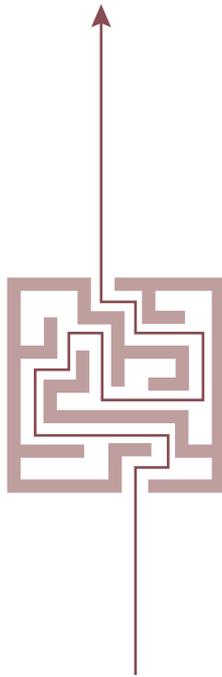


# A BUSINESS GUIDE TO THAILAND 2011



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**A BUSINESS GUIDE  
TO THAILAND**

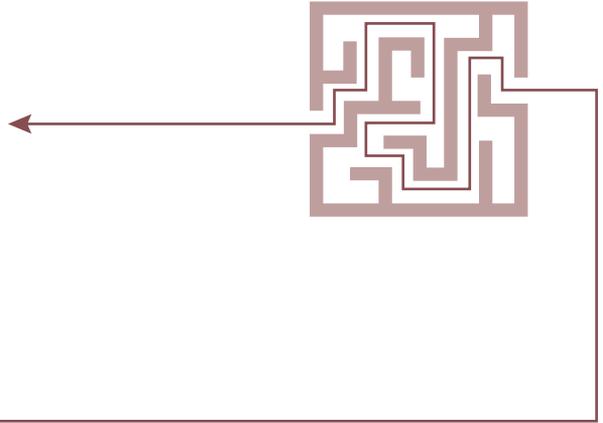
**2011**





# CONTENTS

<b>CHAPTER 1: PROCEDURES FOR ESTABLISHING A COMPANY</b>	<b>4</b>
1. Procedures for establishing a company	5
2. Accounting and financial reporting requirements	8
3. Types of business organizations	10
<b>CHAPTER 2: TAXATION IN THAILAND</b>	<b>21</b>
1. Corporate income tax	22
2. Value added tax	31
3. Personal income tax	35
4. Other taxes	40
5. Customs duties	42
<b>CHAPTER 3: INDUSTRIAL LICENSING AND REGULATIONS</b>	<b>48</b>
1. The Factory Act	49
2. Factory licenses	49
3. Factory operations	50
4. Factory expansion	51
5. Other provisions	51
6. Procedures and timetable for factory permits/licenses	52
7. Environmental and health impact assessments	55
<b>CHAPTER 4: PATENTS, TRADEMARKS, CONSUMER PROTECTION</b>	<b>57</b>
1. Patents	58
2. Copyrights	61
3. Trademarks	65
<b>CHAPTER 5: LEGAL ISSUES FOR FOREIGN INVESTORS</b>	<b>68</b>
1. Foreign Business Act	69
2. Work permits	73
3. Visas and immigration law	77
4. International banking facilities	79
5. Exchange control	81
6. Stock Exchange of Thailand	83
7. Land Ownership	84
<b>CHAPTER 6: LABOR ISSUES AND IMPORTANT ADDRESSES</b>	<b>86</b>
1. Labor regulations	87
2. Important addresses	94
<b>CHAPTER 7: FREQUENTLY ASKED QUESTIONS</b>	<b>116</b>
<b>CONTACT US</b>	<b>123</b>



## **CHAPTER 1:**

# **PROCEDURES FOR ESTABLISHING A COMPANY**

## **1. Procedures for Establishing a Company**

### **1.1 Company Registration**

#### **1.1.1 Promoters**

Company promoters are responsible for registering the company with the Ministry of Commerce (MOC). The promoters must be individuals (not juristic persons) who are 20 years of age or older, and they must be available to sign documentation during the registration process. There must be a minimum of 3 promoters for a private limited company and at least 15 promoters for a public limited company.

Each of the promoters is required to be among the company's initial shareholders immediately after the company's registration and is required to hold a minimum of one share upon the company's registration. However, they are generally free to transfer those shares to existing shareholders or third parties, thereafter, if they wish. It is not required for the individuals serving as promoters to reside in Thailand.

Promoters' potential legal liability is generally limited to the par value of the shares they will hold after registration is completed. The promoters are also responsible for paying expenses associated with the company's registration. After registration, however, the company may choose to reimburse the promoters for those expenses.

#### **1.1.2 Timing**

Registration of the company occurs at the MOC and can be accomplished on the same day as the registration of the memorandum of association provided that:

- (1) All registered shares have been subscribed for;
- (2) A statutory meeting is held to transact the business with the presence of all promoters and subscribers, and all promoters and subscribers have approved the transacted business;
- (3) The promoters have handed over the business to the directors; and
- (4) The payment of at least 25% of the total shares has been paid by the shareholders.

If the company falls under the definition of "foreign" (as defined in the Foreign Business Act (FBA)), it will normally be required to obtain Cabinet approval or a Foreign Business License prior to commencing operations.

Applying for and obtaining the company's tax ID card and VAT certificate (if required) takes place after registration with the MOC and can normally be accomplished within seven to 10 days after providing all required information and documents to the Revenue Department.

### **1.1.3 Filings**

All documents associated with the company's registration must be submitted to the registrar of the Department of Business Development of the MOC; or, if the company's office is to be located outside of Bangkok, they must be submitted to the filing office of the province where the office will be located.

All documents associated with the registration of the company's tax ID card and VAT certificate must be submitted to the Central Filing Office of the Revenue Department in Bangkok; or, if the company's office is to be located outside of Bangkok, to the Revenue Office of the province where the office will be located.

## **1.2 Registration Process**

### **1.2.1 Corporate Name Reservation**

The first step of the company registration process is name reservation. To reserve a name, one of the promoters is required to submit a signed Name Reservation Form to the Department of Business Development of the MOC.

The promoter is required to supply the requested company name together with two alternative names. The registrar will then examine the application in order to ensure that:

- a. No similar company names have previously been reserved; and
- b. The names do not violate any ministerial rules.

If the applicant's intended name is in conflict with either of the above, that name will be rejected and the registrar will consider the alternative names submitted. This process can normally be completed within two to three days. If all three names submitted are rejected, the applicant will be required to re-submit the form with three new names.

The registrar has considerable discretion with regard to the matter of company names. Many times, the first name or even the first two names are rejected for violating one of the two rules stated above. Once the name is approved, the corporate name reservation is valid for 30 days, with no extensions.

### **1.2.2 Filing a Memorandum of Association**

After the name reservation has been approved, the company must then submit its Memorandum of Association (MOA). The MOA must include the name of the company, the province where the company will be located, the scope of the company's business, the capital to be registered, and the names of the promoters. The capital information must include the number of shares and their par value. At the formation step, the authorized capital, although partly paid, must all be issued.

The memorandum registration fee is 50 baht per 100,000 baht of registered capital. The minimum fee is 500 baht and the maximum fee is 25,000 baht. Although there are no minimum capital

requirements, the amount of capital should be respectable and adequate for the intended business operation. However, if the company falls under the definition of a foreign company, the following rules apply:

- If the company engages in activities specified in the FBA, its minimum registered capital would be the greater of 25% of the company's average per year expenses for its first three years of operation and 3 million baht (exceptions apply) fully (100%) paid up.
- If the company does not engage in activities specified in the FBA, its minimum registered capital would be 2 million baht fully (100%) paid up.

If the company is to employ foreigners, other minimum registered capital requirements may also apply.

### **1.2.3 Convening a Statutory Meeting**

Once the share structure has been defined, a statutory meeting is called, during which the following are determined:

- The adoption of the Articles of Association (by-laws)
- Ratification of any contracts entered into and any expenses incurred by the promoters in promoting the company
- Fixing the amount of remuneration, if any, to be paid to the promoters
- Fixing the number of preferred shares, if any, to be issued, and the nature and extent of the preferential rights accruing to them
- Fixing the number of ordinary shares or preferred shares to be allotted as fully or partly paid-up other than in money, if any, and the amount up to which they shall be considered as paid-up.
- Appointment of the initial director(s) and auditor(s) and determination of the respective powers of the directors.

The promoters shall over the business to the directors.

### **1.2.4 Registration**

Within three months of the date of the statutory meeting, the directors must submit the application to establish the company. If not registered within the specified period, the company statutory meeting shall be void and if would like to register to establish the company, shall arrange the meeting for persons who reserve to buy the shares again.

During the registration process, the promoters will be required to supply the name, license number, and remuneration of the auditor the company is planning to hire. The company registration fee is 500 baht per 100,000 baht of registered capital. The minimum fee is 5,000 baht and the maximum fee is 250,000 baht.

The directors shall then cause the promoters and subscribers to pay forthwith upon each share payable in money such amount, not less than 25%, as provided by the prospectus, notice, advertisement, or invitation. The company is then registered as a legal entity (or juristic person).

If all necessary documents are complete and duly signed by all promoters, directors, and shareholders, the above steps can be completed in one day.

### **1.2.5 Registering for Tax Documents**

Companies liable for income tax must obtain a tax ID card and number from the Revenue Department within 60 days of incorporation or the start of operations. Companies that have turnover in excess of 1.2 million baht must also register for VAT with the Revenue Department within 30 days of the date the annual turnover exceeded that threshold.

## **2. Accounting and Financial Reporting Requirements**

### **2.1 Books of Accounts and Statutory Records**

Companies must keep books and follow accounting procedures as specified in the Civil and Commercial Code, the Revenue Code, and the Accounts Act. Documents may be prepared in any language, provided that a Thai translation is attached. All accounting entries should be written in ink, typewritten, or printed. Specifically, Section 12 of the Accounts Act of 2000 provides rules on how accounts should be maintained:

“In keeping accounts, the person with the duty to keep accounts must hand over the documents required for making accounting entries to the bookkeeper correctly and completely, in order that the accounts so kept may show the results of operations, financial position according to facts and accounting standards.”

### **2.2 Accounting Period**

A newly established company should close accounts within 12 months of its registration. Thereafter, the accounts should be closed every 12 months. If a company wishes to change its accounting period, it must obtain written approval from the Director-General of the Revenue Department.

### **2.3 Reporting Requirements**

All juristic companies, partnerships, branches of foreign companies, and joint ventures are required to prepare a financial statement for each accounting period. The financial statement must be audited by and subjected to the opinion of a certified auditor, with the exception of the financial statement of a registered partnership established under Thai law, whose total capital, assets, and income are not more than that prescribed in Ministerial Regulations. The performance record is to be certified by the company auditor, approved by shareholders, and filed with the Commercial Registration Department of the MOC and with the Revenue Department of the Ministry of Finance (MOF) within 150 days of the end of the fiscal year.

For a private company, the Director is responsible for arranging the annual meeting of shareholders to approve the company's audited financial statement within four months at the end of the fiscal year, and filing the audited statement and supporting documents to the Registrar no later than 1 month after the date of the shareholder meeting.

For a foreign company, i.e. branch office, representative office or regional office excluding joint venture, the Manager of the branch office must submit a copy of the audited statement to the Registrar no later than 150 days after the end of the fiscal year. Approval of the shareholder meeting is not required.

For a public company, the Director is responsible for arranging the annual meeting of shareholders to approve the audited financial statements of a company within 4 months at the end of the fiscal year. A copy of the audited financial statement of the company, together with a copy of the minutes of the shareholder meeting approving the financial statement, should be certified by the Director and submitted to the Registrar, along with a list of shareholders on the date of the meeting, no later than 1 month after shareholder approval, and publishing the financial statement in a newspaper at least 1 day.

## **2.4 Accounting Principles**

In general, the basic accounting principles practiced in the United States are accepted in Thailand, as are accounting methods and conventions sanctioned by law. The Institute of Certified Accountants and Auditors of Thailand is the authoritative group promoting the application of generally accepted accounting principles.

Any accounting method adopted by a company must be used consistently and may be changed only with approval of the Revenue Department. Certain accounting practices of note include:

**Depreciation:** The Revenue Code permits the use of varying depreciation rates according to the nature of the asset, which has the effect of depreciating the asset over a period that may be shorter than its estimated useful life. These maximum depreciation rates are not mandatory. A company may use a lower rate that approximates the estimated useful life of the asset. If a lower rate is used in the books of the accounts, the same rate must be used in the income tax return.

**Accounting for Pension Plans:** Contributions to a pension or provident fund are not deductible for tax purposes unless they are actually paid out to the employees, or if the fund is approved by the Revenue Department and managed by a licensed fund manager.

**Consolidation:** Local companies with either foreign or local subsidiaries are not required to consolidate their financial statements for tax and other government reporting purposes, except for listed companies, which must submit consolidated financial statements to the Securities and Exchange Commission of Thailand .

**Statutory Reserve:** A statutory reserve of at least 5% of annual net profit arising from the business must be appropriated by the company at each distribution of dividends until the reserve reaches at least 10% of the company's authorized capital.

**Stock Dividends:** Stock dividends are taxable as ordinary dividends and may be declared only if there is an approved increase in authorized capital. The law requires the authorized capital to be subscribed in full by the shareholders.

## 2.5 Auditing Requirements and Standards

Audited financial statements of juristic entities (*i.e.* a limited company, registered partnership, branch, representative office, regional office of a foreign corporation, or joint venture) must be certified by an authorized auditor and be submitted to the Revenue Department and to the Commercial Registrar for each accounting year.

However, for a registered partnership with registered capital of less than five million baht, total revenue of no more than 30 million baht, and total assets of no more than 30 million baht, financial statements need only be submitted to the Revenue Department and not to the Commercial Registrar.

Auditing practices conforming to international standards are, for the most part, recognized and practiced by authorized auditors in Thailand.

## 3. Types of Business Organizations

Thailand recognizes three types of business organizations: partnerships, limited companies and joint ventures.

### 3.1 Partnerships

According to the Civil and Commercial Code (CCC), partnerships can be divided into 2 types:

- (1) Ordinary Partnerships
- (2) Limited Partnerships

#### 3.1.1 Ordinary Partnership

In an ordinary partnership, all the partners are jointly and wholly liable for all obligations of the partnership. An ordinary partnership may or may not register as a juristic person. Therefore, an ordinary partnership can be divided into 2 types:

- (1) Non-registered Ordinary Partnership – has no status as a juristic person and is treated, for tax purposes, as an individual.
- (2) Registered Ordinary Partnership – is registered with the Commercial Registrar as a juristic person and is taxed as a corporate entity.

### **3.1.2 Limited Partnership**

Limited partnerships can take two forms:

- (1) One or more partners whose individual liability is limited to the amount of capital contributed to the partnership, or
- (2) One or more partners who are jointly and unlimitedly liable for all the obligations of the partnership.

Limited partnerships must be registered and are taxed as a corporate entity.

### **3.1.3 Partnership Registration**

When two or more people agree to invest in one of the aforementioned types of partnership, the appointed managing partner is responsible for registering the partnership with the commercial registration office of the province that the head office of the partnership is located in. A limited partnership must be only managed by a partner with unlimited liability. The fee for registering a partnership is 1,000 baht for every 100,000 baht of registered capital. The minimum fee is 1,000 baht and the maximum fee is 5,000 baht.

## **3.2 Limited Companies**

There are two types of limited companies: private limited companies and public limited companies. The first is governed by the Civil and Commercial Code and the second is governed by the Public Limited Company Act.

### **3.2.1 Private Limited Companies**

Private Limited Companies in Thailand have basic characteristics similar to those of Western corporations. A private limited company is formed through a process that leads to the registration of a Memorandum of Association (Articles of Incorporation) and Articles of Association (By-laws) as its constitutive documents.

Shareholders enjoy limited liability, *i.e.* limited to the remaining unpaid amount, if any, of the par value of their shares. The liability of the directors, however, may be unlimited if stipulated as such in the company's MOA.

Limited companies are managed by a board of directors in accordance with the company's charter and by-laws. All shares must be subscribed to, and at least 25% of the subscribed shares must be paid up. Both common and preferred shares of stock may be issued, but all shares must have voting rights. Thai law prohibits the issuance of shares with a par value of less than five baht. Treasury shares are prohibited.

A minimum of three shareholders is required at all times. Under certain conditions, a private limited company may be wholly owned by foreigners. However, in those activities reserved for Thai nationals, foreigner participation is generally allowed up to a maximum of 49%. The registration fee for a private limited company is 5,500 baht per million baht of capital.

The 49% limit in certain reserved businesses can be exceeded or exempted if a Foreign Business License is granted. If the desired business is unique, does not compete with Thai businesses, or involves dealings among members of an affiliated company, the chance of approval is more probable. Conditions, such as minimum capital, transfer of technology and reporting requirements, may be attached to Foreign Business License

### **3.2.2 Public Limited Companies**

Subject to compliance with the prospectus, approval, and other requirements, public limited companies registered in Thailand may offer shares, debentures, and warrants to the public and may apply to have their securities listed on the Stock Exchange of Thailand (SET).

Public limited companies are governed by the Public Limited Company Act B.E. 2535 (A.D. 1992), as amended by Public Limited Company Act No. 2 B.E. 2544 (A.D. 2001) and Public Limited Company Act No. 3 B.E. 2551 (A.D. 2008). The rules and regulations concerning the procedure of offering shares to the public is governed by the Securities and Exchange Act B.E. 2535 (A.D. 1992) and the amendments thereto, under the control of the Securities and Exchange Commission (SEC). All companies wishing to list their shares on the SET must obtain the approval of and file disclosure documents with the SEC, and then obtain SET approval to list their shares.

For public limited companies, there is no restriction on the transfer of shares (except to satisfy statutory or policy ceilings on foreign ownership); director's proxies are not allowed; circular board resolutions are not allowed; directors are elected by cumulative voting (unless the MOA provides otherwise); at least 50% of the directors must reside in Thailand; and board meetings must be held at least once every three months. Directors' liabilities are substantially increased.

A minimum of 15 promoters is required for the formation and registration of a public limited company, and the promoters must hold their shares for a minimum of two years before they can be transferred. The Board of Directors must have a minimum of five members, at least half of whom are Thai nationals. Shares must have a face value of at least five baht each and be fully paid up.

Restrictions on share transfers are unlawful, with the exception of those protecting the rights and benefits of the company as allowed by law and those maintaining the Thai/foreigner shareholder ratio. Debentures may only be issued with the approval of three quarters of the voting shareholders. The registration fee is 2,000 baht per million baht of registered capital.

The qualifications for independent directors of listed companies and securities companies that have initial public offerings was amended in April 2009, as follows:

1. At least one-third of the board's complement should be independent directors, and in any case, the number should not be fewer than three. This will apply for listed companies Companies' annual general shareholders' meetings from the year 2010 onwards. In the case of an IPO, the requirement for independent directors has to be complied with from 1 July 2008 onwards.
2. The independent director must not have any business or professional relationship with the head office, subsidiaries, associates, or jurist person in his own interest, whether directly or indirectly, as outlined in the Thai Securities and Exchange Commission Circular No. Kor Lor Tor Kor (Wor) 11/2552 Re: the Amendment of the Regulation regarding the independent director.

### **3.2.3 Scrutinization of Thai Shareholders in Limited Companies**

In 2006, the Commercial Registrar prescribed new rules for the registration of both public and private limited companies. The rules require that sources of investment by Thai nationals in the following two categories of new companies be scrutinized:

- (1) A company in which foreigners hold between 40% and 50% of the shares.
- (2) A company in which foreigners hold less than 40% of the shares but a foreigner is a director with the power to bind the company.

All Thai shareholders must disclose the source of their funds to the MOC.

An application for the incorporation of a limited company must now be accompanied by at least one of the following documents evidencing the source of funds of each Thai shareholder:

- Copies of deposit passbooks or bank statements disclosing transactions over the past 6 months
- A letter issued by a bank certifying the financial position of the shareholder
- Copies of other documents evidencing the source of funds (i.e. loan documentation)

In addition, the MOC has issued internal guidelines in support of the rules, which set out the following matters:

- The amounts shown in the documents of each Thai shareholder evidencing the source of funds must equal or exceed the amount of funds invested by that Thai shareholder.
- The rules do not apply if a foreign national(s) has joint authority with a Thai national(s) to act on behalf of the limited company.
- Copies of deposit passbooks or bank statements disclosing transactions that are less than six months old may be submitted to the MOC provided that entries on at least one day identify a balance that is equal to or exceeds the funds invested by the relevant shareholder.

Thai shareholders must provide evidence of their sources of funds regardless of the value of their shares.

### **3.3 Other Forms of Corporate Presence**

#### ***Branches of Foreign Companies***

Foreign companies may carry out certain business in Thailand through a branch office. Branch offices are required to maintain accounts only relating to the branch in Thailand.

Having a branch office in Thailand, the foreign corporation could be exposed to civil, criminal and tax liability if the branch office violates any law in Thailand. The foreign head office must appoint at least one branch office manager to be in charge of operations in Thailand.

There is no special requirement for foreign companies to register their branches in order to do business in Thailand. However, most business activities fall within the scope of one or more laws or regulations that require special registration (e.g., VAT registration, taxpayer identification card, Commercial Registration Certificate, Foreign Business License, etc.), either before or after the commencement of activities. Therefore, foreign business establishments must follow generally accepted procedures.

It should be borne in mind that the branch is part of the parent company and therefore the parent retains legal liability for contracts, and for tortious acts done. For tax purposes, a branch is subject to Thai corporate income tax at the regular 30% rate on income derived from its business operations in Thailand. It is important to clarify beforehand what constitutes income that is subject to Thai tax because the Revenue Department may consider revenue directly earned by the foreign head office from sources within Thailand to be subject to Thai tax. Therefore, for tax purposes, a branch office is required to apply for a taxpayer identification card and VAT certificate (if applicable) and to file annual corporate income tax returns with the Revenue Department.

A branch office of a foreign entity cannot carry out any reserved business without a Foreign Business License. A condition for approval of a Foreign Business License for a branch of a foreign corporation is that minimum capital amounting to no less than three million baht be brought into Thailand within four years of start-up. The branch may be allowed to operate for a period of five years, unless a shorter period is applied for. Extension of the original duration of the license to operate may be granted, provided that the working capital to be brought into Thailand requirement is met.

#### ***Representative Offices of Foreign Companies***

The operation of Representative Office in Thailand in order to render the service to its head office or the affiliated company or the group company in foreign country is the operation of business under the business listed in List 3(21) attached to the Foreign Business Act B.E.2542 *i.e.* Other Service Businesses. If the foreigner wishes to operate such business, the permission by the Director-General, Business Development Department with the approval of the Foreign Business Committee is required.

In consideration on approval, the Foreign Business Operation Committee has determined the guidelines as follows:

### **Characteristic of Representative Office**

The Representative Office must have all 3 characteristics as follows:-

- 1) To be the juristic person established in accordance with the foreign law and established an office in Thailand in order to operate the service business to the head office or the affiliated company or the group company in foreign country only;
- 2) The Representative Office renders the service to the head office or the affiliated company or the group company without income from service, except for the supporting fund for expense of the Representative Office received from the head office;
- 3) The Representative Office has no authority to receive purchase orders or to offer for sale or to negotiate on business with any person or juristic person.

### **Scope of Service of the Representative Office**

In operation of business as the Representative Office, the scope of service is permitted to be rendered in either or all 5 categories, depending upon the objectives and business characteristics of the Representative Office, as follows:

- To report the business movements in Thailand to the head office or affiliated company or the group company
- To give advice on various aspects pertaining to the goods distributed by the head office or affiliated company or the group company to the distributors or the users
- To seek for the supply source of goods or services in Thailand for the head office or affiliated company or the group company
- To inspect and control the quality and quantity of the goods that the head office or affiliated company or the group company purchased or hired to manufacture in Thailand
- To disseminate the information in relation to the new goods or services of the head office or affiliated company or the group company

If the representative office engages in other activities for which permission is not granted, such as buying or selling goods on behalf of the head office, it will be regarded as doing business in Thailand and may be subject to Thai taxation on all income received from Thailand. Also, the representative office may not act on behalf of third persons. Any such business or income-earning activities could amount to a violation of the conditions of the license to establish and operate a representative office, which in turn could result in revocation of that license.

A representative office that undertakes one or more of the approved activities in Thailand without rendering any service to any other person, and which refrains from prohibited activities, is not subject to Thai taxation. Such a representative office is understood to be receiving a subsidy from the head office to meet its expenses in Thailand. Gross receipts or revenues received by a representative office from the head office are not characterized as revenue to be included in the computation of juristic person income tax.

Even though they are not subject to taxation in Thailand, all representative offices are still required to obtain a Corporate Tax Identification number and submit income tax returns and audited financial statements to the Revenue Department. They are also required to submit the same to the Department of Business Development.

### **Conditions to be Complied with by the Representative Office after Granted Permission to Operate**

The Representative Office which is permitted to operate the business must comply with the following conditions:

- There must be the minimum capital to be remitted to Thailand for the commencement of business operation as stipulated by law, which shall not be less than three million baht
- The total loan utilized in the permitted business operation must not exceed seven times of the inward remitted fund for the permitted business operation;
  - (Loan means the total liabilities of the business, notwithstanding the liabilities incurred by any form of transaction but excluding trade liabilities occurred from the ordinary course of business, such as, trade creditors, accrued expenses.)
- At least one person of the responsible persons for operating the business in Thailand must have a domicile in Thailand;
  - (Domicile means the contactable residence in Thailand which can be the place of business, excluding temporary residence such as hotels)
- The document or evidence relating to the permitted business operation must be submitted when the official sent the summon or inquiry;
- There must be the preparation of account and financial statements to be submitted to the Department of Business Development.

### **Fees for Representative Office**

Application fee (nonrefundable) is THB 2,000. If the application is approved, the government fee will be set at the rate of THB 5 for every THB 1,000 or a fraction thereof of the registered capital, with a minimum of THB 20,000 and a maximum of THB 250,000.

### **Tax Position of Representative Office**

The representative office is required to obtain a corporate tax identification number and submit income tax returns and balance sheets, even if nil.

Individual aliens and all local staff are required to obtain taxpayer cards and pay personal income tax.

## **3.4 Regional Operating Headquarters (ROH)**

A Regional Operating Headquarters (ROH) is a juristic company or partnership organized under Thai law to provide managerial, technical, or other supporting services (see below) to its associated companies or its domestic or foreign branches.

### **Supporting Services**

- (1) General administration, business planning, and coordination
- (2) Procurement of raw materials and components
- (3) Research and development
- (4) Technical support
- (5) Marketing control and sales promotion planning

- (6) Training and personnel management
- (7) Corporate financial advisory services
- (8) Economic or investment research and analysis
- (9) Credit control and administration
- (10) Any other services stipulated by the Director-General of the Revenue Department

### **Associated Company**

A juristic company or partnership that is related to the ROH in one of the following manners:

#### **A. Shareholding basis:**

- i. A juristic company or partnership holding shares in the ROH worth not less than 25% of total capital
- ii. A juristic company or partnership in which the ROH is a partner or holds shares worth not less than 25% of total capital
- iii. A juristic company or partnership in which a juristic company or partnership under (i.) is a partner or holds shares worth not less than 25% of total capital

#### **B. Control basis:**

- i. A juristic company or partnership that has the power to control or supervise the operation and management of the ROH
- ii. A juristic company or partnership that the ROH has the power to control or supervise the operation and management
- iii. A juristic partnership that a juristic company or partnership in (i.) has the power to control or supervise the operation and management

### **Incentives**

The government provides tax breaks and incentives to attract foreign companies to set up in the Kingdom.

