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Banking

Instructive Circular No. 004 (MEF) dated February 11, 2011 on Procedure to deposit and to withdraw funds held in escrow to ensure performance of certain types of contracts. (R&L/Ban/Khm/2011) (Royal Gazette, Year 11, No. 20, dated March 08, 2011)

This Circular contains nine clauses. The General Department of National Treasury of the Ministry of Economy and Finance has issued formal procedures for depositing and withdrawing funds from escrow accounts at the National Treasury for certain types of contracts. The types of contracts for which a deposit is required are: land concession contracts, agricultural and tourism contracts, concession contracts for exploration, mining exploitation contracts, infrastructure contracts, contracts to provide public services, investment contracts, lease contracts, purchase and sell contracts, etc. The Circular also includes licenses and other requirements necessary for these types of contracts in the Kingdom.

According to this Circular, the contracting parties must deposit to a single treasury account at the General Department of National Treasury at least seven to thirty days after the contract comes into force or at as otherwise determined by the terms of the contract. Two escrow accounts were created for this purpose, one for Riel and one for USD. The account numbers are: Riel [Account No. 000000001111] and USD [000000001333]. The contracting parties, depositor or licensee must present proof of deposit from the National Bank of Cambodia to the relevant official at the Ministry of Economy and Finance for the purpose of ensuring contract performance. Furthermore, this Circular also states the procedures for withdrawing the deposit upon performance.

Finance

Prakas No.101 (MEF) dated February 24, 2011 on Implementation of Standards for Financial Reporting for Companies Publicly Issuing Equity Securities. (R&L/Bus/Khm/2011) (Royal Gazette, Year 11, No.20, dated March 08, 2011)

Companies publicly issuing equity securities currently must follow the international financial reporting standards of Cambodia as determined by Prakas No. 068 dated January 8, 2009 and the notification No. 097/09 dated August 28, 2009 of the Ministry of Economy and Finance.

During the transitional period, beginning from the date that Prakas No. 101 becomes effective until December 31, 2011, companies publicly issuing equity securities shall follow the accounting and financial reporting standards outlined in the Annex to Prakas No. 101.

Land and Property

Sub-Decree No. 39 (RGC) dated March 10, 2011 on Management of Boreys. (R&L/L/Pro/Khm/2011) (Royal Gazette, year 11, No. 20, dated March 20, 2011)

Recently, Cambodia adopted the Sub-Decree on Management of Boreys on 10th of March, 2011. There are 6 Chapters and 29 Articles and annexed the internal rules on management of Boreys containing 9 Articles. There must be one set of internal rules for each Borey. A Borey is defined as "...one location consisting of parcels of land, homes, other buildings, public space and other infrastructure on one same plot of land, in accordance with the formally approved overall plan of the Borey..." defined in the Article 4 of the Sub-Decree. (Note: A Borey is similar to a gated community in other countries.)

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At minimum, there must be homes, other buildings, public spaces (for parking, gardens, etc.) an entrance and exit, perimeter walls, utility infrastructure (water, electricity, telecommunications, etc), a drainage system and fire protection. The sub-decree also provides for the combination of separate land parcels and, conversely, the division of land parcels. It is noted that within one Borey, co-owned buildings are permitted.

The Ministry of Land Management, Urbanization and Construction has competency to issue title deeds for real property within a Borey. The obligation to pay title fees is mentioned in the sub-decree, but no amount is specified.

There are different phases of private ownership transfer: from the constructing-investor to the client-purchaser (referred to by the sub-decree as “the initial transfer”) and from the private owner to others. For the initial transfer, the rights and obligations of each party can be found in the sub-decree. For subsequent transfer(s), the rights and obligations of the parties can be found in related laws.

This sub-decree also differentiates the new classification Borey from traditional apartments or houses (the architectural plan of which also requires approval from relevant authorities) and from the classification of Special Economic Zone. Two of the differences concern public space and the investment plan requirements:

- o The public spaces within a Borey are to be registered as “undivided properties of the co-owners”. The public spaces within group or apartment homes (e.g., entrance and exit roads) are to be considered public state properties.
- o Investment plans must be implemented for parcels of land within a Special Economic Zone.

Taxation

Decision No.003 (MEF) dated February 10, 2011 on the Submission of the Declaration Letter on the Annual Tax on Profit for the Tax Year 2010. (R&L/Tax/Khm/2011) (Royal Gazette. Year 11, No.17, dated March 04, 2011).

In accordance with articles 5 and 29 of the Tax Law promulgated by on February 24, 2007, the Ministry of Economy and Finance (MEF) is pleased to inform all taxpayers under the real regime tax system about the obligation to make an annual tax declaration and pay the annual tax on profit for the tax year 2010 according to the rules below:

1. An enterprise reporting for the tax year January 01 2010 to December 31 2010), must make their annual declaration and pay the annual tax on profit for the year 2010 no later than March 31, 2011 at the tax administration that has competency over the collection of that tax from enterprises.
2. Enterprises that are allowed to use a different tax year must apply for the declaration and pay the annual tax on profit within three months after the end of the tax year.
3. Enterprises that have many branch offices must declare their annual tax on profit by submitting the total revenue of all branches and the original enterprise along with the profit and loss results of each branch office. Branch offices must declare profits and losses following the annual tax declaration letter and submit this information to the closest tax administration.
4. Enterprises implementing the Quality Investment Project (QIP) regime or any other tax incentive programmes must apply for a declaration letter and pay any annual tax on profit owing as stipulated in articles 1 and 3 above. They shall also follow further instructions from the MEF.
5. Taxpayer representatives appointed to communicate with the tax administration in order to comply with monthly and annual tax obligations, shall obtain Power of Attorney from the taxpayer as stipulated in article 106 of the tax law.