



Maintaining Corporate Compliance in Cambodia

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1. OVERVIEW

Once registered to operate in Cambodia, a business must follow five steps to maintain compliance with Cambodian regulations: 1) submit Annual Declarations, 2) maintain proper accounting, 3) pay taxes, 4) renew licenses and 5) authenticate corporate structural changes.

2. ANNUAL DECLARATIONS

Every business registered to operate in Cambodia must file an annual declaration to the Ministry of Commerce "concerning the status of the partnership or company." These declarations are to be filed by the end of the fiscal year and must be delivered to the Business Registration Department of the Ministry of Commerce. The declaration template forms can be obtained at the Annual Declaration Office of the Business Registration Department.

Businesses failing to file an annual declaration will incur fines of between KHR 1 million and KHR 10 million per year. Failure to file annual declarations for three consecutive years will result in a repeal of the business's registration and license to operate in Cambodia.

3. ACCOUNTING POLICIES

Cambodian law requires that all enterprises maintain and prepare yearly financial records and financial statements. The accounting period must begin on the first of January and end the 31st of December of each year. All enterprises must record all data in the Khmer language and in the Khmer Riel currency. Foreign enterprises may request authorization to prepare their records in a different language, using a currency other than the Khmer Riel, but the enterprise is responsible for preparing a Khmer translation and Khmer Riel conversion.

The law requires that large and medium enterprises follow the eighteen points of the Cambodian Accounting Standards, in maintaining their financial records, and the two points of the Cambodian Financial Reporting Standards (CFRS). Smaller enterprises are not obliged to follow such standards, but may do so if it will aid in proper accounting and financial reporting.

Enterprises whose turnover, balance sheet total and/or number of employees exceed the limit set forth by the Ministry of Economy and Finance, must submit their accounts for auditing by an independent auditor registered with the Institute of Khmer Certified Public Accountants and Auditors.

All enterprises must file financial statements with the Ministry of Economy and Finance within three months following the closure of the fiscal year. Financial statements must include the balance sheet, an income statement, a cash flow statement, and explanatory notes. At every annual general meeting of shareholders, enterprise directors must deliver separate financial statements to their shareholders. These separate financial statements should include a comparison of earnings from the current and previous years, a report from the auditor, and any other information pertinent to the financial position of the enterprise. The financial statements must be approved and signed by one or more of the directors and must be delivered to the shareholders not less than twenty-one days prior to the annual general shareholder's meeting.

Although vendors of goods and services need only provide a receipt to their customers when requested, all business transactions between businesses shall give rise to an invoice in duplicate.

The vendor should deliver one copy of the invoice to the vendee and keep the other copy for his or her records.

All financial statements and records must be kept for at least ten years. Directors found guilty of accounting fraud may face a fine between KHR 5 – KHR 10 million, a prison sentence of one to two years and/or a loss of license. Those who fail to prepare annual financial statements may face a similar fine, a prison sentence of three to six months and/or a loss of license.

4. TAX

There are essentially four categories of taxes an enterprise must pay: Salary Tax, Withholding Tax, Value Added Tax and Income Tax.

The Salary Tax requires that the employer withhold from the employee a percentage of the employee's salary based on a fixed income bracket. Although employees of certain enterprises are exempt from the tax, the duty of withholding salary tax applies to all enterprises with employees. Taxable salary includes all remunerations, wages, bonuses, overtimes, and compensations including the value of any fringe benefits. The employer must pay all salary tax withholdings by the fifteenth of the month following the withholding. The employer must also maintain a record of employee's pertinent information including the employee's name, job description, gross monthly salary and the gross value of any fringe benefits. At each payment, the employer must deliver to the employee a document stating the employee's total monthly salary, excluding the value of fringe benefits, the taxable monthly salary, and the tax withheld. The employer must also record and deliver a document stating the value and type of any contractual fringe benefits and any tax withheld from fringe benefits.

Withholding Tax requires the payor to withhold a percentage of payment from payee. Cambodian law states that a resident payor must withhold from a resident payee fifteen percent of payment for "performance of services including management, consulting, and similar services." A resident payor must withhold the same percentage from interest payments (excluding interest paid to a resident bank) and from royalty payments arising out of interest in minerals, oil, or natural gas. Payment of interest accrued from non-fixed term savings accounts requires a five percent withholding, while rental payments to a resident attract a withholding tax of 10 percent. Payment of interest, royalties, dividends or services fees to a non-resident all attract withholding tax obligations at the rate of 14 percent.