#### **A. Reductions/exemptions on Corporate Income Tax**

- i. Business income** – ROH will be taxed at the reduced corporate rate of 10% on income derived from the provision of qualifying services to the ROH's associated companies or branches.
- ii. Royalties** – Royalties received from associated companies or branches arising from R&D work carried out in Thailand will be subject to tax at a reduced corporate rate of 10%. Royalties received from a non-related company can also enjoy this reduced rate.
- iii. Interest** – Interest income derived from associated companies or branches on loans made by an ROH and extended to its associated companies or branches will be subject to tax at a reduced corporate rate of 10%.
- iv. Dividends** – Dividends received by an ROH from associated companies will be exempt from tax. Dividends paid to companies incorporated outside of Thailand and which do not carry on business in Thailand will be exempt from tax.

#### **B. Accelerated Depreciation Allowances**

25% of asset value is allowed as an initial allowance and the remaining can be deducted for over 20 years for the purchase or acquisition of buildings used in carrying out the operations of the ROH.

## **C. Expatriates**

- i. An expatriate who is assigned by the ROH to work outside of Thailand is exempt from personal income tax in Thailand for services outside of Thailand. However, the said income must not be borne by the ROH or its associated company in Thailand.
- ii. An expatriate who works for an ROH may choose to be subject to withholding tax at the rate of 15% for up to four years. By doing so, the expatriate is allowed to omit such income in the calculation of their annual personal income tax liability.

### **Requirements**

In order for an ROH to be eligible for tax benefits, it must fulfill the following conditions:

- The ROH must be a juristic company or partnership incorporated under Thai law
- The ROH must have at least 10 million baht in paid-up capital on the closing date of any accounting period
- The ROH must provide services to its overseas affiliated companies and/or branches in at least three countries excluding Thailand
- At least half of the revenue generated by the ROH must be derived from service provided to its overseas affiliated companies and/or branches, although this requirement will be reduced to not less than one-third of the ROH's revenue for the first three years
- The company must submit the notification to the Revenue Department
- Other requirements may be imposed by the Director-General of the Revenue Department

#### **3.4.1 Updated ROH Policy**

In August 2010, the Thai government introduced attractive new incentives, aiming to supercharge the ROH program's popularity and make companies with regional headquarters here even more competitive.

Among the ROH incentives granted by the Revenue Department, Ministry of Finance, qualifying companies that set up regional operating headquarters in the country are entitled to a 10-year corporate income tax (CIT) rate of 0% on the portion of income derived from their overseas operations. A rate of just 10% is levied on income from their domestic operations.

A five-year extension on the corporate tax exemption is possible under certain conditions, meaning that the CIT benefits can be granted for a total of 15 years under the expanded program. In addition, a personal income tax rate of only 15% will be applied for eight years on income earned by the company's expatriate employees in Thailand, if the income generated from services provided to overseas companies is at least 50% of the company's total revenue.

Another advantage of entering the program is that the dividends received by the ROH from its associated companies are tax exempt. Likewise, exemption applies to the dividends paid out of the ROH's net profits to its companies incorporated abroad and not carrying on business in Thailand.

Enhancements to the ROH scheme now also allow new and existing companies to qualify as a treasury center to further reduce their cost and improve convenience. As part of this, the Bank of

Thailand is making foreign currency dealings of regional headquarters easier. ROH companies can transfer, lend or borrow with their overseas affiliates in foreign currency rather than being restricted to convert into Thai baht. In addition, no approval is required for foreign currency deposit for money borrowed from domestic commercial banks, foreign deposit, and investment abroad, if the sum is under US\$500 million.

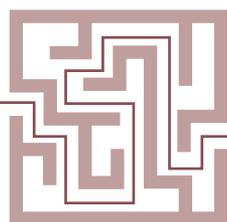
The following table highlights the two ROH schemes available in Thailand.

	<b>Option #1 Current ROH Tax Regime</b>	<b>Option #2** New ROH Tax Regime</b>
1. Criteria	<ul style="list-style-type: none"> <li>• Paid-up capital of at least 10 million baht</li> <li>• Establishment of 3 associated companies/ branches in the 1st year</li> <li>• Income generated from overseas services <math>\geq</math>50% of total company income.</li> </ul>	<ul style="list-style-type: none"> <li>• Paid-up capital of at least 10 million baht</li> <li>• Establishment of associated companies/ branches establishment: in at least 1 country within the 1st year, at least 2 countries within the 3rd year, and at least 3 countries within the 5th year</li> <li>• Having staff working for ROH services and running business operation.</li> <li>• Having operating expenses <math>\geq</math>15 MB/year or investment spending <math>\geq</math>30 MB /year</li> <li>• By the end of 3rd year, having skilled staff of at least 75% of employees, and at least 5 employees, that receive remuneration of at least 2.5 MB/year</li> </ul>
2. Corporate Income Tax • Overseas income • Local income	<ul style="list-style-type: none"> <li>• 10% unlimited period</li> <li>• 10% unlimited period</li> </ul>	<ul style="list-style-type: none"> <li>• Exempt for 10 years*</li> <li>• 10% for 10 years*</li> </ul>
3. Dividends	Exempt	Exempt for 10 Years (If income generated from overseas services $\geq$ 50% of total company income)
4. Interest	10% unlimited period	10% for 10 Years* (If income generated from overseas services $\geq$ 50% of total company income)

	<b>Option #1 Current ROH Tax Regime</b>	<b>Option #2** New ROH Tax Regime</b>
5. Royalties	10% unlimited period	10% for 10 Years* (If income generated from overseas services $\geq$ 50% of total company income)
6. Personal Income Tax for each foreign employee	Flat rate of 15% for a period not more than 4 Years	Flat rate of 15% for a period not more than 8 years (If income generated from overseas services $\geq$ 50% of total company income)
7. Accelerated Depreciation	Accelerated Ratio (25% of asset value in 20 years)	-
8. Notification Period	No time limit	Within 5 years from the date the relevant law becomes effective

\* Extension of 5 years if all criteria have been met and if the company's accumulated operating expenses exceed 150 million baht by the end of the 10th year.

\*\* Effective date published in Royal Gazette



**CHAPTER 2:  
TAXATION IN THAILAND**

The principal tax law in Thailand is the Revenue Code, which governs three main categories of taxation: corporate income tax, value added tax (or specific business tax), and personal income tax.

## **1. Corporate Income Tax**

Corporate Income Tax (CIT) is a direct tax levied on a juristic company or partnership that is established under Thai or foreign law and carries on business in Thailand or derives certain types of income from Thailand.

The term “juristic company or partnership” (hereinafter called “company”) means a limited company, a limited partnership, or a registered ordinary partnership incorporated under Thai or foreign law as well as an association or foundation engaged in revenue producing business. The term also includes any joint venture and any trading or profit-seeking activity carried on by a foreign government or its agencies or by any other juristic body incorporated under a foreign law.

### **1.1 Taxable Persons**

CIT is levied on both Thai and foreign companies. A Thai company is a company incorporated under the law of Thailand. A Thai company is subject to tax in Thailand on its worldwide income, both from Thailand and foreign sources. These taxes are levied at the end of each accounting period (12 months).

A foreign company is a company incorporated under foreign law. Generally, a foreign company is deemed as carrying on business in Thailand if it has an office, a branch, or any other place of business in Thailand, or it has an employee, agent, representative, or go-between in Thailand to carry on its affairs and thereby derives income or gains here.

A foreign company carrying on business in Thailand is subject to CIT only for income arising from or in consequence of such business. These taxes are levied at the end of each accounting period. However, a foreign company engaged in international transport is only subject to tax on its gross ticket receipts collected in Thailand for passenger transportation and its gross freight charges collected anywhere for transportation of goods from Thailand in lieu of tax on net profit. Additionally, when a foreign company disposes its profits outside of Thailand, such profits will be subject to tax relative to the sum disposed. Profit also entails any sum set aside out of profits as well as any sum that may be regarded as profit.

### **1.2 Tax Calculation**

The CIT of a company carrying on business in Thailand is calculated from the company’s net profit on an accrual basis. A company shall take into account all revenue arising from or in consequence of the business carried on in an accounting period and deduct from that figure all expenses as prescribed by the Revenue Code.

Dividends received by Thai companies or foreign companies carrying on business in Thailand are taxable as ordinary income. However, a Thai company is entitled to include in its taxable income only one-half of the dividends received from another Thai company, provided that shares have been held for a period of at least three months before and three months after receipt of such dividends (referred to as holding period). A Thai company will be exempt from taxation on all dividends received from another Thai company if the recipient company holds at least 25% of the total shares with voting rights in the paying company and has so held such shares in compliance with the holding period, and the paying company does not hold any shares of the recipient company, either directly or indirectly. Thai companies listed on the Stock Exchange of Thailand are exempt from taxation on all dividends received from other Thai companies if they merely comply with the defined holding period.

In calculating CIT, deductible expenses are as follows.

1. Ordinary and necessary expenses. However, the deductible amount of the following expenses is allowed at a special rate:
  - 200% deduction of Research and Development expense,
  - 200% deduction of job training expense,
  - 200% deduction of expenditure on the provision of equipment for the disabled;
2. Interest, except interest on capital reserves or funds of the company;
3. Taxes, except for CIT and Value Added Tax paid to the Thai government;
4. Net losses carried forward from the last five accounting periods;
5. Bad debts;
6. Wear and tear;
7. Donations of up to 2% of net profits;
8. Provident fund contributions;
9. Entertainment expenses up to 0.3% of gross receipts but not exceeding 10 million baht;
10. Donations made to public education institutions or for the maintenance of public parks, public playgrounds, and/or sports grounds;
11. Depreciation: Provided that in no case shall the deduction exceed the following percentage of cost as shown below. However, if a company adopts an accounting method in which the depreciation rates vary from year to year, the company is allowed to do so, so long as the number of years over which an asset is depreciated is not less than 100 divided by the percentage prescribed below.

Type of Asset	Rate of Depreciation
<b>1. Building</b>	
1.1 Durable buildings	5%
A building acquired within September 5, 2001 – September 4, 2002	Initial allowance of 20% on the date of acquisition and the residual shall be depreciated at 5%
Plant of SMEs*	Initial allowance of 25% on the date of acquisition and the residual shall be depreciated at 5%
1.2 Temporary buildings	100%

Type of Asset	Rate of Depreciation
<b>2. Cost of acquisition of depleted natural resources</b>	5%
<b>3. Cost of acquisition of lease rights</b> 3.1 No written lease agreement or written lease agreement containing a renewal clause whereby continuous renewals are permitted  3.2 Written lease agreement containing no renewal clause or containing a renewal clause but restricting renewable periods to a definitely limited duration	10%  100% divided by the original and renewable lease periods
<b>4. Cost of acquisition of the right in a process, formula, goodwill, trademark, business license, patent, copyright, or any other rights:</b> 4.1 Unlimited period of use  4.2 Limited period of use	10%  100% divided by number of years used
<b>5. Other depreciable assets not mentioned above excluding land and stock-in-trade, which have value altogether not exceeding 500,000 baht, and are acquired before December 31, 2010:</b> 5.1 Machinery used R&D*  5.2 Machinery used in SMEs**  5.3 Cash registering machine  5.4 Passenger car of bus with capacity of no more than 10 passengers	100%  Initial allowance of 40% on the date of acquisition and the remaining cost can be depreciated according to normal depreciation method; a maximum of 20% per annum  Initial allowance of 40% on the date of acquisition and the residual can be depreciated at 100%  100 % or initial allowance of 40 % on the date of acquisition and the residual can be depreciated at 100%  Depreciated at 100% but the depreciable value is limited to one million Baht

Type of Asset	Rate of Depreciation
<b>6. Computers and computer accessories and programs</b>	
6.1 SMEs**	Initial allowance of 40 % on the date of acquisition and the residual can be depreciated over 3 years
6.2 Other businesses*	Depreciated over 3 years, starting from acquisition date

\* Companies that benefit from this method will not be permitted to take the benefit of the tax exemption on income equal to 25% of capital expenditure that is otherwise available under Royal Decree No. 460.

\*\* SMEs refer to any Thai companies with fixed assets less than 200 million Baht and number of employee not exceeding 200 people.

### 1.3 Tax Rates

The corporate income tax rate in Thailand is 30% on net profit. However, the rates vary depending on the type of taxpayer.

Taxpayer	Tax Base	Rate
1. Small company <sup>1</sup>	- Net profit not exceeding 1 million baht - Net profit over 1 million baht but not exceeding 3 million baht - Net profit exceeding 3 million baht	15% 25% 30%
2. Companies listed in Stock Exchange of Thailand (SET)	- Net profit for first 300 million baht - Net profit for the amount exceeding 300 million baht	25% <sup>2</sup> 30%
3. Companies newly listed in Stock Exchange of Thailand (SET)	Net Profit	25% <sup>3</sup>
4. Company newly listed in Market for Alternative Investment (MAI)	- Net Profit for first 5 accounting - Net Profit after first 5 accounting periods	20% 30%
5. Bank deriving profits from International Banking Facilities (IBF)	Net Profit	10%
6. Foreign company engaging in international transportation	Gross receipts	3%
7. Foreign company not carrying on business in Thailand receiving dividends from Thailand.	Gross receipts	10%

<b>Taxpayer</b>	<b>Tax Base</b>	<b>Rate</b>
8. Foreign company not carrying on business in Thailand receiving other types of income <sup>4</sup> apart from dividend from Thailand.	Gross receipts	15%
9. Foreign company disposing profit out of Thailand.	Amount disposed.	10%
10. Profitable association and foundation.	Gross receipts.	2% or 10%

Notes:

1. A small company refers to any company with paid-up capital less than 5 million baht at the end of each accounting period.

2. The reduced rate applies for currently listed companies for three accounting periods from 2008-2010.

3. The reduced rate applies for newly listed companies for three accounting periods from 2008-2010

4. These incomes are

- income by virtue of jobs, positions or services rendered;
- part of value received from the amalgamation, acquisition or dissolution of juristic companies or partnerships which exceeds the cost of investment;
- part of the proceeds derived from transfer of partnership holdings, shares, debentures, bonds, or bills or debt instruments issued by a juristic company or partnership or by any other juristic person, which exceeds the cost of investment; and
- income specified in c and d in Table 1.1.

Source: <http://www.rd.go.th/publish/6044.0.html>

## 1.4 Withholding Tax

Certain types of income paid to companies are subject to withholding tax at source. The withholding tax rates depend on the types of income and the tax status of the recipient. The payer of income is required to file the return (Form CIT 53) and submit the amount of tax withheld to the District Revenue Offices within seven days of the following month in which the payment is made. The tax withheld will be credited against final tax liability of the taxpayer. The following are the withholding tax rates on some important types of income.

<b>Types of income</b>	<b>Withholding tax rate</b>
1. Dividends	10%
2. Interest <sup>1</sup>	1%
3. Royalties <sup>2</sup>	3%
4. Advertising Fees	2%
5. Service and professional fees	3% if paid to Thai company or foreign company having permanent branch in Thailand; 5% if paid to foreign company not having permanent branch in Thailand
6. Prizes	5%

Notes:

1. Tax will be withheld on interest paid to associations or foundations at the rate of 10%.

2. Royalties paid to associations or foundations are subject to 10% withholding tax rate.

3. Government agencies are required to withhold tax at the rate of 1% on all types of income paid to companies.

## 1.5 Tax Return and Payment

Thai and foreign companies carrying on business in Thailand are required to file their tax returns (Form CIT 50) within 150 days of the closing date of their accounting period. Tax payment must be submitted together with the tax return. Any company disposing funds representing profits out of Thailand is also required to pay tax on the sum so disposed within seven days of the disposal date (Form CIT 54).

In addition to the annual tax payment, any company subject to CIT on net profit is also liable for tax prepayment (Form CIT 51). A company is obliged to estimate its annual net profit as well as its tax liability and pay half of the estimated tax amount within two months after the end of the first half of its accounting period. Prepaid tax is creditable against annual tax liability.

Failure to pay the estimated tax or underpayment by more than 25% may subject the taxpayer to a fine amounting to 20% of the amount in deficit.

As regards to income paid to foreign company not carrying on business in Thailand, the foreign company is subject to tax at a flat rate in which the payer shall withhold tax at source at the time of payment. The payer must file the return (Form CIT 54) and make the payment to the Revenue Department within seven days of the following month in which the payment is made.

Source:<http://www.rd.go.th/publish/6044.0.html>

## 1.6 Losses

**1.6.1 Net losses** may be carried forward for five accounting periods so that they may be offset against future profits from all sources. There is no provision for loss carry-back.

### **1.6.2 Loss on Investment from Liquidation**

Where a Thai debtor company has incurred a significant loss and increases the share capital for settlement of the liability owed to its parent company for liquidation purposes, the Thai creditor company can recognize the loss on the investment in such increased share capital as a deductible expense. The loss will be allowed to be deductible only upon the completion of the liquidation of the debtor and to an extent not exceeding the amount receivable from the debtor as of the date of the capital increase. The following conditions must be met:

1. The creditor is organized under Thai law and holds at least 25% of the voting shares in the debtor from the time of the incorporation of the debtor until the increase in capital.
2. The receivable due from the debtor qualifies for writing-off under Ministerial Regulation No. 186.
3. The dissolution and liquidation of the debtor must commence within a period not exceeding one accounting period from the accounting period in which the debtor has increased its capital.

## 1.7 Tax Credits

Thai companies can use foreign tax paid on business income or dividends received as a credit against their CIT liability. The credit cannot exceed the amount of Thai tax on the income had the income been derived in Thailand.

Credit is also given for any Thai CIT that has been deducted at the source (as mentioned above) and for the half-year tax paid.

Source: Pricewaterhouse Coopers

## 1.8 Remittance Taxes

There are two types of final withholding tax imposed on the remittance of income or profits to foreign companies:

- Remittance of income in the form of:
  - Brokerage, fees for services 15%
  - Royalties 15%
  - Interest 15%
  - Dividends 10%
  - Capital gains 15%
  - Rental of property 15%
  - Liberal professionals 15%
- Remittance of profits after corporate income tax, a sum representing profits, or a sum set aside out of profits or regarded as profits is subject to 10% withholding tax.

Source: Pricewaterhouse Coopers

## 1.9 Double Taxation Treaties

Thailand has concluded tax treaties with following countries :

	Countries	Entered into force	Tax Year of Enforcement	Remarks
1	 <b>Armenia</b>	12 November 2002	1 January 2003	
2	 <b>Australia</b>	27 December 1989	1 January 1990	
3	 <b>Austria</b>	1 July 1986	1 January 1986	
4	 <b>Bahrain</b>	27 December 2003	1 January 2004	
5	 <b>Bangladesh</b>	9 July 1998	1 January 1999	
6	 <b>Belgium</b>	29 December 1980	1 January 1980	
7	 <b>Bulgaria</b>	13 February 2001	1 January 2002	

Countries		Entered into force	Tax Year of Enforcement	Remarks
8	 <b>Chile</b>	5 May 2010	1 January 2011	
9	 <b>Canada</b>	16 July 1985	1 January 1985	
10	 <b>China, P. R.</b>	29 December 1986	1 January 1987	Amendment by exchange of letter <b>Exchange of Letter :</b> - Thailand - China, P. R.
11	 <b>Cyprus</b>	4 April 2000	1 January 2001	
12	 <b>Czech Republic</b>	14 August 1995	1 January 1996	
13	 <b>Denmark</b>	12 February 1999	1 January 2000	Old treaty enforced until 31 December 1999
14	 <b>Finland</b>	26 February 1986	1 January 1987	
15	 <b>France</b>	29 August 1975	1 January 1975	WHT : enforced 29 August 1975 Amendment by exchange of letter
16	 <b>Germany</b>	4 December 1968	1 January 1967	
17	 <b>Hong Kong</b>	7 December 2005	1 January 2006	<b>Exchange of Letter :</b> - Thailand - Hong Kong
18	 <b>Hungary</b>	16 October 1989	1 January 1990	
19	 <b>India</b>	13 March 1986	1 January 1987	
20	 <b>Indonesia</b> (amendment)	21 October 2003	1 January 2004	Old treaty enforced until 31 December 2003
21	 <b>Israel</b>	24 December 1996	1 January 1997	
22	 <b>Italy</b>	31 May 1980	1 January 1978	Amendment by exchange of letter
23	 <b>Japan</b>	30 August 1990	1 January 1991	

Countries		Entered into force	Tax Year of Enforcement	Remarks
24	 <b>Korea (amendment)</b>	29 June 2007	1 January 2008	
25	 <b>Kuwait</b>	25 April 2006	1 January 2007	
26	 <b>Laos</b>	23 December 1997	1 January 1998	
27	 <b>Luxembourg</b>	22 June 1998	1 January 1999	
28	 <b>Malaysia</b>	2 February 1983	1 January 1983	
29	 <b>Mauritius</b>	10 June 1998	1 January 1999	
30	 <b>Nepal</b>	14 July 1998	1 January 1999	
31	 <b>Netherlands</b>	9 June 1976	1 January 1976	
32	 <b>New Zealand</b>	14 December 1998	1 January 1999	
33	 <b>Norway (amendment)</b>	29 December 2003	1 January 2004	Old treaty enforced until 31 December 2003
34	 <b>Oman</b>	27 February 2004	1 January 2005	
35	 <b>Pakistan</b>	7 January 1981	1 January 1979	
36	 <b>Philippines</b>	11 April 1983	1 January 1983	
37	 <b>Poland</b>	13 May 1983	1 January 1983	
38	 <b>Romania</b>	13 April 1997	1 January 1998	WHT : enforced 1 June 1998
39	 <b>Russian</b>	15 January 2009	1 January 2010	
40	 <b>Singapore</b>	27 April 1976	1 January 1976	
41	 <b>Slovenia</b>	4 May 2004	1 January 2005	
42	 <b>South Africa</b>	27 August 1996	1 January 1997	
43	 <b>Spain</b>	16 September 1998	1 January 1999	
44	 <b>Srilanka</b>	12 March 1990	1 January 1991	
45	 <b>Sweden</b>	26 September 1989	1 January 1990	
46	 <b>Switzerland</b>	19 December 1996	1 January 1997	
47	 <b>Seychelles</b>	13 March 2006	1 January 2007	
48	 <b>Turkey</b>	13 January 2005	1 January 2006	
49	 <b>Ukraine</b>	27 November 2004	1 January 2005	
50	 <b>United Arab Emirates</b>	28 December 2000	1 January 2001	

Countries		Entered into force	Tax Year of Enforcement	Remarks
51	 <b>United Kingdom of Great Britain and Northern Ireland</b>	20 November 1981	1 January 1981	
52	 <b>United States of America</b>	15 December 1997	1 January 1997	
53	 <b>Uzbekistan</b>	21 July 1999	1 January 2000	WHT : enforced 1 February 2001
54	 <b>Vietnam</b>	31 December 1992	1 January 1993	

Source: <http://www.rd.go.th/publish/766.0.html> -- updated July 15, 2010

## 1.10 Transfer Pricing Rules

Thailand has no detailed transfer pricing legislation. However, transfer pricing guidelines issued by the Thai Revenue Department on 16 May 2002 define the term “market price,” detail the permitted pricing methods, describe the transfer pricing documentation requirements and provide for advance pricing agreements.

## 2. Value Added Tax

Value Added Tax (VAT) has been in place in Thailand since 1992, replacing the Business Tax (BT). VAT is an indirect tax imposed on the value added of each stage of production and distribution.

### 2.1 Taxable Persons

Any person or entity that regularly supplies goods or provides services in Thailand and has an annual turnover exceeding 1.8 million baht is subject to VAT. Service is deemed to be provided in Thailand if the service is performed in Thailand, regardless of where it is utilized or if it is performed elsewhere and utilized in Thailand.

An importer is also subject to VAT regardless of whether or not they are registered person. VAT will be collected by the Customs Department at the time goods are imported. Certain businesses are excluded from VAT and are instead subject to Specific Business Tax (SBT).

Under VAT, taxable goods denote all types of property, tangible or intangible, whether they are available for sale, for personal use, or for any other purpose. It also includes any type of article imported into Thailand. Services refer to any activity conducted for the benefit of a person or an entity.

## 2.2 Exemptions from VAT

Certain activities are exempted from VAT. Those activities are:

1. Small businesses whose annual turnover is less than 1.8 million baht;
2. Sales and import of unprocessed agricultural products and related goods such as fertilizers, animal feeds, pesticides, etc.;
3. Sales and import of newspapers, magazines, and textbooks;
4. Certain basic services such as:
  - Transportation: domestic and international transportation by way of land;
  - Healthcare services provided by the government and private hospitals and clinics;
  - Educational services provided by the government and private schools and other recognized educational institutions;
  - Professional services: medical and auditing services, lawyer services in court, and other similar professional services that have laws regulating such professions;
  - Renting of immovable properties;
5. Cultural services such as amateur sports, services of libraries, museums, zoos;
6. Services in the nature of employment of labor, research and technical services, and services of public entertainers;
7. Goods exempted from import duties under the Industrial Estate law imported into an Export Processing Zone (EPZ) and under Chapter 4 of the Customs Tariff Act;
8. Imported goods that are kept under the supervision of the Customs Department which will be re-exported and be entitled to a refund for import duties; and
9. Other services such as religious and charitable services and services of government agencies and local authorities.

## 2.3 Tax Base

### 2.3.1 General Goods and Services

The VAT tax base is the total value received from the supply of goods or services. Value means money, property, consideration, service fees, or any other benefit that is ascertainable in terms of money. The tax base also includes any excise tax arising in connection with such supply. However, the tax base is exclusive of the VAT itself and does not include any discounts or allowances unless such discounts or allowances are clearly shown in the tax invoice.

### 2.3.2 Imported Goods

**Tax base = C.I.F. price + Import duty + Excise tax (if any) + other taxes and fees (if any)**

### 2.3.3 Exported Goods

**Tax base = F.O.B. price + Excise tax (if any) + other taxes and fees (if any)**

## 2.4 Tax Rates

The current VAT rate is 7%.

