


LEGAL UPDATE**CAMBODIA'S LAW ON TAXATION 2023**

**OVERVIEW**

On the 16th of May 2023, a Law on Taxation (“New Law”) was promulgated by virtue of Royal Kram No. NS/RKM/0523 on an urgent basis and therefore has come into force from 17th May 2023. The New Law abrogates the previous Taxation Law (“Former Law”) and its Amendment Law which was promulgated by Royal Kram No. NS/RKM/0297/03 dated 24th February 1997 and Royal Kram No. NS/RKM/0303/010, dated 31st March 2003, respectively.

The New Law’s implementation is to centralize all existing tax regulations, reflect the applicable international tax treaties and trends, and ensure that the laws is aligned with the 2021 Law on Investment regarding the tax deduction of expenses, the minimum tax exemption, the domestic VAT on Production Inputs, Non-Resident E-Commerce Value added Tax regime.

This Law contains 20 Chapters and 255 Articles, a significant increase from the Former Law which contained 7 chapters and 155 Articles in which only 9 Articles remain the same under the New Law.

These new additional chapters are dealing with several kinds of tax which was previously contains in separate regulatory framework including Specific Tax (Chapter 5), Public Lighting Tax (Chapter 6), Accommodation Tax (Chapter 7), Patent Tax (Chapter 8), Advertising Panel Tax (Chapter 9), Rental of Immovable Property Tax (Chapter 11) and Immovable Property Tax (Chapter 12), Stam Duty (Chapter 13), Capital Gains Tax (Chapter 14), Unused Land Tax (Chapter 15) and Transportation Tax (Chapter 16). These additional Chapters reflect the overarching goal of unifying existing tax laws, international tax agreements, and tax procedures in order to close loopholes and assure consistency.

The followings are some key features of the New Law:

MORE DETAIL IN DEFINITIONS

The definitions article, Articles 5 of the New Law, is updated to include more defined terms of “Permanent Establishment” and “Related Party” and introduce a new term concerning “Business Alliances”. These new definitions are made in accordance with the reflection of the applicable international tax treaties and trends.

NEW TAX TERMS

Additionally, a few types of tax terms are changed under the New Law such as:

- The “Special Tax on Certain Merchandise and Services” is changed to “Specific Tax”;
- The “Rental Property Tax” is changed to “Tax on the Rental of Immovable Property”;
- The “Stamp Tax Return” is changed to “Tax on Advertising Panel”; and
- The “Tax on Means of Transportation” is changed to “Tax on Transportation”.

COMBINATION OF REGULATIONS

The tax regulations of the Kingdom of Cambodia are divided separately making it difficult for the public, taxpayers, and tax officials to track down the entire set of laws and occasionally leaving out certain tax duties. Furthermore, in line of the economic growth, the development of private sector, and the growth of development partners, the New Law is modernized its technical terms and wording, while the content of the of the previous law remains the same, in the original state, including the tax rate. Some terms are intended to be appropriate and consistent with other laws, rules, and regulations. To ensure the convenience, clarity, and advancement to the public, taxpayers, and tax officials, the New Law is contributed with the regulations of all tax types as follows:

- The Decree of Law has been contributed since 1985 which contains 4 (four) types of taxes such as “Patent Tax”, “Tax on Means of Transportation”, “Stamp Duty”, and “Stamp Tax Return”.
- The Law on Financial and Management for each year which contains 6 (six) types of taxes such as “Tax on House and Land Rental”, “Tax on Unused Land”, “Tax on Public Lightening”, “Tax on Accommodation”, “Capital Gains tax from natural persons”, and “Tax on Immovable Property”.
- The Law on Taxation was contributed in 1997 and its amendment to time by time contains 5 (five) types of taxes such as “Tax on Income”, “Tax on Salary”, “Tax on Value Added Tax”, “Specific Tax on Certain Merchandises and Services”, and “Law on Petroleum and Mineral Resources Transactions”.

NEW INCLUSIVE OF CAMBODIAN SOURCED INCOME

Cambodian Sourced Income has been updated to include gains from the sale or transfer of immovable or immovable property or interest properties or interest, services, and the income from business activities of taxpayers thereof, including intangible assets located in Cambodia.



TAX AUTHORITY POWERS

The New Law creates significant developments that the tax authorities can communicate with taxpayers by electronic communication to the existing. The written form of any letter or notification that the tax administration needs to provide to the taxpayer in order to impose an obligation on the taxpayer may now be in electronic form, such as fax and email, and the date of the notification shall be the date on which the message was sent.

The New Law provides the particular importance with respect to such as tax audits which require to the taxpayer responses to submit within a prescribed timeframe. Additionally, the law also gives discretion to the authority to create an incentive scheme for tax officials to fulfill or partially waive penalties and interest on taxpayer for reassessments, to prioritize tax liens over general creditor rights. In addition, the New Law obliges that third parties, such as banks, cooperate with the tax authority to obtain taxpayer information within a set timeframe, otherwise they will face a penalty.



MERGER AND ACQUISITION

- Article 215 (1) of the New Law: in the event of transfer of businesses or transfer of interests, the new owner shall be held responsible for all tax debts of such businesses or enterprises.
- Article 215 (2) of the New Law: in the event of a merger of two or more enterprises, the enterprise that continues or is born from the merger of two or more enterprises shall be held responsible for all tax debts.

NEW CRIMES

The New Law imposes 04 (Four) new tax crimes which are outlined as the following:

- Practicing as a tax agent without a license;
- Failing to pay collected taxes;
- Collecting taxes without permission; and
- Criminal liability for legal entities.

The above offenses are not just subject to a penalty, up to USD 25,000 (twenty-five thousand US dollars), but also potentially to imprisonment, up to 3 years, for those found guilty of the offenses.

MORE DEFINED OBSTRUCTING ACTION OF TAX IMPLEMENTATION

Article 225 lists down 13 items of acts, 8 of which are from the Former Law, as obstructing the tax law application.

No	Types of Obstruction	Penalties
1	Failure to register with the Tax Administration in accordance with this law and other legal instruments in force	5,000,000 KHR (Approx. USD1,250) (Article 235(1))
2	Failure to inform the Tax Administration if any change in the information of the registration.	
3	Failure to file a tax return	
4	Failure to use the recording system as determined by the Tax Administration.	10,000,000 KHR (Approx. USD2,500) (Article 235(2)) Repeating of offenses stated in points 1 to 8 shall be subject to criminal penalty as per Article 243.
5	Failure to issue an invoice.	
6	Failure to provide information or submit reports as per the request.	
7	Not permitting the Tax Administration to check accounting records or any documents.	
8	Failure to keep accounting records and other documents.	- Sentence from 01 (one) month to 01 year in prison, and - Fines from 5,000,000 KHR (Approx. USD1,250) to 10,000,000 KHR (Approx. USD2,500) (Article 243)
9	Attempt to obstruction the tax assessment and collection.	
10	Producing or providing fake records, documents, reports, or information.	
11	Concealment or intentional destruction of accounting records, records, documents, reports, or any information.	
12	Issuance of fake invoices.	
13	Not permitting the Tax Administration to enter their business premises to assess and collect taxes.	

According to the clarification from the General Department of Taxation during its virtual seminar about this law, this New Law does not impose any additional taxes or tax practice that would pressure or confuse the public or entrepreneurs. Instead, it makes it simpler for the taxpayer to be aware of all applicable tax laws and regulations. Unless new Prakas or other legislation might stipulate otherwise, the taxpayers must retain their current tax practices.

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