

Cambodian 2015 Tax Booklet

A SUMMARY OF CAMBODIAN TAXATION

The information in this booklet is based on current taxation rules and practices including certain legislative proposals and measures as at 31 October 2015.



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This booklet is intended as a general guide. Where specific transactions are being contemplated, definitive advice should be sought. A list of appropriate contacts is given opposite.

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1 ■ TAXATION

General overview

Most local and foreign investments and foreign investors are subject to the same taxation system and will be affected by the following taxes:

- Tax on Profit (or Corporate Income Tax)
- Minimum Tax
- Withholding Tax
- Value Added Tax
- Import Duties
- Tax on Salary

There are various other taxes that affect certain investors in specific industries, including:

- Accommodation Tax
- Specific Tax on Certain Merchandise and Services (Exercise tax)
- Public Lighting Tax
- Other taxes

Cambodian tax system

Cambodia's tax system is separated into estimated, simplified and real regimes. The estimated and simplified regimes cover mainly small local and family businesses who haven't properly registered with the Ministry of Commerce (MoC) and the General Department of Taxation (GDT). The real regime includes companies, foreign branches and representative offices registered with the MoC and the GDT.

The estimated and simplified regimes are most likely eliminated in 2016. Real regime will be classified into three categories:

- Small taxpayer
- Medium taxpayer
- Large taxpayer

2 ■ TAX ON PROFIT

Scope of taxation

Cambodia's taxation rules vary according to the taxpayer's regime. Real regime taxpayers include most large or incorporated taxpayers. The majority of foreign investors will fall into the real regime. Unless otherwise noted, our publication is therefore restricted to real regime taxpayers.

Residency and source of income

Resident taxpayers are subject to tax on worldwide income/profits while non-residents are taxed on Cambodian sourced income/profits only. Residents earning foreign sourced profits and income can receive credits for foreign taxes paid, as Cambodia unilaterally accepts foreign tax credit.

Resident taxpayers include companies organised or managed or having their principal place of business in Cambodia. For individuals, a non-Cambodian national will become a resident by having their residence or principal place of abode in Cambodia, or by being present in Cambodia for more than 182 days in any 12 month period ending in the current tax year.

A permanent establishment (PE) is taxable on its Cambodian sourced income only.

Rates of tax

	<u>Rate</u>
Standard rate	20%
Oil and gas, and certain mineral exploitation activities	30%
Insurance activities	5% (on gross premium income)*
Resident individuals	0% to 20%
Tax exemption (tax holiday)	0%

* For insurance and reinsurance companies, income derived from other business activities is subject to the Tax on Profit rate of 20%.

Prepayments

A Prepayment of Tax on Profit (ToP) equals to 1% of monthly turnover inclusive of all taxes except VAT, is required to be paid on a monthly basis by the 15th day of the succeeding month. The Prepayment of ToP can be used to offset against the annual ToP liability or the Minimum Tax liability, whichever is applicable. If the Prepayment of ToP exceeds the annual ToP liability or Minimum Tax liability, the excess Prepayment of ToP can be carried forward and offset against future ToP liability accordingly. (see following page).

Where a taxpayer is not subject to Minimum Tax (see following page), a monthly Prepayment of ToP must still be made. However, unutilised Prepayments of ToP from prior years can be used to offset the current amount due and no physical payment may be required.

A company that is in tax holiday period (annual ToP at rate 0%), please refer to page 22 on *investment and tax incentives*, is not required to pay 1% Prepayment of ToP on revenues derived from the granted project, but it is required to be calculated and disclosed to the tax authority.

2 ■ TAX ON PROFIT

Calculation of taxable profits

For Cambodian resident taxpayers, taxable profit is essentially the difference between total accessible revenue, whether domestic or foreign sourced, and allowable expenses paid or incurred to carry on the business, plus designated passive income such as interest, royalties and rent.

Deductible and non-deductible rule

Cambodia's tax rules contain a general deductibility provision under which all expenditure first falls for consideration as a deduction. Any expenditure satisfying the general criteria will be deductible unless specific provisions apply, such as the item falling into the list of non-deductible expenditure.

