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**New investment promotion for sustainable
development makes high tech machinery more
competitive in Thailand**

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I. Introduction

Thailand, despite its political turbulences, is still an attractive investment location for foreign investors. Besides its qualified work force, good infrastructure and central location in Asia, the country still offers a wide range of incentives for investors in industries which are considered to be beneficial for the country. Tax and non-tax incentives are granted by the Board of Investment of Thailand (“BOI”).

The BOI intends to enhance the domestic industrial growth and to upgrade the industry to a knowledge – based industry that uses higher technology. It is intending to transfer know-how into the country and expects to have further developments in the higher technology sector. To reach such aim, the BOI announced on 23 April 2010 new investment promotions for sustainable development.

There are incentives for new BOI promotions as well as for already promoted businesses and currently non BOI – promoted businesses that are eligible for promotion under the new regulations.

II. Promoted Activities and Time Limits

The BOI generally grants different incentives depending on the region where the investment is located in order to promote decentralisation of the country’s development (so-called Zones 1-3). The promotion under the new announcement (No. 2/2553) applies to all Zones throughout the country. only the capital of Bangkok is exempted.

The promotion is limited until **31 December 2012**. Investors applying for investment promotion under the announcement after such date can not benefit from the (additional) incentives.

III. Target Industries

The target industries of this promotion are classified in three different categories.

1. energy conservation and alternative energy

The first category is related to energy conservation and alternative energy. This includes the manufacture of:-

- alcohol or fuel from agricultural products, including scrap, garbage and/or waste (Cat. 1.18)
- energy-conserving machinery or equipment and machinery or equipment which uses alternative energy (Cat. 4.2.3)
- fuel cells (Cat. 4.15); and
- production of electricity or steam power for cases that use alternative energy (Cat. 7.1.1)

2. eco-friendly materials and products

The second category is related to activities that involve eco-friendly materials and products and is limited to the manufacture of eco-friendly chemicals (Cat. 6.3) and further eco-friendly products in general (Cat. 6.4).

3. high technology businesses.

- The third category is designated to high technology businesses and mainly includes the whole band width of high tech industries (s. Appendix I for more details)

IV. Benefits for Target Industries

The target industries outlined in Appendix I were promoted in the past, however, are now entitled to a number of additional tax incentives beyond the once offered before.

1. New BOI Promotions.

The incentives for new BOI promotions are as follows:-

- exemption from import duty on machinery until the Company reach its full operation through the issuance of the Operating License (generally 3 years after BOI Certificate is issued, extendable upon the approval of the BOI).
- exemption from corporate income tax for eight year without being capped. Such exemption will kick in from the first day of business under the promoted business.
- Fifty percent reduction of the corporate income tax on the net profit generated from the investment for not more than 5 years starting from the end of the exemption mentioned above.
- The costs for
 - Transportation
 - Electricity
 - Water
 can be tax-deducted twice for the period of 10 years from the date of first income of the promoted activity.
- costs for construction and infrastructure can be deducted from the net profit in addition to normal depreciation of not more than 25% of the investment into the promoted project.

2. promotion of existing BOI or non – BOI businesses

New is the possibility of being promoted for only upgrading existing businesses by using higher technology.

There are different incentives for BOI promoted businesses and businesses that are not yet promoted but that are already in existence.

a) Promotion of energy conservation, alternative energy utilisation or reduction of environmental impacts.

The applicant for such promotion has to fulfil one or more of the following requirements:-

- submit an investment plan for a change of machinery to save energy
- introduce alternative energy into the project
- reduce environmental effects by investing into the upgrade of machinery to
 - modern technology, resulting in the reduction of energy consumption
 - use alternative energy to stipulate the total energy consumption
 - reduce environmental impact (reduce waste, waste water or exhaust air)

In case the business fulfils one or more of these criteria and the promotion is approved, the following incentives will be granted:-

- exemption of import duty for machinery until the Company reach its full operation through the issuance of the Operating License (**generally 3 years after BOI Certificate is issued, extendable upon the approval of the BOI**).
- three years of exemption from corporate income tax on the revenue of the existing project; but, only accounting up to **70% of the investment under this measure** (excluding cost of land and working capital); this period will start from the first date of revenue derivation after the issuance of the BOI promotion certificate.

The approval of such promotion is not depending on the size of a business or the amount being invested into the business.

b) Production efficiency improvement by technology upgrade for production of new products

The applicant of such promotion has to fulfil one or more of the following requirements:-

- Investment into the existing production line to enable production of new products
- The new product has to differ from the previous product and must have a distinct name differing from the previous product.
- This new product has to be listed in the above list under II.

