



Cambodia Tax Alert: 2020 Law on Financial Management

The Law on Financial Management for 2020 was passed on 20 December 2019 and is effective as from 21 December 2019. The law includes a number of tax amendments, as outlined below.

Determination of tax due for non-legal persons

The rules governing the determination of tax due is amended to provide that taxable income derived by an individual or a sole proprietorship and the distributive share of income realized by each partner in a partnership that is not classified as a legal person is subject to the Tax on Income (TOI) at progressive rates that will be set out in a sub-decree issued by the Prime Minister upon the request of the Minister of Economy and Finance (MEF).

Advance tax on dividend distributions (ATDD)

The ATDD is levied on a company that distributes dividends from retained earnings that have not been subject to tax in Cambodia. The ATDD is equal to the difference between the amount of tax on income payable on the profits being distributed and any actual tax paid. The ATDD rules are revised as follows:

- An enterprise that distributes dividends out of pre-TOI income to a domestic or foreign shareholder (except a Qualified Investment Project (QIP) that is in a tax holiday period) is subject to the ATDD, which equals the grossed-up dividend amount multiplied by the annual TOI rate of 20% (30% for income from the exploitation of natural resources), as provided in new article 20(1).
- ATDD that has been paid may be credited against the TOI liability in the same year, with any excess credit available to be carried forward indefinitely.
- Enterprises that already have paid the ATDD with respect to a dividend distribution will not be subject to the tax again on subsequent dividend distributions.
- The ATDD will not apply to general insurance premiums and the reinsurance of property and other associated risks in Cambodia.

TOI on foreign branches

The rules governing the application of the TOI to Cambodian branches of foreign companies are amended (new article 22, paragraph 2, subparagraphs (a) through (c)) to the effect that foreign branches that repatriate profits to their head office:

- Are exempt from the ATDD if the repatriated profits are net of TOI paid;
- Are subject to the ATDD if TOI has not been paid on the repatriated profits; and
- Are subject to withholding tax at a rate of 14%, as provided in new article 26(1), on income from business activities carried out by a nonresident through a permanent establishment as described in paragraph 10 of new article 33.

Determination of TOI liability

- The TOI liability must be calculated as explained in new article 20(1) at the TOI rate, i.e. the difference between nondeductible and deductible expenses must be subtracted from income before taxes and then multiplied by 20% (30% in the case of income from the exploitation of natural resources); and
- Any ATDD tax credit and foreign tax credit must be subtracted but those credits cannot exceed the TOI liability amount.

Stamp tax

The stamp tax rules are amended as follows:

- The administration of the stamp tax, which benefits the national budget, will be transferred to the provincial administrations.
- The scope and base of the stamp tax will be detailed in a sub-decree, and the MEF will release guidance (Prakas) that sets out the rules and procedures for the collection of stamp tax.
- The stamp tax levied on business signs and commercial posters or banners usually is stamped on rubber, plain paper, cloth or other material.
- The competent authority will not issue approval letters with respect to posters for which stamp taxes are unpaid.
- Stamp tax will not apply to posters that lack a business purpose, such as those advertising:
 - Social education, environmental protection, efforts against domestic violence, forest and wildlife protection and traffic law education;
 - National and international non-profit organizations; and
 - Non-profit state institutions.
- Penalties will apply for failure to comply with stamp tax obligations.

Other expected guidance

Based on the Law on Financial Management for 2020, the MEF is expected to issue a separate Prakas for individuals, which outlines the rules and procedures applicable to tax collection. The MEF also is expected to issue a separate Prakas regarding changes to the progressive tax rates for sole proprietorships and general partnerships, and the minimum threshold for the TOI imposed on the income of non-legal persons and the distributive share of income realized by each partner in a partnership.

If you have any questions, or would like additional information on the topics covered in this alert, please contact:

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