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Guide to Doing Business in Thailand



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Introduction

Thailand is a constitutional monarchy located in mainland Southeast Asia, with Bangkok as its capital and principal commercial centre. It has a population of approximately 71.6 million people, and Thai is the official language, although English is commonly used in international business.

Thailand is one of Southeast Asia's key economies and an important destination for foreign direct investment ("**FDI**"), particularly for manufacturing, trade, services and regional operations. Its strategic location, established industrial base, developed infrastructure and access to regional supply chains make it a significant gateway to the wider ASEAN market.

Economically, Thailand is seeing steady growth in FDI, rising to 33rd globally according to UN Trade and Development (UNCTAD) data in the World Investment Report 2026, and to 20th in the 2026 Kearney FDI Confidence Index for Emerging Markets.

The Thai government continues to promote investment in targeted industries and strategic areas, including through the Board of Investment, industrial estate privileges and the Eastern Economic Corridor. These initiatives support higher-value activities such as advanced manufacturing, digital transformation, green growth and technology development.

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Foreign Investment

1. Foreign Business Restrictions

Foreign investment is generally welcomed in Thailand. Foreign participation in a business is regulated by the Foreign Business Act 1999 ("**FBA**"). The FBA prohibits foreign participation in certain prescribed businesses and requires foreigners to seek approval/licences from the Ministry of Commerce ("**MOC**") in order to participate in other prescribed businesses.

In addition to the FBA restrictions, specific legislation may also set limits on the level of foreign share ownership in areas such as commercial banking, telecommunications, insurance, commercial transportation, aviation, commercial fishing, mining and commodity exporting.

Before conducting a business as a "Foreigner" in Thailand, it is important to identify whether the restrictive provisions of the FBA or of other specific legislation would apply. Where a business is not listed in any of the FBA restricted categories and is not the subject of restrictive provisions in any other specific legislation, it can be conducted by a Foreigner. For example, manufacturing businesses may generally be conducted without restriction on foreign ownership.

The restrictions are set out in three annexes of the FBA, which are briefly described below.

Annex 1: Annex 1 reserves certain core business activities that are deemed to be important to the Thai national interest, to Thai nationals and wholly Thai-owned Thai entities only. Other types of business activities included in Annex 1 relate to foreign influence on the Thai public and/or the fundamental economic activities from which most Thais earn their living, such as engaging in agriculture, trading in antique objects of Thailand, and trading in land.

Annex 2: Annex 2 is divided into three chapters. The most important business activities, which are listed in Chapter 1 of Annex 2, involve the issue of Thai national safety or security. The remaining two chapters of Annex 2 involve businesses such as traditional Thai art, culture, folk handicrafts, natural resources and/or the environment of Thailand. Unless a Foreigner obtains protection or privileges from Thailand's Board of Investment (described further below), a licence must be obtained from the Minister of Commerce (with the approval of the Thai Cabinet) in order to operate an Annex 2 business.

Annex 3: Annex 3 contains a list of business activities in which Thais are not yet deemed ready to compete with Foreigners. Annex 3 lists many types of businesses, including wholesale trade, retail trade, and certain provision of professional services such as accounting or legal services. It also contains a catch-all category called "other services". Annex 3 businesses require a licence from MOC before operations can commence (unless the business has obtained Board of Investment protection or privileges). Where the amount of the investment into

Thailand for an Annex 3 business is deemed to be sufficiently large, some of the restrictions may be relaxed at MOC's absolute discretion.

2. Foreign Business Licences

Foreigners may request licences under Annex 2 or Annex 3 of the FBA, although it is generally the case that Annex 2 licences are rarely granted.

Broadly speaking, where a Foreign Business Licence ("**FBL**") is granted for an Annex 3 business, the Minister of Commerce (upon advice from the Foreign Business Board) may prescribe the following conditions:

(a) a specific debt-to-equity ratio;

(b) a specific number of foreign directors who must reside in Thailand;

(c) the maintenance of a specific minimum amount of capital in Thailand for a designated period; and/or

(d) the transfer of certain technology or other assets to Thailand.

The FBL process for a business under this Annex 3 can take anywhere from 60 to 120 days, where the approval will be granted at the sole discretion of the Director-General of the Department of Business Development ("**DBD**") (with the approval of the Foreign Business Commission) based on the consideration of various factors such as type of business and the reason and necessity to grant the licence for such type of business. There is a 60-day consideration process which will commence once the assigned officer has confirmed that the draft application submitted to DBD is complete. Before the draft is deemed complete, the assigned officer may make a number of clarification and further document requests.

3. Foreign Business Certificates

While the FBL process is discretionary, investors should also consider whether they are eligible to receive a non-discretionary Foreign Business Certificate ("**FBC**") linked to other provisions of law, such as the three important areas described below.

(a) Board of Investment, Industrial Estate Authority of Thailand, Eastern Economic Corridor

Investment promotion by the Board of Investment ("**BOI**"), which provides tax and non-tax privileges, may be a route to addressing foreign ownership restrictions under the FBA. If the business operator obtains BOI promotion, commonly referred to as a "BOI Certificate", one available non-tax privilege is that the operator can operate its business in Thailand as a Foreigner by obtaining an FBC corresponding to the BOI Certificate from DBD.

As the FBC process is linked to the corresponding BOI Certificate, it is relatively straightforward and does not require substantial documentation, which means that it is achievable in both a timely and cost-effective manner.

Obtaining a BOI Certificate and corresponding FBC may take four to six months depending on the amount of registered capital of the applicant, as there are two processes required; however, the FBC part of the process may be as short as one to two weeks (no later than 30 days). Please see our further section on the BOI below.

Please note that a Foreigner who is permitted in writing to operate the industry or trade for export under the Industrial Estate Authority of Thailand Act 1979 (which is the law governing the Industrial Estate Authority of Thailand ("**IEAT**")) or other laws (e.g., the Eastern Economic Corridor Act 2018) can also apply for the corresponding FBC from the DBD.

