

## REQUIREMENTS FOR FOREIGN TRADE IN SERVICES THAILAND

### General Requirements

- Foreigners are not permitted to operate the following businesses:
  - Newspapers
  - Radio broadcasting
  - Television stations
  - Auctioning of Thai antiques or national historical objects
- Commercial presence is allowed only through a limited liability company, which is registered in Thailand, and foreign equity participation is limited to 49%.
- The number of foreign shareholders must be less than half of the total number of shareholders of the company concerned, except in the following sub-sectors:
  - Accounting, auditing and bookkeeping services
  - Consultancy services related to the installation of computer hardware
  - Data base services (excluding those provided over public telecommunications network)
  - Construction and related engineering services
  - Maritime passenger and freight transportations
- Commercial presence is also subject to Ministerial regulations, which may prescribe following conditions:
  - The minimum capital required, in no case be less than 3 million baht.
  - The ratio of the capital and loans to be used in the permitted business.
  - Number of foreign directors who must have domicile in Thailand.
  - Number and period for keeping the minimum capital in Thailand.
  - Technology or assets.
  - Other necessary conditions.
- Entry and temporary stay are allowed for the following natural persons:
  - Business Visitor: for an initial period of not more than 90 days and may be extended for further period of not more than 1 year.
  - Intra-corporate Transferee (Manager, Executive or Specialist): for a 1 year period and may be extended for a further three terms of not more than one year each. Such person shall have been employed by that company for a period of not less than one year immediately preceding the date of application for admission and has satisfied criteria for management needs<sup>1</sup> stipulated by the Department of Employment.
- A Work Permit is issued for not longer than 1 year period and may be renewed thereafter. In any circumstance, the validity of a Work Permit will not exceed the validity date of the Visa.
- The consideration for Work Permit issuance shall take into account:
  - Political, religious, and social security of the Kingdom of Thailand.
  - The protection of Thai nationals over foreigners in the occupations for which Thai nationals have adequate skills and there is no shortage of labour in the occupations.

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<sup>1</sup> In considering managerial needs, the following facts shall be taken into consideration by the relevant authority, namely: (1) size of fully paid-up capital; (2) employment creation; (3) extent of foreign investment; (4) export promotion; (5) transfer of technology; (6) special needs of the management.

- The employment of the foreigners shall bring about a large amount of foreign currencies for investment or expenses in the Kingdom, and shall generate employment of Thai nationals in a large number, or in case where modern and advanced technology is required, bring about technology transfer to Thai nationals.
  - Skill development of Thai nationals shall be derived from technology or knowledge transferred, or the understanding of how to operate modern machines and tools by such foreigners.
  - Humanitarian reasons.
  - Registered paid-up capital.
- A foreigner is prohibited from engaging in any work prescribed in the “Royal Decree Prescribing Works Relating to Occupation and Profession in which an Alien is Prohibited to Engage”.
  - Relevant provision of sector specific law shall be applicable with regard to the following matters:
    - ownership of equity interest in an enterprise registered in Thailand by foreign persons;
    - participation in a partnership registered in Thailand by foreign persons;
    - investment in Thailand by foreign persons;
    - authorization for foreign persons to operate certain businesses in Thailand or prohibition of foreign persons from operating certain businesses in Thailand; or
    - rules or criteria for operating businesses in Thailand by foreign persons, relevant provisions of such law shall be applicable.
  - Foreign nationals or domestic companies which are deemed foreigners are not allowed to purchase or own land in Thailand. However, they may lease land and own buildings. Foreigners are also allowed to own part of condominium units under the laws and regulations governing the ownership of condominiums.

## **Business Services**

### Legal Services

- Foreign companies, defined as legal entities with majority equity share, are prohibited from the provision of legal services.
- Foreign nationals are prohibited from practicing law, except in certain circumstances they may act in a consultative capacity.
- Registration and licensing with the Lawyers Council are applicable only to Thai nationals. Only persons who are permitted to Thai bar, registered and hold a valid licence as a lawyer from Lawyer Council of Thailand can provide legal services in relation to Thai Law.

