Doing Business in Thailand 2022

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Foreword

Welcome to the 2022 edition of our **Doing Business in Thailand**. Over the past decades, Thailand has made impressive progress in modernising its economy, transforming into a competitive developing country with a strong urban centre. Economic success was contributed by its robust tourism, agricultural, export and electronics industries.

Although these accomplishments have propelled a new stage of economic development, it also brought a new set of challenges, to escape the middle-income trap.

In the past few years, the government and public sector have been working hard to build on the country's strategic position as a regional business hub in the heart of Southeast Asia. This makes it an ideal location for entrepreneurs seeking access to Thailand's domestic market of 70 million people while also leveraging its trade infrastructure to reach the fast-growing CLMV (Cambodia, Laos, Myanmar and Vietnam) markets and economic giants such as China and India.

To further provide an attractive business climate for foreign investors seeking to do business in Thailand, the government has been continuously developing its Eastern Economic Corridor (EEC) initiatives to revitalise the country's eastern seaboard while also driving a significant transformation to the economy.

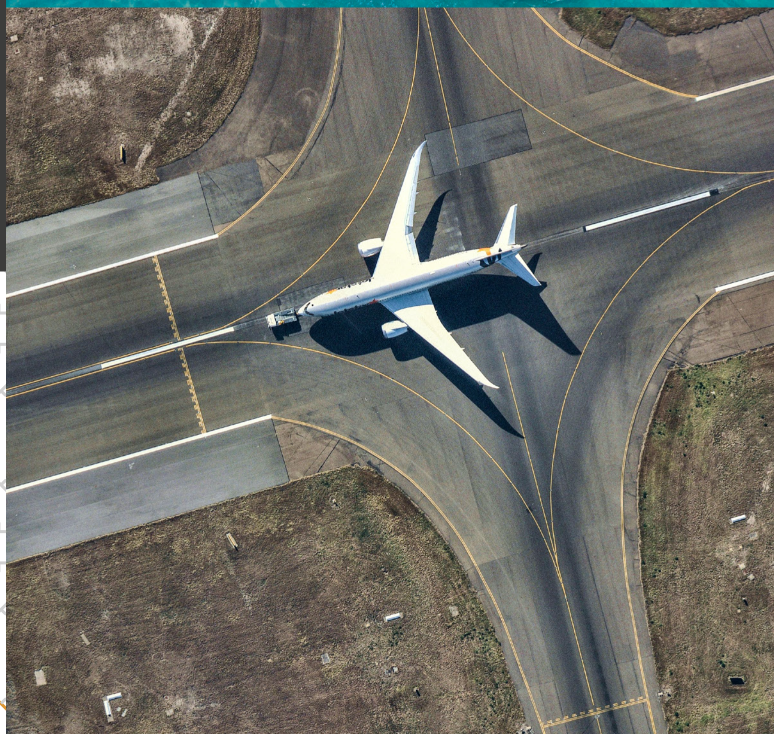
Three eastern provinces have received support from the private sector and incentives from the Thai government. The private sector and foreign investment are key to creating growth and technological development in Southeast Asia's second-largest economy.

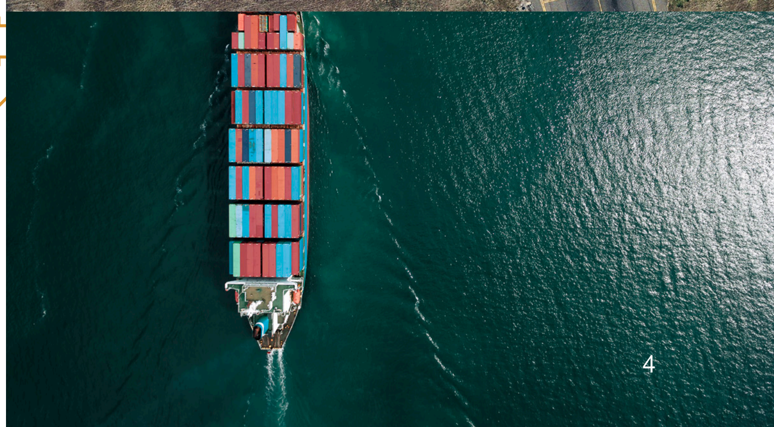
In this Guide, we help those who are interested in doing business in Thailand by providing an overview of the country's business landscape, the EEC and important business taxation. The coverage of the subjects is not exhaustive but is intended to deal with some of the more important and/or broad questions that may arise.

Chanchai Chaiprasit
Chief Executive Officer
PwC Thailand

Disclaimer

This Guide is not intended to serve as legal or taxation advice, but rather provide general information for investors to understand key facts about Thailand. It is also important to note that certain incentives, regulations and taxation are subject to change.





Chapter 1: Thailand at a glance

Country Overview

Total land size
513,120 km^2

Population
71 million

Currency
Thai Baht

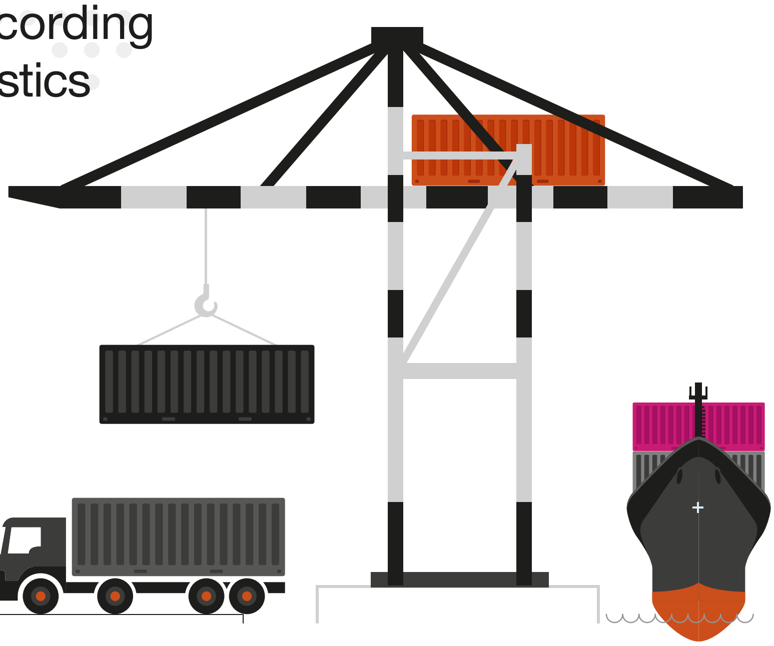
GDP per capita
USD7,233 (2021)

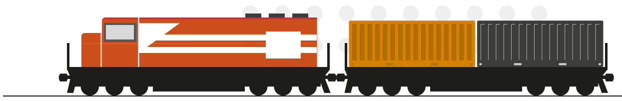
GDP growth
2.5% (June 2022)

Headline inflation
7.66% (June 2022)

Logistics

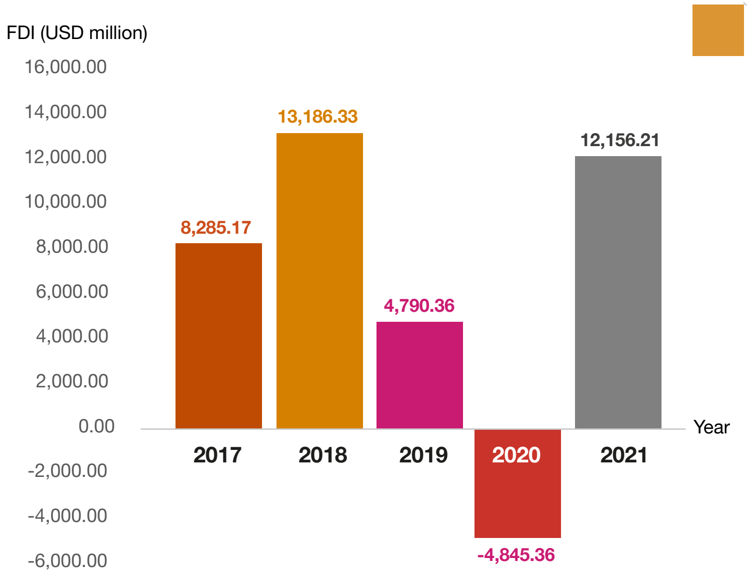
Ranked 2nd in ASEAN after Singapore, 7th in Asia according to the World Bank's Logistics Performance Index 2018