(b) US-Thai Treaty

The US-Thai Treaty of Amity and Economic Relations enables a majority US-owned enterprise (meaning, with US ownership up to the ultimate parent) to be treated in the same manner as a Thai investor, except in a limited number of businesses (such as telecommunications, transport, fiduciary functions, banking involving depository functions, exploitation of land or other natural resources, and domestic trading in indigenous agricultural products). We note that it is possible for a Thai-incorporated company or a US-incorporated company majority owned by US nationals to apply for a US-Thai Treaty certificate in order to legally conduct its business in Thailand. To maintain eligibility, a majority of the Board of Directors must be Thai or US nationals, or the representative of

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the business in Thailand must also be a US or Thai national.

(c) Trade Agreements

It is worth assessing whether trade agreements (such as free trade agreements) provide for increased foreign ownership percentages in specific industries. This is an area that should be monitored going forward.



Board of Investment Promotion (BOI)

BOI was set up under the Investment Promotion Act 1977 (as amended) ("**IPA**") for the purpose of encouraging investment in Thailand. Under the IPA, the Thai government has granted full foreign ownership rights to Foreigners who undertake to make major investments and transfer technology to Thailand. Generally, BOI privileges are granted for manufacturing products as well as certain non-manufacturing activities. To qualify for BOI promotion, foreign nationals are usually obliged to transfer a specific amount of capital, technology, and equipment into Thailand within the period and under the conditions stipulated by BOI.

BOI offers two kinds of benefits and privileges: tax-based incentives, such as tax holidays and tariff exemptions on imports; and non-tax privileges, such as permission for foreign nationals to take 100% ownership of the business, to own land, and to obtain beneficial visa and work permit arrangements.

Non-tax privileges are available to all BOI-promoted projects, regardless of location or type of industry. Tax-based incentives, on the other hand, depend on various factors associated with the activity to be promoted and only apply to projects that enhance national competitiveness.

It takes between three to four months for BOI to consider an application. An additional four weeks are usually required to obtain the BOI promotional certificate (which evidences BOI promotion granted to the business).

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Industrial Estate Authority of Thailand's Privileges

The IEAT has its own authority to control companies or industrial operators located in Industrial Estates through the Industrial Estate Authority of Thailand Act, B.E. 2522 (1979) (the "**IEAT Act**"). There are two zones: a General Industrial Zone ("**GIZ**") and an I-EA-T Free Zone ("**Free Zone**"). A GIZ is an area designated for industrial activities or other activities beneficial to or connected with industrial activities. A Free Zone (formerly an export industrial zone) is a zone designated for industrial, commercial, or other business related to industrial or commercial operations for economic benefits. Industrial operators in both zones are eligible for the following opportunities, options, and privileges:

(a) The right to own land in an industrial estate;

(b) The right to bring in foreign skilled workers, with visa and work permit facilitation;

(c) The right to bring in foreign skilled workers' spouses and dependents, with visa facilitation;

(d) The right to remit money abroad; and

(e) The right to receive additional privileges from Thailand's BOI when applying for investment promotion.

For a Free Zone, the industrial operators shall be entitled to the following tax privileges:

(a) The right to receive additional tax privileges;

(b) The right to receive exemptions of import duty, value-added tax ("**VAT**"), and excise tax on machinery, equipment, raw materials and supplies used in production;

(c) The right to receive exemptions of export duty, VAT, and excise tax on imported materials for use in production or for commercial operation; and

(d) The right to receive exemptions of export duty, VAT, and excise tax on raw materials, products and by-products.



Benefits to location within the Eastern Economic Corridor (EEC)

The Eastern Economic Corridor (the "**EEC**") was established in 2018 by the Eastern Special Development Zone Act 2018 ("**EEC Act**"). Under the EEC Act, the provinces of Chachoengsao, Chonburi, Rayong, and any other areas in the eastern region of Thailand prescribed by Royal Decree shall be designated as the Eastern Special Development Zone ("**EEC Area**"). The EEC Act prescribes that an EEC Policy Committee shall be established under the EEC Act, which has the authority to issue policies and approve the overall development of the EEC Area.

Under the EEC Act, operators conducting business in the prescribed special economic promotional zones within the EEC Area ("**Promoted Zones**") are entitled to obtain certain privileges such as the right to own land or a condominium, the right to bring foreigners into Thailand and to permit such foreigners to reside therein, the right to tax and duties exemption or deduction, the right to be exempted from the laws on foreign exchange control (whether in whole or in part) and to use foreign currency in the Promoted Zones, and other privileges.

Furthermore, other special measures have been provided to facilitate and promote investments by operators inside the Promoted Zones, such as:

(a) the period of lease, sub-lease, lease-out, or sub-lease-out of lands or immovable properties in the special economic promotion zone is up to 50 years and such period can be extended by not more than 49 years;

(b) any foreigners who legally enter and stay in Thailand, by relying upon the benefits of the business operators in the Promoted Zones, will be entitled to work in a position prescribed by the EEC Policy Committee by obtaining written permission from the Secretary-General of the EEC Policy Committee, without being required to obtain a work permit under the laws on management of foreign workers' employment; and

(c) the EEC Policy Committee is authorised to issue notifications regarding exemptions for importers and exporters conducting business in the Promoted Zones from being required to comply with customs laws, whether in whole or in part.

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Forms of Business Entities & Establishment of a Private Limited Company

Thai law permits the establishment of several types of business entities, and the categories are principally:

(a) private limited company

(b) public limited company

(c) partnerships (namely, an unregistered ordinary partnership, registered ordinary partnership or limited partnership)

(d) sole proprietorship

(e) branch office of a foreign company

(f) "representative" office of a foreign company

Private limited companies are the most frequently used entity structure in Thailand. They fall under the auspices of MOC, and are governed by the provisions of the Civil and Commercial Code.

1. Summary of Process

Setting up a private limited company requires at least two individuals (known as "**promoters**"). One of the promoters must apply to reserve a name with MOC, and the preferred name approved by MOC will be reserved for 30 days.

A Memorandum of Association (the "**Memorandum**") must be filed by the promoters, who must each subscribe for at least one share, within 30 days after the name has been reserved. The Memorandum must be submitted for registration at MOC. The Memorandum includes the name of the company, the registered capital amount, the par value of the shares, the business objectives of the company (to define the scope of the company's activities), and the province where the company will be located.

