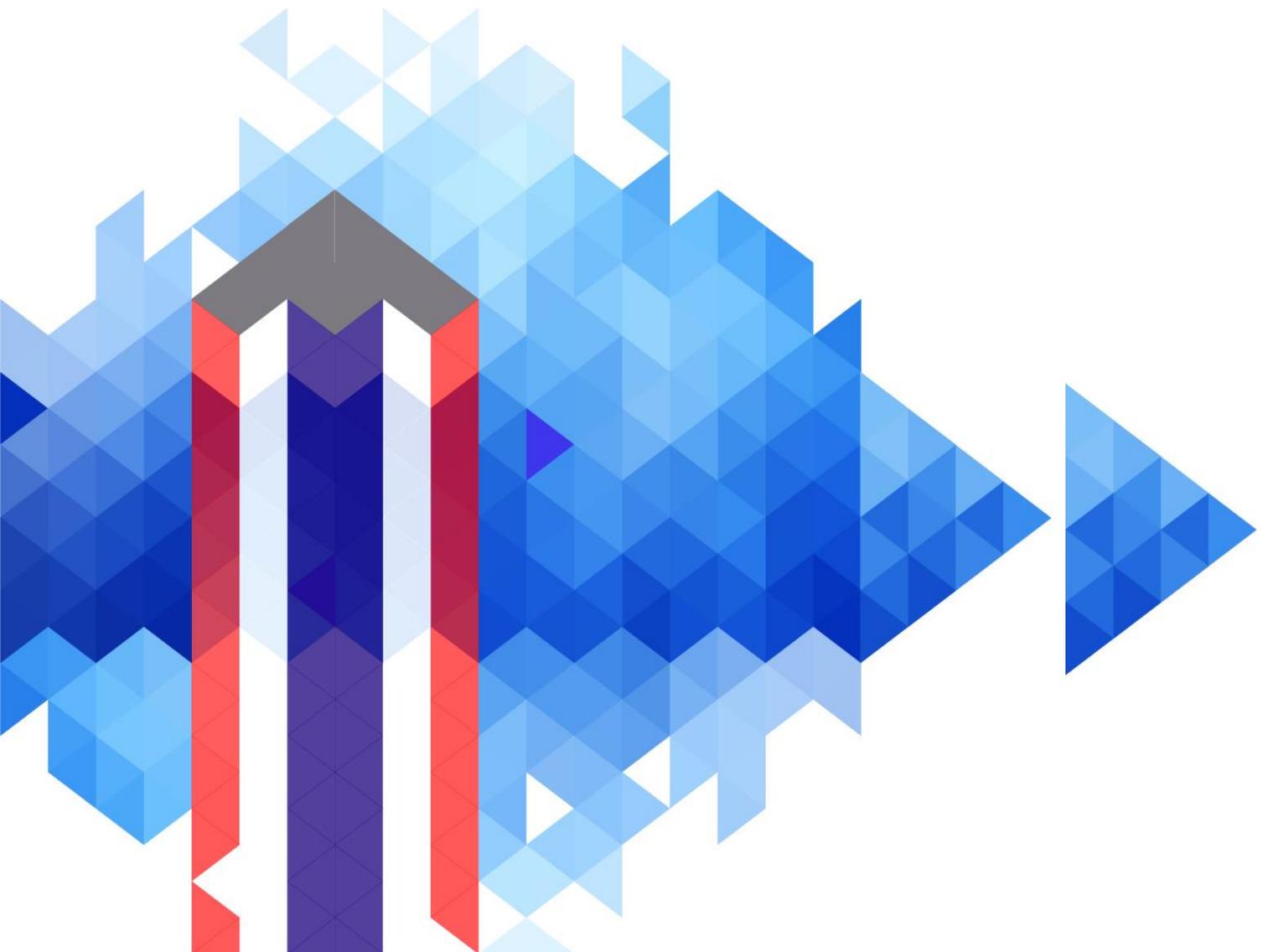


A guide to doing business in **Thailand**



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Foreword

Grant Thornton Thailand, a member firm within Grant Thornton International Limited, was established in Thailand in 1991 and has enjoyed growth and success since its establishment. We have approximately 270 professional staff providing quality services in assurance, advisory, business process solutions, business risk services, executive recruitment, Japanese business practice, outsourcing and tax consulting, designed to help clients in various industries achieve their business objectives. With our international reach, depth and expertise combined with the personal attention, added value and relationship-based approach of our distinctive firm, we are the leading service provider for growth-based organisations.

Grant Thornton International Limited is one of the world's leading organisations of independently owned and managed accounting and consulting firms providing assurance, tax and specialist advice to independent businesses and their owners.

The strength of each local firm is reflected in the quality of the international organisation. All Grant Thornton International Limited member firms share a commitment to providing the same high quality service to their clients wherever they choose to do business.

This guide has been prepared for the assistance of those interested in doing business in Thailand. It does not cover the subject exhaustively but is intended to answer some of the important, broad questions that may arise. When specific problems occur in practice, it will often be necessary to refer to the laws and regulations of Thailand and to obtain appropriate accounting and legal advice.



Ian Pascoe
CEO and Managing partner
Grant Thornton in Thailand



Country Profile

Geography and population

Geography

The kingdom of Thailand lies in the heart of Southeast Asia, making it a natural gateway to Indochina, Myanmar and southern China. Its shape and geography divide into four natural areas: the mountains and forests of the north; the vast rice fields of the central plains; the semi-arid farmlands of the northeast plateau; and the tropical islands and long coastline of the southern peninsula.

The country comprises 77¹ provinces that are further divided into districts, sub-districts and villages. Bangkok is the capital city and centre of political, commercial, industrial and cultural activities. The provinces are separated into six commonly referred to regions; north, northeast, central, west, east and south. Thailand covers 514,000 square kilometres.

Population

Thais are well known for their friendliness and hospitality. A large majority of the approximate 68.07² million citizens of Thailand are ethnic Thai, along with strong communities whose ethnic origins lie in China, India and elsewhere. About 8.5³ million people reside in the capital city of Bangkok with an additional 4.5 million living in its vicinities. Bangkok and vicinities represent around 44% of Thailand's GDP.

Political and legal system

Thailand has been a constitutional monarchy since 1932 with the King as its head of state. Under the present constitution promulgated in 2007, the executive powers of the King are exercised by the Prime Minister and a council of ministers. The constitution provides for a House of Representatives and a House of Senators. Members of both houses are elected.

At a national level, executive power is administered and legislation proposed by the Cabinet, on which all the Ministers are represented. The legislative body is the National Assembly, of which the Prime Minister and the Cabinet are members. There are 77 Provinces in Thailand, each having a Provincial Governor to represent the province and provide a link between the national government and the local community. Each Governor is appointed by the Ministry of the Interior with the exception of the Governors of Bangkok and Pattaya who are elected. Each province is divided into districts or "amphur", sub-districts "tambon", and villages "mooban".

Language

Spoken and written Thai is largely incomprehensible to the casual visitor. However, English is widely understood, particularly in Bangkok where it is almost the major commercial language. English and some European Languages are spoken in most hotels, shops and restaurants in major tourist destinations, and Thai-English road and street signs are found nationwide.

Business hours/time zone

Thailand Standard Time is seven hours ahead of Greenwich Mean Time (GMT+7) during Standard Time and six hours ahead during Daylight Saving Time (British summer).

Government officials open their desks between 7.00 - 9.00a.m. and close between 3.30 – 4.30p.m. While private company offices are open from 8.30/9.00a.m. until 5.30/6.30p.m. Lunch is from midday to 1.00p.m. Department stores open around 10a.m. and close between 8.00p.m. and 10.00p.m. Banks open from 8.30a.m. to 3.30p.m., Monday to Friday, with the exception of branches located in department stores, which open every day in accordance with the store hours.

¹https://en.wikipedia.org/wiki/Provinces_of_Thailand

²<http://www.worldometers.info/world-population/thailand-population/>

³<http://worldpopulationreview.com/world-cities/bangkok-population/>

Economy

Thailand is an export oriented emerging economy. As a result, manufacturing is the most important sector and accounts for 32.55%⁴ of GDP. Services constitute around 44% of GDP. Within services, the most important are wholesale and retail trade (13% of GDP); transport, storage and communication (7% of GDP); hotels and restaurants (5% of GDP) and public administration, defence and social security (4.5% of GDP). Agriculture also makes a significant contribution - around 13% of GDP.

The Thai baht has been trading in a range of around baht 31.00/USD. Thailand's GDP in 2013 is 365.6bn USD.

Currency Notes

Paper baht comes in denominations of 20 (green), 50 (blue), 100 (red), 500 (purple) and 1000 (beige).

Currency Coins

There are 100 satang in one baht; coins include 25-satang and 50-satang pieces and baht in denominations of 1, 2, 5 and 10.

Economic growth

Thailand's economy is the second largest in ASEAN. However, it has been buffeted in recent years by many factors: two coups since 2006, the world recession in 2008, major floods in late 2011 and years of political instability and street protests. Political uncertainty during that time meant that there were no large-scale infrastructure investments or consistent policies causing the Thai government to characterise the last 10 years as "the lost decade" with no fewer than nine Ministers of Finance in that time.

The 2014 coup-installed government has brought stability to Thailand, which has helped steady the economy; however, there is a tendency to prioritise this stability over prosperity.

With this as a backdrop, Thailand's exports have contracted each of the past three years with exports in 2016 expected to decline by between 1.9% and 2.5%. Generally, this has reflected a weaker demand from major trading partners, especially from China, a situation that will presumably continue and will probably be exacerbated by Brexit.

Unemployment has remained low, which has meant a less competitive workforce with rapidly rising wage inflation. Meanwhile, Thailand's neighbours are eager to attract their share of investment dollars and are being more aggressive in attracting Foreign Direct Investment.

Despite this, the Central Bank predicts that the economy will grow at around 3.1% in 2016. This is being particularly buoyed-up by belated and necessary vast investment in infrastructure. The government plans to invest 1.8 trillion baht in 20 such projects through 2022 and has even mulled over doubling this figure. HSBC had recently estimated that the 1.8-trillion-baht investment should require government spending of around one percent of gross domestic product annually, which should ensure economic growth of three percent in 2016. A number of these projects involve rail projects; however, ports, airports and roads are also getting a boost in investment.

One bright spot for the economy is the Hotel and Tourism industry. Visitor numbers for 2016 are estimated to be close to 34 million, 13% more than last year. Revenue from foreign tourists may climb to around 1.71 trillion baht, up by approximately 18%. Chinese tourists make up the largest group of tourists and may climb to 10 million in 2016. Hotel prices in Thailand remain extremely competitive. Other opportunity areas are in healthcare, beauty products and food and beverage. There are some more systemic issues ahead for Thailand. The population of Thailand is aging dramatically. This will have the double negative effect of reducing the working population whilst at

⁴<http://www.tradingeconomics.com/thailand/manufacturing-value-added-percent-of-gdp-wb-data.html>

the same time incurring higher bills for healthcare, if not for the citizens then at least for the State. Two systemic fixes for this are culturally challenging for Thailand. Radical changes in the education system to promote increasing levels of productivity are not even being discussed. Even if this were to happen at this moment, it would be one or two generations before it would make a measurable enough contribution to efficiency. The second is “positive” immigration. This means identifying gaps of skilled labour and specifically targeting that area to encourage the right type of immigration.

Income disparity plays a strong role in Thailand’s recovery too. The World Bank in their recent focus on Thailand stated, “the rate of recovery and reigniting economic growth will depend on how fast Thailand can overcome factors constraining growth and promote a more inclusive growth model.” However, recently Thailand’s National Economic and Social Development Board said that 0.1 percent of Thais own nearly 50% of the country’s assets. Compare that to America, where 0.1 percent of the population owns 20% of all assets. A related point is the rapid increase in household debt in Thailand. Such debt can be considered future consumption foregone.

Thailand is trying to move up the manufacturing “value tree” and away from low-cost labour-intensive manufacturing. This is the right direction of travel but may take a number of years to become fully effective.

Other key ingredients of a knowledge-based economy are only making slow progress: R&D spending, IP protection, and investments in science and technology, and a lack of a digital infrastructure. Business, banking and government transactions are still too paper-based, encouraging a lack of transparency and incurring higher expenses for all involved. Related to this is the liberalisation of the services sector, which remains elusive.

The future GDP growth prognosis is growth in the lower digits as an upper limit for a number of years, as we are seeing now. There remains risk to the downside from China and Brexit, and more especially if there is no ability to have a stable democratically elected government, which is not perennially tied up in constitutional red tape.



Regulatory environment

Foreign Business law

The Foreign Business Law (formerly known as ‘Alien Business Law’ or the ‘Alien Business Law Act’) came into effect in the year 2000. The Foreign Business Law continues to restrict majority foreign participation in certain types of businesses.

A “Foreigner” is defined as:

- (1) A natural person who is not of Thai nationality.
- (2) A natural juristic person not registered in Thailand.
- (3) A juristic person registered in Thailand, being of the following descriptions:
 - a juristic person at least one half of capital shares of which are held by persons mentioned above or a juristic person having the persons mentioned in (1) or (2) investing with a value of half or more of the total capital of the juristic person.
 - Limited partnership or registered ordinary partnership having the person under (1) as the managing partner or manager.
- (4) Juristic person registered in Thailand having half or more of its capital shares held by the person mentioned in (1), (2) or (3) or a juristic person having the persons mentioned in (1), (2) or (3) investing with the value of half or more of its total capital.

