



Grant Thornton

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Doing business in Cambodia 2017



Content

	Page
Foreword	3
Country profile	4
Business etiquette and travel	7
Regulatory environment	10
Finance	14
Imports	16
Business entities	17
Labour	19
Financial reporting and audit	23

Foreword

Cambodia is a unique country providing extensive opportunities for those willing to spend time to understand the market. Although not without its problems, Cambodia's economy continues to expand and modernise.

While the modern history of Cambodia lingers in the minds of every family, the rebuilding and rediscovery of culture and social structure is a remarkable success story.

Grant Thornton Cambodia has prepared this guide to assist those interested in doing business in Cambodia. This guide does not cover the subject exhaustively; however, it is intended to answer some of the more important broad generic questions that may arise. When specific problems occur in practice, it will often be necessary to refer to the laws and regulations of Cambodia and to obtain appropriate professional advice. This guide contains only brief notes and includes legislation in force as of October 2017.

We hope this guide helps you in learning about and understanding business in Cambodia. Should you require professional assistance then we will be only too willing to meet you to see if we can help. Please feel free to email me directly on ronald.almera@kh.gt.com.

Country profile

Summary

Cambodia is a rapidly developing country with a very open investment policy and real opportunities for creative entrepreneurs and dynamic businesses. The economy has experienced strong, positive growth over the last 15 years.

Geography and population

- Located in South East Asia
- Landmass of 181,035 km²
- Land borders with Vietnam, Laos and Thailand
- Capital: Phnom Penh
- Other major cities: Siem Reap and Sihanoukville
- Cambodia: 15.9 million (Source : [United Nations Department of Economic and Social Affairs: Population Division](#))
- Phnom Penh: 2.2 million
- Rural population around 90% of total
- 96% of the population are less than 65 years old
- 50% of the population are less than 22 years old
- Life expectancy: 64 years
- Male/female ratio: 48.8%/51.2%
- Poverty rate: 42% live below USD1.25 per day
- Literacy rate: 77.14%

Political and legal system

Cambodian legal system consists of various laws issued by the National Assembly. These are fairly straightforward to follow; however, there are often grey areas which can be the cause of debate and misunderstanding. A full list of current applicable laws (in English and Khmer) can be found at www.gocambodia.com/laws.

- Government: Constitutional Monarchy
- Head of State: King Norodom Sihamoni
- Head of Government: Prime Minister Hun Sen, leader of the Cambodian People's Party

Climate and weather

Cambodia has two main seasons

- Wet (May to October) and;
- Dry (November to April) with an average temperature of 27°C

Language

- Ethnicities: Khmer (90%), Vietnamese (5%), Chinese (1%), and Other (4%).
- Official language: Khmer
- Commonly spoken: English and Mandarin
- Others: Japanese, Korean, French and Cantonese

Business hours/time zone

- Normal office hours in Cambodia are Monday to Friday from 8am to 5pm with one hour break for lunch (usually at midday). Some local companies require staff to work a half-day on Saturday morning.
- Government offices are generally open Monday to Friday from 7:30am to 11:30am, and from 2pm to 5pm.
- Cambodia is in the GMT +07:00 time zone.

Public Holidays in Cambodia for the Year 2017

Public Holidays	Date	No. of days
International New Year Day	01-January	1
Victory over Genocidal Regime Day	07-January	1
Meak Bochea Day	11-February	1
International Women's Day	08-March	1
Khmer New Year Day	14-15-16-April	3
International Labor Day	01-May	1
Visak Bochea Day	10-May	1
King's Birthday, Norodom Sihamoni	13- 14 15-May	3
Royal Plowing Ceremony	14-May	1
International Children's Day	01-Jun	1
King's Mother Birthay, Norodom Monineath Sihanouk	18-Jun	1
Pchum Ben Day	19-20-21-September	3
Constitutional Day	24-September	1

Commemoration Day of King's Father, Norodom Sihanouk	15-October	1
Paris Peace Agreements Day	23-October	1
King's Coronation Day, Norodom Sihamoni	29-October	1
Water Festival	02-03-04-November	3
Independence Day	09-November	1
International Human Rights Day	10-December	1

Economy

GDP

- 2015 GDP per capita of USD1,020 (2014: USD 969)
- 2016 GDP real growth rate of 7.2% (est) (2015: 7%, 2014: 7.1%), with an average growth rate over the previous 7 years of 7.63%. (Source: www.tradingeconomics.com)
- GDP composition by sector: agriculture 28%, industry 27.9% and services 43.6% (last refreshed 2015 est). (Source: <http://www.indexmundi.com/>)
- Labour force by occupation: agriculture 48.7%, industry 19.9% and services 31.5% (2016-est). (Source: <http://www.indexmundi.com/>)

Inflation

- 2016: 2.8% (Source: Asian Development Bank) (2017: 3.4%)

Economic Aid

- 2011: USD934m pledged in grants and concessional loans by international donors (Source: www.wikipedia.com)
- 2009: USD989m disbursed (Source: www.state.gov)
- Major donors: Asian Development Bank, UN Development Program, the World Bank, the International Monetary Fund, Australia, Canada, China, Denmark, the EU, France, Germany, Italy, Japan, Sweden, Thailand, the UK and the US.

Foreign Direct Investment

- 2011: USD5.6bn (estimated in October 2011), 2010: USD2.69bn, 2009: USD5.86bn, 2008: USD11.36bn (Source: CDC).
- By country 2005 to 2010: China USD6.9bn, South Korea USD3.59bn Malaysia USD0.37bn, US USD740m, Thailand USD499m, Vietnam USD708m

Business etiquette and travel

Business cards

Always carry business cards when you visit Cambodia and distribute them at every business meeting. When you meet someone for the first time in Cambodia, it is polite to offer your card with both hands. Upon receiving a card, do not stuff it into your pocket. Take a minute to look at the person's card, take care to pronounce their name correctly and acknowledge their title to show your counterpart that you value the opportunity to meet them. When you have finished engaging with the individual, place the business card in your wallet or purse, to show respect.

