

“What you need to know to set up a business in Thailand”

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GENERAL PRACTICE**

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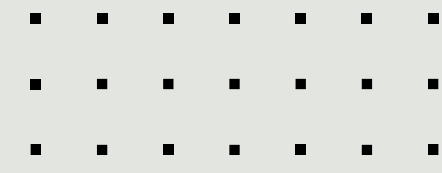
CHOICES OF BUSINESS ORGANISATION

- Registered Juristic Person
 - Registered Partnership
 - Limited Partnership
 - Limited Company
 - Public Company
 - Registered Joint Venture
 - Unregistered Joint Venture under Revenue Code
 - Consortium
 - Branch Office of Foreign Company
 - Representative Office and Regional Office
 - International Business Centre (IBC)

FOREIGN BUSINESS ACT 1999 (FBA)

- The FBA is the important legislation that regulates the operations and investments of foreign businesses in Thailand.
- It regulates and restricts foreign ownership into the (3) Business Lists with the total of 43 specified business activities.





DEFINITION OF “FOREIGNER” UNDER THE FBA:

1. Natural person who does not have Thai nationality.
2. Juristic persons incorporated outside of Thailand / not registered in Thailand.
3. Juristic persons registered in Thailand with the following characters:
 - Half or more than half of their capital shares are held by persons under 1 or 2.
 - Half or more than half of its capital fund derived from the investment of the persons under 1 or 2.
 - Being limited partnerships or ordinary partnerships whose managing partner / manager is not a Thai nationality.
4. Juristic persons in Thailand with over half their capital shares held by certain individuals or juristic persons may be subject to specific regulations.

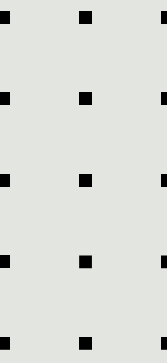


LIST OF RESTRICTED BUSINESS ACTIVITIES UNDER THE FBA

- **List 1:** Businesses absolutely prohibited to foreigners.
- **List 2:** Business permitted to foreigners under certain conditions.
 - (1) Having Thai shareholder (s) holding the shares of not less than 40% of the capital of the foreign company.
 - (2) The number of Thai directors shall not be less than two-fifths of number of directors.
- **List 3:** Business which Thai nationals are not yet ready to compete with foreigners. Foreign companies wishing to operate any business that falls within List 3 of the FBA, shall be required to acquire a foreign business license.



HOW TO OBTAIN A FOREIGN BUSINESS LICENCE UNDER THE FBA?



- Application and all documents must be submitted to the Department of Business Development, Ministry of Commerce, and will be considered by the Foreign Business Committee.
- The application process is complex and time-consuming.
- Approval typically takes 60 days from the confirmed submission date.
- This includes aspects like technology transfer to Thailand and hiring Thai employees.



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REPRESENTATIVE OFFICES EXCEPTION

- Juristic person established under foreign law but having an office in Thailand.
- Cannot generate income.
- Funding from head office to cover all expenses.
- Cannot accept any order from customers or engage in business negotiation with customers.

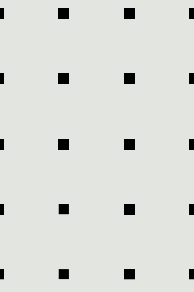
The activities of Representative Offices are limited to the following:

- Provide a business update for Thailand operations to headquarters.
- Offer recommendations on improving services/products for customers.
- Coordinate product procurement from Thailand.
- Ensure quality control for products sourced or produced in Thailand.
- Manage distribution of information on new services/products.



REGIONAL OFFICES EXCEPTIONS

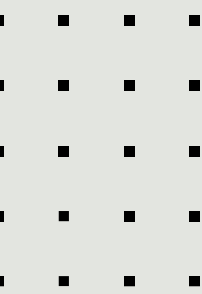
- Regional Office must have an affiliate/ branch/ or group company located in Asia Region.
- Aims to provide services to affiliate/branch or group companies in Asia and provide one of the following activities on behalf of Head Office:
 - Coordination and supervision of office operations
 - Provision of consultation and management services
 - Personnel training and development
 - Financial management
 - Control of marketing and sales promotion planning
 - Product development and research and development services



PRIVATE LIMITED COMPANY

- Formation requires at least two 'promoters' who are individuals, each promoter must subscribe at least one share.
- No restriction on the number or nationality of directors.
- Foreign directors are required to obtain work permits to work in Thailand.