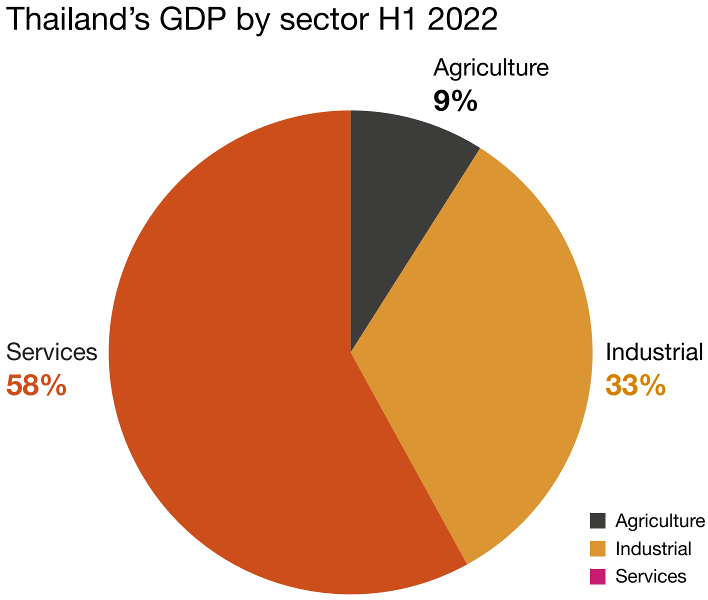
Sources: Bank of Thailand (BOT), Office of the National Economic and Social Development Council (NESDC), United Nations Population Fund (UNFPA) and World Bank

Foreign direct investment netflow (2017 - 2021)



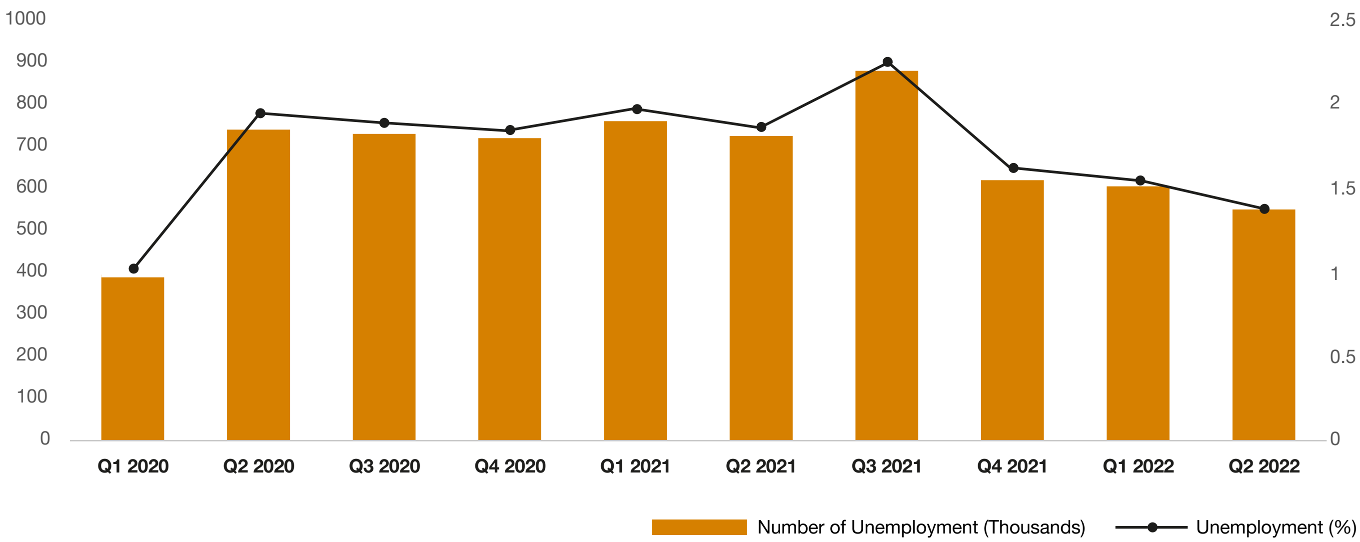
Source: World Bank

GDP by sector



Source: National Statistical Office of Thailand (NSO)

Unemployment rate (Q1 2020 - Q2 2022)

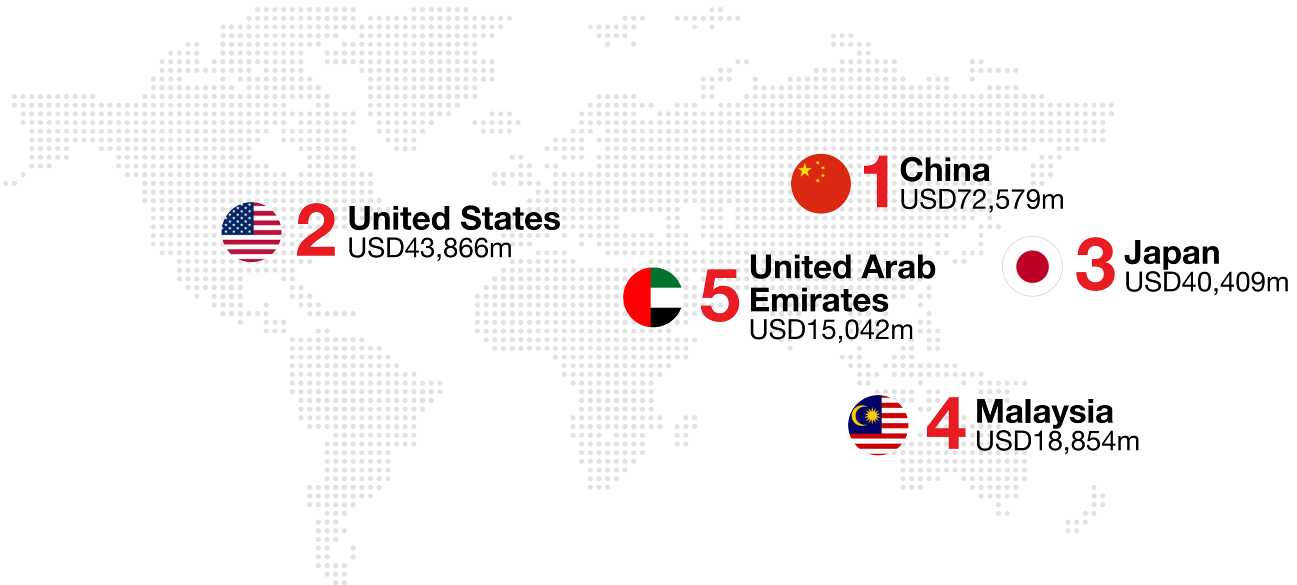


Source: Office of the National Economic and Social Development Council (NESDC)

Trade

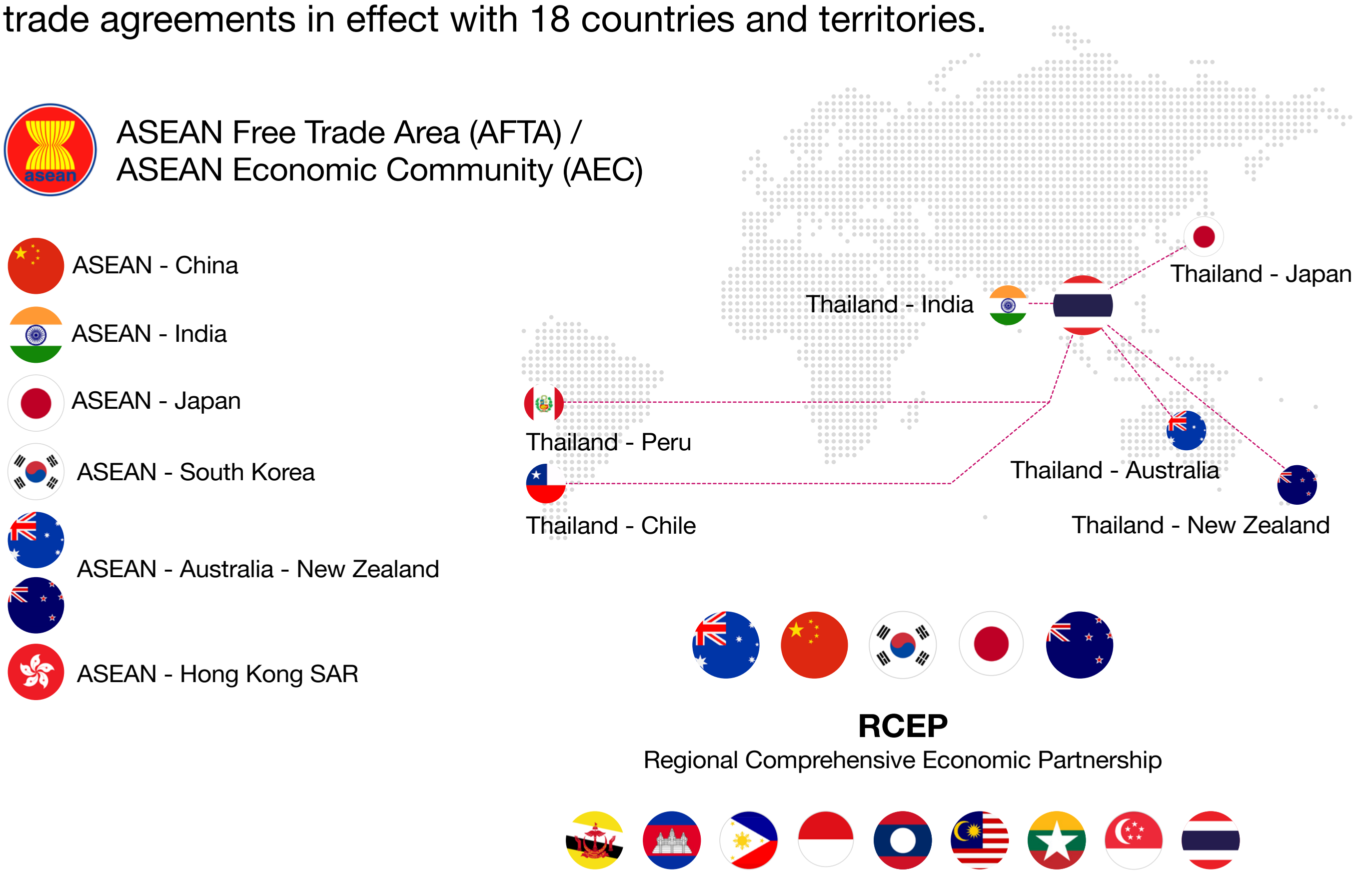
Thailand has a broad range of trading partners and its external trade remain resilient in the midst of the pandemic.

