



Investment in Thailand

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Foreword

This book is an overview of issues to consider when investing and doing business in Thailand. It is intended for general information purposes only. Applicability of the information to specific situations should be determined through consultation with your advisors at KPMG.

The information contained here is current at the date of printing, and may change over time.

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Glossary



1. Country overview

1.1 Geography

The Kingdom of Thailand is situated in the heart of mainland Southeast Asia. It faces the Andaman Sea and Myanmar to the west, Laos and Cambodia to the north and east, and Malaysia to the south.

According to Central Intelligence Agency (CIA) World Factbook as of 2017, Thailand is the world's 52nd largest country by geographical size. Its four geographical regions make up a total area of 513,120 square kilometers, divided between 510,890 square kilometers of land and 2,230 square kilometers of water. Its coastline measures 3,219 kilometers.

The capital of the country is Bangkok.

Thailand is divided into 77 provinces and one municipality, each administered by a governor. The country is divided into four regions: central, northern, north-eastern and southern. The provinces are sub-divided into districts, sub-districts, *tambons*, and villages.

1.2 Climate

The four regions share the tropical climate of Southeast Asia.

Due to the southwest monsoons during mid-May to September, the climate is generally rainy, warm and cloudy, making the country suitable for agriculture.

From November to mid-March, the climate is generally dry and cool because of the northeast monsoons.

The southern isthmus of Thailand is more hot and humid than the rest of the country.

1.3 People

Based on the Central Intelligence Agency (CIA) World Factbook 2017, Thailand's population is estimated at 68.41 million, making it the 20th largest country ranked by population.

Bangkok is the largest metropolitan area, with an estimated population of 9.27 million.

Ethnically, the population of Thailand is relatively homogeneous. Approximately 97.5% of the population is ethnic Thai, and 94.6% of the population is Buddhist. The Chinese form the largest ethnic minority.

1.4 The economy

Thailand has enjoyed steady growth as a result of industrial and agricultural exports. The country has a well-developed infrastructure compared to its neighbors and provides fiscal and non-fiscal incentives for investment in key industries, resulting in economic growth in recent years. Exports primarily include electronics, automobiles and parts, agricultural commodities and processed foods.

The eastern seaboard of Thailand, an hour drive from Bangkok, has been a primary focus for industrial and infrastructural developments for the past three decades. It includes Laem Chabang – one of the world's busiest ports, Suvarnabhumi – the country's largest international airport, and a high-speed motorway connecting the two with central Bangkok. Many multinational corporations have located their factories near these locations, including automotive manufacturers.

In 2016, according to the NESDB, Thailand's GDP was USD407.1 billion with a growth of 3.2%. The major sectors contributing to the GDP are services (55.8%), industries (35.8%) and agriculture (8.3%).

Included in the industries sector are tourism, textiles and garments, agricultural processing, cement, light manufacturing such as jewelry and electric appliances, computers and parts, automobiles and parts, petrochemicals, petroleum refining, and mining. The major agricultural products of Thailand include rice, cassava, rubber, corn, sugarcane, coconuts, palm oil, pineapple and livestock.

In 2016, the country has a labor force of approximately 38.3 million people. The unemployment rate is less than 1% of the labor force, ranking Thailand at 6th for lowest unemployment rate.



2. The legal system

2.1 Framework of the law

Thailand has a codified system of laws. The major legislative codes for businesses are the Civil and Commercial Code, the Revenue Code, the Land Code, and, for many, the Foreign Business Act. The content of the codes was drawn from the traditional laws of Thailand as well as the laws of other countries with codified and common law systems.

Laws are normally drafted in broad terms, with powers delegated to government ministries and organizations which are empowered to issue notifications or regulations.

2.2 The Courts

The Court of Justice is divided into three tiers: the Supreme Court, the Court of Appeal, and the Court of First Instance. There are separate Juvenile, Labor and Tax Courts. There are also certain specialist courts with their own procedures, e.g., Administrative Court, Central Intellectual Property and International Trade Court, and Constitutional Court.

2.3 Arbitration

Arbitration is available under the Arbitration Act B.E. 2545 (2002). Written agreements to arbitrate a dispute are given binding effect by the courts. The courts may also enforce foreign arbitration awards if the parties involved are entitled to rely on the terms of an applicable international convention.

3. Forms of business entities

Business in Thailand generally take one of the following forms:

- Sole proprietorship
- Partnership
- Limited company
- Branch office of a foreign company
- Representative office of a foreign company
- Joint venture
- Consortium
- Agent
- Distributor

The most common entity form used in Thailand is the private limited company. In general, a foreign investor prefers to operate through a private limited company as opposed to a branch office in order to limit its liability.

3.1 Sole proprietorship

This is the simplest form of business owned by one person with unlimited liability for any claim against the business.

3.2 Partnership

There are three types of partnerships recognized in Thailand, the main difference being the liability that the partners will assume for the obligations of the partnership:

- An unregistered ordinary partnership has partners who are all jointly liable, without any limitation, for the partnership's total obligations. This type of partnership is not a legal entity and is subject to taxation as if it were an individual.
- A registered ordinary partnership is a judicial entity having a separate and distinct personality from each of the partners by virtue of its registration with the Commercial Registrar. The partners are all jointly liable for the obligations of the partnership. A registered ordinary partnership is subject to corporate income tax.
- A limited partnership is one in which there are one or more partners whose individual liabilities are limited to their respective contributions, whilst one or more partners are jointly liable without any limitation on all the obligations of the partnership. A limited partnership is taxed as a corporate entity.

3.3 Limited company

Private Limited Company

The key features of a Thai private limited company are:

- The company is managed by a board of directors according to the company's charter and by-laws.
- The liability of the shareholders is limited to the par value of the authorized capital.
- The liability of the directors may be unlimited if provided in the company's memorandum of association or the articles of association for the directors' acts approved by a general meeting, the directors are no longer liable to the shareholders who have approved them, or to the company.
- At least 25% of the subscribed shares must be fully paid.
- A company can issue both common and preferred shares of stock, but all shares must have voting rights.
- The shares issued must have a par value of THB5 or above; 'no par value shares' are prohibited.

- There may not be less than three shareholders of a private limited company at all times.
- A private limited company is prohibited from offering shares to the public.

Public Limited Company

The procedure for establishing a Thai public limited company is similar to that of a private limited company. The provisions of the Limited Public Company Act B.E. 2535 (1992) allow a private company to be converted into a public company.

The major difference between a public and a private company is that a public company may offer shares to the public. Certain other differences are shown in the table below:

	Private limited company	Public limited company
Minimum number of natural persons as promoters (founders)	3	15
Minimum number of promoters	3	15
Minimum number of directors	1	5
Minimum number of shareholders required at all times (may also act as promoters)	3	15
Public subscription of shares by prospectus	Not allowed	Allowed
Public subscription of debentures by prospectus	Allowed under specified qualifications	Allowed
Registration fee per THB1 million of capital	THB5,500	THB2,000

Please note that a company operating with a foreign business license or foreign business certificate will usually have stipulated share capital requirements that must be followed.

3.4 Branch office of a foreign company

A branch office is required to maintain books and accounts relating only to the activities of the branch in Thailand. It is important to clarify beforehand what constitutes income subject to Thai tax since the Revenue Department may consider certain revenues directly earned by the foreign head office as derived from sources within Thailand, and seek to subject such related profits to Thai tax.

A branch office may exist for an indefinite period up to its date of termination. The termination of the branch does not require a formal liquidation process as the branch is not a private or public limited company registered under Thai laws.

3.5 Representative office of a foreign company

A foreign entity may establish a representative office in Thailand to engage in limited non-revenue earning activities. These activities are restricted to:

- Searching for local sources of goods or services for its head office or affiliated companies;
- Inspecting and controlling the quality and quantity of goods procured by its head office or affiliated companies;
- Providing advice in various fields relating to products directly sold by its head office or affiliated companies to local distributors or consumers;
- Disseminating information about new products and services of its head office or affiliated companies; and
- Reporting to its head office or affiliated companies on local business developments and activities.

A representative office must not engage in accepting purchase orders from, make sale offers to, or negotiate business with persons or juristic persons in Thailand.

All expenditures incurred by the representative office must be borne by the head office. The minimum capital contributions with respect to branches are also applicable to representative offices.

A representative office is not required to obtain a foreign business license before commencing its activities.

3.6 Joint venture

An unincorporated joint venture may be described, in accordance with general practice, as a juristic person entering into an agreement with juristic and/or natural persons in order to carry on a business together with an intention to share the profits from such business. It is recognized as a separate tax entity pursuant to the Revenue Code, but not a separate legal entity.

Income of an unincorporated joint venture is subject to taxes in the Revenue Code, e.g., income tax, value added tax, stamp duty and specific business tax, which classifies the joint the venture as a single tax entity.

3.7 Consortium

A consortium is a group made up of two or more individuals, companies, or governments that work together toward achieving a chosen objective. Each entity within the consortium is only responsible to the group in respect to the obligations that are set out in the consortium's contract. Therefore, every entity that is under the consortium remains independent in his or her normal business operations and has no say over another member's operations that are not related to the consortium.