A zero percent rate is applied to the following items:

- Exported goods
- Services provided in Thailand but totally used in a foreign country
- Aircraft or sea-vessels engaging in international transportation
- Sales of goods or services to government agencies or state enterprises under foreign aid programs
- Sales of goods or services to the United Nations or its specialized agencies, such as embassies and consulate generals
- Sales of goods and services between bonded warehouses or between enterprises located in a Duty Free Zone

## 2.5 Time of Supply

The time of supply of goods or services is important because it determines when a registered person should account for VAT. The time of supply will be determined as follows:

### 2.5.1 Goods

- A. General goods, the earliest of:
  - i. the time of delivery; or
  - ii. when ownership of goods is transferred; or
  - iii. a payment is made; or
  - iv. a tax invoice is issued.
- B. Hire purchase or installment sale, the earliest of:
  - i. the time each payment is due; or
  - ii. a payment is made; or
  - iii. a tax invoice is issued.
- C. Supply of goods on consignment, the earliest of:
  - i. the time the consignee makes delivery or transfers; or
  - ii. ownership of the goods to buyer; or
  - iii. a payment is made; or
  - iv. a tax invoice is issued.
- D. Imports, the earliest of:
  - i. the time import duty is paid; or
  - ii. a guarantee is put up; or
  - iii. a guarantor is arranged for; or
  - iv. a bill of lading is issued.
- E. Exports, the earliest of:
  - i. the time export duty is paid; or
  - ii. a guarantee is put up; or

- iii. a guarantor is arranged for; or
- iv. a bill of lading is issued; or
- v. goods are sent from Thailand to an EPZ; or
- vi. goods are exported from a bonded warehouse.

### **2.5.2 Services**

- A. In general, the earliest of:
  - i. the time a payment is made; or
  - ii. tax invoice is issued;
  - iii. service is utilized.
- B. Service contract where payment is made according to the service performed, the earliest of:
  - i. the time a payment is made; or
  - ii. tax invoice is issued; or
  - iii. service is utilized.
- C. Imports
  - i. the time the payment is made.

### **2.6 Tax Invoice**

VAT registered persons or entities are required to issue tax invoices every time a transaction is made, showing details of the nature and value of goods sold or services provided and the amount of VAT due. The tax invoice is used as evidence for claiming input tax credit. The tax invoice must contain at least the following elements:

- The word “Tax invoice” in a prominent place
- Name, address, and tax identification number of the issuer
- Name and address of the purchaser or customer
- Serial numbers of the tax invoice and tax invoice books (if applicable)
- Description, value, and quantity of goods or services
- Amount of VAT chargeable
- Date of issuance

### **2.7 VAT Calculation**

VAT must be paid on a monthly basis and is calculated as:

$$\text{Output tax} - \text{Input tax} = \text{Tax paid}$$

where output tax is the VAT that the operator collects from the purchaser when a sale is made, and input tax is the VAT that an operator pays to the seller of a goods or service that are then used in the operator’s business.

## **2.8 Refund**

Each month, if input tax exceeds output tax, the taxpayer can claim a refund, either in the form of cash or in the form of a tax credit to be used in the following months. Therefore, in a zero-rated case, the taxpayer will always be entitled to a VAT refund. As for unused input tax, it may be creditable against output tax within the next six months. However, the refund can only be claimed within three years of the last filing date. Certain input taxes, such as tax in relation to entertainment expenses, are not creditable under VAT. However, those non-creditable input taxes can instead be used as deductible expenses under CIT.

## **2.9 VAT Registration**

Any person or entity who is liable for VAT in Thailand must register to be a VAT registered person or entity (Form VAT 01) before the operation of business or within 30 days after its income reaches the threshold. The registration application must be submitted to the Area Revenue Office if the business is situated in Bangkok or to the Area Revenue Branch Office if it situated elsewhere. Should the taxpayer have several branches, the registration application must be submitted to the Area Revenue Office of the province in which the headquarters is located.

## **2.10 Tax Return and Payment**

The VAT taxable period is a calendar month. VAT returns, therefore, must be filed on a monthly basis. VAT returns (Form VAT 30) together with tax payments, if any, must be submitted to the Area Revenue Branch Office within 15 days of the following month. If the taxpayer has more than one place of business, each place of business must file the return and make a payment separately, unless there is approval from the Director-General of the Revenue Department. Services utilized in Thailand and supplied by service providers in other countries are also subject to VAT in Thailand. In such a case, the service recipient in Thailand is obliged to file a VAT return (Form VAT 36) and pay tax, if any, on behalf of the service providers.

In the case where the supply of goods or services is also subject to Excise tax, VAT returns and tax payments, if any, must be submitted to the Excise Department together with Excise tax return and tax payment within 15 days of the following month. In the case of imported goods, VAT returns and tax payments must be submitted to the Customs Department at the point of import.

## **3. Personal Income Tax**

Personal Income Tax (PIT) is a direct tax levied on income of a person. A person means an individual, an ordinary partnership, a non-juristic body of person and an undivided estate. In general, a person liable to PIT has to compute his tax liability, file tax return and pay tax, if any, accordingly on a calendar year basis.

### 3.1 Taxable Persons

Taxpayers are classified into “resident” and “non-resident”. “Resident” means any person residing in Thailand for a period or periods aggregating more than 180 days in any tax (calendar) year. A resident of Thailand is liable to pay tax on income from sources in Thailand as well as on the portion of income from foreign sources that is brought into Thailand. A non-resident is, however, subject to tax only on income from sources in Thailand.

### 3.2 Assessable Income

Income liable to the PIT is called “assessable income”. The term covers income both in cash and in kind. Therefore, any benefits provided by an employer or other persons, such as a rent-free house or the amount of tax paid by the employer on behalf of the employee are also treated as assessable income of the employee for the purpose of PIT.

Assessable income is divided into eight categories:

- Income derived from personal services rendered to employers (employment income)
- Income derived by virtue of jobs, positions or services rendered;
- Income from goodwill, copyrights, franchises, other rights, annuity or income in the nature of yearly payments derived from a will or any other juristic Act or judgment of the Court;
- Income in the nature of dividends, interest on deposits with banks in Thailand, shares of profits or other benefits from a juristic company, juristic partnership, or mutual fund, payments received as a result of the reduction of capital, a bonus, an increased capital holdings, gains from amalgamation, acquisition or dissolution of juristic companies or partnerships, and gains from transferring of shares or partnership holdings;
- Income from leasing property, breaches of contract of installment sales or hire-purchase contracts;
- Income from liberal professions (*e.g.* law, medicine, engineering, architecture, accountancy and fine arts)
- Income from construction and other contracts of work;
- Income from business, commerce, agriculture, industry, transport or any other activity not specified above.

### 3.3 Capital Gains

Most types of capital gains are taxable as ordinary income, with the following exemptions:

- Capital gains from the sale of shares in a company listed on the SET, provided that the sale is made on the SET, and capital gains from the sale of investment units in a mutual fund.
- Capital gains from the sale of non-interest bearing government bonds, debentures, bills, or debt instruments issued by a corporate entity or other juristic entities, except in the case where the bonds or debt instruments were sold for the first time to an individual at a price lower than their redemption price and the tax has been withheld from the difference between the redemption price earned and the selling price and the instrument has been stamped to the effect that tax has been so withheld.
- Gains from the sale of government bonds.

### 3.4 Exemptions

Certain types of income are exempt from PIT. In relation to income from employment, money derived in the form of per diem, traveling expenses, and certain fringe benefits (such as medical treatment) are tax exempt. The exemptions also cover the share of profits obtained from a non-juristic body of persons, maintenance income, income derived under moral obligation, corpus of a legacy, or inheritance, income from a mutual fund or from the sale of investment units in a mutual fund, interest from government bonds earned by a non-resident, etc.

Additionally, in order to support low-income earners and the elderly, an income exemption is granted to taxpayers. The first 150,000 baht of net income is tax exempt. A Thai resident who is 65 years of age or older is also granted a PIT exemption on income received up to an amount not exceeding 190,000 baht.

### 3.5 Computation

Thailand uses a self-assessment system in collecting taxes. Taxpayers are required to declare their tax liabilities in the specified tax returns (PND 90, PND 91) and pay the tax due at the time of filing.

Certain deductions and allowances are allowed in the calculation of taxable income. Taxpayers shall make deductions from assessable income before the allowances are granted. Therefore, taxable income is calculated by:

$$\text{TAXABLE INCOME} = \text{assessable income} - \text{deductions} - \text{allowances}$$

### 3.6 Deductions and Allowances

#### Deductions allowed for the calculation of PIT

Type of Income	Deduction
Income from employment	40% but not exceeding 60,000 Baht
Income received from copyright	40% but not exceeding 60,000 Baht
Income from letting out of property on hire <ul style="list-style-type: none"><li>• Buildings and wharves</li><li>• Agricultural land</li><li>• All other types of land</li><li>• Vehicles</li><li>• Any other type of property</li></ul>	30% 20% 15% 30% 10%
Income from liberal professions	30% except for the medical profession where 60% is allowed
Income derived from contract of work whereby the contractor provides essential materials besides tools	Actual expense or 70%

Type of Income	Deduction
Income derived from business, commerce, agriculture, industry, transport, or any other activities not specified earlier	Actual expense or 65-85% depending on the types of income
Income of Community Enterprise	A Community Enterprise operated by an ordinary partnership or a non-juristic body of persons under the law governing Community Enterprise Promotion whose assessable income does not exceed Baht 1,200,000 per tax year will be exempted from personal income tax on assessable income received from 1 January 2008 to 31 December 2010.

### Special Allowances

<b>Personal allowance</b> <ul style="list-style-type: none"> <li>• Single taxpayer</li> <li>• Undivided estate</li> <li>• Non-juristic partnership or body of persons</li> </ul>	30,000 Baht for the taxpayer 30,000 Baht for the taxpayer's spouse 30,000 Baht for each partner but not exceeding 60,000 Baht in total
<b>Spouse allowance</b>	30,000 Baht
<b>Child allowance</b> (child under 25 years of age and studying at educational institution, or a minor, or an adjusted incompetent or quasi-incompetent person)	15,000 Baht each (limited to three children)
<b>Parents allowance</b> (parents over 60 years of age with income less than 30,000 Baht)	30,000 Baht each for each of taxpayer's and spouse's parents if such parent is above 60 years old and earns less than 30,000 baht
<b>Education</b> (additional allowance for child studying in educational institution in Thailand)	2,000 Baht each child
<b>Life insurance premium</b> paid by taxpayer or spouse	Amount actually paid but not exceeding 100,000 baht each
<b>Approved provident fund contributions and/or retirement mutual fund contributions</b>	Maximum allowance (exemption) of 500,000 Baht, but not exceeding 15% of income for either
<b>Long term equity fund</b>	Maximum allowance (exemption) of 500,000 Baht, but not exceeding 15% of income
<b>Home mortgage interest</b>	Amount actually paid but not exceeding 100,000 Baht
<b>Social insurance contributions</b> paid by taxpayer or spouse	Amount actually paid each
<b>Charitable contributions</b>	Amount actually donated but not exceeding 10% of income after standard deductions and allowances

### 3.7 Tax Credits

Any taxpayer who domiciles in Thailand and receives dividends from a juristic company or partnership incorporated in Thailand is entitled to a tax credit of 3/7 of the amount of dividend received. In computing assessable income, a taxpayer shall gross up his dividends by the amount of the tax credit received. The amount of tax credit is then creditable against his tax liability.

$$\text{Tax Credit} = \text{Dividend} \times \text{Corporate Tax Rate} / (100 - \text{Corporate Tax Rate})$$

### 3.8 Tax Rates

Personal income tax rates applicable to taxable income are as follows.

Taxable Income	Tax Rate (%)	Tax Amount	Accumulated Tax
0 - 150,000	Exempt	-	-
150,001 - 500,000	10	35,000	35,000
500,001 - 1,000,000	20	100,000	135,000
1,000,001 - 4,000,000	30	900,000	1,035,000
4,000,001 and over	37		

*Effective for taxable income arising from 2008 onward*

### 3.9 Withholding Tax for Personal Income Tax

For certain categories of income, the payer of income has to withhold tax at source, file tax return (Form PIT 1, 2, or 3 as the case may be) and submit the amount of tax withheld to the District Revenue Office. The tax withheld shall then be credited against the tax liability of the taxpayer at the time of filing PIT return. The following are the withholding rates on some categories of income:

Types of Income	Withholding Tax Rate
1. Employment income	5-37%
2. Rents and prizes	5%
3. Ship rental charges	1%
4. Service and professional fees	3%
5. Public entertainer remuneration	
- Thai resident	5%
- non-resident	5-37%
6. Advertising fees	2%

## 4. Other Taxes

### 4.1 Specific Business Tax (SBT)

Due to the difficulty in determining the value added by certain businesses for the purpose of VAT imposition, an alternative tax levy on services, especially in the financial services sectors, was introduced in tandem with the VAT regime. Specific business tax (SBT) is collected on gross revenue at fixed rates.

The SBT is computed on the monthly gross receipts at the following rates:

Business Subject to SBT	Applicable Rate
Commercial Banks, Finance, Securities and Credit Foncier Businesses	3.0%
Life Insurance	2.5%
Pawnshop Brokerage	2.5%
Sale of Securities in the Stock Exchange	0.1%*
Sale of Immovable Property, Real Estate	3.0%
Businesses with Regular Transactions Similar to Commercial Banking	3.0%

\* Currently exempt from SBT under Royal Decree 240  
Source: Pricewaterhouse Coopers Thai Tax 2010 Booklet

### 4.2 Stamp Duty

Stamp duty is levied on 28 classes of instruments listed in the Stamp Duty Schedule of the Revenue Code, such as promissory notes, bills of exchange, powers of attorney, letters of credit, checks, bills of lading, memorandums of association of a limited company, articles of association of a limited company, and partnership contracts. Rates vary according to classification of transaction contained in the instrument.

If the instrument is executed in Thailand, the stamp duty is due within 15 days after the execution date. However, if the instrument is executed outside Thailand, the stamp duty is due within 30 days after arrival of the instrument in Thailand.

Source: Tilleke & Gibbins Thailand Legal Handbook

### 4.3 Petroleum Income Tax

The Petroleum Income Tax Act replaced the Revenue Code in imposing tax on income from anybody who holds a petroleum concession or has a joint interest in one, or anybody who purchases crude oil produced by any concessionaire, all of which is intended for export. Net income from petroleum operations includes revenue from production, transport, or sale of oil and gas, the value of gas delivered to the government as a royalty, and the proceeds of a transfer of interest in a concession. The tax rate for most operators is not less than 50% and not more than 60% of net profits.

Individuals who obtain dividends from a company subject to petroleum income tax which are paid out of the net profits of the petroleum business are not entitled to the benefit of the dividend tax credit under Section 47 bis of the Revenue Code; the credit is granted only if the dividends are paid out of net profits which have been subject to income tax under the Revenue Code.

In the event a company receives dividends paid out under the net profits of a petroleum business subject to petroleum income tax and then distributes such dividends to individual shareholders, these individuals are not entitled to the tax credit for dividends under Section 47 bis of the Revenue Code. Since the dividends obtained by the company are exempt from tax under the Revenue Code by virtue of the law governing petroleum income tax, they are not regarded as dividends paid out of net profits which have been subject to income tax under the Revenue Code.

#### **4.4 Excise Tax**

Excise Tax is levied on selected goods (mainly luxury goods) such as petroleum products, tobacco, liquor, beer, soft drinks, crystal glasses, perfume and cosmetic products, air-conditioners not over 72,000 BTU, and passenger cars with 10 seats/or less.

Excise Tax is computed on an ad valorem basis or at a specific rate, whichever is greater. All goods subject to excise tax remain subject to VAT. The excise tax is collected by the Excise Department and usually imposed at the time of delivery of the goods from factories.

*Source: Tilleke & Gibbins A Summary of Thailand's Tax Laws*

#### **4.5 Property Tax**

Property tax is imposed and collected annually. There are two kinds of property tax in Thailand: (1) house and land tax and (2) local development tax. Under the House and Land Tax Act B.E. 2475 (A.D. 1932) as amended, the tax is imposed on owners of houses, buildings, structures, or land rented or otherwise put to commercial use. Taxable property under house and land tax includes houses not occupied by the owner, industrial and commercial buildings, and land used in connection therewith. The tax rate is 12.5% of actual or assessed annual rental value of the property.

Under the Local Development Tax Act B.E. 2508 (A.D. 1965) as amended, the tax is imposed upon the person who either owns or is in possession of the land. Tax rates vary according to the medium value appraised by the local authorities. Allowances are granted for land utilized as personal dwellings, raising of livestock, and cultivation of crops by the owner. The extent of the allowances differs according to location of the land.

*Source: Tilleke & Gibbins Thailand Legal Handbook*

## **5. Customs Duties**

Customs duties are governed by the Customs Tariff Decree of 1987, an amendment of previous tariff codes, to conform to the Harmonized System of the Customs Cooperation Council. Tariff duties on goods are levied on an ad valorem or a specific rate basis. The majority of goods imported by businesses are subject to rates between zero and 80%.

The majority of imported articles are subject to two different taxes: tariff duty and VAT. Tariff duty is computed by multiplying the CIF value of the goods by the duty rate. The duty thus determined is added to the value of the goods determined with reference to the CIP price.

VAT is then levied on the total sum of the CIF value, duty, and excise tax, if any. Goods imported for re-export are generally exempted from import duty and VAT. Export duties are imposed on only a few items including rice; hides, skins, and leather; scrap iron and steel; rubber, including latex, rubber waste, tree and lump scraps, earth rubber, and bark shavings from rubber trees; teak and other kinds of wood.

Tariff duties may be lowered at the discretion of the Minister of Finance and with the approval of the Cabinet. Two exceptions to the obligation to pay customs duties apply to the importation of machinery, equipment, and materials for use by oil and gas concessionaires, their contractors, and certain companies promoted by the Board of Investment.

As a part of the BOI's Investment Promotion Program, BOI-promoted companies are eligible to receive exemptions or reductions from import duties on raw and essential materials as well as machinery.

Further, companies that belong to the BOI's Investor Club Association (IC) are eligible to use the IC's Raw Materials Tracking System (RMTS) and Machinery Tracking System (MCTS). For companies that take advantage of this service, release of raw materials and machinery can be done in three hours or less. For more information, please contact the Investor Club at: 12th and 16th Floor, TP&T Building, 1 Vibhavadi-Rangsit Road, Lad Yao, Chatuchak, Bangkok 10900; Tel. 0-2936-1429

All exported goods are exempt from export duties except raw hides and skins, wood and sawn (including lumber) items. Interested persons can receive advice and additional information from the Tax Incentives Bureau, Customs Department at Tel: 02-667-7763.

### **5.1 Electronic Data Interchange (EDI)**

The Customs Department has improved its services by computerizing procedures with the Electronic Data Interchange system. EDI allows customs entry information to be transferred via an online system. The trader may link directly to the system or use a licensed customs broker. The EDI system helps entrepreneurs save time and money because they can rapidly submit entry data for preliminary verification by customs officers, a procedure that takes no more than five minutes. Entrepreneurs will only need to meet customs officers for document verification; the rest will be processed through the EDI system.

The Customs Department has selected “UN/EDIFACT” as the standard format for the exchange of information between it and its trading partners, as well as other related organizations. The Federation of Thai Electronic Data Interchange (FTEDI) and Thai Industrial Standards Institute (TISI) have duly approved the internationally accepted UN/EDIFACT as the EDI standard for Thailand. For technical queries, telephone 02 671 7151.

### **Procedures**

Exporters or customs brokers submit export entry data via the EDI system. Upon verification, the exporter/broker will be notified and will then be able to print export entries for submission to any customs office, together with other documents.

Goods not subject to tariff and value verification can pass through green channels, whereas the goods subject to tariff and value verification must proceed through red channels for verification at the Export Procedure Sub-Division and for duty payment (if any).

## **5.2 Export privileges**

To realize the Thai government’s policy of promoting exports, there are customs duty privileges intended to decrease the cost of production and enhance the competitive advantage of Thai exporters. The significant measures include the following:

- (1) Duty drawback or refund under Section 19 bis of the Customs Act
- (2) Duty relief for goods placed under the Customs Bonded Warehouse scheme
- (3) Duty exemption for goods taken into Free Zones as established by Customs
- (4) Duty exemption for goods taken into the Export Processing Zones (“EPZs”)
- (5) Duty exemption for goods under the Board of Investment (BOI)

The above five measures vary in their responsible agencies and tax privileges (see the comparison table below). The first three measures are directly under the control of the Thai Customs Department, which has the authority to grant duty drawbacks and duty exemptions. However, measures 4 and 5 are under the control of the Industrial Estate Authority of the BOI. The Customs Department is only involved in providing Customs-related services such as formalities for importation and exportation.

### **5.2.1 Duty Drawback under Section 19 bis of the Customs Act**

Drawback under Section 19 bis of the Customs Act (No.9) B.E. 2482 refers to the refund of import duty already paid on imported goods which have undergone production, mixing, assembling, or packing and then are exported within one year of the date of importation. The importer may use a bank guarantee or a guarantee issued by the Ministry of Finance in lieu of the payment of import duty. The refund is administered after the exportation or destruction of either the imported/substituted product or article that has been manufactured from the imported/substituted product.

### **5.2.2 Bonded Warehouses under the Customs Act**

It is in the nature of international trade that in many cases it is not known at the time of importation how imported goods will finally be disposed of. This means that the importers are obliged to store the goods for more or less long periods. It is, therefore, in the importers' interest to place these goods under a Customs procedure that obviates the need to pay import taxes and duties or delay the payment of taxes and duties.

Recognizing the needs of importers, the Thai Customs Department has provided in its legislation for Customs warehousing procedures to allow importers to store their goods for more or less long periods without requiring payment of taxes and duties until the goods are actually taken for domestic consumption.

A manufacturing bonded warehouse is a type of bonded warehouse where imported goods stored therein are allowed to be used in the production of other goods in that bonded warehouse. Duties, both import and export, and taxes will be exempted for goods removed from a manufacturing bonded warehouse for exportation, regardless of being exported in the same nature as imported or in the nature having been produced, mixed, or assembled as other goods.

Generally, at the time of importation, imported raw materials brought into production in a manufacturing bonded warehouse will be granted duty and tax exemption, but a bank guarantee amounting to 25% of the maximum amount of duties and taxes calculated on such imported raw materials will be required. After the goods have been produced and exported, such security will be released.

Various types of bonded warehouses under the Customs Act include:

- For manufacturing
- For vessel repair or construction
- General
- General for distribution of goods
- General for oil storage
- Duty-free shops
- Free trade

### **5.2.3 Customs Free Zones**

The Free Zone Program was developed to stimulate economic growth and development in Thailand. In an expanding global marketplace, there is increased competition among nations for jobs, industry, and capital. The Free Zone Program was designed to promote competitiveness by encouraging companies to maintain and expand their operations in Thailand.

The Free Zone Program encourages Thailand-based operations by removing certain disincentives associated with manufacturing in Thailand. The duty on a product manufactured abroad and imported into Thailand is assessed on the finished product rather than on its individual parts, materials, or components. The Thailand-based manufacturer finds itself at a disadvantage compared

with its foreign competitors when it must pay a higher rate on parts, materials, or components imported for use in a manufacturing process.

The Free Zone Program corrects this imbalance by treating products made in the Zone, for the purpose of tariff assessment, as if it were manufactured abroad. At the same time, this country benefits because a Zone manufacturer uses Thai labor, services, and inputs.

#### **5.2.4 Industrial Estate Export Processing Zones (EPZ)**

Industrial estate export processing zones are areas within an industrial estate that are designated for industrial activities, trading or services, or other activities beneficial to or connected with industrial activities or trading or services for the purpose of exporting products.

The Industrial Estate EPZ Program offers numerous benefits through the Industrial Estate Authority of Thailand, including:

- Relief from special surcharges and import/internal taxes/duties
- Relief from export duty, excise taxes and VAT
- Entitled for export tax refund/exemption schemes
- Zero tax rate

There are currently 9 EPZs in Thailand:

- Bangpoo Industrial Estate (Samut Prakarn)
- Northern Region Industrial Estate (Lamphun)
- Laem Chabang Industrial Estate (Chonburi)
- Bo-Win Industrial Estate (Chonburi)
- Lard Krabang Industrial Estate (Bangkok)
- Baan Wa High-Tech Industrial Estate (Ayudthaya)
- Bangpa-In Industrial Estate (Ayudthaya)
- Plang Yaow Industrial Estate (Gate Way City, Chachoengsao)
- Southern Region Industrial Estate (Chalung, Songkla).

#### **5.2.5 BOI Investment Incentives**

Investment privileges have long been one of the various measures applied by the Thai Government to attract foreign investment to Thailand and to support the Government's goal of decentralizing Thailand's industrial base. One key investment incentive set up by the Board of Investment (BOI), the agency directly responsible for investment promotion, is tax and duty privileges for promoted projects.

In this context, the Thai Customs Department, which is responsible for national revenue collection and promotion of exports, has set up regulations on the importation of machinery and raw materials for entrepreneurs granted import tax and duty privileges from the BOI. To facilitate the entrepreneurs, Customs also provides advice on tax and duty privileges.

The BOI's Investment Promotion Scheme assists investors by offering:

- Relief from/reduction of import taxes/duties on both machinery and raw or essential materials
- Deduction of transportation, electricity, and water costs
- Deduction of project's infrastructure installation

For answers to specific questions, contact the Customs Privilege Bureau at:  
 Thai Customs Department Sunthornkosa Road Klong Toey Bangkok, 10110

Tel: 02 240 2514-6

Fax: 02 672 8121

E-Mail: [customs@customs.go.th](mailto:customs@customs.go.th)

### 5.2.6 Comparison of Privileges Available through Customs, IEAT and BOI

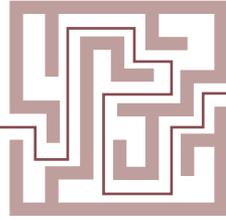
Measures	Responsible Organization	Privileges
Duty Drawback under Section 19 bis of The Customs Law	Customs Department	The refund of import duty already paid to importers who imported raw materials that have undergone production, mixing, assembling or packing of exported goods.
Manufacturing Bonded Warehouse Under Section 8 bis (2) of the Customs law	Customs Department	Importers do not have to pay import duties and taxes for imported goods placed under Customs warehousing procedure to be stored and used in the process of producing, mixing or assembling in manufacturing bonded warehouses. Such goods shall be granted import and export duties exemption if released from the bonded warehouse for export.
Free Zone under chapter x bis of the Customs Act	Customs Department	Entrepreneurs in a Free Zone established by Customs shall be granted exemption from payment of import duties and taxes on machinery and new materials used for production of goods in the Zone.
Export Processing Zone (EPZ) Under the Industrial Estate Authority Law	Industrial Estate Authority of Thailand	Entrepreneurs in an Export Processing Zone shall be granted exemption from payment of import duties and taxes on machinery and raw materials used for production of exports.

