

Technical Update TU003/2022

ISSUED IN MAY 2022

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

THIS NEWSLETTER COVERS

1. NOTIFICATION NO. 008 MEF ON THE IMPLEMENTATION OF CAPITAL GAIN TAX FOR SELF-DECLARATION REGIME TAXPAYERS
2. INSTRUCTION NO. 038 ACAR/IST ON REPORTING OF FROZEN PROPERTY BY REPORTING ENTITIES FOR ACCOUNTING AND AUDITING SECTOR
3. NOTIFICATION NO. 9562 GDT ON THE OBLIGATION OF 2021 ANNUAL TAX ON INCOME SUBMISSION
4. NOTIFICATION NO. 039 ACAR NFT ON THE PROVIDING ADDITIONAL TIME FOR SUBMITTING THE NOTIFICATION LETTER ON USING ENGLISH LANGUAGE IN COMPUTERISED ACCOUNTING SYSTEMS AND/OR OTHERS RELATED SYSTEMS TO THE ACAR
5. INSTRUCTION NO. 10362 GDT ON THE USE OF OFFICIAL EXCHANGE RATE FOR SELF-DECLARATION REGIME
6. NOTIFICATION NO. 10979 GDT ON DOCUMENTATION FOR RELATED PARTIES TRANSACTION

I. NOTIFICATION NO. 008 MEF ON THE IMPLEMENTATION OF CAPITAL GAIN TAX FOR SELF-DECLARATION REGIME TAXPAYERS DATED 9 MAY 2022

This notification might be interesting to the General Taxpayers.

Recently, the Ministry of Economy and Finance “MEF” has issued the notification on postpone of Capital Gain Tax, and majority of the taxpayers has confused that this postponement is for the implementation of TOI on capital gain for self-declaration taxpayers.

Therefore, the MEF would like to clarify that the postpone of Capital Gain Tax does not have any effect on the TOI on capital gain for self-declaration taxpayers.

II. INSTRUCTION NO. 038 ACAR/IST ON REPORTING OF FROZEN PROPERTY BY REPORTING ENTITIES FOR ACCOUNTING AND AUDITING SECTOR DATED 10 MAY 2022

This instruction might be interesting to accounting and auditing sector.

In accordance with Law on Combating the Financing of the Proliferation of Mass Destruction Weapon promulgated by Royal Decree no. NS/RKM/0620/019 dated 27 June 2020, the Accounting and Auditing Regulator “ACAR” instructs the reporting entities or in-charged reporting entities, the accounting and auditing enterprises, to report any frozen property by court decision and any attempt of transacting on frozen property to Cambodia Financial Intelligence Unit “CAFIU” by following the sample provided in website of CAFIU (https://www.nbc.org.kh/cafiu/laws_and_prakas.html).

III. NOTIFICATION NO. 9562 GDT ON THE OBLIGATION OF 2021 ANNUAL TAX ON INCOME SUBMISSION DATED 11 MAY 2022

This notification might be interesting to the General Taxpayers who have not had their 2021 annual Tax on Income “TOI” submitted.

To comply with Law on Taxation and its subsequence amendment, instruction no. 3140 on the TOI e-filing, notification no. 1265 GDT on the submission of 2021 TOI, the GDT notifies that there is no extension of the 2021 TOI submission even if the enterprise has submitted the request letter. Therefore, taxpayers will have to fulfil the obligation, due date, and payment of 2021 TOI, and the submission will be done via TOI e-filing system. Otherwise, penalties shall be imposed accordingly.

IV. NOTIFICATION NO. 039 ACAR NFT ON THE PROVIDING ADDITIONAL TIME FOR SUBMITTING THE NOTIFICATION LETTER ON USING ENGLISH LANGUAGE IN COMPUTERISED ACCOUNTING SYSTEMS AND/OR OTHERS RELATED SYSTEMS TO THE ACAR DATED 12 MAY 2022

This notification might be interesting to all enterprises.

