

Technical Update TU002/2021

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This article covered one of the important tax regulations issued by Ministry of Economy & Finance (MEF) and General Department of Taxation (GDT) recently on the following area

THIS NEWSLETTER COVERS

1. DOUBLE TAX AGREEMENT BETWEEN CAMBODIAN, MALAYSIA AND KOREA
2. RULE AND PROCEDURE FOR PATENT TAX COLLECTION
3. VAT ON E-COMMERCE

1. PRAKAS ON AGREEMENT FOR THE AVOIDANCE OF DOUBLE TAXATION (DTA) – MALAYSIA AND KOREA (PRAKAS NO. 104 MEF. PRK, DATED 28 JANUARY 2021)

The Prakas is purposed to announce the implementation of DTA as below:

- Royal Government of Cambodia and the Government of Malaysia which effective from 01 January 2021 onward; and
- Royal Government of Cambodia and the government of the republic of Korea which effective from 01 January 2022 onward.

To enjoy the benefit of the above DTA, the Company needs to apply for approval letter from the GDT on annual basis.

2. PRAKAS ON RULES AND PROCEDURES FOR THE MANAGEMENT OF PATENT TAX COLLECTION (PRAKAS NO. 193 MEF. PRK, DATED 26 MARCH 2021)

This Prakas shall applicable to the self-assessment taxpayer who conducts businesses in Cambodia.

Objective of Patent Tax

Patent Tax is an annual tax on business activity based on the type of taxpayers and level of turnover.

Procedures of tax payment

The procedures of patent tax payment are determined as below:

1. Taxpayers who conduct multiple business activities shall pay separate patent taxes for each business activity.
2. Supported business activity are considered as one business activity.
3. Taxpayers with principle places of business, head offices, branches, warehouses, factories and workshops for a business activity in the same city or province shall pay for one patent tax only.
4. Taxpayers with business activities in different city or province shall pay the patent tax in each city or province where the business located.

Amount of patent tax to be paid

The amount of patent tax to be paid are determined as below:

Type of Taxpayer	Patent Tax Amount (KHR)	Patent Tax Amount (USD)
Small Taxpayer	400,000	100
Medium Taxpayer	1,200,000	300
Large Taxpayer	3,000,000 or 5,000,000	750 or 1,250

Note: Taxpayer required to pay the additional annual patent tax for a single business activity of KHR3,000,000 for each city or provinces where the principle places of business, head offices, branches, warehouses, factories or workshops located.

Process of patent tax payment

Patent tax shall be paid at the commencement of business activity and during the period from 1 January to 31 March annually at the following years. Patent tax shall be paid at the tax administration where the taxpayers' business activity is located or at any branch of bank corporate with the GDT.

Taxpayers are obliged to display their valid patent tax certificates in their business premises. In case taxpayer failed to display their valid patent tax certificate, taxpayer will be deemed as obstructing the implementation of tax provisions in accordance with Article 128 and 133 of Law on Taxation.

3. SUB-DECREE ON THE IMPLEMENTATION OF VALUE ADDED TAX (VAT) ON E-COMMERCE BUSINESS (SUB-DECREE NO. 65 SD, DATED 8 APRIL 2021)

The purpose of this sub-decree is to set out the VAT collection mechanism on digital goods and service for e-commerce business supplied by the non-resident taxpayer, which has no Permanent Establishment (PE) in Cambodia.

The non-resident taxpayer operating e-commerce business activating and having no PE in Cambodia is required to register with the GDT based on taxpayer classification under self-assessment regime as determined by the Prakas of the MEF.

This sub-decree has defined some technical terms as below:

- "Digital goods" refers to intangible goods purchased, supplied, and sent entirely online;
- "Digital services" refers to services performed online;
- "Business to Business – B2B" refers to the supply of goods and services from legal person to legal person.
- "Business to Consumer – B2C" refer to the supply of goods and services from legal person to physical person.
- "E-Commerce" refers to the purchase, sale, rental, exchange of goods or services, including commercial activity online.
- "Reverse Charge Method" refers to method that resident taxpayer receiving the supply of digital goods and services via e-commerce from the non-resident taxpayer shall account and pay for the VAT on such supply on behalf of the non-resident taxpayer.



Tax Obligation

1. For supplying of digital goods and services via e-commerce in form of B2C, the non-resident taxpayer shall declare and pay the VAT on the 20th of the following month after transaction date to the GDT.
2. For supplying of digital goods and services via e-commerce in form of B2B, the reverse charge method shall be applied to collect VAT and declare to the GDT. VAT input shall be allowed as tax credits based on the tax law and regulations.

Penalty

Any resident and non-resident taxpayers who are not complied with this sub-decree will face the penalty in accordance with the Cambodian tax laws and regulations accordingly.

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