Supply Chain Reform under the Belt & Road Initiative

- Thailand

January, 2019

pwc

Thailand Overview

Source: BMI, Thomson ON… wC proprietary research

1 Exchange rate

1 CNY = 4.8090 THB

Source: Average Counter Rates Quoted by Commercial Banks, Bank of Thailand, 17 Dec 2018

2 Trade & tax agreement

Preferential duty rates are available on imported goods from countries that have a free trade agreement (FTA) with Thailand

3 Social environment

Population of 67.7 million (2.73% of which is a non-Thai citizen) where 38.74 million are labour force

Source: The National Statistical Office

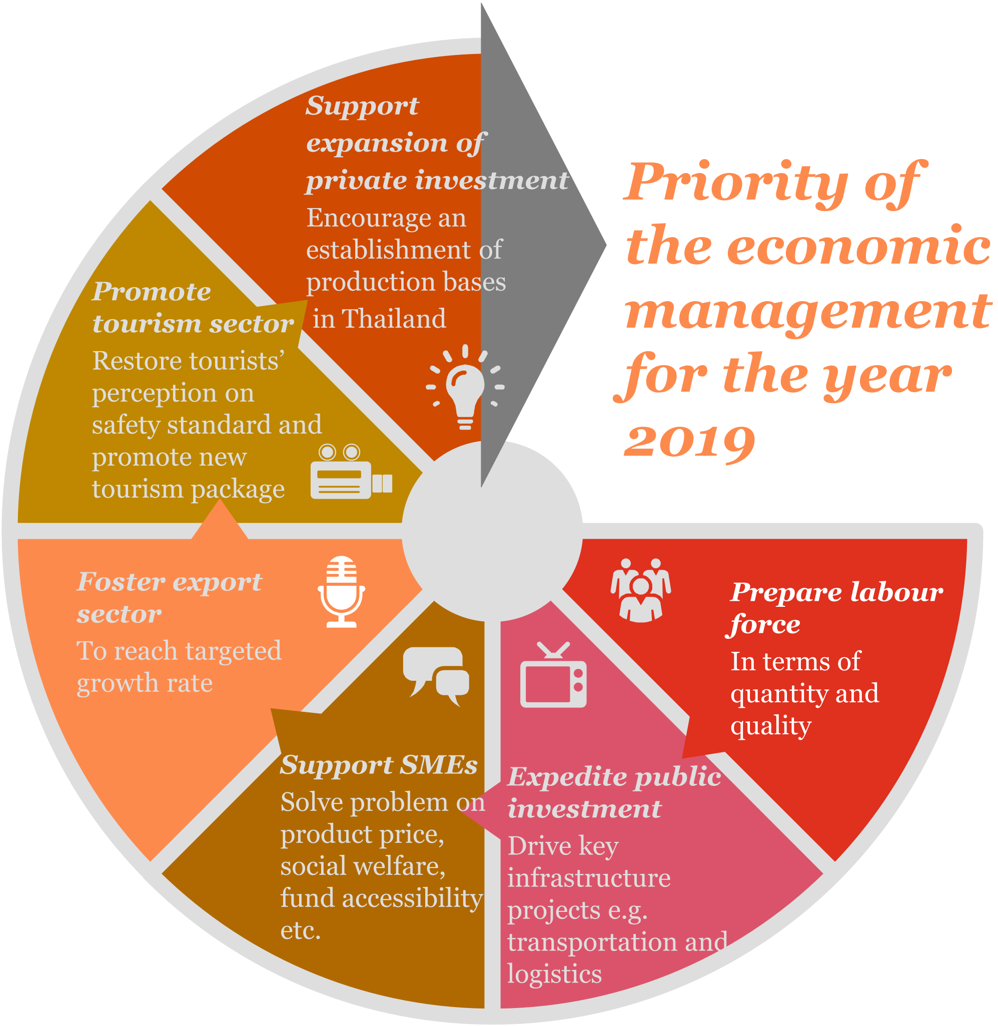
4 Special zoning

Eastern Economic Corridor (Rayong, Chonburi, and Chachoengsao)