If you have a business card that is in English and Khmer, it is good etiquette to present the card to local people with the Khmer side facing upwards.

The order for a Cambodian name is family name first, then given name. So when referring to a Cambodian person, use their given name, prefixed by the appropriate term of reference. Hence, the Prime Minister of Cambodia Hun Sen should be referred to as Mr Sen or Mr Hun Sen.

Language hints

Most Cambodian business people have used English throughout high school and university, and are surrounded by English language media both online and through television. However you should speak slowly and concisely as they may not be familiar with your accent. Remember to avoid using words in English that are specific to a particular country or region, and if someone does not understand certain words, try using a different version (e.g. footpath, sidewalk or pavement).

It is impolite to undermine the authority of a more senior Cambodian person by directing questions or responding to a more junior person whose English skills may be better. If it is necessary to use an interpreter, it is polite to talk directly to the person you are dealing with and to maintain eye contact.

Attempts at the Khmer language are best left to more informal settings in the company of friends.

Business attire

The climate in Cambodia can be quite hot all year round, so it is advisable to make allowances for this when selecting your business wardrobe. Probably the most suitable business attire is a lightweight suit with collar and tie for men, and either a smart trouser suit or skirt and blouse for women.

Greetings

Traditionally, Cambodians will put their hands together as high as the chest when meeting someone. This is called a “Sam Pash”, and is used when meeting or when saying goodbye to someone. A foreigner who is familiar with this gesture and reciprocates will be warmly received.

Handshakes are becoming more common on meeting and departing. Handshakes only usually take place between members of the same sex. Always wait for a woman to extend her hand. If she does not, bow your head slightly.

Business meetings and negotiations

Hierarchy and face manifest themselves in different ways within business meetings. For example, the most senior person should always enter the room first. Silence is also common in meetings where someone disagrees with another and remains quiet, so as not to cause a loss of face. Those not familiar with Asian culture should simply behave in a polite manner and allow your local counter-part to take the lead.

It is advisable not to negotiate very hard in person, but rather treat a verbal offer as indicative and follow up formally afterwards with a counter-offer and an explanation of the basis for your figures and terms.

Relationships are critical to successful business partnerships. Always invest time in building a good relationship based on both personal and business lines. Any initial meeting should be used solely as a “getting to know you” meeting. Most contracts will require several meetings to clarify the details, but also to assess your mannerisms, motivations and commitment.

Business notes

Cambodians are polite people and on occasions may smile and agree with you when in fact they may not have fully understood what you have said. This is not as big a problem as in some neighbouring countries where a smile and nod are usually to

acknowledge that you have spoken, and do not always indicate a firm agreement. To avoid misunderstanding, it is advisable to politely clarify matters, and on occasion for a local colleague to do so in Khmer.

When doing business with local businesses or government organisations, it is advisable to have bilingual sales literature, including business cards and service/product manuals available for more complex negotiations. It is useful to have an agenda and relevant papers translated into Khmer prior to the meeting so both sides are clear on what they wish to discuss.

Eating and drinking

Eating and drinking is a major part of doing business in Cambodia. Toasting at banquets and karaoke are common after-dinner activities. Cambodian men may smoke during the meal. When cognac or whisky is served at a meal, the custom is for individuals to drink only after a toast is made. The glass should be held in the right hand, which is supported by the left. Returning a toast is standard practice. Common toasts are "Lerk auy dach!" (Bottoms up!) and "Sok ka pheap la or" (Good health!).

Gifts

Gifts are not commonly exchanged when meeting for the first time. However a small token over dinner or at an appropriate moment is always appreciated. The gift is not as important as the sentiment sent with it.

A box of chocolates, a bottle of cognac (for a man), or a small souvenir from your country will show that you are a considerate person.

Regulatory environment

Summary

Cambodia is a Kingdom with a king who shall rule according with the constitution and to the principles of liberal democracy and pluralism.

The Kingdom of Cambodia shall be independent, sovereign, peaceful, permanently neutral and non-aligned country.

The National Assembly consists of at least 120 members; the deputies shall be elected by a free, universal, equal, direct and secret ballot. The deputies may be re-elected.

Khmer citizen able to stand for election shall be the Khmer citizens of either sex who have the right to vote, at least 25 years of age, and who have Khmer nationality at birth.

Preparation for the election, procedure and electoral process shall be determined by an Electoral Law.

The legislative term of the National Assembly shall be 5 years and terminates on the day when the new National Assembly convenes.

Restrictions on foreign ownership

In 1999 Cambodia became a member of the Association of Southeast Asian Nations (ASEAN) allowing favourable import and export within the ASEAN Free Trade Area. Cambodia obtained full membership of the World Trade Organisation (WTO) in 2004 which provided a major confidence-boosting impact to the economy, particularly with regards to foreign direct investment; manufactured exports and real estate. Bi-lateral agreements are in place with a number of Asian and European countries and the United States.

These arrangements have opened the door to foreign investment and opportunity for many years to come.

It is very easy to establish a business in Cambodia. The incorporation and typical licensing processes are straightforward and can be completed relatively quickly. The 2004 Law on Investment established an open and liberal foreign investment regime.

There are no restrictions on investment sectors (although participation arrangements exist on occasion) and companies can be wholly foreign owned. Only locals or locally controlled companies can own land, although nominee control structures are very common.

Government approvals and registration

Generally, a business can be 100% foreign-owned. The principal exception is when a company owns land, in which case the company must have majority Cambodian ownership.