Specific deductibility provisions apply to the following expenditure:

- a. Designated payments to company officers, directors, etc. – deductible to the extent that the payments are reasonable.
- b. Plant and building related interest and taxes – to the extent incurred during the construction/acquisition phase, the expenditure must be capitalised and depreciated with the relevant property.
- c. Interest expense not falling into (b) – deductible to the extent of interest income and 50% of *net non-interest income*. The non-deductible portion may be carried forward to the succeeding year's calculation. Based on the Instruction No. 151, loans are allowed to set an interest rate from zero per cent to a maximum interest rate annually determined by the GDT. Interest expense that is charged more than the maximum annual rate is permanent non-deductible. The maximum interest rate allowed for tax deduction purposes is:
 - o 120% of the annual interest rate at the time of getting the loans from a third party, or
 - o the annual interest rate at the time getting the loans from a related party.
- d. Expenditure on tangible property – depreciable according to designated rates and methods of depreciation.

<u>Items</u>	<u>Rate</u>	<u>Method</u>
- Building and structures	5%	Straight line
- Computers, electronic information systems, software and data handling equipment	50%	Declining balance
- Automobiles, trucks, office furniture and equipment	25%	Declining balance
- All other tangible property	20%	Declining balance
- e. Expenditure on intangible property – depreciable over the useful life /at 10% straight line.
- f. Expenditure constituting exploration and development costs – amortizable with reference to the exploitation of the relevant natural resource.
- g. Charitable contributions – proper evidence required for deduction up to 5% of taxable profit.
- h. Amusement, recreation or entertainment – non-deductible.
- i. Personal expenditure not subject to Tax on Salary or Tax on Fringe Benefits – non-deductible.
- j. Tax on Profit itself, including where paid on another's behalf – non-deductible.
- k. Withholding Tax, Tax on Salary and Tax on Fringe Benefits borne by a payer/employer on behalf of suppliers/employees – non-deductible.
- l. Various accrued expenses depending on stipulated conditions.
- m. Loss on any sale or exchange of property, directly or indirectly, between related persons– non-deductible.

2 ■ TAX ON PROFIT

Special Depreciation

A Qualified Investment Project (QIP) will be entitled to a 40% special depreciation in the first year of purchase or if later the first year the assets are used. However, the special depreciation will only apply to assets used in 'manufacturing and processing' (not defined) and only if the taxpayer has elected not to use a tax holiday. A clawback provision exists for assets held for less than 4 years.

Losses carried forward

Taxpayers may carry forward their losses for five years. The carry-back of losses is not permitted. There is no provision for any form of consolidated filing or group loss relief.

To be eligible to carry forward tax losses, a taxpayer must proof the loss such as recording in accounting book and filing tax returns properly and have not change in its activities or ownership.

If a taxpayer received a unilateral tax reassessment from the GDT, a taxpayer will not be able to utilise the tax losses brought forward in the year of reassessment.

Transfer Pricing

Cambodia doesn't have a transfer pricing guideline or instruction in place. However, the GDT has wide powers to redistribute income and deductions between parties under common ownership in order to prevent the avoidance or evasion of taxes. Common ownership exists at a relatively low level of 20%.

However, the GDT is drafting this transfer pricing guideline or instruction, so a taxpayer should monitor this.

No deduction is available for certain losses incurred on dealings between 51% commonly owned parties.

Administration

ToP returns are to be filed annually within three months of the tax year end. The standard tax year is the calendar year although different tax year-ends can be granted upon application. In the event that the deadline falls on a Saturday, Sunday, or public holiday, it will be extended to the next working day.

The ToP liability can be reduced by the monthly Prepayment of ToP payments and other Withholding Tax credits.

3 ■ MINIMUM TAX

General overview

Real regime taxpayers are subject to a separate Minimum Tax. The Minimum Tax is an annual tax with a liability equal to 1% of annual turnover (not defined) inclusive of all taxes except VAT. However, an exemption has been provided for QIPs.

As a separate tax to the ToP, Minimum Tax is due if it is greater than the ToP payable for the year or if the taxpayer is in a loss position.

Administration

Minimum Tax is due three months after the tax year end; the same time as the annual ToP. In the event that the deadline falls on a Saturday, Sunday, or public holiday, it will be extended to the next working day.

Minimum Tax liability can be reduced by the monthly Prepayment of ToP payments and other Withholding Tax credits.