5 Advantages

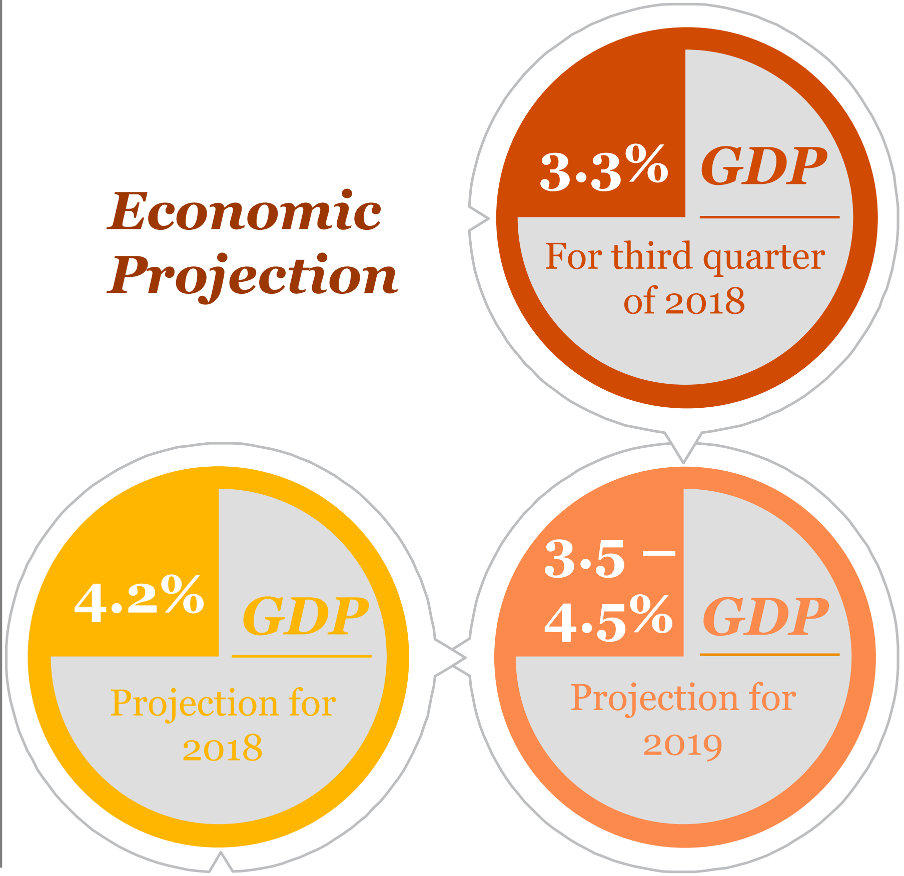
Geographic advantage which supports connectivity among countries, along with governmental policies for expediting investment

Thailand’s economic overview



Priority of the economic management for the year 2019

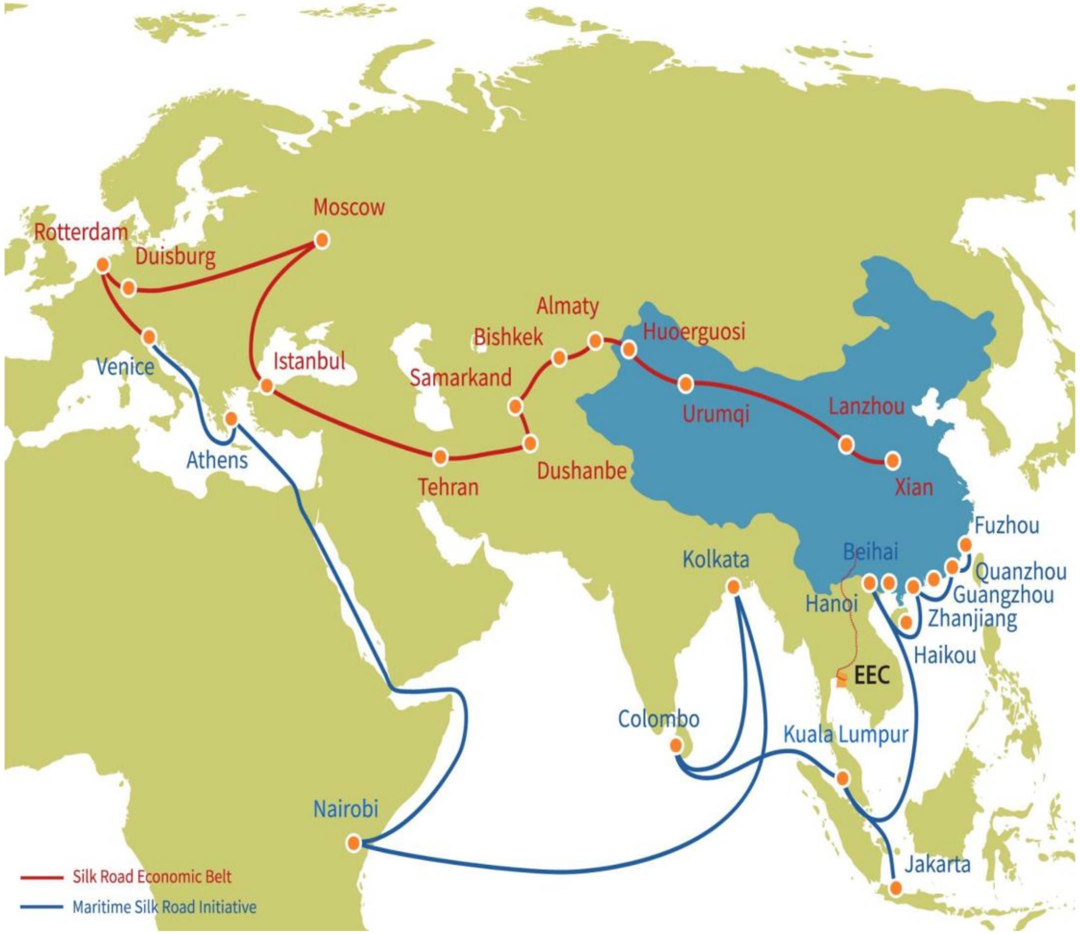
Economic Projection



Source: Office of the National Economic and Social Development Board (NESDB), Economic Report as of Nov 19, 2018

SEA Overview

Belt & Road Initiative



Source: BRI And EEC Connectivity For The Future Presentation, EEC Office

https://www.eeco.or.th/sites/default/files/BRI%20AND%20EEC_CONNECTIVITY%20FOR%20THE%20FUTURE_Dr%20Kanit_TH_25%20Aug%202018.pdf

