Cambodia
Pocket Tax Book
2010

Cambodia Pocket Tax Book 2010

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 January 2010.**

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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TAXATION

General overview

Most foreign investments and foreign investors will be affected by the following taxes:

- Tax on Profit
- Minimum Tax
- Withholding Tax
- Value Added Tax
- Import Duties
- Tax on Salary

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

- Accommodation Tax
- Specific Tax on Certain Merchandise and Services
- Tax for Public Lighting
- Other taxes

TAX ON PROFIT

Scope of taxation

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

Residency and source

Resident taxpayers are subject to tax on world-wide 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.

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 source income only.

Rates of tax

	Rate
Standard rate	20%
Oil and gas, and certain mineral exploitation activities	30%
Insurance activities (on gross premium income)*	5%
Resident individuals	0% to 20%

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

TAX ON PROFIT

Prepayments

A Prepayment of Tax on Profit equal 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 can be offset against the annual Tax on Profit liability and the Minimum Tax (see below).

Where a taxpayer is in the period of Tax on Profit holiday, the taxpayer is also exempted from the Prepayment obligations. However, a nil monthly return will need to be lodged.

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

Tax holidays

A Qualified Investment Project (QIP), being a project recognised and registered with the Council for the Development of Cambodia (CDC) will be entitled to a tax holiday. The holidays take the form of a complete exemption from Tax on Profit. The Tax on Profit exemption period begins from the earlier of the year the QIP becomes profitable or 3 years from the issuance of the final Registration Certificate. The duration of these holiday periods is from 3 to 6 years.

Calculation of taxable profits

For Cambodian resident taxpayers, taxable profit is essentially the difference between total 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.

Allowable and non-allowable deductions

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.

TAX ON PROFIT

Specific deductibility provisions apply to the following expenditure:

a. Designated payments to company officers, directors etc – deductible to the extent 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 not falling into (b) – deductible to the extent of interest income and 50% of residual income. The non-deductible portion may be carried forward to the succeeding year's calculation.
d. Expenditure on tangible property – depreciable according to designated rates and methods of depreciation.

Items	Rate	Method
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 life of the property (or at 10% p.a.).
f. Expenditure constituting exploration and development costs – amortizable with reference to the exploitation of the relevant natural resource.
g. Charitable contributions – deductible to the extent the amount does not exceed 5% of taxable profit.
h. Amusement, recreation or entertainment – non-deductible.
i. Personal expenditure not subject to Tax on Salary – 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 Benefit borne by a payor/employer on behalf of suppliers/employees.
l. Various accrued expenses depending on stipulated conditions.

TAX ON PROFIT

Special Depreciation

A 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" (still to be 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

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 not change its activities or ownership.

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

Transfer Pricing

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%.

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

Administration

Tax on Profit returns are to be filed annually within 3 months of tax year end. The standard tax year is the calendar year although different tax year-ends can be granted upon application.

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 inclusive of all taxes except VAT. However, an exemption has been provided for QIPs.

As a separate tax to the Tax on Profit, Minimum Tax is due irrespective of the taxpayer's profit or loss position.

Administration

Minimum Tax is due 3 months after tax year end, being the same time as the annual Tax on Profit. A Minimum Tax liability can be reduced by Prepayment of Tax on Profit payments.

WITHHOLDING TAXES

Dividend distribution

Distributions of dividends are subject to Additional Tax on Profit on Dividend Distribution (Additional ToP) as follows:

Distribution of profits that were subject to a Tax on Profit rate of:	Additional ToP calculation
0%	Distribution x 20/100
9%	Distribution x 11/91
20%	Nil
30%	Nil

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 Additional ToP and Withholding Tax (for non-resident shareholders) have been paid.

Other payments

Withholding Tax needs to be withheld on payments 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 caught are as follows:

Payment to residents

- Rental – 10%
- Interest – 15% (except payment to a Cambodian bank)
- Services – 15% (except payment to a registered taxpayer and supported by a valid VAT invoice)
- Royalties – 15%

WITHHOLDING TAXES

Payment to non-residents

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

Withholding Tax is due when the amount is paid. An expense is considered "paid" when it is recorded in the accounting records.

Withholding Tax is required to be remitted by the payer on a monthly basis, by the 15th day of the succeeding month.

Deductibility of withholding taxes

In the event that a taxpayer fails to withhold taxes (i.e. Withholding Tax, Tax on Salary and Tax on Fringe Benefits) from suppliers or employees, the taxpayer is not required to gross up the bases to calculate those taxes. Any withholding taxes borne by the taxpayer are not deductible for tax purposes.

