ANDERSEN

TAX ALERT:

CAMBODIA IMPLEMENTS LONG-AWAITED CAPITAL GAINS TAX — IMMEDIATE COMPLIANCE REQUIRED

Cambodia has formally enacted its long-anticipated Capital Gains Tax ("**CGT**") regime under *Prakas 496 MEF.PRK* ("**Prakas 496**"), issued by the Ministry of Economy and Finance on 18 July 2025. This establishes a comprehensive framework for taxing gains from leases, investment assets, intellectual property, business goodwill, and foreign currency exchange, **effective 1 September 2025**, with real estate gains following on 1 January 2026.

This marks a significant milestone in Cambodia's tax framework. Capital gains previously postponed under the General Department of Taxation ("**GDT**")'s earlier notices since 2020 – will now fall within the scope of standardized compliance. Taxpayers have less than two months to prepare for the first phase of the regime.

With its broad application and narrow exemptions, Prakas 496 demands immediate review for all entities holding Cambodian assets. We outline key implications below.

TAXABLE PERSONS

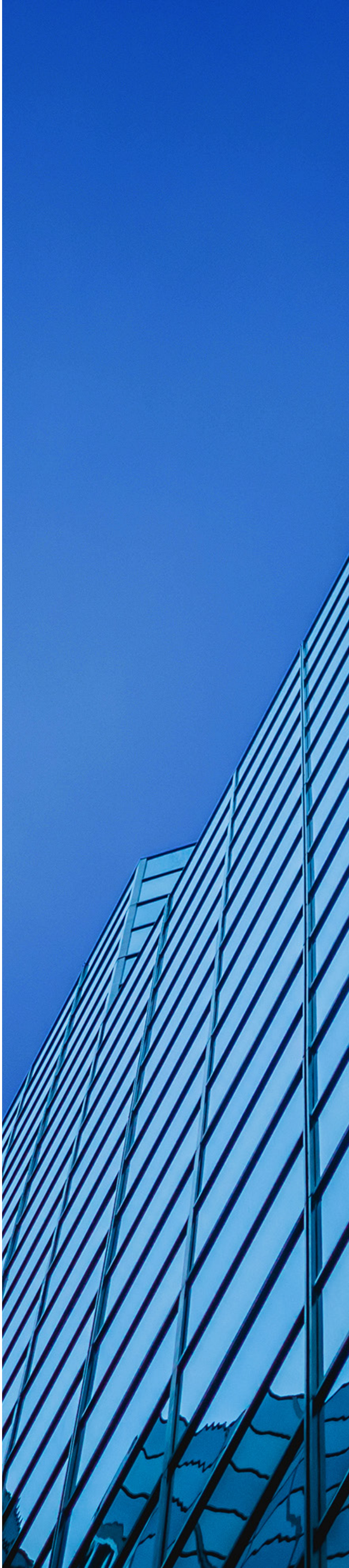
CGT applies to Cambodian tax-resident physical persons on their worldwide capital gains derived from asset sales or transfers. In contrast, non-resident taxpayers (whether legal persons or physical persons) are subject to CGT only on gains sourced within Cambodia.[1] This includes, in particular, capital gains derived from Cambodian-situated property and the transfer of shares in a Cambodian company, both of which are treated as Cambodian-source income for tax purposes.[2]

A physical person qualifies as a Cambodian tax resident if they (1) have a residence in Cambodia, (2) establish their principal place of abode in Cambodia, or (3) spend more than 182 days in Cambodia within any 12-month period.[3] Physical presence (criterion 3) is the decisive factor for residency.[4] Legal persons are treated as non-resident taxpayers if organized, managed from abroad, or having their principal place of business outside Cambodia.[5]

TAXABLE CAPITAL ASSETS AND SCOPE OF CGT

CGT applies to capital gains realized from the sale or transfer of six asset categories:[6]

- Immovable property (land, houses, buildings, and constructions)
- Leases/subleases
- Investment assets (shares, bonds, securities)
- Business goodwill – which are the premium paid for unidentifiable value in acquisitions – such as brand equity, customer relationships, or operational synergies – exceeding the target company's net tangible/intellectual assets.
- Intellectual property (patents, copyrights, commercial logos/images)
- Foreign currency (any non-Khmer Riel currency).