Measures	Responsible Organization	Privileges
Duty Exemption Under Investment Promotion Act	Office of the Board of Investment	Exemption of import duties on the raw and essential materials imported for use specifically in producing, mixing or assembling products or commodities for export, including items that the eligible person imports for re-export.

Source: <http://www.customs.go.th/Customs-Eng/Comparison/Comparison.jsp?menuNme=FreeZone>

### 5.3 Smart Cards

Customs Smart Cards are a credit-card-sized plastic card embedded with an integrated circuit chip. They are designed to prove an identity of Customs' clients e.g. importers, exporters, owners of companies, etc. in processing Customs formalities.



**CHAPTER 3:**  
**INDUSTRIAL LICENSING AND REGULATIONS**

## 1. The Factory Act

The Factory Act of 1969 (amended in 1972, 1975, 1979, and 1992) stipulates regulations for factory construction and operation, factory expansion, and safety requirements. The latest revision of the Act also imposes strict controls on industrial pollution. The Act is administered by the Department of Industrial Works of the Ministry of Industry.

A factory is defined as any premise that uses machinery equivalent to five horsepower or more, or that employs seven or more workers for manufacturing, producing, assembling, packing, repairing, maintaining, testing, improving, processing, conveying, storing or destroying anything included in the classes or types of factories presently listed in the Ministerial Regulations.

The Act does not apply to factories owned or operated by government agencies for the purpose of national security or safety, except that such factories must use the procedures of the Act as guidelines for their operations.

## 2. Factory Licenses

Factories are divided into three categories:

1. Factories that do not require licensing
2. Factories that only require notification to officials in advance of the start of operations. Operators may commence operations as soon as they receive a receipt form from the Ministry stating their report has been received.
3. Factories that require licenses from the Department of Industrial Works, Ministry of Industry, prior to operation. Subject to the Ministry's discretion, operators may be granted, prior to the license, a certificate allowing them to build parts of the factory.

The operator of a group three factory must notify the competent authorities at least 15 days before a factory test-run commences, and again 15 days before actual manufacturing begins.

**Note:** In general, the degree of government control required is dependent on the degree of environmental protection deemed necessary. The more likely a factory, based on its output, is to cause pollution, the more that type of factory is regulated.

The Ministry of Industry has the power to issue regulations for all of the categories regarding:

- Description, category, or type of machinery and equipment to be used in the operation of the factory business
- Location, environment, interior and description of the factory
- Requirements for workers who have specific knowledge to carry out any duties in the factory
- Process of manufacture and provision of equipment to prevent, stop, or alleviate danger, damage or disturbances that may occur to the public or property in the factory or nearby premises
- Standards and procedures for the control or release of waste, pollution or anything else arising from factory operations which may affect the environment

- Provision of necessary data and documents by the factory operators to ensure compliance with the law
- Provision of anything that may affect the safety of work operations

If there is an inspection of a factory or machinery to ensure compliance with the Act, a private body may carry out the inspection and report in place of government officials, provided the private persons follow the regulations concerning the Act as per the Government Gazette.

Licenses granted are valid until the end of the fifth calendar year from the year in which the business started operations, except when the factory is transferred, leased or subject to hire purchase, or if operations stop. In these cases, the license is regarded as having expired on the date of issuance of a license to the factory's new operators, or on the date of cessation of operations.

Applications for renewal of licenses must be submitted prior to the date of expiration, along with a fee of 100,000 baht. Following submission, renewal is considered to have been extended unless there is a specific order otherwise. If the application is submitted within 60 days of the expiration date, it will be processed normally, but an additional fee of 20,000 baht will be levied. Once the expiry date is reached, an application for a renewal must be made within 60 days.

### **3. Factory Operations**

The Ministry of Industry has the power to designate:

- The size and quantity of the type of factory in each category that should not be established or expanded in any locality in the Kingdom
- The type, quality, source of origin and ratio of raw materials to be used in a factory
- The type or quality of products to be manufactured in a factory
- The type of energy to be used in a factory

The Ministry may also prescribe that a factory's products be used in certain industries or be wholly or partly exported.

If a factory in Category 2 or 3 stops operation for more than one year, the operator must notify the Ministry in writing within seven days of the date the one-year period has lapsed, and must inform the Ministry before restarting operations. If the operator's factory is in category 3, he must receive written permission from the Ministry before restarting operations.

If there is an accident that causes death, injury or sickness that incapacitates a worker beyond a 72-hour period, the operator must inform the Ministry within three days from the date of the death or the lapse of the 72-hour period. If there is an accident that causes the factory to stop operations for more than seven days, the operator must notify the Ministry within 10 days from the date of the accident.

Factory operators must obtain permission to remove machinery from its original place of installation to another site for temporary operations, or to move a factory to another site. Permission must also be obtained to transfer, rent, offer for hire purchase or sell a licensed factory. In these cases, the

prior license is considered to have expired, and a new license must be applied for within seven days, although no fee is required. If the licensee dies, the heir or administrator of the estate must submit an application for the transfer of the license within 90 days of the date of death.

#### **4. Factory Expansion**

An application must be filed, and granted, prior to factory expansion. A fee of 100,000 baht is charged. As defined in the Act, the following undertakings constitute factory expansion:

- An increase in the number of machines, or change or modification of machinery to increase its power by 50% or more
- The addition to, or alteration of, any part of the factory building which causes any part of the foundation of the factory to bear a load of an additional 500 kilograms or more

Or when a licensee:

- Increases the quantity of machinery
- Changes or modifies machinery used for production or generation of power, but by less than 50%
- Constructs or increases factory space by more than 100 square meters

The application must be filed within seven days of the date of the change.

#### **5. Other Provisions**

Any factory that is seriously endangering the public may be ordered to cease operations or to make specified improvements. The Minister has the authority to order removal of all or part of the plant to a location where the public will not be threatened. Officers of the Ministry of Industry have broad powers of inspection, and are authorized to issue written orders requiring a factory to cease operations, modify or repair machinery, or undertake other remedial measures.

Issuance of either a factory establishment license or a factory operator's license does not exempt the licensee from compliance with other central or local government requirements for carrying out a proposed industrial activity. Licenses may be suspended for violations of the Act or for failure to carry out orders issued under the Act by competent officials.

Factories established to produce and sell food and drugs must also apply for production licenses from the Ministry of Health.

Violation of certain provisions of the Act may incur penalties in the nature of a fine or imprisonment not exceeding four years. A Case Settlement Committee of three experts is appointed by the Ministry to carry out penalties for violations of the Act. If the offender is a partnership, company or other juristic entity, the directors, managers or other persons responsible for committing the offense are subject to the same punishment unless it can be proved that the offense was committed without their knowledge or consent.

## 6. Procedures and Timetable for Factory Permits/Licenses

### STEP 1

<p>Authorization to use land</p>	<p style="text-align: center;"> <b>Permit IEAT 01</b>            Application for Land Use            (IEAT.01)         </p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Allow 2 Weeks</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Approval Land Use &amp; Utilization Permit (IEAT.01/2)</p>	<p><b>Related authorities/ comments</b></p> <ul style="list-style-type: none"> <li>- Applicant/User</li> <li>- Industrial Estate Authority of Thailand (IEAT)</li> <li>OR</li> <li>- Ministry of Industry (MOI) – Provincial Office</li> <li>- (3) copies of application submitted</li> <li>- 10,000 Thai baht permit fee (excluding VAT)</li> </ul> <p><b>Supporting documentation required</b></p> <p><i>If natural person;</i></p> <ul style="list-style-type: none"> <li>- Copy of house registration, ID Card of the operator/ landowner</li> <li>- Layout of the land plot according to the master plan</li> <li>- Copy of land title (including Land Entitlement (Ref IEAT 15 Sor 1 for ownership in an IEAT))</li> </ul> <p><i>If juristic person;</i></p> <ul style="list-style-type: none"> <li>- Copy of company registration (dated not over 6 months)</li> <li>- Shareholder list (dated not over 6 months)</li> <li>- Copy of land title or document indicating right to use the land</li> <li>- Copy of passport of authorized person, or ID Card and house registration if local</li> <li>- All the above with company seal, signatures and/or authorized documents</li> </ul>
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**STEP 2**

<p>Authorization for new factory scale construction or rental factory renovations</p>	<p style="text-align: center;"> <b>Permit IEAT 02</b>            Application for factory construction (IEAT.01/2)         </p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Allow 4 Weeks</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">           Issue construction permit (IEAT.02/2-5 based on scope or work activity)         </p>	<p><b>Related authorities/ comments</b></p> <ul style="list-style-type: none"> <li>- Applicant/User</li> <li>- Industrial Estate Authority of Thailand (IEAT)</li> <li>OR</li> <li>- Ministry of Industry (MOI) – Provincial Office</li> <li>- (3) copies of application submitted</li> <li>- Permit fees will be set according to land and buildings size</li> </ul> <p><b>Supporting documentation required</b></p> <ul style="list-style-type: none"> <li>- (3) A1 size copies of plant layout (in correct ratio) and (2) in A3 size</li> <li>- Copy of company registration (aged not over 6 months)</li> <li>- Shareholder list (aged not over 6 months)</li> <li>- Copy of land title or document indicating right to use the land</li> <li>- Copy of passport or authorized person, or ID Card and house registration if local</li> <li>- All the above with company seal, signatures and/or authorized documents</li> <li>- Applicant/user responsible to apply for telephone, electrical service once company documentation available. Allow 4 weeks lead time, deposit required for electricity</li> </ul>
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**STEP 3**

<p>Authorization to begin factory and operations</p>	<p style="text-align: center;"> <b>Permit IEAT 03</b>            Application re-notification of commencing factory operation (IEAT.03/1)         </p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Allow 4 Weeks</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Issue permit for factory operation (IEAT.03/2)</p>	<p><b>Related authorities/ comments</b></p> <ul style="list-style-type: none"> <li>- Applicant/User</li> <li>- Industrial Estate Authority of Thailand (IEAT)</li> <li style="padding-left: 20px;">OR</li> <li>- Ministry of Industry (MOI) – Provincial Office</li> <li>- (3) copies of application submitted</li> <li>- Permit fees will be set according to land and operations buildings size</li> </ul> <p><b>Supporting documentation required</b></p> <ul style="list-style-type: none"> <li>- (3) Copies of machine list with rated horsepower (obtain form)</li> <li>- (3) Copies of factory layout (to correct ratio scale) including machinery and equipment placement</li> </ul> <p><b>Notes</b></p> <ol style="list-style-type: none"> <li>1. If the project is within an “Export Processing Zone, Customs Free Zone”, then ask the zone operator for the additional, appropriate customs forms,</li> <li>2. If the project is food or pharmaceutical related, inquire at the Thai Food &amp; Drug Administration regarding related additional forms, required.</li> </ol>
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Source : Source Thai Co., Ltd.

## 7. Environmental and Health Impact Assessments

To comply with Article 67 (2) of the Thai Constitution, the National Environment Board has announced a list of 11 industrial activities that potentially could create severe impact to local communities in terms of natural resources, environment and health and for which environmental and health impact assessments must be conducted.

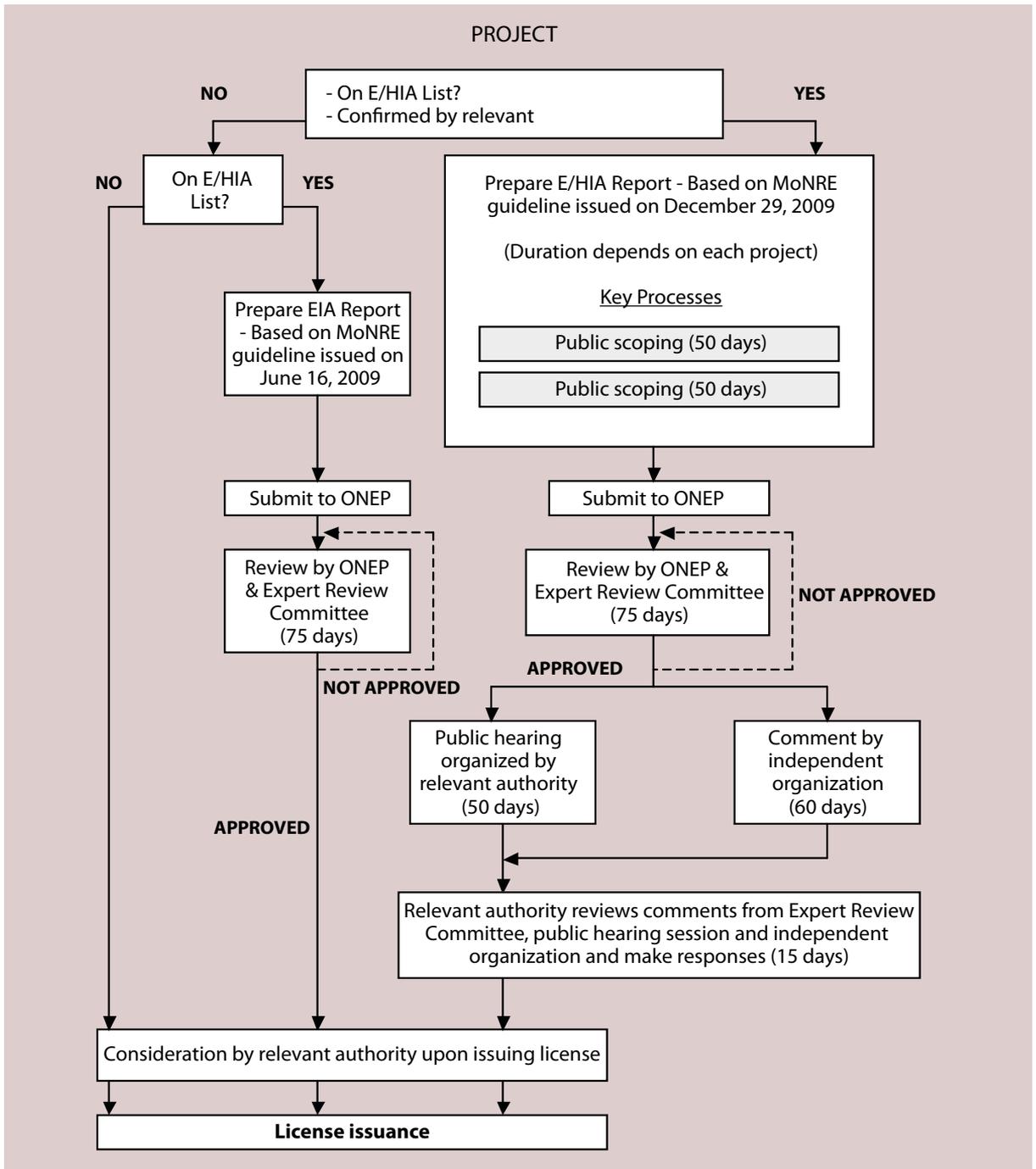
The following charts contain the NEB list and a simplified flowchart for the process.

### National Environment Board Issues List of 11 Potentially Severe Impact Projects

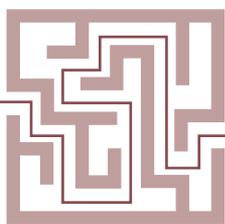
1) Land reclamation projects
2) Mining, defined by the mineral <ul style="list-style-type: none"> <li>• Underground Mining Method, only the caving method and no backfill</li> <li>• Lead Mining, Zinc Mining or Metal Mining using cyanide or mercury or lead nitrate in lead mining process with arsenopyrite associate material</li> <li>• Coal Mining, specifically coal mineral transportation take out project area by cars</li> <li>• Sea Mining</li> </ul>
3) Industrial Estates as defined by the Industrial Estate Authority of Thailand Act or Projects with similar feature
4) Petrochemical Industry <ul style="list-style-type: none"> <li>Upstream Petrochemical Industry</li> <li>Intermediate Petrochemical Industry</li> </ul>
5) Mineral Smelting Industry of Metal Industry
6) Production, disposal or configuration of radioactive substances
7) Hazardous waste disposal or incineration plants (except concrete incinerators that use hazardous waste as supplementary material or fuel)
8) Aviation transport system
9) Ports
10) Dams or Reservoirs
11) Thermal Power Plants <ul style="list-style-type: none"> <li>• Coal-fired Power Plant</li> <li>• Biomass-fired Power Plant</li> <li>• Natural Gas-fired Power Plant</li> <li>• Nuclear Power Plant</li> </ul>

*Note: Size and additional details as specified in MoNRE notification issued on August 31, 2010.*

## Simplified Flowchart for EIA and E/HIA Process



Notes: For additional details, please consult Office of Natural Resources and Environmental Policy and Planning (ONEP), Ministry of Natural Resources and Environment (MoNRE)



**CHAPTER 4:  
PATENTS, TRADEMARKS, CONSUMER PROTECTION**

Thailand recognizes three broad categories of property rights:

1. Patents
2. Copyrights
3. Trademarks

## **1. Patents**

Thailand promulgated its first patent law, the Patent Act, in 1979, with significant amendments added in 1992. The Act protects both inventions and product designs and pharmaceuticals. In 1997, a new intellectual property and international trade court began operations, which has significantly improved enforcement. Appeals procedures at the trademark and patent offices have also been streamlined.

In January 2008, the National Legislative Assembly approved Thailand's plan to join the Paris Convention and the Patent Cooperation Treaty.

Thailand successfully became a party to the Paris Convention on August 2, 2008 and on September 24, 2009, Thailand submitted the instrument of accession to the Patent Cooperation Treaty (PCT), making Thailand the 142nd state to become a contracting party. The PCT became binding on Thailand three months from the date of submission, i.e., on 24 December 2009.

Since Thailand is a member of the Paris Convention, the World Trade Organization (WTO) and thus the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), nationals of the Paris Convention and WTO member countries will receive the same protection accorded to Thai nationals.

Accession to the PCT will help to facilitate the registration of patents abroad for Thai inventors. The PCT registration system meets international standards and is accepted by numerous countries; thus, inventors can receive protection in PCT member countries, many of which are Thai export markets, such as the United States, Japan, Australia, China, and India. Thailand's participation in the PCT will also help applicants from other member countries seek patent protection for their inventions in Thailand.

### **1.1 Invention Patents**

For an invention to be patentable, it must

- Have novelty
- Involve an inventive step
- Be capable of being made or used for some kind of production activity

Therefore, the following would not qualify for patents:

- An invention widely known or used by others in Thailand before the filing of the patent application

- An invention, the subject matter of which was described in a document or printed publication, displayed or otherwise disclosed to the public in Thailand or a foreign country prior to the date of the application for the patent.
- An invention that has been granted a patent inside or outside Thailand prior to the date of the patent application
- An invention that is the subject of an abandoned application in Thailand; this provision does not affect the rights of co-inventors and others who did not apply for such patent shall not be affected
- An invention for which an application for a patent was filed in a foreign country more than 18 months prior to the date of the patent application, the foreign patent not having been issued

The revised Patents Act provides that the following are not patentable:

- Microbes and any components thereof which exist naturally; animal, plant and extracted substances from animals or plants
- Scientific or mathematical rules or theories
- Computer programs
- Methods of diagnoses, treatment and care of human and animal diseases
- Inventions that are contrary to public order or morality, public health or welfare

## **1.2 Patentable Product Designs**

A product design must be novel in order to be patented, i.e., it must not fall under any of the following conditions:

- A design widely known or used in Thailand before the filing of the patent application
- A design picture, the subject matter or details of which have been displayed or disclosed in a document or printed publication inside or outside of Thailand before the filing of the application
- A design that has been published in the patent journal under Section 65 and 28 before the filing of the patent application
- A design that so nearly resembles any of the product designs indicated in the points described above that it is apparently an imitation

## **1.3 Product Designs Which Are Not Patentable**

- Product designs which are contrary to public order and good morals
- Product designs prescribed by Royal Decree

## **1.4 Eligibility**

An inventor or product designer has the right to apply for a patent, as does a successor or assignee of the right. An assignment must be made in writing, signed by both the assignor and the assignee.

If, during the course of employment, an employee or contractor creates an invention or product design, the right to apply for a patent belongs to the employer unless otherwise provided by agreement.

The Patent Act requires that an applicant for a patent must be a Thai national or a national of a country which allows persons of Thai nationality to apply for patents in that country.

### **1.5 Term of Patents and Patent Holder Rights**

#### **Term**

- The term of an invention patent is 20 years from the filing date, and is not renewable. The term of protection for a petty patent is six years from the application date, which can be extended twice for two years each.
- Product design means any form or composition of lines or colors which gives a special appearance to a product.
- A patent may be granted under the Act for new designs for industry, including handicrafts. Absolute novelty is required for a design to be patentable (i.e., it must not be disclosed anywhere prior to the date of filing a patent application in Thailand).
- The life of a design patent is ten years from the filing date.

#### **Rights**

- During the period of the validity of the patent, the patent holder has the exclusive right to produce, use, sell, have for sale, offer for sale and import the patented invention or design. Any act performed before the patent is granted, that would otherwise constitute an infringement of the patent, is not deemed an infringement
- A patent holder has an exclusive right to use the words “Thai Patent”, or an abbreviation or translation thereof
- A patent holder may assign the patent to another holder
- A patent holder may grant a license to another person, subject to restrictions:
  - The patentee shall not impose upon the licensee any condition or restriction or any royalty covenant that is an unfair restraint of competition. Conditions, restrictions or covenants that unfairly restrain competition shall be prescribed by a Ministerial Regulation
  - A patent holder may not require a licensee to pay a royalty or royalties after the validity of the patent has expired
  - Conditions, restrictions, or royalties which are contrary to the above two points are null and void
  - Any assignment or license must be in writing and officially registered

### **1.6 Compulsory Licensing**

An application for a compulsory license may be made under the following circumstances:

1. If, after three years from granting of patent or petty patent or four years from date of application, whichever is later, the patentee or petty patentee has not enforced his/her lawful rights (Section 46 of the Thai Patent Act B.E. 2542).

2. If the exercise of the patent rights of one party (the junior patentee) may infringe another patentee (the senior patentee) provided that:
  - the junior patentee's invention must be a substantial technological advancement which is beneficial to the economy, compared to the invention under the patent for which the license is being sought;
  - the senior patentee receives a cross-license to exploit the junior patentee's patent rights; and
  - the junior patentee shall not assign a legal license to anyone unless it is an assignment together with his own patent (Section 47 and Section 47 *bis* of the Thai Patent Act B.E. 2542).
3. A Ministry or a Department may exploit an exclusive right by itself or by designating another person in a patent for the benefit of public utilities or national defense; the preservation or acquisition of natural resources or the environment; the prevention of severe shortage of food or medicine or other necessities for living; or other public interests (Sections 51 and 52 of the Thai Patent Act B.E. 2542).

### **1.7 Cancellation of Patents**

The Director General may ask the Board of Patents to revoke a patent if:

- (1) two years after issuance of license, the patentee or licensee has not manufactured the product or applied process under the patent in the Kingdom, or for the time being the product is not being sold or imported for sale, or is being sold but at an unreasonable price; or
- (2) the patentee has licensed other persons to exercise the rights in the patent without conforming to prescribed procedures.

### **1.8 Foreign Patents**

A foreign patent that has not been granted a separate patent in Thailand receives no protection under the Patent Act. However, foreign patent holders or owners of rights to inventions or designs in foreign countries may enter into business transactions with parties in Thailand and seek equivalent protection through contractual obligations in the form of a licensing agreement.

Since foreign patents, inventions and designs receive no protection under the Patent Act, no civil or criminal action can be taken against a third party who produces or sells a patented product in Thailand without paying fees to the holder of the foreign patent or who applies in Thailand for a patent on an invention or design already patented in other countries. Nevertheless, legal solutions to such conflicts may be available under separate legislation.

## **2. Copyrights®**

The Copyright Act of 1994 protects literary, artistic works and performance rights by making it unlawful to reproduce or publish such works without the owner's permission.

## 2.1 Works Subject to Copyright

The Copyright Act protects works in the categories of literary work, including computer programs; dramatic, artistic and musical work; audiovisual material, cinematic film, recorded material; disseminated pictures or disseminated sound; or any other works in the fields of literature, science or fine arts.

The Copyright Act protects computer software against reproduction or adaptation, publicity and rental of such software. Algorithms are not protected, however.

The “copyright” as defined by the Act means “the exclusive right to take any action concerning the work created or made by the creator”. The Act also defines the word “creator” as meaning the person who does the work or creates the work, as defined by the Copyright Act.

A copyright belongs to the creator of a work, subject to the following conditions:

- In the case of unpublished work, the creator must be of Thai nationality or reside in Thailand or be a national of or reside in a country which is a member of the Convention on the Protection of Copyright, of which Thailand is a member, provided that the residence at all times or most of the time is spent on the creation of the work
- In the case of published work, the first publication must be made in Thailand or in a country that is a member of the Convention on the Protection of Copyright. In the case where the first publication was made outside Thailand or in a country which is not a member of the Convention, the work created must have been published in Thailand or in a country which is a member of the Convention within 30 days from the first publication, or the creator must have the qualification as prescribed above at the time of the first publication.

In cases where the creator is required to be a person of Thai nationality, and the creator is a juristic person, such juristic person must be established under the Civil and Commercial Code of Thailand.

## 2.2 Copyright<sup>©</sup> Infringement ©

The Copyright Act includes a comprehensive list of the types of infringement covered by law:

Infringement by reproduction -- The Act defines the word “reproduction” as follows: “Reproduction includes copying by whatever means, imitating, duplicating, making printing blocks for, recording the sound of, taking pictures of, or recording the sound and taking pictures in substantial parts of the originals, from copies or from the publication, regardless of whether made in whole or in part.”

Infringement by adaptation -- Adaptation, as defined by the Act, means reproduction by conversion. This involves substantial modification or emulation of the original work without creating a new character.