Form of Business Organisation

Representative office	Regional office	Branch office	Limited company
No license required	No license required	License required but waived for certain activities	Must register for incorporation
Same entity and share liability	Same entity and share liability	Same entity and share liability	Separate legal entity and liability
No new shareholders	No new shareholders	No new shareholders	At least 3 shareholders
At least 1 manager working in Thailand	At least 1 manager working in Thailand	At least 1 manager working in Thailand	At least 1 director working in Thailand
			Must have an office in Thailand and register for VAT
Capital at least THB 2 million	Capital at least THB 2 million	Capital at least THB 3 million	Capital at least THB 2 or 3 million
No revenue generated	No revenue generated	Able to generate revenue	Revenue generated

All types of entity has to register for social security fund and workmen compensation fund once it has at least 1 employee.

Foreign investment control law

The Foreign Business Act B.E. 2542 (FBA)

Restricted businesses for foreigner

List 1

The businesses not permitted for foreigners to operate due to special reasons

- Rice farming, farming or gardening
- Fishery for marine animals in Thai waters and within Thailand specific economic zones
- Trading and auctioning Thai antiques or national historical objects

List 2

The businesses related to the national safety or security or affecting arts and culture, tradition, folk handicraft or natural resource and environment

- Domestic land, waterway or air transportation, including domestic airline business
- Production, selling, repairing and maintenance of firearms, ammunition, gun powder, explosives
- Mining, including rock blasting or crushing

List 3
With approval or exemption

The business which Thai nationals are not yet ready to compete with foreigners

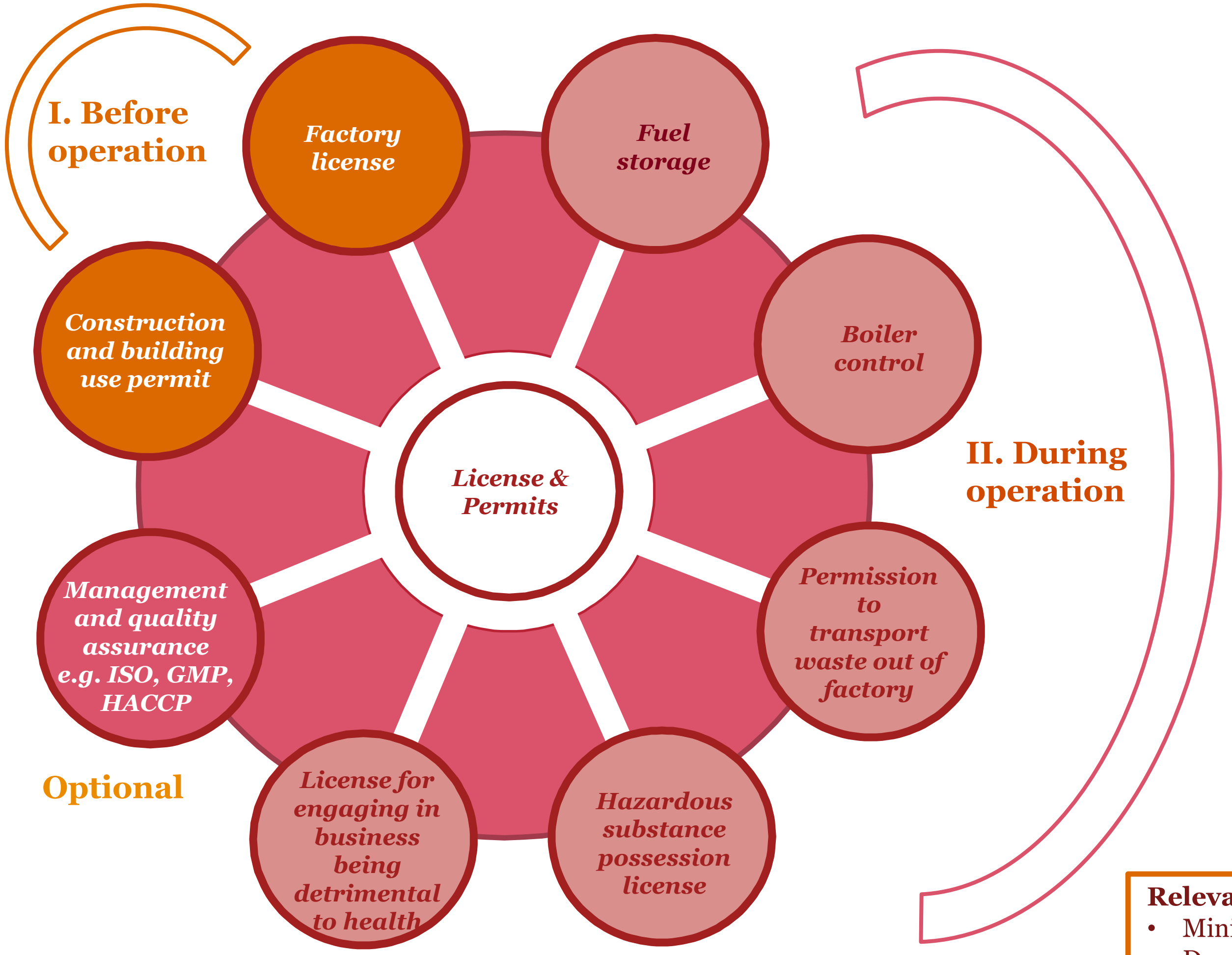
- Trading*
- Service business*
- Broker or agent business*
- Hotel business*
- Contract manufacturing

