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## ADMINISTRATIVE AND PUBLIC SECTORS

### **Sub-Decree No. 306 dated 28 November 2014 on Amendment of Article 1 and Article 2 of Sub-Decree No. 205 dated 20 June 2014 regarding the Issuance of Ordinary Passport to Cambodian workers and students**

This Sub-Decree came into effect to amend Article 1 and Article 2 of Sub-Decree No. 205 dated 20 June 2014.

Under New Article 1 and Article 2 of Sub-Decree No. 306, the passports fee for Cambodian workers to legally work abroad and those for Cambodian students who obtain scholarship to study or intern abroad are the responsible of the State. However, the aforesaid workers and students must pay for their photos' fee of 16,000 Riel (Sixteen thousand Riel).

The application for ordinary passports for Cambodian students who obtain scholarship to study or to conduct an internship abroad must be made by the concerned ministries or supervising ministries.

### **Sub Decree No. 1404 dated 18 September 2014 on Changing the Composition and the Functioning of the Committee on Sand Resource Management**

The Committee for Sand Resource Management is under the supervision of the Royal Government to control and check the sand business-either domestic supplies or exportation. The committee is responsible to study doing sand business and set out the geographical site based on the technical skills to prevent the risks. The committee is also responsible for the preparation of the book of record for the obligation concerning the technical, financial, environment and the society for the sand business company. The committee is authorized to grant or withdraw the technical principle to the sand business company, sand businessman that breaches the obligation in book of record. Every month, the Committee shall report their work to the government. The committee can use the stamp of the Ministry of Water Resources and Meteorology, and the finance budget is also under this Ministry.

Under article 6 of this Sub Decree, any offence or anarchy of the sand business existing in certain capital or province shall be responsible by governor of that capital or that province.

### **Prakas No 365 Dated 31 December 2014 on the Revision of the Prakas No 165 MOC/SM2010 dated 10 November 2010 on the Task Delegation in Commercial Sector to Target City, District and Khan**

The Prakas focuses on the Ministry of Commerce's task delegation in commercial sector to Target City, District and Khan to operate a One Window Service Office for issuing the authorization letter of Business, Service and Commerce to Businessman that is a natural person who is taxable on tax of profit.

This authorization letter of Business, Service and Commerce is validating for 01 year.

Service provider or Businessman that wants permission on doing Business, Service or Commerce has obligation on paying public commission 25,000Riel to the state in Target City, District and Khan. In addition in Phnom Penh, the Business location that has size bigger than 5 meters is under the competence of the Department of Commerce in Phnom Penh.

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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](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.bnglaw.net](http://www.bnglaw.net).

The Businessman that doesn't have authorization letter would be an illegal business and receiving measure as below:

- Measure 1: Advised to get the authorization letter of Business
- Measure 2: Warning in letter
- Measure 3: Postpone the Business for a while.

### **Joint Prakas No. 1643 Dated 16 December 2014 of the Public Service Fee Amendment of the Ministry of Commerce**

This Joint Prakas is to amend the Joint Prakas of the Public Service Fee of the Ministry of the Commerce and Ministry of the Economic and Finance dated 28 December 2008. This Joint Prakas will abrogate certain regulations as follows:

- Prakas No. 285 dated 28 October 2005 on the Export Management Fee
- Joint Prakas of the Amendment on the Export Management Fee and the related Fee dated 09 February 2007
- Joint No. 097 on the Amendment and Resetting the Export Management Fee dated 11 June 2007
- Joint No. 274 on the Amendment of the Export Management Fee dated 09 December 2008

Under the Department of the Intellectual Property, the Public Service Fee remains unchanged, and it introduces the public service fee punishment for the late payment of the trademark registration over 60 days and the public service fee punishment for the late payment of the trademark renewal over 60 days. Also some public service fees in the General Department of Commercial Service have increased for example the fee for the application of the commercial company registration is 1,680,000 riels while the previous fee was 1,600,000 riels.

This joint Prakas will be enforced from 1 January 2015.

