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BUSINESS

Sub-decree No. 268 dated October 06, 2014 on 2015 Public Holiday in Cambodia

The public holidays listed below are provided in the sub-decree N° 268 dated October 6, 2014 issued by the by Prime Minister stating about holidays for civil servants and private sector's employees.

In accordance with this Sub-decree, every enterprise/establishment in the Kingdom of Cambodia will have 27 public holidays as below:

Date	Name	Remark
January 01	International New Year Day	Celebrates the beginning of the Gregorian New Year
January 07	Victory Day over Genocide	This national holiday was established to commemorate the end of the Khmer Rouge regime in 1979
February 14	Meak Bochea Day	This national holiday was established to commemorate the spontaneous gathering of monks to listen to the Buddha's preaching
March 08	International Women's Day	This national holiday was established to commemorate the brave history of women around the world
April 14, 15, 16	Khmer's New Year Day	This national holiday was established to celebrate the New Year in Cambodia. The holiday lasts for three days and is considered to be the most important festival on the calendar.
May 01	International Labor Day	This national holiday was established to celebrate the economic and social achievements of workers.
May 13	Visak Bochea Day	This national holiday was established as a Buddhist observance commemorating the birth, enlightenment and passing to Nivana of the Buddha.
May 13, 14, 15	King Norodom Sihamoni's Birthday	This national holiday was established to celebrate the birthday of HM King Norodom Sihamoni on May 14, 1953.

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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.

May 17	Royal Plowing Festival	This national holiday corresponds to the start of the planting season.
June 01	International & National Children Day	This national holiday was established to celebrate the memorial and try to keep the children safe
June 18	King Norodom Monineath Sihanouk's Birthday	This national holiday was established to celebrate the birthday of Queen Mother Norodom Monineath on June 18, 1936.
September 22, 23, 24	Pchum Ben Day	This national holiday was established for Buddhist to pay their respects to deceased relatives by cooking meals for monks and making offerings to the "ghost" of deceased relatives. It is also known as "Ancestor's Day".
September 24	Constitutional Day	This national holiday was established to celebrate the signing of the Cambodian constitution by King Sihanouk.
October 15	Mourning Ceremony of His Majesty Norodom Sihanouk	This national holiday for Commemoration Day to the Royal Soul of His Majesty Preah Bat Samdech Preah Norodom Sihanouk, Preahmahaviraksat, King-Father of the Cambodian National Independence, Territorial Integrity and Unity on October 15, 2012.
October 23	Anniversary of Paris Peace Agreement Day	This holiday is to commemorate the Paris Peace Agreement on October 23, 1991.
October 29	King Norodom Sihamoni's Coronation Day,	
November 05, 06, 07	Water Festival	This national holiday was established to commemorate ancient Cambodian navy soldiers under King Jayavarman VII during the Khmer Empire.
November 09	Independence Day	This national holiday was established to celebrate Cambodia's independence from France in 1953.
December 10	International Human Rights Day	This national holiday was established to commemorate the United Nations General Assembly's adoption and proclamation of the Universal Declaration of Human Rights.

Furthermore, Ministry of Labor and Vocational Training confirms that any public holiday which overlaps with either Saturday or Sunday, the following working day will be substituted. For example: Next Month (Sunday, 9 November 2014: Independent day): Monday will be substituted for Sunday

Noted:

Meak Bochea Day, Khmer New Year day, Visak Bochea Day, Royal Plowing Day, Pchum Ben Day, and Water festival are always movable depend on the moon and the sun. The fortune teller in Royal Palace always counts. Then, the National-International Ceremonies Organizing Committee publishes it.

Sub-Decree No. 258 dated 19 September 2014 on the Organization and Functioning of National Trade Repository

The aim of this Sub-Decree is to fulfill obligations as stated in the Master Plan of the ASEAN economic community (point A1) on the free flow of goods and Article 13 of the Trade Agreement ASEAN goods (ASEAN Trade in Goods Agreement-ATIGA) to create sensing information concerning trade ASEAN in 2015.

The National Trade Repository is responsible to link and compile information related to trade which is accessible by public. This information will help to facilitate trade and investment in ASEAN as well as trade and investment with partner or any member of the World Trade Organization.

The National Trade Repository's information includes; list of Nation Preferential tax, Decrease/erase tariff programs under free trade area, non-tariff measures, Rules of origins and other relevant legal rules and regulations.

This sub-decree is divided into 6 chapters and 12 articles. The National Trade Repository is governed and under the supervision of the Ministry of Economy and Finance.

Sub-Decree No 261 dated 25 September 2014 on an Establishment of SETHAVITOU Notary Public of the Kingdom of Cambodia

Another new office of Notary Public has been established by the Royal Government of the Kingdom of Cambodia. It is named as "SETHAVITOU Notary Public of the Kingdom of Cambodia" ("S.H Notary Public"), located in Phnom Penh.

