

Setting up a company in thailand

Business people who are at any stage of considering setting up a business in Thailand, as well as those who are already well established in the Kingdom. We help to get company registration in thailand.

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Register and Operate Your Business in Thailand:

Businesses are formed in Thailand using one of these entities:

❖ Sole Proprietorship:

This is a business owned by only one person, who must be a Thai person resident in Thailand, or a foreigner operating under the United States-Thailand Treaty of Amity and Economic Co-operation. The proprietor's liability is unlimited, so that his/her assets, both business and personal, may be subject to attachment and other forms of legal restriction.

❖ Partnership:

- a) Unregistered Ordinary Partnerships
This is an unregistered business carried on by two or more people, whose liability is jointly and severally unlimited.
- b) Registered Ordinary Partnerships
This is a legal entity, whose existence is separate from the individuals who have formed it.
- c) Limited Liability Partnership
This is a legal entity, whose liabilities are limited to the amount of capital contributed by the partners.

❖ Public Limited Company:

Brief description:

On approval its prospectus, this entity may offer shares, debentures and warrants to the public.

It may apply to have its securities listed on the Stock Exchange of Thailand (SET).

A public limited company must:

- Have a minimum of 15 promoters for the formation and registration of the Memorandum of Association.
- Have not less than half of the promoters domiciled in Thailand.
- Have the promoters' subscribed shares, which will be paid up in money, equal to not less than 0.05 percent of the registered capital.

- These prescribed shares cannot be transferred within two years of the date of registration of the company, except with the consent of a general meeting of shareholders.
- Have a statutory meeting within two months from the date when the shares have been fully subscribed, as specified in the prospectus, but not more than six months from the date of approval of the memorandum by the registrar.
- Have a minimum of five directors, at least half of whom must be domiciled in Thailand Ensure that the directors are 20 years of age or older, and they must have clean legal records.
- Have subscribers pay the full amount of each share.
- Not stipulate any provisions which would prevent shareholders from becoming directors of the company.
- Hold a meeting of the Board of Directors at least once every three months where a directors' certificate must be obtained and the minutes must be recorded .
- Have an auditor present at all times when the balance sheet is submitted for adoption by general meeting of the shareholders.

A private limited company may be transformed into a public limited company by passing a special resolution of the shareholders as stipulated by the Civil and Commercial Code.

Private Limited Company:

Introduction:

- **The Thailand Private Limited Company is comparable in many ways to the Private Limited Company (Limited or Ltd.) in the U.K., and the Limited Liability Company (LLC) in the U.S.A..**
- **This is the most common form of business structure for foreigners in Thailand, with the liability of shareholders being limited to the amount left unpaid on their shares.**
- **Ownership and management are legally separate.**
- **At least 51 percent of a company's shares must be held by Thai citizens.**
- **The remaining shares may be held by anyone.**
- **The foreigner will normally maintain control of the company by issuing two separate classes of shares: ordinary (which have more voting rights) and preferred (with fewer or no voting rights).**

- Only the Director (or Directors) have the authority to sign any document on behalf of the Company.
- Before starting the Company registration process, you will need a physical address for your business. Konrad Legal can provide you with a temporary address, but if you make other arrangements, please note that you must be the outright owner of the land, or have a letter from the outright owner permitting you to operate your business on his land, and if you plan to operate from a condominium, ensure that your sale/rental agreement permits this.

Registration requirements:

A Private Limited Company must:

- Have a minimum of three promoters.
- Have at least one director.
- Have an auditor.
- Have a memorandum of association.
- Have a statutory meeting.
- Register the incorporation papers.
- Follow accounting procedures specified in the Civil and Commercial Code, the Revenue Code and the Accounts Act.
- Prepare a balance sheet once a year and file it with the Department of Revenue and Commercial Registration.
- Withhold income tax from the salary of all regular employees.

The Process:

❖ Reserve the Company Name:

- The desired name for your company along with two alternative names must be submitted to the Thailand Ministry of Commerce.
- The Registrar will then verify that no similar company names have been reserved and that the name does not violate any ministerial rules.

- If the desired name does not meet these requirements, the registrar will then assess the alternative names.
- If either the desired name or one of the two alternatives is acceptable, that will become the name of your Company.
- If none of the requested names are available, you will then have to re-submit two more names.

Proposed Company Names must comply with the requirements of the Thailand Ministry of Commerce. For example, no name of a Royal person may be used.

❖ **File a Memorandum of Association:**

- The Memorandum of Association must be prepared, giving names and addresses of all shareholders, the registered capital of the Company, and a description of its proposed business activities. It must then be signed by all shareholders and submitted to the Thailand Ministry of Commerce.
After successful processing, the Ministry will issue the Company affidavit, certification, shareholder list and Articles of Association.