- With regard to a literary work, it shall include a translation, a transformation or a collection by means of selection and arrangement

- With regard to a computer program, it shall include a reproduction by means of transformation, modification of the program for the substantial part without the appearance of creating a new work
- With regard to dramatic work it shall include the transformation of a non-dramatic work into a dramatic work or dramatic work to a non-dramatic work, whether in the original language or in another language
- With regard to artistic work, it shall include the transformation of a two-dimensional work or a three-dimensional work into a three-dimensional work or a two-dimensional work respectively, or the making of a model from the original work
- With regard to musical work, it shall include an arrangement of tunes or an alteration of lyrics and rhythm

Infringement by publicizing without permission -- It is an infringement of copyright to publicize a work without the consent of the copyright owner. "Publicize" means "present to the public by showing, lecturing, praying, playing, presenting with by sound and/or picture, constructing, distributing, selling, or by other means, the works done or created." The word "public" refers to the person or persons who are present, and not to the place where the performance occurs. A performance will not be regarded as being carried on in public if it is restricted to family and friends of the performer or of whoever is responsible for the performance

Infringement by producing audiovisual material, cinematic film, recorded material or dissemination of sound or picture or by rebroadcasting of sounds and visual images, wholly or in part, or arranging for dissemination of sound or picture in public with commercial purposes

### **2.3 Exceptions**

Under the Act, any act that might ordinarily be deemed copyright infringement may not be so deemed if done for the following purposes:

- Research or education, without any commercial purposes
- For one's own benefit or for the benefit of a member of one's own family, or close relatives
- Comment, criticism or recommendation of the work, with recognition of the copyright ownership of such work
- Presenting news or otherwise reporting through the mass media, with recognition of the copyright ownership of the work
- Reproduction, adaptation, performance or presentation for a court hearing or consideration by competent and authorized officers or for reporting on the outcome of such hearing or consideration
- Copying, duplicating or adapting parts of the work, or making extracts or summaries, by teachers or by educational institutions for the purpose of distributing or selling to students in school classes or in educational institutions, provided that such activities are not for commercial purposes
- Using the work as parts of questions and answers in examinations

In addition, citing, copying or imitating certain parts of the copyrighted works under the Act, with recognition of the copyright ownership of the work, shall not be deemed to be copyright infringement.

The Act also entitles librarians to reproduce works copyrighted under the Act, provided that complete reproduction is not done for commercial purposes.

#### **2.4 Works Not Subject to Copyright under the Copyright Act.**

The Act specifically provides that the following are not deemed eligible for copyright protection:

- Daily news and facts that are, by nature, merely news items
- The Constitution and laws
- Announcements, orders and regulations of ministries, bureaus, departments or any other agency of the state or local jurisdiction
- Court judgments, orders, rulings and official reports
- Translations and collections of those items specified as above which are prepared by government agencies or local administrations

#### **2.5 International Copyrights ©**

The Copyright Act of 1994 protects copyright works of a creator and the rights of a performer of a country party to conventions on copyright protection or conventions on performance rights protection to which Thailand is a party, or for works copyrighted under international organizations of which Thailand is a member.

#### **2.6 Licensing and Assignment of Copyrights**

The 1994 Act provides that a copyright owner is entitled to grant licenses to another person to use or exercise rights with respect to his copyrighted work. The Act requires that an assignment of copyright by means other than inheritance must be made in writing and signed by the copyright owner and the assignee. In the event the assignment is made without specifying the assignment period, the assignment shall be valid for 10 years.

In the event of an assignment of a copyright, the creator of the copyrighted work retains the right to forbid the assignee to distort, delete from, adapt, or act otherwise in any manner against the work if such act would cause damage or injury to the reputation or prestige of the creator.

#### **2.7 Copyright Protection Period**

A copyright in literature, drama, artistry or music is valid throughout the lifetime of the creator, and for an additional 50 years thereafter. In the event the creator is a juristic person, the copyright will be valid for a period of 50 years following the creation of the work. The copyright for applied artistic work is valid for a period of 25 years following the creation of the work.

## 2.8 Penal Provisions

Persons who commit copyright infringement by means of reproduction without permission from the copyright owner may be fined 20,000 to 200,000 baht. If the copyright infringement was committed for business purposes, the offender may face punishment of imprisonment for a term from six months to four years, or a fine from 100,000 to 800,000 baht, or both.

## 3. Trademarks <sup>™</sup>

The Trademark Act of Thailand of 1991, as amended by Trademark Act (No. 2) of 2000, governs registration of and provides protection for trademarks. The Act defines a trademark as a symbol used in connection with goods for indicating that they are the goods of the owner of the trademark. The trademark must be “distinctive” and not identical or similar to those registered by others, and must not be prohibited under the Act.

### 3.1 Registration Procedure

A trademark (service mark, certification mark, collective mark) application must be:

- Completed on an official form in the Thai language, with specimens of the mark attached.
- Filed by the proprietor or his/her agent under a power of attorney, who must have a fixed place of business in Thailand or a contact address which the Trademark Registrar can contact.
- Filed with the Department of Intellectual Property.

According to the Trademark Act, for purposes of instituting legal proceedings relating to trademarks, service marks, certification marks, and collective marks, if the applicant or proprietor of a mark is not domiciled in Thailand, the business office or premises of such person or his/her agent, as stated in the application or recorded on the register, shall be considered the domicile of such person.

If the Trademark Office deems the trademark registrable, and if no opposition to the trademark arises within 90 days of its publication in the official journal, the Trademark Registrar will grant a trademark registration.

### 3.2 Trademark Registration Period

Trademark registration is effective for a period of 10 years from the filing date of the application. The validity term does not include the period of time involved in legal proceedings. Owners of trademarks must file an application for renewal at least 90 days prior to the expiration of their current trademark registration. A renewed trademark will be effective for an additional 10 years.

A trademark may be registered even if it is not being actively used. However, failure to utilize the trademark entitles third parties to challenge the rights of the trademark owner.

Registration of a geographical name as a trademark is quite restrictive, with only two exceptions: the name must not be a well-known geographical name, especially to the Thai public; the mark

has gained recognition among the public through extensive use, proving that the product has been widely distributed and/or advertised under the mark for a long time, to the extent that Thai consumers are familiar with the product and can distinguish it from others.

Registration of marks that are confusingly similar to a well-known mark, regardless of whether it has been registered in Thailand or not, is proscribed.

### **3.3 Penal Provisions for Trademark Infringement**

The owner of a registered trademark has the exclusive right to use the trademark, and may initiate legal action against violators. It is a criminal offense to represent a trademark as registered when it has not been legally registered, or to sell, possess for sale, or bring into the Kingdom objects under such a pretense. This offense is punishable by imprisonment of up to one year or a fine of up to 20,000 baht, or both. Presenting false evidence while registering a trademark is punishable by a term of imprisonment not exceeding six months or a fine not exceeding 10,000 baht, or both.

Anyone who forges another person's trademark, registered in the Kingdom, or who sells, possesses for sale, or brings into the Kingdom objects with a forged trademark, shall be punishable by imprisonment not exceeding four years or a fine not exceeding 400,000 baht, or both.

Anyone who imitates another person's registered trademark in order to mislead the public into believing the imitation mark is that of the registered owner, or who sells, possesses for sale, or brings into the Kingdom objects with an imitated trademark, will be punishable by imprisonment not exceeding two years or a fine not exceeding 200,000 baht, or both. Whoever repeats these offenses within a five-year period is liable to double punishment.

### **3.4 The Board of Trademark Committee**

In 1991, the Board of Trademarks was established to have the power and duties specified hereunder:

- To decide an appeal, order, or decisions of the Registrar under Trademark Act
- To order a withdrawal of the registration of a Trademark, service mark or certification mark
- To give advice to the Minister in the issuance of the Ministerial Regulations on Notifications
- To consider other matters assigned by the Minister

### **3.5 Service Marks, Certification Marks and Collective Marks**

As of February 1992, these variations on trademarks are covered under all the provisions of the Act and, and hence receive the same protection as trademarks under the law. In the case of service marks, all the words "goods" mentioned in the Act's provisions shall mean "services".

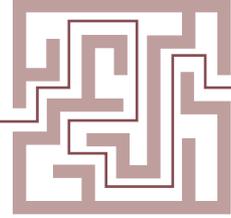
## ***Certification Marks***

Applicants for certification marks must forward a copy of the regulations concerning the use of the certification mark together with the application for registration and demonstrate that they are well qualified to certify the merits of the goods or services.

The owner of a registered certification mark shall not use it for his own goods or services and shall not license any third person to grant certifications to use the mark, although they may license a third person to use the certification mark themselves. If they violate this rule, they are subject to a fine not exceeding 20,000 baht.

The regulations concerning the use of the certification marks must:

- Specify the origin, composition, manufacturing process, quality and other characteristics of the goods and services to be certified
- Include the rules, procedures and conditions in the granting of a license to use the certification mark



## **CHAPTER 5:**

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# **LEGAL ISSUES FOR FOREIGN INVESTORS**

## 1. Foreign Business Act of 1999 and Activities Restricted to Thai Nationals

Thai law regulates the activities in which companies designated as “foreign” may engage in. While some activities are completely prohibited, some may be engaged in with prior approval from a designated government agency, and some do not require any special approval at all.

### 1.1 Definition of a Foreign Company

According to Thai law, a company is foreign if it is registered under the laws of:

- Another country (including all branches, representative offices, and regional offices of overseas companies operating in Thailand)
- Thailand, and 50% or more of its shares are held by non-Thais (individuals or business entities)

The Foreign Business Act of 1999 has identified three lists of activities in which foreign participation may be prohibited or restricted.

Activities stated in List 1 are designated as “businesses not permitted for foreigners to operate due to special reasons”. Foreign companies are completely restricted from engaging in the activities contained in List 1.

Activities stated in List 2 are designated as “businesses related to national safety or security, or affecting arts and culture, traditional and folk handicraft, or natural resources and environment”. Foreign companies may only engage in the activities stated in List 2 with prior Cabinet approval.

Activities stated in List 3 are designated as “businesses [in] which Thai nationals are not yet ready to compete with foreigners”. To engage in activities stated in List 3, the foreign company must apply for and obtain a Foreign Business License prior to commencing the activity.

There are two common exceptions to the above stated rules:

- If the foreign company obtains an exemption from the above stated rule from the Board of Investment or the Industrial Estates Authority of Thailand
- If the foreign company is a US company which qualifies for Treaty of Amity protection

### 1.2 Restricted Business Activities under the Foreign Business Act of 1999

#### **List 1 – Businesses that foreigners are not permitted to engage in for special reasons:**

- Newspaper business, radio-broadcasting station or radio/television business
- Farming, cultivation or horticulture
- Animal husbandry
- Forestry and timber conversion from natural forests
- Fisheries, especially fishing in Thai territorial waters and in specific economic areas of Thailand
- Extracting Thai herbs

- Trade and auction sale of Thai antiques or objects of historical value
- Making or casting Buddha images and alms bowls
- Trading in land

**List 2 – Businesses concerning national security or safety that could have an adverse effect on art and culture, customs, or native manufacture/handicrafts, or with an impact on natural resources and the environment:**

**Group 1 – Businesses concerning national security or safety**

- Manufacturing, distribution, repair or maintenance of:
  - Firearms, ammunition, gunpowder, and explosive materials
  - Components of firearms, ammunition, and explosive materials
  - Armaments, ships, aircraft, or vehicles
  - Equipment, or parts of any type of military equipment
- Domestic land transport, water transport, and air transport, including domestic aviation.

**Group 2 – Businesses that could have an adverse effect on arts and culture, customs, and native manufacturing/handicrafts**

- Trading of antiques or artifacts that are Thai works of art or Thai handicrafts
- Wood carving
- Silkworm rearing, manufacture of Thai silk, Thai silk weaving, or Thai silk printing
- Manufacturing of Thai musical instruments
- Manufacturing of gold-ware, silverware, nielloware, bronzeware, or lacquerware
- Making bowls or earthenware which are of Thai art and culture

**Group 3 – Businesses concerning natural resources and the environment**

- Manufacturing of sugar from cane
- Salt farming, including rock salt farming
- Mining of rock salt
- Mining, including stone quarrying or crushing
- Timber processing for making furniture and utilities

**List 3 – Businesses in which Thais are not ready to compete in undertakings with foreigners:**

- Rice milling and flour production from rice and plants
- Fisheries, specifically breeding of aquatic creatures
- Forestry from re-planting
- Production of plywood, veneer, chipboard or hardboard
- Production of lime
- Accountancy
- Legal services
- Architecture
- Engineering

- Construction, except:
  - Construction of infrastructure in public utilities or communications requiring tools, technology or special expertise in such construction, except where the minimum foreign capital is 500 million baht
  - Other construction, as prescribed in regulations
- Agency or brokerage, except:
  - Brokerage or agency of securities or service related to agricultural commodities futures or financial instruments or securities
  - Brokerage or agency for the purchase/sale or procurement of goods or services necessary to production or providing services to affiliated enterprises
  - Brokerage or agency for the purchase or sale, distribution or procurement of markets, both domestic and overseas for the distribution of products made in Thailand, or imported from overseas in the category of international business, with minimum foreign capital of not less than 100 million baht
  - Other brokerage or agency activities, as stipulated in regulations
- Auctioneering, except:
  - Auctioneering by international bidding, not being auctions of antiques, ancient objects or artifacts that are Thai works of art, Thai handicrafts or antique objects, or with Thai historical value
  - Other types of auctioneering, as stipulated in regulations
- Domestic trade in local agricultural products not prohibited by law
- Retailing, unless not less than 100 million baht capital is invested, which allows for up to 5 retail outlets; additional stores require a capital increase of 20 million baht per store.
- Wholesaling, unless the capital is not less than 100 million baht
- Advertising
- Hotel operation, excluding hotel management
- Tourism
- Sale of food and beverages
- Planting and culture of plants
- Other services, except those exempted under ministerial regulations

“Other service businesses” stated in List 3 effectively serves as a “catch-all” service category. If the foreign company is to provide a service, not otherwise contained in List 3, the company must still apply for and obtain a Foreign Business License prior to commencing operation. This category includes the business activity of leasing both fixed and non-fixed assets. Additionally, the activities in which representative offices and regional offices are allowed to engage in are all services that fall under this category.

Also, note that special rules apply if the foreign company plans to engage in the activities of “retail sale of goods” or “wholesale sale of goods”. Both of these activities are contained in List 3; therefore, in order for a foreign company to engage in either of these activities the company must first apply for and obtain a Foreign Business License.

Thai law, however, grants narrow exceptions to the Foreign Business License requirement for those foreign companies seeking to engage in retail selling and/or wholesale selling.

For a foreign company to engage in the activity of retail selling, the exception is that if the company has a registered capital of 100 million baht (fully paid up) or more, and capital for each additional retail store of 20 million baht or more, the company is exempt from the Foreign Business License requirement.

For a foreign company to engage in wholesale selling, the exception is that if the company has 100 million baht capital or more for each of its wholesale stores, the company is exempt from the Foreign Business License requirement.

There is a catch-all promotional category named “Trade and Investment Support Office” (TISO) which permits a variety of services, including monitoring/servicing affiliates, consultancy services, engineering and technical services, and activities related to machinery, engines, tools and equipment such as training installation, maintenance and repairs, calibration, and software design and development. There is a condition of sales and administration expenses of at least Baht 10 million per year. TISO is not qualified for tax benefits.

### **1.2.1 Foreign Business License Application**

As stated above, foreign companies seeking to engage in List 3 activities are required to apply for and obtain a Foreign Business License prior to commencing operations.

The Foreign Business Act sets forth the process by which the Foreign Business Committee (“Committee”) reviews the application. It states that the Committee is required to rule on the application within 60 days of submission. However, practically speaking, the application process has two distinct steps. The first is the process by which the presiding official at the Ministry of Commerce (MOC) accepts the application for review by the Committee, and the second is the Committee’s actual review of the application.

#### ***Acceptance by the MOC Official***

An application for a Foreign Business License is submitted to the MOC together with all required documents and information. The presiding MOC official charged with accepting the application normally will not do so until he is satisfied that all documents are in order. Sometimes the official will perform the preliminary inspection upon presentation, but usually he will require the person submitting the application to leave it for later inspection. The time frame for the official’s review of the application is not specified by statute.

In order to avoid these delays, make sure that the person designated to submit the application is familiar with the intended operations of the company to respond on the spot to the official’s questions regarding the application. In the case that the official requests additional documents and/or information, make sure the designated person supplies those documents in a timely fashion.

## ***Review by the Board***

Once the official accepts the application and issues a receipt, the 60-day consideration period begins. Factors considered by the Committee when reviewing applications are:

- The advantages and disadvantages to the nation’s safety and security
- Economic and social development
- Public order, good morals, art, culture and traditions of the country
- Natural resources, conservation, energy and environment, consumer protection, size of the enterprises, employment
- Technology transfer and research and development

Technology transfer and research and development (R&D) are probably the most important. In 2004, the Ministry issued a document advising foreign investors on how they should describe technology transfer in the license application. Technology here is not just limited to R&D and use of sophisticated equipment, but also specifically includes “administration, management and marketing”. In addition, any planned programs the company has with Thai universities are taken under consideration by the committee.

In the event the Foreign Business License application is rejected, the law requires that the MOC inform the applicant within 15 days of the decision. The notification of rejection must be in writing and expressly state the reasons why the application was rejected.

If the application is rejected, the applicant has the right to appeal the decision. The appeal must be submitted within thirty days of the date on which the applicant received the rejection notice. The Minister of Commerce is required to rule on the appeal within thirty days of receipt.

## **2. Work Permits**

The Alien Occupation Law, adopted in 1973, requires all aliens working in Thailand to obtain a work permit prior to starting work in the Kingdom. An updated version of the Act, adopted in 1978, describes the procedures for issuance and maintenance of work permits and lists certain occupations from which foreigners may be excluded.

### **2.1 Exemptions**

The Act grants exemptions from the work permit requirement to persons occupying the following professions:

- Members of the diplomatic corps
- Members of consular missions
- Representatives of member countries and officials of the United Nations and its specialized agencies
- Personal servants coming from abroad to work exclusively for persons listed under the above items
- Persons who perform duties on missions in the Kingdom under an agreement between the government of Thailand and a foreign government or international organization

- Persons who enter the Kingdom for the performance of any duty or mission for the benefit of education, culture, arts, or sports
- Persons who are specially permitted by the Thai Government to enter and perform any duty or mission in the Kingdom

## **2.2 Special Cases**

While most foreigners must apply for a work permit, and may not begin work until the permit is issued, the Alien Employment Act does provide special treatment in the following circumstances:

### ***Urgent and Essential Work***

Exemption from work permit requirements is granted to foreigners who enter the Kingdom temporarily, but in accordance with the immigration law, to perform any work of any “urgent and essential nature” for a period not exceeding 15 days. However, such aliens may engage in work only after a written notification on a prescribed form, signed by the foreigner and endorsed by his employer, has been submitted to and accepted by the Director-General or his designee.

Foreigners entitled to this treatment may enter Thailand with any kind of visa, including a transit visa. The term “urgent and essential work” is not explicitly defined and consequently, the issuance of this sort of exemption is a matter of administrative discretion.

### ***Investment Promotion***

An alien seeking permission to work in the Kingdom under the Investment Promotion Law must submit an application for a work permit within 30 days of notification by the BOI that the position has been approved. An alien in this category may engage in authorized work while the application is being processed.

## **2.3 Procedures**

The Act requires that any alien working in Thailand must obtain a work permit before beginning work. Section 8 of the Act stipulates that while a prospective employer may file an application on the alien’s behalf in advance of his commencing work, the actual work permit will not be issued until the alien has entered Thailand in accordance with the immigration laws and has presented him or herself to receive the work permit.

The permit initially will be valid only for the period the alien’s Non-Immigrant visa gives permission to remain in Thailand under the immigration law. The work permit will be subject to renewal in accordance with the renewed or extended visa. For aliens who are holders of a Thai Certificate of Residence, the work permit can be renewed annually. The Labor Department, subject to subsequent renewal, will in principle grant an initial duration of one year for the work permit. A work permit must be renewed before its expiry date or it will lapse.

Applicants for work permits may not enter the Kingdom as tourists or transients.

## 2.4 Required Documentation

The following documents must be attached to a work permit application:

- For non-permanent residents: A valid passport containing a Non-Immigrant visa (except for WP 3 applications)
- For permanent residents: A valid passport, residence permit and foreigner book (except for WP 3 applications)
- Evidence of applicant’s educational qualifications and letter(s) of recommendation from the former employer, describing in detail the applicant’s past position, duties, performance and place and length of employment. If the documents are in a language other than English, a Thai translation certified as correct by a Thai Embassy (if abroad) or Ministry of Foreign Affairs (if in Thailand) must be attached
- A recent medical certificate from a first-class licensed physician in Thailand stating that the applicant is not of unsound mind and not suffering from leprosy, acute tuberculosis, elephantiasis, narcotic addiction or habitual alcoholism (except for WP 7 applications).
- Three 5x6 cm. full-faced, bareheaded, black and white or color photographs, taken no more than six months prior to the filing of the application
- If the application is to be filed by another person, a valid power of attorney in the prescribed form must be attached with a 10 baht duty stamp
- On the application form, the “job description” entry must be completed with a detailed statement as to what job is expected to be performed, how it is related to other people, and what materials will be used in the work (additional paper to be used if necessary)
- If the job applied for is subject to a license under a particular law, in addition to the Alien Occupation Law, a photocopy of such license, (e.g. teacher’s license, physician’s license, press card from the Public Relations Department, certificate of missionary status from the Office of Religious Affairs, etc.) shall be attached
- If the applicant is married to a Thai national, the original and photocopies of the following must be presented:
  - Marriage certificate, spouse’s identity card, birth certificates of children, household registration, and photocopy of every page of applicant’s passport
- If the job being applied for is not in Bangkok, the application should be filed at the relevant province’s Department of Employment, or in the absence of such an office, at the province’s city hall
- Additional evidence as requested. It may be necessary to translate any or all documents into Thai

## 2.5 Permitted Activities

Thai law prohibits employers from allowing foreigners to perform any function other than that described in the foreigner’s work permit. Employers must report changes in employment, transfers and termination of all foreigners in their organization within 15 days of any such action. In cases of dismissal, foreigners must return their work permit to labor authorities in Bangkok at the Alien Occupation division or, if they are in a provincial area, to the province’s Department of Employment. Failure to do so will result in a fine of up to 1,000 baht.

Any foreigner engaging in work without a work permit, or in violation of the conditions of his work as stipulated in his permit, may be punished by a term of imprisonment not exceeding three months or a fine of up to 5,000 baht, or both. Foreigners engaged in work prohibited to them by Royal Decree (see below) shall be liable to imprisonment for a term not exceeding five years or to a fine ranging from 2,000 to 100,000 baht, or both. An employer who permits a foreigner to work in his organization without a work permit or to act in violation of the nature of the work specified in the permit may be punished with imprisonment not exceeding three years or fined up to 60,000 baht or both.

Permit holders must obtain prior permission to change their occupation and/or place of work. Change of employer location or the residential address of the permit holder must be properly endorsed in the work permit by the labor authorities. The Alien Employment Act does not prevent a foreigner from engaging in work in more than one field or for more than one employer.

## **2.6 Restricted Occupations**

A Royal Decree in 1973 listed 39 occupations and professions that were then prohibited to foreigners. This list has been amended on several occasions by subsequent Royal Decrees, the latest one in 1979.

- Labor
- Work in agriculture, animal breeding, forestry, fishery or general farm supervision
- Masonry, carpentry, or other construction work
- Wood carving
- Driving motor vehicles or non-motorized carriers, except for piloting international aircraft
- Shop attendant
- Auctioneering
- Supervising, auditing or giving services in accounting, except occasional international auditing
- Gem cutting and polishing
- Hair cutting, hairdressing and beautician work
- Hand weaving
- Mat weaving or making of wares from reed, rattan, kenaf, straw or bamboo pulp
- Manufacture of manual fibrous paper
- Manufacture of lacquerware
- Thai musical instrument production
- Manufacture of nielloware
- Goldsmith, silversmith and other precious metal work
- Manufacture of bronzeware
- Thai doll making
- Manufacture of mattresses and padded blankets
- Alms bowl making
- Manual silk product making
- Buddha image making
- Manufacture of knives
- Paper and cloth umbrella fabrication

- Shoemaking
- Hat making
- Brokerage or agency work, except in international business
- Dressmaking
- Pottery or ceramics
- Manual cigarette rolling
- Legal or litigation service
- Clerical or secretarial work
- Manual silk reeling and weaving
- Thai character type setting
- Hawking business
- Tourist guide or tour organizing agency
- Architectural work
- Civil engineering work

### 3. Visas and Immigration Law

All persons, other than those in transit and citizens of certain countries, are required to obtain a visa in order to enter Thailand. Foreign nationals who intend to remain in Thailand to work or conduct business must comply with visa requirements in addition to obtaining a work permit.

#### 3.1 Visa Categories

The Immigration Act of 1979 as amended in 1980 establishes the following visa categories:

- Tourist
- Visitor transit
- Immigrant
- Non-quota immigrant
- Non-immigrant

**Note:** Transit, visitor transit and tourist visa holders are not authorized to work in Thailand.

**Tourist:** Tourist visas are initially valid for 60 days and are renewable at the discretion of the Immigration Department. Renewals are normally granted for periods up to 30 days at a time.

**Visitor Transit:** Foreigners who have obtained a transit visa from a Thai Embassy or consulate will be granted a 30-day stay in the Kingdom. Extensions of stay are normally granted for periods of 7-10 days.

In addition, nationals of 40 countries and 1 special administrative region – Hong Kong SAR – will be able to enter Thailand without a visa and may remain for 30 days per visit. Foreigners who enter the Kingdom under the Tourist Visa Exemption category may re-enter and stay in Thailand for a cumulative duration of stay of not exceeding 90 days within any 6-month period from the date of first entry. A list of the 40 countries and one special administrative region can be found at <http://www.mfa.go.th/web/2482.php?id=2490>

**Non-quota immigrant:** This category includes former residents who have lost their resident status but who have reapplied to resume their residency and who have been able to demonstrate a convincing reason to support the granting of this type of visa.

**Non-Immigrant Visa:** Foreigners who seek a prolonged stay, or those coming to work in Thailand, should obtain non-immigrant visas for all family members prior to entering the Kingdom. This visa has several categories:

- Diplomatic visa (D) for those employed by an embassy
- Business visa (B) for those conducting business in the Kingdom
- Mass media visa (M) for accredited business or press representatives
- Expert visa (EX) for those performing skilled or expert work
- Investor visa (IM) for those who set up their companies under the BOI
- Study/education visa (ED) for teachers and those here to study/observe
- Official visas (F) for those performing official duties involving the Thai government
- Missionary visa (R) for those performing missionary work
- Science visa (RS) for those doing scientific research or training, or studying in an educational institution in the Kingdom
- Sports visa (S) for those participating in an officially recognized sports event
- Dependent visa (O) for those who are here as dependents

Advantages of a Non-Immigrant visa include:

- Entitlement of the holder to apply for a multiple re-entry visa to Thailand from the Immigration Division in Bangkok
- Subject to the regulations of the Immigration Authorities, entitlement of the holder to apply for permanent residence in Thailand
- Eligibility for issuance of a work permit to the holder
- Eligibility for temporary visa renewal while processing issuance of a long-term annual visa.

Foreigners are advised to strictly adhere to the rules governing each visa category. They should report any changes of address or status to local police within 24 hours.

In addition, foreigners residing in Thailand for more than 90 consecutive days are required to register their address with the Immigration Bureau every 90 days. This requirement applies to all foreigners, including holders of work permits and long-term visas. Failure to do so can result in substantial penalties.

