



# Tax Update

May to June 2019

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## **Reminder of tax payment on immovable property for 2019**

*(Notification No. 7732 GDT released on 30 April 2019)*

The General Department of Taxation (“GDT”) recently issued Notification No. 7732 to remind the owners of immovable property to pay property tax before the deadline of 30 September 2019.

Failure to pay property tax by the above deadline may trigger penalties.

## **Determination of employment contract**

*(Instruction No. 050/19 released on 17 May 2019)*

On 17 May 2019, the Ministry of Labor and Vocational Training (“MLVT”) released Instruction No. 050/19 to clarify the criteria for Fixed Duration Contracts (“FDC”) and the probationary period.

### **► Determination of FDC**

A FDC is made for employment with a specific duration by precisely noting the starting and ending date in writing. Pursuant to Article 67 point 2 of the Cambodian Labor Law, the validity of a FDC shall be no longer than two years.

A FDC can be renewed once or many times, as long as the renewal period does not surpass the maximum duration of two years. Therefore, the maximum duration for a FDC is 4 years. If a FDC purports to extend for longer than the maximum period, it will automatically become an Undetermined Duration Contract (“UDC”). The instruction has included the following example to provide a better understanding:

- If the first contract has a specific duration for 6 months, the maximum duration of the contract is 2 years and 6 months.
- If the first contract has a specific duration for 1 year, the maximum duration of the contract is 3 years.
- If the first contract has a specific duration for 2 years, the maximum duration of the contract is 4 years.

After reaching the maximum period of a FDC, a new FDC can be made with the same employee for the same or similar position only if there is a break of one month between the old and new contract. If a new FDC is made within a shorter period of time, the new FDC will be considered as a renewal of the previous FDC and hence will become a UDC. However, this requirement is not applicable for any FDC which is made for temporarily replacing certain people, seasonal employment or irregular activity of an enterprise in accordance with Article 67 point 3 in the Cambodian Labor Law.

### **► Duration of probationary contract**

A probationary period is for an employer to assess an employee’s capability, skills, talent and commitment and it also allows the employee to understand the working condition provided by the employer. A probation period shall extend for no longer than three months for regular employees, two months for specialized workers and one month for non-specialized workers. It may not be extended or renewed even if there is consent from both parties.

The probation period will not be included for the calculation of severance pay or seniority payment.

### **Reminder on application for the GDT's confirmation of the supply of goods and services by an agent as principal**

*(Notification No. 8947 GDT released 24 May 2019)*

The GDT issued Notification No. 8947 to remind agents or distributing depots to apply for the GDT's confirmation of the supply of goods and services by an agent as principal before the deadline of 31 July 2019 by completing form AP01 with other supporting documents as detailed under Prakas No. 597 MEF and Instruction No. 1543 GDT.

If an agent or distributing depot fails to submit the application by the deadline it may be regarded as a general taxable person and pay taxes based on gross income.

### **Implementation of annual transportation tax collection and notification on the collection of transportation tax for 2019**

*(Instruction No. 9254 GDT released 30 May 2019 and Notification No. 9330 GDT released on 31 May 2019)*

Instruction No. 9254 GDT and Notification No. 9330 GDT applies to those who own vehicles in Cambodia. The transportation tax collection period starts from 1 June 2019 to 30 November 2019.

For 2019, owners of vehicles are liable for the transportation tax and a return is only required for those owners who do not have Transportation Tax ID Card.

From 1 January 2020, the GDT will impose penalties on vehicles that do not display the tax return and proof that payment was made in 2019.

### **Tax incentives for film industry**

*(Instruction No. 9549 GDT released 4 June 2019)*

The GDT issued Instruction No. 9549 GDT to extend tax incentives for 5 more years starting from 2019 to 2023 for the Cambodian film industry as follows:

- ▶ Suspension of the 15% Withholding tax ("WHT") on royalty fees of intangible property such as screening license for films produced in Cambodia
- ▶ Suspension on Tax on Income ("TOI") for Cambodian film production companies.

This instruction also provides the criteria for the film production company to qualify for the above incentives as follows:

- ▶ The company must be registered with the GDT
- ▶ The company must prepare and maintain proper accounting records
- ▶ The company must submit monthly and annual tax returns and
- ▶ The company must comply with other tax obligations.

## **Supporting documents for claiming zero-rated output Value Added Tax (“VAT”) for exported services**

*(Instruction No.9898 GDT released on 10 June 2019)*

Instruction No. 9898 GDT is to clarify the conditions and supporting documents necessary to support a claim of zero-rated output VAT for export services. Under this Instruction, export services are classified into two types as follows:

### **▶ Supply of services performed outside Cambodia**

Services will be considered as performed outside of Cambodia if the service is performed by resident taxpayers in Cambodia by assigning its employee and/or hiring employees or technicians outside of Cambodia to perform the services outside of Cambodia.

### **▶ Supply of services to be used outside Cambodia**

Services will be considered to be used outside Cambodia if is the service is performed in Cambodia by a resident taxpayer and is directly and solely used outside of Cambodia. If the non-resident taxpayer uses the service for the purpose of business or economic interest in Cambodia, at any time, this service shall not be considered to be used outside Cambodia. Under this condition, the resident taxpayers must be responsible for their own assessment to apply zero-rated output VAT on the exported services.

To be entitled to zero-rated output VAT, a company is required to have the following supporting documents:

- ▶ Contract which clearly states the service fee, type of service, and location where the service is performed;
- ▶ Payment remittance form to confirm the payment was received from overseas to a bank in Cambodia;
- ▶ Original invoices and
- ▶ Verifiable accounting records.

## **The GDT's press release on double tax agreement between Cambodia and Hong Kong**

*(Press release dated 26 June 2019)*

The GDT announced in its press release that Cambodia has signed a double tax agreement with Hong Kong on 26 June 2019.

## Contact

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