All businesses need a Commercial Registration Certificate (also known as a Certificate of Incorporation or Business Certificate) from the Ministry of Commerce; a Patent Tax Certificate and a VAT certificate from the Tax Department of the Ministry of Economy and Finance; and an Office Registration Certificate from the provincial or municipal Office of Commerce.

Some businesses, such as banking, insurance, mining, oil and gas, telecommunications, medical, construction and real estate, require specialized licenses from other government offices.

An investor can assign government approvals to a third party simply by filing a notification with the Ministry of Commerce and the Tax Department. However, the assignment of specialized licenses may need prior approval from the relevant ministries or government institutions.

Competition rules/consumer protection

Cambodia is taking initial steps towards economic integration into ASEAN and membership in the international economic community. These policies entail creating private markets at home and seeking membership in the World Trade Organization (WTO) abroad.

Despite efforts at creating a market economy, Cambodia has no formal competition Law.

Price controls

Cambodia does not currently have distinct transfer pricing regulations. However, a number of provisions in the Law on Taxation (LOT) constitute a basic transfer pricing framework. These provisions include the requirement for an appropriate market price to be used in all transactions – similar to the arm's length concept used in many countries that follow the guidelines set forth by the Organisation for Economic Cooperation and Development (OECD). Businesses are well advised to prepare proper supporting documentation for transactions with related parties to minimise the risk of potential adjustment.

Use of land

In accordance with the Constitution and relevant laws and regulations pertaining to the ownership and use of land, the ownership of land for the purpose of carrying on promoted investment activities shall be vested only in natural persons holding Cambodian citizenship or in legal entities in which more than 51% of the equity capital are directly owned by natural persons or legal entities holding Cambodian citizenship.

The use of land shall be permitted to investors, including long-term leases of up to a period of 70 years, renewable upon request. Upon such use may include the right of ownership of real and personal property situated on the land as may be permitted by the law.

Exchange control

There are no restrictions on transferring funds into or out of Cambodia through banks. This includes payments overseas for imports, management fees, repayment of loans and interest, repatriation of investment capital and dividends. Certain overseas payments, including management fees, interest and dividends attract withholding tax.

There are currently no significant restrictions on the repatriation of profit or capital derived from investments made in Cambodia.

Government incentives

Cambodia provides equal treatment to both foreign and local entities under the Law on Investment 1994. Those considering establishing a business in Cambodia should begin with an introduction to the Vice-Chairman of the Council for the Development

of Cambodia (CDC). The Vice-Chairman speaks on behalf of the Council, which is composed of senior ministers from various government agencies and chaired by the Prime Minister. The Vice-Chairman can give direction on preferred investment sectors and incentives which may be available.

Special Economic Zones

Special Economic Zones (SEZ) provide an industrial park setting with good infrastructure and communications, streamlined management and shared services. Incorporations, registrations, licensing and labour matters are all dealt with on-site. Investment approvals, customs inspections and import-export procedures are also conducted on-site. Most importantly, companies in an SEZ may be entitled to tax holidays up to 9 years, zero-rate VAT, full import duty exemption, certain import duty exemptions, and free repatriation of profits.

Further information on SEZs can be obtained directly from CDC or from the SEZ management company on-site.



Finance

Summary

Three types of banks operate under the supervision of the National Bank of Cambodia (NBC): commercial banks, specialized banks and micro-finance institutions (MFI). Commercial banks are authorized to take deposits, make loans, conduct foreign exchange operations and carry on other basic banking activities. In practice, many banks provide limited services. Other authorized banking activities include money market intermediation, transactions in derivatives, and dealing in precious metals, raw materials and commodities. Specialized banks are limited to specific operations under their license. MFIs can only conduct basic banking activities.

Banking system

Given the abolition of currency during the Khmer Rouge era in 1975, the Government has undertaken a remarkable task to rebuild the currency and banking systems of Cambodia. The National Bank of Cambodia (NBC) is responsible for regulation, oversight and licensing of the banking industry. The applicable legislation is the Law on Banking and Financial Institutions 1999. However the laws and practice is under constant review and development in an effort to modernise and meet the requirements of the rapidly growing economy. Further information can be found at www.nbc.org.kh

There are currently 36 commercial banks, 13 specialized banks, 54 licensed MFIs and 3 Ordinary Members (NGO-Rural Credit Operator). A full list is maintained at: www.nbc.org.kh/english/supervision/commercial_banks.php

All financial institutions operating in Cambodia are required to submit audited financial statements prepared under International Financial Reporting Standards to NBC and these are subsequently made public. Until recently these were required to be prepared under Cambodian Accounting Standards and Regulations and Guidelines of the National Bank of Cambodia. Audit firms require approval from NBC to audit the financial statements of financial institutions.

Capital markets

The Cambodia Stock Exchange (CSX) was established in July 2011 as a joint venture between the Royal Government of Cambodia and Korea Exchange Inc (KOSPI), the Seoul operator. The CSX is intended to spur economic development by providing a fresh source of capital to local companies.

The CSX's mandate is to establish and operate a securities market, a clearing and settlement facility, and a depository, in accordance with the Law on Issuance and Trading of Non-Government Securities and its subsequent regulations. The Ministry of Economics and Finance play a key support role to CSX, while the Securities and Exchange Commission of Cambodia (SECC) are responsible for regulatory oversight, including accreditation of audit firms to audit listed companies, and granting of licences to securities brokers.

The first IPO was successfully completed in 2012 and the shares of Phnom Penh Water Supply were the first to trade on CSX in February 2012. A second company, Grand Twins International (Cambodia), listed its shares on CSX in March 2014.



Imports

Summary

The General Department of Customs and Excise of Cambodia (www.customs.gov.kh) is responsible for the oversight of trade facilitation and collection of related duties and taxes.

Import restrictions

All goods imported are subject to 10% VAT upon clearance at the port of entry.