In case the business fulfils these criteria and the promotion is approved, the following incentives will be granted:-

- Exemption of import duty regardless of the zone
- Three years of corporate income tax exemption on revenue derived from the new product, but not exceeding 100% of the investment into the upgrade of the production line.

The approval of such promotion is not depending on the size of the business or the amount being invested into the business.

c) Solution of environmental problems

The applicant of a promotion under this regulation has to comply with the environmental criteria and the conditions specified by the government with pollutant values less than the legal control rate as specified by the Pollution Control Department, and must be in the following industries:-

- Oil industry
- Natural gas separation
- Power generation
- Chemicals and petrochemicals
- Minerals and base metals

The project must reduce the environmental impact according to criteria and methods specified by the BOI.

For industries fulfilling such requirements, the government implemented incentives being:-

- exemption from import duty on machinery used to reduce the environmental impact
- Three years of corporate income tax exemption on the revenue of the existing project in total, accounting to a maximum of 70% of the investment which was made for the purpose of such promotion.
- The corporate income tax exemption starts from the date of income derivation after the issuance of promotion certificate.

The approval of such promotion does not depend on the size of the business or the amount which is invested for such promotion purposes.

d) Evaluation criteria

The evaluation criteria of the in a) to c) mentioned requirements are outlined in the *Clarifications for BOI promotion under the Investment Promotion for Sustainable Development No. 2/2553*. These clarifications are held very vague and are defined as follows:

- there must be a comparison between the needed energy before and after the improvement of Sustainable Development and the amount of saved energy has to be calculated. There is no certain amount mentioned in the Clarification that is needed to be saved.
- The investment has to be made with new machinery.
- The value of the energy being saved has to be more than the promoted company saves through the CIT incentives as a result of the investment.

V. Conclusion

The regulations and new incentives for **the new BOI applicant** under this promoted policy, provides additional incentives par-

ticularly interesting with regard to the removal of the cap amount for corporate tax incentives and the promotion being granted independently from the Zone where it is situated.

As for the existing businesses, the main objective is to encourage the existing BOI and none-BOI businesses to improve its production through a sustainable development.

Especially the high profile mechanical engineering industry in from Europe can benefit from those incentives since they promote the investment into more advanced, energy saving and environmentally friendly technology and make such improvements more feasible. The new incentives can therefore be used as a sales argument in discussions with customers in order to justify higher prices of the products sold.

Appendix I**Activities which are identified as target industries and carry additional incentives if applied for until 31 December 2012:**

- Manufacture of medical food (special formulated food that is intended for a specific dietary management of a disease or condition with special requirements (Cat. 1.11.10))
- Medical electronics (Cat. 5.5.5)
- Manufacture of advanced ceramics (Cat. 2.5.3)
- Manufacture of nano materials or products thereof (Cat. 2.19)
- Manufacture of natural or synthetic fibres (Cat. 3.1.1)
- Manufacture of medical (Cat. 3.9) and scientific (Cat. 3.10) materials
- Manufacture of machinery, equipment and parts that have engineering design (Cat. 4.2.1)
- Manufacture of farm machinery or equipment and food processing machinery or equipment (Cat. 4.2.2) and for agricultural electronics (Cat. 5.5.6)
- Manufacture or repair of mould and die (Cat. 4.2.4)
- Manufacture, repair or conversion of aircraft, including aircraft parts and equipment or on-board equipment (Cat. 4.9)
- Manufacture of vehicle parts (limited to automatic transmissions, continuously variable transmissions, traction motors for automobiles (hybrid or fuel cell cars), electronic stability control systems, regenerative break system, rubber tires for vehicles; Cat. 4.10) and the manufacture of electronic parts for vehicles (Cat. 5.5.7)
- Manufacture of industrial equipments (Cat. 5.4.3) and telecommunication equipment (Cat. 5.4.4)
- Manufacture of semiconductors (Cat. 5.5.1)
- Manufacture of memory storage equipment (only HDD, SDD and their parts; Cat. 5.5.2)
- Manufacture of parts of telecommunication equipment (Cat. 5.5.4)
- Manufacture of solar cells and raw material for solar cells (Cat. 5.5.10)
- Manufacture of flat panel displays (Cat. 5.5.12)
- Manufacture of material for microelectronics (Cat. 5.6)
- General electronic design (Cat. 5.7)
- Human resource development (Cat. 7.18)
- Biotechnology (Cat. 7.18)
- Research and development (Cat. 7.20)
- Scientific laboratories (Cat. 7.21)



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