The erstwhile requirement under the Alien Business Law, that both the shareholding and the shareholders be predominantly Thai for the company to qualify as Thai, is not present in the current Foreign Business Law. However, companies that own land must under the provisions of the Land Law be a full 51% Thai owned unless they have special promotional privileges. Consideration is being given to requiring a greater degree of Thai ownership. Banking and finance businesses, under their own special laws, must be at least 75% Thai owned. Likewise, companies engaged in domestic shipping must be at least 70% Thai. By regulation, insurance companies and insurance brokers must be at least 75% Thai.

Foreign businesses seeking to engage in a business as categorised under Category two and three must apply for an ‘Alien Business License’ after approval is granted by the prescribed authority.

Restricted businesses

There are three categories of business in which majority foreign participation is prohibited or restricted. These broadly encompass:

Category I

Businesses which aliens are prohibited from participating: publishing and broadcasting, agriculture, forestry, fishing and trading in real property.

Businesses not permitted to be operated by aliens for special reasons:

- Newspaper operation, radio and television broadcasting
- Farming, plantation or orchard operations
- Animal husbandry
- Forestry operation and timber conversion from natural forests
- Fishery, especially fishery in Thai territorial waters and in the specific economic area of Thailand
- Extracting Thai herbs
- Trade and auction sale of Thai antiques or valuables having historical value
- Making or casting of Buddha images and alms bowls
- Land trading

Category II

Businesses relating to national security, art, culture and local customs that foreigners are prohibited from participating in, unless permission is obtained from the Ministry of Commerce with the approval of the Cabinet.

Businesses related to the safety or national security of the country, or with an impact on traditional culture, local handicraft, or natural resources and the environment.

Group 1

Businesses related to safety and national security

- Production, distribution, or maintenance of:
 - Firearms, ammunition, gun powder, or explosive materials
 - Components of firearms, ammunition, and explosive materials
 - Armaments, ships, aircraft, or military vehicles, equipment or components of all types of military equipment
- Inland, waterborne, and airborne transportation in the country including domestic aviation

Group 2

Businesses with an impact on traditional culture, local handicrafts, or natural resources and the environment:

- Trading of antiques, or object d'art that are fine arts, or Thai handicrafts
- Wood carvings
- Manufacture of Thai silk yarn, Thai silk weaving, or Thai silk printing
- Manufacture of Thai musical instruments
- Manufacture of goldware, silverware, nielloware, bronzeware or lacquerware
- Making Thai cultural plates and dishes or pottery

Group 3

Businesses with an impact on natural resources or the environment:

- Manufacture of sugar from sugarcane
- Salt farming including underground salt
- Rock salt mining
- Mining including dynamiting or quarrying of rocks
- Timber processing for making furniture and utilities

Category III

Aliens are prohibited from engaging in businesses in areas in which Thais are not yet ready to compete with aliens unless permission is obtained from the Director General and a committee on alien business: e.g. professional service businesses, building and construction, agency businesses, small-scale retailing and wholesaling, and hotel and tour agency businesses.

Businesses not specified in the lists are open to majority or 100% foreign ownership. Although the ambit of businesses specified in Category 3 is extensive, 20 business activities that were previously closed to aliens or restricted prior to 2000 have been made available such as retailing and wholesaling, manufacture of pharmaceuticals, building and construction of fundamental infrastructure and transportation facilities, and brokerage or agency businesses.

The minimum amount of registered capital of a private company that is an alien cannot be less than 2,000,000 baht and cannot be less than 3,000,000 baht if the business requires approval from the Minister of Commerce or the Director-General of the Department of Commercial Registration.

Businesses in which the Thai people are not ready to compete with foreigners

- Rice milling and production of flour from rice and plants

- Fishery, only aquatic breeding
- Forestry from planting
- Production of plywood, veneer board, chipboard or hardboard
- Production of white lime
- Accounting service operation
- Legal service business
- Architectural service operation
- Engineering service operation
- Construction, except:
 - Construction of basic services for the public in public utilities or communication requiring tools, technology or special experience, having minimum foreign capital of 500 million baht upwards
 - Other construction as prescribed in the Ministerial Regulation
- Commission agent or brokerage, except:
 - Being a broker or representative for the purchase/sale of securities or service in purchase/sale of future of agricultural commodities or financial instrument or securities
 - Being a broker or representative for the purchase/sale of goods or services necessary for production or rendering services among affiliated enterprises
 - Brokerage or agency service for trading, purchasing or distribution, or seeking of markets both domestically and abroad for the distribution of products being produced domestically or imported that are in the nature of an international business operations, with minimum foreign capital of no less than 100 million baht
 - Other brokerage or agency as stipulated by Ministerial Regulations
- auctioning, except:
 - International auctioning of antiques, heirlooms, or fine art objects that are Thai fine arts works, handicraft works, or antique objects, or with historical value to Thailand
 - Other types of auctioning as stipulated under Ministerial Regulations
- Domestic trade related to native products that are still not prohibited by law
- Retail trade of all types having minimum capital of not less than 100 million baht or having minimum capital in each shop of not less than 20 million baht
- Wholesale trade of all types with capital of not less than 100 million baht
- Advertising business
- Hotel operations, except hotel management services
- Guided tours
- Selling food or beverages
- Plant cultivation and propagation
- Other categories of service business

Investment incentives

The Thai government offers a range of incentives to investors, both Thai and foreigners.

The government bodies responsible for administering these incentives are the Board of Investment (“BOI”) and the Industrial Estate Authority of Thailand (“IEAT”).

BOI privileges

Promoted investors

An investor must be a limited company, foundation or cooperative organised under Thai law.

The investment incentives are available to a joint venture company established under Thai law and owned by foreign investors.

The following criteria apply:

- For investment projects in agriculture, animal husbandry, fishery, mineral exploration and mining, or in the service sector, foreign investors are entitled to own no more than 49 percent

of the registered capital. However, for projects with investment capital over one million baht (excluding the cost of land and working capital), foreign investors may initially hold a majority or all of the shares, but Thai nationals must acquire at least 51% of the shares within five years of starting operations.

- For manufacturing projects, in all zones, if the production is mainly for the domestic market, foreign investors are allowed to hold a majority of or the whole of shares as permitted by the BOI.

Business activities eligible for investment promotion

Activities eligible for incentives are:

- Agriculture and agricultural products
- Minerals, metals and ceramics
- Targeted industries
- Manufacture of metal products, machinery and transport equipment
- Electronics and electrical industries
- Chemical industries, paper and plastics
- Services and public utilities

The BOI has stipulated projects in five major areas to be priority activities including basic transportation systems, public utilities, environmental protection and/or restoration, direct involvement in technological development and basic industries. These activities will qualify for the maximum corporate income tax exemption for eight years, regardless of the location. If located in Zone 3, an additional exemption from import duty on machinery can be obtained.

A trade and investment support office is eligible for promotion on the following conditions:

- Projects must be approved by relevant government agencies.
- Annual operating expenses must not be less than 10 million baht.
- Must have a business plan and scope of business as approved by the BOI as follows:
 - Monitoring and/or servicing affiliated including providing or letting offices or factory buildings to the company's subsidiary
 - Advisory services on business operations except those engaged in buying and selling securities and foreign currency exchange. As for accounting, legal, advertising, architectural and civil engineering businesses, business licenses must be obtained from the Department of Business Development or related governmental agencies prior to submitting an investment promotion application
 - Information services on goods sourcing
 - Engineering and technical services, except those related to architecture and civil engineering.
 - Testing and certifying standards of products, production and services that do not qualify for investment promotion under activity 7.21
 - Export trading
 - Business activities related to machinery, engines tools and equipment such as:
 - ❖ Importing for wholesaling
 - ❖ Training services
 - ❖ Installation, maintenance and repairs
 - ❖ Calibration that does not qualify for investment promotion activities attached to this Announcement
 - Software design and development that does not qualify for investment promotion under software activity
 - Wholesaling products manufactured in the country

A trade and investment support office is only granted non-tax incentives.

General Incentives for BOI Promoted Companies

Tax incentives

The BOI normally grants tax incentives to investors as follows:

- Exemption/reduction of import duties on machinery
- Reduction of import duties for raw or essential materials
- Exemption of corporate income tax on the net profit and dividends derived from the promoted activities
- A 50 percent reduction of the corporate income tax
- Double deduction from the costs of transportation, electricity and water supply
- Additional 25 percent deduction of the cost of installation or construction of facilities
- Exemption of import duty on raw or essential materials imported for use in production for export

Additional tax incentives are granted to projects located in special zones and export enterprises as described in the table below.

Non-tax incentives

The following incentives are provided for promoted investments regardless of location:

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

Guarantees

- Against nationalisation
- Against competition from new state enterprises
- Against state monopolisation of the sale of products similar to those produced by the promoted project
- Against price controls
- Against tax-exempt imports by government agencies or state enterprises
- Permission to export

Protections

- Imposition of a surcharge on imports at a rate not exceeding 50% of the CIF value for a period not more than one year at a time
- Import ban on competitive products
- Authority of the Chairman of the BOI to order any helpful actions or tax relief measures for the benefit of promoted projects

Application procedures

An investor must submit the application for promotional privileges to the BOI, who will then consider and determine whether or not to approve the proposed project. After the project has been approved the BOI will issue a promotional certificate to the promoted investor who must comply with the conditions laid down in the certificate. Generally, it should take around one to two months from submission of the application to receive the promotional certificate from the BOI.

Incentives for each zone

	Zone 1	Zone 2	Zone 3
Provinces	Bangkok, Samut Prakran, Samut Sakorn, Patum Thani, Nontaburi and Nakhonpathom.	Samut Songkhram, Ratchaburi, Kanchanaburi, Suphanburi, Angthong, Ayutthaya, Saraburi, Nakon Nayok, Chacherngsao, Chonburi, Rayong and Phuket, and Laem Chabang Industrial Estate.	The remaining 58 provinces.
Income Tax	Factories located in industrial estates or promoted industrial zones, a three-year corporate income tax exemption will be granted provided that such a project with capital investment of 10 million baht or more obtains ISO 9000 or a similar international standard within two years of its start up date, otherwise the corporate income tax exemption will be reduced by one year.	For applications submitted between 1 January 2005 to 31 December 2009, promoted persons located in industrial estates/promoted industrial zones (excluding Laem Chabang in promoted industrial zone in Rayong province) will receive seven years of income tax exemptions. For factories located outside the industrial estate, the income tax exemption is limited to three years.	Corporate income tax exemption for eight years (including Laem Chabang and Rayong Industrial Estates) provided that such a project with capital investment of 10 million baht or more obtains ISO 9000 or a similar international standard within two years of its start up date otherwise the corporate income tax exemption will be reduced by one year.
Import duty on machinery	50% import duty reduction on machinery that is not included in the tariff reduction and is subject to import duty greater than or equal to 10%	50% import duty reduction on machinery that is not included in the tariff reduction and is subject to import duty greater than or equal to 10% and exemption of import duty on machinery for projects located within industrial estates or promoted industrial zones.	Exemption of import duty on machinery.
Import duty on raw materials	Exemption of import duty on raw or essential materials used in export products for a period of one year.	Exemption of import duty on raw or essential materials used in export products for a period of one year.	Exemption of import duty on raw or essential materials used in export products for a period of five years.
Special privileges			Factories located in industrial estates/promoted industrial zones will receive the following additional privileges: <ul style="list-style-type: none"> i. Reduction of corporate income tax by 50% for five years after the exemption period; ii. Double deduction from taxable income of water, electricity, and transport costs for 10 years from the date of the first sale; iii. Deduction from net profits of 25% of the costs of installation or construction of the project's infrastructure facilities; 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. This benefit also applies to factories located outside the industrial estates. iv. For all applications submitted between 1 January 2005 to 31 December 2009, promoted persons will receive a 75% reduction for five years, with year-by-year approval, excluding Laem Chabang and Rayong) of duty on raw or essential materials used in the manufacturing of domestic sales.

Additional incentives for export enterprises

- Exemption of import duties on imported raw materials and components
- Exemption of import duties on re-exported items
- Exemption of export duties
- Allowance to deduct from taxable corporate income an amount equivalent to 5% of the increase in income derived from exports over the previous year, excluding the cost of insurance and transportation

IEAT privileges

Investors may receive incentives from IEAT if the investment projects are located in certain industrial estates. The IEAT is a government agency responsible for the planning, development, and management of industrial estates throughout the country.

Industrial estates can be classified into three categories:

1. Industrial estates solely owned and managed by IEAT
2. Industrial estates jointly managed between IEAT and private developers
3. Industrial estates wholly owned and managed by private developers

Industrial estates are divided into the following zones:

- *General Industrial Zone (GIZ)*: This area is designated for the location of both light and heavy industries where infrastructure facilities are available.
- *IEAT Free Zone (formerly called Export Processing Zone)*: This area is designated for the specific needs of export-oriented businesses. Besides infrastructure facilities, a customs office as well as other government services is normally provided.

Incentives

Non-tax incentives

The incentives are provided to industries situated in both the general industrial and IEAT zones including:

- Permission to own land in an industrial estate.
- Permission to bring in foreign technicians, skilled workers and experts and their dependents.
- Permission to take out or remit foreign currency abroad.
- Permission to receive additional privileges from Thailand BOI when applying for investment promotion.

