

CHAPTER 3 BUSINESS PROMOTION INCENTIVES

There are two governmental organisations that have authority to grant incentives in order to encourage both foreign and local investment in Thailand.

Firstly, the Board of Investment (BOI) may grant investment privileges divided into tax and non-tax privileges. The former emphasis on the location of the business in Thailand is much less important today than previously. But there are still territorial differences in the way in which promotional benefits may be allocated.

The Eastern Economic Corridor was established as a special economic zone in 2018. It consists of three provinces - Chachoengsao, Chonburi and Rayong , to which special investment incentives apply. See further below.

The other governmental promotional organisation is the Industrial Estates Authority of Thailand (IEAT). This has authority to grant investment privileges to enterprises that are located specifically within industrial estates that have been developed either by the IEAT, or as a joint venture between the IEAT and a private entity.

Board of Investment

General The BOI's powers are contained in the Investment Promotion Act (1977) and regulations issued under it. Its purpose is to administer a program of incentives for both Thai and foreign investors who wish to establish or expand suitable businesses in Thailand. In appropriate cases and in accordance with the guidelines listed below, the BOI grants special privileges to those who invest in approved projects.

BOI offices outside Thailand As well as having offices in Bangkok, the BOI has overseas offices in Tokyo, Osaka, Shanghai, Beijing, Guangzhou, Seoul, Taipei, Sydney, Frankfurt, Paris, Stockholm, Los Angeles and New York.

One Start One Stop Service Center The BOI's One Start One Stop Service Center opened for business in 2009. It is located in one office in central Bangkok. Its purpose is to assist new investors entering Thailand and also existing investors, whether Thai or foreign. The OSOSC will have advisors present from major agencies to advise investors, namely: from the BOI itself, the Ministry of Industry, the Ministry of Commerce, the Industrial Estates Authority of Thailand, the Revenue Department and the Department of Export Promotion.

The purpose of the OSOS is to help and advise investors with various matters including: company registration, applying for BOI privileges, applying for permission for majority foreign ownership of a business under the Foreign

Business Act, completing an Environmental Impact Assessment Report (*necessary for large building projects*), and applications for building permits to use industrial land. It can also deal with applications for corporate tax or VAT registration.

Doing business without BOI promotion Whilst the BOI provides valuable incentives, many Thais and foreigners establish businesses without BOI assistance. Accordingly, investors should carefully consider the pros and cons of seeking BOI incentives before making an application.

Foreign ownership Foreign investors often desire to own all or at least a majority interest in their manufacturing subsidiaries established abroad. Where such a subsidiary in Thailand seeks BOI privileges, the BOI may allow it to be majority or 100% foreign owned, subject to conditions.

Application for privileges Investors who wish to seek promotional privileges should file an application in duplicate. The application may be either granted, refused, or referred for further clarification.

Promotional certificate If the application is approved, the applicant will be notified and provided with an application form for a Promotional Certificate. Within the times provided or any extension permitted, the applicant must submit the completed form and show compliance with the following matters:

1. a Thai company has been incorporated;
2. the required amount of capital has been remitted into Thailand;
3. the nationality profile of the shareholders meets BOI requirements; and
4. the existence of any relevant agreements providing for the transfer of technology.

The Promotional Certificate will list all the special privileges granted to the promoted company. It is essential that it is correct in every detail since, for example, the Customs Department, will not permit the duty free importation of any goods that do not clearly conform to the description contained in the Promotional Certificate.

Eligible activities

1. Activities Eligible for Promotion

Section 1: Agriculture and Agricultural Products

Section 2: Mining, Ceramics and Basic Metals

Section 3: Light Industry

Section 4: Metal Products, Machinery and Transport Equipment

Section 5: Electronic Industry and Electric Appliances

Section 6: Chemicals, Paper and Plastics

Section 7: Services and Public Utilities

2. Conditions

Condition rights and benefits of projects that receive investment promotion are specified for each activity.

3 Activities of special importance

The following activities are classified as activities of special importance and benefits to the country that will be granted corporate income tax exemption without being subject to a corporate income tax exemption cap:

Category 1.3 Economic forest plantations (except for Eucalyptus)

Category 3.9 Creative product design and development centers

Category 4.11.1 Manufacture of air frames, air frame parts and major aircraft appliances, e.g. engines, aircraft parts, propellers and avionics

Category 5.6 Electronic design

Category 5.7 Software

Category 7.1.1.1 Production of electricity or steam power from waste or refuse-derived fuel

Category 7.8 Energy Service Company (ESCO)

Category 7.9.2 Industrial zones or technology industrial zones

Category 7.10 Cloud services

Category 7.11 Research and development

Category 7.12 Biotechnology

Category 7.13 Engineering design 3

Category 7.14 Scientific laboratories

Category 7.15 Calibration services

Category 7.19 Vocational training centers

BOI tax and non-tax incentives The tax and non tax incentives available from the BOI are listed below. Many of these incentives are generally available to businesses that are not BOI promoted. However, these benefits are often greatly facilitated for those with promotional privileges.

