

Key geographical features on malaysia's land tax system: a comparison study in negeri sembilan, malaysia

M Z Adnan^{*}, R Suratman and S Samsudin

Faculty of Built Environment and Surveying, Universiti Teknologi Malaysia,
Malaysia

*salfarina@utm.my

Abstract. Land tax or quit rent constitutes a form of tax levied against all alienated land in Malaysia. According to Federal Constitution, land is a state matter which mean it is the right and responsibility of the state government to administer the land in the jurisdiction. Though mandated, state governments also have responsible to assess and collect land tax. The amount of land tax on the ownership of unimproved or improved land, generally varies from state to state and within each state it also varies according to geographical physical features. In view, this paper investigates the primary geographical features that influencing the land tax and compare the differences rate in the case study area. This study using desk research approach from secondary resources. The result shows that the land tax rate primarily subject to land classification, locality and category of land use. Generally, all states have different rates for agricultural, building or industrial land based on the State Land Rules. Under each category of land use such as building, there are again different rates depending on whether the land is used for commercial or residential. Further, the evidence indicates that not all land used for such usage i.e. residential purpose has the same rate, depends on whether the land is classified as a town, village or country land. It also depends on the district where the parcel is located. The findings provide strong support for future land legislation policy reforms, along with other geographical features, in local land taxation system.

1. Introduction

Geography is the study of locational and spatial variation in both physical and human phenomena on earth. Among others, Geography is concerned with location and regional characteristics of these elements on human life and settlements [1]. In tax administration that relates to property, past studies have shown that geographical features also have their significant influences on several aspects. For example, Wang et al. [15] in their study on tax effort analysis of different provinces have found significant geographical disparities where richer and coastal regions showed a higher tax capacity but low tax effort. Instead, less developed provinces showed relatively lower tax capacity but higher tax effort.

Geographical location is also another factor in determining a tax rate and a tax base of property or land besides the original characteristics of land, value and improvements [11]. The base and the rate are components that constitute a land tax system besides the administration procedures and jurisdiction. This shows how importance of a good tax rate that will ensure the equality and efficiency of the tax system. Hence, the objective of this study is to investigate the primary geographical features that influencing the land tax and compare the differences rate in the case study area.



1.1. Land Tax Administration in Malaysia

Land administration system in Malaysia has gone quite a long journey of time. The pre-independence (before 31st August 1957) Malay states had already practiced the customary laws namely *Adat Temenggung* and *Adat Perpatih* that consist several regulations that related to land ownership and land law. Among regulations on land law that have been found those days including rules that similar with the land taxation when land occupier needs to surrender or pay 1/10 of the proceeds of land to the State's Ruler. This is documented in the Laws of Melaka (*Risalat Hukum Kanun 1523*), Pahang Digest 1596, Kedah Digest 1605, Johor Digest and the 99 Laws of Perak [8].

After the British occupation, common law and equity principles were introduced into the Federated Malay States ('FMS') as the new sources of land law, in addition to the local customary land tenure [2]. The laws governing the registration of lands in these FMS were mostly influenced by the Torrens system that marked the beginning of a new regime of the registration of title law akin to the Torrens system in Australia on the basis of the Real Property Act 1857 of South Australia. From those Customary Land Administration system, Malaysian land tax system has gone through a process of evolutionary and assimilation with the application of the Torrens System embedded in the National Land Code (NLC) 1965 [4]. Torrens System was first introduced in Australia in 1864 to increase the efficiency and effectiveness of land administration with a fixed scheme where equity [12] is excluded [5].

Within the overall context of land resource management, land administration is concerned with three main components; i) the ownership, ii) taxation and iii) use of the land [14]. In the present day, land tax administration in Malaysia is seen to be well structured and more dynamic. With the Federal Constitution as the highest law in force, it clearly outlined the relationship between federal, state and local government in Malaysia. Every three level of this government, they have been allocated with the power to collect certain taxes. For example, the power to collect income tax for individuals and companies falls under the jurisdiction of federal government, land tax or quit rent is under the state government, while local authority for the assessment tax.