* Subject to certain exceptions under the FBA

Non-restricted businesses

- *Manufacturing*
- *Export*
- *International transportation*
- *Holding company*

General licenses relating to manufacturing business

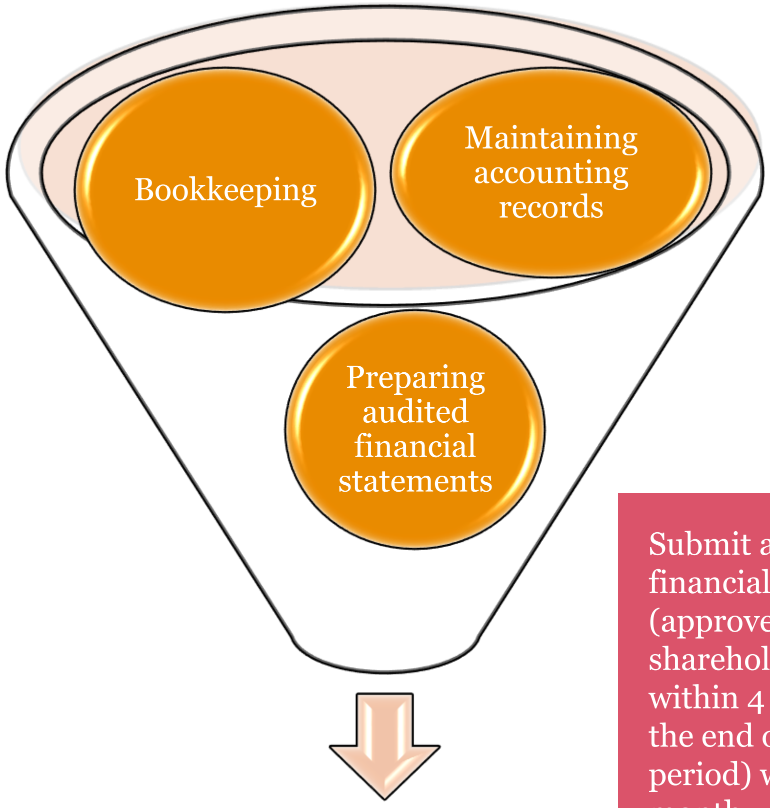


Certificate of origin:
for certification of the goods' origin in international transactions

Relevant authorities
- Ministry of Commerce
- Department of Industrial Works
- Local authorities

Statutory Compliances

Accounting Act and tax laws



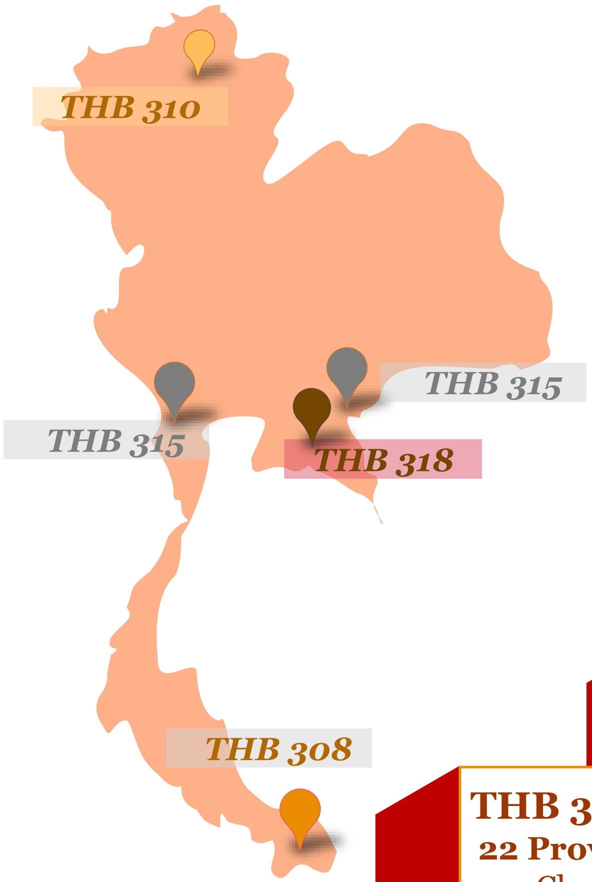
Submit audited financial statements (approved by shareholders' meeting within 4 months after the end of accounting period) within 1 month

file half year corporate income tax return within 2 months after the end of the first six months of accounting period

file corporate income tax return within 150 days from the end of accounting period

Thailand minimum wage

The Wage Council's Minimum Wage Rate Announcement (No. 9), effective on 1 April 2018



THB 330
3 Provinces
i.e. **Chonburi, Rayong**, Phuket

THB 325
7 Provinces
e.g. **Bangkok, Chachoengsao**, Samut Prakarn, Nonthaburi, Pathumthani

