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CAMBODIA TAX BOOKLET 2023 - 2024

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Quick Reference Tax Rate Tables

Tax on Income

Type	TOI Rate
Standard	20%
Oil or natural gas production sharing contract and the exploitation of natural resources, including timber, ore, gold, and precious stones	30%
Gross premiums received in the tax year for the insurance or reinsurance of property or risk in Cambodia	5%
Tax exemption period, such as for a QIP	0%

Tax on Salary

TAXABLE MONTHLY SALARY		
Khmer Riel (KHR)	Equivalent to US\$*	Progressive tax rate
From 0 - 1,500,000	0 - 375	0%
From 1,500,001 - 2,000,000	375 - 500	5%
From 2,000,001 - 8,500,000	500 - 2,125	10%
From 8,500,001 - 12,500,000	2,125 - 3,125	15%
Over 12,500,000	3,125	20%

*Using an exchange rate of KHR4,000:US\$1.

Withholding Tax

RESIDENT WITHHOLDING TAX	
Type of payment	Rate
Service payments (except payments to those registered for tax that are supported by a valid tax invoice, and for services of less than KHR50,000)	15%
Royalty payments	15%
Interest payments (except those made to domestic banks and those made by domestic banks, as below)	15%
Interest paid by domestic banks on fixed-term deposits	6%

RESIDENT WITHHOLDING TAX	
Type of payment	Rate
Interest paid by domestic banks on non-fixed-term deposits	4%
Rental payments (except payments to those registered for tax that are supported by a valid tax invoice)	10%

NON-RESIDENT WITHHOLDING TAX	
Type of payment	Rate
<p>All payments of Cambodian-sourced income:</p> <ul style="list-style-type: none"> • Interest • Dividends • Income from services performed in Cambodia • Compensation for management and technical services • Rent and other income related to movable or immovable property situated in Cambodia • Royalties or usage rights to intangible property • Gains made from the sale of, or the transfer of any interest in, immovable property located in Cambodia, or capital gains from financial assets and investment assets in Cambodia, or capital gains from the transfer of any or all of the equity in the capital of an entity in Cambodia • Premiums from the insurance or reinsurance of risks in Cambodia • Gains from the sale of movable property that is part of the business property of a PE maintained by a non-resident taxpayer in Cambodia • Income from the business activities of a non-resident, conducted through a PE in Cambodia 	14%

Registration Tax

Applied on:	Registration Tax rate
Transfer of ownership of all immovable property, including buildings and other structures, and land, which also includes the contribution of immovable property as capital in kind into a Cambodian company	4%
Transfer of ownership of all means of transportation, including passenger vehicles	4%
Transfer of ownership or possession of shares in a Cambodian company	0.1%*
Registration of “government contracts related to the supply of goods or services”	0.1%
Certain legal documents, such as for mergers and liquidations	KHR1,000,000

**If the company falls within the definition of a real estate company, a transfer of shares may be subject to a 4% rate instead of the 0.1% rate.*

Specific Tax (not an exhaustive list)

Goods/Services	Rate
Local and international air tickets sold in Cambodia	10%
Entertainment services	10%
Locally-produced or imported cigarettes and cigars	20%
Locally-produced or imported alcoholic beverages (excluding beer)	35%
Locally-produced or imported beer	30%
Lubricants, brake oil, raw materials for producing engine oil (imported)	10%
Local and international telecommunications services	3%
Locally-produced cement	5%
Locally-produced or supplied energy drinks	15%
Locally-produced UHT milk supplement drinks	5%
Locally-produced soy milk	5%
Locally-produced coconut-based drinks	5%

Goods/Services	Rate
Locally-produced coffee-based or coffee-flavored beverages	5%
Locally-produced ready-to-drink non-carbonated beverages	5%
Other locally-produced non-alcoholic beverages and all imported	10%

Other Taxes

Item	Rate	Tax base
Accommodation Tax	2%	Room charges and other related services
Fringe Benefit Tax	20%	Value of the fringe benefit
Minimum Tax	1%	Annual turnover
Patent Tax	From KHR400,000 – KHR5,000,000 per business activity	
Property Rental Tax	10%	Gross rental income
Property Tax	0.1%	80% of the value of the property as per the Property Evaluation Commission less US\$25,000.
Public Lighting Tax	3%* 5%**	<ul style="list-style-type: none"> For importers and manufacturers, tax applies on the value of the taxable product exclusive of VAT and PLT itself. For resellers and distributors, the tax basis is 20% of the amount recorded on the invoice, exclusive of VAT and PLT itself.*
Unused Land Tax	2%	Value of the land as per the Unused Land Valuation Commission

*Only applicable until 31 December 2023.

**New rate effective starting from 1 January 2024.

Abbreviations

Term	Definition
AEC	ASEAN Economic Community
ASEAN	Association of Southeast Asian Nations
AT	Accommodation Tax
ATDD	Advance Tax on Dividend Distribution
CA	Comprehensive Audit
CDC	Council for the Development of Cambodia
CGT	Capital Gains Tax
DA	Desk Audit
DTA	Double Taxation Agreement
FBT	Fringe Benefit Tax
GDT	General Department of Taxation
LA	Limited Audit
LOT	Law on Taxation dated 16 May 2023
MEF	Ministry of Economy and Finance
MT	Minimum Tax
NBV	Net Book Value
NSSF	National Social Security Fund
PE	Permanent Establishment
PIT	Personal Income Tax
PLT	Public Lighting Tax
PTOI	Prepayment of Tax on Income
QIP	Qualified Investment Project
ST	Specific Tax
TIN	Tax Identification Number
TOI	Tax on Income
TOS	Tax on Salary
TP	Transfer Pricing
TSA	Tax Service Agent
VAT	Value Added Tax
WHT	Withholding Tax

Overview

Cambodia has a single taxation regime, known as the “self-assessment regime”, a formalized system of taxation and incentives, with taxpayers being subject to audits.

The General Department of Taxation (“**GDT**”) classifies taxpayers into three categories, as follows:

1. Small taxpayers are sole proprietorships or partnerships that:
 - Have annual turnover of from KHR250 million to KHR 1 billion (approx. US\$62,500 to US\$250,000) or annual total assets of from KHR200 million to KHR1 billion (approx. US\$50,000 to US\$250,000) for the agricultural, service, and trading sectors; or
 - Have annual turnover of from KHR250 million to KHR1.6 billion (approx. US\$62,500 to US\$400,000) or annual total assets of from KHR200 million to KHR2 billion (approx. US\$50,000 to US\$500,000) for the industrial sector; or
 - Have turnover for any three consecutive months of at least KHR60 million (US\$15,000); or
 - Expect to have total turnover in the next three consecutive months of at least KHR60 million (US\$15,000); or
 - Participate in any bidding or quotation for the supply of goods or services, including market stall management (*Phas*).
2. Medium taxpayers are:
 - Entities that have annual turnover of:
 - More than KHR1 billion to KHR4 billion (approx. US\$250,000 to US\$1 million) for the agricultural sector; or
 - More than KHR1 billion to KHR6 billion (approx. US\$250,000 to US\$1.5 million) for the service and trading sectors; or
 - More than KHR1.6 billion to KHR8 billion (approx. US\$400,000 to US\$2 million) for the industrial sector; or
 - Entities that have annual total assets of:
 - From KHR1 billion to KHR2 billion (approx. US\$250,000 to US\$500,000) for the agricultural, service, and trading sectors; or
 - From KHR2 billion to KHR4 billion (approx. US\$500,000 to US\$1 million) for the industrial sector; or

- Entities that have been incorporated as a legal entity, representative office; or
- National and subnational government institutions, all types of organizations or associations, including non-governmental organizations; or
- Foreign consulates and embassies, international organizations, and technical cooperation agencies of other countries.

3. Large taxpayers are:

- Entities that have annual turnover:
 - Exceeding KHR4 billion (approx. US\$1 million) for the agricultural sector; or
 - Exceeding KHR6 billion (approx. US\$1.5 million) for the service and trading sectors; or
 - Exceeding KHR8 billion (approx. US\$2 million) for the industrial sector; or
- Entities that have annual total assets:
 - Exceeding KHR2 million (approx. US\$500,000) for the agricultural, service, and trading sectors; or
 - Exceeding KHR4 billion (approx. US\$1 million) for the industrial sector; or
- Branches of foreign companies or subsidiaries of multinational companies; or
- Entities registered as Qualified Investment Projects (“**QIPs**”).