At the Federal level, the Ministry of Water, Land and Natural Resources oversee the Department of Director General of Land and Mines, which observe and monitors the planning and implementation of land administration policy including land tax revenue of each state in Malaysia. Meanwhile, at the state level each state has its own assembly of administrative mechanisms. Since the land administration is a state matter, the federal government or local authority has no direct control over matters pertaining to land tax. Land offices in state governments have the authority to collect land taxes from landowners. Every district in the state has established its own district land office by the state government to functioning as a state government's machinery in implementing land policies, laws and processing all matters related to land. These district land offices are headed by the Land Administrator with their own administration structure. This signifies that the state government has exclusive power in terms of managing their lands.

In respect of land tax, the Constitution has allocated the National Land Code (NLC) 1965 to the state government in Peninsular Malaysia as the legal basis for administering and performing its functions as the land revenue authority in collecting land tax along with law enforcement. As provided by Section 14 NLC 1965, State Authority is authorized to determine the rate of land tax imposed and it may differ from other states. This determination of rates is constituted in their respective State Land Rules. Therefore, it is common that same usage, size and category of land will has a different amount of land tax in different states in Malaysia [7].

1.1.1 Determination of Land Tax Base and Rates

Land taxation is universal and different countries are adopting different methods on assessing and administering the tax [13]. In general, as stated by Wald [15] there are three distinct assessment methodologies been used for land tax in countries all over the world as shown in Table 1.

Table 1. Land Tax Assessment Methodologies
(Wald, 1959)

Category	Sub-Category
Land area-based	a. Uniform Rates
	b. Classification
Value-based	a. Annual Value
	b. Capital Value
Income-based	a. Charge/ Levy
	b. Gross Income
	c. Net Income
	d. Marketable Products

Obviously in Malaysia, such geographical features like location and characteristic [2] of land have an influence in determination of land tax rate as it is calculated based on the physical factors of land [9]. According to Section 51 (2) NLC 1965, a parcel of land that is above the shore-line shall be classified either as a town land or village land or country land which is related to the location. As for Section 52 NLC 1965, in related to the characteristic of the land, the use of land is categorized into three to be known respectively as agriculture, building or industry. Additionally, Section 115, 116 and 117 of NLC 1965 have listed specified purposes for each category of land.

A tax for parcel of land is determined upon title's registration process once it is being alienated. Based on Section 79 NLC 1965, apart from period of alienation and premium rate to be paid for the land, the determination of area or location for classification, category of usage and size of the plot must be made first upon registration of the land. These are part of the processes of registration that will include the amount of the tax on the title. This tax is levied on landowners who is responsible for the payment and cannot be transferred to the tenant or anyone else.

2. Methods

The method adopted for this study was a comparative method of research. This method has 'gained considerable ground' due to its proven usefulness in research works [3]. Specifically, and briefly, the comparative method facilitates a deeper comprehension of one case by comparing its routines and composition with those of one or more other cases. This research method enables issues to become visible that might not be 'seen' if only one case study is the object of research. It also prevents the researcher making over-generalized claims about particular phenomena. The comparative case studies in this research were based on land tax rates in different district, category and classification in Negeri Sembilan, Malaysia.

3. Results and Discussion

This results generally shows that geographical features influencing the land tax and there are differences rate in the case study area. The finding shows that the land tax rate primarily subject to land classification, locality and category of land use. Generally, all states have different rates for agricultural, building or industrial land based on the State Land Rules. Under each category of land use such as building, there are again different rates depending on whether the land is used for commercial or residential. Further, the evidence indicates that not all land used for such usage i.e. residential purpose has the same rate, depends on whether the land is classified as a town, village or country land. It also depends on the district where the parcel is located.