The government appointed Notary Public or staffs can be hired by the Office to perform the works for the Office as necessary.

Once it operates, it is required to deposit an amount of 600.000.000 Riels at the National Bank of Cambodia as guarantee for their professional responsibilities.

S.H Notary Public is eligible to provide services as below:

- preparing contract or other legal documents required by either an individual or a legal entity;
- providing advice related to commercial matters, investment, family matters and property management;
- certifying on validity of an establishment or an amendment of the Memorandum and Articles of Association of a company and all types of legal entity;
- providing authenticity on legal documents or contracts or any translations as required by laws or requests from an individual or all types of legal entity;
- requesting to a competent authority for a compulsory execution of any legal documents or \ contracts with Notary's authenticity;
- certifying true copy of any original legal documents or contracts as required by laws or request from an individual or all types of legal entity;
- ensuring on signature and date of any legal document or contracts;
- requesting for registration or inscription with competent authority;
- accepting for deposit and maintain an original contract, unilateral documents such as will and other documents;
- issuing duplicate of authentic documents;
- And other services as permitted by laws and regulations in force.

FINANCE

Instruction No. 12 014 034 dated 13 August 2014 on the implementation of the Evaluation of the Risk on the Anti-Money Laundering and Combating the Financing of Terrorism for the Financial Institutions

The purpose of this instruction is to assist the financial institutions on the evaluation of the risk on the anti-money laundering and combating the financing of terrorism. To evaluate the risk on the anti-money laundering and combating the financing of terrorism for the financial institutions, this instruction sets out the obligations and the methods as follows:

- Set out the rate of risk during the customer due diligence measures, or during the evaluation procedure
- The evaluation of the risk shall be updated in every two years or in certain required circumstance, for example requested by the Finance Intelligence Unit.
- Have the internal policy for the method and the time for updating the evaluation of the risk.

The evaluation of the risk should consist of the following procedures:

- Customer due diligence: name, birth date, address, for natural persons and names, articles of incorporation or registration, tax identification number, address, telephone number, for legal persons, and any useful identification.
- Analysis: consider the criteria, origin, capability that the risk can exist.
- Evaluation on the vulnerability: the evaluation is based on the customer or the business or both factors and its risk will be rated (very unlikely->Possible->likely ->very likely)
- Review and audition on the evaluation on the risk: compile and include in the Institution Annual Report.

Decision No. 12.014.017 dated 12 August, 2014 on Establishment of Specialized Working Group to for Evaluating Risk of Money Laundering and Financial Terrorism

The National Bank of Cambodia issued its decision to create a Specialized Working Group for Evaluating Risk of Money Laundering and Financial Terrorism in national level to determine analysis the risk of money laundering and financial terrorism in Cambodia. The compositions of this working group are as follows:

- | | |
|--|-----------|
| - General Secretary of Cambodia Finance Investigating Unit | President |
| - Representative of Council of Minister | Member |
| - Representative of Ministry of Economy and Finance | Member |
| - Representative of Ministry of Foreign Affair and International Cooperation | Member |
| - Representative of Ministry of Interior | Member |
| - Representative of Ministry of Justice | Member |
| - Representative of National Bank of Cambodia | Member |
| - Representative of Bar association of Cambodia | Member |

Further, Article 2 of this decision provides that the Working Group is responsible for the task as follows:

- 1) Identifying of the threat and suffering of money laundering and finance terrorism;
- 2) Analyzing type, resource and the consequence of risk money laundering and finance terrorism;
- 3) Evaluating and setting the priority of risk in connection with money laundering and finance terrorism;
- 4) Issuing strategies and countermeasure to decrease the risk of money laundering and finance terrorism; and
- 5) Examining and decide on the result of the evaluation of money laundering and finance terrorism.

LABOUR AND SOCIAL AFFAIR

Prakas No. 283 dated 11 November 2014 on Minimum Wage Determination for Workers in Textile, Garment and Footwear Industry for year 2015

The Ministry of Labour and Vocational Training in its Prakas on “Minimum Wage Determination

for Workers in Textiles, Garment and Footwear Industry for year 2015” increases the minimum wage from US\$100 to US\$128 per month for workers in the said sectors for 2015. Under this Prakas, the set minimum wage must be implemented from 01 January 2015.

It should be noted that to finalize the above minimum wage, there were a triangle meeting on 12 November among the representative of employers, representative of employees and the Royal Government. The employers would like to offer the minimum wage of US\$110 while the employees would like US\$140. To compromise, the Labor Advisory Committee (“LAC”) in the name of the Royal Government proposed a minimum wage of US\$123 to have three options for vote.

