

Newsletter Nr. 153 (EN)

Board of Investment of Thailand (BOI)
New Policy on Investment Promotion

November 2015

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I. Introduction

The World Bank estimates that the economy of Thailand will grow around 3.5 percent in 2015. With land borders to Cambodia, Laos, Myanmar and Malaysia and a high-quality infrastructure network, especially air and seaports as well as highways, Thailand may very well become a hub for trade and commerce within the new ASEAN Economic Community (“AEC”). To capitalize on this conditions and to encourage investment, Thailand grants promotions to investments, domestic and foreign.

The Thai Board of Investment (“BOI”) is a governmental agency under the direct administration of the Prime Minister’s office to promote investment in Thailand. It provides to Thai and foreign companies general investment information and services and offers certain promotions to investors. The BOI is well established and very active in this field. In 2014 1,662 projects received BOI promotion, 912 of which were foreign investments (more than ten percent foreign capital). A total of about USD 15 billion in foreign investments received BOI promotion.

There was no general revision of the BOI’s policy and basic principles in the last 15 years until the new policy came into effect in 2015.

II. Previous investment promotion

Under the terms of the previous promotion policy the BOI laid its focus on services and various kinds of incentives. The latter range from tax benefits such as tax holidays to allowing 100% foreign ownership and the easier obtaining of work permits.

Those promotions were related to specific industries which were identified as beneficial for the country. Due to the BOI’s new concept the classifications have changed.

III. New Investment Policies announced by the BOI

The new BOI promotion scheme, which came into effect on **1 January 2015** brings fundamental changes in the concept and leads to a shift of directions for investment promotion.

The BOI was mandated by the Cabinet and Finance Ministry to review the “*criteria of investment promotion rights and benefits in response to the changing situation and investment incentives of other countries as well as the general corporate income tax reduction.*”

According to this policy, the BOI determined the fundamental conditions that shape the economical situation of Thailand and its predicted potential. The BOI points out the basic sources of its revision as the following:

- the modified **regional conditions** – notably the increasing significance of the ASEAN market (AEC) within the **world economy**;
- the changing global **business trends**; and
- the specific **domestic situation** (e.g. middle income trap, rather low competitiveness).

For some business segments this shift of the BOI’s promotion concept will cause a modified environment, as several industries are promoted anymore respectively not in the same proportion.

IV. New Directions for Investment Promotion

The revision of the criteria of investment promotion by the **BOI** for restructuring the economy of Thailand resulted in the **Announcement of the Board of Investment No. 2/2557 Re: Policies and Criteria for Investment Promotion**.¹

The new promotion scheme is based on six policies:

1. Promotion of investments which help Thailand to enhance national competitiveness;
2. Promotion of environmentally-friendly activities;
3. Promotion of clusters to concentrate investment in accordance with regional potential and to strengthen the value chain;
4. Promotion of investments in the provinces in Southern Thailand;
5. Promotion of special economic development zones, especially in border areas, in accordance with the ASEAN integration;
6. Promotion of Thai investments overseas.

As well-established means of promotion it provides a variety of tax incentives (e.g. exemption of corporate income tax for eight, five or three years), exemption of import duties and other benefits.

1. Eligible Activities

Detailed information provides the newly published “**List of Activities Eligible for Investment Promotion**” that specifies 7 sections of activities eligible for promotion as follows:

- Agriculture and Agricultural Products:

- Mineral, Ceramics and Basic Metals;
- Light Industry;
- Metal Products, Machinery and Transport Equipment;
- Electronics and Electrical Appliances Industry;
- Chemicals, Papers and Plastics; and
- Service and Public Utilities.

Every activity has to demonstrate that

- the value added of the project is not less than 20% of revenues (certain activities only require 10% of revenues);
- modern means of production are being used; and
- in general new machinery is used.

Every project has to be environmentally-friendly, a minimum capital needs to be invested and the feasibility of the project has to be assured.

2. Two Types of Incentives

The new policy offers activity-based incentives and merit-based incentives.

Activity-based incentives are granted to certain activities which boost Thailand’s research and development capacities or certain key industries.

Merit-based incentives are additionally granted if the investment is likely to

- enhance of Thailand’s competitiveness,
- contribute to decentralisation, or
- develop industrial zones.

¹ Announcement retrievable [here](#) (date retrieved: 21 July 2015).

3. From broad-based Investment Promotion to Focus & Prioritized Investment Promotion

The tax incentives granted for projects within the above industries depend on how the BOI categorises them:

Group A: Businesses using high technology will be granted

- corporate tax exemption for a maximum of 8 years;
- machinery and raw-materials import duty incentives; and
- other non-tax incentives.

The businesses in Group A will be sub-categorized into A1-A4 where the following incentives shall apply:

➤ **Group A 1**

- 8 years corporate income tax exemption without being capped to the amount of actual investment
- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the BOI
- Other non-tax incentives²

➤ **Group A 2**

- 8 years corporate income tax exemption, capped at the amount of actual investment (excluding cost of land and working capital)
- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the BOI
- Other non-tax incentives

➤ **Group A 3**

- 5 years corporate income tax exemption, capped at the amount of actual investment (excluding cost of land and working capital) unless specified in the list of activities eligible for investment promotion that the activity shall be granted corporate income tax exemption without being subject to a corporate income tax exemption cap
- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the BOI
- Other non-tax incentives

➤ **Group A 4**

- 3 years corporate income tax exemption, capped at the amount of actual investment (excluding cost of land and working capital)
- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the BOI
- Other non-tax incentives

Group B: Businesses with less complex technology will be granted machinery and raw materials import duty exemptions, as well as other non-tax privileges. The activities in Group B will be categorized into B1 and B2:

➤ **Group B 1**

- Exemption of import duty on machinery
- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the BOI
- Other non-tax incentives

² Other non-tax incentives are e.g. the possibility to own land and fewer restrictions on the employment of foreigners.