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1 *Article 165, Law on Taxation (2023) ("LOT")*

2 *Article 8, Para. (g), Prakas 578 MEF*

3 *Article 5, Para. (1)(a), LOT*

4 *Article 5, Prakas 543 MEF.PrK.*

5 *Article 5, Para. 2, LOT*

6 *Article 167, Para. 4, LOT*

While Cambodian tax law defines immovable property as "physical land, buildings, and constructions",[7] applicable double tax agreements ("**DTAs**") may broaden this definition to include agricultural equipment, mineral rights, and natural resources interests while explicitly excluding ships, boats, and aircraft.[8] Gains from vehicle transfer/sales thus fall outside the CGT scope, and are taxed separately under the means of transportation tax.

Notably, CGT applies only to **realized** gains from actual asset sales or transfers. Unrealized gains—including those recognized under IFRS from fair-value adjustments (e.g., for financial instruments or investment properties)—are not taxable.

TAX RATES AND DEDUCTIBLE CAPITAL EXPENSES

Capital gains are taxed at a flat rate of 20% on the net gain, calculated as total sales proceeds minus allowable deductions. Taxpayers may deduct three categories of costs:

- Acquisition costs (the original purchase price paid for the asset);
- Improvement costs (documented investments that enhance the asset's value, such as renovations or technical upgrades), and
- Sales-related expenses (including brokerage fees, legal and consulting charges, transfer taxes, and registration costs).

For transactions involving immovable property, taxpayers have two deduction options. The first is **the standard method**, which allows a deduction of 80% of the total sales proceeds, leaving the remaining 20% as the taxable base. The second is **the actual cost method**, where taxpayers deduct all verified expenses tied to the asset – such as its acquisition cost, improvement investments, sales-related fees, property taxes paid during ownership, maintenance expenditures, and interest on loans directly financing the property.

For non-property assets like shares, bonds, goodwill, intellectual property, and foreign currency, deductions are limited strictly to actual costs. This includes the initial acquisition price (e.g., share capital paid during entity formation or capital increases) and direct transaction expenses like valuation fees, sales commissions, or consultation fees.

Critically, taxpayers claiming actual costs must retain all supporting documentation – invoices, contracts, payment records – as verification is mandatory. For property transactions, modeling both deduction methods is advisable, as the standard method simplifies compliance but may yield higher tax liability for assets with low acquisition costs.

EXEMPTIONS TO CGT

CGT does not apply to gains arising in the following scenarios, provided certain conditions are met:

- **Agricultural land sales**
  - Eligibility: Tax-resident farmers actively engaged in farming.
  - Verification: Requires an approval or confirmation letter on the use of agriculture land from the local authority or the GDT.
- **Primary residence sales**
  - Exemption Threshold: Property must have been occupied as the taxpayer's primary residence for at least five years prior to the sale or transfer. In cases where the taxpayer owns more than one residence or where taxpayer and their spouse own separate residences, only one residence is allowed as the primary residence.
- **Family transfers**
  - Inheritance: Transfers of immovable property through inheritance among close biological relatives (e.g., parents, children, siblings).
  - Gifts: First-time gifts of immovable property within the same family circle.
- **Public interest entities**
  - Capital gains realized by diplomatic missions, government institutions, or entities acting under documented public interest mandates (e.g., infrastructure projects, humanitarian initiatives) are exempt from CGT.
- **Capital-raising share issuances**: Share allocations issued to increase a company's capital are not considered disposals and thus exempt from CGT.