After the Memorandum has been registered and all the shares have been subscribed, the promoters must hold a general (statutory) meeting of subscribers. The purposes are essentially to (i) adopt the Articles of Association of the company; (ii) appoint the company's directors and auditors; (iii) ratify any contracts signed or expenses incurred by the promoters; (iv) set the amount of compensation for the promoters; and (v) fix the number of preference and ordinary shares, their respective rights, and paid-up proportions. The promoters must send a statutory report and a notice of this statutory meeting to all subscribers at least seven

days before the meeting. After the statutory meeting, the promoters will hand over the business of the company to its newly appointed directors.

The directors must register the company with MOC (i.e., incorporate the company) within three months of the date of the statutory meeting. The company is only entitled to transact business when the incorporation process is complete and the registration fee has been paid.

A company can be incorporated within one day if the following procedures have been completed on the same day the Memorandum is registered with MOC: (i) all of the shares to be registered are fully subscribed; (ii) the aforementioned statutory meeting is held on such day with the participation of all promoters and share subscribers, and all required agenda items in the statutory meeting must be approved by all such promoters and share subscribers; (iii) the promoters hand over the business of the company to the newly appointed directors; and (iv) all subscribed shares must be paid in accordance with the resolution of the statutory meeting.

2. Directors

There is no general requirement as to the number, term of office, residency, or nationality of a company's directors.
There may be a resident director requirement imposed under an FBL or other law. There are also practical advantages to having a resident director who is either a Thai national or a foreigner with a work permit.

3. Shares

The shares of a company must either be ordinary or preferred shares. Each share must have a minimum par value of THB 5, and unless otherwise provided in the Articles of Association, shares are freely transferable. The law requires that at least 25% of each share be paid up on or before the application to incorporate the company is filed by the directors.

The concept of authorised (but unissued) capital does not exist for private limited companies under Thai law. The company's entire registered share capital must be issued and allotted to its shareholders.

4. Shareholders

The minimum number of shareholders is two, and a private limited company is prohibited from holding its own shares.

The liability of a private limited company's shareholders is limited to the amount of the unpaid portion of such shareholder's shares.

5. General Meetings

The first general meeting of the shareholders must take place within six months from the date of registration of the company, and thereafter at least once every 12 months. Unless otherwise specified in the Articles of Association, the presence of the holders of 25% of the company's shares will constitute a quorum.

Decisions of shareholders' meetings are made either by ordinary or special resolutions. An ordinary resolution requires a simple majority vote of the shareholders present at the meeting. A special resolution, however, is required by law in order for the company to transact the following types of business:

(a) amendment of the Memorandum and Articles of Association;

(b) increase and reduction in the share capital;

(c) the dissolution of the company;

(d) amalgamation with another company;

(e) the issue of new shares as being fully or partly paid up other than in cash; and

(f) any other specific matters set out in the Articles of Association as requiring a special resolution.

The passing of a special resolution requires the votes of at least 75% of the total votes of the shareholders present at the meeting and eligible to vote. Other requirements include (i) notification of the meeting at least once in a local newspaper (if the Articles of Association require publication of a notice) and by registered (receipt acknowledged) mail to all shareholders at least 14 days prior to the date of the meeting.

6. Dividends

Dividends are permitted to be paid out only from profits, and the declaration of dividends must be authorised by a shareholders' meeting. The other requirement is that each time a dividend is declared, the company must allocate at least 5% of its profits to a reserve until that reserve reaches at least 10% of its registered share capital.



Land Acquisition

The ownership and possession of land is governed by the Land Code 1954. Generally, only Thai nationals and majority Thai-owned companies (where a majority of the shareholders are Thai and own at least 51% of the registered share capital) are allowed to own land in Thailand.

Foreigners or foreign entities may be allowed to own land in Thailand if they obtain the approval of the Minister of Interior. Additionally, a majority foreign-owned Thai company may be allowed to own land under specific laws such as the IPA and the IEAT Act.

A majority foreign-owned company may lease land. Where the lease period exceeds three years, the lease must be registered at the land office where the land is located. The law restricts the term of a lease for commercial purposes to a maximum of 30 years and to a maximum of 50 years for a lease for industrial purposes. Likewise, any extension of a lease term cannot exceed 30 years and 50 years, respectively.



Tax

Thailand's standard corporate tax rate is 20%. This tax will apply to both companies registered in Thailand as well as companies registered abroad. However, there are tax incentives that small and medium-sized companies may benefit from, including a reduced tax rate.

1. Tax Registration

A Taxpayer Identification Number (Tax ID Number) will be automatically granted to a company when the company is registered at MOC.

2. Corporate Tax

Currently, the rate of corporate income tax is 20%, but certain tax incentives (in the form of lower tax rates) may apply to small and medium-sized enterprises.

3. Value Added Tax (VAT)

A juristic person established in Thailand (except a Representative Office) that has accrued income per annum exceeding THB 1,800,000 and that is not otherwise exempt is subject to VAT. VAT is similar to the Goods and Services Tax (GST) in Singapore as it is levied on purchases of goods and services. The juristic person that is subject to VAT must file an application for VAT registration either before commencing its business or within 30 days after the date on which accrued income per annum of THB 1,800,000 is exceeded. Currently, the VAT rate is 7%.

4. Customs Duty

The main legislation relating to customs law in Thailand are as follows:

(a) Customs Act B.E. 2560 (2017);

(b) Export and Import of Goods Act B.E. 2522 (1979), as amended; and

(c) Other import and export requirements may be set out in specific legislation (e.g., the Hazardous Substances Act B.E. 2535 (1992)), as amended.

Royal Thai Customs ("**Customs**") is the authority that generally regulates imports and exports in Thailand. The Department of Foreign Trade of MOC is the main authority that determines the goods subject to import and export restrictions and supervises the approval process, unless the goods otherwise fall under the supervision of other authorities in accordance with specific laws.

In general, tariffs and rates for importing goods under Thai law are set out in the Customs Tariff Decree, as amended. The Ministry of Finance issues notifications to reduce the rate of duty or exempt the payment of duty on any goods as specified in the Customs Tariff Schedule for various reasons, such as compliance with Thailand's obligations under international treaties or agreements.