Tax Incentives	Non-Tax Incentives
<ul style="list-style-type: none"> · Exemption/reduction of import duties on machinery · Reduction of import duties for raw or essential materials Exemption of corporate income tax and juristic person income tax. · 50 percent reduction of the corporate income tax · Double deduction from the costs of transportation, electricity and water supply · Additional 25% deduction of the cost of installation or construction of facilities Exemption of import duty on raw or essential materials imported for use in production for export 	<p>Permission for foreign nationals to enter Thailand for the purpose of studying investment opportunities.</p> <p>Permission for skilled workers and experts to work in investment promoted activities</p> <p>Permission to own land.</p> <p>Permission to remit money abroad</p>

Merit based incentives

Investment capital and expenditure will be eligible if meeting the following criteria:

Types of Eligible Investments/Expenditures	Additional Cap
1. R&D: In-house, outsourced in Thailand or joint R&D with overseas institutes	200%
2. Donations to Technology and Human Resources Development Funds, educational institutes, specialized training centers, R&D institutes or governmental agencies in the S&T field in Thailand, as approved by the Board	100%
3. IP acquisition/licensing fees for commercializing technology developed in Thailand	100%
4. Advanced technology training	100%
5. Development of local suppliers with at least 51% Thai shareholding in advanced technology training and technical assistance	100%
6. Product & packaging design: In-house or outsourced in Thailand, as approved by the Board	100%

Additional CIT incentives will be granted depending on investment/expenditure ratio (%)

Percentage of qualified Investment/Expenditures to combined revenue of the first 3 years	Additional CIT Exemption (with additional cap)
1% or \geq 200 mil.baht	1 year
2% or \geq 400 mil.baht	2 years
3% or \geq 600 mil.baht	3 years

2. Merit relating to Decentralization

Projects located in 20 provinces with lowest per capita income—Kalasin, Chaiyaphum, Nakhon Phanom, Nan, Bueng Kan, Buri Ram, Phrae, Maha Sarakham, Mukdahan, Mae Hong Son, Yasothon, Roi Et, Si Sa Ket, Sakhon Nakhon, Sa Kaew, Sukhothai, Surin, Nong Bua Lamphu, Ubon Ratchatani and Amnatcharoen(excluding border provinces in Southern Thailand and Special Economic Development Zones which have separate special incentive packages)—shall receive additional incentives, as follows:

Three additional years of corporate income tax exemption will be granted.

Projects with activities in **Group A1** or **A2** which are already granted an 8-year corporate income tax exemption shall instead receive a 50% reduction of corporate income tax on net profit derived from promoted activity for 5 years after the corporate income tax exemption period expires.

Table of incentives for merit on decentralization

	A1	A2	A3	A4	B1
Activity-based corporate income tax exemption	8 yrs.	8 yrs.	5yrs.	3 yrs.	x
Additional corporate income tax exemption	x	x	3 yrs.	3 yrs.	3 yrs.
Total of CIT exemption period	8 yrs.	8 yrs.	8 yrs.	6 yrs.	3 yrs.
Additional 50% CIT reduction for 5 years	a	a	x	x	x
Double deductions from the costs of transportation, electricity and water	a	a	a	a	a

supply for 10 years						
Additional 25% deduction of the cost of installation or construction of facilities	a	a	a	a	a	a

3. Merit on Industrial Area Development

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

Table of additional incentives under Merit on Industrial Area Development

	A1	A2	A3	A4	B1
Activity-based corporate income tax exemption	8 yrs.	8 yrs.	5yrs.	3 yrs.	x
Additional corporate income tax exemption	x	x	1 yr.	1 yr.	x
Total CIT exemption period	8 yrs.	8 yrs.	6 yrs.	4 yrs.	x

Applying for Merit –Based Incentive

1. Must submit application prior to the expiry date of the CIT exemption; before applying, CIT exemption must be inspected to ensure its continuity. If the application for merit-based incentives is approved, it will be retroactive to the date of its submission. If the investment and expenditure, for which the merit based incentive is being applied, has already been made it will then be counted as an additional right and privilege.
2. Applicants can choose to apply for one type or many types of merit-based incentives, but they must be in accordance with the prescribed criteria. Total CIT exemption cannot exceed 8 years as prescribed in section 31 under the Investment Promotion Act and no request to amend the 8 year exemption can be made under any circumstance.
3. Projects not entitled to CIT Exemption (B1 and B2) must submit the request for merit-based incentives together with the application for investment promotion.

