



Tax & Legal News Flash

KPMG in Thailand



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Effective on February 1, 2018, qualifying foreign experts, executives, entrepreneurs and investors working or investing in the science and technology targeted industries may be eligible for a SMART visa.

WHY THIS MATTERS

This is a follow up to the immigration article issued by KPMG in January 2018 in order to provide further details and information on the qualifications, criteria and privileges provided under the SMART visa program.

We welcome the new visa program where candidates qualifying to receive a SMART visa gain benefits for themselves as well as their accompanied family members.

The SMART visa is offered to qualifying foreign experts, executives, entrepreneurs and investors who wish to enter into Thailand to work or to invest in the following 10 S-Curve industries:

10 S-Curve Industries

Next-Generation Automotive
Smart Electronics
Affluent, Medical and Wellness Tourism
Agriculture and Biotechnology
Food for the Future
Automation and Robotics
Aviation and Logistics
Biofuels and Biochemicals
Digital
Medical Hub

Key contacts

Lynn Tastan

Partner,
Global Mobility Services
(GMS)
ltastan@kpmg.co.th

Tanitha Cha-Um

Associate Director,
Immigration Services
tanitha@kpmg.co.th

Wanpratueng Ramgomut

Associate Director,
Immigration Services
wanpratueng@kpmg.co.th

Categories, Qualifications and Benefits under the SMART Visa

Visa Type	Category	Purpose	Qualifications	Benefits
SMART	T	Highly-Skilled Expert (Talents)	Minimum salary of no less than 200,000 Baht or equivalent per month (exclusive of other benefits and welfares). Having an employment contract or service contract	Maximum 4-year visa, but not exceeding the remaining employment/service contract term. No work permit required for working in the

			<p>with an entity in Thailand with the remaining term of at least 1 year. Having expertise in science and technology relevant to the targeted industries and endorsed by a government agency (except for experts who work for a government agency). Employers in Thailand must be certified as being engaged in the targeted industries by a relevant government agency.</p>	<p>endorsed companies or a Thai government agency. Any changes or additions to the job description must be officially pre-approved by relevant government agency under the technical endorsement. 90-day reporting to Immigration extended to 1 year. No re-entry permit required. Spouses and children granted the right to stay and work in Thailand with no work permit required (jobs must not be on the prohibited list of occupations and professions for foreigners. Children wishing to work must be at least 18 years of age).</p>
SMART	I	Investors	<p>Minimum direct investment by the individual of at least 20 million Baht in one or more companies in Thailand in the targeted industries using technology as a base in manufacturing or delivering services. The investment must be maintained throughout the validity period of the SMART visa. The business to be set up or invested in must be certified as being in the targeted industries using technology in manufacturing or delivering services by the relevant government agency.</p>	<p>The privileges in Smart I are the same as those in Smart T, except that children of the Smart I holders cannot work in Thailand under the SMART visa.</p>
SMART	E	Senior executives	<p>Minimum salary of no less than 200,000 Baht or equivalent per month (exclusive of other benefits and welfares). Holder of a bachelor's degree or higher with at least 10 years of work experience in the relevant field.</p>	<p>The privileges in SMART E are the same as those in SMART T, except that children of the SMART E holders cannot work in Thailand under the SMART visa.</p>

			<p>Having an employment contract with a company in Thailand or in a foreign country with an assignment to work in Thailand.</p> <p>The remaining period of the employment contract must be at least 1 year.</p> <p>Holding a senior management position such as Chairman or Managing Director. The employer companies must be certified as being in the targeted industries using technology in manufacturing or delivering services by the relevant government agency.</p>	
SMART	S	Startup entrepreneurs	<p>Having a fixed savings account in Thailand or in a foreign country with a balance of not less than 600,000 Baht or equivalent with the remaining maturity term of at least 1 year. Where the applicant is accompanied by a spouse and children, an additional amount of fixed savings of at least 180,000 Baht per person or equivalent is required.</p> <p>Having a health insurance policy covering the entire course of stay in Thailand for the applicant of the SMART visa and for the accompanying spouse and children.</p> <p>Participating in an incubation or accelerator program, or a similar program endorsed by a government agency.</p> <p>In case of not participating in an incubator or a similar program, the applicant must receive joint venture funding or endorsed by a government agency.</p> <p>Applicants must set up a company in Thailand within one year. The business or investment must be certified as being in the targeted industries</p>	<p>The privileges in SMART S are the same as those in SMART T, except:</p> <p>The visa will only be valid for 1 year in the first year and 2 years in the subsequent years. Children of the SMART E holders cannot work in Thailand under the SMART visa.</p>

			by relevant government agencies and the applicants must hold no less than 25% of the company's shares or assume a position of a director of the company.	
	O	Spouse and Children of SMART Visa holder	N/A	See privileges within each of the above categories.

Smart Visa Application Process

Both foreigners residing outside Thailand and foreigners already residing in Thailand can apply for the SMART visa, if the above qualifications are met.

Qualifying applicants must submit the SMART visa application along with supporting documents to the SMART Visa Unit, a newly established department under the Thailand Board of Investment ("BOI") which is located at the One-Stop Center for Visas and Work Permits in Bangkok, Thailand. The SMART Visa Unit at the One-Stop Center will process applications, including assessing the technical qualifications, immigration issues and confirmation of whether the applied occupations are not legally prohibited by various designated agencies, obtain verification and endorsement etc. These processes will be completed before the SMART Visa Unit will issue a qualification endorsement letter which the applicant will use to apply for the SMART visa at either the Thai Embassies or Consulates (in case of residing outside Thailand) or the Immigration Bureau at the One-Stop Center for Visas and Work Permits (in case of residing inside Thailand). The qualification endorsement letter for the SMART visa is valid for 60 days.

The total processing time is estimated at 30 working days upon receipt of a completed application dossier by the One-Stop Center for Visas and Work Permits.

Reporting Requirement

SMART visa holders must submit documents to prove their current qualification status to the SMART Visa Unit at the One-Stop Center for Visas and Work Permits on an annual basis (after receiving permission to stay in Thailand).

KPMG NOTE

At first glance the SMART Visa appears to be an attractive program, however, we have certain reservations regarding the administrative and implementation process.

From our review of the details of the program it may be difficult for individuals to meet the required criteria which could delay the 30 day processing time especially since in practice, additional documents may be required. For one, the employer companies and start-up

companies must be certified by relevant government agencies in the targeted S-Curve Industries, which we anticipate will take time to obtain. Foreign start-up entrepreneurs under the SMART S visa must set up a company in Thailand in order to comply with the visa requirements. However, should the foreign entrepreneur wish to retain control of their company in Thailand they may be required, depending on the nature of their business activities, to obtain a foreign business license under the Thailand Foreign Business Act. The obtaining of a foreign business license could take up to three months. Furthermore, SMART visa holders would still need to prove their qualification status on an annual basis, which is no different from non-immigrant visa holders who need to renew their visas and work permits on a yearly basis (or every 2 or 4 years for those non-immigrant visa holders granted under special incentives programs issued by the BOI).

Overall, if candidates can successfully qualify and be granted a SMART visa and continue to maintain qualifications throughout the duration of the visa, the benefits under the SMART visa such as not having to apply for a work permit or a re-entry permit or the extension of the 90-day reporting to Thai Immigration to a year are well worth the administrative efforts required to obtain the SMART visa.

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