

## **Incentives under the Investment Promotion Act**

### **Government Role**

The Board of Investment (BOI) is the government agency responsible for administering incentives to encourage private sector investment in priority areas. The structure, role, and policies of the BOI today basically follow the guidelines contained in the Investment Promotion Act of 1977, as amended in 1991.

The BOI is chaired by Deputy Prime Minister and Industry Minister and includes as members and advisors, key ministers and private sector representatives. The office of the BOI functions as the administrative arm of the Board. BOI has seven regional offices in Chiang Mai, Chonburi, Khonkaen, Nakhon Ratchasima, Phitsanulok, Songkhla, and Surat Thani and four overseas offices in Frankfurt, Los Angeles, New York, Osaka, Paris, Shanghai and Tokyo.

### **Project Approval Criteria**

In determining the suitability of a project for which investment promotion privileges are requested, the Board of Investment applies the following criteria:

- For a project with investment capital (excluding cost of land and working capital) not exceeding 500 million baht, the following criteria are used:
  - The value added is not less than 20 percent of sales revenue, except projects that manufacture electronic products and parts or process agricultural produce, and projects granted special approval by the Board;
  - Ratio of liabilities to registered capital should not exceed 3 to 1 for a newly established project. Expansion projects shall be considered on a case by case basis;
  - Modern production processes and new machinery are used. In cases where old machinery will be used, its efficiency must be certified by reliable institutions and the Board's approval must be obtained;
  - Adequate environmental protection systems are installed. For projects with a potential environmental threat, the Board shall prescribe special conditions on both the location of the project and the manner of pollution treatment.
  
- For a project with investment capital (excluding cost of land and working capital) exceeding 500 million baht, the above criteria shall be used and a feasibility study of the project, as prescribed by the Board, must be submitted.
  
- For a concession project or privatization of a state enterprise project, the criteria shall be based on the cabinet's decision dated 25 May 1998, as follows:
  - Projects of state enterprises shall not be granted promotion;
  - Projects of state enterprises shall not be granted promotion;
  - For a Build Transfer Operate or Build Operate Transfer concession project by the private sector, the state agency that owns the project must submit its project to the Board for consideration prior to any invitation to bid, and bidders shall be informed of any promotional privilege entitled to them, prior to the bidding. In principle, the Board will not consider a project where the private sector pays for a concession, unless such payment is deemed to represent a reasonable investment for the state;

- For a Build Own Operate project, including a lease by the private sector or rental payment to the state, normal criteria are used;
- For privatization of state enterprises, only expansions after the privatization shall be considered for promotion.

### **Foreign Equity Participation Criteria**

The BOI uses the following criteria in considering the extent of foreign equity participation allowed in a promoted investment project:

- For a project in agriculture, animal husbandry, fishery, mineral exploration and mining and service business under Schedule One of the Foreign Business Act B.E. 2542, Thai nationals must hold shares totaling not less than 51 per cent of the registered capital;
- For manufacturing projects, in all zones, foreign investors may hold a majority or all shares in promoted projects;
- The Board may specifically fix the shareholding of foreign investors on some promoted projects when it is deemed appropriate.

The types of entities that may be promoted by the BOI and granted investment incentives are: a limited company, a foundation, or a cooperative. Application for promotion may be submitted in accordance with the rules, procedures, and forms prescribed by the BOI prior to the formation of the qualified promoted company.

### **Non-Tax Incentives for Promoted Companies**

The following non-tax incentives may be granted to promoted companies:

- Guarantees
  - Against nationalization
  - Against competition of new state enterprises
  - Against state monopolies
  - Against price controls.
  - Against tax-free imports by the public sector
- Permission
  - To own land
  - To bring in foreign nationals to undertake investment feasibility studies
  - To bring in foreign technicians and experts to work on the promoted project
- Protection measures
  - Imposition of a surcharge on competing imported products of up to 50 per cent of CIF value for a period of one year at a time
  - Import ban on competing products
  - Implementation of other tax relief measures as appropriate.

### **Investment Promotion Zones**

In line with the national goals of decentralizing and spreading the benefits of development to the country's provinces, the BOI has divided all provinces of Thailand into three investment zones. Investors who set up their operations in provinces outside the central region of Thailand are entitled to a wider range of tax incentives. There are three Investment Zones based on economic factors, i.e., the level of income and the availability of infrastructure in each province.

