

## Investment Promotion

Thailand promotes investments by granting tax and non-tax incentives to Thai and non-Thai investors who are manufacturers and service providers of promotion eligible business activities.

### 1. Major Governing Legislations

- (1) Investment Promotion Act B.E. 2520 (A.D. 1977) as amended by the Investment Promotion Act (No. 2) B.E. 2534 (A.D. 1991) and the Investment Promotion Act (No. 3) B.E. 2544 (A.D. 2001) (“**IPA**”);
- (2) Eastern Economic Corridor Act B.E. 2561 (A.D. 2018) (“**EECA**”);
- (3) Announcements of the Board of Investment No. 2/2557, No. 1/2551 and No. 4/2556 (“**BOI Announcements**”); and
- (4) Announcements of the Office of the Board of Investment.

### 2. Board of Investment ("BOI")

The BOI is in charge of providing incentives for investments. It is chaired by the Prime Minister with economic ministers, senior civil servants, representatives of major private sector organizations, and academics serving as Board members and advisors. The investment promotion activities are carried out by the BOI Office under support and supervision of the Prime Minister Office.

### 3. Negative Undertakings

To encourage investments, Thailand undertakes that it will NOT do any of the followings (IPA, Sections 43 to 48):-

- (1) nationalization;
- (2) competition from new state enterprises;
- (3) state monopolization of sale of products similar to those produced by the promoted enterprises;
- (4) price controls;
- (5) export restrictions; and

(6) tax exempt imports by government agencies or state enterprises.

#### **4. Special Protection Measures**

Thailand may protect newly promoted projects by providing the following special measures:

- (1) imposition of a surcharge on foreign products at a rate not exceeding 50% of the CIF value for a period not more than 1 year at a time (IPA, Section 49);
- (2) import ban on competitive products (IPA, Section 50); and
- (3) tax relief or any other assistance for promoted projects (IPA, Section 51).

#### **5. Non-Tax Incentives**

Promoted persons may be granted special permits to:

- (1) bring foreign nationals to undertake investment feasibility studies (IPA, Section 24);
- (2) bring foreign technicians and experts to work under the promoted project (IPA, Sections 25 and 26);
- (3) own land for the promoted project (IPA, Section 27);
- (4) own land for use as (a) offices of the promoted project (up to five rai), (b) as residence of executives or experts (up to 10 rai) and (c) as residence of workers (up to 20 rai) (the BOI Announcements No. 1/2551 and No. 4/2556); and
- (5) remit and repatriate funds in foreign currencies (IPA, Section 37).

Foreign experts, executives, entrepreneurs and investors who work for or invest in promoted persons doing business in 10 targeted industries can obtain smart visas (the BOI Announcements No. Por. 4/2561 dated 1<sup>st</sup> February 2018 re: Qualifications, Terms and Conditions for Smart Visa B.E.2561, and No. Por. 5/2561 dated 1<sup>st</sup> February 2018 re: Procedures for Requesting Qualification Certificate for Foreigners to Obtain Smart Visa).

#### **6. Tax Incentives**

**6.1 Promoted projects** may be granted the following tax incentives:

- (1) exemption or reduction of import duties on imported machinery (IPA, Sections 28 and 29);

- (2) exemption or reduction of import duties on imported raw or essential materials and components (IPA, Section 30);
- (3) exemption from corporate income tax for a maximum of 8 years with permission to carry forward losses as expenses for up to 5 years after the tax exemption period (IPA, Section 31);
- (4) exemption from corporate income tax for a maximum of 13 years with permission to carry forward losses as expenses for up to 5 years after the tax exemption period for advanced technology and innovation or research and development projects (IPA, Section 31/1);
- (5) within 10 years from the date of first deriving of income from the promoted projects, up to 70% of investments in the promoted projects could be treated as allowances of the net profit of any year, apart from the normal depreciation (IPA, Section 31/2);
- (6) deduction of corporate income tax for a maximum of 10 years for the promoted projects that are not granted with the corporate income tax exemption (IPA, Section 32);
- (7) exemption for up to 5 years of withholding tax on goodwill, royalties or fees remitted abroad (IPA, Section 33); and
- (8) exemption from tax on dividends distributed from profits during the corporate income tax exemption period and such dividends can be paid within six months after the tax exemption period ends (IPA, Section 34).

**6.2 Promoted projects located in special investment promotion zones** may be granted the following tax incentives (IPA, Section 35):-

- (1) corporate income tax exemption for 8 years but not to exceed 100% of investment capital (excluding land cost and working capital);
- (2) 50% reduction of corporate income tax for 5 years in addition to original 8 years for knowledge based and infrastructure projects;
- (3) two-time deduction of costs of transportation, electricity and water supply from taxable income;
- (4) exemption of import duty for machinery and raw materials and essential materials production of products for export.

