

A BUSINESS GUIDE TO THAILAND 2023



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Chapter 1

Procedures for Establishing a Company

1.1. Types of Business Organizations

Thailand recognizes 3 types of business organizations: partnerships, limited companies and other forms of corporate presence.

1.1.1. Partnerships

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

- 1) Ordinary Partnerships
- 2) Limited Partnerships

1.1.1.1. Ordinary Partnerships

In an ordinary partnership, all the partners are jointly and wholly liable for all obligations of the partnership. Ordinary partners may contribute money, other property, or labor to the partnership. These partnerships may be registered or unregistered. 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.

1.1.1.2. Limited Partnerships

Limited partnerships must have 2 kinds of partners as follows:

- 1) One or more partners whose individual liability is limited to the amount of capital contributed to the partnership, and
- 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 corporate entities.

1.1.1.3. Partnership Registration

When two or more people agree to invest in one of the above mentioned types of partnership, the appointed managing partner is responsible for registering the

partnership with the commercial registration office of the province where the head office of the partnership is located. Limited partnerships must be only managed by a partner with unlimited liability.

The fee for registering a partnership is 100 Baht per 100,000 Baht of registered capital with a minimum of 1,000 Baht. A fraction of 100,000 Baht is regarded as 100,000 Baht. The minimum fee is 1,000 Baht and the maximum fee is 5,000 Baht.

1.1.2. Limited Companies

There are 2 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.

1.1.2.1. 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.

The 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.

The limited companies are managed by a board of directors in accordance with the company laws and its Articles of Association. In the board of directors' meeting, directors' proxies and circular board resolutions are not allowed.

All shares must be subscribed to, and at least 25% of the subscribed shares must be paid up. Thai law prohibits the issuance of shares with a par value of at least 5 Baht. Treasury shares are prohibited.

A minimum of 2 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 under the Foreign Business Act, foreigner participation is generally allowed up to a maximum of 49% of capital shares. The registration fee for the MOA and establishing the company is 550 Baht per million Baht of registered capital with a minimum of 5,500 Baht for registered capital not exceeding 1,000,000 Baht and a maximum of 275,000 Baht for registered capital exceeding 50,000,000 Baht.

The 49% capital shares limited 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 higher. Conditions, such as minimum capital, transfer of technology and reporting requirements, may be attached to Foreign Business Licenses.

1.1.2.2. 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), Public Limited Company Act No. 3 B.E. 2551 (A.D. 2008), and Public Limited Company Act No. 4 B.E. 2565 (A.D. 2022). 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); directors are elected by cumulative voting (unless the MOA provides otherwise) and the board of directors' meetings must be held at least once every 3 months.

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 2 years before they can be transferred, except with the approval of the shareholders at a meeting of shareholders. The board of directors must have a minimum of 5 members, at least half of whom must have a domicile in Thailand. Each share of the company shall be equal in value and be fully paid.

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 3 quarters of the voting shareholders. The company registration fee is 1,000 Baht per million Baht of registered capital and shall be no more than 2,500 Baht. The registration fee for the MOA and establishing the company is 2,000 Baht per million Baht of registered capital with a minimum of 2,000 Baht for registered capital not exceeding 1,000,000 Baht and a maximum of 300,000 Baht for registered capital exceeding 1,000,000 Baht.

The qualifications for independent directors of listed companies and securities companies that have initial public offerings were 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 3.
- 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.

1.1.2.3. Scrutiny of Thai Shareholders in Limited Companies

In 2013, the Commercial Registration 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 2 categories of new companies be scrutinized:

- 1) In cases where a foreigner holds less than 50% of the shares or registered capital of a company.
- 2) A 100% Thai owned company with a foreigner as sole or joint authorized director/partner

All Thai shareholders must submit bank-issued documents to certify or show the financial status of the shareholders, showing the amount that corresponds to the amount invested or held by each shareholder.

1.1.3. Other Forms of Corporate Presence

1.1.3.1. 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 establishment must follow generally accepted procedures.

It should be kept 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 20% 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 (FBL). It must apply for a Foreign Business License with the MOC first, and can operate as a reserved business only after the License has been issued. If the desired business is unique, and 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 the Foreign Business License. The minimum investment capital must be greater than 25% of the estimated average annual operating expenses of the operation calculated over 3 years. The minimum working capital shall not be less than 3 million Baht in any case.

➤ **Conditions to be complied with by the Branch Office after Obtaining Permission for Operation**

A Branch Office that is permitted to operate the business must comply with the following conditions:

- 1) There must be the minimum capital to be remitted to Thailand for the commencement of business operation as stipulated by law. Details of remitting the minimum capital are as follows:
 - First 25% of minimum investment within first 3 months;
 - Another 25% of minimum investment within first year;
 - Another 25% of minimum investment within second year; and
 - Last 25% of minimum investment within third year.
- 2) The total amount of loans utilized in the permitted business operation must not exceed 7 times the inward remitted funds for the permitted business operation;

- Loans mean 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.
- 3) At least one person out of the people responsible 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.
- 4) The document or evidence relating to the permitted business operation must be submitted when the official sends the summons or inquiry.
- 5) Their account and financial statements to be submitted to the Department of Business Development must be prepared.

➤ **Foreign Business License Exemption for Government Contractors**

Since 9 June 2017, foreign juristic persons are no longer required to apply for an FBL if the branch office is set up to conduct the following activities:

- Service business under a contract with a governmental authority; or
- Service business under a contract with a state enterprise.

The foreign entity only has to notify the business operation to the Ministry of Commerce to obtain a registration number for the branch. Unlike for a branch office that requires an FBL, the FBL-exempt branch office only requires a minimum capital of 2 million Baht. However, in case of employing foreigners, the 3 million Baht minimum capital is still required.

➤ **Fees for Branch Office**

Application fee (non-refundable) is 2,000 Baht. If the application is approved, the government fee will be set at the rate of 5 Baht for every 1,000 Baht or fraction thereof of the registered capital of the parent company, with a minimum of 20,000 Baht and a maximum of 250,000 Baht. A fraction of 1,000 Baht in capital is regarded as 1,000 Baht.

1.1.3.2. 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 a business, the permission by the Director-General, Business Development Department with the approval of the Foreign Business Committee is required.

The minimum investment capital must not be less than 25% of the estimated average annual operating expenses of the operation calculated over 3 years, but not less than 3 million Baht (same as branch office).

The Foreign Business Operation Committee has determined the guidelines for approval as follows:

➤ **Characteristic of the Representative Office**

The Representative Office must have all 3 characteristics as follows:

- 1) Be the juristic person established in accordance with the foreign law and has to have established an office in Thailand in order to operate the service business for the head office or the affiliated company or the group company in foreign country only;
- 2) Renders services to the head office, affiliated company or group company without receiving income from services, except for funds to cover the expenses of the Representative Office that are 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 any or all of the following 5 categories, depending upon the objectives and business characteristics of the Representative Office:

- 1) Finding sources of goods or services in Thailand for the head office.
- 2) Checking and controlling the quality and quantity of goods purchased in Thailand by the head office.
- 3) Providing advice and assistance concerning goods of the head office sold to agents or consumers in Thailand.

- 4) Disseminating information concerning new goods or services of the head office.
- 5) Reporting on business developments in Thailand to the head office

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 being granted Permission to Operate**

A Representative Office that is permitted to operate a business must comply with the following conditions:

- 1) There must be the minimum capital to be remitted to Thailand for the commencement of business operations as stipulated by law. Details regarding the minimum capital are as follows:
 - First 25% of minimum investment within first 3 months;
 - Another 25% of minimum investment within first year;
 - Another 25% of minimum investment within the 2nd year; and
 - Last 25% of minimum investment within the 3rd year.
- 2) The total amount of loans utilized in the permitted business operation must not exceed seven times the inward remitted funds for the permitted business operation;
 - Loans mean the total liabilities of the business, notwithstanding the liabilities incurred by any form of transaction and excludes trade

liabilities occurred from the ordinary course of business, such as, trade creditors, and accrued expenses.

- 3) At least one person out of the people responsible for operating the business in Thailand must have a domicile in Thailand;
 - o Domicile means the contactable residence in Thailand which can be the place of business, excluding temporary residence such as hotels.
- 4) The document or evidence relating to the permitted business operation must be submitted when the official sends the summons or inquiry.
- 5) The account and financial statements to be submitted to the Department of Business Development must be prepared.

➤ **Fees for the Representative Office**

Application fee (non-refundable) is 2,000 Baht. If the application is approved, the government fee will be set at the rate of 5 Baht for every 1,000 Baht or a fraction thereof of the registered capital of parent company, with a minimum of 20,000 Baht and a maximum of 250,000 Baht. A fraction of 1,000 Baht in capital is regarded as 1,000 Baht.

➤ **Tax Position of the 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. The representative office is not subject to any corporate income tax, except for interest on any remaining funds that it has received from the head office and deposited in its bank account.

1.1.4. International Business Center (IBC)

Thailand defines International Business Center (IBC) as a company incorporated in Thailand that provides services such as business administration, acquisition and procurement, technical and analytical research, promotion and announcement, credit and risk management, human resources development, financial advisory, and tax services to support its associated enterprises, whether located in Thailand or overseas, or operate international trade. In late 2018, the Thai Government approved the drafted new Royal Decree laws for offering the International Business Center (IBC) tax regime, and terminating the existing offer of the International Headquarters (IHQ) and the International Trade Center (ITC). Under the IBC, new conditions must be met to be eligible for the incentives and certain existing incentives would be reduced.

The Government's resolution for approving the drafted new Royal Decree laws records that due to Thailand's membership of the Inclusive Framework on Base Erosion

and Profit Shifting of the OECD, Thailand has an obligation to cease and amend tax measures that erode the tax bases of other countries.

This measure is in response to the Harmful Tax Practices – 2017 Progress Report on Preferential Regimes (Inclusive Framework on Base Erosion and Profit Shifting (BEPS): Action 5) in which Thailand's regional/international headquarters, trading and treasury hub regimes were identified as harmful tax practices.

An International Business Center (IBC) receives the following incentives:

1.1.4.1. Incentives offered by the Thailand Board of Investment (BOI)

- Permission to own land
- Permission to bring in skilled personnel and experts into the Kingdom to work in investment promoted activities.
- Permission for foreign nationals to enter the Kingdom for the purpose of studying investment opportunities
- Permission to take out or remit money abroad in foreign currency
- Exemption of import duty on machinery used for R&D and training activities

➤ Conditions to apply for privileges offered by the Thailand Board of Investment (BOI)

- Must have business plans in providing services for associated enterprises as follows:
 - 1) General management, business planning, and business cooperation
 - 2) Procurement of raw materials and parts
 - 3) Research and development of products
 - 4) Technical support
 - 5) Marketing and sales promotion
 - 6) Human resources management and training
 - 7) Financial advisory services
 - 8) Economic and investment analysis and research
 - 9) Credit management and control
 - 10) Financial management service of the treasury center
 - 11) International trade business
 - 12) Lending to associated enterprises outside the scope of business in Item (10) which can be implemented under the exchange control laws
 - 13) Office building or factory building rental service for associated enterprise
 - 14) Other supporting services as approved by the Board
- The paid-up registered capital must not be less than 10 million baht
- Project must employ at least 10 skilled and knowledgeable staff for IBC

- In case of operating international trade business and office building or factory building rental service for associated enterprise
- In the case of offering loans to associated enterprises Only machinery used for R&D and training activities are eligible for import duty exemption
- Not eligible for import duty exemption on raw and essential materials used in the production for export

1.1.4.2. Incentives offered by Revenue Department

➤ Corporate Income Tax

For net profit derived from the provision of support services, treasury services and royalty income from associated enterprises both in Thailand and in foreign countries, as follows:

- 8% Corporate Income Tax when annual operating expenditure is 60-300 million Baht
- 5% Corporate Income Tax when annual operating expenditure is 300-600 million Baht
- 3% Corporate Income Tax when annual operating expenditure is 600 million Baht or more

For dividend/interest income derived from associated enterprises both in Thailand and in foreign countries:

- Exemption from Corporate Income Tax

➤ Withholding Tax

For payments of interest to corporate lenders in a foreign country;

- Exemption from Withholding Tax

For Dividend payments to corporate shareholders in foreign countries;

- Exemption from Withholding Tax

➤ Personal Income Tax

For salary payments to expatriate employees hired to work in Thailand:

- 15% Personal Income Tax

➤ **Specific Business Tax**

For treasury services income derived from affiliates both in Thailand and in foreign countries:

- Exemption from Specific Business Tax

➤ **Conditions to apply for privileges offered by Revenue Department**

- Having paid-up capital of at least 10 million Baht.
- Having at least 10 knowledgeable and skilled employees or at least 5 knowledgeable and skilled employees if the IBC acts only as a treasury center.
- Incurring expenditure paid to recipients in Thailand of at least 60 million Baht in the accounting period.
- Having provided administrative services, technical services, supporting services, or financial management services to associated enterprises in Thailand or overseas.

1.1.4.3. Incentives offered by the Bank of Thailand (BOT)

The Bank of Thailand (BOT) offers incentives for the Treasury Center (TC), including the International Business Center (IBC) that provides treasury services. The incentives include the followings:

- Reduce transaction costs and help increasing company's efficiency and competitiveness through cash pooling, and netting.
- Facilitate Multi National Corporation (MNC), either their parent companies overseas or in Thailand, to centralize all treasury management in Thailand.
- Purchase/sales Foreign Exchange (FX) both for itself and group companies.
- Multi-netting of revenue and expense from goods and services.
- Lend and borrow FX to/from group companies in Thailand or overseas.
- Deposit Foreign Currency Deposit (FCD) overseas in conformity with the rules.
- Neither required to fill in the FX transaction nor submit documents of underlying transactions when doing FX transactions with banks

1.1.4.4. Existing IHQ and ITC Companies

The Government's approval also includes a proposal for companies receiving IHQ and ITC tax concessions under their respective Royal Decrees at the time of the termination of IHQ and ITC privileges to continue until the end of their approved initial periods of time or to transfer to an IBC structure and terminate their IHQ or ITC tax concessions.

Source: Thailand Board of Investment, as of June 2023
Bank of Thailand, as of June 2023
Revenue Department, as of June 2023

1.2. Forming a Company

1.2.1. Company Registration

1.2.1.1. Promoters

Company promoters are responsible for registering the company with the Ministry of Commerce (MOC). The promoters must be individuals (not juristic persons). They must be available to sign documentation during the registration process. There must be a minimum of 2 promoters for a private limited company and at least 15 promoters for a public limited company.

The promoters of a private limited company must be 12 years of age or older; for a public limited company, the promoters must be 20 years of age or older.

Each promoter of a private limited company 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. 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.

The promoters of a public limited company must also be among the company's initial shareholders immediately after the company's registration. All promoters must subscribe for shares, which must be paid up in an aggregate amount equal to not less than 5% of the registered capital. Said shares may not be transferred before the expiration of 2 years from the date of the company's registration, unless specifically approved at a meeting of shareholders. Nevertheless, it is required that one-half of the individuals serving as promoters have their domicile in the Kingdom of 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.

1.2.1.2. Timing

➤ For Private Limited Company

The registration of the company can be accomplished on the same day as the registration of the Memorandum of Association provided that:

- All registered shares have been subscribed for;
- 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;
- The promoters have handed over the business to the directors; and
- The payment of at least 25% of the total shares has been paid by the shareholders.

The company can apply for and obtain the company's tax ID card and register the Employer account under the Social Security Act with the MOC on the same day as the registration of the Company.

However, if the company does not wish to apply for the company's tax ID card or register the Employer account under the Social Security Act with the MOC on the same day as the registration of the Company, it can apply for the company's tax ID card and register the Employer account with the Revenue Department and the Social Security Office respectively later.

➤ For Public Limited Company

A Public Company Limited is required to register its Memorandum of Association with the MOC first, and, thus the company's registration cannot be done on the same day, as is the case for a private limited company. After the Memorandum of Association has been registered, the promoters must offer shares for sale to the public or to any person in accordance with the law on securities and stock exchange.

The promoters must submit to the Registrar a copy of the documents relating to the offer of shares for sale to the public, which shall be prepared and submitted to authorities under the law on securities and stock exchange, within 15 days of the date of submission to such authorities, in accordance with the rules, procedures and conditions prescribed by the Registrar.

The promoters shall convene the statutory meeting when the number of subscribed shares reaches the number specified in the prospectus or a public meeting,

which must be not less than fifty percent of the number of shares specified in the Memorandum of Association, within 2 months of the date on which the number of subscribed shares reached the specified number but not later than six months from the date on which the Memorandum of Association was registered.

In the event it is impossible to call the statutory meeting within the specified time, if the promoters of the company wish to proceed further, they must apply for an extension of the period by providing the reason for the delay to the Registrar not less than 7 days in advance of the expiry date of such period. If the Registrar deems it expedient, an extension of between one and three months from the date ending such period may be granted.

If the statutory meeting could not be concluded within the period, the Memorandum of Association shall become invalid upon the lapse of such period and, within 14 days from the date on which the Memorandum of Association become invalid, the promoters shall return the payment for share subscription to the share subscribers.

After having received the payment on shares up to the number of all subscribed shares, the Board of Directors must apply to register the company within three months of the date of conclusion of the statutory meeting. The application must provide the following particulars:

- 1) The paid-up capital, the total amount of which must be specified;
- 2) The total number of shares sold;
- 3) The names, dates of birth, nationalities, and addresses of the directors;
- 4) The names and number of directors authorized to affix signatures on behalf of the company and any power limitations on directors that have been specified in the Articles of Association;
- 5) The location of the head office and branch offices (if any).

The company cannot apply for and obtain the company's tax ID card and register the Employer account under the Social Security Act with the MOC like a private limited company. Consequently, the company must apply for the company's tax ID card with the Revenue Department and register the Employer account with the Social Security Office directly.

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

1.2.1.3. Filings

For a private limited company, all documents associated with the company's registration must be submitted to the Registrar of the Department of Business Development (DBD) of the MOC; or, if the company's location is to be situated outside of

Bangkok, it must be submitted to the Office of Provincial Business Development in the province in which the company's business will be situated. Users can also choose to register online at www.dbd.go.th. For a private limited company, all documents associated with the company's registration must be submitted to the Registrar of the Department of Business Development (DBD) of the MOC; or, if the company's location is to be outside of Bangkok, it must be submitted to the respective Office of Provincial Business Development in the province in which the company's business will be located. However, companies that are located in Bangkok or outside of Bangkok can also apply for their company registration through the DBD's e-Registration service (www.dbd.go.th).

The company registration procedure via the e-Registration service involves a one-time user authentication procedure to obtain a "digital signature" (username and password). The applicant can either submit the application and appear in person or authorize a person to appear on their behalf at the DBD office for identity verification or Electronic Know-Your-Customer. The applicant can file the application for pre-approval of the company's registration only after the user's account is activated. Once the pre-approval is issued, the applicant will need to endorse their digital signature along with a one-time password (OTP), which will be sent out to the registered mobile number. The fee payment for the registration can be made through different channels (ATM, Internet Banking, Mobile Internet, Counter Deposit). Upon receipt of payment, the DBD will send an updated company affidavit (and other documents requested by the applicant) by mail to the registered address or to any address as notified.

For a public limited company, all documents associated with the company's registration must be submitted to the Registrar of the Department of Business Development of the MOC at the Central Registration office, Bangkok only, regardless of company's location.

All documents associated with the registration of the company's tax ID card (in cases where the company does not apply for the company's tax ID card with the MOC when registering the Company) and VAT certificate must be submitted to the Filing Office of the Revenue Department in Bangkok; or, if the company's location is to be situated outside of Bangkok, to the Provincial Revenue Office where the company's location will be situated. However, the Company either locates in Bangkok or outside of Bangkok can also apply for the company's tax ID card and VAT certificate through the website of the Revenue Department.

All documents associated with the registration of the Employer account under the Social Security Act (in cases where the company does not apply for the Employer account under the Social Security Act when registering the Company) must be submitted to the Filing Office of the Social Security Office in Bangkok; or, if the company's office is to be located outside of Bangkok, to the Provincial Social Security Office in the province in which the company's business will be situated. Once an employer has been registered,

they can submit an application for online transactions and use it to register insured persons online after approval for online transactions has been granted.

Source: Department of Business Development, Ministry of Commerce, as of June 2023.

1.2.2. Registration Process

1.2.2.1. Corporate Name Reservation

The first step of the company registration process is name reservation. To reserve a name, the company can either (1) submit a signed Name Reservation Form (one of the promoters is required to sign in such form) to the Department of Business Development of the MOC or (2) fill in a Name Reservation Form and submit it through DBD website (http://www.dbd.go.th/dbdweb_en). The promoter in (1) and (2) are required to supply the requested company name together with 2 alternative names. (3) Users can access the automatic company name reservation system of the Department of Business Development at <http://reserve.dbd.go.th> The registrar or the system will then examine the application in order to ensure that:

- No similar company names have previously been reserved; and
- The names do not violate any ministerial rules.
- The names in a foreign language have different meanings or pronunciations than the Thai names.

If the applicant's intended name is in conflict with either of the above, that name will be rejected. In Case (1) and (2), the registrar will consider the alternative names submitted. This process can normally be completed within 2-3 working days. If all 3 names submitted are rejected, the applicant will be required to re-submit the form with 3 new names. In Case (3), users can check the company names and reserve them through the system.

If users would like to register a company in the e-Registration system, they need to reserve the company names through the automatic company name reservation system and select e-Registration only.

The registrar has considerable discretion with regard to the matter of company names. Many times, the first name or even the first 2 names are rejected due to the violation of 1 of the 2 rules stated above. Once the name is approved, the corporate name reservation is valid for 30 days, with no extensions. However, after the name has expired, the promoter can still re-apply for Name Reservation again and again if the name is still available.

1.2.2.2. Filing a Memorandum of Association

After the name reservation has been approved, the company must then submit its Memorandum of Association (MOA) to the Department of Business Development of the MOC. For a private limited company, the MOA must include the Company's name (the same as the name reserved); the location of head office (located at which province); objective of the company; registered capital must be divided into each share with the same value (each share's value must be at least 5 Baht); the name, address, age, occupation and number of shares that persons who start up the company reserve to buy the shares); and the name, address, age of 2 witnesses. 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.

For a public limited company, the MOA must at least include the name of the company; the purpose of the company to offer shares for sale to the public; the objective of the company (which must specify clearly categories of business); the registered capital including the type, number and value of shares; the province where the company will be located; the names, dates of birth, nationalities, and addresses of the promoters and the number of shares for which each of them has subscribed.

The official fee for registration of the MOA for a **private limited company** is 50 Baht per 100,000 Baht of registered capital. A fraction of 100,000 Baht is regarded as 100,000 Baht. The minimum fee is 500 Baht and the maximum fee is 25,000 Baht.

For a **public limited company**, the official registration fee is 1,000 Baht per 1,000,000 Baht of registered capital. A fraction of 1,000,000 Baht is regarded as 1,000,000 Baht. 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 "foreign" under the FBA, before commencing its business, the following rules shall be applied:

- If the company engages in activities specified in the FBA, its minimum registered capital would be greater than 25% of the estimated average annual operating expenses of the operation, calculated over 3 years, but not less than 3 million Baht.
- If the company does not engage in activities specified in the FBA, its minimum registered capital would be 2 million Baht.
- If the company intends to employ foreigners, other minimum registered capital requirements may also be applied.

1.2.2.3. Convening a Statutory Meeting

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

- 1) The adoption of the regulations of the company, if any;
- 2) The ratification of any contracts entered into and any expenses incurred by the promoters in promoting the company.
- 3) The fixing of the amount, if any, to be paid to the promoters;
- 4) The fixing of the number of preference shares, if any, to be issued, and the nature and extent of the preferential rights accruing to them;
- 5) The fixing of the number of ordinary shares or preference shares to be allotted as fully or partly paid-up otherwise than in money, if any, and the amount up to which they shall be considered as paid-up;
- 6) The appointment of the first directors and auditors and the fixing of their respective powers;

Note: No resolutions of the statutory meeting are valid unless passed by a majority including at least one half of the total number of subscribers entitled to vote, and representing at least one half of the total number of shares to such subscribers. After the statutory meeting is held, the promoters must hand over all businesses to the directors of the company.

1.2.2.4. Registration

Within 3 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's statutory meeting shall be voided and if the company wishes to register again, the promoters 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 whom the company is planning to hire.

The company registration fee for a private limited company is 500 Baht per 100,000 Baht of registered capital. A fraction of 100,000 Baht is regarded as 100,000 Baht. The minimum fee is 5,000 Baht and the maximum fee is 250,000 Baht.

For a **public limited company**, the company registration fee is 1,000 Baht per 1,000,000 Baht of registered capital. A fraction of 1,000,000 Baht is regarded as 1,000,000 Baht. The minimum fee is 1,000 Baht and the maximum fee is 250,000 Baht.

For a **private limited company**, 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.

For a **public limited company**, each promoter and subscriber must pay 100% of their subscribed shares.

The company is then registered as a legal entity (or juristic person).

1.2.2.5. Registering for Tax Documents

A company liable for corporate income tax must obtain a tax ID card and number from the Revenue Department within 60 days of its date of incorporation or, in the case of a foreign company, from the date it begins carrying on business in Thailand. Companies that have turnover in excess of 1.8 million Baht must also register for VAT with the Revenue Department within 30 days of the date the annual turnover exceeded that threshold.

1.2.2.6. Registering for Employer account under the Social Security Act

If the company has at least one employee, the company has a duty to register the Employer account under the Social Security Act with the Social Security Office within 30 days of the start of employment. The process for registration of the Employer account under the Social Security Act can normally be completed within 1 day provided that all required information and documents are fully submitted to the Social Security Office.

Source: Department of Business Development, Ministry of Commerce, as of June 2023.

1.3. Reporting Requirements

1.3.1. 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 Accounting Act, B.E. 2543 (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.”

1.3.2. Accounting Period

The accounting period must be 12 months. Unless the Articles of Association state otherwise, 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.

1.3.3. Reporting Requirements

All juristic companies, partnerships, branches of foreign companies, and joint ventures are required to prepare financial statements 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's 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).

For a **private limited company**, the director is responsible for arranging the annual meeting of shareholders to approve the company's audited financial statement within 4 months of the end of the fiscal year, and filing the audited statement and supporting documents, including a list of shareholders on the date of the meeting, 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, and excluding joint ventures, the Manager of the branch office must submit a copy of the financial 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 limited company**, the director is responsible for arranging the annual meeting of shareholders to approve the audited financial statements of a company within 4 months of the end of the fiscal year. A copy of the audited financial statement and annual report, 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 approval at the shareholder's meeting. In addition, the company is required to publish the balance sheet for public information in a newspaper for a period of at least 1 day within 1 month of the date it was approved at the shareholder's meeting.

1.3.4. 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.

1.3.5. 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 5 million Baht, total revenue of no more than 30 million Baht, and total assets of no more than 30 million Baht, the financial statement does not need to be certified by an authorized auditor.

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

1.4. Utilities Request

1.4.1. Overview of Utilities Requests

There are different electricity and water authorities in Thailand depending on the residential or business location requiring utilities. When the location requiring utilities is in Bangkok and its metropolitan area, the Metropolitan Electricity Authority (MEA) and Metropolitan Waterworks Authority (MWA) will be the electricity and water supplier, respectively. If the location requiring utilities is outside Bangkok and its metropolitan area, the Provincial Electricity Authority (PEA) and the Provincial Waterworks Authority (PWA) will be in charge of supplying electricity and water, respectively.

1.4.2. Electricity Request

1.4.2.1. Bangkok Metropolitan Area;

The Metropolitan Electricity Authority has the following process for the provision of electricity:

- Submit application, arrange date of meter installation , 1 calendar day
- External wiring and meter installation, 14 calendar day

An application to receive a permanent electricity connection must be accompanied by:

➤ Evidence of Identity

Juristic person: a copy of a certificate of the juristic person's status issued by a government agency (the certificate must not be more than 6 months old on the date that the applicant requests a permanent electricity connection). In the case of applying through a juristic person, those who filed the petition must have full authority and must bring a copy of their identification card when making the application in person.

➤ **Evidence of the Applicant's Premises**

Juristic person: a copy of a certificate of the juristic person's status

➤ **Evidence of the Relationship between the Applicant and the Place that will receive Electricity**

- A copy of a house registration with the user's name, the requesting house number form, or a sale and purchase contract, in the case of the user having ownership of the land or place requesting electricity.
- Rent or hire purchase land with building contract.
- Evidence showing the status of the entrepreneur, such as value added tax registration, specific business tax registration, or commerce registration, and evidence of personal income tax.

➤ **For the certificate of internal electricity installation, the following documents must be attached:**

- Certificate of training in internal electrical installation
- Single line diagram and load schedule
- Specification of electrical equipment to be used
- Internal electrical installation photos, including main distribution board, service conductors, ground wire, and installed electricity location with number

1.4.2.2. Provincial Area;

The Provincial Electricity Authority has the following process for the provision of electricity:

➤ **Urban Area;**

- 1) Document Review Receiving an application for electricity, asking for details and scheduling the installation of internal electrical equipment. *(Note: (The documents are complete and correct as required by PEA.)), 0.5 working day.*
- 2) Consideration Approving the application and receiving the payment for meter installation, 0.5 working day.
- 3) Consideration Checking the installation of internal electrical equipment, installing meter and supplying electric power. *(Note: (Performing installation after ensuring compliance with the standards.)), 2 working days.*

➤ **Rural Area;**

- 1) Document Review Receiving an application for electricity, asking for details and scheduling the installation of internal electrical equipment. *(Note: (The documents are complete and correct as required by PEA.)), 0.5 working day.*
- 2) Consideration Approving the application and receiving the payment for meter installation, 0.5 working day.
- 3) Consideration Checking the installation of internal electrical equipment, installing meter and supplying electric power. *(Note: (Performing installation after ensuring compliance with the standards.)), 5 working days.*

1.4.2.3. Rules & Conditions for Application Approval (if any)

The conditions for application for electricity with single-phase and three-phase low voltage meter installation (5(15) - 30(100)A) for residential building, condominium, Commercial building and business establishment (Residential & Small Business only) in rural area (an area outside the municipality pursuant to the government's notification) where payment is made before internal wiring check (juristic person) are as follows;

- 1) An installation site shall have the PEA low voltage power distribution system passing through its premise.
- 2) An installation site shall have the house number.
- 3) An applicant shall wire the main line from the house/building to the utility pole and leave the end hanging at the meter installation level.
- 4) An installation site shall have the electrical wiring and installation of internal electrical equipment according to the standards prescribed by the Engineering Institute of Thailand or the Provincial Electricity Authority; otherwise, the PEA will require it to correct them accordingly before allowing the electric power distribution.
- 5) If the total number of lightings, outlets and electrical appliance existing and newly installed is more than 20 points (one point equal to 1 unit of lighting or 1 unit of outlet), or if the power consumption is more than 5 kw, an applicant shall submit 2 copies of wiring and electrical equipment installation plan (scale 1:100) for the purpose of inspection. The applicant may lure the PEA to prepare the plan.

Note: 1. In case of prepaid internal wiring inspection (juristic person), the document review, approval and receipt of payment for meter installation will be completed within 1 day. 2. The processing time pursuant to the PEA Regulation on Service Quality Standard B.E. 2558 (2015) is to complete the meter installation and begin electric power distribution in rural area within 5 working days of applicant's payment. 3. The period specified for each process is a processing time after the officer ensure that all required documents are complete and correct. 4. The period specified for each process depends on the applicant's payment readiness, internal electrical equipment inspection schedule and meter installation and electric power distribution. The time does not include the travel time and schedule waiting period. If the standard is not met, PEA will inform the applicant to correct and schedule the next inspection.

➤ **Required Documents for Juristic Person**

- 1) Authorized signatory's ID card
- 2) Authorized signatory's government official / government employee
- 3) Certificate of Juristic Person Registration
- 4) The Certificate of Value Added Tax Registration (Form Phor.Phor. 20)
- 5) Installation site's house registration
- 6) Title deed or ownership certificate
- 7) Installation site's location map
- 8) Original power of attorney affixed with revenue stamps (If any attorney is assigned)
- 9) ID cards of the principal (1. If any attorney is assigned 2. Please certify true copy.)
- 10) Government official / government employee ID card of the principal (1. If any attorney is assigned 2. Please certify true copy.)
- 11) Passport (1. For foreigner 2. Please certify true copy.)

1.4.3. Water Supply Request

1.4.3.1. Bangkok Metropolitan Area;

Those who want to use water supplied in Bangkok Metropolitan area can request for the water supply from Metropolitan Waterworks Authority (MWA)

➤ **Installation Process for Water Supply System**

- 1) The Requester files a request for installation of water supply form, and makes a deposit payment for pipe installation according to the designated fee, 0.5 working day.
- 2) MWA staff will make a site visit to conduct a survey and make a plan or blueprint, including cost estimates, and inform the person requesting water from the MWA, 4 working day.
- 3) After the PWA branch has received the money, it will start installing the water supply system and register the user of PWA's water, within 15 working days.

Note: The timeline of the operation may vary depending on the size of the pipe and the installation of new water pipes. This does not include any time beyond control.

➤ **Required Documents for Juristic Person**

- 1) A copy of the business registration certificate (not more than 3 months old) and a copy of the ID card of the authorized signatory (certified true copy).
 - A house registration (where the water installation is requested)

- A purchase contract for the building
 - A lease-purchase contract
 - A lease contract for the building
 - A temporary house registration
 - A building permit
 - A land title deed and a letter of consent from the owner
- 2) A power of attorney (original) (stamped in accordance with Clause 7 of the Stamp Duty of the Revenue Code) and a copy of the grantor's ID card (in cases where the applicant cannot carry it out in person).

1.4.3.2. Provincial Area;

Those who want to use water supplied by the Provincial Waterworks Authority (PWA) are required to fill out a request for water supply usage form and submit it along with the required evidences at a PWA branch in the area where the water supply will be used between 8:30 a.m. and 16.30 p.m. from Monday to Friday (except Public Holidays).

➤ Installation Process for Water Supply System

- 1) Upon submission of a water use application form, the applicant must pay a deposit for the installation of water pipes, based on the installation rates. The officer will then issue a receipt. Afterward, the site will be surveyed, and a layout or blueprint, along with an estimated cost, will be prepared. The applicant will be informed about these details as soon as possible.
- 2) When the water service applicant receives the estimated installation cost, they must make the payment within 60 days. Once the PWA branch receives the payment, it will proceed with the installation of the water pipes and register the applicant as its water service user. If the applicant does not make the payment within the specified time, the PWA will forfeit the deposit, and the applicant will be considered to have waived their right to use the water service. In addition, if the applicant who has submitted an application and paid the installation cost refuses to allow the PWA to lay pipes and install a water meter within the time specified in writing by the PWA, they will be considered to have waived their right to use the water service. The PWA will then refund the installation costs paid, deducting 20% for operating costs.

➤ Supporting Documents for Water Supply Requests

- 1) An identity card (ID card), government official card, or state enterprise employee card, including a certified photocopy of the card, of the person requesting water from the PWA.
- 2) A photocopy of the house registration of the house requesting water supply installation and/or a photocopy of the house registration where the person

requesting the water supply is registered (the requester's name must be on the house registration).

- 3) In the case of the person requesting installation of a water supply system from the PWA not being an occupant or owner of the house for which the water is being requested, a photocopy of the house registration where that person is registered must be submitted along with a letter of approval from the house's occupant or owner and such evidence as a photocopy of his or her ID card and a photocopy of the house registration of the house's occupant or owner. In the case of the person requesting installation of a water supply system from the PWA being the father, mother, son, daughter or spouse of the house's occupant or owner, a letter of approval is not required (does not have to be submitted).
- 4) Any letter or document providing proof of ownership of the house for which water supply is being requested from the PWA in the case that the house's owner has not transferred the house registration, or has transferred the house registration but he/she is not identified as an occupant of the house.
- 5) In the case that the party requesting installation of a water supply system from the PWA is a government agency, state enterprise, official and state enterprise quarters, embassy, consulate, temple or other place of religious practice which is registered and licensed, the head of those government agencies or organizations or authorized persons are required to sign a request form for the installation of the water supply system.
- 6) In the case that the party requesting installation of a water supply system from the PWA is a limited company, public company, limited partnership, ordinary partnership, commercial bank, private school or other juristic person, the manager or legal owner is required to sign a request form for the installation of a water supply system. In so doing, if the house's owner, government agency head, manager, or the owner of the company or partnership is unable to file a request form by himself/herself, he/she may provide a letter of mandate to another person to act on his/her behalf and the authorized person shall submit to PWA a photocopy of his/her ID card, government official card, state enterprise employee card, and the house registration where he/she is registered.

1.4.4. Fixed Line and Internet Request

TOT Public Company Limited is a Thai state-owned telecommunications company. TOT's main line of business is fixed line telephony, although it is also engaged in several other businesses, including mobile telephones.

To subscribe to TOT's service:

- Visit <https://www.tot.co.th/>
- Visit TOT local branches

- Call 1100 for the TOT Call Center

The following supplementary documents may be requested if using the E-filing system:

- 1) Request forms
- 2) A copy of ID card/Passport ID page
- 3) A copy of a certificate of the juristic person's status issued by a government agency (In the case of the requester being a Juristic person)

1.4.5. Industrial Waste Management and Transfer

The relevant laws dictate that a waste management action must be performed within 30 days from the day the permission request is submitted and received for consideration.

1.4.5.1. Industrial Waste Management and Liability

➤ Possession of Waste

- Do not keep hazardous waste in the factory premises for more than 90 days. If it is kept for more than 90 days, a permit must be obtained using a SorKor 1 form.
- In case of possession of hazardous waste, compliance with the provisions of the Ministry of Industry Notification Re: Transportation Manifests for Hazardous Waste B.E. 2547 is mandatory.

➤ Management and Control of Waste

- Design disaster prevention countermeasures to mitigate the risks of leaks, fires, explosions, and unexpected events involving waste, as specified in Appendix 3 of the Ministry's Notification.
- Store hazardous waste separately in a suitable and covered container, and arrange a specific disposal of waste in a safe and non-disturbing manner.
- Appoint a specialized supervisor for environmental protection system in accordance with the Ministry of Industry Notification Re: Descriptions of Factory Types and Sizes B.E. 2545, and provide training to relevant employees so that they can perform their duties correctly and safely.

➤ Treatment/Disposal of Waste Inside the Factory Premises

- Compliance with the waste management criteria and procedures established by the Department of Industrial Works (DIW) is mandatory.

(Approval from the DIW must be obtained before implementing the procedures.*)

- Seek chemical and physical analysis results of the waste prior to treatment or disposal, and keep the analysis results for at least 3 years for further inspection.
- Submit an annual report to the DIW in accordance with the SorKor 5 Form provided at the end of the Ministry's Notification.

➤ **Responsibility for Waste**

- The generator of waste shall be responsible and liable for the loss, accidental or unauthorized disposal, and recovery of waste, until the waste is taken into possession by a waste treatment and disposal facility.
- The generator of waste shall be jointly liable for the appointment of a hazardous waste collector and transporter.

➤ **Transportation of Waste for Treatment/Disposal outside the Factory Premises**

- Obtain a permit to transport waste outside the factory premises using a SorKor 2 Form
- Send hazardous waste to an authorized collector and transporter or waste treatment and disposal facility only. If the services of others will be used to process waste, approval must be obtained from the DIW.

➤ **Transportation of Waste outside the Factory Premises**

- Report any transportation of all types of waste through electronic media.
- When hazardous waste is transported outside the factory premises, a transportation manifest must be present.

