DOING BUSINESS

IN THAILAND

The network for doing business

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1 – INTRODUCTION

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in around 90 countries throughout the world.

Business partners work together through the network to conduct transnational operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in Thailand has been provided by the office of UHY representatives:

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A detailed firm profile for UHY's representation in Thailand can be found in section 8.

Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at May 2015.

We look forward to helping you do business in Thailand.

2 – BUSINESS ENVIRONMENT

GATEWAY TO ASIA

Thailand enjoys a strategic location and serves as a gateway into the heart of Asia – home to what is today the largest growing economic market.

The country also offers convenient trade with China, India and the countries of the Association of Southeast Asian Nations (ASEAN), and easy access into the Greater Mekong sub-region, where newly emerging markets offer great business potential.

HUB OF ASEAN

Thailand was one of the founding members of ASEAN and has been instrumental in the formation and development of the ASEAN Free Trade Area (AFTA). AFTA entered into force on 1 January 2010 for the six original ASEAN (ASEAN-6) members (Thailand, Singapore, Malaysia, Indonesia, Philippines, and Brunei) thereby reducing import duties to zero; the so-called CLMV countries (Cambodia, Laos, Myanmar and Vietnam) will follow suit in 2015.

Thailand is ideally located at the crossroads of Asia, with easy access to the region's dynamic markets, including its own booming domestic consumer market of 67 million people. Thailand has long been a proponent of free and fair trade and its attractiveness as a production base for leading international companies is enhanced by a number of free trade agreements, and Thailand is certain to be a beneficiary of the ASEAN Economic Community (AEC), which will enter into force in 2015.

COUNTRY BACKGROUND

SOCIAL AND POLITICAL STABILITY

Thailand is a foreigner friendly and welcoming Buddhist country. The country's form of government is a constitutional monarchy, with a high reverence for the Thai Monarchy, and devotion to the teachings of Buddhism. And although the vast majority of the people in Thailand are Buddhist, all religions are welcome, and His Majesty the King is the patron of all religions.

GROWING ECONOMY

Economically, this country of 67 million people is characterized by steady growth, strong exports and a vibrant domestic consumer market. Abundant natural resources and a skilled and cost-effective work force help attract foreign investors, and enable them to prosper and develop industry in Thailand.

WORLD-CLASS INFRASTRUCTURE

In addition to a growing highway system that now connects not only every province in Thailand, but also to neighboring countries of Laos, Cambodia and Vietnam, Thailand also offers:

- Seven international airports
- Modern city-wide mass transit
- 3G/WiFi and broadband access
- 6 deep sea ports and 2 international river ports, including containers, tank farms and liquid jetties

Thailand's development plans for 2012 – 2022 include a high speed rail network that will connect north, south, east and west of Thailand, as well as to southern China. The mass transit system is being expanded into the suburbs and air and marine transportation will be further strengthened to meet the pace of growing demand.

FDI POLICIES

The country's well-defined investment policies focus on liberalization and encourage free trade. Foreign investments, especially those that contribute to the development of skills, technology and innovation are actively promoted by the government. Thailand consistently ranks among the most attractive investment locations in international surveys, and the World Bank's 2014 Ease of Doing Business report places Thailand as the 18th easiest country in the world (and fifth-ranked country in Southeast Asia) in which to do business. Likewise, the United Nations Conference on Trade and development (UNCTAD) ranks Thailand as the 8th most attractive host economy in the world (UNCTAD 2012-2014).

GOVERNMENT SUPPORT AND INCENTIVES

Numerous government agencies support investors. Through the Board of Investment, the government offers a range of tax incentives, support services and import duty exemptions or reductions to an extensive list of promoted activities.

Companies receiving investment promotion privileges from the Board of Investment are not subject to foreign equity restrictions in the manufacturing sector, and there are no local content requirements or export requirements, as Thailand's investment regime is in total compliance with WTO regulations.

The Board of Investment also coordinates the activity of the One-Stop Service Center for Visas and Work Permits, which enables foreign staff of BOI-promoted companies to obtain work permits and long-term visas within three hours or less.

The BOI also administers the One Start One Stop Investment Center, which opened in November 2009 to facilitate a full range of services and streamline investment procedures by bringing representatives from more than 20 government agencies under one roof.

In addition to the activities of the BOI, other government organizations, such as the Department of Export Promotion and international chambers of commerce, provide invaluable support and a host of other important services.

LONG–ESTABLISHED AND NEWLY EMERGING INDUSTRIES

With steady economic development and strong support industries, the country's industrial production has grown and diversified rapidly both in long–established and newly emerging industries.

The government has emphasized attracting investment in six sectors that have been determined to be key to the country's developmental objectives. These six target industries include: agriculture and agro-industry, alternative energy, automotive, electronics and ICT, fashion, and value-added services including entertainment, healthcare and tourism.

FRIENDLY AND RICH CULTURE

Thailand has gained a well-deserved reputation throughout the world for its gracious hospitality. The friendliness of its people and the diverse nature of Thai culture make visitors feel safe and at home in Thailand. Recently, the 2013 Business Traveller Asia-Pacific Travel Awards awarded Bangkok as “Best Leisure Destination in Asia-Pacific”; the city is also ranked second, after Singapore, as “Best Business City in Southeast Asia”.

EDUCATION AND HEALTHCARE SERVICES

The education standards in Thailand are accepted by many international examining bodies, and a great number of international schools and colleges offer world-class education, while its universities are outstanding.

In terms of healthcare, the country has developed an excellent reputation globally, due to its internationally-certified doctors and medical staff, and modern facilities and equipment. It is so good that one of the fastest-rising tourism sectors is medical tourism, with international patients visiting Thailand to take advantage of Thailand's world-class and extremely affordable health care system.

WORLD BANK EASE OF DOING BUSINESS 2014

Every year, the World Bank conducts a study of Ease of Doing Business in countries around the world. The Doing Business report, which looks at domestic and medium-sized enterprises and quantitatively measures regulations affecting them, covers nine indicators for 189 economies. Ease of Doing Business 2014 ranked Thailand #18 in the world, placing in 5th in East Asia & Pacific.

TABLE 1

Ease of Doing Business, 2014 rankings for Asian countries

Country 2014	Ranking
Singapore	1
Thailand	18
Malaysia	6
Vietnam	99
China	96
Brunei	59
Indonesia	120
Cambodia	137
Philippines	108
Laos	159
Myanmar	182

Source: www.doingbusiness.org

FACTS ABOUT THAILAND

Population (2010)	66 million
ASEAN Population	600 million
Literacy Rate	96%

Minimum Wage	300 Baht/day
GDP (2013)	US$385 billion
GDP per Capita (2013)	US$5,647
GDP Growth (2013)	2.9%
GDP Growth (2014, projected)	1.5-2.0%
Export Growth (2013)	-0.2%
Export Growth (2014, projected)	2.0%
Trade Balance (2013)	US$ 6.4 billion
Current Account Balance (2013)	US$ -2.8 billion
International Reserves (2013)	US$167.23 billion
Capacity Utilization (2013)	64.36%
Manufacturing Production Index (2013)	175.8
Core Inflation (2014, projected)	1.9-2.4
Headline Inflation (2014, projected)	1.9-2.4
Consumer Price Index (Aug 2014) (2011=100)	107.6
Corporate Income Tax	10-20%
Withholding Tax	0-15%
Value Added Tax	7%

AUG AVERAGE EXCHANGE RATES

US$1 = 32.01 baht
€1 = 42.61 baht
£1 = 53.45 baht
100 ¥ = 31.07 baht
CNY1 = 5.21 baht

Last Updated: September 2014

3 – FOREIGN INVESTMENT

Thailand is attractive to foreign investors and is a major investment base in the ASEAN region.

According to official data, within the first seven months of 2012, the amount of foreign direct investment to Thailand was THB 3,322 billion, which is 62% more than for the same period of 2011.

Though Thailand's investment regulations are quite liberal, there are some restrictions for foreign investments in certain segments of economy.

In order to attract more foreign investors, the Thai government cut corporate income tax from its maximum rate of 30% in 2011 to 23% in 2012, and to 20% from 1 January 2013.

Thailand has many factors in its favour which make the country an attractive location for foreigners to invest, including the following:

- Thailand's economy is well diversified with strong manufacturing sectors such as automotive, electronics, gems and jewellery, chemicals and the agricultural sector
- Inflation in Thailand is no higher than in the EU and GDP is growing
- Thailand is ranked as the 17th easiest country to do business in around the globe and Thailand's economic freedom is ranked 10th out of 41 countries in the Asia-Pacific region, with its overall score higher than the world and regional averages
- Repatriation of capital, profits, interests and dividends from Thailand is not restricted
- There are no limits for the amount of foreign currency that may be brought into Thailand
- The workforce cost is still low, even when compared with other South-eastern Asian countries, while the quality of Thai goods and services is high
- Thailand's infrastructure is one of the most developed in the whole of Asia.