BOI general policies concerning applications The BOI has issued regulations that set out its general policies in relation to applications for promotion:

1. The efficiency and effectiveness of tax privileges will be enhanced. Privileges will be granted to projects that actually benefit the economy and good governance will be used for managing and supervising the application of tax and duty privileges. Promoted entities must report the operating results of their promoted projects to the Board of Investment for review prior to the application of tax and duty privileges for that year.

2. Every promoted project that has investment capital of 10 million baht or more (excluding land and working capital) must obtain ISO 9000 certification or similar international certification within a specified period of time.
3. Previous conditions regarding exports and use of local material are repealed, so that the criteria for promotion will be in line with international trade and investment agreements.
4. Special promotion shall be given to regions or areas with low income and inadequate investment facilities. Maximum tax and duty privileges will be offered to these regions or areas.
5. Importance is given to SMEs by applying a minimum level of investment capital of 1 million baht (excluding cost of land and working capital) for projects eligible for promotion.
6. Priority is given to activities in agriculture and agricultural products, projects related to technological and human resource development, public utilities and infrastructure, environmental protection and conservation and targeted industries.

Criteria for project approval BOI regulations set out the criteria for approval of a project:

1. Value added is not less than 20% of sales revenue, except projects that manufacture electronic products and parts, agricultural activities and products, and projects granted special approval by the BOI.
2. The ration of debt to equity should not exceed three to one for a newly established project. Expansion projects are considered on a case-by-case basis.
3. Modern production processes and new machinery are used, or the efficiency of old machinery is certified by reliable institutions and granted special approval by the BOI.
4. Adequate environmental protection systems are installed. The BOI will give special consideration to the location and pollution treatment of a project with potential environmental effect.
5. For projects with investment capital exceeding 80 million Baht (excluding the cost of land and working capital), the project's feasibility study must be submitted to the BOI.

Concession project or privatization of a state enterprise Here the BOI criteria are as follows:

1. An investment project for a state enterprise under the State Enterprise Corporatization Act will not be entitled to grant promotion for a concession operated by the private sector and transfer of ownership to the government (Build, Transfer, Operate or Build, Operate, Transfer). The government agency that owns the project and intends the concessionaire to obtain promotion privileges, will submit the project to the BOI at the time of its commencement and prior to any invitation to the private sector to join the bid. In the bid process, it must clearly state that bidders will be notified of any incentives to which they are entitled. In principle, the BOI will not grant promotion in the event the private sector has to pay compensation to the government for the concession, unless such payment is a reasonable amount for the investment that is used by the government.

2. For government projects using the BOO method, including those leased or managed by the private sector by paying a rental payment to the state, the BOI will apply normal criteria.

3. For privatization of state enterprises, if it requires governmental support, the appropriate budget should be determined after privatization as per the State Enterprise Corporatization Act. In the event of expansion after privatization, it may apply for promotion only regarding increased investment applying normal BOI criteria.

Criteria for foreign shareholdings The criteria for foreign shareholdings is as follows:

1. Projects in agriculture, animal husbandry, fisheries, mineral exploration and mining and service businesses under Schedule 1 of the Foreign Business Act: Thai nationals must hold not less than 51% of the registered capital.

2. Manufacturing projects: no equity restrictions for foreign investors.

3. The BOI may fix the amount of shares eligible to be held by foreign investors on promoted projects when deemed appropriate.

Investment zones Thailand is divided into three investment zones for BOI promotional purposes:

Zone 1: Bangkok, Nakhon Pathom, Nonthaburi, Pathum Thani, Samut Prakan, and Samut Sakhon (six provinces)

Zone 2: Ang Thong, Ayutthaya, Chachoengsao, Chon Buri, Kanchanaburi, Nakorn Nayok, Ratchaburi, Samut Songkhram, Saraburi, Supanburi, Phuket and Rayong (12 provinces)

Zone 3: Krabi, Kamphaeng Phet, Khon Kaen, Chanthaburi, Chai Nat, Chumphon, Chiang Rai, Chiang Mai, Trang, Trat, Tak, Nakhon Ratchasima, Nakhon Si Thammarat, Nakhon Sawan, Prachuab Khiri Khan, Prachin Buri, Phangnga, Phattalug, Pichit, Phitsanulok, Phetchaburi, Phetchabun, Mukdahan, Mae Hong Son, Ranong, Lop Buri, Lamphang, Lamphun, Loei, Songkhla, Sa Kaew, Sing Buri, Sukhothai, Surat Thani, Uttaradit, and Uthai Thani, Kalasin, Nakhon Phanom, Narathiwat, Nan, Buri Ram, Pattani, Phayao, Phrae, Maha Sarakham, Yasothorn, Yala, Roi Et, Si Sa Ket, Sakhon Nakhon, Satun, Surin, Nong Bua Lamphu, Chaiyaphum, Nong Khai, Ubon Ratchatani, Udon Thani Amnatcharoen and Bueng Karn (59 provinces)

All Zone 3 provinces are designated as Investment Promotion Zones.