### Accounting, Auditing and Bookkeeping Services

- CPA licenses and membership with Federation of Accounting Professions (FAP) require Thai nationality, except for foreign persons from countries in which Thai nationals are allowed to practice auditing.
- Both CPA and bookkeeping professions require domicile/residency in Thailand.
- Auditing must be authenticated by licensed auditor in Thailand.

#### Taxation Services

- Tax filing must be authenticated by licensed tax auditor and/or licensed auditor in Thailand.

#### Architectural, Engineering, and Urban Planning & Landscape Architectural Services

- Commercial presence is allowed through:
  - limited liability company
  - limited partnership
  - registered ordinary partnership whose head office is registered in Thailand
- At least half of its director(s), or its managing director must obtain a license from the Architects Council and must be of Thai Nationality.
- All legal entities that apply for a license to provide architectural services must establish headquarter office in Thailand.
- Services must be authenticated by licensed architect/engineer in Thailand.

#### Computer Related Services

- Foreign equity participation is permitted up to 49%
- Foreign individual can be employed by a computer service company as long as the employer can justify the need to hire a foreigner.
- Employment of foreigners is restricted to company with share capital of not less than 2 million Baht and an additional 2 million Baht of share capital is also required for each additional work permit. Ratio of local employees to foreign employees is 4:1.

#### Rental/Leasing Services without Operator

- Only through juridical person engaged in leasing or renting non-Thai flag vessels.
- Foreign participation is permitted Foreigner chartering Thai flag vessels is not allowed to conduct transport services within Thai territorial waters

#### Real Estate Services

- Foreigners are prohibited from conducting land trading and business related to land

#### Private Land Survey

- Foreign equity participation must be less than 50 percent
- Practitioners or the suppliers must be Thai nationals.

#### Placement and Supply Services Of Personnel

- Limited only to Executive Search Services for local employment.

- The managing partner and/or manager must be the person of Thai Nationality
- Domestic labour placement and supply services suppliers must be Thai nationals.

#### Convention services

- Only for convention centre with over 2000 seat of capacity.

#### Publishing and Printing Services

- Foreigners are prohibited from conducting printing and publishing business
- All printing suppliers must have permanent residence in Thailand.

#### Services Incidental to Energy Distribution

- Thailand reserves the privilege rights of the Thai-Malaysia Joint Authority and its benefits from natural resources especially petroleum in the Joint Development Area.
- The concessionaire shall employ Thai employees to the optimum extent possible and if their skills are not yet suitable for certain positions, the concessionaire shall exercise his best efforts to train such Thai nationals in order to improve their skills to such extent that they are qualified to take up positions at all levels in the petroleum operations within a reasonable period of time.

#### Placement and supply services of personnel: Executive search services only for local employment

- The managing partner and/or manager must be the person of Thai Nationality

### **Communication**

#### Telecommunication Services

- Each service to be supplied in Thailand requires a specific license issued by the National Telecommunications Commission (NTC).
  - Licenses are granted only to service suppliers duly constituted according to the Thai legislation, which requires head office and management located in the Thai territory.
  - The NTC may prescribe the prohibition that the applicant for certain nature or categories of telecommunications business who is a juristic person, shall not commit any other act which has the nature of business takeover by a person who is not of Thai nationality.
- foreign equity is limited to 25%.
- For Domestic VSAT, Videotext, Teleconference, and Domestic Leased Circuits, the joint venture company shall be permitted under the built – transferred – operated concept by National Telecommunication Authorities, and the foreign equity and total number of foreign shareholders is limited to 40%.
- Requirement to route the Traffic through gateways in Thailand operated by duly licensed suppliers for :
  - Fixed-line voice telephone services

