

## International Tax Cambodia Highlights 2018



### Investment basics:

**Currency** – Khmer Riel (KHR)

**Foreign exchange control** – Payments for commercial transactions may be made freely between residents and nonresidents, provided they are made through an authorized bank. Funds transfers exceeding USD 10,000 must be declared to the National Bank of Cambodia before the transfer.

**Accounting principles/financial statements** – Publicly accountable entities are required to use full Cambodian International Financial Reporting Standards (CIFRS); and companies subject to audit but not publicly accountable may use either CIFRS for small and medium-sized entities or full CIFRS.

Qualified investment projects (QIPs) registered with the Council for the Development of Cambodia must have their financial statements audited by an independent external auditor registered with the Kampuchea Institute of Certified Public Accountants and Auditors. All other enterprises that meet at least two of the following criteria also must be audited: (i) more than 100 employees; (ii) annual turnover of more than KHR 3 billion; and (iii) total assets of more than KHR 2 billion.

**Principal business entities** – These are the sole proprietorship, partnership, limited liability company, branch of a foreign corporation and representative office.

### Corporate taxation:

**Residence** – Residents include companies that are organized, managed or have their principal place of business in Cambodia.

**Basis** – Resident taxpayers are subject to tax on worldwide income; nonresidents are taxed only on Cambodian-source income.

**Taxable income** – The tax on profits is calculated on taxable profit. For resident taxpayers, taxable profit is calculated as the difference between total revenue (including capital gains and passive income, such as interest, rental and royalty income and insurance compensation) and allowable expenses paid or incurred to carry on the business.

**Taxation of dividends** – Dividends paid to Cambodian shareholders are not taxable.

If a company distributes dividends from retained earnings that have not been subject to tax in Cambodia (e.g. where a QIP entitled to a tax holiday distributes dividends derived during the tax holiday period), the distributing company is subject to the additional tax on dividend distributions (ATDD). The ATDD is equal to the difference between the amount of tax on profits payable on the profits being distributed and any actual tax paid (i.e. the rate will be 20% on profits that have not been taxed and that are subject to the standard tax on profits rate).

**Capital gains** – There is no separate capital gains tax. Any gain on the sale of fixed assets/shares is subject to the tax on profits at a rate of 20% on the higher of the contract price or the market value; the proceeds also are subject to minimum tax.

**Losses** – Tax losses may be carried forward to offset taxable profit for up to five years after the year in which the losses are incurred, subject to certain conditions (e.g. no changes in ownership or business activity, and subject to unilateral tax reassessment). Tax losses may not be carried back.

**Rate** – The tax on profits rate ranges from 0% to 30%, based on the business activity. The standard rate is 20%. Enterprises operating in certain industries, such as oil or natural gas production or exploitation of natural resources

(including timber, ore, gold and precious stones) are taxable at a 30% rate.

QIPs are subject to a 0% rate during the tax exemption period (see "Incentives").

Insurance companies that generate taxable profits from the insurance and reinsurance of general and life insurance are subject to a 5% tax rate on gross premiums. Profits from the insurance or reinsurance of life insurance schemes with a savings component and from activities other than insurance and reinsurance are subject to tax at a rate of 20% of taxable profits.

**Surtax** – No

**Alternative minimum tax** – Enterprises that do not maintain proper accounting records, including those that incur losses, generally are subject to a minimum tax at a rate of 1% of total annual turnover inclusive of all taxes, except value added tax (VAT). QIPs, however, are not subject to the minimum tax.

**Foreign tax credit** – Cambodian companies may claim a foreign tax credit to offset the corporate income tax payable, limited to the amount of Cambodian tax payable on the foreign income. Supporting documents are required.

**Participation exemption** – No

**Holding company regime** – No

**Incentives** – Investment incentives for QIPs primarily consist of an exemption from minimum tax; either a profits tax holiday of up to six years or special depreciation at a 40% rate in the first year property is placed in service; and exemptions from import duty.

A VAT exemption on the importation of raw materials is available for 100% export-oriented enterprises located in assigned special economic zones.

#### **Withholding tax:**

**Dividends** – Dividends paid by a resident company to a nonresident shareholder are subject to a 14% withholding tax, in addition to the ATDD. No withholding tax is imposed on dividends paid to a resident shareholder.

The conversion of capital reserves/retained earnings into capital or equity will not be considered a dividend distribution and will not be subject to withholding tax if the conversion has been approved by a resolution of the board of directors and a competent Cambodian authority (e.g. the Ministry of Commerce and/or the National Bank of Cambodia).

