

Tax update: TU004/2020 14 APRIL 2020

This article covered most recent updates of tax regulation issued by Ministry of Economy & Finance (MEF) and General Department of Taxation (GDT) which cover the following areas:

- 1. Implements the Incentive on the Tax on Income ("TOI Incentive") for First Public Offering of Stock and/or Debt Securities on the Cambodia Stock Exchange ("CSX") - (Prakas no. 183, issued by Ministry of Economy and Finance, dated 25 February 2020)**
- 2. Royal Government Decision towards the Impact on Hospitality and Real Estate sector - (Instruction 002 MEF, issued by the Ministry of Economy and Finance, dated 25 February 2020)**
- 3. Tax Incentive for Educational Institutions - (Prakas no. 209, issued by Ministry of Economy and Finance, dated 2 March 2020)**
- 4. Instruction on the Request for Renewal of Double Taxation Agreement - (Instruction no. 6215 GDT, issued by General Department of Taxation, dated 5 March 2020)**
- 5. Market Interest Rate on Loan for 2019 - (Notification no. 7558 GDT, dated 19 March 2020)**
- 6. Table of Progressive Rate for Monthly Tax on Salary - (Instruction no. 006 MEF, GDT dated 23 March 2020)**
- 7. Prakas On Tax Measures to Reduce Impact on Garment Industrial Enterprise - (Prakas no. 319 MEF, dated 24 March 2020)**
- 8. Implement on the Tax exemption for 2020 seniority payment - (Circular no. 002- Tax exemption for 2020 seniority payment dated 24 March 2020)**

1. Implements the Incentive on the Tax on Income ("TOI Incentive") for First Public Offering of Stock and/or Debt Securities on the Cambodia Stock Exchange ("CSX")

This Prakas be interest to taxpayers who first publicly offering of stock and/or debt securities on the **CSX**

The purpose of this Prakas is to determine the terms and conditions for the first publicly offering of stock and/or debt securities on the CSX for income tax incentives as stated in Sub-Decree 01 dated 04 January 2019.

Prakas 183 has provided the following clarifications with respect to the implementation of the TOI incentive referred to above:

a) The TOI incentive applies to taxpayers that fall under the self-assessment tax regime in Cambodia that issue stock and/or debt securities for the first time on the CSX;

b) Enterprises that issue their first public equity security which is equal to more than 20% of the enterprises voting rights; and/or issue debt securities of more than 20% of the value of total assets which have a maturity of at least 7 years shall receive the TOI incentive of 50% reduction on the annual Tax on Income liability for three years for a qualifying entity as approved by the Securities and Exchange Commission of Cambodia "**SECC**" in accordance with Sub-Decree 01

c) Enterprises that issue their first public equity security that is equal to or less than 20% of the voting rights of the enterprise; and/or issues debt securities equal to or less than 20% of the total asset value of the enterprise shall be granted the TOI incentive for 3 years following a declining proportion basis by taking 20.001% as a base (as stated in the appendix table below) which includes:

- For equity securities: the TOI incentive on the proportion which is not more than 20 Billion Riel (approx. USD5M).
- For debt securities: the TOI incentive on the proportion which is not more than 8 Billion Riel (approx. USD2M). (please find the annex 1 for able on Proportion TOI Incentive)

Please refer to Annex 1 for proportion of TOI incentives

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2. Royal Government Decision towards the Impact on Hospitality and Real Estate sector

This instruction aims to reduce the impact on the hospitality and real estate sector, specifically located in Siem Reap province, as below:

a. Tax Incentive for Hospitality Sector

Taxpayers operating business activities of hotel or guesthouse in Siem Reap province shall receive tax incentive as below:

- Exempt on the all kinds of monthly taxes for tax period from February 2020 to May 2020
- Exempt from conducting comprehensive tax audit for period of 2020

All taxpayers still need to submit monthly tax returns and E-VAT system as usual, as well as, declare and pay 2019 annual Tax on Income.

b. Tax Incentive for Real Estate Sector (for all kind of residences)

Stamp duty tax for transfer of ownership or possession rights on immovable property valued less or equal to USD70,000, shall be exempted from 4% stamp duty if fulfil three conditions, as below:

- Transferring of ownership or possession rights of immovable property valued less or equal to USD70,000 based on the market price as stated in sale and purchase agreement for which dated 25 February 2020 to 31 January 2021, and for which the stamp duty tax must be declared during that period.
- Transferring of ownership or possession rights for all kinds of residence from property development enterprises, registered at Ministry or Department of Economy and Finance.

3. Tax Incentive for Educational Institutions

This Prakas shall be interested to all educational institutions which provide educational services in Kingdom of Cambodia.

This Prakas aims to provide the tax incentives including Tax on Income (ToI), Minimum Tax (MT), Withholding Tax (WHT) and Value Added Tax (VAT)

a. Definition

The term “*Educational Institutions*” refers to public and private educational institutions that provides service solely on education from kindergarten to tertiary education level. Educational institutional including technical and vocational institutions.

b. The Tax Incentives

MT, ToI, Prepayment on Tax on Income (PTI)

- Suspend the payment of 1% MT on the annual turnover until the end of 2023;
- Suspend the payment of 1% PTI until the end of 2023; and
- Pay only ToI in case there is actual income since the MT is suspended.