- Mobile telephone services
  - Telegraph services
  - Telex services
  - Facsimile services
  - Paging services
  - Electronic mail
  - Voice mail
  - On-line information and data base retrieval
  - On-line information and/or data processing services provided over public telecommunications network
  - Dedicated network services
- Service provider must use network operated by licensed suppliers for :
    - Data base access services
    - Domestic VSAT
  - For Videotext, Teleconference and Domestic leased circuits:
    - Must use public telecommunication network under national telecommunication authorities.
    - Shall be a Thai registered company under the built-transferred-operated concept by national telecommunication authorities.
    - Foreign equity participation not exceeding 40%.
    - Number of foreign shareholders must not exceed 40% of the total number of shareholders of the company. Selection of service providers shall be based on open tender

#### Audiovisual Services (Radio and Television Services, Radio and Television Transmission Services)

- Commercial presence is allowed through:
  - a limited company, more than 75% of the members of the board of director must be Thai nationals.
  - a registered ordinary partnership or a limited partnership, all members of the board of director must be Thai nationals.
- Foreign equity and voting rights are limited to 25%.
- Thai nationality is also required for:
  - applying for license to operate radio and television broadcasting services,
  - the director of radio and television broadcasting station
- A juridical person must establish a principle office in the territory of Thailand.
- Any juridical person who provides the radio and television broadcasting services in certain area must be owned and controlled by a person residing in that certain area and has at least 1/3 of the total shares.

#### **Construction**

- Commercial Presence is limited to:
  - Limited liability company
  - Limited partnership
  - Registered ordinary partnership whose head office is registered in Thailand

## **Distribution**

### Wholesale Trade Services

- Foreign equity ratios for retail services are limited to less than 50%.
- Foreign investment is allowed for retail services with minimum capital of 100 million Baht, and the minimum capital of each store is 25 million Baht.

## **Education**

- At least half of its director(s), and if applicable its managing director, must be the person of Thai nationality
- Thai nationality is required for:
  - the manager or the representative applying for school license
  - the school director and deputy director.
  - the School manager/Executive manager.
  - at least half of the university council members (for other higher education services).

## **Environmental Services**

### Sewage Services

- Require incorporation under Thai Law with a registered capital shall be more than 2 million baht (only in the factory zone).

### Other Environmental Services

- For limited partnerships and limited companies, no less than 51% of the capital or shares belong to Thai nationals:
  - For limited partnerships, all the unlimited liability partners must be Thai nationals, and must establish a principle office in the territory of Thailand.
  - For limited companies, more than half of the members of the board of director must be Thai nationals.
- For registered ordinary partnerships, all partners must be Thai nationals.

## **Healthcare-Related and Social Services**

### General Medical Services, Specialised Medical Services, Dental Services & Services Provided by Nurses

- Foreign equity participation is limited to 49%
- Commercial presence is allowed only through outpatient clinic/department in a hospital.
- A person is allowed to operate not more than one sanatorium.
- The person who will be responsible to operate the outpatient clinic/department is required to have the license to operate for not more than one outpatient clinic.

- The person who applies for the license to operate must have a domicile in Thailand.

#### Veterinary Services

- A person is allowed to operate not more than one veterinary hospital
- The person who applies for the license to operate must have a domicile in Thailand

#### Hospital services

- Foreign equity is limited to 49%
- Thailand may prescribe, in any area, numbers of hospital and types of medical services to be provided in the hospital.
- The person who will be responsible to operate the hospital is required to have the license to operate for not more than one hospital.
- The person who applies for the license to operate must have a domicile in Thailand.

### **Tourism and Travel-Related Services**

#### Hotels and Restaurant Services

- Applicants for the license must be resident in Thailand. In the case of juridical person, the managing partner, manager or authorized representative must be resident in Thailand.
- The permit for foreigners to operate the businesses shall take into account the advantages and disadvantages to the nation on following matters:
  - safety and security;
  - economic and social development;
  - public order or good moral;
  - art, culture and tradition of the country;
  - natural resource conservation;
  - energy and environment;
  - consumer protection;
  - size of the enterprises;
  - employment;
  - technology transfer; and
  - research and development.
- Ministerial Regulations could be issued prescribing:
  - The ratio of the capital and loans to be used in the permitted business.
  - Number of foreign directors who must have domicile in Thailand.
  - Number and period for keeping the minimum capital in Thailand.
  - Technology or assets.
  - Other necessary conditions.
- The minimum capital to be prescribed in the ministerial regulations shall in no case be less than 3 million baht.