5. Excise Tax

Excise tax is a consumption tax imposed on certain services and products, such as petroleum products, beverages, tobacco, automobiles with seats not exceeding 10 people, perfume, nightclubs, and discotheques. The excise tax calculation varies for different products and is based on both ad valorem rates (a percentage of the recommended retail price) and/or specific rates (based on the quantity or weight of the goods), whichever is greater, as specified by the Excise Department.

6. Specific Business Tax

There are certain businesses in Thailand that are not subject to VAT, but rather subject to specific business tax instead. The specific business tax is a kind of indirect tax that is applicable to the categories of business such as banking businesses, finance, securities and credit foncier, life insurance brokers, pawn brokers, business with regular transactions similar to commercial banks, trade in immovable properties and sale of securities. The rates of the specific business tax vary from 0.01% to 3% depending on the provided business services. The specific business tax will be imposed on the gross receipts received from the business.



Employment & Immigration

1. Employment Matters

Thailand has detailed laws relating to labour matters, which are generally considered to be protective of employees. The laws set out certain minimum employment terms and conditions, such as:

(a) a maximum of eight working hours per day (48 hours per week) for normal working conditions, and a maximum of seven working hours per day (42 hours per week) for hazardous work;

(b) a minimum wage rate which differs from province to province;

(c) an entitlement to overtime pay and holiday pay, for an employee who is required to work overtime, or work on a holiday;

(d) a minimum of 13 days of public holidays, and a minimum of six annual holidays for an employee who has been working for at least one year;

(e) an entitlement to 30 days of paid sick leave, 120 days of maternity leave (60 of which is paid maternity leave), three days of paid business leave, paid leave for sterilisation, and paid leave for military service.

Employers are responsible for registering their business and their employees with the Social Security Office. The monthly contribution of 5% of the employee's salary (up to a maximum salary base of THB 17,500) shall be deducted from the employee's salary and paid to the Social Security Fund. The employer is also required to contribute the same amount to the Social Security Fund on a monthly basis.

Termination of employment must be preceded by advance written notice or payment in lieu thereof. Any accrued wages and payment for unused annual holiday must also be made. Statutory severance pay, ranging from 30 to 400 days' salary depending on the employee's length of service, is also required. However, if the termination is based on specific grounds provided under labour protection laws, such as an employee's serious misconduct, the employer may terminate the employee with immediate effect and without making the aforementioned payments.

2. General visa requirements

In Thailand, the immigration and visa requirements are governed by the Immigration Act 1979 ("**Immigration Act**") and are administered by the Immigration Bureau, Ministry of Interior. The principal immigration requirement is that any foreign national wishing to enter Thailand, unless otherwise exempted, must obtain a proper visa from the Royal Thai Embassy or Royal Thai Consulate prior to arrival in Thailand. There are several

types of visa that can be issued under the Immigration Act depending on the purpose of visit (e.g., Transit Visa, Tourist Visa, Non-Immigrant Visa, Diplomatic Visa, Official Visa, and Courtesy Visa).

Thailand has provided some exceptions for foreign nationals who hold ordinary passports from certain countries (e.g., Singapore, France, the US, and the Philippines) ("**Phor.30 Countries**") to enter Thailand without requiring a tourist visa. Such foreign nationals are entitled to stay in Thailand for a period not exceeding 30 days on each visit. In this event, such passport holders must obtain an entry stamp at the airport, seaport, or land border checkpoint of entry upon entering Thailand.

Separately, nationals of certain specified countries are allowed to temporarily enter Thailand without a prior visa application, for tourism purposes, by applying for a Visa on Arrival at the airport, seaport, or land border immigration checkpoint of entry on the date of entering Thailand. Such foreign nationals are entitled to stay in Thailand for a period not exceeding 15 days per visit.

3. Immigration for Business Purposes

Immigration into Thailand is strictly controlled. With respect to business purposes, in general, any foreign national wishing to work or conduct business in Thailand must obtain a Non-Immigrant Category "B" Visa (a "**Non-B Visa**") to be allowed to enter Thailand. However, a Non-B Visa does not automatically permit a foreign national to immediately engage in work in Thailand. A foreign national wishing to start work in Thailand must also obtain a work permit (a "**WP**"), while a foreign national wishing to enter Thailand for the purpose of business negotiation or a conference requires only a Non-B Visa without a WP.

4. Regular Work Permit

The Foreigners' Working Management Emergency Decree ("**Emergency Decree**") is the law governing work permits and provides that a foreign national shall not carry out any work without a WP granted by the Foreign Workers Administration Office, Department of Employment ("**DOE**").

DOE has issued a Notification Re: Prescribing Exempted Activities Which Are Not Considered as Working ("NDOE on Work-Exempted Activities"), under which a foreign national wishing to undertake any of the following activities in Thailand would not be required to obtain a WP or Non-B Visa. Under the NDOE on Work-Exempted Activities, the activities not considered as "work" are as follows:

(a) Attendance at meetings, discussions or seminars;

(b) Attendance at exhibitions or trade exhibitions;

(c) Visiting to observe businesses or to meet for business dialogues;

(d) Attendance at special lectures and academic lectures;

(e) Attendance at technical trainings and seminars;

(f) Purchasing of goods in trade exhibitions; and

(g) Attendance at a company's board of directors' meetings.

As the definition of "work" is very broad, it can be concluded that, apart from the seven activities stated above, a foreign national who engages in any other activities in Thailand that fall under the definition of work as specified above would be required to obtain a WP and relevant visa (Non-B Visa) prior to commencing work. Any foreign national who engages in work without first obtaining a WP is liable to a fine ranging from THB 5,000 to THB 50,000, and upon paying such fine, shall be repatriated from Thailand.

In the normal process, a foreigner must enter Thailand with a Non-B Visa and will be allowed to stay in Thailand for 90 days. The foreigner, through their employer, must obtain a work permit during this time. Under the standard scheme, a work permit is typically valid for one year and is contingent upon the applicant maintaining a valid Non-B Visa. It is therefore essential to ensure that the applicant retains Non-B Visa status throughout the duration of the work permit. The Immigration Bureau is the competent authority responsible for granting annual visa extensions.