3.1. Land tax administration in Negeri Sembilan

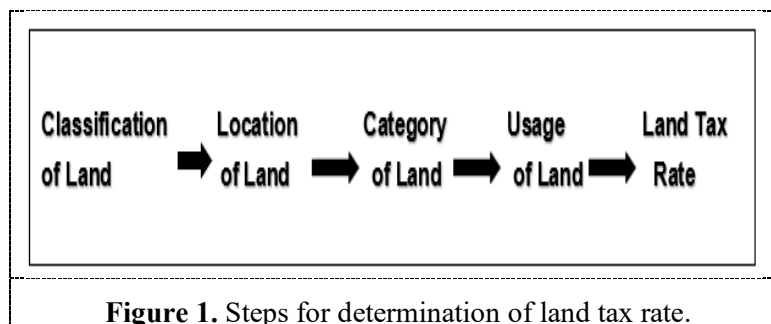
Negeri Sembilan is one of the 14 states of Malaysia. It covers an area of 6,686 square kilometres that consists of 7 districts which are Seremban, Port Dickson, Jempol, Tampin, Rembau, Kuala Pilah and

Jelebu and one sub-district which is Gemas. These districts are established based on Section 11 and 442 NLC 1965. Each district has its own Land and District Office headed by District Officer who is also acting as District Land Administrator. In regards with land administration, there are three entities involve which are State Authority, State Director of Lands and Mines and District Land Administrator. State Authority is the highest body in the state with executive power to formulate land policies that is also known as state government. Meanwhile State Director of Land and Mines is a post that is created under Section 12 NLC 1965 who is responsible to the State Authority on implementing an efficient and effective state's land administration including all policies approved by State Authority. Finally, Land Administrator in each district who is appointed by the State Authority is responsible on all daily operation of land matters including land title registration, land tax collection and enforcement.

Besides NLC 1965 as a main source of land law, there are several other laws in forced in Negeri Sembilan to complement it. These laws and rules can be divided into two groups which are federal laws and state laws. For federal laws, laws that are related is Malay Reserve Enactment (FMS Cap 142), Group Settlement Areas Act 1960 and Land Acquisition Act 1960 while for the state law, it is Negeri Sembilan Land Rules 2002 and Customary Land Tenure Enactment (Cap 215). This study will focus on rules and sections in Negeri Sembilan Land Rules 2002 that relate with the determination of land tax rate in Negeri Sembilan which shows the relation with geographical features in land tax system. In Negeri Sembilan Land Rules 2002, rules that involve with land tax are assembled in chapter of 'Rent' that starts with Rule 14. Rule 14 provides the determination of land tax rates in Third Schedule based on classification, location, category and usage of land. There are three classification of land namely Town Land, Village Land and Country Land, with the rates for seven different districts and one sub-district. As for category of land, there are three main category of land which are Building, Industrial and Agriculture. This will further be explained in the next section of Findings.

3.2. Key geographical features on the land tax value in Negeri Sembilan

As described in previous section, land tax in Negeri Sembilan is determined by classification, location, category and usage of land. These steps of determination are simplified in **Figure 1** below.



3.2.1. Classification of land

Process of classifying a land is been outlined in Section 51 NLC 1965. Negeri Sembilan Land Rules also adopting this section in determining class of land. There are two main classes for land which are; a. land above the shore-line; and b. fore-shore and seabed. Land above the shore-line as been discussed in this research is classified into three classes which are;

- i. Town land, that is to say, land in any area of the State declared in accordance with the provisions of section 11 to be a town or, by virtue of section 442, deemed to be a town duly constituted as such under those provisions;
- ii. Village land, that is to say, land in any area of the State declared in accordance with the provisions of section 11 to be a village or, by virtue of section 442, deemed to be a village duly constituted as such under those provisions;
- iii. Country land, that is to say, all land above the shoreline other than town land or village land.

3.2.2. Location of Land.

Location where the plot of land is situated basically will determine the rate of land tax. The determination of an area is solely under authorization of State Authority as provided by Section 11 NLC 1965;

“11. Administrative areas. The State Authority may by notification in the Gazette- (a) divide the territory of the State into districts; (b) divide any district into sub-districts; (c) divide any district or sub-district into mukims; (ca) vary or alter the boundary of any district, sub-district, mukim, town or village; (d) after the survey or definition thereof by or on behalf of the Director of Survey and Mapping, declare any area of the State to be a town or village.”

NLC 1965.

As mentioned earlier, there are 7 districts which are district of Seremban, Port Dickson, Jempol, Kuala Pilah, Tampin, Rembau and Jelebu and one sub-district which is Gemas. Each district and sub-district have its own mukim as fixed and gazetted by State Authority. The gazetted plan of district, sub-district and mukim can be found at land offices and state’s Survey and Mapping office.