3.8 Agent

An agency agreement is used by one party to designate another party or individual as its agent. Common forms of agency agreements include construction agency agreements, sales agency agreements, and placement agency agreements. The contract should specify the duration of the agreement, whether or not the relationship is

exclusive, how fees and commission will be calculated, and how the agreement may be terminated.

3.9 Distributor

A distributor agreement is a contract between channel associates that stipulates the responsibilities of both parties. The agreement is usually between a manufacturer or vendor and a distributor, but in some cases may involve two distributors or a distributor and some other channel entities.



4. Foreign Business Act

According to the Foreign Business Act B.E. 2542 (1999), a foreigner including a company registered in Thailand with half or more of its shares held by foreigners are restricted from carrying on certain types of business activities, unless prior approval is granted by the authorities.

A foreign company that operates in Thailand through a privilege, or a company protected under certain treaty benefits, e.g., a free trade agreements and the Treaty of Amity and Economic Relations between Thailand and the United States of America, may be permitted to engage in certain business activities which would otherwise be restricted under the Foreign Business Act.

According to the Foreign Business Act, a foreigner is defined as follows:

- A natural person whose nationality is not Thai;
- A juristic person that is not registered in Thailand;
- A juristic person registered in Thailand that has the following attributes:
 - A juristic person with at least 50% of its capital held by one or more natural persons whose nationality is not Thai, or a juristic person that is not registered in Thailand.
 - A juristic person with at least 50% of its total capital invested by natural persons whose nationality are not Thai or juristic persons (that are not registered in Thailand);

- A limited partnership or a registered ordinary partnership whose managing partner or manager is a person whose nationality is not Thai; or
- A juristic person registered in Thailand with at least 50% of its capital held by persons described in the foregoing clauses, or a juristic person comprised of persons described in the foregoing clauses who invest in at least 50% of the total capital in such a juristic person.

Business activities that are subject to regulation are divided into three categories, and are listed in Schedules 1, 2 and 3 of the Foreign Business Act. The three categories of business are:

Schedule 1: Businesses not permitted for foreigners to do due to special reasons;

Schedule 2: Businesses related to national safety or security, businesses affecting cultural arts, traditional customs and folk handicrafts, and businesses affecting natural resources or the environment. Foreigners may engage in such businesses if they obtain permission from the Ministry of Commerce (and will nevertheless require some Thai participation in the company); and

Schedule 3: Businesses in which Thai nationals are not yet ready to compete with foreigners. Foreigners may engage in these business activities with permission from the Ministry of Commerce's Department of Business Development. If successful, the enterprise may be 100% foreign owned.



5. Investment incentives

5.1 The Investment Promotion Act (and the Board of Investment)

The Investment Promotion Act B.E. 2520 (1977) gives authority to the Board of Investment (BOI) to grant tax and non-tax incentives to foreign and Thai investors who are engaged in promoted business activities as designated by the BOI. The BOI operates under the authority of the Office of the Prime Minister.

5.1.1 BOI incentives

The tax and non-tax incentives granted by the BOI are summarized below:

Tax incentives

- Exemption/reduction of import duties on machinery
- Reduction of import duties for raw or essential materials
- Exemption of import duties on materials imported for R&D purposes
- Exemption of corporate income tax on the net profit and dividends derived from the promoted activity
- A 50% reduction of the corporate income tax
- Double deduction for the costs of transportation, electricity and water supply
- Additional 25% deduction of the cost of installation or construction of facilities

- Exemption of import duty on raw or essential materials imported for use in production for export

Non-tax incentives

- Permit for foreign nationals to enter Thailand for the purpose of studying investment opportunities
- Permit to bring into Thailand skilled workers and experts to work in investment-promoted activities
- Permit to own land
- Permit to take out or remit money abroad in foreign currency
- Permit to have 100% foreign ownership for certain businesses

Furthermore, the BOI has stipulated additional incentives based on merits of the project granted on a project-by-project basis.

5.1.2 BOI projects

An application must be made with the BOI seeking approval of a project identified by the BOI as one which it sees important for the development and growth of the country.

There are eight broad categories that are eligible for BOI project approval. These broad categories are:

- Agriculture and agricultural products
- Mineral, ceramics and basic metals
- Light industry
- Metal products, machinery and transport equipment
- Electronics industry and electrical appliances
- Chemicals, paper and plastics
- Services and public utilities
- Technology and innovation development

Approval is granted only to a Thai limited company (either private limited or public limited).

Approval is granted on a project-by-project basis, and therefore, it is possible for a company to have multiple BOI-approved projects representing different investments made by the company. The multiple number of approved projects may represent a company's investment in more than one type of promoted project, or a company's multiple investments in the same type of promoted projects over different periods of time.

5.2 The Industrial Estate Authority of Thailand Act

The Industrial Estate Authority of Thailand (IEAT) was founded in 1972 as a government agency under the Ministry of Industry, and is responsible for industrial development and pollution control of industrial operations through established 'industrial estates'. An industrial estate may also be created through joint venture with private developers.

Industrial estates are divided into two zones, according to the nature of the industries, as follows:

- General Industrial Zone (GIZ), an area designated for industrial and service operations or other activities beneficial to or connected with industrial and service operations; and
- IEAT Free Zone, an area designated for industrial and commercial operations or other activities beneficial to or connected with industrial and commercial operations to achieve benefits in terms of economy, state stability, public well-being, environmental management or other necessary purposes specified by the IEAT Board. Supplies taken into an IEAT Free Zone are entitled to additional tax and fee privileges, in accordance with the appropriate legislation.

Industrial operators that locate their projects in a GIZ or IEAT Free Zone may be granted certain investment incentives without having to apply for BOI promotion, as follows:

- Investors in a GIZ are eligible for the following privileges:

- Permission to own land in an industrial estate
- Permission to bring in foreign skilled workers as well as their spouses or dependents
- Permission to remit money abroad
- Investors in IEAT Free Zone are eligible for the following privileges:
 - Permission to own land
 - Permission to bring in foreign skilled workers as well as their spouses or dependents
 - Permission to remit money abroad
 - Industrial operators locating in the IEAT Free Zone may be granted exemption from import and export duties, VAT and excise tax on machinery and construction materials for a factory, and raw materials and supplies used in production

5.3 The Petroleum Act

Companies engaged in the business of oil and gas exploration and production (E&P) in Thailand are governed and regulated by the Department of Mineral Fuels (DMF), under the Ministry of Energy.

To operate an E&P business, an E&P entity must be awarded a petroleum concession by the DMF. E&P companies are not regulated under the Foreign Business Act and, as such, can be wholly owned by a foreign individual or company, without obtaining a foreign business license from the Ministry of Commerce.



6. Foreign exchange controls

6.1 The banking and finance system

The monetary controls in Thailand are governed by the Exchange Control Act B.E. 2485 (1942) and Ministerial Regulation No. 13 B.E. 2497 (1954). The Ministry of Finance authorizes the Bank of Thailand to administer foreign exchange transactions.

All the foreign exchange transactions are generally regulated and require the permission from the Bank of Thailand. All foreign exchange transactions are generally permissible to be conducted through a commercial bank or other authorized authorities. Any other transaction which is not conducted through these enterprises requires an approval from the Bank of Thailand on a case-by-case basis.

6.2 Currency regulations

6.2.1 Foreign currency

There is no limitation on the amount of foreign currency brought into Thailand. If brought into Thailand, the holder of the foreign currency must convert the funds into Thai currency or deposit the foreign currency into a foreign currency account at a Thai bank within 360 days.

The exceptions to this rule applies to a foreigner temporarily staying in Thailand for no more than three months, foreign embassies and international organizations.

6.2.2 Local currency

There is no restriction on the amount of Thai currency being brought into Thailand.

A person, however, who is travelling to Vietnam, the People's Republic of China (only Yunnan Province), and other countries that has its border adjacent to Thailand's border, is allowed to take up to THB2 million from Thailand. Any amount exceeding THB450,000 must be declared to Thai customs before departing Thailand.

The maximum limit of Thai currency that can be brought to other countries without authorization (apart from the ones mentioned above) is THB50,000.

6.3 Bank accounts

6.3.1 Foreign currency accounts of Thai residents

Thai residents, both individuals and juristic persons, are allowed to maintain, deposit and withdraw foreign currency from a foreign currency account with an authorized Thai bank.

The foreign currency account is allowed if the following conditions are met:

- (1) The account is funded with moneys originating from overseas or foreign currency borrowed from the Bangkok International Banking Facilities;
- (2) There must be evidence to show the obligation to pay in foreign currencies to persons overseas, banks, the Export and Import Bank of Thailand or the Industrial Finance Corporation of Thailand, and the deposit must not be more than the obligations;
- (3) Deposits of foreign currency cannot exceed USD10,000 per day;
- (4) Debits to the account for payment of obligations is permitted after presentation of supporting evidence, or for conversion into Thai currency at an authorized bank; and

- (5) The total daily outstanding balances must not exceed USD5 million for an individual and juristic person.