Anyone falling within one of the above categories is required to begin the tax registration process within 15 working days of commencing business activities or incorporation. One of the main hurdles in registering for tax is the GDT’s requirement that one of the principals of the entity appear in person at the GDT at the time of registration.

A taxpayer’s classification will determine the amount of patent tax that must be paid. Additionally, small taxpayers have fewer requirements when it comes to recordkeeping. Small taxpayers are permitted to use

a simplified accounting system, whereas medium and large taxpayers are expected to keep proper accounting records and books in line with Cambodian Accounting Standards.

Tax service agents

Anyone offering tax services for entities other than their own employer must be licensed as a tax service agent (“**TSA**”) with the GDT. TSAs are required to provide the GDT with a list of staff who are providing tax services on a monthly basis. In addition, taxpayers or withholding agents can submit a protest to the GDT if a TSA is not fulfilling its obligations or providing tax services with professionalism and integrity.

Tax Audits

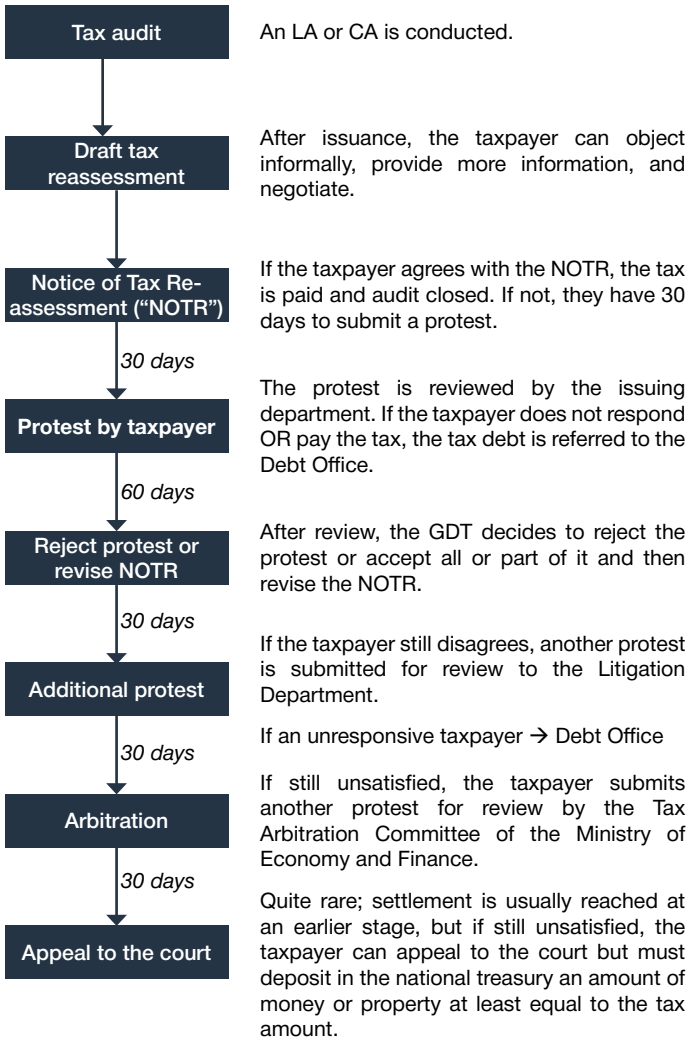
There are three types of tax audits, as follows:

- 1. Desk audit:** A desk audit (“**DA**”) is defined as a re-examination of a tax return, done at the GDT’s office to identify any irregularity or inconsistency between the tax return and other information collected by the GDT that is relatively straightforward to solve. A DA can only be carried out within 12 months after submission of the tax return. If the irregularity or finding is complex or considered high risk by the GDT, the DA will be terminated and replaced with a limited audit (“**LA**”).
- 2. Limited audit:** An LA is a more in-depth re-examination of a taxpayer’s compliance with their monthly tax obligations (the annual Tax on Income (“**TOI**”) return can only be re-examined under a comprehensive audit (“**CA**”). An LA may involve an on-site audit at the taxpayer’s business premises and inspection of the tax returns, actual business activities, accounting records, and other relevant supporting documents. An LA can be carried out for the current tax year (termed as year “**N**”) and the immediately preceding tax year (N-1) only.
- 3. Comprehensive tax audit:** A CA, as its name suggests, is a much more thorough re-examination of a taxpayer’s compliance with their tax obligations (including their annual TOI). A CA can be carried out for the current tax year and the previous three tax years (N-3) only. If there is actual evidence of tax evasion, or losses or tax credits brought forward from previous tax years that require the tax auditors to verify such information, a CA may be extended to include the previous five tax years (N-5). Where there is actual evidence of tax evasion that requires further examination of taxpayers’ records beyond the previous five years, a CA may be extended to cover the statutory period of limitations (which is 10 years per the Law on Taxation dated 16 May 2023 (“**LOT**”)), with prior approval from the Minister of the Ministry of Economy and Finance (“**MEF**”).

Taxpayers will be subject to two types of tax audits for any one tax year. If a taxpayer has obtained Gold compliance status, it will be subject to only one CA every two years and it will not be subject to an LA or DA. This CA however, will cover two tax years. A taxpayer that has Silver status will be subject to only one CA every two years, an LA every year, and no DA. Gold compliance taxpayers thus benefit from having to deal with only one CA team every two years.

The general steps of an audit (for an LA or CA), from inception to resolution, are outlined in the diagram below (note that at any point along the way, the taxpayer can pay the reassessed amount to close the tax audit).

Audit steps, from inception to resolution



Tax on Income

Residency

Resident taxpayers are taxed on income from all sources, both Cambodian and foreign. Non-resident taxpayers are only taxed on income from Cambodian sources.

Resident taxpayers of Cambodia include:

- Any legal entity or partnership organized or managed in Cambodia.
- Any legal entity or partnership having its principal place of business in Cambodia.

Examples of resident taxpayers include:

- A Cambodian company that is registered and headquartered in Cambodia.
- A foreign company that has a branch office in Cambodia.

A non-resident taxpayer will be treated as a Cambodian resident taxpayer for tax purposes if they have a permanent establishment (“**PE**”) in Cambodia. In this case, the non-resident taxpayer will be subject to Cambodian tax on its Cambodian-sourced income only.

A PE is a fixed place of business or an agent in Cambodia through which a non-resident carries on their business. A PE can also be a network or other connection through which a non-resident engages in economic activity in Cambodia.

A person may be considered a PE of a non-resident in Cambodia if they have and regularly use the authority to conclude contracts on behalf of the non-resident or to play a key role in facilitating contracts.

Income derived from Cambodian-based activities or assets located in Cambodia is considered to be from a Cambodian source, regardless of where the payment originated.

Rates of tax

The TOI rates are as follows:

Type	TOI rate
Standard	20%

Type	TOI rate
Oil or natural gas production sharing contract and the exploitation of natural resources, including timber, ore, gold, and precious stones	30%
Gross premiums received in the tax year for the insurance or reinsurance of property or risk in Cambodia	5%
Tax deferral period, such as for a QIP	0%

For insurance companies, the 5% on premiums applies only to non-life insurance or reinsurance, and life insurance or reinsurance that does NOT have any type of savings component. Income from any other activities, including the insurance or reinsurance of life that has a savings component, is taxed as normal at the standard 20% TOI rate.

Prepayment of Tax on Income

Taxpayers are subject to a Prepayment of Tax on Income (“**PTOI**”) calculated at 1% of monthly turnover. Note that this is not actually a separate tax; rather it is a prepayment of either Minimum Tax (“**MT**”) or TOI. The payment is made monthly and is offset against the MT or TOI, whichever is higher, due when the annual TOI return is filed at the year-end.

The term “turnover” is defined as income from the main business activities and subsidiary income. Subsidiary income includes:

- Income from rented immovable property, whether or not the property is involved in the business activities.
- Immovable property given for use for free to a third party: It will be assumed that the taxpayer received taxable income equal to the rental market price for the property.
- Immovable property given for an employee’s private use for free: It will be assumed that the taxpayer received taxable income equal to the rental market price for the property except where the property is given for use to all employees in accordance with the provisions of the Labor Law.
- Royalties: Income from the exploitation of various intangible assets, such as patents, copyrights, models, franchises, brands, know-how, etc.
- Other subsidiary income, which includes mainly income from the sale of scrap and waste, rental of business equipment, income from consigned packaging.

