



Cambodia Tax Alert: Updates

Expanding perspectives and possibilities

Interest withholding tax rates reduced temporarily for financial institutions

Cambodia’s Ministry of Economy and Finance issued guidance (Prakas no. 525 MEF.Prk) dated 19 June 2020 regarding the rates of withholding tax (WHT) to be applied to interest paid by financial institutions on domestic and foreign loans.

The guidance provides the following reduced WHT rates:

Type	WHT rate	Effective dates
Existing loans	10%	From 1 April 2020 to 31 December 2020
	Standard WHT rate at 14% or 15%	As of 1 January 2021
New loans	5%	From 1 April 2020 to 31 December 2020
	10%	From 1 January 2021 to 31 December 2021
	Standard WHT rate at 14% or 15%	As of 1 January 2022

The financial institutions will have to maintain the following supporting documents for future tax audit purposes in order to manage their WHT tax:

1. The loan agreement certified by the lawyers for both parties;
2. The cash transfer documents related to the loan agreement; and

3. Proper accounting records.

Seniority indemnity payments suspended until 2021 due to impact of COVID-19

In the guidance dated 2 June 2020 (Notification no. 018/20, in Khmer only), Cambodia's Ministry of Labor and Vocational Training temporarily suspended seniority indemnity payments due to the impact of COVID-19.

Employers have been required to compensate all employees who have open-ended employment contracts (i.e., contracts of undetermined duration) with seniority indemnity payments twice a year instead of making a single dismissal indemnity payment upon termination of the employment from 2019 onwards. The seniority indemnity payments generally must be paid in June and December which may total up to 15 days of wages or salary. Employers also may have to make back payments for periods before 2019.

The June 2020 guidance provides the following:

- Seniority indemnity payments made **before the year 2019, for 2019**, (for the garment, textile, and footwear sectors) and for **2020** (for all sectors) are suspended until 2021 but payments will still be required to be made at that time.
- During the suspension period, owners or directors of enterprises should settle the seniority indemnity payments prior to 2019, for 2019, and for 2020. This is in accordance with existing labor law and regulations when terminating an employee's employment contract, unless the termination is due to the employee's serious misconduct or voluntary resignation.

Sub-decree provides penalties for noncompliance with Law on Accounting and Auditing

The Royal Government of Cambodia issued a sub-decree on 1 June 2020 providing the penalties to be imposed for noncompliance with the Law on Accounting and Auditing (LOAA) (Sub-decree no. 79 RNKr.BK), effective immediately. The purpose of the sub-decree is to increase the responsibility of enterprises, non-profit organisations (NPOs), accountants, and auditors so as to ensure that the LOAA is implemented effectively.

The sub-decree covers the following:

- Enterprises and legal entities registered with the Ministry of Commerce and/or the General Department of Taxation as large or medium-sized taxpayers;
- All NPOs registered with relevant ministries and institutions; and
- All accountants and auditors who are members of the Kampuchea Institute of Certified Public Accountants and who have obtained a license to perform the accounting and auditing profession from the National Accounting Council (NAC).

The tables below provide a summary of the penalties for various types of noncompliance (in KHR):

No	Type of noncompliance	Taxpayers		Non-profit organizations
		Large	Medium-sized	
1	Use of different accounting period than that required by the LOAA without prior approval	2,000,000	1,500,000	800,000
2	Use of language other than Khmer in accounting records and financial statements	2,000,000	1,500,000	800,000
3	Use of currency other than KHR in accounting records and financial statements without prior approval	2,000,000	1,500,000	800,000
4	Late or non-filing of financial statements with the General Secretariat of the NAC by the stipulated deadline	2,000,000	2,000,000	1,200,000
5	Failure to maintain accounting records	10,000,000	10,000,000	6,400,000
6	Failure to prepare financial statements in accordance with existing accounting standards	10,000,000	8,000,000	6,400,000
7	Failure to have financial statements audited by an independent auditor	20,000,000	16,000,000	1,600,000
8	Use of financial statements not prepared in accordance with existing accounting standards to fulfill tax obligations	10,000,000	8,000,000	4,800,000
9	Failure to keep accounting documents as required by law	10,000,000	8,000,000	8,000,000

No	Type of noncompliance	Taxpayers		Remark
		Individual	Legal person	
1	Non-compliance with paragraph 2 of article 28 of the LOAA	5,000,000	N/A	
2	Late payment of annual license fee	100,000	150,000	Per day from expiry date
3	Late application for annual license renewal	100,000	150,000	Per day from expiry date

No	Type of noncompliance	Auditors	Remark
----	-----------------------	----------	--------

		Individual	Legal person	
1	Use of language other than Khmer to prepare audit report or use of English without prior approval	10,000,000	N/A	
2	Preparation of audit report without complying with the Cambodian International Standards on Auditing and Assurance	10,000,000	N/A	
3	Provision of auditing services to enterprises or NPOs inconsistent with paragraph 1 of article 15 of the LOAA	20,000,000	20,000,000	
4	Provision of auditing services to enterprises or NPOs inconsistent with paragraph 2 of article 15 of the LOAA	20,000,000	20,000,000	
5	Failure to maintain audit evidence for at least 10 years as from the date an audit report is issued	20,000,000	N/A	
6	Breach of paragraph 2 of article 28 of the LOAA	20,000,000	N/A	
7	Late-payment of annual license fee	150,000	200,000	Per day from expiry date
8	Late application for annual license renewal	150,000	200,000	Per day
9	Provision of auditing services to enterprises or NPOs inconsistent with paragraph 3 of article 15 of the LOAA	N/A	30,000,000	

The late settlement of a penalty (i.e., as from the date the penalty notification is received) will be subject to the following additional penalty:

- Over 30 days: Penalty amount doubled.
- Over 60 days: Penalty amount tripled.
- Over 90 days: Legal action initiated by the NAC.