It is noteworthy that, if an employer receives BOI privileges, the work permit and long-term visa procedure can be undertaken at the One Stop Service, which consists of both DOE and the Immigration Bureau. As a result, the process for issuance of the work permit and receipt of a one-year or four-year visa can be completed

within one day. Please note that, before issuing the work permit, the promoted company must apply for a position for the foreigner. This process should take three to four weeks.

In recent years, alongside the conventional visa and work permit framework, Thailand has introduced several new visa schemes designed to attract remote workers and digital nomads. Notable examples include the Long-Term Resident (LTR) Visa, the Destination Thailand Visa, and the SMART Visa programme. These initiatives allow eligible individuals to work legally in Thailand, with some programmes offering tax incentives as part of their benefits.



Intellectual Property

The Department of Intellectual Property ("**DIP**"), under the Ministry of Commerce, is the principal government authority responsible for intellectual property matters in Thailand. The main categories of intellectual property protection in Thailand are trademarks, copyrights, and patents, each of which is governed by separate legislation.

1. Trademark

Thailand is a civil law jurisdiction. Registered trademarks are protected under the Thai Trademark Act. While registration provides the strongest form of protection, unregistered trademarks may also be protected through passing off and other applicable legal provisions.

To be registrable in Thailand, a trademark must be distinctive, must not be identical or confusingly similar to a prior-filed or registered trademark in Thailand, and must not be prohibited by law. Under the normal examination process, trademark registration typically takes approximately 12–18 months. A fast-track examination process may be available, which can reduce the examination period to approximately six months, subject to the submission of a marketing plan and compliance with other eligibility criteria.

Trademark protection lasts for 10 years from the filing date and may be renewed indefinitely for successive periods of 10 years.

Thailand is also a member of the Madrid Protocol, and international trademark registrations designating Thailand are recognised under the Madrid System.

2. Copyright

Thailand is a member of the Berne Convention. Accordingly, copyright works created by nationals of member countries are automatically protected in Thailand without any formality.

Thailand does not have a copyright registration system. However, the Department of Intellectual Property operates a copyright recordal system through which a recordal certificate may be obtained. While such a certificate is not conclusive proof of ownership and is not legally required for enforcement, it may serve as useful supporting evidence and facilitate enforcement actions with relevant government authorities.

The holder of a copyright recordal certificate must still prove ownership and creation of the copyrighted work before the court. Therefore, all evidence relating to the creation and development of the work should be properly maintained and documented.

3. Patent

Thailand is a member of the Patent Cooperation Treaty ("**PCT**"). Accordingly, international patent applications filed under the PCT system may enter the national phase in Thailand.

The patent prosecution process in Thailand generally takes between two and five years or longer due to examination backlogs at the Patent Office. Thailand currently participates in the Patent Prosecution Highway programme with Japan and is also a member of the ASEAN Patent Examination Co-operation programme. Under these programmes, applicants may request accelerated examination based on examination results issued by participating patent offices, subject to compliance with the applicable requirements.

In addition to invention patents, Thailand also provides protection for petty patents and design patents. A petty patent may be granted for an invention that is novel and industrially applicable, although the level of inventiveness required is lower than that required for an invention patent. Design patents protect the ornamental appearance of a product.

The protection period for an invention patent is 20 years from the filing date, subject to payment of annual annuity fees. A petty patent is protected for up to 10 years, subject to payment of renewal fees. A design patent is protected for 10 years from the filing date.

4. Other Intellectual Property Rights

Other forms of intellectual property protection available in Thailand include trade secrets, plant variety protection, and geographical indications.



Trade

Royal Thai Customs ("**Customs**") is the authority that generally regulates imports and exports in Thailand. The Department of Foreign Trade ("**DFT**") of MOC is the main authority that determines the goods subject to import and export restrictions and supervises the approval process, unless the goods otherwise fall under the supervision of other authorities in accordance with specific laws. DFT also manages the system for issuance of preferential certificates of origin available to parties importing from countries that are parties to a bilateral or regional free trade agreement to which Thailand is also a party, as well as in respect of monitored goods for export to the US or European Union.

1. Tariff Classification

Goods are classified in Thailand according to an eight-digit tariff nomenclature, as set out under the Customs Tariff Decree B.E. 2530 (1987), as amended. This classification system is adopted from the ASEAN Harmonised Tariff Nomenclature, which is also an eight-digit classification system used by all 10 ASEAN member countries. This is, in turn, based on the Harmonised System ("**HS**") developed by the World Customs Organisation. The current HS system implemented by Thailand is HS2022.

The Ministry of Finance issues notifications to reduce the rate of duty or exempt the payment of duty on any goods as specified in the Customs Tariff Schedule for various reasons, such as compliance with Thailand's obligations under international treaties or agreements.

If an HS Code cannot be identified or if there is uncertainty, any person can submit a request for an advance ruling for the customs tariff classification to the Customs Tariff Division, Customs. Once granted, the letter informing the result of the advance ruling for customs tariff classification shall be effective for a period of three years from the issuance date of such letter.

2. Valuation

The "customs value" is the basis for assessment of duty for goods imported into Thailand (Section 2, paragraph twelve, of the Customs Act B.E. 2469 (as amended by the Customs Act (No. 17)) and Ministerial Regulation No. 132 ("**MR 132**"), as amended). The "customs value" shall be determined by applying the six valuation methods as follows: (i) the transaction value of imported goods; (ii) the transaction value of identical goods; (iii) the transaction value of similar goods; (iv) the deductive value; (v) the computed value; and (vi) the fall-back value.

The transaction value of imported goods in (i) is the first method for customs valuation. If the transaction value of imported goods is lawfully rejected, then the other methods can be used in sequential order. The fall-back value in (vi) above is applied when methods (i)–(v) cannot apply, by going back to methods (i)–(v) with flexibility.