4 – SETTING UP A BUSINESS

The following is an overview of establishing a business in Thailand.

As in most countries, there are three kinds of business organizations in Thailand: Sole proprietorships, partnerships, and limited companies.

The most popular form of business organization among foreign investors is the private limited company. Private limited companies require a minimum of three promoters and must file a memorandum of association, convene a statutory meeting, register the company, and obtain a company income tax identity card. They must also follow accounting procedures specified in the Civil and Commercial code, the Revenue Code and the Accounts Act. A balance sheet must be prepared once a year and filed with the Department of Revenue and Commercial Registration. In addition, companies are required to withhold income tax from the salary of all regular employees.

The Ministry of Industry administers The Factory Act, which governs factory construction and operation, as well as safety and pollution-control requirements. In some cases, factories do not require licenses, in other instances the requirement is simply to notify officials in advance of start-up, and in some cases licenses are required prior to commencing operations. Licenses are valid for five years, and are renewable.

Thailand recognizes three kinds of intellectual property rights: patents, trademarks, and copyrights.

The Patent Act protects both inventions and product designs and pharmaceuticals. The Copyright Act protects literary, artistic works, and performance rights, by making it unlawful to reproduce or publish such works without the owner's permission. The Trademark Act governs registration of, and provides protection for, trademarks.
The Alien Occupation Law requires all foreigners working in Thailand to obtain a Work Permit prior to starting work in the Kingdom, except when they are applying under the Investment Promotion Law, in which case they have 30 days to apply.

Non-Immigrant visas provide the holder with eligibility to apply for a work permit, and allow the holder to work while the work permit application is being considered.
Through the links below, you can learn more about topics such as industrial licensing, taxation, patents and trademarks, and the cost of doing business in Thailand. You can also find out about the status of Thai infrastructure, including facilities such as airports, deep sea ports, and highways, and the availability of power, water and telecommunications.

In addition, there is a link to a page of statistics, which displays tables of utility, communications and labor costs, tax rates, information about air, sea, rail and road freight pricing, and information about availability and cost of land within industrial estates. Other charts and tables provide costs of establishing and running an office in Bangkok, and the results of a survey of expatriate living costs in Bangkok.

This page also contains information about industrial production of selected products in Thailand, tables breaking down Thai imports and exports by product and a table displaying interest rate movements for the past 5 years.

ESTABLISHING A COMPANY

PROMOTERS

Company promoters are responsible for registering the company with the Ministry of Commerce (MOC). The promoters must be individuals (not juristic persons) who are 20 years of age or older, and they must be available to sign documentation during the registration process. There must be a minimum of 3 promoters for a private limited company and at least 15 promoters for a public limited company.

Each of the promoters is required to be among the company’s initial shareholders immediately after the company’s registration and is required to hold a minimum of one share upon the company's registration. However, they are generally free to transfer those shares to existing shareholders or third parties, thereafter, if they wish. It is not required for the individuals serving as promoters to reside in Thailand.

Promoters' potential legal liability is generally limited to the par value of the shares they will hold after registration is completed. The promoters are also responsible for paying expenses associated with the company's registration. After registration, however, the company may choose to reimburse the promoters for those expenses.

TIMING

Registration of the company occurs at the MOC and can be accomplished on the same day as the registration of the memorandum of association provided that:

- All registered shares have been subscribed for
- A statutory meeting is held to transact the business with the presence of all promoters and subscribers, and all promoters and subscribers have approved the transacted business
- The promoters have handed over the business to the directors and
- The payment of at least 25% of the total shares has been paid by the shareholders.

If the company falls under the definition of “foreign” (as defined in the Foreign Business Act (FBA)), it will normally be required to obtain Cabinet approval or a Foreign Business License prior to commencing operations.

Applying for and obtaining the company’s tax ID card and VAT certificate (if required) takes place after registration with the MOC and can normally be accomplished within seven to 10 days after providing all required information and documents to the Revenue Department.

FILINGS

All documents associated with the company’s registration must be submitted to the registrar of the Department of Business Development of the MOC; or, if the company’s office is to be located outside of Bangkok, they must be submitted to the filing office of the province where the office will be located.

All documents associated with the registration of the company's tax ID card and VAT certificate must be submitted to the Central Filing Office of the Revenue Department in Bangkok; or, if the company's office is to be located outside of Bangkok, to the Revenue Office of the province where the office will be located.

REGISTRATION PROCESS

CORPORATE NAME RESERVATION

The first step of the company registration process is name reservation. To reserve a name, one of the promoters is required to submit a signed Name Reservation Form to the Department of Business Development of the MOC.

The promoter is required to supply the requested company name together with two alternative names. The registrar will then examine the application in order to ensure that:

- No similar company names have previously been reserved; and
- The names do not violate any ministerial rules.

If the applicant's intended name is in conflict with either of the above, that name will be rejected and the registrar will consider the alternative names submitted. This process can normally be completed within two to three days. If all three names submitted are rejected, the applicant will be required to re-submit the form with three new names.

The registrar has considerable discretion with regard to the matter of company names. Many times, the first name or even the first two names are rejected for violating one of the two rules stated above. Once the name is approved, the corporate name reservation is valid for 30 days, with no extensions.

FILING A MEMORANDUM OF ASSOCIATION

After the name reservation has been approved, the company must then submit its Memorandum of Association (MOA). The MOA must include the name of the company, the province where the company will be located, the scope of the company's business, the capital to be registered, and the names of the promoters. The capital information must include the number of shares and their par value. At the formation step, the authorized capital, although partly paid, must all be issued.

The memorandum registration fee is 50 baht per 100,000 baht of registered capital. The minimum fee is 500 baht and the maximum fee is 25,000 baht. Although there are no minimum capital requirements, the amount of capital should be respectable and adequate for the intended business operation. However, if the company falls under the definition of a foreign company, the following rules apply:

- If the company engages in activities specified in the FBA, its minimum registered capital would be the greater of 25% of the company's average per year expenses for its first three years of operation and 3 million baht (exceptions apply) fully (100%) paid up.
- If the company does not engage in activities specified in the FBA, its minimum registered capital would be 2 million baht fully (100%) paid up.

If the company is to employ foreigners, other minimum registered capital requirements may also apply.

CONVENING A STATUTORY MEETING

Once the share structure has been defined, a statutory meeting is called, during which the following are determined:

- The adoption of the Articles of Association (by-laws)
- Ratification of any contracts entered into and any expenses incurred by the promoters in promoting the company
- Fixing the amount of remuneration, if any, to be paid to the promoters
- Fixing the number of preferred shares, if any, to be issued, and the nature and extent of the preferential rights accruing to them
- Fixing the number of ordinary shares or preferred shares to be allotted as fully or partly paid-up other than in money, if any, and the amount up to which they shall be considered as paid-up.
- Appointment of the initial director(s) and auditor(s) and determination of the respective powers of the directors.

The promoters shall over the business to the directors.

REGISTRATION

Within three months of the date of the statutory meeting, the directors must submit the application to establish the company. If not registered within the specified period, the company statutory meeting shall be void and if would like to register to establish the company, shall arrange the meeting for persons who reserve to buy the shares again.

During the registration process, the promoters will be required to supply the name, license number, and remuneration of the auditor the company is planning to hire. The company registration fee is 500 baht per 100,000 baht of registered capital. The minimum fee is 5,000 baht and the maximum fee is 250,000 baht.

The directors shall then cause the promoters and subscribers to pay forthwith upon each share payable in money such amount, not less than 25%, as provided by the prospectus, notice, advertisement, or invitation. The company is then registered as a legal entity (or juristic person).

If all necessary documents are complete and duly signed by all promoters, directors, and shareholders, the above steps can be completed in one day.

REGISTERING FOR TAX DOCUMENTS

Companies liable for income tax must obtain a tax ID card and number from the Revenue Department within 60 days of incorporation or the start of operations. Companies that have turnover in excess of 1.2 million baht must also register for VAT with the Revenue Department within 30 days of the date the annual turnover exceeded that threshold.