Tax incentives

The tax incentives are additional privileges given to those industries located in the IEAT Free Zone. They include:

- Exemption from import duties, excise tax and VAT on machinery and raw materials.
- Exemption or refund of duty from the import of local goods into the IEAT zone for the production of goods for export.
- Exemption from export duties, excise tax and VAT on exported goods.

Application procedures

The industrial operator shall submit a completed application for industrial operation commencement (expansion part) at the One Stop Service Center located at the IEAT head office or any industrial estate office nationwide. (Each application consists of three copies, all of which must be presented at the time of submission.) If the correctness of the document is confirmed and the factory inspection results conform to relevant laws, IEAT shall issue a notification requesting that the industrial operator obtain a Land Utilisation and Expanded Business Operations in Industrial Estates License and pay a 5,000 baht license issuance fee (excluding VAT). IEAT shall issue a License and return a copy of the completed application for the industrial operator to retain as evidence.

Notes

- In addition to IEAT incentives, investors are also eligible for BOI promotion
- Where projects are awarded incentives from both the BOI and IEAT, there will usually be some duplication of incentives. All necessary permits such as those to use the land, construction or factory operation can be obtained directly from IEAT. Investors may commence utilising the BOI incentives later on, particularly in respect of tax incentives

Exchange control law

Inward remittances of foreign currency

There is no restriction on the amount of foreign currency that may be remitted into Thailand. However, any person or company bringing foreign currency into Thailand must sell to or deposit such currency with an authorised commercial bank within 360 days of receipt, except for foreigners temporarily staying in Thailand for not more than three months, foreign embassies, and international organisations including their staff with diplomatic privileges and immunities.

Export proceeds in an amount equivalent to USD 50,000 or above shall be collected within 120 days from the date of export and deposited in a foreign currency account in within 15 days.

Outward remittances of foreign currency

Outward remittances of foreign currencies are for various purposes, as follows:

1. Direct Investment and Lending Abroad

Thai residents are allowed to invest in or lend to affiliated entities abroad without permission under the following conditions:

- A juristic person may remit funds for setting up or investing in a business entity abroad with the juristic person holding at least 10% in the overseas business or for investing or lending to affiliated business entities as necessary and reasonable.
- A juristic person may remit funds of not more than USD 50 million or its equivalent per annum, for lending to entities abroad that are not affiliated entities.
- A natural person may remit funds for setting up or investing in a business entity abroad with the natural person holding at least 10 % in the overseas business or for investing or lending to affiliated business entities as necessary and reasonable.

Funds remitted abroad shall be in foreign currencies only. Exception is provided for investment or loans to businesses in Vietnam or countries with overland boundaries with Thailand for use in commerce or investment, whereby such investment or loans may be made in Thai baht.

2. Portfolio Investment Abroad

- Institutional investors namely Government Pension Funds, Social Security Funds, Provident Funds, Mutual Funds (excluding Private Funds), security companies, insurance companies, and specialised financial institutions, Thai juristic entities with at least five billion baht in assets, and public companies listed in the Stock Exchange of Thailand, are allowed to invest in foreign securities without any limit provided that the investment shall not exceed the limit set by the supervisory authority, directors or management, of each investor.
- Individual or corporate investors can invest in securities abroad, other than employee benefit plans, through private funds or securities companies subject to the Securities and Exchange Commission's guidelines and approval from the Bank of Thailand.

3. Other Purposes

- Outward remittances to Thai immigrants who are permanent residents offshore, provided the funds are derived from their own assets, from their families or relatives, or from their inheritance are allowed up to USD one million per recipient, per year and for each purpose. Fund transfers to public for donation are allowed up to USD one million per year, per person and for each purpose.

- Purchase of shares, warrants and options of related companies abroad under employee benefit plans is allowed up to USD one million per person per year.
- Purchase of immovable properties abroad is allowed up to USD 50 million per person, per year.

Foreign currency bank accounts

Thai residents are allowed to maintain foreign currency accounts with authorised banks under the following conditions:

- Domestic holdings of foreign currencies with funds originating from abroad are allowed without limit;
- Foreign currency purchased or borrowed from authorised banks can be deposited into two types of foreign currency accounts (FCD):
 - **FCD with future obligations:** deposits can be made in an amount not exceeding future obligations to pay in foreign currencies to entities abroad. Such obligations include loan repayments to authorised banks.
 - **FCD without future obligations:** the total outstanding balance shall not exceed USD five million for both a natural person and a juristic person.
- The deposit of foreign currency notes and coins must not exceed USD 10,000 per person, per day.

Foreign Currency Account of Non-residents

Non-residents may maintain foreign currency accounts with authorised banks in Thailand without limit. The accounts can be freely credited with funds originating from abroad. Other repayments from Thai residents or borrowed from authorised banks can be deposited subject to supporting documents. Balances on such accounts may be freely withdrawn.

Non-resident baht Accounts

Non-residents may open Thai baht accounts with authorised commercial banks in Thailand, as follows.

- **Non-resident Baht Account for Securities (NRBS):** The account may be debited or credited for the purpose of investment in securities and other financial instruments such as equity instruments, debt instruments, unit trusts, derivatives transactions traded on the Thailand Futures Exchange and the Agricultural Futures Exchange of Thailand.
- **Non-resident Baht Account (NRBA):** The account may be debited or credited for general purposes (i.e. other than investment in securities) such as trade, services, foreign direct investment, investment in immovable assets, and loans.

The total daily outstanding balances for each type of account shall not exceed THB 300 million per non-resident. Transfers between different types of accounts are not allowed.

Land

Individual alien

A foreigner is allowed to purchase land in Thailand for residential or commercial purposes with an area of not more than one rai and for industrial purposes with an area of not more than 10 rai. The following rules and conditions must be met:

1. Permission must be obtained from the Minister of Ministry of Interior.
2. Bringing no less than 40 million baht into the Kingdom for investment and maintaining the investment for no less than three years. The money brought into the Kingdom shall be invested in one of the following businesses or activities;
 - 2.1 To purchase Thai Government bonds, Thai National Bank bonds, State Enterprise bonds or bonds where the Ministry of Finance secures the capital or interest;
 - 2.2 An investment in a property mutual fund or a mutual fund for resolving financial institution problems established under the law on Securities and Stock Exchange;
 - 2.3 An investment in share capital of a juristic person who is granted permission of investment under the law on promotion of investment; or

- 2.4 An investment in an activity as declared by the BOI to be an activity eligible to be granted promotion of investment under the law on promotion of investment.
3. The land to be acquired shall be located in Bangkok Metropolis, Pattaya City, or Tessaban (Municipality), or in an area specified as a residential zone according to the law on town and country planning and shall not be located in a military safety zone according to the law on military safety zones.
 4. If an alien, who is granted permission to acquire such land, does not comply with the rules and conditions specified, he/she shall dispose of such land in the portion of his/her possession within the period of time specified by the Director General of the Department of Lands, which shall be no less than 180 days and no more than one year. If the time limit elapses, the Director General shall have the power to dispose of such land.

Besides the abovementioned rules and conditions, an alien may acquire land by inheritance as statutory heir. In this instance, the land devolved when combined with the land already acquired shall not exceed that specified by law.

Businesses owned by aliens

A limited company or public company incorporated under Thai law, can only own land if 51 percent of its registered capital held by Thai nationals or juristic persons or with more than half of its shareholders being Thai nationals or juristic persons.

Foreigners may lease land. A lease term cannot exceed 30 years and an extension of a lease may not exceed another 30 years.

A foreign company obtaining promotional privileges from the BOI may be permitted to own land in order to carry on with promoted activities. The land must be disposed of within one year of the date of termination or withdrawal of the promotion.

A foreign company may be permitted to own land in an industrial estate. Upon cessation or transfer of the business to a third person, the foreign company must dispose of the land within three years subject to compulsory forced sale.

There are no ownership restrictions based on nationality or specific visa categories and every foreigner who can enter Thailand legally can buy and own a condo, but foreigners must qualify for ownership under section 19 of the condo act. Generally, this means that the foreigner must have transferred the full purchase price for the unit into Thailand as foreign currency and have this amount exchanged into Thai baht by the recipient bank **inside** Thailand and obtained proof of the transfer and exchange of foreign currency (foreign exchange transaction (Thai) forms). The following foreigners are eligible for ownership:

- An alien who is permitted to reside in Thailand under the immigration law.
- An alien who is allowed to enter into the country under the Investment Promotion Act.
- Juristic entities as provided in section 97 and 98 of the land code and registered as a juristic person under Thai law.
- Companies (juristic entities) under section 4 of the foreign business act and having obtained an alien business license.
- Foreigners or juristic persons regarded by law as foreign who have brought in foreign currency into Thailand and exchanged and withdrawn Thai baht from the Thai baht account or foreign currency account.

Business entities

Businesses can be incorporated in many forms but the most common types are limited companies, partnerships, joint ventures, branch offices, and representative and regional offices.

Limited Company

There are two common types of Limited Company.

Private Limited Company

- Shareholders have limited liability
- Minimum of three shareholders, effective from 1 July 2008
- Shareholders are subject to alien business law
- All directors may be aliens, in case of activities restricted to Thai nationals under the Foreign Business Act, foreigner participation is restricted to a maximum of 49% of the capital shares
- Managed by the Board of Directors in accordance with Memorandum and Articles of Association and subject to control of shareholders
- Subject to restrictions under the Securities Exchange Act, bearer shares may be issued if fully paid up and are freely transferable

Limited companies are formed as follows:

- Reservation of company name
- Registration of memorandum of association – there must be three individual promoters under the memorandum
- The promoter needs to inform the shareholders at least seven days before the meeting to consider approval of articles of association, ratify the business activities previously being carried out by the promoters, to allot any preference shares, to fix the number of shares to be paid up otherwise in cash, and to appoint the first board of directors and the company auditor
- After the statutory meeting, the directors must call up payments on shares being a minimum of 25% of registered share capital
- The directors lodge an application for registration of the company within three months of the date of the statutory meeting

Note: Registration of companies via the web is now available via the Commercial Registration Department of the Ministry of Commerce.

Important aspects of limited company internal association are as follows:

- An ordinary meeting of shareholders must be held within six months of incorporation and subsequently within four months from the date of ending the account period of the company.
- Final dividends may be made by resolution of a general meeting of shareholders. An interim dividend may be declared by directors. Final and interim dividends may only be paid out of profits.
- When dividends are distributed, a company must appropriate 1/20th of the profits into a reserve fund until the reserve fund is at least 1/10th of the capital of the company or a higher amount as stipulated by the company. The reserve cannot be distributed until liquidation.
- A company must prepare a balance sheet and profit and loss account every 12 months.
- The financial statements must be audited and submitted to a general meeting for approval within four months of the balance sheet date.

Public Limited Companies

Public Limited Companies must meet the following requirements and characteristics:

- Must have 15 natural persons as promoters
- Liability is limited to the amount unpaid on shares
- Entitled to issue debentures upon a resolution being passed with not less than three quarters of votes of the shareholders present at a shareholders meeting
- May offer shares and debentures to the public if a prospectus has been registered
- May issue other types of securities e.g. convertible preference shares
- Only a public company can be listed on the Stock Exchange of Thailand
- Wholly owned subsidiaries of foreign public companies may conduct business in Thailand subject to the requirements of the Foreign Business Law

Partnerships

There are two basic types of partnerships.

Ordinary Partnerships

All partners in an ordinary partnership are jointly and severally liable, without limit, for all the obligations of the partnership.

An ordinary partnership can become a juristic person by registering with the Ministry of Commerce. A registered ordinary partnership can own property in its own right and has legal status separate from its partners.

Limited Partnerships

A limited partnership is a separate legal entity that comprises two groups of partners. One group of partners has liabilities limited to the capital they have contributed to the partnership. The second group of partners is jointly and severally liable, without limit, for all the obligations of the partnership.

Limited partnerships may be only managed by an unlimited partner. Limited partners who purport to manage a limited partnership become an unlimited partner.

Joint ventures

A joint venture is a contractual relationship between two or more parties. One party is a juristic person. A joint venture is not recognised under Thai law with the exception of income tax law, which recognises a joint venture as a separate entity taxpayer.

Branch offices

Foreign companies may carry out certain business in Thailand through a branch office. Branch offices are required to maintain accounts only relating to the branch in Thailand. Having a branch office in Thailand, the foreign corporation could be exposed to civil, criminal and tax liability if the branch office violates any law in Thailand. The foreign head office must appoint at least one branch office manager to be in charge of operations in Thailand.

There is no special requirement for foreign companies to register their branches in order to do business in Thailand. However, most business activities fall within the scope of one or more laws or regulations that require special registration (e.g., VAT registration, taxpayer identification card, Commercial Registration Certificate, Foreign Business License, etc.), either before or after the commencement of activities. Therefore, foreign business establishments must follow generally accepted procedures.

It should be borne in mind that the branch is part of the parent company and therefore the parent retains legal liability for contracts, and for tortious acts done. For tax purposes, a branch is subject to Thai corporate income tax at the regular 20% rate on income derived from its business

operations in Thailand. It is important to clarify beforehand what constitutes income that is subject to Thai tax because the Revenue Department may consider revenue directly earned by the foreign head office from sources within Thailand to be subject to Thai tax. Therefore, for tax purposes, a branch office is required to apply for a taxpayer identification card and VAT certificate (if applicable) and to file annual corporate income tax returns with the Revenue Department.

