



## Legal Alert | Foreign Direct Investment

### Thailand's Board of Investment Issues 17 Announcements as Part of its Investment Promotion Strategy for 2023 - 2027

On December 8, 2022, the Thailand Board of Investment (the "BOI") issued 17 announcements (Announcement No. 8/2565 to No. 24/2565) aimed at developing a new economic model as part of its investment promotion strategy for the next five years (2023 - 2027) in accordance with the National Economic and Social Development Plan (Thailand 4.0). All announcements went into effect at the beginning of January 3, 2023. The announcements aim to promote investment to rebuild the Thai economy towards achieving its primary goal of being an innovative, competitive, and inclusive economy as well as establishing sustainable development in the future. Set out below is a brief outline of the significant elements of the announcements:

#### New Policies and Criteria for Investment Promotion

BOI Announcement No. 8/2565 Re: Policies and Criteria for Investment Promotion ("**Announcement No. 8/2565**") replaces Announcement No. 2/2557 and aims to improve on the previous measures by being more targeted and simplified, including introducing new standards in relation to approving projects for which investment promotion has been requested. The key terms of Announcement No. 8/2565 can be summarized as follows:

- **Activity-based Incentives**

The BOI has introduced new incentives for Group A1+, especially for upstream industries that use advanced technology and innovations, such as upstream electronics and targeted technology development activities (e.g., biotech, nanotech, and

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#### Get in touch

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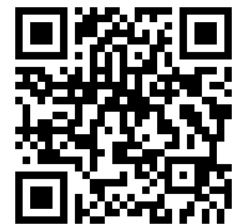
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advanced materials technology), which have in place technology transfer arrangements with educational institutes or research institutes. The special incentives for Group A1+ include exemption from corporate income tax for 10 to 13 years, depending on the type of business applied for, without any limit on the investment capital.

The incentives for Groups B1 and B2 have been combined into Group B. However, the incentives described in each incentive group do not apply in the case where the incentives are specified explicitly in the list of activities eligible for investment promotion.

- Announcement No. 8/2565 will apply to those applications submitted to the BOI from January 3, 2023 onwards. Projects submitted or approved for promotion or which were promoted under the previous investment promotion policy before January 3, 2023, must continue to comply with the rules and conditions set forth in the preceding announcement.
- If the tax incentives of the project have not yet been exercised (only the project for which the promotion is being applied has been approved for promotion, or it was promoted before January 3, 2023), the owner of such project can apply for incentives in accordance with the rules and conditions prescribed in the Announcement No. 8/2565 by submitting a letter of intent to the BOI within June 30, 2023.

### **New Measures for Promoting Investment in Industries Significant to National Development**

BOI Announcement No. 9/2565 Re: Measures for Promoting Investment in Industries Significant to National Development (“**Announcement No. 9/2565**”) has been introduced under the Investment Promotion Act to update the list of activities eligible for investment promotion and to stipulate the criteria, rights, and benefits for investment-promoted projects as specified in each type of business activities. The key terms of Announcement No. 9/2565 can be summarized as follows:

- The BOI has increased the eligible investment promotion sections from seven (7) sections to ten (10) sections to reflect the drive towards promoting new industries, such as BCG (Bio-economy, Circular Economy, and Green Economy), high-tech industries, creative industries, high-value services, etc.

## **About Us**

### **Foreign Direct Investment Practice Group**

We are commercially-minded and solutions-oriented legal advisors whose every move is made with your objectives in mind. We act as trusted legal and business advisors to leading international private and public corporations, start-ups, private equity funds, and foreign individuals on all aspects of their foreign direct investment (FDI) transactions in Thailand.

Our team has extensive experience in providing legal services to international clients on every aspect of investing in or expanding their business in Thailand. We help foreign clients navigate Thailand’s foreign ownership laws to ensure that their businesses are structured and are carried on in compliance with legal requirements. We also regularly work with US clients on obtaining benefits under the Thai-US Treaty of Amity and Economic Relations.

- If the tax incentives of the project have not yet been exercised (only the project for which the promotion is being applied for has been approved for promotion, or it was promoted before January 3, 2023), the owner of such a project can apply for it to be administered under the new list of business activities and follow the new conditions specified in Announcement No. 9/2565 by submitting a letter of intent to the BOI by June 30, 2023.

### **Other Privileges Under the New Announcement**

Other than the main policies and measures stated in the previous section, the BOI has issued subsequent announcements specifying new measures and additional privileges to enhance business operators' ability to operate in various areas, which can be summarized in Appendix 1.

If you are thinking of applying for an investment promotion for any promoted business under the new measures in Thailand and require advice on how to secure such investment promotion, or permit or license, Kudun and Partners' experienced legal team is ready and willing to walk you through the relevant processes and ensure your business gets off to the best possible start.

