

# Doing business in Cambodia

2021



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# Foreword

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Cambodia is a unique country providing extensive opportunities for those willing to spend time to understand the market. Although not without its problems, Cambodia's economy continues to expand and modernise.

While the modern history of Cambodia lingers in the minds of every family, the rebuilding and rediscovery of culture and social structure is a remarkable success story.

Grant Thornton Cambodia has prepared this guide to assist those interested in doing business in Cambodia. This guide does not cover the subject exhaustively; however, it is intended to answer some of the more important broad generic questions that may arise. When specific problems occur in practice, it will often be necessary to refer to the laws and regulations of Cambodia and to obtain appropriate professional advice. This guide contains only brief notes and includes legislation in force as of July 2021.

We hope this guide helps you in learning about and understanding business in Cambodia. Should you require professional assistance then we will be only too willing to meet you to see if we can help. Please feel free to email me directly on [ronald.almera@kh.gt.com](mailto:ronald.almera@kh.gt.com).



**Ronald C. Almera**  
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Grant Thornton Cambodia

# Country profile



# Country profile

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# Country profile

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Over the past two decades, Cambodia has undergone a significant transition, reaching lower middle-income status in 2015 and aspiring to attain upper middle-income status by 2030.

## Geography

Cambodia has a land area of 181,035 square kilometers in the southwestern part of the Indochina peninsula, about 20 percent of which is used for agriculture. International borders are shared with Thailand, Laos and Vietnam.

The dominant features of the Cambodian landscape are the large, almost generally located, Tonle Sap, Bassac River Systems and the Mekong River, which play a vital role in the nation's economic success by providing transportation routes and sustenance.

## Government

Cambodia is a constitutional monarchy with an elected parliamentary form of government. The King serves as the head of state and the Prime Minister is the head of the Royal Government of Cambodia. Norodom Sihamoni, the King, was crowned in 2004 after the abdication of his father Norodom Sihanouk. Hun Sen has been the Prime Minister since 1985. In the most recent national elections held in 2018, the Cambodian People's Party won all 125 seats in the National Assembly.

Sources: Tourism of Cambodia. *Cambodia Geography*. Retrieved from <https://www.tourismcambodia.com/about-cambodia/geography.htm>

Open Development Cambodia. *Government*. Retrieved from <https://opendevelopmentcambodia.net/topics/government/>

## Economy

Driven by garment exports and tourism, Cambodia's economy has sustained an average real growth rate of 7.7 percent between 1998 and 2019, making it one of the fastest-growing economies in the world.

However, these recent gains have been threatened by the coronavirus disease (COVID-19) pandemic which caused a total shutdown of international tourism; a drop in exports of garments, footwear, and travel goods; and a contraction in construction. After contracting by 3.1 percent in 2020, Cambodia's economy is expected to start recovering this year, growing at 4 percent, helped by an improving external environment and unprecedented government support.

Industrial production is expected to grow strongly, expanding by 7.1% in 2021 and 7.0% in 2022 on the back of a rebound in the garments, footwear, and travel goods sector and growth in light manufacturing. Agriculture is also expected to pick up, growing by 1.3% in 2021 and 1.2% in 2022. Growth in services output is projected at 3.3% in 2021, accelerating to 6.2% in 2022 as travel restrictions are eased. Real estate is expected to recover steadily from last year's contraction in line with a similar trend for the construction industry.

Sources: World Bank. (2021, April 14). *The World Bank in Cambodia*. Retrieved from <https://www.worldbank.org/en/country/cambodia/overview>

"Asian Development Outlook 2021: Financing a Green and Inclusive Recovery", 2021

# Country profile

## Economy

Cambodia has emerged in recent years as a high growth economy, attracting investors from around the globe. The government has proved itself welcoming to foreign capital and dedicated to building a stable investment environment. Foreign direct investment has increased significantly, offering long-term growth opportunities across a variety of sectors.

Cambodia's quick development from subsistence agriculture to a market-based, lower-middle income country was driven by the economy's renewed dynamism stimulating the construction sector; its gaming sector, growing industry, agricultural and natural resources complete the country's activity. These come in addition to a strong tourism sector, notably attracted by the world famous UNESCO World Heritage sites of Cambodia.