4 ■ WITHHOLDING TAXES

Dividend distribution

Distributions of dividends are subject to Additional ToP on Dividend Distribution as follows:

<u>Distribution of profits that were subject to a ToP rate of:</u>	<u>Additional ToP calculation</u>
0%	Distribution x 20/100 *
20%	Nil
30%	Nil

* Includes interim dividend.

A shareholder is entitled to establish a special dividend account from which the relevant dividend may be on-paid without further Additional ToP obligations.

A dividend will be exempt from tax in the hands of the shareholder if ATDD and Withholding Tax (for non-resident shareholders) have been paid.

Other payments

Withholding Tax (WHT) needs to be withheld on payments (in cash or in kind) made by residents (and it seems only those who are real regime). The withheld tax constitutes a final tax when withheld in respect of resident and non-residents.

The types of payments are as follows:

Payment to residents

- Rental – 10%
- Services – 15% (except payments to a registered taxpayer and supported by proper tax invoices)
- Royalties – 15%
- Interest – 15% (except payments to a Cambodian bank or micro finance institution)
- Interest for fixed term deposit – 6% (for payments from a Cambodian bank only)
- Interest for non-fixed term saving deposit – 4% (for payments from a Cambodian bank only)

Payment to non-residents

- Interest – 14%
- Rent, royalty or right for use of property – 14%
- Management or technical fees (not defined) – 14%
- Dividend – 14%

Public investors invested on Cambodia Stock Exchange are entitled to a 50% reduction on the Withholding Tax payable on interest and/or dividends received from the government, equity and debt securities for three years, starting from the Initial Public Offering.

WHT is due when the amount is paid. An expense is considered “paid” when it is recorded in the accounting records as expense or physically paid. WHT is required to be remitted by the payer on a monthly basis, by the 15th day of the succeeding month.

4 ■ WITHHOLDING TAXES

Deductibility of withholding taxes

In the event that a payer/taxpayer fails to withhold taxes from suppliers or employees, the taxpayer is not allowed to gross up the bases to calculate those taxes. Any withholding taxes borne by the taxpayer as a result of the above failure are not deductible for ToP purposes.

5 ■ VALUE ADDED TAX (VAT)

General overview

Under a VAT system, output tax is collected from a customer by adding VAT to the amount charged. However, a business also pays input tax to its suppliers on purchases that it makes. The business must pay the output tax to the State after deducting the input tax paid to its suppliers. In theory, the business therefore pays tax on the value that it adds in the supply chain. The tax is ultimately borne by the end consumer, or a business that is exempt from tax, as these persons cannot recover input tax paid.

Scope of application

Cambodia's VAT applies to the business activities of real regime taxpayers making taxable supplies. The business must charge VAT on the value of goods or services supplied.

VAT also applies on the duty paid value of imported goods (but it appears to not include services). However, there are concessions for exporters and certain tax-exempt bodies. These are in addition to cigarettes, alcohol and motor vehicle products imported for the purpose of re-export. Imported goods include any associated services. Services connected to immovable property will be deemed to take place where the property is located. The importer must pay VAT to Customs at the same time they pay Import Duties.

VAT may be payable on the appropriation of goods for personal use, or as a result of the gifting of goods or services.

Exempt goods and services

VAT will not be payable in respect of a number of activities, including the supply of:

- Public postal services.
- Hospital and medical services, and the provision of medical and dental goods incidental thereto.
- Public transportation activities operated by state owned providers.
- Insurance activities.
- Primary financial services (not defined).
- The import of certain personal effects.
- Non-profit activities in the public interest (as approved).
- Electricity.
- Water.

If a business sells exempt goods or services, it will be unable to recover any input tax paid on its purchases. This contrasts with zero rating, where the sales are within the VAT system (albeit at a VAT rate of zero), and hence input tax can be recovered. Where a business generates both taxable and exempt sales, it will only be able to claim a deduction of input tax for the portion of inputs used in the taxable activity.

5 ■ VALUE ADDED TAX (VAT)

Rates of tax

There are two rates as follows:

0% - This rate applies only to goods exported from Cambodia and services performed and consumed outside Cambodia. Exports are defined to include the international transportation of passengers or goods, or services in connection thereto. In addition, this 0% rate applies to supporting industries or sub-contractors who supply certain goods and services to exporters (i.e. garment manufacturers, textile, and footwear industries) subject to certain criteria. 0% rate also applies to domestic supplies of paddy rice and export of milled rice.