A branch office of a foreign entity cannot carry out any reserved business without a Foreign Business License. It must apply for a Foreign Business License with the MOC first, and can operate in a reserved business only after the License has been issued. If the desired business is unique, does not compete with Thai businesses, or involves dealings among members of an affiliated company, the chance of approval is more probable. Conditions, such as minimum capital, transfer of technology and reporting requirements, may be attached to a Foreign Business License. The minimum investment capital must be greater than 25% of the estimated average annual operating expenses of the operation calculated over three years, but not less than three million baht.

The application fee (non-refundable) is 2,000 baht. If the application is approved, the government fee will be set at the rate of five baht for every 1,000 baht or fraction thereof of the registered capital of the parent company, with a minimum of 20,000 baht and a maximum of 250,000 baht. A fraction of 1,000 baht in capital is regarded as 1,000 baht.

A Branch Office that is permitted to operate the business must comply with the following conditions:

1. There must be the minimum capital to be remitted to Thailand for the commencement of business operation as stipulated by law. Details of remitting the minimum capital are as follows:
 - First 25% of minimum investment within first three months;
 - Another 25% of minimum investment within first year;
 - Another 25% of minimum investment within second year; and
 - Last 25% of minimum investment within third year.
2. The total of loans utilised in the permitted business operation must not exceed seven times the inward remitted funds for the permitted business operation;
3. At least one person of the responsible persons for operating the business in Thailand must have a domicile in Thailand; (domicile means that the person has a contactable residence in Thailand, which can be the place of business, but excludes temporary residences such as hotels).
4. The document or evidence relating to the permitted business operation must be submitted when the officials send the summons or inquiry.
5. There must be the preparation of account and financial statements to be submitted to the Department of Business Development.

Representative office

The operation of the representative office in Thailand in order to render the service to its head office or the affiliated company or the group company in the foreign country is the operation of business under the business listed in List 3(21) attached to the Foreign Business Act B.E.2542 i.e. Other Service Businesses. If the foreigner wishes to operate such business, the permission of the Director-General, Business Development Department with the approval of the Foreign Business Committee is required.

The minimum investment capital must not be less than 25% of the estimated average annual operating expenses of the operation calculated over three years, but not less than three million baht (same as branch office).

Application fee (non-refundable) is 2,000 baht. If the application is approved, the government fee will be set at the rate of five baht for every 1,000 baht or a fraction thereof of the registered capital of the parent company, with a minimum of 20,000 baht and a maximum of 250,000 baht. A fraction of 1,000 baht in capital is regarded as 1,000 baht.

The Foreign Business Operation Committee has determined the guidelines for approval as follows:

Characteristic of Representative Office

The representative office must have all three characteristics as follows:

1. Be the juristic person established in accordance with the foreign law and have established an office in Thailand in order to operate the service or business for the head office or the affiliated company or the group company in the foreign country only;
2. Renders services to the head office, affiliated company or group company without receiving income from service, except for funds to cover the expenses of the representative office that are received from the head office; and
3. The representative office has no authority to receive purchase orders or to offer for sale or to negotiate on business with any person or juristic person.

Scope of Service of the Representative Office

In operation of business as the representative office, the scope of service is permitted to be rendered in any or all of the following five categories, depending upon the objectives and business characteristics of the representative office:

1. Finding sources of goods or services in Thailand for the head office.
2. Checking and controlling the quantity of goods purchased in Thailand by the head office.
3. Providing advice and assistance concerning head office goods sold to agents or consumers in Thailand.
4. Disseminating information concerning new goods or services of the head office.
5. Reporting on business developments in Thailand to the head office.

If the representative office engages in other activities for which permission is not granted, such as buying or selling goods on behalf of the head office, it will be regarded as doing business in Thailand and may be subject to Thai taxation on all income received from Thailand. Also, the representative office may not act on behalf of third persons. Any such business or income-earning activities could amount to a violation of the conditions of the license to establish and operate a representative office, which in turn could result in revocation of that license.

A representative office that undertakes one or more of the approved activities in Thailand without rendering any service to any other person, and which refrains from prohibited activities, is not subject to Thai taxation. Such a representative office is understood to be receiving a subsidy from the head office to meet its expenses in Thailand. Gross receipts or revenues received by a representative office from the head office are not characterised as revenue to be included in the computation of juristic person income tax.

Even though they are not subject to taxation in Thailand, all representative offices are still required to obtain a Corporate Tax Identification number and submit income tax returns and audited financial statements to the Revenue Department. They are also required to submit the same to the Department of Business Development.

Conditions to be complied with by the Representative Office After Granted Permission to Operate Granted

A representative office that is permitted to operate the business must comply with the following conditions:

- There must be the minimum capital to be remitted to Thailand for the commencement of business operations as stipulated by law. Details of remitting the minimum capital are as follows:
 - First 25% of minimum investment within first three months;

- Another 25% of minimum investment within first year;
- Another 25% of minimum investment within the second year; and
- Last 25% of minimum investment within the third year.
- The total of loans utilised in the permitted business operation must not exceed seven times the inward remitted funds for the permitted business operation.
- At least one of the persons responsible for operating the business in Thailand must have a domicile in Thailand.
- The document or evidence relating to the permitted business operation must be submitted when the official sends the summons or inquiry.
- There must be the preparation of account and financial statements to be submitted to the Department of Business Development.

Regional office

A regional office can be conducted by a foreign company group to coordinate branches or affiliates in the same region, control the operation of branches or affiliates situated in the same region on behalf of the parent company, and give advice about training, financial management, marketing and promotion, product development, and research and development.

A regional office must provide services to the group companies in the same region. The regional office can neither apply for BOI promotions nor can it benefit from income tax benefits. The regional office must have a minimum capital of three million baht.

Regional Operating Headquarters

The Regional Operating Headquarters (“ROH”) must register as a company under Thai law. The purpose of the ROH is to provide services, including management, technical and other support services, such as technical support, research and development and training, to subsidiary companies or branches in Thailand and other countries. ROH is eligible for both non-tax BOI incentives and tax incentives. In case the ROH applies for BOI incentives the minimum paid up capital must be at least 10 million baht.

International Headquarter

The International Headquarters (“IHQ”) must be a company incorporated under Thai law that provides certain types of services prescribed by law to its associated enterprises. The promoted person shall be given non-tax incentives from the BOI, then, if the Company would like to apply for tax incentives such as tax exemptions, the Company needs to meet the Thai Revenue Department’s conditions.

International Trading Center

An International Trading Center (“ITC”) must be a company incorporated under Thai law that purchases and sells goods, raw materials as well as certain types of services to juristic persons under foreign law. The promoted person shall be given non-tax incentives from the BOI, then, if the Company would like to apply for tax incentives, the Company needs to meet the Thai Revenue Department’s conditions.

Financial reporting and audit

Accounting and audit principles

The Federation of Accounting Professions in Thailand (“FAP”) is the institute that controls accounting and auditing professions in Thailand under the commercial laws.

Thai accounting standards are promulgated by the FAP and are principally similar to International Accounting Standards. In addition, there is the Institute of Internal Auditors of Thailand, which regulates internal auditing standards in Thailand.

The Civil and Commercial Code and the Accounting Act require books of accounts to be maintained at the registered office for a period of five years (the Director-General may prescribe the person to keep accounts for more than five years but not exceeding seven years). Every company is required to prepare annual statutory financial statements in accordance with Thai generally accepted accounting principles, and these audited by a certified Thai CPA for submission to shareholders and for filing with certain authorities.

Within four months after the fiscal year-end of each company, the statutory financial statements must be adopted at the annual general meeting of shareholders and lodged with the Ministry of Commerce no later than one month after approval.

Audited financial statements have to be filed with annual tax returns with the Revenue Department within 150 days after each fiscal accounting period.

The Accounting Act provides additional regulations that apply to all business entities being limited companies, public companies, registered partnerships, foreign companies, and joint ventures recognised under the Revenue Code.

An important requirement under the Thai Accounting Act is that the accounts must be prepared by a qualified Thai accountant.

Under the Thai Accounting Standards, the component of financial statements should include:

- statement of financial position;
- statement of income/statement of comprehensive income;
- statement of change in shareholders’ equity;
- statement of cash flow (optional for private company); and
- note disclosures to financial statements

Accounting periods

Accounts must be closed every twelve months except for the first and the last accounting periods, which may be of any duration up to twelve months. A change in the closing date of an accounting period requires the prior approval of the Revenue Department and Commercial Registration Department.

Income is recognised on an accrual basis rather than a cash basis. Businesses are required to adopt accounting policies that comply with generally accepted accounting principles.

Book and tax differences

Where different conventions are used for tax and for accounting purposes, deferred tax accounting may be used, although other than for listed companies, it is not widely adopted. The different methods between accounting and tax usually result in future income tax benefits and normally relate to differences in depreciation rates and the treatment of accounting provisions.

Books and records

Businesses are required to keep certain accounting and other records with the exception of sole proprietors and ordinary unregistered partnerships. These records must be kept in the Thai language or otherwise be translated into Thai.

Books and records must be kept at the place of business and must be kept for a period of at least five years after the balance sheet date.

Consolidation

There are no statutory requirements for the preparation of consolidated financial statements except for those companies listed on the Stock Exchange of Thailand. Meanwhile, under the Thai Accounting Standards, public companies are required to prepare consolidated financial statements.

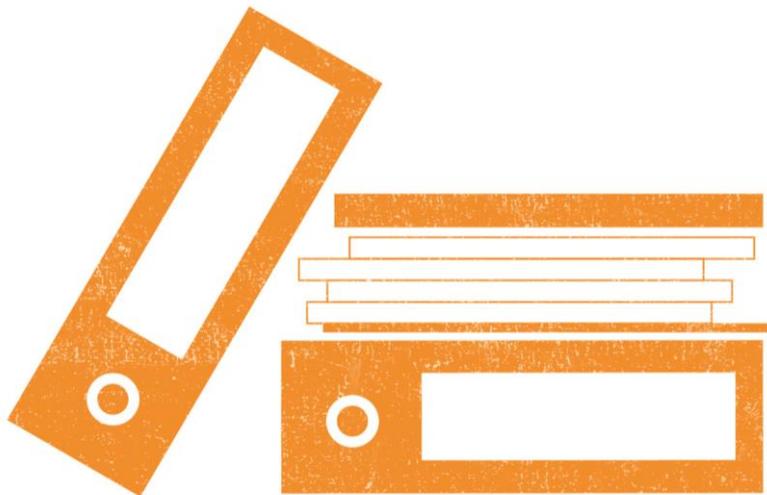
The financial statements of the parent and its subsidiaries used in the preparation of the consolidated financial statements are usually drawn up to the same date. Consolidated financial statements should be prepared using uniform accounting policies for like transactions and other events in similar circumstances. If it is not practicable to use uniform accounting policies in preparing the consolidated financial statements, this fact should be disclosed together with a note of the monetary effect of the items in the consolidated financial statements to which the different accounting policies have been applied.

Auditing requirements and standards

All incorporated business entities are required to submit audited financial statements to the Commercial Registration Department within five months after the balance sheet date. The audited financial statements must accompany the filing of the annual corporate income tax return with the Revenue Department.

Standards that applying to auditing principles and practices are set out in the Auditing Standards issued by the Federation of Accounting Professions in Thailand (“FAP”). These are modelled on International Auditing Guidelines.

A listed company is required to submit quarterly financial statements to the Stock Exchange of Thailand (SET). Quarterly financial statements must be reviewed by an independent auditor. However, an auditor expresses no opinion on these quarterly financial statements.



Taxation

Compliance and Administration

Tax year

The tax year for a company is its accounting period. A company may choose its accounting period.

Basis of assessment

A company is responsible for the preparation and lodgement of its corporate income tax return under a self-assessment system. The company's records may be inspected at any time in a period of two years from the date of lodgement of the tax return. However, where a corporate taxpayer has failed to lodge returns and there is reason to believe that the taxpayer has intentionally evaded tax, the investigation period may be extended to five years.

Income tax returns

- Lodgement of annual corporate income tax return must be done within 150 days of the end of the company's accounting period. An audited balance sheet and profit and loss account for the period must accompany the return.
- Lodgement of half-year income tax returns must be done within two months from the last day of the first six months of an accounting period. A half-year tax return is not required for a company's first or last accounting period, which may be less than twelve months.

Payment of tax

- On lodgement of half-year income tax return, a company may elect to pay tax on its actual net profit for the first six months or on one-half of the estimated profits for the full tax year. If a company elects to pay tax on the basis of actual half-year results, the accounts must be reviewed by an approved auditor.

A company paying tax on the basis of estimated profits is liable to a surcharge of 20 percent of the tax underpaid if the estimated profit is less than the final profit by more than 25 percent.

- Payment of the balance of corporate income tax is based on actual net profit for the year on lodgement of the annual corporate income tax return.

Withholding tax

Thailand has a comprehensive domestic system for the withholding of tax on payments of certain categories of income in addition to withholding on payments of income to non-residents. The Thai withholding tax system is one of the most bewildering aspects of the Thai taxation system facing businesses coming to Thailand.

The categories of income very broadly encompass payments of investment income and business income for the supply of services including services supplied in connection with the installation and/or use of tangible and intangible property. For example, royalties paid to a resident taxpayer for the use of intangible property are subject to withholding tax.

