



# INVESTMENT PROMOTION POLICIES AND CRITERIA

## Policies for Investment Promotion

To relieve the fiscal burden of the government and to respond to current and future economic situations, the Board of Investment (BOI) prescribes policies for investment promotion as follows:

1. The efficiency and effectiveness of tax privileges given will be enhanced. Privileges will be granted to projects that actually benefit the economy and good governance will be used to manager and supervise the application of tax and duty privileges. Promoted entities will report the operating results of their promoted projects to the BOI for review prior to the application of tax and duty privileges for that year.
2. To promote development of quality and production standards to enhance competitiveness in the world market, every promoted project that has an investment capital of 10 million bath or more (excluding cost of land and working capital) must obtain ISO 9000, ISO 14000 or similar international certification.
3. Previous conditions on exports and use of local materials are repealed so that the criteria for promotion will be in line with international trade and investment agreements.
4. Special investment promotion will be given to regions or areas with low income and inadequate investment facilities. Maximum tax and duty privileges will be given to these regions or areas.
5. Priority is given to small and medium industries by applying a minimum level of investment capital of 500,000 bath (excluding cost of land and working capital) for activities as per the announcement of the BOI no. 1/2553 and of not less than on million baht (excluding cost of land and working capital) for other activities.
6. Priority is given to agricultural activities and agricultural products, projects related to technological and human resource development, public utilities, infrastructure and basic services, environmental protection and conservation and targeted industries.

## Criteria for Project Approval

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

1. To determine approval for a project that requests promotion, it will apply the following criteria:
  - 1.1 Value added is not less than 20 percent of sales revenue, except projects that manufacture electronic products and parts, agricultural activities and products, and projects granted special approval by the Board.
  - 1.2 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.
  - 1.3 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 Board.
  - 1.4 Adequate environmental protection systems are installed. The Board will give special consideration to the location and pollution treatment of a project with a potential environmental effect.
  - 1.5 For projects with investment capital exceeding 80 million bath (excluding the cost of land and working capital), the project's feasibility study must be submitted as a Board requirement.
2. For a concession project or the privatization of a state enterprise project, the Board's criteria will be based on the cabinet's decision dated May 25, 1998, and November 30, 2004, as follows:
  - 2.1 An investment project of state enterprises according to the 1999 State Enterprise Corporatization Act will not be entitled to grant promotion for the concessions project operated by the private sector and the transfer of ownership to the government (Build Transfer Operate or Build Operate Transfer). The government agency, which owns the project and intends the concessionaire to obtain promotion privileges, will submit the project to the Board at the time of the project's commencement and prior to any invitation to the private sector to join the bid. In the bid's process, it must clearly state that the bidders will be informed of any incentives entitled to them. In principle, the Board 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 on the investment that is consumed by the government.
  - 2.2 For government projects under the Build Own Operate method, including those leased or managed by the private sector by paying an amount in terms of a rental payment to the state, the Board will apply the normal criteria.
  - 2.3 For the privatization of state enterprises, if it requires governmental support, the appropriate budget should be determined after the privatization of the state enterprise as per the 1999 State Enterprise Corporatization Act. In the event of expansion after the privatization, it will apply for promotion for only the expanding investment by granting incentives according to the normal criteria.

## Criteria for Foreign Shareholding

1. Projects in agriculture, animal husbandry, fisheries, mineral exploration and mining and service businesses under List One of the Foreign Business Act B.E. 2542: Thai nationals must hold shares totaling not less than 51 percent of the registered capital.
2. Manufacturing projects: there are no equity restrictions for foreign investors.
3. The Board may set the amount of shares eligible to be held by foreign investors on promoted projects when deemed appropriate.

## BOI Zoning

As decentralization is a major theme in devising the BOI incentive scheme, the country is divided into three zones based on economic factors (with earnings and primary facilities as criteria of each province.)

**Zone 1** Bangkok, Nakhon Pathom, Nonthaburi, Pathoum Thani, Samut Prakan, and Samut Sakhon

**Zone 2** Ang Thong, Ayutthaya, Chachoengsao, Chon Buri, Kanchanaburi, Nakorn Nayok, Ratchaburi, Samut Songkhram, Saraburi, Supanburi, Phuket and Rayong.

**Zone 3** The remaining 58 provinces with low income and with less-developed infrastructure, which are designated as Investment Promotion Zones.

