

Legal Alert

BOI Cease Granting Investment Promotion for IHQ and ITC and Promotes IBC Scheme

On 11 December 2018, the Board of Investment (BOI) has ceased to grant investment promotion for the business of an International Headquarters (IHQ) and International Trading Centers (ITC) and introduced the scheme of International Business Center (IBC) in accordance with the government's policy to promote IBC activities in Thailand. Applicants who are interested in an IBC activity may apply for investment promotion from 11 December 2018 onwards.

Applicants who wishes to receive investment promotion for an IBC activity must have a registered capital of not less than THB 10 million and employ personnel with the knowledge and skills for the IBC activity of not less than 10 person (or 5 person if the activity will be only a treasury center), whereby the BOI will consider from the positions and nature of work of the personnel to consider the qualification of such personnel. Additionally, the IBC must also provide services to at least 1 associated enterprise in foreign country in various activities e.g., organizational administration, management and business planning and sourcing of raw materials and parts for instance. The IBC applicant could also conduct international trading activities as well.

Summary of IHQ/ITC and IBC Scheme

Activity	ITC	IHQ	IBC
Scope of Activities/ Conditions	<ul style="list-style-type: none"> • Having a paid-up registered capital of at least 10 million Baht; • Trading activity for wholesale only having 2 out of the 4 trade flows set out below: <ul style="list-style-type: none"> ○ Out-Out ○ Out-In ○ In-In • In-Out 	<ul style="list-style-type: none"> • Supervising "Associated Enterprises" in foreign countries or its foreign branches at least 1 country • Must have a business plan and scope of operations as follows:- <ul style="list-style-type: none"> ○ Organizational administration and management and business planning; ○ Procurement of raw materials and parts; ○ Research and development; ○ Technical support; ○ Marketing and sales promotion; ○ Human resources and training and development; ○ Business advisory service e.g. financial management, marketing, accounting system, and etc.; ○ Economic and investment analysis and research; 	<ul style="list-style-type: none"> • Must provide services to associated enterprise in at least 1 foreign country. • Must provide services to associated enterprises under the following scope of business activities:- <ul style="list-style-type: none"> ○ Organizational administration and management and business planning; ○ Procurement of raw materials and parts; ○ Research and development; ○ Technical support; ○ Marketing and sales promotion; ○ Human resources and training and development; ○ Financial advisory service; ○ Economic and investment analysis and research; ○ Credit management and control; ○ Treasury center; ○ International Trading;

Activity	ITC	IHQ	IBC
		<ul style="list-style-type: none"> ○ Credit management and control; ○ Treasury center; and ○ Other services as approved by the BOI. <p>Having a paid-up registered capital of at least 10 million Baht.</p>	<ul style="list-style-type: none"> ○ Other services as announced by the Thai Revenue Department. • Having a paid-up registered capital of at least THB 10 million. • Must hire a permanent employee who has knowledge and necessary skills for IBC business at least 10 persons or 5 persons, as the case maybe. • Trading activity for wholesale only having 2 out of the 4 trade flows (i.e., out-out, out-in, in-in, in-out) based on the current BOI’s unofficial guideline. • The promoted company can conduct trading activity for third party, but it is required to provide at least one service activity to an associated enterprise.
<p>Granted Incentives</p>	<ul style="list-style-type: none"> • Exemption of import duty on machinery • Exemption on raw materials imported for manufacturing for export. • Non-tax incentives • Not eligible for merit-based incentives 	<ul style="list-style-type: none"> • Exemption of import duty on machinery for research and development and training activities • Non-tax incentives <p>Not eligible for merit-based incentives</p>	

Deloitte Legal’s Observations

Based on the scope of activities and conditions stated above, the IBC scheme is the previous IHQ and ITC activities combined. Now applicants who wish to conduct an IHQ activity can also conduct an ITC activity without the need to submit an additional application. Now investors can invest a minimum investment capital of THB 1 million (excluding cost of land and working capital) to conduct both IHQ/ITC activities (previous scheme) under one category of eligible activity.

However, as a result of the above Announcements, applicants who have not yet officially submitted an application for an IHQ/ITC activity before 11 December 2018 will not be able to request for investment promotion for the IHQ/ITC from the BOI but have to apply under an IBC activity instead. This will not affect applicants who have officially submitted an application or approved for investment promotion of an IHQ/ITC activity before 11 December 2018 and may conduct the IHQ/ITC activity as approved.

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