These obligations apply to payments made between Thai resident taxpayers including the branch offices of foreign corporations.

Failure to deduct and remit domestic withholding tax is a very common tax compliance issue in Thailand.

Where income is paid to a non-resident, care should be exercised to determine whether the withholding rate is either reduced or eliminated under the relevant double tax agreement.

A company, registered partnership or other juristic person that pays assessable income to another registered company, partnership, individual, other juristic person or a foreign company carrying on business in Thailand, must withhold tax from payments of the following types of income:

Categories of Assessable Income	Payers of Income Subject to Withholding at Source	Payees	Tax rate (%)	Tax return
Goodwill, copy right and any other rights	Companies, registered partnerships and other body corporates	Companies and registered partnerships carrying on business in Thailand	3.0	PND53
		Foundations and Associations	10.0	PND 53
		Non-resident individuals	15.0	PND 2
		Non-resident corporates	15.0	PND 54
Interest and income in the nature of interest including gains on redemption of securities	Commercial banks and other financial institutions	Companies and registered partnerships carrying on business in Thailand	1.0	PND 53
		Foundations and Associations	10.0	PND 53
Interest on bonds and debentures	Companies, registered partnerships and other body corporates other than banks and financial institutions	Commercial banks and other financial institutions	1.0	PND 53
Interest and income in the nature of interest including gains on redemption of securities	Companies, registered partnerships and other body corporates other than banks and financial institutions	Companies and registered partnerships carrying on business in Thailand	1.0	PND 53
		Foundations and associations	10.0	PND53
		Non-resident individuals	15.0	PND 2
		Non-resident corporates	15.0	PND 53
Dividends	Thai resident companies and registered partnerships, mutual funds, and certain financial institutions	Foreign companies and regd. partnerships carrying on business in Thailand	10.0	PND 53
		Thai resident companies and registered partnerships with the exception of (i) registered companies and (ii) limited company ⁵	10.0	PND 53
		Non-resident and resident Individuals	10.0	PND 2
		Non-resident corporates	10.0	PND 54
Rentals	Companies, registered partnerships and other body corporates	Companies and registered partnerships carrying on business in Thailand and individuals	5.0	PND 53
		Foundations and associations	10.0	PND 53
		Resident individuals	5.0	PND3
		Non-resident individuals	15.0	PND3
International shipping rentals	Companies, registered partnerships and other body corporates	Non-residents	1.0	PND 54
		Companies and regd. partnerships carrying on business in Thailand	1.0	PND 53
		Resident individuals	1.0	PND 3
Professional fee e.g. medical, legal, architectural, engineering, accounting, and fine arts fees	Companies, registered partnerships and other body corporates	Companies and registered partnerships carrying on business in Thailand	3.0	PND 53
		Foundations and associations	10.0	PND 53
		Resident individuals	3.0	PND 3
		Non-resident corporates	15.0	PND 54

⁵ Other than a registered company that holds at least 25 percent of the total shares with voting rights in the limited company paying the dividends, provided that the latter company does not hold any share in the limited company receiving the dividends whether directly or indirectly.

Categories of Assessable Income	Payers of Income Subject to Withholding at Source	Payees	Tax rate (%)	Tax return
Payments for hire of work	Companies, registered partnerships and other body corporates	Companies and registered partnerships carrying on business in Thailand	3.0	PND 53
		Foreign companies and registered partnerships carrying on business in Thailand through a branch office	3.0	PND 53
		Resident individuals	3.0	PND 3
Payments to non-resident contractors without a branch for hire of work	Individuals	Foreign companies and registered partnerships carrying on business in Thailand without a permanent branch office	5.0	PND 53
	Companies, registered partnerships and other body corporates			
	Ordinary partnerships Non-incorporated bodies			
Prizes won in contests, competitions, lucky drawings, etc.	Individuals, companies, registered partnerships and other body corporates, ordinary partnerships, non-incorporated bodies	Individuals	5.0	PND 3
		Companies and registered partnerships	5.0	PND 53
Public Entertainers⁶	Individuals, companies, registered partnerships and other body corporates, ordinary partnerships, non-incorporated bodies	Non-resident and resident individuals	10.0	PND 3
Advertising fees	Companies, registered partnerships and other body corporates	Person liable to pay personal income tax	2.0	PND 3
		Companies and registered partnerships	2.0	PND 53
Service fees but not public transport, hotel and restaurant services, life insurance	Companies, registered partnerships and other body corporates	Person liable to pay personal income tax	3.0	PND 3
		Companies and registered partnerships carrying on business in Thailand	3.0	PND 53
Prizes, discounts and benefits paid under a promotion	Companies, registered partnerships and other body corporates	Person liable to pay personal income tax other than direct and final consumers	3.0	PND 3
		Companies and registered partnerships carrying on business in Thailand	3.0	PND 53
Non-life insurance premiums	Companies, registered partnerships and other body corporates	Companies carrying on non-life insurance business in Thailand	1.0	PND 53
Payments for sheet rubber, cassava, jute, rice, maize, sugar cane, coffee beans, and oil-palm	Companies and other body corporates who are exporters or manufacturers	Companies and registered partnerships	0.75	PND 53
Salary and wages	Companies, all partnerships, non-incorporated bodies and natural persons	Resident individual	Progressive rates	PND 1
Fee, brokerage, discount, subsidy, bonus, house rent allowance, etc. in case of income derived by virtue of a post, office of employment or of service rendered	Companies, all partnerships, non-incorporated bodies and natural persons	Non-resident individual	15.0	PND 1
		Resident individual	Progressive rates	PND 1
		Companies and registered partnerships carrying on business in Thailand	3.0	PND 53
		Foundation and associations	10.0	PND 53

⁶ If public entertainers domiciled in a foreign country, shall deduct tax at the source at the rate prescribed in the Income Tax Schedule for natural persons; unless for a public entertainer who is an actor for a motion picture or television program and has a residency in a foreign country provided only for the case where such motion picture or television program is produced in Thailand by a juristic company or partnership set up under a foreign law but receiving permission to produce such film in Thailand by the sub-committee for approval to film a foreign motion picture in Thailand under the law governing the permission to film a foreign motion picture in Thailand B.E. 2544, shall deduct tax at the source at the rate of 10.0 percent.

Categories of Assessable Income	Payers of Income Subject to Withholding at Source	Payees	Tax rate (%)	Tax return
Specified income paid by Government bodies and authorities	Government bodies and authorities	Companies and registered partnerships carrying on business in Thailand	1.0	PND 53
		Other companies and registered partnerships	1.0	PND 54
		Non-resident and resident individual	1.0	PND 3
Sale consideration from the disposal of real property	Government bodies and authorities	Non-resident and resident individual	Prescribed rate	PND 53
		Companies and registered partnerships	1.0	PND 53

Penalties

Penalties are a maximum amount equal to the taxes assessed. If there has been a failure to lodge an income tax return, the penalty may be a maximum of double the amount of tax assessed.

A time penalty in the form of a surcharge of 1.5 percent of tax payable per month up to a maximum of the amount of the tax assessed is also imposed.

The Revenue Department normally has discretion to reduce penalties up to a maximum of 50 percent if there was no intention to evade taxes and full cooperation had been given to the investigating officer. The Director-General may reduce penalties further but normally not in respect of a surcharge.

Tax audits

Within a period of two years from the date of filing a return, the assessment officer may issue a summons for company officers and witnesses to present for examination and request production of accounts and other relevant information with seven days of the issue of a notice.

Examination of the books and records is normally carried out at the company's premises but documents may be transferred to the Revenue Department for examination.

Tax audits may take place within a five-year period if there is evidence of an intention to evade tax and within the circumstance a company has made a claim for a refund of tax.

Appeal procedures

Taxpayers may appeal against an assessment with the Board of Appeals in the province where the relevant tax office is located within 30 days from the date of receiving the notice of assessment. Taxes in dispute must still be paid including penalties and surcharges during the appeal process. The Revenue Department may grant a deferral but security in the form of a bank guarantee is normally required.

A taxpayer may appeal to the Tax Court within 30 days of receiving the notice of ruling of the Board of Appeals. A further appeal may be made from the Tax Court to the Supreme Court within a month after the date of the decision of the Tax Court.

Corporate taxation

Income

A company incorporated in Thailand is subject to corporate income tax on its worldwide income, gains and profits. A foreign company with a branch in Thailand is subject only to income, gains and profits arising from or as a consequence of its business carried out in Thailand.

Corporate income tax is levied on the net profits as adjusted by the Revenue Code. An accounting period must be twelve months with the following exceptions:

- The first accounting period may end on any date within twelve months of incorporation
- A change in the closing date of an accounting period may be made with permission of the Director General of the Revenue Department.

Exempt income

The following income is exempt from corporate tax:

- Dividends received by a company listed on the Stock Exchange of Thailand.
- Dividends received by a company incorporated in Thailand holding at least 25 percent of the voting shares in another Thai company, provided that the distributing company does not own a direct or indirect capital interest in the recipient company and the shares have been held for a period of at least three months before and three months after the receipt of the dividends.
- A company incorporated in Thailand is entitled to include in its taxable income only 50 percent of a dividend received from another company incorporated in Thailand.

Expenses

Depreciation and amortisation

Depreciation may be deducted for all tangible assets with the exception of trading stock and land.

Depreciation rates used by a company in the determination of its accounting profits provided they do not exceed the prescribed rates.

Buildings must be amortised over a minimum life of 20 years.

Computers are depreciated over three years and all other tangible assets are depreciated over a minimum life of five years.

Depreciation methods and rates must be consistently applied from year to year. Any variation can only be made after approval has been obtained from the Revenue Department.

Depreciation in respect of a car or a bus with a capacity of not more than 10 passengers acquired on or after 1 January 1989 is permitted up to a depreciable cost limit of one million baht.

Intangible property such as IP rights in connection with a process, formula, goodwill, trademark, business license, patent, copyright or any other similar right may be written off for tax purposes over a minimum period of 10 years or the period of use, whichever is the lesser.

A leasehold right may be normally written off for tax purposes over a minimum period of 10 years. For written leases containing no renewal clause, or for leases containing a renewal clause but restricting renewable periods to a definitely limited duration, the write-off may be made over the original and renewable lease periods.

The cost of acquisition of depleting natural resources may be written off over a minimum period of 20 years.

Interest expenses

Interest on money borrowed for business purposes or profit making is deductible.

Interest incurred in respect of the construction or installation of fixed assets before the time of first use is characterised as capital expenditure.

Interest incurred on funds borrowed to acquire land or other capital assets is deductible only after the land or asset has been leased or otherwise utilised to generate income.

Non-deductible expenditure

Special rules applying to the deductibility of expenses incurred by a company include:

- A bad debt over 100,000 baht may only be written off after all litigation has been pursued.
- Donations to a public charity and educational facility are each deductible by up to two percent of net profits.
- Entertainment expenses up to 0.3% of gross receipt or closing paid up capital, whichever is greater but not exceeding 10 million baht. In case of gifts, costs of gifts should not exceed 2,000 baht per person, per occasion. However, total entertainment expenses to be deducted shall not exceed 10 million baht for tax purposes.
- Contributions to any provision, reserve or fund (except an approved provident fund).
- Private expenses and gifts.
- Taxes, fines and penalties.
- Salary paid to a shareholder in excess of a reasonable amount.
- Any disbursement where the identity of the recipient cannot be proved by the payer.

Losses

Losses may be carried forward for five tax years.

Losses cannot be transferred to other companies. There is no provision for consolidated group returns.

Tax rates

The standard rate of company tax is 20%.

Reduced rates of company tax are available as follows:

Small enterprises (i.e. with paid up capital on the last day of its accounting period not exceeding five million baht and revenue not exceeding 30 million baht) are exempt from income tax for the first net taxable profits of baht 300,000 from 2013 onwards. The next taxable profits are subject to the following tax rates:

- Net taxable profits of baht 300,001 to three million baht – 15%;
- Net taxable profits above three million baht – 20%;

Foreign tax credits

Thai companies can use foreign tax paid on business income or on dividends received as a credit up to the rate of Thai baht applicable to the foreign income.

With regard to foreign source dividends received by a company incorporated in Thailand, these would be exempt from income tax provided the following requisites are complied with:

- The Thai company receiving the foreign source dividends must hold at least 25% of the voting shares in the offshore company, and must have held the shares on which the dividends were paid for at least six months prior to receiving the dividends; and
- The net profits out of which the dividends were paid must have been subject to tax in the country of origin at a rate of not less than 15%.

In the event that a “special law” in a particular foreign country provides a reduced tax rate or exemption for the net profits, the Thai company, which receives the dividends is still eligible for the tax exemption.

Special industries

Petroleum industry

Companies that hold concessions for the exploration, production and export of petroleum are subject to a separate taxation regime. The rate of tax on net profits is 50 percent. No further tax is payable on dividends payable to shareholders or on the distribution of branch profits.

There are two important amendments to the Petroleum Income Tax Act (in the years B.E. 2522 and B.E. 2532) creating three different versions. Each petroleum taxpayer is covered under one or more of the three versions (referred to as the status of the taxpayer). The filing requirement is that the taxpayer should submit one return per TIN, per period, per status. In case a taxpayer has to file returns under more than one status, he has to do so treating each status as a separate company (in matters of allowances, adjusting of carried forward loss, etc.).