6.3.2 Foreign currency accounts of non-residents

A non-resident is permitted to maintain a foreign currency account with an authorized Thai bank. The account can be freely credited with funds originating from overseas. Amounts can be transferred without restrictions.

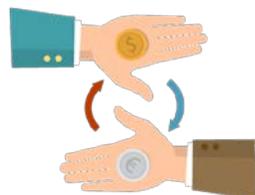
6.3.3 Thai currency accounts of non-residents

A non-resident can have a Thai currency account with an authorized Thai bank. The account may be freely credited with:

- (1) Proceeds from the sale of foreign currencies originating from overseas, or foreign currencies from the non-resident's foreign currency account in Thailand;
- (2) Transfers from other non-residents' Thai currency accounts; and
- (3) Obligations of a residents to a non-resident. Amounts can be withdrawn or transferred without restrictions.

6.4 Payments by Thai residents to offshore persons

Outward remittance of amounts due to non-residents, including service fees, interest, dividends, profits or royalties, can be done upon submission of supporting documents with an authorized bank in Thailand.



7. Foreign ownership of real estate

Thai law generally prohibits foreign persons from owning freehold land in Thailand, with some exceptions.

In general, foreign persons are able to own buildings, houses and some condominiums situated on land.

In general, a foreigner may own land with special permission from the Minister of Interior. In the case of a promoted company, the company should obtain the approval of the Board of Investment. If the Board of Investment-promoted company ceases or transfers its business, it has to sell its land.

Once a foreigner has secured permission to acquire land, the land must be used for the purpose stated in the application.



8. Intellectual property

8.1 Trademarks

Trademarks are provided protection under the Trademarks Act B.E. 2534 (1991), and other Ministerial Regulations. Registration of a trademark may be accomplished by the trademark proprietor himself or through an agent. After a trademark registration application is reviewed by the officer, the registration will be published in the *Trademark Journal*. Once published and not opposed, the trademark will be registered and the proprietor will have the exclusive right to use the registered mark for all the products of the classes in which registration has been granted. Registration remains effective for ten years from the date of application and is renewable for an unlimited number of periods of 10 years each term. Renewal of the registered trademark must be made within 90 days before the date of expiration.

The Trademark Act also provides protection for service marks, service names, collective marks, certification marks and trade names.

8.2 Patents

Under the Patent Act B.E. 2522 (1979), patents for inventions shall be valid for 20 years, while patents for designs shall be valid for 10 years. Under the Patent Act, petty patents are also protected for six years and can be extended twice for two-year-periods each time.

The following cannot be patented in Thailand:

- Naturally existing micro-organisms and their components, animals, plants or animal, or plant extracts

- Scientific or mathematical principles and theories
- Computer programs
- Diagnosis methods or treatments of human beings or animals
- Inventions which are against public order, morality, health or welfare

8.3 Copyrights

Copyrights are protected by the Copyright Act B.E. 2537 (1994). The types of creative work qualified for protection under this Act includes any work in the domains of literature (including computer programs), drama, art, music, audiovisual design, cinematography, sound recordings, and sound and video broadcasts, or any other work in the literary, scientific or artistic domains, whatever may be the mode, or form of its expression. Copyright protection shall not extend to daily news, constitution and law, rules and regulations, court judgment or verdict, ideas, procedures, processes, systems, methods of use, operations, concepts, principles, discoveries, or scientific or mathematical theories.

A copyright is under protection for the period of the life of the creator plus 50 years from the date of his death. Where the creator is a juristic person or uses an assumed name, the period of protection is 50 years from the date of creation or first publication. Copyright protection for photographic work, audiovisual work, cinematographic work, sound recordings or audio and video broadcasting work is 50 years from the date of creation or 50 years from the first publication. Copyright in a work of applied art subsists for 25 years from the date of creation of the work or 25 years from the first publication.

Thailand is a member of the Berne Convention for the Protection of Literary and Artistic Works. This allows certain copyrights registered in other Berne Convention countries to be enforced in Thailand.

8.4 Trade secrets

Trade secrets in Thailand are protected under the Trade Secrets Act B.E. 2545 (2002).

The following information shall be defined as 'trade secrets' and shall be protected under the Act:

- Trade information that is not generally known or readily accessible to groups or persons outside the circles that normally deal with such information;
- Trade information that has commercial value due to its secrecy; and
- Trade information that has been subject to reasonable measures taken by its lawful controller to keep it secret.

'Trade information' means any medium that conveys the meaning of a statement, facts, or other information irrespective of its method and forms. It shall also include formulas, patterns, compilations or assembled works, programs, methods, techniques, or processes.

No registration is required in order to obtain trade secret protection, and such trade secrets shall have protection as long as they are deemed secret.



9. Employment

9.1 Working rules

The Labor Protection Act B.E. 2541 (1998) is set out for the agreement between employer and employees, whether full time, part time, seasonal, casual or contract.

An employer with at least 10 employees must have work rules in the Thai language, and at a minimum, the work rules must cover the following matters:

- Working days, regular working hours and rest periods
- Holidays and rules for taking holidays
- Overtime work and work on holidays
- Date and place of payment of wages, overtime pay, holiday pay and holiday overtime pay
- Leave and rules for taking leave
- Discipline and disciplinary actions
- Complaints
- Termination of employment, severance pay and special severance pay

An employer has to distribute and post the work rules in a conspicuous position at the work place.

9.2 Public holidays and leave

The Labor Protection Act provides all employees, whether full time, part time, seasonal, casual or contract, with entitlement to weekly

and traditional paid holidays. There are also provisions for paid sick leave, military service (where such service is required by law) and partially paid maternity leave with certain limitations.

9.3 Severance pay

The Labor Protection Act provides for a severance payment to certain employees at the end of their employment with an employer. An employee who has worked for the same employer for a continuous period of 120 days or more is entitled to severance pay if his employment is terminated without severance pay exemption cause.

Severance pay varies depending on the period of employment, as follows:

Period of employment	Severance payment
120 days to one year	30 days of wage
One year to three years	90 days of wage
Three years to six years	180 days of wage
Six years to 10 years	240 days of wage
10 years or greater	300 days of wage

In the event of unfair dismissal, an employee may claim damages or reinstatement.

9.4 Minimum wage

The minimum wage rate has been set from THB300 to THB310 per day, depending on the location where the service is performed. The minimum wage rate could be updated from time to time by the government.

9.5 Social security

According to the Social Security Act B.E. 2533 (1990), social security contributions to the Social Security Fund by the government, employees and employers are required.

The fund provides compensation to insured workers for injuries or illnesses, disabilities, maternity, death, child welfare and pensions.

The monthly contributions by an employer and an employee, each, is equal to 5% of the employee's monthly wage, with a maximum monthly contribution of THB750 for each party.

9.6 Workmen's compensation

According to the Workmen's Compensation Act B.E. 2537 (1994), any employer with at least one employee is required to make contributions to the Workmen's Compensation Fund. The contribution depends on the type of business undertaken, i.e., the assessed risk of the business, but ranges from 0.2% to 1% of an employee's annual wage.



10. Work permits

The Foreigner Employment Act B.E. 2551 (2008) and the Foreigners' Working Management Emergency Decree B.E. 2560 (2017), provides a broad definition of work which includes "engaging in work by exerting one's physical energy or employing one's knowledge to carry out a profession or perform works, whether or not in consideration for wages or other benefits".

The Act lists certain occupations that may be undertaken exclusively by Thai nationals for which a work permit cannot be granted. In non-reserved occupations, the gravity of a work permit is nevertheless discretionary. In summary:

- With a few exceptions, the law requires all non-Thai nationals who work in Thailand to have work permits issued by the Ministry of Labor;
- The use of these work permits is restricted to that particular occupation, employer, and locality for which they are applied; any changes in these restrictions will be required to be updated in a work permit booklet. In case of change of employer, a new work permit is required;
- Foreigners working in companies promoted by the BOI or who are in Thailand under special laws (such as the Petroleum Act of 1971 or the Industrial Estate Act of 1979), can be issued with work permits that are valid for the duration prescribed by the laws under which they were allowed to enter Thailand. Likewise, a foreigner assigned to work in a representative or regional office may readily obtain a work permit from the Ministry of Labor;

- Foreigners entering Thailand to work with promoted investment or under special laws, as above, may commence work upon obtaining approval from the relevant authorities, but they should apply for a work permit within 15 days from the approval date;
- After the date of employment, transfer to a new locality, or departure of a Foreign employee, the employer is required to formally notify the pertinent government entity that issued the original work permit; and
- Foreigners working in Thailand under special conventions between Thailand and other countries, including international organizations such as the World Bank, are exempt from obtaining work permits.

It is a criminal offence for a foreigner to work in Thailand without specific work permit or in an occupation or location other than that specified in the work permit.



11. Immigration

Foreign persons entering Thailand should comply with the Immigration Act B.E. 2522 (1979).

11.1 Types of visas

Various types of visas exist for Thai immigration purposes. Below are some of the visas available to foreign nationals.