## BUSINESS AND FINANCE

### **Law on Financial Management for the Year 2015 dated 18 December 2014**

The National Income for the Year 2015 is 15,135.230 million Riel which divided into current income 11,014,644 million Riel and capital income 4,120,586 million Riel. Further, National Expense for the Year 2015 is 15.035.229 million Riel which divided into current expense 9,275,161 million Riel and capital expense 5,760,068 million Riel. For the year 2015, the National Assembly approved RGC to make loan from others up to 600,000,000 SDR.

The Law on Financial Management for the Year 2015 imposes new tax on salary as follows:

- From 0 to 800,000 Riel Rate 0%
- From 800,001 to 1,250,000 Riel Rate 5%
- From 1,250,001 to 8,500,000 Riel Rate 10%
- From 8,500,001 to 12,500,000 Riel Rate 15%
- Over 12,500,000 Riel Rate 20%

## CULTURE AND RELIGIONS

### **Royal Decree Dated 23 October 2014 on the Ratification of the agreement on cultural corporation between the member of ASEAN and the government of Russia**

The Royal of Cambodia approved the implement of the agreement on cultural corporation between the member of ASEAN and the government of Russia by the following:

- Corporate between the institution and association of the film
- Exhibition the film and participate of the artist and producer in the international theater
- Draft the agreement regarding the film sector to coordinate the co-production of the project and the modification of the film.
- Coordinate the relation of the culture and the traditional craft.
- Participate for giving an advise and increase the corporation
- Encourage to have a corporation between publishing institution and publishing organization
- Encourage teenagers and children to have a modification the program and other plan on the culture sector
- Guarantee the intellectual property

## ENVIRONMENT

### **Royal Decree No. 1014/024, dated 23 October 2014, on Ratification of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (“CBD”)**

The Nagoya Protocol was adopted by the Conference of the Parties to the Convention on Biological Diversity at its tenth meeting on 29 October 2010 in Nagoya, Japan.

This protocol aims to share the benefits arising from the utilization of genetic resources in a fair and equitable way, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding, thereby contributing to the conservation of biological diversity and the sustainable use of its components. The protocol also contains a non-exhaustive list of monetary and non-monetary benefits. It establishes a framework for regulating how users of genetic resources and/or traditional knowledge associated with genetic resources (for example, researchers and commercial companies) may obtain access to such resources and knowledge. It provides for general obligations on sharing the benefits arising from the utilization of such resources and knowledge.

And it obliges Parties to ensure that users under their jurisdiction respect the domestic access and benefit sharing legislation and regulatory requirements of the Parties where the resources or knowledge have been acquired.

## LABOUR AND SOCIAL AFFAIRS

**Prakas No 285 KB-BrK dated 18 November 2014 on Amendment of article 3, article 4 and article 5 of Prakas No 021 KB-BrK dated 11 February 2008. The Prakas is about Registration of Enterprise/Establishment and Employees in the National Social Security Fund (NSSF)**

### - Procedure of enterprise/establishment registration

Registration of enterprise/establishment shall be done by the form of "Registration of enterprise/establishment or form '1.01' with 'Commerce Registration' issued by the Ministry of Commerce or other equivalent legal documents. First, enterprise/establishment provides 'Registration of enterprise/establishment'. Then NSSF shall provide 'Certificate of Enterprise/enterprise Registration' to the registered enterprise/establishment. In this certificate, shall be marked 'Enterprise/establishment ID' and the date of registration. Employer shall post the certificate of enterprise/establishment registration at the wage payment office of enterprise/establishment.

### - Procedure of employee registration

The employees registration form sent to the NSSF shall be determined by the director of NSSF. First, NSSF receives the form 'Registration of employees'. Then NSSF shall provide ID Number and issue 'Membership card of NSSF' for each employee for free of charge, through their employer or the owner of the enterprise or establishment. In case of the loss or damage of 'Membership card of NSSF', the titular as the owner of the card shall make an immediate notification to employer or the owner of the enterprise/establishment and request a duplication within 30 days at the latest after the date of notification. Duplication provision requires titular to pay NSSF 2,000 Riels.