❖ **Convene a Statutory Meeting:**

- The adoption of the Articles of Association (by-laws).
- Ratification of any contracts entered into and any expenses incurred by the promoters in promoting the company.
- Fixing the amount of remuneration, if any, to be paid to the promoters.
- Fixing the number of preferred shares, if any, to be issued, and the nature and extent of the preferential rights accruing to them.
- Fixing the number of ordinary shares or preferred shares to be allotted as fully or partly paid-up other than in money, if any, and the amount up to which they shall be considered as paid-up.
- Appointment of the initial director(s) and auditor(s) and determination of the respective powers of the directors.

❖ **Register the Company:**

- Within three months of the date of the statutory meeting, the directors must submit the application to establish the company.
- If not registered within the specified period, the company statutory meeting shall be void.

- During the registration process, the promoters will be required to supply the name, license number, and remuneration of the auditor they plan to hire.
- The company registration fee is 500 baht per 100,000 baht of registered capital.
- The minimum fee is 5,000 baht and the maximum fee is 250,000 baht.
- The directors shall then cause the promoters and subscribers to pay forthwith upon each share payable in money such amount, not less than 25%, as provided by the prospectus, notice, advertisement, or invitation.
- The company is then registered as a legal entity (or juristic person).

❖ **Register for Tax and VAT:**

- All documents associated with the registration of the company's Tax ID Card and Vat Certificate must be submitted to the Central Filing Office of the Revenue Department.

❖ **Open a Corporate bank account:**

- This should include internet banking.
- The Company Director (Directors) physical presence is required.
- To open the account, the bank will ask to see ID (passport) and Visa.

Visas:

Introduction:

- To apply for a Work Permit, you will need to have obtained a Non-Immigrant visa, often referred to as a “Non-B” visa.
- This visa can be applied for in your own country, or in Thailand. Either way, Konrad Legal are happy to provide the application and sponsorship documents required and all assistance with their completion.

The benefits of a Non-B visa are:

- It enables you to apply for a Work Permit with a Thai company. It may be your own company, of which you are a / the Director, but you still need a Work Permit to legally work in the company.
- The holder can open a bank account.

- 90-day stay in Thailand on each visa.
- Unlimited exits and re-entries in Thailand.

The process for getting a Non-Immigrant (Non-B) visa:

- In your own country, complete the application and sponsorship documents that you received from Konrad legal and submit them, with your passport and the appropriate fee, to the Thai Embassy or Consulate most convenient for you, in person, or by courier.
or,
in Thailand, complete them in the offices of Konrad Legal, and they will fully brief you about their submission.
- The Thai Embassy will issue to you a Non-Immigrant (Non-B) visa valid for 12 months.
- You are permitted to enter Thailand on this visa.
- At the end of your first 90 days in Thailand, and at the end of each subsequent 90-day period that you are in Thailand until the expiry of your visa after 12 months, you must travel to any border, where you will simply cross and return with a stamp for the next 90-day period of stay in Thailand. This procedure is referred to as a “visa run” or a “border run”, with Cambodia is the most popular border, and vans making the trip daily.
- To avoid the inconvenience of border runs, it makes sense to apply for your Work Permit as soon as possible, and within the first 90-day period.

Requirements for getting a Work Permit:

- To qualify for a Thailand work permit you must have a registered Thailand Limited Company with a minimum of 2,000,000 Baht capitalization and a VAT certificate.
- When documents are called for, they must be in the original language, plus copies in the Thai language.
- The requirements for both a prospective employee and the employer are shown below:

The applicant has to submit the following documents:

- 3 x 2 inches photos, full-face, less than 6 months old
- medical certificate and blood group and freedom from contagious disease

- original passport, plus copies of all pages
- departure card TM6
- letter of employment
- certificate of degree
- address in Thailand
- if married to a Thai: marriage certificate, wife's Thai ID card, birth certificates of children, and household registration.

The employer has to provide the following:

- company certificate and objectives
- list of shareholders
- application for VAT
- withholding tax of the company
- financial statement
- photocopy of the director's passport and work permit with signature affixed
- office map
- letter of employment stating position and salary of applicant
- employment agreement
- company seal and Director's signature alongside on each document
- all documents accurate and drawn within the last 90 days

For established companies there are other, alternative documents, dependent upon the kind of business, previous tax payments, number of Thai people employed, and so forth.

The employee must:

- work only at the work specified in the documentation.
- work only for the employer named in the application.
- work only at the location or locations specified.
- apply for extension of the Work Permit within 30 days of the date of expiration.
- keep the Work Permit securely at the place of work.
- keep a copy at a different location, for example, at home.
- report the loss or theft of the Work Permit within 15 days.
- may work for the company for a period of up to 30 days, but not more than this, even if a Work Permit has been applied for but not yet received.