1.4.5.2. Requesting Permission to Transfer Industrial Waste from the Factory

- Submission of Manual: An action must be performed within 30 days after the request is received
- Submission through E-filing
 - An action must be performed within 10 days after the permission request (SorKor2) has been saved into the system – only if the request contains 1 entry of a material, part or product that is no longer being used and that each request has 1 waste processor.
 - An action must be performed within 20 days after the permission request (SorKor2) has been saved into the system – if the request contains no more than 5 entries of a material, part or product that is no longer being used and that each entry has no more than 1 waste processor.

- An action must be performed within 30 days after the permission request (SorKor2) has been saved into the system – if the request contains no more than 5 entries of a material, part or product that is no longer being used and that each entry has more than 1 waste processor. Please note that the timeframe given does not include the 7-day period in which the request is being considered by the Provincial Industry Office before being forwarded to the Industrial Waste Management Bureau for approval.

1.4.5.3. Requesting Permission to Transfer Industrial Waste from the Factory process

- 1) Document review: The officer receives the request and preliminarily reviews the submitted documents within 1 business day.
- 2) Consideration: The officer examines the request in accordance with the guidelines within 17 business days.
- 3) Board Approval/Signature: The license issuer signs the license and notifies the applicant of the result in writing within 3 business days.

1.4.5.4. Requesting Permission to Transfer Industrial Waste from the Factory Require Document

- 1) Application for permit to remove waste or unwanted materials from the factory premises (SorKor 2)
- 2) ID card of the applicant
- 3) Business registration license
- 4) Power of attorney to act on behalf of the applicant (if any)
- 5) Industrial estate business license
- 6) Purchase contract, service contract, or letter of consent between the user and the service provider for the treatment/disposal of waste materials to ensure liability (KorOr 1).
- 7) Process chart with steps that produce waste materials.
- 8) Photograph(s) of the waste, with descriptions
- 9) Safety Data Sheet (SDS)
- 10) Waste analysis results
- 11) Hazardous material export license (WorOr 6)
- 12) Hazardous material possession license (WorOr 8) for storage
- 13) Copy of a service contract or letter of consent between a service provider and an exporter or a recycling plant for the waste.
- 14) Land title deed, with photograph(s) of the area and the surrounding area
- 15) Certificate of farmer registration/farm registration; cooperative membership card for agricultural, animal husbandry, fishery associations; or certificate of agricultural occupation from government agencies, local authorities, subdistrict headman, or village headman, as deemed reasonable and trustworthy.

- 16) Certification or academic opinion from relevant government agencies that the waste can be used as a component of compost, organic fertilizer, organic bio-fertilizer, or soil conditioner, and will not have an impact on the environment and human health when utilized.
- 17) Details of recycling, treatment/disposal, or utilization methods.

Chapter 1 Relevant Laws and Regulations

- Civil and Commercial Code of Thailand
- Accounting Act, B.E. 2543 (2000)
- Foreign Business Act B.E. 2542 (1999)
- Public Limited Companies Act B.E. 2535 (1992)
- Public Limited Company Act No. 2 B.E. 2544 (2001)
- Public Limited Company Act No. 3 B.E. 2551 (2008)
- Securities and Exchange Act B.E. 2535 (1992)
- Social Security Act B.E. 2533 (1990)
- Royal Decree Issued under the Revenue Code Regarding Reduction of Tax Rates and Exemption of Taxes (No. 674) B.E. 2561 (2018)
- Royal Decree Issued under the Revenue Code Regarding Deduction of Wear and Tear and Depreciation of Properties (No. 145) B.E. 2527 (1984)
- Ministerial Regulation No. 183 (B.E. 2533 (1990)) Issued under the Revenue Code Regarding Provident Funds
- Ministerial Regulation No. 247 (B.E. 2547 (2004)) Issued under the Revenue Code Regarding Provident Funds
- Ministerial Regulation No. 274 (B.E. 2553 (2010)) Issued under the Revenue Code Regarding Provident Funds
- Ministerial Regulation Regarding Exemption from Audit and Review of Financial Statements by Certified Public Auditors B.E. 2544 (2001)
- Office of the Central Partnerships and Companies Registration Order Regarding the Registration of Partnerships and Companies (No. 3) B.E. 2554 (2011)

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.

2.1. Corporate Income Tax

Corporate Income Tax (CIT) is a direct tax levied on a juristic company or partnership carrying on business in Thailand or not carrying on business in Thailand but deriving certain types of income from Thailand.

2.1.1. Taxable Persons

- **A company or a Juristic Partnership Incorporated under Thai Law**
 - Limited company.
 - Public company limited.
 - Limited partnership.
 - Registered partnership.
- **A company or a Juristic Partnership Incorporated under Foreign Law**
 - A company or juristic partnership incorporated under foreign laws and carrying on business in Thailand.
 - A company or juristic partnership incorporated under foreign laws and carrying on business in Thailand and in other places including Thailand.
 - A company or juristic partnership incorporated under foreign laws and carrying on business in other places including Thailand, in case of carriage of goods or carriage of passengers.
 - A company or juristic partnership incorporated under foreign laws which has an employee, an agent or a go-between for carrying on business in Thailand and as a result receives income or profits in Thailand.
 - A company or juristic partnership incorporated under foreign laws and not carrying on business in Thailand but receiving assessable income under Section 40 (2)(3)(4)(5) or (6) which is paid from or in Thailand.
 - A company or juristic partnership incorporated under foreign laws which distributes profit from carrying on business in Thailand to other countries.

- A business operating in a commercial or profitable manner by a foreign government, organization of a foreign government or any other juristic person established under a foreign law.
- Joint Venture
 - **Incorporated Joint Ventures** – Joint ventures generally take the form of a partnership or company organised and incorporated under the Civil and Commercial Code. For foreign investors, a joint venture in the form of a private limited company is often the most appropriate vehicle.
 - **Unincorporated Joint Ventures** – An unincorporated joint venture can be established in the form of an ordinary partnership or a contractual joint venture. These arrangements create a contractual relationship between the parties but do not establish a separate legal entity. The Revenue Department does, however, consider an unincorporated joint venture to be a tax entity, with a duty to pay taxes and fulfil obligations analogous to an ordinary partnership.
- A foundation or association carrying on revenue generating business, but does not include the foundation or association as prescribed by the Minister in accordance with Section 47 (7) (b) under Revenue Code
- Other Juristic entities as announced by the Director-General of the Revenue Department with the approval of the Minister of Finance

Source: Revenue Department, as of July 2023.

2.1.2. File a 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 from the closing date of their accounting periods. Tax payment must be submitted together with the tax returns. Any company disposing funds representing profits out of Thailand is also required to pay tax on the sum so disposed within seven days from the disposal date (Form CIT 54).

In addition to the annual tax payment, any company subject to CIT on net profits is also required to make 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 2 months after the end of the first 6 months of its accounting period. The prepaid tax is creditable against its annual tax liability.

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 7 days of the following month in which the payment is made.

A company can easily submit an income tax return (CIT 50, 51, 52, 54) and make tax payments online at <http://www.rd.go.th>. Or call 1171 for RD call center which is available from 08:30 hrs. – 18:00 hrs. except public holidays.

Source: Revenue Department, as of July 2023.

2.1.3. Accounting Period

An accounting period shall be 12 months except in the following cases where it may be less than 12 months:

- 1) A newly incorporated company or juristic partnership may elect to use the period from its incorporation date to any one date as the first accounting period.
- 2) A company or juristic partnership may file a request to the Director-General to change the last day of an accounting period. In such a case, the Director-General shall have the power to grant approval as he deems appropriate. Such an order shall be notified to the company or juristic partnership who files the request within a reasonable period of time and in the case where the Director-General grants the permission, the company or juristic partnership shall comply to the accounting period as prescribed by the Director-General.
- 3) In the case that a company or juristic partnership's contract ends, the company or juristic partnership shall use the date of official termination of the contract provided by government officials as the last day of its accounting period.
- 4) In the case of a merger between a company or juristic partnership, the company or juristic partnership must terminate the merger contract and follow the procedure of (3)

An accounting period of more than 12 months must comply with the following criteria:

In the case of a company or juristic partnership closing down and being unable to pay the tax within 150 days, counting from the last day of the accounting period, the company or juristic partnership can send a petition within 30 days from the date of official termination of the contract provided by government officials. The Director-General of the Revenue Department may grant an extended accounting period which can exceed 12 months.

Source: Revenue Department, as of July 2023.

2.1.4. Tax Calculation

Regarding the calculation of the CIT of a company carrying on business in Thailand, this is calculated from the company's net profit on the 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 therefrom all expenses in accordance with the condition prescribed by the Revenue Code. As for dividend income, one-half of the dividends received by Thai companies from any other Thai companies may be excluded from the taxable income. However, the full amount may be excluded from the taxable income if the recipient is a company listed in the Stock Exchange of Thailand or the recipient owns at least 25% of the distributing company's capital interest, provided that the distributing company does not own a direct or indirect capital interest in the recipient company. The exclusion of dividends is applied only if the shares are acquired not less than 3 months before receiving the dividends and are not disposed of within 3 months after receiving the dividends.

In calculating CIT, deductible expenses are as follows.

- 1) Ordinary and necessary expenses. However, the deductible amount regarding the following expenses is allowed at a special rate:
 - o 200% deduction of Research and Development expense,
 - o 200% deduction of job training expense,
 - o 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) Further tax deduction for donations made to public education institutions, and also for any expenses used 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, which the depreciation rates vary from year to year, the company is allowed to do so provided that the number of years over which an asset depreciates shall not be less than 100 divided by the percentage prescribed below.

Types of Assets	Depreciation Rates
1. Building	
1.1 Durable building	5%
1.2 Temporary building	100%
2. Cost of acquisition of depleted natural resources	5%
3. Cost of acquisition of lease rights	
3.1 No written lease agreement	10%
3.2 Written lease agreement containing no renewal clause or containing renewal clause but with a definite duration of renewal periods	100% divided by the original and renewable lease periods
4. Cost of acquisition of the right in a process, formula, goodwill, trademark, business license, patent, copyright or any other rights:	
4.1 Unlimited period of use	10%
4.2 Limited period of use	100% divided by number of years used
5. Other depreciation assets not mentioned in 1.4. used in SME, which have value altogether not exceeding 500,000 Baht, and are acquired before December 31, 2010	20 %
5.1 Machinery used in R&D	Initial allowance of 40% on the date of acquisition and the residual can be depreciated at the rate in 5
5.2 Machinery acquired before December 31, 2010	Initial allowance of 40% on the date of acquisition and the residual can be depreciated at the rate in 5
5.3 Cash registering machine	Initial allowance of 40% on the date of acquisition and the residual can be depreciated at the rate in 5
5.4 Passenger car or bus with no more than 10 passengers capacity	Depreciated at the rate in 5 but the depreciable value is limited to 1 million Baht
6. Computer and accessories	
6.1 SMEs*	Initial allowance of 40% on the date of acquisition and the residual can be depreciated over 3 years
6.2 Other business	Depreciated over 3 years

Types of Assets	Depreciation Rates
7. Computer programs	
7.1 SMEs*	Initial allowance of 40% on the date of acquisition and the residual can be depreciated over 3 years
7.2 Other business	Depreciated over 3 years

Note: * SMEs refer to any Thai companies with fixed assets less than 200

12) The following items shall not be allowed as expenses in the calculation of net profits:

12.1) Reserves except:

a) Insurance premium reserves for life insurance set aside before calculation of profit,

but only the amount not exceeding 65% of the amount of insurance premiums received in an accounting period after deducting premiums for re-insurance.

In a case where money is paid out on an amount insured on any life insurance policy whether in full or in part, only the paid amount which does not exceed the reserves under Paragraph 1 for such policy shall not be allowed as expense.

In a case where any life insurance policy contract is terminated, the amount of remaining reserve under Paragraph 1 for such policy shall be calculated in the calculation of income in the accounting period in which the contract is terminated.

b) Insurance premium reserves for any other insurance set aside before the calculation of profit, but only the amount not exceeding 40% of the amount of insurance premiums received in an accounting period after deducting premiums for re-insurance and this amount of reserves set aside shall be income in the calculation of net profit for tax purposes in the following accounting period.

c) A reserve set aside for bad debts or suspected bad debts from liability arising from the provision of credit which a commercial bank, finance company, securities company or credit foncier company sets aside under the laws governing commercial banks or laws governing

the finance business, securities business and credit foncier business, as the case may be; but only the amount set aside which increases from such type of reserve appearing in the balance sheet of the previous accounting period.

For the increased reserve set aside under paragraph 1 and treated as expense for the purpose of calculating net profit or net loss in any accounting period, if afterwards, there is a reduction of such reserve, such reduced reserve which was already used as expense shall be included as income in the accounting period in which the reserve is reduced.

- 12.2) Fund except provident fund under the rules, procedures and conditions prescribed by a Ministerial regulations.
- 12.3) Expense for personal, gift, or charitable purpose except expense for public charity, or for public benefit as the Director-General prescribes with the approval of the Minister, shall be deductible in an amount not exceeding 2% of net profit.
- 12.4) Entertainment or service fees that are not in accordance with the rules prescribed by a Ministerial Regulation.
- 12.5) Capital expense or expense for the addition, change, expansion or improvement of an asset but not for repair in order to maintain its present condition.
- 12.6) Fine and/or surcharge, criminal fine, income tax of a company or juristic partnership.
- 12.7) The withdrawal of money without remuneration of a partner in a juristic partnership
- 12.8) The part of salary of a shareholder or partner which is paid in excess of the appropriate amount.
- 12.9) Expense which is not actually incurred or expense which should have been paid in another accounting period except in the case where it cannot be entered in any accounting period, then it may be entered in the following accounting period.
- 12.10) Remuneration for assets which a company or juristic partnership owns and uses.
- 12.11) Interest paid to equity, reserves or funds of the company or juristic partnership itself.
- 12.12) Damages claimable from an insurance or other protection contracts or loss from previous accounting periods except net loss carried forward for five years up to the present accounting period.

- 12.13) Expense which is not for the purpose of making profits or for the business.
- 12.14) Expense which is not for the purpose of business in Thailand.
- 12.15) Cost of purchase of asset and expense related to the purchase or sale of asset, but only the amount in excess of normal cost and expense without reasonable cause.
- 12.16) Value of lost or depleted natural resources due to the carrying on of business.
- 12.17) Value of assets apart from devalued assets subject to Section 65 Bis.
- 12.18) Expense for which a payer cannot identify the recipient.
- 12.19) Any expense payable from profits received after the end of an accounting period.
- 12.20) Expense similar to those specified in (1) to (19) as will be prescribed by a Royal Decree.

Source: Revenue Department, as of July 2023.

2.1.5. Tax Rates

The corporate income tax rate in Thailand is 20% on net profit for the accounting period 2015. However, the rates vary depending on types of taxpayers.

Taxpayer	Tax Base	Rate (%)
1. Small company ¹	Net profit from 300,000 not exceeding 3 million Baht Net profit over 3 million Baht	15% 20%
2. Companies listed in Stock Exchange of Thailand (SET)	Net profit	20%
3. Companies newly listed in Stock Exchange of Thailand (SET)	Net Profit	20%
4. Company newly listed in Market for Alternative Investment (MAI)	Net Profit	20%
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	Gross receipts	10%

Taxpayer	Tax Base	Rate (%)
8. Foreign company not carrying on business in Thailand receiving other types of income 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 five million Baht at the end of each accounting period.

Source: The Revenue Department, as of July 2023.

2.1.6. 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 7 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.

Types of Income	Withholding Tax Rate
1. Dividends	10%
2. Interest ¹	1%
3. Royalties ²	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.

Source: Revenue Department, as of July 2023.

2.1.7. Losses

Losses may be carried forward to offset against the profits of the following five accounting periods. The carryback of losses is not permitted. A change in control of a loss-making company does not impact its loss carryforward status. Each company is taxed as a separate legal entity. Losses incurred by one affiliate may not be offset against profits made by another affiliate. A change in the shareholding of a company does not affect its tax losses.

2.1.8. Additional Tax on Foreign Companies Abroad

A foreign company conducting business in Thailand, whether it has a branch, an office, an employee or an agent in Thailand shall pay tax at 30% (reduced to 20% until 2015) only on profit deriving from business in Thailand. However, an international transportation company shall pay tax at the rate of 3% on gross receipts.

A foreign company that does not carry on business in Thailand will be subject to withholding tax on certain categories of income derived from Thailand. The withholding tax rates may be further reduced or exempted depending on types of income under the provision of Double Taxation Agreement.

Types of income	Withholding tax rate
1. Remittance of profits	10%
2. Dividends	10%
3. Other income such as interests, royalties, capital gains, rents and professional fees	15%

Source: The Revenue Department, as of July 2023.

2.1.9. Tax Credits

For income derived from countries that do not have a Double Taxation Agreement (DTA) with Thailand, foreign tax credits are allowed. These foreign tax credits are subject to certain criteria and conditions, up to the amount of Thailand tax that would have been payable had the income been derived in Thailand. The same rules apply with regard to foreign tax relief for DTA countries.

2.1.10. Tax Treaties to Avoid Double Taxation

Currently, Thailand has concluded tax treaty agreements with 61 countries: Armenia, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Bulgaria, Canada, Cambodia, Chile, China P.R., Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Great Britain and Northern Ireland, Hong Kong, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Kuwait, Laos, Luxembourg, Malaysia, Mauritius, Myanmar, Nepal, the Netherlands, New Zealand, Norway, Oman, Pakistan, the Philippines, Poland, Romania, Russia, Seychelles, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Tajikistan, Turkey, Ukraine, United Arab Emirates, United States of America, Uzbekistan, and Vietnam

Source: The Revenue Department, as of July 2023.

2.1.11. Transfer Pricing Rules

On 21 November 2018, Amendment No. 47 to the Revenue Code in regard to transfer pricing was published in the Royal Gazette. The key aspects of the transfer-pricing law are as follows:

- The Revenue Department's tax auditors are granted the authority to adjust corporate taxpayers' revenue and expenses in relation to related-party transactions that were not at arm's length according to the rules, procedures, and conditions set out in the related Ministerial Regulation.
- The term "related party" is defined as: (a) a legal entity that either directly or indirectly holds 50% or more of the total shares of another legal entity; (b) a legal entity of which 50% or more of its total shares are held either directly or indirectly by a shareholder or partner that also directly or indirectly holds 50% or more of total shares of another legal entity; or (c) a legal entity that has a dependent relationship with another legal entity in terms of capital, management, or control, to the extent that one entity cannot be operated independently from the other.
- To relieve the double tax resulting from such adjustments, taxpayers who are deemed to have overpaid taxes on related-party transactions as a result of a transfer-pricing assessment will have the right to file a request for a tax refund within three years of the deadline for filing an annual corporate income tax return or 60 days of receiving notification of the tax assessment results, whichever is later, according to regulations set out by the Director-General.
- Taxpayers who are deemed to be related parties under the definition, and who have an annual turnover of at least THB 200 million, are required to prepare and file a transfer-pricing disclosure form together with their annual corporate income tax return. This form requires taxpayers to disclose relationships with related parties and the total value of related-party transactions during the accounting period.

- The Revenue Department's tax auditors are granted the authority to request transfer pricing documentation from taxpayers within five years of the report being filed. Taxpayers must submit such documentation within 60 days of receiving notice to do so from the tax auditors, with a possible extension to 120 days upon request. The transfer-pricing documentation is due 180 days after receiving a notification from the Thai Revenue Department for the first time.
- Taxpayers that fail to submit the transfer-pricing disclosure form or transfer-pricing documentation by the due date, or that submit the form or documentation with incorrect or incomplete information, are subject to a maximum fine of THB 200,000.
- In September 2021, the Revenue Department outlined the information that must be included in transfer-pricing documentation. This includes information on the business, related party transactions and a benchmarking study. It must be in the Thai language. This applies to fiscal years beginning on or after 1 January 2021.
- Also in September 2021, the Revenue Department outlined the requirements for a Thai transfer pricing Country by Country Report, for fiscal years beginning on or after 1 January 2021. The Country-by-Country Reporting (CbCR) is due 150 days after the year-end and applies to companies with consolidated revenues of at least THB 28,000 million.
- In early 2022, the Revenue Department has additionally issued examples of related party definition in a disclosure form, i.e. examples 12- 14, in order to scrutinize a holding structure of a group of company. The new examples provide a close relationship between those related where an indirect holding by a group of companies or individuals can be subject to the definition of related part pursuant to the current domestic law and regulations.

Source: Revenue Code Amendment Act (No. 47) B.E. 2561 (2018)

2.1.12. Submission of Annual Financial Statement

Businesses are required to submit financial statements to 2 agencies:

- 1) The Department of Business Development
- 2) The Revenue Department.

➤ Revenue Department

Period to submit;

- It must be submitted within 150 days since the end date of accounting period.
- Document to submit;
- Financial Statement
- Corporate Income Tax Return (PND.50)

➤ **Department of Business Development**

Period to submit;

- it must be submitted within 1 month since the date of Annual Ordinary Shareholders Meeting (or we mean that it must be submitted within 5 months since the end date of accounting period)

Document to submit;

- Financial Statement
- Shareholders List (Bor Aor Jor.5)
- Form for submitting Financial Statements (Sor Bor Chor.3)

2.2. Value Added Tax

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

2.2.1. Taxable Persons

Any person or entity regularly supplying goods or providing services in Thailand with an annual turnover exceeding 1.8 million Baht is subject to VAT in Thailand. The tax registration is required to be completed within 30 days from the date on which the turnover exceeds 1.8 million Baht.

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.

Any person or entity, with a plan to sell goods or provide services, who has purchased goods and services that are subject to VAT before the commencement of business operation, is also subject to VAT. The tax registration must be completed at least 6 months before business operations commence except for cases where there is evidence showing that the construction or business operations will commence within a reasonable amount of time.

An importer is also subject to VAT in Thailand no matter whether one is a registered person or not. VAT will be collected by the Customs Department at the time goods are imported. Certain businesses are excluded from VAT and will instead be subjected to Specific Business Tax (SBT). Under VAT, taxable goods mean all types of property, tangible or intangible, whether they are available for sales, for own use, or for any other purposes. It also includes any types of articles imported into Thailand. Services

refer to any activities conducted for the benefits of a person or an entity, which are not the supply in terms of goods.

2.2.2. Exemptions from VAT

Certain activities are exempted from VAT. Those activities are:

- 1) Small entrepreneur 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:
 - o Transportation: domestic and international transportation by way of land;
 - o Healthcare services provided by government and private hospitals as well as clinics;
 - o Educational services provided by government and private schools and other recognized educational institutions;
- 5) Professional services: Medical and auditing services, lawyer services in court and other similar professional services that have laws regulating such professions;
- 6) Income from business, commerce, agriculture, industry, transport or any other activity not specified earlier.
- 7) Cultural services such as amateur sports, services of libraries, museums, zoos;
- 8) Services in the nature of employment of labor, research and technical services and services of public entertainers;
- 9) Goods exempted from import duties under the Industrial Estate law imported into an Export Processing Zones (EPZs) and under Chapter 4 of the Customs Tariff Act;
- 10) 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
- 11) Other services such as religious and charitable services, services of government agencies and local authorities.

2.2.3. Tax Base

2.2.3.1. General Goods and Services

Tax base of VAT is the total value received or receivable from the supply of goods or services. Value means money, property, consideration, service fees, or any other benefit which is ascertainable in terms of money. Tax base will also include any Excise tax arises in connection with such supply. However, the tax base is exclusive of the value

added tax that itself and does not include any discounts or allowances, but only if these discounts or allowances are clearly shown in the tax invoices.

2.2.3.2. Imported Goods

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

2.2.3.3. Exported Goods

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

2.2.4. Tax Rates

General Rate

- The current VAT rate is 7%

Zero Percent Rate

- A zero percent rate is applied to the following items:
 - 1) Export of goods;
 - 2) Services rendered in Thailand and utilized outside Thailand in accordance with rules, procedures and conditions prescribed by the Director-General;
 - 3) Aircraft or sea-vessels engaging in international transportation;
 - 4) Supply of goods and services to government agencies or state-owned enterprises under foreign-aid program;
 - 5) Supply of goods and services to the United Nations and its agencies as well as embassies, consulate- generals and consulates;
 - 6) Supply of goods and services between bonded warehouses or between enterprises located in EPZs.

2.2.5. 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:

2.2.5.1. Goods

- **General goods, the earliest of:**
 - The time of delivery; or
 - When ownership of goods is transferred; or
 - A payment is made; or
 - A tax invoice is issued.
- **Hire Purchase or Installment Sale, the earliest of:**
 - The time each payment is due; or
 - A payment is made; or
 - A tax invoice is issued.
- **Supply of Goods on Consignment, the earliest of:**
 - The time the consignee makes delivery or transfers; or
 - Ownership of the goods to buyer; or
 - A payment is made; or
 - A tax invoice is issued.
- **Imports, the earliest of:**
 - The time import duty is paid; or
 - A guarantee is put up; or
 - A guarantor is arranged for; or
 - A bill of lading is issued.
- **Exports, the earliest of:**
 - The time export duty is paid; or
 - A guarantee is put up; or
 - A guarantor is arranged for; or
 - A bill of lading is issued; or
 - Goods are sent from Thailand to an EPZ; or
 - Goods are exported from a bonded warehouse.

2.2.5.2. Services

- **In general, the earliest of:**
 - The time a payment is made; or
 - Tax invoice is issued; or

- Service is utilized.
- **Service contract where payment is made according to the service performed, the earliest of:**
 - The time a payment is made; or
 - Tax invoice is issued; or
 - Service is utilized.
- **Imports**
 - The time the payment is made

2.2.6. Tax Invoice

VAT registered person or entity is required to issue tax invoices every time the transactions are made showing details of nature and value of goods sold or services provided and also amount of VAT due. Tax invoice is used as evidence for claiming input tax credit. 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 customers,
- Serial numbers of tax invoice and tax invoice books (if applicable),
- Description, value and quantity of goods or services;
- Amount of VAT chargeable, and
- Date of issuance.

2.2.7. VAT Calculation

$\text{VAT liability} = \text{Output Tax} - \text{Input Tax}$

“**Output Tax**” is a tax collected or collectible by a VAT registered person from his/her customers when goods or services are supplied.

“**Input Tax**” is a tax charged by another registered person on any purchase of goods or provision of services. The term also includes any tax charged on imported goods.

2.2.8. Refund

In each month, if input tax exceeds output tax, the taxpayer can claim a refund, either in the form of cash or tax credit to be used in the following months. Therefore, in case they are zero-rated, the taxpayer will always be entitled to VAT refund. As for unused

input tax, it may be creditable against output tax within the next 6 months. However, the refund can only be claimed within 3 years from the last day of the filing date.

Certain input taxes, such as tax in relation to entertaining expenses, are not creditable under VAT. However, those non-creditable input taxes can instead be used as deductible expenses under Corporate Income Tax (CIT).

2.2.9. VAT Registration

Any person or entity who is liable to 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 Area Revenue Offices if the business is situated in Bangkok or to the Area Revenue Branch Offices if it is situated elsewhere. Should a taxpayer have several branches, the registration application must be submitted to the Revenue Office where the headquarters is situated.

2.2.10. 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 an approval from the Director-General of the Revenue Department. Services utilized in Thailand 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 supply of goods or services is also subject to Excise tax, VAT return and tax payment, 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 case of imported goods, VAT return and tax payment must be submitted to the Customs Department at the point of import.

Source: The Revenue Department, as of July 2023.

2.3. Personal Income Tax

Personal Income Tax (PIT) is a direct tax levied on the 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 returns and pay tax, if any, accordingly on a calendar year basis.

2.3.1. 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.

2.3.2. Assessable Income

Income chargeable 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 8 categories:

- 1) Income from personal services rendered to employers;
- 2) Income by virtue of jobs, positions or services rendered;
- 3) Income from goodwill, copyright, franchise, 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;
- 4) 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 holding, gains from amalgamation, acquisition or dissolution of juristic companies or partnerships, and gains from transferring of shares or partnership holdings;
- 5) Income from letting of property and from breaches of contracts, installment sales or hire-purchase contracts;
- 6) Income from liberal professions;
- 7) Income from construction and other contracts of work;
- 8) Income from business, commerce, agriculture, industry, transport or any other activity not specified earlier.

2.3.3. Deductions and Allowances

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

$$\text{Taxable Income} = \text{Assessable Income} - \text{Deductions} - \text{Allowances}$$

Deductions allowed for the calculation of PIT:

Type of Income	Deduction
1. Income from employment	50% but not exceeding 100,000 Baht
2. Income received from copyright	actual expense or 50% but not exceeding 100,000 Baht
3. Income from letting out of property on hire	
3.1 Building and wharves	30%
3.2 Agricultural land	20%
3.3 All other types of land	15%
3.4 Vehicles	30%
3.5 Any other type of property	10%
4. Income from liberal professions	actual expense or 30% except for the medical profession where 60% is allowed
5. Income derived from contract of work whereby the contractor provides essential materials besides tools	actual expense or 60%
6. Income derived from business, commerce, agriculture, industry, transport, or any other activities not specified in 1. to 5.	actual expense or 40% – 60% depending on the types of income

Allowances (Exemptions) allowed for the calculation of PIT:

Types of Allowances	Amount
Personal allowance	
▪ Single taxpayer	60,000 Baht for the taxpayer
▪ Undivided estate	60,000 Baht for the taxpayer's spouse
▪ Non-juristic partnership or a non-juristic body of persons	60,000 Baht for each partner but not exceeding 120,000 Baht in total
Spouse allowance (No income)	60,000 Baht
Child allowance (child under 25 years of age and studying at educational institution, or a minor, or an adjusted incompetent or quasi-	30,000 Baht each (no limit for natural child) 30,000 Baht each

Types of Allowances	Amount
incompetent person)	(not exceed 3 children for adopted child) *in total not exceed three person In a case where a taxpayer has natural and adopted children, he/she shall first deduct allowance for the natural children, followed by the adopted children. Except where the taxpayer has 3 or more living natural children, he/she shall not deduct allowances for adopted children. If he/she has less than 3 natural children, he/she may deduct allowances for the adopted children; however, the total number of children shall not exceed 3.
Parents allowance	30,000 Baht for each of taxpayer's and spouse's parents if such parent is above 60 years old and earns less than 30,000 Baht
Life insurance premium paid by taxpayer or spouse	Amount actually paid but not exceeding 100,000 Baht each
Approved provident fund contributions paid by taxpayer or spouse	Amount actually paid at the rate not more than 15% of wage, but not exceeding 500,000 Baht
Long term equity fund	Amount actually paid at the rate not more than 15% of wage, but not exceeding 500,000 Baht
Home mortgage interest	Amount actually paid but not exceeding 100,000 Baht
Social insurance contributions paid by taxpayer or spouse	Amount actually paid but not exceeding 200,000 baht
Charitable contributions	<ul style="list-style-type: none"> ▪ Double of charitable contributions paid to support education/sports/social development but not exceeding 10% of assessable income after expenses and deductions ▪ Double of amount paid as e-Donation but not exceeding 10% of assessable income after expenses and deductions ▪ Amount actually paid for general donations but not exceeding 10% of assessable income after expenses and deductions ▪ Amount actually paid as donations to political parties but not exceeding 10,000 baht

2.3.4. Tax Credit for dividends

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 dividends received. In computing assessable income, taxpayer shall gross up his dividends by the amount of the tax credit received. The amount of tax credit is creditable against his tax liability.

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

2.3.5. Progressive Tax Rates

Tax rates of the Personal Income Tax

Taxable Income (Baht)	Tax Rate (%)
1-300,000*	5
300,001-500,000	10
500,001-750,000	15
750,001-1,000,000	20
1,000,001-2,000,000	25
2,000,001-5,000,000	30
From 5,000,001	35

Notes: Implemented from 1 January 2017

For the net income after calculation (Assessable incomes minus Expenses, then minus Allowances) on the first 150,000 Baht is still exempted by the Royal Decree issued under the Revenue Code regarding tax rate reduction No. 470 B.E.2551 (2008).

In the case where income categories (2)-(8) mentioned in 2.1 are earned more than 60,000 Baht per annum, taxpayer has to calculate the amount of tax by multiplying 0.5% to the assessable income and compare with the amount of tax calculated by progressive tax rates. Taxpayer is liable to pay tax at the amount whichever is greater.

2.3.6. Separate Taxation

There are several types of income that the taxpayer shall not include or may not choose to include such income to the assessable income in calculating the tax liability.

Income from sale of immovable property

The taxpayer shall not include income from sales of immovable property acquired by bequest or by way of gift to the assessable income when calculating PIT. However, if the sale is made for a commercial purpose, it is essential that such income must be included as the assessable income and be subject to PIT.

Interest

The following forms of interest income may, at the taxpayer's selection, be excluded from the computation of PIT provided that a tax of 15 percent is withheld at source:

- Interest on bonds or debentures issued by a government organization;
- Interest on saving deposits in commercial banks if the aggregate amount of interest received is not more than 20,000 Baht during a taxable year;
- Interest on loans paid by a finance company;
- Interest received from any financial institution organized by a specific law of Thailand for the purpose of lending money to promote agriculture, commerce or industry.

Dividends

The taxpayer who resides in Thailand and receives dividends or shares of profits from a registered company or a mutual fund which tax has been withheld at source at the rate of 10 percent, may opt to exclude such dividend from the assessable income when calculating PIT. However, in doing so, the taxpayer will be unable to claim any refund or credit.

2.3.7. 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 a taxpayer at the time of filing PIT return. The following are the withholding tax rates on some categories of income.

Types of Income	Withholding Tax Rate
1. Employment income	5 - 35%
2. Rents and prizes	5%
3. Ship rental charges	1%
4. Service and professional fees	3%

Types of Income	Withholding Tax Rate
5. Public entertainer remuneration - Thai resident - non-resident	5% 5 - 35%
6. Advertising fees	2%

2.3.8. Tax Payment

The taxpayer is liable to file the Personal Income Tax return and make a payment to the Revenue Department within the last day of March following the taxable year. The taxpayer, who derives income specified in (3), (4) or (6) in 2.3.3 during the first 6 months of the taxable year is also required to file half yearly returns and make a payment to the Revenue Department within the last day of September of that taxable year. Any withholding tax or half-yearly tax which has been paid to the Revenue Department can be used as a credit against the tax liability at the end of the year.

Source: The Revenue Department, as of July 2023.

2.4. Other Taxes

2.4.1. Specific Business Tax (SBT)

Specific Business Tax (SBT) is another kind of indirect tax introduced in 1992 to replace Business Tax. Certain businesses that are excluded from VAT will instead be subject to SBT.

Person liable to SBT

Any person or entity who engages in certain businesses in Thailand is subject to SBT instead of VAT. Businesses that are subject to SBT include:

- 1) Banking under the law governing commercial banking or any other specific law.
- 2) Business of finance, securities and credit fancier under the law governing operation of the business of finance, securities and credit fancier.
- 3) Life insurance under the law governing life insurance.
- 4) Pawn broking under the law governing pawnshops.
- 5) Business with regular transactions similar to commercial banks, such as provision of loans, provision of guarantees, exchange of currencies, issuance, purchase or sale of bills or transfer of money abroad by different means;

- 6) Sale of an immovable property in a commercial or profitable manner, irrespective of the manner in which such property is acquired, only in accordance with the rules, procedures and conditions prescribed by a royal decree.
- 7) Sale of securities in a securities market under the law governing securities exchange of Thailand.
- 8) Any other business as prescribed by a royal decree.

Exemptions

Activities of certain entities are exempted from SBT such as:

- 1) Business of the Bank of Thailand, the Government Savings Bank, the Government Housing Bank, and the Bank for Agriculture and Agricultural Cooperatives
- 2) Business of the Industrial Financial Corporation of Thailand
- 3) Business of a savings cooperative, only in respect of loans provided to its members or to another savings cooperative
- 4) Business of a provident fund under the law governing provident funds
- 5) Business of the National Housing Authority, only in respect of sale or hire-purchase of an immovable property
- 6) Pawn broking business of a ministry, sub-ministry, department and a local government authority
- 7) Any other business under section 91/2 as prescribed by a royal decree

Tax base and tax rates

The tax base for a business in accordance with the provisions of this Chapter shall be the following gross receipts received or receivable from the business carried on by a person liable to tax.

Business	Tax Base	Tax Rate (%)
1. Banking, Finance, Securities, Credit Foncier, and Business with regular transactions similar to commercial banks	Interest, discounts, service fees, other fees, profits from foreign exchange	3.0
2. Life Insurance	Interest, service fees and other fees	2.5
3. Pawn Brokerage	Interest, fees, remuneration from selling overdue property	2.5
4. Real estate	Interest, discounts, service fees, other fees, profits from foreign exchange	0.1

Business	Tax Base	Tax Rate (%)
5. Sale of securities in a securities market	Gross receipts	0.1 (exempted)
6. Purchase and resale of securities in a securities market	Gross receipts	3.0
7. Factoring Business	Interest, discounts, service fees	3.0
8. Business under a Royal Decree No. 469	Interest, discounts, service fees, profits from foreign exchange, profits before reselling of securities	0.01

Notes: Local tax at the rate of 10 % is imposed on top of SBT.

SBT registration

Any entity or person who is subject to SBT must register to be SBT registered person or entity (Por Tor 01 Form) within 30 days of its first day of operation at the Area Revenue Office if it is situated in Bangkok or at District Revenue Office if it is situated elsewhere. Should the taxpayer have several branches or offices, the registration application must be submitted to Area or District Revenue Office where the headquarters is situated.

In the case of an operator being a foreign resident, a person who is an agent of such operator shall be responsible in undertaking the specific business tax registration for the operator who is a foreign resident.

File a tax return and payment

SBT taxable period is a calendar month. SBT return (Por Tor 01 Form) must be filed on a monthly basis regardless of whether or not the business has income. SBT return and payment must be submitted to the District Revenue Office within 15 days of the following month. If the taxpayer has more than one place of business, each place of business must file its return and make the payment separately unless there is an approval from the Director-General.

Source: The Revenue Department, as of July 2023

2.4.2. Stamp Duty

Stamp duties are taxed on instruments and not on transactions or persons. For the purposes of stamp duty, an instrument is defined as any document chargeable with duty under the Revenue Code. The stamp duty rules are contained in Chapter VI of Title II of the Revenue Code.

2.4.2.1. Persons Liable to Stamp Duty

- Only instruments listed in the stamp duty schedule are subject to the stamp duty and the persons liable to pay stamp duty are those listed in column 3 of the schedule. They are, for example, the persons executing the instrument, the holders of the instrument or the beneficiary.
- If an instrument liable to duty is executed outside of Thailand, the first holder of the instrument in Thailand shall pay the duty by stamping at the full amount and canceling within 30 days from the date of receiving the instrument. If he does not comply as such, the instrument shall not be deemed duty stamped.

If he does not comply with the provisions of Paragraph 1, any holder of the instrument shall pay the duty by stamping at the full amount and canceling, and then he shall be able to submit the instrument for collection, endorsement, transfer or claiming of benefit.

Any holder who acquires possession of the instrument in accordance with this Section before the expiration of the time limit specified in Paragraph 1 may pay the duty by stamping at the full amount and canceling, and he has the right of recourse against the previous holders.

- If a bill submitted for payment is not duty stamped, the recipient of the bill may pay the duty by stamping at the full amount and canceling, and may either have the right of recourse against the person liable to duty or deduct the amount of duty from the payment due.

2.4.2.2. Instruments Liable to Stamp Duty

The instruments liable to stamp duty include, inter alia, transfers of land, a lease, stock transfers, debentures, mortgages, life assurance policies, annuities, power of attorney, promissory notes, letters of credit, travelers cheques.

