

Technical Update TU001/2022

ISSUED IN JANUARY 2022

These articles covered the important regulations issued by MEF and ACAR on the following area:

THIS NEWSLETTER COVERS

1. PRAKAS NO. 009 ON VAT STATE CHARGE FOR BASIC DAILY FOODS
2. NOTIFICATION NO. 776 ON THE EXTENSION OF THE IMPLEMENTATION OF PRAKAS NO. 542 MEF.PRK DATED 8 AUGUST 2021 ON THE RULES AND PROCEDURES FOR IMPLEMENTATION OF VAT FOR E-COMMERCE
3. NOTIFICATION NO. 1265 GDT ON FILING OF ANNUAL TAX ON INCOME RETURN FOR TAX YEAR 2021
4. INSTRUCTION NO. 1280 GDT ON THE RULES AND PROCEDURES FOR ADJUSTMENT OF VAT AFTER SUPPLIED OR AFTER INVOICE ISSUED
5. NOTIFICATION NO. 002 ACAR N.F.T ON IMPLEMENTATION OF OBLIGATION TO SUBMIT ANNUAL FINANCIAL STATEMENTS TO THE ACAR FOR ENTERPRISES THAT NOT REQUIRED FOR INDEPENDENT AUDIT
6. INSTRUCTION NO. 1972 GDT ON IMPLEMENTATION OF TAX OBLIGATIONS FOR VARIOUS PROJECTS UNDER THE FRAMEWORK OF GRANTS, DEBT FINANCING AGREEMENTS, OR MEMORANDUM OF UNDERSTANDING
7. PRAKAS NO. 001 NFS.A.PRK ON PUBLIC SERVICES OF ACAR
8. INSTRUCTION NO. 001 ACAR I.S.T ON SUBMISSION OF NOTICE FOR USE OF ENGLISH LANGUAGE IN COMPUTERIZED ACCOUNTING SYSTEM AND/OR RELATED COMPUTERIZED SYSTEMS TO THE ACAR

I. PRAKAS NO. 009 ON VAT STATE CHARGE FOR BASIC DAILY FOODS DATED 11 JANUARY 2022

This Prakas might be interested to Taxpayers who locally supply basic daily food for people's daily living to compliance with tax obligation (i.e., VAT declaration and/or issues invoices) regarding VAT state-charge but this Prakas does not apply to supplying food from restaurant.

Subsequence to the issuance of Prakas no. 168 dated 21 February 2020, The Ministry of Economy and Finance (MEF) has issued another Prakas no. 009 MEF.P dated 11 January 2022 on VAT State-charge for basic daily foods which refers to the certain food necessary for daily living as below:

- meat from domesticated animals: cattle, buffalos, goats, sheep, pigs, chickens and ducks, whether the meat is fresh or processed by seasoning or smoked
- eggs from all kinds of domesticated animals, whether the eggs are fresh or processed by cured or smoked
- all kinds of freshwater and marine (saltwater) fish, lobsters, shrimps, prawns, crabs and all kinds of molluscs, whether fresh, cured or smoked
- all kinds of sugar which are not characterised as candy
- all kinds of salt
- all kinds of fish sauce and soy sauce

The implementation of this Prakas is valid for 2 years starting from 1 January 2022 to 31 December 2023.

II. NOTIFICATION NO. 776 ON THE EXTENSION OF THE IMPLEMENTATION OF PRAKAS NO. 542 MEF.PrK DATED 8 AUGUST 2021 ON THE RULES AND PROCEDURES FOR IMPLEMENTATION OF VAT FOR E-COMMERCE DATED 17 JANUARY 2022

This Notification might be interest to Taxpayer who purchase digital goods or services from non-residents suppliers and non-resident taxpayers who supply digital goods or services through electronic platform operator.

Further to the issuance of Prakas no. 542 dated 8 September 2021, the MEF has issued another Notification no. 776 dated 17 January 2022 to extent on the rules and procedures for implementation of VAT for e-commerce until 31 March 2022 in order to give taxpayers enough time to prepare and implement the new VAT e-commerce transactions smoothly and effectively starting from 1 April 2022 onwards.

