

## NEWSLETTER

- SMEs Tax Implication
- Legal Update

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Estimated Tax Regime is replaced by Real Tax Regime Through New Financial Management Law 2016.

General Department of Taxation has initiated an attempt by targeting SMEs and growing number of local family owned business to register under a real regime taxpayer.

So far, General Tax Department invited SMEs' owner or its representative to attend number of trainings on the duty and obligation of taxpayer and other basic tax rules. This is the program that is to ensure that all local small and medium enterprises are well trained on the tax regulation and compliances.

General Department of Taxation has just launched a centralized data center, whereby all taxpayer's information including the tax return record history are properly stored and retrieved within minutes. This can allow the tax auditor to perform the desk audit very efficiency in the future. The law is targeting the SMEs sector and the growing number of family own business to be more in compliance with the tax rule. It is hoping that General Department of Taxation can tolerate more time to SMEs to get on track without disrupting their business and adding a burden cost on compliances.

"No business is safe where tax evasion is concerned, GDT won't stop tracking people and taking back what they owe."

The move comes many years after found out that the revenues from estimated regime account for only 1% of total tax revenue whereas the number of SMEs is accounted for around 80% of all businesses operated in Cambodia.

The new legislation categorizes ( Prakas 1819 MEF) three types of enterprise according to its annual revenues:

### Small Enterprise:

- It has annual revenues starting from 250 million riel to 700 million riel, OR
- It has/expected to have revenues 60 million in 3 consecutive month

### Medium Enterprise:

- It has annual revenues starting from 700 million riel to 2,000 million riel
- It is registered as legal entity with ministry of commerce
- It is required to adapt with International Financial Reporting Standard for SMEs

### Large Enterprise:

- It has annual revenues from 2,000 million riel
- It is a subsidiary/branch of foreign entity
- It is required to adapt Full set of International Financial Reporting Standard.

SMEs should be very proactive with this new legislation and have a proper planning on tax implication. Otherwise, it will be on the trap of the burden of tax payment whenever the tax auditor come by.



## LEGAL UPDATE

### Prakas No. 1470 of MEF dated 06 November 2015 on Rules and Procedure on Resolving Tax Complaints

Complaint shall be signed by protester or legal representative.

The protesters could ask the legal representative who has rights to decide to participate in the procedure on resolving complaint, attached with the complaint and the POA signed by the claimant.

The complaint shall be in writing, with the information as follows:

- Date of complaint
- ID of tax payer such as VAT TIN and/or PIN if any
- Address, telephone and/or email of claimant or their representative
- Informative letter on tax assessment, tax reassessment, tax collection or other decision related to tax rules which is objective of complaint
- Fact or rules issued by tax department or tax



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We differentiate ourselves by coupling a deep understanding of the local business environment with international professionalism and integrity.

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## 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).

assessment department which is objective of complaint

- Legal grounds of complaints, raised by the claimant in protesting tax rules decided by tax department or tax assessment department
- Other necessary information related to the complaint

Attached with the complaint, shall have proofs as follows:

- Informative letter on the tax assessment, tax reassessment, debt recovery or other decision related to tax rules which is objective of the complaint
- Documents showing the tax payment such as receipt or bank slip, in the case that the tax is already paid
- Other proofs related to facts or grounds of the complaint such as invoice, contract or other document

In the case that the above conditions are not fulfilled, tax department can issue a decision refusing the complaint by defining clearly the grounds of refusal.

### Notification No. 032 on Annual Tax and Patent Filing for 2016

According to article #12 of Law on Financial Management 2016, taxpayer shall perform the following point on filing of annual and patent 2016:

1. All taxpayers, including those who have not updated its enterprise information with GDT, have to file the new patent 2016 from 1 Jan to 31 Mar 2016.
2. Large taxpayer has to pay patent tax with department of large taxpayer within GDT, medium and small taxpayer has to pay patent tax with their respective local tax branch/province OR pay at assigned bank such as CANADIA and ACELEDA nationwide.
3. For taxpayer, who has been done its update with GDT, can get the patent certificate shortly after payment of patent tax with GDT or local tax branch with the issued tax id card. If the payment has been made at these two assigned bank, taxpayer has to show the bank slip in order to get patent certificate.
4. For taxpayer, who has not been done its update with GDT, has to fill up the form PR008 and continued to update with National Tax School in order to get patent certificate 2016.
5. Multi businesses entity taxpayer has to file and pay patent tax differently.
6. Branch, warehouse, factory located in different province/city has to file and pay

patent tax differently.

7. Patent tax is categorized as follow:
  - i. Revenues in the last/expecting three consecutive months are over 60 M riel
  - ii. Involved with bidding process of supplying material or services to government institutes.
8. Patent certificate has to be at the business premise and valid for taxpayer, whose name is not the patent. GDT print patent via electronic device which is difficult to falsify.
9. Taxpayer has to follow the payment due date. In case of late payment, trying to cooking the book/figure or information will stand for the penalty and charge in Law of Taxation.

### Royal Krom No. 014 dated December 11, 2015 on Approval on Agreement Between the Government of Kingdom of Cambodia and the Government of the Republic of Belarus on the Promotion and Reciprocal Protection of Investment.

Trade and Economic Cooperation between Cambodia and Belarus .

- The agreement entered between the two countries in accordance with the provision of WTO. Signed on 23 April 2014.
- Investment as per this agreement Movable & immovable; shares, stock & debentures, claims to money, IPR,
- Return means the amount that yield by an investment but not exclusively includes profits, dividends, interest, royalties, capital gains or any payment in kind.
- Both the parties to be granted Most Favored Nation treatment (MFN) in areas of :
  - Free trade
  - Economic and monetary union
  - Agreement for avoidance of double taxation or agreement related to taxation
- Provision of expropriation of the assets and investment and also for the compensation of loss suffered from requisitioning of its investment or destructions.
- The transfer to be effective as per the agreement:
  - Returns
  - Capital and additional amount necessary for the maintenance and development .
  - Compensation
  - Proceeds of total or partial investment
  - Earnings of national person engaged
- The agreement is valid for 10 years and can be cancelled by giving 12 months' notice before the expiration of 5 years.