10% - This standard rate applies to all other non-exempt supplies.

Basis of taxation

The output tax to be charged is calculated by multiplying the taxable value (net of VAT) by the applicable VAT rate. With respect to imported goods, VAT will be calculated on the CIF import price plus Import Duty plus any Specific Tax on Certain Merchandise and Services.

For goods sold on a hire purchase or financial lease basis, it appears VAT will be calculated on the total price and at the time of supply, rather than the installments actually received. However, the taxation of finance lease transactions is guided in a separate Prakas.

For goods made available under rental or periodic payment arrangements, the goods will be treated as being successively supplied.

Input VAT related to rice farming, paddy rice purchase, and export of milled rice is creditable or refundable.

Input credits will not be available for VAT charged on entertainment, petroleum products, mobile telephone calls or the purchase of passenger motor vehicles.

Registration

All real regime taxpayers making supplies of taxable goods and services in Cambodia must register for VAT. QIP may register for VAT prior to making taxable supplies. This allows the taxpayer to claim VAT input credits and, in theory, obtain monthly refunds.

Administration

For domestic supplies, taxpayers will be required to file VAT returns and make VAT declarations and payments on a monthly basis, by the 20th day of the succeeding month. In the event that the deadline falls on a Saturday, Sunday, or public holiday, it will be extended to the next working day. For imports, VAT will be payable to customs at the time of import.

Where the taxpayer's input VAT for the month exceeds its output VAT, the business will have to carry the excess forward for three months. The business can then apply for a refund from the tax authorities.

Detailed rules exist in regard to specific invoicing and record keeping obligations. Invoices vary according to whether a VAT registered or non-registered person is being invoiced.

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SPECIFIC TAX ON CERTAIN MERCHANDISE AND SERVICES

General overview

Specific Tax is a form of excise tax that applies to the importation or domestic production and supply of certain goods and services.

Rates of tax

The rates of tax for certain goods/services are as follows:

<u>Good/Service</u>	<u>Rate</u>
- Diesel fuel	4.35%
- Lubricant, brake oil, raw material for producing engine oil	0% to 25%
- Motorcycles (including motor-tricycles) with capacity of more than 125cc and its spare parts	10%
- Local and international air tickets sold in Cambodia	10%
- Certain carbonated and similar non-alcoholic drinks	10%
- Cigarettes	15%
- Entertainment including Spa	10%
- Local and international telecommunication services	3%
- Tires, inner-tubes and inner-tubes covers, etc.	15%
- Cigars	25%
- Beer (locally produced)	25%
- Beer (imported)	25%
- Wine	20%

Basis of taxation

The specific tax base for locally produced products is increased to 90% of the invoice price excluding VAT and specific tax. For imported goods, the tax is calculated inclusive of customs duty and CIF value. For hotel and telecommunication services, the tax is payable on the invoice value. For air tickets, the tax is calculated based on the value of air tickets issued in Cambodia and will include travel within and outside of Cambodia.

Administration

For domestic sales, taxpayers must make Specific Tax declarations and payments on a monthly basis, no later than the 15th day of the succeeding month. In the event that the deadline falls on a Saturday, Sunday, or public holiday, it will be extended to the next working day. For imports, Specific Tax is payable to Customs at the time of import. Detailed rules exist in regard to invoicing and record keeping obligations.

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IMPORT AND EXPORT DUTIES

Import Duties

Import Duties are levied on a wide range of products. Rates vary from 0% to 35%.

Following Cambodia's entry into ASEAN, the government is required to reduce Import Duties in accordance with the Common Effective Preferential Tariffs program. Thereafter, with the introduction of ASEAN Trade in Goods Agreement (ATIGA), the customs tariff on importation of most products from ASEAN countries to Cambodia has significantly reduced since 2010 and would be even lower to 0-5% in 2015.

Investment incentives

Import Duty exemptions can be granted by the CDC to QIPs and specific industries (i.e. telecommunication services, exploration of oil and gas and mining activities).

Export Duties

Export Duties are levied on a limited number of items such as the export of timber and certain animal products (including most seafood).

