



## Legal Alert 法律快讯

2023 年 6 月 16 日

今天，体验未来的法律视界

### Logistic business – Looking from the Foreign Business Act perspective 物流业 - 《外商企业经营法》视角下的合规要求

Generally, logistic businesses are referred to transportation of goods and other related activities to facilitate the management of products movement, such as freight forwarder, warehouse management and customs clearance etc.

物流业泛指货物运输以及相关的辅助产品流动的管理活动，如货运代理、仓库管理和清关等。

If a foreigner (to put simply, foreign ownership in any company is 50% or more of the total of its outstanding shares) wishes to operate logistic business in Thailand, the Foreign Business Act B.E. 2542 (A.D. 1999) or the FBA must be taken into account. Some are strictly prohibited, and some are restricted which can be subject to different thresholds of approvals, i.e., level of department of business development, or the cabinet.

如果外国人（概指任何一间外籍持股比例达到或超过该公司已发行股份总数的 50% 的公司）计划在泰国经营物流业务，则必须考虑《外商企业经营法》B.E. 2542（公元 1999 年）（“《外商法》”）的合规要求，有些行业严格禁止外国人经营，有些行业则受限于不同级别的审批，如商业发展厅或内阁的批准。

From the FBA perspective, each activity/business to be conducted in the field of logistic business must be separately considered whether each of any activity is subject to the lists of restricted businesses attached to the FBA or not. Based on the private letters of rulings, the Ministry of Commerce considers the activities/businesses under the logistic business from the view of the MOC would be considered as follows:

从《外商法》的视角来看，外国人在物流领域开展的每一项活动/业务都必须受到单独审查，以考虑其是否属于《外商法》所附的限制性业务清单的范围。根据商务部的部分决定书，商务部对于外国人从事物流项下的活动/业务的观点和考虑如下：

*International transport:* The delivery of goods either Thailand's airports/ports to destinations in overseas countries, or vice versa, is considered as an international transportation service, which is not a restricted business under the FBA. A foreigner will be able to conduct such business without requiring a foreign business license ("FBL").

*国际运输：*将货物从泰国机场/港口运送到海外目的地，或从海外目的地运送到泰国机场/港口，均被视为国际运输服务，不属于受到《外商法》限制的业务。外国人无需获得外商营业执照 ("FBL") 即可从事此类业务。

*Domestic transport:* The delivery of goods within territory of Thailand including from any location in Thailand to airports/ports is considered as domestic transportation by land, water, or air which is restricted business under List Two Chapter 1 (2) of the FBA. In order to operate this restricted business, the license is required and certain conditions need to be met.

*国内运输：*在泰国境内运送货物，包括从泰国境内任何地点运送货物至机场/港口，均被视为境内陆运、水运或空运，属于《外商法》第二类第 1 (2) 条的受限业务。要经营这种受限业务，外国人必须获得特定许可证并满足其他的特定条件。

There are certain complications if a company procures a third-party carrier to deliver the goods from the Company to the customer's office or designated location in Thailand, we can help take a closer look on the arrangement to help you determine this issue.

如果一家公司委托第三方承运商将货物从该公司运送到其顾客的泰国办公室或泰国指定地点，这种情况比较复杂，我们可以协助对具体问题进行研究，以协助您对解决方案做出决定。

*Freight forwarder:* Providing freight service for international transportation of goods are considered as service business under List Three (21) of the FBA. A foreigner under the FBA is prohibited to conduct such business unless FBL is obtained.

*货运代理：*为国际货运提供运输服务被视为《外商法》清单三第 (21) 条的服务业。《外商法》规定，除非获得 FBL 否则外国人不得从事此类业务。

*Warehouse business:* Warehouse business is considered as service business under List Three (21) of the FBA. A foreigner under the FBA is prohibited to conduct such business unless FBL is obtained.

**仓储业务:** 仓库业务被视为《外商法》清单三第(21)条的服务业。《外商法》规定, 除非获得 FBL 否则外国人不得从事此类业务。

In addition, warehouse business is a regulated business and is affected by other laws which specific license is required.

此外, 仓储业务是受到其他法律监管的业务, 需要按照相关法律要求获得特定的许可证。

*Customs clearance:* Providing customs clearance service is considered as service business under List Three (21) of the FBA. A foreigner under the FBA is prohibited to conduct such business unless FBL is obtained.

**清关业务:** 提供清关服务被视为《外商法》清单三第(21)中的服务业。《外商法》规定, 除非获得 FBL 否则外国人不得从事此类业务。

### Deloitte's observation

#### 德勤观察

If foreign investors would like to invest or conduct the logistic business in Thailand, they must consider whether each business is restricted under the FBA. We would be happy to assist in terms of providing analysis and structuring the business to suit your needs and comply with relevant laws and regulations.

简言之, 外商如计划在泰国投资或运营物流业务, 须考虑具体业务是否受到《外商法》的限制。对于贵司的具体业务, 我们竭诚为您提供咨询服务并搭建商业架构, 以满足贵司的业务需求和合规要求。

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## 联系我们

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