ACCOUNTING AND FINANCIAL REPORTING REQUIREMENTS

BOOKS OF ACCOUNTS AND STATUTORY RECORDS

Companies must keep books and follow accounting procedures as specified in the Civil and Commercial Code, the Revenue Code, and the Accounts Act. Documents may be prepared in any language, provided that a Thai translation is attached. All accounting entries should be written in ink, typewritten, or printed. Specifically, Section 12 of the Accounts Act of 2000 provides rules on how accounts should be maintained:

"In keeping accounts, the person with the duty to keep accounts must hand over the documents required for making accounting entries to the bookkeeper correctly and completely, in order that the accounts so kept may show the results of operations, financial position according to facts and accounting standards."

ACCOUNTING PERIOD

A newly established company should close accounts within 12 months of its registration. Thereafter, the accounts should be closed every 12 months. If a company wishes to change its accounting period, it must obtain written approval from the Director-General of the Revenue Department.

REPORTING REQUIREMENTS

All juristic companies, partnerships, branches of foreign companies, and joint ventures are required to prepare a financial statement for each accounting period. The financial statement must be audited by and subjected to the opinion of a certified auditor, with the exception of the financial statement of a registered partnership established under Thai law, whose total capital, assets, and income are not more than that prescribed in Ministerial Regulations. The performance record is to be certified by the company auditor, approved by shareholders, and filed with the Commercial Registration Department of the MOC and with the Revenue Department of the Ministry of Finance (MOF) within 150 days of the end of the fiscal year.

ACCOUNTING PRINCIPLES

In general, the basic accounting principles practiced in the United States are accepted in Thailand, as are accounting methods and conventions sanctioned by law. The Institute of Certified Accountants and Auditors of Thailand is the authoritative group promoting the application of generally accepted accounting principles.

Any accounting method adopted by a company must be used consistently and may be changed only with approval of the Revenue Department. Certain accounting practices of note include:

- Depreciation: The Revenue Code permits the use of varying depreciation rates according to the nature of the asset, which has the effect of depreciating the asset over a period that may be shorter than its estimated useful life. These maximum depreciation rates are not mandatory. A company may use a lower rate that approximates the estimated useful life of the asset. If a lower rate is used in the books of the accounts, the same rate must be used in the income tax return.

- Accounting for Pension Plans: Contributions to a pension or provident fund are not deductible for tax purposes unless they are actually paid out to the employees, or if the fund is approved by the Revenue Department and managed by a licensed fund manager.
- Consolidation: Local companies with either foreign or local subsidiaries are not required to consolidate their financial statements for tax and other government reporting purposes, except for listed companies, which must submit consolidated financial statements to the Securities and Exchange Commission of Thailand .
- Statutory Reserve: A statutory reserve of at least 5% of annual net profit arising from the business must be appropriated by the company at each distribution of dividends until the reserve reaches at least 10% of the company's authorized capital.
- Stock Dividends: Stock dividends are taxable as ordinary dividends and may be declared only if there is an approved increase in authorized capital. The law requires the authorized capital to be subscribed in full by the shareholders.

AUDITING REQUIREMENTS AND STANDARDS

Audited financial statements of juristic entities (i.e. a limited company, registered partnership, branch, representative office, regional office of a foreign corporation, or joint venture) must be certified by an authorized auditor and be submitted to the Revenue Department and to the Commercial Registrar for each accounting year.
However, for a registered partnership with registered capital of less than five million baht, total revenue of no more than 30 million baht, and total assets of no more than 30 million baht, financial statements need only be submitted to the Revenue Department and not to the Commercial Registrar.
Auditing practices conforming to international standards are, for the most part, recognized and practiced by authorized auditors in Thailand.

TYPES OF BUSINESS ORGANIZATIONS

Thailand recognizes three types of business organizations: partnerships, limited companies and joint ventures.

PARTNERSHIPS

According to the Civil and Commercial Code (CCC), partnerships can be divided into 2 types:
(1) Ordinary Partnerships
(2) Limited Partnerships

ORDINARY PARTNERSHIP

In an ordinary partnership, all the partners are jointly and wholly liable for all obligations of the partnership. An ordinary partnership may or may not register as a juristic person. Therefore, an ordinary partnership can be divided into 2 types:
(1) Non-registered Ordinary Partnership - has no status as a juristic person and is treated, for tax purposes, as an individual.
(2) Registered Ordinary Partnership - is registered with the Commercial Registrar as a juristic person and is taxed as a corporate entity.

LIMITED PARTNERSHIP

Limited partnerships can take two forms:
(1)One or more partners whose individual liability is limited to the amount of capital contributed to the partnership, or
(2) One or more partners who are jointly and unlimitedly liable for all the obligations of the partnership.

Limited partnerships must be registered and are taxed as a corporate entity.

PARTNERSHIP REGISTRATION

When two or more people agree to invest in one of the aforementioned types of partnership, the appointed managing partner is responsible for registering the partnership with the commercial registration office of the province that the head office of the partnership is located in.

A limited partnership must be only managed by a partner with unlimited liability.
The fee for registering a partnership is 1,000 baht for every 100,000 baht of registered capital. The minimum fee is 1,000 baht and the maximum fee is 5,000 baht.

LIMITED COMPANIES

There are two types of limited companies: private limited companies and public limited companies. The first is governed by the Civil and Commercial Code and the second is governed by the Public Limited Company Act.

PRIVATE LIMITED COMPANIES

Private Limited Companies in Thailand have basic characteristics similar to those of Western corporations. A private limited company is formed through a process that leads to the registration of a Memorandum of Association (Articles of Incorporation) and Articles of Association (By-laws) as its constitutive documents.

Shareholders enjoy limited liability, i.e. limited to the remaining unpaid amount, if any, of the par value of their shares. The liability of the directors, however, may be unlimited if stipulated as such in the company's MOA.

Limited companies are managed by a board of directors in accordance with the company's charter and by-laws. All shares must be subscribed to, and at least 25% of the subscribed shares must be paid up. Both common and preferred shares of stock may be issued, but all shares must have voting rights. Thai law prohibits the issuance of shares with a par value of less than five baht. Treasury shares are prohibited.

A minimum of three shareholders is required at all times. Under certain conditions, a private limited company may be wholly owned by foreigners. However, in those activities reserved for Thai nationals, foreigner participation is generally allowed up to a maximum of 49%. The registration fee for a private limited company is 5,500 baht per million baht of capital.

The 49% limit in certain reserved businesses can be exceeded or exempted if a Foreign Business License is granted. If the desired business is unique, does not compete with Thai businesses, or involves dealings among members of an affiliated company, the chance of approval is more probable. Conditions, such as minimum capital, transfer of technology and reporting requirements, may be attached to Foreign Business License.

PUBLIC LIMITED COMPANIES

Subject to compliance with the prospectus, approval, and other requirements, public limited companies registered in Thailand may offer shares, debentures, and warrants to the public and may apply to have their securities listed on the Stock Exchange of Thailand (SET).

Public limited companies are governed by the Public Limited Company Act B.E. 2535 (A.D. 1992), as amended by Public Limited Company Act No. 2 B.E. 2544 (A.D. 2001) and Public Limited Company Act No. 3 B.E. 2551 (A.D. 2008). The rules and regulations concerning the procedure of offering shares to the public is governed by the Securities and Exchange Act B.E. 2535 (A.D. 1992) and the amendments thereto, under the control of the Securities and Exchange Commission (SEC). All companies wishing to list their shares on the SET must obtain the approval of and file disclosure documents with the SEC, and then obtain SET approval to list their shares.

For public limited companies, there is no restriction on the transfer of shares (except to satisfy statutory or policy ceilings on foreign ownership); director's proxies are not allowed; circular board resolutions are not allowed; directors are elected by cumulative voting (unless the MOA provides otherwise); at least 50% of the directors must reside in Thailand; and board meetings must be held at least once every three months. Directors' liabilities are substantially increased.

A minimum of 15 promoters is required for the formation and registration of a public limited company, and the promoters must hold their shares for a minimum of two years before they can be transferred. The Board of Directors must have a minimum of five members, at least half of whom are Thai nationals. Shares must have a face value of at least five baht each and be fully paid up.

Restrictions on share transfers are unlawful, with the exception of those protecting the rights and benefits of the company as allowed by law and those maintaining the Thai/foreigner shareholder ratio. Debentures may only be issued with the approval of three quarters of the voting shareholders. The registration fee is 2,000 baht per million baht of registered capital.

The qualifications for independent directors of listed companies and securities companies that have initial public offerings were amended in April 2009, as follows:

1. At least one-third of the board's complement should be independent directors, and in any case, the number should not be fewer than three. This will apply for listed companies' annual general shareholders' meetings from the year 2010 onwards. In the case of an IPO, the requirement for independent directors has to be complied with from 1 July 2008 onwards.