Top five trading partners (January - August 2022)

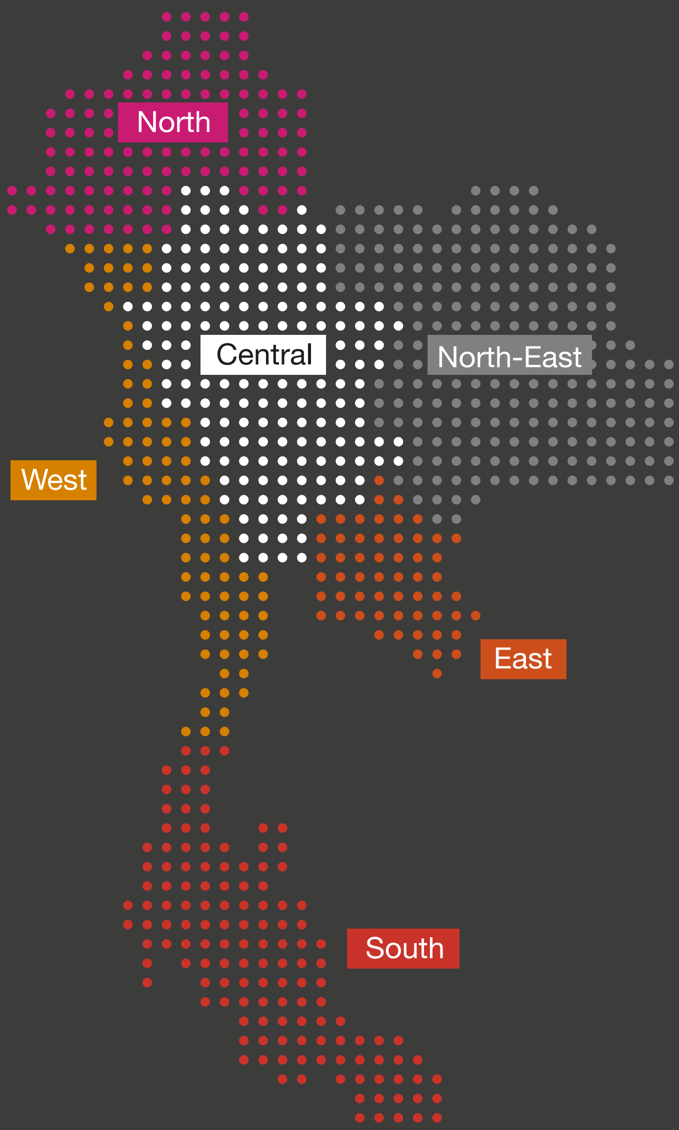


Source: Office of the Permanent Secretary Ministry of Commerce

Thailand is also one of the most open economies in the world. To date, it has 14 trade agreements in effect with 18 countries and territories.



Source: Department of Foreign Trade (DFT), Ministry of Commerce



Unrivalled location

Located at the centre of Southeast Asia, acting as a crossroad of trade and maritime routes, Thailand shares its borders with Cambodia, Laos, Myanmar and Malaysia.

The country has a total area of 513,120 km^2 and is divided into six regions – north, northeast, central, west, east and south. The official population is approximately 71 million with Thai being the predominant ethnic group and minorities including Chinese, Malays and Cambodians, as well as other indigenous peoples.

Its strategic location positions the country as an important regional producer and a key driver of intra-regional trade and connectivity, especially to CLMV countries and the high-end markets of east Asia.

Thailand is well-connected to major cities in Asia – within less than five hours flight from its capital Bangkok to Beijing in China and 2.5 hours to Hong Kong SAR.

In the past years, the country has been supported by the public and private sectors in contributing trades and investments. Despite a decline in 2020 due to COVID-19, Thailand's 2021 exports rose 17% with value accounting for USD271bn. Such strong expansion is attributed to import acceleration from many trading partners.

Political structure

Thailand is a constitutional monarchy with the monarch serving as the head of state while the prime minister is the head of the government. Although the country has gone through 17 constitutions since 1932, the basic structure of the government remains unchanged. The government is composed of three branches: the executive, legislative and judiciary.

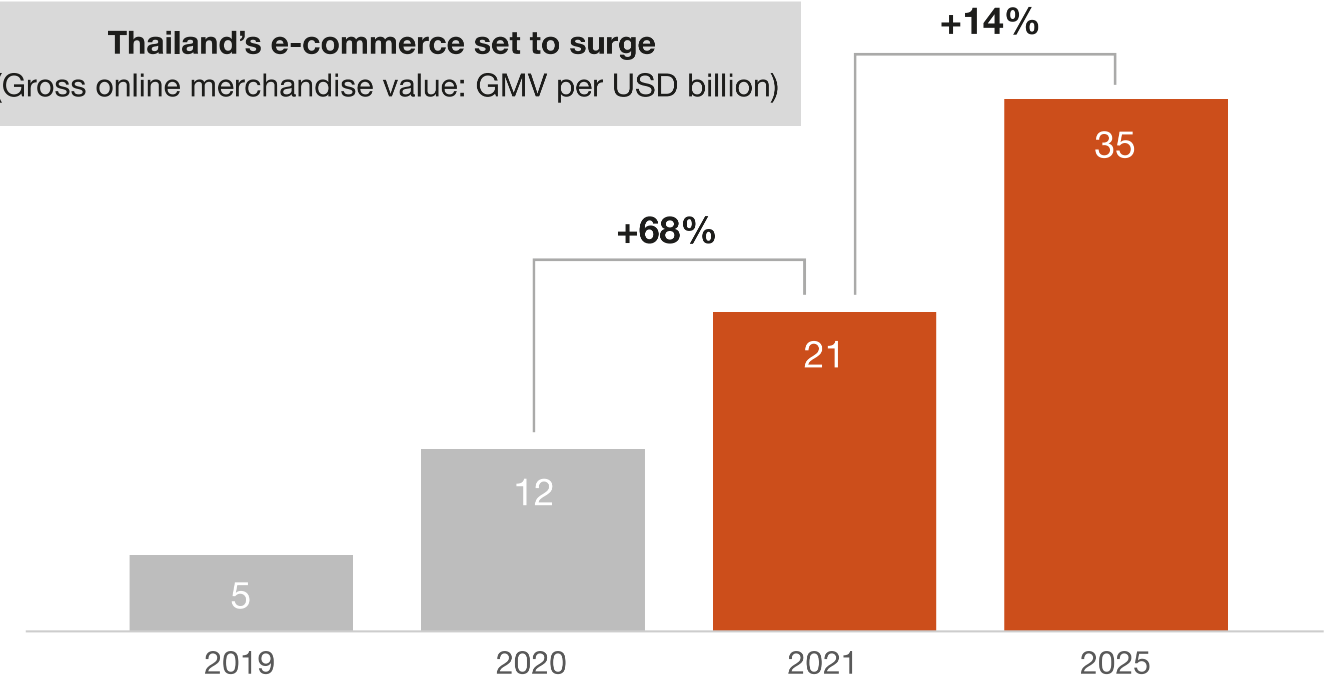
The House of Representatives consists of 500 elected members and together with 250 Senators appointed by the Royal Thai Army, forms the National Assembly of Thailand (also known as the Parliament). The constitution allows the parliament to enact and pass laws.

Meanwhile, the executive branch is led by the cabinet which consists of ministers with the prime minister as the leader. This branch of the government handles administration and management of various government agencies.

The digital economy

In the past decade, Thailand has made good progress in its transformation into the digital economy. Digital infrastructure has improved greatly and the entire population is able to access the internet and digital content. Thailand's e-commerce is one of the fastest growing business sectors in Southeast Asia, with 68% growth in 2021 and a further 14% growth per annum forecast to 2025.

