

# Technical Update TU006/2022

ISSUED IN DECEMBER 2022

These articles covered the important regulations issued by Royal Government of Cambodia, MLVT, and ACAR on the following area:

## THIS NEWSLETTER COVERS

1. SUB-DECREE 196 ANKR.BK ON THE RATE OF TAX ON INCOME AND RATE ON TAX ON SALARY
2. INSTRUCTION NO. 26118 GDT ON THE USE OF OFFICIAL EXCHANGE RATE FOR SELF ASSESSMENT TAXPAYERS
3. INSTRUCTION NO. 27185 GDT ON DISPLAYING TAX CERTIFICATE
4. INSTRUCTION NO. 30408 GDT ON APPLICATION OF ADVANCE TAX OBLIGATION ON DIVIDEND DISTRIBUTION SPECIFIC TAX OF THE LOCAL CERTAIN PRODUCTS
5. INSTRUCTION NO. 017 MOEF ON IMPLEMENTATION OF NEW RATE OF TAX ON SALARY
6. PRAKAS NO.1080 MEF.PRK ON RULES AND PROCEDURES FOR PERFORMING OBLIGATIONS TAXATION FOR COMMERCIAL GAMBLING BUSINESS

### I. SUB-DECREE 196 ANKR.BK ON THE RATE OF TAX ON INCOME AND RATE ON TAX ON SALARY DATED 28 SEPTEMBER 2022 AND INSTRUCTION NO. 017 MOEF ON IMPLEMENTATION OF NEW RATE OF TAX ON SALARY DATED 27 DECEMBER 2022

This sub-decree might be interesting to the General Taxpayers

The sub-decree and instruction above are for the implementation of the annual tax on income rate for the physical person, sole proprietorship, and general partnership as well as the implementation of the new threshold for tax on salary for resident person(s) which will be affected from 1 January 2023.

No.	Range of annual tax on income threshold		Rate
1	From 0 Riel	to 18,000,000 Riel	0%
2	From 18,000,001 Riel	to 24,000,000 Riel	5%
3	From 24,000,001 Riel	to 102,000,000 Riel	10%
4	From 102,000,001 Riel	to 150,000,000 Riel	15%
5	Over 150,000,000 Riel		20%

Tax on Salary threshold	Rate	Difference over tax amount of each level
From 0 Riel to 1,500,000 Riel	0%	0 Riel
From 1,500,001 Riel to 2,000,000 Riel	5%	75,000 Riel
From 2,000,001 Riel to 8,500,000 Riel	10%	175,000 Riel
From 8,500,001 Riel to 12,500,000 Riel	15%	600,000 Riel
More than 12,500,000 Riel	20%	1,225,000 Riel

**II. INSTRUCTION NO. 26118 GDT ON THE USE OF OFFICIAL EXCHANGE RATE FOR SELF ASSESSMENT TAXPAYERS DATED 28 OCTOBER 2022**

This instruction might be interesting to the General Taxpayers

The GDT has set out the following instructions with respect to the application of the official exchange rate to ensure that self-assessment taxpayers ("taxpayers") can accurately declare and pay their taxes and crosscheck invoices:

<b>1. Daily rate</b>	<p>Taxpayers are required to use the daily official exchange rate issued by the National Bank of Cambodia ("NBC") or the market exchange rate, provided it is not lower than the rate issued by the NBC, when issuing the VAT invoice. While Non-resident taxpayers, who have registered for simplified VAT with the GDT, are not required to issue the invoices with Khmer Riels reflected in their invoices.</p> <p>However, for the purpose of simplified VAT monthly tax declaration, simplified VAT registered taxpayers shall use the monthly exchange rate as stated in Point 3 below.</p>
<b>2. Tax on Salary ("TOS")</b>	<p>Taxpayers are required to use the official exchange rate issued by the NBC on the 15th of each month for the calculation of the TOS. If the 15th of the month falls on a holiday/weekend where the NBC does not issue their official exchange rate, taxpayers shall use the official exchange rate issued by the NBC from the previous working day.</p>
<b>3. Monthly exchange rate</b>	<p>Taxpayers are required to use the official exchange rate issued by the NBC on the last day of each month to calculate their monthly taxes liabilities. This includes simplified VAT registered taxpayers.</p>
<b>4. Annual exchange rate</b>	<p>Taxpayers are required to use the official exchange rate issued by the NBC on the last day of December of each year, assuming they have a December tax year-end, for the preparation of their annual Tax on Income declaration and the calculation of their annual tax liability.</p>