2. The independent director must not have any business or professional relationship with the head office, subsidiaries, associates, or jurist person in his own interest, whether directly or indirectly, as outlined in the Thai Securities and Exchange Commission Circular No. Kor Lor Tor Kor (Wor) 11/2552 Re: the Amendment of the Regulation regarding the independent director.

SCRUTINIZATION OF THAI SHAREHOLDERS IN LIMITED COMPANIES

In 2006, the Commercial Registrar prescribed new rules for the registration of both public and private limited companies. The rules require that sources of investment by Thai nationals in the following two categories of new companies be scrutinized:
(1) A company in which foreigners hold between 40% and 50% of the shares.
(2) A company in which foreigners hold less than 40% of the shares but a foreigner is a director with the power to bind the company.

All Thai shareholders must disclose the source of their funds to the MOC.

An application for the incorporation of a limited company must now be accompanied by at least one of the following documents evidencing the source of funds of each Thai shareholder:

- Copies of deposit passbooks or bank statements disclosing transactions over the past 6 months
- A letter issued by a bank certifying the financial position of the shareholder
  Copies of other documents evidencing the source of funds (i.e. loan documentation)

In addition, the MOC has issued internal guidelines in support of the rules, which set out the following matters:

- The amounts shown in the documents of each Thai shareholder evidencing the source of funds must equal or exceed the amount of funds invested by that Thai shareholder
- The rules do not apply if a foreign national(s) has joint authority with a Thai national(s) to act on behalf of the limited company
- Copies of deposit passbooks or bank statements disclosing transactions that are less than six months old may be submitted to the MOC provided that entries on at least one day identify a balance that is equal to or exceeds the funds invested by the relevant shareholder.

Thai shareholders must provide evidence of their sources of funds regardless of the value of their shares.

OTHER FORMS OF CORPORATE PRESENCE

BRANCHES OF FOREIGN COMPANIES

Foreign companies may carry out certain business in Thailand through a branch office. Branch offices are required to maintain accounts only relating to the branch in Thailand. There is no special requirement for foreign companies to register their branches in order to do business in Thailand. However, most business activities fall within the scope of one or more laws or regulations that require special registration (e.g., VAT registration, taxpayer identification card, Commercial Registration Certificate, Alien Business License, etc.), either before or after the commencement of activities. Therefore, foreign business establishments must follow generally accepted procedures.

It should be borne in mind that the branch is part of the parent company and therefore the parent retains legal liability for contracts, and for tortious acts done. For tax purposes, a branch is considered a permanent establishment, and its revenue is subject to Thai tax. It is important to clarify beforehand what constitutes income that is subject to Thai tax because the Revenue Department may consider revenue directly earned by the foreign head office from sources within Thailand to be subject to Thai tax.

A condition for approval of a Foreign Business License for a branch of a foreign corporation is that minimum capital amounting to no less than five million baht be brought into Thailand within four years of start-up. The branch may be allowed to operate for a period of five years, unless a shorter period is applied for. Extension of the original duration of the license to operate may be granted, provided that the working capital to be brought into Thailand requirement is met.

REPRESENTATIVE OFFICES OF FOREIGN COMPANIES

A representative office is defined as an office in Thailand of a foreign company engaged in the business of international trading. A representative office in Thailand cannot engage in any profit-seeking or profit-making enterprise. The scope of activities of a representative office must be limited to approved activities, or significant Thai tax liabilities can arise. The risk of exceeding the scope of activities is that the income of the parent or affiliated companies may be deemed earned in Thailand and subject to taxation.

If the representative office engages in other activities for which permission is not granted, such as buying or selling goods on behalf of the head office, it will be regarded as doing business in Thailand and may be subject to Thai taxation on all income received from Thailand. Also, the representative office may not act on behalf of third persons. Any such business or income-earning activities could amount to a violation of the conditions of the license to establish and operate a representative office, which in turn could result in revocation of that license.

A representative office which undertakes one or more of the approved activities in Thailand without rendering any service to any other person, and which refrains from prohibited activities, is not subject to Thai taxation. Such a representative office is understood to be receiving a subsidy from the head office to meet its expenses in Thailand. Gross receipts or revenues received by a representative office from the head office are not characterized as revenue to be included in the computation of juristic person income tax.

Even though they are not subject to taxation in Thailand, all representative offices are still required to obtain a Corporate Tax Identification number and submit income tax returns and audited financial statements to the Revenue Department. They are also required to submit the same to the Department of Business Development.

SCOPE OF REPRESENTATIVE OFFICE ACTIVITIES

“International trading business” means activities concerning:

- Sourcing of goods or services for head office
- Checking and controlling the quality and quantity of goods purchased or hired to manufacture in Thailand by the head office
- Giving advice concerning goods of the head office sold to agents or consumers in Thailand

- Dissemination of information concerning new goods or services of the head office
- Reporting on business trends in Thailand to the head office.

The above international trading business is regarded as a service activity under Schedule 3 of the Foreign Business Act, and thus the establishment of a representative office requires an alien business license from the Director-General of the Department of Business Development.

FEES FOR REPRESENTATIVE OFFICE
Application fee (nonrefundable) is THB 2,000. If the application is approved, the government fee will be set at the rate of THB 5 for every THB 1,000 or a fraction thereof of the registered capital, with a minimum of THB 20,000 and a maximum of THB 250,000.

TAX POSITION OF REPRESENTATIVE OFFICE
The representative office is required to obtain a corporate tax identification number and submit income tax returns and balance sheets, even if nil.
Individual aliens and all local staff are required to obtain taxpayer cards and pay personal income tax.

REGIONAL OPERATING HEADQUARTERS (ROH)
A Regional Operating Headquarters (ROH) is a juristic company or partnership organized under Thai law to provide managerial, technical, or other supporting services (see below) to its associated companies or its domestic or foreign branches.

Supporting Services:
(1) General administration, business planning, and coordination
(2) Procurement of raw materials and components
(3) Research and development
(4) Technical support
(5) Marketing control and sales promotion planning
(6) Training and personnel management
(7) Corporate financial advisory services
(8) Economic or investment research and analysis
(9) Credit control and administration
(10) Any other services stipulated by the Director-General of the Revenue Department

Associated Company
A juristic company or partnership that is related to the ROH in one of the following manners:

A. Shareholding basis:

i. A juristic company or partnership holding shares in the ROH worth not less than 25% of total capital
ii. A juristic company or partnership in which the ROH is a partner or holds shares worth not less than 25% of total capital
iii. A juristic company or partnership in which a juristic company or partnership under (i.) is a partner or holds shares worth not less than 25% of total capital

B. Control basis:

i. A juristic company or partnership that has the power to control or supervise the operation and management of the ROH
ii. A juristic company or partnership that the ROH has the power to control or supervise the operation and management
iii. A juristic partnership that a juristic company or partnership in (i.) has the power to control or supervise the operation and management

Incentives

The government provides tax breaks and incentives to attract foreign companies to set up in the Kingdom.

A. REDUCTIONS/EXEMPTIONS ON CORPORATE INCOME TAX

i. Business income - ROH will be taxed at the reduced corporate rate of 10% on income derived from the provision of qualifying services to the ROH's associated companies or branches.
ii. Royalties - Royalties received from associated companies or branches arising from R&D work carried out in Thailand will be subject to tax at a reduced corporate rate of 10%. Royalties received from a non-related company can also enjoy this reduced rate.
iii. Interest - Interest income derived from associated companies or branches on loans made by an ROH and extended to its associated companies or branches will be subject to tax at a reduced corporate rate of 10%.
iv. Dividends - Dividends received by an ROH from associated companies will be exempt from tax. Dividends paid to companies incorporated outside of Thailand and which do not carry on business in Thailand will be exempt from tax.

B. ACCELERATED DEPRECIATION ALLOWANCES

25% of asset value is allowed as an initial allowance and the remaining can be deducted for over 20 years for the purchase or acquisition of buildings used in carrying out the operations of the ROH.

C. EXPATRIATES

i. An expatriate who is assigned by the ROH to work outside of Thailand is exempt from personal income tax in Thailand for services outside of Thailand. However, the said income must not be borne by the ROH or its associated company in Thailand.
ii. An expatriate who works for an ROH may choose to be subject to withholding tax at the rate of 15% for up to 4 years. By doing so, the expatriate is allowed to omit such income in the calculation of their annual personal income tax liability.