Transit, Visitor Transit, Tourist and Non-Immigrant Visas are issued only for the following purposes and duration:

- Diplomats or consular missions (duration as necessary)
- Official missions (duration as necessary)
- Tourism (90 days)
- Sports (30 days)
- Business purposes (one year)
- An investment that has received authorization from the appropriate government authorities (two years)

- Investment or other business in connection with investment under the Investment Promotion Act (as determined by the BOI)
- Transit (30 days)
- The controller or crew of a conveyance entering a port or other locality in the Kingdom (30 days)
- Work as a skilled laborer or specialist (one year).

In response to feedback from investors, the BOI coordinated the establishment of a One-Stop Service Center for Visas and Work Permits. Through joint cooperation with the Immigration Bureau and the Ministry of Labor, the center can process applications or renewals of visas and work permits within three hours, upon receipt of proper and complete documentation.

In addition, the center handles other transactions, including the issuance of multiple reentry stamps, changes in class of visa (to non-immigrant from tourist or transit), and payment of fines.

The One-Stop Service Center is located at Rasa Tower 2, 555 Phaholyothin Road, 16th Floor, Bangkok, and it may be reached by phone at 02 937 1155 or by fax at 02 937 1191.

Work permits, which are valid for the period of the visa, have to be renewed every year. When an individual applies for a renewal of visa, he or she has to show that taxes for the previous year have been paid.

Foreigners may also apply for permanent residence permits for Thailand under certain conditions, such as investment in a business, or a condominium. Applications can be made to either the BOI or the Immigration Department.

Members of the diplomatic or consular corps, foreigners coming to perform their duties in Thailand with the approval of the Thai Government, foreigners performing their duties in Thailand under an agreement between the Thai Government and a foreign government, heads of international organizations or agencies operating in Thailand, and dependents of all the aforementioned persons, including private servants of members of the diplomatic corps, are exempted by the Act from the normal visa requirements.

## **4. International Banking Facilities**

### **4.1 International Banking Facilities (IBF)**

On September 16, 1992, the Ministry of Finance and the Bank of Thailand established rules and conditions for commercial banks to establish international banking facilities in Thailand. The annual fee is 500,000 baht. A commercial bank that receives a license will be able to undertake international banking facilities (IBF) business for:

- Offshore Lending
  - Accepting deposits or borrowing from abroad in foreign currencies from foreign nationals or juristic persons who have no establishment in or business with Thailand. An exception is made for receiving money from foreign banks that have a branch or

representative office in Thailand, from foreign branches of Thai commercial banks, and from the Ministry of Finance, the Bank of Thailand, or the Exchange Equalization Funds. These foreign currencies may be lent abroad, to other IBF businesses, and to the Ministry of Finance, the Bank of Thailand and the Exchange Equalization Funds.

- Acceptance of deposits or borrowing of offshore baht funds from offshore banks, foreign branches of Thai commercial banks and other IBF. These funds may be lent to foreign banks, foreign branches of Thai commercial banks, or other IBF businesses.
- Local Lending
  - Acceptance of deposits, or borrowing from abroad in foreign currencies from foreign natural or juristic persons who have no establishment in or business with Thailand, foreign branches of Thai commercial banks, and other IBFs to lend foreign currencies in Thailand. However, each withdrawal and disbursement must be of an amount not less than US\$2,000,000 except in one of the following two cases, where the minimum disbursement is US\$500,000:
    - An exporter who has income from exports in excess of 50% of all income during the last accounting period
    - An exporter who has goods and services that are sold to an exporter who meets the above condition
- Other Related Business
  - Cross-currency transactions with overseas customers, other IBF businesses, the Bank of Thailand, the Ministry of Finance, the Foreign Equalization Funds, banks licensed under the foreign exchange control laws, or local customers to whom such IBF businesses have lent foreign currencies
  - Giving acceptance or guarantee against any debts in foreign currencies when either:
    - The bank is licensed under the foreign exchange control laws; or
    - The parties involved reside outside of Thailand
  - All matters dealing with letters of credit in cases where the buyer and the seller of goods involved with the letter of credit purchasing agreement both reside abroad and the goods involved in the agreement have not been either exported out of or imported into Thailand.
  - Procuring, or managing the loan syndication procurement of foreign currency loans from foreign sources to those requiring loans in foreign currencies
- Other Unrelated Business

Commercial banks licensed to undertake IBF businesses may also:

- Invest directly or indirectly in common stocks, preferred stocks or warrants of juristic persons registered abroad that are made according to debt restructuring in accordance with Bank of Thailand regulations.
- Provide news, financial and general economic information
- Prepare or analyze investment projects
- Advise in the purchase, merger or amalgamation of businesses
- Give financial advice
- Arrange or underwrite debt instruments issued for sale abroad. If the debt instruments are issued from Thailand, this must be undertaken in conjunction with the IBF business of a commercial bank registered in Thailand.

However, these activities must be separated from the accounts of the IBF business as if the commercial bank were a separate juristic person.

#### **4.1.1 Revocation of Tax Incentives of Bangkok International Banking Facilities (BIBF)**

Previously, corporate income tax reductions and exemptions were granted to BIBF businesses. However, in view of the improved economy, tax privileges have been revoked. Thus, there will be no BIBF business for commercial banking.

Nevertheless the law still provides tax privileges to the out-out business, which will operate under normal commercial banking business. The tax privileges are as follows:

- A reduction of corporate income tax to 10% of net profit
- Tax exemption on personal income tax and corporate income tax on interest on loans and interest on deposit received for out-out business to non-Thai individuals who are not residents of Thailand, juristic companies organized under foreign laws and not carrying on business in Thailand and foreign banks
- Tax exemption on profit remittance under Section 70 bis
- CIT exemption for arrangement fees received for the arrangement of a syndicated loan. However, the exemption will be granted only if it meets the criteria, methods and procedures under a notification of the Director-General of the Revenue Department. (Currently, no notification has been issued by the Director-General)
- SBT and stamp duty exemption

Although the tax incentives for BIBF have been revoked, the law provides for an extension period for a further three years for tax incentives previously granted to a lender or depositor who has provided funding to the BIBF.

#### **4.2 Conditions for Participating in IBF**

The Bank of Thailand stipulates that IBF must be separate from other banking business – as if it were a separate juristic person. The IBF business in offshore lending must be separate from the IBF business in local lending, and the IBF business in local lending cannot transfer or raise funds to the IBF for offshore accounts. Customers of IBF must provide their actual names, addresses and information for correspondence, and the names on the accounts must be the actual names of customers.

### **5. Exchange Control**

The Exchange Control Act, B.E. 2485 (A.D. 1942), as amended, governs all matters involving foreign exchange. As a rule, all matters involving foreign currency are regulated by, and require the permission of, the Bank of Thailand. Since May 22, 1990, however, foreign exchange control has been considerably relaxed by the Bank of Thailand. At present, certain transactions in Thai baht or foreign currency can be performed virtually without restriction, and only a few require approval from the Bank of Thailand.

## **5.1 Importation of Funds**

### ***Non-residents***

Individuals in transit may normally bring foreign currency and negotiable instruments into Thailand without limit. They may also freely take out of the country all foreign currency they had brought in, without limit. Individuals in transit, however, may not take out Thai currency exceeding 50,000 baht per person except for trips to Myanmar, Laos, Cambodia, Malaysia and Vietnam, where an amount of up to 500,000 is allowed. There is no restriction on the amount of Thai currency that can be brought into the country.

### ***Residents***

There is no restriction on the amount of foreign currency a resident may bring into Thailand. However, all such currency must be sold to, or deposited into a foreign currency account in, a commercial bank within seven days of receipt or entry into the country.

### ***Investors***

There is no restriction on the import of foreign currency, such as investment funds, offshore loans, etc. Such foreign currency, however, must be sold or exchanged into Thai Baht, or deposited into a foreign currency account with an authorized bank, within seven days from the date of receipt or entry into the country. An application form F.T. 3 or F.T. 4 must be submitted to an authorized bank for each transaction involving the sale, exchange, or deposit such funds in an amount exceeding US\$5,000 or its equivalent.

## **5.2 Repatriation of Funds**

### ***Foreign Currency Accounts of Thai Residents***

Thai individuals and juristic person in Thailand may maintain foreign currency accounts under the following conditions:

- The accounts are opened with authorized banks in Thailand and deposited with funds that originate from abroad or from foreign currency borrowing.
- The depositor must submit evidence showing their obligations to pay in foreign currency to persons abroad, authorized banks, the Export and Import Bank of Thailand or the Industrial Finance Corporation of Thailand within three months from the date of deposit. The depositor can deposit no more than the amount of the above obligations.
- The deposit of foreign currency notes and coins must not exceed US\$2,000 per day.
- Debits to the accounts are permitted for payment of any external obligations upon submission of supporting evidence or for conversion into baht at authorized banks.
- The total daily outstanding balances in all accounts must not exceed US\$5,000,000 for a juristic person and US\$500,000 for an individual.

### ***Foreign Currency Accounts for Non-Thai Residents***

Non-residents can open and maintain foreign currency accounts with authorized banks in Thailand. The deposits must come from funds originating abroad. Balances on such accounts may be transferred without restrictions.

### ***Non-Resident Baht Account***

Non-residents may open an account with any authorized bank in Thailand provided they show proof of identity, such as a valid passport. They may freely credit the account with:

- Proceeds from the sale of foreign currency that originated from abroad or foreign currencies from non-residents' foreign currency accounts
- Amounts transferred from other non-resident baht accounts
- Obligations between residents and non-residents

### ***Imports***

Importers may freely purchase or draw foreign exchange from their own foreign currency accounts for import payments.

### ***Exports***

Exports are free from any foreign exchange restrictions. However, proceeds of exports valued at more than 500,000 Baht or its equivalent per transaction must be received within 120 days from the date of export and must be surrendered to an authorized bank or deposited in a foreign currency account with an authorized local bank within seven days of receipt.

Free restrictions are permitted for items of a non-capital nature, such as service fees, interest, dividends, profits and royalties, provided supporting documents are presented to an authorized bank. Travelling expenses or educational expenses of residents are also freely permitted on submission of supporting evidence. Proceeds from invisibles must be surrendered to an authorized bank or deposited in a foreign currency account with an authorized bank in Thailand within seven days of receipt.

## **6. Stock Exchange of Thailand**

The Stock Exchange of Thailand (SET) is Thailand's stock exchange in Thailand. It was established in 1974 and is supervised by a Board of Governors. The Board consists of 11 Governors, with five appointed by the Securities and Exchange Commission (SEC), five elected by the SET member companies, and a full time president, who is appointed by the Board and serves as an ex-officio Board member.

The SET considers applications from companies requesting listing on the Exchange, including ensuring applicants meet requirements as well as submit the correct documentation. It has also established information disclosure requirements for listed companies and monitors all trading activities involving listed securities. The Exchange's regulations strictly prohibit insider trading and price manipulation of listed securities.

Net clearing and book entry settlement are services handled by the Thailand Securities Depository Co., Ltd. (TSD), a subsidiary of the SET. The SET lists a wide range of equity and debt instruments. Listed securities include ordinary shares, preferred shares, bonds and debentures, warrants, covered warrants, derivative warrants and unit trusts.

## **6.1 SET Members**

Currently, the SET has 39 member companies. Member companies must be securities companies permitted by the Ministry of Finance to conduct securities business in the category of securities brokerage.

## **6.2 SET Listed Companies**

All listed companies are publicly limited firms. Becoming a listed company not only allows a firm to gain access to development capital, but also allows shareholders to benefit from investment liquidity and enjoy dividend income as a result of revenue or profit growth at the companies they invest in.

## **6.3 Foreign Shareholding Limits**

On 3 March 2000 the Foreign Business Act B.E. 2542 (1999) came into effect to relax foreign ownership limits in certain industries, including securities industries. As a result, a securities company with foreign investors holding up to 100% shareholding may engage in the security brokerage business without any restrictions. However, if the securities company operates any other type of securities business, such as dealing, underwriting, investment advisory services, mutual fund or private fund management and securities lending and borrowing, such company must seek approval from the Director General of Commercial Registration Department, Ministry of Commerce.

## **6.4 The Securities and Exchange Commission (SEC)**

The SEC was established on the promulgation of the Securities and Exchange Act B.E. 2535 in 1992 with the objective of developing and supervising the Thai capital market in a fair, efficient and transparent manner. This includes the primary market, the secondary market, securities businesses, market participants and the prevention of unfair securities trading practices. Further information about the SEC is available on its website at [www.sec.or.th](http://www.sec.or.th)

## **7. Land Ownership**

In general, non-Thai businesses and citizens are not permitted to own land in Thailand unless the land is on government-approved industrial estates. However, companies that are more than 50% Thai-owned may legally own land.

An exception to the rule relates to projects approved by the Board of Investment. A promoted company with 50% or more of its shares held by foreigners may apply for land ownership by submitting the appropriate forms to the Office of the Board of Investment (OBOI). Once the land acquisition is approved, the OBOI will send a letter of approval to the applicant and will notify the Department of Land or the provincial governor.

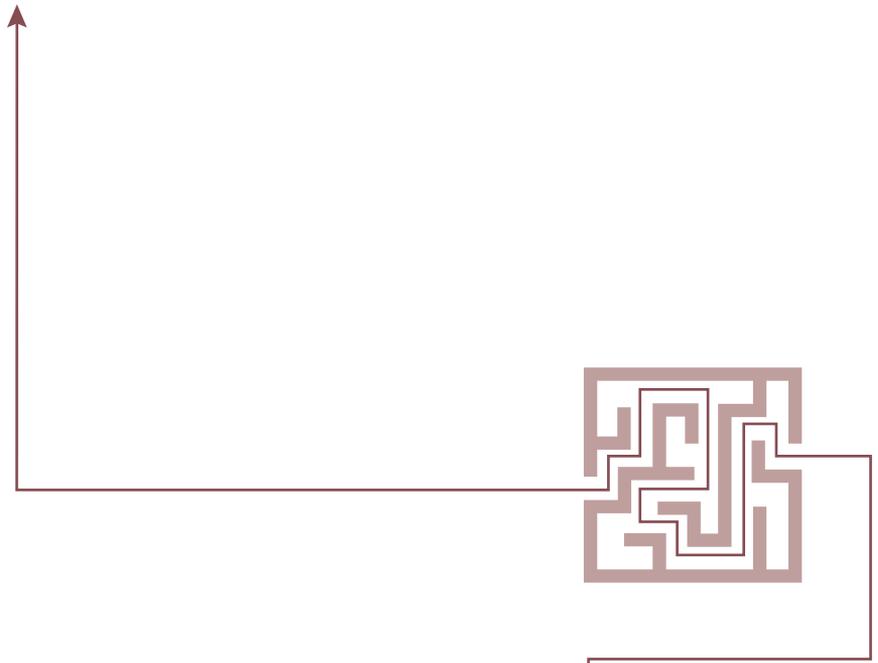
In addition to projects approved by the Board of Investment, petroleum concessionaires may own land necessary for their activities.

Under the 1999 amendment to the Land Code, foreigners who invest a minimum of 40 million baht are permitted to buy up to 1,600 square meters of land for residential use, with the permission of the Ministry of Interior.

Foreigners are also permitted to own buildings on land that is leased, because there are no restrictions on building ownership. Foreigners can, thus, lease land and build on it and are permitted to own the structure.

Foreign individuals and foreign companies are allowed to hold title to condominium units in buildings that qualify. The general rule is that foreigners may own no more than 49% of the total units in the building at any one time. If the proposed transfer would cause the building to exceed 49% foreign ownership it would violate the above rule, and the official would reject the transfer. There are exceptions to this rule for condominium buildings in Bangkok and Pattaya. Condominium buildings in those cities, if they satisfy certain requirements, are not subject to the 49% rule stated above.

Thailand does not yet have a requirement for an escrow account to protect the interests of the purchaser of properties, although under the Escrow Act of May 21, 2008, an escrow account may be voluntarily entered into by the contracting parties. Only commercial banks and finance companies under the law governing financial institutional business, and banks established under a specific law may operate as escrow agents. A new Condominium Act significantly protects the interest of the buyers.



**CHAPTER 6:**  
**LABOR ISSUES AND IMPORTANT ADDRESSES**

## 1. Labor Regulations

Employment legislation has a direct bearing on labor practices for each type of business. Investors should seek appropriate advice to determine which legislation applies to their line of business.

### 1.1 Labor Protection

Workers in Thailand are protected by the Labor Protection Act B.E. 2541 (1998), the Labor Protection Act B.E. 2551 (2008), the Labor Relations Act (No. 2) B.E. 2518 (1975), and other related laws. These laws apply to all businesses with at least one employee. Employers who disregard these laws are subject to heavy fines and possible imprisonment of up to one year. It should be noted that domestic workers (household staff) are not included in the definition of "employee" and are not covered by the Labor Act. All other employees, whether full or part time, seasonal, casual, occasional or contract, are covered.

Important protections contained in the law are:

– **Work Hours and Holidays:** The maximum number of hours for non-hazardous work is nine hours a day and 48 hours per week. In some types of work as stipulated by law, the employer and the employee may agree to arrange the period of working hours, but it still must not exceed 48 hours a week. Hazardous work may not exceed seven hours a day, or 42 hours per week. Employees are entitled to no fewer than 13 national holidays per year, as well as a minimum of six days of annual vacation after working consecutively for one full year. Employees have the choice of whether they wish to work overtime or on holidays. A female employee is entitled to maternity leave for a period of 90 days including holidays, but paid leave shall not exceed 45 days

All employees are entitled to a daily rest period of at least one hour after working five consecutive hours. The employer and the employee may arrange the daily rest period to be shorter than one hour at each time, but it must not be less than one hour a day in total. A weekly holiday of at least one day per week at intervals of a six-day period must be arranged by the employer.

For work performed in excess of the maximum number or working hours fixed either by law or by specific agreement (if the latter is lower), employees must be paid overtime compensation. The rates for overtime vary and range from 1-1/2 times to three times the normal hourly wage rate for the actual overtime worked. The maximum number of overtime working hours is limited to not more than 36 hours a week.

The minimum age for employment is 15 years, and workers below the age of 18 are banned from dangerous and hazardous jobs. They are also prohibited from working overtime, on holidays, or between the hours of 10 p.m. and six a.m. A pregnant employee is also prohibited from working overtime, on holidays, or between the hours of 10 p.m. and 6 a.m. However, if she works in an executive position, or performs academic, administrative, and/or work relating to finance or accounts, a company may assign her to work overtime on a working day with her consent insofar as it does not affect the health of the pregnant employee.

– **Sick Leave:** Employees can take as many days of sick leave as necessary, but if an employee takes three months of sick leave, the employer is required to pay only one month's wages. The employer may require the employee to produce a certificate from a qualified doctor for a sick leave of three days or more.

– **Severance Pay:** Employees who have worked more than 120 days but less than one year are entitled to 30 days severance pay. For personnel employed between one and three years, the severance pay is not less than 90 days pay. Employees with three to six years of service will receive six months' salary, those with more than six to 10 years service will receive eight months salary, and employees with more than 10 years service will receive 10 months' salary

– **Termination of employment:** Conditions for termination of employment are laid out in the Act, and a code governs unfair practices and unfair dismissals, which often are the result of the failure to follow correct legal procedures. Employee associations and labor unions must be registered at the Labor Department, and require a license for operation. Finally, a Labor Court specifically settles employment disputes. If an employment contract does not specify any duration, either party can terminate the contract by giving notice at or before any time of payment, to have effect in the next pay period.

– **Employee Welfare Fund:** For companies with at least 10 employees that do not have a provident fund, an Employee Welfare Fund will be established to compensate employees who resign, are laid off, or die in service. Employers and employees will be required to contribute to this fund.

In addition to these provisions, there are restrictions on the kind of work that women and children can perform. Guidelines are set for wages and overtime, as well as resolution of labor-management disputes. Employers are required to pay workers compensation if an employee suffers injury, sickness or death in the course of work. Thai law also requires employers to provide welfare facilities, including medical and sanitary facilities.

### 1.1.1 Workmen's compensation

The Compensation Act prescribes that an employer must provide the necessary compensation benefits for employees who suffer injury or illness or who die as a result or in the performance of their work at the rates prescribed by law. The compensation benefits can be grouped into four categories: The compensation amount, the medical expenses, work rehabilitation expenses, and funeral expenses.

The payment of compensation benefits is made in accordance with the criteria and rates prescribed by law depending on the seriousness of the case. In general, the compensation amount must be paid monthly at the rate of 60% of the monthly wages of the employee but not lower than 2,000 baht and not exceeding 9,000 baht a month.

Actual and necessary medical expenses must be paid but not exceeding 35,000 baht for normal cases and 50,000 baht for serious injury. The work rehabilitation expenses must be paid as necessary according to the criteria procedures and rates prescribed by law but not exceeding 20,000 baht. In the case of death, funeral expenses will be paid at a maximum amount equal to 100 times of the minimum daily wage rate prescribed by law.

### **1.1.2 Social Security**

The Social Security Act requires that all employers withhold social security contributions from the monthly wages of each employee. The prescribed rate is currently 5% for the first 15,000 baht of salary. The employer is required to match the contribution from the employee. Both contributions must be remitted to the Social Security Office within the 15th day of the following month.

Employees with social security registration may file claims for compensation in case of injury, illness, disability or death that is not due to the performance of their work, and for cases of child delivery, child welfare, old age pension and unemployment.

### **1.1.3 Ceasing Operations Temporarily**

When employers adopt this measure in Thailand, they can pay wages at a 25% reduced rate to affected employees. Lacking understanding of the law can result in court proceedings and the risk of a court order revoking the measure of “temporary cessation of operations.”

For the conditions on adopting this measure, consult Section 75 of the Labor Protection Act. Furthermore, situations arising from events deemed to be a “force majeure”, which result in the employer not being able to operate at all, may enable the employer to withhold all wages from employees.

### **1.1.4 Termination of Employment**

If an employment contract does not specify any duration, either party can terminate the contract by giving notice at or before any time of payment, to take effect in the next pay period. An employee may be dismissed without due notice and severance pay if the employee:

- Is dishonest in his duties or intentionally commits a criminal act against the employer
- Intentionally causes the employer to suffer losses
- Performs an act of gross negligence which causes the employer to suffer severe losses
- Violates the employer’s work rules, regulations or lawful orders, and the employer has already given a written warning (except for serious offences for which the employer is not required to give warning). Note that the written warning shall be effective for a period of one year from the date of the commission of the violation of the employee.
- Neglects his duties for a period of three consecutive work days without reasonable cause, regardless of whether there is an intervening holiday during such period
- Is adjudged to serve a prison sentence (except where such sentence arose due to negligence or petty offense)

An employee terminated without a valid cause as stipulated by law is entitled to receive severance pay as specified above.

One of the grounds for dismissal with cause under the Labour Protection Act is repeated violation of work rules, for which a previous letter of warning has been issued for the particular act. The letter will be effective for a period of one year from the date on which the employee commits the violation, not from when the letter was written.

– **Requirements for Warning Letter:** Section 119 (4) of the Labour Protection Act provides for the dismissal for serious cause of an employee who has committed a repeat violation of an offence for which a written warning has already been given, but does not give guidance for the form or requirements for the warning letter itself. Based on previous decisions of the Supreme Court, it is evident that:

1. prior to issuing the warning letter, the employer should first consider the work rules. If they contain a disciplinary procedure consisting of several stages which have to be followed step by step, the employer must follow each step.
2. The warning letter must contain:
  - a. Date of issuance of the warning letter
  - b. Name and position of the employee
  - c. A description of the behavior of the employee that constitutes a violation of the work rules
  - d. A reference to the work rules which the employee has violated
  - e. A statement that of the employee commits the same violation of the work rules again, the employer will punish the employee pursuant to the procedure in the work rules.

Further, the employer should ask the employee to sign the warning letter as an acknowledgement. The employer can read the letter to the employee, and ask two witnesses to sign the letter to confirm it has been read and that the employee refuses to sign. A letter from the employee acknowledging violations does not constitute a warning letter.

If the employee is a member of an Employee Committee formed in accordance with the Labour Relations Act, the employer may not discipline the employee, including by issuing a warning letter, even where there has been a determination of guilt. The employer must submit a petition to the Labour Court seeking an order approving the discipline of the employee. If approved, the employer may then proceed as described above.

In the event that the employer relocates its place of business in a way that essentially affects the normal living of an employee, the employer must notify the employee of the relocation at least 30 days in advance or pay an amount in lieu of the advance warning of 30 days' wages. If the employee refuses to move and work in the new location, the employee has the right to terminate the employment contract and is entitled to receive a special severance pay of not less than 50% of the prescribed severance pay.

In the event the employer terminates an employee as a consequence of streamlining the work units, production process and distribution service, due to an introduction or change of machinery or technology that reduces the required number of employees, the employer must notify the Labor

Inspector and the employee concerned at least 60 days in advance of the date of termination. In lieu of an advance notice, an amount equal to 60 days' wages must be paid to the employee. The terminated employee will be entitled to the prescribed severance pay. Moreover, if the terminated employee has worked consecutively for more than six years, the employee would be entitled to an additional special severance pay at the rate of 15 days' wages for each full year of service, calculated from the start of year seven onwards. However, the total amount of this additional special severance pay is limited to the equivalent of 360 days' wages.

### 1.1.5 2010 Minimum Daily Wage

Baht	Area
206	Bangkok and Samut Prakan
205	Nakorn Pratom, Nonthaburi, Pathum Thani and Samut Sakhon
204	Phuket
184	Chonburi and Saraburi
181	Ayutthaya
180	Chachoengsao
178	Rayong
173	Nakhon Ratchasima, Pang-nga and Ranong
171	Chiang Mai
170	Krabi, Prachinburi and Lopburi
169	Kanchanaburi
168	Petchaburi
167	Chantaburi and Ratchaburi
165	Singhaburi and Angthong
164	Prachaub Khiri Khan
163	Loei, Samut Songcram and Sa Kaeo
162	Trang
161	Songkhla
160	Chumporn, Trat, Nakhon Nayok, Narathiwat, Yala, Lamphun and Ubon Ratchatani
159	Nakhon Si Thammarat, Pattani, Pattalung, Satun, Surat Tthani, Nong Khai and Udon Thani
158	Kamphaeng Phet, Chai Nnat, Nakhon Sawan, Suphanburi and Uthai Thani
157	Kalasin, Khon Kaen, Chaing Rai, Buri Ram, Yasothon, Roi-et and Sakhon Nakhon
156	Chaiyaphum, Lampang and Nong Bua Lamphoo
155	Nakhon Phanom, Phetchabun, Mukgdahan and Amnat Charoen
154	Maha Sarakham
153	Tak, Phitsanulok, Sukothai, Surin and Uttraradit
152	Nan and Si Saket
151	Payao, Pichit, Phrae and Mae Hong Son

Source: Ministry of Labor, as of January 2010

Website: [www.mol.go.th](http://www.mol.go.th)

## **1.2 Legal Implications of Labor Management**

In general, Thai labor laws provide for considerable freedom in managing labor. In many countries, it is not legal to discriminate on the basis of age or sex. Perusal of personnel ads in Thai newspapers finds employers narrowly defining their needs: "The successful candidate will be male, less than 35 years of age, not a member of a labor union, and at least 150 cm in height, etc."

