

Newsletter No 32 (EN)

Work Permit Requirements in Thailand

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I. Introduction

Since the introduction of the Aliens Working Act 2551 (2008), the success of a work permit application for a foreign employee depends in particular on the hiring company's registered and paid up capital.

II. General Regulations

- 1) **Thai juristic persons** who wish to apply for a work permit for foreigner must have at least 2 million Baht fully paid-up capital per foreigner. The meaning of "Thai juristic person" is a juristic person registered in Thailand. It is not related to the shareholding structure between Thais and foreigners.
- 2) **Foreign juristic persons** who operate in Thailand and wish to apply for work permit for foreigner (such as registered branch of a foreign company) must bring at least 3 million Baht per foreigner into the country.

If the foreign juristic person started operating in Thailand before 30th October 2002 and has no evidence of bringing in the funds from abroad, the consideration will be made based on the amount of money appearing in the bank account over the last six months being not less than 3 million baht per foreigner.

The above regulations are also applicable to the extensions of work permit which are issued before this announcement and new applications.

III. Additional Requirements

However, the above permission may be granted to a maximum of 10 persons, except a permission according to suitability in any of the following cases is granted:

- The employer has paid corporate income tax in the past year in minimum of 3 million Baht.

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- The employer operates the business of exporting goods abroad and has brought in foreign currency into the country minimum 30 million Baht upwards in the past year.
- The employer operates tourism business and has taken at minimum 5,000 foreigners into Thailand for tourist purposes.
- The employer employs Thai labour at not less than 100 persons.

IV. Exemption

In particular, the following persons are exempted from the limitation of number of foreigner as stated in the above:

- A foreigner whose work is associated with technology that Thai nationals cannot perform, or of insufficient number to the demand of labour market within the country. There shall be transferred such technology to at least two Thai nationals within the period of time prescribed.
- A foreigner who performs his duties by using specific knowledge and expertise and who completes the work under a project within a definite period of time.
- Foreigners employed by a foundation registered under Thai law with an appropriated property exceeding 3 million Baht

V. Special Exemption for Foreign Juristic Person

- 1) **Representative Offices** in Thailand operating the following businesses can apply at not more than 2 persons:
 - Providing advice in various aspects concerning the goods of the head office which are distributed to distribution agents or users
 - Propagation of information relating to new goods or services of the head office
 - Reporting of business movements in Thailand to the head office

The following business can apply at not more than 5 persons:

- Providing sources of goods or services in Thailand to head office
- Inspection and control of quality and quantity of the goods bought by the head office or the goods manufactured in Thailand under an order of the head office

Exemptions are granted to the representative offices which can secure sources for the purchase of goods or services in Thailand for the head office and the head office buys goods or services from a manufacturer in Thailand by which

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the total value of the goods or services in the past year is not less than 100 million Baht.

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2) **Regional Offices** in Thailand who operate the following businesses can apply for foreigners' work permit at not more than 5 persons:

- Communicating, coordinating and directing, on behalf of the head office, the operation of branches and affiliates which are located in the region
- Provide services in consulting and management
- Training and personnel development
- Financial management
- Marketing control and sale promotion planning
- Product development
- Services in research and development

Exemption are granted to a regional office which has brought money into Thailand in the past year of not less than 10 million Baht.

VI. Legal Consequence

Working without work permit in Thailand has severe consequences.

A foreigner who is caught in Thailand for working without a work permit, will be punished with imprisonment of not exceeding five years, a fine from two thousand Baht to one hundred thousand Baht, or both.

Generally, a foreigner who is caught in Thailand for working without a work permit, will be brought to the court as soon as possible and will be punished with a fine or imprisonment which is depending on the court's consideration. In case of the first conviction, normally the foreigner will be punished with a fine. Thereafter, the foreigner will be deported from Thailand and will be prohibited to re-enter into Thailand for generally at least one year.

The employer and its representatives who permit a foreigner to work without a work permit, will be punished with a fine of not exceeding ten thousand Baht, depending on the severity of the offence.