**Interest** – Interest paid by a resident company to a nonresident is subject to a 14% withholding tax; a 15% withholding tax applies on interest paid to resident

taxpayers, other than Cambodian banks and financial institutions.

**Royalties** – Royalties paid to a nonresident are subject to a 14% withholding tax (15% when paid to a resident).

**Technical service fees** – Technical and management service fees paid to a nonresident are subject to a 14% withholding tax (15% on fees paid to resident individuals, subject to certain exemptions). There is no definition of technical or management services, but the tax authorities' informal interpretation is that the term captures all service fees.

**Branch remittance tax** – The remittance of branch profits from Cambodian sources in the current taxable year to a foreign head office is not subject to ATDD if the tax on profits already has been paid. However, the 14% withholding tax will be imposed on the remittance of branch profits.

**Other** – A 14% withholding tax applies for rental payments made to a nonresident. Rent is subject to a 10% withholding tax, regardless of whether it is paid to a resident individual or to a "self-declaration regime" taxpayer.

#### **Other taxes on corporations:**

**Capital duty** – No

**Payroll tax** – No

**Real property tax** – Property tax is levied at 0.1% per year on immovable property with a value exceeding KHR 100 million. A tax on house and land rentals is levied at 10% of the rental fees. A tax also applies on unused land at a rate of 2% of the market value of the land per square meter, as determined by the Commission for Evaluation of Unused Land.

**Social security** – Employers with eight or more employees must register and make monthly occupational risk contributions at a rate of 0.8% of the monthly salary, capped at USD 2.4 per employee. The employer also is responsible for withholding and paying health care benefit (HCB) contributions to the National Social Security Fund (NSSF) at 2.6% of the average monthly wage, capped at USD 7.8 per employee as from 1 January 2018.

**Stamp duty** – Certain legal documents relating to the establishment, dissolution or merger of a business enterprise are subject to a registration tax (i.e. stamp duty) of KHR 1 million. Some documents relating to the transfer of title to certain assets (e.g. land and vehicles) are subject to stamp duty at a rate of 4% of the value transferred. The transfer of a company's shares, in whole or in part, is subject to a 0.1% stamp duty on the market

value of the shares at the transaction date. A 0.1% stamp tax also is levied on contractual amounts for the provision of goods or services using the national budget. Certain exemptions apply. Stamp duty is imposed on the buyer.

Fiscal stamp tax is payable on certain official documents, especially for foreign investors, and on certain advertising postings and signage. Amounts vary depending on the location of the signage, illumination and language of scripted words.

**Transfer tax** – No, but see “Stamp duty”

**Other** – The tax on means of transportation imposes a number of statutory fees on the registration of certain transportation vehicles, including trucks, buses and ships.

#### Anti-avoidance rules:

**Transfer pricing** – Cambodia has issued a prakas (regulation) on transfer pricing that provides guidelines for the preparation for transfer pricing documentation for transactions between related parties.

Transactions between related parties must comply with the arm’s length principle, and taxpayers must conduct a comparability analysis to assess the arm’s length nature of the price of a controlled transaction. For a transaction to have an arm’s length nature, the analysis must support that either: (i) the comparable transaction has no significant differences from the controlled transaction that could affect the market price; or (ii) accurate adjustments can be made to eliminate any significant differences.

The regulation adopts five transfer pricing methods provided by the OECD: the comparable uncontrolled price method, resale price method, cost plus method, profit split method and transactional net margin method. The regulation does not specifically state whether the company should select the most appropriate method for its comparisons and documentation.

**Thin capitalization** – There are no formal thin capitalization rules, but there is a cap on a taxpayer’s annual maximum interest deduction of 50% of net noninterest income, plus interest earned.

**Controlled foreign companies** – No

**Disclosure requirements** – Enterprises must disclose transactions in their monthly and annual tax returns filed with the General Department of Taxation (GDT).

#### Compliance for corporations:

**Tax year** – The default tax year is a calendar year. An approval letter from the GDT is required if the taxpayer wishes to use a different tax year.

**Consolidated returns** – Consolidated returns are not permitted, and no tax relief is available between independent entities in a group.

**Filing requirements** – A taxpayer must file and pay annual corporate income tax within three months after the year end. Monthly tax returns and the advance payment of profit tax must be submitted by the 20th day of the following month.

**Penalties** – Penalties apply for failure to file, late filing or the filing of a fraudulent return. Taxpayers are subject to penalties of 10%, 25% or 40% and interest of 2% per month on late and underpaid taxes.

