

(Unofficial Translation)

Announcement of the Board of Investment

No. 8/2565

Policies and Criteria for Investment Promotion

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Due to significant changes in both domestic and international economic and investment landscape, the Board of Investment deems it appropriate to revise the investment promotion policies and criteria to respond to the current and future situation to be in line with the direction of Thailand's development under the National Economic and Social Development Plan and the country's development policies for the agricultural, industrial and services sectors in order to enhance the country's competitiveness and achieve sustainable development in the long run.

By virtue of Sections 16, 18, and 19 of the Investment Promotion Act of B.E. 2520, the Board of Investment hereby prescribes the investment promotion policies and criteria as follows:

1. The following announcements shall be repealed:

- 1.1 Board of Investment Announcement No. 2/2557 dated December 3, 2012 on policies and criteria for investment promotion and the amendments thereto.
- 1.2 Board of Investment Announcement No. 6/2549 dated March 30, 2004 on exemption of import duties on machinery for the electronics and electrical appliances Industry.

2. If any announcement of the Board of Investment or the Office of the Board of Investment is in conflict with this announcement, this announcement shall prevail.

3. Investment promotion vision

The Board of Investment has envisioned investment promotion as follows:

**“ Promotion of Investment to restructure Thailand's economy into new economy”** with the main objectives of restructuring Thailand's economy to achieve 3 aspects consisting of:

- 3.1 Innovative: Being an economy that is driven by technology, innovation and creativity.
- 3.2 Competitive: Being an economy that is competitive, adaptive and generate high growth.

- 3.3 Inclusive: Being an economy that values environmental and social sustainability, creates opportunity and reduces inequality.

#### 4. Investment promotion policy

In order to achieve the vision, the Board of Investment has set 7 milestones of investment promotion as follows:

- 4.1 Restructure the industry by enhancing the prevailing industry along with building up new industrial bases, which Thailand has potential, and strengthening the supply chain
- 4.2 Accelerate the transition to Smart and Sustainable Industry of new investments and the enhancement of existing entrepreneurs
- 4.3 Advance Thailand as international business hub and regional trade and investment gateway
- 4.4 Develop strength and global connectivity of small and medium enterprise (SMEs) and Startup
- 4.5 Promote investment based on potential of the area, to create growth inclusively
- 4.6 Encourage promoted enterprise to engage in communal and social development
- 4.7 Promote Thai overseas investment to expand business opportunities and Thailand's role in the global economy

#### 5. Criteria for project approval

The Board of Investment stipulates the following criteria for project approval:

- 5.1 Development of competitiveness in the agricultural, industrial and services sectors
  - 5.1.1 The value added of the project must not be less than 20% of revenues, except for projects in agriculture and food, electronic products and parts, and coil centers, all of which must have value added of at least 10% of revenues.
  - 5.1.2 Modern production processes or servicing procedure must be used and in accordance with the Board's approval.
  - 5.1.3 New machinery must be used. In case of imported used machinery, criteria are as follows:

### General case

- (1) Used machinery not over 5 years old (from its year of manufacture to its year of importation) is allowed to be used in the promoted project. An investment on used machinery will be counted as investment capital for the calculation of the corporate income tax exemption cap. However, the company will not be granted an exemption of the import duty on machinery and it must obtain a machinery performance certificate for its efficiency, environmental impact and energy consumption as well as appropriate price estimation.
- (2) Used Machinery over 5 years old, but not exceeding 10 years from its year of manufacture to its year of importation, is allowed to be used in the project, but will not be counted as investment capital for the calculation of the corporate income tax exemption cap. Also, the company will not be granted an exemption of the import duty on machinery and must submit a machinery performance certificate for its efficiency, environmental impact and energy consumption.

