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# THAILAND Newsletter

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## Thai Board of Investment Announces a New Business Investment Promotion Category for the Development of Software, Platforms for Digital Services, or Digital Content Activities

On September 16, 2021, Thailand's Board of Investment (the "BOI") announced a new business investment promotion category by repealing categories 5.7 (Software), 5.8 (E-commerce) and 5.9 (Digital Services) and adding a new category 5.10 development of software, platform for digital services, or digital content activities ("category 5.10"). The amendments and addition of the new promoted business category were implemented to increase Thailand's IT infrastructure and develop professional IT services in-line with global standards and practices.

### Incentives for promoted business activities under category 5.10

Promoted projects under this new category will be entitled to activity-based incentive level "A2," which includes benefits such as an eight-year corporate income tax ("CIT") exemption (with a cap) and import duties exemptions on certain machinery, and other non-tax incentives. The calculation of the cap on CIT exemptions is based on an expenses-based approach. The cap for each financial year will be based on the compensation of Thai IT personnel additionally hired in accordance with an approved project, training expenses for Thai personnel (200%), and expenses for obtaining a quality system certificate (subject to further detailed conditions and calculation methods).

### Additional conditions for promotion

To qualify for incentives listed above, a promoted business must fulfill certain criteria, and conditions, which include the following conditions:

- Must have a minimum level of investment, the calculation of which is based on the total compensation of newly employed Thai IT personnel after submission of the BOI promotion application with the BOI, which must be at least THB 1.5 million per year;

- The development of software, a platform for digital services, or digital content development processes are carried out in Thailand as specified by the BOI;
- The revenue of an investment project that falls under the CIT exemption is the revenue generated from sales and services directly related to the software, platform for digital services, or digital content; and
- The investment project of the applicant is not eligible for investment promotion measures for small and medium enterprises (SMEs).

Note that the sale of goods through software, a platform, or digital content is not covered by the new category and therefore is not considered a promoted activity under category 5.10.

#### **Eastern Economic Corridor investments under category 5.10**

An applicant for investment promotion under category 5.10 conducting business or planning to conduct business activities with respect to human resource development in the Eastern Economic Corridor must notify the BOI of such intent at the time of submission of their investment promotion application to the BOI.

#### **Conclusion**

IT services providers, technology industries and operators that require large scale IT infrastructure for their business activities should be aware of the changes to the investment promotion categories, addition of category 5.10 to investment promotion eligible business activities, and incentives available under the BOI.

We will continue to monitor any updates on the BOI promotion and technology industry related laws and regulations and will keep you posted on further developments.

If you have any questions in relation to the issues raised in this briefing, please contact the authors in the left-hand column.

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