Requirements In order for an ROH to be eligible for tax benefits, it must fulfil the following conditions:

- The ROH must be a juristic company or partnership incorporated under Thai law
  The ROH must have at least 10 million baht in paid-up capital on the closing date of any accounting period
- The ROH must provide services to its overseas affiliated companies and/or branches in at least three countries excluding Thailand

- At least half of the revenue generated by the ROH must be derived from service provided to its overseas affiliated companies and/or branches, although this requirement will be reduced to not less than one-third of the ROH's revenue for the first three years
- The company must submit the notification to the Revenue Department
- Other requirements may be imposed by the Director-General of the Revenue Department

Reviewed June 2014

5 – LABOUR

LABOUR REGULATIONS

Employment legislation has a direct bearing on labour practices for each type of business and foreign investors should seek the appropriate advice to determine which legislation applies to their line of business.

LABOUR PROTECTION

Workers in Thailand are protected by the Labor Protection Act B.E. 2541 (1998), the Labor Protection Act B.E. 2551 (2008), the Labor Relations Act (No. 2) B.E. 2518 (1975), and other related laws. These laws apply to all businesses with at least 1 employee.

Employers who disregard these laws are subject to heave fines and possible imprisonment of up to 1 year.

It should be noted that domestic workers (household staff) are not included in the definition of "employee" and are not covered by the Labor Act. All other employees, whether full or part time, seasonal, casual, occasional or contract, are covered. Important protections contained in the law are:

WORK HOURS AND HOLIDAYS

The maximum number of hours for non-hazardous work is 8 hours a day, but not exceeding 48 hours per week. Where the working hours of any day are less than 8 hours, the employer and employee may agree to make up the remaining working hours in other normal working days, but not exceed 9 hours per day and the total working hours per week shall not exceed 48 hours.

In some types of work as stipulated by law, the employer and the employee may agree to arrange the period of working hours, but it still must not exceed 48 hours a week.

Hazardous work may not exceed 7 hours a day, or 42 hours per week.

The employees are entitled to no fewer than 13 national holidays per year, as well as a minimum of 6 days of annual vacation after working consecutively for 1 full year. The employees have the choice of whether they wish to work overtime or on holidays.

A female employee is entitled to maternity leave for a period of 90 days including holidays, but paid leave shall not exceed 45 days.

All employees are entitled to a daily rest period of at least 1 hour after working 5 consecutive hours. The employer and the employee may arrange the daily rest period to be shorter than 1 hour at each time, but it must not be less than 1 hour a day in total. A weekly holiday of at least 1 day per week at intervals of a six-day period must be arranged by the employer.

For work performed in excess of the maximum number or working hours fixed either by law or by specific agreement (if the latter is lower), the employees must be paid overtime compensation. The rates for overtime vary and range from 1-1/2 times to 3 times the normal hourly wage rate for the actual overtime worked. The maximum number of overtime working hours is limited to not more than 36 hours a week.

The minimum age for employment is 15 years, and the workers below the age of 18 are banned from dangerous and hazardous jobs. They are also prohibited from working overtime, on holidays, or between the hours of 10 p.m. and 6 a.m. A pregnant employee is also prohibited from working overtime, on holidays, or between the hours of 10 p.m. and 6 a.m. However, if she works in an executive position, or performs academic, administrative, and/or work relating to finance or accounts, the employer may assign her to work overtime on a working day with her consent insofar as it does not affect the health of the pregnant employee.

SICK LEAVE

Employees can take as many days of sick leave as necessary, but the employer is required to pay wages in respect of a day of sick leave for not exceeding 30 working days per annum. The employer may require the employee to produce a certificate from a qualified doctor for a sick leave of 3 days or more.

SEVERANCE PAY

Employees who have worked for at least 120 days but less than 1 year are entitled to 30 days severance pay. For personnel employed between 1 and 3 years, the severance pay is not less than 90 days' pay. The employees with 3 to 6 years of service will receive 180 days' pay, those with more than 6 to 10 years' service will receive 240 days' pay, and employees with more than 10 years' service will receive 300 days' pay.

TERMINATION OF EMPLOYMENT

Conditions for termination of employment are laid out in the Act, and a code governs unfair practices and unfair dismissals, which often are the result of the failure to follow correct legal procedures. Employee associations and labor unions must be registered at the Labor Department, and require a license for operation. Finally, a Labor Court specifically settles employment disputes. If an employment contract does not specify any duration, either party can terminate the contract by giving notice at or before any time of payment, to have effect in the next pay period.

EMPLOYEE WELFARE FUND

For companies with at least 10 employees that do not have a provident fund, an Employee Welfare Fund will be established to compensate the employees who resign, are laid off, or die in service. Both employers and employees will be required to contribute to this fund.
In addition to these provisions, there are restrictions on the kind of work that women and children can perform. Guidelines are set for wages and overtime, as well as resolution of labor-management disputes. The employers are required to pay workers compensation if an employee suffers injury, sickness or death in the course of work. Thai law also requires employers to provide welfare facilities, including medical and sanitary facilities.

WORKMEN'S COMPENSATION

The Workmen's Compensation Act of 1994 prescribes that an employer must provide the necessary compensation benefits for employees who suffer injury or illness or who die as a result or in the performance of their work at the rates prescribed by law.

The compensation benefits can be grouped into 4 categories: the compensation amount, the medical expenses, the work rehabilitation expenses, and the funeral expenses.

The payment of compensation benefits is made in accordance with the criteria and rates prescribed by law depending on the seriousness of the case. In general, the compensation amount must be paid monthly at the rate of 60% of the monthly wages of the employee subject to minimum rate and maximum rate prescribed by the Announcement of the Ministry of Labor and Social Security Welfare.

Actual and necessary medical expenses must be paid but not exceeding 45,000 baht for normal cases and 65,000 baht for serious injury.

Work rehabilitation expenses must be paid as necessary according to the criteria procedures and rates prescribed by law but not exceeding 20,000 baht.

In the case of death, the funeral expenses will be paid at a maximum amount equal to 100 times of the minimum daily wage rate prescribed by law.

SOCIAL SECURITY

The Social Security Act of 1990, amended in 1999 requires that all employers withhold social security contributions from the monthly wages of each employee.

The prescribed rate is currently 5% for the first 15,000 baht of salary. The employer is required to match the contribution from the employee. Both contributions must be remitted to the Social Security Office within the 15th day of the following month.

The employees with social security registration may file claims for compensation in case of injury, illness, disability or death that is not due to the performance of their work, and for cases of child delivery, child welfare, old age pension and unemployment.

CEASING OPERATIONS TEMPORARILY

When employers adopt this measure in Thailand, they can pay wages at a 25% reduced rate to the affected employees.

Lacking understanding of the law can result in court proceedings and the risk of a court order revoking the measure of "temporary cessation of operations."

For the conditions on adopting this measure, consult Section 75 of the Labor Protection Act. Furthermore, situations arising from events deemed to be a "force majeure", which result in the employer not being able to operate at all, may enable the employer to withhold all wages from employees.

TERMINATION OF EMPLOYMENT

If an employment contract does not specify any duration, either party can terminate the contract by giving notice at or before any time of payment to take effect in the next pay period, but not required to issue a notice in advance for more than 3 months.

However, there are some reasons which the employee can be dismissed without prior notice and compensation from the employer as follows:

(a) The employee wilfully disobeys or habitually neglects the lawful commands of his employer;
(b) The employee absents himself from service;
(c) The employee is guilty of gross misconduct;
(d) The employee acts in a manner incompatible with the due and faithful discharge of his duty.

In addition to the above, the employer is not required to pay severance pay to the employee whose employment is terminated by the employer for any of the following reasons;

(a) The employee has dishonestly carried out in his/her duties or committed an intentional criminal act against the employer;
(b) The employee has intentionally caused damage to the employer;
(c) The employee has gross negligently performed an act which results in severe loss to the employer;
(d) The employee has violated the employer's work regulations, rules or orders which are both lawful and equitable subsequent to a written warning (no warning is required for serious violations);
(e) The employee has abandoned his/her duties for 3 consecutive days without reasonable cause;
(f) The employee has been imprisoned by a final judgment of a court.

One of the grounds for dismissal with cause under the Labour Protection Act is repeated violation of work rules as stated in item (d) above, for which a previous letter of warning has been issued for the particular act. The letter will be effective for a period of 1 year from the date on which the employee commits the violation, not from when the letter was written. However, in case of a serious violation, a written warning notice is not required.

REQUIREMENTS FOR WARNING LETTER

Section 119 (4) of the Labour Protection Act provides for the dismissal for serious cause of an employee who has committed a repeat violation of an offence for which a written warning has already been given, but does not give guidance for the form requirements for the warning letter itself.