8

TAX ON SALARY

General overview

Cambodia's Tax on Salary rules follow internationally familiar residency and source principles. A Cambodian resident taxpayer's worldwide salary will be subject to Cambodian Tax on Salary. For non-residents, only the Cambodian sourced salary will be subject to Tax on Salary. The place of salary payment is not considered relevant in determining source.

Tax on Salary extends to employment related remuneration only, as opposed to general personal income per se. Genuine consulting income is also excluded (although such income will be subject to Tax on Profit). There are rules that enable the authorities to deem certain consultants to be employees.

Residency

A Cambodian resident taxpayer includes any physical person who:

- has residence in Cambodia;
- has a principal place of abode in Cambodia; or
- is physically present in Cambodia for more than 182 days in any 12 month period ending in the current tax year.

Taxable Salary

A distinction is made between cash salary and fringe benefit components. Different tax scales also apply.

Cash Salary

Cash salary includes remuneration, wages, bonuses, overtime, compensations and employer provided loans and advances.

Fringe Benefits

Fringe benefits include:

- The (presumably private) use of motor vehicles.
- The provision of accommodation support (including utilities and domestic helpers).
- Low interest loans and discounted sales.
- Educational assistance (unless employment related, i.e., for training).
- Health and life insurance premiums (unless provided to all employees)
- Excessive or unnecessary cash allowances.
- Superannuation contributions (unless such contributions are less than 10% of the employee's salary)
- Entertainment or recreational expenditure (which may additionally be non-deductible to the provider for Tax on Profit purposes).

8

TAX ON SALARY

Exempt Salary

Exempt salary includes:

- Certain redundancy payments.
- Reimbursement of employment related expenses.
- Certain uniform entitlements.
- Certain traveling allowances.
- The salaries of members of the National Assembly and Senate.
- The salaries of certain employees of approved diplomatic, international and aid organizations.
- The salaries of non-residents where the salary cost is not deducted in Cambodia.

Deductions

There are small rebates for employee dependents and deduction for the repayment of employer loans or advances.

Rates of tax

Cash Salary – Residents

<u>Monthly Salary (Riel)</u>	<u>Rate</u>	<u>Cumulative tax at top of band</u>
0 - 800,000	0%	0
800,001 - 1,250,000	5%	22,500
1,250,001 - 8,500,000	10%	747,500
8,500,001 - 12,500,000	15%	1,347,500
12,500,001 - upwards	20%	

Cash Salary – Non-residents

The rate for non-residents is a flat 20%. This constitutes a final tax.

Fringe Benefits

Fringe benefits are taxable at a flat rate of 20% of the amount paid.

Administration

As the Tax on Salary rate scales are stated in Cambodia Riel, earnings in foreign currency have to be translated into Riel. Official exchange rates are provided monthly.

Employers must make monthly Tax on Salary declarations and payments no later than the 15th day of the succeeding month. In the event that the deadline falls on a Saturday, Sunday, or public holiday, it will be extended to the next working day. There is no annual return.

9 ■ OTHER TAXES

Public Lighting Tax (PLT)

PLT is imposed on the distribution in Cambodia of foreign made and locally produced alcoholic and tobacco products.

PLT is levied at 3% of the value of such products at the time of each in-country sale. Value for these purposes includes all taxes other than TPL and VAT.

PLT is a monthly tax and is due for payment no later than the 15th day of the succeeding month. In the event that the deadline falls on a Saturday, Sunday, or public holiday, it will be extended to the next working day.

Accommodation Tax

Accommodation Tax is calculated at 2% of the accommodation fee inclusive of all taxes and other services except Accommodation Tax and VAT.

Accommodation Tax is a monthly tax and is due for payment no later than the 15th day of the succeeding month for real regime taxpayers and by the 10th day of the succeeding month for estimated regime taxpayers. In the event that the deadline falls on a Saturday, Sunday, or public holiday, it will be extended to the next working day.

Tax on House and Land Rent

Businesses (other than those in the real regime) renting out land, buildings, certain equipment, storage facilities, etc. are liable for Tax on House and Land Rent. The tax is levied at 10% of the relevant rental fee.