- **Zone 1** 6 Central provinces with high income and good infrastructure: Bangkok, Samut Prakan, Samut Sakhon, Pathum Thani, Nonthaburi and Nakhon Pathom

- **Zone 2** 12 provinces: Samut Songkhram, Ratchaburi, Kanchanaburi, Suphanburi, Ang Thong, Ayutthaya, Saraburi, Nakhon Nayok, Chachoengsao, Chon Buri, Rayong and Phuket
- **Zone 3** The remaining 58 provinces with low income and less developed infrastructure.

### **Tax Incentives for Promoted Companies**

The BOI grants the following tax incentives to promoted projects:

- Exemption or reduction of import duties on imported machinery
- Exemption or reduction of import duties on imported materials and components
- Exemption of corporate income taxes for three to eight years, with permission to carry forward losses and deduct them as expenses for up to five years
- Exclusion of dividends derived from promoted enterprises from taxable income during the corporate income tax holiday

#### **Customs Duty Exemption**

The general rules for granting import duty exemptions on the import of machinery and raw materials by promoted companies are outlined in the tables below:

##### **Import Duty on Machinery**

<b>Zone</b>	
1	50% reduction
2	50% reduction
3	100% reduction

##### **Import Duty on Raw Materials**

<b>Zone</b>	
1	1-year exemption
2	1-year exemption
3	5-year exemption

#### **Income Tax Exemption**

In general, the duration of income tax exemption granted to promoted companies depends on the project's location, as follows:

##### **Corporate Income Tax Exemption**

	<b>Inside Industrial Estate</b>	<b>Outside Industrial Estate</b>
Zone 1	3 years	Not Exempt
Zone 2	7 years	3 years
Zone 3	8 years	8 years

**Note:** Promoted projects with investments of 10 million baht or more (excluding land and working capital) must obtain ISO 9000, or other international certification within 2 years from its start-up date, otherwise the corporate income tax exemption will be reduced by 1 year

### **Additional Incentives for Projects Locating in Zone 3**

Projects located in industrial estates or promoted industrial zones in 36 provinces: (Chai Nat, Chanthaburi, Chiang Mai, Chiang Rai, Chumphon, Kamphaeng Phet, Khon Kaen, Krabi, Lamphang, Lamphun, Loei, Lop Buri, Mae Hong Son, Mukdahan, Nakhon Ratchasima, Nakhon Sawan, Nakhon Si Thammarat, Phangnga, Phattalung, Phetchabun, Phetchaburi, Phitsanulok, Pichit, Prachin Buri, Prachuab Khiri Khan, Ranong, Sa Kaew, Sing Buri, Songkhla, Sukhothai, Surat Thani, Tak, Trang, Trat, Uthai Thani, and Uttaradit) as well as Laem Chabung Industrial Estate and industrial estates or promoted industrial zones in Rayong province are granted the tax and duty privileges as follows:

**Additional Incentives for Locating in 36 Provinces of Zone 3**

	<b>Inside Industrial Estate</b>	<b>Outside Industrial Estate</b>
50% reduction of income tax for an additional 5 year period	Yes	No
Double deduction of water, electricity, transport costs for 10 years	Yes	No
25% deduction of infrastructure installation or construction costs	No	Yes
75 percent reduction on raw or essential materials used in manufacturing for domestic sales for 5 years	Yes	No

Projects located in 22 provinces: Amnat Charoen, Buri Ram, Chaiyaphum, Kalasin, Maha Sarakham, Nakhon Phanom, Nan, Narathiwat, Nong Bualamphu, Nong Khai, Pattani, Phayao, Phrae, Roi Et, Sakhon Nakhon, Sathun, Si Sa Ket, Surin, Udon Thani, Ubon Ratchathani, Yasothon, and Yala shall be granted the following tax and duty privileges:

**Additional Incentives for Locating in 22 Least-Developed Provinces of Zone 3**

	<b>Inside Industrial Estate</b>	<b>Outside Industrial Estate</b>
50% reduction of income tax for an additional 5 year period	Yes	Yes
Double deduction of water, electricity, transport costs for 10 years	Yes	Yes
25% deduction of infrastructure installation or construction costs	Yes	Yes
75 percent reduction on raw or essential materials used in manufacturing for domestic sales for 5 years	Yes	No

**Priority Activities**

BOI places priority on promoting the following types of projects: **agriculture and agricultural products, direct involvement in technological and human resource development, public utilities and infrastructure, environmental protection and conservation, and targeted industries.** BOI shall announce the list of priority activities or industries. Such projects will be entitled to the following privileges: exemption of import duty on machinery regardless of location; corporate income tax

exemption for eight years, regardless of location; other privileges entitled for each zone.