



Cambodia tax alert

New tax provisions for exploitation of petroleum and mineral resources

The draft 2018 Financial Management Law currently being discussed by the Cambodian National Assembly provides guidance on new taxation provisions for the exploitation of petroleum and mineral resources. The legislation will not come into effect until it is passed by the National Assembly and signed by the king.

The provisions would apply to taxpayers, both individuals and/or legal entities, that sign petroleum or mineral operation agreements with, or obtain licenses from, the Cambodian government. The legislation specifies tax rates and tax payable, deductible expenses, the tax treatment of decommissioning expenses, depreciation rates and the tax consequences of a transfer of interest.

Tax rates and tax payable

The taxpayer would be subject to tax on profit at a rate of 30% of taxable profit generated from petroleum or mineral resources after deduction of all expenses permitted by the legislation.

An excess profit tax would be imposed at progressive rates as set out in the table below. The excess profit ratio would be the ratio of accumulated gross income to accumulated operating expense up to the current year. The method of calculation of the excess profit ratio, excess profit and tax on excess profit, together with the rules and procedures for controlling the collection of exploitation of petroleum and mineral resources will be determined by a Prakas issued by the Ministry of Economy and Finance.

Excess profit ratio	Tax rate (%)
1.3 or less	0
More than 1.3 to 1.6	10
More than 1.6 to 2	20
More than 2	30

The minimum tax would not apply.

Deductible expenses

Operating expenses incurred in an operating block (broadly, the area covered by one license agreement) would be deductible from gross income

in the current tax year when calculating the tax on profit. Interest expense would be deductible subject to a maximum debt-to-equity ratio of 3:1.

Companies involved in petroleum operations would be allowed to carry forward unutilized tax losses for up to 10 years on a "first-in, first-out" basis; for mining operations' companies, the carryforward period would be five years. It would not be possible to carry forward tax losses incurred in one block or license area for deduction against the profits of another, or to aggregate losses from different blocks.

Decommissioning expenses

A provision for decommissioning expenses in relation to petroleum and mineral resource operations would be able to be claimed as a deductible expense in the tax year in which the provision was made. To be deductible, the provision would have to be calculated based on total approved decommissioning or environmental restoration costs.

The management procedure for the decommissioning and environmental restoration costs reserve would be determined by a Prakas issued by the Ministry of Economy and Finance and the Cambodian National Petroleum Authority.

If the actual decommissioning expense is more/less than the provision, the difference would be deductible/taxable when calculating the taxable profit in the tax year in which the expense was incurred.

Depreciation method

Research, exploration and development expenditure would be depreciated on a straight-line basis. For both petroleum and mining operations, research and exploration expenditure would be depreciated over the expected life of the commercial production under the development plan or five years, whichever is shorter. For development expenditure, the period is the shorter of the expected life of the commercial production under the development plan, or 10 years for petroleum operations (seven years for mining operations). Where the development plan is for a period of less than one year, the development expenditure would be aggregated with the research and exploration expenditure and depreciated over the expected life of the commercial production under the development plan, or five years, whichever is shorter.

Tangible and intangible assets other than research and exploration, or development expenditure would be depreciated in accordance with the method prescribed in articles 13 and 14 of the Law on Taxation.

Transfer of interest

If the taxpayer transfers all or part of the interest in the petroleum or mineral resource agreement to another person or entity, the transferee taxpayer would be required to:

- Continue to depreciate any tangible property, intangible property, exploration and development expenditure in the same manner and on the same basis as the transferor; and
- Record any excess of the purchase price over the accounting book value as purchase goodwill, to be amortized on a straight-line basis over the remaining estimated life of commercial production or amortized equally over 10 years for petroleum operations (seven years for mining operations), if shorter. Where the purchase price is lower than the accounting book value, the excess would be treated as taxable income over the same period.

Contact

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