



# Tax System in Cambodia

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## INTRODUCTION

Cambodia has more lenient tax regimes in comparison to neighboring countries; however the tax requirements are different to most countries, and it is important for investors to adhere to the regulations.

All companies are taxable under the Self Assessment System (Real Regime Tax System), regardless of the type of business activity or the level of annual revenue. Real regime system taxpayers must submit a tax declaration, a balance sheet, Results Account and Tables of complementary information to the tax administration.

### 1. Tax Registration

Previously there were three regimes under the tax law in Cambodia: Real regime, estimated regime and simplified regime. However, due to the inefficiency and impractical, the financial management law 2016 diminished the estimated and simplified regime. MEF and GDT issued Prakas and notification in following specify the category of real regime taxpayer as follow:

- Small enterprise is a single person entity or partnership
  - Annual turnover from KHR 250 million riels to KHR 700 million riels
  - Prior/expecting three consecutive month turnover from KHR 60 million riels
  - Participated with government contract bidding
- Medium enterprise
  - Annual turnover from KHR 700 million riels to KHR 2000 million riels
  - Registered with Ministry of Commerce as Legal entity
  - Provincial/Municipal Government institution, Association or NGO
- Large enterprise
  - Annual turnover from KHR 2000 million riels
  - Branch of foreign company
  - Qualified Investment Project (QIP)
  - Government institution, Embassy, INGO or Government Cooperation Agency

Small and Medium enterprise that registered with the Ministry of Commerce, within 15 days it must then register at the local tax branch in Phnom Penh or Province wherever its registered address located. Large enterprise, regardless of where it is registered its address, shall register with Large Tax Payer Bureau of General Tax Department.

#### 1.1 VAT Registration

Enterprises providing taxable supplies of goods and services are required to register for VAT if they meet one of the following criteria specified below:

- Companies, importers, exporters and investment companies (QIP)
- Taxpayers with taxable turnover in respect of goods sold exceeding KHR 125 million (approx. USD

31,250) for the preceding three consecutive months or in the next three consecutive months

- Taxpayers with taxable turnover in respect of services provided exceeding KHR 60 million (approx. USD 15,000) for the preceding three consecutive months or in the next three consecutive months
- Taxpayers undertaking government contracts with a total taxable turnover exceeding KHR 30 million

VAT registration must be made before the commencement of business operations for investment and import-export businesses, or within 30 days in which the taxpayer becomes a taxable person. However, normally, VAT registration is undertaken at the same time as the registration. Without VAT certificate, company is not allowable to make importation.

## **1.2 Patent Tax**

While registering for the TIN, the company must also apply and pay a Patent Tax. This tax is an annual chargeable tax at a fixed amount. Here below is the patent tax rate:

- KHR 400,000 Riels (approx. US\$ 200) for Small enterprise
- KHR 1.2 Million (approx. US\$ 300) Riels for Medium enterprise
- KHR 3 Million Riels (approx. US\$ 750) for Large enterprise with annual turnover from KHR 2 Billion Riels (approx. US\$ 500,000) to KHR 10 Billion Riels (approx. US\$ 2.5 Million)
- KHR 5 Million Riels (US\$ 1,250) for Large enterprise with annual turnover from KHR 10 Billion Riels (approx. US\$ 2.5 Million)

If the registration is in the second half of the calendar and governmental fiscal year (1 July – 31 December) then only half of the annual fee is charged. The first Patent Tax payment must be made within 15 days of business registration. The Patent Tax is payable annually thereafter for each business activity of the business and each location of the business – that is, should the business inform the tax authorities that they will have two or more main business activities, then a Patent Tax is due for each business activity. A company must apply and pay for renew its patent tax before 31 March each year.

## **1.3 Stamp Duty and Tax Rate**

A newly established company, branch or representative office is required to register with the Tax Department's local tax branch office and pay the stamp duty (registration tax) within 15 days after obtained the business certificate at the Ministry of Commerce.

The stamp duty is levied on 3 types of legal documents at a fixed amount of KHR 1,000,000 (approx. US\$ 250). New Established Company, Merger Company and Dissolved Company. The Stamp Duty is also imposed at the rate of 0.1% of share value for the transfer of share or at 0.1% of contract value for the contract of supply of goods or services government institution.

## 2. Tax on Profit

Residency: refer to physical/legal person having principle place of business in Cambodia or permanent establishment in Cambodia. Otherwise it is referred as non-resident.

2.1 The Tax on Profit is the debt of a resident taxpayer on income from Cambodian sources and from foreign sources. For a non-resident taxpayer, this tax is assessed on income from Cambodian sources only. The tax rates on the annual profit are as follows:

- 20% for the profit gained by a legal person.
- 30% for profit gained under an oil or natural gas production sharing contract and the exploitation of natural resources including timber, ore, gold, and precious stones.
- 9% for the profit of a qualified investment project (QIP) approved by CDC to be entitled to the 5 year transitional period commencing from the tax year after the date of the promulgation of the Law on the Amendment of the Law on Investment of the Kingdom of Cambodia.
- 0% for the profit (Tax Holiday) of qualified investment project (QIP) during the tax exemption period as determined by CDC up to 9 years.

To reduce the burden of profit tax payment at the year end, the law requires resident taxpayer to pay the prepayment of profit tax at rate 1%. This tax is due on a monthly basis by the 15th day of the succeeding month.

2.2 According to the progressive tax rate by tranche for the table below for the profit realized by small enterprise, the physical person and the distributive share to each member of a pass-through that is not classified as a legal person.

ANNUAL TAXABLE PROFIT	TAX RATE
From 0 to 6,000,000 Riels	0%
From 6,000,001 to 15,000,000 Riels	5%
From 15 000,001 to 102,000,000 Riels	10%
From 102,000,001 to 150,000,000 Riels	15%
Greater than 150,000,000 Riels	20%

2.3 For an enterprise having principal activity in the insurance or reinsurance of life, property or other risks, the tax on profit shall be determined as follows:

- 5% of the gross premiums received in the tax year for the insurance or reinsurance of risk in the Kingdom of Cambodia. It is due on monthly basis.
- For other activities not relating to insurance or reinsurance, the normal tax on profit rates as stated in above apply.

2.4 Loss carried forward: It is allowed to carry forward loss up to 5 years. If the profit for any year is not sufficient to offset with loss, the remaining can be carried forward to next year. In following circumstances, the carried forward loss is cancelled:

- There is change of business activities
- There is change of ownership
- There is unilateral tax assessment within period of loss carried forward
- The late submission of annual tax return

### 3. Minimum Tax

The Minimum Tax is a separate and distinct tax from the tax on profit. It is imposed at the rate of one percent of the annual turnover inclusive of all taxes with the exception of VAT, and is payable at the time of the tax on profit. The minimum tax may be reduced by the annual tax on profit that is due to be paid.

### 4. Dividend Distribution

The following is the dividend distribution tax (DDT) which it is varied to the profit tax rate:

Tax on profit	DDT
0%	20%
9%	11/91
20%	0%

### 5. Withholding Tax

Any resident taxpayer carrying on business and who makes any payment in cash or in kind to a resident or non-resident taxpayer shall withhold, and pay tax not later than the 15th day of the succeeding month, an amount according to the below mentioned rates which are applied to the amount paid before withholding the tax:

#### Non-resident

Tax payer shall withhold tax from non-resident at the rate of 14% on the following payments:

- Interest,
- Royalty, rental/leasing, and income related to the use of property,
- Management or consultancy services,
- Dividends.

#### Resident

Tax payer shall withhold tax from resident at the various rates on the following payments:

Items	Rate
Interest received by a bank (Non-Fixed Term Deposit)	4%
Interest received by a bank (Fixed Term Deposit)	6%
Rental Income	10%
Other Interest Income	15%
Royalties from mining and intangible property	15%
Income from services (except where subject to VAT)	15%

## 6. Value Added Tax

The real regime taxpayers shall charge VAT on the supply of goods or service. Taxable supply refers to below:

- The supply of goods or services by a taxable person in the Kingdom of Cambodia except money and land;
- The appropriation of goods for his own use by the taxable person;
- The making of a gift or supply at below cost of goods or services by the taxable person;
- The import of goods into the customs territory of the Kingdom of Cambodia.

The value added tax declaration for any month shall be submitted to the tax administration on or before the 20th day of the succeeding month.

### Exempt Goods and Services

VAT is not applied on the following supplies:

- Public postal service.
- Hospital, clinic, medical, and dental services and the sale of medical and dental goods incidental to the performance of such services.
- The service of transportation of passengers by a wholly state owned public transportation system.
- Insurance services.
- Primary financial services which shall be determined by Prakas of the Ministry of Economy and Finance.
- The importation of articles for personal use that are exempt from customs duties and that are within the value level which shall be determined by Prakas of the Ministry of Economy and Finance.
- Non-profit activities in the public interest that have been recognized by the Minister of Economy and Finance.

### Tax Rate

The tax rate shall be as follows:

- 10 percent on the taxable value of each taxable supply in the Kingdom of Cambodia.
- 0 percent on exported goods/service and the supply of international transport services.

### Input Tax Not Allowed as a Tax Credit

Taxable persons shall not be allowed input tax credit for any tax paid on:

- Entertainment (food, beverages, tobacco, accommodation, or hospitality of any kind.), amusement and recreation expense unless the taxable person carries on a business as a provider of entertainment, amusement or recreation;
- Purchases or imports of automobiles (designed solely for the transport of person not exceeding ten in number), unless the taxable person carries on the business of dealing in, or hiring such automobiles; or
- Purchases or imports of certain petroleum products (regular or super gasoline, and lubrication oil), unless the taxable person carries on the business as a supplier of such petroleum products.

### Input Tax Credit for Small Enterprise

For small enterprise, the input tax credit is allowed only 80% of total purchase regardless of having supporting invoice/receipt or not.

### **Input Tax Credit for Import Product**

The VAT charges for import product is calculated based on its CIF value plus customs duty tax plus specific tax.

### **Sale of Land and Building**

The sale of property attached with/without land shall be subject to VAT 10%. It is calculated based on the value of building component only.

## **7. Tax on Salary**

Tax on Salary is imposed each month on the salary paid to individuals for the purpose of fulfilling employment activities in Cambodia. Although the employee is responsible for the debt, the obligation to withhold and pay the tax each month rests with the employer. The employer must declare and pay the tax not later than the 15th day of the succeeding month.

There are the differences between salary and fringe benefits. Salary refers to remunerations, wages, bonuses and overtime. Fringe benefits refer to benefit beside salary, including a vehicle of any kind, foods, a house or housing, utilities, household personnel, low interest loans, discounted sales, educational assistance for employee's minors, certain insurance, expense allowance for unreasonable and necessary to the business of the employer, contribution to social security funds in excess of the levels provided in the law, contribution to a pension plan in excess of 10% of the employee's monthly salary exclusive of fringe benefits, and entertainment, amusement or recreation expenses.

### **7.1 Employment Status**

Whether a person is an employee or an individual earning profit depends on "the degree of subordination to the employer" (Prakas 1173 Section 1.2 31 Dec 2003). The Prakas outlines four criteria to assist in determining this. If two of these four criteria are met, an employment relationship exists:

- the person will be paid as long as he appears at a designated place to perform tasks outlined in a general (written or oral) agreement;
- the person does not make their own hours (i.e. his time and place of employment are chosen for them)
- the person is not required to invest in their own equipment;
- the person does not provide services to several people simultaneously.

If a person does not meet at least two of the above four criteria, he or she will be deemed an independent service provider. His/her income will be subject to withholding tax as specified above.

### **7.2 Determination of Tax on Salary**

There are three categories to be determined of tax on salary: resident employees, non-resident employees and fringe benefit.

#### **Resident Employees**

Resident employees refer to employee who:

- domicile in Cambodia, or
- have a principal place of abode in the Kingdom of Cambodia, or
- present in the Kingdom of Cambodia on more than 182 days in any period of twelve months ending in the current tax year.

Based on the evidence of family situation, any resident employee with:

- Minor dependent children at the time of tax payment is allowed a reduction in the tax base of



seventy-five thousand Riels per each child per month,

- Spouse having only an occupation as housewife is allowed a reduction in the tax base of seventy-five thousand Riels for one person only per month.

For a resident employee, the tax on salary due is determined on the monthly taxable salary and is withheld according to the progressive tax rate as below:

Salary per Month	Rate
From 0 to 800,000 Riels (US\$ 200)	0%
From 800,001 to 1,250,000 Riels (US\$200 to US\$312.50)	5%
From 1,250,001 to 8,500,000 Riels (US\$312.50 to US\$2,150)	10%
From 8,500,001 to 12,500,000 Riels (US\$2,150 to US\$3,120)	15%
Over 12,500,000 (US\$3,120)	20%

### **Non-Resident Employee**

Non-resident employee is not the resident employee. Employer must withhold the tax on salary with the flat rate of 20% when making payment to the non-resident employees.

### **Fringe Benefit**

Fringe benefits are benefit received from the course of employment beside salary, bonus and overtime. Every month, the employer shall withhold and pay tax by 15th of the following month at the rate of 20 percent of the total value of fringe benefits given to all employees. The value of fringe benefits is the fair market value inclusive of all taxes.

## **8. Tax Audits (tax re-assessment) and Power of Investigation**

Within 10 years after initial filing of tax return, GDT can carry out an audit of a taxpayer's activities and to re-assess tax payment where the taxpayer has not complied with the Law on Taxation and the tax regulations. There are four forms of audit:

- Desk Audit: It is designed for checking the accuracy and cross-checking with the requested document from auditor.
- Limited Audit: It is designed with more expanded scope. Normally the auditor looks into salary and withholding taxes. Auditor can enquiry to access taxpayer's business premise.
- Comprehensive Audit: It is the final/completed audit. It can override the desk and limited audit which has been done. Auditor carry out comprehensive audit for large taxpayer more frequent or at the time of company dissolution.
- Special Audit: It is designed specifically for VAT audit at the discretion of GDT.

During the process of tax re-assessment, taxpayer can file the dispute on reasonable ground with sufficient supporting document at specified timeframe, normally 30 days.

## **9. Tax Return's Amendment**

The taxpayer or withholding agent may request to amend a tax declaration within three years of the filing date of the tax declaration on the basis of an error or an oversight made by the taxpayer in the original tax declaration. Moreover, the taxpayer or withholding agent can request to the tax

administration to amend a tax re-assessment within 3 years of the date the tax administration made the tax re-assessment on the basis of additional information that was not available to the taxpayer or the tax administration at the time of the tax re-assessment.

## **10. Additional Tax**

Additional tax must be applied to violations of tax provisions. The additional tax for the underpayment of tax or the late payment must be calculated separately from the additional tax for the obstruction of the implementation of tax provisions.

### **10.1 Additional Tax for Underpayment of Tax**

To a person who is negligent, additional tax shall be 10 percent of the amount of the underpaid tax plus 2 percent interest on the amount of the underpaid tax for each month or part of a month that the amount of the underpaid tax is not paid.

To a person who is seriously negligent, additional tax shall be 25 percent of the amount of the underpaid tax plus 2 percent interest on the amount of the underpaid tax for each month or part of a month that the underpaid tax is not paid.

In the case of a unilateral tax assessment, additional tax shall be 40 percent of the amount of the underpaid tax plus 2 percent interest on the amount of the underpaid tax for each month or part of a month that the underpaid tax is not paid.

Interest shall not be applied during the period of tax re-assessment under article 118 of this law or within 30 days after delivery of the letter of notification for tax collection.

### **10.2 Additional Tax for Late Tax Payment**

To a person who fails to pay tax by the due date, additional tax shall be imposed at the rate of 10 percent of the amount of the late tax payment plus 2 percent interest on the amount of the late payment for each month or part of a month that the tax amount is not paid.

Where a person fails to pay tax within 15 days after receiving a reminder letter of notification for tax collection, additional tax shall be imposed at the rate of 25 percent of the amount of the late tax payment plus 2 percent interest on the amount of the late tax payment for each month or part of a month that the tax amount is not paid.

In the case of a unilateral tax assessment for the non-submission of a tax declaration, additional tax shall be 40 percent of the amount of the tax assessed plus 2 percent interest on the amount of the tax assessed for each month or part of a month that the tax amount is not paid.

Late interest shall be calculated from the first day of the month following the month in which the tax must be paid. For the tax on profit the late interest shall be calculated from the first day of the following month for which the period for the filing of the declaration of the annual result has already expired.

The additional tax for the late payment of tax on means of transport shall be 100 percent of the tax that must be paid.

### **10.3 Additional Tax for the Obstruction of the Implementation of Tax Law**

For the obstruction of the implementation of tax provisions the additional tax shall be as below for each act:

- Two million riels for a person or a taxpayer or a withholding agent under the real regime system of taxation or a government official;
- Five-hundred thousand riels for a taxpayer or a withholding agent under the simplified or estimated regime system of taxation.

## **11. Other Taxes**

### **11.1 Capital Gain on Disposal of Fixed Asset**

A capital gain arises when an asset (such as an item of property) increases in value. This becomes realised either through disposal (sale) of the asset, or through improvements to the asset which increase its value (such as renovating a house). The gain is a form of income, and is subject to tax under the provisions for tax on profit realised by a physical person.

In accounting terms, this is known as a “realised” gain or a “recorded gain”, based on:

- The sale price being higher than the book value; or
- Improvements to the asset increasing its book value.
- Book value is the cost price, less any depreciation.

## 11. 2 Depreciation

Cambodian law states that in order to calculate book value, the book value of assets should be calculated at the cost price, less depreciation (per year or part-year) as per the table below:

Class	Type of Asset or Property	Annual Depreciation	Method
1	Buildings and structures (including fixtures)	5%	Straight Line
2	Computers, electronic information systems and IT software.	50%	Declining Balance
3	Vehicles and Furniture	25%	Declining Balance
4	All Other Tangible Property	20%	Declining Balance
5	Intangible Property	10% or over the useful life of property	Straight Line

## 12. Company Dissolution

Within 15 days of cessation of business, the company must inform the tax administration by submitting letters requested to close along with necessary documents including application forms to close, original of latest Patent Tax Certificate, a copy of latest monthly tax and final annual tax return, and original VAT Certificate, board resolution.

The comprehensive audit will be commenced after received of above documents.. After auditing, the general tax department will issue a Tax Clearance Certificate for the company to process dissolution at Ministry of Commerce (MOC) if it has no tax liability. However, if the company has the tax liabilities, it shall pay based on the tax re-assessment letter issued by the auditor in order to get the Tax Clearance Certificate for further processing at MOC.

## 13. Qualified Investment Projects

Eligible investment project as allowed by CDC is enjoyed the following tax incentives:

- Either Tax holiday on profit tax up to 9 years or Special depreciation rate of 40% for the first year.
- Minimum Tax exemption
- Import duty exemption for material and equipment used for construction

There are limited of sectors know as positive list for application as QIP. The minimum capital requirement is US\$ 500,000.