Thailand's e-commerce set to surge
(Gross online merchandise value: GMV per USD billion)



Source: e-Conomy SEA 2021 report

Thailand experienced an increase of 9 million digital users since the start of the pandemic with 67% of the new users living in non-metro areas, according to the e-Conomy SEA 2021 Report. Consumption penetration was ranked second highest in Southeast Asia after Singapore, with 90% of internet users consuming digital services. Thai users showed no sign of stopping and 98% intend to continue to use the service.

The evolving ESG ecosystem

Climate change is one of the biggest challenges facing our world today. In line with the pledges made by most countries who are concerned about this issue, Thailand pledged to reduce carbon emissions to achieve carbon neutrality by 2050 and net-zero greenhouse gas emissions by 2065 at last year's 26th session of the Conference of the Parties (COP 26) in Glasgow, Scotland.

Under this commitment, the government has set its sustainable development roadmap consisting of three pillars: (1) long-term reduction of greenhouse gas in line with environmental, social and governance (ESG) developments (2) adaptation to mitigate climate change impacts and (3) supporting investments in climate-friendly public and private infrastructure as well as the development of economic, financial and fiscal measures to incentivise relevant sectors.

Steering the economy on a sustainable path

To execute the sustainable plan, government agencies have formulated policies for the industrial and service sectors to conduct eco-friendly business practices and drive sustainable growth. These measures include carbon tax research initiatives on goods and services that emit high levels of greenhouse gas. The study is expected to be completed with clear guidelines and tax rates in 2023. Another notable plan is the electric vehicle (EV) roadmap, which is driven by the 30/30 policy to produce zero emission vehicles (ZEV) that will account for 30% of all vehicle production by 2030. At the same time, the government plans to increase 55% of urban green space by 2037.

In addition, the government has adopted its national strategy to drive the country's economy forward with the 2021–2026 BCG model (Bio-Circular-Green Economy Model) as a major mechanism for balancing business growth with eco-friendly practices. It's also intended to introduce green financial measures to drive investments in innovation and green business.

Sources: Bangkok Post, The Bank of Thailand (BOT), The Nation, The Secretariat of the Prime Minister, Government House and The Stock Exchange of Thailand (SET)

The private sector's role in sustainability goals

To promote an eco-friendly business environment, the government has introduced green financial measures to drive green innovation and business investments. Thailand's private sector is also working to find ways to fulfil its sustainability commitments with regulators introducing ESG measures in markets.

The Securities and Exchange Commission (SEC) laid out its Corporate Governance Code that requires sustainability reporting from listed companies. Although there's flexibility around the choices for reporting frameworks, the Stock Exchange of Thailand (SET) follows the Global Reporting Initiative, which is the most commonly used guidance.

From 2022, all public companies must disclose their ESG performance through their 56-1 One Report, effective from the financial period ending 31 December 2021.

In November 2021, the SET also became a supporter of the Task Force on Climate-related Financial Disclosures (TCFD), which sets the standards for addressing environmental issues.

Earlier that year, the Bank of Thailand (BOT) announced an improvement to its supervisory review process under Pillar 2, which includes incorporating ESG in the risk analysis of funds. This move is a sign the central bank is interested in holding all of the banks in Thailand accountable for ESG reporting on risk management.

While some of the private sector is already actively engaged in ESG practices, importantly, most large listed companies understand the importance of ESG. Many have announced their sustainability goals and strategic plans while incorporating into their risk management practices. ESG adoption by corporations is a critical response to the unpredictable nature of environmental scenarios, and will help to provide clarity to our efforts to address the crisis.

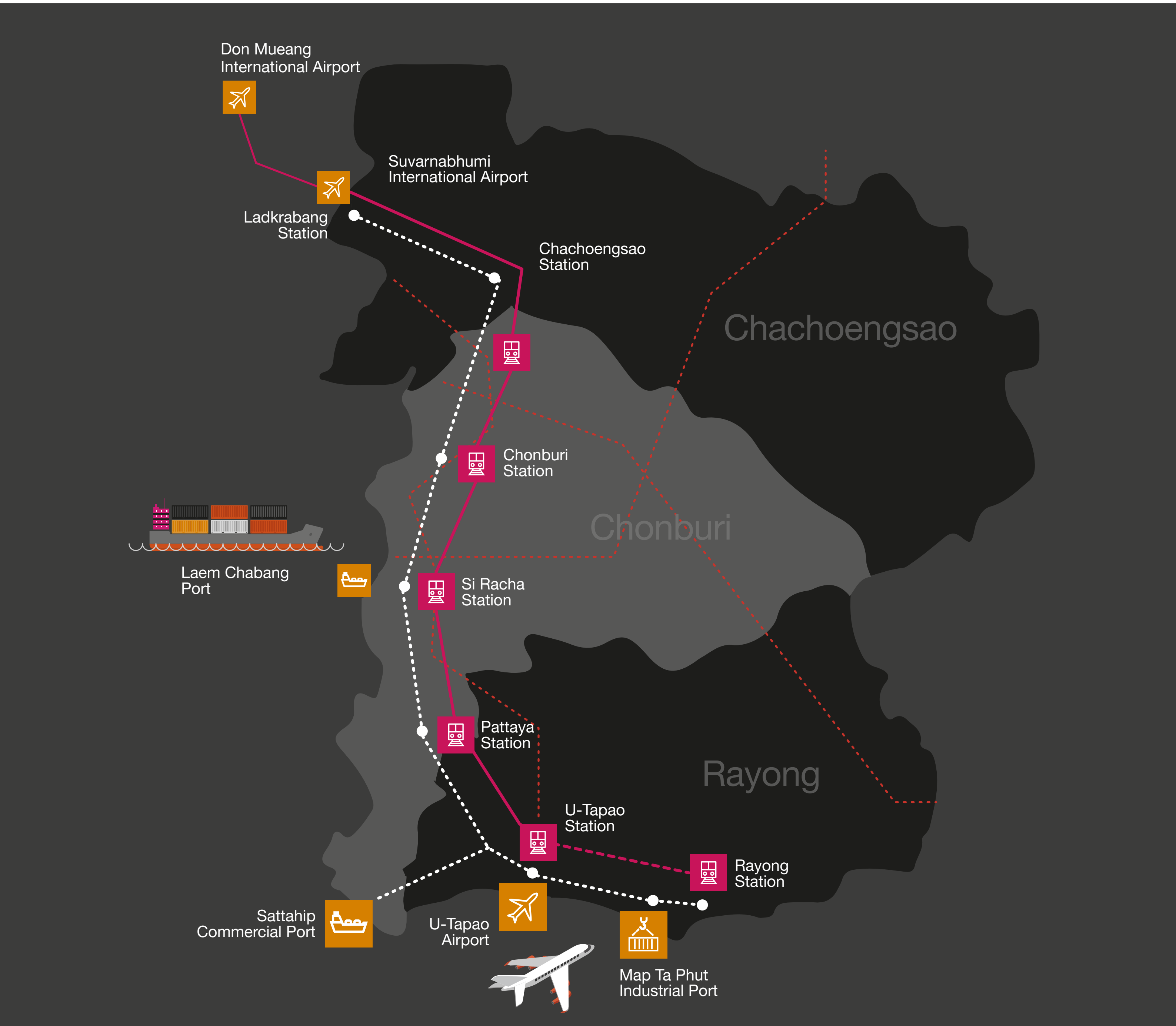
Sources: Bangkok Post, The Bank of Thailand (BOT), The Nation, The Secretariat of the Prime Minister, Government House and The Stock Exchange of Thailand (SET)

Chapter 2: EEC, Thailand's gateway to Asia

The EEC flagship project

Often called the ‘gateway into Asia’, the Eastern Economic Corridor (EEC) project is a government initiative that began in 2017 to revitalise Thailand’s eastern seaboard by turning areas in the provinces of Rayong, Chonburi and Chachoengsao into special economic zones with investment incentives to draw FDI. Besides foreign investment, the zones are also for future technological advancement to encourage Thailand to spearhead new innovations that upgrade life and well-being.

So far, the EEC spans three provinces, collectively occupying an area of 13,266 km^2.