Tax and duty privileges in each Investment Zone. The tax and financial privileges available on a zone by zone basis, are as follows:

Zone 1 Approved projects located in Bangkok, Nakorn Pathom, Nonthaburi, Pathom Thani, Samut Prakan, and Samut Sakhon, will be granted:

1.1 50% reduction of import duties on machinery that is subject to import duties of not less than 10%.

1.2 Corporate income tax exemption for three years for projects located within industrial estates or promoted industrial zones, provided that such projects with capital investment of 10 million baht or more (excluding the cost of land and working capital) obtain ISO 9000 or similar international standard certification within two years of start-up date, otherwise the corporate income tax exemption will be reduced by one year.

1.3 Exemption from import duty on raw or essential materials used in the manufacturing of export products for one year.

Zone 2 Approved projects located in Kanchanaburi, Chachoengsao, Chon Buri, Nakhon Nayok, Ayutthaya, Phuket, Rayong, Ratchaburi, Samut Songkhram, Saraburi, Supanburi, and Ang Thong will be granted:

2.1 50% reduction of import duties on machinery that is subject to import duty of not less than 10% and exemption of import duty on machinery for projects located within industrial estates or promoted industrial zones.

2.2 Corporate income tax exemption for three years, increased to seven years for projects located within industrial estates or promoted industrial zones (N.B. *applications must be submitted by 31 December 2014*), provided that projects with capital investment of 10 million baht or more (excluding the cost of land and working capital) obtain ISO 9000 or similar international standard certification

within two years of their start-up date, otherwise the corporate income tax exemption will be reduced by one year.

2.3 Exemption on import duties on raw or essential materials used in the manufacturing of export products for one year.

Zone 3 -Approved projects located in the remaining 58 provinces will be granted as follows:

3.1 Exemption on import duties on machinery;

3.2 Corporate income tax exemption for eight years provided that projects with capital investment of 10 million baht or more (excluding the cost of land and working capital) obtain ISO 9000 or similar international standard certification within two years of start-up date, otherwise the corporate income tax will be reduced by one year.

3.3 Exemption of import duty on raw or essential materials used in the manufacturing of export products for five years.

3.4 Deduction from net profit of 25% of the project's infrastructure installation or construction costs in addition to normal depreciation, and 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.

3.5 Projects located within industrial estates or promoted industrial zones in 36 provinces namely: Krabi, Kamphaeng Phet, Khon Kaen, Chanthaburi, Chai Nat, Chumphon, Chiang Rai, Chiang Mai, Trang, Trat, Tak, Nakhon Ratchasima, Nakhon Si Thammarat, Nakhon Sawan, Prachuab Khiri Khan, Prachin Buri, Phangnga, Phattalung, Pichit, Phitsanulok, Phetchaburi, Phetchabun, Mukdahan, Mae Hong Son, Ranong, Lop Buri, Lamphang, Lamphun, Loei, Songkhla, Sa Kaew, Sing Buri, Sukhothai, Surat Thani, Uttaradit, and Uthai Thani, as well as Laem Chabang Industrial Estate and industrial estates or promoted industrial zones in Rayong Province (*applications in Laem Chabang Industrial Estate and industrial estates or promoted industrial zones in Rayong must be submitted by 31 December 2014*) are granted tax and duty privileges under 3.1, 3.2, 3.3, 3.4 and the additional privileges as follows:

- 50% reduction of corporate income tax of net profit derived from its investment for five years after the exemption period.
- Double deduction for transportation, electricity and water costs for 10 years from the date of first revenue derived from promoted activity.
- 75% import duty reduction of the normal rate on raw or essential materials used in manufacturing for domestic sales for five years. The BOI will give

approval for a period of a year. Similar raw or essential materials to the imports must not be available in Thailand in similar quality and quantity as necessary for the procurement. This incentive is not available to projects in Laem Chabang Industrial Estate and industrial estates or promoted industrial zones in Rayong Province.