Based on previous decisions of the Supreme Court (Supreme Court Decision No. 1120/2544), it is evident that:

1. Prior to issuing the warning letter, the employer should first consider the work rules. If they contain a disciplinary procedure consisting of several stages which have to be followed step by step, the employer must follow each step.
2. The warning letter must contain:

a. Date of issuance of the warning letter;
b. Name and position of the employee;
c. A description of the behavior of the employee that constitutes a violation of the work rules;
d. A reference to the work rules which the employee has violated;
e. A statement that of the employee commits the same violation of the work rules again, the employer will punish the employee pursuant to the procedure in the work rules.

Further, the employer should ask the employee to sign the warning letter as an acknowledgement. The employer can read the letter to the employee, and ask 2 witnesses to sign the letter to confirm it has been read and that the employee refuses to sign. A letter from the employee acknowledging violations does not constitute a warning letter.
If the employee is a member of an Employee Committee formed in accordance with the Labour Relations Act, the employer may not discipline the employee, including by issuing a warning letter, even where there has been a determination of guilt. The employer must submit a petition to the Labour Court seeking an order approving the discipline of the employee. If approved, the employer may then proceed as described above.

In the event that the employer relocates its place of business in a way that essentially affects the normal living of an employee, the employer must notify the employee of the relocation at least 30 days in advance or pay an amount in lieu of the advance warning of 30 days' wages. If the employee refuses to move and work in the new location, the employee has the right to terminate the employment contract within 30 days as from the date of being informed by the employer or the date of relocation, as the case may be. In this regard, the employee is entitled to receive a special severance pay at the rate of not less than the rate of severance pay.

In the event the employer terminates an employment as a consequence of streamlining the work units, production process and distribution service, due to an introduction or change of machinery or technology that reduces the required number of employees, the employer must notify the Labor Inspector and the employee concerned at least 60 days in advance of the date of termination or pay an amount in lieu of an advance notice, that is equal to 60 days' wages to the employee. Moreover, the terminated employee will be entitled to the prescribed severance pay. In additional to that, if the terminated employee has worked consecutively for more than 6 years, the employee would be entitled to an additional special severance pay at the rate of not less than 15 days' wages for each full year of service, calculated from the start of year seven onwards. However, the total amount of this additional special severance pay is limited to the equivalent of 360 days' wages.

2014 MINIMUM DAILY WAGE

TABLE 2
2014 Minimum Wages *(effective from 1 January 2013 onward)*

MINIMUM WAGE	AREA

300 baht	Bangkok, Phuket, Samutprakan, Nakhonpathom, Nonthaburi, Pathumthani, Samutsakhon, Chonburi, Chachoengsao, Saraburi, Ayutthaya, Rayong, Phangnga, Ranong, Krabi, Nakhonratchasima, Prachinburi, Lopburi, Kanchanaburi, Chiangmai, Ratchaburi, Chantaburi, Petchburi, Songkhla, Sing Buri, Trang, Nakhonsithammarat, Angthong, Loei, Chumporn, Phatthalung, Satun, Sakaeo, Samutsongkhram, Prachuapkhirikhan, Yala, Suratthani, Narathiwat, Ubonratchathani, Udonthani, Nakhonnayok, Pattani, Nongkhai, Lampoon, Buengkan, Trat, Kamphaengphet, Uthaithani, Kalasin, Khon Kaen, Chainat, Suphan Buri, Chiang Rai, Nakhonsawan, Buribam, Phetchabun, Yasothon, Roiet, Sakonnakhon, Chaiyaphum, Mukdahan, Lampang, Sukhothai, Nongbualamphu, Nakhonphanom, Phichit, Phitsanulok, Phrae, Mahasarakham, Mae Hong Son, Amnatcharoen, Uttaradit, Surin, Tak, Nan, Sisaket and Phayao

Website: www.mol.go.th
Source: Ministry of Labour, www.mol.go.th

Updated: July 2014

6 – TAXATION

CORPORATE INCOME TAX

Corporate Income Tax (CIT) is a direct tax levied on a juristic company or partnership that is established under Thai or foreign law and carries on business in Thailand or derives certain types of income from Thailand.

The term “juristic company or partnership” (hereinafter called “company”) means a limited company, a limited partnership, or a registered ordinary partnership incorporated under Thai or foreign law as well as an association or foundation engaged in revenue producing business. The term also includes any joint venture and any trading or profit-seeking activity carried on by a foreign government or its agencies or by any other juristic body incorporated under a foreign law.

TAXABLE PERSONS

CIT is levied on both Thai and foreign companies. A Thai company is a company incorporated under the law of Thailand. A Thai company is subject to tax in Thailand on its worldwide income, both from Thailand and foreign sources. These taxes are levied at the end of each accounting period (12 months).

A foreign company is a company incorporated under foreign law. Generally, a foreign company is deemed as carrying on business in Thailand if it has an office, a branch, or any other place of business in Thailand, or it has an employee, agent, representative, or go-between in Thailand to carry on its affairs and thereby derives income or gains here.

A foreign company carrying on business in Thailand is subject to CIT only for income arising from or in consequence of such business. These taxes are levied at the end of each accounting period. However, a foreign company engaged in international transport is only subject to tax on its gross ticket receipts collected in Thailand for passenger transportation and its gross freight charges collected anywhere for transportation of goods from Thailand in lieu of tax on net profit. Additionally, when a foreign company disposes its profits outside of Thailand, such profits will be subject to tax relative to the sum disposed. Profit also entails any sum set aside out of profits as well as any sum that may be regarded as profit.

TAX CALCULATION

In the calculation of CIT of a company carrying on business in Thailand, it is calculated from the company's net profit on the accrual basis. A company shall take into account all revenue arising from or in consequence of the business carried on in an accounting period and deducting therefrom all expenses in accordance with the condition prescribed by the Revenue Code. As for dividend income, one-half of the dividends received by Thai companies from any other Thai companies may be excluded from the taxable income. However, the full amount may be excluded from taxable income if the recipient is a company listed in the Stock Exchange of Thailand or the recipient owns at least 25% of the distributing company's capital interest, provided that the distributing company does not own a direct or indirect capital interest in the recipient company. The exclusion of dividends is applied only if the shares are acquired not less than 3 months before receiving the dividends and are not disposed of within 3 months after receiving the dividends.

In calculating CIT, deductible expenses are as follows:

- Ordinary and necessary expenses. However, the deductible amount of the following expenses is allowed at a special rate:
  - 200% deduction of Research and Development expense,
  - 200% deduction of job training expense,
  - 200% deduction of expenditure on the provision of equipment for the disabled;
- Interest, except interest on capital reserves or funds of the company;
- Taxes, except for CIT and Value Added Tax paid to the Thai government;
- Net losses carried forward from the last five accounting periods;
- Bad debts;
- Wear and tear;
- Donations of up to 2% of net profits;
- Provident fund contributions;
- Entertainment expenses up to 0.3% of gross receipts but not exceeding 10 million baht;
- Further tax deduction for donations made to public education institutions, and also for any expenses used for the maintenance of public parks, public playgrounds, and/or sports grounds;
- Depreciation: Provided that in no case shall the deduction exceed the following percentage of cost as shown below. However, if a company adopts an accounting method, which the depreciation rates vary from year to year, the company is allowed to do so provided that the number of years over which an asset depreciated shall not be less than 100 divided by the percentage prescribed below.

TABLE 3

Depreciation rates

TYPES OF ASSETS	DEPRECIATION RATES
1. Building 1.1 Durable building 1.2 Temporary building	 5% 100%
2. Cost of acquisition of depleted natural resources	5%
3. Cost of acquisition of lease rights 3.1 no written lease agreement 3.2 written lease agreement containing no renewal clause or containing renewal clause but with a definite duration of renewal periods	 10% 100% divided by the original and renewable lease periods
4. Cost of acquisition of the right in a process, formula, goodwill, trademark, business license, patent, copyright or any other rights: 4.1 unlimited period of use 4.2 limited period of use	 10% 100% divided by number of years used
5. Other depreciation assets not mentioned in 1.-4. used in SME, which have value altogether not exceeding 500,000 baht, and are acquired before December 31, 2010 5.1 machinery used in R&D	100% Initial allowance of 40% on the date

	of acquisition and the residual can be depreciated at the rate in 5
5.2 machinery acquired before 31 December 2010	Initial allowance of 40% on the date of acquisition and the residual can be depreciated at the rate in 5
5.3 cash registering machine	Initial allowance of 40% on the date of acquisition and the residual can be depreciated at the rate in 5
5.4 passenger car or bus with no more than 10 passengers capacity	Depreciated at the rate in 5 but the depreciable valve is limited to one million baht
6. Computer and accessories	
6.1 SMEs*	Initial allowance of 40% on the date of acquisition and the residual can be depreciated over 3 years
6.2 other business	Depreciated over 3 years
7. Computer programs	
7.1 SMEs*	Initial allowance of 40% on the date of acquisition and the residual can be depreciated over 3 years
7.2 other business	Depreciated over 3 years

* SMEs refer to any Thai companies with fixed assets less than 200 million baht and number of employee not exceeding 200 people

The following items shall not be allowed as expenses in the calculation of net profits:
1) Reserves except:
2) Fund except provident fund under the rules, procedures and conditions prescribed by a Ministerial regulations.
3) Expense for personal, gift, or charitable purpose except expense for public charity, or for public benefit
4) Entertainment or service fees
5) Capital expense or expense for the addition, change, expansion or improvement of an asset but not for repair in order to maintain its present condition.
6) Fine and/or surcharge, criminal fine, income tax of a company or juristic partnership.
7) The withdrawal of money without remuneration of a partner in a juristic partnership
8) The part of salary of a shareholder or partner which is paid in excess of appropriate amount.
9) Expense which is not actually incurred or expense which should have been paid in another accounting period except in the case where it cannot be entered in any accounting period, then it may be entered in the following accounting period.
10) Remuneration for assets which a company or juristic partnership owns and uses.
11) Interest paid to equity, reserves or funds of the company or juristic partnership itself.