All enterprises which supply goods or services under the Real Regime of taxation must pay Value Added Tax. 'Goods' are considered any tangible property, other than land or money, the taxable value of which is the purchase price of the goods. A service is any act done for consideration that is not the supply of a good, land or money, the taxable value of which is the price paid by the buyer. The tax rate for the supply of goods or services is ten percent of the taxable value. The enterprise supplying the goods or services must pay the tax within seven days of supply, which is when the invoice has to be delivered.

There are two types of Income Tax: Annual Tax on Profit and Minimum Tax. Although some smaller, sole proprietorship enterprises will only need to pay income tax annually, most enterprises will need to pay the Minimum Tax monthly at the rate of 1 percent of turnover if they fall under the Real Regime of taxation. This monthly payment is known as the Prepayment of Profit Tax and can be deducted from the total amount owing at the end of the tax year.

The Annual Profit Tax requires that all enterprises pay a percentage of their profit within three months of the end of the tax year. The percentage varies according to the enterprise activity. "Legal Persons," a term for general enterprises operating in Cambodia, must pay twenty percent of their profit. However, enterprises engaged in the exploitation of oil, natural gas, or other natural resources must pay thirty percent of profits. Cambodian tax law allows for business expenses to be deducted from turnover to reach the annual profit figure according to the enterprise's business activities.

The Minimum Tax already paid as Prepayment of Profit Tax will be deducted from the tax on profit obligation at the end of the year. If the amount paid exceeds the amount owing, the company will not be entitled to a refund or credit. This can be frustrating for companies whose profit margin is less than 5%, as they are essentially taxed more.

5. LICENCE RENEWAL

Any entrepreneur who has established an enterprise in Cambodia is likely very familiar with the numerous licenses and certificates required to operate the enterprise legally, although some enterprises may avoid having to obtain a license from the government altogether. Many of these licenses and certificates require periodic renewal, though the period of validity differs for each license and certificate. Renewal must occur at or through the Ministry that issued the license or certificate, or the enterprise may face a fine or revocation of permission to operate in Cambodia.

One example of enterprises that must seek license renewal are industrial enterprises receiving their license from the Ministry of Industry, Mines, and Energy. Such licenses indicate the enterprise's compliance with Cambodian industrial standards and must be renewed every three years. Failure to renew the license will result in a fine between KHR 300,000 and 600,000. Industrial enterprises registered with the Ministry of Industry, Mines, and Energy must also re-register if they undergo any change to the standards of their industrial product.

Also, those enterprises not liable to pay Annual Profit Tax, or that are not required to register with the Ministry of Commerce, must apply for authorization to do business through the Ministry of Commerce. The Letter of Authorization is valid for one year and incurs a KHR 50,000 renewal fee. The relevant enterprise must renew its Letter of Authorization within fifteen days after expiration.

Finally, enterprises that registered with the Ministry of Commerce using the old type of registration certificate, must re-register using the new type and deposit an amount to cover the annual declaration of enterprise. Enterprises subject to this requirement must re-register using the new type of registration certificate within three months of the institution of the new type of registration certificate or face a possible loss of their registration certificate.

6. AUTHENTICATION OF CORPORATE STRUCTURAL CHANGES

An enterprise operating in Cambodia must take certain steps to authenticate changes to its corporate structure. In general, an enterprise must notify the Ministry of Commerce concerning any change that would falsify information recorded in the registry with the Ministry of Commerce. Further, if an enterprise amends its articles of association, the enterprise must submit all documents regarding the amendment to the Office of Registration at the Ministry of Commerce. These documents must include the date the shareholders approved the amendment and a signature of authorization from the chairman of the board of directors of the enterprise. If the chairman is unable to sign, a signature from any director authorized by the chairman will suffice. Authentication of the amendment with the Ministry of Commerce will require an administrative fee as well as a fee of KHR 60,000 for the certificate of confirmation. Failure to register the amendment with the Ministry of Commerce within fifteen days of the amendment's ratification will result in a fine from KHR 500,000 to KHR 1,000,000.

Finally, in the case of a merger, the surviving company must file documents regarding the merger with the Ministry of Commerce. These documents should include the agreement of the merger and resolutions from the board of directors and shareholders of each constituent company, and the articles of incorporation of the surviving company. The documents must also include signed statements from a director or officer of each constituent company regarding each company's ability to satisfy their liabilities, adequate notice to all relevant creditors and their lack of objections to the merger, and assurance that the value of assets from the surviving company will not be less than its liabilities.