

## NO&amp;T Thailand Legal Update

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## Visa Exemption for Japanese Businesspersons who Visit Thailand for Short-term: Recent Development

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On 28 December 2023, the Notification of Ministry of Interior re: Designation of Countries in Which Holders of the Passport or Travel Documents who Entered Thailand for Temporary Business Engagement to be Exempted from Visa as a Special Case dated 28 December 2023 (the “**Notification**”) was published in the Government Gazette. This article aims to provide backgrounds, wrap-up and our remarks to the Notification.

### **Background**

Since 1995, Thailand exempted the visa requirement for Japanese citizens who travel to Thailand for tourism for the period of 30 days. However, legally speaking, the purpose of such exemption does not correspond to those who enter Thailand for business engagement, such as, business meetings. In 2022, the Embassy of Japan in Thailand therefore requested the Thai government to exempt the requirement of visa for Japanese businesspersons who visit Thailand for a short business trip. Such visa exemption scheme is also a reciprocal response to the visa free scheme for Thai citizens who wish to visit Japan for tourism or business engagement for not more than 15 days which have been granted by Japan since 2013<sup>1</sup>. As a result, the Cabinet approved the visa exemption scheme for Japanese businesspersons on 12 December 2023 and the Notification was enacted thereafter.

The objective for the visa exemption scheme under the Notification is to facilitate Japanese businesspersons to conveniently enter Thailand for short-term business engagements which will help forging Thailand’s economy and competitiveness.

### **Key Takeaways**

The Notification was enacted under Section 17 of the Immigration Act of 1979, as amended (the “**Immigration Act**”) which grants the authority to the Prime Minister and the Ministry of Interior, with the approval of the Cabinet, to specially exempt the application of Immigration Act for certain categories of foreigners. Its effective period is 2 years from 1 January 2024 to 31 December 2026.

Principally, the Notification allows a Japanese citizen to enter Thailand for a period of not exceeding 30 days without any visa requirement for the following objectives:

- (a) Business engagement; or
- (b) Necessary, urgent works or ad-hoc works (collectively “**Urgent Works**”) as specified under Clause 2 of the Notification of the Department of Employment re: Designation of Works Which are Necessary, Urgent or Ad-hoc Works dated 14 December 2020 (the “**Urgent Work Notification**”)

The Notification requires Japanese citizens who wish to enter Thailand for the objectives above to submit evidence of their business engagements, for example, itinerary or invitation letters issued by the hosting organization or companies, etc. However, from practical perspective and based on our discussion with an immigration officer at Suvarnabhumi Airport, it is not every case that the officer will request for the evidence of the business engagement,

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<sup>1</sup> Proposal letter from the Ministry of Foreign Affairs No. 1305/2036 dated 8 October 2023 addressing the Cabinet regarding the reasons for the enactment the Notification.

the immigration officer will use his or her discretion to request the evidence on the case-by-case basis.

### **Our Analysis and Remarks**

Based on the stipulation of the Notification, there are 2 types of activities that Japanese businesspersons are entitled to the visa exemption as follows:

(a) Business engagement

In case that a Japanese citizen enters Thailand to conduct the trade and investment related activities, for example, participating in meetings with business partners or surveying business opportunities in Thailand, etc.<sup>2</sup>, such Japanese citizen shall not be required to obtain any visa or applying for any work permit or make any notification under the Emergency Decree on the Foreign Employee Management of 2017 (the “**Emergency Decree**”) in order to carry out the business engagement in Thailand.

(b) Urgent Works

The “Urgent Works” under the Notification is limited to those necessary, urgent, or ad-hoc works as specified under Clause 2 of the Urgent Work Notification, for example, internal audit, repairing or installation of machines, or inspecting product quality, etc. In the same manner as traveling into Thailand for business engagement, Japanese citizens may enter Thailand without any visa for the objective of performing Urgent Works. However, it should be noted that, despite of the visa exemption, Japanese citizens are still subject to the general laws and regulations under the Emergency Decree. Therefore, in case of performing the Urgent Works, Japanese citizens are still required to notify the Department of Employment before commencing of such work, but the period that Japanese citizens shall be allowed perform such urgent works under the Notification have been extended to 30 days in oppose to 15 days (extendable for other 15 days) which is the default period under the Emergency Decree.

### **Conclusion**

Japan has been ranked No. 1 of the foreign direct investment in Thailand based on the total accumulated investment amount for many decades, and now ranked No. 3 for the current foreign direct investment. Japanese investors are also capable in the target industries of the Thai government, i.e. (i) green industry, (ii) electric vehicles, (iii) medical industry, (iv) bio industry, (v) digital economy, (vi) infrastructure, (vii) agricultural development, and (viii) human resource development.

Enactment of the Notification not only facilitates the ease of doing business between two countries, but also eliminates a prolonged issue concerning the contradiction between the visa requirement under relevant laws and actual treatments of foreigners who visit Thailand for business engagement.

Should you have any questions, please feel free to contact the authors for more information.

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<sup>2</sup> Notification of the Department of Employment re Activities not Regarded as Work under the Foreigner’s Working Act of 2008 dated 6 March 2008

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