



## Legal Alert

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### Logistic business – Looking from the Foreign Business Act perspective

Generally, logistic businesses are referred to transportation of goods and other related activities to facilitate the management of products movement, such as freight forwarder, warehouse management and customs clearance etc.

If a foreigner (to put simply, foreign ownership in any company is 50% or more of the total of its outstanding shares) wishes to operate logistic business in Thailand, the Foreign Business Act B.E. 2542 (A.D. 1999) or the FBA must be taken into account. Some are strictly prohibited, and some are restricted which can be subject to different thresholds of approvals, i.e. level of department of business development, or the cabinet.

From the FBA perspective, each activity/business to be conducted in the field of logistic business must be separately considered whether each of any activity is subject to the lists of restricted businesses attached to the FBA or not. Based on the private letters of rulings, the Ministry of Commerce considers the activities/businesses under the logistic business from the view of the MOC would be considered as follows:

*International transport:* The delivery of goods either Thailand's airports/ports to destinations in overseas countries, or vice versa, is considered as an international transportation service, which is not a restricted business under the FBA. A foreigner will be able to conduct such business without requiring a foreign business license ("FBL").

*Domestic transport:* The delivery of goods within territory of Thailand including from any location in Thailand to airports/ports is considered as domestic transportation by land, water, or air which is restricted business under List Two Chapter 1 (2) of the FBA. In order to operate this restricted business, the license is required and certain conditions need to be met.

There are certain complications if a company procures a third-party carrier to deliver the goods from the Company to the customer's office or designated location in Thailand, we can help take a closer look on the arrangement to help you determine this issue.

*Freight forwarder:* Providing freight service for international transportation of goods are considered as service business under List Three (21) of the FBA. A foreigner under the FBA is prohibited to conduct such business unless FBL is obtained.

*Warehouse business:* Warehouse business is considered as service business under List Three (21) of the FBA. A foreigner under the FBA is prohibited to conduct such business unless FBL is obtained.

In addition, warehouse business is a regulated business and is affected by other laws which specific license is required.

*Customs clearance:* Providing customs clearance service is considered as service business under List Three (21) of the FBA. A foreigner under the FBA is prohibited to conduct such business unless FBL is obtained.

### Deloitte's observation

If foreign investors would like to invest or conduct the logistic business in Thailand, they must consider whether each business is restricted under the FBA. We would be happy to assist in terms of providing analysis and structuring the business to suit your needs and comply with relevant laws and regulations.

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