

## Thai SMART Visa - All That Glitters Is Not Gold

April 2018

The Smart Visa immigration scheme went into effect on February 1 of this year. The Smart Visa option reflects government's effort to attract highly-skilled foreigners. The Smart Visa offer targets foreign entrepreneurs, high-level executives, highly skilled employees in science and technology, and investors to work and invest in 10 target industries- automotive, electronics, tourism, agriculture and biotechnology, among them. Government means well in its offer, as it often does. Though, one should consider whether the Smart Visa is a practical immigration scheme or just more "devil in the details."

### Benefits Granted under the Smart Visa

According to the Board of Investment, the Smart Visa offers expatriates among the following benefits:

- 1) A maximum 4-year visa, as compared to a current 1 year, [certain conditions apply for Start-Ups];
- 2) No work permit required;
- 3) One annual report to Immigrations authorities, as opposed to the 90-day interval requirement;
- 4) Spouse and children of the Smart Visa holder are eligible to work in Thailand for the term of the Smart Visa granted.

#### Qualifying Applicants & Brief Overview of Application Procedure

To qualify for the Smart Visa, applicants must fall into one of the following four categories:

Categories	Conditions
1) Highly-Skilled Specialists	<ul style="list-style-type: none"> <li>- Science and technology experts</li> <li>- Salary of at least Baht 200,000 per month</li> <li>- 1- year employment contract</li> <li>- Employer is in a targeted industry</li> </ul>
2) Investors	<ul style="list-style-type: none"> <li>- Minimum investment of at least Baht 20 million</li> <li>- Investment must be in companies engaged in manufacturing or provision of services in a targeted industry</li> </ul>
3) Senior Executives	<ul style="list-style-type: none"> <li>- Applicant must have a Bachelor's Degree or higher with at least 10 years' work experience</li> <li>- Salary of at least Baht 200,000 per month</li> <li>- 1- year employment contract</li> <li>- High level executives</li> </ul>

Categories	Conditions
	- Employer is in a targeted industry
4) Start-Ups	<ul style="list-style-type: none"> <li>- Minimum fixed deposit of Baht 600,000 with a remaining maturity of at least 1 year</li> <li>- Health insurance</li> <li>- Participate in endorsed incubation/ or a similar program or earn promotion by a similar relevant government agency</li> <li>- Company is set-up in a targeted industry with 25% of its shareholders being Thai nationals.</li> </ul>

After applicants are vetted for the appropriate category, they must electronically upload required documents to an online system. After all support documents are uploaded, applicants must submit hard copies of all documents to the One Stop Services for Smart Visa. Thereafter, applicants can expect a screening process, performed by designated agencies. Where the applicant is an expert in science, for example, the Ministry of Science would conduct the screening.

Once the applicant passes the screening process and receives the endorsement letter from the relevant authority, he or she may get the Smart Visa.

The applicant who lives in Thailand may apply for the Smart Visa at the One Stop Service for Smart Visa. Overseas applicants may apply at a Thai Embassy or Consulate.

## Author's Note:



The Smart Visa seems well intended considering the benefits. However time consuming application process and bureaucratic morass may outweigh any of those benefits.

For example, the applicants must submit a Police Clearance Certificate and Criminal Record Certificate from authorities in their country of origin or from the Royal Thai Police in the case applicants are in Thailand. In the latter case, obtaining the needed clearance may take as long as 7 business days. Further, the official timeframe for screening by designated agencies is mandated to take around 30 working days. However, one can safely assume the process will take much longer. Bear in mind, no current law specifies screening procedures to be carried out by designated agencies. Any lack of regulation almost encourages the likelihood for mismanagement.

In light of the uncertainties, the BOI non-tax privilege regarding visas and work permits may begin to appear more desirable in comparison. The BOI visa application process only takes 2 weeks compared in case of Smart Visa, which possibly takes 6-7 weeks, and provides less paperwork for highly skilled specialist and senior executives. Those likely to benefit from the Smart Visa are investors and start-ups, as, currently, they are ineligible for the BOI's non-tax privilege.

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*Note: Dherakupt International Law Office Ltd., has changed its name from DRK to DRKI. E-mail and website domains are @drkilaw.com (e.g. phongnarin\_r@drkilaw.com) and www.drkilaw.com.*