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**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

## Salary Tax in Cambodia

### 1. Introduction

Most individuals living and working in Cambodia are aware that they have to pay tax on their salaries. As the obligation to declare this tax rests with the employer, most individuals don't give it much further thought.

### 2. Definition of Salary Tax

Tax on Salary is a monthly tax imposed on salary that has been received within the framework of fulfilling employment activities (Article 41, Law on Taxation). Whether a person is an employee or an individual earning profit depends on "the degree of subordination to the employer" (Section 1.2 of Prakas 1173 on Tax on Salary). The governing Prakas outlines four criteria to assist in determining this. If two of these four criteria are met, an employment relationship exists: The person will be paid as long as he appears at a designated place to perform tasks outlined in a general (written or oral) agreement;

- The person will be paid as long as he appears at a designated place to perform tasks outlined in a general (written or oral) agreement;
- The person does not make their own hours (i.e. his time and place of employment are chosen for them);
- The person is not required to invest in their own equipment;
- The person does not provide services to several people simultaneously.

If a person does not meet at least two of the above four criteria, he or she will be deemed



as an independent service provider subject to withholding tax.

If he or she is an employee, all incomes from his or her employment will be subject to tax. The employee can be classified as:

- Resident employee subject to tax on salary for both Cambodian and foreign source income.
- Non-resident employee subjected to tax on salary from Cambodian source only.

### 3. Resident Employee

Section 1.3 of Prakas No. 1173 on Salary Tax outlines three criteria to assist in determining a resident employee. If one of these three criteria is met, an employee is a resident employee:

- Has his residence located or situated in the Kingdom of Cambodia if he owns, rents, leases, or has available for use a house, apartment, dormitory, etc. in which he usually stays or occupies; or
- Has a principal place of abode in the Kingdom of Cambodia, which is a factual determination based on factors such as the physical person's center of economic interest, the amount of time spent, the nature of time spent, where that person's family resides, where the physical persons bank accounts are held, where his main social activities take place; or
- Present in the Kingdom of Cambodia for more than 182 days in any period of twelve months ending in the current tax year.

### 4. Salary Tax Rate

All income from employment can be divided as Salary and Fringe Benefits and are subject to tax at different rates. Article 42 of the Law on Taxation provides that Salary refers to all remuneration, wages, bonuses, overtime, compensation, advance, loan and other payments in cash or in kind which are paid to an employee, or which are paid for the direct or indirect advantage of the employee for the fulfillment of employment activities. Other benefits that are not classed as salary are considered as Fringe Benefits.

If he or she is a resident employee, tax on salary liability is applied at the progressive rate below:

## ABOUT US

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

Registered with the Bar Association of the Kingdom of Cambodia, our legal professionals combine international standards with local expertise.

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.

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

## CAMBODIAN LAW BLOG

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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).

TAXABLE SALARY IN KHR	RATE %
0-500,000	0
500,001-1,250,000	5
1,250,001-8,500,000	10
8,500,001-12,500,000	15
>12,500,000	20

For non-resident employee, tax on salary is applied at the flat rate of 20% (Article 49 of Law on Taxation).

Both resident and non-resident employees are subjected at the flat rate of 20% of the total value of fringe benefits given. The value of fringe benefits is the fair market value inclusive of all taxes.

A resident employee who already paid salary tax on foreign income can claim back the tax credit to offset salary tax in Cambodia with documentary evidence confirming the payment abroad. Based on Article 50 of the Law on Taxation, the tax credit to be allowed for the income tax paid abroad is the smaller of:

- The tax amount actually paid in the foreign country; or
- The amount obtained by multiplying the tax on total salary from all sources from the same period with the ratio of salary received in that foreign country to the total salaries from all sources.

## 5. Exemption of Salary Tax

Not all income is subject to Salary and Fringe Benefit Tax. Based on section 1.4 of Prakas No. 1173 on Salary Tax the below are exempt from salary tax:

- Indemnities for layoff and additional remuneration within the limits and terms of the Labor Law.
- The supply of uniforms and professional equipment free of charge or at below cost if the employee must return the articles to the employer upon termination of employment and in the case of uniforms they must be a necessity to perform the job and must be supplied to all persons in similar positions in the same manner.
- A flat allowance for mission and travel in lieu of expense refund that does not exceed the government allowance for similar work.

Not all employees are subject to Salary and Fringe Benefit Tax. According to Article 43 of the Law on Taxation the below employees are exempt from Salary and Fringe Benefit Tax:

- Salaries of officers and employees of a diplomatic or consular mission of a foreign government holding a diplomatic or

official passport of that government within the framework of fulfilling their official function in the Kingdom of Cambodia.