As a result of the vote, 16/25 voted for a minimum wage of US\$ 123 and this amount has been increased to US\$128 upon the recommendation from Prime Minister Hun Sen.

Finally, several issues have been discussing regarding the increasing of minimum wage in Cambodia. Some say that this can bankrupt some employers who cannot afford the new minimum wage. Also, it is the employees’ concern that increased minimum wage will be meaningless if food and especially renting fee are also increased as usually the landlords near factories usually increase their price when the minimum wage is increased. Therefore, it is their suggestion that the Royal Government should take action in order to avoid this problem happened.

CIVIL AND LITIGATION

Sub-decree No. 264 (RGC) dated 01 October, 2014 on the Organization and the Functioning of General Department of Administration of Ministry of Interior.

Missions, roles, duties and organizational structures of the General Department of Administration of the Ministry of Interior are defined under this Prakas.

The General Department of administration is the executive unit of the Ministry to carry out a regular inspection on practical of laws and regulations, also government policy related to decentralization and centralization reforms. This Prakas entrusts the General Department of Administration duties to:

- Organizing the support system and coordinate the task of the national administration;
- Improving the efficiency of administrative services;
- Monitoring, evaluation and listed recommendations on the implementation of decentralization and concentration reforms;
- Inspecting on complaints and defamations from citizens and civil societies;
- Reporting to the Ministry about the activities in the municipal, district and commune;
- Managing the activity of import-export office at border, gate sea port and coordinate the international relationship of the national administration
- Cooperating with the ministry and another institutions for organizing the Town and Urban Development Policy
- Implementing other duties as entrusted by the Ministry of Interior

There are seven (07) departments under the supervision of the General Departments of Administration in the Ministry of Interior as follows:

1. Department of Total Administration
2. Department of Administration in Municipal, District and Commune
3. Department of Administration in City, District and Commune
4. Department of Association and the political party
5. Department of Worker
6. Department of Training
7. Department of Function and Resource

REAL ESTATE

Sub-decree No 245 dated 09 September 2014 on the Organization and Functioning of General Department of Housing in MLMUPC.

Starting from definition, "Housing" refers to residences of families who have low and medium incomes and vulnerable groups. In fact, the General Department of Housing has been recently created since May 2014 by Sub-decree N0 180. Its mission aims to support disadvantaged Cambodians to access to adequate housing; also to create chances for international organizations, NGOs, communities and authorities to collaborate in order to deal with "Housing" issues.

It consists of three departments:

- Department of Regulation, Planning, and Cooperation relating to "Housing":
 - Planning mechanisms and regulations for improving access to adequate Housing.
- Department of Technics and Development of "Housing":
 - Studying quality of informal settlement and increase Housing's condition.
- Department of Funds and Credits of "Housing":
 - Being in charge of "Housing Fund" which aims to financially help poor and vulnerable group to access to adequate settlement.

General Department of Housing has a general director, and vice-general directors; each Department has a director and a vice-director.

Prakas No. 1139 dated 09 October 2014 on Tax Registration.

Legal Entity, sole proprietorship or a person must register at Tax Administration within 15 working days after a person begins economic activity or registered at Ministry of Commerce (MoC) and other relevant Ministries. This registering process can be direct register at Tax Administration or via E-registration on GTD's website with the registration fee of 400,000 Riels (\$100) for real regime tax payer and 20,000 Riels (\$5) for estimate regime tax payer. Tax Administration will issue a registering certificate and registering ID between 1 to 7 working days for E-registration and within 7 to 10 working days for direct application in Tax Department.

For real regime taxpayer registration, Chairman or owner or president of organization must take photo and finger print at Tax Administration and complete the information in the application formed by Tax Administration and attach with the original documents for tax officer make copy. Document required as below:

Sole Proprietorship and Legal Entity

1. Registration documents issued by MoC or other relevant ministries
 - a. Registered certificate from MoC or other relevant ministries
 - b. MAA for Legal Entity
 - c. Certificate of registering capital deposit in bank
2. Document of Chairman, director, owner
 - a. Khmer ID Card or Passport
 - b. Family book or resident book or Resident Certificate
 - c. A photo of chairman, director, owner, shareholder, representative person which was taken less than 3 months and 35mm x 45mm size with name and signed by chairman
3. Document of Office, branch and warehouse
 - a. Lease agreement or owner certificate of property
 - b. Receipt of Receipt of immovable property tax and property information
4. Other Documents
 - a. Registration Certificate from CDC, Committee of SEZ of Investment Sub-committee (For

QIP)

- b. License issued by relevant ministries (if any)