Income exempt from Tax on Income

Income exempt from TOI in Cambodia includes:

- Income of the Royal Government and its institutions.
- Income of any organization operated exclusively for religious, charitable, scientific, literary, or educational purposes, provided no part of the property or income is used for private benefit. If the organization engages in commercial, industrial, or other business activities unrelated to its tax-exempt purpose, those activities will be taxed.
- Dividends received from a resident enterprise, provided the enterprise has already paid tax on the profits from which the dividends were distributed.

QIP companies are eligible for a variety of tax incentives, including tax exemptions. For more information, please see the “Qualified Investment Projects” section later.

Calculation of taxable income

Taxable income must be calculated on an annual basis by adjusting the accounting income for expenses that are not deductible or are subject to limitation under the tax law, such as entertainment expenses.

Income included in calculating taxable income comprises business income from the operations of the entity, along with other types of income, such as capital gains from the disposal of assets, rental income, royalty income, and interest income.

Deductible expenses

As a general rule, expenses are deductible if they are paid or incurred in a tax year to carry on the business of the taxpayer. There are further provisions which disallow specific types of expenses, as follows:

Type of expense	Deductibility
Personal expenses	Non-deductible
Donations and grants (not including charitable contributions)	Non-deductible
Tax payments, tax penalties, and interest on penalties	Non-deductible
Losses on sales of property between related parties	Non-deductible

Type of expense	Deductibility
Expenses not related to the business, extravagant expenses of little use to the business	Non-deductible
Amusement, recreation, or entertainment expenses	Non-deductible
Withholding Tax (“ WHT ”), Tax on Salary (“ TOS ”), and Fringe Benefit Tax (“ FBT ”) paid on behalf of recipients	Non-deductible
Expenses pertaining to previous or subsequent periods	Non-deductible
Provisions	Generally non-deductible, with some exceptions
Depreciation	Deductible when calculated using the method set out in the tax law
Unpaid expense due to unrelated parties	Deductible if it is a genuine liability
Unpaid salary	Deductible if paid within 180 days after the end of the tax year
Related party expense that is not salary	<ul style="list-style-type: none"> • Deductible if paid within 180 days after the end of the tax year to a related party who is under the self-assessment regime. • Deductible if paid to a related party who is not under the self-assessment regime when the actual payment is made.
Interest expense	<p>Deduction is limited to an amount equal to 50% of adjusted income without taking into account any interest income or expense, plus the interest income.</p> <p>Non-deductible interest expense can be carried forward for up to five years after the year the interest expense was incurred.</p>

Type of expense	Deductibility
Charitable contribution	Deduction is limited to an amount equal to 5% of taxable income, before taking the charitable contribution deduction.

Deductible interest expense on loans with related parties

There is a further limitation on the deduction of interest expenses with regard to related parties. Loans from related parties are exempt from compliance with the arm's length principle if the entity has the following loan transaction supporting documents from the related party:

- Loan agreement that specifies the term of the loan and repayment plan;
- Business plan or current and forecasted financial statements along with the purpose of the borrowing and explanations; and
- Board of Directors' resolution (for an entity that is not a single-member private limited company).

When an entity borrows money from a related party, the loan interest rate cannot exceed the market interest rate at the time of the borrowing. The market interest rate is issued annually by the GDT and is the average of the interest rates of at least five local commercial banks.

Deductible interest expense on loans with unrelated parties

For loan transactions with unrelated parties, the allowed tax-deductible interest rate is up to 120% of the market interest rate.

Depreciation

Under Cambodian tax law, depreciation rates and methods are specified based on the asset class, and therefore, only the depreciation expense allowed under the rate for the asset's particular class may be deducted in calculating taxable income.

	Asset	Depreciation rate	Depreciation method
Tangible property	Class 1: i. Concrete buildings, roads, railways, and transport ships ii. Non-concrete buildings	5% 10%	Straight Line
	Class 2: Computers, electronic information systems, data handling	50%	Declining Balance
	Class 3: Automobiles, trucks, office furniture and equipment	25%	Declining Balance
	Class 4: All other tangible assets	20%	Declining Balance

	Asset	Depreciation rate	Depreciation method
Intangible Property	Having no specific useful life	10%	Straight Line
	Having a specific useful life	Over the useful life of the property	Straight Line

Depreciation Method	
Natural resources	The balance of the natural resource account multiplied by the ratio of the quantity extracted during the taxable year to the total estimated extraction from the natural resources.

	Asset	Depreciation rate	Depreciation method
Long-term agricultural assets	Rubber plantations		
	Years 1 – 2	3%	
	Years 3 – 4	4%	
	Years 5 – 10	5%	
	Years 11 – 12	7%	
	Years 13 – 15	6%	
	Years 16 – 19	5%	
	Year 20	Remaining balance	
	Agricultural plantations other than rubber plantations	Over the useful life*	Straight Line
		5%*	
Animal husbandry	Over the useful life*	Straight Line	
	10%*		

**Depreciation is calculated using either the straight-line depreciation method over the life of the harvest or a percentage per year (5% for agricultural plantations other than rubber plantations and 10% for animal husbandry), whichever is shorter.*

QIP companies may elect to benefit from a special depreciation rate of 40% in the first year of use of an asset in addition to the normal tax depreciation charge. See further details in the “Qualified Investment Projects” section later.

Tax depreciation commences in the tax year when the asset is put into service or in the first year of production, and a full year of depreciation is taken (no matter what point in the year this occurs). No tax depreciation is claimed in the year of disposal.

Fixed assets in Classes 2 to 4 are accounted for on a pooled basis, and therefore capital gains or losses on the disposal of fixed assets are not calculated individually but rather are calculated based on the result of the pooled asset account.

Utilization of losses

Tax losses can be carried forward for a maximum of five years (except for tax losses from petroleum and mineral resource operations, which are covered by separate rules). Losses cannot be carried back. If the following criteria are not met, the taxpayer may have to forfeit their tax losses:

- There has not been a change in business activity during the year; and
- There has not been a unilateral tax reassessment in that particular year.

Minimum Tax

MT is a separate and distinct tax from TOI, and is calculated at 1% of annual turnover. See the discussion under the “Prepayment of Tax on Income” section for a discussion of what constitutes turnover.

A taxpayer will be subject to either TOI or MT, whichever is greater. Regardless of whether a taxpayer is subject to MT, monthly PTOI payments are still required to be made, which are similarly calculated at 1% of monthly turnover. The monthly PTOI payments can be credited against the MT or annual TOI liability, as applicable.

The GDT allows for an exemption from MT for all taxpayers maintaining proper accounting records, imposing MT only on taxpayers found to have “improper accounting records”. Prakas 638 details what are considered improper accounting records. In order to access the exemption, taxpayers must apply to the GDT for an evaluation of their compliance and obtain written confirmation that they are maintaining proper accounting records.

In addition, per Article 24 of the LOT, QIPs are exempt from MT provided they maintain audited financial statements.

Withholding Tax

Overview

Certain payments are subject to WHT that must be deducted by the payer at the time of payment. WHT is imposed at varying rates depending on the transaction type and whether the payment recipient is a resident or a non-resident.

WHT is a tax on the income recipient; however, the responsibility for deduction and making payment to the GDT is placed on the party that makes the payment, referred to as the “withholding agent”.

