



Cambodia Tax Alert

Tax authorities confirm application of mutual agreement procedure

Greetings from your Tax & Legal team at Deloitte Cambodia. We hope that you and your loved ones are staying safe and healthy despite these challenging times. As we navigate ourselves through this trying period, we are committed to giving you the support you need.

We are pleased to update you on the following:

Tax authorities confirm application of mutual agreement procedure

Cambodia's General Department of Taxation (GDT) issued Prakas No. 318 MEF.Brk on 12 May 2021 setting out the mechanism for applying the mutual agreement procedure (MAP) under Cambodia's tax treaties, which provides a dispute resolution process to resolve tax treaty-related disputes.

Right to appeal and statute of limitation

A taxpayer who is resident in either of the contracting states to a tax treaty may file an objection letter based on the MAP with the relevant competent authorities where the taxpayer considers that actions of one or both of the contracting states have resulted or will result in taxation that is not in accordance with the provisions of the treaty.

The taxpayer must file the objection letter within three years from the date of the first notice of tax reassessment or decisions that are not in accordance with the provisions of the treaty.

Dispute resolution process followed by the competent authority

Stage 1: Initial review

The competent authority will review the objection letter to assess whether it meets the following criteria before proceeding with the dispute resolution:

- The Cambodian resident taxpayer or the resident of the other contracting state has complied with the provisions of the tax treaty;
- The background facts prove that the actions of one or both of the contracting states have resulted or will result in taxation that is not in accordance with the provisions of the treaty; and
- The objection letter has been submitted in writing within the three-year statute of limitations period.

Stage 2: Request for additional documents

The competent authority has the right to request additional documents for review where necessary, as provided in the tax treaty. Where the taxpayer fails to submit the requested documents within the three-year statute of limitations period, the competent authority may reject the objection letter and issue a notification letter to the taxpayer, stating the reasons for the rejection.

Stage 3: Evaluation

The competent authority will then review and evaluate whether it unilaterally has the ability to resolve the appeal. Where this is the case, the competent authority will amend the notice of tax reassessment and notify the taxpayer.

Where the appeal cannot be resolved unilaterally, the competent authority will request a negotiation under the MAP with the other contracting state to resolve the appeal and will also notify the taxpayer of the dispute resolution procedure to be followed.

Stage 4: Notification of the result to the taxpayer

The competent authority will notify the taxpayer in writing of the result of the appeal when the decision has been agreed and signed by both contracting states.

If the taxpayer agrees with the result, the competent authority will implement the agreed action based on the notification letter within 30 days after the date of receipt. Where the taxpayer disagrees with the result, the taxpayer may file another objection letter within the following 30 days in accordance with the domestic procedure.

Termination of the MAP process

The Cambodian competent authority has the right to request the other contracting state to terminate the MAP for certain reasons (e.g., the subject of the appeal is not within the scope of the tax treaty, the letter or supporting documents are invalid, etc.).

Once the other contracting state has accepted the request to terminate the MAP, the competent authority will send the taxpayer a formal letter with notification of the termination.

Relationship between dispute resolution under MAP and under domestic procedure

Filing an objection letter based on the MAP with the relevant competent authorities will not limit the right of taxpayers to file an objection based on the domestic procedure.

Contacts

Should you have any comments or questions arising from this newsletter, please contact the Deloitte Cambodia tax team below.

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