**36 Provinces:** 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.

**22 Provinces:** Kalasin, Nakhon Phanom, Narathiwat, Nan, Buri Ram, Pattani, Phayao, Phrae, Maha Sarakham, Yasothon, Yala, Roi Et, Si Sa Ket, Sakhon Nakhon, Satun, Nong Bua Lamphu, Chaiyaphum, Nong Khai, Ubon Ratchatani, Udon Thani and Amnatcharoen.

## Criteria for Granting Tax and Duty Privileges as Investment Zones

1. **Zone 1** – Approved projects located in Bangkok, Nakorn Pathom, Nonthaburi, Pathoum Thani, Samut Prakan, and Samut Sakhon will be granted:
  - 1.1 Fifty percent reduction of import duties on machinery that is subject to import duties of not less than 10 percent.
  - 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, ISO 14000 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.
  - 1.3 Exemption of import duty on raw or essential materials used in the manufacturing of export products for one year.
2. **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 Fifty percent reduction of import duties on machinery that is subject to import duty of not less than 10 percent 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\*, provided that projects with capital investment of 10 million baht or more (excluding the cost of land and working capital) obtain ISO 9000, ISO 14000 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.
3. **Zone 3** – Approved projects located in the remaining 58 provinces will be granted:
  - 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, ISO 14000 or similar international standard certification within two years of its 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.

\* Applications must be submitted by end of December 2014.

- 3.4 Deduction from net profit of 25 percent 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 including 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\*\* are granted tax and duty privileges under 3.1, 3.2, 3.3, 3.4 and the additional privileges as follows:
- Fifty percent 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.
  - Seventy-five percent 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 a period of a year. Similar raw or essential materials to the imports must not be available in the Kingdom 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, Lamphun, Amnatcharoen, Ubon Ratchatani, and Udon Thani are granted tax and duty privileges under 3.1, 3.2, 3.3, 3.4 and the additional privileges as follows:
- Fifty percent 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.
  - Seventy-five percent 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 the Kingdom 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.

*\*\* Applications for projects in Laem Chabang Industrial Estate and industrial estates or promoted industrial zones in Rayong must be submitted by December 31, 2014.*

## Criteria for Factory Relocation

To encourage industrial decentralization, the Board will grant promotion status to existing activities in the Center area, whether being BOI-promoted or not, if they relocate to other regions.

The following criteria are used:

1. The operation must relocate from Zone 1 to Zone 2, or from Zone 1 or Zone 2 to Zone 3;
2. The operation must relocate to industrial estates or promoted industrial zones;
3. The type of activity must be one that is included in the List of Activities Eligible for promotion and the size of the investment must be in accordance with that specified by the Board;
4. The existing operation must be closed down and the operation at the relocated operation must start within two years from the dated of receiving the promotion certificate;
5. The relocated project is granted tax and non-tax privileges as follows:
  - 5.1 Projects relocated to industrial estates or promoted industrial zones in Zone 2, except in Laem Chabang Industrial Estate or industrial estates or promoted industrial zones in Rayong Province, will be granted corporate income tax exemption for a period of seven years, provided that projects with a capital investment of 10 million bath or more (excluding cost of land and working capital) obtain ISO 9000, ISO 14000 or similar international certification within two years from the start-up date of the new plant, otherwise corporate tax exemption will be reduced by one year;
  - 5.2 Projects relocated to industrial estates or promoted industrial zones in Zone 3, including Laem Chabang Industrial Estate and industrial estates or promoted industrial zones in Rayong Province, will be granted the following:
    - (1) Corporate income tax exemption for a period of eight years, provided that projects with a capital investment of 10 million baht or more (excluding cost of land and working capital) obtain ISO 9000, ISO 14000 or similar international standard certification within two years from its start-up date, otherwise corporate income tax exemption will be reduced by one year;
    - (2) Fifty percent reduction of corporate income tax of net profit derived from the investment for five years after the exemption period;
    - (3) Double deduction for transportation, electricity and water costs for 10 years from the date of first revenue derived from the promoted activity;
    - (4) Deduction from the net profit of 25 percent of the project's infrastructure installation or construction costs in addition to normal depreciation, and such deduction can be made from the net profit for any one year or several years within 10 years from the date of first revenue derived from the promoted activity.
  - 5.3 Activities included in the List of Activities Eligible for Promotion, but which are not eligible for corporate income tax exemption, will not be granted such exemption when operations are relocated.