Source: The Eastern Economic Corridor Office of Thailand (EECO)

Currently, the EEC's **12 targeted** industries are:

The first five S-curve industries

Advanced agriculture and biotechnology
- Precision agriculture
- Bio-refinery and bio-extraction
- Post-harvest management
- Gene editing for plants and animals

Food for the future
- Nutrition and supplements
- Functional food
- Novel food and plant-based food
- Flavours and fragrance

Intelligent electronics
- Smart appliances
- Microelectronics design
- 5G component manufacturing

High-value and medical tourism
- Medical and wellness tourism
- MICE and mega events

Next-generation automotive
- Electric vehicles (EV)
- Autonomous vehicles (AV)

The seven new S-curve industries

Defence
- Import substitution
- Maintenance
- Disaster management

Aviation and logistics
- Aviation
- Maintenance repair and overhaul (MRO)
- OEM for aircraft and parts
- Ground service equipment
- Logistics
- High-value logistics
- Smart logistics solutions

Education and human resources development
- International universities
- Certification bodies for professional skills
- EduTech

Digital
- Software and platform
- Artificial intelligence (AI)
- Big data and advanced analytics
- Digital infrastructure
- Cloud (IaaS) and data centre
- Cybersecurity

Medical and comprehensive healthcare
- Next-gen health therapy
- Precision medicine and biopharma
- Regenerative medicine and advanced cosmeceuticals
- Pharmaceuticals and biopharmaceuticals
- Medical devices
- Digital health

Biofuel and biochemical
- Speciality materials (bioplastics)
- Biochemical (fatty acids, oleochemicals, lactic acids)
- Biofuel (bioethanol, biodiesel)

Automation and robotics
- Industrial robots
- Service robots
- System integrator

Source: The Eastern Economic Corridor Office of Thailand (EECO)

Entering 2022, Phase I (EEC investment target) is now complete, attracting THB1.7tn (USD50bn) of capital. Four Public and Private Partnership (PPP) infrastructure projects worth THB654,921m (USD19bn) were signed: high-speed rail linking three airports, U-Tapao International Airport, Laem Chabang Port Phase III and Map Ta Phut Industrial Port Phase III.

U-Tapao International Airport

Part of Bangkok's airport system, and linked to Bangkok by high-speed rail. The target is 60 million passengers per year. The airport is expected to commence operation in 2025.

High-speed rail linking three airports

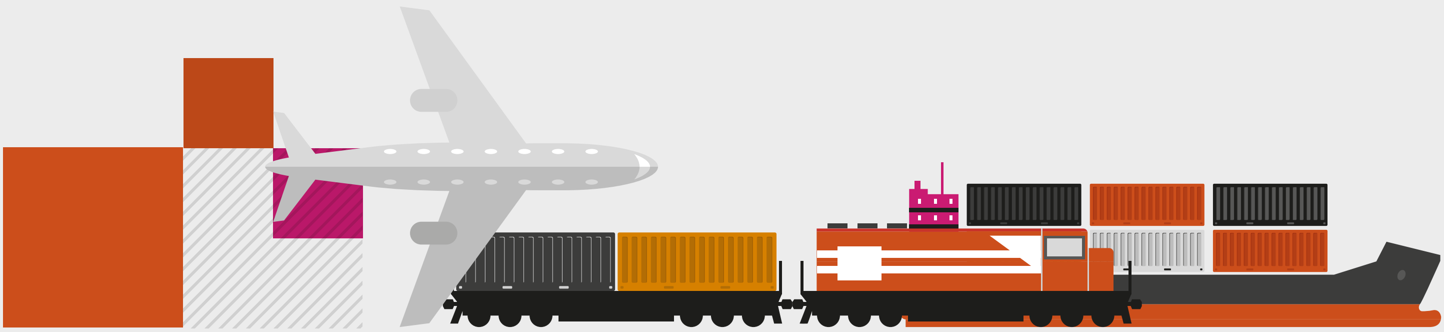
High-speed rail and airport rail link extension will enhance connectivity in five provinces with nine new stations that link the three international airports in the greater Bangkok area: Don Mueang, Suvarnabhumi, and U-Tapao. The high-speed train is set to begin operation in 2025.

Map Ta Phut Industrial Port Phase III

The port's capacity will increase up to 19 million tonnes per year to create Southeast Asia's shipment hub when it goes into operation in 2026.

Laem Chabang Port Phase III

The port will install an automated system to become the foundation for a regional logistics centre, expanding capacity to 18 million TEUs (20-foot equivalent units) and three million vehicles per year. This port will be ready for operation in 2025.



EEC tax incentives

An EEC project will be promoted only if it's engaged in one of the target industries, such as smart electronics, automotive, automation and robots, aviation and digital technology. An EEC promoted company will be granted corporate income tax exemption and/or reduction privileges for up to 13 years by virtue of the investment promotion law.

The Office of the Board of Investment of Thailand (BOI) has issued the criteria and incentives for promoted activities located in the EEC. The tax incentives are categorised under the following zones:

- Special industry promotion zones
    - Eastern Airport City (EECa)
    - Eastern Economic Corridor of Innovation (EECi)
    - Digital Park Thailand (EECd)
    - Medical Hub Thammasat University (Pattaya) (EECmd)
    - Genomics Thailand (EECg)
- Industrial estate or industrial area within the EEC

Only investors in eligible activities that have been granted tax incentives for five or more years (except for those specified in a negative list), targeted core technologies and enabling services, can apply for the incentives granted under the EEC policy. Applications must be submitted before 30 December 2022, except for those under the special industry promotion zone for which there is no due date.

Tax incentives provided by the BOI:

- BOI standard incentives
- Additional CIT exemption up to two years for certain activities
- CIT reduction of 50% for three years after the end of the tax holiday

However, the EEC incentives cannot be used together with those under the merit for industrial area development.

The EEC Act also grants a personal income tax reduction for experts with special knowledge/ability who work or operate a business in certain zones within the EEC.

Qualified expatriate and Thai employees are allowed a flat rate of 17% personal income tax on their income derived from working for companies carrying on target activities within the EEC.

Chapter 3: Business taxation

Rates of tax and due dates

Corporate income tax (CIT) rates	
Headline CIT rate (%)	20

Corporate income tax (CIT) due dates	
CIT return due date	Within 150 days from the closing date of the accounting period.
CIT final payment due date	Within 150 days from the closing date of the accounting period.
CIT estimated payment due dates	Within two months after the end of the first six months of the accounting period.

Personal income tax (PIT) rates	
Headline CIT rate (%)	0 - 35

Personal income tax (PIT) due dates	
PIT return due date	31 March
PIT final payment due date	31 March
PIT estimated payment due dates	Not applicable (except for certain business income)

Value-added tax (VAT) rates	
Standard VAT rate (%)	7 reduced from the standard 10% rate until 30 September 2023 (unless further extended by the government).

Withholding tax (WHT) rates	
WHT rates (%) (Dividends/Interest/ Royalties)	Residents: 10 / 1 / 3 Non-residents: 10 / 15 / 15

Capital gains tax (CGT) rates	
Headline corporate CGT rate (%)	Capital gains are subject to the normal CIT rate.
Headline individual CGT rate (%)	Capital gains are subject to the normal PIT rate.

Net wealth/worth tax rates	
Headline net wealth/ worth tax rate (%)	Not applicable

Inheritance and gift tax rates	
Headline inheritance tax rate (%)	10
Headline gift tax rate (%)	5

Significant developments

Thailand signed the Multilateral Instrument in December 2021 and submitted its instrument of ratification in April 2022. The Multilateral Instrument became effective from 1 July 2022.

Taxes on corporate income

Companies incorporated in Thailand are taxed on worldwide income. A company incorporated abroad is taxed on its profits arising from or in consequence of the business carried on in Thailand. The corporate income tax (CIT) rate is 20%.

A foreign company not carrying on business in Thailand is subject to a final withholding tax (WHT) on certain types of assessable income (e.g., interest, dividends, royalties, rentals, and service fees) paid from or in Thailand. The rate of tax is generally 15%, and 10% for dividends, while other rates may apply under the provisions of a double tax treaty (DTT).

Companies and juristic partnerships with paid-in capital not exceeding THB5m at the end of any accounting period and income from the sale of goods and/or the provision of services not exceeding THB30m, i.e., small and medium enterprises (SME) are subject to reduced rates, e.g. 15% for net profits between THB300k and THB3m.

Petroleum tax

International oil companies can engage in exploration and production activities in Thailand under a concession, a production sharing contract, or a service contract.

Taxation on income from petroleum operations is imposed on petroleum concessionaire companies and production sharing producers by the Petroleum Income Tax Acts (PITA). Petroleum companies under a service contract are not taxed under PITA but under the Revenue Code.

Corporate residence

Corporate residence is determined by the place of incorporation so a company incorporated under the laws of Thailand is a resident company.

A company incorporated abroad is subject to CIT in Thailand if it is considered to be carrying on business in Thailand. The term ‘carrying on business in Thailand’ is broad and, subject to the provisions of a DTT, includes the presence of an employee, representative, or go-between that results in the foreign company deriving income or gains in Thailand.

Withholding tax

A company, juristic partnership, or other juristic person, which pays assessable income to another Thai company, juristic partnership, other juristic person or a foreign company carrying on business in Thailand (through a branch or permanent establishment) must withhold tax from domestic payments such as royalties at 3%, interest at 1%, professional services and hire of work at 3%.

Foreign tax credit

A Thai company can use foreign tax paid on business income or dividends as a credit against its CIT liability. However, the credit cannot exceed the amount of Thai tax on the income. Credit is also given for any Thai tax that has been withheld at source (as noted above) and for the half-year tax paid.