Shall not considered as taxable income for ToI calculation for a fully funded scholarship or discount fee offering to students. However, the educational institutions shall maintain supporting documents on the scholarship or discount offering program.

WHT

Non self-assessed resident taxpayer

1. **Exemption** on the WHT on the payment in kind or cash for any management and consultation service or similar services directly related to student education; and payment of interest.
2. **No exemption** on the WHT on the payment in kind or cash for constructional, architectural, and engineering services and other services not related to the student education.

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3. Tax Incentive for Educational Institutions (Con't)

Nonresident taxpayer

1. **Exemption on** the WHT on payment of in kind or cash for management and technical services directly related to student education; and payment of interest and dividend.
2. **No exemption** on the payment of royalty fee, rental fee and other income related to the use of property.

For exemption of WHT above, the educational institutions shall maintain proper invoices or any payment receipts that can prove the payments, and shall monthly submit the supplier information to the tax administration following the tax administration appendix.

VAT

1. The supplies of education services, goods and others services serving education including the supplies of food and accommodations to students shall be considered as non-taxable supplies. The VAT input on the purchase of goods and services for non-taxable supplies shall not be allowed VAT credit, but as deductible expenses.
2. For institutions with others business activity other than stated in paragraph 1 of this section, VAT input shall be calculated according to article 29 to 41 of VAT Sub-decree.

c. **Obligation of Educational Institution**

To be applicable for tax incentive as stated in this Prakas, all the educational institution shall:

- Registered with the tax administration
- Submit and pay monthly and annual tax return in timely manner
- Maintain proper accounting record
- Submit the independent audit report to the tax administration for institutions whose annual turnovers is more 4,000 million riels.
- The institutions shall be withdrawn the tax incentive if not compliance with these obligations.

4. Instruction on the Request for Renewal of Double Taxation Agreement

This Instruction shall be interested to taxpayers who already got approval for DTA and want to renew the DTA.

In accordance with this instruction, the GDT aims to encourage those taxpayers who already got approval of DTA from the GDT, and want to renewal this approval. The taxpayers who want to renew the approval of DTA shall submit the application to the GDT before 31 March of tax year, in order to get effective for the whole year from January of tax year.

5. Market Interest Rate on Loan for 2019

In accordance with the regulations of Chapter 3 Section 3.1 on Prakas no. 1173 MEF.GDT.Prk dated 31 December 2003 on Tax on Salary. Also refer to instruction no. 7015 GDT dated 13 March 2020 on the performance of withholding obligation on **Fringe Benefit Tax** on loans to employee and instruction no. 151 GDT dated 22 January 2014 on interest expenses of the enterprises. General Department of Taxation have determined the market interest rate for loan in 2019 by calculating the average based on the following calculations of the average of the top 10 local commercial banks annual lending rates as below:

- 9.23% a year for Khmer Riel currency
- 9.23% a year for US Dollar currency

General Department of Taxation would like to note that the above interest rate apply for the purpose of enforcing the withholding tax on Fringe Benefit for employee loans only. Regarding loan between related parties, the interest rate must follow instruction no. 11946 GDT dated 21 August 2018 on effective of interest ruling for related parties. Exceptionally, for the loans transaction of third party, the interest rate must follow the actual loan transaction which stated in loan agreement, and have proper supporting documents and no longer follow the paragraph 3 point A of instruction no. 151 GDT dated 22 January 2014 on setting the interest expenses for the enterprise.

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6. Table of Progressive Rate for Monthly Tax on Salary

In accordance with the new Sub-Decree 09 ANKR.BK date 13 February 2020 on the rate of Tax on Income on physical person(s) and rate of Tax on Salary "TOS", Ministry of Economy and Finance would like to inform you about the implementation of new threshold for tax on salary for resident person(s) as below:

No.	Range of the monthly tax on salary		Rate
1	From	0 Riel to 1,300,000 Riel	0%
2	From	1,300,001 Riel to 2,000,000 Riel	5%
3	From	2,000,001 Riel to 8,500,000 Riel	10%
4	From	8,500,001 Riel to 12,500,000 Riel	15%
5		Over 12,500,000 Riel	20%

1. Period of practice and new progressive rate

The resident tax payer enterprises running the business, government institutions and organizations which has an obligation to withhold tax and pay the Tax on Salary (TOS), shall implement the new progressive rates pay to employee starting from February 2020 and file the TOS return at the latest by 20 of the following month.

2. Allowance for spouse and dependent children

Based on the evidence of a family status, to facilitate and improve the living standard of official governor, professor, doctor, employee who has duty to raise children, spouses, shall be allowed to deduct 150,000 Riel for each dependent per month.

