

# Cambodia News Brief\*

A periodic summary of new rulings & other legal documents relating to legal, tax and investment developments in Cambodia

July 2009

## Law on Finance Lease

**(Royal Kram no. 0609.008 dated 20 June 2009)**

The Law on Finance Lease was promulgated by Royal Kram no. 0609.008, dated 20 June 2009. The underlying objective of the Law is to provide a framework for the development of the banking and financial system in Cambodia to allow participants, both Lessor and Lessee, to engage in equal, safe and effective finance lease activities. The Law achieves this by setting out the rights and duties of parties that are involved in financial lease operations and providing mechanisms to protect those rights. The scope of this Law will extend only to the finance lease of moveable property in the Kingdom of Cambodia.

The Royal Kram is made up of 38 Articles and eight Chapters prescribing General Provisions, Financial Lease Agreement, Rights and Obligations of the Lessors, Rights and Obligations of the Lessees, Supervisory Authority and Regulatory Power, Sanctions, Transitional Provisions, and Final Provisions

The National Bank of Cambodia (NBC) will be the governing body and shall have the power to issue, suspend or revoke operating licences of finance leases, and issue regulations for the implementation of the Law.

A company which deals in finance leases is required to apply for a licence from the NBC within 12 months from the effective date of the law. Only banks and financial institutions licensed by the NBC are allowed to conduct finance lease transactions.

*(Please refer to the Royal Kram on Law on Finance Lease for more details)*

## Notification on Collection of Tax on Means of Transportation for the 2009 year

**(No. 1328 GDT/N/LT dated 8 July 2009)**

The Ministry of Economy and Finance has issued a notification regarding the Tax on Means of Transportation for the 2009 year. The notification relates to taxpayers who are real regime taxpayers and registered with the General Department of Taxation.

Tax on Means of Transportation is a tax that is imposed on the registration of certain transportation vehicles including trucks, buses, motor vehicles and ships. Once a vehicle is registered the owner is required to pay an annual transportation tax as prescribed by the Ministry of Economy and Finance. The notification requires real regime taxpayers to pay the 2009 Tax on Means of Transportation, for vehicles registered prior to 15 July 2009, within the period of 15 July 2009 to 15 October 2009.

The notification advises that the Tax on Means of Transportation should be filed on the tax form "T 01" (tax return for monthly Prepayment of Tax on Profit, Specific Tax on Certain Merchandises and Services, Tax on Accommodation, Public Lighting Tax and other Taxes) in box no.18. The words "Tax on Means of Transportation" should be inserted in the gap provided in point no. V - "Other taxes".

The notification also states that for vehicles purchased by the taxpayer post 15 October 2009 the taxpayer is required to file a tax return and pay the tax no later than the 20<sup>th</sup> of the following month. Enterprises which do not pay Tax on Means of Transportation for 2009 will be charged a 100% penalty on the tax amount.

*(Please refer to the appendix form attached with the notification for more details for the filing of the return)*

**Prakas on Deductibility of Withholding Tax  
(No. 599 MEF.PRK dated 15 July 2009)**

The Ministry of Economy and Finance has issued a Prakas to clarify the deductibility of withholding taxes.

The Prakas states that if a payment that is subject to withholding tax is made, to either resident or non-resident taxpayers, before the calculation of withholding tax (i.e. the withholding tax is withheld before a payment is made) then the withholding tax is considered to be an expense of the payer and consequently will be a deductible expense for the payer.

If withholding tax is not withheld before the payment is made (i.e. the payer bears the withholding tax cost), then withholding tax will be a non-deductible expense for the payer.

The withholding taxes mentioned in the Prakas include Withholding Tax on payments to resident taxpayers and non resident taxpayers and Tax on Fringe Benefits. Based on the examples provided in the Prakas, it appears that Tax on Fringe Benefits paid by an employer in relation to benefits provided to its employees is a non deductible expense.

*(Please refer to the Prakas for detailed examples)*