### Factory relocation case

- (1) Used machinery not over 5 years old (from its year of manufacture to its year of importation) is allowed to be used in the promoted project. An investment on used machinery will be counted as investment capital for the calculation of the corporate income tax exemption cap. However, the company will not be granted an exemption of the import duty on machinery and it must obtain a machinery performance certificate for its efficiency, environmental impact and energy consumption as well as appropriate price estimation.
- (2) Used machinery over 5 years old, but not exceeding 10 years from its year of manufacture to its year of importation, is allowed to be used in the promoted project. An investment on used machinery will count as 50% investment capital when calculating the corporate income tax exemption cap. However, the company will

not be granted an exemption of the import duty on machinery and it must obtain a machinery performance certificate for its efficiency, environmental impact and energy consumption as well as appropriate price estimation.

- (3) Used machinery over 10 years from its year of manufacture to its year of importation is allowed to be used in the promoted project. However, the investment on used machinery will not be counted as investment capital for the calculation of the corporate income tax exemption cap and will not be granted an exemption of the import duty on machinery. The company must obtain a machinery performance certificate for its efficiency, environmental impact and energy consumption.

#### Other cases

Sea and air transport services, and mold and dies is allowed to use used machinery exceeding 10 years as deemed appropriate. The company will be entitled to import duty exemption and investment on used machinery will be counted as investment capital for the calculation of the corporate income tax exemption cap.

Details will be according to the criteria specified by the Office of the Board of Investment.

- 5.1.4 Projects that have investment capital of 10 million baht or more (excluding cost of land and working capital) must obtain ISO 9000 or ISO 14000 certification or similar international standard certification within 2 years from the full operation startup date, otherwise corporate income tax exemption shall be reduced by one year.

## 5.2 Environmental protection

- 5.2.1 Adequate and efficient guidelines and measures to protect environmental quality and to reduce environmental impact must be installed. The Board will give special consideration to the location and pollution treatment of a project with potential environmental impact.

5.2.2 Projects or activities with type and size that are required to submit environmental impact assessment reports must comply with the related environmental laws and regulations or Cabinet resolutions.

5.2.3 Projects located in Rayong must comply with the Office of the Board of Investment Announcement No. Por 1/2554 dated May 2, 2011 on Industrial Promotion Policy in Rayong Area.

### 5.3 Minimum capital investment and project feasibility

5.3.1 The minimum capital investment requirement of each project is 1 million baht (excluding cost of land and working capital) unless specified otherwise on the list of activities eligible for investment promotion that is announced by the Board.

As for knowledge-based activities, the minimum capital investment requirement is based on the minimum annual salaries expense specified in the list of activities eligible for investment promotion that is announced by the Board.

5.3.2 For newly established projects, the debt-to-equity ratio must not exceed 3 to 1. Expansion projects shall be considered on a case-by-case basis.

5.3.3 For projects with investment value of over 2,000 million baht (excluding cost of land and working capital), the project's feasibility study must be submitted with details as specified by the Board

## 6. Criteria for concession project

For a concession project and the privatization of a state enterprise project, the Board's criteria shall be based on the Cabinet's decisions dated May 25, 1998, and November 30, 2004, as follows:

- (1) An investment project of state enterprise according to the 1999 State Enterprise Corporatization Act shall not be entitled to investment promotion.
- (2) For Build-Transfer-Operate or Build-Operate-Transfer projects, the state agency that owns the project must submit its project to the Board for consideration prior to any invitation to bid, and bidders shall be informed of any promotional privilege entitled to them, prior to the bidding. In principle, the Board will not promote a project where the private sector

pays the state for a concession, unless such payment is deemed reasonable in comparison with what the state has invested in the project.

The projects that require the Board's approval in principle must comply with the guidelines prescribed by the Office and the following conditions:

- (1) Being concessionary projects operated by a private party whose ownership will be transferred to the State (Build Transfer Operate or Build Operate Transfer);
- (2) Having a private party selected through a bidding process, and
- (3) Being infrastructure and public service-related activities in the list of activities eligible for investment promotion.

In the case that the applicant fails to comply with any of the specified conditions, the Board will consider granting investment promotion on general criteria without requiring approval in principle before the application submission.

