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Cambodia is a developing country where many social services have not reach to all Cambodia through government. Non-government organization (NGO) has the role to fill this gap in providing the basic need for humanity survival such as health and safety, sufficient food and shelter, disaster prevention, etc.

Even though of these contributions from NGO, the tax compliance and some regulatory requirement are demanded from them and over the time, these requirements have been overlooked.

Is NGO the tax exemption entity for its source of fund?

NGO is the not-for-profit organization. The source of its fund is solely received from the donor or its international partnership. It is understandable from the fact that NGOs are usually exempt from income tax under Article 9 of the Law on Taxation, which deems organizations “organized and operated exclusively for religious, charitable, scientific, literary or educational purposes” exempt from income tax, provided that no part of the income is used for private benefits. In order to get exemption on this article, NGO has to obtain the acknowledgement from Ministry of Economic and Finance (MEF) on this tax exemption. It is wise to assume nothing until the final stage of getting confirmation from MEF.

Many NGOs have not pay much attention on this issues since they assume that all Non-Government Organization (NGO) are automatically granted a tax reprieve through humanitarian’s activities. If tax auditor found out the non-compliance of NGO with the tax law, It is required that NGO has to pay penalties and interest on the unpaid amount of tax from the first day of the tax due.

How to obtain tax identification number (TIN)?

Tax Identification Number is an identifying



number use for tax purpose in Cambodia. It is assigned to taxable entity after registering with Tax Administration.

Article 101 of Law on Taxation 2003 provides that after 15 days from registered with respective ministry, taxable entity has to register with Tax Administration. Article 102 goes on to detail that upon registered, Tax Administration issues the confirmation letter with TIN. TIN can be used for all document related with Tax Administration. For every contract with Government institution, taxable entity shall present TIN on the contract.

NGO is the legal entity named as taxable entity. It is required that NGO has to register with Tax Administration with 15 days after registered with respective Ministry (i.e. Sign MOU with Ministry of Interior or Ministry of Foreign Affair). The tax registration form is downloadable from General Tax Department’s website.

Do employees working with NGO has to pay tax?

Another basis for confusion arises from Article 43 of the Law on Taxation, which provides that “diplomatic and foreign officials” are exempt from paying tax on salary. The law goes on to detail that this is limited to those here representing their governments in official capacities or employees in Cambodia on behalf of official international organizations recognized under the Vienna Convention, such as the United Nations or the Red Cross.

In 2001, the government considered the case for a salary exemption for NGO workers and issued Notice No 64 on Tax on Salary of NGO employees. The notice clarified the existing law and said that a salary tax exemption would be considered in relation to the following NGOs:

- Those who implement projects on behalf of a foreign government (subject to agreement between both governments);
- NGOs recognized by the United Nations;
- NGOs that are self-sufficient, comply with Cambodian law and implement development and humanitarian projects in Cambodia;
- NGOs that were granted a tax exemption in 1979;
- NGOs with a small scope/budget of less than USD\$50,000 a year; and
- Employees who already pay salary tax in their own country.

Once these criteria are met, then the NGO in question must conclude a Memorandum of Understanding with the pertinent Ministry.

Such employees will not automatically receive an exemption, but must apply to the Ministry of Foreign Affairs and International Cooperation (MFAIC) or the Ministry of Economics and Finance (MEF), who will decide whether or not to grant the exemption.

Getting an exemption can be a complex and drawn out procedure. It is wise to assume nothing until the final stage, when a decision has been made by the MEF.

It is the obligation for NGO to withhold the amount of tax from salary of its employee and remit to Tax Administration every month by latest of 15th.

Are there any other taxes for NGO to comply?

Another tax that some NGO has been overlooked is Withholding tax for employing professional services, rental office, or payment to non-resident taxpayer.

Section 8.2 & 8.3 of Prakas on Tax on Profit 2003 provides that taxable entity has to withhold the amount of tax before payment on:

- 15% tax on payment to individual taxpayer for consuming the professional service or interest payment to individual lender;
- 10% tax on rental: any kind of immovable or immovable property;
- 14% tax on payment to non-resident taxpayer for any kind of services

The tax is happened when there is a payment or there is an account recognizing in the book whichever comes first.

Bottom Line

Having misunderstanding that NGO is a tax exempted entity can face the dilemma of having a burden of tax liabilities after found out by Independent Inspector which it is required to settle all outstanding unpaid taxes including penalty and interest. It is happened when NGO is asked to ceased its operation in Cambodia from its international partner, where before legally closing, NGO has to clear all debt with Tax Administration. In order to make it clear for the exemption, NGO is required to issue a request letter to Ministry of Economic and Finance for confirming its tax exempted status. Otherwise, NGO has to follow the guideline to register with Tax Administration in order to obtain the TIN for filing and pay the tax on regular basis.