3.2.3. Category of Land.

Negeri Sembilan Land Rules 2002 has provided three categories of land which are building, industrial and agriculture. This is in line with provision in Section 52 NLC 1965.

3.2.4. Usage of Land

Usage of land is also known as implied condition in NLC 1965. Section 52 (b)(ii) has outlined that besides the provision of category, such plot of land shall include an implied condition as are applicable thereto by virtue of section 115, 116 and 117 of NLC 1965. Section 115 provides the basic of how a plot of land with category of agriculture can be imposed with certain implied condition that relates with agriculture. As for Negeri Sembilan Land Rules 2002, it has outlined eight different usage of land including short term and long-term cultivation, rearing of livestock and aquaculture where each of it has a different rate of tax. Whereas Section 116 provides guideline for imposing an implied condition on Building category of land. While Negeri Sembilan Land Rules 2002 has been detailing this category of land into 18 different usage of land including residential, business and office. Meanwhile for Industrial category under Section 117 NLC 1965, Negeri Sembilan Land Rules 2002 has listed two different usage of land which is for industry and petroleum pipe-line.

These steps of determination are outlined in National Land Codes 1965 when such a parcel of land is going to be registered upon alienation where all those steps are actually parts of the information stated on the ownership document (title grant). Besides that, the amount of land tax that should be paid to State Authority also stated on the title grant. Table 2 provides an outlook of land tax structure based on Negeri Sembilan Land Rules 2002. It shows that different category, land classification, district (location) and usage of land will determine such tax rate for the land. Note that the usage of land under each category is just an example as there are more than one usage of land been listed under Negeri Sembilan Land Rules 2002.

Table 2. Land Tax Rates in Negeri Sembilan

Usage Category	Land Classification	District/Locality	Rates (RM)
		Seremban	0.39 /sq metre (minimum RM84 /lot)
	Town Land	Port Dickson and Town of Bahau (Jempol)	0.35 /sq metre (minimum RM81 /lot)

Building (i.e. Residential)		Kuala Pilah, Tampin, Rembau, Jelebu and Sub- District of Gemas	0.34 /sq metre (minimum RM79 /lot)
	Village Land	*single rate applies to all districts	0.32 /sq metre (minimum RM70 /lot)
	Country Land	Seremban and Port Dickson	0.27 /sq metre (minimum RM58 /lot)
		Kuala Pilah, Jempol, Tampin, Rembau, Jelebu and Sub-District of Gemas	0.21 /sq metre (minimum RM47 /lot)
Industrial (i.e. Petroleum pipe-line)	Town Land	Port Dickson and Town of Bahau (Jempol)	0.78 /sq metre (minimum RM166 /lot)
		Kuala Pilah, Tampin, Rembau, Jelebu and Sub- District of Gemas	0.76 /sq metre (minimum RM162 /lot)
	Village Land	*single rate applies to all districts	0.61 /sq metre (minimum RM111 /lot)
	Country Land	Seremban and Port Dickson	0.56 /sq metre (minimum RM100 /lot)
		Kuala Pilah, Jempol, Tampin, Rembau, Jelebu and Sub-District of Gemas	0.46 /sq metre (minimum RM89 /lot)
		Seremban	42.00 /hectare
Agriculture (i.e. Short- Term Cultivation)	Town Land	Port Dickson and Town of Bahau (Jempol)	39.00 /hectare
		Kuala Pilah, Tampin, Rembau, Jelebu and Sub- District of Gemas	37.00 /hectare
	Village Land	*single rate applies to all districts	32.00 /hectare
	Country Land	Seremban and Port Dickson	21.00 /hectare
	Kuala Pilah, Jempol, Tampin, Rembau, Jelebu and Sub-District of Gemas	15.00 /hectare	

Source: Negeri Sembilan Land Rules 2002

Table 3 focuses on land tax calculation method in Negeri Sembilan with a plot of Building category of land and residential usage as an example. Details of the plot is as shown under column of Land Plot Information. This table of calculation is provided to show how the geographical features on such a land plot will influence and affect the amount of land tax payable. As discussed in previous section, geographical features that involve with land tax rates based on Negeri Sembilan Land Rules 2002 are the classification and the location of the plot of land.