Resident WHT

Payments of certain Cambodian-sourced income by a resident taxpayer carrying on a business in Cambodia, to a Cambodian resident taxpayer, are subject to the following WHT:

Type of payment to a resident	Rate
Service payments (except payments to those registered for tax that are supported by a valid tax invoice, and for services of less than KHR50,000)	15%
Royalty payments	15%
Interest payments (except those made to domestic banks and those made by domestic banks, as below)	15%
Interest paid by domestic banks on fixed-term deposits	6%
Interest paid by domestic banks on non-fixed-term deposits	4%
Rental payments (except payments to those registered for tax that are supported by a valid tax invoice)	10%

Non-resident WHT

WHT at the rate of 14% must be deducted from payments of Cambodian-sourced income made by a resident carrying on business (including a PE of a non-resident taxpayer), to a non-resident. Per Article 33 of the LOT, Cambodian-sourced income is any of the following:

- Interest paid by a resident entity, a resident partnership, or a governmental institution of Cambodia
- Dividends distributed by a resident entity
- Income from services performed in Cambodia

- Compensation for management or technical services paid by a Cambodian resident person
- Rent and other income related to movable or immovable property situated in Cambodia
- Royalties or usage rights to intangible property paid by a resident or paid by a non-resident through a PE they maintain in Cambodia
- Gains made from the sale of, or the transfer of any interest in, immovable property located in Cambodia, or capital gains from financial assets and investment assets in Cambodia, or capital gains from the transfer of any or all of the equity in the capital of an entity in Cambodia
- Premiums from the insurance or reinsurance of risks in Cambodia
- Gains from the sale of movable property that is part of the business property of a PE maintained by a non-resident taxpayer in Cambodia
- Income from business activities of a non-resident, conducted through a PE in Cambodia

If a double taxation agreement (“**DTA**”) is in force, reduced rates may be available. Please refer to the “Double Taxation Agreements” section for a list of the DTA signatory jurisdictions at the time of printing.

The liability for WHT rests with the withholding agent (i.e. the Cambodian payer). The GDT has no recourse to recover WHT from the recipient of the income payment. The WHT is payable on either the date the payment is made or the date the applicable transaction is recorded in the books, whichever comes first.

Advance Tax on Dividend Distribution

Advance Tax on Dividend Distribution (“**ATDD**”) is a mechanism that was set out under Article 23 of the LOT to ensure that dividend distributions made by a Cambodian company were subject to the appropriate TOI rate. Typically, most dividend distributions made by a Cambodian company come from retained earnings after TOI has been declared and paid; however, in some circumstances, the ATDD mechanism is used to ensure that TOI is paid at the time of the dividend distribution.

Note that the scope of a dividend distribution made by a Cambodian entity for tax purposes was expanded to include retained earnings and year-to-date earnings relating to a share transfer; this in turn has expanded the application of ATDD (see the next section on “Withholding taxes on undistributed dividends”).

Some items of note regarding ATDD are as follows:

- Dividends distributed by QIP entities to their shareholders during their TOI exemption period are not subject to ATDD.
- Remitted ATDD can be utilized as a tax credit in a taxpayer's annual TOI declaration for the tax year in which the ATDD was declared and paid.
- If the ATDD is higher than the annual TOI liability, the excess tax credit can be carried forward until it is fully utilized.
- ATDD also applies to the repatriation of profits by a Cambodian branch of an overseas principal if that distribution had not yet been subject to the applicable TOI rate in Cambodia.
- The repatriation of taxable income by a Cambodian branch to its overseas principal is considered as income from business activities carried out by a non-resident through a PE under Article 33(10) of the LOT and as such, would also be subject to WHT of 14%.
- To calculate the ATDD, the dividend must first be grossed up for income tax, as shown in the calculation below:

Calculation of ATDD	
<ul style="list-style-type: none"> • Gross up for income tax 	
Dividend before tax =	$\frac{\text{Dividend receivable}}{1 - \frac{20}{100} \text{ (Tax rate)}}$
<ul style="list-style-type: none"> • ATDD = Dividend before tax X 20% (TOI rate) 	

Withholding taxes on undistributed dividends

The main points regarding the expansion of the definition of what is considered a dividend distribution and the tax treatment are summarized below:

- The conversion of part or all of an entity's retained earnings into registered share capital is not considered to be a dividend distribution, and thus not subject to 14% WHT.
- The sale by an existing shareholder of shares that were previously converted from retained earnings is treated as a dividend distribution and subject to 14% WHT. The amount treated as a dividend distribution will not exceed the previously converted retained earnings.
- When a shareholder sells some or all of their shares, then the retained earnings (even though undistributed) attributable to such shares is treated as a dividend distribution and subject to 14% WHT.
- Any reduction in the registered share capital where such shares were previously converted from retained earnings is also considered to be a dividend distribution and subject to 14% WHT.

Deductibility of withholding taxes

WHT is a tax on the income of the recipient and not the withholding agent. Hence, if the WHT is not deducted from the payment and is borne by the withholding agent, it is not deductible by the withholding agent.

Tax on Salary

Overview

Employers are liable to deduct TOS from payments of salaries, wages, and other remuneration made to all employees. Employees that are tax residents of Cambodia are taxed on their worldwide employment income at progressive rates, whereas non-residents are taxed only on their Cambodian-sourced employment income at a flat rate.

Residency

An individual is considered as a resident for tax purposes if they fulfill any one of the following criteria: (1) their residence is in Cambodia; or (2) their principal place of abode is in Cambodia; or (3) they are present in Cambodia for more than 182 days in any period of 12 months ending in the current tax year.

Taxable salary

Salary as defined by the LOT and the TOS Prakas 543 dated 8 September 2021 includes *“remunerations, wages, bonuses and overtime, compensations, and fringe benefits which are paid to an employee, or which are paid for the direct or indirect advantage of the employee for the fulfillment of employment activities”*.

Payments that are exempt from TOS include reimbursements of business expenses incurred by the employee on a work assignment, indemnity payments upon employee dismissal up to a limit, social security contributions, and uniforms and equipment required for the performance of employment duties.

Deductions

Deductions for dependent family members reduce the monthly taxable base on which TOS is calculated. A deduction of KHR150,000 per month (approximately US\$37.50) applies for each minor dependent child under 14, or under 25 and in full-time education, and a deduction for the same amount applies for one non-working spouse.

Rates of tax

Non-residents are subject to TOS only on their Cambodian-sourced employment income at a flat rate of 20%. Residents are taxed on their worldwide employment income at the following progressive rates:

TAXABLE MONTHLY SALARY		
Khmer Riel (KHR)	Equivalent to US\$*	Progressive tax rate
From 0 - 1,500,000	0 - 375	0%
From 1,500,001 - 2,000,000	375 - 500	5%
From 2,000,001 - 8,500,000	500 - 2,125	10%
From 8,500,001 - 12,500,000	2,125 - 3,125	15%
Over 12,500,000	3,125	20%

*Using an exchange rate of KHR4,000:US\$1.

Fringe Benefit Tax

Employers may also provide employees with additional cash or in-kind employee benefits, such as home leave air tickets or private use of motor vehicles. These fringe benefits are subject to a flat FBT of 20% on the market value of the fringe benefits provided to an employee.

Certain benefits provided to all employees are exempt from FBT. These include items such as meal allowances or transportation allowances. In order to benefit from this tax exemption, the employer is required to provide a notification to the GDT.

National Social Security Fund

Employers having one or more employees must register with the National Social Security Fund (“**NSSF**”) and make NSSF contributions for three different schemes on a monthly basis, as follows:

1. For work-related injuries and compensation for loss of earning capacity because of injuries sustained at work: The NSSF contribution, made by the employer only, is 0.8% of the employee’s average monthly salary up to a maximum contribution of KHR9,600 (approximately US\$2.40).
2. For healthcare: The contribution, which is made by the employer only, is 2.6% of the employee’s average monthly salary up to a maximum contribution of KHR31,200 (approximately US\$7).
3. For the pension scheme: This is a 50/50 contribution made by the employer and the employee. For the years 2021-2025, it is 4% (2% by the employer and 2% by the employee) of the employee’s contributable monthly wage, which ranges from KHR400,000 (approximately US\$100) to KHR1,200,000 (approximately US\$300), or a total contribution of from KHR16,000 to KHR48,000 (approximately US\$4 to US\$12) per month per employee. For the years 2026-2030, the rate will increase to 8%.

Value Added Tax

Overview

VAT is applicable on the taxable supply of goods and services. An entity registered under the VAT provisions is required to charge VAT on all sales of taxable supplies (output VAT). Such entities can offset the VAT paid on purchases (input VAT) against their output VAT.

Scope of application

Taxable supplies are the supply of goods, services, or imports for taxable sale or for use in producing taxable supplies. Taxpayers must charge and collect VAT on taxable supplies. The supply of goods includes the transfer of the right to movable property—meaning all property except land or money.