Cambodia's competitive advantages are its cost-effective labour force, young population, central location between Vietnam and Thailand and preferential tariff access. This positions the country to participate in global value chains, with firms adopting 'Plus one' production strategies to complement existing operations in neighbouring countries to benefit from Cambodia's low-cost production and preferential and free trade access. International companies are also entering the market to target high-end retail and services to the growing middle class in the capital city, Phnom Penh.

Sources: "Investing in Cambodia", 2021

ASEAN UP. *Overview of Business in Cambodia*. Retrieved from <https://aseanup.com/business-cambodia/>

Department of Foreign Affairs and Trade - Australia. *Cambodia Market Insights 2021*. Retrieved from <https://www.dfat.gov.au/sites/default/files/cambodia-market-insights-2021.pdf>

## Key economic data

### Real GDP growth:

4.2%

### GDP (Nominal):

USD 27.24 billion

### GDP per capita (Nominal):

USD 1,720

### GDP (PPP):

USD 78.07 billion

### GDP per capita (PPP):

USD 4,930

### GDP by sector:

Agriculture: 22.84%

Industry: 34.67%

Services: 36.21%

### Inflation rate:

3.1%

### Labour force:

9.2 million

### Labour force by sector:

Agriculture: 34.53%

Industry: 27.91%

Services: 37.56%

### Unemployment rate:

0.31%

Sources: International Monetary Fund. (2021, April). *IMF Data Mapper*. Retrieved from <https://www.imf.org/en/Countries/KHM>

Statista. *Cambodia: Share of economic sectors in the gross domestic product (GDP) from 2010 to 2020*. Retrieved from <https://www.statista.com/statistics/438728/share-of-economic-sectors-in-the-gdp-in-cambodia/>

Statista. *Cambodia: Distribution of employment by economic sector from 2009 to 2019*. Retrieved from <https://www.statista.com/statistics/438733/employment-by-economic-sector-in-cambodia/>

The World Bank. *International Labour Organization Data*. Retrieved from <https://data.worldbank.org/indicator/SL.TLF.TOTL.IN?locations=KH>



# **Business etiquette**

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# Business etiquette

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The work environment in Cambodia is based on hierarchy and respect. Cambodia is governed by principles of tradition and deference, which affect the way in which business is conducted.

## Business meetings and negotiations

Hierarchy and face manifest themselves in different ways within business meetings. For example, the most senior person should always enter the room first. Silence is also common in meetings where someone disagrees with another and remains quiet, so as not to cause a loss of face. Those not familiar with Asian culture should simply behave in a polite manner and allow your local counter-part to take the lead.

It is advisable not to negotiate very hard in person, but rather treat a verbal offer as indicative and follow up formally afterwards with a counter-offer and an explanation of the basis for your figures and terms.

Relationships are critical to successful business partnerships. Always invest time in building a good relationship based on both personal and business lines. Any initial meeting should be used solely as a “getting to know you” meeting. Most contracts will require several meetings to clarify the details, but also to assess your mannerisms, motivations and commitment.

## Greetings

Traditionally, Cambodians will put their hands together as high as the chest when meeting someone. This is called a “sam peah”, and is used when meeting or when saying goodbye to someone. A foreigner who is familiar with this gesture and reciprocates will be warmly received.

Handshakes are becoming more common on meeting and departing. Handshakes only usually take place between members of the same sex. Always wait for a woman to extend her hand. If she does not, bow your head slightly.

## Business notes

Cambodians are polite people and on occasions may smile and agree with you when in fact they may not have fully understood what you have said. This is not as big a problem as in some neighbouring countries where a smile and nod are usually to acknowledge that you have spoken, and do not always indicate a firm agreement. To avoid misunderstanding, it is advisable to politely clarify matters, and on occasion for a local colleague to do so in Khmer.

When doing business with local businesses or government organisations, it is advisable to have bilingual sales literature, including business cards and service/product manuals available for more complex negotiations. It is useful to have an agenda and relevant papers translated into Khmer prior to the meeting so both sides are clear on what they wish to discuss.

## Language hints

Most Cambodian business people have used English throughout high school and university, and are surrounded by English language media both online and through television. However, you should speak slowly and concisely as they may not be familiar with your accent. Remember to avoid using words in English that are specific to a particular country or region, and if someone does not understand certain words, try using a different version (e.g. footpath, sidewalk or pavement).

