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CAMBODIA

Legal and Tax Digest

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Commerce

*Announcement dated March 18, 2025 issued by Ministry of Commerce on the “**Official Launch of the Secured Transactions Filing System 2.0 (SETFO 2.0)**”*

SETFO, originally introduced in 2008, is an automated system that helps banks, microfinance institutions, and the public manage records relating to all notice letters filed in relation to secured transactions, serving as a foundation for decision-making as well as risk and damage mitigation, especially for loans using movable property as collateral. The updated SETFO 2.0 system aims to make it easier for small businesses and farmers to access credit using their assets.

Key new features of SETFO 2.0 include:

- Improved security and ease of use
- Registration and access via the CamDigiKey mobile app
- Full online payment capabilities
- Capabilities to make online requests and download validated and verified research reports via verify.gov.kh
- Improved accuracy of notices through blockchain-based technology (Cambodia Digital Ledger - CamDL)

More details on how to use SETFO can be obtained by contacting the Secured Transactions Filing Office team at the Ministry of Commerce via the websites www.setfo.moc.gov.kh and www.setfo.gov.kh, telephone number 089 510 600, hotline: 1266, or email at setfo@moc.gov.kh.

Public

*Royal Decree No. 0325/001 dated March 1, 2025 issued by the National Assembly of Cambodia “**Against the Non-Recognition of Crimes Committed During the Democratic Kampuchea Regime**”*

This decree establishes legal consequences for individuals or entities that publicly deny, undermine, or object to the recognition of crimes committed during the Democratic Kampuchea regime (commonly known as the Pol Pot or Khmer Rouge regime). These crimes have been formally recognized by the Extraordinary Chambers in the Courts of Cambodia (“ECCC”), which was created to prosecute individuals responsible for serious offenses committed between April 17, 1975 and January 6, 1979, including genocide, crimes against humanity, and violations of the Geneva Conventions.

Key provisions of the decree:

1. Public non-recognition

An individual or legal entity will be considered in violation if they publicly engage in one or more of the following:

- Utterance of words or gestures in public that deny or undermine the crimes.
- Distribution or display of letters or drawings that deny the crimes.
- Dissemination of such denials or undermining information via social media or telecommunications platforms, including audiovisual means.

2. Penalties

Individuals found guilty of public non-recognition will face the following penalties:

- Imprisonment of from one to five years; and
- Fines ranging from KHR10 million to KHR50 million.

3. Additional penalties

In addition to imprisonment and fines, the following penalties may also apply under the Criminal Code of Cambodia:

- Loss of certain civil rights.
- Prohibition from specific professions related to the offense.
- Publication of the sentencing decision in media outlets (press, all forms of telecommunications, and audiovisual means).

4. Liability of legal entities

Legal entities found guilty of non-recognition of the crimes may face criminal liability under the Criminal Code of Cambodia. They can be fined between KHR50 million and KHR500 million, in addition to other penalties outlined in Article 168 of the Criminal Code.

5. Transitional provisions

- This new decree replaces all prior laws prohibiting the non-recognition of crimes committed during the Democratic Kampuchea regime.
- For offenses committed before the decree's enactment, earlier laws will still apply.

Employment

Prakas No. 73 dated March 4, 2025 issued by the Ministry of Labor and Vocational Training ("MLVT") on the "Procedure for Resolving Individual Labor Disputes"

The MLVT has introduced new procedures for resolving individual labor disputes, which aim to streamline dispute resolution while imposing penalties for non-compliance, ensuring a fairer and faster process for both employees and employers. Key provisions include:

- **Complaint filing:** Employees and employers can file complaints with the labor inspector for mediation. Complaints can be submitted to the Department of Labor Disputes or the Department of Labor and Vocational Training at the capital or provincial levels.

- **Labor inspector's role:** Once a complaint is received, the labor inspector reviews it and decides whether to initiate mediation or conduct a labor inspection. Mediation is the first step toward resolving the issue.
- **Mediation process:** The labor inspector reviews the case and collects the necessary information from each party separately. Once all relevant information is gathered, a joint mediation session will be scheduled, and failure to attend may lead to:
 - **Dismissal of the complaint:** If the complainant fails to attend meetings or provide requested information without a valid reason, the complaint may be dismissed.
 - **Admission of the complaint:** If the defendant fails to appear, the absence is treated as an admission of the complaint.
- **Dismissals:** Complaints that are dismissed due to non-compliance (e.g. failure to attend mediation or provide documents) cannot be re-accepted if a new complaint is filed.
- **Mediation documentation:** At each mediation session, the labor inspector will record the minutes, which must indicate whether an agreement was reached. Both the labor inspector and the parties to the dispute must sign the minutes, and a copy will be provided to each party. Any agreement reached during mediation will be legally binding.
- **Further action:** If mediation fails, parties can:
 - Request further mediation from the Minister of the MLVT (within 2 working days). Note that no further requests for mediation can be made after a second failure.
 - File a complaint with competent labor authority within 2 months. If mediation is ongoing and a party submits a request for further action, the labor inspector will report the case to the Minister of the MLVT within 2 working days. The Minister of the MLVT will then refer the case to the Arbitration Council within three working days. Disputes dismissed by the labor inspector cannot be appealed to the Arbitration Council.
- This Prakas is effective from March 4, 2025, and supersedes Prakas No. 318 dated November 29, 2001, and any other conflicting provisions, which are now considered null and void.