Sale of land and buildings

For the sale of land with buildings, registered taxpayers are required to charge VAT on the building component (but not on the land component).

Non-taxable goods and services

In order to promote the provision of certain key public services, specific taxable supplies have been exempted from VAT. The following is a list of non-taxable supplies under Article 63 of the LOT:

- Public postal services
- Hospital, clinic, medical, and dental services, and the sale of medical and dental goods incidental to the performance of such services
- Transportation of passengers by a wholly state-owned public transportation system
- Insurance services
- Primary financial services
- Imported articles for personal use that are exempt from customs duty
- Non-profit activities in the public interest that have been recognized by the MEF
- Education services
- The supply of electricity and clean water
- Unprocessed agricultural products
- Services related to the collection and/or cleaning of solid or liquid waste

If a business makes non-taxable supplies only, it will not be able to claim any input VAT; the VAT on purchases must be borne as a cost. If a

business makes a mix of non-taxable and taxable supplies, it will be able to claim a portion of input VAT based on the portion of taxable supplies.

Prohibited input VAT

Under Article 70 of the LOT, VAT incurred on certain purchases may not be used as an input VAT credit for offsetting against output VAT. These are:

- Entertainment, amusement, and recreation expenses unless the taxpayer carries on a business as a provider of entertainment, amusement, or recreation
- Purchases or imports of automobiles, unless the taxpayer carries on a business dealing in, or hiring out such automobiles
- Purchases or imports of certain petroleum products, unless the taxpayer carries on a business as a supplier of such petroleum products
- Mobile phone use (input VAT is allowed only for telephone charges made from office desk phones)

Registration

Compulsory VAT registration applies to any self-assessment taxpayer who makes taxable supplies. Further, all companies, import/export businesses, and QIPs must register for VAT. Other taxpayers are required to register as VAT taxpayers if they meet certain turnover thresholds. Other businesses not compelled to register by law may register voluntarily; however, it is not possible for a non-resident to register voluntarily for VAT purposes, other than for VAT on e-commerce activities.

Taxpayers in Cambodia who are registered under the self-assessment regime are assigned a VAT tax identification number (“**TIN**”). Generally, such VAT TIN is used by taxpayers in all of their tax filings in Cambodia.

Rates of tax

Taxable supplies made in or imported into Cambodia are subject to VAT at one of two rates:

Type of supply	Rate
Standard rate	10%

Type of supply	Rate
Zero-rated supplies, which include: <ul style="list-style-type: none"> • Exported goods • Exported services • The supply of international transportation services • Services in support of the supply of international transportation • Other specific sectors, including supporting industries that supply the export-oriented garment, textile, and footwear industries; the supply of rice; and the import and supply of certain goods for agricultural purposes 	0%

Zero-rated supplies are not the same as non-taxable supplies, as it is possible for entities providing zero-rated supplies to claim input VAT credit.

Basis of taxation

For local supplies, the cost of the goods or services is the tax base. For imports, the tax base is the CIF value plus customs duty plus any Specific Tax (“**ST**”).

Proper tax invoices

Taxpayers must issue valid tax invoices for all sales of taxable supplies. In order for a tax invoice to be considered valid, it must contain the following details:

- Entity name, address, and VAT TIN of the seller or supplier
- Sequential invoice number
- Date the invoice is issued
- Name, address, and VAT TIN of the buyer
- Description of the goods or services, and the quantities and selling prices of the goods or services
- The total price of each good or service, exclusive of VAT, and the total price, which must be in KHR
- Each tax amount, if the goods or services are subject to ST, Public Lighting Tax (“**PLT**”), or Accommodation Tax (“**AT**”), and the VAT amount
- Signature and name of both the seller and the buyer (for buyers who are self-assessment taxpayers)

In addition, the invoice wording must be in Khmer or in both Khmer and

English, with the English wording written below the Khmer.

The GDT will seek to deny expense deductions or input VAT claims if they are not supported by valid tax invoices.

VAT on e-commerce transactions

Over the past few years, the GDT has issued several pieces of legislation to begin taxing e-commerce activities carried out by non-residents, starting with the E-Commerce Law in 2019. After several delays, the implementation of VAT on e-commerce activities began in April 2022.

E-commerce activities refer to the online purchase, sale, rent, or exchange of goods or services, including commercial activities. Examples include the supply of software and other related services, online shopping or auctions, advertising, website hosting, data retrieval, and the consumption of digital products and/or content via downloading, real-time streaming, subscription, or other means.

For business to business e-commerce transactions, there is a reverse charge mechanism for the payment of VAT on imported digital goods and services, whereby the resident business is responsible for remitting the tax to the GDT.

However, this mechanism does not work for business to end customer e-commerce transactions. Thus, the GDT has introduced a simplified VAT registration procedure for non-resident taxpayers, who are then expected to declare and pay the VAT on such transactions to the GDT.

VAT on tangible fixed assets that are no longer in use

The GDT has specified rules for the application of VAT on the sale or disposal of tangible fixed assets that are no longer in use (defined as those that are still being maintained but have not been used in the business operations for at least one year).

- Sales of the assets (including as scrap) are subject to 10% VAT, regardless of whether an input VAT credit was claimed at the time of purchase.
- Disposals of assets that are destroyed, damaged, or have no sales value are not subject to 10% VAT, provided that there is clear evidence of the disposal. For assets with an accounting net book value (“NBV”) of KHR200,000 or more (approx. US\$50), entities must provide the GDT with at least 10 working days’ advance notice so that a tax official can witness the disposal.

- Charitable contributions (as stated in Article 16 of the LOT) of the assets for which the taxpayer has already claimed an input VAT credit are not treated as sales subject to 10% VAT and TOI if they are:
 - Class 2 tangible fixed assets that have been used in the business for over three years and have an accounting NBV of no more than KHR1 million (approx. US\$250); or
 - Class 3 or 4 tangible fixed assets that have been used in the business for over five years and have an accounting NBV of no more than KHR2 million (approx. US\$500).
- Sales or disposals of Class 1 tangible fixed assets (whether newly built or purchased) that have not yet been put into use in the business and for which an input VAT credit has been claimed are not treated as sales for VAT purposes. If a Class 1 tangible fixed asset has been put into use in the business but has ceased to be used for more than one year, the taxpayer must notify the GDT with an appropriate reason for no longer using the asset to be exempt from the obligation to pay 10% VAT.

VAT credits and refunds

Requesting a VAT credit (medium and large taxpayers)

- Input VAT credits must be filed through the GDT's monthly e-filing system.
- They can only be filed in the month in which the local taxable supply or importation of goods occurred.
- They can only be claimed on VAT-taxable supplies or importations for use in the provision of VAT-taxable supplies. Taxpayers who supply non-VAT-taxable goods or services cannot claim an input VAT credit.
- Documentation to support the input VAT credit must be maintained:
 - For local purchases: Original tax invoices that meet the GDT's criteria. Input VAT credits are not permitted with commercial invoices.
 - For imports: The customs declaration and original payment receipts with the valid name and information of the requesting enterprise.

Requesting a VAT refund (medium and large taxpayers)

- Taxpayers whose main activity involves exports or who are registered as a QIP, and other taxpayers who have input VAT credits for more than three consecutive months, can request a VAT refund.
- To receive a VAT refund within the timeframes below, taxpayers must submit their VAT refund request within three or six months, preferably, but not later than one year:

- For not-for-profit entities (including diplomatic missions, foreign councils, international non-governmental organizations, and technical cooperation agencies of other governments): 15 business days.
- For companies: 40 business days (may be shorter for taxpayers who have Gold compliance status).
- If a taxpayer accumulates input VAT credits and fails to request a refund for more than one year, the timeframes above will not apply.
- Refunds will not be granted if taxpayers accumulate input VAT credits for more than three years (N-3).
- Taxpayers are required to keep their bank account information and company information up to date with the GDT.
- Taxpayers must provide the required documents and VAT accounting records promptly and in full to avoid having the GDT decline or suspend the VAT refund request until the documents and records are provided.
- The GDT may temporarily suspend a VAT refund if the entity requesting the refund has outstanding tax liabilities or is subject to tax reassessment, until the tax arrears or tax reassessment is settled.