THB 320
14 Provinces
e.g. Krabi, Chaingmai, Phra Nakhon Si Ayutthaya

THB 318
7 Provinces
e.g. Nakhon Nayok, Chantaburi, Mukdahan

THB 315
21 Provinces
e.g. Kanchanaburi, Prachuap Khiri Khan, Buriram

THB 310
22 Provinces
e.g. Chumpon, Chiang Rai, Lampang, Lamphun

THB 308
3 Provinces
i.e. Narathiwat, Pattani, Yala

Visa and work permit

General conditions

➢ **Non-Immigrant Visa**

Type “B” for business/ working in Thailand

Type “O” for dependents (spouse and children)

➢ **Ratio for work permit eligibility:**

THB 2 million registered capital : one work permit for limited company

* Work permits are waived for branch office, regional office and representative office managers

➢ **Ratio for expat visa:**

Thai (4) : Expat (1) for limited company

Thai (1) : Expat (1) for branch office and representative office

New policies

Digital work permit (Bangkok and Chiangmai only)

- Single window policy
- Apply through BOI Office

Smart visa

- 10 S-Curve targeted industries
- Apply through BOI Office

SMART Visa

Business eligible for SMART visa

- Next-generation automotive
- Smart electronics
- Affluent, medical and wellness tourism
- Agriculture and biotechnology
- Food for the future
- Automation and robotics
- Aviation and logistics
- Biofuels and biochemicals
- Digital
- Medical hub

Type of SMART visa

Category	Purpose	Privileges
T	Highly-skilled experts (Talents)	1. Maximum 4 years (except "S"), but not exceeding the remaining employment/service contract term. 2. No work permit required for working in endorsed companies or a Thai government agency. 3. No re-entry permit required. 4. Expansion from 90 days to one year to report to the Immigration authority.
I	Investors	
E	Senior executives	
S	Startup entrepreneurs	
O	Spouse and children of SMART Visa holders	

Remark:

Consideration and approval: Subject to qualifications and requirements for each category.

Investment promotion laws

The Board of Investment (BOI) classifies 2 groups of incentives, as follows:

1. Activities–Based Incentives

A+
A1
A2
A3
A4
B1
B2

Classified incentives based on importance of activities

\+

2. Merit–Based Incentives

Competitiveness Enhancement
(Except B2)

Decentralization
(Except B2)

Industrial Area Development
(Except A1, A2, B1 & B2)

Eastern Economic Corridor
(Targeted list)

Additional incentives (***maximum 13 years***) to stimulate more investment/ expenditures that benefit the country or overall industries

Overview Incentives

Tax Incentive

- Exemption from CIT equal to or more than the amount of the investment, excluding the cost of land and working capital, for up to 10 years, depending on the promoted activity.
- 50% reduction in the CIT rate for 5 years from the date on which the tax holiday expires.
- Exemption from import duties on imported machinery.
- Exemption from import duties on raw and essential materials imported for manufacturing for export.
- Reduction of import duties on raw and essential materials by up to 90% for use in manufacturing for domestic sale.
- Exemption from import duties on items used for R&D.
- Exclusion of dividends received from promoted enterprises from taxable income during the period of exemption from CIT and within six months from the date of expiry of any tax holiday period.

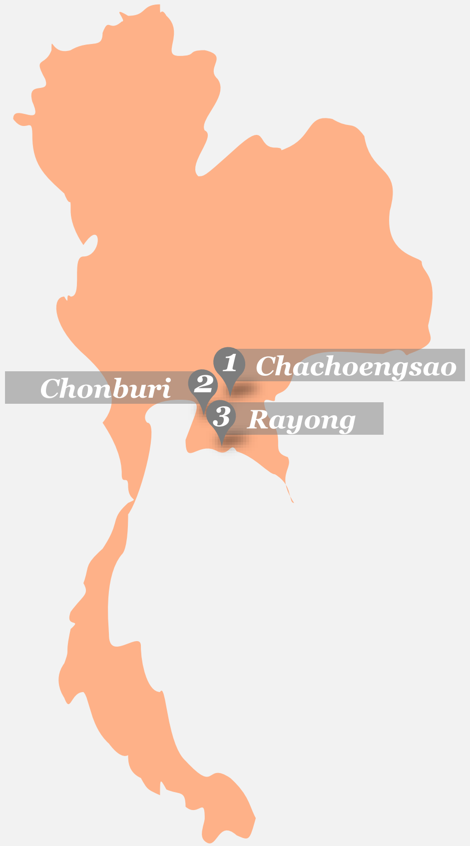
Non-Tax Incentive

- Permission to own land
- Permission to bring into Thailand technical staff and experts to work in the BOI project

Real estate development for industrial use

Additional incentives in EEC Location

EEC Location



New areas in EEC

1. **Special Industry Promotion Zone**
   - Eastern Airport City (EECa)
   - Eastern Economic Corridor of Innovation (EECi)
   - Digital Park Thailand (EECd)
2. **Target Industry Promotion Zone (EEC Estates)**
3. **Industrial Estates or Industrial Area within EEC (IEAT)**

Additional CIT Incentives (e.g. Digital Park: Activity 7.9.2.2)

Area	Additional CIT incentives
EECa	50% reduction 3 years
EECi	50% reduction 3 years
EECd	CIT 4 years
EEC Estates	50% reduction 3 years
IEAT	50% reduction 3 years