Customs duties

Customs import duties are applied as follows:

0% for exempt goods (generally medical and educational materials) and some selected QIPs.

7% for primary products and raw materials

15% for capital goods, machinery, equipment and locally available raw materials

35% for finished products, alcohol, petroleum products, vehicles, precious metals and stones

Special taxes

Special taxes (ST) are applied for various rates from 0% to 50% for specific products.

Additional tax (AT)

Additional taxes (AT) are applied as follows:

0.02\$/Litre for Petroleum oil

0.04\$/Litre for Diesel fuel

Further information can be found at:

www.customs.gov.kh/dutyrateimports.html

Business entities

Business entities

In accordance with the Law on Commercial Enterprises 2005, the following types of business are common in Cambodia:

Limited Liability Company
Branch of Foreign Company
Representative Office

Limited liability companies

There is no legal prohibition against establishing a 100% foreign-owned LLC in Cambodia. Foreign-owned LLCs receive the same rights and benefits as a locally-owned LLC, with the exception that they are not allowed to own or purchase land. Therefore, as a non-Cambodian, a foreign investor is able to establish a wholly foreign-owned subsidiary to operate in Cambodia. As the term “limited liability” indicates, the liability of the parent for its subsidiary’s debts is limited and cannot exceed its subscribed capital in the subsidiary.

Foreign company branches

Establishing a foreign company branch

Another option for a foreign entity entering Cambodia is to establish a Branch. In all operational aspects, a Branch can undertake the same activities as an LLC; it is able to enter into contracts to buy and sell goods and services and can undertake manufacturing, processing and construction activities, employ staff, etc.

The main drawback of a Branch when compared to an LLC is that it does not benefit from the limited liability advantage. The liabilities of the Branch in their entirety are jointly held by the Branch and the principal entity. This leads to some risk to the parent, which, as jointly liable with the Branch, may be affected by local issues

Another, less significant, drawback is the difference in tax incentives for setting up and investing in Cambodia. Although there is no clear basis in the law for doing so, in our experience the Council for the Development of Cambodia (CDC) has never

granted investment incentives to a Branch of a foreign company and has requested that the foreign investor create an LLC instead.

Representative office of a foreign entity

If a foreign entity wishes to perform limited business activities in Cambodia, such as conducting market research in the local market, then a RO may be established. A RO is not considered a separate legal entity from its parent and is not allowed to engage in profit-making activities including buying and selling goods and services or engaging in manufacturing, processing or construction.

The activities that an RO may engage in are detailed in Article 274 of Law on Commercial Enterprise (LCE):

- Contact customers for the purpose of introducing customers to its principal.
- Research commercial information and provide the information to its principal.
- Conduct market research.
- Market goods at trade fairs, and exhibit samples and good in its office or at trade fairs.
- Purchase and keep a quantity of goods for the purpose of trade fairs.
- Rent an office and employ local staff.
- Enter into contracts with local customers on behalf of its principal



Labour

Summary

Employment matters are dealt with under the Labour Law 1997. Social security obligations are covered in the National Social Security Fund Law 2002.

Labour contracts

Cambodian labour law permits two types of contracts: fixed-period up to two years; and unspecified. Upon expiry of a fixed-period contract, should the employee remain with the company, the contract is deemed to be unspecified. Upon completion of a fixed-period contract the employer should pay severance at 5% of the salary paid over the course of the contract.

Employees on fixed-period contracts can only be dismissed for serious misconduct such as theft or fraud. Employees on unspecified contracts can be dismissed on wider grounds, provided proper notice is given.

Notice period

The following notice periods are required:

Notice	Period of Service
7 days	Less than 6 months
15 days	From 6 months to 2 years
1 month	From 2 to 5 years
2	From 5 to 10 years
3	More than 10 years

Employment Book

Every person of Cambodian nationality working for any employer is required to possess an employment book, which contains personal details and employment history. These should be requested from the Ministry of Labour.

Guarantees

Employers cannot subject the signing or maintenance of an employment contract to a cash guarantee or bond of any form.

Wages

Minimum wage (for garment and footwear sector)	USD153, effective from January 2017
Normal overtime	150%
Overtime during public holidays	200%

Social security

The Cambodian National Social Security Fund (NSSF) is fund established for the well-being and protection of employees and workers. At present, it focuses on providing employment injury insurance to workers.

The law on Social Security Schemes for Persons Defined by the Provisions of the Labour law was passed by the Parliament in September 2002. The sub-decree concerning the establishment of the NSSF was adopted in 2000. The NSSF, which is an independent and autonomous public institution, was established in order to administer the schemes of Social Security protection in accordance with the law and was fully functional at the end of 2008. NSSF only applies to enterprises and establishments with 8 employees and more. Workers in these enterprises and establishments include:

- All workers defined by the provisions of the labour law, if those person perform work in Cambodia in an enterprise or establishment of nature, form and validity of the contract or kind and amount of the wage received by the person,
- Trainees, apprentices and persons who are attending rehabilitation centre.
- Seasonal or occasional workers

NSSF also applies to state workers, public workers and every personnel who are not governed by the common statute for civil servants or by the Diplomatic statute as well as officials who are temporarily appointed in the public service.

Employment injury is regarded as an employer's responsibility. The reason is that the employer is the one who creates the jobs for employees, and at the same time he/she also creates the occupational risk. As a result, all contributions to the NSSF are borne by the employer.

The contribution is a uniform rate applied to all risk class or industry. All employers pay 0.8% of the assumed wage based on the employee's monthly wage before taxation.

Pensions

Cambodian Pension schemes at the moment, only government employees and veterans are eligible for government-run pension plans.

Workers in the private sector who are 55 years of age are entitled to old age pension if:

- Registered in the National Social Security Fund (NSSF) for at least 20 years; and
- Pay in contribution at least for 60 months for Social Security Schemes during the period of 10 years.