11.1.1 Transit visa

A transit visa is issued on arrival to applicants who wish to enter Thailand to:

- (1) Travel in transit through Thailand to proceed to their destination or to re-enter the applicant's own country,
- (2) Participate in sports activities, or
- (3) Be in charge or crew of a conveyance coming to a port, station or area in Thailand.

The applicant is normally granted a 30-day stay. An extension of stay may be granted in certain cases, but will normally be limited to an additional 30 days.

11.1.2 Tourist visa

A foreigner who obtains a visa from a Royal Thai Embassy or Consulate, prior to arrival in Thailand, is initially granted a stay of 30 or 60 days. Nationals of countries that are on Thailand's Tourist Visa Exemption list or have bilateral agreements on visa exemption with

Thailand will be permitted to stay for a period of not exceeding 30 days. Nationals from other countries who hold a tourist visa will be permitted to stay in Thailand for a period of not exceeding 60 days. The Immigration Department may grant an additional extension of 30 days.

11.1.3 Non-immigrant visa

A foreigner entering Thailand must obtain a non-immigrant visa from a Royal Thai Embassy or Consulate. His/her spouse and dependents who accompany him/her must likewise obtain the same type of visa. The visa is normally granted for an initial stay of 90 days, but it may be extended up to one year and is renewable each year while in Thailand. A longer visa extension period can be provided according to special schemes determined by the government.

This visa entitles the foreigner to apply for a work permit if he or she intends to work in Thailand undertaking business activities (paid or voluntary), study, perform diplomatic and consular services, or act in some other official capacity.

11.1.4 Immigrant visa

A person wishing to immigrate to Thailand may apply for a certificate of residence. However, the conditions for qualifying as an immigrant are quite restrictive and are covered by annual immigration quotas and other conditions fixed for each country by the Ministry of Interior.

11.2 Continuous stay notification

A foreigner who continuously stays in Thailand for 90 days is required to submit a notification of stay to an immigration officer. The notification of staying in the Kingdom for over 90 days must be submitted within 15 days before or seven days after the 90 day period expires.



12. Accounting and auditing

12.1 Reporting requirements

The Accounting Act B.E. 2543 (2000) provides the general requirements of the information that must be contained in the financial statements and the requirements of the record keeping to support the financial statements.

The Federation of Accounting Professions (FAP) issued the Thai Financial Reporting Standards for Publicly Accountable Entities, which is based on International Financial Reporting Standards. The FAP also issued standards for Non-Publicly Accountable Entities.

12.2 Financial statement audit requirements

The financial statements must be audited by and are subject to the opinion of a Thai certified public accountant. An exception applies for the financial statements of a registered partnership, established under Thai law, whose capital, assets, or income, any one or all of them, are not more than those values prescribed in the Ministerial Regulations.

A public limited company's financial statements are required to be audited each quarter, whereas a private limited company's financial statements are required to be audited annually. Copies of the audited financial statements must accompany the annual income tax return that is required to be filed with the Revenue Department within 150 days from the closing date of each accounting period.



13. Taxes

13.1 Personal income tax

13.1.1 Resident classification

An individual who is in Thailand for at least 180 days in a calendar year is considered a tax resident of Thailand.

13.1.2 Taxable persons

Every individual, resident or non-resident, who derives assessable income from employment or business carried on in Thailand, is subject to Thai personal income tax, unless exempted under the provisions of a DTA. This is regardless of whether such income is paid in or outside of Thailand.

Employers are required to withhold income tax from salaries and other benefits paid to employees.

13.1.3 Taxable income

Thailand imposes personal income tax on the Thai-source income of both resident and non-resident individuals. Residents are also subject to income tax on foreign source income, but only if that income is remitted to Thailand in the same year it is received.

A non-resident's income tax liability is limited to the income arising from or in consequence of employment, property held, or business carried on in Thailand, regardless of whether such income is paid within or outside Thailand.

Assessable income includes most monetary and non-monetary benefits derived from employment in Thailand. This is regardless of the residency status of the recipient, where the payments are made or whether the employment is permanent or temporary in nature.

In addition, the following classes of income received by resident or non-resident individuals are subject to Thai tax:

- The practice of a liberal profession, i.e., law, medicine, engineering, architecture, accountancy or fine arts
- Contractual work, for which the contractor provides essential materials besides tools
- Business, commerce, agriculture, industry, transport, or any other activities

Income from real property situated in Thailand is subject to tax regardless of the residency status of the recipient. A resident individual is also liable to tax on income from real property situated outside Thailand to the extent the income is paid in or remitted to Thailand in the year it is received.

Interest earned on saving deposits with a bank in Thailand is exempt from tax if the interest is below the maximum limit of THB20,000 per annum. Moreover, interest earned from a fixed deposit for a period of one year or more with a bank in Thailand is exempt income for an individual who is 55 years old or more if the aggregate interest earned throughout the year from all types of fixed deposits does not exceed the maximum limit of THB30,000.

In general, other interest income derived from local sources by resident and non-resident individuals is taxable. The tax on such interest is imposed in the form of a 15% withholding tax, the income earner may then elect for this to be treated as a final tax or to include it in the individual's assessable income for the period.

13.1.4 Capital gains and losses

No separate capital gains tax regime exists in Thailand. Instead, most types of capital gains are taxable as ordinary income. However, capital

gains from the sale of shares listed on the Stock Exchange of Thailand (if the sale is made through a licensed broker) or from the sale of investment units in a mutual fund are tax exempt.

Any gains received by a resident from sources outside of Thailand are only subject to Thai tax to the extent paid in or remitted to Thailand in the year received.

13.1.5 Withholding taxes

Assessable income includes income from employment, whether in the form of salary, wage, per diem, bonus, bounty, gratuity, pension, house rent allowance, monetary value of rent-free residence provided by an employer, payment made by an employer for settlement of any obligation due from an employee, or any money, property or benefits derived by virtue of hire of service.

Payments of employment income are subject to withholding tax. Tax is deducted on the basis of the total amount of income the individual will receive if the payments were to continue for the rest of the tax year. This tax is then divided by the number of payments the individual will receive in the year.

Employers are responsible for withholding income tax from salaries and other benefits paid to employees and submitting it to the Revenue Department within seven days following the month in which the payment was made.

13.1.6 Exemptions

There are limited categories of income that are specifically excluded from assessable income by virtue of Section 42 of the Revenue Code. These include:

- Interest on savings and fixed deposits with banks in Thailand subject to prescribed conditions and maximum limits
- Reimbursement for business travel expenses
- Gains from assets not acquired with the intent to trade or earn a profit

- Family maintenance
- Educational scholarships
- Severance pay by reason of termination of an employment contract in the amount of not exceeding remuneration or salary for the last 300 days of employment and not exceeding THB300,000
- Money or any other benefits derived from a provident fund under the law governing provident funds upon the termination of employment by reason of being deceased, becoming incapacitated or reaching retirement age, in accordance with the regulations of provident funds

13.1.7 Deductions

Thai tax law provides deductions for the various classes of assessable income. For some classes of income, standard deductions apply; for others, actual expenses incurred in connection with the derivation of the income may be deductible.

For employment income, a standard deduction of 50% of an individual's gross income, up to a maximum of THB100,000 per annum, may be taken as an expense. Under certain conditions, an individual taxpayer is also entitled to a tax deduction for items such as life insurance premiums, health insurance premiums, mortgage interest, charitable donations and contributions to an approved provident fund.

A standard deduction of 40% and 60% is allowable for income received for contractual work or from business, and commerce, etc.

A standard deduction of 60% is allowed for income received from a medical profession. All other liberal professions are permitted to claim standard deductions of 30% against their assessable income instead, if preferred. In all cases, the taxpayer can elect to deduct actual costs and expenses.

For income from real property, individuals may deduct actual costs and expenses that can be substantiated as having been incurred during the period. Standard deductions are also permitted in lieu of

actual costs and expenses. Standard deductions range between 10% and 30% of gross income, depending on the type of property.

13.1.8 Allowances

The Revenue Code permits personal allowances as follows:

Allowance for	THB
Taxpayer	60,000
Taxpayer’s spouse	60,000
Lawful or adopted children under 25 years of age and in full-time education, do not earn more than THB30,000, are under parental care	30,000 per child
Parent care allowance	30,000 per each parent

Other allowances are granted for life insurance premiums, provident fund contributions, interest payments on loans for residential purposes and charitable donations.

The spouse allowance and the child allowance will not be available in any particular year if the taxpayer resides in Thailand for less than 180 days in that year.

The taxpayer or his/her spouse are entitled to a parent care allowance of THB30,000 for each parent where the parent:

- Is 60 years old and over;
- Earning less than THB30,000 per year, and
- Is under the care of the taxpayer under the conditions prescribed by the Director-General of the Revenue Code

13.1.9 Tax rates

The table below sets out the Thai personal income tax rates

Net assessable income (THB)	Marginal tax rates (%)
1-150,000	0
150,001-300,000	5
300,001-500,000	10

Net assessable income (THB)	Marginal tax rates (%)
500,001-750,000	15
750,001-1,000,000	20
1,000,001-2,000,000	25
2,000,001-4,000,000	30
4,000,001 and above	35

13.2 Inheritance tax

The Inheritance Tax Act B.E. 2558 (2015) imposes a tax that is levied on a recipient of certain types of property valued in excess of THB100 million paid from an estate.

