

INVESTMENT PROMOTION ACT (NO. 4),
B.E. 2560 (2017)

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;
Given on the 23rd Day of January B.E. 2560;
Being the 2nd Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to amend the law on investment promotion;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows.

Section 1. This Act is called the “Investment Promotion Act (No. 4), B.E. 2560 (2017)”.

Section 2.¹ This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. The provisions of paragraph three of section 7 of the Investment Promotion Act, B.E. 2520 (1977) shall be repealed and replaced by the following:

* Translated by Associate Professor Dr. Pinai Nanakorn under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Tentative Version – subject to final authorisation by the Office of the Council of State.

¹ Published in Government Gazette, Vol. 134, Part 10a, dated 24th January 2017.

“At the expiration of the term under paragraph one, if the appointment of a new member or adviser has not yet been made, the member or adviser who vacates office at the expiration of the term shall remain in office to continue the work until the newly appointed member or adviser takes office.

A member or adviser who vacates office may be re-appointed.”

Section 4. The following provisions shall be added as section 11/1 of the Investment Promotion Act, B.E. 2520 (1977):

“**Section 11/1.** For the purposes of monitoring and assessing the investment promotion to ensure its conformity with the objectives under this Act and ensure that the granting of rights and benefits to promoted persons proceeds in an appropriate, clear and transparent manner, the Board shall put in place an assessment of the investment promotion at least every two years, which shall be conducted by a third person, and the Office shall report the result of the assessment to the Board and make a disclosure thereof to the public for information.

The assessment of the investment promotion under paragraph one must indicate the economic and social value to be derived by the country as well as the worthiness of the investment promotion, in accordance with the rules prescribed by the Board.”

Section 5. The following provisions shall be added as section 13/1 of the Investment Promotion Act, B.E. 2520 (1977):

“**Section 13/1.** In the case where there must be any inspection, control and assessment of the undertaking for which the promotion is granted and the exercise of rights and benefits including the exercise of rights and benefits in respect of machinery or raw materials and necessary materials in the execution of this Act, the Office may entrust any person to perform the duty and prepare a report on the performance thereof on behalf of the Office, in accordance with the rules prescribed by the Board.”

Section 6. The provisions of paragraph one of section 16 of the Investment Promotion Act, B.E. 2520 (1977) shall be repealed and replaced by the following:

“**Section 16.** Undertakings for which the Board may grant the investment promotion must be undertakings which are important and beneficial to the economy, society and

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national security, undertakings requiring a high level of capital, labour or services or undertakings relying on the use of agricultural produce or natural resources as raw materials, provided that the Board is of the opinion that such undertakings are not yet in existence in the Kingdom or are inadequately in existence in the Kingdom or have out-of-date production processes.”

Section 7. The provisions of (4) of section 20 of the Investment Promotion Act, B.E. 2520 (1977) shall be repealed.

Section 8. The provisions of (18) of section 20 of the Investment Promotion Act, B.E. 2520 (1977) shall be repealed.

Section 9. The following provisions shall be added as section 30/1 of the Investment Promotion Act, B.E. 2520 (1977):

“**Section 30/1.** For the purpose of promoting research and development, the Board may grant permission to the promoted person for the exemption from import duties on items imported by the promoted person for use in research and development as well as the tests concerned, as prescribed in the Notification of the Board.”

Section 10. The following provisions shall be added as section 31/1 and section 31/2 of the Investment Promotion Act, B.E. 2520 (1977):

“**Section 31/1.** For promoting the potential and the development of competitiveness of the country in respect of undertakings requiring the use of high technology and innovation or research and development undertakings as prescribed in the Notification of the Board, the Board may grant permission to the promoted persons for the exemption from corporate income taxes on net profits derived from the operation of the undertakings for which the promotion is granted for a period not exceeding thirteen years as from the date on which incomes begin to be earned from the operation of such undertakings, provided that such exemption may be fixed in proportion to the invested money excluding the value of land and the revolving capital.