Rates for such plot of land is fixed based on classification, location, category and usage of land. This has been explained with Figure 1 in the previous section. We now attempt to provide a direct evidence on how land classification and location as geographical features are influencing the amount of land tax for a parcel of land in Negeri Sembilan besides land category and usage. We therefore examine and prove it by providing a calculation of tax amount for a piece of land with an area of 258-meter square, Building category with implied condition of residential. As shown on Table 3, if that piece of land is classified and located in town in a district of Seremban, the tax rate is fixed at RM 0.39 per square meter

with minimum amount payable of RM 84.00 per lot. This rate is based on Third Schedule of Negeri Sembilan Land Rules 2002. With these details, that piece of land is taxed at RM 98.04 annually. According to Section 96 (2) NLC 1965, the amount shall be rounded up to one Ringgit or, as the case may be, to the nearest Ringgit above the amount so computed and therefore, the land tax for that piece of land is fixed at RM 99.00. With the same details exclude the location which is Port Dickson, the piece of land is taxed of an amount of RM 91.00 annually with a rate of RM 0.35 per meter square. Again, this shows that the location of the land will determine the payable amount of the land tax.

However, if the land is classified as a Village land, the single rate is applied to all district. Nevertheless, the rate applied is still different with other classification of land though it is in the same category and land use. This will affect the amount of land tax payable as shown in Table 3. The rate and amount of land tax is also different though those lands are located in the same district but different classification. From this table, it also shows that Seremban as a capital district of Negeri Sembilan has the highest amount of land tax payable for each classification of land except for village land. It relates to the fact that as a capital district of the state, Seremban is more developed compared to other districts.

Table 3. Land Tax Calculation for Land Category of Building in Different Land Classification and District

Land Classification	District/Locality	Land Plot Information	Rate (RM)	Calculation for Land Tax Amount (RM)
Town Land	Seremban		0.39 /sq metre (minimum RM84 /lot)	RM 0.38 X 258m ² = RM 98.04 ~RM 99.00
	Port Dickson and Town of Bahau (Jempol)	Land Usage Category: Building	0.35 /sq metre (minimum RM81 /lot)	RM 0.35 X 258m ² = RM 90.30 ~RM 91.00
	Kuala Pilah, Tampin, Rembau, Jelevu and Sub-District of Gemas	Land Use Type: Residential	0.34 /sq metre (minimum RM79 /lot)	RM 0.34 X 258m ² = RM 87.72 ~RM 88.00
Village Land	*single rate applies to all districts	Land Area: 258 square metre	0.32 /sq metre (minimum RM70 /lot)	RM 0.32 X 258m ² = RM 82.56 ~RM 83.00
Country Land	Seremban and Port Dickson		0.27 /sq metre (minimum RM58 /lot)	RM 0.27 X 258m ² = RM 69.66 ~RM 70.00
	Kuala Pilah, Jempol, Tampin, Rembau, Jelevu and Sub-District of Gemas		0.21 /sq metre (min RM47/lot)	RM 0.21 X 258m ² = RM 54.18 ~RM 55.00

Source: Negeri Sembilan Land Rules 2002

4. Conclusion

Having realized that land taxation is one of the most eminent sources of revenue for the various tiers of the government and a major way of sourcing of financial support to the country, it is a paramount importance that land tax structure should be well organized with every conceivable means. The rate and the base as components of land tax system must be determined equally and specifically. This paper finds

that land tax rate in Negeri Sembilan is determined differently based on location and classification of land. These two factors prove that geographical features are influencing the amount land tax calculated. In addition, the logic of land tax is to have differentiated rates that differ from land classification (town land, village land, country land) or are dependent on the location and category of land (building, agriculture and industry). Rate differentiation is justified because it is fair, efficient and its incentives some uses. The fairness of the differentiated rate is, in respect of the differentiated benefit, received by each type of land (benefits are not uniform for different types of land: for instance, commercial ones may receive more benefits, therefore they pay more). The efficiency of the differentiated rate is due to the fact that land tax has capital components and has to be taxed more lightly in order to achieve it. Finally, the variability of tax rate may incentive some uses or discourage urban development, if needed by the jurisdiction.

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