*This Instruction No. 26118 GDT is effective from 28 October 2022 onwards and the Instruction No. 10362 GDT, dated 17 May 2022 was abrogated.*

**III. INSTRUCTION NO. 27185 GDT ON DISPLAYING TAX CERTIFICATE DATED 14 NOVEMBER 2022**

This instruction might be interesting to all enterprises

This instruction is to notify all enterprises to display their valid tax registration documents at their business premises as set out below:

<b>1. Head Office</b>	<ul style="list-style-type: none"> <li>▪ Certificate of tax registration or letter confirming tax registration; or/and</li> <li>▪ Patent tax certificate.</li> </ul>
<b>2. Local Branches</b>	<ul style="list-style-type: none"> <li>▪ Certificate of branch registration; or/and</li> <li>▪ Patent tax certificate.</li> </ul>

*Failure to implement the above requirement as per Instruction No. 27185 will be considered an obstruction of the tax law and will be penalized in accordance with Article 133 of the Law on Taxation.*

**IV. INSTRUCTION NO. 30408 GDT ON APPLICATION OF ADVANCE TAX OBLIGATION ON DIVIDEND DISTRIBUTION ("ATDD") DATED 14 DECEMBER 2022**

This instruction might be interesting to the General Taxpayers

Based on the TOI Prakas 098, if an enterprise distributes dividends from **income before tax** to local or foreign shareholders, that enterprise must pay ATDD equal to the gross up dividends based on the income tax rate multiplied by the annual income tax rate. ATDD paid in the current year is allowed as a tax credit for annual income tax deductions. If the tax credit exceeds the annual income tax, the excess amount is allowed to be deducted for income tax deduction of the following taxable year.

Before the new investment law 2021 and this instruction were issued, QIP that distributes the dividend from its retained earning which was subject to TOI 0% shall subject to ATDD. However, this instruction provided a clear guideline that ATDD **is not applied** to the QIP during the tax holiday period, including the retained earnings during the tax holiday period of the QIP which existed before 2020.

Furthermore, if the QIP, after the tax holiday period is entitled to an incentive to pay the annual income tax at the progressive rate, distribute its dividends from the income before tax to the shareholders shall pay the ATDD at the rate as below.

- 25% for the first 2 (two) years
- 50% for the next 2 (two) years and
- 75% for the last 2 (two) years.

The table below illustrate the tax implication of the above instruction:

<b>QIP</b>	<ul style="list-style-type: none"> <li>▪ During tax holiday – ATDD is not applied on retained earnings and interim dividend.</li> <li>▪ After tax holidays (additional incentive period – 25% for Year 1 and Year 2, 50% for Year 3 and Year 4 and 75% for Year 5 and Year 6</li> </ul>
<b>Others enterprise</b>	<p>20% or 30% applies on the dividend distribution from the <b>income before tax</b></p> <p>ATDD <b>does not</b> apply on the retained earnings after tax</p>

The WHT 14% shall applies on the dividend distribution to the non-resident shareholders. However, the rate shall be 10% when the enterprise obtained the DTA certificate from the GDT.

## VII. PRAKAS NO.1080 MEF.PRK ON RULES AND PROCEDURES FOR PERFORMING OBLIGATIONS TAXATION FOR COMMERCIAL GAMBLING BUSINESE DATED 30 DECEMBER 2022

This Prakas might be interesting to enterprise who are making the Commercial Gambling Business

### Terms

Commercial gambling refers to gambling activities at casinos, betting shops, lottery and/or other commercial gambling that generates profit.

### Effective date

The implementation of this Prakas is effective from the date of signing onwards.

### Tax obligation

All types of commercial gambling business are subject:

- Prepayment of Tax on Income
- Value added Tax
- Withholding Tax
- Tax on salary and Fringe Benefits Tax
- Annual Tax on Income
- Others

Any person makes business of commercial gambling has not registered or has not come to update the information or has not filed a declaration or has not paid taxes to the tax administration or has not fulfilled other tax obligations the Punishment as stated in the laws and provision on tax still in force.



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