If there is some uncertainty regarding the valuation of imported articles, any person can submit a request for an advance ruling for the customs valuation to the

Customs Standard Procedures and Valuation Division, Customs. Once granted, the letter informing the result of the advance ruling for customs valuation shall be effective for a period of three years from the issuance date of such letter.

3. Origin

To apply for preferential tariff treatment under an FTA, a document certifying proof of origin must be issued pursuant to the origin requirements. Each free trade agreement prescribes different origin requirements.

Any person can submit a request for an advance ruling on origin of goods to the Rules of Origin Division, Customs. Once granted, the letter informing the result of the advance ruling on origin of goods shall be effective for a period of three years from the issuance date of such letter.

4. Customs Disputes – Civil

Customs is entitled to reassess duty and tax by issuing a Notice of Assessment to an importer. Once the Notice of Assessment has been received, the importer is required to pay the amounts stated in the Notice of Assessment within thirty days unless approval from the Director-General to delay the payment has been obtained.

Where Customs has issued a Notice of Assessment and the importer disagrees with such assessment, the importer has the right to appeal to the Board of Appeal ("**BOA**") within 30 days of the receipt of the Notice of Assessment.

Where BOA has issued its ruling and the importer disagrees with it, the importer has the right to appeal by filing a complaint with the Tax Court within 30 days of receipt of the ruling.

5. Customs Disputes - Criminal

Under Thai law, customs disputes may be treated as civil and/or criminal matters. It is important to note at the outset that the risk of criminal proceedings exists at any time where Customs—or the Department of Special Investigation ("**DSI**"), which also has jurisdiction to do so—determines that the facts support the bringing of a criminal case against the importer.

Where a person committing an offence is a juristic person, if the offence is caused by an order or an act of its board, manager, or any person responsible for an operation of such juristic person, or in the case that such person fails to order or act under their duty leading to a default of the juristic person, they shall be liable to a penalty specified for such offence pursuant to section 253 of the Customs Act.

Settlement in a customs case is provided for under the Customs Act. If the settlement is approved, it will indemnify the importer against any further prosecution for the settled offence and in connection with the settled entries. This means that no further criminal prosecution can be brought against the importer in respect of the same imports for the same offence.

6. Trade Remedies Proceedings

When importing products, particularly under a new tariff classification that has not yet been used (additional duties usually, but not always, are imposed on the basis of tariff classifications), care should be taken to determine whether the product (or its tariff classification) is subject to any type of trade remedy proceedings in Thailand. The regulator for trade remedies proceedings in Thailand is DFT.

7. Anti-Dumping Measures

Pursuant to the Anti-Dumping and Countervailing Act, B.E. 2542 (1999) ("**AD Act**"), as last amended substantively in 2019, Thailand can impose an Anti-Dumping ("**AD**") measure on the Thai imports of a particular exporter when it has established three elements:

(a) there is dumping of products by an exporter in the market (section 13 of the AD Act defines dumping as the "*introduction of merchandise into the commerce of Thailand at an export price below its normal value*");

(b) there is injury to a domestic industry (section 19 of the AD Act defines injury as (i) material injury to a domestic industry; (ii) threat of material injury to a domestic industry; or (iii) material retardation of the establishment of a domestic industry); and

(c) a causal link between (a) and (b).

The outcome of an AD measure is that an additional rate of duty (i.e. an AD duty rate) may be imposed on imports of the subject products into Thailand by a specific exporter for a period of up to five years. This period may be extended by further five-year periods following what is known as an "*expiry review*" or "*sunset review*".

8. Safeguard Measures

Pursuant to the Safeguard Measures on Increased Imports Act B.E. 2550 (2007) ("**Safeguards Act**"), Thailand can impose a safeguard measure on the imports of a particular product when it has established three elements:

(a) a sufficient increase in imports of the product;

(b) there is injury to a domestic industry (section 3 of the Safeguards Act defines injury as serious injury or threat of serious injury to the domestic industry producing like or directly competitive products); and

(c) a causal link between (a) and (b).

The safeguard measure may be prescribed by one or several measures at the same time, as follows: (i) collection of safeguard duty at rate so fixed; (ii) limit of imported quantity; and/or (iii) measures other than (i) and (ii) which result in reducing or limiting the quantity of imports.

The safeguard measure shall be enforced for a period of time deemed necessary, but in no case shall it exceed four years from the date of enforcement. The safeguard measure may be extended as necessary; however, the total period of enforcement, which includes all previous enforcement periods, shall not exceed 10 years. Where the safeguard measure has an enforcement period of more than one year, the measure shall be gradually relaxed.

9. Countervailing Duties & Subsidies Measure ("CVD")

Under the AD Act, Thailand can impose a CVD measure on the Thai imports of a particular exporter when it has established three elements:

(d) there is a specific subsidy for export for certain companies or industries or in specific regions so that the use of domestic products is more than imported products;

(e) the enterprise that receives the subsidy has obtained benefits from the projects of the Government of the country of origin or exporting country; and

(f) the domestic industry has suffered from the import of subsidised products.

DFT shall request consultation with the country granting or maintaining a subsidy in accordance with the methodology and procedure as set out by the WTO. The Committee on Dumping and Subsidy shall determine a remedy as appropriate.

10. Anti-Circumvention Measures

Measures put in place to impose additional duty against the circumvention practices used by producers, exporters or assemblers who avoid payment of AD/CVD duties so imposed are referred to as an "Anti-Circumvention Measure" ("**AC measure**").

Pursuant to the AD Act, there are five forms of circumvention, namely: (i) slight modification; (ii) transshipment; (iii) channelling; (iv) completion; and (v) assembly operations.

In order to impose the AC measure, the following five conditions must be satisfied:

(a) there is change in pattern of trade;

(b) there is at least one form of circumvention;

(c) there is insufficient due cause or economic justification rather than imposition of AD/CVD duties;

(d) the remedial effects of the AD/CVD duties are being undermined in terms of the prices or quantities; and

(e) there is evidence of dumping or subsidy.



Competition Law

The Trade Competition Act B.E. 2560 (2017) ("**TCA**") regulates business competition and prohibits anti-competitive practices. The Trade Competition Commission of Thailand ("**TCCT**"), supported by the Office of Trade Competition Commission (OTCC), is an independent agency that enforces the TCA, investigates unfair trade practices, and oversees mergers to ensure fair and transparent market conduct.