Additionally, in Notification no. 776 mentioned that non-resident taxpayers that supply digital goods or services electrically to, or that conduct e-commerce activities in Cambodia must complete their simplified VAT registration process prior to 1 April 2022.

III. NOTIFICATION NO. 1265 GDT ON FILING OF ANNUAL TAX ON INCOME RETURN FOR TAX YEAR 2021 DATED 24 JANUARY 2022

This Notification might be interest to General Taxpayers.

The MEF issued a new Notification no. 1265 on filing of Annual Tax on Income (TOI) FY2021 dated 24 January 2022. The intention of this notification is to inform the taxpayers under self-assessment regime on the obligation to submit tax return and pay TOI FY2021 as below:

1. The enterprise must submit annual tax on income return via the e-Filing (TOI e-Filing) according to the Instruction no. 3140 GDT dated 18 January 2021 by having to submit the tax return and pay tax by no later than 31 March 2022.
2. Any enterprise having tax year as per calendar year (from 1 January to 31 December) must submit the tax return and pay annual tax on income for the period of 2021 by no later than 31 March 2022.
3. Any enterprise allowed to use tax year different from the calendar year must submit the tax return and pay annual tax on income by no later than 3 months after the end of the tax year.
4. Any enterprise having many branches must submit the tax return of annual tax on income which derived from total result of the principal establishment and all branches by attached the list of revenues and expenses report and list of fix asset for each branches.
5. Any enterprise implementing multiple qualified investment projects (QIP) or implementing many other projects which both are QIP and non-QIP that received different income tax exemptions or subject to different rates of income tax must file tax return and pay annual tax on income as stipulated in point 1 to 3 above and must carry out obligations as stipulated in Prakas 1127 MEF.PrK dated 11 October 2016 on Tax Obligation of Multi Project Enterprises.
6. Staffs or tax service agents who are in charge of communicating with the Tax Administration and filing monthly and annual tax on income returns on behalf of the taxpayer must have staff ID card or authorization letter from the taxpayer for tax service agents as stipulated in Article 106 of the Law on Taxation and Prakas 455 MEF.PrK dated 12 April 2013 on Tax Service Agents.
7. All enterprises that have an obligation to submit tax return and pay annual tax on income must attach balance sheet statement, profit and loss statement and list of related party.

IV. INSTRUCTION NO. 1280 GDT ON THE RULES AND PROCEDURES FOR ADJUSTMENT OF VAT AFTER SUPPLIED OR AFTER INVOICE ISSUED DATED 24 JANUARY 2022

This Instruction might be interest to General Taxpayers.

The GDT issued a new instruction no. 1280 on the rules and procedures for adjustment of VAT after supplies or after invoices issued, dated 24 January 2022. The intention of this instruction is to inform about the procedures for adjustment of VAT amount as below:

i. Condition for adjusting VAT amount

VAT-registered company that issued tax invoice or has submitted the monthly tax return can adjust the VAT amount if meet criteria as below:

- The supply has been cancelled;
- The supply has varied;

- Benefits for supplying which agree before has changed with new agreement with the buyer because of discount or other reasons; or
- Goods, parts of goods or packaging are returned to the supplier or the service is not completed.

ii. Rules and procedures for the adjustment of VAT amount

1. In case there is an adjustment, taxpayers need to adjust VAT amount as follows:
 - a. If the adjusted VAT output amount is bigger than VAT output recorded, the excess amount will consider as VAT amount that taxpayer collected during the month
 - b. If the VAT output recorded is bigger than the adjusted VAT output, the excess amount will consider as VAT credit for taxpayer that supplied during the month
2. For the supply to non-taxable person, the excess VAT amount will not allow as VAT credit unless the taxable person has made the payment of excess VAT amount to the supplier in cash or offset with debt that buyer owes to taxable person.
3. In case taxable person issued tax invoice and the VAT amount recorded on the invoice is bigger than VAT amount supplied, taxable person is required to issued credit note to their customers.
4. In case taxable person issued tax invoice and the VAT amount recorded on the invoice is less than the VAT amount supplied, taxable person is required to issued debit note to their customers.
5. Taxable person is suppliers or buyers that issued or received credit note or debit note must record the cash flow of credit note or debit note the same to the cash flow of tax invoice.
6. All adjustment which supplies or purchases by taxable person must have proper recording and supporting documents for reference to support the adjustment of the VAT included delivery note/goods receive note, supply of services, documents and receipts.

iii. The use of credit notes or debit notes

1. Taxable person can issue debit note or credit note multiple times within a month or after monthly tax declaration. In order to adjust the VAT amount on the issued invoice but the total amount of VAT of credit note must not exceed the VAT amount on the revised invoice.
2. Every issued of debit note or credit note must refer to the revised invoice number and state the reason clearly on the revision.
3. Debit note or credit note must follow the criteria based on Article 4 of Prakas 723 MEF.PrK dated 14 August 2019 and must use the exchange rate as state in the notification No. 27617 GDT dated 12 December 2019 including the new issued invoice except credit note must use the exchange rate the same to exchange rate on the revised invoice.

iv. Penalty and punishment

If any person failed to follow the procedure of this notification will be penalty in cash up to 10,000,000 Riels or imprisoned up to 1 year or face both punishments.

V. NOTIFICATION NO. 002 ACAR N.F.T ON IMPLEMENTATION OF OBLIGATION TO SUBMIT ANNUAL FINANCIAL STATEMENTS TO THE ACAR FOR ENTERPRISES THAT NOT REQUIRED FOR INDEPENDENT AUDIT DATED 27 JANUARY 2022

This Notification might be interest to Medium and Large taxpayers that not required for independent audit.

The ACAR issued a new notification No. 002 on obligation to submit annual financial statements for enterprise that not required for independent audit, dated 27 January 2022. The intention of this instruction is to inform the enterprise about the following instructions to implement as below:

1. Enterprise must prepare annual financial statements in compliance with accounting standard within 3 months from the date of each accounting close and submit to the ACAR no later than 3 months and 15 days from the date of each accounting close.
2. Enterprise must use E-filing system of the ACAR to submit financial statements to the ACAR and must pay public service fee for keeping financial statements.

Failure or late on the implementation on the abovementioned obligation, the enterprise is subjected to penalties as stipulated in sub-decree 79 or NKr.BK dated 01 June 2020 on the Interim Fines for Violations of Law on Accounting and Audit.

VI. INSTRUCTION NO. 1972 GDT ON IMPLEMENTATION OF TAX OBLIGATIONS FOR VARIOUS PROJECTS UNDER THE FRAMEWORK OF GRANTS, DEBT FINANCING AGREEMENTS, OR MEMORANDUM OF UNDERSTANDING DATED 31 JANUARY 2022

This Instruction might be interest to partner countries or international development agents that are in relation with Cambodia

The MEF issued a new instruction no. 1972 on tax obligation for various projects under the framework of grants, debt financing agreements or memorandum of understanding dated 31 January 2022.

The intention of this instruction is to inform about the following administrative procedures for management as below:

1. Relevant ministries institutions, agents, organizations or enterprise that are under the framework of grants, debt financing agreement, or memorandum of understanding shall notify in letter to GDT about tax incentives in order for the GDT to review and approve.
2. Relevant ministries institutions, agents, organizations or enterprise that implementing various projects must attach supporting documents such as grants, debt agreements, memorandum of understanding, project or sub-project implementation agreements, request form, latest patent tax certificate, VAT certificate, monthly tax return (three months backward) and financial statements.
3. In case not been inspected and approved by the GDT, relevant ministries, institutions, agents, organizations or enterprise must implement the tax obligations accordance with the laws.

VII. PRAKAS NO. 001 NFSA.PrK ON PUBLIC SERVICES OF ACAR DATED 12 JANUARY 2022

This Instruction might be interest to General Taxpayers.

The Non-Bank Financial Services Authority (NFSA) issued a new Prakas no. 001 on Public Services of ACAR date 12 January 2022.

The purpose of this Prakas is to determine types of services, public service fees, procedure and allocate revenues of the ACAR to ensure effectiveness and efficiency of the ACAR as below:

- i. **Types of public services and fees of the ACAR shall be set as follows:**

**Please refer to appendix 1.*

- ii. **Dissemination and Provision of Support Services**

ACAR shall publish or disseminate this Prakas publicly where the services are provided or on the social media, especially at the one-window service office, set up a place for providing services in the form of one-window service and have officers standby for the public in a timely manner, and set up a place to accept any complaint that could arise accidentally.

- iii. **Management of Revenues from Public Services**

ACAR shall have an obligation to collect, manage and allocate revenues from public services in accordance with the law and regulations, prepare a monthly and annual report on implementation of revenues from public services for the Minister of MEF and Council Chair of NFSA by the 10th of the following month for monthly report and by the 15th of January of the following year for annual report. Types of public services and fees set in this Prakas may be change if necessary.

VIII. INSTRUCTION NO. 001 ACAR I.S.T ON SUBMISSION OF NOTICE FOR USE OF ENGLISH LANGUAGE IN COMPUTERIZED ACCOUNTING SYSTEM AND/OR RELATED COMPUTERIZED SYSTEMS TO THE ACAR DATED 27 JANUARY 2022

This Instruction might be interest to Medium and Large taxpayers.

The ACAR issued a new instruction no. 001 on the submission of notice for use of English language in computerized accounting system, dated 27 January 2022.

The intention of this instruction is to inform all owners of enterprise to comply with the use of language and currency in accounting records and financial statement as below:

1. Any enterprise that officially registered with GDT must give notice of use of English language in the computerized accounting system to the ACAR from the date of this instruction until 31 March 2022. For new enterprises, notice of use of English language in the computerized accounting system must be given to the ACAR no later than 60 days from the date that the enterprises officially registered with GDT.
2. The enterprise must use E-Filing system to submit the notice of use of language in computerized accounting system to the ACAR
3. The enterprise must follow the following steps for submitting notice to the ACAR:

**Please refer to appendix 2.*

Enterprises that fails to use English language in computerized accounting system and/or other computer systems without submit the notification letter to the ACAR on time, is subject to penalties as stipulate in sub-decree no. 79 or NKr.BK dated 01 June 2020 on the Interim Fines for Violations of Law on Accounting and Audit.

***Appendix 1: Public services and fees of the ACAR**

No.	Description	Service Fees	Time frame for providing services (working day)	Validity
1	Permit for changing accounting period	1,000,000 Riels	30 days	Until there is a new permit.
2	Permit for deregulation of submission of financial statements for independent audit	1,000,000 Riels	30 days	Only one time
3	Application for delay in completing independent audit work	200,000 Riels	15 days	Only one time
4	Services for keeping financial statements			
	4.1. Companies having an obligation to submit financial statements for independent audit	300,000 Riels	30 days	1 year
	4.2. Companies not having an obligation to submit financial statements for independent audit	200,000 Riels	30 days	1 year
	4.3. Non-profit entities having an obligation to submit financial statements for independent audit	100,000 Riels	30 days	1 year
	4.4. Non-profit entities not having an obligation to submit financial statements for independent audit	60,000 Riels	30 days	1 year
5	Consultation service on professional accounting and audit	200,000 Riels per hour	Immediately	One time
6	Dispute consultation service as conciliator	100,000 Riels per hour	Immediately	One time
7	Application for certification of enterprise information update	200,000 Riels	30 days	One time

***Appendix 2: Steps for submitting notice to the ACAR**

Step 1: The enterprise must create an account in the E-Filing system of the ACAR in order to use functions of giving notice (if your enterprise has already had an account in the E-Filing system of the ACAR, please use the existing account).

Step 2: The enterprise must complete general information first (for enterprises that have just created a new account in the E-Filing system) and then save it.

Step 3: Click the function "Give notice of use of language" in the E-Filing system of the ACAR and then complete more information and download the form of giving notice and complete information about use of language by specifying the name of system, name of company and country that produces it and language used in the computerized accounting system as per the sample letter of the ACAR, then send the letter back via the E-Filing.

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