For resident taxpayers with overseas capital gains, foreign taxes paid may be credited against Cambodian

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7 *Article 149, LOT*

8 *Under the Cambodia-Singapore tax treaty (Article 6), income from immovable property – including agriculture/forestry income – may be taxed where the property is situated. The treaty defines immovable property to include accessory property, agricultural assets, mineral rights, and natural resource interests (excluding vessels/aircraft).*

CGT liabilities, capped at the lower of the foreign tax or Cambodian CGT due. In parallel, non-residents transferring shares in Cambodian entities subject to Cambodian CGT are exempt from *deemed* dividend withholding tax[9] - which would otherwise treat retained earnings attributable to transferred shares as taxable dividend distributions. Furthermore, any capital gain taxed under the CGT regime is exempt from withholding tax on Cambodian-sourced income under Article 33 of the Law on Taxation.

COMPLIANCE OBLIGATIONS

Adherence to CGT rules is mandatory for all applicable transactions. Failure to comply may result in penalties, invalidation of transfers, or legal disputes.

Deadlines & Procedures

- **Tax Filing Deadline**: Taxpayers must file a CGT return and settle tax liabilities within 3 months of the capital gain realization date. For assets other than shares located in Phnom Penh, the CGT return must be filed directly with the GDT. For such assets situated in the provinces, the return may be filed either at the respective provincial tax branch or, upon the taxpayer's request, at the GDT in Phnom Penh.
- **Late Penalties**: Delays incur monthly interest charges (1.5% per month) and potential additional tax of 10~40% of the unpaid tax.[10]
- **CGT Certification**: Obtain a CGT Compliance Certificate from the GDT post-payment to validate the transaction. Transfers lacking this certification are deemed legally invalid, risking ownership disputes or reversal of the transaction.
- **Withholding Agent Responsibilities**: The Cambodian company in which the shares are transferred must act as the withholding agent for CGT.
- For the sale or transfer of listed securities on the Cambodia Securities Exchange, the payment agent is required to withhold and declare CGT to the GDT. The same obligation applies to foreign exchange and other financial asset transactions conducted through entities licensed by the Securities and Exchange Regulator of Cambodia.

9 *Article 7, Prakas 372 MEF.PrK*

10 *Article 233, LOT*

IMPLEMENTATION TIMELINE

The phased rollout of Cambodia's CGT regime will unfold across distinct stages:

Starting **1 September 2025**, the CGT will be applying to gains arising from leases, investment assets, goodwill, intellectual property, and foreign exchange transactions. This initial expansion broadens the tax base to include non-traditional asset categories, reflecting the government's intent to modernize revenue collection in line with evolving economic activities.

A second critical phase takes effect on **1 January 2026**, extending CGT obligations to real estate transactions. This delay allows taxpayers, developers, and regulatory bodies time to adapt valuation practices and documentation requirements for property sales, particularly given the sector's significance to Cambodia's economy. Transitional guidance is expected to clarify treatment of pre-2026 transactions and partial ownership periods, ensuring alignment with the five-year primary residence exemption.

Notably, the current regulations exclude indirect share transfers—such as ownership changes via offshore holding structures or layered corporate chains—from immediate CGT applicability. The deferred taxation of indirect transfers to future regulations offers temporary relief for multinational enterprises and investment vehicles restructuring offshore ownership of Cambodian assets. Businesses operating through cross-border holding models are advised to monitor regulatory updates, as the absence of explicit rules today does not preclude their introduction in subsequent amendments.

KEY TAKEAWAYS

Prakas 496 marks a significant step toward modernizing the Kingdom's tax regime, aligning the jurisdiction with regional practices. While the rules provide clarity on timelines, exemptions, and compliance mechanics, stakeholders should remain attentive to areas where procedural or interpretive details are still evolving.