12) Damages claimable from an insurance or other protection contracts or loss from previous accounting periods except net loss carried forward for five years up to the present accounting period.
13) Expense which is not for the purpose of making profits or for the business.
14) Expense which is not for the purpose of business in Thailand.
15) Cost of purchase of asset and expense related to the purchase or sale of asset, but only the amount in excess of normal cost and expense without reasonable cause.
16) Value of lost or depleted natural resources due to the carrying on of business.
17) Value of assets apart from devalued assets subject to Section 65 Bis.
18) Expense which a payer cannot identify the recipient.
19) Any expense payable from profits received after the end of an accounting period.
20) Expense similar to those specified in (1) to (19) as will be prescribed by a Royal Decree.

Source: www.rd.go.th/publish/6044.0.html

Last updated: March 13, 2014

CORPORATE INCOME TAX RATES

The corporate income tax rate in Thailand was 23% on net profit for the accounting period 2012, and has been lowered to 20% for the accounting periods of 2013 and 2014.

However, the rates vary depending on types of taxpayers.

TABLE 4

Corporate income tax rates

Taxpayer	**Tax Base**	**Rate (%)**
1. Small company[1]	- Net profit not exceeding 1 million baht - Net profit over 1 million baht	15% 23% (accounting period from 2012) 20% (accounting periods from 2013-2014)
2. Companies listed in Stock Exchange of Thailand (SET)	- Net profit for first 300 million baht - Net profit for the amount exceeding 300 million baht	25%[2] 30%
3. Companies newly listed in Stock Exchange of Thailand (SET)	Net Profit	25%[3]
4. Company newly listed in Market for Alternative Investment (MAI)	- Net Profit for the amount not exceeding 50 million baht	25%[*]
5. Bank deriving profits from International Banking Facilities (IBF)	Net Profit	10%
6. Foreign company engaging	Gross receipts	3%

in international transportation		
7. Foreign company not carrying on business in Thailand receiving dividends from Thailand	Gross receipts	10%
8. Foreign company not carrying on business in Thailand receiving other types of income apart from dividend from Thailand	Gross receipts	15%
9. Foreign company disposing profit out of Thailand.	Amount disposed.	10%
10. Profitable association and foundation.	Gross receipts	2% or 10%

Notes:
* The reduced rate applies for currently listed companies for 3 accounting periods from 2008-2010.
[1] A small company refers to any company with paid-up capital less than 5 million baht at the end of each accounting period.
[2] The reduced rate applies for currently listed companies for 3 accounting periods from 2008-2010.
[3] The reduced rate applies for newly listed companies for 3 accounting periods from 2008-2010
[4] These incomes are:

- income by virtue of jobs, positions or services rendered;
- part of value received from the amalgamation, acquisition or dissolution of juristic companies or partnerships which exceeds the cost of investment;
- part of the proceeds derived from transfer of partnership holdings, shares, debentures, bonds, or bills or debt instruments issued by a juristic company or partnership or by any other juristic person, which exceeds the cost of investment; and
- income specified in c and d in Table 1.1.

Source**:** www.rd.go.th/publish/6044.0.html

Last updated: 13 March 2014

WITHHOLDING TAX

Certain types of income paid to companies are subject to withholding tax at source. The withholding tax rates depend on the types of income and the tax status of the recipient. The payer of income is required to file the return (Form CIT 53) and submit the amount of tax withheld to the District Revenue Offices within seven days of the following month in which the payment is made. The tax withheld will be credited against final tax liability of the taxpayer. The following are the withholding tax rates on some important types of income.

TABLE 5
Withholding tax rates

Types of income	Withholding tax rate
1.Dividends	10%
2.Interest[1]	1%
3.Royalties[2]	3%
4. Advertising Fees	2%
5. Service and professional fees	3% if paid to Thai company or foreign company having permanent branch in Thailand; 5% if paid to foreign company not having permanent branch in Thailand
6. Prizes	5%

Notes:
1. Tax will be withheld on interest paid to associations or foundations at the rate of 10%.
2. Royalties paid to associations or foundations are subject to 10% withholding tax rate.
3. Government agencies are required to withhold tax at the rate of 1% on all types of income paid to companies

Source: www.rd.go.th/publish/6044.0.html

Last updated: 13 March 2014

TAX RETURN AND PAYMENT

Thai and foreign companies carrying on business in Thailand are required to file their tax returns (Form CIT 50) within one hundred and fifty (150) days from the closing date of their accounting periods. Tax payment must be submitted together with the tax returns. Any company disposing funds representing profits out of Thailand is also required to pay tax on the sum so disposed within seven days from the disposal date (Form CIT 54).

In addition to the annual tax payment, any company subject to CIT on net profits is also required to make tax prepayment (Form CIT 51). A company is obliged to estimate its annual net profit as well as its tax liability and pay half of the estimated tax amount within two months after the end of the first six months of its accounting period. The prepaid tax is creditable against its annual tax liability.

As regards to income paid to foreign company not carrying on business in Thailand, the foreign company is subject to tax at a flat rate in which the payer shall withhold tax at source at the time of payment. The payer must file the return (Form CIT 54) and make the payment to the Revenue Department within seven days of the following month in which the payment is made.

Source: www.rd.go.th/publish/6044.0.html

Last updated: 13 March 2014

LOSSES

Each company is taxed as a separate legal entity. Losses incurred by one affiliate may not be offset against profits made by another affiliate. Losses can only be carried forward for a maximum of five years.

Source: *Doing Business in Thailand 2013*, Mazars

TAX CREDITS

For income derived from countries that do not have a Double Taxation Agreement (DTA) with Thailand, foreign tax credits are allowed. These foreign tax credits are subject to certain criteria and conditions, up to the amount of Thailand tax that would have been payable had the income been derived in Thailand. The same rules apply with regard to foreign tax relief for DTA countries.
Source**:** *Doing Business in Thailand 2013*, Mazars

REMITTANCE TAX

Remittance of income in the form of:

– Brokerage, fees for services	15%
– Royalties	15%
– Interest	15%
– Dividends	10%
– Capital gains	15%
– Rental of property	15%
– Liberal professionals	15%

Remittance of profits after corporate income tax, a sum representing profits, or a sum set aside out of profits or regarded as profits is subject to 10% withholding tax.