1. Criminal Provisions

The TCA criminalises two types of anti-competitive conduct:

(a) Abuse of Market Dominance: A business operator with a dominant market position is prohibited from unreasonably restricting or distorting competition through practices such as price fixing, imposing unfair trade conditions, restricting supply or demand, or interfering with other businesses.

A "dominant position" is defined as: (i) a business with a market share of 50% or more and sales revenue of THB 1 billion or more in the preceding year; or (ii) any of the top three operators in a market with an aggregate market share of 75% or more, each having sales turnover of at least THB 1 billion.

(b) Hard-Core Cartel: Business operators are prohibited from acting in concert with competitors in the same market to engage in activities that result in a monopoly, reduction of competition, or restriction of competition in that market, such as price fixing, output restriction, bid rigging, or market allocation.

2. Administrative Fines

The TCA provides for administrative fines in respect of the following offences: failure to notify or obtain approval for a merger, participation in a non-hardcore cartel, engagement in unfair trade practices, and entering into anti-competitive agreements.

3. Merger Control

There are merger filing requirements under Thailand's TCA that arise when the transaction constitutes a "merger" and satisfies other thresholds. For example, a share acquisition constitutes a "merger" under the TCA where it results in the acquirer holding more than 50% of the total voting rights in another company.
If the transaction constitutes a merger, the filing obligation depends on whether the sales turnover of any merging party alone, or all merging parties combined, amounts to THB 1 billion or more in any particular relevant market in Thailand (i.e., a market in Thailand involving the same or substitutable goods or services).

In calculating sales turnover, all entities within the same group constituting a "Single Economic Entity" must be accounted for.

If the THB 1 billion threshold is not met, no filing is required. If the threshold is met:

(a) A post-merger notification must be filed with the TCCT within seven days after completion of the transaction; or

(b) A pre-merger approval is required before completion if the merger would result in a monopoly or a business operator having dominant market power, i.e., (i) a single operator with a market share of 50% or more and sales turnover of at least THB 1 billion; or (ii) any of the top three operators in a market with an aggregate market share of 75% or more, each having sales turnover of at least THB 1 billion.



Workplace Health and Safety Regime

An employer is required to arrange for the measurement and analysis of the employer's compliance with the standards on working environment provided in the workplace as required by the relevant regulations as follows:

(a) Standards on light intensity;

(b) Standards on heat level (only if the workplace has a source(s) of heat which may be harmful to the employees); and

(c) Standards on noise level (only if the workplace has a source(s) of noise which may be harmful to the employees).

The employer is also required to submit a report on such measurement and analysis, which must be certified by a registered and qualified safety officer / company, to the Ministry of Labour within 30 days from the date of carrying out the measurement. The measurement must be carried out at least once a year, and the employer must keep such report at the employer's workplace for inspection.

Failure to comply with the above requirements would result in an imprisonment not exceeding one year, or a fine not exceeding THB 400,000, or both.



Dispute Resolution Systems

1. Litigation

In Thailand, the Courts of Justice have jurisdiction to adjudicate civil and criminal cases. The Courts of Justice are divided into two categories: general courts and specialised courts. The general courts exercise jurisdiction over civil and criminal matters not specifically assigned to specialised courts. The specialised courts consist of the Labour Court, the Tax Court, the Intellectual Property and International Trade Court, the Bankruptcy Court, and the Juvenile and Family Court.

Both the general courts and specialised courts are composed of three levels: the Court of First Instance, the Court of Appeal, and the Supreme Court (or Dika Court).

Judgments of the Court of Appeal are generally restricted from further appeal to the Supreme Court. A party seeking to appeal must file a petition requesting permission to appeal to the Supreme Court. Such appeal must involve significant issues, such as matters of public policy, issues affecting the development or interpretation of the law, or a conflict with established Supreme Court precedents.

For civil cases, there is a court filing fee calculated based on the monetary value of a claim (complaint or counterclaim). If the claim amount does not exceed THB 50 million, the court filing fee is 2%, capped at THB 200,000. For any portion of the claim amount exceeding THB 50 million, an additional court filing fee of 0.1% applies. However, there are generally no court fees in criminal cases. Notwithstanding the foregoing, nominal administrative or procedural costs may still arise in certain criminal proceedings (e.g., document certification fees).

2. Arbitration

In Thailand, there are two main arbitration institutions: the Thailand Arbitration Center ("**THAC**") and the Thai Arbitration Institute (TAI), each of which adopts its own arbitration rules and procedural framework. The choice of institution will affect matters such as the applicable rules, administrative support, cost structure, and procedural flexibility.

Thailand is a member of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("**New York Convention**"). Accordingly, arbitral awards issued in Thailand are, in principle, recognisable and enforceable in other contracting states, subject to the conditions and limitations prescribed under the New York Convention and applicable local laws.

The mandatory requirement to proceed with arbitration is that the parties must have consented to arbitration, whether by way of an arbitration agreement or an arbitration clause in a contract. In the absence of such agreement, disputes cannot be unilaterally referred to arbitration.

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3. Mediation

Parties may seek to resolve their disputes amicably through mutual agreement, as mediation can be more efficient in terms of time and costs, while also preserving confidentiality and allowing the parties to retain control over the outcome. Mediation is particularly suitable where parties wish to preserve ongoing commercial relationships.

The Courts of Justice also operate dedicated mediation centres, where disputing parties may seek mediation both before and after a dispute has been formally filed. If a settlement agreement is reached, the court may render a settlement judgment confirming the parties' agreement.

As a settlement judgment carries the same legal effect as a normal court judgment, the judgment creditor may proceed directly with enforcement proceedings in the event of default.

Alternatively, arbitration institutions such as THAC also provide mediation services, including hybrid procedures (e.g., mediation prior to or during arbitration proceedings).



Closing Down of a Business

Set forth below are key actions and timeframes for the dissolution and liquidation of a private limited company ("**Company**") under the Civil and Commercial Code ("**CCC**").