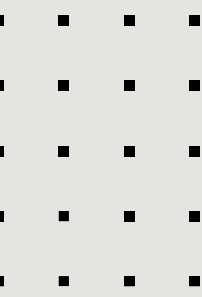
CORPORATE SYSTEM IN THAILAND PRIVATE LIMITED COMPANY



Key Persons

- **Promoter:** Form a company with at least 2 individuals, each subscribing to at least 1 share. Shares held by promoters can be transferred post-incorporation.
- **Shareholder:** Maintain a minimum of 2 shareholders, whether individuals or corporations, at all times.
- **Director:** No set minimum of directors required. Shareholders fix the number and remuneration at the General Meeting. At the Annual General Meeting, one-third of directors (or nearest number) must retire, eligible for re-election at the same meeting.
- **Auditor:** Shareholders appoint an auditor annually at the General Meeting. Directors or employees cannot serve as auditors while in office.

CORPORATE SYSTEM IN THAILAND PRIVATE LIMITED COMPANY



Capital:

- Not be less than 5 THB per share
- Minimum of 25% of the share capital must be paid up
- For foreign-owned companies, capital requirements vary: 2 million THB for non-restricted business under the FBA, 3 million THB for restricted, potentially higher under laws like BOI.
- Capital of the company can be increased or decreased

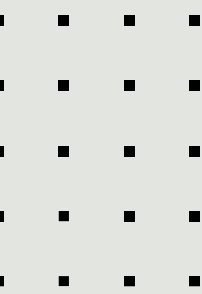
Place of Business:

A place of business (office address) must be registered with authority at the time of incorporation of a company

Business Objectives:

The company's objects/purposes must be clearly stated and registered with the authority, complying with laws; some foreign-owned business objectives may require a relevant license under the FBA before commencing operations.

CORPORATE SYSTEM IN THAILAND PRIVATE LIMITED COMPANY



Financial Statements:

Financial Statements, audited by a CPA, must be presented to shareholders at the Annual General Meeting within 4 months of the fiscal year's end and submitted to relevant authorities.

Meetings:

The Company must conduct an Annual General Meeting within 6 months of incorporation and at least once every twelve months thereafter.

Extraordinary General Meetings may be called for other matters.

No minimum requirement for Board of Directors (BOD) Meetings annually, but the BOD arranges all general meetings.

BRANCH OF FOREIGN COMPANY

- No special registration requirement for foreign company branches in Thailand since it is the same entity as the parent company.
- Any income incurred shall be considered parent's income
- An FBL to be issued by the DBD and PP01 issued by the Revenue Office.



BRANCH OF FOREIGN COMPANY: POTENTIAL PROBLEMS

- Parent companies in Thailand must be aware of Permanent Establishment (PE) implications, as all generated income is taxable.
- Only compliant expenses can be deducted for tax purposes.
- Direct client fund transfers may incur a 10% WHT.
- Absence of key Thai corporate documents for branch offices could complicate dealings with authorities and banks.

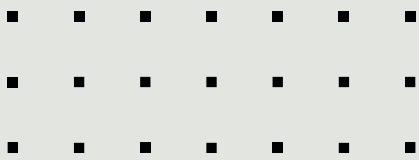


TAXATION IN THAILAND

- Corporate Income Tax: 20% of net profit
- VAT: 7% of goods or service price
- Withholding Tax: Tax rate is subject to type of income as specified
- Personal Income Tax: Progressive rates from 0% - 35% of net assessable income
- Land and building tax: Progressive rate up to 0.7% of appraisal value



Personal Income Tax – Residence Rule



Section 41, paragraph 2:

*A resident of Thailand who in the previous tax year derived assessable income under Section 40 from an employment or from business carried on abroad or from a property situated abroad shall, upon **bringing such assessable income into Thailand**, pay tax in accordance with the provisions of this Part.*

PREVIOUS RULE (Resolution of Kor Por Or No 2, Dated 21 February 1985 (B.E. 2528))	NEW RULE (Departmental Instruction No. Por 161/2566, Dated 15 September 2023 (B.E. 2566)) and Por 162/2566, Dated 20 November 2023
1) A Thai tax resident who receives assessable income from employment, or from business carried on abroad or from a property situated abroad, and;	1) A Thai tax resident who receives assessable income from employment, or from business carried on abroad or from a property situated abroad in the same tax year , and;
2) He/she brings the assessable income into Thailand in the same tax year .	2) He/she brings the assessable income into Thailand in any year .
* The previous rule has been repealed on December 31,2023.	* The new rule will be come into force for assessable income incurred and brought into Thailand from 1 January 2024 onwards. * Foreign-sourced income incurred before 1 January 2024 will not be subject to Thai personal income tax.



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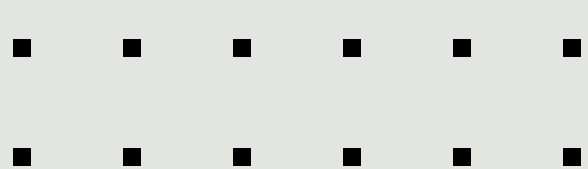


THANK YOU FOR LISTENING

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