who is the member of Commission of Appeal with the Chaing Mai Provincial Court, he can file his answer direct to the Central Tax Court or

2. file his answer with a provincial court in which the plaintiff filed his plaint where the court of such province itself shall forward that answer to the Central Tax Court. (In case of the foregoing example, the defendant may file his answer to the Chaing Mai Provincial Court who shall forward such answer by itself to the Central Tax Court.)

Filing of a List of Evidence

The Rules of Tax Cases B.E.2544 (2001) has provided the procedure of filing a list of evidence for 2 cases:

1. In case of settlement of issues, where the plaintiff or defendant intends to bring oral evidence, material evidence, documentary evidence or other evidences to be adduced in Court, the plaintiff or defendant is required to file with the Court a list of evidence together with copies thereof before the day of settlement of issues not less than 30 days.

2. In case of no settlement of issues, the plaintiff or defendant is required to file with the Court a list of evidence



together with copies thereof before the day of taking evidence not less than 7 days.

Filing of a Supplementary List of Evidence

In case of settlement of issues, a supplementary list of evidence and copies thereof shall be filed with the Court before the day of settlement of issues at least 30 days.

In case of no settlement of issues, the statement for supplement evidence together with the supplementary list of evidence and copies thereof shall be filed with the Court before the day fixed for the taking of evidence not less than 7 days.

Filing of a List of Evidence after Prescribed Period of Time Lapsed

In case of failure to file a list of evidence within the period of time prescribed as aforementioned, the plaintiff or the defendant is able to file it again provided for the case where he has not known that some evidences are required to adduce, or the existence of such evidence, or there is any



other reasonable ground to which the Court have due regard. If the Court is of opinion that such reason is well grounded and in the interest of justice, it may grant permission to have the plaintiff or defendant to file a list of evidence.

Oral Evidence

Citing the witness as oral evidence is required to comply with the Rules of Tax Cases where such witness shall be specified in a list of evidence.

Documentary Evidence

In case of settlement of issues, the party is required to file with the Court the original of documentary evidence in his possession together with a list of evidence without service with copies thereof on other party or the Court. Failure to file the said original, the party is not entitled to adduce such documentary evidence, except with the permission granted by the Court.

In case such document as evidence is in the possession of the opposing party or a third person, the party



intending to rely upon the said document is required to apply by motion together with file a list of evidence to the Court for an order demanding it from the possessor.

Settlement of Issues

The settlement of issues by the Court means settling the issues in dispute raised by the parties to a case for the purpose and convenience in the taking of evidence. After the Court has settled the issues in dispute, the plaintiff or the defendant, if disagree, can raise an objection by making a verbal statement while the Court is settling the issues or apply by motion to the Court within 7 days from the day of settlement of issues. If no objection is raised by the plaintiff or defendant, it shall be deemed as the case having the issues in dispute as settled by the Court.

Taking Evidence

After settlement of issues on the point in dispute and burden of proof, the Court may fix the number of days of taking evidence by all parties. In case where the witness for



oral evidence cannot appear in Court, the party is required to apply with Court for an order issuing a subpoena. Such party shall serve with such subpoena on the witness to know the date of taking evidence in advance no later than 20 days, unless otherwise the Court thinks fit. In addition, the Court may have an order appointing the day for hearing of the case in any place or at any time as it thinks fit.

By normal practice, the case entered in the Central Tax Court, irrespective of whether those filed direct to the Central Tax Court or to the provincial court in which the defendant is domiciled, the proceeding in regard to the taking of evidence is carried out at the Central Tax Court situated in Bangkok. Anyway, for the case filed with the provincial court in which the defendant is domiciled, when such provincial court forwards a plaint to the Central Tax Court who then has issued an order to accept such plaint, the Chief Justice of the Central Tax Court shall fix the Court for trial as it thinks appropriate,

The taking of evidence on the tax case is different from those of civil case as follows:-



1. Examination on the fact in the tax case is done by the Court and the parties to the case, and can be done before or after settlement of issues

2. Either the plaintiff or the defendant is able to file with the Court in advance the record of the witness's sayings together with service of copies thereof on the opposing party at least 7 days in advance before such oral evidence to be adduced. When the day fixed for taking evidence comes, the plaintiff or the defendant shall bring the witness to the Court to give testimony in certification. As well, Court may hear such advanced record of the witness's saying as evidence. The record of the witness's saying in advance shall be made in accordance with the printed form PorSor.7 as prescribed by the Court.

3. The record of memorandum is allowed. The trial of any tax cases holds a lot of documents in which the witness is required to give testimony, including a large number of figures quite beyond the witness's ability to memorize. The trial of tax cases then allowed to have the witness brings the record relating to the fact he wrote down in brief for a look during the taking of evidence.



4. Any opinion given by a knowledgeable person or an expert is permitted. Where the trial of some tax cases holds difficulties and complications in questions, such as those relating to the modern technology, international laws, which the Court may not have sufficient expertise in such area, the Central Tax Court or the Supreme Court may request a knowledgeable person or an expert for appearing to provide his opinion on the questions relating to those matters where such opinion in both issue of law and fact can be given.

The Judgment

The Court shall pronounce a judgment or order on the day appointed in advance since the day of settlement of issues. However, in case there is a reason of necessity, it may be pronounced on the later day.

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The Lodging of Appeal to the Court of Appeal for Specialized Cases

An appeal lodge by either party against any judgment of the Central Tax Court can be made on the questions of both law and fact. However, in case where an appeal made on such fact of a case, the amount in dispute is required to be more than fifty thousand baht.

An appeal against any judgment of the Central Tax Court shall be submitted to the Court of Appeal for Specialized Cases within one month from the date of pronouncing the judgment.

The Lodging of Appeal to the Supreme Court

An appeal against any judgment of the Court of Appeal for Specialized Cases may be submitted upon the permission granted by the Supreme Court. In order to apply for such permission parties must submit a request together with the appeal within one month from the date of pronouncing the Court of Appeal for Specialized Cases' judgment.



Execution of the Case

The Central Tax Court may issue a writ of execution of a case and forward to a provincial court in any region to carry out execution on its behalf. Such court so commissioned is required to notify the result of such proceeding to the Central Tax Court as it sees fit.