Capital Gains Tax

Overview

Cambodia introduced a capital gains tax (“**CGT**”) regime with the issuance of Prakas No. 346 dated 1 April 2020, with the imposition of CGT at a rate of 20% on the capital gains derived by resident physical persons and non-residents (both legal and physical). Implementation has been delayed several times and is now slated to begin on 1 January 2024 for all but the real estate sector; implementation for that sector has been delayed until the end of 2024.

The term “capital” refers to immovable property, financial leases, investment assets (including shares, bonds, and other securities), goodwill, intellectual property, and foreign currency. A capital gain is the taxable income from the sale or transfer of capital less allowable expenses. It is considered as realized at the time of:

- The sale or transfer of ownership of the assets;
- The registration of the transfer of ownership with the competent authority; or
- A final verdict of a court on the transfer of property.

CGT exemption

An exemption from CGT applies on sales or transfers under any of the following conditions:

- The property is owned by a state institution.
- The property is owned by a foreign diplomatic or consular mission, an international organization, or a technical cooperation agency of another government.
- The property is the primary residence of the taxpayer.
- The sale or transfer is of an immovable property among certain relatives.
- The property is used for the public interest in accordance with the Law on Expropriation.
- The sale or transfer is of agricultural land owned or occupied by a farmer who is actually cultivating crops and has a residential address in the commune or district where the agricultural land is located.

Deduction rules for capital gains

- For capital gains on immovable property, taxpayers have the option to select one of the following two methods:
 - Determination-based expense deduction: A deduction of 80% of the proceeds from the property’s sale or transfer.

- Actual expense-based deduction: A deduction of the actual expenses incurred.
- For capital gains on other than immovable property, taxpayers can deduct expenses using the actual expense-based deduction method.
- If taxpayers choose the actual expense-based deduction method and the expenses incurred exceed the proceeds from the sale or transfer of the property, the excess amount cannot be refunded or used as an offset against other capital gains.

Obligation to file tax returns and make tax payments

Taxpayers and withholding agents must submit their CGT declaration in the format specified and remit payment to the GDT no later than three months after realization of the capital gain. However, as of the time of printing, a CGT regime has not yet been implemented, and there is no mechanism in place for submitting such a return to the GDT.

Personal Income Tax

Under the 2019 Financial Law, Cambodia introduced a new personal income tax (“**PIT**”) law that requires physical persons with taxable income (i.e. total income offset by expenses and other allowances) from their business and other activities, including from capital gains, interest, rental fees, royalties, and financial or investment property, to pay PIT.

The TOI thresholds for the taxable income earned by physical persons, sole proprietorships, and the distributive share of each member of a partnership that is not classified as a legal entity starting on 1 January 2023 are shown in the table below.

However, as of the time of printing, a PIT/individual TOI regime has not yet been implemented, and there is no requirement or mechanism to submit such a return to the GDT. Currently, individuals pay TOS and FBT on their employment income via withholding by their employer (refer to the “Tax on Salary” section of this booklet for details).

ANNUAL INCOME THRESHOLDS FOR INDIVIDUAL TOI		
Khmer Riel (KHR)	Equivalent to US\$*	Progressive tax rate
From 0 - 18,000,000	0 - 4,500	0%
From 18,000,001 - 24,000,000	4,500 - 6,000	5%
From 24,000,001 - 102,000,000	6,000 - 25,500	10%
From 102,000,001 - 150,000,000	25,500 - 37,500	15%
Over 150,000,000	37,500	20%

*Using an exchange rate of KHR4,000:US\$1.

Specific Tax

Overview

ST is a form of excise tax imposed on the importation or domestic production and supply of certain goods and services. Tax is levied once only; for imports, this is at the inward checkpoint, and for domestic goods, it is upon the sale from the factory if the products are locally produced.

We expect that, in light of the reduction in import duty tariffs as noted in the “Customs Duty” section, greater emphasis will be placed on excise tax in the future. Accordingly, it is likely that there will be a number of changes to the calculation and collection of ST.

Rates of tax

The ST amount due is calculated by applying the applicable rate to the applicable tax base, as per the table below (not an exhaustive list):

Goods/Services	Rate
Local and international air tickets sold in Cambodia	10%
Entertainment services	10%
Locally-produced or imported cigarettes and cigars	20%
Locally-produced or imported alcoholic beverages (excluding beer)	35%
Locally-produced or imported beer	30%
Lubricants, brake oil, raw materials for producing engine oil (imported)	10%
Local and international telecommunications services	3%
Locally-produced cement	5%
Locally-produced or supplied energy drinks	15%
Locally-produced UHT milk supplement drinks	5%
Locally-produced soy milk	5%
Locally-produced coconut-based drinks	5%
Locally-produced coffee-based or coffee-flavored beverages	5%
Locally-produced ready-to-drink non-carbonated beverages	5%

Goods/Services	Rate
Other locally-produced non-alcoholic beverages and all imported	10%

Basis of taxation

For locally supplied goods, ST is calculated on the “ex-factory selling price”, which is defined as 90% of the selling price excluding VAT, PLT, and ST itself. For locally supplied services, the tax base is the invoice price of the services supplied.

For imported goods, ST is calculated inclusive of customs duty and CIF value, excluding VAT.

Customs Duty

Import duties

There are a number of goods on which import duty applies when they are brought into Cambodia, with some exemptions, including goods temporarily imported into Cambodia, goods for personal use, goods exempted by international treaty, humanitarian aid, and imports for use by a QIP. Exemptions from import duty may also be granted by the Council for the Development of Cambodia (“**CDC**”) for specific industries.

Customs duty is levied on goods entering Cambodia at rates of from 0% to 35%. Cambodia is part of ASEAN and therefore party to the ASEAN Free Trade Agreement and Common Effective Preferential Tariff scheme. This requires ASEAN Member States to offer preferential tariff rates on a broad range of products originating from other ASEAN countries.

Accordingly, the customs duty rates in Cambodia have been reduced so that now many goods originating from other ASEAN countries have a maximum 5% import duty imposed.

Export duties

There are no export duties other than on a limited list of restricted products at rates of 2% to 10%, as follows:

- Natural rubber
- Uncut precious gemstones
- Processed wood
- Fish, crustaceans, mollusks, and other aquatic products

Other Taxes

Tax on property rental

House and land rental tax is set at 10% of gross rental income from the lease of buildings and land, when the lessor is an individual.

Fiscal stamp tax

A fiscal stamp tax is due on advertising leaflets and banners, levied at different bands of rates, based on the dimensions of the advertising item, the number of letters, and whether the lettering is in Khmer only or includes a foreign language.

Patent tax

Patent tax is a registration tax that is paid by all business entities upon establishment of a business and by 31 March on an annual basis thereafter. Patent tax ranges from KHR400,000 to KHR5,000,000 (approximately US\$100 to US\$1,250) depending on the taxpayer's classification, and must be paid for each separate business activity, and for each branch located in a different province.

Registration tax

Also referred to as seal tax or stamp duty, registration tax is a tax imposed on the transfer of ownership or possession of certain types of property.

It is payable by the person who receives the ownership and is applied to the transfer value at rates as follows:

Applied on:	Registration Tax rate
Transfer of ownership of all immovable property, including buildings and other structures, and land, which also includes the contribution of immovable property as capital in kind into a Cambodian company	4%
Transfer of ownership of all means of transportation, including passenger vehicles	4%
Transfer of ownership or possession of shares in a Cambodian company	0.1%*

Applied on:	Registration Tax rate
Registration of “government contracts related to the supply of goods or services”	0.1%
Certain legal documents, such as for mergers and liquidations	KHR1,000,000

**If the company falls within the definition of a real estate company, a transfer of shares may be subject to a 4% rate instead of the 0.1% rate.*

There are certain exemptions and relief available on the transfer of immovable property between relatives.

The tax base used to calculate the registration tax on the transfer of immovable property is the value set by the MEF for all cities and provinces in Cambodia.

Unused land tax

Land is determined to be unused if it does not have any structure on it or there is a structure, but it is unused. Unused land tax is levied on an annual basis at a rate of 2% on the market value per square meter, with the market value determined by the Unused Land Valuation Commission. The unused land tax is paid annually by the landowner. Since the introduction of property tax, if property tax is paid on a piece of land, then unused land tax no longer applies.