- Salaries of foreign representatives, officials and employees of international organizations and of agencies of technical cooperation of other governments within the framework of fulfilling their official function in the Kingdom of Cambodia.

## 6. Obligation and Payment

Although the employee is responsible for the tax, the obligation to withhold and pay the tax each month rests with the employer (Article 52). Because of this, most individuals simply “forget” about their monthly tax obligations because they know it is somebody else’s responsibility to make payment. This tax should be collected through withholding by the employer at the time of salary payment made in any one month and should be paid by the 15th of the following month to the tax administration.

## 7. Penalty

If the Employer fails to pay the salary tax to the tax administration, it will be subject to an unilateral tax assessment or tax re-assessment.

Based on Article 130 to 135 of Law on Taxation, the penalty shall include:

- 2,000,000 Riel for obstruction of the implementation of tax law;
- 10% (Late or less negligent) or 25% (serious negligent) or 40% (Unilateral Tax assessment);
- 2% per month on tax liabilities for interest.

## 8. Conclusion

Salary Tax in Cambodia can be complex if many types of income were paid to staff. In order to ensure compliance with legal requirements and avoid unnecessary difficulties, penalties and expenses, owners are advised to seek competent legal advice and assistance.

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## Addition to Our Team

### Mr. Sovan Meas

#### Legal Advisor

Mr. Sovan Meas is a Legal Advisor in the Real Estate Practice Group at BNG Legal. He holds a Master Degree of International Economic Law from the Panthéon Sorbonne Paris 1 University, France. He also holds a Bachelor Degree in Private Law from the University of Lyon II and a Bachelor Degree from the Royal University of Law and Economics in Law under a joint program with Lumière Lyon II University in Cambodia.

Prior to joining BNG, Sovan interned at CREAD (Centre de Recherche Appliqué en Droit).

At BNG Legal, he specializes in real estate, international commercial law and investment law. He works with multi-national companies and local companies on real estate matters, economic land concessions, and long term leases.

Sovan speaks Khmer, English and French.

## Legal Update

### Prakas No. 848 dated 08 August 2014 putting the State's Change all Duty and Tax of Imported Private Car from Abroad by Senior Officials

If below conditions are met, import duty of senior officer's private car is levied on government:

1. Requester is a senior officer who returns from official working at least one (1) year in Cambodia embassy in abroad.
2. Used car, have any legal documents to certify at least 6 months ownership until the return date and only 1 unit for a senior officer.
3. This car has to register as government property. If the owner wants to sell or transfer to other person, he/she has to pay taxes and this car has been allowed to withdraw from government property.
4. Prior approval from Ministry of Economy and Finance.

Any provisions against with this Prakas are abrogated.

### Prakas No. 962 (MEF) dated 28 August 2014 on the Registration tax base for the transfer of ownership rights or possession rights on immovable property

Established since 1991, the Registration Tax is levied at a rate of 4% on transfer of ownership of real property or transfer of occupancy right of land without building in the form of sale, exchange, receiving gift, putting capital in company. The Prakas N° 962 (MEF) dated 28 August 2014, the

Ministry of Economy and Finance fixes the tax base for this registration tax applicable to the transfer of ownership rights or possession rights on immovable property.

This ministerial regulation aims to ensure the consistency and efficiency of the tax base in this real estate sector. As above mentioned, the tax rate for this registration tax for the transfer of ownership rights or possession rights on immovable property is 4% of real estate value which is the higher between:

1. The value of the real estate of as determined in the annexed of this Prakas
2. The value of the real estate as fixed in the transfer agreement or other legal documents

This Prakas covers only the registration tax in real estate sector. It is important to note that the registration tax is also applied to other cases such as:

- Registration Tax is levied 4% on transfer of ownership of all kind of vehicles and transportation means such as:
  - Heavy-loaded truck, medium heavy-loaded truck, vehicle and motorcycle
  - Boat, Ferry, ship
- Registration Tax is levied on legal document as follows:
  - Document on establishing company 1,000,000 Riel
  - Document on merging the companies 1,000,000 Riel
  - Document on resolving the company 1,000,000 Riel
- 0.1% of contract cost for goods or services supply contract using state budget.
- 0.1% of stock price for transferring part or whole of company's stock.

Registration Tax shall be paid by the person who receive the ownership or occupancy right of land without building and levied pro rata on the real value of the property on the day of the transfer.