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# Business etiquette

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## Language hints

It is impolite to undermine the authority of a more senior Cambodian person by directing questions or responding to a more junior person whose English skills may be better. If it is necessary to use an interpreter, it is polite to talk directly to the person you are dealing with and to maintain eye contact.

Attempts at the Khmer language are best left to more informal settings in the company of friends.

## Business cards

Always carry business cards when you visit Cambodia and distribute them at every business meeting. When you meet someone for the first time in Cambodia, it is polite to offer your card with both hands. Upon receiving a card, do not stuff it into your pocket. Take a minute to look at the person's card, take care to pronounce their name correctly and acknowledge their title to show your counterpart that you value the opportunity to meet them. When you have finished engaging with the individual, place the business card in your wallet or purse, to show respect.

If you have a business card that is in English and Khmer, it is good etiquette to present the card to local people with the Khmer side facing upwards.

The order for a Cambodian name is family name first, then given name. So when referring to a Cambodian person, use their given name, prefixed by the appropriate term of reference. Hence, the Prime Minister of Cambodia Hun Sen should be referred to as Mr. Sen or Mr. Hun Sen.

## Attire

The climate in Cambodia can be quite hot all year round, so it is advisable to make allowances for this when selecting your business wardrobe. Probably the most suitable business attire is a lightweight suit with collar and tie for men, and either a smart trouser suit or skirt and blouse for women.

## Business hours

Normal office hours in Cambodia are usually from 8am to 5pm, with a lunch break in between, from Monday to Friday. Some local companies require staff to work a half-day on Saturday morning.

Government offices are generally open Monday to Friday from 7:30am to 11:30am, and from 2pm to 5pm.

## Eating and drinking

Eating and drinking is a major part of doing business in Cambodia. Toasting at banquets and karaoke are common after-dinner activities. When cognac or whisky is served at a meal, the custom is for individuals to drink only after a toast is made. The glass should be held in the right hand, which is supported by the left. Returning a toast is standard practice.

## Gifts

Gifts are not commonly exchanged when meeting for the first time. However, a small token over dinner or at an appropriate moment is always appreciated. The gift is not as important as the sentiment sent with it.

A box of chocolates, a bottle of cognac (for a man), or a small souvenir from your country will show that you are a considerate person.

# Business etiquette

## Public holidays

Cambodia has numerous public holidays, including memorial holidays and religious holidays of Buddhist origin. The citizens find these times a great way to bond and rejoice over the shared understanding of Cambodian culture, values and traditions.

The Royal Government of Cambodia has provided for 21 public holidays for year 2021, through Sub-Decree No. 131 SD.P dated 26 August 2020 and Prakas No. 397/20 dated 3 December 2020, as follow:



Date	Holiday
Friday 1 <sup>st</sup> January	International New Year Day
Thursday 7 <sup>th</sup> January	Victory over Genocide Day
Monday 8 <sup>th</sup> March	International Women's Day
Wednesday 14 <sup>th</sup> April – Friday 16 <sup>th</sup> April	Khmer New Year Day
Monday 26 <sup>th</sup> April	Visak Bochea Day
Friday 30 <sup>th</sup> April	Royal Plowing Ceremony
Saturday May 1 <sup>st</sup>	International Labor Day
Friday 14 <sup>th</sup> May	King's Birthday, Norodom Sihamoni
Friday 18 <sup>th</sup> June	King's Mother Birthday, Norodom Monineath Sihanouk
Friday 24 <sup>th</sup> September	Constitutional Day
Tuesday 5 <sup>th</sup> October – Thursday 7 <sup>th</sup> October	Pchum Ben Day
Friday 15 <sup>th</sup> October	Commemoration Day of King's Father, Norodom Sihanouk
Friday 29 <sup>th</sup> October	King's Coronation Day, Norodom Sihamoni
Tuesday 9 <sup>th</sup> November	Independence Day
Thursday 18 <sup>th</sup> November – Saturday 20 <sup>th</sup> November	Water Festival Ceremony



# Regulatory environment

# Regulatory environment

Cambodia strives to align its corporate governance frameworks with global standards with the objective of an improved commercial and business regulation environment that boosts the economy through more trade and investment.