Holiday pay

Each year, the Ministry in Charge of Labour issues a Prakas (ministerial order) determining the paid holidays for workers of all enterprises.

These paid holidays do not break off the length of service required to obtain paid annual leave, nor do they reduce this type of leave.

Sick pay

In accordance with article 71 of the Labour Code, 1997, if an employee is sick, he/she is entitled to sick leave for up to 6 months if he has a certificate from the qualified doctor. An employer may dismiss an employee if the employee is on sick leave for more than 6 months. The Labour Code does not provide for paid sick leave however following the Ministry of Labour, employer may provide paid sick leave as follows:

- 100% of wages during the first month of sick leave
- 60% of wages during the second & third months of sick leave; and
- Unpaid leave from the fourth until sixth month.

Workers' compensation

Compensation for fatal accidents or for accidents causing permanent disability is paid to the victim or his beneficiaries as an annuity. A supplementary compensation is granted to a victim who requires constant care from another person. In the event of

incapacitation, compensation shall be paid no later than the fifth day after the accident (Article 253 labour law).

Healthcare

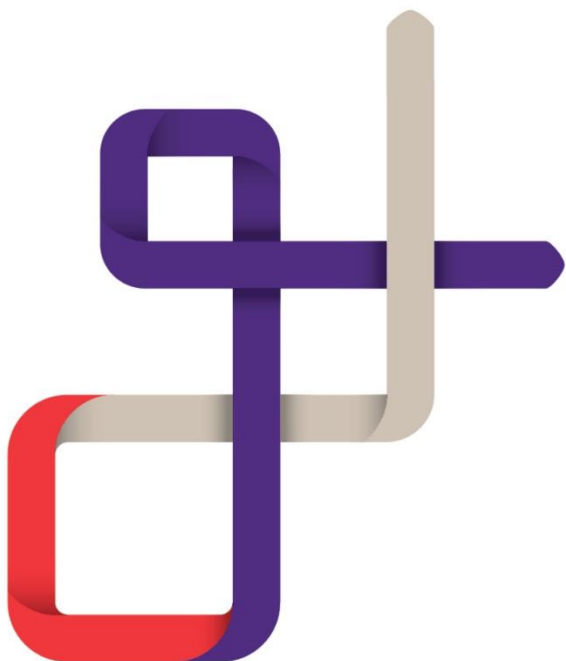
Enterprises and establishments covered by Article 1 of the labour law must provide the primary health care to their workers.

Unions

Under the Labor Law, all workers, regardless of sex, age, and nationality are free to be a member of the trade union of their choice (Article 266). Both workers and employers have, without distinction whatsoever and prior authorization, the right to form professional organizations of their own choice for the exclusive purpose of studying, promoting the interests, and protecting the rights, as well as the moral and material interests, both collectively and individually, of the persons covered by the organization's statutes. Professional organizations of workers are called "workers' unions". Professional organizations of employers are called "employers' associations". However, trade unions or associations that include both employers and workers are forbidden.

Personnel limitations - foreigners/nationals

Under the Investment Law 2004 foreign investors are permitted to hire foreigners who bring expertise and skills to the country where such skill sets are not available. In such cases adequate training must be provided to local employees with the intention of developing their skills to promote them to these positions in the future. A clause exists whereby the company should maintain a ratio of at least 10 local staff for each foreigner.



Financial reporting and audit

Summary

As a result of the introduction of and continuing improvements to, the accounting and auditing standards together with the development of professional bodies and an increase in the number of qualified accountants and auditors; accounting and auditing practices in Cambodia have improved dramatically over the past few years.

Filing/publication requirements

The submission of statutory financial statements and auditors' reports thereon (if applicable) to various Ministries and Departments of the Government is required within 90 days from the end of each financial year.

Accounting standards

Accounting and auditing practice in Cambodia has dramatically improved in recent years assisted by the establishment of professional bodies, the increase in the number of accounting firms and the development of laws and regulations.

The National Accounting Council (NAC) is a division within the Ministry of Economics and Finance which is responsible for oversight of accounting, including standard-setting.

The basic requirements for accounting, financial reporting and auditing are outlined in the Law on Commercial Enterprises and the Law on Corporate Accounts, their Audit and the Accounting Profession.

The Kampuchea Institute of Certified Public Accountants and Auditors (KICPAA) is responsible for professional training, membership and development of the profession.

There are currently eighteen Cambodian Accounting Standards (CASs) and two Cambodian Financial Reporting Standards (CFRS), usually simply referred to as CASs. The standards are broadly similar to International Financial Reporting Standards (IFRS), except for the exclusion of International Accounting Standards 32 and 39, relating to disclosures, valuation and accounting treatment for financial instruments. From 1 January 2010, entities were encouraged to adopt IFRS for SMEs,

and from 1 January 2012 large entities were encouraged to adopt full IFRS. The adoption of the international standards may prove challenging for many companies.

Audit requirements

Currently, there is no legal document equivalent to a Law governing the auditing practice in Cambodia. All auditing activities in Cambodia should follow Cambodian Standards on Auditing (CSAs) issued by the MOF and International Standards on Auditing (issued by IFAC) accepted in Cambodia.

The following entities are required to have their financial statements audited by an independent auditing firm annually: all foreign invested entities, banks, credit institutions and development funds, financial institutions and insurance companies, listed companies and state owned enterprises which meet at least 2 of the 3 criteria below:

- Annual revenues exceeding KHR3 billion (USD750,000)
- Total assets exceeding KHR2 billion (USD500,000)
- More than 100 employees.

Tax

Summary

As a member of international organisations, ASEAN (1999) and WTO (2004), tax policies are broadly aligned with international rules and practices. The Law on Taxation 2004 and Law on Customs 2007 provide guidance.

