

# **Thailand formulates new SMART Visa concept to attract foreign experts and investors**

*by*

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*Background:* During the past year or so, the Thai government has been discussing strategic moves to attract more high-technology foreign investment in Thailand. As part of this initiative, the government has set up the Eastern Economic Corridor in the three eastern provinces, of Chonburi, Chachoengsao and Rayong. In the EEC, the government will promote development of public utilities, transport, logistics, human resources and investor facilitation.

With a view to attracting more highly skilled/experienced foreign experts, the government has also created a new SMART visa scheme. This came into force on 1 February 2018.

In this article, we outline the requirements and the benefits available to this new visa category.

*Location of employer:* The business that employs the foreign expert may be located anywhere in Thailand.

*Categories of business activity in which such visas may be applied for:* The categories of business activity in which such visas may be applied for are the so-called *S-curve industries*:

- Next generation automotive
- Smart electronics
- Affluent, medical and wellness tourism
- Agriculture and biotechnology
- Food for the future
- Automation and robotics
- Aviation and logistics
- Bio-fuels and bio-chemicals
- Digital
- Medical hub

*Categories of visa applicant:* There are four categories of SMART visa applicant:

- Talent - based
- As investor
- As executive
- In a start-up business

*Requirements and benefits for each visa category:* The requirements and benefits for each visa category are set out below:

### **Talent based visa**

<b>Requirements</b>	<b>Benefits</b>
<ol style="list-style-type: none"><li>1. Minimum salary of 200,000 Baht per month exclusive of any benefits</li><li>2. Employment agreement with a Thai company with a term remaining of not less than one year</li><li>3. Proven experience in science and technology in the specified industry, as certified by the relevant Thai government agency (unless working for a Thai government agency)</li><li>4. The employer must be certified to be engaged in that specific industry by the relevant Thai agency</li></ol>	<ol style="list-style-type: none"><li>1. Maximum four year visa, but not exceeding the period of the employment agreement</li><li>2. No separate work permit required</li><li>3. Must report to confirm address every 12 months (the general rule is reporting every 90 days)</li><li>4. No need to apply for re-entry permit when exiting and re-entering Thailand</li><li>5. Spouse and children aged over 18 may work in Thailand without a work permit. Employment not permitted in the 39 occupations that are prohibited to foreigners</li></ol>

### **Investor visa**

<b>Requirements</b>	<b>Benefits</b>
<ol style="list-style-type: none"><li>1. Must directly invest at least 20 million Baht as an individual investor, in one or more companies in Thailand, using technology as a base in manufacturing or services in the targeted industries, or are delivering services in the targeted industries</li><li>2. The investment must be maintained during the visa period</li><li>3. The business (whether newly setup or an existing business) must be certified as using technology or delivering services in the targeted industries and certified by the relevant government agency.</li></ol>	<ol style="list-style-type: none"><li>1. Maximum 4 year visa</li><li>2. No separate work permit required. Approval needed to change employment or add additional employments</li><li>3. Must report to confirm address every 12 months (the general rule is reporting every 90 days)</li><li>4. Spouse and children granted visa to enter Thailand</li><li>5. Spouse may work in Thailand without a work permit. Employment not permitted in the 39 occupations that are prohibited to foreigners</li></ol>

### **Executive visa**

<b>Requirements</b>	<b>Benefits</b>
<ol style="list-style-type: none"><li>1. Minimum salary 200,000 Baht per month exclusive of any benefits</li><li>2. Must hold a BA degree or higher and have at least 10 years relevant experience</li><li>3. Must have an employment agreement for a company in Thailand or overseas with an</li></ol>	<ol style="list-style-type: none"><li>1. Maximum 4 year visa</li><li>2. No separate work permit required. Approval required for change of employment or additional employment.</li><li>3. Must report to confirm address every 12 months (the general rule is reporting every 90</li></ol>

<p>assignment to work in Thailand. The contract must have at least one year left to run.</p> <p>4. Must hold a senior position such as chairman or managing director</p> <p>5. The business (whether newly setup or an existing business) must be certified as using technology or delivering services in the targeted industries and certified by the relevant government agency</p>	<p>days)</p> <p>4. No re-entry permit required</p> <p>5. Spouse and children granted visa to enter Thailand</p> <p>6. Spouse may work in Thailand without a work permit. Employment not permitted in the 39 occupations that are prohibited to foreigners</p>
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### **Start-up business visa**

<b>Requirements</b>	<b>Benefits</b>
<p>1. Must hold 600,000 Baht in a fixed savings account in Thailand or elsewhere with remaining maturity term of at least one year</p> <p>2. Where the applicant is accompanied by a spouse and children, an additional savings amount of 180,000 Baht is required, subject to the other points in 1. above</p> <p>3. The applicant, any spouse or children must hold health insurance throughout the period of stay in Thailand.</p> <p>4. Must work in an incubator or accelerator programme or similar programme as certified by the relevant government agency. The programme must be in the targeted industries.</p> <p>5. If not employed in a project referred to in 4 above the applicant must receive joint venture funding or is endorsed by a relevant government agency</p> <p>6. The applicant must register a company in Thailand within one year. The business must be certified as being in the targeted industries by the relevant government agency</p>	<p>1. Maximum 4 year visa</p> <p>2. No separate work permit required. Approval required for change of employment or additional employment.</p> <p>3. Must report to confirm address every 12 months (the general rule is reporting every 90 days)</p> <p>4. No re-entry permit required</p> <p>5. Spouse and children granted visa to enter Thailand</p> <p>6. Spouse may work in Thailand without a work permit. Employment not permitted in the 39 occupations that are prohibited to foreigners</p>

*Who may apply?* Applications may be made by foreigners already working in Thailand or those who are outside Thailand.

*Time for processing application?* The application should be processed within 30 days.

*Renewal of visa:* An application to renew a visa must be submitted at least 90 days before expiry.

*Comments:* Whilst the benefits under this new scheme may be attractive, only practical experience will tell whether foreign experts will accept the requirements imposed, and the scheme will prove attract to foreign experts who desires to work in the *s-curve* industries.

A number of matters remain unclear. There is silence on the issue of applying for another SMART visa after expiry of the initial visa term. Could a further SMART visa be applied for either consecutively, or after a period of e.g. one month after leaving Thailand? Could an ordinary 12 month visa and work permit be applied for immediately after a SMART visa expires? Will the proportionality rules still apply, meaning that for every foreigner employed, the company must employ at least four Thais? The answers to these questions are not yet clear.

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