13.2.1 Persons liable to tax

The following persons who inherit certain properties are liable to the inheritance tax:

- A person with Thai nationality, including a legal entity registered or established under Thai law, a legal entity that has more than 50% of its paid-up share capital owned by shareholders with Thai nationality at the time and the entity has the right to receive the inheritance, and a legal entity with more than half of those persons who have managing authority having Thai nationality
- A non-Thai national who has Thai residency according to the immigration law
- A non-Thai national who receives property situated in Thailand through an inheritance

Exempt from the inheritance tax are:

- A legal spouse who receives property of the decedent
- A person who inherits property that the decedent intended to be used for religious, education or public causes
- A legal entity or government organization established for religious, education or public causes

- A person or international organization with which Thailand has an agreement under United Nations or international law, or in a treaty

13.2.2 Taxable assets

The following assets received as an inheritance are subject to the inheritance tax:

- Immovable property
- Securities as determined in the Securities and Exchange Act
- Bank deposits and other forms of money
- Registered vehicles
- Other financial assets as specified by Royal Decree

13.2.3 Taxable amount

Each person that inherits property (the 'legatee) is allowed an exempt of THB100 million from the taxable asset bases received from a decedent. The total value of property received from a decedent's estate, net of liabilities attached to any asset received, that exceeds this exemption amount should be subject to the inheritance tax.

Tax rate

The tax rate imposed on a taxable inheritance is 10%, but reduced to 5% if the legatee is a descendant or ascendant of the decedent.

13.3 Gift tax

Revenue Code Amendment Act (No. 40) B.E. 2558 (2015) introduced a law that subjects gifts to personal income tax with effect from 1 February 2016 onwards.

An individual who receives movable property as a gift is assessed income tax on the market value of the gift.

For gifts of immovable property, however, the transferor is viewed to be the recipient of income and is subject to income tax of the appraised value of the property transferred.

The taxpayer – either the recipient of a gift of movable property, or the transferor of a gift of immovable property – can elect a reduced rate of tax from the progressive personal income tax rates. Below is a summary of the applicable tax rates that can be elected for certain gifts under the Amendment Act.

Type of gift	Exemption amount per tax year	Tax rate applied on non-exempt amount
Immovable property gifted to legitimate and lawful children (not adopted children)	THB20 million	5%
Money and other property received by a spouse, ascendant or descendant as a gift	THB20 million	5%
Money and other property received by a person not being a spouse, ascendant or descendant as a gift	THB10 million	5%
Immovable property, money and other property received by persons or juristic persons for religious, educational or public causes	As prescribed in Ministerial Regulations	5%

13.4 Corporation income tax

13.4.1 Resident classification

The place of incorporation determines residency for Thai corporate income tax purposes. However, the issue of residence in Thailand is not directly determinative of a liability to Thai tax.

All companies, including other forms of legal entities, that are registered under Thai law, or that are incorporated under foreign law and carry on business in Thailand, are subject to corporate income tax. All income of companies registered under Thai law is subject to corporate income tax. Companies registered under foreign law and

carrying on business in Thailand are taxed on their net profits arising from their business activities in Thailand.

The term 'carrying on business in Thailand' includes any company or juristic partnership that is deriving income from a contract of work within Thailand, regardless of whether that company or juristic partnership has a permanent branch established or whether its offices are located in a foreign country. For example, if a company or juristic partnership formed under a foreign law has an employee, representative, agent or go-between in Thailand for the purpose of carrying on its business, and thereby derives income or gains in Thailand, such a company or juristic partnership is deemed to be carrying on business in Thailand.

In cases where an entity incorporated under foreign law is eligible to rely upon a double taxation agreement between Thailand and its country of residence, the permanent establishment rules under that agreement should override the domestic definition of carrying on basis in Thailand'.

13.4.2 Taxable entities

A company or juristic partnership in Thailand is generally subject to corporate income tax at the full rate (currently 20%) of their net profits. Net profits are computed by taking into account all revenue arising from or in consequence of the business carried on in an accounting period and deducting all expenses allowable under the Revenue Code. The corporate income tax rate applied depends on a number of factors disclosed below.

The definition of a company or juristic partnership is very broad in Thai tax law and includes companies, unincorporated joint ventures, registered partnerships, foreign statutory corporations, branches, foundations or any other associations that carry on business.

Broadly, all companies or juristic partnerships that have been established under Thai law are subject to corporate income tax.

Some entities, although classifiable as a company or juristic partnership, are specifically exempt from corporate income tax

liability. These include defined public charities, embassies, United Nations agencies, and certain industries taxed under other Acts, for example, the oil and gas industry, which is taxed under the Petroleum Income Tax Act.

13.4.3 Taxable income

Income tax is imposed on the 'net profit' for tax purposes. The starting point for determining net profit for tax purposes is the accountancy profit which, under Thai law, must be audited by an independent auditor and is calculated by taking into account all revenues arising from or in consequence of the business carried on in the tax year, and deducting all allowable expenses. The computation of revenue and expenses is on an accrual basis whereby all revenues arising in the tax year, even if not received, is to be included as revenue for the tax year and all expenses relevant to such revenue, even if not paid, is to be included as expenses for the tax year.

Certain tax-specific adjustments are then made to determine the taxable profit for the period.

Foreign source income

A company or juristic partnership organized under Thai law is liable to Thai tax on all foreign source income. Foreign tax credits should usually be available for withholding taxes suffered on such income on a unilateral basis.

Dividends

Dividends received by a company or juristic partnership are fully taxable. However, if the recipient has owned the shares, in respect of which dividends have been received, for at least three months before and three months after receipt of dividends, the following treatment shall apply:

- A company listed on the Stock Exchange of Thailand is exempt from income tax on all dividends received from other Thai-listed companies, ordinary or public companies and mutual funds;

- Non-listed companies organized under Thai law are not required to include as revenue, any dividends or share of profits received from another resident company, if the recipient company has held at least 25% of the total shares with voting rights for a requisite holding period, without any cross-shareholding by the paying company;
- Non-listed companies organized under Thai law must, if the condition of the preceding paragraph is not met, include as revenue only one-half of dividends, or share of profits, received from other resident companies, mutual funds or certain other financial institutions organized under Thai law; and
- Dividends received by a corporate shareholder from a foreign investment may be treated as non-assessable if the Thai shareholder owns at least 25% of the voting shares of the foreign entity, the foreign entity has paid income tax at the rate of at least 15%, and the shares were held at least six months before the dividend.

Interest

No formal definition of interest exists in Thai tax legislation. However, the following classification of assessable income provides guidance on what is considered interest:

“Interest on bonds, deposits, debentures, bills, loans whether with or without security, that part of loan interest subject to withholding tax under the law governing petroleum income tax which remains after the deduction of the tax withheld under such a law, or the difference between the redemption value and the selling price of a bill or an instrument issued by a juristic company or partnership or by any other juristic person and sold for the first time at a price below its redemption value, including income similar in nature to interest, a gain or another consideration received from extending a loan or from a claim on account of an obligation of all kinds whether with or without security.”

Generally, interest expenses incurred on funds borrowed for the purpose of the business in Thailand are deductible and include borrowings to fund share acquisitions and for the payment of dividends. The expense may be deductible in the year that it is incurred, or may be capitalized (for tax purposes), depending upon the nature of the interest expense.

No limits on the deductibility of interest based on debt/equity levels exist.

13.4.4 Capital gains and losses

All realized gains are defined as income (including capital gains) regardless of the regularity of receipt of such gains. Thailand does not impose a separate tax on corporate capital gains. Any gain arising from dispositions of assets, regardless of the purpose for which the assets were acquired, is treated as ordinary income and is subject to income tax.

13.4.5 Deductions

Generally, expenses incurred for the purpose of deriving profits or for conducting business in Thailand are deductible. Accordingly, usual business expenses, qualified bad debts and depreciation at rates ranging from 5% to 100% (depending upon the nature of the item) are allowed as deductions.

Allowable expenses incurred are deductible in the accounting year in which they are accrued or incurred and must be reflected in the books of accounts.

Certain expenditures are specifically non-deductible for corporate income tax purposes. Such expenditures include reserves, provisions (with some exceptions), private expenses, income taxes, penalties, fines, donations to charitable institutions in excess of 2% of net profits, and entertainment expenses over and above the prescribed limit based upon the gross turnover of the entity.

Surcharge (interest) and penalties for non-payment of income tax on a timely basis are not income tax deductible.

Head office expenses not expended exclusively in respect of a Thai branch’s operations cannot be deducted as a business expense of that branch. Expenses that pertain uniquely to the head office (for example, office rental, utilities and stationery) will not be allowed as a tax deduction of the branch. This may cause difficulty if a portion of head office general overhead expenses is recharged to the Thai branch. For a deduction to be claimed, a certificate is required from the head office auditors to verify that head office overhead expenses recharged to the Thai branch have been computed in compliance with Thai legislation, which in practice can be challenging.