### - Report of number of employees

Every month employer or owner of enterprise/establishment shall send the report of number of employees to NSSF on the 20th at the latest of the next month. The report of numbers of employees shall clarify the number of all employees in the report. The report shall be done by 'Paper Form' or 'Electronic Form' with the sending letter signed by employer or owner of enterprise/establishment.

**Prakas No 294 KB-BrK dated 20 November 2014 on Amendment of article 3, article 4 and article 5 of Prakas No 108 KB-BrK dated 16 June 2008. The Prakas is about setting the rate of contribution and procedure of contribution for Occupational Risks**

### - Date of contribution

The date of the first contribution is set within 30 days after the certificate of enterprise/establishment registration. The certificate shall mention the date that enterprise/establishment receives from NSSF. Employer or the owner of enterprise/establishment shall make contribution on the 15th of the next month. Employer or the owner of enterprise/establishment that do not make contribution set in the 3.2 above shall pay 2% of the contribution and a fine as mentioned in article 36 of law on social security for those under the application of labor law.

### - Procedure of contribution

Employer or the owner of enterprise/establishment shall contribute in the account of NSSF of determined banks. The procedure of contribution is as follow:

- Contribute directly at the determined banks
- Contribute by Internet Banking Service or Unity Service. Expense on this service is in the charge of employer
- Other contribution as instructed by the director of NSSF

NSSF shall issue 'a letter of receiving the contribution' after receiving 'receipt of contribution' after the precision in the banking report about the contribution of the enterprise/establishment.

Employer or the owner of enterprise/establishment shall submit receipt of contribution, report of number of employees, report of salary or any crucial document directly at NSSF or send by post office or email: contribution@nssf.gov.kh

- Control of payroll ledger and list of employees

Employer or the owner of enterprise/establishment shall provide payroll ledger (column of salary per month), list of employees and other relevant documents to NSSF for control if necessary.

## QUALITY STANDARD

### **Royal Decree on Determination of National Standard of Liter No. 1114/1298 dated 03 November 2014**

This Royal Decree provides that the National Standard of Liter is the standard of national basic unit to be documented at the Center of National Measurement Standard having identification as follows:

ID number : 33;

Amount : 1 (One) Liter ;

Made in : Germany;

Sample: Measurement tube made from special mirror stand with immediate climate change that is too hot and too cold.

Finally, it should be noted that identification of National Standard of Liter is also attached in this Royal Decree.

## REAL ESTATE

### **Joint-Prakas No. 214, dated 21 November 2014 on procedure of the registration relating to preservative disposition and attachment against unregistered immovable properties**

The Jointed-Prakas elaborate the procedure to register preservative disposition and attachment against any immovable property that has not yet been registered in Cadastral Record Book. The term "immovable property" in the Prakas refers to any unregistered land and unregistered private units of co-owned building.

The competent court will send entrustment documents to cadastral office where the property is located. The cadastral officers shall, without delay, commence registering the property on the Cadastral Record Book. However, the cadastral officers shall dismiss the entrustment documents if the debtor in question is neither the owner of the property nor the lessee of a long-term lease of the property.

## TRANSPORTATION

### **Law on Land traffic dated 6 January 2015**

The purpose of this law is to provide the knowledge on land traffic security, manage the land traffic security, ensure the order of the road traffic, and to prevent any crime occurring from the use of the road. The law provides the definition of certain words related to the field of the road traffic, the rights and obligations of the road traffic user for example the driver of the with the net weight of over 16 tons or driver with numbers of 35 of passengers or more must consist one driver and one assistant, the vehicle driver must be not older than 65 years old or the 65 years old driver's health shall be checked to grant the driving license and for 2 year validity. Also the law provides the obligation and

the rights of the officials in charge of the road traffic, recognition of the foreign driving license with condition, granting the license for the driving school, and the punishment both civil punishment (minimum 10,000 riels-2, 500,000 riels) and the criminal punishment (6 days- 5 years in prison and the possibility of the criminal liability under criminal code.