- (3) For Build-Own-Operate projects, including those leased to or managed by the private sector, which in return pays rent to the state, the Board shall use normal criteria for investment promotion.
- (4) For the privatization of state enterprises according to the 1999 State Enterprise Corporatization Act, in case of expansion after the privatization, only the expansion investment shall be eligible for promotion. Incentives shall be granted according to normal criteria for investment promotion.

## 7. Criteria for foreign shareholding

The Board stipulates the following criteria for foreign shareholding in projects that apply for investment promotion:

- 7.1 For projects in activities under List One annexed to the Foreign Business Act, B.E. 2542, Thai nationals must hold shares totaling not less than 51% of the registered capital.
- 7.2 For projects in activities under List Two and List Three annexed to the Foreign Business Act, B.E. 2542, there are no equity restrictions for foreign investors except as otherwise specified in other laws.

7.3 The Board may set foreign shareholding limits for certain activities eligible for investment promotion as deemed appropriate.

## 8. Activity-based Incentives

The Board grants incentives based on the importance of activities as specified in the Board of Investment Announcement No. 9/2565 on measure to promote investment in industries that are important to the country's development as follows:

**Group A** consists of activities that shall receive corporate income tax incentives, machinery and raw materials import duty incentives and other non-tax incentives. This group can be divided into 5 subgroups as follows:

**Group A 1+** shall receive the following incentives:

- 10-13- year corporate income tax exemption without being subject to a corporate income tax exemption cap
- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the Board
- Other non-tax incentives

**Group A 1** shall receive the following incentives:

- 8-year corporate income tax exemption without being subject to a corporate income tax exemption cap
- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the Board
- Other non-tax incentives

**Group A 2** shall receive the following incentives:

- 8-year corporate income tax exemption, accounting for 100% of investment (excluding cost of land and working capital)
- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the Board
- Other non-tax incentives

**Group A 3** shall receive the following incentives:

- 5-year corporate income tax exemption, accounting for 100% of investment (excluding cost of land and working capital)
- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the Board
- Other non-tax incentives

**Group A 4** shall receive the following incentives:

- 3-year corporate income tax exemption, accounting for 100% of investment (excluding cost of land and working capital)
- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the Board
- Other non-tax incentives

**Group B** shall receive the following incentives:

- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the Board
- Other non-tax incentives

Unless, the incentive is specifically defined on the list of activities eligible for investment promotion announced by the Board.

## 9. Investment Promotion Zones

The Board specifies investment promotion zones as follows:

- 9.1 Eastern Economic Corridor
- 9.2 Special economic zones according to the regulations of the Office of the Prime Minister on the development of special economic zones B.E. 2564
- 9.3 Southern border provinces and the area of Model City Project in the southern border provinces
- 9.4 Twenty provinces with low per capita income: Kalasin, Chaiyaphum, Nakhon Phanom, Nan, Bueng Kan, Buri Ram, Phatthalung, Phrae, Maha Sarakham,



Mukdahan, Mae Hong Son, Yasothon, Roi Et, Si Sa Ket, Sakhon Nakhon, Sa Kaew, Surin, Nong Bua Lamphu, Ubon Ratchatani and Amnatcharoen

- 9.5 Science and Technology Parks including Innovation Districts that are promoted or approved by the Board.

## 10. Additional incentives in targeted areas

### 10.1 Additional incentives for industrial area development

Projects located within industrial estates or promoted industrial zones shall be granted one additional year of corporate income tax exemption.

This incentive shall not be granted to activities with conditions specifying that projects must be located within industrial estates or promoted industrial zones.

### 10.2 Additional incentives for decentralization

Projects located in investment promotion zones specified in No. 9.4 shall receive additional incentives as follows:

- (1) Three additional years of corporate income tax exemption shall be granted. Projects with activities in Group A1 or A2 shall instead receive a 50% reduction of corporate income tax on net profit derived from promoted activity for 5 years after the corporate income tax exemption period expires.
- (2) Double deduction for transportation, electricity and water costs for 10 years from the date of first revenue derived from the promoted activity shall be granted.
- (3) Deduction from net profit of 25 percent of the project's infrastructure installation or construction costs shall be granted in addition to normal depreciation. Such deduction can be made from the net profit of one or several years within 10 years from the date of first revenue derived from the promoted activity.