6. The corporate income tax exemption will be granted from the day the first revenue is derived from the relocated activities.
7. In the event of a change of the incentives given under cluster promotion or the expiration of the promotion application by December 31, 2014, the Board might consider protection for projects within industrial estates or industrial zones and for projects that expand their promoted activities in the same location on granting the incentives, and this not less than the existing incentives.

### **Priority Activities**

Activities classified as “priority activities” will be granted the following tax incentives:

- Exemption of import duties on machinery for all zones
- Eight-year corporate income tax exemption for all zones (subject to the corporate income tax exemption cap)
- Other relevant location-based incentives

### **Activities of Special Importance and Benefits to the Country**

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

- Exemption of import duties on machinery for all zones
- Eight-year corporate income tax exemption for all zones (NOT subject to the corporate income tax exemption cap)
- Other relevant location-based incentives

## Investment Promotion Policy for Sustainable Development

To promote sustainable, enhance the country's competitiveness in science and technology, encourage the improvement of manufacturing quality as well as reduce environmental impact, the Board of Investment offers special tax incentive under the Investment Policy for Sustainable Development campaign. (Please see the Board of Investment Announcement No. 2/2553 dated April 23, 2010 for further details.)

### 1. Investment promotion measures for target industries

#### Incentive

- Import duty exemption on machinery
- Eight-year corporate income tax exemption without being subject to a corporate income tax exemption cap
- Fifty percent reduction of corporate income tax on net profit for five year after expiry of tax holiday
- Double deduction of transportation, electricity and water supply costs for ten years from the date of income derivation from promoted project
- Twenty five 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 to the OBOI by December 31, 2012.
- Projects must be in the following activities:
  - 1) Activities related to energy conservation and alternative energy
    - Category 1.18     Manufacture of alcohol or fuel from agricultural products, including scrap, garbage and/or waste
    - Category 4.2.3     Manufacture of energy-conserving machinery or equipment or machinery or equipment which uses alternative energy
    - Category 4.15     Manufacture of fuel cells
    - Category 7.1.1     Production of electricity or steam power
      - For cases that use alternative energy such as energy from agricultural material, biogas and wind energy
  - 2) Activities related to eco-friendly materials and products
    - Category 6.3     Manufacture of eco-friendly chemicals
    - Category 6.4     Manufacture of eco-friendly products
  - 3) High-technology businesses
    - Category 1.11.10     Manufacture of medical food
    - Category 2.5.3     Manufacture of advanced ceramics



Category 2.19	Manufacture of nano materials or products from manufacture nano materials
Category 3.1.1	Manufacture of natural or synthetic fibers - Only manufacture of functional fiber
Category 3.9	Manufacture of medical equipment
Category 3.10	Manufacture of scientific equipment
Category 4.2.1	Manufacture of machinery, equipment and parts that have engineering design
Category 4.2.2	Manufacture of farm machinery or equipment and food processing machinery of equipment
Category 4.2.4	Manufacture or repair of mould and die - Only manufacture of mould and die and parts
Category 4.9	Manufacture, repair or conversion of aircraft, including aircraft parts and equipment or onboard equipment
Category 4.10	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
Category 5.4.3	Manufacture of industrial electronics
Category 5.4.4	Manufacture of telecommunication equipment
Category 5.5.1	Manufacture of semiconductors
Category 5.5.2	Manufacture of memory storage equipment - Only manufacture of Hard Disk Drive (HDD), Solid State Drive (SSD) and HDD SSD parts
Category 5.5.4	Manufacture of parts for telecommunication equipment
Category 5.5.5	Manufacture of parts for medical electronics
Category 5.5.6	Manufacture of parts for agricultural electronics
Category 5.5.7	Manufacture of electronic parts for vehicles
Category 5.5.10	Manufacture of solar cells and raw materials for solar cells
Category 5.5.12	Manufacture of flat panel display
Category 5.6	Manufacture of material for microelectronics
Category 5.7	Electronic design

Category 7.18	Human resource development
Category 7.19	Biotechnology
Category 7.20	Research and development
Category 7.21	Scientific laboratories
Category 7.22	Calibration services

## 2. Measure to promote energy conservation, alternative energy utilization or reduction of environmental impacts

This measure focuses on upgrading the machinery and improving technology to save energy and reduce environmental impacts.

