



# Doing Business in Thailand

## The Mechanics of Investment (PART 1)

### 1. Forms of Doing Business

In Thailand, it is generally advantageous to a foreign investor to have Thai participation in his venture, although foreign investment is limited only in certain key industries.

A person, Thai or alien, may engage in business in the form of a single proprietorship, limited company, partnership, a joint venture, a branch of a foreign corporation, or a representative/regional office.

#### Partnerships

Three types of partnerships in Thailand differ principally in the liability attached to each:

An unregistered ordinary partnership has partners who are all jointly liable, without any limitation on the partnership's total obligations. A new partner in an unregistered ordinary partnership becomes liable for all obligations incurred by the partnership before or after his association with the partnership. This type of partnership is not a legal entity and is subject to taxation as if it were an individual.

A registered ordinary partnership is a juridical entity having a separate and distinct personality from each of the partners by virtue of its registration with the Commercial Registrar. A registered ordinary partnership is treated as a corporate entity for income tax purposes.

A limited partnership is one in which there are one or more partners whose individual liabilities are limited to their respective contributions, and one or more partners jointly liable without any limitation on all the obligations of the partnership. A limited partnership is taxed as a corporate entity.

#### Private Limited Companies

A Thai private limited company is basically similar to what is commonly referred to as a corporation. The company may be wholly owned by aliens. However, in those business activities reserved for Thai nationals, aliens' participation is generally allowed up to 49%.

The liability of the shareholders is limited to the par value of the authorized capital. The liability of the directors, however, may be unlimited if so provided in the company's memorandum of association or the articles of incorporation. The limited company is managed by a board of directors according to the company's charter and by laws.

Although there is no established minimum level of capitalization, the private limited company's capital must be sufficient to accomplish its objectives. All of the 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 no par value; it also stipulates that only shares with par value of five Baht or above may be issued.

Thai corporate law has some features, which may be unfamiliar to foreign businessman. Among these is the prohibition on treasury shares, and a rule that a private limited company's shareholders must never be fewer than seven at all times. In addition, nonvoting stock, whether common or preferred, is not permitted; the original authorized capital stock must be subscribed in full.

#### Public Limited Companies

The procedure for setting up a limited public company is similar to that for a private limited company. The provisions of the Limited Public Company Act of 1992 allow a private company to be converted into a public company. The major difference between a public and a private company is that a private company is prohibited from offering shares to the public. Certain other differences are shown in the table below.

	Private Limited Company	Public Limited Company
Minimum number of natural persons as promoters	7	15
Minimum number of shareholders required at all times	7	15
Public subscription of shares by prospectus	Not Allowed	Not Allowed
Public subscription of debentures by prospectus	Allowed under specific qualifications	Allowed

#### Branch of a Foreign Corporation

A company incorporated under foreign laws may establish a branch office to do business in Thailand.

Branch offices are required to maintain only those accounts relating to the activities of the branch in Thailand. It is important, however, to clarify beforehand what constitutes income subject to Thai tax because the Revenue Department may consider revenues directly earned by the foreign head office from sources within Thailand as subject to Thai tax.

As a condition for approval of an Alien Business License to a branch of a foreign corporation, working capital amounting to a total of five million Baht in foreign exchange must be brought into Thailand within certain intervals, as follows: