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## BANKING AND FINANCE & CAPITAL MARKET

**Instructive Circular of Royal government of Cambodia No. 09 dated 08 December 2015 on Rules and Procedures of Arrangement, Implementation, Monitoring, and Evaluation on Public Financial Management Reform (PFMR) work.**

This Instructive Circular aims to enforce on the implementation of PFMR which was proclaimed by Cambodian government in 2004 in order to transform the Cambodian Public Financial System into the international System and state of decentralization through the joint action plan, directed by Steering Committee of PFMR program according to Sub-Decree No. 23 dated on 17 January 2014 on the establishment of this Committee and Creation of Work group of PFMR.

With this Circular, The Cambodian government has released Rules and Procedures to ensure the efficacy of Implementation of PFMR:

Rule and Procedure on Arrangement of Action Plan of Institutions-Ministries:

Each work group of PFMR of Institutions-Ministries has to coordinate and sum up their action plan from related entities and send it to Steering Committee of PFMR for correction and providing more opinion. The minister of each ministry or chief of each entity has to sign on the Action plan in order to be able to implement it.

Rule and Procedure on Implementation of Action plan of PFMR:

In purpose to ensure efficiency of implementation of PFMR, the mechanism of tracking the progression is needed. The work group of PFMR must organize meeting which divide into 3 categories:

- Monthly meeting :
  - o Arrange the Meeting and send report on progression to Secretariat of Steering Committee of PFMR
  - o Organized in the first week of the following month
- Trimestral Meeting:
  - o Organized in the first month of the following trimestral meeting
  - o Meeting:
    - ☑ Meeting of Commission of PFMR of Ministry of Economic and Finance (MEF)
    - ☑ Meeting of Steering Committee of PFMR
    - ☑ Meeting of Steering Committee of PFMR with development partner
- Annual Meeting:
  - o Review and Monitoring PFMR for entire of Institutions-Ministries
  - o Organized in the 1st trimester of the following year

The main content of monthly, trimestral, annual meeting is subject to record and summarize in order to publish to all ministries-institutions and entities under MEF.

Rule and Procedure on Monitoring and Evaluation on Implementation of PFMR action plan:

Each work group of PFMR of Institutions-Ministries has to organize their trimestral and annual achievement report and send it to secretariat of Steering committee of PFMR. Moreover, the evaluation of the achievement is based on 2 basic:

1. Activities of achieved work compared to the plan
2. The Result achieved compared to performance indicator

The Achievement of implementation of PFMR is subject to be provided incentive measure and restrictive measure which divide into 2 levels such as institution level and Work group of PFMR level.

## BUSINESS

**Royal Kram NS/RHM/1215/013 Dated 11 December 2015 on the Promulgation of the Law on the**

## 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).

## implementation of the Agreement between Cambodian Government and the Russian Government on mutual investment encouragement and protection .

The law is promulgated to implement the agreement of the Cambodian Government and the Russian Government dated March 3, 2015 which will come into force upon the date that both parties diplomatically notify each other in regard to the justification of the internal procedure and the agreement will have its validity for 15 years.

The agreement consists of 12 articles which provide definition, the protection of the investment, dispute settlement, consultation and the date of coming into force of the agreement.

### Royal Kram NS/RHM/1215/014 on the Promulgation of the Law on the Adoption of the Agreement on 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 yields 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
  - ☒ Customs
  - ☒ 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.

### Notification No. 0121, dated 13th January 2016, on "Certification of origin online procedure for Form A" of Ministry of Commerce.

In order to apply for "Certification of Origin for Form A", the applicant must process by [www.certificateorigin.moc.gov.kh](http://www.certificateorigin.moc.gov.kh) which process the payment by bank. At the same, the MOC will organize a "Training Course" for the procedure of "Registration Incorporation Online" and "Applying the Certificate of Origin". All interested person is able to register the name by email: [br.moc.cambodia@gmail.com](mailto:br.moc.cambodia@gmail.com) and [exim.moc@gmail.com](mailto:exim.moc@gmail.com) before 22nd January 2016. For more information, please contact to MOC directly or by phone number 023 866 050 or by [gdts.moc@gmail.com](mailto:gdts.moc@gmail.com)

### Notification No. 0263, dated 21st January 2016

in order to delay for the time for registration the name until 29th January 2016. So interested person which has not been registered for this course, please send the application via [gdts.moc@gmail.com](mailto:gdts.moc@gmail.com)

### Notification No. 0039, dated 05 January 2016, on using bank account for company registration online, of Ministry of Commerce

Even though, there are some problems on transferring the public fee, every investor is able to pay the official fee to Ministry of Commerce through Acleda Bank, Canadia Bank, and Foreign Trade Bank by using the service the Credit/Debit cards; Internet Banking; Mobile Banking or transfer through the commercial bank as below:

1. FTB
  - KHR: 010-01-290-000094-0
  - USD: 010-30-063-000937-8
2. CLEDA
  - KHR: 0001-02-076702-27
  - USD: 0001-02-076702-18

### 3. CANADIA

-KHR: 001-000-333-88-22

-USD: 001-000-333-55-88

## CIVIL

### **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 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.

## PUBLIC LAW

### **Royal Government of Cambodia Decision no. 95 Dated 3 December 2015 On Implementation of sample Sub Decree for formation of Public Administration Institution**

Sample of sub decree is provided as a reference for future formation of Public Administration Institution. For Public Administration Institution formed before Royal Decree No. 0815/872 came into effect, has amended and reformat in according to this Sub Decree.

Each Public Administration Institution can article to this sample as necessary to its duty, function, policy, action plan in according with its vision and priority of its institution.

### **Sub-decree No. 165 dated 04 December 2015 on Arrangement and Functioning of Cambodia- Thai Fellowship Association**

The association, an inter-ministerial committee, is established in the purpose of Cambodia-Thai relationship, led by His Excellency Sok An, Deputy Prime Minister, and minister of Council of Ministers, as Chief of the Association.

The association has duties as follows

- Maintain Amity and Solidarity and Cambodia-Thai Cooperation, in accordance with government's political of the two Countries
- Strengthen Cambodia-Thai Relationship all sections and all domains, namely Business, Investment, Agriculture, Culture, Tourist, Sport, Education, Health, Vacation and Social Affaire.
- Make project and program of Cooperation, Changing Idea, Scholar-ship, Research, Share of experience between Cambodia-Thai even widely
- Cement Communication system and changing information between Cambodia-Thai

even conveniently .

- Do a Report on Activities and Result of Work to the Government
- Take other duties, which the Government assigns.

**The Interministerial Prakas between Ministry of Economic and Finance and Ministry of Public Work and Transport No. 010 dated 21 January 2016 on public service providing of Ministry of Public Work and Transport.**

This Prakas abrogates another 3 Interministerial Prakas such as:

- Interministerial Prakas No. 989 dated 28 December 2012 on Public service providing of Ministry of Public Work and Transport.
- Interministerial Prakas No. 1430 dated 20 November 2014 on modifying compilation of public service table of appendix table of Interministerial Prakas No. 989 dated 28 December 2012 on public service providing of Ministry of Public Work and Transport.
- Interministerial Prakas No. 003 dated 05 January 2016 on modifying compilation of public service table of Interministerial Prakas No. 1430 dated 20 November 2014.

The Ministry of Public Work and Transport is allowed to implement revenue collection from public service fees for advantage of national budget. Any person who wishes to use public service of Ministry of Public Work and Transport can gather the detail information about the service such as service fees, duration and validity according to its categories by the Table of Public service which is published at the Office.

Furthermore, MPWT has to provide the public service like One Window Office and use the receipt of payment from MEF. The central administration and Department of Public Work and Transport Capital-province are responsible for record the revenue collected and must send their monthly and annual revenue implementation report to MEF or before 10th of month. That is, the allocation of management and collection of public service fees between Central Administration (Ministry) and that of Provincial Department are determined by another Prakas of Minister of MPWT.

**Royal Kram NS/RKM/1215/012 on the Promulgation of the Law on the Amendment of the article 21 of the Law concerning on the Statute of the Senate Members**

The amendment is made on the article 21 of the Law concerning on the Statute of the Senate Members providing the issue concerning the retirement pension. Upon the new provision, the retirement pension is based on the indemnity and supporting fund in the year which that Senate member received the highest indemnity and the supporting fund with the consideration of the status, duty and with 1 percent.

The new amendment details the percent of the monthly retirement pension which is based on the seniority. The former Senate Member receives the retirement pension until the death. The right to enjoy the retirement pension will be withdrawn in case he/she is elected as the Senate member again or selected as the member of the Constitutional Council.

## **TAXATION AND CUSTOMS**

**Royal Government of Cambodia Sub Decree No. 192 dated: 29 December 2015 on the Amendment custom and specific tax of certain merchandise**

**Amend of custom duty**

Custom duty reduce from 7% to 0%

- Code 4902: Regular publication with/without image 4905: All type of map 4911: Other printed matter 9503: Doll and toys for kid.

Custom duty reduce from 15% to 7%

- Code 8471 Automatic Data processing Machine 8473 Spare part for machine code 8469-8472 8523 Media storage (disc or tape) 8528 Monitor or projector

Custom duty reduce from 35% to 15%

- Code 9504 Electrical Transformer 8507 Electric Accumulator

Custom duty increase from 0% to 7%

- Code 7604 Aluminum

**Amend of specific tax**

- Specific tax increase from 25% to 30% for code certain Beer
- Specific tax increase from 20% to 35% for certain Wine code
- Specific tax increase from 15% to 20% for certain cigarette code

- Specific tax increase from 0% to 25% for certain gasoline product
- Specific tax increase from 0% to 10% for Mirror for construction
- Specific tax increase from 0% to 25% for certain electronic product
- Specific tax decrease from 10% to 0% for certain computer and spare parts
- Specific tax increase from 10% to 25% for certain Moto bicycle
- Specific tax increase from 10% to 65% for certain vehicle
- Specific tax increase from 10% to 25% for certain vehicle spare parts

Please refer to annex for more detail.