Cambodia does possess some relatively unique tax features, such as domestic withholding taxes and the non-real and estimated regimes. References herein refer to real-regime tax-payers.

Under Law on Financial Management for year 2016 and Prakas No. 1819 on the classification of taxpayers in the self- assessment regime, there was eliminated estimated regimes. However, there are three (3) categories of taxpayers as below:

- Small Taxpayers are sole proprietor or joint venture with
 - a. Annual turnover from 250 million Riel to 700 million Riel
 - b. Turnover of any consecutive three months which end in the current fiscal year from 60 million Riel up.
 - c. Expected turnover of the next three months from 60 million up.

- d. Participate in any bidding or quotation for supply of goods or service including Phasi.
- Medium Taxpayers are
 - a. Enterprises with annual turnover from 700 million Riel to 2 billion Riel
 - b. Enterprises which are incorporated as legal entities
 - c. Sub-national government institutions, association, and non-governmental organizations.
- Large Taxpayers are
 - a. Enterprises with annual turnover over 2 billion Riel
 - b. Subsidiaries of foreign companies
 - c. Enterprises registered as Qualified Investment Projects
 - d. Government institutions, foreign countries and embassies, international organization and technical cooperation agencies of different countries.

For the purpose of this Parkas, “Turnover” means price of supplying good or service which are business activities of the taxpayers.

Double Tax Treaties

Previously, Cambodia does not have any double tax treaties in place with other countries. As such tax-planning opportunities are limited to generally accepted international tax practices and local laws.

Transfer pricing

Cambodia has recently issued transfer pricing guidelines in October 2017 to establish a basic transfer pricing framework. These provisions include the requirement for an appropriate market price to be used in all transactions – similar to the arm’s length concept used in many countries that follow the guidelines set forth by the Organisation for Economic Cooperation and Development (OECD). Businesses are well advised to prepare proper supporting documentation for transactions with related parties to minimise the risk of potential adjustment.

Corporate Income Tax/ Tax on Profit (CIT/TOP)

Locally incorporated enterprises conducting business in Cambodia are liable to TOP.

Overseas enterprises conducting business and earning income in Cambodia, with or without residence here are liable to TOP in Cambodia. However tax credits are available for foreign taxes paid on income earned overseas. In practise this is rarely implemented.

Taxable income represents all trading income earned but also captures gains on capital assets (based on assigned values) and property transfers and leasing, interest, royalty and rental income. Business expenses are allowed as deductions provided a valid invoice/ receipt is obtained. Depreciation is deductible; however, land is not a depreciable asset. Capital losses are not deductible for tax purposes.

The assessable income is the business profit less loss carried forward from the preceding five year period, less prepaid profit and withholding taxes.

In addition to the normal 20% corporate tax rate, certain agriculture and resources companies may be taxed at 30%, while CDC approved Qualified Investment Projects (QIPs) can enjoy tax rates of 0%.

Tax declarations and payment

Taxpayers are required to make tax declarations and pay taxes on a monthly and annual basis. The monthly income tax return is to be filed and taxes paid not later than the 20th day of the following month. The annual TOP finalisation return is to be filed and the taxes paid not later than 3 months from the end of the fiscal or calendar year. Where Prepaid Profit Tax payments exceed the annual Tax on Profit the difference will become minimum tax paid during the year and can't be carried forward to offset against future taxes payable.

Dividends

Dividend payments do not attract TOP but rather taxes are withheld depending upon the applicable TOP rate prior to the disbursement. Dividends to shareholders outside Cambodia are generally taxed at 14% regardless of TOP tax rates. Dividends paid to locals do not attract withholding tax.

Interest and royalties

Interest and royalties paid to foreign parties are generally subject to a withholding tax of 14%.

Tax inspections

The tax department has a three-year period following the submission of the monthly or annual tax returns in which to raise a tax re-assessment. However, this period is extended to 10 years where there is evidence that the taxpayer has obstructed the

implementation of the tax provisions. The definition of obstruction is very broad and includes the failure to submit tax returns within 30 days of the due date.

Penalties for tax violations

Tax penalties are imposed for violations of the LOT and its regulations. The level of penalty is depends on the nature of the violation, and is determined as follows:

- 10% if the taxpayer is considered negligent, being an underpayment of less than 10%, or if the taxpayer fails to file a tax declaration or to pay tax by the due date
- 25% if the taxpayer is considered seriously negligent, being an underpayment of more than 10% or for failure to pay the tax due within 15 days after receiving a reminder letter from the tax authorities
- Where the taxpayer receives a unilateral tax assessment, the amount of the penalty will be 40% of the unpaid tax.

In addition, there are penalties imposed for late payment of taxes and submission of returns of KHR2 million (USD500) on each occasion plus 2% monthly interest.

Liability of Directors and management

Without prejudice to any other penalties, a director, manager, owner of an enterprise, or a person entrusted with a responsibility for an enterprise who commits an act of tax evasion shall be liable to pay a fine from KHR10 million (USD2,500) to KHR20 million (USD5,000) and to imprisonment from 1 to 5 years.

Import and export

The General Department of Customs and Excise of Cambodia (www.customs.gov.kh) is responsible for oversight of trade facilitation and collection of related duties and taxes.

Imports

All goods imported are subject to 10% VAT upon clearance at the port of entry. Customs import duties are applied as follows:

- 0% for exempt goods (generally medical and educational materials) and some selected QIPs.
- 7% for primary products and raw materials
- 15% for capital goods, machinery, equipment and locally available raw materials

- 35% for finished products, alcohol, petroleum products, vehicles, precious metals and stones. Further information can be found at: www.customs.gov.kh/dutyrateimports.html

Exports

Zero percent VAT is charged on invoices on goods and services exported. Customs export

duties are applied as follows:

- from 2% to 10% on natural rubber
- from 5% to 10% on processed wood
- 10% on fish, aquatic products and uncut precious stones.