Withholding tax on foreign payments

A final withholding tax is imposed on the remittance of income to foreign companies not carrying on business in Thailand in respect of the following:

Brokerage, fees for services	**15%**
Royalties	**15%**
Interest	**15%**
Dividends	**10%**
Capital gains	**15%**
Rental of property	**15%**
Liberal professions	**15%**

The above taxes may be reduced or exempt under double tax treaties.

Double tax treaties

Thailand has concluded tax treaties with 61 countries.

Other taxes

Carrying on business in Thailand is subject to other various taxes other than CIT. Key taxes are summarised below. Other types of taxes to note, other than those stated below include customs duties, excise tax, property taxes, etc.

Value-added tax (VAT)

The standard VAT rate is 10%, but the rate has been reduced to 7% until 30 September 2023 (unless further extended by the government).

VAT is levied on the sale of goods and the provision of services. Exports are zero-rated, while a number of goods and services are exempt (e.g., basic groceries, education, healthcare, interest, leasing of immovable property, sale of real estate).

Non-resident electronic service providers and electronic platform operators, who receive income of more than THB1.8m per year from providing electronic services to non-VAT registered customers in Thailand, must register for VAT, file VAT returns, and pay VAT (without deducting input tax) via the Revenue Department's online system. These taxpayers aren't required to issue tax invoices or prepare input tax reports.

Key conditions for VAT collection:

- Digital services are provided from abroad.
- Services are provided by electronic means and are used by a customer in Thailand.
- The customer in Thailand is not a VAT registrant.

Specific business tax

Specific business tax is collected at fixed rates on the gross revenue of certain businesses not subject to VAT, such as commercial banks, similar financial businesses, and the sale of immovable property, taxed at 3%, and life insurance, taxed at 2.5%. The specific business tax rate has been reduced to 0.01% for certain revenue derived by commercial banks, and finance, securities, and credit foncier businesses, as well as businesses with regular transactions similar to commercial banking.

An additional 10% of the tax is levied as municipality tax.

Stamp duty

Stamp duty is levied on 28 different types of documents and instruments, including contracts for hire of work, loans, share transfers, leases of land or buildings, and insurance policies. The stamp duty rate depends on the type of document and ranges from THB1 per THB1,000 of value on most contracts and agreements to a fixed amount per instrument on most commercial and other documents.

Most instruments subject to stamp duty in the form of e-instruments are required to be filed and have the stamp duty paid in cash via the internet. In this case, the filing of the return and payment can be made before the execution of the instrument or within 15 days from the date following that on which the instrument was executed.

Failure to pay the stamp duty and affix the stamps on time is subject to a surcharge ranging from 200% to 600% of the duty payable. Unstamped documents or instruments are not admissible as evidence in a civil lawsuit.

Capital tax

There are no capital taxes in Thailand.

Payroll tax

An employer is responsible for withholding PIT from all salaries and benefits paid to or on behalf of an employee and remitting such tax to the Revenue Department within seven days from the end of the month in which the salaries and benefits were paid.

Branch income

Branches of foreign corporations are subject to CIT on locally earned profits only. Branch profits remitted to the foreign head office are subject to an additional tax at the rate of 10%. However, this is a tax on the disposition of profits abroad and is not limited to remittances. For example, a credit of profit to the head office account in the books is held to be a disposition of profit abroad even though no remittance of funds has taken place.

Income determination

Capital gains

There is no specific legislation governing capital gains. Except as noted below, all capital gains earned by a Thai company are treated as ordinary revenue for tax purposes. Capital gains on the sale of investments derived from or in Thailand by a foreign company not carrying on business in Thailand are subject to a tax of 15%, withheld at source by the purchaser, unless otherwise exempt under a DTT.

The following gains earned by a foreign company not carrying on business in Thailand are also subject to 15% WHT:

Difference between the redemption price and the initial sale price of bonds issued by the government, state enterprises, and specified institutions.	Gains on the transfer of bonds issued by the government, state enterprises, and specified institutions.

Capital gains received by a Thai company and a foreign company carrying on business in Thailand from the sale of fund units in a fixed income mutual fund are exempt from tax. This is subject to the condition that the cost of the investment and expenses relating to the exempt income are not claimed as tax deductions.

Dividend income

Dividends received by a company listed on the Stock Exchange of Thailand (SET) from another Thai company are exempt from tax provided that the shares are held for at least three months before and after the dividend is received.

Dividends received by a non-listed company from another Thai company are also exempt from tax provided that the company receiving the dividend holds at least 25% of the total shares with voting rights, without any direct or indirect cross-shareholding, and has held the shares for at least three months before and after the dividend is received.

However, if the shares are held for such period but the 25% shareholding and cross-shareholding conditions are not met, only one-half of the dividend is exempt from tax.

Dividends received from foreign investments are exempt from tax if the Thai company receiving the dividends holds at least 25% of the shares with voting rights of the company paying the dividends for a period of not less than six months before the date on which the dividend was received and the dividend was derived from net profit in the foreign country taxed at a rate of not less than 15%.

If a 'special law' in a particular foreign country provides a reduced tax rate or exemption for the net profit, the limited company receiving the dividends is still eligible for the tax exemption.

The share of profits received by a Thai company or a foreign company carrying on business in Thailand from an unincorporated joint venture carrying on business in Thailand is exempt from tax. In addition, certain profits from mutual funds are exempt from tax (e.g. profit-sharing received from fixed income mutual funds).

Stock dividends are taxable to the recipient as ordinary income. Interest and royalty are taxable as income on an accrual basis.

Foreign income

Companies incorporated in Thailand are taxed on worldwide income. The foreign income received by a company incorporated in Thailand is taxable on the accrual basis. Double taxation is relieved by way of a credit against the tax chargeable in Thailand.

Net operating losses

Losses may be carried forward to offset against the profits of the following five accounting periods. The carry back of losses is not permitted. A change in control of a loss-making company does not impact its loss carry forward status.

Group taxation

Group taxation is not permitted in Thailand.

Transfer pricing

On 21 November 2018, Thailand introduced specific transfer pricing provisions into the income tax law, which apply to accounting periods that started on or after 1 January 2019.

The transfer pricing rules adopt the arm's length principle. Revenue officers have the power to uplift or reduce taxpayers' revenue and expenses to the arm's length price. Where transfer pricing adjustments result in a tax shortfall, a secondary adjustment which arises from imposing tax on a constructive transaction, either in the form of a deemed dividend or deemed loan, would also apply.

The legislation also requires mandatory annual transfer pricing reporting for taxpayers belonging to a group of companies ('applicable taxpayers'). Entities with an annual total revenue of THB200m or less are exempt from the transfer pricing information reporting requirements.

Two levels of transfer pricing information reporting:

1. **Partial disclosure** – Applicable taxpayers are required to complete a transfer pricing disclosure form and submit it online to the Revenue Department at the time of filing the annual tax return.

2. **Full disclosure** – Applicable taxpayers are also required to prepare full transfer pricing documentation to be maintained for five years from the date of filing the transfer pricing disclosure form. This includes the local file and the master file for larger entities and is to be submitted to the Revenue Department within a prescribed time period (normally 60 days) from the date of the request. A penalty of up to THB200k for each level of transfer pricing reporting will be imposed in the case where taxpayers fail to comply with the reporting requirements (by way of inaccurate or incomplete disclosure of information).

The detailed content requirements of the transfer pricing documentation are applicable for accounting periods that started on or after 1 January 2021. The new content requirements are largely in line with those suggested by the OECD local file requirements. However, transfer pricing documentation must be submitted in the Thai language. It also remains unclear whether Thailand's transfer pricing documentation now only comprises the local file as there is no mention of the master file.

Additionally, Thailand also introduced country-by-country reporting (CbCR) requirements that are applicable for accounting periods starting on or after 1 January 2021. Multinational enterprises (MNE) carrying on business in Thailand with total consolidated revenues exceeding THB28bn are required to file the CbCR in Thailand if they don't meet the local filing exemption conditions. The Revenue Department allows a foreign company to designate a Thai entity to be its surrogate parent entity and file a CbCR on behalf of the group, with certain conditions to be met.

The CbCR is required to be filed online within 12 months from the financial year-end if the ultimate parent entity of a Thai MNE is the filing entity and within 60 days upon request if the filing entity falls under the local filing conditions. Each MNE group operating in Thailand and meeting the CbCR threshold must select a representative entity to file the CbCR notification online with the Revenue Department. A fine of THB2,000 will be imposed on a taxpayer that fails to file the CbCR by the due date.

Thin capitalisation

There are no thin capitalisation rules. However, for certain businesses or as part of the conditions for granting tax incentives, a certain debt-to-equity ratio may be required.

Controlled foreign companies (CFCs)

There are no tax provisions in respect of CFCs.