2.4.2.3. Duty Stamped

“Duty stamped” means

- 1) In the case of an adhesive stamp, payment of duty is made by affixing a stamp on the paper, before or immediately when an instrument is executed, in an amount not less than the duty payable, and canceling such stamp; or

- 2) In the case of an impressed stamp, payment of duty is made by using a paper with an impressed stamp in an amount not less than the duty payable and canceling such stamp, or by submitting an instrument to an official to impress the stamp and paying an amount not less than the duty payable and canceling such stamp; or
- 3) In the case of payment by cash, payment of duty is made in cash in an amount not less than the duty payable in accordance with the provisions of this Chapter or in accordance with a regulation prescribed by the Director-General with the Minister's approval.

In stamping duty as prescribed under (1) and (2), the Director-General shall have the power to order the compliance in accordance with (3) instead

2.4.2.4. Rate of Stamp Duty

Rates of stamp duty are given in the schedule attached to the Chapter VI of Title II of the Revenue Code. The rates of duty range from 1 to 200 Baht. A sample of stamp duty rates on some selected instrument is as follows:

Nature of Instrument/Transaction	Stamp Duty
1. Rental of land, building, other construction or floating house <ul style="list-style-type: none"> ▪ For every 1,000 Baht or fraction thereof of the rent or key money or both for the entire lease period 	1 Baht
2. Transfer of share, debenture, bond and certificate of debt issued by any company, association, body of persons or organization. <ul style="list-style-type: none"> ▪ For every 1,000 Baht or fraction thereof of the paid-up value of shares, or of the nominal value of the instrument, whichever is greater. <u>Exemption</u> <ol style="list-style-type: none"> 1) Transfer of Thai government bond 2) b. Transfer of shares, debentures or other debt certificates issued by cooperatives or Bank of Agriculture and Agricultural Cooperatives 	1 Baht
3. Hire-purchase of property. <ul style="list-style-type: none"> ▪ For every 1,000 Baht or fraction thereof of the total value <u>Exemption</u> <p>Land lease for agriculture</p>	1 Baht

Nature of Instrument/Transaction	Stamp Duty
4. Hire of work <ul style="list-style-type: none"> For every 1,000 Baht or fraction thereof of the remuneration prescribed. <u>Exemption</u> Contract made outside of Thailand, and contract application not carried out in Thailand	1 Baht
5. Loan of money or agreement for a bank overdraft <ul style="list-style-type: none"> For every 2,000 Baht or fraction thereof of the total amount of loan or the amount of bank overdraft agreed upon. Duty on the instrument of this nature calculated into an amount exceeding 10,000 Baht shall be payable in the amount of 10,000 Baht. 	1 Baht
6. Insurance policy <ul style="list-style-type: none"> Insurance policy against loss (For every 250 Baht or fraction thereof of the insurance premium.) Life insurance policy (For every 2,000 Baht or fraction thereof of the amount insured.) Any other insurance policy (For every 2,000 Baht or fraction thereof of the amount insured.) Annuity policy (For every 2,000 Baht or fraction thereof of the principal amount, or, if there is no principal amount, for every 2,000 Baht or fraction thereof of 33 1/3 times the annual income.) Insurance policy where reinsurance is made by an insurer to another person Renewal of the insurance policy 	1 Baht 1 Baht 1 Baht 1 Baht 1 Baht 1 Baht (Half the rate for the original policy)
7. Authorization letter i.e., a letter appointing an agent, which is not in the form of instrument or contract including a letter appointing arbitrators: <ul style="list-style-type: none"> Authorizing one or more persons to perform an act once only. Authorizing one or more persons to jointly perform acts more than once. Authorizing to perform acts more than once by authorizing several persons to perform acts separately; the instrument will be charged on the basis of each individual who is authorized. 	10 Baht 30 Baht 30 Baht
8. Proxy letter for voting at a meeting of a company <ul style="list-style-type: none"> Authorized for one meeting only Authorized for more than one meeting 	20 Baht 100 Baht

Nature of Instrument/Transaction	Stamp Duty
9. <ul style="list-style-type: none"> ▪ Bill of exchange or similar instrument used like the bill of exchange for each bill or instrument ▪ Promissory note or similar instrument used like the promissory note for each note or instrument 	3 Baht 3 Baht
10. Bill of lading	2 Baht
11. <ul style="list-style-type: none"> ▪ Share or debenture certificate, or certificate of debt issued by any company, association, body of persons or organization ▪ Bond of any government sold in Thailand (For every 100 Baht or fraction thereof) 	5 Baht 1 Baht
12. Cheque or any written order used in lieu of cheque for each instrument	3 Baht
13. Receipt for interest bearing fixed deposit in a bank	5 Baht
14. Letter of credit <ul style="list-style-type: none"> ▪ Issued in Thailand ▪ For value less than 10,000 Baht ▪ For value of 10,000 Baht or over ▪ Issued abroad and payable in Thailand for each payment 	20 Baht 30 Baht 20 Baht
15. Traveler's cheque <ul style="list-style-type: none"> ▪ For each cheque issued in Thailand ▪ For each cheque issued abroad but payable in Thailand 	3 Baht 3 Baht
16. Each goods' receipt <ul style="list-style-type: none"> ▪ issued in connection with carriage of goods by waterway, land and air, namely, an instrument signed by an official or cargo master of a transport vehicle which carries goods as specified in that receipt upon issuing the bill of lading 	1 Baht
17. Guarantee <ul style="list-style-type: none"> ▪ For an unlimited amount of money ▪ For an amount exceeding 1,000 Baht ▪ For an amount exceeding 1,000 Baht but not exceeding 10,000 Baht ▪ For an amount exceeding 10,000 Baht 	10 Baht 1 Baht 5 Baht 10 Baht
18. Pawn broking <ul style="list-style-type: none"> ▪ For every 2,000 Baht or fraction thereof of the debt ▪ If the pawn broking does not limit the amount of debt 	1 Baht 1 Baht
19. Warehouse receipt	1 Baht

Nature of Instrument/Transaction	Stamp Duty
20. Delivery order	1 Baht
21. Agency <ul style="list-style-type: none"> Specific authorization General authorization 	10 Baht 30 Baht
22. Decision given by an arbitrator <ul style="list-style-type: none"> In the case where the dispute is concerned with the amount of money or price for every 1,000 Baht or fraction thereof In the case where no amount of money or price is mentioned. 	1 Baht 10 Baht
23. Duplicate or counterfoil of an instrument, Namely, an instrument having the same contents as the original document or contract and signed by the person executing the instrument in the same manner as the original. <ul style="list-style-type: none"> If the duty payable for the original does not exceed 5 Baht. If the duty exceeds 5 Baht. 	1 Baht 5 Baht
24. Memorandum of association of a limited company submitted to the registrar.	200 Baht
25. Articles of association of a limited company submitted to the registrar.	200 Baht
26. New articles of association, copy of amended memorandum of association or articles of association submitted to the registrar.	50 Baht
27. Partnership contract <ul style="list-style-type: none"> Contract on the establishment of a partnership Amendment of the contract on the establishment of a partnership 	100 Baht 50 Baht
28. Receipt only as specified below: <ul style="list-style-type: none"> Receipt issued for government lottery prizes; Receipt issued in connection with a transfer of, or creation of any right in, an immovable property, if the juristic act which gives rise to such receipt is registered under the law; Receipt issued in connection with a sale, sale with right of redemption, hire-purchase or transfer of ownership in a vehicle, only if the vehicle is registered under the law governing such vehicle. If the receipt under (a) (b) (c) has an amount of 200 Baht or more: for every 200 Baht or fraction thereof 	1 Baht

2.4.2.5. Surcharge and Punishment

➤ Surcharge

- Where an instrument is not duly stamped, the person liable to duty or the holder of the instrument or the beneficiary thereunder shall be entitled to present the instrument to the tax official for payment of duty who shall allow payment of the duty, subject to the following provisions:
 - 1) Where the instrument not duly stamped is an instrument executed in Thailand and is presented to tax official for payment of duty within 15 days from the day when the instrument was required to be duly stamped, payment of duty shall be allowed merely at the rates set forth in the Stamp Duty Schedule.
 - 2) In other cases, payment of duty shall be allowed, but a surcharge shall be imposed as follows:
 - If it appears to the tax official that no more than 90 days have passed since the day when the instrument was required to be duly stamped, there shall be imposed a surcharge of twice the amount of duty or of 4 Baht, whichever is higher.
 - If it appears to the official that more than 90 days have passed since the day when the instrument was required to be duly stamped, there shall be imposed a surcharge of five times the amount of the duty or of 10 Baht, whichever is higher.
- If, in consequence of the inspection conducted by the official or of the charge preferred or information furnished by any person, whether or not a government official, it appears that:
 - 1) A receipt required to be issued under the Revenue Code has not been issued, the tax official shall have the power to charge the full amount of duty, and in addition, to impose a surcharge of six times the amount of the duty or of 25 Baht, whichever is higher.
 - 2) An instrument has not been duly stamped because;
 - No stamp has been affixed, the tax official shall have the power to charge the full amount of duty and, in addition, to impose a surcharge of six times the amount of the duty or of 25 Baht, whichever is higher.
 - The amount of the stamps affixed is less than the amount of duty payable, the tax official shall have the power to charge the deficiency and, in addition, to impose a surcharge of six times the amount of the deficiency or of 25 Baht, whichever is higher.
 - In all other cases, the competent official shall have the power to

impose a surcharge equal to the amount of duty payable or 25 Baht, whichever is higher.

➤ **Punishment**

- 1) Whoever is liable to duty or required to cancel stamps fails or refuses to pay the duty or to cancel the stamps shall be punished with a fine not exceeding 500 Baht.
- 2) Whoever, with a view to evading payment of duty, issued a receipt of less than 10 Baht for the value received of 10 Baht or over, or divides the value received, or, with a view to evading compliance with the legal provisions on the stamp duty, willfully falsifies any instrument, shall be guilty and punished with a fine not exceeding 200 Baht.
- 3) Whoever intentionally puts a false date of cancellation of a stamp shall be punished with a fine not exceeding 500 Baht or imprisonment not exceeding three months or both.
- 4) Whoever fails to prepare or keep records of the daily total of money or price, or fails to issue a receipt immediately on demand in pursuance, or issues a receipt not stamped in the correct amount, shall be punished with a fine not exceeding 500 Baht.
- 5) Whoever by himself or in conspiracy with another person prevents issuance of a receipt, or fails to issue a receipt immediately upon receiving payment of money or price or issues a receipt showing an amount less than that of the money or price actually received, shall be punished with a fine not exceeding 500 Baht or imprisonment not exceeding one month or both.
- 6) Whoever knowing fails to extend facilities to the tax official or tax inspector in the performance of his duty, or seizure of any instruments or documents, or disobeys the summons issued by the tax official or tax inspector or refuses to give answers when questioned, or contravenes the provisions on issuing receipts or invoices or procedural directions issued by the Director-General of the Revenue Department shall be guilty and punished with a fine not exceeding 500 Baht.
- 7) Whoever, with fraudulent intention, has in possession a stamp known to be forged or deals in stamps which have been used or declared out of use by Ministerial Regulations shall be guilty and punished with a fine not exceeding 5,000 Baht or imprisonment not exceeding three years or both.

Source: The Revenue Department, as of July 2023

2.4.3. Petroleum Income Tax

Petroleum Income Tax (PT) is a direct tax, levied annually (for each accounting period of 12 months duration) on net profit of a "petroleum taxpayer" who is carrying out the business of petroleum exploration and production. It is also levied on the

disposal of profits outside of Thailand. The rules and regulations for Petroleum Income Tax are covered under Petroleum Income Tax Act and other related law. The rates, penalties, surcharge, etc. are different from that of Corporate Income tax.

An accounting period is normally 12 months. The Director-General may grant permission for more or less than 12 months, if appropriately justified. The first accounting period shall begin on the day that the company makes its first sale or disposal of petroleum subject to royalty. This day is considered as the beginning date of the accounting period. An accounting period may be shorter than 12 months for the following cases:

- if the company takes any day as the closing date of the first accounting period:
- if the company ceases its petroleum business, the date of dissolution shall be the closing date of the accounting period:
- if the company changes the closing date of an accounting period with the approval of the Director-General.

In the case the company transfers any rights under a concession prior to the beginning date of the first accounting period, this date of transfer shall be treated as the beginning and closing date of the accounting period.

2.4.3.1. Tax Base

The term **“petroleum taxpayer”** covers anybody who:

- 1) Holds a concession under petroleum law or has a joint interest in it; or
- 2) Purchases crude oil produced by any concessionaire, all of which is intended for export.

A concession under petroleum law (to be obtained from Department of Mineral Resources) is required only for exploration and production of petroleum products (including crude oil, natural gas and liquid natural gas). Downstream industries including refining are not covered under Petroleum Income Tax Act. The tax is characterized by the presence of very few taxpayers.

There are two important amendments to the Petroleum Income Tax Act (in the years B.E. 2522 and B.E. 2532) creating three different versions. Each Petroleum Taxpayer is covered under one or more of the three versions (referred as the status of taxpayer). The filing requirement is that the taxpayer should submit one return per TIN per period per status. In case a taxpayer has to file returns under more than one status, he has to do so treating each status as a separate company. (in matters of allowances, adjusting of carried forward loss, etc.)

The important differences in tax calculation/remittance between the 3 versions of the Act are as follows:

- Act 2514 (status 1) Only annual return. No need for the half year return. Interest not allowed as expense. Royalty allowed as tax credit. No levy of special remuneratory benefit tax. High tax rate of 50%
- Act 2522 (status 2) Only annual return. No need for the half year return. Interest allowed as expense. (but a high withholding tax of 50% on interest paid is levied. Royalty allowed as expense. No levy of special remuneratory benefit tax. Low tax rate of 35% High profit remittance tax of 23.08%
- Act 2532 (status 3) Annual and half yearly returns required. Interest not allowed as expense. Royalty allowed as expense. Additional levy of special remuneratory benefit tax. High tax rate of 50%

All Petroleum Taxpayers are required to pay withholding tax at 50 % on profits on transfers (transfer proceeds less loss carried forward) when petroleum property or right is transferred and if the total amount of such income is not definitely determinable.

2.4.3.2. Tax Rates

Tax rate is linked to the status of taxpayer. At present, the tax rates are as follows:

Petroleum Income Tax Rates

- | | |
|---------------------------|--------|
| ▪ Act B.E 2514 (status 1) | 50% |
| ▪ Act B.E 2522 (status 2) | 35% |
| ▪ Act B.E 2532 (status 3) | 50% |
| ▪ Disposal of profits | 23.08% |

Production Sharing Contract based on Malaysia-Thailand Joint Authority Net Profit

- | | |
|---|-----|
| ▪ 1 st - 8 th Accounting period | 0% |
| ▪ 9 th -15 th Accounting period | 10% |
| ▪ 16 th Account period onward | 20% |

Production Sharing Contract based on Petroleum Act

- | | |
|--------------|-----|
| ▪ Net Profit | 20% |
|--------------|-----|

Withholding Tax Rates (For transfer of petroleum)

- | | |
|--|--------|
| ▪ Property or rights
(Specifically for income gained from transfer which may be able to specify certain total amount) | 50% |
| ▪ Payment of interest | 50% |
| ▪ Payment of dividend | 23.08% |

- Payment of Interest 15%
- Payments for other services depends on service

Source: Petroleum Income Tax Act B.E. 2514 (1971)

2.4.3.3. Tax Payment

Petroleum companies are required to submit their annual return within 5 months from the date of closing of their accounting period. Payment of tax has to be made at the time of filing of the return.

Return for profit remittance has to be submitted within 7 days from the date of remittance.

In addition to the annual tax payment, petroleum companies falling under status 3 are required to submit half year return (based on estimate of profit. Under this system, the petroleum company has to estimate its annual profit and pay half of the amount of tax calculated on such basis within 2 months after the end of first six months of its accounting period. The estimated tax payment is creditable against the annual tax liabilities of the company.

Source: The Revenue Department, as of July 2023

2.4.4. 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 ten seats or less.

Excise tax is calculated as ad valorem 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 is usually imposed at the time of delivery of the goods from factories.

Product	Tax Rate
Petroleum and petroleum products	
Gasoline and similar products	
▪ Unleaded gasoline	6.50 Baht per liter
▪ Gasoline other than unleaded gasoline	6.50 Baht per liter
▪ Gasohol E10	5.85 Baht per liter
▪ Gasohol E20	5.20 Baht per liter

Product	Tax Rate
▪ Gasohol E85	0.975 Baht per liter
Kerosene and similar lighting oil	
▪ Kerosene and similar lighting oil	4.726 Baht per liter
Fuel oil for jet plane	
▪ Fuel oil for a jet airplane that is not aircraft	4.726 Baht per liter
▪ Fuel oil for jet airplanes for domestic aircraft per regulations, procedures, and conditions as specified by the Director-General	4.726 Baht per liter
▪ Fuel oil for jet airplanes for international aircraft per regulations, procedures, and conditions as specified by the Director-General	Exempted
Diesel and other similar types of oil	
▪ Diesel with sulphuric content exceeding 0.005% by weight	6.440 Baht per liter
▪ Diesel with sulphuric content not exceeding 0.005% by weight	6.440 Baht per liter
▪ Diesel with Methyl Esters biodiesel containing fatty acid not less than 4% as per regulations, procedures and conditions as specified by the Director-General	6.440 Baht per liter
Natural gas liquid (NGL) and similar products	
▪ NGL and similar products	5.85 Baht per liter
▪ NGL and similar products to be used during the refining process at a refinery	Exempted
Liquid petroleum gas (LPG), propane and similar products	
▪ LPG and similar products	2.17 Baht per kg
▪ Liquid propane and similar products	2.17 Baht per kg
Electrical Appliances	
Air-conditioning unit with motor-driven fans and thermostat, with or without a humidity control unit, with a capacity not exceeding 72,000 BTU/ hour	
1) For use in vehicles	Exempted
2) Others from (1)	Exempted
Automobiles	
Passenger car⁽¹⁾	
Until 31st December 2025	
▪ With a cylinder volume not exceeding 3,000 cc and CO2 emissions not exceeding 150 g/km ⁽³⁾	25%

Product	Tax Rate
▪ With a cylinder volume not exceeding 3,000 cc and CO ₂ emissions exceeding 150 g/km but not exceeding 200 g/km	30%
▪ With a cylinder volume not exceeding 3,000 cc and CO ₂ emissions exceeding 200 g/km	35%
▪ With cylindrical volume exceeding 3,000 cc	40%
1) Adherence to director general's criteria and conditions with a cylinder volume not exceeding 3,000 cc	
From 1st January 2026 to 31st December 2027	
▪ CO ₂ emission not exceeding 100 g/km	13%
▪ CO ₂ emission exceeding 100 g/km but not exceeding 120 g/km	22%
▪ CO ₂ emission exceeding 120 g/km but not exceeding 150 g/km	25%
▪ CO ₂ emission exceeding 150 g/km but not exceeding 200 g/km	29%
▪ CO ₂ emission exceeding 200 g/km	34%
From 1st January 2028 to 31st December 2029	
▪ CO ₂ emission not exceeding 100 g/km	14%
▪ CO ₂ emission exceeding 100 g/km but not exceeding 120 g/km	24%
▪ CO ₂ emission exceeding 120 g/km but not exceeding 150 g/km	27%
▪ CO ₂ emission exceeding 150 g/km but not exceeding 200 g/km	31%
▪ CO ₂ emission exceeding 200 g/km	36%
From 1st January 2030	
▪ CO ₂ emission not exceeding 100 g/km	15%
▪ CO ₂ emission exceeding 100 g/km but not exceeding 120 g/km	26%
▪ CO ₂ emission exceeding 120 g/km but not exceeding 150 g/km	33%
▪ CO ₂ emission exceeding 150 g/km but not exceeding 200 g/km	38%
2) Others except from (1) with a cylinder volume not exceeding 3,000 cc	
From 1st January 2026 to 31st December 2029	
▪ CO ₂ emission not exceeding 150 g/km	25%
▪ CO ₂ emission exceeding 150 g/km	35%
From 1st January 2030	
▪ CO ₂ emission not exceeding 150 g/km	30%
▪ CO ₂ emission exceeding 150 g/km	40%
3) A cylinder volume exceeding 3,000 cc	

Product	Tax Rate
From 1st January 2026	
▪ A cylinder volume exceeding 3,000 cc	50%
Pick-up passenger vehicle (PPV)⁽²⁾	
Until 31st December 2025	
▪ With cylindrical volume not exceeding 3,250 cc and CO ₂ emissions not exceeding 200 g/km ⁽³⁾	20%
▪ With cylindrical volume not exceeding 3,250 cc and CO ₂ emissions exceeding 200 g/km	25%
▪ With cylindrical volume exceeding 3,250 cc	40%
From 1st January 2026	
1) Pick-up Passenger Vehicle based on director-general's criteria, conditions and qualities	
▪ With the cylinder volume not exceeding 3,250 cc and CO ₂ emission not exceeding 185 g/km	18%
▪ With the cylinder volume not exceeding 3,250 cc and CO ₂ emission exceeding 185 g/km but not exceeding 200 g/km	20%
▪ With the cylinder volume not exceeding 3,250 cc and CO ₂ emission exceeding 200 g/km	25%
▪ With cylinder volume exceeding 3,250 cc	50%
2) Pick-up vehicles that use biodiesel with a fatty acid methyl ester mixture in fuel of no less than 19% but no more than 20%, in accordance with the director-general's criteria, conditions, and qualities	
▪ With the cylinder volume not exceeding 3,250 cc and CO ₂ emission not exceeding 185 g/km	16%
▪ With the cylinder volume not exceeding 3,250 cc; and CO ₂ emission exceeding 185 g/km but not exceeding 200 g/km	18%
▪ With the cylinder volume not exceeding 3,250 cc; and CO ₂ emission exceeding 200 g/km	23%
▪ With the cylinder volume exceeding 3,250 cc	50%
Double cab vehicle⁽²⁾	
Four-door double cab pickup in accordance of director-general's criteria, conditions and qualities with cylinder volume of not exceeding 3,250 cc	
Until 31st December 2025	

Product	Tax Rate
▪ With cylindrical volume not exceeding 3,250 cc and CO ₂ emissions not exceeding 200 g/km	9-10% ⁽³⁾
▪ With cylindrical volume not exceeding 3,250 cc and CO ₂ emissions exceeding 200 g/km	12-13% ⁽³⁾
From 1st January 2026	
▪ With CO ₂ emission not exceeding 185 g/km	8%
▪ With CO ₂ emission exceeding 185 g/km but not exceeding 200 g/km	10%
▪ With CO ₂ emission exceeding 200 g/km	13%
With cylinder volume exceeding 3,250 cc	
▪ Since ministerial regulations take effect until 31 st December 2025	40%
From 1st January 2026	50%
Passenger car (that is made from a pick-up truck or chassis with the windshield of a pick-up truck or modified from a pick-up truck)⁽²⁾	
which was manufactured or modified by industrialist in accordance with director-general's qualities	
▪ Manufactured or modified by industrial entrepreneurs with cylindrical volume not exceeding 3,250 cc	2.5%
▪ Manufactured or modified by industrial entrepreneurs with cylindrical volume exceeding 3,250 cc	40%
▪ which was modified by parties in accordance with Section 4 and is subject to taxation in accordance with Section 29	25%
Passenger car or public transport vehicle with seating not exceeding 10 seats	
▪ Passenger car or public transport vehicle with seating not exceeding 10 seats used as an ambulance of a government agency, hospital, or charitable organization as per terms, conditions, and numbers specified by the Ministry of Finance	Exempted
Eco Car with seating not exceeding 10 seats	
Hybrid electric vehicle⁽¹⁾	
With cylindrical volume not exceeding 3,000 cc	
From the effective date of the ministerial decree until December 31st, 2026	

Product	Tax Rate
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions not exceeding 100 g/km ⁽³⁾	8%
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions exceeding 100 g/km but not exceeding 150 g/km	16%
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions exceeding 150 g/km but not exceeding 200 g/km	21%
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions exceeding 200 g/km	26%
From 1st January 2026 to 31st December 2027	
▪ CO ₂ emission not exceeding 100 g/km	6%
▪ CO ₂ emission exceeding 100 g/km but not exceeding 120 g/km	9%
▪ CO ₂ emission exceeding 120 g/km but not exceeding 150 g/km	14%
▪ CO ₂ emission exceeding 150 g/km but not exceeding 200 g/km	19%
▪ CO ₂ emission exceeding 200 g/km	24%
From 1st January 2028 to 31st December 2029	
▪ CO ₂ emission not exceeding 100 g/km	8%
▪ CO ₂ emission exceeding 100 g/km but not exceeding 120 g/km	11%
▪ CO ₂ emission exceeding 120 g/km but not exceeding 150 g/km	16%
▪ CO ₂ emission exceeding 150 g/km but not exceeding 200 g/km	21%
▪ CO ₂ emission exceeding 200 g/km	26%
From 1st January 2030 onward	
▪ CO ₂ emission not exceeding 100 g/km	10%
▪ CO ₂ emission exceeding 100 g/km but not exceeding 120 g/km	13%
▪ CO ₂ emission exceeding 120 g/km but not exceeding 150 g/km	18%
▪ CO ₂ emission exceeding 150 g/km but not exceeding 200 g/km	23%

Product	Tax Rate
<ul style="list-style-type: none"> CO₂ emission exceeding 200 g/km 	28%
With cylindrical volume exceeding 3,000 cc	
<ul style="list-style-type: none"> From the effective date of the ministerial decree until December 31st, 2025 	40%
<ul style="list-style-type: none"> From 1st January 2026 	40%
Plug-in Hybrid Electric Vehicle	
1) In accordance with director-general's criteria and conditions	
From 1 st January 2026	
<ul style="list-style-type: none"> With electric range no less than 80 km/ charge and tank size of 45 liter 	5%
<ul style="list-style-type: none"> With electric range less than 80 km/ charge or tank size of 45 liter 	10%
2) All others except 1)	
<ul style="list-style-type: none"> From 1st January 2026 to 31st December 2029 	15%
<ul style="list-style-type: none"> From 1st January 2030 onward 	20%
3) With cylinder volume exceeding 3,000 cc	
<ul style="list-style-type: none"> From 1st January 2026 onward 	30%
Electric powered vehicle	8%
1) In accordance with director-general's criteria and conditions	
From the effective date of the ministerial decree onward	2%
2) All others except 1)	
From the effective date of the ministerial decree until 31 December 2025	8%
From 1 st January 2026 onward	10%
Fuel cell powered vehicle	
<ul style="list-style-type: none"> From the effective date of the ministerial decree until 31 December 2025 	8%
<ul style="list-style-type: none"> From 1st January 2026 onward 	
1) In accordance with director-general's criteria and conditions	1%
2) All others except 1)	5%

Product	Tax Rate
Economy car meeting international standards(From 1 October, 2009 onwards)⁽¹⁾	
▪ Gasoline engine with cylindrical volume not exceeding 1,300 cc	14%
▪ Diesel engine with cylindrical volume not exceeding 1,400 cc	14%
Passenger car or public transport vehicle with seating not exceeding 10 seats using alternative energy with cylindrical volume not exceeding 3,000 cc as specified by the Ministry of Finance⁽²⁾	
Using no less than 85% ethanol mix with gasoline available generally petrol stations	
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions not exceeding 150 g/km ⁽³⁾	20%
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions exceeding 150 g/km but not exceeding 200 g/km	25%
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions exceeding 200 g/km	30%
▪ With cylindrical volume exceeding 3,000 cc	40%
Being capable of operating on natural gas	
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions not exceeding 150 g/km ⁽³⁾	20%
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions exceeding 150 g/km but not exceeding 200 g/km	25%
▪ With cylindrical volume not exceeding 3,000 cc and CO ₂ emissions exceeding 200 g/km	30%
▪ With cylindrical volume exceeding 3,000 cc	40%
Boat	
▪ Yacht and boat used for leisure purpose	Exempted
Motorcycles	
1) Electric vehicle	
From the effective date of the ministerial decree until 31st December 2025	
▪ With voltage less than 48 volt such as electric motorcycle	0%
▪ With voltage up from 48 volt in accordance with director-general's criteria and conditions	1%
▪ With voltage up from 48 volt	5%
From 1st January 2026 onward	

Product	Tax Rate
▪ With voltage less than 48 volt such as electric motorcycle	0%
▪ With voltage up from 48 volt in accordance with director-general's criteria and conditions	1%
▪ With voltage up from 48 volt	10%
2) Motorcycles with internal combustion engines or plug-in hybrid electric vehicles that use tyres that meet Thai Industrial Standard Institute standards, requirements, or technical criteria, or UN Regulation No.75 concerning technical requirements of vehicles in accordance with the director-general's criteria and conditions	
From the effective date of the ministerial decree until 31 December 2025	
▪ With CO ₂ emission not exceeding 50 g/km	3%
▪ With CO ₂ emission exceeding 50 g/km but not exceeding 90 g/km	5%
▪ With CO ₂ emission exceeding 90 g/km but not exceeding 130g/km	9%
▪ With CO ₂ emission exceeding 130 g/km	18%
From 1st January 2026 until 31st December 2029	
▪ With CO ₂ emission not exceeding 50 g/km	4%
▪ With CO ₂ emission exceeding 50 g/km but not exceeding 90 g/km	6%
▪ With CO ₂ emission exceeding 90 g/km but not exceeding 130g/km	10%
▪ With CO ₂ emission exceeding 130g/km	20%
From 1st January 2030 onward	
▪ With CO ₂ emission not exceeding 50 g/km	5%
▪ With CO ₂ emission exceeding 50 g/km but not exceeding 90 g/km	10%
▪ With CO ₂ emission exceeding 90 g/km but not exceeding 130 g/km	15%
▪ With CO ₂ emission exceeding 130g/km	25%
Perfume and Cosmetics	
▪ Essential oil and fragrance essence, excluding perfume and fragrance essence produced domestically	8%
▪ Essential oil	Exempted
▪ Perfume and fragrant essence that is a local product and produced domestically	Exempted
Other Commodities	
▪ Carpet and animal hair floor covering materials	Exempted
▪ Marble and granite	Exempted
▪ Batteries	8%

Product	Tax Rate
Golf Course	
▪ Membership fee	10%
▪ Course usage fee	10%
▪ Other incomes	Exempted

Note: (1) In accordance with the rules and conditions specified by the Director-General. (2) In accordance with the rules, conditions, and characteristics specified by the Director-General. (3) Depends on PM2.5 emission levels (4) Vehicles must be complied with the Active Safety Standards as prescribed by the Director-General.

Source: Excise Department, as of June 2023

2.4.5. Property Tax

Thailand's recent Land and Building Tax Act B.E. 2562 (2019) (the "Act") came into effect on March 13, 2019. Payment of land and building tax under the new Act will be required from January 1, 2020 onwards.

The new Act revokes and replaces various pieces of formerly applicable legislation, including the House and Land Tax B.E. 2475 (1932) and its amendments; the Land Development Tax B.E. 2508 (1965) and its amendments; the Notification of the National Executive Council No. 156 dated June 4, B.E. 2515 (1972); and the Royal Decree Designating the Medium Price of Land for Land Development Tax Assessment B.E. 2529 (1986).

Under the Act, both individual and juristic persons who have ownership, possessory, or usage rights over land or buildings (including condominium units), as of January 1 of each year, will be required to pay land and building tax to the local administrative authorities. Payment will be due in April of each year.

The official assessed price of the land, building, or condominium unit, as determined by the government authority for the purpose of collecting registration fees under the current Land Code, will be used as the basis for calculation of the land and building tax. The actual land and building tax rate that authorities will collect will be announced by royal decree in due course, subject to the fixed maximum rates, exemptions, and transition period rates outlined below.

Use	Maximum Tax Rate
Agricultural	0.15%
Residential	0.30%

Use	Maximum Tax Rate
Other	1.20%
Vacant/unused	1.20% ¹

Note: ¹ If the land or building is left vacant or undeveloped for three consecutive years, the rate will increase by 0.3% every 3 years subject to a cap of 3%.

2.4.5.1. Exemptions

The Act provides limited exemptions to owners that meet the following criteria:

Taxpayer	Use	Exempted Value
Owner of Land or Building	Agricultural	Up to 50 million Baht
Owner of Land and Building, name must be on the house registration book as of January 1 st in a given year	Residential	Up to 50 million Baht
Owner of Building (Not Land), name must be on the house registration book as of January 1 st in a given year	Residential	Up to 10 million Baht

2.4.6. Car Tax

Vehicle owners are legally required to pay annual tax one year in advance. If they do not pay tax within the required timeframe, the owners must pay an additional 1% needed additional tax per month or remaining days in each month. In the event of a change of ownership, the new owners will not be required to pay annual tax for that year.

Vehicle owners who fail to pay annual tax for three years in a row shall have their registration cancelled. In this situation, registrars will notify the owners of the total amount of tax owed and summon them to return their registration plates. Vehicle owners must submit their vehicle registration book to the authorities within 60 days of the announcement to document the revocation of registration. If vehicle owners fail to comply with the rules, registrars, auditors, or parties designated by the director-general will have the ability to withdraw the licenses. The car owners will still be required to pay the accrued tax.

Vehicles that have been in service for at least seven years must pass an inspection and have necessary car insurance in order to pay taxes.

2.4.6.1. Tax Rate

Passenger vehicles with fewer than seven seats will be subject to tax based on combined cylinder volume at the following rates.

- 0.50 baht each cc for the first 600 cc
- 1.50 baht each cc for the volume exceeding 600 cc but not exceeding 1,800 cc
- 4.00 baht each cc for the volume exceeding 1,800 cc

Passenger vehicles with fewer than seven seats that have been registered for 5 years since the first year of registration will receive annual tax deduction for the rate as follows.

- 6th year 10%
- 7th year 20%
- 8th year 30%
- 9th year 40%
- From 10th year onward 50%

Source: Vehicle Act B.E. 2522 (1979)

2.4.6.2. Vehicles under Exemption

Section 8

- Vehicles designated for His Majesty the King
- Vehicles registered to the Police Department and with the director general's signage
- Vehicles registered to the Bureau of the Royal Household and with the director general's signage
- Vehicles whose owners notify registrars of relinquishment ahead of the next due date for yearly tax in accordance with the rules, processes, and circumstances outlined in ministerial decrees.
- Vehicles produced for sale by manufacturers or assemblers, or imported for sale but not sold to others.

Section 9

- Fire trucks
- Ambulances that are not for hire
- Vehicles belong to government agencies, agencies based on the constitution, local government agencies, government-owned universities and higher education institutions, public organizations and other government agencies designated by ministerial decrees that are not profit-oriented or commercial-driven agencies.

- Road rollers owned by state enterprises
- Tractors owned by state enterprises
- Vehicles owned by the Thai Red Cross Society
- Vehicles used by diplomat and consular, international organization, or special organizations under supervision of United Nations based in Thailand.
- Vehicles for agricultural uses in accordance with the ministerial decree's qualities and conditions
- Vehicles used by international economic and trade agencies that have been established in Thailand as a result of an agreement between Thailand and those respective nations.

2.4.6.3. Compulsory Insurance (Road Accident Victims Protection. Act, B.E. 2535)

The Motor Victims Protection Act B.E. 2536 (third revision B.E. 2540, fourth revision B.E. 2550p, and fifth revision B.E. 2551) requires compulsory motor insurance, or Por Ror Bor.

Rationale of the Law

The government enacted the Motor Victims Protection Act B.E. 2536 to make all automobiles need to at the very least have insurance.

- To safeguard and help those who have been injured or killed in car accidents in receiving immediate healthcare in the case of injury or death compensation in the case of death.
- To provide assurance to hospitals or healthcare institutions that they would be reimbursed for healthcare expenses incurred in giving care to victims of car accidents.
- To provide public assistance to persons who have been injured in car accidents.
- Promote and encourage insurance as a critical component in removing challenges suffered by victims and their families.

Type of vehicles that are need to have insurance under the Motor Victims Protection Act B.E. 2536

Vehicles that are obligated to have insurance in accordance with the law include all types of vehicles required by the Act, law related to land transport, law related to military vehicles. The vehicles fall under the scope are the ones with owners be driven by motor, electricity other type of energy such as passenger cars, motorcycles, three-wheeled motorcycles, buses, pick-up trucks, tow truck heads, trailers, road rollers, farmers' trucks etc.

Therefore, the tax obligations cover all vehicles driven by motor, electricity or any other types of energy although they are not registered by the Department of Land Transport.

➤ **Vehicles that are Exempt from Insurance under the Legislation**

- Vehicles reserved for the King, Queen, and their heirs and regents
- Vehicles belonging to the Royal Palace Bureau are marked with its logo.
- Vehicles owned by ministries, departments, municipalities, provincial administrative organisations, sanitary districts, the Bangkok Metropolitan Administration, and other local government bodies, as well as military vehicles
- Vehicles belong to administrative departments of organizations established by the constitution, as well as autonomous agencies established by the constitution.

➤ **People who are Required to have Insurance**

Owners, lessees, and importers of internationally registered vehicles are all required to have insurance. Those who breach the legislation face a fine of no more than 10,000 baht.

Tax rate

Two-Wheeled Motorcycle

- not exceeding 75 cc
 - Passenger 150 baht
 - Hired/Rented/Public 150 baht
- exceeding 75 cc not exceeding 125 cc
 - Passenger 300 baht
 - Hired/Rented/Public 350 baht
- exceeding 125 cc not exceeding 150 cc
 - Passenger 400 baht
 - Hired/Rented/Public 400 baht
- exceeding 150 cc
 - Passenger 600 baht
 - Hired/Rented/Public 600 baht

Three-Wheeled Motorcycle

- Bangkok Metropolitan
 - Passenger 720 baht
 - Hired/Rented/Public 1,440 baht
- Outside Bangkok Metropolitan
 - Passenger 400 baht

- Hired/Rented/Public 400 baht

Passenger car not exceeding 7 seats

- Passenger 600 baht
- Hired/Rented/Public 1,900 baht

Skylab Car

- Passenger 400 baht
- Hired/Rented/Public 400 baht

Passenger cars exceeding 7 seats

- not exceeding 15 seats
 - Passenger 1,100 baht
 - Hired/Rented/Public 2,320 baht
- exceeding 15 seats but not exceeding 20 seats
 - Passenger 2,050 baht
 - Hired/Rented/Public 3,480 baht
- exceeding 20 seats but not exceeding 40 seats
 - Passenger 3,200 baht
 - Hired/Rented/Public 6,660 baht
- exceeding 40 seats
 - Passenger 3,740 baht
 - Hired/Rented/Public 7,520 baht

Bus exceeding 7 seats (commuting between districts of the same provinces)

- not exceeding 15 seats
 - Hired/Rented/Public 1,580 baht
- exceeding 15 seats but not exceeding 20 seats
 - Hired/Rented/Public 2,260 baht
- exceeding 20 seats but not exceeding 40 seats
 - Hired/Rented/Public 3,810 baht
- exceeding 40 seats
 - Hired/Rented/Public 4,630 baht

Pick up Trucks

- Weight not exceeding 3 tons
 - Passenger 900 baht
 - Hired/Rented/Public 1,760 baht
- Weight exceeding 3 tons but not exceeding 6 tons
 - Passenger 1,220 baht
 - Hired/Rented/Public 1,830 baht
- Weight exceeding 6 tons but not exceeding 12 tons
 - Passenger 1,310 baht
 - Hired/Rented/Public 1,980 baht

- Weight exceeding 12 tons
 - Passenger 1,700 baht
 - Hired/Rented/Public 2,530 baht

Truck Transporting Petrol, Petrol or Liquid

- Total weight not exceeding 12 tons
 - Passenger 1,680 baht
 - Hired/Rented/Public 1,980 baht
- Total weight exceeding 12 tons
 - Passenger 2,320 baht
 - Hired/Rented/Public 3,060 baht

Tow Truck Head

- Passenger 2,370 baht
- Hired/Rented/Public 3,160 baht

Trailer

- Passenger 600 baht
- Hired/Rented/Public 600 baht

Source: Office of Insurance Commission

2.4.7. Digital Service Tax

The Revenue Code Amendment Act (NO. 53) B.E. 2564 (2021) stipulates that non-resident service providers and electronic platforms with income from providing electronic services to non-VAT registered customers in Thailand of more than 1.8 million baht per year are required to register for VAT, filling VAT returns, and remit VAT to the Revenue Department under a pay-only basis without deducting input tax or issuing a tax invoice.