Further, the government does not interfere with a company's retrenchment policies when economic conditions necessitate cutbacks. There is no "first in, last out" requirement in Thailand. Similarly, Thai employers have the right to transfer employees to other work locations, provided the transfer is not ordered with the exclusive intent to create hardship on them. Refusal to transfer is legal cause for dismissal.

### **1.2.1 Employee records**

An employer with 10 or more regular employees is required to establish written rules and regulations in Thai language governing work performance. The regulations must be displayed on the work premises within 15 days of the date from which the number of employees reached 10 or more. A copy of these rules and regulations must be submitted to the Department of Labor within seven days of the date that the employer announces or displays the working regulations. An employer with 10 or more regular employees is also required to maintain an employee register in Thai language with documents pertaining to the payment of wages, overtime, holiday work, etc. The employee register must be maintained for at least two years after the date of termination of employment of each employee, together with the supporting source documents.

## **1.3 Tips on Recruiting and Developing Staff**

The ability of a company to attract and retain staff is considerably enhanced by tailoring compensation packages to meet individual employee needs. Increasingly, factors such as work environment, organizational policies, relationships with superiors, and career path influence decisions whether to join, or remain with, a company. In a challenging living environment such as Bangkok, these "quality of life" issues take on even more importance.

Organizing training programs to upgrade skills helps to motivate staff and demonstrates a company's commitment to its employees. Admission to such programs can be seen both as a reward for good performance and as part of the total compensation package.

## **1.4 Recruiting Technically-skilled Manpower**

There are two main English language daily newspapers that contain significant numbers of advertisements, both in English and in Thai. Both the Bangkok Post and The Nation boast circulation figures of close to 60,000 copies per day, and advertising rates of the two newspapers are similar. In addition to reaching prospective employees through the print editions of these newspapers, it should be noted that the newspapers have classified advertisements on their on-line home pages.

In addition, the Department of Employment, Ministry of Labor and Social Welfare, has a web site listing both job fairs and employment opportunities. It can be found at: [www.doe.go.th](http://www.doe.go.th).

Several domestic and international personnel recruitment services operate in Bangkok. In addition to securing personnel, these companies offer services such as advice on issues of organizational structure, labor relations, and the cultural implications of managing labor in Thailand.

Developing contacts with educational institutes to identify and court potential candidates as early as possible is also recommended. For firms with ongoing labor needs, establishing a network of contacts can be especially valuable.

In addition to tailoring compensation packages to individual need and emphasizing long-term and organizational benefits, high-end technical employees, such as scientists and engineers, need to be given work commensurate with their skills. By allowing them greater challenges, and less narrowly defining their role so that it may include responsibilities in systems design and possibly management, technical personnel become more productive and are more likely to view themselves as integral to the company as a whole.

Concrete, long-term benefits are an effective retention tool. Long-term benefits motivate personnel to work through problems and to identify self-interest with company interest. Committing resources to long-term benefits also insures that companies realize increased production levels from staff as they gain experience.

## 2. Important Addresses

### INTERNATIONAL ORGANIZATIONS

#### **ASIAN DEVELOPMENT BANK (ADB), THAILAND RESIDENT MISSION**

23F Central World, 999/9 Rama 1 Road,  
Pathumwan, Bangkok 10330  
Tel: (+66-2) 263-5300  
Fax: (+66-2) 263-5301  
Website: <http://www.adb.org/thailand>,  
<http://www.adb.org/TRM>

#### **ASIAN INSTITUTE OF TECHNOLOGY (AIT)**

58 Moo 9, Km. 42, Phaholyothin Highway,  
Klong Luang, Pathumthani 12120  
Tel: (+66-2) 516-0110 to 44  
Fax: (+66-2) 516-2126  
Website: <http://www.ait.ac.th>

#### **DELEGATION OF THE EUROPEAN UNION TO THAILAND**

19F Kian Gwan House II, 140/1 Wireless Road,  
Bangkok 10330  
Tel: (+66-2) 305-2600, 305-2700  
Fax: (+66-2) 255-9113  
Website: <http://www.deltha.ec.europa.eu>  
Email: [delegation-thailand@ec.europa.eu](mailto:delegation-thailand@ec.europa.eu)

#### **INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (IBRD)**

The World Bank Office, Bangkok  
30F Siam Tower, 989 Rama 1 Road, Pathumwan,  
Bangkok 10330  
Tel: (+66-2) 686-8300  
Fax: (+66-2) 686-8301  
Website: <http://www.worldbank.or.th>

#### **UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)**

12F The United Nations Building,  
Ratchadamnern Nok Avenue, Bangkok 10200  
Tel: (+66-2) 288-1234  
Fax: (+66-2) 280-0556  
Website: <http://www.undp.or.th>  
Email: [registry.th@undp.org](mailto:registry.th@undp.org)

#### **UNITED NATIONS ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC (UNESCAP)**

The United Nations Building, Rajadamnern Nok  
Avenue, Bangkok 10200  
Tel: (+66-2) 288-1234  
Fax: (+66-2) 288-1000  
Website: <http://www.unescap.org>  
Email: [unescap@unescap.org](mailto:unescap@unescap.org)

#### **UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION (UNIDO)**

57 Phrasumen Road, Banglamphoo, Pranakorn,  
Bangkok 10200  
Tel: (+66-2) 280-8691  
Fax: (+66-2) 280-8695  
Website: <http://www.unido.org>  
Email: [a.fujino@unido.org](mailto:a.fujino@unido.org)

#### **WORLD BANK OFFICE, BANGKOK**

30F Siam Tower, 989 Rama 1 Road, Pathumwan,  
Bangkok 10330  
Tel: (+66-2) 686-8300  
Fax: (+66-2) 686-8301  
Website: <http://www.worldbank.or.th>

**WORLD HEALTH ORGANIZATION (WHO)**

c/o Ministry of Public Health, Tiwanon Road,  
Nonthaburi 11000

Tel: (+66-2) 591-8198

Fax: (+66-2) 590-1524

Website: <http://www.whothai.org>

Email: [registrywhothai@searo.who.int](mailto:registrywhothai@searo.who.int)

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**PUBLIC SECTOR INSTITUTIONS****GOVERNMENT HOUSE**

1 Phitsanulok Road, Dusit, Bangkok 10300

Tel: (+66-2) 280-3000

Website: <http://www.thaigov.go.th>

**MINISTRY OF COMMERCE**

44/100 Nonthaburi 1 Road, Bang Krasor,  
Muang, Nonthaburi 11000

Tel: (+66-2) 507-8000

Fax: (+66-2) 507-6305, 547-5210

Website: <http://www.moc.go.th>

**MINISTRY OF FINANCE**

Rama 6 Road, Samsen-Nai, Phayathai,  
Bangkok 10400

Tel: (+66-2) 273-9021

Fax: (+66-2) 293-9408

Website: <http://www.mof.go.th>

**MINISTRY OF FOREIGN AFFAIRS**

443 Sri Ayudhaya Road, Tungphayathai,  
Rajthewi, Bangkok 10400

Tel: (+66-2) 643-5000

Fax: (+66-2) 643-5180

Website: <http://www.mfa.go.th>

**MINISTRY OF INDUSTRY**

Rama 6 Road, Rajathevee, Bangkok 10400

Tel: (+66-2) 202-3000

Fax: (+66-2) 202-3048

Call Center: 1563

Website: <http://www.industry.go.th>

Email: [pr@industry.go.th](mailto:pr@industry.go.th)

**MINISTRY OF TOURISM AND SPORTS**

4 Ratchadamnern Nok Avenue, Watsomanas,  
Pom Prab Sattru Phai, Bangkok 10100

Tel: (+66-2) 283-1555

Fax: (+66-2) 356-0746

Website: <http://www.mots.go.th>

**MINISTRY OF TRANSPORT**

38 Ratchadamnoen Nok Road,  
Pom Prab Sattru Phai, Bangkok 10100

Tel: (+66-2) 283-3000, 281-3871

Fax: (+66-2) 281-3659

Call Center: 1123

Website: <http://www.mot.go.th>

**INVESTMENT****INVESTOR CLUB ASSOCIATION (ICA)**

12F and 16F TP&T Building, 1 Vibhavadi Rangsit

Soi 19, Vibhavadi Rangsit Road, Lad Yao,

Chatuchak, Bangkok 10900

Tel: (+66-2) 936-1429

Fax: (+66-2) 936-1441 to 2

Website: [www.ic.or.th](http://www.ic.or.th)

Email: [is-investor@ic.or.th](mailto:is-investor@ic.or.th)

**OFFICE OF THE BOARD OF INVESTMENT (BOI)**

555 Vibhavadi Rangsit Road, Chatuchak,  
Bangkok 10900

Tel: (+66-2) 537-8111, 537-8555

Fax: (+66-2) 537-8177

Website: [www.boi.go.th](http://www.boi.go.th)

Email: [head@boi.go.th](mailto:head@boi.go.th)

**OFFICE OF THE NATIONAL ECONOMIC AND  
SOCIAL DEVELOPMENT BOARD**

962 Krung Kasem Road, Watsomanas,  
Pom Prab Sattru Phai, Bangkok 10100

Tel: (+66-2) 280-4085

Fax: (+66-2) 281-3938

Website: <http://www.nesdb.go.th>

**SECURITIES AND EXCHANGE COMMISSION  
(SEC)**

10F, 13F-16F GPF Wittayu, 93/1 Wireless Road,  
Lumpini, Pathumwan, Bangkok 10330

Tel: (+66-2) 263-6499, 695-9999

Fax: (+66-2) 256-7711

Website: <http://www.sec.or.th>

Email: [info@sec.or.th](mailto:info@sec.or.th)

**STOCK EXCHANGE OF THAILAND (SET)**

62 Ratchadapisek Road, Klongtoey,  
Bangkok 10110

Tel: (+66-2) 229-2000

Call Center: (+66-2) 229-2222

Website: <http://www.set.or.th>

Email: [SETCallCenter@set.or.th](mailto:SETCallCenter@set.or.th)

**INDUSTRY****DEVELOPMENT OF INDUSTRIAL PROMOTION**

Rama 6 Road, Rajathevee, Bangkok 10400

Tel: (+66-2) 202-4414 to 18, 202-4511

Fax: (+66-2) 354-3299

Website: <http://www.dip.go.th>

**INDUSTRIAL ESTATE AUTHORITY OF  
THAILAND (IEAT)**

618 Nikom Makkason Road, Makkasan,  
Rajathevee, Bangkok 10400

Tel: (+66-2) 253-0561

Fax: (+66-2) 253-4086

Website: <http://www.ieat.go.th>

Email: [ieat@ieat.go.th](mailto:ieat@ieat.go.th)

**OFFICE OF INDUSTRIAL ECONOMICS (OIE)**

75/6 Rama 6 Road, Rajathevee, Bangkok 10400

Tel: (+66-2) 202-4274, 202-4284

Fax: (+66-2) 644-7023

Website: <http://www.oie.go.th>

**THAI INDUSTRIAL STANDARDS INSTITUTE (TISI)**

Rama 6 Road, Rajathevee, Bangkok 10400

Tel: (+66-2) 202-3301 to 4

Fax: (+66-2) 202-3415

Website: <http://www.tisi.go.th>

Email: [thaistan@tisi.go.th](mailto:thaistan@tisi.go.th)

**INDUSTRIAL FINANCE CORPORATION IN  
THAILAND (IFC)**

30F Siam Tower, 989 Rama I Road, Pathumwan,  
Bangkok 10330

Tel: (+66-2) 686-8300

Fax: (+66-2) 686-8379

Website: <http://www.ifc.org>

## TRADE

### DEPARTMENT OF EXPORT PROMOTION

*Ratchadapisek office:*

22/77 Ratchadapisek Road, Chatuchak,  
Bangkok 10900

Tel: (+66-2) 511-5066 to 77

Fax: (+66-2) 512-2670

*Nonthaburi office:*

44/100 Nonthaburi 1 Road, Bang Krasor,  
Muang, Nonthaburi 11000

Tel: (+66-2) 507-7999

Fax: (+66-2) 507-8019

Website: <http://www.depthai.go.th>

Email: [tidep@depthai.co.th](mailto:tidep@depthai.co.th)

### DEPARTMENT OF FOREIGN TRADE

44/100 Nonthaburi 1 Road, Bang Krasor,  
Muang, Nonthaburi 11000

Tel: (+66-2) 547-4771 to 86

Fax: (+66-2) 547-4791 to 2

Website: <http://www.dft.moc.go.th>

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## TOURISM

### AIRPORT OF THAILAND PUBLIC COMPANY LIMITED (AOT)

333 Cherdwutugard Road, Srikan, Don Mueang,  
Bangkok 10210

Tel: (+66-2) 535-1111

Fax: (+66-2) 535-4061

Website: <http://www.airportthai.co.th>,

<http://www.airportthai.com>

Email: [aotpr@airportthai.co.th](mailto:aotpr@airportthai.co.th)

## IMMIGRATION DIVISION

*Immigration Bureau:*

507 Soi SuanPlu, Sathorn Road, Bangkok 10120

Tel: (+66-2) 287-1982

Fax: (+66-2) 287-1982

*The Government Complex Commemorating  
His Majesty:*

B Building, 120 Moo 3 Chaengwattana Road,  
Thung Songhong, Laksi, Bangkok 10210

Tel: (+66-2) 141-9889

Fax: (+66-2) 143-8228

Call Center: 1178

Website: <http://bangkok.immigration.go.th>

### ONE START ONE STOP INVESTMENT CENTER (OSOS)

18F Chamchuri Square Building, 319

Phayathai Road, Pathumwan, Bangkok 10330

Tel: (+66-2) 209-1100

Fax: (+66-2) 209-1199

Website: <http://osos.boi.go.th>

Email: [osos@boi.go.th](mailto:osos@boi.go.th)

### ONE STOP SERVICE CENTER FOR VISAS AND WORK PERMITS

18F Chamchuri Square Building, 319

Phayathai Road, Pathumwan, Bangkok 10330

Tel: (+66-2) 209-1100

Fax: (+66-2) 209-1194

Email: [visawork@boi.go.th](mailto:visawork@boi.go.th)

### SUVARNABHUMI INTERNATIONAL AIRPORT

999 Moo 1 Nong Prue, Bang Phli,

Samut Prakan 10540

Tel: (+66-2) 132-1888, 132-1888

Fax: (+66-2) 132-1889

Website: <http://www.suvarnabhumiairport.com>

## **THAI AIRWAYS INTERNATIONAL PCL**

### *Ticketing*

#### *Silom Office:*

485 Silom Road, Bangrak, Bangkok 10500

Tel: (+66-2) 232-8000

Fax: (+66-2) 232-8277

#### *Vibhavadi Rangsit Office:*

89 Vibhavadi Rangsit Road, Chatuchak, Bangkok 10900

Tel: (+66-2) 545-3691

Fax: (+66-2) 545-3199

### *Reservation*

#### *Thai Contact Center:*

6 Larn Luang Road, Bangkok 10100

Tel: (+66-2) 356-1111

Fax: (+66-2) 356-2222

#### *Suvarnabhumi Airport:*

4F Departure Hall, Thailand

Tel: (+66-2) 134-5483 to 4

Website: <http://www.thaiairways.co.th>,  
<http://www.thaiair.com>

## **TOURISM AUTHORITY OF THAILAND (TAT)**

1600 New Phetchaburi Road, Makkasan, Rajathevee, Bangkok 10400

Tel: (+66-2) 250-5500

Fax: (+66-2) 250-5511

Call Center: 1672

Website: <http://www.tourismthailand.org>

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## **FINANCE**

### **BANK OF THAILAND (BOT)**

273 Samsen Road, Bangkhunprom, Bangkok 10200

Tel: (+66-2) 283-5353, 283-5010

Fax: (+66-2) 280-0449, 280-0626

Website: <http://www.bot.or.th>

### **SMALL AND MEDIUM ENTERPRISE DEVELOPMENT BANK OF THAILAND (SME Bank)**

SME Bank Tower, 310 Phaholyothin Road, Samsen-Nai, Phayathai, Bangkok 10400

Tel: (+66-2) 265-3000

Fax: (+66-2) 265-4000

Website: <http://www.smebank.co.th>

### **THE CUSTOMS DEPARTMENT**

1 Sunthonkosa Road, Klongtoey, Bangkok 10110

Tel: (+66-2) 667-7100

Fax: (+66-2) 667-7767

Call Center: 1164

Website: <http://www.customs.go.th>

### **THE EXCISE DEPARTMENT OF THAILAND**

1488 Nakornchaisri Road, Dusit, Bangkok 10300

Tel: (+66-2) 668-6428, 241-5600-10  
ext. 51411, 51412

Call Center: 1713

Website: <http://www.excise.go.th>

### **THE REVENUE DEPARTMENT**

Revenue Department Building, 90 Soi Phaholyothin 7, Phaholyothin Road, Bangkok 10400

Tel: (+66-2) 272-9289, 272-8590, 272-9654

Call Center: (+66-2) 272-8000

Website: <http://www.rd.go.th>

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## COMMUNICATIONS

### **ADVANCED INFO SERVICE PUBLIC COMPANY LIMITED (AIS)**

*Shinawatra Tower 1:*

414 Phaholyothin Road, Phayathai,  
Bangkok 10400

*Shinawatra Tower 2:*

1291/1 Phaholyothin Road, Phayathai,  
Bangkok 10400

Tel: (+66-2) 299-5000

Call Center: 1175

Website: <http://www.ais.co.th>

### **COMMUNICATIONS AUTHORITY OF THAILAND (CAT)**

99 Moo 3, Chaengwatthana Road, Lak Si,  
Bangkok 10210

Tel: (+66-2) 104-3000

Fax: (+66-2) 104-3088

Website: <http://www.cattelcom.com>

### **TOTAL ACCESS COMMUNICATION PUBLIC COMPANY LIMITED (DTAC)**

22F-41F Chamchuri Square, 319 Phayathai  
Road, Phatumwan, Bangkok 10330

Tel: (+66-2) 202-8000

Call Center: 1678

Website: <http://www.dtac.co.th>

### **TOT PUBLIC COMPANY LIMITED (TOT)**

89/2 Moo 3 Chaengwatthana, Tungsong-Hong,  
Laksi, Bangkok 10210

Tel: (+66-2) 525-4500, 575-7700

Fax: (+66-2) 575-7703

Call Center: 1100

Website: <http://www.tot.co.th>

### **TRUE CORPORATION PUBLIC COMPANY LIMITED**

True Tower, 18 Ratchadaphisek Road,  
Huay Khwang, Bangkok 10310

Tel: (+66-2) 643-1111

Fax: (+66-2) 643-1651

True Care: (+66-2) 900-9000

Website: <http://www.truecorp.co.th>

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## UTILITIES

### **ELECTRICITY GENERATING AUTHORITY OF THAILAND (EGAT)**

53 Charan Sanit Wong Road, Bang Krui,  
Nonthaburi 11130

Tel: (+66-2) 436-0000

Website: <http://www.egat.co.th>

### **METROPOLITAN ELECTRICAL AUTHORITY (MEA)**

30 Soi Chidlom, Ploenchit Road, Pathumwan,  
Bangkok 10330

Tel: (+66-2) 254-9550, 251-9586

Call Center: 1130

Website: <http://www.mea.or.th>

### **METROPOLITAN WATERWORKS AUTHORITY (MWA)**

400 Prachachuen Road, Thungsong-Hong, Laksi,  
Bangkok 10210

Tel: (+66-2) 504-0123

Call Center: 1125

Website: <http://www.mwa.co.th>

### **PROVINCIAL ELECTRICITY AUTHORITY (PEA)**

200 Ngam Wong Wan Road, Chatuchak,  
Bangkok 10900

Tel: (+66-2) 589-0100 to 1

Fax: (+66-2) 589-4850 to 1

Website: <http://www.pea.co.th>

**PROVINCIAL WATERWORKS AUTHORITY (PWA)**

72 Chaeng Wattana Road, Laksi, Bangkok 10210

Tel: (+66-2) 551-8576

Fax: (+66-2) 552-5307

Website: <http://www.pwa.co.th>

**THAI HOTELS ASSOCIATION**

203-209/3 Ratchadamnoen Klang Avenue,  
Bowonniwet, Bangkok 10200

Tel: (+66-2) 281-9496

Fax: (+66-2) 281-4188

Website: <http://www.thaihotels.org>

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**ASSOCIATIONS****FEDERATION OF THAI INDUSTRIES**

Zone C, 4F Queen Sirikit National Convention  
Center, 60 New Ratchadapisek Road, Klongtoey,  
Bangkok 10110

Tel: (+66-2) 345-1000

Fax: (+66-2) 345-1296 to 99

Website: <http://www.fti.or.th>

Email: [information@off.fti.or.th](mailto:information@off.fti.or.th)

**THE LAWYERS COUNCIL OF THAILAND**

7/89 Mansion 10, Rajdamnoen Avenue,  
Pranakorn, Bangkok 10200

Tel: (+66-2) 629-1430

Website: <http://www.lawyerscouncil.or.th>

**THE THAI BANKERS' ASSOCIATION**

4F Lake Rajada Office Complex (Building 2)  
CDF House, 195/5 Ratchadapisek Road,  
Klongtoey, Bangkok 10110

Tel: (+66-2) 264-0883 to 7

Fax: (+66-2) 264-0888

Website: <http://www.tba.or.th>

Email: [atmpool@tba.or.th](mailto:atmpool@tba.or.th)

**THE ASSOCIATION OF INTERNATIONAL BANKS**

19F Sathorn Thani Building 2,  
92/55 North Sathorn Road, Bangkok 10500

Tel: (+66-2) 236-6070 to 2

Fax: (+66-2) 236-6069

Website: <http://www.aib.or.th>

Email: [aibthai@aib.or.th](mailto:aibthai@aib.or.th)

**THAI AUTO-PARTS MANUFACTURERS  
ASSOCIATION**

1F Bureau of Supporting Industries  
Development, 86/6 Soi Trimit, Rama 4 Road,  
Klongtoey, Bangkok 10110

Tel: (+66-2) 712-2246 to 7

Fax: (+66-2) 712-2970

Website: <http://www.thaiautoparts.or.th>

Email: [tapma@thaiautoparts.or.th](mailto:tapma@thaiautoparts.or.th)

**THAI AIRFREIGHT FORWARDERS  
ASSOCIATION**

874 Ploenchit Road, Lumpini, Pathumwan,  
Bangkok 10330

Tel: (+66-2) 254-5780 to 2

Fax: (+66-2) 254-5784

Website: <http://www.tafathai.org>

Email: [tafa@tafathai.org](mailto:tafa@tafathai.org)

**THAILAND TEXTILE INSTITUTE**

Soi Trimit, Rama 4 Road, Phrakonong,  
Klongtoey, Bangkok 10110

Tel: (+66-2) 713-5492 to 9

Fax: (+66-2) 712-1592

Website: <http://www.thaitextile.org>

Email: [info@thaitextile.org](mailto:info@thaitextile.org)

**THE THAI SYNTHETIC FIBER  
MANUFACTURERS' ASSOCIATION**

Suite J, 11F Phayathai Plaza Building, 128/123  
Phayathai Road, Rajthevee, Bangkok 10400

Tel: (+66-2) 216-5739 to 40

Fax: (+66-2) 216-5722

Website: <http://www.thaitextile.org/TSMA>

Email: [tsma@thaitextile.org](mailto:tsma@thaitextile.org)

**THE THAI TEXTILE MANUFACTURING ASSOCIATION (TTMA)**

454-460 Sukhumvit Road (22), Klongton, Klongtoey, Bangkok 10110

Tel: (+66-2) 258-2023, 258-2044

Fax: (+66-2) 260-1525

Website: <http://www.thaitextile.org/TTMA>

Email: [ttma@thaitextile.org](mailto:ttma@thaitextile.org)

**THE THAI WEAVING INDUSTRY ASSOCIATION (TWIA)**

54/87-88 Moo 5, Rama II Road, Jomthong, Bangkok 10150

Tel: (+66-2) 427-6668 to 9

Fax: (+66-2) 427-6669

Website: <http://www.thaitextile.org/TWIA>

Email: [twia@thaitextile.org](mailto:twia@thaitextile.org)

**THE ASSOCIATION OF THAI BLEACHING, DYEING, PRINTING AND FINISHING INDUSTRIES (ATDP)**

Suite J, 11F Phayathai Plaza Building, 128/123 Phayathai Road, Rajthevee, Bangkok 10400

Tel: (+66-2) 129-3965 to 6

Fax: (+66-2) 129-3967

Website: <http://www.thaitextile.org/ATDP>

Email: [atdp2004@yahoo.com](mailto:atdp2004@yahoo.com)

**THE THAI GARMENT MANUFACTURERS ASSOCIATION (TGMA)**

31F Panjathani Tower, 127/36, Nonsee Road, Chongnonsee, Yannawa, Bangkok 10120

Tel: (+66-2) 681-2222

Fax: (+66-2) 681-0231 to 2

Website: <http://www.thaigarment.org>

Email: [tgma@thaigarment.org](mailto:tgma@thaigarment.org)

**THE THAI SILK ASSOCIATION (TSA)**

Textile Industry Division, Soi Trimit, Rama IV Road, Klongtoey, Bangkok 10110

Tel: (+66-2) 712-4328

Fax: (+66-2) 258-8769

Website: <http://www.thaitextile.org/TSA>

Email: [thsilkas@thaitextile.org](mailto:thsilkas@thaitextile.org)

**THE TEXTILE MERCHANTS ASSOCIATION (TMA)**

4F Espreme Building,

562 Soi Watgunmatuyalarm, Rajchawong Road, Samphantawong, Bangkok 10100

Tel: (+66-2) 622-6711 to 3

Fax: (+66-2) 622-6714

Website: <http://www.thaitextile.org/TMA>

Email: [tma@thaitextile.org](mailto:tma@thaitextile.org),  
[utma43@hotmail.com](mailto:utma43@hotmail.com)

**THE BOBAE GARMENT ASSOCIATION (BOBAE)**

94/24 Trok Thamma Rongmuang, Pathumwan, Bangkok 10330

Tel: (+66-2) 221-8050

Fax: (+66-2) 221-4996

Website: <http://www.thaitextile.org/BOBAE>

Email: [bobae@thaitextile.org](mailto:bobae@thaitextile.org)