**6.3 Promoted projects in the target industries** as designated by the EEC Policy Committee may be granted:-

- (1) exemption of corporate income tax for 8 years, but not to exceed 100% of investment capital (excluding land cost and working capital);
- (2) 50% reduction of corporate income tax for 5 years after the corporate income tax exemption period;
- (3) two-time deduction of costs of transportation, electricity and water supply from taxable income for 10 years from the revenue generation date;
- (4) deduction up to 25% of costs for installing infrastructure facilities of the project from taxable income;
- (5) exemption of import duty on machinery and exemption of import duty for raw materials and essential materials for production of products for export for 5 years

**6.4 Promoted projects producing products primarily for export** may be granted additional exemptions of:

- (1) import duties on raw and essential materials;
- (2) import duties on raw and essential materials for producing re-exported products; and
- (3) export duties.

## **7. Eligible Activities**

- (1) agriculture and agricultural products;
- (2) mineral, ceramics and basic metals;
- (3) light industry;
- (4) metal products, machinery and transport equipment;
- (5) electronics and electrical appliances industry;
- (6) chemicals, paper and plastic; and
- (7) service and public utilities.

## **8. Project Approval Requirements (BOI Announcement No. 2/2557)**

### **8.1 Project for enhancing competitiveness** in agricultural, industrial and services sectors

- (1) the value added of the project of at least 20% of revenues (except for projects in agriculture and agricultural products, electronic products and parts and coil centers, where the value added of at least 10% of revenues);
- (2) use of modern production processes;
- (3) use of new machinery (old machinery may be specially by the BOI);
- (4) obtaining an ISO 9000 certification or similar international standards certification within 2 years from the full operation commencement date if investment capital is THB 10 million or more.

### **8.2 Projects for environmental protection**

- (1) measures to protect environmental quality and reduction of environmental impact;
- (2) compliance with environmental law and regulations if project is required to have EIA report;
- (3) compliance with other requirements under the BOI Office Announcement No. Por 1/2554 if project is located in Rayong.

### **8.3 Minimum investment capital and project feasibility study**

- (1) investment capital of not less than THB 1 million (excluding land cost and working capital) unless specified otherwise in the list of activities eligible for investment promotion (for knowledge-based activities, the minimum capital investment capital can be lower);
- (2) debt-equity ratio not more than 3:1 for new project;
- (3) feasibility study if the project investment capital is higher than THB750 million (excluding land cost and working capital)

### **8.4 Projects owned by foreigners**

- (1) not less than 51% of the registered capital owned by Thai nationals for projects in agriculture, animal husbandry, fisheries, mineral exploration and mining or services under the Foreign Business Act B.E. 2542;
- (2) 100% ownership by foreign investors for manufacturing projects;

(3) other foreign ownership limit as BOI may determine for some projects.

### **9. Actions Required after Grant of Promotion Approval**

- (1) Acceptance within one month from receiving granting letter from the BOI (IPA, Section 21);
- (2) Filing progress report within 6 months of accepting the promotion approval and submitting application for issuance of a promotion certificate (IPA, Section 22).

### **10. Actions Required after Grant of Promotion Certificate**

- (1) Commencing factory construction and purchasing machinery within 6 months;
- (2) Importing machinery and equipment within 30 months;
- (3) Filing project progress report to the BOI every 6 months from the project implementation date;
- (4) Completing project construction within 36 months;
- (5) Filing operation result report with the BOI by 31<sup>st</sup> July each year;
- (6) Obtaining BOI permission for mortgage, sale, transfer or rent of imported machinery exempted from import duties.

### **11. Promotion for Projects in EEC Area**

- (1) The EECA provides investment incentives to Thai and non-Thai business operators operating in the Special Economic Promotion Zones (“**SEPZ**”) located in the EEC area (Chonburi, Rayong and Chacheongsao).
- (2) The 10 targeted industries (automotive, smart electronics, affluent and wellness tourism, agriculture and biotechnology, food for the future, robotics, aviation and logistics, biofuels and bio-chemicals, digital technology, and medical hub) are given promotion priority (EECA, Section 39).
- (3) The EECPC and the EEC Office implement and enforce investment promotions under the EECA (EECA, Sections 10, 14, 68 and 70).
- (4) Promotion application can be filed with the EEC Office through the BOI or directly with the EEC Office.



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