**Rulings** – A taxpayer may request a tax ruling to clarify its specific tax concerns, but responses to such requests are time consuming.

#### Personal taxation:

**Basis** – A resident employee is subject to tax on salary (TOS) on worldwide sources of income, irrespective of the place of payment; nonresidents are taxed only on Cambodia-source income.

**Residence** – A resident is defined as an individual who is domiciled or has a principal place of abode in Cambodia, or who is present in Cambodia for more than 182 days in any 12-month period ending in the current tax year.

**Filing status** – The employer is responsible for withholding and remitting the TOS to the GDT each month. Employees are not required to file tax returns.

**Taxable income** – The TOS is imposed on salaries received as compensation for employment activities in Cambodia. The term “salary” is defined broadly to include wages, remuneration, bonuses, overtime, compensation and fringe benefits. Fringe benefits (in cash or in kind) include the private use of a motor vehicle, the provision of meals and/or accommodations, pension fund contributions that are more than 10% of salary, etc.

**Capital gains** – No

**Deductions and allowances** – The allowance for each dependent is KHR 150,000, subject to specified conditions. Certain income is exempt from the TOS, such as actual reimbursements of professional expenses, limited indemnity for a layoff, remuneration provided under the labor law and limited flat allowances for mission and travel expenses.

**Rates** – Progressive rates ranging from 0% to 20% apply to residents earning employment income. Nonresidents are subject to a flat rate of 20%. The tax rate on fringe benefits is 20%.

#### Other taxes on individuals:

**Capital duty** – No

**Stamp duty** – Similar to the rules that apply for corporations, registration tax is applicable to individual

owners on the sale of shares, the sale of property and inheritances. See “Other taxes on corporations.”

**Capital acquisitions tax** – No

**Real property tax** – This tax is applicable to individual owners in the same way as it is to companies. See “Other taxes on corporations.”

**Inheritance/estate tax** – No, but see “Stamp duty.”

**Net wealth/net worth tax** – No

**Social security** – The employee formerly was jointly responsible for paying HCB to the NSSF at a rate of 1.3% of the average monthly salary. Effective from 1 January 2018, the employer is responsible for all costs.

#### Compliance for individuals:

**Tax year** – Calendar year

**Filing and payment** – TOS is deducted from employee salaries, but the employer is responsible for withholding and remitting the tax on a monthly basis. Employees are not required to pay TOS directly to the tax authorities.

**Penalties** – Penalties do not apply to individual employees, but are levied on the employer. The penalty and interest rates are the same as those for corporate tax noncompliance. See “Compliance for corporations.”

#### Value added tax:

**Taxable transactions** – VAT is levied on taxable supplies, which include all supplies of goods and services and sales of fixed assets, except for the following: primary financial services; public postal services; hospitals, clinics, medical and dental services; the state-owned public passenger transportation system; insurance services; approved nonprofit activities; the import of goods by foreign diplomatic international organizations and agencies of technical cooperation for personal use; the supply of water and electricity; educational services; unprocessed agricultural products; and solid and liquid waste collection services.

“Primary financial services” refers to financial services in which profit margins are derived from activities such as deposit, credit or loan transactions; initial public offerings of stock, trading of stock or other financial instruments and clearing and settlement services relating to the Cambodia securities exchange; currency exchange; security (surety); or trading of raw gold.

**Rates** – The standard rate is 10%, but certain supplies are zero-rated or exempt.

**Registration** – All taxpayers making supplies of taxable goods and services in Cambodia must register for VAT before making taxable supplies.

For registered taxpayers to claim input VAT, strict rules apply with regard to obligations relating to invoicing, timing and accounting records.

**Filing and payment** – Monthly filing is required and VAT must be paid by the 20th day of the following month.

**Source of tax law:** 1997 Law on Taxation and its subsequent amendments; Sub-decree on VAT; Prakas No. 559 (clarifying the VAT treatment of nontaxable supplies); Prakas on Tax on Profit; 1997 Foreign Exchange Law; Prakas on Registration Tax Collection; Law on Social Security Schemes; Law on Financial Management and its subsequent amendments; and Prakas No. 986 (guidelines on transfer pricing implications in Cambodia)

**Tax treaties:** Cambodia has two tax treaties in effect (with Singapore and Thailand), and has signed tax treaties with Brunei and China that are not yet in force.

**Tax authorities:** General Department of Taxation and the Ministry of Economy and Finance

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