As the submission of notification letter on using English language in computerized accounting systems and/or others related systems via e-filing system of ACAR still encounters some technical issues; therefore, the ACAR would like to provide extension another 60-day periods, starting from 1 June to 30 June 2022.

In case of failing to fulfil the above obligation, the enterprise will subject to penalties as stated in sub-decree no. 79 SuD.PK dated 1 June 2020 on the interim penalties for violation against the law of accounting and auditing.

V. INSTRUCTION NO. 10362 GDT ON THE USE OF OFFICIAL EXCHANGE RATE FOR SELF-DECLARATION REGIME DATED 17 MAY 2022

This Instruction might be interesting to the General Taxpayers.

In accordance with instruction no. 27617 GDT dated 12 December 2019 on the use of exchange rate for self-declaration regime and VAT regulation, also to guarantee the efficiency of tax collection, invoicing and online VAT refund mechanism, the GDT is to instruct as follow on the use of official exchange rates:

1. The daily official exchange rate

Taxpayers shall use exchange rate daily issued by the GDT for KHR currency for the total price on invoice. In case the supply occurs on holidays or before the time that GDT has not issued the exchange rate, taxpayers will use the official exchange rate that the GDT issued one day before the day the exchange rate is unavailable.

For non-resident taxpayers who register for simplified VAT are not required to use KHR currency for the total price of the invoice. For tax returns preparation in KHR and VAT payable calculation, non-resident taxpayers shall use monthly official exchange rates as stated in point 3 of this Instruction.

2. Official exchange rate for tax on salary

Taxpayers shall use the official exchange rate issued by the GDT on the 15th day of each month for salary tax calculation. If the 15th day of each month falls on a day on which the GDT doesn't issue its official exchange rate, taxpayers will use the GDT's official exchange rate issued one day before the exchange rate is unavailable.

3. Monthly official exchange rate

Taxpayers shall use the official exchange rate issued by the GDT on the last day of each month to calculate monthly tax payments for supplies by non-resident taxpayers who have registered for simplified VAT, or any transaction without KHR currency on invoice such as transactions supplied by a person not under the self-declaration regime or supplied by non-residents, etc.

4. Annual official exchange rate

Taxpayers shall use the official exchange rate issued by the GDT on the last day of December of each year when the annual tax payments are calculated.

The GDT will issue daily official exchange rate notifications on its website (<https://www.tax.gov.com.kh>) from June 2022 onwards. Any previous regulations which have been implemented for the use of exchange rates by self-declaration taxpayers will be abrogated.

VI. NOTIFICATION NO. 10979 GDT ON DOCUMENTATION FOR RELATED PARTIES TRANSACTION DATED 25 MAY 2022

This notification might be interesting to General Taxpayers who have transaction with related parties.

In compliance with the Prakas 986 MEF.Prk dated 10 October 2017 on the Rule on Transfer Pricing, the General Department of Taxation "GDT" has issued the instruction as follow:

- A. Enterprise having a loan transaction from related parties can determine any loan interest rate that has been agreed and shall be exempted from the implementation of Arm's Length Principle by maintaining below supporting documents:
 1. Loan agreement clearly stating the period of the loan and repayment
 2. Business plan or current, forecasted financial statements, and purpose of the loan along with the explanation
 3. Board of Directors' resolution (for an enterprise that is not a single member private limited company)
- B. In case the enterprise borrows money from its related parties, the loan interest rate will not exceed the market interest rate when borrowing it. For this instruction, the market interest rate is the average of interest rates of at least five local commercial banks, issued annually by the GDT.
- C. For enterprise having a cash advance transaction with related parties, if it is to be repaid within period of less than one year, counting from the day of receiving the cash until the day of actual settlement, it will not be considered as a loan transaction and will be exempted from the interest compliance with the arm's length principle.

The instruction no. 4909 GDT dated 18 March 2019 on the documentation for interest rate among related parties will be abrogated.

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