Tax credits and incentives

BOI tax incentives

Under the Investment Promotion Act of 1977 (including its amendment no. 4 of 2017) and the Competitive Enhancement Act of 2017, the BOI is authorised to grant incentives and privileges to qualified investments. An investor entitled to investment incentives from the BOI under the Investment Promotion Act must be a limited company, foundation or cooperative organised under Thai law. However, an investor under the Competitive Enhancement Act can only be in the form of a limited company.

The present criteria for investment promotion became effective on 1 January 2015 while the status of existing promotional privileges already granted didn't change.

To relax the foreign shareholding limitation and to facilitate investors in making investments, the following criteria are currently used by the BOI:

- For a project in agriculture, animal husbandry, fishery, mineral exploration and mining and service businesses under Schedule 1 of the Foreign Business Act of 1999, Thai nationals must hold not less than 51% of the registered capital.
- For manufacturing projects, foreign investors may hold a majority or all of the shares in promoted projects.
- The BOI may specify the foreign investor shareholding in promoted projects when it is deemed appropriate.

With effect from 25 January 2017, the amended Investment Promotion Act offers a maximum CIT exemption period of 13 years, and from 14 February 2017 the Competitive Enhancement Act extended the exemption period to a maximum of 15 years. In addition, it provides for a competitive enhancement fund of THB10bn which is intended to lure high-value investors in industries using advanced technologies, geared towards innovation and research and development. However, obtaining privileges under both Acts is not feasible as the investor will only be allowed to use the privileges under one of the Acts.

The BOI provides tax and non-tax incentives under both Acts as well as various guarantees and protection measures which vary with the nature and importance of the activities, project locations, and other criteria.

Tax incentives that may be granted to investors:

- Exemption from or reduction of import duties on imported machinery.

- Exemption from import duties on raw and essential materials imported for manufacturing for export.

- Reduction of import duties on raw and essential materials by up to 90% for use in manufacturing for domestic sale.

- Exemption from import duties on items used for R&D.

- Exemption from CIT with or without a cap equal to or more than the amount of the investment, excluding the cost of land and working capital, for up to 15 years, depending on the applicable law, the promoted activity and the location.

- 50% reduction in the CIT rate for a maximum of five years from the date on which the tax holiday expires.

- Exclusion of dividends received from promoted enterprises from taxable income during the period of CIT exemption and within six months from the date on which the tax exemption period expires.

- Double deduction of the cost of transportation, electricity, and water supply for ten years from the date on which revenue was first derived from the promoted activity.

- Deduction of 25% of the project's infrastructure installation or construction costs in addition to normal depreciation. The deduction can be made in one or several years within ten years from the date on which revenue was first derived from the promoted activity.

Additional incentives based on the value of a project (merit-based incentives) are also available, as detailed below, in order to motivate investors applying under the Investment Promotion Act to invest in or spend on activities that will benefit the country or the industry as a whole.

Merit for decentralisation

The BOI grants an additional decentralisation merit for businesses that are located in 20 targeted provinces, which includes the following incentives:

A further three years' tax exemption period from the standard incentives, but not exceeding 13 years in total. With the exception of the targeted core activities, those activities that have eight years' tax incentives will receive a 50% reduction in the CIT rate on net profit derived from the promoted activity for five years after the termination of the normal income tax holiday, or from the date of earning income if no tax holiday is granted.

A double deduction of the cost of transportation, electricity and water supply for ten years from the date on which revenue was first derived from the promoted activity.

A 25% deduction of the project's infrastructure installation or construction costs in addition to normal depreciation. The deduction can be made from the net profit of one or several years within ten years from the date on which revenue was first derived from the promoted activity.

Merit for research and development

The BOI will grant an additional investment cap of up to 300% of the permitted expenses incurred for internal R&D, the provision of advanced training to employees, or the development of local suppliers and a further tax exemption period of up to three years (not exceeding 13 years in total).

Merit for industrial area development

The BOI will grant one additional year of tax exemption for activities that have tax incentives and are located within an industrial estate or promoted industrial zone. However, the total period of tax exemption will not exceed eight years, except for activities under technology and innovation development, which will be entitled to a maximum benefit of 11 years CIT exemption without any cap.

Targeted core technologies and enabling services

The BOI has also designated activities as targeted core technologies which, together with the enabling service of research and development, are entitled to a maximum benefit of 13 years of CIT exemption without any cap. The targeted core technologies are as follows:

- Biotechnology
- Nanotechnology
- Advanced material technology
- Digital technology

The enabling services of research and development will support the targeted core technologies in the following industries:

- Bio and medical
- Advanced manufacturing
- Basic and supporting
- Creative and digital

Other incentives, guarantees and protection measures

Apart from the tax incentives, other incentives granted to a promoted enterprise include permission to bring in foreigners to engage in investment feasibility studies, to bring in foreign technicians and experts to work on promoted projects, to own land to undertake the promoted activities and to remit foreign currency abroad.

The BOI provides guarantees against nationalisation, competition from new state enterprises, state monopolisation of the sale of products similar to those produced by the promoted project, price controls and tax-exempt imports by government agencies or state enterprises.

Protection measures include the imposition of a surcharge on imports, import bans on competing products and the authority of the Chairman of the BOI to order any action or tax relief measures for the benefit of promoted projects.

Special economic development zones

Special economic development zones (SEZ) are border areas, whether inside or outside of industrial estates, to create economic connectivity with neighbouring countries. The zones include certain areas (sub-districts) in the provinces of Trat, Tak, Mukdahan, Songkhla, Sa Kaeo, Nong Khai, Kanchanaburi, Chiang Rai, Nakhon Phanom and Narathiwat.

The BOI has granted tax incentives for investment in eligible target and general activities in the SEZ. To be eligible for the tax privileges, a number of general and specific conditions need to be fulfilled, including the use of modern production processes and new machinery, the necessary amount of paid-up share capital, adequate environment protection systems, a debt-to-equity ratio not exceeding 3:1 and the required area to operate the business.

Tax incentives available for eligible target activities:

- Exemption from CIT for a maximum period of eight years, with or without a cap equal to the cost of the investment (excluding cost of land and working capital).
- 50% reduction in the CIT rate for five years from the date on which the tax holiday expires.
- Double deduction of the cost of transportation, electricity and water supply for a period of ten years from the date on which revenue from the BOI business was first generated.
- A 25% deduction of the investment cost of the installation or construction of facilities in addition to normal depreciation.
- Exemption from import duty on machinery.
- Exemption from import duty on raw materials and essential goods used in the production of goods for export for a period of five years.

Permission will be granted to employ foreign unskilled workers in the promoted project according to the conditions prescribed by the BOI.

Tax incentives available for eligible general activities:

CIT exemption for an additional three years, but not exceeding eight years in total.	50% reduction in the CIT rate for five years from the date on which the tax holiday expires for certain specified activities which are entitled to eight years' tax exemption.	Other incentives are the same as those for the above eligible target activities.

Applications to obtain investment promotion in the SEZ must be submitted by 30 December 2022.

IEAT free zone

Under the Industrial Estate Authority of Thailand (IEAT) law, the free zone is designated for the operation of industrial and commercial activities or other related businesses, for the purpose of the economy, national security, public wellbeing, environmental management, or other necessities as prescribed by the IEAT Board, whereby goods taken into the area will be entitled to additional tax and duty rights and privileges as well as special fees as provided in the law.

Additional privileges granted to industrial operators in an IEAT free zone:

- Exemption from import duties, VAT and excise tax on machinery, equipment, tools, and supplies (including components) which are essential for the production of goods or for commercial purposes and on materials to be used in the construction, assembly or installation of factories or buildings in the IEAT free zone. Consumer products or vehicles are not exempt.
- Exemption from import duties, VAT and excise tax on raw materials imported and taken into an IEAT free zone for use in the production of goods or for commercial purposes. Exempt imported materials taken into an IEAT free zone for use in production include items from another IEAT free zone, promoted persons under the BOI for export, bonded warehouse, items imported under bank guarantee for re-export of finished goods and items exempt under other laws.
- Importation of goods into an IEAT free zone for producing, mixing, assembling, packing, or processing of the goods for export out of Thailand are not subject to the law in relation to the control of importation or exportation, the control of standards or quality, affixing of a mark or any signs to those goods other than those required under the Customs law in accordance with the rules prescribed by the Board of the IEAT.
- Goods manufactured in an IEAT free zone and sold in Thailand will be deemed as imported goods and subject to import duties and VAT. Sales between operators located in the IEAT free zones could be subject to VAT at the normal rate or at a zero rate.
- Goods manufactured in an IEAT free zone which qualify under the rules of origin and manufacturing criteria may be entitled to preferential duty rates on their removal to the Thai domestic market.

Customs free zone

To support and promote the country's exports, a customs free zone (CFZ) is an area designated for industrial or commercial operations, or other businesses that are beneficial to Thailand's economy. Goods imported into or manufactured in this zone will be exempted from import duty, VAT and excise tax.