For more information about the relevant regulations or any other notifications relating to foreign direct investment, please contact the authors or our team at Kudun and Partners.

**Appendix 1**

| <b>Announcement No.</b> | <b>Topic</b>  | <b>Main Criteria</b>  | <b>Incentives</b>   |
|-------------------------|---|---|---|
| 10/2565                 | Measures to encourage competitiveness   | Invests or has expenses relating to technology and innovation, human resources development, and business operators' development   | Additional CIT exemption  |
| 11/2565                 | Measures to Support the Establishment of Institutions for Highly-skilled Professional Development | Must establish educational or training institutions for highly-skilled professional development in Science, Technology, Engineering, and Mathematics (STEM) with a capital of not less than THB 1 million (excluding the cost of land purchase and working capital).  | CIT exemption for existing projects and exemption from import duty on machinery for new projects. |
| 12/2565                 | Measures for Retention and Expansion Programs   | Applicants must be existing promoted persons who, under the same juristic persons in the past 15 years, have initiated at least 3 promoted investment projects with a combined investment value, at the project approval stage, of at least THB 10 billion. The expansion projects should have an investment value of at least THB 500 million. | Additional CIT exemption or reduction   |
| 13/2565                 | Measures for Comprehensive Relocation Program   | Must apply for investment promotion of manufacturing projects together with applications for the investment promotion of International Business Center (IBC) activities and undertake substantial functions of regional headquarters and/or R&D centers.  | Additional CIT exemption  |
| 14/2565                 | Investment Stimulation Measures for Economic Recovery   | The projects must have an investment capital of not less than THB 1 billion within 12 months from the date of investment promotion certificate issuance.  | Additional CIT reduction  |
| 15/2565                 | Measures for Enhancement of Industry  | The projects must have an investment capital of not less than THB 1 million to improve the efficiency of various sectors, e.g., updating machinery and automatic systems or the usage of digital technology in the business, etc.   | Additional CIT exemption  |

| Announcement No. | Topic   | Main Criteria   | Incentives   |
|------------------|---|---|--|
| 16/2565          | Measures to encourage the establishment of SMEs                                       | The projects must have an investment of not less than THB 500,000 and have Thai major shareholder(s). In addition, the income of the whole business of the applicant must be not more than THB 500 million in the first 3 years from the first date on which the applicant earns income from the promoted business. | Additional CIT exemption   |
| 17/2565          | Investment Promotion Measures in the EEC  | The projects should be located in Chachoengsao, Chonburi, or Rayong and take part in human resources development, including research and development of technology and innovation in such areas.  | Additional CIT exemption or reduction  |
| 18/2565          | Investment Promotion Measures in the Economic Corridor                                | The project should be located in the Economic Corridor specified by the National Committee on the Development of Special Economic Zones and take part in human resources development, including research and development of technology and innovation   | Additional CIT exemption or reduction  |
| 19/2565          | Investment Promotion Measures in Special Border Economic Zones                        | Must involve targeted activities in the Special Border Economic Zones specified in the announcement and be located in the Special Border Economic Zones   | Additional CIT exemption or reduction  |
| 20/2565          | Investment Promotion Measures in the Southern Border Provinces                        | Must involve investment in the Southern Border Provinces, which consist of Pattani Province, Yala Province, Narathiwat Province, Satul Province, and 4 districts in Songkhla Province, namely Chana, Thepa, Natawee, and Sabayoi District, and must comply with the specific criteria of the type of investment     | Additional CIT exemption or reduction, and exemption from double expenses for some public utility costs. |
| 21/2565          | Investment Promotion Measures in the Model City Area in the Southern Border Provinces | Must involve investment in the Model City area, which consists of Sungai Kolok District, Narathiwat Province, Nongjik District, Pattani Province, Betong District, Yala Province, and Chana District, Songkhla Province, and must comply with the specific criteria of the type of investment                       | Additional CIT exemption or reduction, and exemption from double expenses for some public utility costs. |

| Announcement No. | Topic   | Main Criteria  | Incentives                            |
|------------------|---|--|---------------------------------------|
| 22/2565          | Investment Promotion Measures in Areas such as Science and Technology Parks | Must involve investment in targeted activities located in the Science and Technology Park approved or promoted by the Board of Investment  | Additional CIT exemption or reduction |
| 23/2565          | Investment Promotion Measures in the Medical Innovation District            | Must involve investment in targeted activities located in the Yothi Medical Innovation District pursuant to the announcement of the National Innovation Agency (Public Organization)   | Additional CIT reduction              |
| 24/2565          | Investment Promotion Measures for Community and Society Development         | The projects must have a minimum investment capital of THB 5 million. They must support local organizations with a minimum of THB 500,000 per entity. The projects must include a collaboration plan with local organizations to encourage competitiveness and demonstrate how the local communities will benefit therefrom. | Additional CIT exemption              |

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