Accommodation tax

AT is an indirect tax imposed on the supply of accommodation services at a rate of 2%, inclusive of other service charges and taxes except VAT and AT itself. AT must be charged by hotels, hotel apartments, motels, lodges, guesthouses, campgrounds and similar, but does not include the rental of houses or apartments.

Public lighting tax

PLT is an indirect tax imposed on sales of alcohol and cigarettes at all stages of supply, on both imports and locally-produced goods. All types of cigarettes, including e-cigarettes, and alcohol, including beer, grape wine, and spirits, with the exception of palm wine, are subject to PLT. The PLT rate is 3%. The basis used to calculate the tax varies as follows:

- Importers and manufacturers – The basis is the value of the product, excluding VAT and PLT itself.

- Resellers and distributors – The basis is 20% of the selling price, excluding VAT and PLT itself.

The above will be valid until 31 December 2023.

Starting from 1 January 2024, the new PLT rate will be 5%. In addition, PLT is to be applied and paid only at the time of the initial stage of supply. This means that PLT will be applied only one time, either when first sold after import or sold from the factory. Resales of alcohol and cigarettes will no longer be subject to PLT.

Property tax

Property tax is a direct tax imposed on the value of immovable property, including land and buildings. Tax at the rate of 0.1% applies on the tax base of 80% of the property value as per the valuation issued by the Property Evaluation Commission less KHR100 million (approx. US\$25,000).

Property taxpayers may be individuals or companies. Owners, possessors, or “final beneficiaries” of immovable property may be liable for the property tax. A final beneficiary includes those with the right to use the property, and so includes long-term lessees.

Administration

Tax	Filing and payment date
Accommodation Tax	AT is declared in the PTOI return, due with payment by the 25 th of the month following the time of supply (e-filing).
Advance Tax on Dividend Distribution	ATDD must be paid and declared on the PTOI return, by the 25 th of the month following the month the dividend was paid out (e-filing).
Customs Duty	Customs duty is collected by the customs administration at the time of import.
Minimum Tax	MT must be paid at the same time the annual TOI return is due, that is, 3 months after the end of the tax year.
Patent Tax	Patent tax is payable by 31 March each year.
Prepayment of Tax on Income	PTOI must be paid and filed by the 25 th of the following month (e-filing).
Property Tax	Property tax is due on an annual basis by 30 September each year.
Public Lighting Tax	PLT is declared in the PTOI return, due with payment by the 25 th of the month following the supply (e-filing).
Registration Tax	Registration tax is due within 3 months of the transfer.
Specific Tax	ST on domestic sales must be paid and declared on the PTOI return, by the 25 th of the month following the time of supply. ST on imported goods is due at the time of import, and is collected by the customs administration along with VAT and customs duty (e-filing).
Tax on Income	TOI must be paid and filed within 3 months of the end of the tax year, which is normally 31 December unless an application to amend the tax year is approved.
Tax on Salary	TOS and FBT are deducted by the employer and remitted to the GDT by the 25 th of the month following the month that the salary and fringe benefits were provided to the employee (e-filing).

Tax	Filing and payment date
Unused Land Tax	Unused land tax is due on an annual basis by 30 September each year.
Value Added Tax	VAT must be paid on the 25 th of each month for the VAT liabilities accrued during the previous month. VAT on imported goods is collected by the customs administration at the time of import (e-filing).
Withholding Tax	WHT must be paid to the GDT by the 25 th of the month following the month in which the payment is made or accrued (e-filing).

Double Taxation Agreements

At present, Cambodia has DTAs with 11 jurisdictions, 10 of which are already or will be in effect as of 1 January 2024, as shown in the table below.

These developments represent a major milestone in Cambodia's ongoing tax evolution, and in practical terms, include the reduction of withholding taxes on certain cross-border transactions.

Parties to the DTA	Date of Effect
Republic of Singapore	1 January 2018
Kingdom of Thailand	1 January 2018
Brunei Darussalam	1 January 2019
People's Republic of China	1 January 2019
Socialist Republic of Vietnam	1 January 2019
Hong Kong	1 January 2020
Republic of Indonesia	1 January 2021
Malaysia	1 January 2021
South Korea	1 January 2022
The Macau Special Administrative Region of the People's Republic of China	1 January 2024
Turkey	To be determined

In order to utilize DTA benefits, an application must be made to the GDT, which if approved, is valid for one year. Below is a comparison table showing the key points of the 10 DTAs with effective dates at the time of printing.

	Brunei	China	Hong Kong, Macau, Singapore and Thailand	Indonesia and Vietnam	Malaysia	South Korea
Withholding tax rates on:						
Dividends	10%	10%	10%	10%	10%	10%

	Brunei	China	Hong Kong, Macau, Singapore and Thailand	Indonesia and Vietnam	Malaysia	South Korea
Royalties	10%	10%	10%	10%	10%	10%
Interest	10%	10%	10%*	10%	10%	10%
Technical service fees	14%	10%	10%	10%	10%	10%
Permanent establishment time test:						
Building site	183 days	9 mos.	6 mos.	183 days	9 mos.	9 mos.
Project services	183 days	-	183 days	183 days	183 days	6 mos.

*For Thailand, if the recipient is a financial institution.

The significant differences between the DTAs are highlighted below:

- **Technical service fees:** The Brunei DTA provides for technical service fees to be taxed at 14%, in contrast to the lower rate of 10% in the other DTAs.
- **Article 3 Beneficial ownership issue:** In the Singapore DTA, a trust is deemed to be the beneficial owner provided the trustee of the trust is liable for tax in Singapore in respect of the income, which is quite unusual, in that normally reduced rates of WHT under a DTA are available only to a beneficial owner eligible for treaty relief (i.e. a resident in the other Contracting State), to avoid “treaty shopping”.
- **Article 5 Permanent establishment issue:** The time period for determining whether there is a PE for building sites differs, with nine months in the China, Malaysia, and South Korea DTAs, as opposed to six months/183 days in the other DTAs. In addition, in the other DTAs, as in most DTAs, the furnishing of services for more than 183 days creates a PE, but the China DTA does not contain such a service PE provision. Thus, the furnishing of services by a Chinese company through employees or others in Cambodia will not create a PE, provided the activities are not wholly or partly performed through a fixed place of business. For example, a Chinese consulting company could send employees to work at a client’s office in Phnom Penh for unlimited periods of time, and this would not create a PE. (Note

however that the fees received from the client would be subject to 10% WHT, and the individual employees may, depending on their circumstances, be subject to tax on their earnings.)

ASEAN Economic Community

The aim of the ASEAN Economic Community (“**AEC**”) is to provide regional economic integration by creating a single market across ASEAN countries, similar to the European Union. The purpose of this is to encourage economic growth in all participating countries by allowing the free flow of human resources, goods, services, and investment between countries.

From a tax perspective, the AEC will work towards establishing more agreements on the avoidance of double taxation by ASEAN countries and will aim to enhance the withholding tax structure by removing withholding taxes that may apply on interest, royalty, dividend, and service fee payments.

Transfer Pricing

Under Article 18 of the LOT, the GDT is empowered to reallocate income and deductions between Cambodian taxpayers and their related parties in order to prevent tax avoidance and evasion or to accurately reflect the income. In 2018, Cambodian began implementing formal transfer pricing (“**TP**”) regulations introduced on 10 October 2017 via Prakas No. 986 MEF.PrK, which provides the rules and procedures for the allocation of income and expenses among related parties. It also covers the application of the arm’s length principle, TP methodologies, guidance on intangible property and intra-group services, documentation requirements, and penalties for non-compliance.

Related party definition

Entities are deemed to be related parties if any of the following apply:

- They are both members of the same group of entities.
- One entity controls the other entity.
- Both entities are under the common control of a third party.
- An entity is a PE of a non-resident taxpayer.

The term “control” means the ownership of 20% or more of an equity interest or voting power in an entity.

Transfer pricing and the arm’s length principle

The Prakas defines the term “transfer price” as the price of goods, services, or property charged between related parties.

The arm’s length principle requires that the prices set for transactions between related parties (“controlled transactions”) should approximate the prices of transactions between independent parties under comparable terms and conditions. To ensure compliance with the arm’s length principle, an entity must conduct a comparability analysis to assess the arm’s length nature of the controlled price using the five acceptable TP methodologies described below. If the transactions are not at arm’s length, the GDT may adjust the value and impose tax accordingly.

