



Tax Newsletter

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Tax obligations for enterprises operating multiple projects

(Prakas No. 1127 MEF.PK on tax obligations on enterprises operating multiple projects dated 11 October 2016)

The Ministry of Economy and Finance (“**MEF**”) issued this Prakas to monitor the tax compliance of legal enterprises operating multiple projects.

The scope of this Prakas covers:

- ▶ Enterprises operating multiple Qualified Investment Projects (“**QIP**”)
- ▶ Enterprises operating multiple non-QIP activities having different rates of Tax On Profit (“**TOP**”)
- ▶ Enterprises operating both QIP and non-QIP activities

Definition of subsidiary income

In this Prakas, the MEF defines subsidiary income as including income from immovable property, stock, share, loan receivable, guarantee deposit, saving account, current account, royalty, dividend, gift, subsidies, and other subsidiary income stated in section 4.9 and 4.10 in Prakas on TOP as part of the enterprise’s project.

Tax Identification Number (TIN) registration requirement

Any enterprise meeting the conditions in the scope of this Prakas is required to register a different TIN for each project, and each QIP or non-QIP activities are considered as a different taxpayer.

Tax and accounting record obligations

Each enterprise operating multiple projects as described above must:

- ▶ Register and pay patent tax for each project with the tax administration within 15 days from each project commencing economic activity
- ▶ Separately record investment capital, assets, fixed assets, employees-workers, manager and other financial information
- ▶ Maintain and record income and expenses separately and properly. If any company cannot allocate income and expenses for each project, the company can use ratio methods as provided in the Prakas

VAT obligations

Enterprises having multiple projects that purchase or provide taxable supplies must:

- ▶ Apply a correct TIN for each project on its imports/exports, domestic purchases or supplies goods and/or services to its customers
- ▶ Prepare and separately record purchase and sale records and input VAT credit and VAT output for each project

- ▶ Record input VAT credit from purchase of non-current assets in the project that those assets were initially used if such VAT credit cannot be allocated for each project
- ▶ Use ratio methods as provided in the Prakas to allocate VAT credit carried forward as at 31 December 2015 while starting from 1 January 2016, input VAT credit is required to be segregated for each project and to amend VAT returns for each month

Monthly tax and annual tax returns filling

Any enterprise having multiple projects as described above must submit monthly tax and annual tax returns separately for each project. However, if non-QIP activities have the same TOP rate, the enterprise can keep only one set of accounting records, have one TIN and submit consolidated monthly tax and annual tax returns.

Withholding tax implications for filming and real estate industries

(Prakas No. 18410 GDT on withholding implication for filming and real estate industries dated 3 November 2016)

Withholding tax (“WHT”) implications on the filming industry

Local film productions

Local film productions are granted a 15% WHT exemption on royalty fee for a three-year period ending 31 December 2018. To be entitled to a WHT exemption, the local film production must meet all the following criteria:

- ▶ Be registered with the tax administration
- ▶ Submit monthly and annual tax declarations and pay taxes according to the schedule as determined by the tax administration
- ▶ Maintain accounting books as required by laws

However, foreign film productions which grant filming rights to Cambodian cinemas or agents are still liable to 14% WHT on the royalty fee on intangible assets.

Local agents or local cinemas

Local agents and cinemas have an obligation to withhold 14% WHT on payment of royalty fee (rights for showing the film) to foreign film productions. However, a fee paid by a local cinema to another local agent or cinema is not subject to 15% WHT since the other local agent or cinema is not an initial owner of intangible asset.

Real estate industry

In Cambodia, real estate companies are required to withhold 10% WHT from the landlord for a rental payment on leased immovable properties. However, if the real estate company enters a sub-leasing agreement with another registered company (the lessee), the lessee is not required to withhold 10% WHT on the rental payment made to those real estate companies.

Instruction on claiming input VAT credit

(Instruction No. 21406 GDT on claiming input VAT credit dated 20 December 2016)

The GDT issued instructions to further clarify the conditions for claiming input VAT credit as follows:

- ▶ To claim monthly input VAT credits, purchasers are required to attach invoices in the format and content provided under the Instruction No. 1127 GDT on invoices for real regime taxpayers dated 26 January 2016
- ▶ Any enterprise which has not yet completed a tax registration update, will not be allowed to claim or refund input VAT credit until those enterprises complete the tax registration update

If any enterprise does not issue an invoice or issues an invalid invoice, that enterprise will be considered as committing tax obstruction. The penalty includes cessation of business operations, tax reassessment, or fine up to 10,000,000 Riel and/or imprisoning for one year.

Instruction on using invoice-serial numbers for real regime taxpayers

(Instruction No. 21606 GDT on using invoice-serial numbers for real regime taxpayers)

The GDT issued instructions to provide guidance on using invoice-serial numbers as follows:

- ▶ To have yearly invoice-serial number in sequence and to maintain invoices for a period of ten years for medium and large taxpayers and three years for small taxpayers
- ▶ To enable taxpayers to issue invoice-serial number with text and numbers for the purpose of enabling identify location of the invoice issuance and to have separate invoice-serial number for tax invoices and commercial invoices
- ▶ For Point-Of-Sale (“**POS**”) invoices, taxpayers can issue invoices with serial number based on each POS machine but taxpayers are required to inform the GDT on the number of machines used by January 2017 and notify the GDT whenever there is any change of POS machines