

Newsletter Nr. 153 (EN)

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

April 2023

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I. Introduction

The World Bank estimates that the economy of Thailand will grow around 4.1% percent in 2023. With land borders to Cambodia, Laos, Myanmar and Malaysia and a high-quality infrastructure network, especially air and seaports as well as highways, Thailand is a hub for trade and commerce within the ASEAN Economic Community (“AEC”). To capitalize on these 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 2022 1,554 projects received a BOI promotion, 802 of which were foreign investments (more than ten percent foreign capital). The registered capital of foreign investments that received a BOI promotion has been USD 1.35 billion.

There was no general revision of the BOI’s policy and basic principles in the last 8 years until the new policy came into effect in 2023.

II. Previous investment promotion

Under the terms of the previous promotion policy, which came into effect on 1 January 2015, the BOI led to fundamental changes in the concept of BOI promotions and therefore to a shift of directions for investment promotions in Thailand.

The BOI laid its focus on the restructuring of the economy of Thailand through a new promotion scheme including a new list of eligible activities, and two types of incentives. The new concept of BOI promotion, as mentioned above, remained almost unchanged until 2022. However, the new policy has made numerous adjustments to its content.

III. New Investment Policies announced by the BOI

The new BOI promotion scheme, which came into effect on 3 January 2023, replaced the previous scheme and marks the beginning of what the BOI calls a “new economy” for Thailand.

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 “significant changes in both domestic and international economic and investment landscape” as the basic sources of the revision of its investment policy.

Therefore, the BOI defines three aspects of the new “investment vision” as follows:

- Innovative: Being an economy that is driven by technology, innovation, and creativity;
- Competitive: Being an economy that is competitive, adaptive and generate high growth;
- Inclusive: Being an economy that values environmental and social sustainability, creates opportunity and reduces inequality.

IV. New Directions for Investment Promotion

The revision of the criteria of investment promotion by the **BOI** for restructuring the economy of Thailand into a new economy resulted in the **Announcement of the Board of Investment No. 8/2565 Re: Policies and Criteria for Investment Promotion**.¹

The new promotion scheme is based on seven policies:

- Restructure the industry by enhancing the prevailing industry along with building up new industrial bases, which Thailand has potential, and strengthening the supply chain;
- Accelerate the transition to Smart and Sustainable Industry of new investments and the enhancement of existing entrepreneurs;
- Advance Thailand as international business hub and regional trade and investment gateway;
- Develop strength and global connectivity of small and medium enterprise (SMEs) and Startup;
- Promote investment based on potential of the area, to create growth inclusively;
- Encourage promoted enterprise to engage in communal and social development;
- Promote Thai overseas investment to expand business opportunities and Thailand's role in the global economy.

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

1. Eligible Activities

Detailed information provides the updated “**List of Activities Eligible for Investment Promotion**” that specifies 10 sections of activities with numerous subsections² for promotion as follows:

- Agriculture, Food and Biotechnology Industry;
- Medical Industry;
- Machinery and Vehicles Industry;
- Electrical Appliances and Electronics Industry;
- Metal and Material Industry;
- Chemical and Petrochemical Industry;
- Public Utilities;
- Digital Industry;
- Creative Industry;
- High Value Service.

2. Two Types of Incentives

The new policy offers activity-based and additional incentives.

Activity-based incentives are granted to certain activities which boost certain key industries to restructure Thailand's economy into the abovementioned “new economy”.

Additional incentives are granted if the investment is likely to

- contribute to decentralisation, or
- develop industrial zones.

¹ Announcement retrievable [here](#) (date retrieved: 17 March 2023).

² Subsections retrievable [here](#) (date retrieved: 17 March 2023).

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 13 years;
- machinery and raw-materials import duty incentives; and
- other non-tax incentives.

The businesses in Group A will be sub-categorized into the newly added A1+ and the well-established A1-A4 where the following incentives shall apply:

➤ Group A 1 +

- 10-13 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 incentives³

➤ Group A 1

- 8 years 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 incentives⁴

➤ Group A 2

- 8 years corporate income tax exemption, accounting for 100% of 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, accounting for 100% of 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 4

- 3 years corporate income tax exemption, accounting for 100% of 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 as follows:

Group B

- 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

³ Other non-tax incentives are e.g. the possibility to own land and fewer restrictions on the employment of foreigners.

⁴ Other non-tax incentives are e.g. the possibility to own land and fewer restrictions on the employment of foreigners.

extended as deemed appropriate by the BOI

- Other non-tax incentives

3. Additional incentives

Even though additional incentives are now no longer called “merit based”, some regulations have been adopted.

