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## Tax Issues in Corporate Dissolution

### 1. Introduction

The process of dissolving a company in Cambodia is important and requires just as much preparation as opening a company and, for legal and tax reasons, this process must be completed with care. Indeed, those who fail to properly dissolve a company expose themselves to lawsuits and liability for back taxes, fines and other penalties. This report explains the proper procedures for dissolving a corporation in Cambodia.

### 2. Liquidating a Company

Liquidation (also referred to as dissolution) is the process whereby a company is brought to an end and the property and assets are redistributed. There are various reasons why the corporations' shareholders might want to dissolve a company including, for instance, financial difficulties<sup>1</sup>. With shareholder approval, a company may request dissolution in accordance with the Ministry of Commerce's dissolution and tax liquidation procedures.

### 3. Tax-related Matters

In the case of a voluntary dissolution, before notifying the Tax Office, a company needs to liquidate assets and liabilities that are subject to the Value Added Tax (VAT). A company also needs to write off or recover receivable balances and pay off secured and unsecured creditors. Companies also need to file final salary and fringe benefit taxes for employees, VAT, withholding taxes, prepayment of profit taxes, and annual taxes on profits (including

capital gains). Finally, companies must write off any expenses and recover the VAT input balance if any input credit is to be carried forward<sup>2</sup>.

Within 15 days of the cessation of business, companies must submit a request to the Tax Office to dissolve its business. The request must take the form of a letter the appropriate Tax Branch Office providing 1) the reason for dissolution, 2) two copies of the business dissolution application form, 3) an original copy of the latest Patent Tax Certificate, 4) a copy of the latest monthly tax and annual tax returns, and 5) the original VAT Certificate for audit purposes.<sup>3</sup> Finally, a stamp duty of one million KRW (approximately USD 250) must be included with the request<sup>4</sup>.

Next, the Head of the Tax Office issues a tax audit notification letter specifying the date of the audit, the names of the auditors handling the audit, and identifying for the taxpayer any specific documents that must be prepared for audit. Documents identified by the Tax Office for the audit generally include monthly and yearly tax returns, lease agreements and any other tax-related documents. After the audit, the Head of the Tax Office issues a Tax Reassessment Notification Letter, explaining whether or not any taxes are owed.

In case no taxes are owed, the taxpayer must nevertheless submit a letter to the Tax Office formally acknowledging the findings of the Tax Office, after which the Head of the Tax Office will issue a Tax Clearance Certificate for processing at the Ministry of Commerce (MOC).

In case taxes are owed, the taxpayer must also submit a letter to the Tax Office acknowledging and/or rejecting (either in whole or in part) the tax liabilities assessed. The letter must be sent within 30 days of receipt of the Tax Reassessment Notification Letter. If no response is made, the company shall be deemed to have accepted the tax reassessment. When a company accepts the results of the reassessment without challenge, the Tax Department will issue a final tax reassessment notification letter. The taxpayer must then pay the total amount within 15 days. Upon payment, the Head of the Tax Branch will issue a Tax Clearance



<sup>1</sup> Article 251 of the Law on Commercial Enterprises of 2005.

<sup>2</sup> Article 255 of the Law on Commercial Enterprises of 2005.  
<sup>3</sup> It should be noted, however, there is no VAT Certificate for representative offices.

<sup>4</sup> Prakas No. 735 dated on August 08, 2013 on Collection of Stamp Duty (Royal Gazette, Year 13, No. 64, dated August 31, 2013). The taxpayer shall declare and clear this tax within 3 months after receiving the decision of the relevant ministry or authority (Article 8 of this Prakas No. 735).

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## ABOUT US

BNG Legal is a leading regional law firm providing comprehensive legal services to foreign and local clients in Cambodia and Myanmar.

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We differentiate ourselves by coupling a deep understanding of the local business environment with international professionalism and integrity.

We facilitate business, investment and trade between Cambodia, Myanmar, and the rest of the world through innovative and cost-effective legal services.

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## CAMBODIAN LAW BLOG

[cambodianlaw.wordpress.com](http://cambodianlaw.wordpress.com)

BNG Legal believes expanding access to legal information is crucial to rule of law. To that end, several of our legal professionals write a blog discussing recent developments in the legal landscape.

## LEGAL DATABASE

The laws and regulations in our database are based upon the Official Gazettes, law compendiums and other collections from the ministries and institutions of the Royal Government of Cambodia. These are available to the public through our partner site, [www.bnqlaw.net](http://www.bnqlaw.net).

Certificate for processing at the MOC.

When a company rejects a tax reassessment it must submit a letter to the Tax Office within 30 days of receipt of the reassessment putting forward a clear explanation, accompanied by evidence, of any alleged error. Taxes are due regardless of the merits of the taxpayer's appeal and will be refunded only after a resolution has been reached between the auditors and the taxpayer or a final decision has been made by a court. At the conclusion of the process, the Head of the Tax Branch will issue a Tax Clearance Certificate for processing at the MOC.

## Conclusion

Tax issues involved in corporate dissolution in Cambodia can be complex. In order to ensure compliance with legal requirements and avoid unnecessary difficulties, penalties and expenses, owners looking to dissolve their companies are strongly advised to seek competent legal advice and assistance.

## Law Update

### **Prakas No. 316 (MEF) dated March 19, 2014 on "Amendment of the Fee for Goods Checking through Scanning Machine System"**

In accordance with the work necessity required by the Ministry of Economy and Finance, the ministry has provisionally amended the goods checking fees by using the scanning system. The amended fees are as below:

- USD 32 for a container sized from 40 Feet; and
- USD 20 for a container sized below 40 Feet

This Prakas provides the decrease in the checking fees comparing to the previous fees which are USD 40 for a container sized from 40 Feet and USD 25 for a container sized below 40 Feet.

The new fees shall be effective from April 1st, 2014 onward.

### **Prakas No. S9-014-054-Pra.Kor. dated 17 February 2014 on the Establishment of International Reserve Capital Investment Committee**

The International Reserve Capital Investment Committee ("the Investment Committee") is composed of seven members, chaired by H.E. Chea Chanto, governor of the National Bank of Cambodia.

The duties of the Investment Committee including:

1. Drafting investment policy;
2. Reviewing and adopting investment

guideline, measure for managing reserve capital as well as scope of activities, and other necessary principle to implement reserve capital investment;

3. Monitor operation activities on managing international reserve capital which is implemented by Department of Money Exchange Management, and provide necessary guideline to ensure efficiency in managing reserve capital;
4. Setting direction and create strategies for international reserve capital investment.

Prakas No.S9-013-101-Pra.Kor dated 2 May 2013 on Establishment of International Reserve Capital Investment Committee and/or any regulations contrary to this Prakas shall be abrogated.