Non-resident service providers and electronic platforms with income from providing electronic services to non-VAT registered customers in Thailand of more than 1.8 million baht per year are required to register for VAT and pay VAT to the Revenue Department starting from 1st September 2021.

2.5. Customs Duties

Customs duty is mainly imposed on imported and selected exported goods specified by the Law on Customs Tariff. Most tariffs are ad valorem, which is a duty laid upon goods at a certain rate of their value. In certain cases, however, both ad valorem and a specific rate (e.g. a rate charged on a unit of goods) are given, and the tariff that

gives the most revenue will apply. In general, the invoice price is the basis for computation of duty and normally applied to cost, insurance and freight (CIF) value for import and free on board (FOB) for export.

Customs duty is levied in accordance with the Harmonized Commodity Description and Coding System or Harmonized System. Thailand has adopted the Protocol Governing the Implementation of the ASEAN Harmonized Tariff Nomenclature (the AHTN Protocol) to harmonize the tariff nomenclature at the eight-digit level.

Reduction and Exemption from Customs Duties

Reduction of and exemption from customs duties on certain imported goods is also granted to promoted persons under the Investment Promotion Act and to petroleum concessionaires under the Petroleum Act.

Reduction of and exemption from customs duties on imported goods is also granted to members of the ASEAN Free Trade Area (AFTA) and the World Trade Organization (WTO), and to parties of free trade agreements and international agreements to which Thailand is a party,

Thailand is also a member of the General Agreement on Tariffs and Trade (GATT). Thai Customs law adopts practices and standards in accordance with the GATT codes in the determination of customs price.

2.5.1. E-Customs

Computer techniques are increasingly used by Thai Customs to support a wide range of Customs operations. “E-Customs” was implemented on 1 January 2007, comprising of e-Import, e-Export, e-Manifest, e-Payment, and e-Warehouse. It provides business operators such as exporters, importers, customs brokers and shipping companies with a paperless environment and a one stop service.

The “E-Customs” system is a comprehensive system developed by Thai Customs to facilitate and process all commercial goods imported into Thailand. It is widely recognized as one of the most sophisticated and integrated business-oriented systems. The e-Customs system significantly cuts costs, and reduces paperwork requirements for both Customs and relevant trading communities.

Source: Department of International Trade Promotion, as of July 2023.

2.5.2. Customs Incentive Schemes

To promote Thailand as a global trade hub, Thai Customs administers various Customs-related incentive schemes to facilitate the trading community. We also constantly review the schemes to meet the needs of our traders.

Please refer to the list of incentive schemes below.

- Tax and Duty Compensation
- Duty Drawback under Section 19 bis
- Duty Drawback for Re-Export
- Bonded Warehouses
- Free Zone
- Investment Promotion
- Gold Card Scheme
- Licensed Customs Broker

Source: The Customs Department, as of July 2023.

2.5.2.1. Tax and Duty Compensation

Tax compensation is one of the government measures to lower the production cost of goods for exportation to boost their worldwide competitiveness against foreign products both at international and domestic levels. The compensation has to comply with the criteria and conditions as prescribed by the Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act B.E.2524 (1981).

Source: The Customs Department, as of July 2023.

2.5.2.2. Duty Drawback under Section 29 of the Customs Act B.E.2560 (2018)

The duty drawback scheme enables the importer (person entitled to duty drawback) to obtain a refund of customs duty on imported goods from abroad paid by cash, and/or put on the insurance by guarantee letter from bank, e-Guarantee or guarantee letter from Ministry of Finance. The imported goods must fall into the following rules to be able to request for the duty refund:

- It is proven that the goods have gone through a production, a mix, an assembly, a packing, or any other method in the Kingdom;
- It is proven that a quantity of goods used in such production, mix, assembly, packing, or any other method does not exceed the limitation specified by the Director-General;
- Goods obtained from such production, mix, assembly, packing, or any other method are exported out of the Kingdom within one year from the date the importation of the goods used in the production, the mix, the assembly, the

packing, or any other method into the Kingdom. Unless the goods cannot be exported within one year due to force majeure, the Director General may allow an extension for not more than six months; and

- A request for a duty refund shall be made within six months from the date of exportation of such goods, unless the Director-General allows an extension for not more than six months

Source: The Customs Department, as of July 2023.

2.5.2.3. Duty Drawback for Re-Export

Drawback for re-export basically consists of the request for a refund of customs duties paid on imported goods - on the basis of later exportation of those goods. The Thai customs duty drawback for re-export enables exporters of goods that were originally imported to obtain refunds for import duties paid, subject to the criteria and conditions established by Customs.

2.5.2.4. Bonded Warehouses under the Customs Act

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

Recognizing the need of the importers, Thai Customs has provided in its national legislations for Customs warehousing procedures, legislations that allow importers to store goods more or less for long periods without payment of taxes and duties until the goods are actually taken for domestic consumption.

Under a bonded warehouse scheme, the imported goods stored in a bonded warehouse for the purpose of re-exportation shall be exempted from payment of import/export taxes and duties, regardless of being exported in the same nature as imported or in the nature of having been produced, mixed or assembled as other goods.

Various types of bonded warehouses under Customs Act include:

- Bonded Warehouse of Manufacturing Type;
- Bonded Warehouse for Vessel Repair or Construction;
- Bonded Warehouse of General Type;
- Bonded Warehouse of General Type for Goods Demonstration or Exhibition;
- Bonded Warehouse of General Type for Oil Storage;
- Bonded Warehouse of Duty Free Shop Type;
- Bonded Warehouse Zone for Free Trade; and

- Bonded Warehouse for Storage of Duty Free Goods.

Source: Department of International Trade Promotion, as of July 2023.

2.5.2.5. Customs Free Zone

The Free Zone Scheme 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 manufacturers find themselves at a disadvantage compared with foreign competitors when they must pay a higher rate on parts, materials, or components imported for use in a manufacturing process. The Free Zone Scheme 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 benefits the country because a zone manufacturer uses Thai labor, services, and inputs.

Source: Department of International Trade Promotion, as of July 2023.

2.5.2.6. Investment Promotion

Investment incentives have long been one of various measures applied by the Thai Government to attract foreign investment in Thailand and to support the Government goals in decentralizing Thailand's industrial base.

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

Source: Department of International Trade Promotion, as of July 2023.
The Customs Department, as of July 2023.

2.5.2.7. Authorized Economic Operator

AEO is an abbreviation of "Authorized Economic Operator" which the World Customs Organization "WCO" has defined as "An organization or a company involved in the movement of goods certified by Customs of each country that such organizations or companies have complied with WCO or equivalent supply chain security standards. Authorized Economic Operators include manufacturers, importers, exporters, customs clearance agents, carriers, consolidators, port owners, airport owners, port or airport operators, warehouse owners and goods distribution agents."

The Customs Department fully conforms with the WCO Framework of Standard to Secure and Facilitate Global Trade (SAFE) and to enhance the competitiveness of

international trade, including complementing the business community with respect to supply chains to emphasize the significance of safety in business transactions. The Customs Department has introduced the use of criteria, conditions and privileges of standardized AEO operators in order to facilitate speedier clearance and obtain more customs privileges. In the same light, in order to even more deepen economic collaboration and facilitate regional trade growth, Thailand has recently signed mutual recognition agreements (MRAs) of AEO programs with South Korea, Singapore and Hong Kong. There are total number of AEOs at 400 as of 30 September 2022.

Source: The Customs Department, as of July 2023.

AEO Standard Division, Customs Standard Procedures and Valuation Bureau, as of July 2023.

Privileges of an Authorized Economic Operator (AEO)

- 1) Privileges on customs procedures covering import, export and re-export;
- 2) Tax privileges to be granted on speedier tax refund and compensation;
- 3) Privileges on using guarantee as standardized Authorized Economic Operator in lieu of placing a guarantee on transshipment and transit;
- 4) Privileges on legal cases under the conditions specified by the Customs Department;
- 5) Exports will be recognized by foreign Customs Administrations having the Mutual Recognition Agreement or “MRA”;
- 6) Other qualified privileges will be announced by the Director-General of Customs.

The Customs Department has classified entrepreneurs of the AEO standard into 2 categories as follows:

- Importer and Exporter of AEO standard in accordance with Customs Announcement No. 132/2566
- Customs Clearance Agent of AEO standard in accordance with Customs Announcement No. 132/2566

For further inquiry and information, you may contact the Customs Care Call Center at Tel. 1164, e-mail: 1164@customs.go.th

Chapter 2 Relevant Laws and Regulations

- Revenue Code of Thailand
- Customs Act B.E. 2560 (2017)
- Excise Act B.E. 2560 (2017)
- Investment Promotion Act B.E. 2520 (1977)
- Land and Building Tax Act B.E. 2562 (2019)
- Petroleum Income Tax Act (No. 3) B.E. 2522 (1979)
- Petroleum Income Tax Act (No. 4) B.E. 2532 (1989)
- Petroleum Income Tax Act B.E. 2514 (1971)
- Revenue Code Amendment Act (No. 44) B.E. 2560 (2017)
- Revenue Code Amendment Act (No. 47) B.E. 2561 (2018)
- Revenue Code Amendment Act (No. 53) B.E. 2564 (2021)
- Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act. B.E. 2524 (1981)
- Vehicle Act B.E. 2522 (1979).
- Royal Decree Issued under the Revenue Code Regarding Tax Exemptions (No. 470) B.E. 2551 (2008)
- Ministerial Regulation No. 238 (B.E. 2545 (2002)) Issued under the Revenue Code Regarding Income Tax
- Ministerial Regulation No. 5 (B.E. 2527 (1984)) Issued under the Petroleum Income Tax Act B.E. 2514 (1971)
- Ministerial Regulation Prescribing Excise Tax B.E. 2560 (2017)
- Ministerial Regulation Prescribing Excise Tax (No. 4) B.E. 2561 (2018)
- Ministerial Regulation Prescribing Excise Tax (No. 23) B.E. 2565 (2022)
- Revenue Department Order No. Tor Por 4/2528 (1985)
- Revenue Department Order No. Tor Por 111/2545 (2545)

Chapter 3

Industrial Licensing and Regulations

3.1. The Factor Act

The Factory Act (No. 2) B.E. 2562 (2019) and Factory Act (No. 3) B.E. 2562 (2019) were published in Thailand's Government Gazette on April 30, 2019. These will amend the Factory Act B.E. 2535 (1992). The Factory Act (No. 2) was effective 180 days after publication—that is, on October 27, 2019—while The Factory Act (No. 3) became effective on May 1, 2019.

The main changes introduced by Act (No. 3) are administrative, laying down the definitions, appointment procedures, and duties and responsibilities of the local government authorities tasked with enforcing the law related to factories. However, the key amendments of Act (No. 2), which has a more practical impact on business operators, are laid out below.

Under the new legislation, the definition of “factory” is updated to mean a building, place, or vehicle using machinery of 50 horsepower or more, or having a minimum of 50 workers (increased from 5 horsepower or 7 workers under the previous legislation), with or without machinery, in its operations. In addition, “construction of buildings” will no longer fall within the definition of “factory set-up.”

The Act does not apply to a factory belonging to a governmental authority, a factory that is used for research, a factory belonging to educational institutes that is used for training, a factory operating as a household industry and a factory with necessary operations that connect to other business which are not factories according to the Factory Act and established in the same area.

Source: Department of Industrial Works, as of July 2023

3.2. Factory License

Factories are divided into 3 categories:

- 1) Factories that do not require licenses.
- 2) Factories that only require notification to officials in advance of the commencement of operations. The operators may commence operations as soon as they receive a receipt form from the Ministry stating that their report has been received.

- 3) Factories that require license from the Department of Industrial Works, Ministry of Industry, prior to operation. Subject to the Ministry's discretion, the operators may be granted, prior to the license, a certificate allowing them to build parts of the factory.

The Minister has the authority, as provided by legislation and officially declared in the Royal Gazette, to designate an industrial area. Factories under Category 2 or 3 in designated industrial areas or zones, as stipulated by the legislation governing industrial estates, shall be granted exemption from the requirement of official notification (as outlined in Section 11) or obtaining clearance (as outlined in Section 12).

The operator of a factory in Category 3 must notify the competent authority at least 15 days before a factory test-run commences, and again at least 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:

- Location, environment, interior and description of the factory;
- Description, category, or type of machinery and equipment to be used in the operation of the factory business;
- 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 documents by the factory operators to ensure compliance with the law
- Provision of necessary data regarding factory operation that must be notified periodically or within specified timeframe
- Provision of anything that may affect the safety of work operations.

An inspection of a factory or machinery to ensure compliance with the Factory Act will be carried out by a private body who is qualified and licensed in accordance with requirements laid out in the Factory Act (No.2). Under this Act, a factory license will not expire until the factory ceases doing business.

Source: Department of Industrial Works, as of July 2023

3.3. 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 be established or expanded or not be established or expanded in any locality in the Kingdom.
- The type, quality, source of origin and ratio of raw materials and/or factors or kinds of energy to be used or produced in a factory.
- The type or quality of products to be manufactured in a factory to be established or expanded.
- The application of the produces from factory being established or expanded in certain types of industry; or the export of all or part of such produces.

Operators in Category 2 are required to provide written notification to the relevant officials prior to initiating their activities.

In the case of a factory in Category 3, the operator must first receive written permission from the competent authority before restarting the operations. With regards to the authorization for operating factories classified under Category 3, if the examination conducted by officials determines that both the factory and its machinery follow to the regulations set by relevant ministers and the requirements specified by the law, the officials have the authority to grant permission to the operators to proceed with their business operations. In the event that factories and machineries fail to adhere to legal requirements, officials will be forced to issue an order to operators, mandating them to correct the non-compliance within a specified timeframe. In this scenario, the granting of permission by the authority is dependent on the operators solving the identified concerns.

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 competent authority of such in writing within three days of 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 competent authority of such in writing within 10 days of the date of the accident.

A factory operator must obtain permission from the Permanent Secretary to remove machinery from its original place of installation to another site for temporary operations. The period of permission shall be as per request but shall not be longer than one year.

In the case of moving a factory to another site, the operator has to proceed as if establishing a new factory. 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 by the transferee, lessee or hire-purchaser within 30 days. Upon submission of such application, the engagement in a factory business shall be continued pending the receipt of a license as if such applicant were the recipient of the license. If the licensees are unable to construct their factories or if their factories are constructed but fail to commence operations, they shall have the option to transfer the license. The entities wishing to obtain the license must submit their application within a period of 30 days following the transfer, rental, or leasing of the factory, or the sale thereof. Upon the submission of their requests and subsequent waiting period for permission, it is to be acknowledged that the individuals who submit the stated requests shall be regarded as licensees. On the other hand, the parties involved in the transfer, renting, leasing, or sale of the factories shall no longer be considered licensees from the date of said transfer.

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. Alternatively, the specified time limit may be extended at the discretion of the administrator if the individual is unable to meet the stipulated deadline. In the event that operators wish to proceed with their activities, it is necessary for them to submit a new request for a renewed license. Upon submission of such application, the heir or administrator of the estate engaging in a factory business shall be deemed as if they were the recipient of a license.

Source: Department of Industrial Works, as of July 2023

3.4. Factory Expansion

No factory expansion is allowed unless permission is obtained. The permission to expand factories costs the same as the license to operate a factory, ranging between 3,000 and 145,000 baht depending on the scale of the machinery. As defined in the Act, the following undertakings constitute factory expansion:

The expansion, alteration, or modification of machinery to construct machineries to operate old factories or businesses pertaining to the operation of old factories, resulting in an increase in capacity, as follows

- 1) Increase from 50 horsepower if the former machinery has a maximum capacity of 100 horsepower.
- 2) Increase from 100 horsepower if the former machinery has a minimum capacity of 100 but not exceeding 500 horsepower.
- 3) Increase from 200 horsepower if the former machinery has a minimum capacity of 500 but not exceeding 1,000 horsepower.
- 4) Increase from 300 horsepower if the former machinery has a minimum capacity of 1,000 but not exceeding 2,000 horsepower.

- 5) Increase from 400 horsepower if the former machinery has a minimum capacity of 2,000 but not exceeding 3,000 horsepower.
- 6) Increase from 500 horsepower if the former machinery has a minimum capacity of 3,000 horsepower.

Permission to expand a factory is deemed part of the license.

- Implementation according to (1) that was conducted on new land plots in close proximity to the location of former factories and the licensed land plots.

In the case that a licensee:

- when there is an increase in the number of licensees or a change in licensees, or a change in the machines used in manufacturing, power source, pollution treatment, measures to prevent or reduce impacts, as well as an increase or decrease in horsepower, but not to the extent that there is a factory expansion or
- when there is an increase in the number of licensees or a change in licensees, or a change in the machines used in manufacturing, power source, pollution treatment, measures to prevent or reduce impacts, as well as an increase or decrease in horsepower, but not to the extent that there is a factory expansion
 - Increase from 500 square meters to 2,000 square meters for factories with a maximum area of 2,000 square meters
 - Increase from 1,000 square meters to 2,000 square meters for factories larger than 2,000 square meters

The notification in writing must be filed with the competent authority within 30 days of the date of the change. The installed machinery in this case is considered machinery used in the operation of factories.

Source: Department of Industrial Works, as of July 2023

3.5. Other Provisions

Any factory that is seriously endangering the public or property in the factory or its vicinity may be ordered to cease operations or to make specified improvements. The Minister has the authority to order sealing the machinery to prevent it from functioning. 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.

For the purpose of effective management and service, if the factory operation requires permission from other particular law associates, then both parties can cooperate to arrange an agreement on the process of approval together.

Licenses may be suspended for violations of the Act or for failure to carry out orders issued under the Act by competent officials.

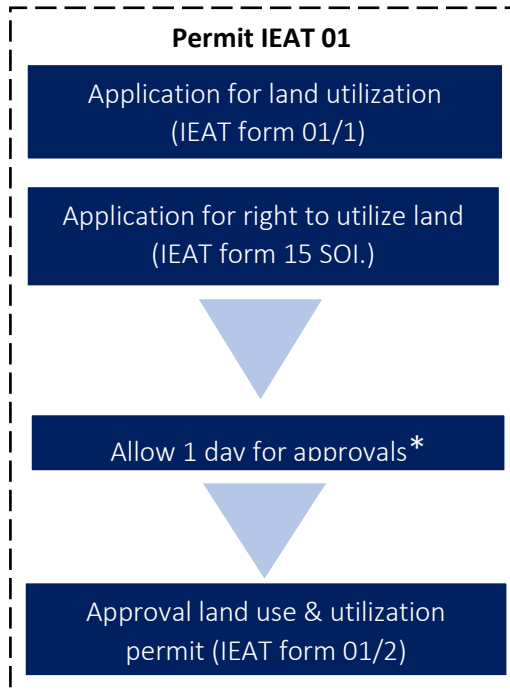
Violation of certain provisions of the Act may incur penalties in the nature of a fine or imprisonment not exceeding 4 years. A Case Settlement Committee of three legal experts is appointed by the Ministry to carry out penalties for violations of the Act. If the offender is a partnership, company or 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.

Source: Department of Industrial Works, as of July 2023
Ministry of Industry, as of July 2023

3.6. Procedures and Timetable for Factory Permits / License

An investor who wishes to establish a factory in an industrial estate is required to request permission for land utilization from IEAT by submitting application IEAT 01/1 for land utilization for business operations in industrial estates. If the application is approved, IEAT shall issue a License for Land Utilization and Business Operations in Industrial Estates which is IEAT 01/2. The fee will be 10,000 Baht.

Step 1



IEAT 01/1 Authorities, document,

comments:

- Applicant / User
- One Stop Service Center (OSS) of Industrial Estate Authority of Thailand (IEAT Office)/ e-PP (e-Permission & Privilege) system OR- Ministry of Industry (MOI) Provincial Offices (Dept. of Ind. Works) as per applicable "Zone", "Park", "Greenfield" rules if not "IEAT"
- (3) copies of application submitted
- 10,000 Baht permit fee (excluding VAT may vary on location)
- IEAT considers granting written permission to use land for industrial estate operations within one day after receiving all required documentation. If the operations are required to conduct an EIA, EHIA, IEE and related conducts, they must take actions prior to construction or operations.
- Before granting permission to a factory that falls under the category of industrial waste treatment and elimination plant (101,105,106), IEAT must prepare a memo to incorporate opinions and forward IEAT's views.
- In the case that the operation generates pollution or community sensitivity, IEAT shall forward the matter to the meeting for related agencies to acknowledge and coordinate the design of additional measures prior to issuing licenses.

Supporting documents required for IEAT 01/1;

- (3) copies of layout of the land plot according to the master plan
- (3) copies of Land Title Deed or letter indicating the right for land utilization

In case the applicant is a natural person

- (3) copies of the Identification Card or copy of passport (in case of foreigner) of the applicant
- (3) copies of the Identification Card or copy of passport (in case of foreigner) of the attorney-in-fact (in case of authorization)

In case the applicant is a juristic person

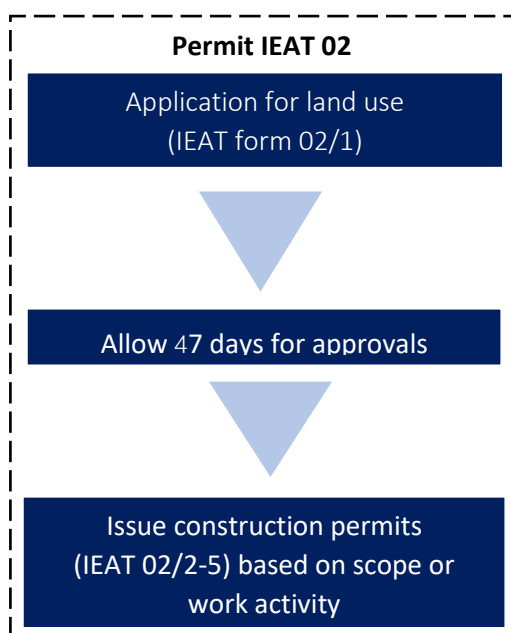
- (3) copies of shareholders list (dated not over 6 months from the issue date)
- (3) copies of the Company Affidavit, indicating objectives (not older than 6 months from the issue date)
- (3) copies of the rd and Identification Card or copy of passport (in case of foreigner) of the authorized person(s) to sign on behalf of the juristic person

Note: All the above must be submitted together with the company seal, signatures and/or other authorized documents as required.

Upon having received permission for land utilization and business operation in the industrial estate (IEAT. 01/2), the business operator must begin the construction of the factory building within timeframe specified by IEAT based on suitable business requirements from the date of receipt of a permit. The application for permission to construct building must be submitted to the IEAT Head Office or the Industrial Estate Office. The fee of the permit to construct or modify buildings depends on the useful area and size of building, and a certification of building construction or modification is 100 Baht.

Step 2

Authorization for new factory construction or rental factory renovations



IEAT 02 Authorities, document, comments:

- Applicant / User
- One Stop Service Center (OSS) of Industrial Estate Authority of Thailand (IEAT Office) / e-PP (e-Permission & Privilege) system OR - Ministry of Industry (MOI) Provincial Offices (Dept. of Ind. Works) as per applicable "Zone", "Park", "Greenfield" rules if not "IEAT"
- Factory Construction Permit Fee of 20-200 Baht

Supporting documentation required;

- Fill in all details per items specified in 3 sets of the application

- Application Form IEAT 02/1
 - Certificate of Designing Architect
 - Certificate of Designing Engineer
 - Certificate of Supervisor
- The Applicant has attached 1 set of the following documents and evidence relating to the Applicant:
 - Company Affidavit not older than 6 months
 - The juristic person's authorized person(s) signs to certify the documents
 - Copies of Identification Card and House Registration Card in case of a natural person
 - Copy of Passport in case of a foreigner
 - Copy of License to Utilize Land and Operate a Business in Industrial Estate
 - Copy of the original Building Construction Permit in case of building modification
- Land title deed or evidence confirming the land boundaries (in case of pending division of land plots):
 - Set of copy of the land title deed on the front and back sides, at the same size as the original, certified by the land owner
 - Evidence by the landowner confirming the land boundaries (in case of pending division of land plots)
- As for the Applicant for building construction on land owned by others, the following document is required:
 - A letter of consent from the landowner for construction of a building on the land, specifying space, boundaries and area of the land
- Power of Attorney in case that the Applicant is not the building owner, in which case, the following documents are required:
 - Power of Attorney, affixed with Baht 30 duty stamp
 - Copies of Identification Card and House Registration Card of the grantor and the attorney-in-fact (copy of Passport in case of a foreigner)
- Site plan of the industrial estate, layout plans, drawings and specifications as specified by ministerial regulations issued under the Building Control Act, for 3 sets in A1 size and 1 set in A3 size:
 - Affix seal and signature(s) of authorized person(s)
 - Architect/engineer signs on every page

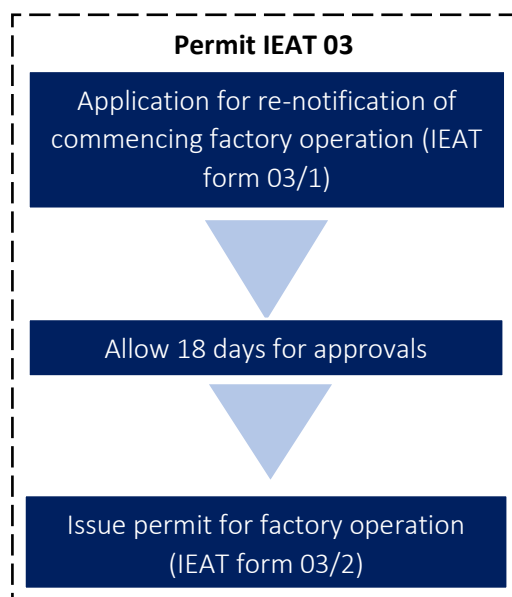
- 1 set of calculation sheets
 - Cover page of the calculation sheets, specifying names of the building, building owner, industrial estate, authorized person(s) or attorney-in-fact, calculator, qualifications and office
 - Engineer/responsible person has signed on every page of the calculation sheets
 - $f_{c'} > 65 \text{ ksc}$ or $f_{c'} > 150 \text{ ksc}$, a certificate of concrete mixing results must be shown, signed by a calculating engineer and the Applicant
- A building subject to control pursuant to the Architect Act and the Engineer Act:
 - Architect/engineer/supervisor has attached a certified copy of his/her license to practice the profession.
- Summary of specifications, IEAT 02/1-1
Architect/engineer has completed Form IEAT 02/1-1 and signed on every page.

Note: All of the above must be submitted together with the company seal, signatures and/or other authorized documents as required.

Before commencing business operation, the business operator must submit an application for commencing business operation (IEAT 03/1) and begin the business operation within 3 years from the date of receipt of a permit (IEAT 01/2). A notification to the IEAT in Form IEAT 03/1 must be made within 30 days before the commencing date of the business operation. No fee is required for notification on industrial business operation commencement.

Step 3

Authorization to begin factory operation



IEAT 03 Authorities, document, comments:

- Applicant / User
- One Stop Service Center (OSS) of Industrial Estate Authority of Thailand (IEAT Office)/ e-PP (e-Permission & Privilege) system OR- Ministry of Industry (MOI) Provincial Offices (Dept. of Ind. Works) as per applicable "Zone", "Park", "Greenfield" rules if not "IEAT"
- (3) copies of application submitted

Supporting documentation required;

- (3) copies of company registration certificate and affidavit (dated not over 6 months ago)
- (3) copies of house registration and ID card or passport of authorized directors
- (3) copies of shareholders list (dated not over 6 months)
- (3) copies of house registration of factory
- (3) copies of general information of company i.e. capital, staff and operation
- original documents relating to the production process i.e. lists of raw materials, products and by products including production process and process flowchart
- original documents showing measures to manage pollution arising from the operation
- original master plans, factory layout including machinery and equipment placement, machine list with rated horsepower and name(s) of responsible engineer(s)
- original land layouts showing location of environment and safety management system
- (3) copies of reports for safety inspection and test (for the case of steam-boilers/hot oil/pressure vessel/crane)
- An original risk assessment report involving harm arising from the operation
- An original EIA/EHIA/IEE report (if any)
- (3) original documents regarding operation test
- (3) original results for pollution test

Note:

- 1) “Export Processing Zones” and “Customs Free Zones” require additional forms at each step. The same applies for Food & Pharmaceutical projects. Request such forms at the zone’s Customs Office or the Thai Food & Drug Administration as applicable
- 2) Certain Thailand Industrial “Parks” & “Zones” may have unique permit / license application procedures in place with the Ministry of Industry. It is recommended that one check with both the operator and the local MOI or Dept. of Industrial Work to confirm the needed forms and local permit procedures.

Source: Industrial Estate Authority of Thailand, as of July 2023.

3.7. Environmental Concerns Regarding Sources of Water

Certain areas, currently some districts in Ayutthaya and Pathum Thani Provinces, have been assigned by the Cabinet to be reserved as sources of water by the Metropolitan Waterworks Authority. In order to control the establishment or expansion of factories in such areas, regulations have been imposed forbidding setting up or expanding factories which release wastewater containing heavy metals or poisonous substances used in agriculture, or other chemicals such as PCBs, cyanide, arsenic, and phenol.

Factories are forbidden to be set up and expanded in areas reserved for water supply. The only exceptions are factories which release wastewater with a biochemical oxygen demand of less than one kilogram per day or those which are set up in Navanakorn Industrial Estates I and II. Under Ministerial Regulation No. 3, factories specified by Ministry of Industry notifications as severely affecting the environment are required to provide environmental impact studies.

3.8. Environmental and Health Impact Assessments

The Environmental Impact Assessment (EIA) system was implemented in Thailand in 1981 under the Enhancement and Conservation of the National Environmental Quality Act (NEQA) 1975. Section 67 of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007) outlined that impact studies must take into account Community Rights and issues that could seriously affect the community in quality of the environment, natural resources, and health. This led to the Rule, Procedure, Method and Guideline for Preparation of the Environmental Health Impact Assessment (EHIA) in 2009 and the Prescription of Types of severe projects that require Environmental Health Impact Assessment (EHIA) preparation in 2010.

The Constitution of the Kingdom of Thailand, B.E. 2560 (2017) introduced the Environmental Law Amendment in NEQA 2018 which increases the regulation on Scoping, EIA Reviewing, Decision Making and Monitoring. For Instance, an EIA Report is

valid for project permission/approval within 5 years after the Report approval. Moreover, fine penalties apply for Construction or Operation before EIA Approval and Failure to submit the EIA Monitoring Report. Another issue addressed in this law is the linkage between Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA); the EIA/EHIA must consider the legalized SEA study in any specific area/issue.

The Ministry of Natural Resources and Environment by the approval of the Cabinet and the National Environment Board (“NEB”) has announced a list of 12 industrial projects that potentially could create severe impact on 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 EIA and EHIA Processes.

According to the Ministry of Natural Resources and Environment, 2018, there are 12 types of industrial projects which may severely affect communities with respect to environmental quality, natural resources and health, which require an Environmental Health Impact Assessment (EHIA).

Types of Industrial require an Environmental Health Impact Assessment (EHIA)	
1. Land reclamation in seas of lakes outside existing coastlines (from at least 300 Rais)	
2. Mining under the law as follows:	
2.1 Underground mining designed for subsidence after stopping operation without any suspension or refilling substituted material to avoid subsidence;	
2.2 Lead mining, zinc mining or metal mining using cyanide or mercury or lead nitrate in lead mining process with arsenopyrite as associated material;	
2.3 Coal mining that transporting coal mineral out of the sea by motor vehicles (with the scale at least 200,000 tons/month or 2,400,000 tons/year)	
2.4 Marine mining	
3. Industrial estate as defined by the Industrial Estate Authority of Thailand	
3.1 Industrial estates or projects with characteristics similar to industrial estates developed to support more than one petrochemical following 4. or iron smelting following 5.1 or 5.2 as applicable.	
3.2 Industrial estates or project with characteristics similar to industrial estates which has expanded space to support more than one petrochemical following 4. or iron smelting following 5.1 or 5.2 as applicable.	
4. Petrochemical Industry including upstream petrochemical and intermediate petrochemical industries	
4.1 Any scale of upstream petrochemical industry factories with a minimum 35% increase in capacity	

Types of Industrial require an Environmental Health Impact Assessment (EHIA)	
4.2 For intermediate petrochemical industry	<p>4.2.1 Intermediate petrochemical industry factories that produce carcinogenic group 1 chemicals or chemical raw materials (capacity of at least 100 tons per day or expanded capacity of at least 100 tons per day)</p> <p>4.2.2 Intermediate petrochemical industry factories that produce carcinogenic group 2A chemicals or chemical raw materials (capacity of at least 700 tons per day or expanded capacity of at least 700 tons per day)</p>
5. Mineral smelting industry	<p>5.1 Iron smelting industry (with the amount of input or total amount of inputs to manufacturing at least 5,000 tons/day)</p> <p>5.2 iron smelting industries which produces coke charcoal or use sintering process</p> <p>5.3 copper, gold, or zinc smelting enterprises (with manufacturing input or the total amount of inputs of at least 1,000 tons per day)</p> <p>5.4 lead smelting industry</p> <p>5.5 iron melting industries (except iron and aluminium) for the output or the total amount of outputs of 50 tons/day</p> <p>5.6 lead melting industries (with output or total outputs of at least 10 tons/day)</p>
6. Manufacture, possession, or utilization of atomic energy from nuclear reactors with a minimum capacity of 2 megawatt	
7. Central waste treatment plants or factories with a business of burying garbage or unused materials under the laws on factories that burn or bury hazardous waste, except burning in cement overusing hazardous waste as raw material substitute or additional fuel	
8. Aviation transportation system	<p>8.1 with the construction or expansion of runway for at least 3,000 meters</p>
9. Ports	<p>9.1 with berth length of at least 300 meters or port front area of at least 10,000 square meters, excluding ports used for daily life and tourism.</p> <p>9.2 with a minimum dredging volume of 100,000 cubic meters</p> <p>9.3 with transport of hazardous materials or carcinogenic waste more than of 25,000 tons per month or 250,000 tons per year.</p> <p><u>Exemption</u></p> <p>Cabinet-approved projects or activities that operate for national security in accordance with the law pertaining to the Office of National Security Council.</p>
10. Dams or reservoirs	<p>10.1 with a water storage capacity of at least 100 million cubic meters</p> <p>10.2 with a water storage area of at least 15 square kilometers</p>
11. Thermal Power Plants as follows:	<p>11.1 Coal-fired power plant (a minimum power generation capability of 100 megawatt)</p> <p>11.2 Biomass-fired power plant (a minimum power generation capability of 150 megawatt)</p>

Types of Industrial require an Environmental Health Impact Assessment (EHIA)
11.3 Natural gas-fired power plants which use combined cycle or cogeneration thermoelectric power a minimum power generation capability of 3,000 megawatt)
11.4 Nuclear power plants (all capacity)
12. Coke Coal Production

Source: Division of environmental Impact Assessment Development, as of July 2023

Simplified Flowchart for EIA and EHIA Process

Figure 3-1 Approval Process for Projects or Activities which are Required by Law and Projects or Activities which are not Required the Approval of the Cabinet

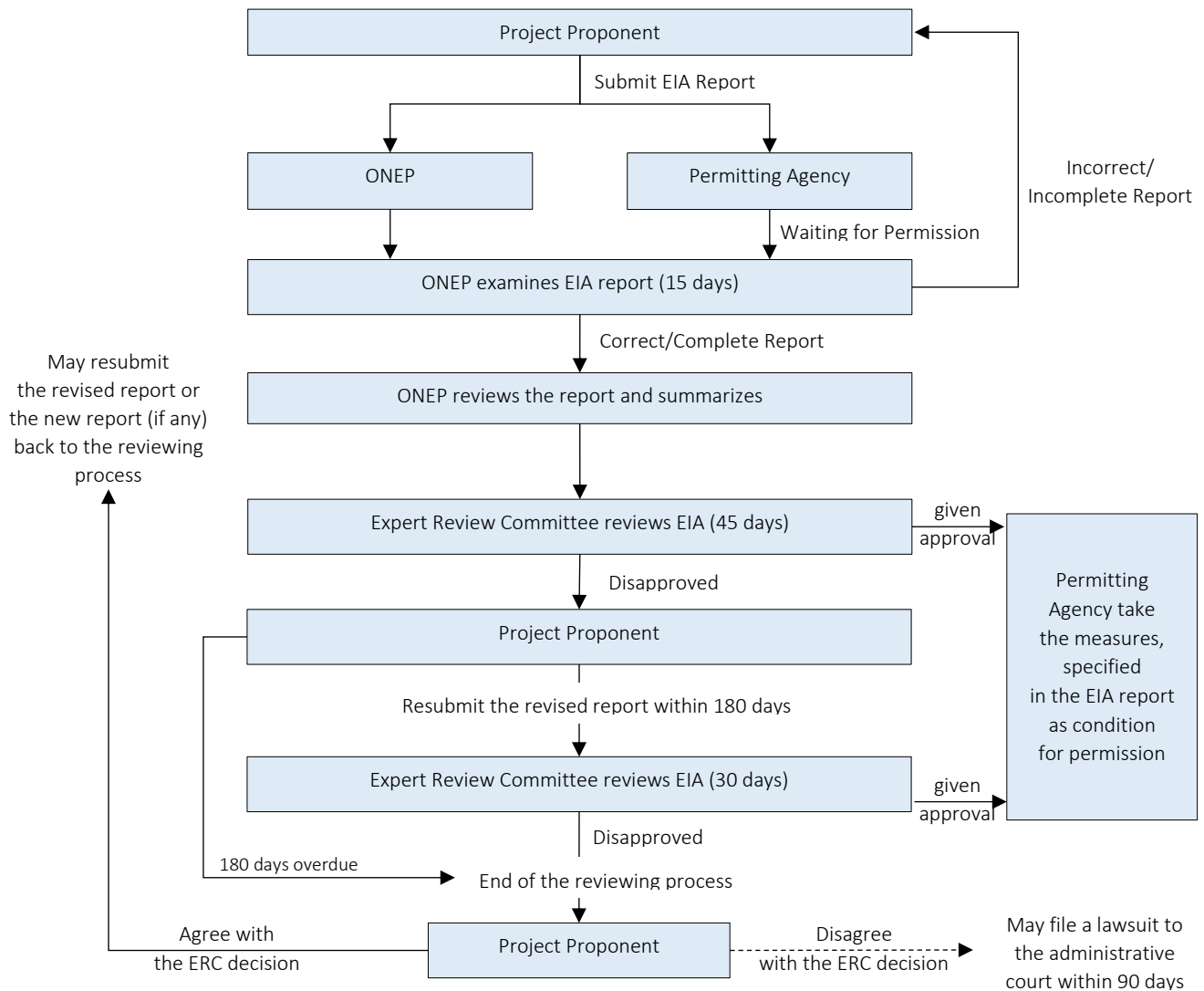


Figure 3-2 Approval Process for Projects or Activities Required the Approval of the Cabinet

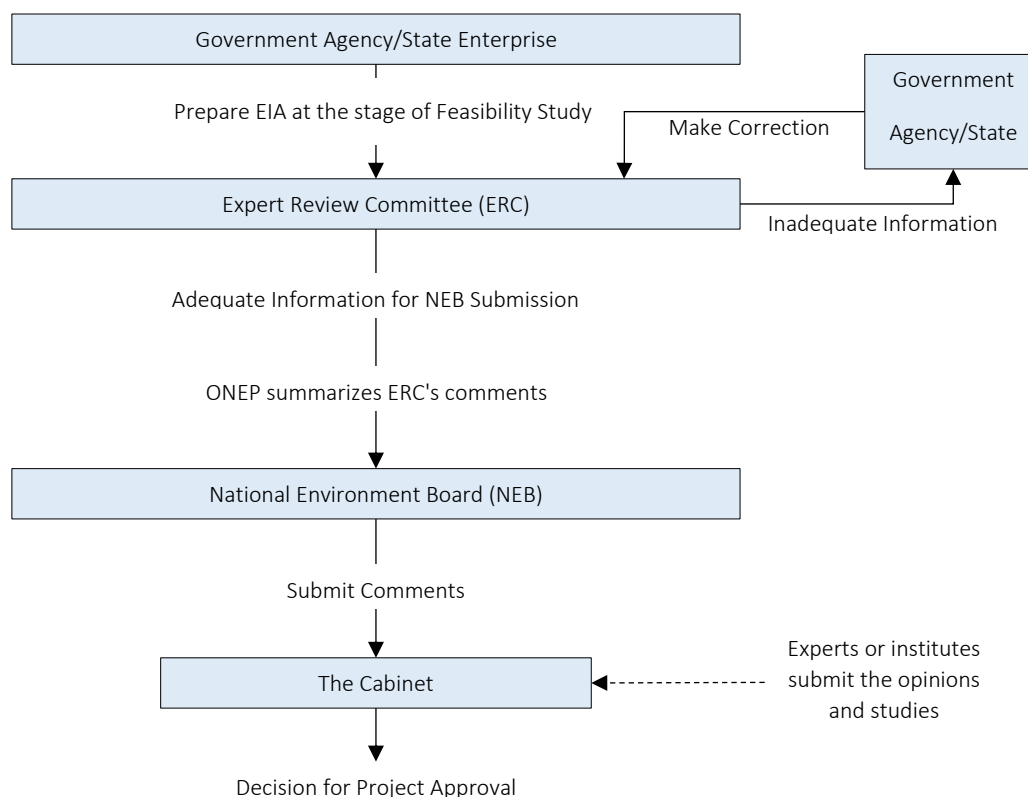


Figure 3-3 Approval Process for Projects or Activities which may Seriously Affect Community with Respect to Environment, Natural Resources and Health and are Required Permission by Law and Projects or Activities which are not required the Approval of the Cabinet.