Businesses that are beneficial to the country or to the industry at large shall be granted additional incentives on top of the ones granted under the prioritized activities. Such additional incentives shall apply in targeted areas as follows:

➤ Additional incentives for 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. This incentive shall not be granted to activities with conditions specifying that projects must be located within industrial estates or promoted industrial zones.

➤ Additional incentives for 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. Deduction from net profit of 25 percent of the project’s infrastructure installation or construction costs shall be granted in addition to normal depreciation. Such

deduction can be made from the net profit of one or several years within 10 years from the date of first revenue derived from the promoted activity.

Such additionally incentives will be available to all activities if not specifically excluded from such additionally incentives.

4. New Investment Promotion Zones

The BOI specifies the updated investment promotions zones as follows:

- Eastern Economic Corridor
- Special economic zones according to the regulations of the Office of the Prime Minister on the development of special economic zones B.E. 2564
- Southern border provinces and the area of Model City Project in the southern border provinces;
- Twenty provinces with low average income as mentioned below;
- Science and Technology Parks including Innovation Districts that are promoted or approved by the Board.

The BOI grants the abovementioned **decentralization benefits** to businesses in the 20 provinces with low average income as follows:

1. Kalasin
2. Chaiphum
3. Nakhon Phanom
4. Nan
5. Bueng Kan
6. Buri Ram
7. Phatthalung
8. Phrae
9. Maha Sarakham
10. Mukdahan
11. Mae Hong Son
12. Yasothon
13. Roi Et

14. Si Sa Ket
15. Sakhon Nakhon
16. Sa Kaew
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 12 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 or machinery used in the promoted projects that manufacture electronic products and parts for improving or replacing existing machinery or for increasing production capacity in existing projects, regardless of whether the projects have started their full operation or not.
- A promoted project may also receive exemptions from import duty on goods imported for research and development.

6. Foreign Shareholding

The regulation of foreign shareholding remains unchanged and 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

The promotion of overseas investment remains as part of the milestones defined by the BOI to achieve the vision of restructuring Thailand’s economy. This is identified as being essential to improve Thailand’s business opportunities and its role in the global economy. 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.

8. Criteria for project approval

A project must meet the following criteria for approval:

- Development of competitiveness in the agricultural, industrial and service sector. Therefore, the value added of the project must be at least 20% of revenues. For projects in agriculture and food, electronic products and parts, and coil centers the value added must be at least 10 % of the project. Regarding all named projects, Modern production processes or serving procedures must be used and must be in accordance with the Board’s approval. New machinery must be used as well. If the machinery is imported, several criteria apply regarding the date of the manufacturing of the machinery.⁵
- Environmental protection must be ensured. Therefore, adequate and efficient

⁵ Sec. 5 BOI Policy 8/2565.

guidelines and measures to protect environmental quality and reduce environmental impact must be installed. Special consideration of the board will be given to the location and pollution treatment of projects with potential environmental impact. While the projects must comply with environmental laws, regulations, and Cabin resolutions, projects in Rayong must also comply with the BOI announcement No. Por 1/2554 of May 2nd 2011.

- Minimum capital investment and project feasibility. Therefore, the minimum capital invest for each project is THB 1 million. Costs of land and working capital is excluded. Exemptions may apply according to the list of activities above. For newly established projects, the debt-to-equity ratio must not exceed 3 to 1. Expansion projects shall be considered on a case-by-case basis. Projects with an investment value of over THB 2 million must be submitted with details as specified by the BOI.

Additionally, criteria for granting incentives have been added as follows:

- In the case of manufacturing consecutive products in the continual production process of the same project, the Board will, as appropriate, consider granting premium incentives based on the activity criteria for manufacturing upstream products.
- The combined period of a project's corporate tax exemption under measures providing additional incentives, activity-based incentives, and other measures must not exceed 8 years in total. This is in exception to Group A 1+ activities and those for which additional incentive measures are specified otherwise. In any case,

the maximum period for corporate income tax exemption must not exceed 13 years.

- A project is eligible for a corporate income tax reduction under Section 35(1) only if it has obtained corporate income tax exemptions for a total of no more than 8 years.
- The period for corporate income tax reductions under Section 35(1) granted by measures providing additional incentives combined with those granted by other measures must not exceed 5 years in total.
- Investments, expenses, and implementations necessary to acquire investment promotion incentives based on activity criteria or extra incentives under any measures shall not be reapplied for further incentives under other measures.

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 five-year strategy (2023 – 2027) for investment promotions will cause numerous alternations for investors. After 8 years of minimal change, this policy provides investment opportunities that address the need for economic change in a post covid and climate change affected scenario, enabling the transition to green and smart industries through creativity and innovation.

Therefore, the new policy should be seen as a reasonable adjustment in the context of an overall positive development aimed at strengthening the country's economy and its role as a regional hub for foreign investors in Southeast Asia.

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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