7. Prakas On Tax Measures to Reduce Impact on Garment Industrial Enterprise

This Prakas shall be interested to Garment industry

The Prakas is aim to introduce tax measures by granting income tax exemption which implement for garment textile sector, footwear, bag and hand bag, and hat sector affected by the suspension of Everything but Arms (EBA). Income Tax Exemption

The above taxpayers shall be exempted the income tax for tax year 2020 based on the impact level as the following:

- Exempted tax on income for 6 months on the factories/enterprises having an impact level from 20% to 39% by exempted 50% of annual tax on income of total tax liability to be paid.
- Exempted tax on income for 1 year on factories/enterprises having an impact level from 40% to 100% by exempted 100% of annual tax on income of total tax liability to be paid.

Formula to determine actual impact

The actual impact level shall be determined as below formula:

$$\text{impact:} = \frac{\text{Amount of exports impact Level of actual}}{\text{Amount of total exports}} \times 100$$

Moreover, to enjoy the tax on income exemption, the enterprises shall submit the documents on the actual effected amount arising from the suspension of EBA to the Tax Administration during annual tax on income declaration.

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8. Implement on the Tax exemption for 2020 seniority payment

This Circular shall be interested to all taxpayers

In accordance with Prakas No. 098 GDT, Prakas No. 1173 GDT, Prakas No. 443 GDT, Circular No.003.

The circular aims to implement to the seniority indemnity payment to improve the living conditions of Cambodia worker at any industries in the Kingdom of Cambodia, Ministry of Economy and Finance has advised as the following:

1. Exemption tax on salary on the back pay seniority indemnity before 2019 and seniority indemnity for 2019 for Cambodian employees in Garment Textiles sector, footwear sector and other sectors shall follow by Circular number 003, dated 11 April 2019 to help expand oversea job markets and promote skills for migrant workers.
2. For the seniority indemnity 2020 onward of employee in Garment Textiles sector, footwear sector and other sector shall follow the below instruction:
 - Exempt tax on salary for seniority indemnity which not exceeding 4,000,000 riels per year.
 - For seniority payment exceeding 4,000,000 riels per year must be subject to tax on salary. In case of seniority indemnity which paid twice a year, the calculation of seniority indemnity payment which subject to tax on salary shall apply as the following:
 - Seniority indemnity payment for first semester: The Seniority indemnity payment needs to deduct by 2,000,000 riels, and the remaining amount is subject to tax on salary for monthly tax declaration.
 - Seniority indemnity payment for second semester: Follow the first semester instruction which the seniority indemnity payment for second deduct by 2,000,000 riels, and the remaining amount is subject to tax on salary for monthly tax declaration.
3. The seniority indemnity payments are allowed as the deductible expense of the income tax in the current tax year.

ANNEX 1

Table on Proportion TOI Incentive

No.	Number of Stock Issuance	Proportion % of the Incentive	Percentage of the Incentive for Tax on Income to be Paid (As stated in Sub-Decree)	No.	Number of Stock Issuance	Proportion % of the Incentive	Percentage of the Incentive for Tax on Income to be Paid (As stated in Sub-Decree)
	A	B=A/20.001%	C=B*50%		A	B=A/20.001%	C=B*50%
1	From 20.001%	1000.000%	50.000%	21	10.500%	52.497%	26.249%
2	20.000%	99.995%	49.9975%	22	10.000%	49.998%	24.999%
3	19.500%	97.495%	48.748%	23	9.500%	47.498%	23.749%
4	19.000%	94.995%	47.498%	24	9.000%	44.998%	22.499%
5	18.500%	92.495%	46.248%	25	8.500%	42.998%	21.249%
6	18.000%	89.996%	44.998%	26	8.000%	39.998%	19.999%
7	17.500%	87.496%	43.748%	27	7.500%	37.498%	18.749%
8	17.000%	84.996%	42.498%	28	7.000%	34.998%	17.499%
9	16.500%	82.496%	41.248%	29	6.500%	32.498%	16.249%
10	16.000%	79.996%	39.998%	30	6.000%	29.999%	14.999%
11	15.500%	77.496%	38.748%	31	5.500%	27.499%	13.749%
12	15.000%	74.496%	37.498%	32	5.000%	24.999%	12.499%
13	14.500%	72.496%	36.248%	33	4.500%	22.499%	11.249%
14	14.000%	69.997%	34.998%	34	4.000%	19.999%	10.000%
15	13.500%	67.497%	33.748%	35	3.500%	17.499%	8.750%
16	13.000%	64.997%	32.498%	36	3.000%	14.999%	7.500%
17	12.500%	62.497%	31.248%	37	2.500%	12.499%	6.250%
18	12.000%	59.997%	29.999%	38	2.000%	10.000%	5.000%
19	11.500%	57.497%	28.749%	39	1.500%	7.500%	3.750%
20	11.000%	54.997%	27.499%	40	1.000%	5.000%	2.500%

***Note:**

Percentage % of the TOI incentive = (the number of issued stock/debt securities compared with the voting's rights or total assets) / (20.001%) × 50%

*For the issuance of stock securities / the number of issued stock securities compared with the number of stock securities that have voting rights.

*For Debt securities / the number of issued debt securities compared with the total assets of the enterprise.

If you required any assistance or professional advice on the above, please feel free to contact our service team listed on our website.