3.6 Projects located in 22 provinces: Kalasin, Chaiyaphum, Nakhon Phanom, Narathiwat, Nan, Buri Ram, Pattani, Phayao, Phrae, Maha Sarakham, Yasothon, Yala, Roi Et, Si Sa Ket, Sakhon Nakhon, Satun, Surin, Nong Khai, Nong Bua, Lamphu, Amnatcharoen, Ubon Ratchatani, and Udon Thani are granted tax and duty privileges under 3.1, 3.2, 3.3, 3.4 with additional privileges as follows:

- 50% reduction of corporate income tax of net profit derived from the investment for five year after the exemption period.
- Double deduction for transportation, electricity and water costs for 10 years from the date of first revenue derived from the promoted activity.
- 75% import duty reduction of the normal rate on raw or essential materials used in manufacturing for domestic sales for five years. The Board will give approval for the period of a year. Similar raw or essential materials to the imports will not be available in Thailand in similar quality and quantity as necessary for the procurement. This incentive is not available to projects in Laem Chabang Industrial Estate and industrial estates or promoted industrial zones in Rayong Province.

Priority activities BOI regulations also describe certain activities that are regarded as a priority for promotion, namely: agriculture and agricultural products, technological and human resource development, public utilities and infrastructure, environmental protection and conservation, and certain specifically targeted industries. These projects are entitled to the following privileges:

1. Exemption from import duty on machinery, regardless of location.
2. Corporate income tax exemption for eight years, regardless of location.
3. Other privileges as above, depending on the zone in which the project is located.

Activities of special importance and benefit to Thailand Activities classified as being of special importance and benefit to Thailand will be granted the following tax incentives:

1. Exemption of import duties on machinery for all zones.

2. Eight years corporate income tax exemption for all zones (NOT subject to the corporate income tax exemption cap).

3. Other relevant location-based incentives.

Criteria for factory relocation Specific criteria apply where a promoted business relocates into a different promotional zone.

Investment promotion measures for target industries The incentives available here are:

- Import duty exemption for machinery
- Eight-year corporate income tax exemption without being subject to a corporate income tax exemption cap. 50% reduction of corporate income tax on net profit for five years after expiry of tax holiday
- Double deduction of transportation, electricity and water supply costs for 10 years from the date of income derivation from promoted project
- 25% deduction of the cost of installation or construction of facilities in addition to normal depreciation deduction

Additional investment policies The BOI has issued particulars of investment policies for particular industries or activities:

Investment Promotion Policy for Sustainable Development: To promote sustainable development, enhance competitiveness in science and technology, encourage the improvement of manufacturing quality and reduce environmental impact, there are special tax incentives under the Investment Policy for Sustainable Development campaign, issued in 2010.

Investment promotion measures for target industries Incentives:

- Import duty exemption on machinery
- 8 year corporate income tax exemption without being subject to a corporate income tax exemption cap
- 50 percent reduction of corporate income tax on net profit for five years after expiry of tax holiday
- Double deduction of transportation, electricity and water supply costs for 10 years from the date of income derivation from promoted project
- 25 percent deduction of the cost of installation or construction of facilities in addition to normal depreciation deduction

Conditions:

- Projects can be located anywhere except Bangkok
- Applications must be submitted by December 31, 2012
- Projects must be in the following activities:

(1) Activities related to energy conservation and alternative energy

- Manufacture of alcohol or fuel from agricultural products, including scrap, garbage and/or waste
- Manufacture of energy-conserving machinery or equipment machinery or equipment which uses alternative energy
- Manufacture of fuel cells
- Production of electricity or steam power - for cases that use alternative energy, such as energy agricultural material, biogas and wind energy

(2) *Activities related to eco-friendly materials and products*

- Manufacture of eco-friendly chemicals
- Manufacture of eco-friendly products
- High-technology businesses
- Manufacture of medical food
- Manufacture of advanced ceramics
- Manufacture of nano materials or products from manufactured nano materials
- Manufacture of natural or synthetic fibers - - only manufacture of functional fiber
- Manufacture of medical equipment
- Manufacture of scientific equipment
- Manufacture of machinery, equipment and parts that have engineering design
- Manufacture of farm machinery or equipment and food processing machinery or equipment
- Manufacture or repair of molds and dies - only manufacture of molds and dies
- Manufacture, repair or conversion of aircraft, including aircraft parts and equipment or onboard equipment
- Manufacture of vehicle parts - - Automatic Transmissions, Continuously Variable Transmissions (CVT), Traction motors for automobiles; e.g., hybrid or fuel cell cars, Electronic Stability Control (ESC), Regenerative Braking Systems, Rubber tires for vehicles
- Manufacture of industrial electronics
- Manufacture of telecommunication equipment
- Manufacture of semiconductors
- Manufacture of memory storage equipment only manufacture of Hard Disk Drive(HDD), Solid State Drive (SSD) and HDD and SSD parts
- Manufacture of parts for telecommunication equipment