The important differences in tax calculation/remittance between the three versions of the Act are as follows:

Act 2514 (status 1) - Only annual return required. No need for half year return. Interest not allowed as expense. Royalty allowed as tax credit. No levy of special remuneration benefit tax. High tax rate of 50%.

Act 2522 (status 2) - Only annual return required. No need for half year return. Interest allowed as expense (but a high withholding tax of 50% on interest paid is levied). Royalty allowed as expense. No levy of special remuneration benefit tax. Low tax rate of 35%. High profit remittance tax of 23.08%.

Act 2532 (status 3) - Annual and half yearly returns required. Interest not allowed as expense. Royalty allowed as expense. Additional levy of special remuneration benefit tax. High tax rate of 50%.

All petroleum taxpayers are required to pay withholding tax at a rate of 50 percent on profits on transfers (transfer proceeds less loss carried forward) when petroleum property or right is transferred and if the total amount of such income is not definitely determinable.

While calculating net profit, the following items are included as revenue:

- Gross Income from the sale of petroleum
- Value of petroleum disposed of
- Value of petroleum delivered as payment of royalty in kind
- Gross income arising from a transfer of any property or right related to petroleum business, if the total amount of such gross income is definitely determinable
- Any other income arising from conducting petroleum business

The following are deductible expenses:

- Ordinary and necessary expenses
- Interest remitted and withholding tax paid
- Value of royalty paid to the Thai Government
- Value of special remuneration benefit tax paid to the Thai Government
- Capital expenditure allowance (in the nature of depreciation)
- Net losses carried forward over the last 10 years
- Bad debts
- Donation not exceeding 1% of profit
- Contribution to provident fund/pension fund

Insurance companies

Insurance companies may deduct reserves in some circumstances.

Life insurers may set aside a reserve of up to 65 percent of premiums received in the tax year after deduction of reinsurance premiums. If the sum insured in respect of any life insurance policy is paid out, the amount already reserved is not deductible. Any excess amount of the reserve must be returned as revenue.

General insurers may set aside a reserve of up to 40 percent of premiums received in a tax year after deduction of reinsurance premiums. The reserve is included in revenue in the next tax year.

Thai taxation for other business entities

Branches of foreign corporations

Foreign corporations are taxed on their net profits attributable to business carried out in Thailand through a branch. Tax computation rules applying to Thai companies are applied. Branches are subject to corporate income tax at the normal corporate income tax rate of 20 percent.

Branch profits when remitted out of Thailand are subject to further withholding tax at the rate of 10 percent of the profits available for remittance.

Taxation of resident agents

Resident agents in Thailand can be subject to domestic taxation on behalf of foreign corporations. The agent is subject to Thai income tax on the net branch profit attributable to the agency.

The agent is not taxed if it can be demonstrated that:

- In the usual course of business, an agent acts for foreign corporations in general and not for any specific foreign corporation or group of such corporations;
- There is no agreement between the agent and the foreign corporation restricting the right of the agent to act for other foreign corporations in selling similar goods;
- The agent derives no benefits from the foreign corporation other than commission on each occasion of the sale of goods; and
- The purchaser pays or agrees to pay for the goods directly to the foreign corporation.

Joint ventures

A joint venture is only recognised for the purpose of income tax law. Joint ventures are taxed in the same manner as a company. However, there is no further taxation of the share of joint profit received by a company in Thailand or by a branch if a foreign company is not subject to further income tax in the hands of the recipient. A share of profit paid to a foreign company not carrying on business in Thailand is treated as a dividend and subject to dividend withholding tax.

Representative office

If a representative office is purchasing or exporting goods to or under the instruction of their head office, such transactions shall be deemed to be a sale made in Thailand and unless the representative office is a permanent establishment as per the Double Taxation Avoidance agreement between the two countries, it shall be chargeable to corporate income tax. If the goods sold are chargeable to VAT, the representative office is liable to pay such VAT.

Further, if the representative office receives subsidies towards rendering services to the head office in the nature of survey for goods that the head office procured from Thailand, such subsidy shall not be treated as revenue and shall not be chargeable to corporate income tax. If the representative office rendering services in the nature of the survey renders services to other persons, irrespective of the remuneration received for such services, they shall be deemed to be carrying on business in Thailand and have a duty to include the revenue while computing net profits chargeable to tax under the Revenue Code and to pay business tax at the rate of three percent of gross receipts.

Regional Operating Headquarters (ROH) Tax (New Scheme)

- Tax exemption on net profits from income derived from services provided to ROH's foreign branches or associated enterprises for 10 years.
- 10% corporate tax on net profits from income derived from services provided to ROH's domestic branches or associated enterprises for 10 years.
- ROH shall be eligible for tax privileges if the company derived income from the provision of services abroad to its associated enterprises or branches or received royalties as a result of research and development and technology development services carried out in Thailand. If

such ROH income is at least 50% of the total revenue, the tax privilege mentioned below will be available for 10 years:

- Exemption from corporate income tax on dividends received.
- Exemption from corporate income tax on dividends paid from net profits to companies incorporated under foreign law and not operating its business in Thailand.
- Reduction of corporate income tax on dividends paid from net profits to companies incorporated under foreign law and not operating its business in Thailand.
- Reduction of corporate income tax to 10% on royalties received from companies, juristic partnerships, associated enterprises or foreign branches of ROH. This royalty must arise from provision of R&D and technical development carried out by ROH in Thailand.
- Reduction of corporate income tax to 10% on interest received from associated enterprises or foreign branches of ROH. This interest must arise from loans taken out by ROH to relend to its branches or associated enterprises.

Subsidiaries

- Dividends paid to a foreign corporation not carrying on business are subject to withholding tax of 10 percent.
- Interest paid to a foreign corporation not carrying on business in Thailand is subject to withholding tax of 15 percent subject to any reduction specified in a double tax agreement.
- Royalties paid to a foreign corporation not carrying on business in Thailand are subject to a withholding tax of 15 percent subject to any reduction specified in a double tax agreement.
- Capital gains on the sale of shares realised by a foreign corporation not carrying on business in Thailand are subject to withholding tax of 15 percent subject to any reduction specified in a double tax agreement. The purchaser withholds the tax.
- Management fees, professional fees (i.e. law, medicine, engineering, architecture, and accountancy) paid to a foreign corporation for services rendered outside of Thailand are subject to withholding tax of 15 percent. Management fees paid to corporations outside Thailand that are residents of countries with a double tax treaty with Thailand and have no permanent establishment in Thailand, are generally exempt from withholding tax.

Taxation of shareholders

An individual who is a resident of Thailand receiving a dividend or share of profits from a juristic company or partnership incorporated in Thailand that has dividends subject to tax credits can elect to have a 10 percent withholding tax deducted by the payer of the dividend as a final tax.

Otherwise a tax credit is available in the computation of tax by taking into account the percentage point liable to be paid by such company or partnership that is the payer of income divided by the difference between 100 minus such percentage point. The resultant quotient shall then be multiplied by the amount of dividends or shares of the profit received. The result shall amount to a tax credit.

Capital gains realised by resident individuals on the disposal of shares are taxed as part of the normal income of the individual. Gains on the sale of shares in companies listed on the Stock Exchange of Thailand are exempted from tax.

Foreign shareholders

Dividends

Dividends paid to non-resident individuals are subject to a withholding tax at a flat rate of 10 percent.

Capital gains

Capital gains on the sale of shares in a Thai company that are derived from or in Thailand by a foreign company are subject to a withholding tax of 15 percent unless exempted by a double tax agreement.

Capital gains realised by foreign individuals are subject to withholding tax at a rate of 15 percent unless exempted by a double tax agreement. Gains realised on the sale of shares of companies listed on the Stock Exchange of Thailand are exempt from tax.

Reorganisations

Incorporation

Where the business of a sole proprietor or an unregistered ordinary partnership is transferred to a limited company, any gains arising will be taxable to the transferor. Assets must be transferred at their fair market value.

Amalgamations and reorganisations

Where companies are amalgamated, the assets of the amalgamated companies are transferred at their market value at the date of the amalgamation. The surplus from the revaluation of the assets is not subject to income tax until the assets are disposed of. The assets will be depreciated based on their original cost and tax rates. Unused tax losses are not available to the newly amalgamated company.

Liquidations

When a company goes into liquidation the assets of the company are valued at the market price at the date of liquidation. Unrealised gains on which income tax has not been paid are included in the company's last income tax return. The balance date of the last income tax return is the date of liquidation.

Double tax agreements

Thailand has entered into double tax agreements with the following countries:

Armenia	France	Malaysia	South Africa
Australia	Germany	Mauritius	Spain
Austria	Great Britain &	Myanmar	Sri Lanka
Bahrain	Northern Ireland	Nepal	Sweden
Bangladesh	Hong Kong	Netherlands	Switzerland
Belarus	Hungary	New Zealand	Chinese Taipei
Belgium	India	Norway	Tajikistan
Bulgaria	Indonesia	Oman	Turkey
Canada	Ireland	Pakistan	Ukraine
China	Israel	Philippines	UAE
Chile	Italy	Poland	USA
Cyprus	Japan	Romania	Uzbekistan
Czech Republic	South Korea	Russia	Vietnam
Denmark	Kuwait	Seychelles	
Estonia	Laos	Singapore	
Finland	Luxembourg	Slovenia	

Value added tax

Value added tax ("VAT") is a broad-based indirect tax on consumption. The liability to VAT lies with the vendor or the service provider but the actual incidence of the tax is normally borne by the ultimate consumer.

VAT in Thailand is similar to VAT/goods and services tax systems operating in Europe, Canada, New Zealand and Australia.

VAT returns are filed and VAT is paid on the basis of a return filed monthly. The VAT payable is generally calculated by the business on the basis of the selling price or charge at that particular stage after setting off the input VAT credit.

Transactions subject to VAT

Sale of goods

Sale of goods for VAT purposes is defined as a disposal, distribution or transfer of goods. It includes the delivery of goods on hire purchase or to an agent for sale. As a default, a VAT liability will arise upon delivery of goods unless one of the following events occurs prior to the delivery:

- Transfer of ownership of the goods
- Receipt of payment for the goods
- Issue of a tax invoice

Provision of service

A service for VAT purposes is any act that results in a valuable benefit that is not the sale of goods. The rendering of services outside Thailand with such services being consumed in Thailand will be regarded as the rendering of a service in Thailand and will be subject to Thai VAT.

The VAT liability will arise on the payment of the service fee unless one of the following events occurs prior to the payment:

- Issue of a tax invoice; or
- Use of the services by the provider of the service or other parties.

Import

Import is defined as the bringing of goods into Thailand through customs clearance.

Import also includes taking goods out of export processing zones for purposes other than for export.

Exempt activities

Exempt activities include the sale of unprocessed agricultural products, fertilizers, animal feed, sale and import of newspaper and magazines, educational and cultural services, international transportation by land and medical services (which are normally activities covered by specific business tax).

Taxpayers

All traders who import and/or sell goods or services that are not exempt from VAT are required to register and pay tax if sales exceed the minimum designated tax base of 1,800,000 baht per year. Traders include companies, sole proprietors, partnerships, joint ventures, and individual and government enterprises.

An agent who sells goods or renders services on behalf of a trader not resident in Thailand is responsible for the payment of VAT. For other non-resident traders, persons responsible for the operation of the business in Thailand on the trader's behalf have a joint liability with the trader for the VAT.

Otherwise the resident buyer of the goods and services from the non-resident trader is required to pay the VAT himself.

Foreign suppliers

A foreign supplier without a permanent establishment or agent in Thailand is not subject to VAT on the sale of goods to Thailand. However, supplies of goods to a trader in Thailand are subject to VAT at the time of import, the VAT being payable by the receiving trader or agent.

The VAT on services performed abroad but used in Thailand is payable by the payer, i.e. the recipient of the service, within seven days from the end of the month in which payment for the services is made. A VAT registered recipient is entitled to an input tax credit in the month in which the VAT is remitted.

Computation of VAT

The rate of VAT is currently 7%.

A zero percent rate applies to the export of goods outside Thailand as well as to services performed in the country but entirely used abroad.

VAT on the supply of goods and services are generally computed on the total invoice price, excluding the VAT itself.

For imports, VAT is computed on the value of goods imported using the c.i.f. price plus import duty together with excise tax.

VAT returns

A registered trader must submit a monthly VAT return together with payments due to the Revenue Department within 15 days (additional eight days in case of e-filing) of the following month. The VAT return accounts for VAT output tax incurred by the trader on sales and VAT input tax credits charged to the trader by other VAT registered businesses on its purchases.

If the VAT charged to a trader is in excess of the VAT owed by him, it may be carried forward to offset against the VAT due in future months. An exporter is entitled to a refund.

A trader may not be entitled to VAT input tax credits if the goods and services purchased were not used in the ordinary course of business, or used for activities exempt from VAT, if they were incurred on entertainment expenses, gifts or in connection with passenger vehicles with less than 10 seats or for transactions where the tax invoice contains incomplete information.

Failure to file a VAT return or VAT remittance form within the prescribed time period is subject to a penalty of twice the amount of VAT payable. Filing an incorrect return is liable for a penalty of 100 percent of VAT payable if under a tax audit.

An additional surcharge of 1.5 percent per month of the VAT due is payable for late filing up to an amount equal to the tax payable.

Records to be maintained

Registered traders are required to keep an "output book" (sales book), "input book" (purchases book) and "inventory control book".