Example

EECa
- Aircraft or Aerospace Industrial Zone or Industrial Estate

EECi
- Science and Technology Park
- Digital Park

EECd
- Digital Park, Data center
- Innovation Incubation Center

EEC Estates and IEAT
- Gem and Jewelry Zone
- Logistics Park
- Movie Town
- Rubber City
- Environment protection zone

Key considerations of International Business Centre (IBC)

IHQ & ITC → IBC

Scope of activities	Conditions	Incentives

1) Organisational administration, management and business planning
2) Procurement of raw materials and parts
3) Research & Development
4) Technical support
5) Marketing and sales promotion
6) Human resources training and development
7) Financial advisory
8) Analysis and research of economics and investment
9) Credit management and control
10) Treasury centre
11) International trade
12) Other support services approved by the RD
	• A Thai company incorporated for the purpose of providing supporting services, technical assistance or treasury centre functions to affiliates
	• At least Baht 10 million paid-up registered capital
	• Employ at least 10 permanent staff with knowledge and skill for IBC (at least 5 staff for treasury centre)
	• For **international trade** activity for third parties, it must include at least one of activities in 1) – 10) provided to affiliates
		• BOI Non-tax privileges (B 1)
		• No import duty exemption on the import of raw materials for manufacturing products for export
		• Merit-based incentives are not given
		• Tax privileges under RD no. 674 are as follows:
		• Reduction in the corporate income tax (CIT) rate on qualifying income as follows:
		  ○ 8% if the IBC incurs expenditure of at least Baht 60 million paid to recipients in Thailand in the accounting period.
		  ○ 5% if the IBC incurs expenditure of at least Baht 300 million paid to recipients in Thailand in the accounting period.
		  ○ 3% if the IBC incurs expenditure of at least Baht 600 million paid to recipients in Thailand in the accounting period.
		• Exemption from CIT on dividends derived by the IBC from affiliates.
		• Exemption from withholding tax (WHT) on dividends paid by the IBC to a non-resident company out of profits derived from income subject to the reduced rate of CIT.
		• Exemption from WHT on interest paid by a treasury centre on borrowing which is relent to affiliates.
		• Exemption from specific business tax on income received by a treasury centre
		• Personal income tax rate of 15% for expatriate employees working for the IBC
		• CIT incentives period is 15 years*

*Revocation of benefits year-by-year if conditions are not met in that year. If the company does not meet the conditions for more than one accounting period, or has none of characteristics for operating as an IBC, the tax benefits will be terminated with effect from the first accounting period.

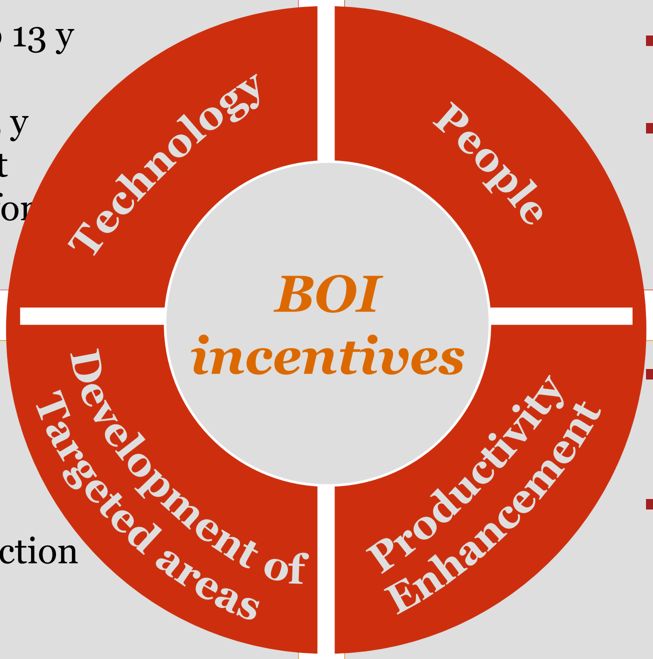
To support Thailand 4.0 initiative, the BOI has introduced a number of incentives to attract both domestic and foreign investors in 4 key focus areas

Technological advancements and new innovations in targeted industries

- CIT exemption up to 13 y
- Maximum 50% CIT reduction for up to 5 y
- Exemption of import duties on materials for R&D activities

Improvement in human capital or transfer of skills from foreign investor

- SMART Visa – Maximum 4 y visa
- Work permit facilitation – Processing time of less than 3 hours



- 50% CIT reduction for up to 5 y
- Double deduction of public utilities costs
- 25% additional deduction of infrastructure construction and installation costs

EEC, SEZ and certain provinces

- Exemption of import duties on machinery and raw materials
- Deduction up to 70% of the invested capital from net profits derived within 10 y