An extensive list of rates applied for specific items exist in-country. Further information can be found at: <http://www.customs.gov.kh/dutyrateexport.html>

Under the “Everything but Arms Initiative” in 2010 exports from Cambodia to the EU are tariff and quota free.

As a member of ASEAN, Cambodia is and will be subject to tariff reductions set in free trade agreements (FTAs) between ASEAN and other countries. As of November 2011, five FTAs have become effective with China, India, South Korea, Japan and Australia/New Zealand.

Companies

For companies, resident taxpayers are enterprises organized, managed or having a principal place of business in Cambodia. A company that is not a resident taxpayer and that receives income from a Cambodian source is considered to be a non-resident taxpayer. The Tax on profit /Corporate Income Tax (CIT) is imposed on the worldwide income of resident taxpayer. It is imposed on the Cambodian-source income of non-resident taxpayer.

Liability to tax

The Taxable profit is the net profit obtained from all the results of all types of operations realized by the enterprise including capital gains from the sale of various elements of the assets during the operation or at the close of the business, as well as income from financial or investment operations, interest, rental, and royalty income.

From this definition, the carrying on of business which is not a legal one does not have any effect on the taxable nature of the profit.

Tax rates

The standard rate of CIT for legal persons is 20%. There are special rates for oil and natural gas is 30%. And there is also an alternative minimum tax imposed in certain cases. While CDC approved Qualified Investment Projects (QIPs) can enjoy tax rates of 0%.

Filing of tax returns

The monthly tax returns such as Prepayment of profit tax (Prepaid profit tax), Payroll taxes (Tax on salary), Tax on Fringe benefits (TOFB) and Withholding tax (WHT) must be made by the 20th day of the following month.

The Corporate tax (Tax on profit) must be made by 31st March of the following year.

Use of losses

Losses can be carried forward to offset future taxable profit for the following five (5) years. The carry back of losses is not allowed.

The carry forward of losses is subject to restrictions including continuity of ownership and conducting the same business activities.

Dividends

Dividend payments do not attract TOP but rather taxes are withheld depending upon the applicable TOP rate prior to the disbursement. Dividends to shareholders outside Cambodia are generally taxed at 14% regardless of TOP tax rates. Dividends paid to locals do not attract withholding tax.

Withholding taxes

Withholding tax needs to be withheld on payments made by residents (and it seems only those who are self-assessment regime). The withheld tax constitutes a final tax when withheld from resident and non-residents.

The types of payments are as follows:

- Payment to residents;
 - Rental - 10%
 - Interest - 15% (except payment to a Cambodian bank)
 - Services - 15% (except payment to a registered taxpayer and supported by a valid VAT invoice)
 - Royalties - 15%

- Payment to non-residents;
 - Interest - 14%
 - Rent or right for use of property - 14%
 - Management or technical fees (not defined) – 14%
 - Dividends – 14%

Public investors who invested on Cambodia Stock Exchange are entitled to a 50% reduction on the withholding tax payable on interest and/or dividends received from the government, equity and debt securities for 3 years, starting from the launch of the securities market.

Withholding tax is due when the amount is paid. An expense is considered “paid” when it is recorded in the accounting records.

Withholding tax is required to be remitted by the payer on a monthly basis, by the 15th day of the succeeding month.

In the event that a taxpayer fails to withhold taxes (i.e., Withholding Tax, Tax on Salary and Tax on Fringe Benefits) from suppliers or employees, the taxpayer is not allowed to gross up the bases to calculate those taxes. Any withholding taxes borne by the taxpayer as a result of the above failure are not deductible for Tax on Profit purposes.

Effect of treaties

Cambodia had entered into double tax treaties with the Republic of Singapore, China, Thailand and Brunei for avoidance of double taxation. However, the agreements are not yet ratified and therefore does not have the force of law.

Individuals

Tax on Salary (TOS)

In practice personal taxes are collected via Tax on Salary (using the rates above) including salary and bonus, interest received on personal loans, dividends received, technical service fees and others. The current version of the Prakas (law) on Tax on Salary took effect on 31 December 2003.

The employer is responsible for withholding TOS and including it in the monthly tax returns.

Resident employees who get salary less than 1,200,000 Riel (approximately US\$300) per month not liable to TOS effective from January 2018 onward.

Tax rates

Progressive rates of 5% to 20% apply to residents. A flat rate of 20% applies to non-residents.

Residence criteria

An individual is considered a resident for tax purposes if:

- they are present in Cambodia for more than 182 days in any consecutive 12 month period
- have a principal place of abode in Cambodia.

Cambodian tax residents are liable for tax on worldwide income. A tax credit is available for taxes paid overseas.

Taxation of non-residents

Non-residents are taxed on income from Cambodian sources at a flat rate of 20%.

Payment and submission dates

The payment and submission of the Tax on Salary must be made by the 20th day of the following month.

Value Added Tax

Taxpayers

Organisations subject to the self-assessment regime of taxation making a VAT-taxable supply in Cambodia, or importing VAT-taxable goods or services from foreign countries are generally liable to pay VAT. Simple regime taxpayers may also apply for registration as a VAT taxpayer.

VAT exempt goods and services include public postal services, hospital, dental medical, educational service, electricity and water supply, unprocessed agricultural products, collection of liquid or solid waste service, certain financial services (as determined by the MOEF) and the activities of certified, not-for-profit organisations (NGOs). Supply of goods for diplomatic missions and international organisations may also be deemed as non-taxable. QIPs may be entitled to VAT of 0% on imports and exports

Monthly VAT obligations are calculated in the normal manner by deducting inputs on purchases from outputs on sales.