To qualify as a CFZ, an application for its establishment must be submitted for the approval of the Director-General of the Customs Department. A company permitted to establish or operate in the CFZ must conclude a guarantee agreement with the Customs Department, conform strictly to all customs regulations and pay an annual fee as fixed by the law.

Rights and privileges granted to an operator in a CFZ:

Exemption from payment of import duties, VAT and excise tax on the acquisition (including the transfer from another CFZ) of machinery, equipment, tools and supplies (including components) which are essential for use in industrial and commercial operations or any other businesses that are beneficial to the economy of the country.

Exemption from payment of import duties, VAT and excise tax on raw materials imported and taken into a CFZ for use in the production of goods or for commercial purposes. Exempt imported materials taken into a CFZ for use in production include items from another CFZ, promoted persons under the BOI for export, bonded warehouse, items imported under bank guarantee for re-export of finished goods and items exempt under other laws.

Importation of goods into a CFZ for producing, mixing, assembling, packing or processing of the goods for export out of Thailand will be exempted from the law in the part relating to the control of standards or quality, affixing of a mark or any signs according to the rules prescribed by the Director-General.

Goods manufactured in a CFZ and sold in Thailand will be deemed as imported products and subject to duties and VAT. Sales between operators located in the CFZ could be subject to VAT at the normal rate or a zero rate.

Goods manufactured in a CFZ which qualify under the rules of origin and manufacturing criteria may be entitled to preferential duty rates on their removal to the Thai domestic market.

The storage period for goods in free zones (both IEAT and Customs) is limited to two years. However, the two-year limit can be extended for another year if the CFZ/IEAT free zone company obtains approval from Customs or IEAT (depending on the type of free zone). The approval needs to be obtained within 30 days before the expiry date of the two-year limitation. Goods that have been stored but have not obtained approval for the extension within 30 days from the expiry date will be subject to import duty and taxes.

International business centre

An international business centre (IBC) regime has been launched to replace the previous regional operating headquarters (ROH), international headquarters (IHQ) and international trade centre (ITC) regimes, which have been terminated.

The criteria for the establishment and operation of an IBC are as follows:

- A Thai company incorporated for the purpose of providing management, technical, support or treasury management services to its associated enterprises or for undertaking international trade business.
- Paid-up capital on the last day of each accounting period of at least THB10m.
- Provision of management, technical, support or treasury management services to its associated enterprises.
- At least ten knowledgeable and skilled personnel working full time for the IBC or at least five if the IBC acts only as a treasury centre.
- Expenses for the operation of the IBC paid to recipients in Thailand must not be less than THB60m in each accounting period.

Management, technical and support services comprise:

- General management, business planning, and business coordination
- Procurement of raw materials and parts
- Research and development of products
- Technical support
- Marketing and sales promotion
- Personnel management and training
- Financial advice
- Economic and investment analysis and research
- Credit control and management

Treasury management services comprise:

- Treasury management of a treasury centre as permitted under the exchange control law
- Borrowing and lending in Thai baht of a treasury centre as permitted under the exchange control law

International trading business means the international business of buying and selling goods, which may include the provision of services related to the goods purchased and sold. These services include:

- Procurement of goods
- Storage of goods while awaiting delivery
- Packing and packaging
- Transportation of goods
- Insurance of goods
- Technical advice and services and product training

Income of the IBC means:

- Income from the provision of management, technical, support services, or treasury management to its associated enterprises.
- Royalties from associated enterprises arising from a result of research and development carried out in Thailand by the IBC or other entities hired by the IBC, according to the rules, procedures, and conditions prescribed by the Director-General of the Revenue Department.

The following tax benefits are available for 15 accounting periods:

Reduced rates of CIT on qualifying income:

8%
if the IBC has incurred expenditure of at least THB60m paid to recipients in Thailand during the accounting period.

5%
if the IBC has incurred expenditure of at least THB300m paid to recipients in Thailand during the accounting period.

3%
if the IBC has incurred expenditure of at least THB600m paid to recipients in Thailand during the accounting period.

Exemption from tax on dividends derived by the IBC from its affiliates.

Exemption from withholding tax on dividends paid by the IBC to a non-resident company out of profits derived from qualified service income subject to the reduced rate of tax.

Exemption from withholding tax on interest paid by a treasury centre on borrowed funds which are re-lent to affiliates.

Exemption from specific business tax on income received by a treasury centre.

Personal income tax rate of 15% for expatriate full time employees of the IBC and working for the IBC. If the company undertakes IBC as well as other businesses, the revenue derived from the IBC must not be less than 70% of the company's total revenue.

In comparison with the previous ROH/IHQ regimes, the IBC regime doesn't apply different tax rates to offshore and onshore income. As a consequence, there is no longer any requirement for services to be provided to a minimum number of offshore affiliates. There is also no limit to the amount of onshore income which qualifies for the reduced tax rates. The expenditure required to qualify for the reduced tax rates has been significantly increased.

However, in the case where an existing ROH/IHQ has converted to be an IBC, it can enjoy the reduced tax rate of 8% provided that it meets the original minimum expenditure requirement of THB15m.

If an IBC doesn't meet the rules and conditions prescribed or does not otherwise qualify as an IBC in any accounting period, the benefits will be revoked on a year-by-year basis. If the company doesn't meet the conditions for more than one accounting period or has none of characteristics for operating as an IBC, the tax benefits will be terminated with effect from the first accounting period.

The taxable profit and loss of an IBC must be computed separately between the IBC and non-IBC businesses and between (i) headquarters and treasury management services, and (ii) royalties. Common expenses are to be allocated based on the proportion of revenue of the IBC and non-IBC businesses.

Tax losses must be maintained separately, as follows:

Headquarters and treasury management services

Royalties

Non-IBC business

Tax returns must be filed separately for each of the above services.

About PwC

The New Equation

The world has forever changed after the pandemic. Building trust and delivering sustained outcomes has never been more important in a world faced with disruptions such as technological revolution, climate change and social tensions.

Our global strategy, The New Equation, is our commitment to co-create solutions to help our clients overcome new challenges in this rapidly changing world by bringing together unique combinations of people and technology to meet complex needs. It is our purpose, which empowers our people to deliver real change for clients, stakeholders and society.

Not only do we strive to deliver quality assurance, advisory and tax services but we are also continuing to attract diverse talent and upskilling our people to meet the needs of today and tomorrow.

PwC operations in Thailand

PwC has had a presence in Thailand for many years and this year is our 63rd anniversary in the market. We work closely with a diverse range of clients, including multinational companies, public sector entities, businesses with high growth potential and prospective entrepreneurs.

True to our commitment to The New Equation and as part of a community of solvers, we help our clients cope with the business disruptions of today and tomorrow while also highlighting the importance of sustainable practices. This means bringing in the best of our people and combining them with innovative technologies to ensure our clients can build trust and deliver sustained outcomes.

We believe that sound governance and transparency form the bedrock of leadership, and we are committed to serving with integrity and good sense. We have more than 1,800 people ready to deliver Assurance, Tax and Legal, Deals and Consulting services.

Delivering sustained outcomes which make a difference

Assurance services

Trust is essential for business ethics. It matters to clients, stakeholders and investors alike. In an age where the pace of business is accelerating and regulations are shifting fast, trust is perhaps more crucial than ever before. Our Assurance service aims to deliver a clear path and ensure your business improves its transparency in digital assurance, financial reports and Environmental, Social and Governance (ESG) reporting.

Tax and Legal services

Achieving your tax strategy in today's business landscape requires expertise and foresight to meet the many challenges. Our Tax and Legal service is your trusted advisor in building strong relationships with regulators and better managing tax pitfalls. By combining the best of our people, global network and technology, we help organisations stay in compliance and give them time to focus on their future.

Deals services

Driving value through business deals, mergers, acquisitions, disposals and restructuring forms the core of our services. Our team understands that all deals are unique, so we deliver the expertise you need at every stage of the deal to make sure you don't leave value on the table.

Consulting services

As part of the PwC South East Asia Consulting joint venture, our Consulting business in Thailand brings the best regional and local experts to help our clients succeed. We combine technology and industry knowledge to guide your business in digital and cloud transformation, risks and strategy.

Contacts

Assurance
Amornrat Pearmpoonvatanasuk
Assurance Lead Partner
E: amornrat.pearmpoonvatanasuk@pwc.com

Tax and Legal
Somboon Weerawutiwong
Lead Partner, Tax and Legal Services
E: somboon.weerawutiwong@pwc.com

Deals
Chantanuch Chotikapanich
Deals Lead Partner
E: chantanuch.chotikapanich@pwc.com

Consulting
Vilaiporn Taweelappontong
Consulting Lead Partner and Financial Services Leader
E: vilaiporn.taweelappontong@pwc.com

Our Office

PwC Thailand
15th Floor Bangkok City Tower,
179/74-80 South Sathorn Road,
Bangkok 10120
T: +66 (0) 2844 1000

www.pwc.com/th