1. Pre-dissolution

Prior to commencement of a dissolution and liquidation process, the Company shall ensure that its business operations have completely ceased, creditors and debtors are notified in order to clear all existing debts, its assets are sold, and all staff have resigned. The Company should ensure that only minimum and necessary matters remain.

2. Dissolution

(a) Process

The Company holds a meeting of the board of directors to consider and approve the proposed dissolution of the Company and to fix the date of the extraordinary general meeting of shareholders ("**EGM**") to consider and approve the dissolution of the company. Notice calling the EGM shall be sent 14 clear days in advance to all shareholders listed in the share register book and shall also be published in a local newspaper.

The Company holds the EGM to consider and approve (i) the dissolution; (ii) the appointment of a liquidator; and (iii) the appointment of an auditor. Such decisions require special resolutions with the votes of not less than three-fourths of the shareholders of the Company attending the meeting and having the right to vote. A liquidator and an auditor shall be appointed by the EGM for this purpose. In this case, section 1251 of the CCC states that the authorised director shall be appointed as the liquidator. As such, we recommend that: (i) prior to starting the dissolution process, the Company change its authorised director to be the proposed liquidator; or (ii) where the directors are not the liquidator and the Company does not wish to change its directors, a liquidator must be appointed with the unanimous affirmative vote of the shareholders' meeting. We recommend that the liquidator be a member of the staff of the Company to ensure smooth liquidation; finance-related staff are preferred as the liquidation involves accounting as well as close cooperation with the Revenue Department to clear all tax-related issues.

Within 14 days from the date of the EGM or, according to general practice, on the same day, the Company shall:

- file the application together with required supporting documents for registration of dissolution with MOC and with the Revenue Department (in case of a VAT registrant);
- publish the dissolution of the Company in the local newspaper at least once announcing that the Company is dissolved in order for the Company's creditor(s) to file debt repayment applications with the Company; and
- deliver the dissolution notice to all creditor(s) of the Company whose name(s) appear on the books,

accounts, or documents of the company, via registered mail.

(b) Timeframe

The timeframe for the process of dissolution is approximately 16-30 days for (i) delivery of 14 days' advance notice for the EGM; and (ii) holding the EGM and registration of the dissolution at MOC.

3. Liquidation Procedures

(a) Process

After the dissolution is filed with MOC, the Company shall commence liquidation.

During the liquidation process, the liquidator shall, among other things: coordinate with the auditor to prepare the financial statements at the dissolution date; prepare the list of assets and debt obligations; settle the assets and debt obligations; and clear all tax-related issues with the Revenue Department.

Where the liquidation cannot be completed within three months from the date of EGM approval of the dissolution, the liquidator shall prepare and submit a liquidation report to MOC within 14 days from each three-month anniversary (every three months until the completion of the liquidation).

Where the liquidation cannot be completed within one year from the dissolution date, the liquidator shall convene a shareholders' meeting (on the one-year anniversary) to provide the report on the liquidation and the full details of the Company's account. In practice, the shareholders' meeting shall also confirm the liquidator.

Upon receipt of the audited financial statements and the tax clearance certificate from the Revenue Department, the liquidator shall hold the EGM to approve the audited financial statements and the completion of liquidation. Notice calling the EGM shall be sent seven clear days in advance to all shareholders listed in the share register book and shall also be published in a local newspaper.

Within 14 days from the date of approval by the EGM of the completion of liquidation, the liquidator must file for registration of completion of liquidation with MOC.

(b) Timeframe

The law does not specify a deadline for this process but requires the filing of the report with MOC and the shareholders as stated above. The only deadline specified is the 14-day period to file for registration of completion of liquidation with MOC. Normally, the anticipated time for the liquidator to complete the liquidation process is determined on a case-by-case basis depending upon, among other things, the number of years the Company has been in operation and the number of creditors.

4. Remarks

The liquidator has the duty to settle the affairs of the Company, to repay the debts, and to distribute the assets of the Company. In addition, the liquidator has the power, among other things, (i) to bring or defend any legal proceeding; (ii) to sell the properties of the Company; and (iii) to do all other acts as may be necessary for the purpose of liquidation.

Moreover, if any creditor does not apply for debt repayment, the liquidator must deposit the amount due to such creditor in accordance with the provisions of law regarding deposit in lieu of performance.

If the liquidator considers that the assets of the Company are insufficient to meet its liabilities, the liquidator must immediately apply to the Central Bankruptcy Court requesting an order that the Company be declared bankrupt.
The liquidator shall be liable to a fine under the Act stipulating Liabilities of Registered Partnerships, Limited Companies, Associations and Foundations B.E. 2499 (the "**Liabilities Act**") if they fail to comply with the obligations of a liquidator prescribed by the CCC as mentioned above. In addition, if the liquidator fails to prepare a balance sheet, to call an EGM, to prepare a liquidation report, or to deliver accounts and documents under sections 1255, 1267, 1270, and 1271 of the CCC, they will also be liable to a fine not exceeding THB 50,000 in accordance with section 35 of the Liabilities Act.

If the dissolution is registered with MOC before the end of the financial year (for example, 30 December where the financial year-end is 31 December), the Company is not required to call the Annual General Meeting of Shareholders or submit annual filings.

Rajah &Tann Thailand

Based in Bangkok, the team in Rajah & Tann (Thailand) Limited has an impressive base of international, regional and local clients.

We have many years of experience in advising on a range of Thai law matters, including representing clients in civil, criminal or administrative proceedings, international and domestic arbitration, government investigations and compliance proceedings, structuring foreign direct investment and mergers and acquisitions involving private or listed companies, and general corporate commercial matters for foreign investors in Thailand.

The team has a particular expertise in representing clients in highly regulated industries, such as telecoms, tobacco, food & beverage, insurance and manufacturing, and can provide full support in large-scale litigation, transactions and investigations.

The team comprises a majority of Thai nationals who are qualified to advise on Thai law. We also have a dedicated China practice. Our lawyers are fluent in Thai and English, as well as Chinese and Japanese and are fully conversant with the practical application of the law within Thailand's business and cultural landscapes.

Fast Facts

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"Very efficient to identify the real intention of the client and to understand the scope of work."

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