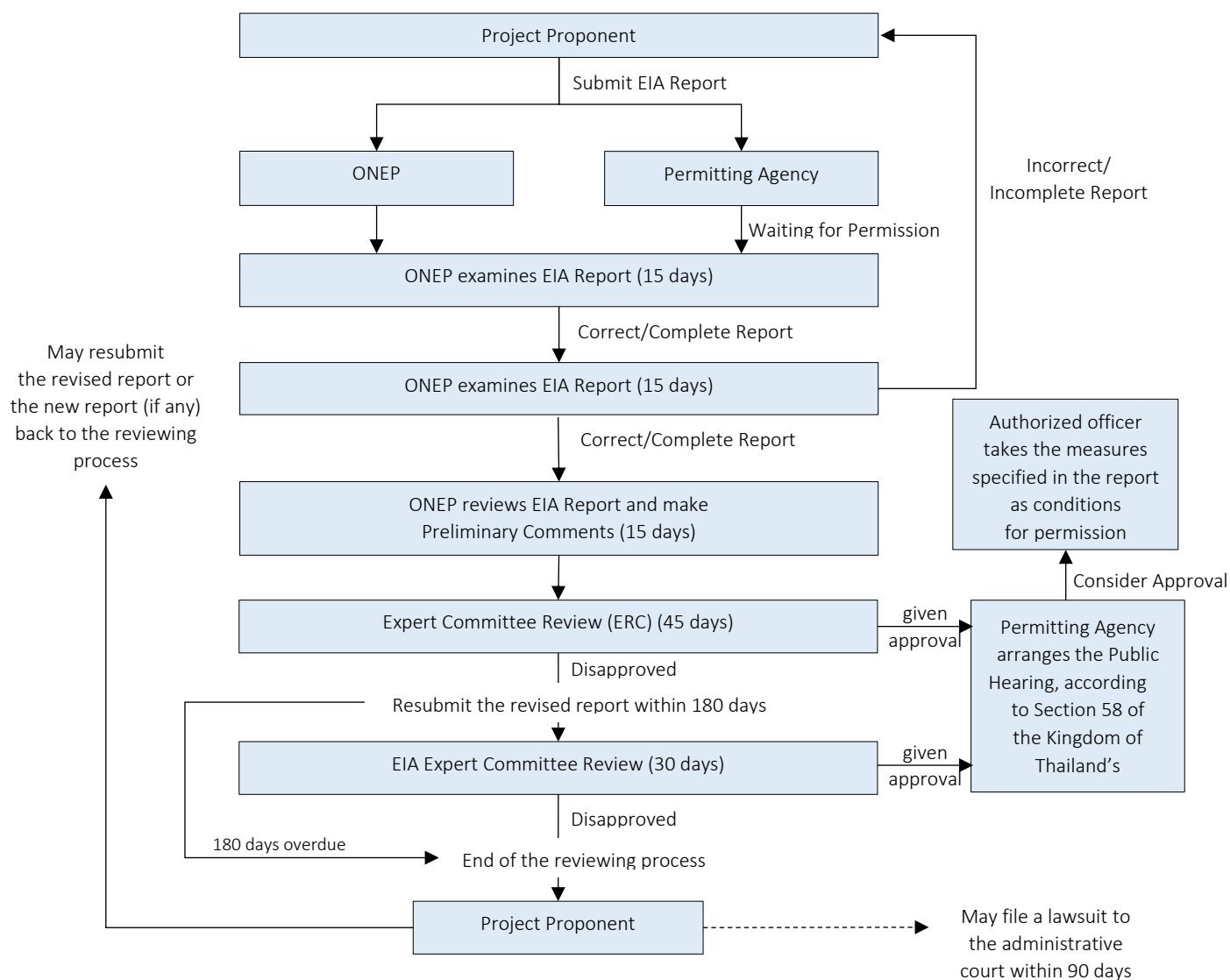
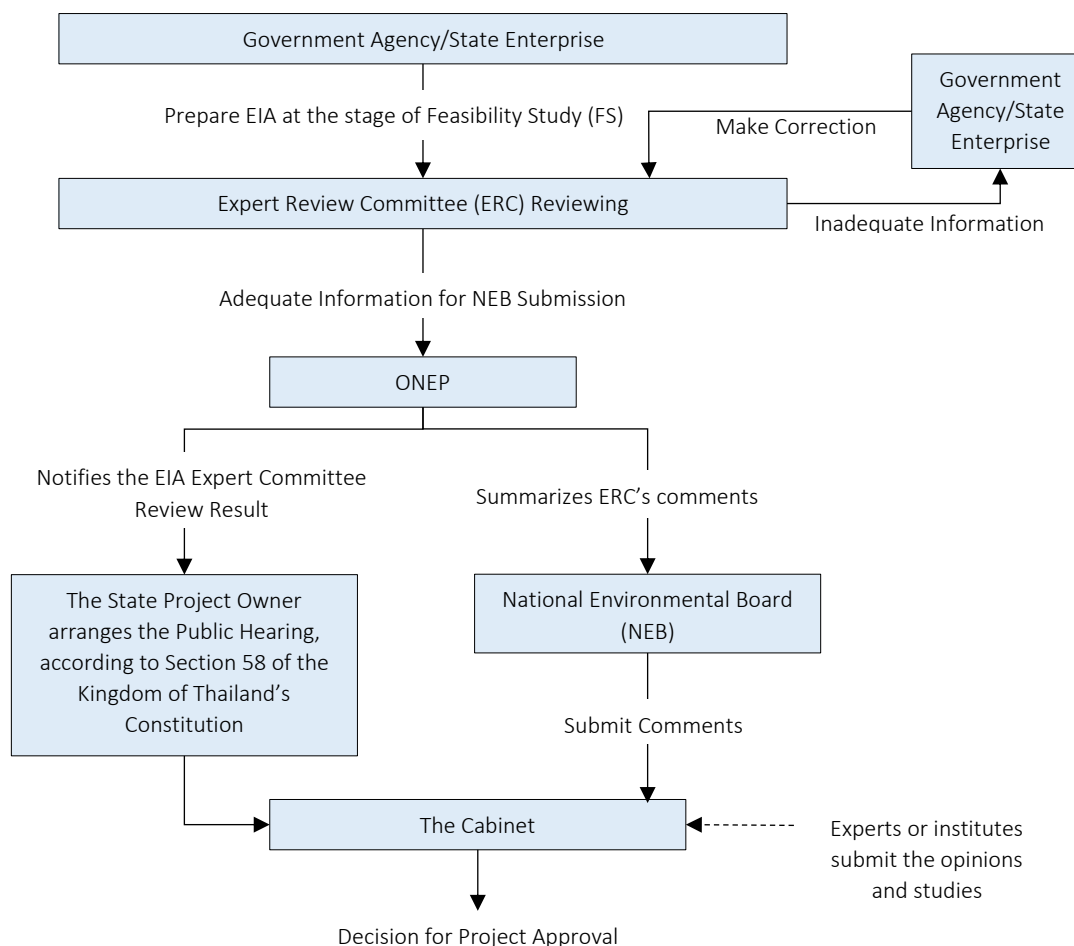


Figure 3-4 Approval Process for Projects or Activities which may Seriously Affect Community with Respect to Environment, Natural Resources and Health and required the Approval of the Cabinet.



3.9. Other Relevant License and Registration

3.9.1. License for Health Hazardous Businesses

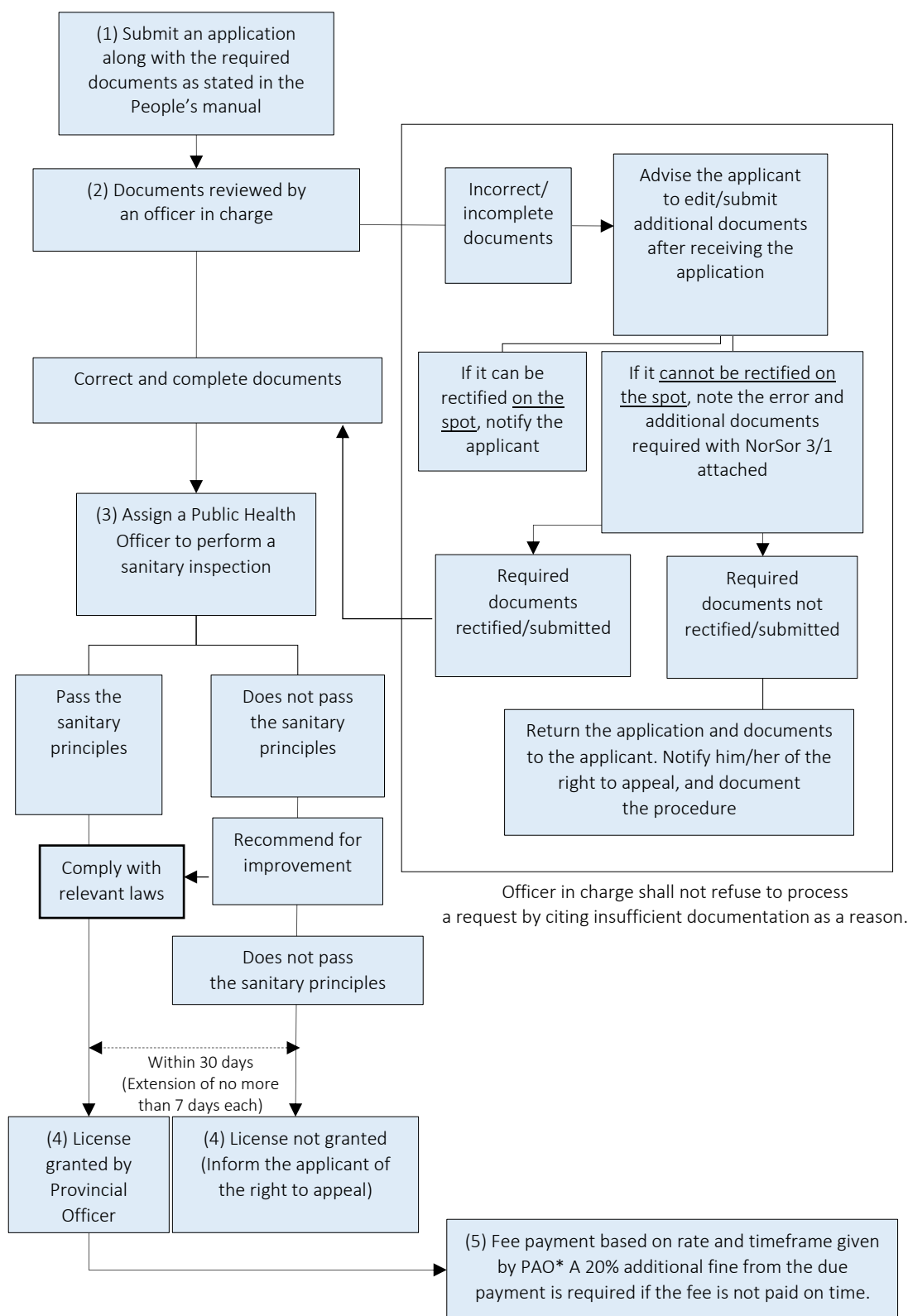
According to the Notification of the Ministry of Public Health on Health Hazardous Businesses B.E. 2558 (2015), under section 31 of the Public Health Act. B.E. 2535, certain business is required to operate in accordance with the law as promulgated by the Minister, with the advice of the Committee. The local government shall have the power to issue local provisions by:

- 1) Prescribing the category of certain business under Section 31 as being a business requiring control within such locality;
- 2) Prescribing the general rules and conditions to be observed operating a business pursuant to (1) in respect of the care of condition or sanitary quality of the place used for business operations and in implementing preventive measure against harm to health.

The following businesses are considered hazardous to health:

- 1) Pet-related businesses
- 2) Animal and animal product-related businesses
- 3) Food, beverage, and drinking water-related businesses, except any business operated in a food selling place, market place, from place to place, and food production for household consumption
- 4) Medicine, medical device, cosmetics, and cleaning product-related businesses
- 5) Agriculture-related businesses
- 6) Metal or mineral-related businesses
- 7) Vehicle, machine, and machinery-related businesses
- 8) Wood and paper-related businesses
- 9) Service-providing businesses
- 10) Weaving businesses
- 11) Rock, soil, sand, cement, or other similar items-related businesses
- 12) Petroleum, petrochemical, coal, coke and other chemical substance-related businesses
- 13) Other businesses

Figure 3-5 Process for Acquiring a Health Hazardous Business License According to the Notification of the Ministry of Public Health on Health Hazardous Businesses B.E. 2558



➤ **Fee Rate**

Fee varies based on the type and scale of the operations and is limited to 10,000 baht.

3.9.2. Process for Registration and Approval with the Food and Drug Administration

3.9.2.1. Food Products

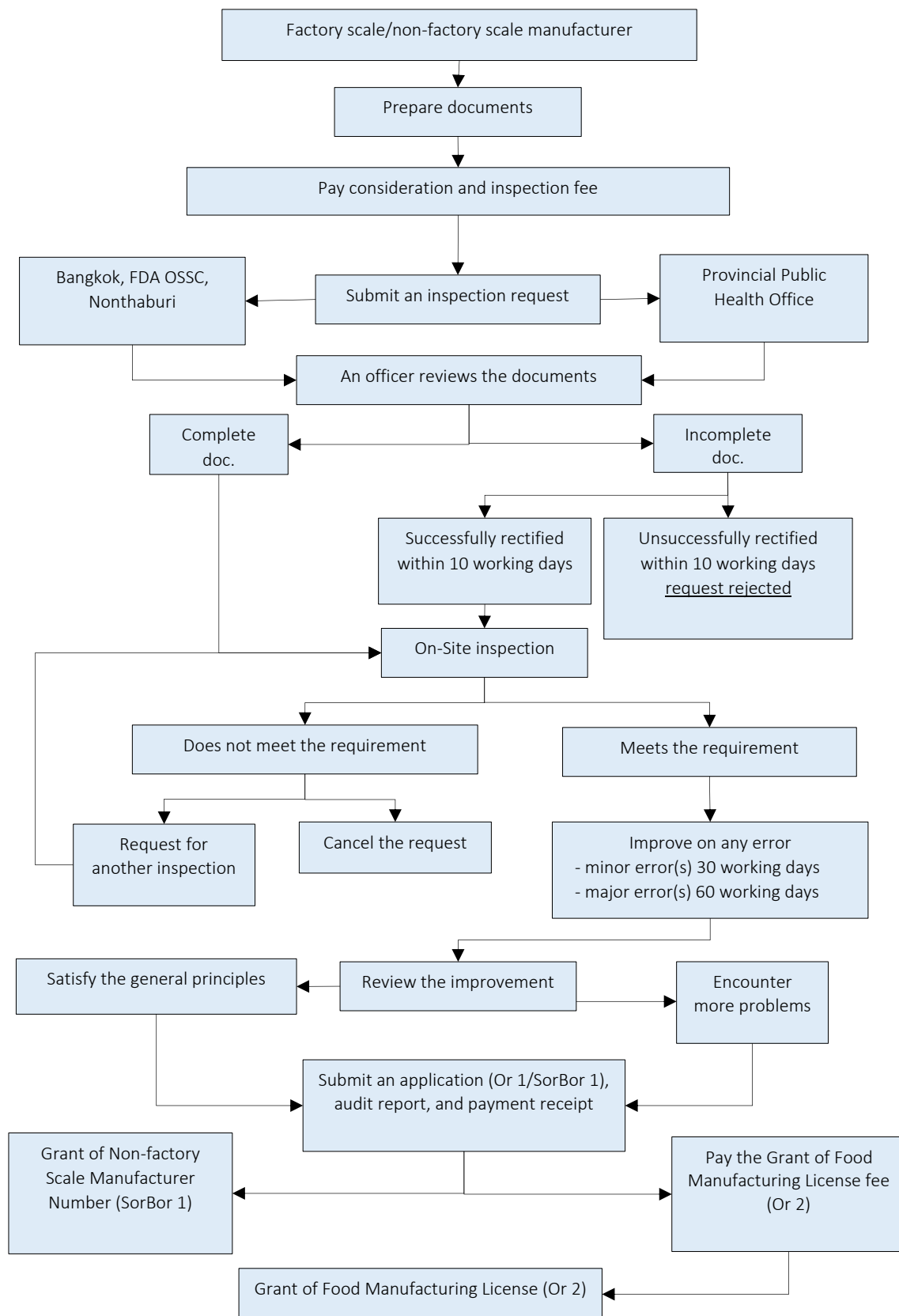
Food Act B.E. 2522 aims to regulate food quality in order to safeguard consumers. This law focuses on the filing of permission requests, examination, registration, and advertising. The legal definition of "foods" includes edible or life-sustaining substances including

- any substance that individuals eat, drink, or otherwise introduce into their bodies, excluding pharmaceutical and psychotropic substances or drugs
- any substance intended for use in food production or as an additive, coloring agent, or flavor and odor condiments

Food licensees are prohibited from producing, importing, or storing food outside of permitted areas. They are prohibited from altering the location of food production, import, or storage unless granted permission. If a license or essential certificates for food production are lost or damaged, licensees are required to notify the authorities and obtain a replacement within a specified timeframe. As indicated on the license, licensees must prominently display the license or an acceptable substitute at the location of food production or import. In addition, they must notify the authorities if they need to produce regulated foods under the standards of other countries or international standards for export purposes.

In terms of food regulation, the law prohibits the import for sale or distribution of tainted foods, foods that do not meet standards, and other items required by ministries.

Figure 3-6 Process for Food Product Registration



3.9.2.2. Drugs

The Drug Act, B.E. 2510, is still in effect and has been amended several times in order to make it comprehensive and responsive to the current situation and regulations for drug production, distribution or import to the kingdom, as well as to require pharmacists to take on responsibility for the distribution of harmful substances to safeguard the well-being and safety of the public.

In the event that licensees wish to file for drug registration, they must do so prior to the registration's expiration. In the event that licensees for modern medicine specifically packaged medicine that is not harmful are routinely operating at pharmacies, the licensees must arrange for a pharmacist to operate at the pharmacy for a minimum of three hours per day on operating days.

The law specifies the following terms for requesting permission and issuing permission pertaining to modern medicine:

- 1) Individuals are prohibited from producing, selling, or importing modern medications into the kingdom without permission. The application for permission and its issuance must adhere to the criteria, procedure, and conditions outlined in the ministerial orders.
- 2) The production of a specific drug as requested by physicians or dentists for their patients, or the distribution of a drug as requested by veterinarians.
- 3) Distribution of non-harmful herbal products, distribution of household remedies, distribution of medicines sold by dentists to their patients, or distribution of medicines prescribed by veterinarians for the prevention or treatment of disease.
- 4) Import of medications into the kingdom in a quantity not exceeding 30 days' worth of personal use.
- 5) Ministries, departments, or sections charged with disease prevention or treatment, the Thai Red Cross Society, and the Thai Pharmaceutical Organization must adhere to the criteria, means, and conditions outlined in ministerial orders when importing medicines into the kingdom.

Process for Drug Registration

Figure 3-7 In the case that a drug manufacturer has a GMP certificate issued by the FDA and the FDA of the country in which the drug manufacturer is located is a member of PIC/S or is recognized as an ASEAN Listed Inspection Service:

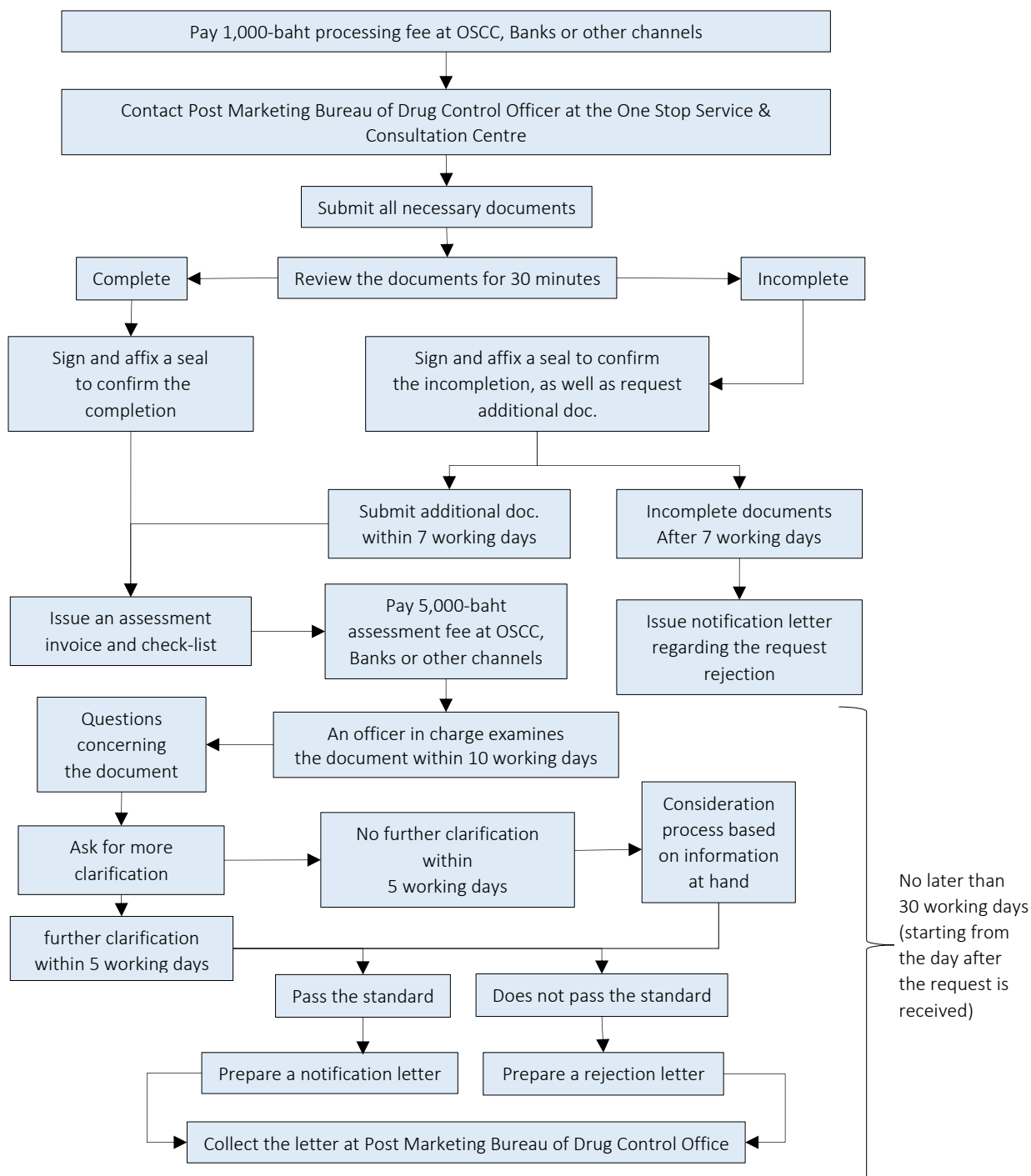


Figure 3-8 In the case that a drug manufacturer has a GMP certificate issue by the FDA which is a member of PIC/S, but is located in a country where the national FDA is not a member of PIC/S.

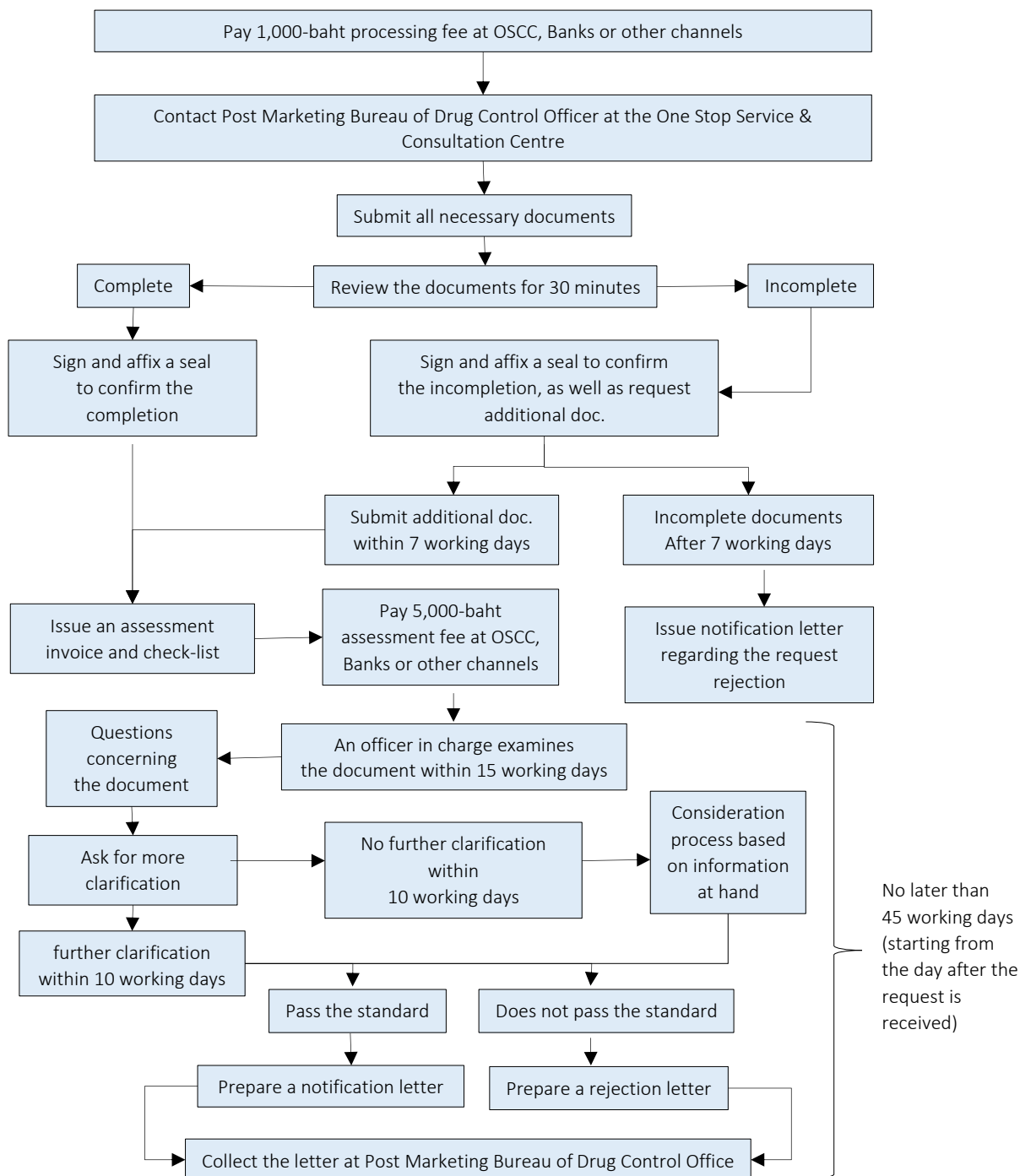
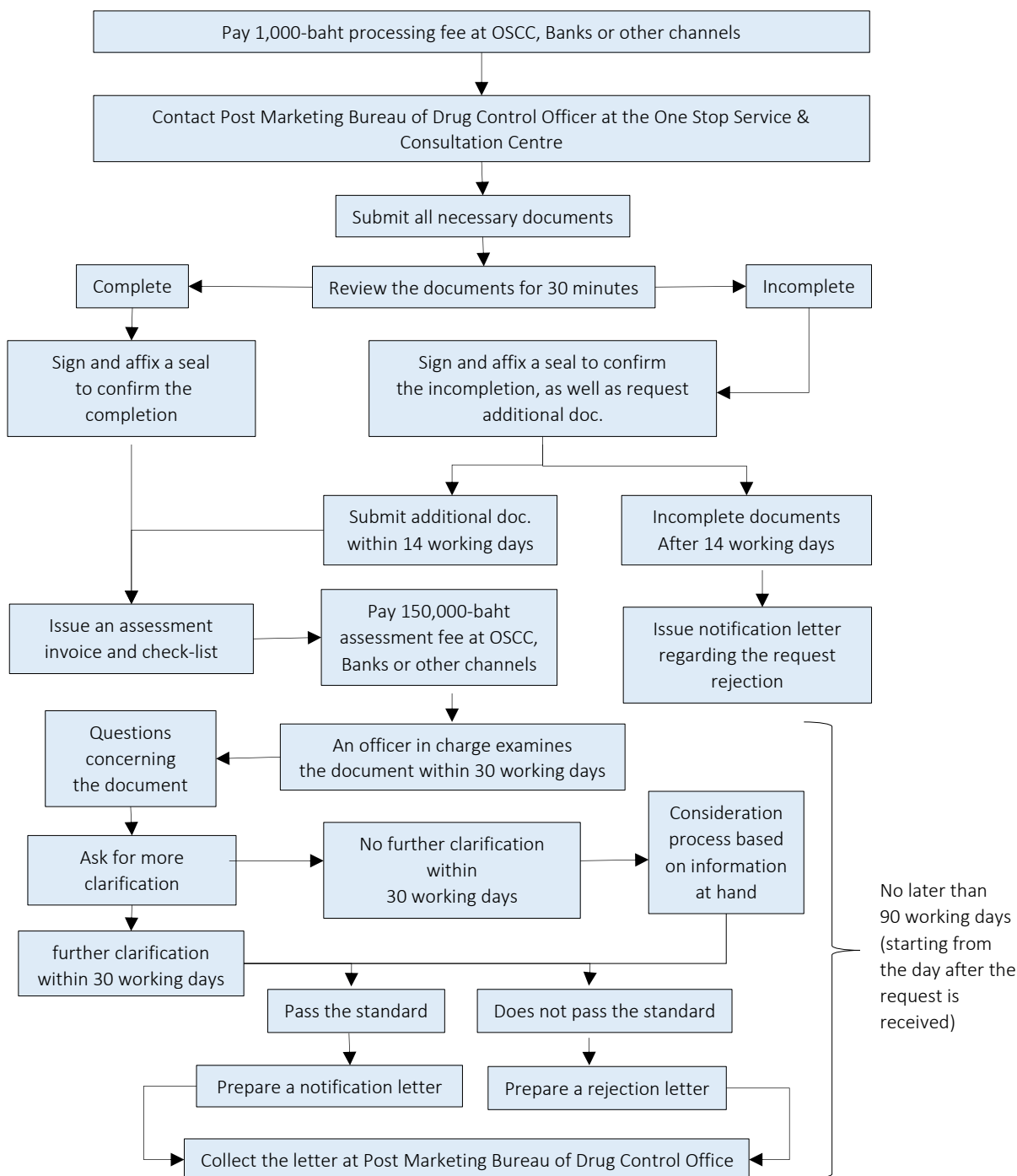


Figure 3-9 In the case that a drug manufacture is located in an overseas country which is not a member of PIC/S (NON-PIC/S)



3.9.2.3. Medical Equipment

Thailand's medical device registration is managed by the Medical Device Control Division (MDCD) of the Thai Food and Drug Administration (FDA). The regulatory process is based on the Medical Device Act B.E. 2551 (2008) and updated by the Medical Device Act/Ordinance B.E. 2562 (2019) (Issue 2). New regulations recently went into effect on February 15, 2021, bringing closer alignment with the ASEAN Medical Device Directive (AMDD).

➤ Definition of a medical device

The definition of a medical device under Thai law is largely consistent with international standards. Generally speaking, devices that include software and accessories used for the diagnosis, monitoring, prevention, or treatment of diseases fall under the definition of a medical device, provided that such devices do not achieve their primary intended action by immunological, metabolic, or pharmacological means.

In more detail, a medical device is any apparatus, appliance, implant, instrument, in vitro reagent, machine, product, software, or other item that is intended by the manufacturer to be used, either alone or in conjunction with other things or assembled with them, for any of the following specific purposes, such as dental practices, healing arts practices, medical technology practices, nursing and midwifery practices, veterinary practices, and physical therapy practices. Medical devices may also be classified for use in sustaining and supporting the lives of human beings and animals through the alleviation, cure, diagnosis, prevention, or treatment of diseases.

➤ Registration of Manufacturing Enterprises or Importation of Medical Devices

Medical Devices Act B.E. 2551 requires that manufacturers or importers of medical devices must register with the Office of Food and Drug Administration before beginning operations or other FDA-related activities. They are obligated to control and supervise manufacturing or importing enterprises in accordance with related ministerial orders, prepare "medical device production, import, and distribution memos" for examination by officials and authorized individuals, and prepare "medical device production, import, and distribution reports" for the authorities.

➤ License Tenure and Fee Rate

Registration of establishment of operating premises will be valid until December 31st, five years after the date of issuance. The registration must be submitted within 90 days of the expiration date (31st December). If licensees fail to extend their registration by the specified date, they must submit a request for extension and relaxation, along with

an explanation of the delay, fee, and a 1,000 baht per day penalty, within one month. If the delay exceeds one month, the licensees will be unable to renew their registration.

➤ **Fee Rate**

- Registration for the establishment of operating premise 100 baht per license
- Registration for relocation or modification of premises for manufacture, import or storage 500 baht per license
- Request for amendment in registration for establishment of operating premise 100 baht per license
- Registration of the operating premise
 - Manufacture 2,000 baht per license
 - Import 4,000 baht per license
- Extension of registration for operating premise
 - Manufacture 2,000 baht per license
 - Import 4,000 baht per license
- Premise assessment
 - Manufacture 32,000 baht per license
 - Import 12,000 baht per license

➤ **Medical device classification**

Thailand has adopted the ASEAN risk-based classification of medical devices. According to the “Announcement of the Ministry of Public Health Re: Medical Device Classification According to Risk Level, B.E. 2562,” medical devices and IVDs shall be classified according to the degree of risk given below:

- In vitro diagnostic medical device
 - Medical device type 1 specifies the medical devices with low risk to personnel and public health
 - Medical device type 2 specifies the medical devices with medium risk to personnel or low risk to the public health
 - Medical device type 3 specifies the medical devices with high risk to personnel or medium risk to the public health
 - Medical device type 4 specifies the medical devices with high risk to personnel and public health
- Non-in vitro diagnostic medical device
 - Medical device type 1 specifies the medical devices with low risk
 - Medical device type 2 specifies the medical devices with low to medium risk

- Medical device type 3 specifies the medical devices with medium to high risk
- Medical device type 4 specifies the medical devices with high risk

Medical devices may be classified into multiple groups based on the criteria listed above. If a medical device has multiple objectives, they should be classified as high-risk. If the medical device was designed to be used in conjunction with other medical devices, they should be classified according to their individual uses.

Medical devices will be required to undergo one of three registration routes to acquire an Import License depending on their classification. Class 1 products will require a Listing, Class 2 and 3 will require a Notification and Class 4 (highest risk) will require a License. Conformity Assessments under the new regulations will require applications for Class 2-4 products be submitted in the Common Submission Dossier Template (CSDT) format while Class 1 Listed products require less documentation. An Establishment License issued by the Thai FDA of the local registrant and license holder is also required.

➤ **Maturity of registration, detail registration, license and fee**

Registration, detail registration, license for manufacture or import of the medical device will last 5 years with the fee rates as follows

▪ Application and detail registration fee	1,000 baht each
▪ Registration	500 baht each
▪ Medical device manufacture license	10,000 baht each
▪ Medical device import license	20,000 baht each
▪ Medical device distribution license	1,000 baht each
▪ Medical device manufacture detail registration	5,000 baht each
▪ Medical device import detail registration	10,000 baht each
▪ Medical device manufacture registration	1,000 baht each
▪ Medical device import registration	2,000 baht each
▪ Evaluation of academic document for medical device type 4	88,000 baht each
▪ Evaluation of academic document for medical device type 3	63,000 baht each
▪ Evaluation of academic document for medical device type 2	38,000 baht each

3.9.3. Laboratory Registration

The Department of Industrial Works has designed regulations pertaining to the registration of privately owned laboratories in accordance with the department's order pertaining to the registration of privately owned laboratories B.E. 2560 in order to facilitate the implementation of Factory Act B.E. 2535 in the section pertaining to privately owned laboratories and to add duties and regulations of privately owned laboratories.

➤ Laboratory Registration Time Limit and Fee

The registration of laboratories will be valid for three years from the date of issuance and may be extended. Prior to the expiration of the private laboratory's registration, a request for extension will be submitted to the Department of Industrial Works along with supporting documentation within 30 days. When a private laboratory registration application is filed, the applicant will be deemed registered until the department decides not to extend the registration. The registration is valid for three years from the date of issuance. In the event that a Section 1 application is submitted after the registration has expired, the process shall be treated as a new registration.

