

Table of Contents

- Advertising
- Business
- Immigration & Naturalization
- Industry-Mines & Energy
- Investment
- Taxation
- Tobacco
- Traffic

ADVERTISING

Instruction No. 787 dated January 14, 2014 on Public Advertisement of Company /Enterprise

The Department of Business Management of Immovable Property, Mortgage, and Security by Transfer (the “department”) has instructed all company/enterprise directors that to avoid the illegal mortgage business, the sale-purchase collateral and security by transfer, and to promote the value of the company/enterprise that obtained license, the company/enterprise must:

- display the identification number of the license issued by the Ministry of Economy and Finance on all advertisements to the public; and
- provide the name and address of any company/enterprise that illegally operates a business to the department in order to allow the department to take legal action.

BUSINESS

Prakas No. 161 dated 30 May 2014 on Pilot introduction of Online Application for Certificate of Origin

To facilitate the private sector’s trade, the Ministry of Commerce has recently launched an online application for Certificate of Origin, which will be implemented on 15 June 2014.

In order to obtain the Certificate of Origin by online application, export companies are required to register and to train with the General Department of Trade Services of the Ministry of Commerce. Once the company is registered and trained, it can apply for the Certificate of Origin by filing the application as annexed within this Prakas to “ICO.MOC.GOV.KH” along with other relevant documents as listed (Joint Report on inspection of exported textile goods, bill of lading, invoice, packing list, check, and other documents, if necessary).

The official in charge will then examine the filed application before submitting it for approval to the Ministry of Commerce’s management. Please note that the timeframe for approval is not provided.

IMMIGRATION & NATURALIZATION

Sub-Decree No. 184 dated 16 May 2014 on “Organization and Functioning of General Department of Identification under the Ministry of Interior”

Under this Sub-Decree, the General Department of Identification is responsible for:

- The study and preparation of principles, programs, plans and procedures to provide civil documents identifying residence, family, Cambodian Identification Card, ordinary passport, other cross-border cards and Cambodian nationality issuance or its abandoning;
- Updating and governing tasks regarding civil work, citizen statistics, residency of Cambodian nationals and foreigners, Cambodian identification, ordinary passport, other cross-border cards and nationality;
- Governing and examining the marriage between Cambodian citizens and foreign nationals;
- Examining and issuing documents certifying the identification of Cambodian citizens;
- Preparing and governing the use of a database regarding citizen identification in the Kingdom of Cambodia;
- Supervising officials responsible for identification at both the General Department of Identification and the national level to perform their duties in according to Sub-Decree legal norms; and

A No 64, St 111
PO Box 172
Phnom Penh
Cambodia

T +855 23 217 510
+855 23 967 450

F +855 23 212 840

E cambodia@bnglegal.com

W www.bnglegal.com

ABOUT US

BNG Legal is a leading law firm with offices in Phnom Penh and Yangon providing comprehensive legal services to foreign and local clients.

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.

Superior knowledge of local protocol, local procedure, and local people is necessary for any business to succeed in Cambodia, Myanmar and throughout Southeast Asia.

Conducting daily business in Cambodia and Myanmar, BNG Legal is up-to-date with the latest procedures and requirements, helping clients efficiently and successfully complete any project.

CAMBODIAN LAW BLOG

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.bnglaw.net.

- Cooperating with relevant ministries and institutions to identify victims, suspects, or absentees, per the authorization of the Ministry of Interior.

The details of the role, responsibilities, and working methodology of the General Department of Immigration and its each department are to be consulted with the Prakas No. 184 dated May 16, 2014.

Sub-Decree No. 183 dated 16 May 2014 on “Organization and Functioning of General Department of Immigration under the Ministry of Interior”

This Sub-Decree determines the role, responsibilities and working methodology of the General Department of Immigration.

Based on this Prakas, the General Department of Immigration’s role and responsibilities are as follows:

- Govern the passage through all international entrances and borders ;
- Govern the residency statistics of foreigners who are non- immigrants, immigrants, immigrant private investors, refugees and Cambodian nationals who return to the country;
- Renew visa for residency for foreigners who hold ordinary passports;
- Authorized by the Ministry of Interior, the General Department of Immigration must cooperate with the Ministry of Labor and Vocational Training and relevant General Departments to govern foreign employees in the Kingdom of Cambodia and Cambodian employees who works abroad;
- Propose to the Minister of Interior to expatriate foreigners who violate the laws in-force of the Kingdom of Cambodia;
- Give advice to the Minister regarding the residence certificate, renewing the validity of the certificate for the request of foreigners who are immigrants, private investors and refugees in conformity to the laws;
- Govern places to expatriate foreigners affecting security, public order while waiting for the completion of the procedure to expatriate otherwise sending to Court based on legal procedure;

The other details of roles and responsibilities of the General Department of Immigration and its Departments can be found in this Prakas.

INDUSTRY-MINES & ENERGY

Notification No.951 Dated May 26, 2014 on Registration of Small and Medium Enterprises at the Ministry of Industry and Handicraft.