Digitization or upgrading of existing companies

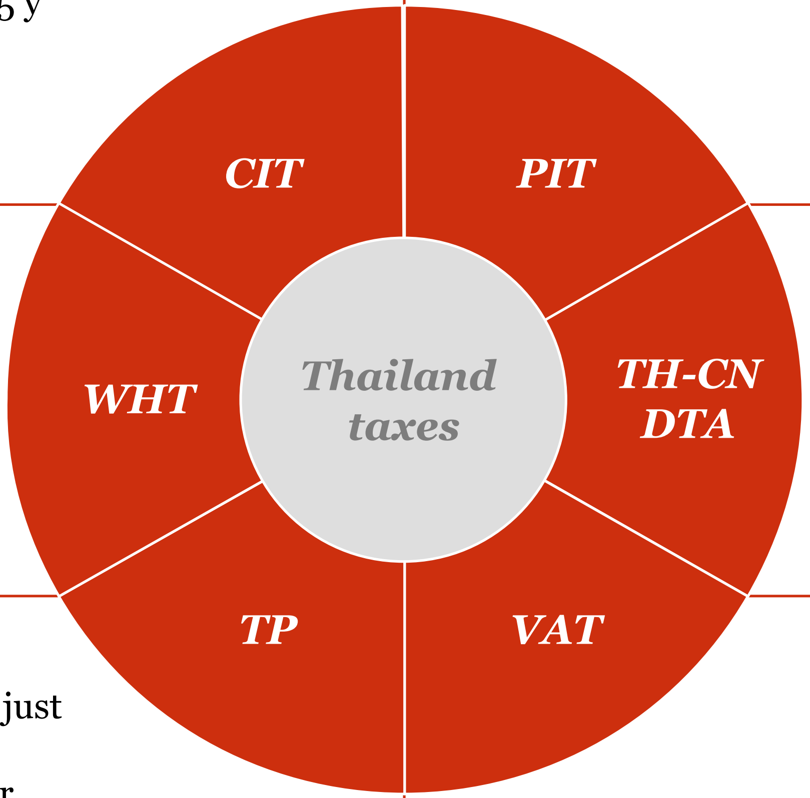
PIT at 17% for qualified workers in EEC

Source: Public information, BOI

Thailand – Taxes

- CIT rate 20% (0%, 15%)
- Tax losses carried forward 5 y
- Consolidation - No
- CFC – No
- Thin cap - no

- PIT 0% - 35%
- PIT 17% for qualified workers in EEC



- Dividend 10%
- Interest 1%, 15%
- Service 3%, 15%
- Rental 5%, 15%
- Royalties 3%, 15%
- Capital gains 15%

- Dividend 10%
- Interest 0%, 10%, 15%
- Royalties 15%
- Capital gains 15%

- Specific TP provisions have just been introduced into the income tax law in November 2018.

- VAT 0%, 7%
- Input tax credit or cash refund
- Registered exporter or good exporter status to accelerate VAT refund

Thailand – Transfer pricing rules

	Existing rules	New rules
Application	Up to FY2018	FY2019 onwards
Principle	Market price	Arm's length
Primary adj	• Yes, Revenue officers have power to uplift taxpayers' revenue or reduce taxpayers' expenses to market price	• Yes, Revenue officers have power to uplift or reduce taxpayers' revenue and expenses to arm's length price
Corresponding adj	DTAs with specific clause only	Implicitly allowed under S. 71 bis para 3 (DTAs only for cross border)
Secondary adj	Yes (S. 70, S. 70 bis, S. 65 bis (4))	Yes (S. 71 bis para1)
Definition of 'related parties'	S. 39 and TP guidelines Paw. 113	S. 71 bis para 2
Prescription period for tax refund	3 y from tax filing due date	3 y from tax filing due date or 60 days after receiving notice of adjustments

Existing rules:
- Section 39
- Section 65 bis (4)
- Section 65 ter (13), (14), (15), (19)
- Section 79/3
- TP guidelines Paw. 113/2545

New rules:
- Section 35 ter
- Section 71 bis
- Section 71 ter
- Ministerial regulations and Director General notifications

Thailand – Transfer pricing reporting requirements

	Existing rules	New rules
TP disclosure form	No	Mandatory - to be submitted with annual tax returns by taxpayers with sales of THB 200 million or more
TP documentation: • Local file • Master file • CbCR	Voluntary Yes No No	Mandatory Yes Highly likely Highly likely
Deadline to submit TPD	1 - 2 months	180 days for RD's first request and 60 days for subsequent request
Penalty for non-compliance with disclosure requirements	None (only penalty and surcharge on tax shortfall from transfer pricing assessments)	Not more than THB 200,000 (this will be on top of penalty and surcharge on tax shortfall from transfer pricing assessments)

Existing rules:
- TP guidelines Paw. 113/2545
- Practice of RD

New rules:
- Section 71 ter
- Section 35 ter
- Ministerial regulations and Director General notifications

Thailand – Transfer pricing documentations (Non-Thai MNE)

	<200 MB	200 MB to 2,000 MB	> 2,000 MB	> Euro 750 million
TP disclosure form	X	/	/	/
TP documentation*:				
1. LF	X	/	/	/
2. MF	X	?	?	?
3. CbCR	X	X	X	X

*Expected exemption conditions:
- Effective APA in place
- Domestic related-party transactions between taxpayers with same ETR

Thailand – International tax

- **Thailand joined BEPS Inclusive Framework in June 2017 and will apply the 4 minimum standards of BEPS.**