- Manufacture of parts for medical electronics
- Manufacture of parts for agricultural electronics
- Manufacture of electronic parts for vehicles
- Manufacture of solar cells and raw materials for solar cells
- Manufacture of flat panel display
- Manufacture of material for microelectronics
- Electronic design
- Human resource development
- Biotechnology
- Research and development
- Scientific laboratories
- Calibration services

3. *Measure to promote energy conservation, alternative energy utilization or reduction of environmental impacts:* This measure focuses on upgrading machinery and improving technology to save energy and reduce environmental impacts.

Incentives:

- Exemption of import duty for machinery
- 3 year corporate income tax exemption on the revenue of existing projects, accounting for 70% of the investment under this measure excluding cost of land and working capital. The corporate tax exemption period will start from the date of income derivation after the issuance of promotion certificate.

Conditions:

- This measure applies to both BOI and non-BOI promoted existing projects under activities that are eligible for investment promotion.
- BOI-Promoted projects can also apply for this measure when the tax exemption or reduction period expires, or in case the projects do not receive the corporate income tax exemption.
- The applicant must submit investment plan for machinery change to save energy, to introduce alternative energy into the project, or to reduce environmental effects by implementing one of the following:
 - (1) Investment in upgrading the machinery to modern technology that reduces energy consumption at the stipulated ratio
 - (2) Investment in upgrading the machinery in order to use alternative energy at the stipulated ratio to the total energy consumption.
 - (3) Investment in upgrading the machinery to reduce environmental impact, namely reducing waste, waste water or exhaust air according to the stipulated criteria.

Applications must be submitted to the BOI within December 31, 2012 and must complete implementation within three years from the date of promotion certificate issuance.

Application for investment promotion under this measure by existing projects of all investment sizes will be considered by the BOI.

4. Measures to promote production efficiency improvement by technology upgrade for manufacturing of new products: This measure aims to encourage investors to make efficient use of their machinery and to expand to a higher value product line while increasing revenue and maintaining employment.

Incentives:

- Exemption of import duty on machinery regardless of zone
- 3 year corporate income tax exemption on revenue derived from the production of new product, not exceeding 100% of the investment in upgrading the production line

Conditions:

- This measure applies to both BOI and non-BOI promoted existing projects.
- Investors must invest in upgrading the existing production line to be able to manufacture new product.
- The new product manufactured from the upgraded line must differ from existing product and have a distinct name. The new product must also be in the list eligible for the investment promotion with corporate income tax exemption privilege.
- The upgrading of production line does not include the upgrading of assembly line.
- The application along with investment plan on technology upgrade for the manufacturing of new product must be submitted to the BOI within December 31, 2012.
- Application for investment promotion under this measure by existing projects of all investment sizes shall be considered by the BOI.

5. Measure to solve environmental problems: This measure is designed to promote and encourage industrial plants to give priority to the environmental management.

Incentives:

- Exemption from import duty on machinery for machinery improvement to reduce the environmental impact.

- 3 year corporate income tax exemption on the revenue of existing projects, accounting for 70% of the investment value of the improvement under this measure excluding cost of land and working capital. The corporate tax exemption period will start from the date of income derivation after the issuance of promotion certificate.

Conditions:

- Applicants must comply with the environmental management criteria and conditions specified by the government with pollutant values less than the legal control rate and must be in the following industries: oil refinery, natural gas separation, power generation, chemicals and petrochemicals, minerals and base metals
- This measure applies to both BOI and non-BOI promoted existing projects.
- Projects must reduce their environmental impact according to criteria and methods specified by the BOI.
- Applicants must submit the application including a plan to reduce environmental impact according to the criteria and methods specified by the BOI by December 31, 2012 and complete the implementation within 3 years from the date of promotion certificate issuance.
- Application for investment promotion under this measure by existing projects of all investment sizes will be considered.