The purpose of this Notification is to inform all businessman, investors and owners of all small and medium enterprises, factories, and handicrafts that all small and medium enterprises shall be registered at the One-Stop Service Secretariat of the Ministry of Industry and Handicraft and Provincial and Municipal Department of Industry and handicraft. In addition, the official of the one-stop service will work to obtain necessary approvals from relevant ministries on behalf of the business owners, and set the deadline for each project for the investors and if there is no response from relevant ministries, it means that the request is accepted and approved. The type and size of the small and medium enterprises are defined based on the size of the employees and capitals.

Notification No.908 Dated May 20, 2014 on the Establishment of One-Stop Service at the Ministry of Industry and Handicraft

The purpose of this Notification is to inform all directors of small and medium enterprises and handicrafts that the Ministry of Industry and Handicraft has established a one-stop service for registering, establishing, renewing certificates or licenses related to industry and handicraft.

Any questions or problems arising at the one-window service of the ministry can be asked and reported to the following numbers 012 717 935/012499 586 or emailed to k.sedhika@yahoo.com

INVESTMENT

Law on Ratification/Adoption on Protocol to Amend the Agreement between the Government of the Kingdom of Cambodia and the Government of the Socialist Republic of Vietnam on the Promotion and Protection of Investment dated 4 May 2014

To facilitate the private sector's In accordance with this law, through a Protocol to amend the Agreement between the Government of the Kingdom of Cambodia and the Government of the Socialist Republic of Vietnam on the Promotion and Protection of Investments done at Kien Giang on 24th June 2012, two amendments are made to the Agreement between the Government of the Kingdom of Cambodia and the Government of the Socialist Republic of Vietnam concerning the Promotion and Protection of Investments done at Phnom Penh on 26th November 2001 (the Agreement) as follows:

1. Three Articles XIII (CONTACT POINT), XIV (JOINT COMMITTEE ON INVESTMENT), XV (FACILITY OF INVESTMENT) shall be inserted after Article XII (CONSULTATION AND AMENDMENT) of the Agreement.
2. Article XIII (ENTRY INTO FORCE, DURATION AND TERMINATION) of the Agreement shall be renumbered to Article XVI (ENTRY INTO FORCE, DURATION AND TERMINATION).

Each Contracting Party shall establish a contact point, within 15 days after the Agreement enters into force. It aims to facilitate communications between the Contracting Parties on any matter covered by the Agreement.

Within 02 months after the Agreement comes into force, the Contracting Parties shall establish a Joint Committee on Investment (the Committee). The Committee is responsible for discussing and reviewing the following:

- the implementation and operation of the Agreement;
- any other investment-related matters concerning this Agreement

To facilitate investments from the other Contracting Party, each Contracting Party shall create the necessary environment for all forms of investment, simplify procedures for investment applications and approval, promote the dissemination of investment related information, and provide assistance and advisory services to investors of the other Contracting Party.

This Law shall immediately come into force throughout the country after the promulgation date, May 04, 2014.

Circular No 006 (MEF) dated 02 April 2014 on the Procedure on Resettlement of Impacts Related to Development projects

The Ministry of Economy and Finance issued Circular No 006 on the Procedure on Resettlement of Impacts related to Development projects in order to ensure the efficiency and effectiveness of the resettlement issues, as well as to promote public confidence and to process public infrastructure developments.

The Circular defines three steps of the resettlement of impacts related to Development projects:

1. The feasibility study of the development project
2. Implementation of the resettlement plan
3. The step after the implementation of the resettlement plan.

Therefore, in order to process any resettlement, the relevant ministry shall conduct research, study the feasibility of the project, and make preliminary studies of the impacts with assistance of technical advisors and submit that preliminary study to Ministry of Economy and Finance via the Department of Resettlement of impacts related to development projects. Once a proposal of resettlement from the relevant ministry is received, the above-mentioned Department shall propose the creation of an inter-ministerial committee for that project. This newly established committee shall thereafter make proposals to the Governor of the Municipality/Province to create a sub-commission to ensure the implementation of the work. After the successful implementation of the related resettlement, the sub-commission shall enforce and prohibit any new possession on the resettled locations.

TAXATION

Sub-decree No. 150 dated 26 March 2014 on Amendment of Specific Tax on Some Products

The Specific Tax on wine in below locations has increased from 10% to 20%.

- 2204: Wine of fresh grapes, including fortified wines
- 2205: Vermouth and other wines of fresh grapes flavored with plants or aromatic substances,
- 2206: Other fermented beverages, mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages
- 2207: Indentured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher, ethyl alcohol and other spirits, denatured, of any strength,
- 2208: Indentured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverage

The Specific Tax on Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes in the location of 2402 has increased from 10% to 15%.

Decision No. 93 dated 18 April 2014 on Establishment of Inter-ministerial Committee for Negotiating on Avoiding Double Tax Treaty Agreement

This Inter-ministerial Committee is chaired by H.E Chou Vichet, Secretary of State of Ministry of Economy and Finance (MoEF), 8 members from other ministries, and H.E Kong Vibol, General Director of General Tax Department (GDT), is a permanent member.