Source: www.rd.go.th/publish/6044.0.html

Last updated: 13March 2014

DOUBLE TAXATION TREATIES

Countries that have concluded double tax treaties with Thailand and the applicable rates of withholding taxes are as follows:

1		Armenia
2		Australia
3		Austria
4		Bahrain
5		Bangladesh
6		Belgium
7		Bulgaria

8	Canada
9	Chile
10	China, P. R.
11	Cyprus
12	Czech Republic
13	Denmark
14	Finland
15	France
16	Germany
17	United Kingdom of Great Britain and Northern Ireland
18	Hong Kong
19	Hungary
20	India
21	Indonesia (amendment)
22	Israel
23	Italy
24	Japan
25	Korea (amendment)
26	Kuwait
27	Laos
28	Luxembourg
29	Malaysia
30	Mauritius
31	Myanmar
32	Nepal
33	Netherlands
34	New Zealand
35	Norway (amendment)
36	Oman
37	Pakistan
38	Philippines
39	Poland
40	Romania
41	Russian
42	Seychelles
43	Singapore

44	Slovenia
45	South Africa
46	Spain
47	Sri Lanka
48	Sweden
49	Switzerland
50	Chinese Taipei
51	Turkey
52	Ukraine
53	United Arab Emirates
54	United States of America
55	Uzbekistan
56	Vietnam

Source**:** www.rd.go.th/publish/765.0.html

Last updated December 2013

TRANSFER PRICING RULES

Although there is no separate transfer pricing legislation in Thailand, guidelines have been issued to counteract aggressive inter-company pricing practices and to ensure such payments reflect the true market value. These guidelines are intended to prevent the manipulation of profits and losses within a group of related companies and ensure that goods and services traded between the related companies are priced at an arm's length value. The Revenue Department also has the power to assess income resulting from transfers which it deems is below market value

Source**:** *Doing Business in Thailand 2013*, Mazars

7 – ACCOUNTING & REPORTING

REPORTING REQUIREMENTS

BOOKS OF ACCOUNTS AND STATUTORY RECORDS

Companies must keep books and follow accounting procedures as specified in the Civil and Commercial Code, the Revenue Code, and the Accounts Act. Documents may be prepared in any language, provided that a Thai translation is attached. All accounting entries should be written in ink, typewritten, or printed. Specifically, Section 12 of the Accounts Act of 2000 provides rules on how accounts should be maintained:

"In keeping accounts, the person with the duty to keep accounts must hand over the documents required for making accounting entries to the bookkeeper correctly and completely, in order that the accounts so kept may show the results of operations, financial position according to facts and accounting standards."

ACCOUNTING PERIOD

An accounting period must be 12 months. Unless the Articles of Association state otherwise, a newly established company should close accounts within 12 months of its registration. Thereafter, the accounts should be closed every 12 months. If a company wishes to change its accounting period, it must obtain written approval from the Director-General of the Revenue Department.

REPORTING REQUIREMENTS

All juristic companies, partnerships, branches of foreign companies, and joint ventures are required to prepare financial statements for each accounting period. The financial statement must be audited by and subjected to the opinion of a certified auditor, with the exception of the financial statement of a registered partnership established under Thai law, whose total capital, assets, and income are not more than that prescribed in Ministerial Regulations. The performance record is to be certified by the company's auditor, approved by shareholders, and filed with the Commercial Registration Department of the MOC and with the Revenue Department of the Ministry of Finance (MOF).

For a private limited company, the director is responsible for arranging the annual meeting of shareholders to approve the company's audited financial statement within 4 months at the end of the fiscal year, and filing the audited statement and supporting documents, including a list of shareholders on the date of the meeting, to the Registrar no later than 1 month after the date of the shareholder meeting.

For a foreign company, i.e. branch office, representative office or regional office, and excluding joint ventures, the Manager of the branch office must submit a copy of the financial statement to the Registrar no later than 150 days after the end of the fiscal year. Approval of the shareholder meeting is not required.

For a public limited company, the director is responsible for arranging the annual meeting of shareholders to approve the audited financial statements of a company within 4 months at the end of the fiscal year. A copy of the audited financial statement and annual report, together with a copy of the minutes of the shareholder meeting approving the financial statement, should be certified by the director and submitted to the Registrar, along with a list of shareholders on the date of the meeting, no later than 1 month after approval at the shareholder's meeting. In addition, the company is required to publish the balance sheet for public information in a newspaper for a period of at least 1 day within 1 month of the date it was approved at the shareholder's meeting.

ACCOUNTING PRINCIPLES

In general, the basic accounting principles practiced in the United States are accepted in Thailand, as are accounting methods and conventions sanctioned by law. The Institute of Certified Accountants and Auditors of Thailand is the authoritative group promoting the application of generally accepted accounting principles.

Any accounting method adopted by a company must be used consistently and may be changed only with approval of the Revenue Department. Certain accounting practices of note include:

Depreciation: The Revenue Code permits the use of varying depreciation rates according to the nature of the asset, which has the effect of depreciating the asset over a period that may be shorter than its estimated useful life. These maximum depreciation rates are not mandatory. A company may use a lower rate that approximates the estimated useful life of the asset. If a lower rate is used in the books of the accounts, the same rate must be used in the income tax return.

Accounting for Pension Plans: Contributions to a pension or provident fund are not deductible for tax purposes unless they are actually paid out to the employees, or if the fund is approved by the Revenue Department and managed by a licensed fund manager.

Consolidation: Local companies with either foreign or local subsidiaries are not required to consolidate their financial statements for tax and other government reporting purposes, except for listed companies, which must submit consolidated financial statements to the Securities and Exchange Commission of Thailand .

Statutory Reserve: A statutory reserve of at least 5% of annual net profit arising from the business must be appropriated by the company at each distribution of dividends until the reserve reaches at least 10% of the company's authorized capital.

Stock Dividends: Stock dividends are taxable as ordinary dividends and may be declared only if there is an approved increase in authorized capital. The law requires the authorized capital to be subscribed in full by the shareholders.

AUDITING REQUIREMENTS AND STANDARDS

Audited financial statements of juristic entities (i.e. a limited company, registered partnership, branch, representative office, regional office of a foreign corporation, or joint venture) must be certified by an authorized auditor and be submitted to the Revenue Department and to the Commercial Registrar for each accounting year.

However, for a registered partnership with registered capital of less than five million baht, total revenue of no more than 30 million baht, and total assets of no more than 30 million baht, financial statement does not need to be certified by an authorized auditor.

Auditing practices conforming to international standards are, for the most part, recognized and practiced by authorized auditors in Thailand.

Reviewed June 2014

8 – UHY REPRESENTATION IN THAILAND

UHY YONGYUTH ACCOUNTING AND SON CO. LTD. THAILAND

CONTACT DETAILS

UHY Yongyuth Accounting and Son Co. Ltd.
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Wang Lang Road
Bangkoknoi
Bangkok
Thailand
Tel: +66 2 4128327
Fax: +66 2 4124706
www.uhy-th.com

Year established:	1967
Number of partners:	6
Total staff:	32

CONTACTS

Liaison contact:	Panit Mokarakorn
Email:	panityas@uhy-th.com
Liaison contact:	Saman Jaokonun
Email:	samansas@uhy-th.com

ABOUT US

Our synergy, our success: we are a dynamic accounting and advisory firm providing a full range of services to a broad variety of clients, integrated with IT and legal advisory departments.

BRIEF DESCRIPTION OF FIRM

Our synergy, our success: Yongyuth Accounting and Son Co. Ltd is a dynamic accountancy and business advisory firm providing accounting, tax, corporate and financial advisory services to private clients, corporates, professional practices, and not-for-profit organisations, integrated with dedicated IT and legal advisory departments.

SERVICE AREAS

Accounting & Outsourcing
Payroll & Social Security
Audit & Assurance
Tax Advisory & Compliance
Legal Advisory
Business Services
Labour Consultancy
Information Technology

SPECIALIST SERVICE AREAS

Pre-immigration tax planning
Prevention of money laundering
Due diligence
Valuation of Business and Shares
Mergers and Acquisitions
Environmental audit and consultancy

PRINCIPAL OPERATING SECTORS

Food & beverages manufacturing
Household Products manufacturing
Industrial Products
Information Technology (IT) & services

The network for doing business

UHY YONGYUTH ACCOUNTING AND SON CO. LTD.
THAILAND

Plastics & rubber
Retail
Trading Companies

LANGUAGES
Thai, English.

CURRENT PRINCIPAL CLIENTS
Confidentiality precludes disclosure in this document.

OTHER COUNTRIES IN UHY CURRENTLY WORKING WITH, OR HAVE WORKED WITH IN THE PAST
Our firm’s recent admittance to UHY membership has not yet provided an opportunity for international work.

BRIEF HISTORY OF FIRM
Our history spans two generations over four decades and features several significant developments, starting from a family owned and developed firm to formal registration and international network membership. We are currently located in Bangkoknoi Bangkok.

The firm was started in 1967 by husband and wife Mr. Yongyuth Jaokonun and Ms. Wilawan Jaokonun. Through 40 years of dedicated teamwork, together with the recognition and support of our valued clients, the firm has grown into two strong entities – Yongyuth Accounting and Son Co. Ltd. (YAS) and Saman Audit and Corporate Services Co. Ltd (SAS) – and is now passing onto the next generation of leaders to take the firm onto the next stage of growth: Mr. Saman Jaokonan and Mrs. Panit Mokarakorn.

The firm joined UHY in 2012, adopting the UHY brand at the same time.

The network for doing business

LET US HELP YOU ACHIEVE FURTHER BUSINESS SUCCESS

To find out how UHY can assist your business, contact any of our member firms. You can visit us online at www.uhy.com to find contact details for all of our offices, or email us at info@uhy.com for further information.