Key Areas to Watch

1) Withholding Agent Ambiguity

Although Prakas 496 designates Cambodian resident legal entities as withholding agents, it does not clearly address transactions between Cambodian resident individuals. In cases such as property transfers between two physical persons, where neither party has a withholding obligation, the mechanism for CGT payment remains uncertain. Sellers may be required to remit CGT directly to the GDT during the title transfer process at relevant ministries. However, if government agencies lack alignment on implementation procedures, taxpayers may encounter administrative delays. In particular, ministries could postpone transaction validation pending ambiguous proof of CGT compliance, resulting in procedural bottlenecks.

2) CGT Compliance Certificate Risks

Article 15 of Prakas 496 states that "the transfer of capital ownership or occupancy shall not be legally valid if that capital is not certified with the payment of capital gain tax." This mandatory certificate introduces systemic obstacles: if a seller (a taxable physical person) receives payment but fails to pay CGT or obtain certification, and where the buyer has no withholding obligation, the transaction may be deemed non-compliant. In such cases, buyers could then hold paid assets with legally invalid titles, while sellers face no immediate enforcement action. Critically, this tax compliance barrier could conflict with Cambodia's Civil Code and 2001 Land Law, creating disputes over ownership validity where tax and property regimes collide.

3) Three-Month Window Vulnerabilities

The requirement for taxable persons to declare and pay CGT within 90 days of the transaction could create enforcement vulnerabilities. When full payment is made up front, sellers may choose to delay tax remittance or become unreachable after the transaction. In the absence of a withholding mechanism or real-time tracking, it could be difficult to ensure compliance, while buyers risk holding assets that cannot be properly registered.

4) Valuation Methodologies

The GDT's authority to reassess sale prices using alternative benchmarks (e.g., market valuations, registration tax data) underscores the importance of thorough documentation. Taxpayers should anticipate providing evidence—such as independent appraisals or liquidity distress records—to support valuations that deviate from standard market rates.

5) Corporate Restructuring Scope

Share swaps, mergers, or intra-group asset transfers may unintentionally trigger CGT liabilities if value is exchanged. Clarity on exemptions for legitimate business reorganizations is pending, requiring careful structuring of such transactions in the interim.

6) Cross-Border Treaty Interactions

It is helpful that Prakas 496 carves out indirect share transfers. Nevertheless, while Cambodia's DTAs could exempt certain gains, the interplay between treaties and domestic CGT regulations remains untested. Investors in Cambodian property-holding entities, in particular, should seek advice to mitigate double taxation risks until precedents emerge.

Key Takeaways

- **Prepare for Valuation Challenges**: Assume tax audits for non-arm's length transactions. Maintain robust documentation (appraisals, market data, board resolutions) to justify pricing used in a capital transaction.
- **Certification as a Priority**: Factor in potential delays to obtain CGT certificates, especially for time-sensitive deals.
- **Anticipate Future Regulations**: Indirect share transfer rules and DTA interpretations are likely evolving. Monitor regulatory updates to avoid retroactive liabilities.
- **Seek Provisional Clarity**: Engage the GDT for advance rulings on high-stakes transactions (e.g., distress sales, treaty applications) to mitigate disputes.

FINAL COMMENT

With Prakas 496 now in effect, taxpayers should prioritize a practical review of how the CGT applies to their specific situations. This includes identifying eligible exemptions, preparing documentation to support valuations, and assessing any cross-border implications. Early action can reduce uncertainty and help ensure full compliance from the outset.

For assistance navigating these requirements, Andersen in Cambodia—a member firm of Andersen Global—provides targeted tax, legal, and regulatory advisory services. Our team is ready to support you with clear, tailored guidance aligned with the latest developments.

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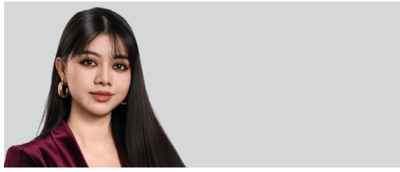

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