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**BANKS IN THAILAND**

**THAI COMMERCIAL BANKS**

**BANGKOK BANK PUBLIC COMPANY LIMITED**

333 Silom Road, Bangrak, Bangkok 10500

Tel: (+66-2) 231-4333

Fax: (+66-2) 236-8281 to 2

Website: <http://www.bangkokbank.com>

**BANK OF AYUDHYA PUBLIC COMPANY LIMITED**

1222 Rama III Road, Bang Phongphang, Yannawa, Bangkok 10120

Tel: (+66-2) 296-2000

Fax: (+66-2) 683-1484

Website: <http://www.krungsri.com>

**CIMB THAI BANK PUBLIC COMPANY LIMITED**

44 Langsuan Road, Lumpini, Pathumwan,  
Bangkok 10330

Tel: (+66-2) 626-7000

Fax: (+66-2) 657-3333

Website: <http://www.cimbthai.com>

**INDUSTRIAL AND COMMERCIAL BANK OF CHINA (THAI) PUBLIC COMPANY LIMITED (ICBC)**

11F-13F Emporium Tower, 622 Sukhumvit Road,  
Klongton, Klongtoei, Bangkok 10110

Tel: (+66-2) 663-9999

Fax: (+66-2) 663-9888

Website: <http://www.icbcthai.com>

**KASIKORNBANK PUBLIC COMPANY LIMITED**

1 Soi Ratburana 27/1, Ratburana Road,  
Bangkok 10140

Tel: (+66-2) 888-8888

Fax: (+66-2) 888-8882

Website: <http://www.kasikornbank.com>

**KIATNAKIN BANK PUBLIC COMPANY LIMITED**

Amarin Tower, 500 Ploenchit Road, Pathumwan,  
Bangkok 10330

Tel: (+66-2) 680-3333

Fax: (+66-2) 256-9933

Website: <http://www.kiatnakin.co.th>

**KRUNG THAI BANK PUBLIC COMPANY LIMITED**

35 Sukhumvit Road, North Klongtoey, Wattana,  
Bangkok 10110

Tel: (+66-2) 255-2222

Fax: (+66-2) 255-9391 to 3

Website: <http://www.ktb.co.th>

**SIAM COMMERCIAL BANK PUBLIC COMPANY LIMITED**

9 Ratchadapisek Road, Chatuchak,  
Bangkok 10900

Tel: (+66-2) 544-1000

Fax: (+66-2) 544-4948

Website: <http://www.scb.co.th>

**STANDARD CHARTERED BANK (THAI) PUBLIC COMPANY LIMITED**

90 North Sathorn Road, Silom, Bangkok 10500

Tel: (+66-2) 724-4000

Fax: (+66-2) 724-4444

Website: <http://www.standardchartered.co.th>

**THANACHART BANK PUBLIC COMPANY LIMITED**

Tonson Building, 900 Ploenchit Road, Lumpini,  
Pathumwan, Bangkok 10330

Tel: (+66-2) 655-9000

Fax: (+66-2) 655-9001, 655-9585

Website: <http://www.thanachartbank.co.th>

**THE SIAM CITY BANK PUBLIC COMPANY LIMITED**

1101 Newpetchburi Road, Rajthevi,  
Bangkok 10400

Tel: (+66-2) 208-5000, 253-0200 to 43

Fax: (+66-2) 253-6137, 253-6198

Website: <http://www.scib.co.th>

**TISCO BANK PUBLIC COMPANY LIMITED**

TISCO Tower, 48/2 North Sathorn Road, Silom,  
Bangrak, Bangkok 10500

Tel: (+66-2) 633-6000

Fax: (+66-2) 633-6800

Website: <http://www.tisco.co.th>

**TMB BANK PUBLIC COMPANY LIMITED**

3000 Phahonyothin Road, Chompon,  
Chatuchak, Bangkok 10900

Tel: (+66-2) 299-1111

Fax: (+66-2) 990-6010

Website: <http://www.tmbbank.com>

**UNITED OVERSEAS BANK (THAI) PUBLIC COMPANY LIMITED**

191 South Sathorn Road, Bangkok 10120  
Tel: (+66-2) 343-3000  
Fax: (+66-2) 287-2973 to 4  
Website: <http://www.uob.co.th>

**RETAIL BANKS**

**LAND AND HOUSES RETAIL BANK PUBLIC COMPANY LIMITED**

Q House Lumpini Building,  
1 South Sathorn Road, Sathorn, Bangkok 10120  
Tel: (+66-2) 359-0000  
Fax: (+66-2) 677-7223  
Website: <http://www.lhbank.co.th>

**THE THAI CREDIT RETAIL BANK PUBLIC COMPANY LIMITED**

1F Thai Life Insurance Building, 123  
Ratchadaphisek Road, Din Daeng,  
Bangkok 10400  
Tel: (+66-2) 697-5454  
Fax: (+66-2) 642-3112  
Website: <http://www.tcrbank.com>

**SUBSIDIARY**

**MEGA INTERNATIONAL COMMERCIAL BANK PUBLIC COMPANY LIMITED**

P.S. Tower, 36/12 Asoke, Sukhumvit 21 Road,  
Wattana, Bangkok 10110  
Tel: (+66-2) 259-2000 to 9  
Fax: (+66-2) 259-1330, 261-3660  
Website: <https://overseas.megabank.com.tw>

**FOREIGN BANK BRANCHES**

**BANK OF AMERICA, NATIONAL ASSOCIATION**

33F CRC Tower, All Seasons Place,  
87/2 Wireless Road, Bangkok 10330  
Tel: (+66-2) 305-2900  
Fax: (+66-2) 305-2999  
Website: <http://www.bankofamerica.com/th>

**BANK OF CHINA LIMITED**

Bangkok City Tower, 179/4 South Sathorn Road,  
Tungmahamek, Sathorn, Bangkok 10120  
Tel: (+66-2) 286-1010  
Fax: (+66-2) 286-1020  
Website: <http://www.boc.cn/mangu/index.htm>

**BNP PARIBAS**

29F Abdulrahim Place, 990 Rama IV Road,  
Bangrak, Bangkok 10500  
Tel: (+66-2) 636-1900  
Fax: (+66-2) 636-1935  
Website: <http://www.bnpparibas.co.th>

**CITIBANK, N.A.**

Interchange 21 Building, 399 Sukhumvit Road,  
Klongtoey-Nua, Wattana, Bangkok 10110  
Tel: (+66-2) 788-2000  
Fax: (+66-2) 788-4787  
Website: <http://www.citibank.co.th>

**CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK**

152 Wireless Road, Bangkok 10330  
Tel: (+66-2) 624-8000  
Fax: (+66-2) 651-4586  
Website: <http://www.ca-cib.com/global-presence/thailand.htm>

**DEUTSCHE BANK AG.**

27F-29F Athenee Tower, 63 Wireless Road,  
Lumpini, Pathumwan, Bangkok 10330  
Tel: (+66-2) 646-5000  
Website: <http://www.db.com/thailand>

**INDIAN OVERSEAS BANK**

221 Rajawongse Road, Sumphanthawongse,  
Bangkok 10100

Tel: (+66-2) 224-5411 to 4, 622-5748

Fax: (+66-2) 224-5405

Website: <http://www.iob.co.th>

**JP MORGAN CHASE BANK, NATIONAL ASSOCIATION**

20 North Sathorn Road, Silom, Bangrak,  
Bangkok 10500

Tel: (+66-2) 684-2000

Fax: (+66-2) 684-2020

Website: <http://www.th.jpmorgan.com>

**MIZUHO CORPORATE BANK, LIMITED**

18F Tisco Tower, 48 North Sathorn Road, Silom,  
Bangrak, Bangkok 10500

Tel: (+66-2) 638-0200

Fax: (+66-2) 638-0218

Website: <http://www.mizuhocbk.co.th/mizuhocbk>

**OVERSEA-CHINESE BANKING CORPORATION LIMITED**

Unit 2501-2, 25F Q House Lumpini Building,  
1 Sathorn Road, Tungmahamek, Sathorn,  
Bangkok 10120

Tel: (+66-2) 287-9880

Fax: (+66-2) 287-9898

Website: [http://www.ocbc.com/global/countries/Gco\\_International.shtm?bcid=M3\\_C3\\_S1](http://www.ocbc.com/global/countries/Gco_International.shtm?bcid=M3_C3_S1)

**RHB BANK BERHAD**

Ground and 18F M Thai Tower, All Seasons Place,  
87/2 Wireless Road, Lumpini, Pathumwan,  
Bangkok 10330

Tel: (+66-2) 126-8600

Fax: (+66-2) 126-8601 to 2

Website: <http://www.rhb.com.my/branches/thailand/main.html>

**SUMITOMO MITSUI BANKING CORPORATION**

8F-10F Q House Lumpini Building, 1 South  
Sathorn Road, Thungmahamek, Bangkok 10120

Tel: (+66-2) 353-8000

Fax: (+66-2) 353-8282

Website: <http://www.smbc.co.jp/global/bangkok>

**THE BANK OF TOKYO-MITSUBISHI UFJ, LIMITED**

Harindhorn Tower, 54 North Sathorn Road,  
Silom, Bangrak, Bangkok 10500

Tel: (+66-2) 266-3011

Fax: (+66-2) 266-3055

Website: <http://www.th.bk.mufg.jp/>

**THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED**

HSBC Building, 968 Rama IV Road, Silom,  
Bangrak, Bangkok 10500

Tel: (+66-2) 614-4747

Fax: (+66-2) 632-4818 to 9

Website: <http://www.hsbc.co.th>

**THE ROYAL BANK OF SCOTLAND N.V.**

3F-4F Bangkok City Tower, 179/3 South Sathorn  
Road, Bangkok 10120

Tel: (+66-2) 679-5900

Fax: (+66-2) 679-5901 to 2

Website: <http://gbm.rbs.com/our-offices/thailand-en>

**FOREIGN BANK REPRESENTATIVES****AUSTRALIA & NEW ZEALAND BANKING GROUP LIMITED**

Unit 1904, 19F Athenee Tower, 63 Wireless Road,  
Lumpini, Pathumwan, Bangkok 10330

Tel: (+66-2) 168-8777 to 8

Fax: (+66-2) 168-8780

Website: <http://www.anz.com/thailand/en/About-Us/>

**BANK OF BARODA**

3F Mahatun Plaza, 888/198 Ploenchit Road,  
Lumpini, Pathumwan, Bangkok 10330

Tel: (+66-2) 255-5211

Fax: (+66-2) 255-4911

Website: <http://www.bankofbaroda.com>

**CATHAY UNITED BANK**

13F Sathorn City Tower,  
175 South Sathorn Road, Sathorn,  
Bangkok 10120

Tel: (+66-2) 679-5316 to 7

Fax: (+66-2) 679-5318

Website: <http://www.cathaybk.com.tw>

**CHINATRUST COMMERCIAL BANK LIMITED**

Suite 803, GPF Witthayu Tower A,  
93/1 Wireless Road, Lumpini, Pathumwan,  
Bangkok 10330

Tel: (+66-2) 254-3139 to 40

Fax: (+66-2) 256-6480

Website: <http://www.chinatrust.com.tw>

**COMMERZBANK AKTIENGESELLSCHAFT**

16F Asia Centre, 173 South Sathorn Road,  
Thungmahamek, Sathorn, Bangkok 10120

Tel: (+66-2) 679-0881 to 2

Fax: (+66-2) 679-0883

Website: <http://www.commerzbank.com>

**CREDIT INDUSTRIEL ET COMMERCIAL (CIC)**

14F Amarin Tower, 496-502 Ploenchit Road,  
Lumpini, Pathumwan, Bangkok 10330

Tel: (+66-2) 305-6894

Fax: (+66-2) 305-6854

Website: <http://www.cic.fr>

**CREDIT SUISSE SECURITIES (THAILAND)****LIMITED**

Unit 2701, 27F Abdulrahim Place,  
990 Rama IV Road, Silom, Bangrak,  
Bangkok 10500

Tel: (+66-2) 614-6000

Fax: (+66-2) 614-6362

Website: <http://www.credit-suisse.com>

**DBS BANK LIMITED**

7F Main Building, 393 Silom Road, Bangrak,  
Bangkok 10500

Tel: (+66-2) 636-6364 to 5

Fax: (+66-2) 636-6366

Website: <http://www.dbs.com>

**DEG - DEUTSCHE INVESTITIONS-UND  
ENTWICKLUNGSGESELLSCHAFT MBH**

Unit 1905, Empire Tower,  
195 South Sathorn Road, Sathorn, Sathorn,  
Bangkok 10120

Tel: (+66-2) 670-0558 to 9, 670-0322

Fax: (+66-2) 670-0465, 670-0323

Website: <http://www.deginvest.de>

**FIRST COMMERCIAL BANK**

9F Sathorn City Tower, 175 South Sathorn Road,  
Thungmahamek, Sathorn, Bangkok 10120

Tel: (+66-2) 679-5291 to 3

Fax: (+66-2) 679-5295

Website: <http://www.firstbank.com.tw>

**ICICI BANK LIMITED**

Unit 1505, 15F Empire Tower,  
195 South Sathorn Road, Yannawa, Sathorn,  
Bangkok 10120

Tel: (+66-2) 669-5721 to 2, 669-5724

Fax: (+66-2) 659-5723

Website: <http://www.icicibank.com>

**ING BANK N.V.**

8F Sindhorn Tower I, 130-132 Wireless Road,  
Lumpini, Patumwan, Bangkok 10330  
Tel: (+66-2) 263-3200  
Fax: (+66-2) 263-2879  
Website: <http://www.ingcommercialbanking.com>

**INTESA SANPAOLO S.P.A.**

Room 1609, 16F Empire Tower 3 (River Wing  
West), 195 South Sathorn, Yannawa, Sathorn,  
Bangkok 10120  
Tel: (+66-2) 776-8400 to 73  
Fax: (+66-2) 670-0432  
Website: <http://www.intesasanpaolo.com>

**JAPAN FINANCE CORPORATION**

14F Nantawan Building, 161 Rajdamri Road,  
Bangkok 10330  
Tel: (+66-2) 252-5050, 252-5496  
Fax: (+66-2) 252-5514, 252-9991  
Website: <http://www.jbic.go.jp>

**KfW IPEX-Bank GmbH**

19F Empire Tower 2, 195 South Sathorn Road,  
Sathorn, Sathorn, Bangkok 10120  
Tel: (+66-2) 670-0467 to 68  
Fax: (+66-2) 670-0469  
Website: <http://www.kfw-ipex-bank.de>

**MERRILL LYNCH INTERNATIONAL BANK  
LIMITED**

20F CRC Tower, All Seasons Place,  
87/2 Wireless Road, Lumpini, Pathumwan,  
Bangkok 10330  
Tel: (+66-2) 685-3548 to 9  
Fax: (+66-2) 685-3544  
Website: <http://www.ml.com>

**NATIXIS**

Room 2103, 21F Abdulrahim Place,  
990 Rama IV Road, Bangrak, Bangkok 10500  
Tel: (+66-2) 235-3218 to 9  
Fax: (+66-2) 238-4129  
Website: <http://www.natixis.com>

**RESONA BANK, LIMITED**

31F Abdulrahim Place, 990 Rama IV Road, Silom,  
Bangrak, Bangkok 10500  
Tel: (+66-2) 636-2311 to 5  
Fax: (+66-2) 636-2316  
Website: <http://www.resona-gr.co.jp>

**THE BANK OF NEW YORK**

Unit 904, 9F GPF Witthayu Tower A, 93/1  
Wireless Road, Lumpini, Pathumwan,  
Bangkok 10330  
Tel: (+66-2) 254-4041 to 4  
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Website: <http://www.bnymellon.com>

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**THE HIROSHIMA BANK LIMITED**

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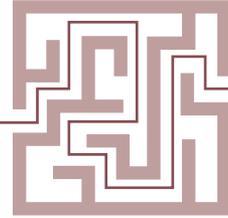
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## **CHAPTER 7:**

# **FREQUENTLY ASKED QUESTIONS**

## **1. Why is Thailand a good destination for foreign direct investment (FDI)?**

The investment environment is one of the most enabling in the region. Successive administrations have been committed to letting the private sector be the driver while government plays a supporting role. This remains the cornerstone of Thai policy.

The country's well-defined investment policies focus on liberalization and encourage free trade. Foreign investments, especially those that contribute to the development of skills, technology and innovation are actively promoted by the government. Thailand consistently ranks among the most attractive investment locations in international surveys, and the World Bank's 2010 Ease of Doing Business report placed Thailand as the 12<sup>th</sup> easiest country in the world in which to do business.

In addition, sustained emphasis on macroeconomic stability and policies of liberalization, privatization, and decentralization have created an environment in which the private sector has been able to flourish and grow. Indeed, while there are several government agencies that support and facilitate the efforts of investors, Thailand's main lure is the freedom that enables entrepreneurs to seize opportunities.

The Thai government has established resources to support and assist investors. Through the Board of Investment (BOI), the government offers a range of tax incentives, support services and import duty concessions to an extensive list of businesses that are regarded as priority or promoted industries. Other government organizations, like the Department of Export Promotion and international chambers of commerce, provide invaluable support.

The country's well-defined investment policies focus on liberalization and encourage free trade. Foreign investments, especially those that aim to promote skills enhancement, technology and innovation are highly encouraged by the government.

Thailand has 67 million people and abundant natural resources and a large pool of cost-effective labor that can make products competitive in the global marketplace that characterizes the 21<sup>st</sup> century. It has a good infrastructure for foreign investors, with modern transport facilities, as well as upgraded communications and IT networks, ensure optimum business and living conditions. State-of-the-art industrial estates boast sophisticated facilities and superior services.

In addition, Thailand enjoys a strategic location right at the heart of Asia – home to what is regarded today as the largest growing economic market. It serves as a gateway to Southeast Asia and the Greater Mekong sub-region, where newly emerging markets offer great business potential. Thailand has long supported economic integration with neighboring countries and has encouraged the development of free trade in the region.

## **2. What incentives does Thailand offer to facilitate foreign business establishment?**

To attract foreign investment, the BOI offers a wide range of fiscal and non-tax incentives.

To reduce risks, the BOI offers guarantees against nationalization or competition from new state enterprises. It also grants permission to bring in foreign nationals to perform investment feasibility studies or to work under promoted projects, and grants permission for foreign entities to own land for carrying out promoted activities or for residences of workers and management.

To help reduce the initial investment costs and improve the overall rate of return, the BOI offers an attractive range of tax incentives, including exemption or reduction of import duties on imported machinery, exemption or reduction of import duty on imported materials and components, and a corporate income tax holiday of up to eight years, etc.

The BOI also offers investors a wide range of services, before, during and after the application process. For example, BOI can help find joint venture partners, promotes industrial subcontracting, offers business facilitation services to help resolve issues involving other government agencies, and operates a One-Stop Service Center for Visas and Work Permits, which enables investors to obtain long-term visas and work permits in three hours or less.

More information about the incentives offered by the Board of Investment can be found in *A Guide to the BOI*, which is available through the BOI website: [www.boi.go.th](http://www.boi.go.th)

## **3. What are the estimated monthly overhead costs and other business expenses for foreign companies in Thailand?**

There is no simple formula for calculating this as there are numerous variables, such as size of business, type of activity, industrial or service sector, percentage of expatriate staff, industry, etc. However, to assist foreign companies, the Board of Investment annually publishes a *Cost of Doing Business in Thailand* report.

## **4. What are Thailand's major business associations?**

There are numerous business organizations, including the Federation of Thai Industries, the Thai Chamber of Commerce, the Board of Trade and foreign chambers of commerce. In addition, there are a large number of industry specific organizations. Chapter 6 of this guide contains contact information for many of the major business organizations.

## **5. Where can I obtain the schedule of trade exhibitions and trade fairs in Thailand?**

There are many major trade fairs held in Thailand each year. The website [www.thaitradefair.com](http://www.thaitradefair.com) lists many of them, complete with application forms for exhibitors.

## **6. Where can I find contact details of freight forwarders, shipping companies, trading companies and buying agents in Thailand?**

There are many ways to obtain information about these service providers. The Department of Export Promotion (DEP) ([www.thaitrade.com](http://www.thaitrade.com)) is an excellent source of information. For example, it publishes an online exporter's directory that provides a platform through which buyers can obtain information about more than 10,000 exporters, including trading companies.

For freight forwarding and shipping, there are also good resources available through the Internet. The website ([www.tiffathai.org](http://www.tiffathai.org)) of the Thai International Freight Forwarders Association (TIFFA) contains a list of freight forwarders and shippers and provides details about each of its member companies. The Thai Airfreight Forwarders Association website ([www.tafathai.org](http://www.tafathai.org)) also provides detailed information about its members.

Other good resources for contact information would be the websites of the Federation of Thai Industries ([www.fti.or.th](http://www.fti.or.th)), as well as the Board of Trade, foreign embassies and foreign chambers of commerce in Thailand.

## **7. Where can I obtain a list of Thai importers and exporters, with contact information?**

The Department of Export Promotion provides an extensive list of exporters through their website [www.depthai.go.th](http://www.depthai.go.th) and both the Federation of Thai Industries and Thai Chamber of Commerce publish directories that can be purchased.

## **8. Where can I get the latest list of import tariffs, customs duties and excise tax rates for all product categories from each country?**

Information on import tariffs/customs duties are available from the Customs Department ([www.customs.go.th](http://www.customs.go.th)), while information pertaining to excise tax can be obtained from the Excise Department ([www.excise.go.th](http://www.excise.go.th)).

### **9. Who can help resolve trade disputes with Thai companies in the case of a breach of a trading contract or export of defective products?**

Thailand has a civil and commercial code, including a Bankruptcy Act. Monetary judgments are calculated at the market exchange rate. Decisions of foreign courts are not accepted or enforceable in Thai courts. Disputes such as the enforcement of property or contract rights have generally been resolved through the Thai courts. Thailand has an independent judiciary that generally is effective in enforcing property and contractual rights.

In addition, companies may establish their own arbitration agreements. Thailand signed the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States in 1985, but has not yet ratified the Convention. Thailand is a member of the New York Convention, however, and enacted its own rules on conciliation and arbitration in the Arbitration Act of 1987. The Arbitration Office of the Ministry of Justice administers these procedures.

### **10. How do I obtain contact information for specialized associations in each area of professions, such as doctors, lawyers, architects, engineers, bankers, consultants, real estate brokers, etc?**

Contact information for the Thai Lawyer's Association, Thai Banker's Association, and Foreign Banker's Association can be found in Chapter 6. Foreign embassies and chambers of commerce in Thailand can recommend consultants, real estate brokers, etc.

### **11. Where can I find a list of law firms that specialize in the establishment of foreign businesses?**

The Lawyers Council of Thailand can provide a list on request. They can be contacted at [www.lawyerscouncil.or.th](http://www.lawyerscouncil.or.th).

### **12. What are the modes of transportation for shipping imported commodities to upcountry locations? What are the costs?**

Goods can be shipped by rail or road. Examples of costs for each can be found in the BOI publication *Cost of Doing Business in Thailand*.

### **13. What are the rules and regulations relating to the transportation of commodities across the Thai border to neighboring countries?**

When a shipment arrives or leaves Thailand, importers or exporters are required to file a goods Declaration with supporting documents to the Customs for cargo clearance. To speed up and facilitate the flow and movement of legitimate cargo, the Customs Department provides two clearance systems: manual and Electronic Data Interchange (EDI).

**Procedures:**

1. File an Export Declaration: The first stage of export clearance procedures is to file an Export Declaration (Customs Form No. 101 or No. 101/1) as prescribed by the Customs manually or through the EDI system
2. Prepare Supporting Documents: The second stage is to prepare the following supporting documents:
  - Invoice
  - Packing List
  - Foreign Transaction Form if the FOB value exceeds Baht 500,000
  - Export License (if applicable)
  - Other relevant documents (if applicable)
3. Check the Declaration and Supporting Documents: The third stage is to submit the Declaration and all supporting documents for examination by Customs at the point of export (in case of EDI Red Line or manual system). The Customs officials will check whether the Declaration is properly made out, and the supporting documents required are attached.
4. Collect Export Duties and Taxes (if any): The fourth stage is to pay applicable taxes and duties.
5. Inspect and Release Cargo: The last stage is to inspect and finally release cargo from Customs custody. The exporters submit the verified Declaration together with the payment receipt (if any) at appropriate warehouses. Customs inspectors then inspect the exported cargo against the Declaration made. If the goods inspected correspond to the Declaration made, the Customs inspectors will record the inspection result to the computer and release the cargo.

In case the exporters utilize the EDI green line process, they will electronically submit the Declaration as mentioned above to the Customs Department. The Customs Department then reviews the electronic Declaration through its EDI system. If the Declaration is properly made out and classified as Green Line, the Customs Department will assign Declaration Number to the exporters who will directly proceed to warehouses for cargo inspection and release.

**14. Where can I obtain a list of all Thai hotels?**

Two good sources of information would be the Thai Hotel Association ([www.thaihotels.org](http://www.thaihotels.org)) and the Tourism Authority of Thailand ([www.tourismthailand.org](http://www.tourismthailand.org))

**15. Can a foreigner apply for a Permanent Residence Permit? How?**

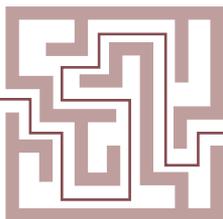
Yes.

### **Eligibility**

- A foreign national qualifies to apply for a residence permit if he or she has been permitted to stay in the Kingdom for a total of at least three years up until the date of application
- A foreign national whose purpose of stay in Thailand is for business or employment purpose; investment purpose; experts or academician purpose; supporting a family who are Thai citizens; being dependent of a husband or father who is a Thai citizen; being accompanied by a husband, father, or son/daughter who already has a residence permit; and retirement (aged 60 years old or over and net monthly income no less than 30,000 Baht)
- Foreign investors who invest in a private/public company, purchase a condominium, buy government bonds or state enterprise bonds, deposit in one or more Thai banks, and other investments in accordance with the specification of the Immigration Commission for the sum of not less than 10 million baht
- Foreign Investors who made direct investment (over 10 million Baht) or indirect investment (government bonds, State Enterprise bonds, condominium for the amount of eight million Baht for investor, six million baht for a spouse and two million baht for per unmarried child under the age of 20)
- Foreign Experts who have annual income of not less than US\$ 10,000
- Thai Nationals who have changed their citizenship

### **16. If a foreigner wishes to drive in Thailand, can he use a driver's license from his home country?**

In general, foreign driving licenses are not recognized in Thailand; however, international driving licenses are recognized and legal for up to 12 months. A foreigner wishing to drive in Thailand may wish to obtain a Thai driving license, which is relatively easy to obtain. The relevant agency is the Department of Land Transport.



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