The vehicle that is driving enjoys the priority as follows:

- Fire Fighting Truck
- Emergency Ambulance
- Police, Diplomats march vehicle, high ranking march, or march led by road traffic police.

## TAXATION

### **Prakas No 139 dated 19 January 2015 on the Basic Calculation of Specific Tax on Merchandises Produced Locally besides Cigarette and Wine**

Under this Prakas, basic calculation of Specific Tax on merchandises produced locally besides cigarette and wine such as beer, beverage without alcohol, and other merchandises with Specific Tax is the fee to be put in the invoice to client excluding the following tax:

- Value Added Tax and specific tax for those who are taxable of real regime;
- Tax on profit and specific for those who are taxable of estimated regime.

In addition, based on this Prakas, the term “Non-Alcohol Beverage” refers to liquid as follows:

- Gas; or
- Add sugar; or
- Add other sweet substance; or
- Add pleasant order; or
- Other non-alcohol beverage except water and mineral water, milk, fruit juice, or vegetable juice.

“Fruit juice or vegetable juice” in this Prakas refer to the product of pure fruit and vegetable with the two conditions as follows:

- No renovation of the quality and pack base on handicraft or industry; and
- No added flavor or order or color.

Finally, the Prakas No 344 dated 27 April 2007 shall be abrogated.

### **Announcement on Changing the Basis of Specific Tax on Certain Domestic Products except Tobacco and Alcohol dated 19 January 2015**

This Announcement is based on the provision under Prakas No. 139 dated 19 January 2015 of the Ministry of Economic and Finance to set out the 90% of the supplies recorded in the invoice except:

- Value added tax and self-specific tax for the tax payer obligated in the real regime tax.
- Turn-over tax and the self-specific tax for the tax payer obligated in the estimated regime.

The new basis for the specific tax will be enforced from 01 March 2015, and this new basis will not be applicable to domestic products except tobacco and alcohol. The Announcement details the domestic products that would be applied by this announce such as beer, beverages not consisting of alcohol and products obligating to the specific tax.

### **Sub-decree No. 01 dated January 08, 2015 on tax incentive for securities sector**

This sub-decree is effective for entity issuing securities and bond with approval from Securities and Exchange Commission of Cambodia (SECC) and investors invested on the securities and bond registered at SECC.

Equity securities and/or Bond issuing companies approved by the SECC and listed on the permitted Securities Market within 3 years after the sub-decree is effective shall fulfill the form and submit to the General Department of Taxation through SECC in order to grant tax incentives 50% on profit tax liabilities for 3 years.

Incentive period start from:

- Beginning of the taxable period if the securities issued at the first semester.
- Beginning of the next taxable period if the securities issued at the second semester.

Entity issued securities and/or public bond that registered and approved by SECC will get fully exemption on profit tax liabilities for 5 years start from the sub decree is effective for:

- Profit tax liabilities which is audited by the independent auditor and after the GDT made comprehensive audited (issued the tax certificate for N-1, N-2 and N-3)
- A profit tax liability which is found by the objective of audited by GDT after GDT made comprehensive audited. It means that 7 years backward after N-3 which the report was audited by an independent auditor. N is the year of first issued.

Investor will get incentive of 50% of withholding tax on interest and/or dividend on the revenue from investment on securities and bond for 3 years from the sub-decree is effective.

This incentive is not effective to the Qualified Investment Project which is on the tax holiday.

GDT through SECC could terminate this incentive if the company:

- Fail to submit monthly tax filing and tax payment
- Fail to submit annual tax filing and tax payment. Audited financial statement by the auditor which specialist in securities sector.
- Reject the audit request on accounting record and other document.
- Fail to pay all tax liabilities, additional tax and interest which audited by Tax Department.

This incentive will be automatically terminate if the entity quit from SECC or SECC decided to cancel their registered.

Sub-decree No. 70 dated April 22, 2011 is abrogated.