Moreover, additional incentives for other targeted areas are granted according to relevant announcements.

## 11. Additional criteria for granting incentives

- (1) In the case of manufacturing consecutive products in the continual production process of the same project, the Board will, as appropriate, consider granting premium incentives based on the activity criteria for manufacturing upstream products.
- (2) The combined period of a project's corporate tax exemption under measures providing additional incentives, activity-based incentives, and other measures must not exceed 8 years in total. This is in exception to Group A 1+ activities and those for which additional incentive measures are specified otherwise. In any case, the maximum period for corporate income tax exemption must not exceed 13 years.
- (3) A project is eligible for a corporate income tax reduction under Section 35(1) only if it has obtained corporate income tax exemptions for a total of no more than 8 years.
- (4) The period for corporate income tax reductions under Section 35(1) granted by measures providing additional incentives combined with those granted by other measures must not exceed 5 years in total
- (5) Investments, expenses, and implementations necessary to acquire investment promotion incentives based on activity criteria or extra incentives under any measures shall not be reapplied for further incentives under other measures.

## 12. Import duty exemption incentive on machinery as long as the project is promoted

To improve efficiency and develop competitiveness, the Board grants promoted projects an exemption of import duty on the following machinery as long as the project is promoted:

12.1 Machinery used for research and development

12.2 Machinery used for pollution prevention or treatment

12.3 Machinery used in the promoted projects that manufacture electronic products and parts for improving or replacing existing machinery or for increasing production capacity in existing projects, regardless of whether the projects have started their full operation or not

## 13. Import duty exemption incentives on goods imported for research and development

To promote research and development, the Board prescribes that promoted persons, whose project includes research and development activity, shall be granted import duty incentives on goods imported for research and development and all related

experimentation for a period of one year on each occasion. The imported goods on which shall be exempted from import taxes under this announcement shall not be machinery or raw materials or essential materials on which import duty are exempted under the categories of machinery, raw materials, or essential materials. Such import tax exemption shall be in compliance with the requirements on the type, quantity, time period, conditions, and procedures prescribed and notified by the Board.

14. Support for business expansion of existing promoted persons

To mitigate the effects of investment promotion policy amendments and to encourage existing promoted persons to expand businesses, the Board hereby allows existing promoted projects, which are not activities eligible for investment promotion according to this announcement, to increase their production capacity at their current location. The part of additional capacity will be eligible for the remaining incentives specified in the existing investment promotion certificate. The promoted persons must submit applications for project amendments following the criteria specified by the Office.

15. Use of corporate income tax incentives

To ensure that the incentives are granted effectively and exercised correctly in accordance with promotion conditions and to ensure the clear cost-and-benefit evaluation of investment promotion, promoted persons must report operating results for their projects to the Office of the Board of Investment for review prior to being granted corporate income tax incentives for that year. The reporting criteria and method shall be as prescribed by the Office of the Board of Investment.

16. The aforementioned criteria are general criteria that the Board uses as a guideline for approving investment promotion and granting of tax privileges.

17. The projects that have applied for investment promotion, been approved for investment promotion, or been promoted under the investment promotion measure according to the preceding announcement before this announcement comes into force must comply with the criteria and conditions specified in the preceding announcement.

18. For projects that have already submitted the application for promotion, have been approved for promotion or have been promoted before January 3, 2023, if they have not yet used their tax privileges, they can apply for incentive according to criteria and conditions of

this announcement. Letter of intention must be submitted to the Office within June 30, 2023.

19. This announcement shall be applicable for applications submitted from January 3, 2023 onwards.

Announced on December 9, 2022.

General

(Prayut Chan-o-cha)

Prime Minister

Chairman of the Board of Investment