13.4.6 Tax losses

A taxpayer’s tax loss may be carried forward for five accounting periods. A tax loss cannot be carried back to earlier years.

13.4.7 Tax rates

The corporate income tax rate is 20%.

SMEs are granted reductions of corporate income tax rates. An SME is defined as a juristic company or partnership with paid up capital not exceeding THB5 million at the end of the accounting period that has income from the sale of goods and provision of service of not more than THB30 million. The reduced rates are as follows:

Net profit (THB)	SME tax rate
0-300,000	Exempted
300,001-3,000,000	15%
Over 3,000,000	20%

Profits remitted abroad, whether by dividend or other distribution, are generally subject to 10% withholding tax.

Foreign juristic corporations carrying on the business of international transportation must pay tax on their gross incomes before deduction of expenses. In the case of carriage of passengers, the tax rate is 3% of the fares collectible in Thailand. In the case of carriage of goods, the tax rate is 3% of freight collectible in Thailand or elsewhere in respect of the transport of goods from Thailand.

13.4.8 Tax filings

Every juristic corporation must submit a corporate income tax return. Thailand operates a self-assessment system of taxation.

Corporate income tax is payable in two installments each year, and the taxes due must accompany the submission of the relevant returns:

- A half-year corporate income tax return must be filed within two months of the end of the first six months of the accounting year;
- An annual corporate income tax return (which must be accompanied by signed, audited accounts) must be filed within 150 days of the end of the accounting year;
- All listed companies, banks, finance companies, securities companies, credit companies, and companies whose auditors are approved by the Revenue Department are required to pay half-year tax based on actual income. Other types of corporations are required to estimate net profits for the year and pay half of the tax thereon; and
- The amount of tax paid against the half-year return, and tax withheld by income payers, are allowed as credits in the computation of the return at the end of the year.

The Revenue Department examines the accuracy and correctness of the tax returns and the accompanying audited accounts. The Revenue Department may then request further information to support claims for deductions or other matters it deem appropriate. The Revenue Department may select juristic corporations at its discretion for an in-depth investigation or audit.

Foreign-owned companies incorporated under the laws of Thailand and branches of foreign incorporated companies are subject to the same filing requirements as Thai-owned companies.

Taxpayers' income tax returns will normally close after two years but can be extended to five years upon the Director-General of the

Revenue Department's approval. In the case of a missed filing, assessments can be made within ten years.

13.5 Withholding tax

13.5.1 Domestic withholding tax

Payers of assessable income who are residents of Thailand are liable to deduct tax at source from domestic payments to individuals and corporations at the following rates:

Assessable income	Withholding	Tax rate note
Salaries, wages and related benefits	5%-35%	1
Interest		
• paid to individuals	15%	2
• paid to corporations	1% or 10%	5
Dividends	Nil or 10%	3
Royalties		
• paid to individuals	5%-35%	1
• paid to corporations	3%	
Hire or rent of property	5% or 10%	5, 6
Professional fees	3% or 10%	5, 6
Hire of work	3% or 5%	4, 6
Transportation	1%	
Provision of services	3%	8
Non-life insurance premium	1%	
Income paid on a contract with a government agency	1%	
Contest prizes	5%	
Public entertainers	5%-35%	7
Advertisement charges	2%	
Aquatic animals or related products	1%	
Prizes, discounts or other benefits from sale promotions	3%	6
Rubber, cassava, jute, maize, sugar cane, coffee beans, oil palm seed, and rice products in certain circumstances	0.75%	

Reference: Section 50, M.R. (No.144) B.E. 2522 & No. Tax. Paw. 4/2528

1. Deductions are made according to the graduated scale of personal income tax rates.
2. The nil rates apply to payments of interest made by a non-juristic person. Tax withholding will not apply, in certain circumstances, where:
 - (a) Interest received on saving deposits with a bank in Thailand where the total amount of interest does not exceed THB30,000 per annum.
 - (b) Interest received on fixed deposits with a bank in Thailand where the term of the deposit is greater than one year and the total amount of interest does not exceed THB30,000 per annum.
3.
 - (a) A company that is listed on the Stock Exchange of Thailand is exempt from income tax on all dividends received from other registered companies, ordinary or public companies and mutual funds, provided the shares are held for at least three months before and three months after the dividend is paid.
 - (b) Non-listed resident companies organized under Thai law are not required to include as revenue, any dividends or share of profits received from another resident company if the recipient company has held at least 25% of the total shares with voting rights, without any cross-shareholding by the paying company, for at least three months before and three months after the dividend is paid. Withholding tax of 10% applies to dividend payments to resident and non-resident persons, unless exempted under (a) or (b).
4. A foreign corporation receiving income for hire of work carried out in Thailand through a permanent establishment is subject to withholding tax at 3% or 5% if it does not have a permanent branch. Juristic corporations organized under foreign laws that are party to a contract involving work in Thailand are responsible for deducting tax on payment of income to subcontractors or other recipients of assessable income.
5. A foundation or association that is engaged in any revenue producing business, but not including any of the foundations or associations designated by the Minister in notifications given under Section 47(7)(b) of the Revenue Code, will be subject to a withholding tax rate of 10% on receipt of income.
6. Withholding tax only applies for payments made by juristic corporations or partnerships.
7. Deductions are made according to the graduated scale of personal income tax rates if the public entertainers are domiciled in a foreign country.
8. Assessable income for payments arising from the provision of services, but excluding public transportation, hotel, restaurant services and life insurance premium.

The payer of assessable income is responsible for deducting the tax, remitting the tax and filing a return by the seventh day of the month following the month in which the payment was made. Companies incorporated under foreign laws and carrying on business in Thailand

will be responsible for the withholding of tax from payments to Thai registered businesses as well as to overseas residents (depending on the type of income).

Where the total of the payments due under a contract is less than THB1,000 the payments are not subject to withholding tax.

Companies that derive income subject to domestic withholding tax can claim a credit for the tax withheld against their annual corporate income tax liability and may seek a tax refund in cases where the total domestic withholding tax exceeds the corporate income tax liability for the period.

13.5.2 Withholding taxes on overseas remittances

All payers of certain types of assessable income are required to deduct tax at source from payments of such income to overseas resident individuals and corporations at the following rates:

Assessable income	Withholding
Dividends	10%
Interest	15%
Royalties	15%
Gains from the sale of Thai shares	15%
Management fees, technical fess and other income	0%/15%

13.6 Double tax treaties

13.6.1 Double tax relief

Corporations may obtain relief from foreign taxes suffered on foreign source income by claiming either a bilateral credit or unilateral credit against income tax liabilities, depending on the existence and terms of a tax treaty (DTA) with the country where the income arose. Excess tax credits may not be carried forward or back.

When claiming double tax relief, the juristic corporation must indicate that the foreign source income has been brought into the tax computation at the gross amount before deduction of the foreign tax

suffered. In order to claim relief, evidence of the foreign tax suffered is required by way of an official receipt.

A foreign corporation that conducts business in Thailand, and which is a tax resident of a country with which Thailand has a DTA, is taxed on the profits of that Thai business only if it has a permanent establishment in Thailand. For all income classified as a royalty, interest or dividend please refer to the table below.

Tax treaties

Thailand has signed DTAs with 60 countries. The following withholding tax rates apply to recipient countries that do not have a permanent establishment (PE) or fixed base in Thailand.

Country of recipient	Dividends	Interest	Royalties
Armenia	10%	10%/15% ⁽¹⁾	15%
Australia	10%	10%/15% ⁽¹⁾	15%
Austria	10%	10%/15% ⁽¹⁾	15%
Bahrain	10%	10%/15% ⁽¹⁾	15%
Bangladesh	10%	10%/15% ⁽¹⁾	15%
Belarus	10%	10%	15%
Belgium	10%	10%/15% ⁽¹⁾	5%/15% ⁽²⁾
Bulgaria	10%	10%/15% ⁽¹⁾	5%/15% ⁽¹⁰⁾
Canada	10%	10%/15% ⁽¹⁾	5%/15% ⁽³⁾
Chile	10%	10%/15% ⁽¹⁾	10%/15% ⁽¹⁴⁾
China, P.R.	10%	10%/15% ⁽¹⁾	15%
Chinese Taipei	5%/10% ⁽¹⁷⁾	10%/15% ⁽¹⁾	10%
Cyprus	10%	10%/15% ⁽¹⁾	5%/10%/15% ⁽¹¹⁾
Czech Republic	10%	10%/15% ⁽¹⁾	5/10/15 ⁽⁴⁾
Denmark	10%	10%/15% ⁽¹⁾	5/15 ⁽²⁾
Estonia	10%	10%	8/10
Finland	10%	10%/15% ⁽¹⁾	15
France	10%	3%/10% ⁽⁵⁾	0/5/15 ⁽⁶⁾
Germany	10%	10%/15% ⁽¹⁾	5/15 ⁽²⁾
Hong Kong	10%	10%/15% ⁽¹⁾	5/10/15 ⁽⁴⁾
Hungary	10%	10%/15% ⁽¹⁾	15
India	10%	10%	10