Tax on Immovable Property

Land, houses, buildings and other constructions built on land are immovable property. The Tax on Immovable Property is levied at 0.1% per annum on immovable property with a value of more than the threshold of Riel 100,000,000 (approximately USD25,000). The tax base is the market value, as determined by the Property Evaluation Commission for Property Tax of the Ministry of Economy and Finance (MoEF), less the threshold. The owner, possessor or final beneficiary of the immovable property is required to pay the tax by 30 September each year.

The following immovable properties are exempt from Tax on Immovable Property:

- Agricultural land;
- Properties of the government or government institutions;
- Properties of an association or any entity organised and operated exclusively for religious and charitable purposes, where no part of the property or earnings of such is used for any private interest.
- Properties of foreign embassy or foreign diplomatic missions, international organisation and agent for technical co-operation of other foreign governments.
- Properties that are the infrastructures including road, bridge, fresh water production system or electric generating system, airport, port and railway station.
- Houses, buildings, and any constructions on agricultural land directly and permanently used for agricultural activities.
- Immovable properties that are seriously damaged by act of god.
- House, building, and constructions that are less than 80% complete and not in use.
- Immovable properties located in a Special Economic Zone (SEZ) that directly serves production activities.

The properties which values are more than Riel 100,000,000 are subject to Tax on Immovable Property whether the properties are in used or not.

9 ■ OTHER TAXES

Tax on Unused Land

Land in towns and other specified areas, without any construction, or with construction that is not in use, and even certain built-upon land, is subject to Tax on Unused Land. The tax is calculated at 2% of the market value of the land per sq.m as determined by the Land Appraisal and Valuation Committee at 30 June each year. The owner of the land is required to pay the tax by 30 September each year.

Tax on Unused Land only applies to land with a value of less than Riel 100,000,000 as determined by the Land Appraisal and Valuation Committee, otherwise Tax on Immovable Property is applicable.

Stamp Tax (or Registration Tax)

Stamp Tax is imposed on the following assessments according to the specified rate and tax base.

<u>Assessments</u>	<u>Rate</u>	<u>Tax base</u>
Transfer of title or ownership of immovable properties (i.e. land and building) including the transfer for the purpose of share capital injection	4%	Transfer value (market value determined by the MoEF)
Transfer of title or ownership of all means of transportation	4%	Transfer value (market value determined by the MoEF)
Transfer of company shares (in partial or full) or a merger	0.1%	Transfer value (market value)
Public procurement contracts for goods and services using	0.1%	Contract value
Certain legal documents related to establishment, dissolution or merger of a business enterprise	-	Riel 1,000,000

It is the responsibility of the recipient/buyer of the title or ownership to pay the Stamp Tax.

Fiscal Stamp Tax

Fiscal Stamp Tax is to be paid on certain official documents and, perhaps more importantly for foreign investors, certain advertising postings and signages. Amounts vary according to such factors as the location of the signage, illumination and nationality of any scripted words.

Tax Stamps

Domestic producers or importers of cigarettes have the obligation to buy and affix Tax Stamps on packets of cigarettes. No person is allowed to sell or display packaged cigarettes for sale without a Tax Stamp.

Patent Tax

Registered businesses must pay a (relatively nominal) Patent Tax on initial business registration and annually thereafter. Patent Tax is levied with reference to prior year turnover or estimated turnover.

Patent Tax is an annual tax and is due for payment by 31 March of each year. In the event that the deadline falls on a Saturday, Sunday, or public holiday, it will be extended to the next working day.

Tax on Means of Transportation

This tax imposes a number of statutory fees on the registration of certain transportation vehicles including trucks, buses, motor vehicles (will be eliminated by 2016), and ships. The owner is required to pay an annual transportation tax as prescribed by the MoEF.

10 ■ DOUBLE TAXATION AGREEMENTS

At the time of writing, Cambodia had not signed any double taxation agreements.

11 ■ INTERNATIONAL AGREEMENTS

Cambodia has entered into various Investment Promotion and Trade Agreements with countries, among others, including:

- Austria
- Belarus
- Peoples' Republic of China
- Croatia
- Cuba
- Czech Republic
- France
- Germany
- Indonesia
- Japan
- Korea, Democratic People's Republic of Korea
- Korea, Republic of Korea
- Kuwait
- Laos People's Democratic Republic
- Malaysia
- Netherlands
- Pakistan
- Philippines
- Russian Federation
- Singapore
- Switzerland
- Thailand
- Vietnam

12 ■ CDC AND INVESTMENT ISSUES

Most investments will require registration with the Ministry of Commerce (MoC) and other relevant ministries. The CDC may also be approached for the purposes of seeking investment incentives, as outlined under the Amended Law on Investment and Sub-Decree on the Implementation of the Amended Law on Investment.