If a trader has more than one place of business, each branch of the business is required to maintain its own set of books unless approval has been given to maintain consolidated records.

Other taxes

Specific business tax

Businesses subject to specific business tax are banking or similar businesses, finance, credit foncier and securities businesses, insurance, pawn brokerage, dealing in immovable property, and sale of securities on the Stock Exchange of Thailand.

An operator of a business subject to specific business tax is subject to tax on a gross receipts basis at rates that vary between 0.01 and 3 percent.

A local tax is additionally levied on specific business tax payable equal to 10 percent of the specific business tax. It is collected as municipality tax. The SBT return (Por Thor 40) must be submitted to the Revenue Department by the fifteenth day of the month following the receipt.

Stamp duty

Stamp duty is levied on the execution of 28 different types of documents or instruments. The documents and instruments include rental of land, buildings, other construction or floating houses, transfer of shares, debentures, bonds and a certificate of debt issued by any company, association, body of persons or organisation, hire-purchase of property, hire of work, loan of money or agreement for a bank overdraft, insurance policy, authorisation letter, proxy letter for voting at a meeting, bill of exchange, bill of lading, cheque or any written order used in lieu of a cheque for each instrument, receipt for interest bearing a fixed deposit in a bank, letter of credit, travellers cheque, goods receipt, guarantee, pawn broking, agency, decision given by an arbitrator, duplicate instrument, memorandum of association of a limited company submitted to the registrar, articles of association of a limited company submitted to the registrar, partnership contracts and others.

The rates of stamp duty levied on different types of instruments are specified in the Stamp Duty Schedule in the Revenue Code.

Excise tax

Excise tax is tax collected from goods and services that are considered rational to bear the tax at a higher rate as the consumption may cause disadvantages to the health and morale or extravagant products or the goods and services receiving special interest from public affairs etc.

Excise tax is imposed on the following goods and services:

- Fuel oil and petroleum products
- Beverages
- Electrical appliances
- Crystal glassware
- Motor vehicles
- Boats
- Perfume products and cosmetics
- Liquor
- Cigarettes containing tobacco
- Wool carpets
- Motor bicycles
- Playing cards
- Horse racing and golf courses
- Processed marble and granite
- Batteries
- Ozone depleting substances
- Night clubs
- Yachts
- Lottery
- Massage parlours
- Telecommunications

The manufacturer of the products or the service provider must file a return and remit excise tax prior to taking the goods from the factory or bonded warehouse. If a VAT liability arises before the goods are taken, the manufacturer must file a return and remit the tax within 15 days from the end of the month.

Imported goods will be taxed upon importation with customs duty and VAT.

Local taxes

Local taxes impose three types of tax, which are signboard tax, local development tax and house and land tax.

Signboard tax

Signboard tax is imposed annually on signs or billboards that display a name, trademark or logo of the business for the purpose of advertising or providing information about a business.

The owner of the signboard must pay the tax.

Signboards that display Thai words are levied at a rate of three baht per 500 square centimetres. Signboards displaying both Thai and foreign words are taxed at 20 baht per 500 square centimetres.

Signboards displaying foreign words alone or any trademarks and logos without Thai words are taxed at a rate of 40 baht per 500 square centimetres. The minimum tax payable is 200 baht.

Exemptions apply to signboards for public places or organisations owned by the government, for private schools within a compound of the schools, for religious bodies or charitable organisations and associations, for fairs, displayed in theatres or movie houses which publicise plays and films, on product containers that are confined in the internal place of a business, farmers' produce signs, and attached to a vehicle, man or animal.

Signboard tax returns are lodged in March of each year.

Local Development Tax

Local development tax is based on the value of the land. The tax rates are between 0.25% - 0.95% annually. Taxes will be collected and computed on the area of the land and on the median value of the land as assessed by the district authority. Taxable property would be land, mountains and water basins.

Land used for the personal residence of the owner is exempt from the tax unless a specified area of a large plot is otherwise subject to the tax. Cultivated land in excess of the exempt area is subject to one-half of the statutory rate. Idle land is subject to twice the statutory rate.

The owner of the land is required to file tax returns at the district office on a self-assessment basis. Tax returns shall be filed within the month of January of the first year in which the land value is appraised. Such returns are valid until the land value is reappraised, which is every four years. The owner of the land is required to pay tax within April of each year or within 30 days after receiving the assessment in case the appraisal value is announced after the end of March.

There is a 10% surcharge imposed when the owner of the land fails to file tax returns. The 24% surcharge per year of the tax payable would be imposed when the owner of the land fails to pay tax. Moreover, the authority has the power to seize and sell the property in case failure to pay tax happens.

House and Land Tax

House and Land Tax ("HLT") is imposed on buildings or other structures and the land used in connection therewith in which the owner of the property gains benefits from rent, carrying on business and other actions. The rate is 12.5% of the annual assessed value of the property. For this, the taxpayer must submit a declaration of the annual value of the property for the preceding year to the local authorities. The tax return is required to be filed by February of each year. The tax is payable within 30 days from the day following the date of receipt of the assessment by the local authorities where the land and buildings are located. Failure to file the tax return will trigger a penalty of up to 10% of tax liability (delay within four months), plus a fine of THB 200. Otherwise, the authorities have the right to seize and sell the property in order to collect the tax in arrears, if the delay is more than four months.

HLT exemptions apply to the following buildings:

- Royal palaces owned by the Crown
- Buildings owned by the government that are utilised for public purposes
- Public hospitals and educational institutions not operated for profit
- Religious buildings
- Buildings unoccupied for a period of 12 months or more
- Buildings used as the personal residence of the owner

Personal taxation

Tax residency

An individual is a tax resident of Thailand if he has been physically present in Thailand for an aggregate of 180 days in any tax year. Residency status is not determined on the basis of citizenship or domicile. The Thai income tax year for an individual ends 31 December.

Taxable income

Assessable income

Residents and non-residents include in their assessable income all income derived from employment or business conducted in Thailand. Provided the income is sourced in Thailand, e.g. attributable to employment in Thailand, it is assessable in Thailand irrespective of whether the income is paid in or outside Thailand.

If the income is not sourced in Thailand, e.g. salary or wages derived from employment outside Thailand, a Thai resident is subject to Thai income tax on that income only if the income is remitted into Thailand in the tax year in which it has been received.

Assessable income in Thailand is comprehensive and includes interalia salaries and wages, contracting revenue, income from licensing of intellectual property such as patents, trademarks and copyright, annuities, interest, discount, dividends, bonuses, capital gains, rents and professional fees.

Capital gains

Capital gains are taxed as ordinary income. However, the following gains are exempt from tax:

- Gains from shares listed on the Securities Exchange of Thailand, provided sale is made on the stock exchange.
- Gains from the sale of investment units in a mutual fund.
- Gains from the sale of non-interest bearing debentures, bills or debt instruments sold for the first time to an individual at the price lower than their redemption price.
- Gains from the sale of securities listed on stock exchanges in ASEAN member countries and traded through the ASEAN link excluding securities in the form of treasury bills, bonds, bills or debentures.

Capital losses may not be deducted against capital gains or otherwise carried forward.

Income tax withheld at the source

Payers of income to individual taxpayers are required to deduct income tax at the source. The current categories of income subject to withholding tax are as follows.

Personal income tax on assessable income earned from the following categories must be calculated as stated below:

- Income by virtue of jobs, positions, or services rendered.
- Income from goodwill, copyright, franchise, other rights, annuity or income in the nature of yearly payments derived from a will or any other juristic Act or judgment of the Court.
- Income in the nature of dividends, interest on deposits with banks in Thailand, shares of profits or other benefits from a juristic company, juristic partnership, or mutual fund, payments received as a result of the reduction of capital, a bonus, an increase in capital holdings, gains from amalgamation, acquisition or dissolution of juristic companies or partnerships, and gains from the transfer of shares or partnership holdings.
- Income from the letting of property and from breaches of contracts, instalment sales or hire-purchase contracts.
- Income from liberal professions.
- Income from construction and other contracts of work.
- Income from business, commerce, agriculture, industry, transport or any other activity not specified earlier.

In case the income earned is more than 60,000 baht per annum, the tax payer has to calculate the amount of tax by multiplying 0.5% to the assessable income and comparing it with the amount of tax calculated by the progressive tax rate. The tax payer shall be liable to pay tax for the higher amount.

Otherwise, income categories are subject to deductions according to the following table:

<i>Type of income</i>	<i>Rate</i>
Rents and prizes	5%
Ship rental charges	1%
Service and professional fees	3%
Public entertainer remuneration	
- Thai resident	5%
- Non-resident	5% - 37%
Advertising fees	2%

Tax deductions and allowances

Deductions

Standard rates of deduction are available to taxpayers as follows:

- A standard deduction of 40% of gross income (subject to a maximum of 60,000 baht) applies to employment income.
- A standard deduction of 40% of gross income (subject to a maximum of 60,000 baht) applies to income from copyright.
- A standard deduction rate as mentioned below in table applies to income from letting out of respective properties on hire:
 - Building and wharves – 30%
 - Agricultural land – 20%
 - All other types of land – 15%
 - Vehicles – 30%
 - Any other type of property – 10%
- A standard deduction of 30% applies to income from liberal professions except for those in the medical profession where 60% is allowed.
- A standard deduction of 70% or actual expenses applies to income derived from the contract of work whereby the materials (except the tools) are provided by the contractor.
- A standard deduction of 65%-85% or actual expenses depending on the types of income applies to income derived from businesses, commerce, agriculture, transport or any other activities not specified above.

Allowances

Taxpayers are entitled to the following personal allowances:

Single Taxpayer	30,000 baht for taxpayer
Undivided estate	30,000 baht for taxpayer's spouse
Non-juristic partnership or body of persons	30,000 baht for each partner but not exceeding 60,000 baht in total
Taxpayer's spouse	30,000 baht
Taxpayer's children	15,000 baht (maximum of 3 children)
Taxpayer's parents (over 60 years of age, income of less than 30,000 baht/year)	30,000 baht per parent of taxpayer and spouse
Life insurance prem. paid by taxpayer or spouse	Actual but not exceeding 100,000 baht
Approved provident fund contributions paid by taxpayer or spouse	Actual paid at the rate not more than 15% of wage, but not exceeding 500,000 baht
Home mortgage interest	Actual but not exceeding 100,000 baht
Social insurance contributions paid by taxpayer or spouse	Actual paid by each

Charitable contributions Amount actually donated but not exceeding 10% of the income after standard deductions and the above allowances

Income tax rates (applicable for 2016)

<i>Taxable income bakt</i>	<i>Tax payable</i>
0 to 150,000	Nil
150,001 to 300,000	Nil + 5% on excess over 150,000
300,001 to 500,000	7,500 + 10% on excess over 300,000
500,001 to 750,000	27,500 + 15% on excess over 500,000
750,001 to 1,000,000	65,000 + 20% on excess over 750,000
1,000,001 to 2,000,000	115,000 + 25% on excess over 1,000,000
2,000,001 to 4,000,000	365,000 + 30% on excess over 2,000,000
4,000,001 and above	965,000 + 35% on excess over 4,000,000

Credits

Credits are available against tax payable for:

- Income tax withheld at source from payments made to the employee e.g. salary and wages
- 3/7 of gross dividends received from Thai companies provided that the amount of the tax credit is included in the taxpayer's assessable income
- Foreign taxes paid provided the gross foreign income is included in assessable income and the foreign tax credit is permitted under a double tax agreement with the foreign country

Penalties

If a return is lodged late, a 1.5% surcharge per month (or fraction) is payable provided that the surcharge cannot exceed the tax payable.

If a taxpayer lodges an inaccurate or incomplete return, the taxpayer is liable for a penalty of 100% of the tax payable.

If the taxpayer does not lodge a return, on detection, the taxpayer is liable for a penalty of 200% of the tax payable.

Penalties may be reduced by 50% in cases where it can be demonstrated that either the taxpayer did not intend to evade tax or the taxpayer has cooperated with the assessment officer.

Tax return

The personal income tax year ends 31 December. Tax returns for most personal taxpayers must be lodged by 31 March following the end of the tax year.