Country of recipient	Dividends	Interest	Royalties
Indonesia	10%	10%/15% ⁽¹⁾	15
Ireland	10%	10%/15% ⁽¹⁾	5/10/15 ⁽¹⁶⁾
Israel	10%	10%/15% ⁽¹⁾	5/15 ⁽³⁾
Italy	10%	10%/15% ⁽¹⁾	5/15 ⁽²⁾
Japan	10%	10%/15% ⁽¹⁾	15
Korea, Rep. of	10%	10%/15% ⁽¹⁾	5/10/15 ⁽¹³⁾
Kuwait	10%	10%/15% ⁽¹⁾	15
Laos	10%	10%/15% ⁽¹⁾	15
Luxembourg	10%	10%/15% ⁽¹⁾	15
Malaysia	10%	10%/15% ⁽¹⁾	15
Mauritius	10%	10%/15% ⁽¹⁾	5/15 ⁽¹⁰⁾
Myanmar	10%	10%	5/10/15 ⁽¹⁵⁾
Nepal	10%	10%/15% ⁽¹⁾	15
Netherlands	10%	10%/15% ⁽¹⁾	5/15 ⁽²⁾
New Zealand	10%	10%/15% ⁽¹⁾	10/15 ⁽⁷⁾
Norway	10%	10%/15% ⁽¹⁾	5%/10%/15% ⁽¹²⁾
Oman	10%	10%/15% ⁽¹⁾	15%
Pakistan	10%	10%/15% ⁽¹⁾	10%/15% ⁽⁶⁾
Philippines	10%	10%/15% ⁽¹⁾	15%
Poland	10%	10%/15% ⁽¹⁾	0%/5%/15% ⁽⁶⁾
Romania	10%	10%/15% ⁽¹⁾	15%
Russia	10%	10%/15% ⁽¹⁾	15%
Seychelles	10%	10%/15% ⁽¹⁾	15%
Singapore	10%	10%/15% ⁽¹⁾	5%,8%,10%
Slovenia	10%	10%/15% ⁽¹⁾	10%/15% ⁽⁷⁾
South Africa	10%	10%/15% ⁽¹⁾	15%
Spain	10%	10%/15% ⁽¹⁾	5%/8%/15% ⁽⁸⁾
Sri Lanka	10%	10%/15% ⁽¹⁾	15%
Sweden	10%	10%/15% ⁽¹⁾	15%
Switzerland	10%	10%/15% ⁽¹⁾	5%/10%/15% ⁽⁴⁾
Tajikistan	10%	10%	5%/10%
Turkey	10%	10%/15% ⁽¹⁾	15%
Ukraine	10%	10%/15% ⁽¹⁾	15%
United Arab Emirates	10%	10%/15% ⁽¹⁾	15%

Country of recipient	Dividends	Interest	Royalties
United Kingdom	10%	10%/15% ⁽¹⁾	5%/15% ⁽²⁾
United States	10%	10%/15% ⁽¹⁾	5%/8%/15% ⁽⁹⁾
Uzbekistan	10%	10%/15% ⁽¹⁾	15%
Vietnam	10%	10%/15% ⁽¹⁾	15%

1 Interest:

- 10% applies to a recipient that is a bank or financial institution (including an insurance company)
- 15% for other interest payments

2 Royalties:

- 5% for the use of or the right to use any copyright of literary, artistic, or scientific work
- 15% for other royalties

3 Royalties:

- 5% for production or reproduction of any literary, dramatic, musical or artistic work (but not including royalties in respect of motion picture films and works on film or videotape for use in connection with television)
- 15% for other royalties

4 Royalties:

- 5% for alienation or the right to use any copyright of literary, artistic or scientific work
- 10% rate for alienation of any patent, trademark, design or model plan, secret formula, or process
- 15% rate for other royalties

5 Interest:

- 3% for interest paid on loans or credits granted for four years or more with the participation of a financing public institution to a statutory body or to an enterprise in relation to the sale of any equipment or to the survey, the installation or the supply of industrial, commercial or scientific premise and public works
- 10% applies to a recipient that is a financial institution

6 Royalties:

- 0% for films or tapes (payable to a contracting state or state-owned company)
- 5% for the use of or the right to use any copyright of literary, artistic, or scientific work
- 15% for other royalties

7 Royalties:

- 10% for the use of or the right to use any copyright, any industrial, commercial or scientific equipment, any motion picture film or film or videotape or any other recording for use in connection with television, or tape or any other recording in connection with radio broadcasting: the reception of, or the right to receive, visual images or sounds or both and the use in connection with television or

radio broadcasting, visual images or sounds, or both, transmitted by satellite or cable, optic fiber or similar technology

- 15% rate for other royalties

8 Royalties:

- 5% for the use of or the right to use any copyright of literary, dramatic, musical, artistic, or scientific work excluding cinematograph films or films or tapes used for radio or television broadcasting
- 8% for the use of or the right to use industrial, commercial or industrial equipment
- 15% rate for other royalties

9 Royalties:

- 5% for the use of or the right to use any copyright of literary, artistic or scientific work including software, and motion pictures and works on film, tapes or other means of reproduction for use in connection with radio or television broadcasting
- 8% for the use of or the right to use industrial, commercial or industrial equipment
- 15% rate for other royalties

10 Royalties:

- 5% for the use of or the right to use any copyright of literary, dramatic, musical, artistic, or scientific work excluding cinematograph films or films or tapes used for radio or television broadcasting
- 15% rate for other royalties

11 Royalties:

- 5% for the use of or the right to use any copyright of literary, artistic or scientific work including software, cinematograph films or tapes used for radio or television broadcasting
- 10% for the use of or the right to use industrial, commercial or industrial equipment or for information concerning industrial, commercial or scientific
- 15% rate for other royalties

12 Royalties:

- 5% for the use of or the right to use any copyright of literary, artistic, or scientific work
- 10% for the use industrial, commercial or industrial equipment
- 15% for other royalties

13 Royalties:

- 5% for the use of or the right to use any copyright of literary, artistic or scientific work including software, and motion pictures and works on films, tapes or other means of reproduction for use in connection with radio or television broadcasting
- 10% for the use of or the right to use of any patent, trademark, design or model, plan, secret formula or process
- 15% rate for the use of or the right to use industrial, commercial or industrial equipment or for information concerning industrial, commercial or scientific experience

14 Royalties:

- 10% for the use of or the right to use any copyright of literary, artistic or scientific work or for the use of or the right to use industrial, commercial or scientific equipment
- 15% rate for the use of or the right to use industrial, commercial or industrial equipment or for information concerning industrial, commercial or scientific experience

15 Royalties:

- 5% for the use of or the right to use any copyright of literary, artistic or scientific work
- 10% for the consideration of management or consultancy services or for information concerning an industrial, commercial, or scientific experience.

16 Royalties:

- 5% for the use of or the right to use any copyright of literary, artistic or scientific work, including software, and motion pictures and works on film, tape or other means of reproduction for use in connection with radio or television broadcasting
- 10% for the use of or the right to use industrial, commercial or scientific equipment or any patent
- 15% for the use of or the right to use any trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience

17 Dividends:

- 5% if the beneficial owner owns at least 25% of capital of the entity paying the dividend
- 10% rate for other dividends

13.7 Value-added tax

Value-added tax (VAT) is levied on a wide range of goods (including capital items) and services supplied in Thailand and also on the importation of goods and services.

The present rate of VAT is 7%; however, it only applies to goods and services supplied by enterprises with annual gross sales revenue in excess of THB1.8 million. The standard rate of VAT of 10% was reduced to 7% on 1 April 1999 by Royal Decree and has remained at this rate through regular renewals of this concession. The VAT rate is currently 7%.

13.8 Specific business tax

Certain businesses in Thailand are excluded from the VAT regime, and are instead subject to the specific business tax (SBT). These

businesses are: banking and similar businesses; finance, security and credit fonciers; insurance; factoring; and real estate businesses. The rate of SBT, after taking into account the municipal tax, is generally 3.3% on gross receipts, but for life insurance businesses it is 2.75%.

13.9 Stamp duty

A number of documents and transactions are subject to stamp duty. The applicable duty rate depend on the class of the instrument to stamped, but in general, the rates range between 0.1% and 1% of the value of the instrument. Flat rate duties range from THB1 to THB200 per instrument.

13.10 Excise tax

Thailand imposes an excise tax on certain locally produced goods, imported products, and services deemed harmful to the society or considered to be luxury goods or services, such as gasoline, motor vehicles, perfumes, batteries, beverages, liquor, tobacco products, playing cards, golf courses, night clubs and telecommunications.

The excise tax base for goods is derived from the suggested retail price (SRP), which is submitted by the entrepreneur to the Excise Department. The SRP shall be made on the costs of production, management costs and standard profit, excluding VAT. The excise tax is imposed at a specific rate, an *ad valorem* rate or both.