Non-Government Organization

1. Approve letter from authorized ministry
2. MAA or MOU with authorized ministry
3. Document of Chairman
 - a. Khmer ID Card or Passport
 - b. Family book or resident book or Resident Certificate
4. Document of Office
 - a. Lease agreement or owner certificate of property
 - b. Receipt of Receipt of immovable property tax and property information

For Estimate regime tax payer registering, owner has to complete the information in the application formed by Tax Administration and attach with the original documents for tax officer make copy. Document required as below:

1. Approval letter issued by authorized ministry (If any)
2. License issued by authorized ministry (If any)
3. Khmer ID card or Passport
4. Lease agreement or owner certificate of property
5. Receipt of Receipt of immovable property tax and property information (If any)
6. A photo which was taken less than 3 months and 35mm x 45mm size with name and signed on the back of photo

Registered entity which established any branch must request the branch certificate letter at Tax Administration or via E-registration. With requested application, entity must attach original documents for tax officer make copy or copy documents with certified by ministries as below:

1. Approval letter of branch establishment from MoC or relevant ministry
2. Document of branch location
 - a. Lease agreement or owner certificate of property
 - b. Receipt of Receipt of immovable property tax and property information

Based on Article 103 of Law on Taxation, tax administration has the right to register a person who is required by law to be registered and who has failed to register. In this case, the tax administration can determine the effective date of registration

Tax Administration has the right to reject if chairman, director, owner, shareholder, representative person manage other entity which have tax liability. Tax Administration approves on registration if tax liability was paid or any agreement was made. Tax payer has the rights to file complaint letter to GTD for reviewing on the rejection decision. If tax payer does not agree with the decision from GTD, tax payer has the rights to file a complaint letter to Ministry of Economy and Finance (MoEF).

Entity that registered before November 01, 2014, Chairman or owner must update the registration based on the notification from Tax Administration. After updated the registration, tax administration has to issue a new registration certificate. Real regime tax payer has to pay 200,000 Riels (\$ 50) and 10,000 Riels (\$ 2.50) for this updating.

Legal Entity, sole proprietorship or a person shall inform the tax administration within 15 days of any change in the address, form, name, or object of the business, the transfer or cessation of the business, the leadership or the person in charge of tax matters of the enterprise.

For business shut down, Legal Entity, sole proprietorship or a person must file the tax clearance application to tax administration within 15 working days. Tax administration will audit before issue an official certify letter on tax status.

Prakas No. 1004 dated November 30, 2011 on additional documents is abrogated.

Sub Decree No. 257 dated 19 September 2014 on Preparation and Functioning of the National Committee for Non-Tariff Measures.

The committee has members as below:

1. Representative of MoEF	President
2. Representative of MoC	Vice President
3. Representative of Ministry of Agriculture Forestry and Fishery	Vice President
4. Representative of Cabinet Minister	Member
5. Representative of Ministry of Interior	Member
6. Representative of Ministry of National Defender	Member
7. Representative of Ministry of Foreign Affair	Member
8. Representative of Ministry of Planning	Member
9. Representative of Ministry of Environment	Member
10. Representative of Ministry of Industry	Member
11. Representative of Ministry of Mine and Energy	Member
12. Representative of Ministry of Telecommunication	Member
13. Representative of Ministry of Health	Member
14. Representative of Ministry of Culture	Member
15. Representative of Ministry of National Defender	Member
16. Representative of State Secretariat of Civil Aviation	Member
17. Representative of CDC	Member
18. Representative of General Department of Custom	Member
19. Representative of Cambodia Chamber of Commerce	Member
20. Chief of ASEAN Integration and Economy Department	

Duty of committee as below:

- Collecting, ranking, reviewing and promoting all regulations and legal documents of non-tariff measures which defined by UNCTAD
- Updating, promoting and keeping all legal documents of non-tariff measures
- Preparing the instruction principle if necessary or promote an existed instruction principle
- Evaluating and amend on non-tariff measures to maximum reduce the restriction on business and investment
 - Determining the member who are not necessary of non-tariff measures and requesting to amend or omit the members to government to ensure that conforming with agreements in region and international
 - Informing about the non-tariff measures to WTO through MoC and to secretariat of ASEAN through MoEF
 - Coordinating with relevant ministries and institutions to ensure brotherliness, efficiency and cooperation
 - Receiving and use fund from other country, International NGO and development partners relevant on promoting non-tariff measures
 - Suggesting if necessary and preparing annual report on work progressing to government
 - Any duties assigned by government

The committee has at least 2 meeting in a year. In case of any necessary, committee can set any meeting. President of Committee must lead the meeting. If the absent of president, Vice president have to lead the meeting. If necessary, president can invite specialists and representative of other Ministries and Institutions that are not the member of committee to attend the meeting. Committee has the rights to use MoEF's stamp. Committee expenditure supported by MoEF in the national budget.