

Newsletter

THAILAND: BOARD OF INVESTMENT NOTIFICATION EXPANDS OPPORTUNITIES FOR INVESTMENT IN CERTAIN HEALTHCARE & LIFE SCIENCES BUSINESSES

Summary

- The Thai Board of Investment (the "BOI"), the government agency responsible for promoting foreign investment in Thailand, issued Notification No. Sor. 1/2564 Re: "Amending list of activities eligible for investment promotion under the Notification of the Board of Investment No. 2/2557" (the "Notification") on 13 January 2021. This amends the list of eligible business activities for investment promotion;
- The Notification adds "Senior Hospital," "Senior or Dependent Care Centers," and "Clinical Research" businesses to Category 7 (i.e., Services and Public Utilities) of business activities eligible for investment promotion in Thailand; and

Background

On 13 January 2021, the BOI issued a Notification, which added Senior Hospitals, Senior Dependent Care Centers, and Clinical Research to the list of business activities eligible for investment promotion in Thailand under Category 7 of the Investment Promotion Act. The addition of these business activities may bolster Thailand's regional appeal as a leader in the provision of medical care and research capabilities.

This briefing will provide an overview of the eligibility requirements that are important for investors to know if considering investment opportunities in relation to Senior Hospitals, Senior or Dependent Care Centers, or Clinical Research businesses in Thailand.

Senior Hospitals

Senior Hospitals were added to the list of business activities eligible for investment promotion under the investment category 7.28.5. The key eligibility requirements and incentives for Senior Care Hospital applicants and promoted operations are, among other criteria, as follows:

Eligibility requirements

A project must have at least 50 beds and the developer must have all the required operating licenses and permits issued by the relevant authorities.

Incentives

Promoted Senior Care Hospital projects are entitled to A3 tax incentives. An A3 tax incentive grants a promoted project a 5-year corporate tax exemption, with a cap based on the investment value.

Senior or Dependent Care Centers

Senior or Dependent Care Centers were added to the list of business activities eligible for investment promotion under investment categories 7.28.6. Eligibility and incentives for Senior or Dependent Care Center applicants and promoted operations are, among other criteria, as follows:

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Eligibility requirements

As with Senior Hospital operations, a Senior or Dependent Care Center project must have at least 50 beds and the developer must have all the required operating licenses and permits issued by the relevant authorities. It is important to be aware that unlike Senior Hospital projects, at least 51% of the shares in Senior or Dependent Care Centers must be held by Thai nationals.

Incentives

Promoted Senior or Dependent Care projects are entitled to A4 tax incentives. An A4 tax incentive grants a promoted project a 3-year corporate tax exemption, with a cap based on the investment value.

Clinical Research

Clinical Research operations are included in the Notification as two business categories eligible for investment promotion under Category 7.38. The two sub-categories under category 7.38 are: Contract Research Organizations (CRO) (Category 7.38.1); and (ii) Clinical Research Centers (CRC) (Category 7.38.2). Eligibility requirements, criteria and incentives for applicants and promoted operators are as follows:

Eligibility requirements

The criteria for investment promotion for Clinical Research projects, for CRO and CRC, include the following:

Examples of Criteria for CRO Projects	Examples of Criteria for CRC Projects
<ul style="list-style-type: none">• The applicant must provide supporting services for clinical research that must include:<ul style="list-style-type: none">(i) Management of Clinical Research; and(ii) Supervision of Clinical research (for example, management of retention of documents or information used for the purposes of clinical research, management of waste products used in clinical research, procurement of or providing research facilities)• The project must hire Thai personnel to work in the areas related to clinical research (e.g., a Clinical Research Associate (a "CRA")). Such personnel must pass training on Good Clinical Practices of the International Conference on Harmonization (the "ICH GCP") or other equivalent standards.• The project must have a minimum annual salary expense of at least THB 1,500,000 of newly hired Thai personnel working in areas related to the clinical research or have a minimum investment of THB 1,000,000 (excluding the cost of land, working capital, and vehicles).• The project must collaborate with research organizations, public health services or educational institutions in Thailand as approved by the BOI.	<ul style="list-style-type: none">• The project must provide at least one type of clinical research, as follows:<ol style="list-style-type: none">1. Preclinical Research; or2. Clinical Research• The project must procure or provide facilities for the operation of Clinical Research (e.g., examination rooms, medical storage rooms, or medical instruments used for purposes of clinical research).• In the case of human clinical research, the research must include at least <u>one</u> of the following phases: (i) Phase I: Safety and Dosage; (ii) Phase II: Efficacy and Side Effects; (iii) Phase III: Efficacy and Monitoring of Adverse Reaction; or (iv) Phase IV: Post-marketing Surveillance.• The clinical research must comply with Good Clinical Practices or other equivalent standards.• The project must have a minimum annual salary expense of at least THB 1,500,000 of newly hired Thai personnel working in the areas related to clinical research, or must have a minimum investment of THB 1,000,000 (excluding the cost of land, working capital, and vehicles).

Incentives

Promoted Clinical Research business operations are entitled to A1 tax incentives. An A1 tax incentive grants a promoted project an uncapped 8-year corporate income tax exemption.

Conclusion

The addition of Senior Hospitals, Senior or Dependent Care Centers and Clinical Research to the list of business activities eligible for investment promotion illustrates Thailand's continued effort to expand its position as a global healthcare provider. The combination of aging population trends and the recent pandemic will certainly increase interest in these sectors.

If you should have any questions about the legal issues raised in this briefing, please contact the authors listed in the right-hand column.