➤ Process of Laboratory Registration

- 1) Document evaluation (1 business day)
- 2) Consideration timeline
 - List of pollutants in wastewater, drained water, and/or waste or residue on soil and groundwater not exceeding 10 items of consideration (26 business days)
 - List of pollutants in wastewater, drained water, and/or waste or residue on soil and groundwater not exceeding 11-30 items of consideration (26 business days)
 - List of pollutants in wastewater, drained water, and/or waste or residue on soil and groundwater not exceeding 31-50 items of consideration (46 business days)
 - List of pollutants in wastewater, drained water, and/or waste or residue on soil and groundwater up from 51 items of consideration (71 business days)
 - Air pollutants (71 business days)
 - Change of personnel (11 business days)
- 3) Registration signing and bookkeeping (3 business days)

Chapter 3 Relevant Laws and Regulations

- Constitution of The Kingdom of Thailand B.E. 2550 (2007)
- Architect Act B.E. 2543 (2000)
- Building Control Act B.E. 2522 (1979)
- Engineer Act B.E. 2542 (1999)
- Enhancement and Conservation of the National Environmental Quality Act B.E. 2535 (1992)
- Factory Act (No. 2) B.E. 2562 (2019)
- Factory Act (No. 3) B.E. 2562 (2019)
- Factory Act B.E. 2535 (1992)
- Industrial Estate Authority of Thailand Act B.E. 2522 (1979)
- Notification of the Ministry of Public Health on Businesses Hazardous to Health B.E. 2558 (2015)
- Public Health Act BE 2535 (1992)
- Ministerial Regulation Prescribing Fees for Factory Operation and Inspection or Certification B.E. 2563 (2020)
- Notification of Industrial Estate Authority of Thailand No. 10/2549 (2006) Prescribing Service Fees for Any Business Operation Approval in Industrial Estates
- Notification of Ministry of Natural Resources and Environment Prescribing Projects, Operations, or Activities that May Have Serious Impact on Natural Resources, Environmental Quality, Health, Wellbeing, and Quality of Life of the Public, Requiring Environmental Impact Assessment Reports, as well as Criteria, Methods, and Conditions for Environmental Impact Assessment Reports B.E. 2561 (2018)
- Notification of Ministry of Natural Resources and Environment Prescribing Projects, Operations, or Activities that May Have Serious Impact on Natural Resources, Environmental Quality, Health, Wellbeing, and Quality of Life of the Public, Requiring Environmental Impact Assessment Reports, as well as Criteria, Methods, and Conditions for Environmental Impact Assessment Reports (No. 2) B.E. 2562 (2019)

Chapter 4

Intellectual Property

Thailand recognizes three broad categories of intellectual property rights:

- Patents
- Copyrights
- Trademarks

4.1. Patents

Thailand promulgated its first patent law, the Patent Act, in 1979, with significant amendments added in 1992. The Act protects inventions, product designs and pharmaceuticals. In 1997, a new intellectual property and international trade court began operations, which have 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.

4.1.1. Invention Patents

For an invention to be patentable, it must

- Have novelty;

- Involve an inventive step; and
- Be capable of being made or used for some kind of production activity.

Therefore, the following would not qualify for patents due to lack of novelty:

- 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 or petty patent inside or outside Thailand prior to the date of the patent application;
- An invention for which an application for a patent or petty 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;
- An invention for which an application for a patent or petty patent was filed in Thailand or in a foreign country and that application was published before the date of application in Thailand.

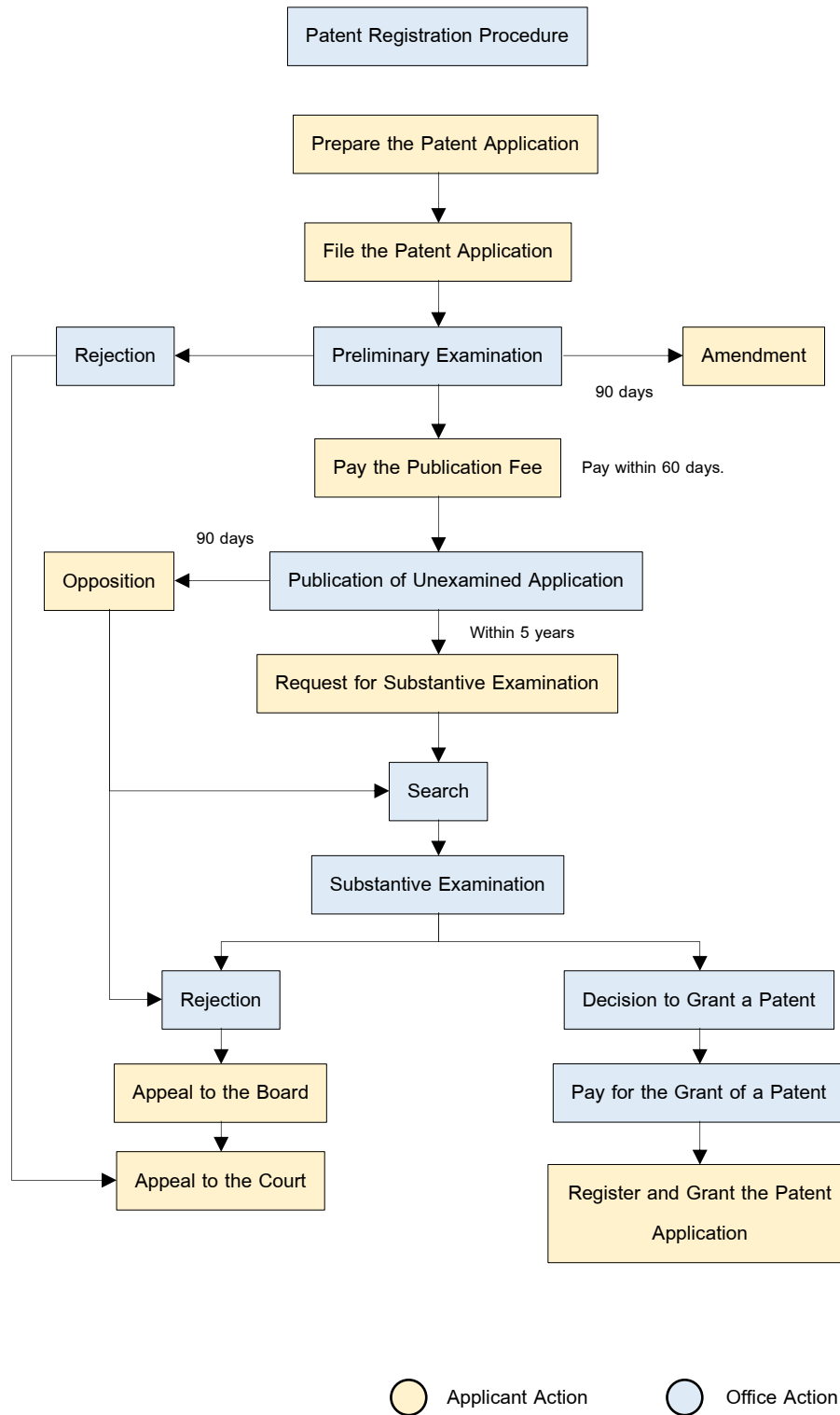
A disclosure which was due to, or made in consequence of, the subject matter having been obtained unlawfully, or a disclosure which was made by the inventor, or made in consequence of, the inventor displaying the invention at an international exhibition or an official exhibition if such disclosure was done within twelve months before the filing of an application for the patent, shall not be deemed to be a disclosure.

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

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

In case an invention lacks an inventive step, the invention may be granted a petty patent if it is new and capable of industrial application. However, a petty patent and a patent shall not be granted for the same invention. The legal protection of a petty patent is less than that of a patent, i.e. term of protection.

4.1.1.1. A Procedure and Timeframe for Patent Registration



Source: Department of Intellectual Property, as of July 2023.
Patent ACT B.E.2522 and as amended, as of July 2023.

4.1.1.2. Supporting Documents for an Invention Patent Application

An application for an invention patent must now be accompanied by the following documents:

- 1) Kor 001 Form* (1 original document/1 copy) and supporting documents as prescribed in form
- 2) Deed of assignment contract indicating the transferred invention detail with signature of the assignor (inventor), assignee and 2 witnesses (if any) (1 original document/ 1 copy)
- 3) Other relevant documents as stipulated in item 14 of Kor 001 Form* (if any) (1 original document/ 1 copy)
- 4) ID card (1 copy)
- 5) ID card of the patent agents or patent attorney (if any) (1 copy)
- 6) ID card of the invention assignee (if any) (1 copy)
- 7) Certificate of Juristic Person (1 copy) issued not more than 6 months with certification of the authorized person, in case of a juristic person
- 8) Copy of the authorization letter or power of attorney (if any) (1 copy)
- 9) Request for Substantive Examination (Kor 005 Form*) (1 original document/ 1 copy) and supporting documents as prescribed in the request for substantive examination (Kor 005 Form*)

*A form could be extracted from Department of Intellectual Property.

4.1.2. Patentable Product Designs

Product design means any form or composition of lines or colors which gives a special appearance to a product and can be used in industrial or handicraft applications.

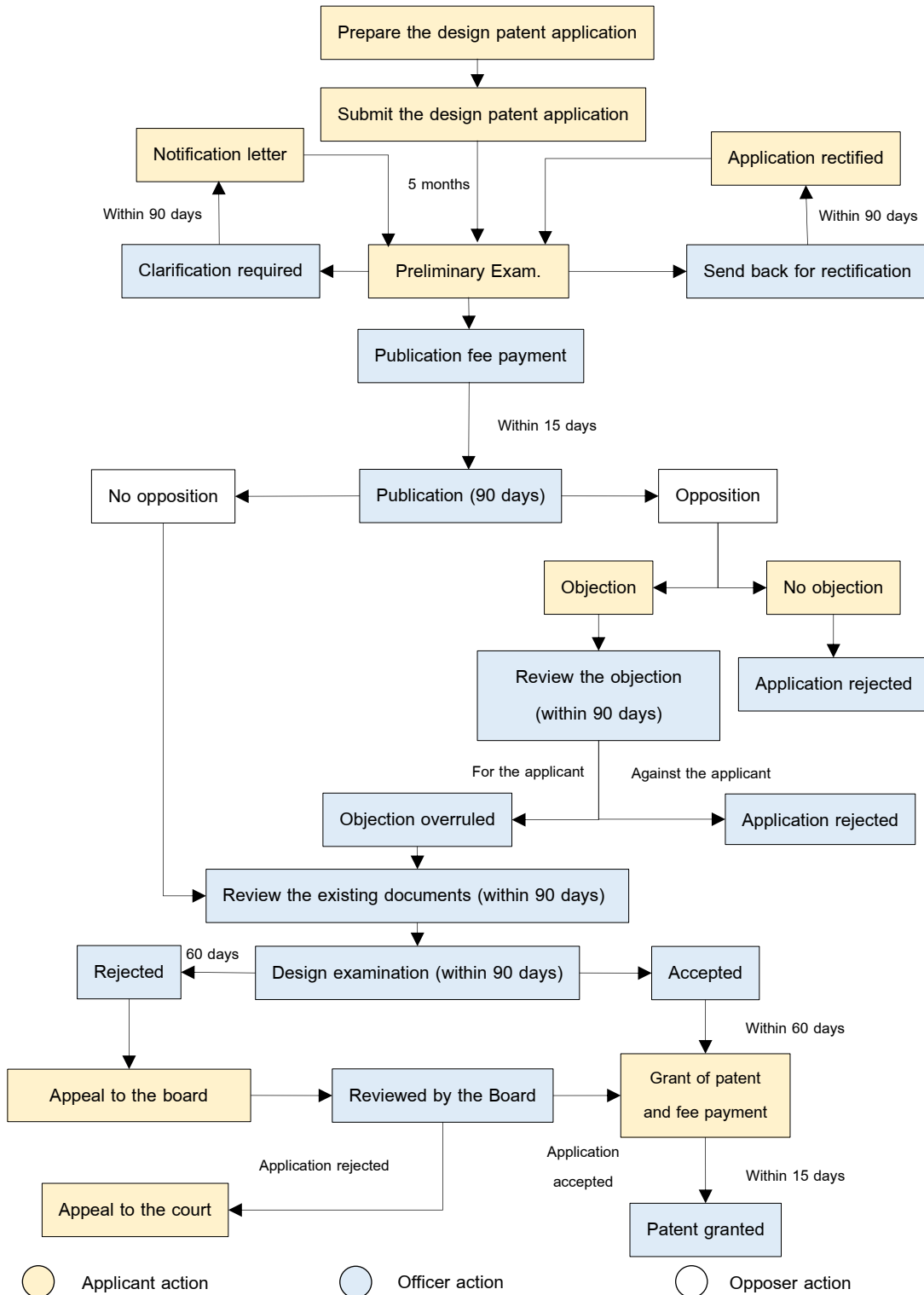
A product design must be novel in order to be patented, i.e., It must not fall under any of the following conditions:

- 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; and
- A design that so nearly resembles any of the product designs indicated in the points described above that it is apparently an imitation.

The following product designs are not patentable.

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

4.1.2.1. A Procedure and Timeframe for a Design Patent Application



4.1.2.2. Supporting Documents for a Design Patent Application

An application must now be accompanied by the following documents:

- 1) ID card (1 copy)
- 2) Kor 001 Form*, product description, claim, picture of the product, right certificate (Kor (Phor) 001 Form* (1 original document) in case of re-submission of application)
- 3) Kor 003 Form*, Sor Bor 1.1 Form*, Correction List* (page 1, 2), (1 original document) in case of application correction
- 4) Sor Bor 1.2 Form* at Por Nor 0709/...* (1 original document) in case of publication
- 5) Khor 007 Form*, Kor 008 Form* (argument form), Kor (Phor) 007 Form* (form of documentary evidence or statement presentation), power of attorney (1 original document), in case of argument
- 6) Request for grant of patent (Kor 001 Form*), notification of application fee payment and patent issuance, product description, claim, picture of the product (1 original document), in case of registration and patent issuance
- 7) Authorization letter or attorney of power (in case the applicant does not file the application themselves) (1 copy)
- 8) Certificate of Juristic Person (1 copy)

*A form could be extracted from Department of Intellectual Property

4.1.3. A Comparison Between Patent, Petty Patent and Design

	Patent	Petty Patent	Design Patent
Type of Protection	The same protection with regard to protection for features, components, structure or mechanism of the product, as well as production, procedure, product quality maintenance and improvement.		Protection for shape or configuration, including composition of lines or colors
Differentiation from Invention Patent	Different protection with regard to the consideration criteria for patent/petty patent granting. An invention which can be applied for petty patent may be an invention with little adjustment and more benefits.		Design protection covers external structure of the product, whereas invention patent focuses on the internal structure of the product.
Registration System	Inspection system (The substance is inspected before granting the right)	A registered system (The interested person may request for the inspection within 1 year after the registration).	Inspection system

	Patent	Petty Patent	Design Patent
Duration of Protection	Protection period of 20 years	Protection period of 6 years (The protection can be renewed twice, 2 years for each time).	Protection period of 10 years
Fee (Per Year)	A fee of 140,000 Baht	A fee of 17,000 Baht	A fee of 7,500 Baht

Note: The fee does not include the administration costs for the patent application.

Source: Department of Intellectual Property, as of July 2023.

4.1.4. 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 or an employment contract specifically for creating an invention or design, an employee 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.

Source: Department of Intellectual Property, as of July 2023

4.1.5. Term of Patents and Patent Holder Rights

➤ Term

- The term of an invention patent is 20 years from the date of filing an application in Thailand, and is not renewable. The term of protection for a petty patent is 6 years from the date of filing an application in Thailand, which can be extended twice, for 2 years each.
- The term of a design patent is 10 years from the date of filing an application in Thailand.

➤ Right

- 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 of violation 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 2 points are null and void.
 - Any assignment of patent or license contract must be in writing and officially registered with the authority.

4.1.6. 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, the applicant must demonstrate that they have attempted to obtain permission from the patentee to use the rights under the patent by offering conditions and compensation that are reasonable in the circumstances of the case, but an agreement could not be reached within a reasonable period of time. (Section 46 of the Thai Patent Act B.E. 2522).
- 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. 2522).
- 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. 2522).

4.1.7. 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 without any legitimate reason, or for the time being the product is not being sold or imported for sale, or is being sold at an unreasonably high price; or
- 2) The patentee has licensed other persons to exercise the rights under the patent without conforming to prescribed procedures.

4.1.8. 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.

Source: Patent Act B.E. 2522 (1979), as of July 2023.

4.2. 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.

Copyright Amendment Bills were approved on 31 January 2015. The Copyright Act (No. 2) B.E. 2558 (A.D. 2015) will become effective on 4 August 2015, while Copyright Act (No. 3) B.E. 2558 (A.D. 2015) became effective on 6 April 2015. The Copyright Act B.E.

2537 (1994) was further amended by the Copyright Act (No. 4) B.E. 2561 (2018) and the Copyright Act (No. 5) B.E. 2565 (2022).

4.2.1. 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 also 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 Copyright Act also defines the word “creator” as the person who makes or creates the work which is a copyright work.

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

- 1) 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.
- 2) 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 in (1) at the time of the first publication.

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

4.2.2. Supporting Documents for Copyright Notification

The copyright notification made to the Department of Intellectual Property is not a certification of the right of the copyright owner. It is only a notification to a governmental agency that the person is the copyright owner of the notified work. If an objection or dispute regarding copyright ownership is raised, the court shall consider on a case-by-case basis.

The supporting documents for copyright notification includes the following:

- Copy of ID card with certification (In case of a natural person)
- Certificate of Juristic Person of the copyright owner issued not more than 6 months (In case of a juristic person)
- The work or one set of the photograph of the copyright work.
- A power of attorney form with a revenue stamp of 30 Baht and copy of ID Card of the attorney-in-fact (with certification)
- If the applicant is a governmental agency or organization, the applicant shall submit the director appointment letter of the organization and copy of the ID card of the applicant (with certification)
- A copy of the document establishing a government agency or organization (with certification)
- Other documents demonstrating the acquisition of copyrights, such as transfer agreements

4.2.3. Copyright[®] Infringement

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

Infringement by reproduction without authorization — The Act defines the word “reproduction” as follows: “Reproduction includes any method of copying, imitation, duplication, molding, sound recording, video recording or sound and video recording for the significant part from the original, copy or publication whether in whole or in part and, as for a computer program, means duplication or copying of the program from any medium for the significant part with any method without a manner of creating a new work whether in whole or in part .”

Infringement by adaptation without authorization — Adaptation, as defined by the Act, means a reproduction by transformation, improvement, modification or emulation of the original work for the significant part without a manner of creating a new work whether in whole or in part;

- 1) with regard to literary work, it shall include a translation, a transformation or a compilation by means of selection and arrangement;
- 2) with regard to computer program, it shall include a reproduction by means of transformation, improvement or modification of the program for the significant part without a manner of creating a new work;
- 3) with regard to dramatic work, it shall include the alteration of a non-dramatic work to a dramatic work or a dramatic work to a non-dramatic work, whether in the original language or another language;

- 4) with regard to artistic work, it shall include the alteration of a two-dimensional work or a three-dimensional work to a three-dimensional work or a two dimensional work or the making of a model from the original work;
- 5) with regard to musical work, it shall include an arrangement of tunes or an alteration of lyrics or melody.

publicizing without permission — It is an infringement of copyright to publicize a work without the consent of the copyright owner. “Publicize” means “making the work available to the public by means of performing, lecturing, preaching, music playing, causing the perception by sound or image, construction, distributing or by any other means.” 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 whether of the whole or in part, or by rebroadcasting of sounds and visual images, whether of the whole or in part, or arranging for dissemination of sound or picture in public with commercial purposes.

Infringement by unauthorized recording of movies in cinemas, even for personal use. Violators of this provision may be subject to the penalties listed in Section 69/1 of the amended Copyright Act, which include imprisonment for six months to four years, or a fine ranging from 100,000 to 800,000 Baht (\$3,000 to \$24,000), or both.

Infringement by manipulation of rights management information (RMI), provided that the manipulator is aware that his or her actions could infringe a copyright or performers’ rights. Under the amended Copyright Act, RMI infringement also occurs where the act of importing into Thailand for sale or making available to the public any copyright-protected work is done with the knowledge that the RMI of such work has been removed or altered.

Infringement by circumventing technological protection measures or offering such a service is prohibited if a person is aware that such act could constitute infringement of a copyright or performers’ rights. Under the amended Copyright Act, criminal liability is imposed on a person who commits such an act.

Infringement of the moral rights of performers. Under the amended Copyright Act, a performer has the right to identify himself or herself as the performer of his or her performances and to prevent his or her assignee or any other person from any modification of his or her performances that would be prejudicial to his or her reputation or dignity.

4.2.4. 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
- Use for one's own benefit or for the benefit of himself and 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;
- Use of the work as parts of questions and answers in examinations.
- The amended Copyright Act provides an exception for reproduction or adaptation of copyright works for the benefit of disabled persons is not considered copyright infringement, provided it is for non-profit purposes.
- Circumventing technological protection measures where circumvention is allowed is also permitted under the amended Copyright Act – for example, circumvention for the purpose of testing security problems of computer systems.

The Act also entitles librarians to reproduce works copyrighted under the Act, provided that complete reproduction is not done for commercial purposes. Furthermore, the amended Copyright Act states that deletion or change made to RMI by an authorized official or educational institution is permitted.

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 amended Copyright Act explicitly recognizes the exception of copyright infringement under the first-sale doctrine. This new section stipulates that any distribution of original or copied copyrighted work — the ownership of which is lawfully acquired — does not amount to copyright infringement. This exception applies to all copyrighted works that are recognized by the Thai Copyright Act

Further, with the understanding that copyrighted works sometimes need to be duplicated in order to allow a computer system to function, the amended Copyright Act provides an exception to reflect this need, similar to exceptions contained in the copyright laws of many countries. Section 32/2 stipulates that any duplication of a copyrighted work that is required to be made in order to allow a computer system to function normally shall not be deemed as an act of copyright infringement.

4.2.5. Works Not Subject to Copyright under the Copyright Act

The Act specifically provides that the followings 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.

4.2.6. International Copyrights

A copyright work of an author as well as the rights of a performer of a country which is a member of the Convention for the protection of copyright or the Convention for the protection of performer's rights of which Thailand is also a member or a copyright work of an international organization of which Thailand is a member shall be protected by this Act.

4.2.7. Licensing and Assignment of Copyrights

The 1994 Act provides that a copyright owner is entitled to assign a license to another person, whether of the whole or in part, to use or exercise rights with respect to his copyrighted work. The Act requires that an assignment of copyright by means other than an 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, shorten, 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.

4.2.8. 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 case of a work of joint authorship, copyright endures for the life of the joint-authors and fifty years as from the death of the last surviving joint-author. 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; if the work is published during such period, the copyright shall subsist for 50 years as from first publication. The copyright for applied artistic work is valid for a period of 25 years following the creation of the work; if the work is published during such period, copyright shall subsist for 25 years as from first publication.

4.2.9. Penal Provisions

Persons who commit copyright infringement by means of reproduction without permission from the copyright owner may have a fine from 20,000 to 200,000 Baht imposed upon them. If the copyright infringement is deemed to have been committed for commercial 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.

The amended Copyright Act broadens the scope of civil remedies available for copyright infringement by applying the concept of punitive damages. Section 64 of the Act, an existing section, has been amended to include a second paragraph which allows a competent court to double the amount of damages determined under the criteria set out in the first paragraph of the same section in the event that there is clear evidence that the copyright or performer's right was infringed on with the intention to allow the work to be widely accessible by the public.

Source: Copyright Act B.E. 2537 (1994), as of July 2023
Department of Intellectual Property, as of July 2023

4.3. Trademarks™

The Trademark Act of Thailand of 1991, as amended by Trademark Act (No. 3) of 2016, 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.

4.3.1. Types of Trademarks

Under the Trademark Act (No.3), trademarks are categorized into 4 types:

- 1) Trademark: A mark symbolizing or being involved with a product. A trademark is used to indicate that the product with such trademark is different from products with other trademarks, for example, Breeze, Mama, or Red Bull.
- 2) Service mark: A mark symbolizing or being involved with a service. A service mark is used to indicate that the service with such service mark is different from services with other service marks such as service marks of airlines, commercial banks or hotels.
- 3) Certification mark: A mark which the owner uses in order to certify a quality of a product or service, for example, Shell Shuan Shim, Mae Choi Nang Ram, or Halal.
- 4) Collective mark: A trademark or service mark used by the affiliated companies, state enterprises, members of an association, group of people, or governmental or private organization, for example, the mark of elephant of the Siam Cement Public Company Limited.

To be registrable, a trademark must

- 1) be distinctive;
- 2) not be prohibited under this Act;
- 3) not be the same as or similar to a trademark registered by another person

4.3.2. Registration Procedure

A trademark 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 as the domicile of such person.

If the Trademark Office deems that the trademark can be registered, and if no opposition to the trademark arises within 60 days of its publication in the official journal, the Trademark Registrar will grant a trademark registration.

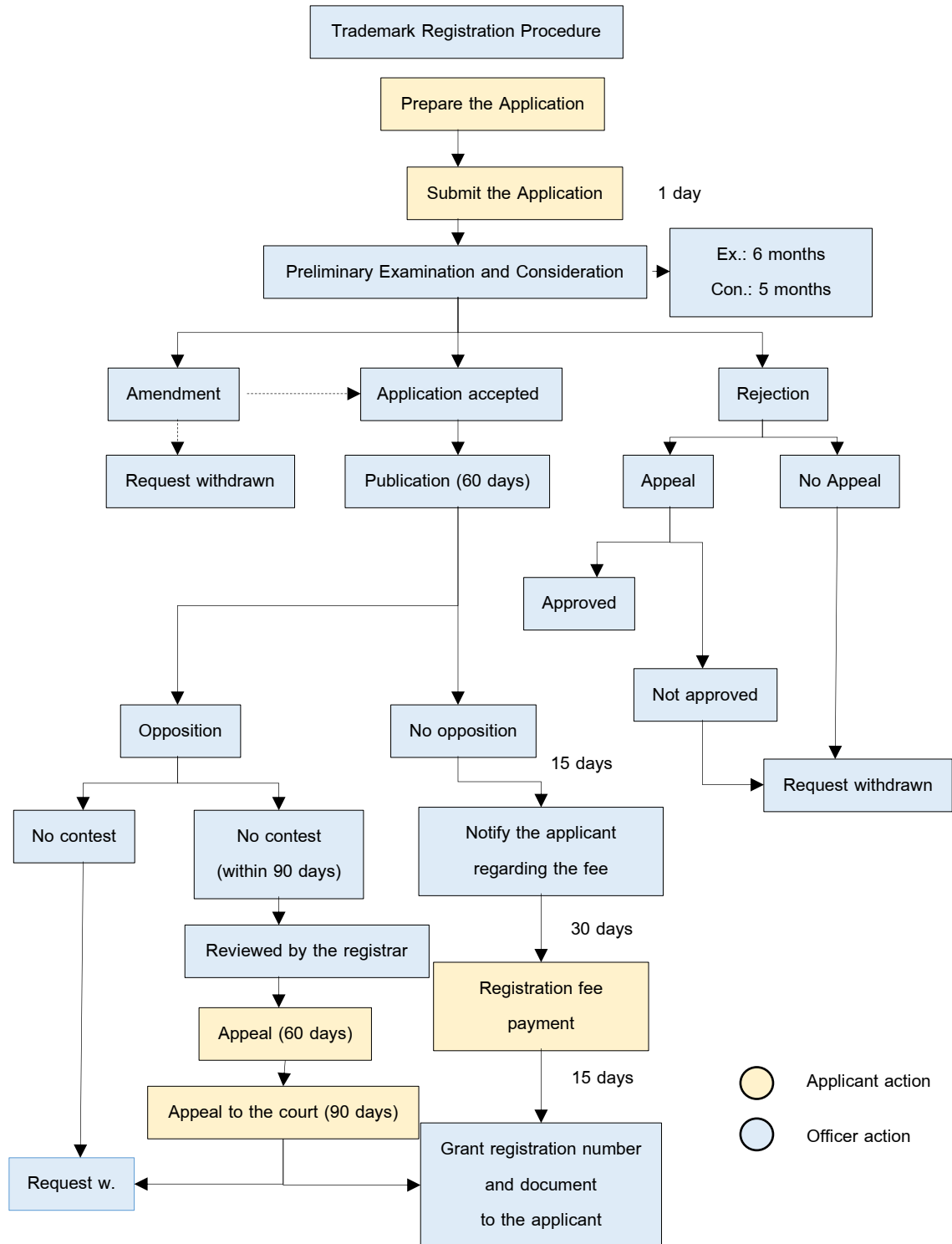
4.3.3. Supporting Documents for Trademark Registration

An application must now be accompanied by the following documents:

- 1) Copy of national ID card or other ID card issued by the governmental agency (1 copy), in case the applicant is an ordinary person.
- 2) Certificate of Alien Registration or passport (1 copy) in case the applicant is an alien, except if the applicant submits the authorization letter or power of attorney as stated in item 4.
- 3) The Certificate of Juristic Person issued not more than 6 months prior to the application submission date (1 original document), in case the applicant is a juristic person. If the applicant is a juristic person established under the foreign law, and submits the documents according to item 4 with Certification of Juristic Person established abroad, the applicant is not required to submit the Certificate of Juristic Person.
- 4) Authorization letter or power of attorney and ID card of representative or agent/attorney (1 copy) with a revenue stamp of 30 Baht per representative or agent/attorney.
- 5) Registration application with the 5 x 5 cm picture of the trademark applying for registration (1 original document). In case that the trademark is an object with shape and form, the width, length and depth shall be shown in one or more pictures.
- 6) Combinations of colors, in case the trademark is composed of colors (1 original document). The applicant shall describe the colors in details in the appendix (Form 11-Kor) such as what colors compose the trademark, as well as its position and arrangement.
- 7) Description of shape or form of the trademark, in case the trademark is an object with shape or form (if any) (1 original document).
- 8) Consent of the signature's owner (1 original document), in case the trademark applied for the registration is a signature.
- 9) Consent of a person in the picture (1 original document) in case the trademark applied for the registration is the picture of a person. If the person passed away, the applicant shall present the consent of the deceased person's parents, heir and spouse (if any).
- 10) ID card of the consent giver issued by the governmental agency (1 copy) in case the trademark is the picture of a person.
- 11) Regulation regarding use of the certification mark (1 original document) in case the trademark is registered as the certification mark.
- 12) List of persons who are jointly entitled to use the trademark and documentary evidence or explanation of relationship with them (1 original document), in case of application for the collective mark.
- 13) Claim of Right (Kor 10 Form) with supporting documentary evidence (1 original document), in case of retrospective claim under Section 28 or 28 (bis). If the applicant cannot submit the supporting documentary evidence

for the retrospective claim according to Section 28 or 28 (bis) with the Claim of Right (Kor 10 Form), the applicant may apply for relent submission of the said documents. In this regard, the applicant shall submit the request for relent submission (Kor 19 Form) with the Claim of Right (Kor 10 Form).

4.3.5. Trademark Registration Procedure



4.3.6. 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 within 3 months 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 2 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 a mark that is confusingly similar to a well-known mark, regardless of whether it has been registered in Thailand or not, is proscribed.

4.3.7. Regulations Concerning the Use of Certification Marks

As of February 1992, these variations on trademarks are covered under all the provisions of the Act 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.”

The applicant for registration of a certification mark must submit the regulations on use of the certification mark together with the application for registration and demonstrate an ability to certify the characteristics of the goods or services.

The owner of a registered certification mark may not use the mark on his own goods or services and may not license other persons to act as certifier by authorizing the use of the certification mark. The authorization of others to use a certification mark for goods or services shall be in writing and signed by the owner of the certification mark.

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 marks.

4.3.8. 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 the 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 not exceeding one year or a fine of not exceeding 20,000 Baht, or both. Presenting false evidence to register a trademark is punishable by a term of imprisonment of not exceeding 6 months or a fine of 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 of not exceeding four years or a fine of 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 of not exceeding two years or a fine of not exceeding 200,000 Baht, or both.

Anyone who reuses or refills packaging or containers bearing another's registered trademarks to mislead the public into believing that the goods are of the trademark owner will be liable for imprisonment of up to four years or a fine of up to 400,000 Baht, or both.

Whoever repeats these offenses within a five-year period from the date of passing the punishment for another offense is liable to double punishment.

4.3.9. The Board of Trademark Committee

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

- To decide appeals against order, or decisions of the Registrar under Trademark Act;
- To order a withdrawal of a registration of a trademarks, service marks or certification marks and to consider and order on the petition for cancellation of trademarks, service marks, certification marks, collective marks or trademark license agreements under this Act;
- To give advice to the Minister in the issuance of the Ministerial Regulations or Notifications;
- To consider other matters assigned by the Minister.

4.3.10. The Madrid Protocol

The Thai government deposited its instrument of accession to the Madrid Protocol with the WIPO's Director General on 7 August 2017. The protocol entered into force on 7 November 2017. By completing a single international application and paying a single set of fees, trademarks will be protected in Thailand as well as in other territories under the system.

Source: Trademark Act B.E. 2534 (1991)
Department of Intellectual Property, as of July 2023
World Intellectual Property Organization, as of July 2023.

4.4. Trade Secret

Trade secrets in Thailand are governed by the Trade Secrets Act B.E. 2545 ("TSA"). The TSA was enacted in 2002. It was amended once in 2015.

The TSA provides that any "Trade Information", such as an instrument of statements, facts, or other information in any media, formulas, patterns, compilations or assembled works, programs, methods, techniques, or processes, ("TI") that meets the following 3 requirements is protected as a Trade Secret ("TS"):

- 1) It is confidential, i.e. the TI not being publicly known to or accessible by persons who are not related to the TI.
- 2) It has a commercial value derived from its secrecy.
- 3) Its secrecy is protected by its owner / controller has taken appropriate and sufficient protection measures to maintain its secrecy.

Once a TS meets these 3 requirements, it is protected under the TSA as a TS without registering or filing with any authority.

In practice, a non-disclosure agreement is commonly used to safeguard and maintain the secrecy of a TS and to prevent its loss or destruction.

The Trade Secret Owner ("TSO") has rights to disclose and use its TS or permit other persons to use the TS, subject to necessary terms and conditions to maintain the secrecy of the TS. The TSO can transact the TS ownership or permit its commercialization in a number of ways, such as:

- 1) assignment or sale of the TS as a stand-alone asset, a part of business sales or other types of business transactions;
- 2) permission to use the TS under an exclusive or non-exclusive license agreement, such as in combination with a trademark or patent license, or as part of a joint venture, manufacturing or distribution agreement, while the

TSO as the licensor retains the full title and all ownership rights over the TS;
and

- 3) creation of a business collateral over the TS to secure debts or obligations with creditors.

4.4.1. Infringement of trade secret

Sections 6 and 7 of the TSA regulate what constitutes an “infringement”: it is an act of disclosure, deprivation or use of the trade secret that meets three cumulative criteria:

- the disclosure happened without the consent of the TSO,
- the disclosure was done in a manner contrary to honest commercial practices and
- the infringer was aware (or had reasonable cause to be) that his/her act constituted a violation of honest commercial practices.

If there is a dispute in relation to the TS because a person commits an infringement against its secrecy, the TSO or its other interested persons, such as its possessor, controller or caretaker, can submit the dispute with the Trade Secret Committee for mediation and settlement.

Alternatively, they can file a lawsuit in court against the infringer for an interim and permanent injunction orders and compensations for actual damages and punitive damages. However, Independent discovery, reverse engineering, honest use and disclosure by a state agency (if necessary for the protection of public health or for the benefit of other public interests) cannot be considered as infringement. Moreover, It should be noted that the court will dismiss a lawsuit for TS infringement if the TI claimed to be a TS is not given appropriate and sufficient protection measures for maintaining its secrecy resulting in it being accessible to any person who is not its “need to know” person (Supreme Court Judgments Nos. 10217/2553, 16561/2557 and 1323/2560). The time limit to bring infringement cases to court is three years from the date the infringement and the identity of the infringer is known, but not more than ten years from the date of infringement (Section 10).

Source: Trade Secret ACT B.E.2545 (2002), as of July 2023

4.5. Integrated Circuit Layout Design Protection

The Protection of Layout-Designs of Integrated Circuits Act B.E. 2543 (2000) aims to promote the development and transfer of technology containing integrated circuit layout-designs. It provides protection to creators of integrated circuit layout-designs by

granting them exclusive rights to reproduce, import, sell, or distribute such designs for commercial purposes.

Protection of Layout Designs of Integrated Circuits Act, B.E.2543 (2000) has been amended by the Criminal Liability of Representatives of Juristic Persons Act, B.E.2560 (2017). The Criminal Liability of Representatives of Juristic Persons Act, B.E.2560 (2017) has not been translated by a trusted source.

4.5.1. Definition

“Integrated circuit” means a product, in its final form or an intermediate form, which performs electronic functions and consists of elements which can stimulate electronic operations and interconnections which connect some or all of the elements, and which are arranged in layers and integrally formed on or the same piece of semiconductor material;

“Layout-design” means any pattern, layout or image, however appeared in any form or means, which is made for the purpose of displaying the position of an integrated circuit;

4.5.2. Eligible condition

Layout-designs which are eligible for protection under this Act are as follows:

- A layout-design which is created by the designer himself and is not commonplace among the integrated circuits industry;
- A layout-design which is newly created by the designer by arranging elements, interconnections of layout-designs or integrated circuits which are in commonplace among the integrated circuits industry in a way which results in the layout-design which is not commonplace in the integrated circuit industry

The right to apply for the protection of a layout-design created by a designer in a capacity as a worker or employee shall vest in such a worker or employee unless otherwise agreed in writing. In the case where the designer creates a layout-design on commission, a commissioner shall be the person who applies for the protection of such a layout-design unless otherwise agreed in writing.

A person entitled to apply for the protection of a layout-design under this Act shall possess any of the following qualifications:

- Having a Thai nationality or being a juristic person, which has its head office located in Thailand;

- Having a nationality of a country which is a party to a convention or an international agreement concerning the protection of layout-designs to which Thailand is a party;
- Having a domicile or having business premises relating to the real and pragmatic creation of layout-designs or production of integrated circuits in Thailand or in a country which is a party to a convention or an international agreement concerning the protection of layout-designs to which Thailand is a party.

4.5.3. Timeframe of Protection

In the case where a layout-design has been commercially exploited, whether inside or outside the Kingdom, the filing of an application for registration of the layout-design shall be done within two years from the date on which the layout-design was commercially exploited. A layout-design, which has not been the layout-design has been commercially exploited within fifteen years from the date of the completion of its creation, shall not be eligible for registration.

The right in a layout-design shall be protected under this Act upon the registration of a layout-design and issuance of a layout-design certificate. The layout-design certificate shall last for ten years from the date of registration under this Act or the date of the layout-design's first commercial exploitation, whether inside or outside the Kingdom, whichever happened first, provided that it shall not exceed fifteen years from the date of the completion of the layout-design's creation.

4.5.4. Right and Exemption

The right holder shall have the exclusive right to reproduce, import into the Kingdom, sell or distribute by any means for the commercial purposes a layout-design in respect of which he or she is accorded protection under this Act.

Any of the following acts against a layout-design protected under this Act shall not be deemed an infringement of the right holder's rights:

- 1) The reproduction for the purpose of evaluation, analysis, research and education;
- 2) Using a layout-design created from analysis, research, or study in an integrated circuit, or leveraging from a new layout-design created from such analysis, research, or study.
- 3) The reproduction for one's own interest, which is not for the commercial purpose;
- 4) The sale, distribution by any means, or import of a layout-design or integrated circuit containing a protected layout-design, provided that the

person carrying out these actions does not know or have reasonable grounds to know that it infringes the rights of the right holder.

- 5) To import into the Kingdom, sell or distribute by any means for the commercial purposes a layout-design which is lawfully acquired from the commercial exploitation of the right holder.
- 6) To import into the Kingdom, sell or distribute by any means for the commercial purposes a layout-design by a person creating a layout-design identical to a layout-design in respect of which the right holder is accorded protection, provided that he or she has created it by himself or herself.