Incomes for the purpose of the computation of net profits derived from the operation of the undertaking under paragraph one shall include incomes from the distribution of

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by-products and incomes from the distribution of semi-readymade goods as the Board deems appropriate.

In the case where the operation of the undertaking makes a loss during the period in which the exemption from corporate income taxes is granted under paragraph one, the Board may grant permission to the promoted person for the reduction of the annual loss accruing during such period from net profits accruing subsequent to the period in which the exemption from corporate income taxes is granted, for a duration not exceeding five years as from the expiration of such period, provided that the reduction may be made from net profits of any particular year or several years.

The computation of the invested money under paragraph one shall be in accordance with the rules and procedures prescribed in the Notification of the Board.

Section 31/2. In the case where the promoted person is not granted the exemption from or deduction of corporate income taxes, the Board may grant permission to the promoted person for making the reduction of the money used in the investment in the operation of the undertaking for which the promotion is granted from net profits in an aggregate amount not exceeding seventy percent of the money already put into the investment in such undertaking, provided that the promoted person may elect to make such reduction, in addition to the normal reduction of depreciations, from net profits of any particular year or several years, within ten years as from the date on which incomes are earned from the operation of the undertaking, in accordance with the conditions and procedures prescribed in the Notification of the Board.”

Section 11. The provisions of section 32 of the Investment Promotion Act, B.E. 2520 (1977) shall be repealed and replaced by the following:

“**Section 32.** In the case where the Board considers that in granting promotion to any particular undertaking or to any particular applicant for the promotion it is not appropriate to grant the exemption from corporate income taxes under section 31 and section 31/1, the Board may grant promotion to such undertaking or such applicant or other applicants without granting the exemption from corporate income taxes or with permission for the deduction of corporate income taxes on net profits accruing on the investment in lieu of the exemption from corporate income taxes. Such deduction of corporate income taxes shall be made at the rate not exceeding fifty percent of the normal rate for a period not exceeding ten years as prescribed by the Board.”

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Section 12. The following provisions shall be added as section 32/1 of the Investment Promotion Act, B.E. 2520 (1977):

“**Section 32/1.** The computation of net profits and net losses of promoted persons entitled to the rights and benefits related to corporate income taxes shall be in accordance with the Revenue Code.”

Section 13. The provisions of section 34 of the Investment Promotion Act, B.E. 2520 (1977) shall be repealed and replaced by the following:

“**Section 34.** Dividends from an undertaking which is under the investment promotion and under the exemption from corporate income taxes under section 31 and section 31/1 shall be exempted from their inclusion into the computed sums for the purpose of payment of income taxes throughout the period in which the promoted person is under the exemption from such corporate income taxes.

The dividends exempted from income taxes under paragraph one shall, if payment thereof is made within six months as from the expiration of the period of the exemption from income taxes, carry the exemption under paragraph one.”

Section 14. The provisions of section 36 of the Investment Promotion Act, B.E. 2520 (1977) as amended by the Investment Promotion Act (No. 2), B.E. 2534 (1991) shall be repealed and replaced by the following:

“**Section 36.** The Board may grant the promoted person any of, or a combination of, special rights and benefits in relation to the export as follows:

(1) the exemption from import duties on raw materials and necessary materials required to be imported from a foreign country in order to be used for producing, mixing or assembling products or produce for export only;

(2) the exemption from import duties on items imported by the promoted person for re-export;

(3) the exemption from export duties on products or produce produced or assembled by the promoted person.

The granting of rights and benefits under paragraph one shall be in accordance with such conditions, procedures and period as prescribed by the Board, and the law on customs

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tariffs shall not apply to the promoted person granted permission by the Board under this section unless otherwise stipulated by the Board, in which case law on customs tariffs shall apply insofar as it is not contrary thereto or inconsistent therewith.”

Countersigned by:

General Prayut Chan-o-cha
Prime Minister

Office of the Council of State

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