*Prakas No. 74 dated March 4, 2025 issued by the MLVT on the “**Procedure for Resolving Collective Labor Disputes**”*

The MLVT has also introduced new procedures for resolving collective labor disputes. Below is a summary of key aspects of the new regulations:

- **Complaint filing:** Either the employer or the employees can file a complaint with the Department of Labor Disputes or the Department of Labor and Vocational Training to begin mediation, unless there is an existing agreement with specific dispute resolution rules.
- **Labor inspector's role:** Once a complaint is received, the labor inspector reviews it and decides whether to initiate mediation or conduct a labor inspection. Mediation is the first step toward resolving the issue.
- **Appointment of the mediator:** The Minister of the MLVT must appoint a mediator within 48 hours, and mediation must begin within 15 days.
- **Mediation process:** The mediator collects the necessary information from both parties separately. Each time information is requested, a record must be made that is signed by the mediator, and signed or fingerprinted by the party providing the information (a copy of which is provided to the respective parties). Once all necessary information has been gathered, a joint mediation session is then held. During the mediation process, the parties must cease any further dispute actions.
 - **Mandatory participation:** Both parties must attend or face penalties for absence without a valid reason (under Article 363 of the Labor Law).
 - **Cooperation requirement:** If a complainant refuses to provide required documents or participate, the complaint is void. Complaints that are dismissed due to non-compliance cannot be re-accepted if a new complaint is filed.
 - **Legal effect of agreements:** Any agreement reached and signed by the mediator is legally binding as a collective agreement between the parties involved and all other individuals who are represented by these parties. If the parties are not represented by a union, this agreement does not object against the union or the represented workers.
 - **Mediation failure:**
 - If mediation fails, the parties can request to reopen the process (within 2 working days), but no further requests can be made after a second failure.
 - The mediator must make a report to the Minister of MLVT that mediation failed within 48 hours so the case can be referred to the arbitration council within three working days.
 - **Public safety cases:** In cases affecting public safety, mediation will proceed immediately.

In cases where the labor dispute mediation fails to resolve the issue, the mediator must report to the Minister of the MLVT within 48 hours for further action to be taken by the Arbitration Council within 3 working days.

This Prakas is effective from March 4, 2025, and supersedes Prakas No. 317 dated November 29, 2001, and any other conflicting provisions, which are now considered null and void.

Taxation

Prakas No. 198 dated March 17, 2025 issued by the Ministry of Finance and Economy ("MEF") on the "Reduction Withholding Tax for Domestic Airlines Companies"

In an effort to support the development of Cambodia's aviation and tourism sector, the MEF issued Instruction No. 009 dated June 7, 2024 reducing the Withholding Tax ("**WHT**") and Specific Tax ("**SPT**") rates applicable to domestic airlines for a three-year period, June 1, 2024, until May 31, 2027, as follows:

- **WHT rate:** Reduced from **14% to 10%** on aircraft lease payments made by domestic airlines to foreign companies.
- **SPT rate:** Reduced from **10% to 5%** on air transport services provided to passengers, regardless of whether the service is operated by domestic or foreign airlines.

This Prakas further reduces the WHT burden on domestic airline companies for an extended period of four years, from the signing date until December 31, 2028.

Key updates:

- **2% WHT** will apply to payments made by domestic airlines to non-resident taxpayers for the following categories:
 - Aircraft rentals
 - Maintenance and overhaul
 - Overseas technical assistance
 - Overseas airport charges
 - IT shared services costs
 - Brand licensing fees
 - Online ticket booking system commissions
 - Training by overseas vendors
 - Centralized system shared costs
 - System license fees
- **10% WHT** will apply to payments for the following services:
 - Management service fees
 - Other services

Obligations:

To qualify for the tax relief, domestic airlines must comply with the following requirements:

- **Tax filings:** They must submit both monthly and annual tax returns through the General Department of Taxation's e-filing system.
- **Recordkeeping:** They must maintain proper accounting records in accordance with Cambodian tax laws and regulations, ensuring that all business activities are properly documented.