Transfer pricing methodologies

To allocate income and expenses among related parties under the arm’s length principle, taxpayers can apply one or more of the following methods:

TP Method	Description	When It's appropriate to use
Comparable Uncontrolled Price	Compares the price charged in a controlled transaction with the price charged in a comparable uncontrolled transaction.	Useful for commodity transactions, financial transactions, and transactions with very reliable comparables.
Resale Price	Assesses a gross margin on the resale of controlled products in an uncontrolled transaction.	Most applicable to sales, marketing, and distribution transactions with available comparables.
Cost Plus	Tests a gross markup on costs incurred by an entity during a transaction with a related party.	Suitable for manufacturing and service provision transactions with available comparables.
Transactional Net Margin	Tests the net (operating) profit earned by a tested party of a controlled transaction.	Often applied when a tested party can be identified, there are no comparables available, and traditional methods are not reliable.
Transactional Profit Split	Splits the profit to arrive at the result that would be achieved by independent parties in a comparable transaction.	Used for transactions where both parties make unique and valuable contributions (such as intangibles).

The choice of methodology depends on the specific circumstances; taxpayers must be able to provide sufficient evidence and supporting documentation to justify their chosen approach.

Transfer pricing documentation

Taxpayers having related party transactions must disclose them when filing their annual TOI return. In addition, they must prepare and maintain TP documentation with the following content:

Corporate Background – including a description of the company, the corporate and ownership structure, the nature of the business, and summary financial information.

Business Analysis – including the competitive environment, the market and its trends, added value, and unique selling points.

Overview of Related Party Transactions – describing the nature and volume of such transactions and the pricing method used.

Functional Analysis – describing the activities performed by each party to the related party transactions.

Economic Analysis – including a discussion and justification of the appropriate TP method, and an analysis of comparable prices for the related party transactions.

Conclusion – including an identification of the acceptable range of arm's length prices.

The TP documentation must be available to provide to the GDT upon request. It should be kept for a period of 10 years from the end of the relevant tax year. There are no safe harbor provisions allowing for an exemption from these mandatory TP documentation requirements.

Penalties

The following penalties apply for taxpayers who fail to comply with the TP documentation requirements:

- Withdrawal of the taxpayer's certificate of tax compliance
- TP adjustments, which would result in additional tax
- Tax penalties ranging from 10% to 40% of the additional tax arising from any adjustment made, plus an interest charge of 1.5% per month
- Criminal charges (imprisonment or further monetary punishment)

Required documentation for related party loans

As discussed under deductible expenses in the "Tax on Income" section, the interest rate on a loan from a related party is exempt from compliance with the arm's length principle if the entity has the requisite loan transaction supporting documents—loan agreements, business plan or current and forecasted financial statements along with the purpose of the borrowing and explanations, and Board of Directors' resolution.

A cash advance transaction that an entity has with a related party that has a maturity of less than one year is not considered to be a loan transaction and thus the interest rate will be exempt from compliance with the arm's length principle.

Qualified Investment Projects

Foreign investors seeking to make significant investments in Cambodia outside of restricted sectors can apply for QIP status. Applications are submitted to either the CDC or the Provincial/Municipal Investment Subcommittee, depending on the investment size:

- Projects with investment capital of less than US\$5 million: The Provincial/ Municipal Investment Subcommittee
- Projects with investment capital of US\$5 million or more: The CDC

QIPs that operate more than one QIP activity (which have different tax exemption periods) are required to register each activity for a separate VAT TIN, file tax returns separately, and have separate accounting records for each of the activities.

QIPs registered under the 2021 Investment Law are eligible for basic tax incentives—either a TOI exemption period or accelerated depreciation exemption. These incentives are available to both export/domestic and supporting QIPs.

Option 1: Exemption from TOI

Under this option, QIPs receive the following tax exemptions:

- TOI exemption: For 3-9 years, depending on the investment activity category based on the technology level and priority sector of the QIP.
- PTOI exemption: Same period as the TOI exemption.
- MT exemption: Provided annual external audited financial statements are maintained.
- Export duty exemption: Unless otherwise stated in other laws and regulations.

After the TOI exemption period ends, QIPs pay a graduated reduced TOI rate for an additional six years. For a QIP that is subject to the standard TOI rate of 20%, this means the graduated reduced TOI rates will be:

- Years 1-2: 5% (25% of the 20% TOI)
- Years 3-4: 10% (50% of the 20% TOI)
- Years 5-6: 15% (75% of the 20% TOI)

Option 2: Special Depreciation

Under this option, QIPs can choose to depreciate their capital expenditures on new or used tangible assets used in manufacturing and processing activities at a special rate of 40%. This special depreciation will reduce the cost of the asset that is available for regular depreciation.

However, the asset must be held for a minimum of four years after the tax year in which the special depreciation was deducted. If the asset is disposed of before this, the QIP must include in its taxable income an amount equal to the special depreciation deduction reduced by 2% of the special depreciation amount for each month (or part of a month) that the asset was in place. This amount will not affect the book value of the tangible asset for determining taxable capital gains.

QIPs that choose accelerated depreciation are also eligible to deduct up to 200% of certain expenses for a period that correlates to the investment activity category of the QIP, such as:

- Costs to train Cambodian employees to upskill to fill positions held by foreign employees
- Online accounting software program expenses
- Overseas scholarships for Cambodian employees to study certain skills
- Costs for study, research and development, and the hiring of foreign experts to train on new technologies, and Industry 4.0 initiatives (including AI, robotics, and big data storage)

QIPs that choose accelerated depreciation are also exempt from MT, PTOI, and export duty, just like QIPs that choose the TOI exemption period.

Customs duty and other incentives for QIPs

In addition to the basic tax incentives, QIPs also enjoy customs duty and other incentives.

1. Customs duty incentives

QIPs can import construction materials, construction equipment, and production equipment without paying customs duties, ST, or VAT.

Export QIPs and supporting industry QIPs can also import production inputs without paying customs duties, ST, or VAT. However, if the production inputs are not used in the production line, the QIP must pay customs duties, ST, and VAT in accordance with the law.

Certain investment activities can import construction materials, construction equipment, and production equipment without paying customs duties, ST, or VAT. However, they are not eligible for tax incentives after receiving a QIP certificate.

Certain domestically-oriented QIPs can import production inputs without paying customs duties, ST, or VAT.

Domestically-oriented QIPs that can directly export or supply production inputs to export QIPs may be entitled to have their customs duties, ST, and VAT refunded or reserved for the payment of future import taxes, in accordance with the law.

2. Additional incentives

In addition to the basic incentives set out above, investment activities registered as QIPs receive additional incentives as follows:

- Zero-rated (0%) VAT on locally-produced production inputs for the implementation of the QIP.
- A 150% deduction from the tax base for the following expenses:
 - Research, development and innovation
 - Human resource development via vocational training for Cambodian workers
 - Construction of accommodation, canteens, food courts, nurseries, and other facilities for workers
 - Modernization of production line machinery
 - Welfare promotion for Cambodian workers (e.g. home-to-work transportation, food courts with free of charge or affordable meals, nurseries, and other facilities)
 - Investment/construction of infrastructure for waste treatment

Penalties

Tax penalties are imposed for violations of the LOT and its regulations, ranging from 10% to 40% of the tax amount due, together with interest that is charged at 1.5% per month.

Generally, ordinary negligence is subject to a penalty of 10% of the unpaid taxes, while serious negligence is subject to 25%. Obstructing the implementation of the tax provisions, fraud, or other criminal acts carry more substantial penalties of 40% of the unpaid taxes.

Other penalties may include fines, closure of the business, and potentially, criminal sanctions depending on the nature and severity of the offense. Repeat offenses generally garner more severe penalties.

Some examples of violations and the accompanying fines are provided in the table below:

Non-compliance	Penalty
Failure to register, update tax information, or file a tax declaration, despite receiving a warning letter	KHR5,000,000 (~US\$1,250)
<ul style="list-style-type: none">• Failure to keep proper accounting records and documents• Failure to issue invoices• Failure to provide the information requested• Not permitting the GDT to check the entity's accounting records and documents	KHR10,000,000 (~US\$2,500)

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