### Incentives

- Exemption of import duty for machinery
- Three-year corporate income tax exemption on the revenue of existing projects, accounting for 70 percent of 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 alter native energy at the stipulated ratio to the total energy consumption.
  - 3) Investment in upgrading the machinery to reduce environmental impact reducing waste, waste water or exhaust air according to the stipulated criteria.
- Application shall be submitted to the OBOI within December 31, 2012 and must complete the 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 shall be considered by the Office of the Board of Investment.

### 3. Measure 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 as well as to be able to expand to a higher value product line while increasing revenue and maintaining employment.

#### Incentives

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

#### Conditions

- This measure applies to existing projects only, be it BOI or Non-BOI promoted.
- 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 distinct name. The new product must also be in the list eligible for the investment promotion and corporate income tax exemption privilege.
- The upgrading of production line does not include the upgrading of assembly line.

### 4. Measure to solve environmental problems

This measure is designed to promote and encourage industrial plants to give priority to the environment management.

#### Incentives

- Exemption from import duty on machinery for machinery improvement to reduce the environmental impact.
- Three-year corporate income tax exemption on the revenue of existing projects, accounting for 70 percent 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 the environmental impact according to criteria and methods specified by the Office of Board of Investment.
- Applicants must submit the application including a plan to reduce environmental impact according to the criteria and methods specified by the Office of Board of Investment within December 31, 2010 and complete the implementation within 3 years from the date of promotion certificate issuance.
- Application of existing projects of all investment sizes under this measure shall be considered by the Office of the Board of Investment.

#### **Additional Incentives under the Skill, Technology and Innovation (STI) Scheme**

(Please see BOI announcements No.3/2549, 6/2552 and 11/2552 for further details.)

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 are applied:

1. The following additional tax incentives will be applied:

- 1.1 Corporate income tax exemption in addition to those received on the basis of the Board of Investment Announcement No. 1/2543 and 2/2543; however, the total duration of corporate income tax exemption shall not exceed 8 years, as follows:
  - 1.1.1 One additional year of corporate income tax exemption will be granted if there are investments of 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 1 percent of the revenue from the investment project in the first 3 years, or not less than 150 million Baht, whichever is less.
  - 1.1.2 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 and 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.

- 1.1.3 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.

- 1.2 Exemption of import duties on machinery for all zones
2. Investments or expenditures by the promoted person to develop Skill, Technology & Innovation can be made throughout the duration of corporate income tax exemption.
3. Projects that have been granted corporate income tax exemption under Section 31 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
4. The promoted person shall apply for the aforementioned rights and privileges according to the criteria prescribed by the Office of the Board of Investment.

### **Measure to promote research and development cooperation between industrial sectors and education institutions**

(Please see the BOI Announcement No. 1/2550 for further details.)

This measure focuses on enhancing competitive edges of the industries by strengthening the fundamental knowledge and technological capabilities through cooperation between the private and public sectors, or industrial sectors and academic agencies to create innovations.

1. The following criteria and conditions for research and development joint projects between the industrial sector and academic institutions will be applied:
  - 1.1 An eligible project must already be in operation regardless of whether or not it has received promotional privileges.
  - 1.2 An eligible project must be within a target industry, activity or technology specified by the Board of Investment.
  - 1.3 An eligible activity must belong to a category announced as being qualified for promotion by the Board of Investment.

- 1.4 Projects currently receiving investment promotional privileges may apply for promotion under this measure only after their current corporate income tax exemption or reduction period has expired.
  - 1.5 Not less than 51 percent of the registered capital must be Thai.
  - 1.6 Research and development undertakings must be carried out jointly with a research institute or an academic institution approved by the Board of Investment in accordance with the criteria and methods specified by the Board of Investment.
  - 1.7 An application for promotion must be submitted under the existing activity, and must be accompanied by a research and development plan, in accordance with the criteria and methods specified by the Board of Investment.
  - 1.8 No claim may be made for research and development expenses if those deductions are allowed by the Revenue Department.
  - 1.9 Corporate income tax is exempted on the revenue generated by the promoted activities, with the exemption duration commencing from the date the revenue is generated after the promotion certificate has been issued.
  - 1.10 To exercise the corporate income tax exemption rights, evidence certified by the partnering research institute or academic institution must be produced.
2. The following incentives will be applied:
- 2.1 Exemption of import duties on machinery and equipment used in the research and development activities
  - 2.2 Three-year exemption of corporate income tax, on 70 percent of the investment value and research and development costs, not exceeding 10 million baht