Additional tax incentives under the STI (Skill, Technology and Innovation) scheme Additional tax incentives are offered to encourage the development of skills, science technology, and innovation under the STI (Skill, Technology and Innovation) scheme. The following criteria apply:

Additional tax incentives:

- Corporate income tax exemption in addition to that received on the basis of other BOI announcements but the total duration of corporate income tax exemption shall not exceed 8 years, as follows:
 - (a) One additional year of corporate income tax exemption will be granted if there are investments or expenditures in research and development or design, in advance technology training, in supporting an educational or research institution or the donation to Technology and Human Resources Development Fund, on condition that such investments or expenditure are not less than 1 percent of the revenue from the investment project in the first 3 years, or not less than 150 million Baht, whichever is less.
 - (b) Two additional years of corporate income tax exemption will be granted if there are investments or expenditures in research and development or design, in advance technology training, in supporting

an educational or research institution or the donation to Technology and Human Resources Development Fund, on the condition that such investments or expenditures are not less than 2 percent of the revenue from the investment project in the first 3 years, or not less than 300 million Baht, whichever is less.

- (c) Three additional years of corporate income tax exemption will be granted if there are investments or expenditures in research and development or design, in advance technology training, in supporting as educational or research institution or the donation to Technology and Human Resources Development Fund, on the condition that such investments or expenditures are not less than 3 percent of the revenue from the investment project in the first 3 years, or not less than 450 million Baht, whichever is less.

Projects granted STI incentive approval and meeting the applicable conditions will not be subject to the corporate income tax exemption cap.

- Exemption of import duties on machinery for all zones
- Investments or expenditures by the promoted person to develop Skill, Technology & Innovation can be made throughout the duration of corporate income tax exemption.
- Projects that have been granted corporate income tax exemption and are already generating income must submit an STI application any time before their corporate tax exemption period expires.
- Projects that are not eligible for corporate income tax exemption and that want to apply for STI incentives are required to submit their STI applications at the same time they submit the BOI application
- The promoted person shall apply for the aforementioned rights and privileges according to the criteria prescribed by the BOI.

List of activities eligible for promotion The BOI has issued a lengthy list of activities eligible for promotion grouped under seven headings:

- agriculture and agricultural products;
- mining, ceramics and basic metals;
- light industry;
- metal products, machinery and transport equipment;
- electronic industry and electrical appliances;
- chemicals, paper and plastics; and
- services and public utilities

The full list should be consulted to ascertain what activities are currently eligible for promotion, the benefits available and the foreign ownership limitations.

Service activities eligible for promotion It is important to point out that the BOI offers promotion incentives not just for manufacturing. During recent years, the

BOI has been expanding the list of service activities eligible for promotion. These include in general terms:

- Public utilities and basic services
- Natural gas service stations
- Tourism promotion services (includes oceans marinas, renting tour boats or yachts, amusement parks, cultural centres, aquariums, racing tracks, open zoos, cable cars, convention halls, international exhibition centres, hotels, retirement homes and care centres, health centres, long-stay business
- low or medium income housing,
- film production (includes support services or multimedia services),
- hospitals,
- industrial estates, factory and warehouse development, free trade zones, software parks, gem and jewellery zones, industrial zones for environmental preservation, printing industrial zones, movie towns, science and technology parks, logistics parks, service industrial zones, agro-industry processing zones,
- Mass transit systems and transport of bulk goods
- Distribution centres
- International Distribution centres
- International Procurement offices
- International Business Centre (*see further Chapter 4 Business Organizations*)
- International trading companies
- Trade and Investment Support Office (*see further Chapter 4 Business Organizations*)
- International business process outsourcing
- Energy service companies
- Human resources development
- Biotechnology (including research and development, manufacturing and analysis)
- Research and development
- Scientific laboratories
- Calibration services
- Product design
- Design centres
- Product sterilization services
- Waste water treatment, disposal services, or transport of industrial waste or toxic chemicals
- Recycling and re-use of unwanted materials
- Coating or thickening of pipes for petroleum

The full list should be consulted to ascertain what activities are currently eligible for promotion, the benefits available and the foreign ownership limitations.

BOI discretion to change eligible activities The BOI may temporarily or permanently suspend activities on the investment promotion list at any time, if it

considers that promotion is no longer needed. The BOI may also add new activities to the list, if it considers that such activities should be promoted. Thus it is important to consult the BOI directly to ascertain what incentives are available for any particular business activity.

Future direction of the BOI The fact that Thailand grants various incentives to exporters has been criticised by other countries, on the grounds that the incentives amount to improper subsidies. Some countries have threatened to impose countervailing duties on subsidized exports. The Thai government has acknowledged this and recognizes that the granting of extended tax holidays may have to end in the future.

In response to this, the BOI is beginning to change its strategic role into a general information and advisory agency for foreign investment, with the ability to help foreign companies find manufacturing or joint venture partners, to set up manufacturing operations in Thailand, arrange OEM manufacturing, etc.

Eastern Economic Corridor Act The Eastern Economic Corridor Act was passed in 2018.

This Act establishes a new economic zone in the three provinces of Chonburi, Rayong, and Chacheongsao.