Negative List

CDC licensing is however, not mandatory (except for certain large, politically sensitive projects, etc.) and are applicable to those projects that do not fall within the Negative List. We list some of the projects in the Negative List below:

- All kinds of commercial activities, import and export, any transportation services (except the railway sector).
- Tourism service.
- Currency and financial services.
- Activities that relate to newspapers and media.
- Production of tobacco products.
- Provision of value added services of all kinds of telecommunication services.
- Real estate development.

Investment incentives

The investment incentives primarily consist of:

- Either a Tax on Profit holiday of up to 6 years (excluding trigger period) or special tax depreciation.
- Minimum Tax exemption.
- Customs duty exemptions on the importation of production equipment and construction materials approved in the Master List.

Annually, a QIP is required to obtain a Certificate of Compliance (CoC) from the CDC to guarantee its investment incentives. The CoC is intended to provide confirmation that the QIP has acted in compliance with the relevant tax regulations.

Special Economic Zone (SEZ)

So far, Cambodia has 22 SEZs approved by the CDC. Export-oriented QIPs located in the SEZ are entitled to the above mentioned incentives plus 0% VAT with the state's burden on the importation of production inputs and raw materials for export-oriented companies.

13

■ STATUTORY AUDIT REQUIREMENT

All enterprises (physical or legal persons) that meet 2 of the following criteria are required to have their financial statements audited by an independent external auditor registered with the Kampuchea Institute of Certified Public Accountants and Auditors (KICPAA):

- Annual turnover above 3,000,000,000 Riels (Approx. US\$750,000).
- Total assets above 2,000,000,000 Riels (Approx. US\$500,000).
- More than 100 employees.

All QIPs registered with the Council for the Development of Cambodia (CDC) are required to have their financial statements audited by independent external auditors registered with the KICPAA.

All enterprises must continue to have their financial statements audited in subsequent years if they were subject to a statutory audit in previous years.

The law does not state the deadline for the enterprises to submit their audited financial statements. However, the deadline for audited financial statements to be completed is 6 months after accounting year-end i.e. for the financial year ended 31 December 2015; the deadline is 30 June 2016.

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CAMBODIAN STOCK EXCHANGE

The Royal Government of Cambodia revised the tax incentives granted to companies to be listed on the Cambodian Stock Exchange and to public investors (residents or non-residents) who hold or trade government, equity or debt securities on the securities market.

The tax incentives include:

1. Annual ToP liability reduction of 50%
2. ToP liability waiver
3. 50% reduction on the WHT payable on interest or dividends received from the securities
4. Points 1 & 2 above aren't applicable to QIPs during the tax holiday period
5. Suspension of PToP payment under certain conditions

15 ■ CAMBODIA INTERNATIONAL FINANCIAL REPORTING STANDARDS

The National Accounting Council of the Ministry of Economy and Finance has issued the regulations for the implementation of the accounting standards. Entities which have public accountability (financial institutions, insurance, publicly listed entities, etc.) are required to use Cambodian International Financial Reporting Standards (CIFRS) effective from 1 January 2012. However, the adoption of CIFRS for financial institutions under the supervision of the National Bank of Cambodia is delayed until 1 January 2016 (possibility of further delay). Entities subject to statutory audit which do not have public accountability are required to use CIFRS for Small and Medium-sized Entities which came into effect on 1 January 2010. However, they have an option to use full CIFRS.

16 ■ SERVICES IN CAMBODIA

In addition to taxation services, PwC Cambodia has extensive experience in providing advice on the following matters:

- The most appropriate form of doing business in Cambodia
- Setting up a business including joint ventures and wholly foreign owned companies, business cooperation contracts, build-operate-transfer projects, representative offices and branches
- Advisory services
- Statutory audit
- Payroll and Accounting services
- Training of personnel

PwC Cambodia has extensive practical experience advising on Cambodian tax issues as well as on international tax matters.

This pocket tax book has been prepared for the general information and assistance of those investing in Cambodia.

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