Individual taxpayers who derive professional, business or investment income such as lease rentals must lodge two returns per year:

- A mid-year tax return for income derived to 30 June lodged by the next 30 September
- A full year tax return lodged by 31 March after year end – tax paid in the mid-year tax return is creditable against the full year tax liability

Reassessment

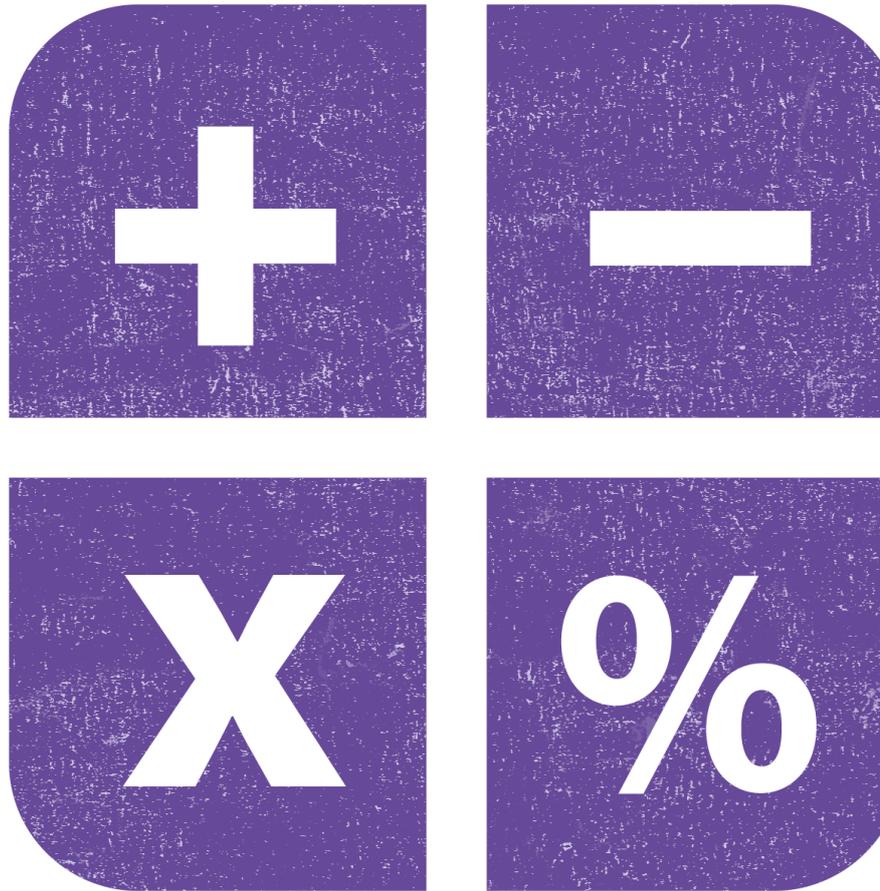
The assessment officer may normally reassess a personal tax return for two previous personal tax years.

If there are grounds to believe that the taxpayer has evaded tax or otherwise obtained an unwarranted tax benefit, the assessment officer may open the previous five personal tax years for review.

Appeal

If a taxpayer is dissatisfied with his or her assessment, the taxpayer may appeal the assessment within 30 days of receipt to the Commission of Appeals.

If the taxpayer is dissatisfied with the decision of the Commission of Appeals, the taxpayer has another 30 days from the date of the ruling to appeal to the Court.



Labour

Employment law

Employment practices are regulated by the Civil and Commercial Code (section 575-586), Labour Protection Act B.E.2541, the Labour Relations Act B.E.2518, Labour Court Establishment and Labour Court Procedures Act B.E.2522, Social Security Act B.E.2533, plus relevant labour ordinances issued thereafter.

Labour protection laws

Currently in use is the Labour Protection Act B.E.2541, amendment 2551. The law stipulates minimum standards of employment conditions for employers to comply. All work places with 10 or more employees must register their employment regulations with the Labour Department, and display them openly for employees at all times. Provisions of section 575-586 of the Civil and Commercial Code have been generally integrated into the Labour Protection Act B.E.2541. Main points are:

- **Employment:** An employment contract may be either in writing or verbal. Employers should observe the following:
 - Minimum age for employment is 18. Those under 18 may be employed with certain conditions.
 - No discrimination between the genders.
 - Work hours: Nine hrs/day 45 hrs/week. The law allows up to 36 hours/week for overtime.
 - Rest time: One hour per day after the Employee has been working for not more than five consecutive hours. An Employer and Employee may agree in advance that each rest period may be less than one hour but the total rest period per day shall not be less than one hour.
 - Work days: Six days/week
 - Minimum of one day each week as weekly holiday
 - A minimum of 13 public holidays with pay. They must be set and announced before the beginning of the year.
 - A minimum of six days to be granted as annual vacation with pay.

Special care for pregnant employees: *Pregnancy shall be no cause for employment termination. Pregnant employees shall not be assigned to work outside normal work hours. For health reasons, as certified by a medical doctor, a proper work assignment must be provided.*

All workplaces must extend similar treatments to workers brought in to work by labour supply contractors, if they are engaged to work similarly to directly employed workers. The female employees shall be allowed a maternity leave of not more than ninety days for each pregnancy.

- **Wages**
Wages may be set as a daily or monthly rate. Those on a daily rate are not paid on the weekly holiday. Payment shall be no longer than a 30-day interval. The payment in cash as a return for work during normal hours is counted as a wage. It cannot be lower than the minimum wage rate set by the Wage Committee as a living wage for a day for a newly recruited, inexperienced employee. Minimum wage rates are set based on areas with different costs of living; these rates were recently updated prescribing a higher rate of 300 baht/day for most of the provinces.
- **Work outside regular hours** is possible with the employee's consent. Overtime on a regular workday requires 1.5 times the average hourly wage as overtime payment.

Working during regular hours on days off requires 2.0 times the average hourly wage as holiday work pay. Working overtime (outside regular hours) on days off requires 3 times the average hourly wage as overtime payment for holiday work.

- **Leave of absence**
 - Sick leave must be granted for days of genuine illness, 30 workdays with pay. Evidence may be required for sickness of three consecutive workdays or more.
 - Maternity leave is 90 days, 45 of which are fully paid by the employer. The Social Security provides maternity allowance equal to 45 days of wages, plus child delivery expenses.
 - Other leave of absence, with pay, or without pay, depends on the company's policy and negotiation.

Termination of employment: Employment contract ends in cases of:

- Employee failing the probation.
- Employee serving out fixed employment period according to the contract.
- Employee tendering resignation.
- Employee's death.
- Employee reaching retirement.
- Employer terminating employee on grounds of redundancy or incompetence.
- Employer serving employee with termination notice in writing not shorter than one pay period in advance on the grounds of the employee's incompetence, or redundancy.
- Employer terminating the employment of the employee with immediate effect because of gross misconduct, or repetitive wrongdoing after a written warning.

No severance payment is required for the cases of failing probation, end of contract, resignation, death, and dismissal because of serious misconduct.

- **Severance payment** is required when terminating employees on the grounds of retirement, incompetence, and redundancy, i.e. without any wrongdoing on the part of the employee. The severance payment is set in relation to the length of employment ranging from wages for 30 days for termination after a service period of 120 days to wages for 300 days for termination after 10 years of employment.

Other related labour protection laws appear in the Workmen Compensation Act, the Social Security Act, and the Provident Fund Act.

The Workmen Compensation Act requires all employers to contribute a small percentage point of their annual wage cost to the Fund to be expended for medical expenses for injuries or illness because of or related to work, for funeral expenses, for rehabilitation expenses and for compensation during the medical care and recovery period.

The Social Security Act requires all employers to, together with their employees, contribute 5% of the monthly wage every month to the Fund to be expended for maternity allowance, medical cost for illness outside work, child care, old age, disabilities, and unemployment.

The Provident Fund Act B.E.2530 is not compulsory. Employers and employees may mutually agree to join a Provident Fund by contributing a small percentage of their salary every month to the Fund – as savings for living expenses when reaching retirement.

Labour Court Establishment and Labour Court Procedures Act B.E.2522

The Labour Court is set up as a channel to settle disputes related to a breach of contract, discriminatory employment practices, and unfair dismissal. The Court may order reinstatement of the employees, or financial compensation to employees who are deemed to be unfairly dismissed. Over 20,000 cases are lodged each year at the Central Labour Court, Regional and Provincial Labour Court.

Labour Relation Act B.E.2518

The law provides a framework for the set up of trade unions and employers' associations for collective bargaining purposes. Employment terms may be changed through collective bargaining procedures between trade unions and employers. The Labour Department provides mediation and arbitration when necessary.

Trade unions are of two types, i.e. industry based or industrial union, and company based or a house union.

Strikes and lockouts are lawful, but few. Unions resort to overtime ban and go-slow to pressure the employer. The employer may declare a lockout, partial as well as total to counter the union.

Strikes are not allowed in work related to necessary utilities such as power supply, refinery, air transport and medical care.

Actions that are prejudicial or discriminatory against trade union members may be decided by the Labour Relation Commission as unfair labour practices. Employers may be ordered to reinstate workers and pay compensation.



Immigration and Work Permits

To start a business in Thailand, consult the Alien Business Act B.E. 2542 and the Investment Promotion Act B.E. 2520

To work in Thailand, there is a need for a Work Permit. A work permit is not transferable, and is valid only for the person, the occupation, and the work place stated therein. Consult the Alien Occupation Act B.E. 2551

Non-immigrant visas

A foreigner who intends to work in Thailand must obtain a Non-Immigrant Category “B” visa outside Thailand before entering the country. Non-working family members normally obtain a Non-Immigrant Category “O” visa covering the same period.

Non-Immigrant B and non-Immigrant O visas entitle a foreigner to stay temporarily in Thailand for a period of not more than 90 days.

Extension of the visa

Prior to the expiry of the Non-immigrant B or O visa, a foreigner may apply for an extension of the visa of not more than one year.

A foreigner who enters Thailand for the purpose of business or investment under the Investment Promotion Act enters Thailand with a Non-Immigrant B visa obtained at a Thai Embassy or Consulate abroad. The foreigner may apply for an extension of the visa once in Thailand and be granted an extension for the period recommended by the BOI.

A foreigner working in a representative or a regional office may apply for an extension of the visa at the Department of Commercial Registration, Ministry of Commerce or the Immigration Office.

Re-entry permit

A foreigner travelling abroad before expiry of his non-immigrant, tourist or transit visa must apply for a re-entry permit before the expiry of the visa. The application is made with the Immigration Office prior to departure from Thailand. The permit will allow the alien to re-enter the country for the period of time remaining on his visa. If a re-entry permit is not applied for, the visa will automatically be cancelled.

A foreigner may obtain a non-immigrant visa with multiple re-entry permits attached before entry into Thailand.

Work permit

All foreigners, with the exception of diplomats, United Nations officials and invitees of the Thai government, must obtain a work permit from the Ministry of Labour and Social Welfare before commencing employment in Thailand. This requirement also applies to foreigners working for Thai companies or foreign owned companies that have investment promotion privileges in Thailand.

A foreigner may enter Thailand temporarily to perform any work of an “urgent and essential” nature of not more than 15 days without a work permit provided the foreigner and his employer give notice to the Ministry of Labour before commencement of work.

A work permit is normally valid for a period of one year from the date of issue but is subject to the expiry date of the visa. If a visa terminates before expiry of the work permit, the work permit must be renewed. The foreigner can continue performing his work until notice is given that the application for the extension of the work permit has been rejected.

An alien who wishes to work for a company that carries on business under the Investment Promotion Act, the Industrial Estate Authority of Thailand Act or the Petroleum Act may apply for a work permit within 30 days from the date of his entry into the country. If he has already stayed in the country, the 30-day period will start from the date he receives a notification of permission to work.

A foreigner who intends to work for a representative or regional office may apply for a work permit at the Department of Commercial Registration of the Ministry of Commerce.

A foreigner who has received a work permit must comply with the conditions imposed therein with regard to the nature and location of the work. Any changes must receive prior approval. After resignation, or termination of work the foreigner must return his work permit within seven days of the date of resignation or termination. The employer is also required to notify a termination or change of work location within 15 days.

Occupations and professions prohibited to foreigners

- Labour
- Working in agriculture, animal breeding, forestry, fishing and farm supervision (excluding specialised work)
- Masonry, carpentry and other construction work
- wood carving
- Driving of motor vehicles and non-motorised carriers (except piloting international aircrafts)
- Shop attendant
- Auctioneering
- Supervising, auditing and giving services in accountancy (except occasional internal auditing)
- Gem cutting or polishing
- Hair cutting, hairdressing, and beautician work
- Hand weaving
- Mat weaving or fabrication of wares from reed, kenaf, straw or bamboo pulp
- Manual fibrous paper fabrication
- Lacquerware fabrication
- Thai musical instrument fabrication
- Nielloware fabrication
- Goldsmith, silversmith, or other precious metalwork
- Bronzeware fabrication
- Making Thai rolls
- Mattress or padded blanket fabrication
- Alms bowl fabrication
- Manual silk product fabrication
- Buddha image fabrication
- Knife fabrication
- Paper or cloth umbrella fabrication
- Shoemaking
- Hat making
- Brokerage or agency work (except in international businesses)

Contact us

Grant Thornton Thailand

18th Floor Capital Tower
All Seasons Place
87/1 Wireless Road
Lumpini, Phatumwan
Bangkok 10330
Thailand

T +66 2 205 8222

F +66 2 654 3339

E marketing@th.gt.com

W www.grantthornton.co.th

Assurance

Sumalee Chokdeeanant

T +66 2 205 8160

E sumalee.chokdeeanant@th.gt.com

Noel Ashpole

T +66 2 205 8280

E noel.ashpole@th.gt.com

Advisory

Ian Pascoe

T +66 2 205 8100

E ian.pascoe@th.gt.com

Julaporn Namchaisiri

T +66 2 205 8103

E julaporn.namchaisiri@th.gt.com

Business Process Solutions

Andrew McBean

T +66 2 205 8220

E andrew.mcbean@th.gt.com

Prapaisri Nilkrajang

T +66 2 205 8103

E prapaisri.nilkrajang@th.gt.com

Executive recruitment

Tom Sorensen

T +66 2 205 8240

E tom.sorensen@th.gt.com

Japanese Business Practice

Shota Oya

T +66 2 205 8175

E shota.oya@th.gt.com

Tax advisory

Melea Cruz

T +66 2 205 8127

E melea.cruz@th.gt.com

Edward Strauss

T +66 2 205 8120

E edward.strauss@th.gt.com



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