

# **Newsletter No 53 (EN)**

## **Establishment of a Branch Office in Thailand**

**May 2009**

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According to the Foreign Business Act B.E. 2542 (1999), foreigners are prohibited from operating some categories of business, and some categories of business can be operated by obtaining a license or a certificate according to the Business Lists as a case maybe.

“Foreigner” under the Foreign Business Act (FBA) means:

1. A natural person who does not have Thai nationality;
2. A juristic person not registered in Thailand;
3. A juristic person registered in Thailand having half or more of its capital shares held by person or juristic person as mentioned in 1 or 2.
4. Juristic person registered in Thailand having half or more of its capital shares held by the person under 1, 2 or 3.

The Business List under the FBA

- Business List 1: covers businesses which foreigners are not allowed to operate unless there is an exception contained in a special law or treaty.
- Business List 2: covers businesses owned by foreigners that were in existence and actually operating prior to the enactment of the Foreign Business Act. These businesses were permitted to apply for a special Foreign Business License and to continue operating. Foreigners, however, are not permitted to

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start new businesses listed in this category unless they obtain special permission from the Minister with the approval of the Cabinet.

- Business List 3: businesses are treated in a manner similar to those in List 2 and can be carried out by foreigners only upon having obtained a Foreign Business License. The power to grant a Foreign Business License to foreigners who wish to start a new business covered by List 3 is vested in the Director-General of the Department of Business Development and requires the approval of the Committee.

Although there is no requirement for foreign companies to establish a Branch Office in Thailand, most business activities of the Branch Office often fall into one of the categories which require a license under the Foreign Business Act.

As a condition for approval of a Foreign Business License to a Branch Office, minimum working capital in foreign currency amounting to a total of 3 million Baht must be brought into Thailand. The amount of not less than 25 percent of the minimum capital must be brought or remitted within the first 3 months. In the first year, the capital must be bought or remitted in total not less than 50 percent. Then, for the remainder, the amount of not less than 25 percent of the minimum capital must be successively brought or remitted each year. This amount may be changed by subsequent Ministerial Regulations.

A Branch Office may exist for an indefinite period up to its date of dissolution, unless a shorter period is indicated in the application as a result of a contract for a special project in Thailand.

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## Required Documentation

General documentation required to be submitted to Ministry of Commerce:

- Copy of Company Affidavit or other documents showing juristic person status with particulars of name, capital, objectives, address, list of directors and signing authority
- Power of Attorney issued by the authorised person(s) of the juristic person appointing its representative(s) in Thailand
- Copy of Passport, Foreign Certificate or copy of Identity Card of the representative(s)
- Copy of Household Registration, Resident Permit or document showing temporary visa under the law governing immigration, of the representative (s)
- Affidavit of the applicant stating that the applicant, its director(s), manager(s) or representative(s) are qualified and are not disqualified according to Section 16 of the Foreign Business Act B.E. 2542
- Letter describing details of the business activities applied for licence
- Map showing roughly the location of its business operating place in Thailand
- Power of Attorney, in case other person(s) is/ are authorised to act on its behalf

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