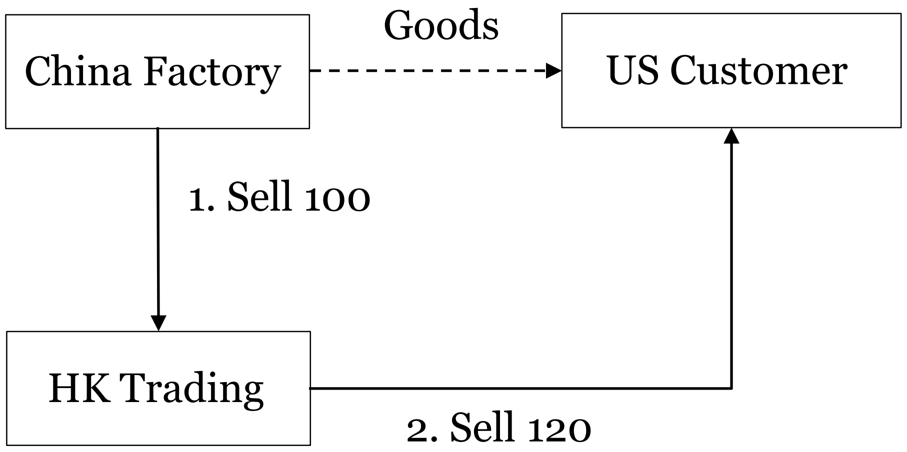
- Action 5 Harmful tax practices
- Action 6 Treaty abuse
- Action 13 Transfer pricing - country by country reporting
- Action 14 Dispute resolution

- **Thailand has not yet signed the MLI (as of October 2018).**

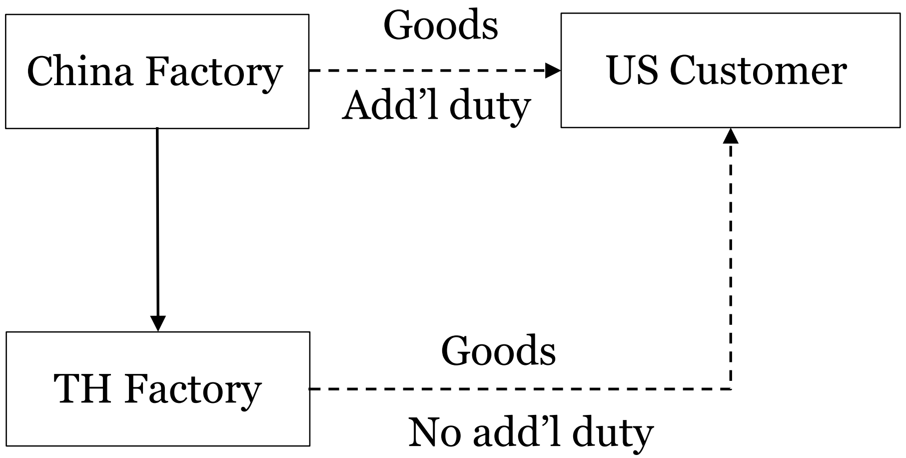
How to survive the US-China trade war

Customs and trade considerations

1. **First Sale For Export (‘FSFE’ or ‘first sale’)**



2. **Origin planning / Supply Chain restructuring**



How to survive the US-China trade war

Customs and trade considerations

2. Origin planning / Supply Chain restructuring (Cont'd)

Duty reduction/exemption		Duty incentive schemes
ASEAN Trade in Goods Agreement	Thai – New Zealand FTA	Board of Investment (BOI)
ASEAN – China FTA	Thai – Australia FTA	Free Zone
ASEAN – Australia - New Zealand FTA	Thai – Peru FTA	Bonded Warehouse
ASEAN – India FTA	Thai – Chili FTA	Section 12 duty exemptions
ASEAN – Korea FTA	ASEAN – Hong Kong	Duty drawback schemes
ASEAN – Japan EPA		
Thai – Japan EPA	Effective from	
Thai – India FTA	1 January 2019	

How to survive the US-China trade war

Customs and trade considerations

2. Origin planning / Supply Chain restructuring (Cont'd)

- Inbound - Leverage on Thailand's existing FTAs and duty incentive / suspension schemes
  - Possibility to import materials/products from China / Hong Kong (e.g. using ASEAN-China FTA or ASEAN-Hong Kong FTA) and other FTA countries with lower duty rates or exemptions
  - Explore sourcing changes based on Thailand's FTA coverage
- Outbound
  - Need to meet non-preferential rules of origin to mitigate impact additional US tariff measures on Chinese originating products
  - 'Substantial transformation' criteria'
    - Manufacturing in China may be adjusted to produce unfinished goods which can be further manufactured in Thailand to effect a 'substantial transformation', conferring a non-Chinese origin on the good
  - Explore options to leverage FTA coverage for other markets to benefit from lower duties

How to survive the US-China trade war

Customs and trade considerations

3. Transfer pricing / valuation planning

- The transaction values declared to customs, which are generally derived from the TP policies of companies, may be significantly higher than necessary.

- Re-examining the TP policies and methodologies may result in a possibility to significantly reduce these values and the resultant duty liabilities.

- In addition, certain intangibles, trademarks, patents and technology royalties may be currently included as part of the price of the goods sold.

- There may be opportunities to de-couple these royalty payments from the merchandise sale transaction and limit the dutiability to some lower quantum of royalty based upon customs valuation principles.

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One-Stop Products

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- Tax Structuring
- Transfer Pricing
- Indirect Tax Services
- Financial Services

Customs & Trade

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Thank you !