



**Tax Newsletter
January 2019**

Tax Update

A low-angle, upward-looking photograph of several modern skyscrapers with glass facades. The buildings are set against a blue sky with scattered white clouds. A large, bright yellow trapezoidal shape is overlaid on the center of the image, containing the text 'Tax Update' in a bold, black, sans-serif font. In the bottom left corner, a street sign is partially visible, showing the text 'E F HEDGECOCK' and 'STREET'.

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The Ministry of Economy and Finance’s press release on tax incentives for small and medium enterprises in the priority sectors

(Press Release dated 8 January 2019)

The Cambodian Government has recently issued a press release to announce tax incentives for Small and Medium-sized Enterprises (“**SMEs**”) in the government’s priority sectors. This follows the issuance of Sub-Decree No. 124.ANKr.BK dated 2 October 2018 on tax incentives for SMEs in priority sectors. Based on the press release and Sub-Decree, the priority sectors include the following:

- ▶ Agricultural or agro-agricultural products
- ▶ Food production and processing
- ▶ Manufacturing of local consumable goods, waste recycling and production of goods for the tourism sector
- ▶ Manufacturing of finished goods, spare parts or assembling parts to supply other manufacturers
- ▶ Research and development in relation to IT and IT-based services
- ▶ Enterprises located in SME clusters and enterprises developing SME clusters

The above qualified SMEs may claim the following tax incentives:

- ▶ A three-years income tax exemption including Tax on Income (“**TOI**”)/Minimum Tax (“**MT**”), and Prepayment of TOI (“**PTOI**”) commenced from the date of the new enterprise being registered or the date an existing enterprise has its tax registration update or the date the Sub-decree become effective.

Alternatively, a five-year exemption of TOI/MT and PTOI is available if one of the following criteria are met:

- Use at least 60% of local raw material, or
- Increase the number of employees at least 20%, or
- Located in SME clusters
- ▶ Deductible expenditure incentives:
 - 200% tax deduction for accounting software fees, training fees of accounting records or technical skills to employees
 - 150% for purchasing equipment or new technology that increases productivity

To be eligible for the above tax incentives, SMEs shall be obliged to maintain proper accounting records and file monthly tax and TOI returns in accordance with rules and tax regulations.

The General Department of Taxation’s instruction on the implementation of Sub-Decree on tax incentives for SMEs on the priority sectors

(Instruction No. 20515 GDT dated 21 December 2018)

The GDT issued an instruction to inform SMEs operating in the priority sectors about the required documents/information to attach with the application for tax incentives as follows:

Required documents/information	Applicable tax incentives
Company’s memorandum and articles of association	For income tax exemption and deductible expenditure incentives

Required documents/information	Applicable tax incentives
Approved business license, certificate of incorporation and value added tax and patent tax certificates	For income tax exemption and deductible expenditure incentives
Business plan and financial statements for registered companies	For income tax exemption and deductible expenditure incentives
Contract or agreement for purchases of goods or services	For income tax exemption and deductible expenditure incentives
Employment contracts and human resource planning	For income tax exemption and deductible expenditure incentives
Lease agreement or immovable-property title deeds to confirm the business address of SMEs at SME clusters	Income tax exemption incentive
Employees' training program	Deductible expenditure incentive

Law on Financial Management for 2019

(Royal Code No. NS/RC/1218/017 dated 12 December 2018)

The Law on Financial Management for 2019 amended Articles 5 and 7 of the Amended Law on Taxation (“**Amended LOT**”) to provide definitions for tax on income for a “legal person” and “physical person”.

- **Article 5 New:** TOI of a legal person is calculated from the realized accounting result in each tax year. The tax year for a new legal entity shall start from the commencement of its operation until 31 December of that calendar year. An enterprise whose shareholder is a non-resident entity can request to use a tax year different from calendar year.

TOI of physical person is calculated from the total revenue realized in each tax year.

- **Article 7 New (1):** Taxable income is the net income obtained from all the results of all types of business and non-business operations realized by a legal person or physical person, which includes capital gains, interest income, rental income, royalties and income from finance or investment assets including real estate.

A legal person’s taxable income is determined from accounting results after certain required adjustments, while a physical person’s taxable income is determined based on their total income in the tax year after deduction of allowable expenses, which is determined under a sub-decree.

This article further mentions that the provision and procedure of tax collection shall be determined by Prakas of the Ministry of Economy and Finance.

Ratification of Cambodia’s tax treaties with Vietnam and Indonesia

(Royal Code No. NS/RC/1218/019 released on 12 December 2018)

The Royal Code announces that Cambodia already signed the Double Taxation Agreements (“**DTAs**”) with Vietnam on 31 March 2018 and Indonesia on 23 October 2017.

The General Department of Taxation’s press release on Cambodia’s DTAs with China, Brunei and Vietnam

(Press release dated 27 December 2018)

The GDT announced in the press release that Cambodia’s DTAs between China, Brunei and Vietnam are effective from 1 January 2019.

The Ministry of Labor and Vocational Training’s press release on seniority payments

(Press release dated 28 December 2018)

Further to Prakas No.443 issued by the Ministry of Labor and Vocational Training (“**MLVT**”) dated 21 September 2018 on seniority payments, the MLVT clarified that an employee/worker who has been working under an unspecified duration contract is entitled to two seniority payments annually starting from June 2019 onward.

Regarding retrospective seniority payment prior to 2019, the MLVT is still under discussion with the private sector to determine the proper timeline for paying the employee/worker.

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