4.5.5. Application and Annual Fee

The filing of an application for registration of a layout-design under this Act shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation. Re: Registration, Compulsory License, Investigation, Appeal, and Forms of Documents Concerning Layout-Designs of Integrated Circuits B.E. 2545 (2002)

The right holder shall pay an annual fee as prescribed in the Ministerial Regulation starting with the second year of the term of the protection of the layout-design and the annual fee shall be paid within sixty days from the beginning date of the second year of the term of the protection of the layout-design and of every year thereafter, in accordance with the Ministerial Regulation Re: Determination of Fees for Layout-Designs of Integrated Circuits B.E. 2545 (2002). The annual fee rates are progressive, starting at 1,500 baht in the second year and up to 52,500 baht in the 10th year, totaling 211,500 baht. Alternatively, it can be paid in a lump sum of 200,000 baht.

Source: Protection of Layout Designs of Integrated Circuits ACT, BE 2543, as of July 2023
Department of Intellectual Property, as of July 2023

Chapter 4 Relevant Laws and Regulations

- Act Amending the Law on the Criminal Liability of Representatives of Juristic Persons B.E. 2560 (2017)
- Copyright Act (No. 2) B.E. 2558 (2015)
- Copyright Act (No. 3) B.E. 2558 (2015)
- Copyright Act (No. 4) B.E. 2561 (2018)
- Copyright Act (No. 5) B.E. 2565 (2022)
- Copyright Act B.E. 2537 (1994)
- Patent Act B.E. 2522 (1979)
- Protection of Layout Designs of Integrated Circuits Act B.E. 2543 (2000)
- Trade Secrets Act B.E. 2545 (2002)
- Trademark Act (No. 3) B.E. 2559 (2016)
- Trademark Act B.E. 2534 (1991)

Chapter 5

Legal Issues for Foreign Investors

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

Thai law regulates the activities in which the companies designated as “foreigner” 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.

5.1.1. Definition of a Foreign Company

According to the Foreign Business Act of 1999 (FBA), the term foreigner means:

- 1) Natural person not of Thai nationality.
- 2) Juristic person not registered in Thailand.
- 3) Juristic person registered in Thailand having the following characteristics:
 - Having half or more of the juristic person’s capital shares held by persons under (1) or (2) or a juristic person having the persons under (1) or (2) investing with a value of half or more of the total capital of the juristic person.
 - Limited partnership or registered ordinary partnership having the person under (1) as the managing partner or manager.
- 4) Juristic person registered in Thailand having half or more of its capital shares held by the person under (1), (2) or (3), or a juristic person having the persons under (1), (2) or (3) investing with the value of half or more of its total capital.

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

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 can operate business in the activities stated in List 2 only where not less than forty percent of its shares are held by Thai

nationals or juristic persons which are not foreigners under this Act, otherwise, they are approved with prior Cabinet approval.

Activities stated in List 3 are designated as “businesses 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 2 common exceptions to the above stated rules:

- If a foreigner is operating a business that is classified in List 2 or List 3 with the permission of the Government of the Kingdom of Thailand i.e. the Board of Investment or the Industrial Estates Authority of Thailand, such foreigners shall notify the Director-General of Commercial Registration Department in order to obtain a certificate.
- If a foreigner is operating a business that is classified in the lists under a treaty to which Thailand is a party or is obligated to abide by, it shall comply with the provisions of the treaty which may in return include the entitlement of Thai nationals and Thai enterprises to operate the businesses in the country of the foreigners, i.e. Treaty of Amity Between U.S.–Thailand.

5.1.2. Restricted Business Activities under the Foreign Business Act of 1999

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

- The Press, radio broadcasting station or radio and television station business
- Rice farming, plantation or crop growing
- Livestock farming
- Forestry and timber processing from a natural forest
- Fisheries, only in respect of the catchment of aquatic animals in Thai waters and specific economic zones of Thailand
- Extraction of Thai medicinal herbs
- Trading and auction sale of antique objects of Thailand or objects of historical value of the country
- Making or casting Buddha images and monk alms bowls
- Land trading

- **List 2 – Businesses related to national safety or security or having impacts on arts, culture, traditions, customs and folklore handicrafts or natural resources and the environment:**

Group 1 – Businesses related to national safety or security

- Production, distribution, and maintenance of:
 - Firearms, ammunition, gun powders, and explosives;
 - Components of firearms, ammunition, and explosives;
 - Armaments, ships, aircraft, or vehicles for military use;
 - Equipment, or components of all types of war materials
- Domestic transportation by land, water or air, including domestic aviation

Group 2 – Businesses having impacts on arts, culture, traditions, customs and folklore handicrafts

- Trading of antiques or artistic objects that are artistic works or handicrafts of Thailand
- Production of wood carving
- Silkworm raising, production of Thai silk yarn, weaving of Thai silk or printing of Thai silk patterns
- Production of Thai musical instruments.
- Production of goldware, silverware, nielloware, bronzeware or lacquerware
- Production of crockery or porcelains representing Thai arts and culture

Group 3 – Businesses having impacts on natural resources or the environment

- Production of sugar from sugar cane
- Salt farming, including non-sea salt farming
- Production of rock salt
- Mining, including rock blasting or rock crushing
- Timber processing for production of furniture and utensils

- **List 3 – Businesses in respects of which Thai nationals are not ready to compete with foreigners:**

- Rice milling and production of flour from rice and economic plants
- Fishery only in respect of the hatching and raising of aquatic animals
- Forestry from a grown forest
- Production of plywood, veneer wood, chipboards or hardboards
- Production of lime
- Provision of accounting services
- Provision of legal services

- Provision of architectural services
- Provision of engineering services
- Construction, except:
 - Construction of structures for delivery of infrastructure public services in the sphere of public utilities or transportation requiring the use of special apparatuses, machines, technology or expertise, with the minimum capital of five hundred million Baht or upwards from foreigners;
 - Construction of other types as prescribed in the Ministerial Regulation
- Brokerage or agency businesses, with the exception of:
 - being a broker or an agent in the sale or purchase of securities or in services related to futures trading of agricultural commodities or financing instruments or securities;
 - being a broker or an agent in the sale, purchase or procurement of goods or services necessary for the production or the provision of services amongst affiliated enterprises;
 - being a broker or an agent in the sale or purchase, procurement, distribution or acquisition of domestic and foreign markets for the distribution of domestically manufactured or imported goods, which is in character the operation of international trade, with the minimum capital of one hundred million Baht or upwards from foreigners
 - being a broker or an agent of other types as prescribed in the Ministerial Regulation
- Sale by auction, with the exception of:
 - a sale by auction which, in character, involves international bidding of items other than antiques, objects of antiquity or artistic objects that are artistic works or handicrafts or objects of antiquity of Thailand or of historical value of the country;
 - sales by auction of other types as prescribed in the Ministerial Regulation
- Internal trade related to traditional agricultural products or produce not yet prohibited by law, except agricultural futures trading in the Agricultural Futures Exchange of Thailand without delivery or taking delivery of agricultural commodities within the country
- Retail sale of goods of all types with the total minimum capital in the amount lower than one hundred million Baht or with the minimum capital of each store in the amount lower than twenty million Baht
- Wholesale of all types with the minimum capital of each store in the amount lower than one hundred million Baht
- Advertising business
- Hotel business, with the exception of the hotel management service
- Guided touring
- Sale of food and beverages

- Cultivation, propagation or development of plant varieties
- Other service businesses, with the exception of service businesses as prescribed in the Ministerial Regulation

Source: Foreign Business Act B.E.2542 (1999), as of July 2023.

“Other service businesses” stated in List 3 effectively serves as a “catch-all” service category. If the foreigners 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.

However, in 2013, the Ministry of Commerce issued a Ministerial Regulation removing certain categories of business from the controlled business activities in Schedule Three of the FBA. This Ministerial Regulation effectively lifts restrictions on foreign companies in conducting certain service businesses in Thailand that were under the scope of the FBA, including securities and related businesses according to the Securities and Exchange Act, derivatives services according to the Derivatives Act, and trustee businesses according to the Trust for Transactions in Capital Market Act. Consequently, foreign companies are allowed to engage in these service businesses as prescribed by the Ministerial Regulation without being required to obtain a Foreign Business License under the FBA. , but will still be subject to notification, licensing and foreign shareholding limit requirements under specific regulations.

Source: Securities and Exchange Act B.E. 2535 (1992), as of July 2023.

Derivatives Act B.E 2546 (2004), as of July 2023.

Trust for Transactions in the Capital Market Act B.E. 2550 (2007), as of July 2023

In addition, in 2019, the Ministry of Commerce approved the exemption of 3 categories of service business from Foreign Business License requirements: provision of loans to affiliates and subsidiary companies; lease of office space to affiliates and subsidiary companies, including public utilities; and provision of consultation services relating to management, marketing, human resources, and information technology to affiliates and subsidiary companies. The relaxation aims to enhance efficiency and service standards by reducing operation costs and facilitating inter-company services among group companies.

Source: Legislative Institutional Repository of Thailand, as of July 2023.

Also, note that special rules apply if the foreigners plan 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 foreigner 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 foreigners 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 foreigner is not subjected to the Foreign Business License.

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 foreigner is not subjected to the Foreign Business License.

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; advisory services on business operations; information services on goods sourcing; engineering and technical services; wholesaling products manufactured in Thailand; international business process outsourcing, and business activities related to machinery, engines, tools and equipment such as training, installation, maintenance and repairs, and calibration. There is a condition of sales and administration expenses of at least 10 million Baht per year. TISO is not qualified for tax benefits.

5.1.3. Foreign Business License Application

If foreigners seek to engage in List 2 activities of which less than forty percent of shares are held by Thai nationals or juristic persons who are not foreigners under this Act, the business operations are to be approved by the Council of Ministers. 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. Businesses under List 2 must have their applications approved by the Cabinet, then granted permission by the Minister. Businesses under List 3 must have their applications approved by the Committee, then granted permission by the Director-General. 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, who is in charged with accepting the application normally, will not do so until he is satisfied that all documents are in order. 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 sixty -day consideration period begins. The factors considered by the Committee or the Cabinet 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 that the Foreign Business License application is rejected, the law requires that the MOC inform the applicant within 30 days for businesses under List Two and within 15 days for businesses under List Three. 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 30 days of the date on which the applicant received

the rejection notice. The Minister of Commerce is required to rule on the appeal within 30 days of receipt. The decision of the Minister shall be final.

Source: Department of Business Development, as of July 2023.
Foreign Business Act B.E.2542 (1999), as of July 2023.
Board of Investment, as of July 2023.

5.2. Work Permits

The Foreigner's Working Management Emergency Decree, B.E. 2560 (2017) and the Additional Amendment (No.2) B.E. 2561 (2018) requires all foreigners working in Thailand to obtain a work permit prior to starting work in the Kingdom and describes the procedures for issuance and maintenance of work permits and lists certain occupations from which the foreigners may be excluded.

5.2.1. Exemptions

The Emergency Decree 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 performing duties on missions in the Kingdom under an agreement between the government of Thailand and a foreign government or international organization;
- Persons entering into the Kingdom irregularly for the arrangement or attendance of meeting, expression of view, lecture or presentation in a meeting, training, visit or seminar or performance of arts, cultures, sports, competition or other activities as prescribed by the Council of Ministers and the Council of Minister may specify the time period and conditions as deemed appropriate;
- Person entering into the Kingdom to operate or invest in business or is a knowledgeable person with capacity or skills which will benefit the country development as prescribed.
- Representatives of foreign juristic persons obtaining a license to operate business under the law on foreign business operation.

5.2.2. Special Cases

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

➤ **Necessary or Urgent Work or an Ad-hoc Work**

Exemption from work permit requirements is granted to a foreigner who enters into the Kingdom temporarily, but in accordance with the immigration law, to perform any work of any “necessary or urgent work or an ad-hoc nature” for a period not exceeding 15 days. However, such foreigner may engage in work only after a written notification on a prescribed form (WP.34) has been submitted to and Noticed by the Director-General or his designee. If it is not completed within the aforementioned period, an extension of up to 15 days may be requested by notifying the registrar in advance of the specified deadline.

The foreigners entitled to this treatment may enter into Thailand with any kind of visa, including a transit visa. The term “necessary or urgent work or an ad-hoc work” is defined in the Department of Employment’s Notification Re: the Determination of Necessary or Urgent Work or an Ad Hoc Work.

The work which has the characteristics as urgent work shall be prescribed in the following:

- Meeting, training or seminar organizing
- Special academic lecture
- Aviation management
- Occasionally internal audit
- Technical issues monitoring and resolving
- Quality control of goods and products
- Quality assurance of production process
- Machinery and electric generator equipment system inspection or maintenance
- Machine maintenance or installation
- Electric train technician
- Aircraft or aircraft equipment system technician
- Machinery maintenance or machinery control system maintenance consultant
- Machinery demonstration or machinery testing
- Movie filming and slide photographing
- Worker selection for overseas working
- Skill testing for overseas working

Below is a list of supporting documents that need to be submitted

- Completed Form of WP-34 and three photograph (3 x 4 cm.) plus one copy
- A copy of the passport or a copy of document in lieu of passport (the page which show a photo)
- A copy of proof showing permission to enter the Kingdom (VISA)
- A copy of employer's work permit in case he/she is a foreigner.
- In case of a Thai employer, a copy of the Employer's I.D. card
- In case of a juristic person, a copy of the Company Registration (updated within six months) The document must also show category of the business.
- In cases where an employer is a government agency, a letter from the government agency (1 original copy).
- Power of Attorney from a foreigner and an employer with 10 Baht duty stamp affixed and a copy of the appointee's I.D. card (if a foreigner and an employer are unable to apply in person).

Source: Foreigners' Working Management Emergency Decree B.E.2560 (2017), as of July 2023
Government Contact Information Hub, info.go.th, as of July 2023

➤ Investment Promotion

Once a foreigner seeking permission to work in the Kingdom under the Investment Promotion Act is granted permission to work in the Kingdom by the responsible agency, the said agency shall promptly notify the registrar without delay. The registrar will then issue a work permit to the foreigner within 7 days. A foreigner in this category may engage in authorized work while the application is being processed. Additionally, a foreigner is entitled to a work permit exemption under the amendment under the Emergency Decree (No. 2) B.E. 2561 (2018).

5.2.3. Procedures

The Emergency Decree requires that any foreigner working in Thailand must obtain a work permit before beginning work. Section 60 of the Emergency Decree documents stipulates that while a prospective employer may file an application on behalf of the foreigner in advance of his commencing work, the actual work permit will not be issued until the foreigner has entered into Thailand in accordance with the immigration laws and has submitted required documents (such as approval letter, photo, medical certificate, and original passport) and presented with him or herself to receive the work permit.

Applicants for work permits must enter into Thailand with Non-immigrant B visa. If they enter with a tourist visa or transit visa or visa waiver, they must change the type of visa to be Non-immigrant B visa. Furthermore, a foreigner who enters into

Thailand with a Non-immigrant B visa will also qualify to apply for a work permit, if he marries a Thai woman.

In addition, the new revision under the Emergency Decree (No. 2) B.E. 2561 clarifies the process of bringing foreign professionals into Thailand. That is, a foreigner who wishes to apply for a work permit must not have been penalized for working without a work permit or for working outside the permitted scope of their permit, except in the cases where a period of not less than two years has elapsed from the date upon which the foreigner completes his/her sentence (if any); or special approval has been granted.

5.2.4. Required Documentation

The following documents must be provided by the foreigner and attached to a work permit application:

- A copy of passport, or a copy of document in lieu of passport, or
- A copy of proof showing permission to enter the Kingdom
- Evidence of applicant's educational qualifications or a certificate from the previous employer stating the nature and duration of the work which the applicant used to have while working for the employer or a certificate from the soon-to-be employer showing how the applicant is suitably knowledgeable and adequately experienced to perform the work for which the work permit is applied (only in the case of work permit application) 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, habitual alcoholism or syphilis stage 3 (Issued within 1 month).
- Three photographs which are sized 3x4 cm. full-faced, bareheaded, taken no more than 6 months prior to the filing of the application.
- Employment Certification Form filled out by the soon-to-be employer stating the reason for not employing a Thai national
- 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).
- A copy of professional license/ certificate in case of work which the practitioner is legally required to hold a professional license or have passed professional certification. .

- 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 the 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 is necessary to translate any or all documents into Thai.

5.2.5. Permitted Activities

The employers must notify the labor authorities the commencement and cessation of foreigners' work in their organization within 15 days as from the day of employment and termination, in cases of dismissal, the employers shall be liable to a fine not exceeding 20,000 Baht.

The foreigners must notify the labor authorities the commencement of the work within 15 days as from the day of being employed. In cases of dismissal, the foreigners shall be liable to a fine not exceeding 20,000 Baht. However, according to the Emergency Decree, the law does not force the foreigners to return the Registrar a work permit, but if the foreigners wish to return a work permit, the labor authorities will receive a work permit and record the termination date.

Any foreigner engaging in work without a work permit or working outside of the right to do shall be liable to a fine of 5,000 - 50,000 Baht.

An employer who permits foreigners to work in his/her organization without a work permit or assigns foreigners to work outside of the work which he/she has right to do shall be liable a fine of 10,000 – 100,000 Baht for each foreign employee. If such employer commits a repeated offence, he/she shall be liable to imprisonment for a term not exceeding one year or to a fine of 50,000 – 200,000 Baht for each foreign employee, or both. And such employer shall be prohibited from employing a foreigner for 3 years as from the date of final Court judgment.

In case when a permit holder prefers to engage in work more than one field or for more than one employer, a new employer and a permit holder must notify the labor authorities the commencement of the work and the work permit will be endorsed.

Source: Foreigners' Working Management Emergency Decree B.E.2560 (2017), as of July 2023
Department of Employment, as of July 2023

5.2.6. Restricted Occupations

Notification of Ministry of Labour Regarding Occupations Prohibited for Foreigners announced in April 2023 has listed 27 occupations completely restricted for foreigners including;

- 1) Wood carving
- 2) Motorcycle driving, excluding forklift operation
- 3) Auction
- 4) Gem cutting/polishing
- 5) Hairdressing/beauty salon services
- 6) Hand-weaving fabrics
- 7) Loom weaving or manufacturing using straw, bamboo, chicken feathers, yarn, etc.
- 8) Handmade paper production
- 9) Traditional lacquer making
- 10) Thai traditional musical instrument making
- 11) Thai niello making
- 12) Gold/silver/platinum smithing
- 13) Stone carving
- 14) Thai doll making
- 15) Alms bowl making
- 16) Hand-woven silk fabric production
- 17) Buddha statue making
- 18) Paper/fabric umbrella making
- 19) Agent/broker services
- 20) Thai massage
- 21) Cigarette rolling
- 22) Guide services
- 23) Street selling
- 24) Thai alphabets arranging services
- 25) Silk thread spinning
- 26) Secretarial services
- 27) Legal services

Source: Notification of Ministry of Labour Regarding Occupations Prohibited for Foreigners, Dated April 21st, B.E 2563 (2020)

5.3. 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 into 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.

5.3.1. Visa Categories

The Immigration Act of 1979, as amended in 1980 and 2018, establishes the following visa categories as set out by ministerial regulations, with the latest update in 2002:

- Diplomatic Visa
- Official Visa
- Non-immigrant Visa
- Tourist Visa
- Transit Visa
- Immigrant Visa
- Non-quota Immigrant Visa
- Courtesy Visa

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 Bureau. Extension of stay is normally granted for a period of 30 days one time but the total stay may not exceed 90 days from the date of entering into Thailand.

In addition, passport holders from 55 countries and 1 special administrative region - Hong Kong SAR - are not required to obtain a visa when entering Thailand for tourism purposes and will be permitted to stay in the Kingdom for a period of not exceeding 30 days on each visit. If such foreigners enter the Kingdom at the immigration checkpoints which border neighboring countries, they will be allowed to enter the Kingdom under visa exemption only 2 times within one year, except Malaysian, Bruneian, Indonesian and Singaporean nationals who cross the borderline from Malaysia whose granted period of stay will not exceed 30 days each time.

Thailand has visa-free agreements with Brazil, the Republic of Korea (South Korea), and Peru for holders of diplomatic, official, and ordinary passports. Therefore, passport holders from these three countries are granted visa exemption, allowing them to stay in Thailand for up to 90 days as per the agreement (rather than the 30-day stay as stipulated by the Ministry of Interior).

Please note that Tourist Visa Exemption does not apply to foreigners holding a Travel Document for Aliens issued by these countries.

Foreigners entering Thailand under the Tourist Visa Exemption category must possess adequate finances for the duration of stay in Thailand (i.e., cash 10,000 Baht per person and 20,000 Baht per family).

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 not approved. Visa stamps of this type will be issued to foreigners who wish to enter the Kingdom for one of the following purposes:

- To transit through the Kingdom (TS)
- To engage in sport activities (S)
- To be in charge of or be a member of a vehicle that enters a port, station, or locality in the Kingdom (C)

Non-quota Immigrant Visa: This visa is for former permanent residents who lost their status. If they reapply and demonstrate a convincing reason, they will be granted this type of visa to resume their residency.

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 into the Kingdom. This visa has several categories for different purposes:

- To perform official duties (Category "F")
- To conduct business / to work (Category "B")
- To invest with the concurrence of the Thai Ministries and Government Departments concerned (Category "IM")
- To invest or perform other activities relating to investment, subject to the provision of the established laws on investment promotion (Category "IB")
- To study, to come on a work study tour or observation tour , to participate in projects or seminars , to attend a conference or training course , to study as a foreign Buddhist monk (Category "ED")
- To work as a film-producer, journalist or reporter (Category "M")
- To perform missionary work or other religious activities with the concurrence of the Thai Ministries or Government Departments concerned (Category "R")
- To conduct scientific research or training or teaching in a research institute (Category "RS")
- To undertake skilled work or to work as an expert or specialist (Category "EX")
- Other activities: to stay with the family, to perform duties for the state enterprise or social welfare organizations, to stay after retirement for the elderly, to receive medical treatment, to be a sport coach as required by Thai Government, to be a contestant or witness for the judicial process (Category "O")

Advantages of a Non-Immigrant visa include:

- Entitlement of the holder to apply for a multiple re-entry visa to Thailand from the Immigration Bureau;

- 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 (only for category B and category O (only a foreigner who married to a Thai national));
- 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 immigration officer within 24 hours.

In addition, foreigners residing in Thailand for more than 90 consecutive days are required to notify their address with the local Immigration officer every 90 days. This requirement applies to all foreigners granted to temporary stay in the Kingdom, including holders of work permits and long-term visas. Failure to do so, the foreigner shall be punished with a fine not exceeding 5,000 Baht and with an additional fine not exceeding 200 Baht per each day passing until the law is complied with.

Visas are issued only for the following duration and purpose:

Visa Type	Purpose	Duration of Stay
Diplomatic Visa	Diplomats or consular missions	As necessary
Official Visa	Official missions	As necessary
Non-immigrant Visa	Business purposes	Not Exceed 1 year
	An investment that has received authorization from the appropriate government authorities	Not Exceed 2 years
	Investment or other business in connection with investment under the Investment Promotion Act	As determined by the BOI
	Study trip or observation tour	Not Exceed 1 year
	Performing duties for mass media	Not Exceed 1 year
	Religious propagation with approval from relevant ministries, departments, or bureaus	Not Exceed 1 year
	Scientific research or teaching at research or educational institutions in the Kingdom	Not Exceed 1 year
	Work as a skilled laborer or specialist	Not Exceed 1 year
	Other purposes as outlined in the Ministerial Regulation.	Not Exceed 1 year
	Performing tasks or duties as a family member (father, mother, spouse, or dependent child) of a foreigner whose entry to the Kingdom is temporary	Not Exceed 1 year
	Providing or receiving care as a family member (father, mother, spouse, or dependent child) of a Thai national or resident.	Not Exceed 1 year
	Duties for a state enterprise or public charity.	Not Exceed 1 year
	Entry of a retiring elderly person	Not Exceed 1 year

Visa Type	Purpose	Duration of Stay
	Entry of a former Thai national visiting their relatives or requesting re-entry into the Kingdom.	Not Exceed 1 year
	Entry for medical treatment	Not Exceed 1 year
	Entry of a sports coach as required by the government	Not Exceed 1 year
	Entry of parties or witnesses for legal proceedings	Not Exceed 1 year
Tourist Visa	Tourism	Not Exceed 90 days
Transit Visa	Sports	Not Exceed 30 days
	Transit	Not Exceed 30 days
	The controller or crew of a conveyance entering a port or other locality in the Kingdom	Not Exceed 30 days

Applying for extension of temporary stay in the Kingdom are normally required for documents as follows;

- Application Form for extension of temporary stay in the Kingdom (TM 7)
- Passport
- Acknowledgement of terms and conditions for permit of temporary stay in the Kingdom (STM.2)
- Supporting documents as prescribed by immigration regulations

If leaving the country, a foreign national must apply for a Re-entry Visa to enter Thailand on their current Non-Immigrant Visa.

- A Single Re-Entry Visa costs 1,000 Baht for leaving and re-entering Thailand on one occasion before the expiry date of the Non-Immigrant Visa.
- A Multiple Re-Entry Visa costs 3,800 Baht for leaving and re-entering Thailand on multiple occasions before the expiry date of the Non-Immigrant Visa.

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 3 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 18th Floor, Chamchuri Square Building, Phayatai Road, Pathumwan, Bangkok 10330, and it may be reached by phone at 0-2209-1100.

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 the Sub - Division 1, Immigration Division 1.

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 from complying with the requirements set forth for aliens in the Immigration Act.

Source: Ministry of Foreign Affairs, as of July 2023.
Immigration Act B.E.2522 (1979), as of July 2023

5.4. Notification Procedures for Foreign Nationals Staying in the Kingdom over 90 Days (Attachment to Order of Immigration Bureau No. 48/2558 dated 17 March 2015)

According to the Immigration Act, B.E.2522, a foreigner who has received a temporary stay permit and stayed in the Kingdom of Thailand over 90 days must submit notification of their residence to immigration officer every 90 days. He or she can make the notification via the internet. (www.immigration.go.th, bangkok.immigration.go.th)

➤ To use the online system for notification of staying in the Kingdom of over 90 days

- Please visit the Immigration Bureau's website at <http://www.immigration.go.th> and click on 'Service' and then 'Online Service'. Then, select "Apply for Notification of Staying in the Kingdom (Over 90 days)" to enter the online application screen.
- Click "Accept" to confirm usage of the online notification system. In order to use the online notification through the internet, prior notification is permitted 15 days before the due date and must not be less than seven days before the due date to provide sufficient time for the officer on duty to process the approval of the residential notification submitted online.

➤ Saving data in the notification system

Click on "Notification of Staying in the Kingdom over 90 Days" (TM.47) to enter the main screen.

- Step 1 Complete the information as requested in the online application form (areas marked * are mandatory).

- Step 2 Complete the additional information as requested in the online application (areas marked * are mandatory).
- Step 3 Review the completed information and click “Accept” to confirm.
- Click “Print” to show the selected information. The user can then save the data in electronic document format or print out the document to be submitted.

Following submission of the request, the user will receive a notification status indicating “Under Consideration” or “Application is in progress.”

➤ **To check the notification status, click on “Check the status of your application” on the screen in which there are 2 search methods as follows:**

- Click on “Ref Number” using the document reference number, or,
- Click on “Passport information” to select search by either function
 - Using the Passport No.
 - Date of Birth dd/mm/yyyy i.e. 09/12/1977
 - Nationality by selecting from the list
- Once all the data required for searching has been entered, click “Search.”

➤ **To terminate the notification of residence in the case of staying over 90 days online: Click “Cancel your application (Terms and Conditions)” on the screen in which there are 2 search methods as follow:**

- Click on “Ref Number” using the document reference number, or,
- Click on “Passport information” to search by Passport Information
 - Using the Passport No.
 - Date of Birth dd/mm/yyyy i.e. 09/12/1977
 - Nationality by selecting from the list
- Once the data required for searching has been entered, click on “Search.” The search results will appear, then click “Cancel” to terminate the notification.

Source: Immigration Bureau Thailand, as of July 2023.

5.5. Newly Issued Visa and Work Permit by BOI

5.5.1. SMART Visa

The SMART Visa, which will come into effect on 1 February 2018, will encourage foreign talents and investors to invest in the 10 targeted industries of Thailand. It is hoped

that it will enhance knowledge transfer and increase the competitiveness of Thailand in the global economy.

The SMART Visa is a new type of visa specially designed to encourage highly-skilled professionals and talents to work or invest in the 18 targeted industries, namely (1) Automotive industry, (2) Electronics industry, (3) Affluent tourism industry, (4) Agriculture, food, and biotechnology industry, (5) Automation and robotics industry, (6) Transportation and logistics industry, (7) Petrochemical and chemical industry, (8) Digital industry, (9) Medical industry, (10) National defense industry, (11) Direct and significant supporting industries for circular economy, (12) Aviation, aerospace, and space industry, (13) Human resource development in science and technology, (14) Environment management and renewable energy, (15) Management of Technology Innovation and Startup Ecosystem, (16) Targeted Technology Development, (17) International Business Center – IBC and (18) Alternative Dispute Resolution Service.

The SMART Visa provides more benefits and privileges than any other types of visa. These benefits include:

- Visa validity up to 4 years (instead of the usual 1 year)
- No requirement of work permit
- Extension of reporting of stay to Immigration Bureau – from every 90-day to every year
- The right of legal dependents (spouse and children) of the SMART Visa holder to live and work in Thailand equivalent to SMART visa holder (only SMART T type allows dependents of SMART Visa holder to work in Thailand).

The 4 categories of people who are eligible to apply for SMART Visa are;

- 1) Talent (Smart T): Highly skilled professionals in the targeted industries
- 2) Investor (Smart I): Investors in technology-based business in the targeted industry
- 3) Executive (Smart E): Senior executives in technology-based companies in the targeted industries.
- 4) Startup and (Smart S): Technology—based startup entrepreneurs in the targeted industries.
- 5) Others (Smart O): Refer to the legal dependents spouse and children of the main Smart Visa holders to live and work in Thailand equivalent to Smart Visa holders.

➤ Qualification

Smart T

- Having expertise in science and technology

- Minimum income of no less than 100,000 Baht/month or equivalent. In case of having employment with a startup or retirement experts having endorsements from a relevant agency, minimum income of no less than 50,000 Baht per month is required.
- Having an employment or service contract with an entity in Thailand. The remaining term of such contract must be at least 1 year.
- Employers in Thailand must be endorsed for being engaged in the targeted industries by relevant government agencies.

Smart I

- Minimum investment of
 - 20 million Baht for Directly investing in targeted technology-based industries.
 - 5 million Baht for Directly investing as an individual investor in a startup or an incubation or accelerator program endorsed by relevant agencies.
- Investing in companies using technology in manufacturing or delivering services and being in the targeted industries
- In case of investing through a venture capital company, the investment must be certified by relevant agencies as being either a venture capital company investing in the technology-based business in manufacturing or delivering services in the targeted industries.

Smart E

- Holder of Bachelor's degrees or higher with work experience of equal or more than 10 years
- Minimum income of no less than 200,000 Baht/month or equivalent
- Having an employment or service contract with an entity in Thailand. The remaining term of such contract must be at least 1 year.
- Holding a senior management position such as Chairman or Managing Director
- Working for companies using technology in manufacturing or delivering services and being in the targeted industries.

Smart S

- Having established a startup company in Thailand, certified as being the ones in the targeted industries by relevant government agency.
- Holding no less than 25% of the company's registered capital or a position of the abovementioned company
- Having a deposit of no less than 600,000 Baht in a bank account which has been held for at least 3 months.
- In the case of being accompanied by spouses and children, an additional of deposit of no less than 180,000 Baht per person is required.
- Having Health insurance covering the entire period of stay in Thailand for the applicant as well as spouse and children.

5.5.2. LTR Visa

Thailand is introducing a new visa called “Long-Term Resident(LTR)” which is a program that provides a wide range of tax and non-tax benefits to enhance the country’s attractiveness as a regional hub for living and doing business for “high-potential” foreigners.

This new visa program is expected to attract new foreign residents, technologies and talents contributing to domestic spending and investment while supporting economic growth. The Thai government has set the target of attracting one million wealthy or talented foreign resident into the country over the next five years.

5.5.2.1. Categories

There are total of five categories applicable for the visa with different criteria which have to be met, including,

Categories	Criteria
Wealthy Global Citizen	<ul style="list-style-type: none"> At least USD 1 million in assets. Personal income of a minimum of USD 80,000/ year in the past 2 years. Investment of at least USD 500,000 in Thai government bonds, foreign direct investment, of Thai property. Health insurance with at least USD 50,000 coverage or social security benefits insuring treatment in Thailand or at least USD 100,000 deposit.
Wealthy Pensioners	<ul style="list-style-type: none"> Retirees aged 50 years and older with a consistent annual pension or stable passive income. Personal income of at least USD 80,000/year at a time of applicant. In case of personal income below USD 80,000/year but no less than USD 40,000/year, applicants must invest at least USD 250,000 in Thai government bonds, foreign direct investment, or Thai property. Health insurance with at least USD 50,000 coverage or social security benefits insuring treatment in Thailand or at least USD 100,000 deposit.
Work-From-Thailand Professionals	<ul style="list-style-type: none"> Remote workers working for well-established overseas companies. Personal income of a minimum of USD 80,000 / year in the past 2 years. In case of personal income below USD 80,000/year but no less than USD 40,000/ year in the past two years, applicants must have a master’s degree or above or own intellectual property or receive Series a funding.

Categories	Criteria
	<ul style="list-style-type: none"> Public company on a stock exchange or, Private company in operation for at least three years with combined revenue at least USD 150 million in the last 3 years. At least 5 years of work experience in the relevant fields of current employment over the past 10 years. Health insurance with at least USD 50,000 coverage or social security benefits insuring treatment in Thailand or at least USD 100,000 deposit.
Highly skilled professionals	<ul style="list-style-type: none"> Professionals or experts in targeted industries working for business entities or higher education institutions or research centers or specialized training institutions in Thailand or Thailand government agencies. Personal income of a minimum of USD 80,000/ year in the past 2 years. In case of personal income below USD 80,000/ year but no less than USD 40,000/year in the past two years or before retirement, applicants must have a Master's degree or above in science and technology or special expertise relevant to the job assignment in Thailand. No minimum personal income for professionals working for Thai government agencies. Business in any targeted industries. Higher education institution, research institution, specialized training institution, or Thai government agencies. At least five years of work experience in the targeted industries except for applicants with PhD or above in the relevant fields of the targeted industries or applicants working for Thai government agencies. Health insurance with at least USD 50,000 coverage or social security benefits insuring treatment in Thailand or at least USD 100,000 deposit.
Spouses and Dependents	<ul style="list-style-type: none"> Spouse and children under 20 years old of LTR visa holders (maximum 4 dependents in total per a LTR visa holder) Health insurance with at least USD 50,000 coverage or social security benefits insuring treatment in Thailand or at least USD 25,000 deposit. Must be the legal dependents (spouse and children). (Same-sex marriage or partnership are not yet currently recognized by the law of Thailand) The children will be granted LTR Visa until 20 years of age

5.5.2.2. Targeted Industries

- Nest Generation Automotive industries
- Smart Electronics Industry
- Affluent Tourism Industry

- Agricultural and Biotechnology Industry
- Transportation and logistics industry
- Automation and Robotics Industry
- Aviation Industry
- Biofuels and Biochemicals Industry
- Digital Industry
- Medical Industry
- Defense Industry
- Petrochemical and Chemical Industry
- International Business Center (IBC)
- Industries that facilitate the Circular Economy directly and significantly e.g. the production of energy-from-waste, water resources management etc.
- Human resource Development, Research and Development for targeted industries.
- Other industries in which the applicants must be working with special expertise.
- Other targeted industries in accordance with the 20-year National Strategic Plan as approved by the Board of the National Competitiveness Enhancement Policy for Targeted Industries Policies.

5.5.2.3. Privileges

- 10-year renewable visa
- Exemption from 4 Thais to 1 foreigner employment requirement ratio
- Fast-Track service at international airports in Thailand
- 1-year report to the Immigration Bureau (extended from 90 days)
- Multiple re-entry permit
- Permission to work in Thailand (Digital Work Permit)
- 17% Personal tax rate for highly skilled professionals
- Tax exemption for overseas income
- Immigration and work permit facilitation services at One stop Service Center for Visa Work Permit.

5.5.2.4. Visa Applicant and Issuance

- 1) Register and submit online an application for qualification endorsement for LTR Visa and supporting documents.
- 2) Within 20 working days after having received complete documents, applicants will be notified of the result.
- 3) Qualified applicants may proceed with applying for LTR Visa issuance at the Royal Thai Embassies/the Royal Thai Consulate Generals overseas or Immigration offices in Thailand within 60 days from the issuance date of the endorsement letter. The processing fee for the 10-year visa with multiple entry is 50,000 Baht per person.

- 4) After LTR Visa issuance, LTR Visa holders are required to apply for a work permit immediately for their employment in Thailand via LTR Visa application system. The process takes 3-5 working days (processing time might take longer if additional documents are requested).
- 5) Applicants who work in Thailand, may collect digital work permits at the Department of Employment at One Stop Service Center for Visa and Work Permit, Chamchuri Square Building, Bangkok or provincial labor offices. The processing fee is 3,000 Baht per year to maintain digital work permit

Source: Thailand Board of Investment, as of July 2023.

5.6. 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.

5.6.1. Currency Regulation

5.6.1.1. Money Transfer into the Kingdom

There is no limit on the amount of foreign currency or Thai baht that can be transferred into the Kingdom.

When any individual receives foreign currency from abroad, such as for goods or services, investments, or loans, with an amount of at least USD 1 million or its equivalent, they must immediately repatriate the aforementioned foreign currency back to the Kingdom within 360 days from the date of export or transaction, and sell or deposit the foreign currency with a commercial bank located in Thailand within 360 days from the date of receipt or import.

In cases where an individual receives foreign currency from abroad and wishes to use the foreign currency to pay or offset overseas expenses¹, they can proceed with such actions without the need to repatriate the foreign currency.

Note: ¹ Overseas expenses that can be paid, excluding investment in foreign securities or payments for purposes that require prior approval from the Bank of Thailand, such as payments related to the purchase or sale of foreign currency in exchange for Thai baht, derivative transactions involving Thai baht with foreign counterparties, or payments related to digital assets.

5.6.1.2. Money Transfer out of the Kingdom

Payments for goods or services, such as fees, interest, dividends, profits, or royalties, including transferring money for educational expenses, can be conducted in accordance with these expenditure obligations.

➤ Overseas Loan or Investment

Exporting money for overseas investment or loan activities must be made in foreign currency. However, if such investment or loan is directed to a business in Vietnam or any countries bordering Thailand for the purpose of trade or investment in Thailand or the respective country, it may be made in Thai baht.

- Juristic persons may export funds to establish or invest in an overseas business with a minimum shareholding ratio of 10%, or to invest in the overseas affiliated business, or to lend to the overseas business, without limitations on the amount.
- Individuals may export funds to establish or invest in an overseas business with a minimum shareholding ratio of 10%, or to invest in or lend to the overseas affiliated business of the aforementioned business, without limitations on the amount.

➤ Investment in Foreign Securities

Institutional investors may invest in foreign securities or foreign currency-denominated securities issued or offered for sale in Thailand without limitations on the amount.

Thai individuals or juristic persons who are not institutional investors may invest in foreign securities or foreign currency-denominated securities issued or offered for sale in Thailand to individuals residing abroad without using investment agents, provided that the investment amount does not exceed USD 5 million per person per year.

