

(Translation)



**MINISTERIAL REGULATION
PRESCRIBING THE MINIMUM CAPITAL AND PERIOD FOR BRINGING OR REMITTING THE MINIMUM
CAPITAL INTO THAILAND (No. 3),
B.E. 2552 (2009)***

By virtue of the provisions of section 14 and section 46 of the Foreign Business Act, B.E. 2542 (1999), which is the Act containing certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 29, in conjunction with section 33 and section 43 of the Constitution of the Kingdom of Thailand, so permits by virtue of provisions of law, the Minister of Commerce issues this Ministerial Regulation, as follows.

Clause 1. This Ministerial Regulation shall come into force as from 30th August 2009.

Clause 2. The provisions of Clause 3/1 and Clause 3/2 of the Ministerial Regulation Prescribing the Minimum Capital and Period for Bringing or Remitting the Minimum Capital into Thailand, B.E. 2545 (2002) as amended by the Ministerial Regulation Prescribing the Minimum Capital and Period for Bringing or Remitting the Minimum Capital into Thailand (No. 2), B.E. 2547 (2004) shall be repealed and replaced by the following provisions:

“Clause 3/1. A foreigner under Clause 3 who operates a business in Thailand by virtue of a treaty to which Thailand becomes a party or by which Thailand is bound in consequence of obligations therefrom, being a treaty under which nationals of the other party are entitled to operate businesses and exempt from legal restrictions as a matter of reciprocity, must bring or remit foreign currencies that form the minimum capital into Thailand in conformity with the rules as prescribed in Clause 1 or Clause 2, as the case may be, within fifteen years as from the date of the entry into force of this Ministerial Regulation.

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Clause 3/2. A foreigner, being a juristic person registered in Thailand, who operates a business in Thailand by virtue of a treaty to which Thailand becomes a party or by which Thailand is bound in consequence of obligations therefrom, being a treaty under which nationals of the other party are entitled to operate businesses and exempt from legal restrictions as a matter of reciprocity, shall, if it appears that such juristic person does not have the minimum capital in conformity with the rules as prescribed in Clause 1 or Clause 2, as the case may be, on the date of the commencement of business operation or the date of receipt of the certificate, bring or remit foreign currencies that form the minimum capital into Thailand in conformity with such rules within fifteen years as from the date of the entry into force of this Ministerial Regulation.”

Clause 3. A foreigner who has operated a business in Thailand by virtue of a treaty to which Thailand becomes a party or by which Thailand is bound in consequence of obligations therefrom, being a treaty under which nationals of the other party are entitled to operate businesses and exempt from legal restrictions as a matter of reciprocity, prior to the date of the entry into force of this Ministerial Regulation but has not yet brought or remitted foreign currencies that form the minimum capital into Thailand in conformity with the rules as prescribed in Clause 2 must take action in conformity with such rules within ten years as from the date of the entry into force of this Ministerial Regulation.

Given on the 27th Day of August 2009.

Porntiwa Nakasai
Minister of Commerce

Note:- The reason for the promulgation of this Ministerial Regulation is as follows. The Ministerial Regulation Prescribing the Minimum Capital and Period for Bringing or Remitting the Minimum Capital into Thailand, B.E. 2545 (2002) requires that a foreigner operating businesses in Thailand by virtue of a bilateral treaty to which Thailand becomes a party and under which nationals of the other party are entitled to operate businesses and exempt from legal restrictions as a matter of reciprocity bring or remit foreign currencies that form the minimum capital into Thailand within five years as from the date of the entry into force of this Ministerial Regulation. Such period of time is due to expire on 30th August 2009, whilst at present Thailand remains obligated to comply with treaties to which Thailand is a party or by which Thailand is bound in consequence of obligations therefrom, being the treaties under which nationals of the other party are entitled to operate businesses and exempt from legal restrictions as a matter of reciprocity. Therefore, for the purpose of compliance with such obligations, it is expedient to extend the period of time for bringing or remitting the minimum capital into Thailand for another period of ten years in favour of foreigners operating businesses in Thailand by virtue of a treaty to which Thailand becomes a party or by which Thailand is bound in consequence of obligations therefrom, being the treaty under which nationals of the other party are entitled to operate businesses and exempt from legal restrictions as a matter of reciprocity. It is therefore necessary to issue this Ministerial Regulation.