#### Travel agencies, tour operator services and tourist guides services

- Commercial presence is allowed through registered ordinary partnership, limited partnership, and limited company and requires registration under Thai Law and have its principal office in Thailand.
- Foreign equity is limited to 49%:
- Not less than half of the board of directors of the company must be Thai national.
  - For registered ordinary partnership: the managing partner or manager must be Thai national.
  - For limited partnership: all the unlimited liability partners must be Thai national and a fiduciary of such juridical person must be Thai national.
  - For limited company: barer share is not allowed and a fiduciary of such juridical person must be Thai national.
- A person who wishes to apply for a license shall be;
  - a natural person, who must be Thai national and resident in Thailand, or
  - a juridical person, who must be registered under Thai law, have its principal office in Thailand,
- Tour guide must be Thai national.

#### **Recreational, Cultural and Sporting Services**

##### National Parks:

- Commercial presence is allowed through registered ordinary partnership, limited partnership, and limited company and requires registration under Thai Law and have its principal office in Thailand.
- Foreign equity is limited to 49%:
- Not less than half of the board of directors of the company must be Thai national.
  - For registered ordinary partnership: the managing partner or manager must be Thai national.
  - For limited partnership: all the unlimited liability partners must be Thai national and a fiduciary of such juridical person must be Thai national.
  - For limited company: barer share is not allowed and a fiduciary of such juridical person must be Thai national.
- A person who wishes to apply for a license shall be;
  - a natural person, who must be Thai national and resident in Thailand, or
  - a juridical person, who must be registered under Thai law, have its principal office in Thailand,
- For establishing Zoological Garden where there are reserved wild animals, protected wild animal, carcass of wild animals or water animals, the permit holder shall:
  - in case of being a natural person, he/she must be residential in Thailand and has the ownership, control or usage of land and property for zoological garden operation.
  - in case of being a juridical person, the authorized person of a juridical person must be resident in Thailand.



### Sporting and Other Recreational Services

- Any person registered as boxer, trainer, referee and gym leader shall:
  - be Thai nationals and
  - meet the qualification as required by the Boxing Committee.

## **Transport Services**

### Maritime Transport Services

- The operator of a Thai-registered vessel must:
  - be a juristic person incorporated under Thai law with foreign equity limited to 49%.
  - register for flying the national flag at the Marine Department.
- Requires at least 50% national crew working on board Thai vessels.
- Foreign Shipping Companies performing multimodal services are required to incorporate or appoint Thai agents.
- Shareholders of Thai maritime transport companies with ownership of Thai flag vessels may be granted exemption or reduced rates of income tax leviable on dividends paid by such companies (Freight Transportation).
- For Freight Transportation: exporters or importers of goods shipped from or to Thailand by Thai flag vessel may be entitled to special deduction of not more than 50% of the freight values or other expenses paid in the ordinary courses of carriage of such goods from their net income for the purposes of calculation of income tax.

### Customs Clearance Services:

- A custom broker must be natural person of Thai nationality and must obtain a license from the Customs Department.

### Road Transport Services

- For Fixed Route and Non Fixed Route International Road Transport Services, commercial presence is allowed through:
  - limited company
  - limited public company
  - branch office or agency registered under Thai Laws, and located in Thailand
- For Private International Road Transport Services and Non Fixed Route, the provision of services is limited to:
  - natural person
  - registered ordinary partnership
  - limited partnership
  - limited company
  - limited public company
  - if the corporate headquarter is located outside Thailand, it must have a branch office or agency registered under Thai Laws and located in Thailand
- For Domestic Road Transport (cabotage), the suppliers of services required Thai nationality, and the provision of services is limited to:
  - Natural person.

- Juristic person incorporated under Thai Laws
  - registered ordinary partnership.
  - limited partnership
  - limited company
  - limited public company
- Not less than half of the board of directors of the company must have Thai nationality.

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