5.6.1.3. Money Transfer for Other Purposes

Transfers of gift money to individuals abroad is limited to USD 50,000 or its equivalent per individual per year. However, there are no limitations on the amount of money that can be transferred to individuals who have permanently relocated abroad, to permanent relatives who have permanently relocated abroad, or to charitable organizations.

Transfers of money to foreign countries through commercial banks for other purposes may be made in accordance with foreign payment obligations, except for purposes that require prior approval from the Bank of Thailand, such as payments related

to the purchase or sale of foreign currency in exchange for Thai baht, derivative transactions involving Thai baht with foreign counterparties, and payments related to digital assets.

5.6.1.4. Export or Import of Currency

Export or import of currency under the following conditions does not require authorization from an official:

- Export or import of currency by an authorized bank, in an amount not exceeding the value of the currency or foreign currency that the foreign bank sends or brings in for exchange.
- A person traveling to Vietnam, the People's Republic of China (only Yunnan province) and Thailand's bordering countries is allowed to take out up to 2,000,000 Baht.
- A person traveling to other countries is allowed up to 50,000 Baht.

Please note that any person who brings into or takes out of Thailand Thai Baht banknotes, foreign currency banknotes or coins in an aggregate amount exceeding USD20,000 or equivalent at market rate must declare such funds to a Customs Officer. Furthermore, any transaction involving the sale, exchange, withdraw or deposit foreign currencies in an amount exceeding USD50,000 or its equivalent shall be reported to an authorized bank in a Foreign Exchange Transaction Form as prescribed by the Competent Officer.

5.7. Bank Accounts

5.7.1. Foreign Currency Accounts of Thai Residents

Thai residents are allowed to maintain foreign currency accounts with authorized banks, and deposit or withdraw funds from such accounts under the following conditions:

➤ Deposit

- 1) Foreign currencies originating from abroad (foreign-source) can be deposited into foreign currency accounts without limit.
- 2) Foreign currencies purchased or borrowed from authorized banks (domestic-source)
- 3) Foreign currency received from other Thai individuals or juristic persons.

Thai individuals or juristic persons may deposit foreign currency notes in an amount not exceeding: (1) the amount imported, or the amount received from a

commercial bank or a licensed foreign exchange business operator; or (2) USD 15,000 or its equivalent per day.

➤ **Withdrawal**

- 1) For payment to entities abroad of the account holder's own obligations or its subsidiaries' obligations.
- 2) For payment to authorized banks of the account holder's own foreign currency liabilities or its subsidiaries' foreign currency liabilities.
- 3) For deposit into another foreign currency account of the same account holder.
- 4) For conversion into Baht.

Thai companies having export proceeds in foreign currency from overseas are allowed to transfer funds from their foreign-source foreign currency accounts to deposit into foreign currency accounts of their counterparties in Thailand for payment of goods or services.

5.7.2. Foreign Currency Account of Nonresidents

Nonresidents may maintain foreign currency accounts with authorized banks in Thailand without limit. The accounts can be freely credited with funds originating from abroad. Payments from Thai residents or borrowing from authorized banks can be deposited subject to supporting evidence. Balances on such accounts may be freely withdrawn.

5.7.3. Nonresident Baht Account

Nonresidents may open Thai Baht accounts with authorized banks in Thailand as follows:

- 1) Non-resident Baht Account for Securities (NRBS): The account may be debited or credited for the purpose of investment in securities and other financial instruments such as equity instruments, debt instruments, unit trusts, derivatives transactions traded on the Thailand Futures Exchange and the Agricultural Futures Exchange of Thailand.
- 2) Non-resident Baht Account (NRBA): The account may be debited or credited for general purposes (i.e. other than investment in securities) such as trade, services, foreign direct investment, investment in immovable assets, and loans.

The total daily outstanding balances for each type of account shall not exceed 200 million Baht per nonresident. Transfers between different types of accounts are not allowed.

Source: Bank of Thailand, as of July 2023.

5.8. Trading

5.8.1. Exports

Export proceeds in an amount equivalent to USD 1,000,000 or above shall be repatriated immediately after payment is received and within 360 days from the export date. The proceeds must be sold to or deposited in a foreign currency account with an authorized bank in Thailand within 360 days of receipt.

5.8.2. Imports

Importers may purchase or withdraw foreign currencies from their own foreign currency accounts for import payments upon submission of supporting documents. Letters of credits may also be opened without the authorization of the bank. Travelling expenses are also freely permitted on submission of supporting evidence.

5.8.3. Services

All proceeds from services in an amount equivalent to USD 1,000,000 or above shall be repatriated immediately after payment is received and within 360 days from the transaction date. The proceeds must be sold to or deposited in a foreign currency account with an authorized bank in Thailand within 360 days of receipt.

Traveling expenses or educational expenses of residents are also freely permitted upon submission of supporting documents.

Source: Bank of Thailand, as of July 2023.

5.9. Stock Exchange of Thailand (SET)

The Stock Exchange of Thailand (SET) is Thailand's primary stock exchange. It was established in 1974 and is supervised by a Board of Governors. The Board consists of 11 Governors, with 5 appointed by the Securities and Exchange Commission (SEC), 5 elected by the SET member companies, and a full time president, who is appointed by the Board of Governors 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.

Note: More information is available through the SET website www.set.or.th.

5.9.1. SET Members

Currently, the SET has 38 member companies. Member companies must be securities companies permitted by the Ministry of Finance to conduct securities business in the category of securities brokerage.

5.9.2. 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.

5.9.3. Foreign Shareholding Limits

On 3rd 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.

5.9.4. 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

Source: Stock Exchange of Thailand, as of July 2023.

5.10. Land and Real Estate 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 that have received investment promotion and have a registered capital of no less than 50 million Baht are eligible to hold land ownership rights for establishing office and residential premises. In cases where a promoted foreign individual terminates or transfers their business to a third party, they must sell the land for which they have been granted ownership within one year of such action.

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. An investor has to maintain the investment for at least 3 years.

Rather than purchasing, foreigners may lease a property for up to 30 years. However, leases with a longer term are not enforceable, and renewing a lease after the 30 years is not a lease right protected under Thai law, meaning it too may not be enforceable. Foreign individuals and foreign companies are allowed to hold title to condominium units in buildings that qualify. The 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.

Although Thailand does not yet have a requirement for an escrow account to protect the interests of the purchaser of properties, an escrow account may be

voluntarily entered into by the contracting parties under the Escrow Act of May 21, 2008. 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. By placing the agreement deposits into escrow accounts, the purchaser can decrease risks. A new Condominium Act significantly protects the interest of the buyers.

Source: Office of the Council of State, as of July 2023.
Land Code Act B.E.2479 (1936), as of July 2023.
The Board of Investment of Thailand, as of July 2023.
Promotion of Investment Act B.E.2520(1977), as of July 2023
Escrow Act B.E. 2551 (2008), as of July 2023
Condominium Act B.E. 2522 (1979), as of July 2023
Civil and Commercial Code, as of July 2023
Land Code, as of July 2023

Chapter 5 Relevant Laws and Regulations

- Civil and Commercial Code of Thailand
- Land Code of Thailand
- Condominium Act B.E. 2522 (1979)
- Derivatives Act B.E. 2546 (2004)
- Escrow Act B.E. 2551 (2008)
- Exchange Control Act B.E. 2485 (1942)
- Foreign Business Act B.E. 2542 (1999)
- Immigration Act (No. 2) B.E. 2523 (1980)
- Immigration Act B.E. 2522 (1979)
- Land Code Act B.E. 2479 (1936)
- Securities and Exchange Act B.E. 2535 (1992)
- Trust for Transactions in the Capital Market Act B.E. 2550 (2007)
- Foreigners' Working Management Emergency Decree (No. 1) B.E. 2560 (2017)
- Foreigners' Working Management Emergency Decree (No. 2) B.E. 2561 (2018)
- Ministerial Regulation No. 27 (B.E. 2546 (2003)) Issued under the Immigration Act B.E. 2522 (1979)
- Ministerial Regulation Prescribing Criteria, Procedures, and Conditions for Issuing, Exemption, and Change of Visa Types B.E. 2545 (1992)
- Ministerial Regulation Prescribing Service Businesses Not Subject to Application for Permission in Alien Business Act B.E. 2556 (2013)
- Ministerial Regulation Prescribing Service Businesses Not Subject to Application for Permission in Alien Business Act (No. 2) B.E. 2559 (2016)
- Ministerial Regulation Prescribing Service Businesses Not Subject to Application for Permission in Alien Business Act (No. 3) B.E. 2560 (2017)
- Ministerial Regulation Prescribing Service Businesses Not Subject to Application for Permission in Alien Business Act (No. 4) B.E. 2562 (2019)
- Ministerial Regulation No. 13 (B.E. 2497 (1954)) under the Exchange Control Act B.E. 2485 (1942)
- Notification of Immigration Committee Regarding Criteria and Conditions of Foreign Nationals' Resident Permit Consideration, Dated December 26th B.E. 2546 (1993)
- Notification of Department of Employment Prescribing Necessary, Urgent, or Ad Hoc Works, Dated October 14th B.E. 2566 (2020)
- Notification of Board of Investment No. Sor 3/2564 (2021) Regarding Amendment of Conditions on Investment Promotion for Activities 7.7 and 7.34
- Reference to the Board of Investment Notification No. 2/2557 (2014) Regarding Policies and Criteria for Investment Promotion, Dated December 3rd, B.E. 2557 (2014)
- Notification of Ministry of Labour Regarding Occupations Prohibited for Foreigners, Dated April 21st, B.E. 2563 (2020)
- Attachment to Order of Immigration Bureau No. 48/2558 dated 17 March 2015

Chapter 6

Labor Issues & Important Addresses

6.1. 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.

6.1.1. Labor Protection

Workers in Thailand are protected by the Labour Protection Act B.E. 2541 (1998) and its amendments, the Labour 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 have 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 Labour Act. All other employees, whether full or part time, seasonal, casual, occasional or contract, are covered.

Important protections contained in the law are:

6.1.1.1. Work Hours and Holidays:

The maximum number of hours per day and per week are as follow,

Work type	Maximum hours per day	Maximum hours per week
Non-Hazardous	8*	48
Other Non-Hazardous works**	8	48
Hazardous	7	42
Overtime worked***	-	36

* Where the working hours of any day are less than 8 hours, the employer and employee may agree to make up the remaining working hours in other normal working days, but not exceed 9 hours per day

**Where the nature or conditions of the work prevent the announcement of specific start and end times for daily work.

*** The employees must be paid overtime compensation. The rates for overtime vary and range from one and a half times to three times the normal hourly wage rate for the actual overtime worked.

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.

The employees are entitled to the following minimum holidays and leave;

Holiday and leave	Days allowed per year
National Holiday	Minimum of 13 days
Annual Vacation	Minimum of 6 days*
Sick Leave	As necessary (paid leave shall not exceed 30 days)
Personal Leave	Minimum of 3 days
Maternity Leave	Maximum of 98 days including Holidays Note: Paid leave shall not exceed 45 days
Sterilization Leave	As per the period of time specified and certified by a medical doctor

* after working consecutively for one full year

In addition, employers shall provide employees with at least one day of weekly rest. The weekly rest must not be more than six days apart. Employers and employees may agree in advance to determine which day of the week is the weekly rest day.

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.

6.1.1.2. Severance Pay

The severance pay is at least equivalent to the most recent wage rate for the following period,

Employees worked period	Severance Pay*
120 days – 1 year	No less than 30 days
1-3 years	No less than 90 days
3-6 years	No less than 180 days
6-10 years	No less than 240 days
10-20 years	No less than 300 days
More than 20 years	No less than 400 days

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.

6.1.1.3. Employee Welfare and Fund

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

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.

6.1.1.4. Work Restriction for Young Age, Women and Pregnant Employees

The minimum age for employment is 15 years, and the workers below the age of 18 are banned from dangerous, hazardous jobs. In addition, it is prohibited for them to work in places specified by law, including slaughterhouses, gambling establishments, entertainment establishments under the Entertainment Place Act, factories engaged in aquatic animal-related businesses, and establishments engaged in aquatic animal processing. They are also prohibited from working overtime, on holidays, or between the hours of 10 p.m. and 6 a.m.

Employers are prohibited from allowing female workers to perform certain dangerous work, including mining or underground construction, working on scaffolding more than 10 meters high, manufacturing or transporting explosives or flammable materials, and other work as specified by law. In the case of pregnancy, employers are prohibited from allowing such employees to perform additional dangerous work, including work that involves vibration, work that involves driving or riding in a vehicle, work with objects weighing more than 15 kilograms, work on vessels, and other work as specified by law.

In cases where a female worker is assigned to work between 24:00 and 06:00, and the Labor Inspector considers that it may be hazardous to the health and safety of the worker, the Labor Inspector shall report to the Director-General to consider having the employer change the working hours or reduce the working hours as appropriate. 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, the employer 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. Terminating a female employee due to her pregnancy is prohibited by law.

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.

6.1.1.5. Workmen's Compensation

The Workmen's Compensation Act of 1994 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 4 categories: the compensation amount, the medical expenses, the work rehabilitation expenses, and the 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 70% of the monthly wages of the employee subject to minimum rate and maximum rate prescribed by the Announcement of the Ministry of Labour and Social Security Welfare.

Actual and necessary medical expenses must be paid but not exceeding 50,000 Baht and 1,000,000 Baht for other cases depending on the ministry regulation. The work rehabilitation expenses must be paid as necessary according to the criteria procedures and rates prescribed by law. In the case of death, the funeral expenses will be paid at a maximum amount at 40,000 Baht.

Source: Workmen's Compensation Act B.E.2537 (1994), as of July 2023.

6.1.1.6. Social Security

The Social Security Act of 1990, amended in 1994, 1999 and 2015, 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 monthly maximum contribution is not to exceed 750 Baht. 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.

The 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.

Source: Social Security Act B.E.2533 (1990), as of July 2023.

6.1.1.7. Ceasing Operations Temporarily

When employers adopt this measure in Thailand, they can pay wages at a 75% reduced rate to the 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 Labour 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.

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.
Civil and Commercial Code, as of July 2023.
Judgment of the Supreme Court 1901/2556

6.1.1.8. 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, but not required to issue a notice in advance for more than three

months. However, there are some reasons which the employee can be dismissed without prior notice and compensation from the employer as follows:

- The employee has dishonestly carried out in his/her duties or committed an intentional criminal act against the employer;
- The employee has intentionally caused damage to the employer;
- The employee has gross negligently performed an act which results in severe loss to the employer;
- The employee has violated the employer's work regulations, rules or orders which are both lawful and equitable subsequent to a written warning (no warning is required for serious violations);
- The employee has abandoned his/her duties for three consecutive days without reasonable cause;
- The employee has been imprisoned by a final judgment of a court.

One of the grounds for dismissal with cause under the Labour Protection Act is repeated violation of work rules as stated in item (d) above, for which a previous letter of warning has been issued for the particular act. The letter will be effective for a period of 1 year from the date on which the employee commits the violation, not from when the letter was written. However, in case of a serious violation, a written warning notice is not required.

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.

➤ 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 requirements for the warning letter itself. Based on previous decisions of the Supreme Court¹, it is evident that:

- 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.
- The warning letter must contain:
 - Date of issuance of the warning letter;
 - Name and position of the employee;
 - A description of the behavior of the employee that constitutes a violation of the work rules;
 - A reference to the work rules which the employee has violated;

- A statement that if 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 within 30 days as from the date of being informed by the employer or the date of relocation, as the case may be. In this regard, the employee is entitled to receive a special severance pay at the rate of not less than the rate of severance pay.

In the event the employer terminates an employment 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 or pay an amount in lieu of an advance notice, that is equal to 60 days' wages to the employee. Moreover, the terminated employee will be entitled to the prescribed severance pay. In addition to that, if the terminated employee has worked consecutively for more than 6 years, the employee would be entitled to an additional special severance pay at the rate of not less than 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.

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.
Judgment of the Supreme Court 5222/2545

6.1.1.9. 2023 Minimum Daily Wage

No.	Number of Provinces	Minimum Wage (Baht/Day)	Area
1	5	328	Narathiwat, Pattani, Nan, Udon Thani, and Yala
2	22	332	Kamphaengphet, Chaiyaphum, Chiang Rai, Phichit, Phrae, Mahasarakham, Mae Hong Son, Ratchaburi, Lampang, Lampoon, Sisaket, Satun, Sukhothai, Nongbualamphu, Amnatcharoen, Uthaitani, Sing Buri, Nakhonsithammarat, Chumporn, Trang, Ranong, and Tak
3	19	335	Roiet, Prachuapkhirikhan, Nakhonsawan, Sakaeo, Phatthalung, Uttaradit, Nakhonpanom, Buriram, Surin, Phitsanulok, Petchburi, Phetchabun, Chainat, Loei, Yasothon, Buengkan, Phayao, Kanchanaburi, and Angthong
4	6	338	Chantaburi, Samutsongkhram, Sakonnakhon, Mukdahan, Nakhonnayok, and Kalasin
5	14	340	Ubonratchathani, Suphan Buri, Saraburi, Prachinburi, Nongkhai, Lopburi, Trat, Khon Kaen, Songkhla, Suratthani, Krabi, Chiangmai, Nakhonratchasima, and Phangnga
6	1	343	Ayutthaya
7	1	345	Chachoengsao
8	6	353	Bangkok, Nonthaburi, Nakhonpathom, Pathumthani, , Samutprakan, and Samutsakhon
9	3	354	Phuket, Rayong, and Chonburi

Source: Notification of Wage Committee Regarding Minimum Wage Rates (No. 11), Dated September 1st B.E. 2565 (2022)

6.1.2. 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 the 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.

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.

6.1.2.1. 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. 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.

In addition to the above, they said employer is required to submit a report form on conditions of employment and working conditions to the Director-General or a person entrusted by Director-General within every January.

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.

6.1.3. 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.

In addition, many employers find there is benefit to holding "teambuilding" exercises outside the workplace, typically at a resort outside of Bangkok. Some companies combine this with merit-making, with the company and its employees joining hands to make a charitable donation to a temple or needy school, providing goods (clothing, blankets, rice, water tanks or water filtration systems, etc.) to make life more comfortable for villagers in remote areas of Thailand, or using their technical skill to help build or repair items in local communities.

Source: Labour Protection Act B.E.2541 (1998), as of July 2023.

6.1.4. Skills Development Promotion Act B.E. 2545 (A.D. 2002)

In 2002, the Thai government enacted a Skills Development Act that encourages business operators or employers to play a vital role in upgrading the skills and knowledge of the workforce by granting tax deduction of up to 200 percent of the training cost that occurred at the workplace. The idea was to stimulate the private sector and establishments to set up and register with the DSD as training providers for workplace learning.

The Skill Development Promotion Act, thus, encourages workplaces to establish themselves as training providers and conduct skill development in the workplace by giving incentives stipulated by the Minister under Section 7 with following privileges:

- Income tax exemption on the percentage of training expenses
- Assistance granted by the Department of Skill Development in providing the training of training personnel, skill standard testing provider, supervisors and others as well as on curriculum and equipment Development
- Consultation service from Department of Skill Development on skill development activities
- Other privileges indicated in Ministerial Regulations
- Exemption on import duty and value added tax (VAT) for tools and machinery brought into the kingdom for training purpose
- Deduction on utility charges for electricity and pipe water bills in the amount of two times of the training expenses

Under the Act, it is compulsory for establishments with at least 100 employees to provide training for the employees at the rate of 50 percent of the total number of employees, if not the employer has to make a contribution to the Skill Development Fund at 1% of the current legal minimum hourly wage of the previous calendar year (minimum daily wage) * 30 (days) * 12 (months) * the number of untrained employees). Failure to do so is punished by imposing an additional penalty of 1.5% of the outstanding amount per each month of the delay until the contribution is made in full. Furthermore, the establishments gain other benefits under this Act such as exemption tax on training machines, bringing in experts or trainers to train their workers, and charge-free water and electric fees.

Note: For further information about the Act, an English-language version of the file can be downloaded at: www.boi.go.th

Source: Department of Skill Development, Ministry of Labour, as of July 2023.

Labour Skill Development Promotion Act B.E.2545 (2002), as of July 2023.

6.1.5. Recruiting Technically skilled Manpower

The Department of Employment, Ministry of Labour and Social Welfare, has a web site listing both job fairs and employment opportunities. It can be found at: www.doe.go.th.

Numerous 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.

Source: Office of the Council of State, as of July 2023.
Department of Employment, as of July 2023.

6.1.6. Regulations on Employment of People with Disabilities

In accordance with sections 33, 34 and 45 of the Persons with Disabilities Empowerment Act, B.E. 2550 (2007) and its amended version (No. 2), B.E. 2556 (2013), the Ministerial Regulation of the National Office for Empowerment of Persons with Disabilities dated April 26, 2011, has placed a positive obligation on employers to hire disabled employees in their workplace. The new regulations require employers to hire one disabled employee for every 100 employees.

- The number of employees is determined as at 1 October each year.
- After the first 100 employees, the hiring obligation is triggered by every 50 employees thereafter. (For example, an employer with 100 employees would be required to hire one disabled employee and an employer with 150 employees would be required to hire two disabled employees).

- Employers who fail to hire the required number of disabled employees will have to pay the Fund for Empowerment of Persons with Disabilities no later than 31 March, in an amount equal to the statutory minimum daily wage multiplied by 365 days for each disabled employee who is not hired.

Source: Office of the Council of State, as of July 2023.

6.2. STEM Workforce

In a strategic endeavor to bolster manpower development within the industrial sector, the NXPO has collaborated closely with the Office of the Permanent Secretary, Ministry of Higher Education, Science, Research and Innovation (MHESI). The result is the conception of STEMPlus (<https://stemplus.or.th>), an advanced online platform that assumes a pivotal role. This platform serves as an indispensable repository, delivering essential information and services tailored to the burgeoning STEM workforce.

Some of the notable services provided by this platform include:

6.2.1. Workforce Requirement Notification

Employers may communicate their manpower requirements through STEMPlus, encompassing workforce development needs within the organization and future workforce development. The Ministry of Higher Education, Science, Research, and Innovation (MHESI) operates the STEM One-Stop Service (STEM OSS), which coordinates collaborative efforts to produce skilled individuals and promote research development based on demands, while also supporting the employment of highly skilled workforce under the Thailand Plus Package. Employers may also communicate their manpower requirements through STEMPlus, which includes activities such as recruiting new employees, skill development, internships, collaboration with higher education institutions to generate manpower aligned with organizational or industry needs, promoting research projects, or establishing specialized training centers. The STEM OSS plays a vital role in coordinating cooperation to address demands and facilitate the application for government-supported initiatives (if applicable).

➤ Consideration Criteria

- 1) Project approval document from the director or the authorized representative of the organization
- 2) Certificate of organization establishment
- 3) Additional quality assessment documents

➤ Steps to Notify Workforce Requirement

- 1) Submit a form to notify the Office of National Higher Education Science Research and Innovation Policy Council (NXPO) of workforce requirement.
- 2) The NXPO will announce the results of the workforce requirement notification within 60 days from the date of receipt of the form and supporting documents.

Source: stemplus.or.th, as of July 2023

6.2.2. Request for Certification for STEM Workforce

On 1 Dec 2021 Thailand Tax Royal Decree (No 739) was gazette extending the corporate tax deduction concession for STEM employee costs.

This Royal Decree extends the Thai Government's encouragement of targeted industry business to hire STEM employees under Royal Decree (No. 711) that applied for the 2019 and 2020 years and Royal decree (No. 739) applied for 2021 and 2022. A summary of the Royal Decree (No. 739), applying for the 2021 and 2022 years follows.

However, although the Royal Decree on Tax Exemptions (No. 739) B.E. 2564 (2021) had already expired, the Cabinet recently had a meeting and approved the extension of the measure, which is currently awaiting announcement. The extension will cover deductions from January 1st, 2023 to December 31st, 2025.

➤ STEM Employees

STEM is one of the initiatives and objectives of the Thailand 4.0 Development Plan for the development of educational institutions and education of highly-skilled personal. STEM employees are highly-skilled in Science, Technology, Engineering and/or Mathematics.

➤ Applicability

From January 1st, 2021 to December 31st, 2022

➤ The Corporate Tax Deduction Concession

For the salary costs paid to STEM employees from January 1st, 2021 to December 31st, 2022, there is a corporate tax deduction concession of 150% of the costs. That is:

- The usual 100% deduction for the employment costs; plus
- An additional 50% deduction for the employment costs, but only on the portion that does not exceed 100,000 Baht per month.

➤ **Rules and conditions**

The rules and conditions prescribed in Royal Decree (No. 739) are that:

- 1) The corporate entity claimant shall be a targeted industry business under the law governing targeted industry business;
- 2) The salaries and wages costs shall be paid to employees, highly-skills in science, Technology, Engineering or Mathematics
- 3) The STEM employees shall have certificates for their skills as specified by the Revenue Dept;
- 4) The STEM employees shall be employed under hire of labor contracts;
- 5) The STEM employees shall not have been an employee for at least 1 year before their commencement of employment during January 1st, 2021 to December 31st, 2022; and
- 6) The corporate entity claimant shall comply with the Revenue Department additional rules, procedures, and conditions.

➤ **Caution**

If the Revenue Department's tax audit officers find any of the rules procedures or conditions have not been met, the entitlement to the concession may be lost and back-taxes plus penalty and surcharge could be payable.

➤ **Application for Employment Certification**

Eligible Applicants for Employment Certification

- Companies or partnerships that operate in target industries

Supporting Documents for Employment Certification Application

- 1) Job Description
- 2) Copy of a document showing qualifications, competencies, or experience of the employee, including any of the following: diploma, academic transcript, certificate, or resume
- 3) Copy of the employment contract, stating the start date of employment and position
- 4) Copy of the employee's ID card

Criteria for Certification

- 1) The applicant must be a company or partnership that operates in a target industry.
- 2) The position must be in line with the target industry that require high level of skills in science, technology, engineering, or mathematics (STEM) fields.
- 3) The employee must possess qualifications, competencies, or experience relevant to the position.
- 4) The employment contract must be signed between January 1st, 2021 and December 31st, 2022.
- 5) Certification of employment for highly skilled employments in STEM fields is overseen by the Certification Committee for Training Courses and Highly Skilled Employments in STEM fields, appointed by the NXPO.

Application Process

- 1) The applicant registers their organization through the website www.stemplus.or.th.
- 2) The applicant will receive an email to confirm the accuracy of the information.
- 3) The NXPO will review the application within 30 days of receiving the application form for certification of employment and training courses, provided that the supporting documents are complete and accurate.
- 4) The applicant will receive an email notification of the results of the review.
- 5) If the application is approved, the applicant may download the employment certificate from the information system to use as evidence for tax exemption with the Revenue Department. The NXPO will send the results of the employment certification to the Revenue Department for reference in granting tax exemption to the applicant. However, approval of tax benefits is subject to the discretion of the Revenue Department.

Source: Stemplus.or.th, as of July 2023

Office of National Higher Education Science Research and Innovation Policy Council, as of July 2023
Revenue Department, as of July 2023
Office of the Council of State, as of July 2023.
Royal Decree No.739, as of July 2023.
Thailand STEM Employee Costs, Sherrings, as of July 2023

6.2.3. Request for Certification for STEM Training Courses

To promote and support the training of employees of companies or partnerships to enhance their skills, Thailand Tax Royal Decree (No. 740) was gazette extending the corporate tax deduction concession for STEM employee costs.

This Royal Decree extends the Thai Government's encouragement of targeted industry business to provide their employees with study or training under Royal Decree (No. 712) that applied for the 2019 and 2020 years and Royal decree (No. 740) applied for 2021 and 2022. A summary of the Royal Decree (No. 740), applying for the 2021 and 2022 years follows.

However, although the Royal Decree on Tax Exemption (No. 740) B.E. 2564 (2021) had already expired, the Cabinet recently had a meeting and approved the extension of the measure, which is currently awaiting announcement. The extension will cover deductions from January 1st, 2023 to December 31st, 2025.

➤ The Corporate Tax Deduction Concession

Companies or partnerships that incur expenses for providing their employees with study or training, or for organizing training courses certified by government agencies as designated by the Director-General from January 1st, 2021, to December 31st, 2022, are eligible for a corporate tax deduction concession of 250% of the costs. That is:

- The usual 100% deduction for the training costs; plus
- An additional 150% deduction for the training costs.

➤ Rules and conditions

The rules and conditions prescribed in Royal Decree (No 740) are that:

- 1) The company or partnership must provide training or study for its employees in a course certified by the Ministry of Higher Education, Science, Research and Innovation (MHESI), the Eastern Economic Corridor Office of Thailand (EECO), or the Digital Economy Promotion Agency (DEPA).
- 2) The study or training according to (1) must begin by December 31st, 2022.
- 3) The study or training in the course according to (1) must be for the benefit of the company or partnership that is the employer.
- 4) A company or partnership that has used the tax exemption granted by the Royal Decree on Tax Exemptions (No. 740) B.E. 2564 (2021) in accordance with the provisions of the Revenue Code may not use the tax exemption granted by any other Royal Decrees in accordance with the provisions of the Revenue Code again, in whole or in part.

➤ Certification of Training Courses

Training course refers to a short-term or long-term course that is organized for the purpose of developing the workforce for a company or partnership.

Organizations or establishments that are eligible to apply for certification of training courses in STEM fields include:

- 1) Educational institutions
- 2) Research institutions or government agencies
- 3) Companies or partnerships that have an internal training division
- 4) Companies or partnerships that aims to organize training for its workforce

Supporting Documents for Application

- 1) Copy of documents verifying the establishment of the organization
- 2) Copy of documents containing course content that aligns with the required skills of workforce as specified by the NXPO or the target industry, such as course descriptions, topics, syllabi, teaching plans, teaching materials, or lesson schedules
- 3) Instructor profiles

Criteria for the Certification of Training Courses

The certification of training courses for the workforce development in STEM fields will be carried out by the Certification Committee for Training Courses and Highly Skilled Employments in STEM fields, appointed by the NXPO. The criteria are as follows:

- 1) Relevance to national policies for target industries: the proposed training course must align with the required workforce skills as specified by the NXPO or as determined by the committee to be relevant to target industries.
- 2) Course content: the content must align with the learning outcomes, the teaching methodologies must be effective, and the course must include an assessment of learning outcomes or abilities.
- 3) Competent instructors: the instructors must be qualified to deliver the course.

Application Process

- 1) The applicant registers their organization through the website www.stemplus.or.th.
- 2) The applicant will receive an email to confirm the accuracy of the information.
- 3) The NXPO will review the application within 30 days of receiving the application form for certification of employment and training courses, provided that the supporting documents are complete and accurate.
- 4) The applicant will receive an email notification of the results of the review.
- 5) If the training certification is approved, the applicant may download the training course certificate from the information system. The NXPO will publish information on certified courses to the public through the

information system. Then, they will send the results of the training course certification to the Revenue Department for reference in granting tax exemption to companies or partnerships that provide training or study to their workforce or training costs for employees in certified courses. However, approval of tax benefits is subject to the discretion of the Revenue Department.

Source: Stemplus.or.th, as of July 2023

Office of National Higher Education Science Research and Innovation Policy Council, as of July 2023

Revenue Department, as of July 2023

Office of the Council of State, as of July 2023.

Royal Decree No.740, as of July 2023.

Chapter 6 Relevant Laws and Regulations

- Labour Protection Act B.E. 2541 (1998)
- Labour Relations Act (No. 2) B.E. 2518 (1975)
- Labour Skill Development Promotion Act B.E. 2545 (2002)
- Labour Skill Development Promotion Act B.E.2545 (2002)
- Persons with Disabilities Empowerment Act B.E. 2550 (2007)
- Persons with Disabilities Empowerment Act (No. 2) B.E. 2556 (2013)
- Place of Entertainment Act B.E. 2509 (1966)
- Social Security Act B.E. 2533 (1990)
- Workmen's Compensation Act B.E. 2537 (1994)
- Workmen's Compensation (No. 2) Act B.E. 2561 (2018)
- Royal Decree Issued under the Revenue Code Regarding Tax Exemptions (No. 739) B.E. 2564 (2021)
- Royal Decree Issued under the Revenue Code Regarding Tax Exemptions (No. 740) B.E. 2564 (2021)
- Ministerial Regulation No. 3 (B.E. 2541 (1998)) Issued under the Labour Protection Act B.E. 2541 (1998)
- Ministerial Regulation No. 11 (B.E. 2541 (1998)) Issued under the Labour Protection Act B.E. 2541 (1998)
- Ministerial Regulation No. 14 (B.E. 2555 (2012)) Issued under the Labour Protection Act B.E. 2541 (1998)
- Ministerial Regulation Prescribing Establishments Prohibited from Employment of Children under 18 Years of Age B.E. 2559 (2016)
- Ministerial Regulation Prescribing Funeral Expenditures for Employers B.E. 2564 (2021)
- Ministerial Regulation Prescribing Medical Treatment Expenditures for Employers B.E. 2558 (2015)
- Ministerial Regulation Prescribing Rehabilitation Expenditures for Employers B.E. 2563 (2020)
- Ministerial Regulation Prescribing Social Security Fund Contribution Rates B.E. 2565 (2022)
- Ministerial Regulation Prescribing the Number of Persons with Disabilities Required to Be Employed by Employers or Owners of Business Facilities and State Agencies, and the Amount of Money Required to Be Remitted to the Fund for Quality-of-Life Promotion and Development for Persons with Disabilities by Employers or Owners of Business Facilities (No. 2) B.E. 2560 (2017)
- Ministerial Regulation Prescribing the Number of Persons with Disabilities Required to Be Employed by Employers or Owners of Business Facilities and State Agencies, and the Amount of Money Required to Be Remitted to the Fund for Quality-of-Life Promotion and Development for Persons with Disabilities by Employers or Owners of Business Facilities B.E. 2545 (2002)

- Notification of Ministry of Labour Prescribing Compensation Payment Period, Criteria, and Monthly Wage Calculation Methods, Dated February 21st B.E. 2562 (2019)
- Notification of Ministry of Labour Prescribing Types, Sizes, and Areas for Employers to Make Supplementary Contributions to the Labor Skill Development Fund, Dated November 23rd B.E. 2552 (2009)
- Notification of Wage Committee Regarding Minimum Wage Rates (No. 11), Dated September 1st B.E. 2565 (2022)

Chapter 7

Frequently Asked Questions

➤ **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. The IMD World Competitiveness Index released in 2024, has ranked Thailand 30th globally and 9th in the Asia Pacific region in terms of the country's competitive landscape. The index of economic performance has undergone a remarkable improvement, leaping from the 34th position overall to an impressive 16th, thus underscoring Thailand's readiness to attract investments and inspire investor confidence. Rating in the top for many years, Thailand's present on the World Competitiveness Index outshines that of most ASEAN countries.

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. In addition, companies promoted by the Board of Investment receive permission to bring in foreign workers, own land and take or remit foreign currency abroad. Additionally, foreign businesses in the manufacturing sector are entitled to 100% ownership. Other government organizations, like the Department of International Trade 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 over 66 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 21st 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's market is not limited to its neighboring countries alone. Boasting 14 free trade agreements involving 18 economies, investors gain access to markets within the region and across continents. The Regional Comprehensive Economic Partnership (RCEP) has propelled regional integration to a new level, creating abundant opportunities among partner nations and seamlessly integrating Thailand into the global supply chain as an integral part of the global community.

➤ **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 13 years for eligible activities under new investment policy (2023-2027), 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 as well as the One Start One Stop Investment Center (OSOS), which facilitates investment by providing information and consultancy related to doing business in Thailand on topics such as science and innovation, source of funds, banking and financing.

In order to bolster the ambition of becoming an industry hub within ASEAN, Thailand has implemented a mechanism aimed at assisting multinational companies in establishing regional headquarters. Collaborating with three other government agencies, the BOI has initiated a comprehensive consultation platform known as the "HQ Biz Portal." This platform is designed to offer a diverse array of facilitation services to companies seeking to create regional headquarters in Thailand. The HQ Biz Portal encompasses a variety of essential services, such as an information center and an appointment system. All of these services have been carefully curated to ensure that investors receive the necessary attention and guidance for their endeavors in establishing HQ operations.

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

➤ **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 Costs of Doing Business in Thailand report.

➤ **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.

➤ **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 lists many of them, complete with application forms for exhibitors.

➤ **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) 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) 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) 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), as well as the Board of Trade, foreign embassies and foreign chambers of commerce in Thailand.

➤ **Where can I obtain a list of Thai importers and exporters, with contact information?**

The list of exporters and importers is collected by the Office of the Permanent Secretary of the Ministry of Commerce (www.ops.moc.go.th). Each set of data is published after the 20th of each month and can be accessed through the Ministry of Commerce's Public Data.

➤ **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 is available from the Customs Department (www.customs.go.th), while information pertaining to excise tax can be obtained from the Excise Department (www.excise.go.th).

➤ **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 2002. The Arbitration Office of the Ministry of Justice administers these procedures.

- **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.?**

Information can be sourced from organizations such as the Lawyers Council of Thailand (www.lawyerscouncil.or.th), the Thai Bankers' Association (www.tba.or.th), and the Association of International Banks (www.aib.or.th). Foreign embassies and chambers of commerce in Thailand can recommend consultants, real estate brokers, etc.

- **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.

- **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.

- **What are the rules and regulations relating to the transportation of commodities across the Thai border to neighboring countries?**

The Thai Customs Department operates a Customs Call Center at Tel. 1164 or via the email at 1164@customs.go.th. In addition, you can visit their website at www.customs.go.th for information about export formalities.

- **Where can I obtain a list of all Thai hotels?**

Two good sources of information would be the Thai Hotel Association (www.thaihotels.org) and the Tourism Authority of Thailand (www.tourismthailand.org). Agoda (www.agoda.com) and Airbnb (th.airbnb.com) serve as viable alternatives when seeking different types of accommodation.

- **Can a foreigner apply for a Permanent Residence Permit? How?**

Yes.

Eligibility

A foreign national may qualify to apply for a residence permit if he/she

- holds a passport of his/her current nationality, which was granted a NON-IMMIGRANT VISA and has been permitted to stay in the Kingdom of Thailand on the basis of one year visa extension for the total of at least 3 consecutive years up to the application submission date.
- has personal qualifications that fit one of the following categories:
 - 1) Investment category
 - 2) Working/Business category
 - 3) Humanity Reasons category: he/she must have relationship with a Thai citizen or an alien who already possessed residence permit as the followings:
 - A legal husband or wife.
 - A legal father or mother.
 - A child who is under 20 years of age up to the application submission date and must be single.
 - 4) Expert category
 - 5) Extra circumstances on a case-by-case basis (For more information please access to www.immigration.go.th)

Submission and Procedures after Submission

Ministry of Interior will announce the annual quota of foreigners to be granted with residence permit and such announcement will be published in the Government Gazette. Application can then be submitted until the last working day of the year. The procedures that follow the acceptance of applications are shown below.

- The immigration officers will grant the applicants for 180 days extension of stay on the date of application submission first and the next extension will be granted for 180 days until the results of the applications come out from The Immigration Commission.
- The applicants and those who get involved with the applications will get an appointment card to come for an interview with the immigration officers. The interview includes the test of the understanding of Thai language: speaking and listening (the applicants must come for the interview on the date of appointment; otherwise, without an appropriate reason, it will be automatically taken into the consideration that they cancel the applications.)
- The applicants who are 14 years of age up to the application submission date must be checked their criminal records as the followings:
 - 1) Their fingerprint sheets are sent to the Criminal Records Division for the criminal record check in Thailand.
 - 2) Their passports are checked by the black list system whether they are considered as “prohibited persons” according to the Immigration Bureau.

3) They are to be checked whether they are wanted by a foreign warrant of arrest by the Foreign Affairs Division.

- **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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