The Act only applies to businesses engaged in the following activities:

1. Next generation automotive;
2. Smart electronics;
3. Affluent medical and wellness tourism;
4. Agriculture and biotechnology
5. Food innovation.
6. Industry and lifestyle robotics;
7. Aerospace;
8. Logistics and aviation;
9. Biofuels and biochemicals;
10. Medical services and healthcare.

Benefits available (to be set out in subsidiary regulations) may include the following:

1. Enhanced rights for foreign ownership of land
2. Extended lease terms (the current limit is a maximum of 30 years)
3. Enhanced visa rights for foreigners and their families
4. No separate work permit required for foreigners working in the three provinces of the EEC
5. Corporate tax exemption/reduction
6. Exemption/partial exemption from the Customs Act

7. Fast track procedure to obtain factory licences.

An assessment of the value/popularity of the EEC Act cannot be made until its supporting regulations are issued.

Industrial Estates Authority of Thailand

The IEAT The IEAT is a state enterprise established under the Ministry of Industry. It was created in order to implement the government's industrial development policy and provides investment incentives on a zoned basis.

As of December 2017, there were 56 industrial estates in operation across 16 provinces, of which 11 are operated by IEAT and 45 are jointly operated with developers.

IEAT's duties The IEAT's duties are:

- to establish industrial estates, and promote and support private sector or government agencies in setting up industrial estates.
- to set up and provide services for the facility and utility systems necessary for industrial and business operation.
- to promote and support the private sector to invest in and provide services for the facility and utility systems necessary for industrial and business operation.
- to organize and manage systems for environmental management and emergency prevention and response, and
- to grant permission and approval for business operation inside industrial estates, and to offer additional privileges, incentives, and facilitation to business operation and practices.

IEAT One Stop Service Centre IEAT has a One Stop Service Centre designed to provide information on investment opportunities and availability of land in industrial estates throughout Thailand. Investors can obtain information and advice about procedures for industrial set-up, incentives, privileges and other information on aspects of industrial investment. The Center can assist in submitting forms, issuing permits and licenses for factory establishment or joint venture with IEAT to develop an industrial estate.

IEAT Zones Industrial estates are divided into two zones:

- General Industrial Zone and IEAT Free Zone – in lieu of an Export Processing Zone, whereby no export conditions are imposed in accordance with WTO obligations.
- The operation of service businesses are allowed in a General Industrial Zone, where service operators are granted the right to land ownership.

- Operators in an IEAT Free Zone are entitled to additional tax privileges.
- The administrative process was streamlined to facilitate business operations in an IEAT Free Zone.
- The process of industrial estate establishment and land allocation was improved to ensure faster and more convenient implementation.

General Industrial Zone Investors in a General Industrial Zone are eligible for following opportunities, options and privileges:

- Permission to operate service businesses in the General Industrial Zone
IEAT provides industrial operators in a General Industrial Zone with comprehensive services essential for industrial operation – such as transportation, warehouses, training centres and clinics – as well as permission to own land required for their operations.

Non-Tax privileges for operators in a General Industrial Zone: the right to own land in an industrial estate, the right to bring in foreign skilled workers as well as their spouses or dependents and the right to remit money abroad.

IEAT Free Zone Investors in an I-EA-T Free Zone are entitled to additional tax privileges and other preferences:

Privileges:

- Operators in an IEAT Free Zone can export products without any restrictions and with the added convenience of being able to bring merchandise or raw materials into an IEAT Free Zone.
- Supplies taken into an IEAT Free Zone are entitled to improved tax and duty privileges.
- Tax burden relief for products taken out of an IEAT Free Zone for domestic use or consumption. Content or raw material components, if produced domestically, are entitled to tax and duty exemptions.
- Operators in a IEAT Free Zone remain entitled to privileges indicated in the previous Industrial Estate Authority of Thailand Act:

Tax privileges including import/export tax and duty exemptions; value-added tax (VAT) as well as excise tax on machinery, equipment, components, raw materials and supplies used for the production of goods and other merchandise

General privileges consisting of the right to own land, bring in technicians,

experts, their family members and dependents, as well as being able to remit foreign currency to their home countries

Operational preferences

- Permission to import into Thailand or bring into an IEAT Free Zone, merchandise and raw materials for production, trade or service offering, without any restriction that importation of such material is limited to business operators.
- Permission, for export goods producers, to bring supplies or raw materials into an IEAT Free Zone for manufacturing, mixing, assembling, packing or any other operations, without requiring any import permits or particular seals or symbols and with exemptions from standard and quality control requirements contained in any other laws - except those found in the Customs Act.

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