Legal Update

Royal Kram No.NS/RKM/0815/010 dated 12 August 2015 Promulgation the Law on Association and Non-Governmental Organization

Law on association and NGO gives definitions of local association, local NGO, foreign association or foreign NGO and divides association into two types (local and foreign associations) and divides NGO into two types (local and foreign NGO).

1. Registration of association and local NGO

Setting up local association or local NGO required at least 5 founding members, who are natural persons, from 18 years old and has never hold management position of local association or NGO that is deleted from the list.

Local Association or NGO needs to register at MOI and brings documents as follows:

- 2 application forms
- 1 Certificate of residence of headquarter of association and local NGO from chief of commune or sangkat
- 2 CV of each founding member, attached with photo of 4x6
- MAA signed by chairperson of local association or NGO

MAA of the local association or NGO shall be compliance with the Constitution and Laws in force of Cambodia and shall indicate important points as follows:

- Objectives
- Cannot copy registered name of local association or NGO or any registered logo or logo of red cross or international institutions
- Measure to choose, stop, dismiss, change or remove director or CEO
- Measure to change name or sign or amendment of MAA
- Financial sponsor
- Measure to govern funds
- Measure to cancel the above measure

MOI shall examine the proposal of local association or NGO and decides at the latest within 45 working days.

In the case that all conditions are not met, MOI shall inform local association or NGO to provide necessary documents within maximum 45 working days. MOI shall decide the registration within 15 working days from the receipt of necessary documents.

In the case that MOI misses the registration deadline as mentioned in paragraph 1 and 2, local association or NGO is considered as legally registered. In this case, MOI shall register local association or NGO.

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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.

MOI can refuse the proposal of registration of local association or NGO whose objective and destination affect security, stability and public order or cause damages to national security, national unity, culture, tradition of Cambodian society. Any local association or NGO denied by MOI regarding its registration can file a complaint to court.

Local association or NGO becomes juridical person from the date of the registration. MOI needs to copy the registered documents of local association and NGO to relevant ministries. Local association or NGO, which is not yet registered, is not allowed to do any activity in Cambodia. Local association or NGO shall send Cambodian bank statement to MOI and MEF within 30 days from the registration date. Association or local association shall send a letter to MOI in the case of amendment or change of address or change of management position or CEO or change of bank statement within 15 days from the date of change, attached with changed document.

2. Registration of association and local NGO

Association or foreign NGO who wishes to do activity in Cambodia needs to get registered at MFAIC in the form of MOU. Required documents are:

- Letters from chairperson of association or foreign NGO whose headquarter is permanently at foreign country, requesting the representative attached with 1 CV and requesting 1 letter to open an office in Cambodia
- 1 Certificate of address of the office in Cambodia from chief of commune or chief of sangkat
- Letter issued by original authority, allows association or foreign NGO to run business
- 1 Supporting letter for association or foreign NGO issued by public authority of Cambodia
- 1 Certificate indicating the amount of funds to perform the project of association or foreign NGO of 6 months of operation, of the foreign office
- 1 Letter promising to provide a bank statement of association or foreign NGO in Cambodian bank

MFAIC shall examine the content of document and decide to approve or not approve the MOU with association or foreign NGO at the latest within 45 working days.

The validity of MOU is 3 years based on project of association or foreign NGO. The renewal of MOU shall be done within 90 days before the expiration date.

Association or foreign NGO shall send the bank statement to MFAIC and MEF within 30 days after the registration. Also needs to send a

letter to MFAIC and MEF all changes of office, representative or any change of bank statement within 15 days from the date of change, attached with the old documents.

Prakas No. 609 (MEF) dated 25 May 2015 on Establish the Tax Revenue Control and Evaluation Committee

This Committee is established for improving the efficiency and effectiveness of inspection and evaluation on the tax collection.

This committee is chaired by Minister of MEF, 1 vice chairman and 6 members

The duties of this committee are as following:

- Control and evaluation on activities and other factors related to tax collection which approved by the tax collection strategies in medium term;
- Encourage and provide instruction on action plan of tax collection in order to achieve the target which approved by tax collection strategies in medium term;
- Lead, facilitate and take action to improve the tax collection on tax liability
- Evaluation on the development by quarterly, semiannually and annually

This committee will have a regularly meeting schedule by quarterly, semiannually and annually. If any necessary, the chairman can call for an extraordinary meeting. Member of the committee have to attend the meeting. If chairman is absent, vice chairman has to lead the meeting.

This committee has a secretariat to assist. This secretariat has duties as below:

- Facilitate with other ministry and other office in apply action plan
- Prepare, check, inspect, facilitate and summary the report
- Prepare the recommendation to committee on the action plan
- Prepare and summary the report of annual and semiannual development Of the action plan
- Prepare and facilitate the meeting of the committee based on instruction from the president
- Lead and facilitate with development partner on researching relevant to tax collection
- Other duty assigned by president.