Tax relief granted to aviation and tourism sector businesses affected by COVID-19

On 9 April 2020, Cambodia's General Department of Taxation (GDT) provided the following tax relief to businesses in the aviation and tourism sectors that have been affected by COVID-19 (Notification no. 9648 GDT):

- **Aviation sector** – Airlines that are registered and operating in Cambodia are granted an annual minimum tax exemption for three months, from 1 March to 31 May 2020, and they are not required to pay the monthly Prepayment of Tax on Income (TOI) for this period.

- **Tourism sector** – Hotels, guesthouses, restaurants, and tour agents registered with the GDT and performing business activities in the city of Phnom Penh and the provinces of Siem Reap, Sihanouk Ville, Kep, Kampot, Bavet, and Poi Pet may benefit from the following tax relief:
 1. The enterprises are exempt from all monthly taxes for the three-month period from 1 March to 31 May 2020, although they are still required to file monthly tax returns and use the e-VAT system on a monthly basis during this period.
 2. The enterprises must file their 2019 TOI return by 31 March 2020 but any TOI payable may be paid in installments.

VAT on disposal of non-current tangible business assets clarified

Cambodia's General Department of Taxation (GDT) issued guidance on 22 June 2020 (Instruction no. 15301 GDT) clarifying how value-added-tax (VAT) on the disposal of non-current tangible business assets should be applied. This instruction overrides Instruction no. 11581, issued on 5 May 2020, which clarified how VAT is applied to the disposal of fixed business assets.

Instruction no. 11581 provided that:

- The disposal of fixed business assets would be treated as a taxable supply if VAT is applied on those fixed assets was already claimed as a tax credit based on articles 65 and 67 of the Law on Taxation (LOT).
- The disposal of the fixed assets would be treated as a non-taxable supply if:
 1. There is VAT included but it was not claimed as a tax credit and included as part of the fixed assets' historical cost at the time of purchase;
 2. The fixed assets were exempt from VAT at the time of purchase;
 3. The purchaser obtained VAT relief and VAT was applied at the time of purchase;
 4. The fixed assets were subject to 0% VAT at the time of purchase;
 - or
 5. The fixed assets have been fully depreciated.
- Gain on the disposal of the fixed assets (i.e., the difference between the sales proceeds at market value and the assets' undepreciated value) would be treated as other income that must be included as taxable income for Tax on Income (TOI) purposes, regardless of whether the disposal is subject to VAT.

The new guidelines in Instruction no. 15301 provide as follows:

- The sale, donation, below-actual-value supply, or transfer of non-current tangible business assets, except for the transfer of the business as a whole, will be subject to 10% VAT on the assets' market value.

Non-current tangible business assets for which input VAT was already claimed as a tax credit based on article 65 of the LOT will be deemed to have been sold and subject to 10% VAT on their market value when they are no longer used in business activities. However, this rule will not apply if input VAT on those assets was not claimed as a tax credit. Instead, 10%

VAT will apply when the assets are sold later. (“Non-current tangible business assets that are no longer used in business activities” refers to an enterprise’s idle assets that have not been used to generate any revenue.)

- For VAT-exempt enterprises, the sale of non-current tangible assets will be subject to 10% VAT even though VAT applied on those assets was not allowed to be claimed as a tax credit under article 57 of the LOT at the time of purchase.

If you have any questions or would like additional information on the topics covered in this alert, please contact the Deloitte Cambodia tax team below.

Best regards,

Kimsroy CHHIV
Tax Partner
Deloitte Cambodia
kchhiv@deloitte.com

Vuthy SRENG
Tax Director
Deloitte Cambodia
vsreng@deloitte.com



Dbriefs

A series of live, on-demand and interactive webcasts focusing on topical tax issues for business executives.



Power of With

Focus on the power humans have with machines.



Tax@hand

Latest global and regional tax news, information, and resources.



Deloitte’s 175th milestone year is the first anniversary to be acknowledged and celebrated globally.

This uniquely unifying moment offers the opportunity to demonstrate the value of Deloitte’s role in the world—past and future. Deloitte has been making an impact that matters for 175 years and will continue to do so for many years to come.

Get in touch



Deloitte Cambodia | Add Deloitte as safe sender

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which are separate and independent legal entities, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

About Deloitte Cambodia

In Cambodia, services are provided by Deloitte (Cambodia) Co., Ltd. and its subsidiaries and affiliates.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2020 Deloitte (Cambodia) Co., Ltd.