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. In each case 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 not 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 goods incidental thereto.
- Public transportation activities operated by state owned providers.
- Insurance activities.
- Primary financial services.
- The import of certain personal effects.

- Non-profit activities in the public interest (as approved).
- Electricity.

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.

Rates of tax

There are two rates as follows:

0%	This rate applies only to goods exported from Cambodia and services 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.
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.

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

VALUE ADDED TAX (VAT)

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. 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 GDT.

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.

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:

Good/Service	Rate
Diesel fuel	4.35%
Lubricant, brake oil, raw material for producing engine oil	10%
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	10%
Entertainment including Spa	10%
Local and international telecommunication services	3%
Tyres, inner-tubes and inner-tubes covers, etc.	15%
Cigars	25%
Beer (locally produced)	25%*
Beer (imported)	25%
Wine	10%

** Effective from 1 March 2010. Prior to 1 March 2010 temporarily maintained at 20%.*

SPECIFIC TAX ON CERTAIN MERCHANDISE AND SERVICES

Basis of taxation

For domestically produced goods, Specific Tax is calculated on the “ex-factory selling price”. The “ex-factory selling price” is defined as 65% of the selling price before VAT and any discount. 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, not later than the 15th day of the succeeding month. For imports, Specific Tax is payable to Customs at the time of import. Detailed rules exist in regard to invoicing and record keeping obligations.

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 (during 1999), the government is required to reduce Import Duties in accordance with the Common Effective Preferential Tariffs program.

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).

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, or
- 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 and fringe benefit salary 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, say, for training).

TAX ON SALARY

- Certain insurance support.
- Excessive or unnecessary cash allowances, and social welfare and pension contributions.
- Entertainment or recreational expenditure (which may additionally be non-deductible to the provider for Tax on Profit purposes).

Exempt Salary

Exempt salary includes:

- Certain redundancy payments.
- Reimbursement of employment related expenses.
- Certain uniform entitlements.
- Certain traveling allowances.
- 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.
- The salaries of members of the National Assembly and Senate.

Deductions

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

Rates of tax

Cash Salary – Residents

Monthly Salary (Riel)		Cumulative tax at top of band	Rate
0	500,000	0	0%
500,001	1,250,000	37,500	5%
1,250,001	8,500,000	762,500	10%
8,500,001	12,500,000	1,362,500	15%
12,500,001	upwards		20%

TAX ON SALARY

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 the 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 for this purpose.

Employers must make monthly Tax on Salary declarations and payments not later than the 15th day of the succeeding month. There is no annual return.

OTHER TAXES

Tax for Public Lighting (TPL)

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

TPL 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.

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 not later than the 15th day of the following month for real regime taxpayers and by the 10th day of the following month for estimated regime taxpayers.

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 to Tax on House and Land Rent. The tax is levied at 10% of the relevant rental fee.

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.

In practice, the General Department of Taxation imposes Patent Tax at the top band regardless of the level of turnover.

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.

OTHER TAXES

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 US25,000). The tax base is the market value as determined by the Immovable Property Assessment Council less the threshold. The owner of the immovable property is required to pay the tax by 30 September each year.

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 Commission for Evaluation of Unused Land at 30 June each year. The owner of the land is required to pay the tax by 30 September each year.

Registration Tax (or Property Transfer Tax)

Certain documents relating to the establishment, dissolution or merger of a business, or the transfer of title in certain assets (such as land and vehicles) are subject to Registration Tax. The tax is imposed at the rate of 4% and is generally levied on the transfer value.

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, and ships.

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.

DOUBLE TAXATION AGREEMENTS

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

INTERNATIONAL AGREEMENTS

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

- Peoples' Republic of China
- Republic of Korea
- Malaysia
- Republic of Singapore
- Switzerland
- Thailand
- Laos People's Democratic Republic
- Republic of Indonesia
- Socialist Republic of Vietnam
- Federal Republic of Germany
- France
- Philippine
- Republic of Cuba
- Republic of Croatia
- Kingdom of the Netherlands

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).
- 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:

- An exemption from Minimum Tax.
- A Tax on Profit holiday of up to 6 years.
- Import duty exemptions.

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.

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.

QIPs registered with the CDC are required to have their financial statements audited by independent external auditors registered with the KICPAA.

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 2009, the deadline is 30 June 2010.

SERVICES IN CAMBODIA

In addition to taxation services, PricewaterhouseCoopers in Cambodia has extensive experience in providing advise 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

Note:

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