Duty of the Committee:

1. To ensure the success of negotiations on avoiding a double tax treaty agreement with partners in ASEAN and other countries that requested this agreement.
2. Review and make decisions on the policy of agreement.
3. Review and make decisions on the draft of agreement.
4. Review and make decisions on the negotiation procedure about avoiding the double tax treaty agreement for selecting the priority country for negotiating.
5. Review and make decisions on the strategy for negotiating with each partner.
6. Make regular and special reports to the Minister of MoEF to request opinions and make decisions related to policy.
7. Attend meeting requested by Chairman of the committee in case of urgent matter.

This committee has the right to use MoEF's stamp on formal documents if the documents are approved by committee.

This committee has a technical team to support the reviewing of national and international taxes and scheduling the meeting on technical. H.E Kong Vibol, General Director of GDT, chairs this team. There are 25 members and 2 assistants.

Duty of Technical Team:

1. Preparing technical of the agreement with partners and submit to the Committee for a decision.
2. Drafting the agreement and submitting it to the Committee for review and a decision.
3. Scheduling the negotiation program for selecting the priority country for negotiating and submit to committee for making decision.
4. Preparing a strategy for negotiating with each partner and submitting the strategy to the committee for a decision.
5. Arranging procedure, related documents and other necessary duties in the technical team meeting and submitting that to the committee for a decision.
6. Report and prepare other documents and submit them to the committee for a decision and report to the Minister of MoEF.
7. Budgeting the negotiating the program and submitting it to the committee for approval.
8. Other duties assigned by committee.
9. Monitoring and reporting quarterly, by the semester, or annually about progress to committee.
10. Attend meetings requested by the Chairman of the committee in case of an urgent matter.

This technical team has the right to use GDT's stamp on formal documents if the technical team approves the documents.

TOBACCO

Prakas No. 539 dated 30 April 2014 on the Use Stamp Tax to Pay a Specific Tax on Cigarettes

The purpose of this Prakas is to strengthen the management and collection of specific tax on tobacco products. This Prakas applies to all imported and local products into the Kingdom of Cambodia.

Within this Prakas, tobacco importers and manufacturers are required to stamp on tobacco products before importation or before they are placed in the market. However, there is an exemption on the tax stamp for:

- Local produced products for exportation means
- Any individual that is not obliged to register as taxpayer for special tax
- Imported tobacco less than or equal to 200 cigarettes and 20 cigars.

The Stamp is divided into two categories: local products and imported products. Each stamp costs 50 riel.

The following provisions shall be abrogated by this Prakas:

- Prakas No. 515 dated July 27, 2001 on the Use of Tax Stamps for Certifying Payment of Specific Tax on Goods and Certain Services on Cigarettes
- Prakas No. 539 dated August 16, 2001 on the Price and Characteristics of Tax Stamps for Certifying Payment of Specific Tax on Goods and Certain Services on Cigarettes
- Prakas No. 843 dated November 2001 on the Modification of Prakas on the Use of Tax Stamps for Certifying Payment of Specific Tax on Goods and Certain Services on Cigarettes and Prakas on the Price and Characteristics of the Tax Stamps for Certifying Payment of Special Tax on Goods and Certain Services on Cigarettes

This Prakas will be effective on January 01, 2015.

TRAFFIC

Law on Road dated on 04 May 2014

The purpose of The Law on Road has the following purposes:

- protect public property, promote quality of the road, maintain order, and facilitate travel and transportation;
- define policy, strategy and a development plan for the construction and maintenance of road infrastructure;
- encourage the private sector to participate in the construction and maintenance of road infrastructure;
- promote the cooperation and integration between national, regional, sub-regional and international on road infrastructure;
- encourage technical research and transfer of new technology to the development of road infrastructure; and
- Develop human resources in road infrastructure in Cambodia.

The construction of new roads shall allocate roadway and land for construction of a road infrastructure. The construction of roads in cities and new development areas shall include sidewalks, pathways for disabled persons, and necessary construction to ensure traffic safety. The sidewalk shall only be for walking purpose with the exception of activities related to culture, sport, exhibition and ceremony that have approval from the sub-national administrator. The law prohibits improper parking on the sidewalk, constructing bars across the road, and hills to reduce speed without permission.

The person who has the rights to construct or develop new roads that did not install road equipment in accordance with the construction project shall be fined 5 million riels. If the rights belong to a legal entity, the fine shall be 10 million riels. A person who constructs bars across the road or hills to reduce the speed of traffic without permission shall be fined 1 million riel and shall remove the constructed materials. The person that organizes activities and ceremonies on the road without permission from sub-national administrative shall be fined 100,000 riels. The person who transports goods on the road that exceed the weight limit and causing a road collapse, a broken drainage pipe across the road, or and collapsed bridge shall face imprisonment from 6 months to 2 years and will be fined 1 million riels to 4 million riels.