Rates

0% this rate applies only to goods exported from the Kingdom of Cambodia and services consumed outside Cambodia.

10% this standard rate applies to all supplies other than export and non-taxable supplies.

Returns

The filing of the VAT return must be made by the 20th day of the following month.

Other taxes

Cambodia imposed various other taxes, including the following:

- Specific tax on certain merchandises and services
- Tax for public lighting
- Accommodation tax
- Patent tax
- Import and export duties

- Registration tax (Property transfer tax)
- Fiscal stamp tax
- Tax on unused land
- Tax on immovable property
- Tax on means of transportation

Stamp duty

Stamp duty (Registration tax) applies to the following legal documents at a flat rate of KHR 1,000,000 (approximately USD250):

- Company formation
- Company merger
- Dissolution of a company.

Registration tax of 0.1 percent applies to a transfer of shares. 0.1 percent registration tax also applies on the government contract value related to the supply of goods/services that are used under the state budget.

Property taxes

The immovable properties/real estate located within the administrative geography of municipalities and provinces of the Kingdom of Cambodia shall be subjected to property tax. This tax shall be collected on any property of which the price is higher than 100,000,000 KHR (One Hundred Million) Riel with the rate of 0.1%.

Capital gains tax

All realized gains (including capital gains) are considered to be income. Tax on capital gains is not separately imposed in Cambodia.

Instruction Circular

Instruction Circular on Tax Determination on Interest Expenses of Enterprises (No. 151/GDT dated 22 January 2014)

On 22 January 2014, the General Department of Taxation (GDT) has issued an Instruction Circular No. 151/ GDT on Tax Determination on Interest Expenses of Enterprises. This circular replaces Circular No. 1707 previously issued on 02 October 2013.

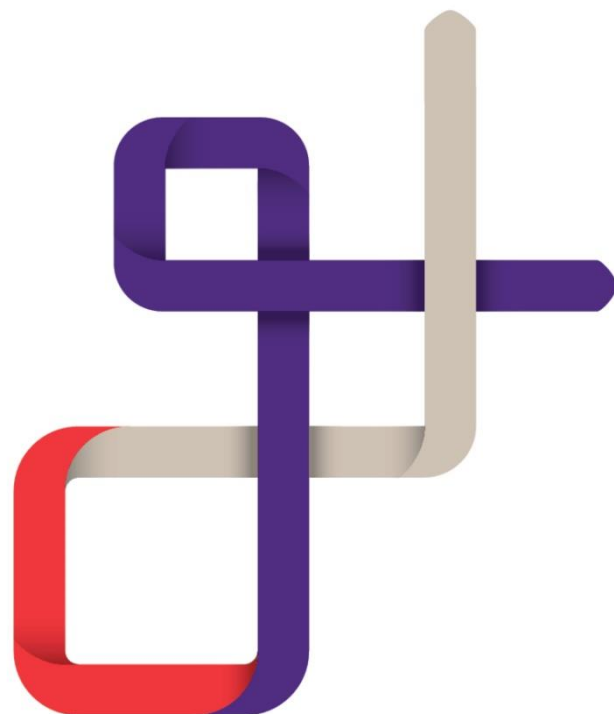
Under Circular No. 151, the GDT will not be allowed to input a deemed interest expense, for purposes of assessing withholding tax (WHT), if the enterprise has entered into interest-free loans with interest rates lower than “market interest rate” as defined in the circular. Further, the circular provides guidance on the amount of interest expense (from related and non-related parties) which is allowed to be deducted from gross income for income tax purposes. Moreover, enterprises are now required to notify the tax administration about the loan transaction within 30 days from the date the loan has taken place.

Prakas

Prakas on Tax Registration
(No. 1139 from Ministry of Economic and Finance, dated 09 October 2014)

The Ministry of Economy and Finance (MoEF) has issued a new Prakas No. 1139/ MoEF dated 09 October 2014 issuing procedures for tax registration. Under the new prakas, enterprises who have the obligation to register with tax administration must directly apply to the tax administration or by e-registration. Moreover, the BOD or the owner of the enterprise must be physically present at the GDT for this.

For enterprises who have registered with the tax authority before date 01 November 2014, a tax update is necessary. The BOD or the owner of enterprise must visit the tax department for updating the enterprise’s tax information a new TRC will be issued within a couple of weeks afterwards.



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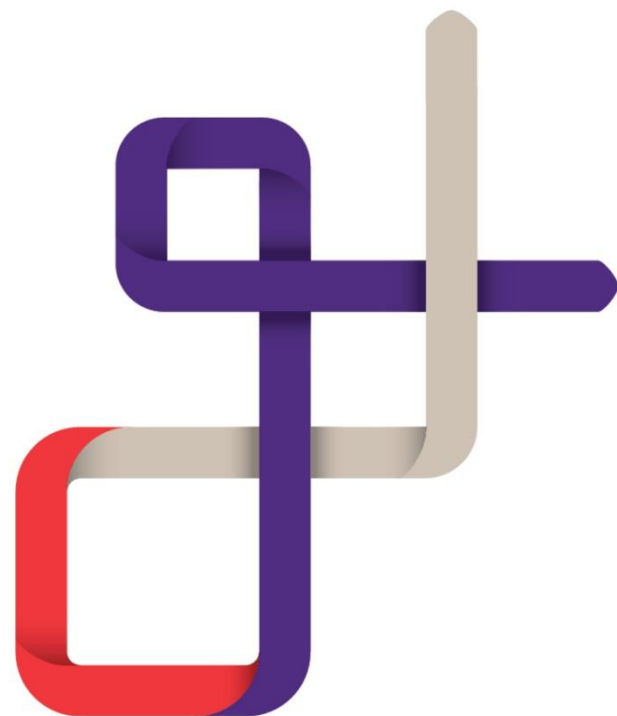
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