➤ **Group B 2**

- Exemption of import duty on raw or essential materials used in manufacturing export products for 1 year, which can be extended as deemed appropriate by the BOI
- Other non-tax incentives

3. Additional merit-based incentives

Businesses that are beneficial to the country or to the industry at large shall be granted additional merit-based incentives on top of the ones granted under the prioritized activities. Such incentives are categorized into 3 types as follows:

➤ Merit on competitiveness:

Businesses that have investments or expenditures in specific activities as prescribed by the BOI, such as Research and Development (R&D), Advanced Technology Training, Product & Packaging Design, etc. will be granted additional corporate tax exemption for one, two, or three years and/or an increased cap for the corporate income tax exemption (up to 300% of the initial investment instead of 100%) depending on the qualification of their investment.

➤ Merit on decentralization:

Businesses that are located in “Investment Promotion Zones” (see below) shall be granted additional corporate tax exemption for three years and additional tax deduction. Businesses in Group A1 or A2 which are already granted 8 years tax exemption shall instead receive 50% reduction of the corporate income tax on net profits derived from promoted activity for 5 years after the corporate income tax exemption period expires instead. All other businesses will receive an

additional 3 years corporate income tax exemption.

Additional incentives under this category are double deductibility of costs for transportation, electricity and water supply for 10 years, as well as additional 25% deductibility of the cost for infrastructure installation or construction,.

➤ Merit on industrial area development:

Businesses that are located within industrial estates or promoted industrial zones shall be granted one additional year of corporate income tax exemption.

Such merit-based incentives will be available to all activities if not specifically excluded from such merit based incentives. (Generally all B2 activities are excluded, e.g. 7.7 Trade and Investment Support Office (TISO)).

4. New Investment Promotion Zones

The BOI abolished the previous zoning scheme and instead grants the abovementioned **decentralization merits** to businesses in the “Investment Promotion Zones” which include Special Economic Development Zones and Science and Technology Parks that are promoted or approved by the BOI, or the 20 provinces with low average income as follows:

1. Kalasin
2. Chaiyaphum
3. Nakhon Phanom
4. Nan
5. Bueng Kan
6. Buri Ram
7. Phrae
8. Maha Sarakham
9. Mukdahan
10. Mae Hong Son
11. Yasothorn
12. Roi Et
13. Si Sa Ket
14. Sakhon Nakhon

15. Sa Kaew
16. Sukhothai
17. Surin
18. Nong Bua Lamphu
19. Ubon Ratchatani
20. Amnatcharoen

5. Incentives to increase production efficiency

The new promotion policy offers special incentives on increasing production efficiency (Point 10 of the Announcement).

A promoted project may receive exemptions from import duty on certain machinery, for instance machinery used for research and development or pollution prevention or treatment.

6. Foreign Shareholding

The regulation of foreign shareholding references the Foreign Business Act, B.E. 2542 (“FBA”). If a project falls under List One of the FBA, Thai nationals must hold at least 51% of the registered capital.

If a project falls under List Two or Three of the FBA, such restriction is not set. Therefore, foreign nationals may hold up to 100% of the registered capital. However, the BOI remains the right to set limits for certain activities as deemed appropriate.

7. Importance of Thai Overseas Investment Promotion

Another subject and different aspect of the BOI’s new strategy is the promotion of overseas investment. This is identified as being essential to improve the industrial competitiveness of Thailand, to get over domestic resource limitations and to quest new business opportunities. Presently, compared with regional countries as Singapore and Malaysia, the level of Thai overseas investment is rather poor.

Concerning the promotion of overseas investments, the BOI is regarding its own role as the main body formulating national strategies and target industries – also exploring investment opportunities, providing information, knowledge and support in solving problems.

V. Application

Interested parties should assess whether the planned project is eligible for investment promotion. This includes findings on the following topics:

- Does the project fall amongst the promoted activities?
- Does the project fulfil the conditions for investment promotion?
- Which group of incentives are applicable?
- Assessment whether the project is eligible for additional merit-based incentives?
- Assessment whether the project is eligible for additional incentives to increase the production efficiency?

If such assessment finds that a project is eligible for investment promotion, interested parties may proceed with the application procedure.

- File the application with the BOI, including all necessary documentation;
- BOI sets a date for presentation of the project, generally within ten days after filing the application;
- Presentation of the project by the applicant;
- Internal evaluation meeting by the BOI;
- Notice within seven days after the evaluation meeting whether promotion is granted or not;
- Acceptance by the applicant within one month;

- Formation of new enterprise and notification to the BOI within six months;
- BOI issues promotion certificate (generally within ten days).

It is essential to file complete applications, including a comprehensive documentation on the planned project. It is advisable to seek professional advice in order to guarantee a timely and successful application.

VI. Summary

The new strategy for investment promotion will cause numerous alternations for investors. After 15 years of minimal changes this policy should be considered as an appropriate adjustment within an overall positive development.

Since additional incentives were introduced by the BOI, it may be worth reviewing the current investment structure and considering new investments taking these new regulations into account.

*We hope that the information provided in this newsletter was helpful for you.
If you have any further questions please do not hesitate to contact us.*

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