13.11 Property tax

A Thai company that owns land, building or any other improvements, and puts to commercial use, is required to pay a building and land tax, even if the company does not actually accrue or receive any income from the property or does not actually operate a business.

The property tax rate is 12.5% of the yearly rental according to the lease agreement or the annual assessed value by the local authorities, whichever is higher.

13.12 Signboard tax

The signboard tax may be imposed on any signs or billboards which display a name, trademark or product for the purpose of advertising or providing information on businesses.

The owner of the signboard or the tenant of the building or land which the signboard is located, in the absence of a tax filing or the officer cannot find the owner of the signboard.

13.13 Petroleum taxes

13.13.1 Petroleum income tax

The Petroleum Income Tax Act (PITA) governs the taxation of net profits derived from exploration and production (E&P) operations and overrides Thai corporate income tax under the Thai Revenue Code for said profits. Any non-E&P net profits earned by E&P entities are subject to corporate income tax at the same rate as non-E&P entities.

Petroleum income tax rate

The petroleum income tax rate is 50%.

Taxable Income

The petroleum income tax is levied on annual profits, based on taxable revenues less deductible expenses. It is calculated on an entity by entity basis, not concession by concession.

The following items shall be included as petroleum income:

- Gross income from the sale of petroleum
- Value of the petroleum disposed
- The value of petroleum delivered in lieu of a royalty in kind
- Gross income arising from a transfer of assets or rights relating to petroleum operations
- Any other revenue arising from petroleum operations (e.g. interest on surplus funds deposited with financial institutions in a savings account)

Deductibility of expenses

Ordinary and necessary expenditures include rental expenses, labor costs, service charges, cost of materials consumed, and entertainment expenses. However, ordinary and necessary expenditures incurred before the first accounting period are deemed as capital expenditures, which the entity can start amortizing for tax (and accounting) purposes on the first day of the first accounting period.

Capital expenditures can be depreciated, depleted and amortized using a suitable accounting method as ordinarily used in the petroleum industry, but the rates must not exceed the rates stipulated under PITA, i.e., broadly 20% straight line for tangible assets and 10% straight line for intangible assets.

In the case of post-production intangible drilling costs, the taxpayer can treat such intangible drilling costs either as capital expenditures or expense these costs in the period they are incurred or paid.

Losses carried forward

Tax losses can be carried forward as an offset against annual profits in following accounting periods, but not to exceed 10 accounting periods.

Filing obligations

Taxpayers must file an annual petroleum income tax return and pay petroleum income tax within five months after the closing date of each accounting period.

In addition, a taxpayer who holds a petroleum concession under the Thai III Scheme also has an obligation to file a mid-year tax return and pay half of their projected annual income tax within two months of the end of the first half of the year. The mid-year tax paid is creditable against the annual petroleum income tax liabilities at the end of the year.

Companies engaged in the business of oil and gas E&P in Thailand are governed and regulated by the Department of Mineral Fuels (DMF), under the Ministry of Energy. To operate an E&P business, an

E&P entity must be awarded a petroleum concession by the Ministry of Energy. E&P companies are not regulated under the Foreign Business Act and, as such, can be wholly owned by a foreign individual or company, without obtaining a foreign business license from the Ministry of Commerce.

13.13.2 Royalties

The concessionaire is required to pay a royalty to the DMF on a monthly basis, which can be paid in cash or in kind. The royalty payment is calculated based on volume of petroleum sold or disposed from each petroleum block for both onshore and offshore production.

For a petroleum block under the Thai I Scheme, the royalty rate is a 12.5% flat rate. A royalty paid on the domestic petroleum sale under Thai I Scheme is non-deductible for PITA purposes, but can be treated as a tax credit against petroleum income tax liability of the year.

For a petroleum block under the Thai III Scheme, the royalty rates are progressive and range from 5% to 15%, depending on the volume of monthly petroleum sales or disposals. Royalty paid can be treated as a deductible expense for petroleum income tax and special remuneration benefit (SRB) purposes.

13.13.3 Special remuneration benefit

The special remuneration benefit (SRB) is a super profits tax levied on the annual petroleum profit from a petroleum block under the Thai III Scheme.

SRB is calculated annually on a block-by-block basis. SRB is levied on the annual petroleum profit of an E&P entity when the annual revenue per one meter of depth of wells drilled on a block exceeds THB4,800. SRB is deductible for PITA purposes.

For these purposes, the annual petroleum profit (or loss) is the petroleum revenue for the period less the sum of petroleum capital expenditure, ordinary and necessary petroleum expenditures and special reductions. The entire amount of capital expenditure can be treated as a deductible expense for SRB on the date that the capital

expenditure is incurred (i.e. no requirement to following depreciation accounting principles).

The following items shall be included as petroleum income for SRB purposes:

- Gross income from the sale of petroleum
- Value of petroleum disposed
- Value of petroleum delivered as payment of royalty in kind
- Gross income arising from a transfer of any property or right related to petroleum operation

SRB rate

The SRB rate is based on graduated levels of tax, calculated using a complex formula based on the annual revenue per one meter of well depth, the accumulated costs incurred for the block, and a geological constant of the exploration block, capped at 75%.

Special reductions

A special reduction is the amount of money which the Ministry of Energy allows the concessionaire to apply in the calculation of expenditure, as if it were expenditure for investment in each petroleum block. This may be deducted from its petroleum revenue for the purpose of computing SRB. The special reduction rate is stipulated in the concession and should only be applied to capital expenditures derived from certain types of tangible property (e.g. petroleum pipelines and petroleum production equipment).

SRB Losses

SRB loss can be carried forward as an offset against SRB profit in following years without any expiration point.



14. Customs

Imported products, generally, are subject to import duty and value added tax (VAT) at the time of importation, unless the goods are prescribed as exempt goods under the Customs Tariff Decree B.E. 2530 (1987). The importer is required to complete the customs formalities. This includes presenting import entries and other shipping documents to the customs authorities at the entry port and making payment of the import duty and VAT in order to release the goods from the customs custody.

Some imported products, such as dangerous goods, food and health products, cosmetics and medical equipment, require an import license to be presented to the customs officer during the customs clearance process.

An importer can choose to use the free or reduced import duty rate if it meets the conditions of certain privileges, such as reliance on a free trade agreement (FTA), special trade programs and importation to special areas.

There are various types of privileges provided by the Customs Department to an exporter of products. These privileges include tax rebates, duty refunds for imported materials that are exported, use of manufacturing bonded warehouses, and use of customs-free zone.

Products are generally exempt from export duty.

14.1 Controls on imports and exports

There are 21 government agencies that control prohibited and restricted products, e.g., Ministry of Interior, Ministry of Industry and Ministry of Public Health.

In addition, new export controls on dual-use items, i.e., goods that can be used for both civilian and military applications and/or can contribute to the proliferation of weapons of mass destruction, will be in effect from 1 January 2019.

14.2 Customs duty

The present import duty rates are in the range of 0% to 80%. The customs duty payable is based on the cost of the imported products, including freight and insurance to Thai port (the CIF value). Import VAT of 7% is based on the CIF value of imported goods, including import duty.

There are nine groups of products that are subject to export duty, including, rice and glutinous rice, metal scraps, hides of bovine animals, rubber of the *genus hevea*, wood, sawn wood and articles made of wood. The export duties and taxes payable are calculated based on the FOB value. The present export duty rates are in the range of 0% to 40%. The export VAT rate is 0%.

14.3 Free-trade agreements

Thailand has 12 bilateral and multilateral free-trade agreements. There are six bilateral Agreements entered into between Thailand and the following countries: Australia, Chile, India, Japan, New Zealand and Peru. Thailand is a member of six multilateral agreements, including the FTA among the 10 ASEAN countries, and also ASEAN agreements with the following five territories: Australia/New Zealand, China, India, Japan and South Korea.

In addition to the existing FTAs, Thailand has ongoing FTA negotiations, including, the Regional Comprehensive Economic Partnership (RCEP), ASEAN-Hong Kong, Thailand-Turkey,

Thailand-Pakistan, Thailand-European Union (EU), and Thailand-European Free Trade Association (EFTA).

14.4 Dumping

All aspects of investigations of anti-dumping cases in Thailand have been carried out by the Department of Foreign Trade, Ministry of Commerce. There are 37 imported products from various countries that are subject to anti-dumping duty, of which more than half of them are steel products, including hot-rolled steel from China, high carbon steel wire rod from India, and stainless steel pipes and tubes from South Korea.





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- Fixing a business



Glossary

BOI	Board of Investment
CIF	Cost, Insurance and Freight
DMF	Department of Mineral Fuels
DTA	Double tax agreement
EFTA	Thailand-European Free Trade Association
E&P	Exploration and production
EU	European Union
FAP	The Federation of Accounting Professions
FOB	Free on board
FTA	Free-trade agreement
GIZ	General Industrial Zone
IEAT	The Industrial Estate Authority of Thailand
PE	Permanent establishment
PITA	The Petroleum Income Tax Act
RCEP	Regional Comprehensive Economic Partnership
SBT	Specific business tax
SRB	Special remuneration benefit
SRP	Suggested retail price
VAT	Value-added tax



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