## Corporate and commercial

The Law on Commercial Enterprises (“LoCE”), passed on 19 June 2005, governs commercial law in Cambodia. LoCE permits various businesses to operate including sole proprietorships, partnerships, limited liability companies, foreign businesses and public enterprises.

Under the LoCE, the investor must register the business and file an annual declaration at the Ministry of Commerce (“MOC”). All companies must conduct a company search through MOC to ascertain that their name is not already being used. Additionally, the company must maintain a number of corporate records, bearing its name in Khmer language in all seals, signs, forms, letterheads and documents used in Cambodia, at their registered office.

## Business entities

Cambodia accommodates different business structures and legal entities. These include:

- **Sole proprietorship**

A sole proprietorship is a type of business entity that is owned and operated by a single natural person who owns all of its capital. There is no legal distinction between the owner (i.e. the sole proprietor) and the business. As a consequence, the owner bears sole and exclusive responsibility over the obligations and liabilities that may occur during the operation of the business.

- **Partnership**

Partnerships are common for local and small businesses, and are favoured as business entities by accountants, doctors and lawyers. There are two types of partnerships, the general partnership and limited partnership.

In general partnerships, day to day operations are managed by general partners who are liable to partnership’s debts and obligations. In limited partnerships, there is at least one general partner who has authorization in administering and binding the partnership with a minimum of one partner contributing to the capital, with this capital contribution governing their liability.

- **Limited Liability Company**

A limited liability company (LLC) is managed by officers and directors and funded by capital provided by shareholders. As the term “limited liability” indicates, the liabilities of the shareholders for their company’s liabilities is limited and cannot exceed its share capital.

There are three types of LLCs, which are:

- **Private limited company**

A private limited company must have between 2 and 30 shareholders and requires a minimum of one director who can be either a local or foreigner.

The private limited company cannot issue shares or securities to the public, and may have one or more restrictions on the transfer of each class of its shares.

The company name must include the words *Private Limited Company* or *Ltd* at the end of the name.

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- **Single-member private limited company**

The single-member private limited company is a private limited company that has one person or entity as the shareholder and a minimum of one person as the director.

The single-member private limited company can be converted to a private limited company upon the shareholder's approval to increase company shareholders.

- **Public limited company**

A public limited company ("PLC") can issue shares and securities to the public. The name must include *Public Limited Company* or *Plc* at the end of the company name. It requires a minimum of three directors and at least two or more shareholders. Banks, insurance companies and finance companies must register as public limited companies. capital, with this capital contribution governing their liability.

- **Foreign businesses**

Stipulated in the LoCE, a foreign business is a legal person formed under the laws of a foreign country having a place of business in, and doing business in Cambodia.

There are three types of foreign business entities in Cambodia:

- **Representative office**

Foreigners can set up a representative office to gain presence in the Cambodian market and promote the products and services of the foreign parent company.

The representative office cannot engage in trade or provide services, sell, purchase, manufacture, process or construct in Cambodia.

Representative offices are permitted to perform the following activities:

- Contacting customers and introducing customers to the parent company.
- Researching commercial information and providing information to the parent company.
- Conducting market research.
- Market goods at trade fairs and exhibit samples and goods in offices or trade fairs.
- Rent an office and employ local staff.
- Enter contracts with local customers on behalf of the parent company.

The name of the office must be the same as the parent company and have the words *Commercial Representative office* or *Commercial Relations Office* in front or above the name.

- **Branch office**

The branch office is not a separate legal entity from the foreign parent company; therefore, the parent company is liable for the branch's debts and obligations.

Branches can conduct commercial activities, such as buying and selling products, and can engage in manufacturing, processing and construction. The branch name can be the same as the parent company and must have the words *Branch* above or in front of the name.

The branch office cannot engage in any Qualifying Investment Projects ("QIP") for which tax incentives are available. To qualify for the QIP incentives, you must have a company incorporated in Cambodia.

# Regulatory environment

## o Subsidiary

A subsidiary is a foreign company in Cambodia with at least 51% of the shares held by the foreign parent company. The subsidiary is a separate legal entity from the parent company, and can be set up as a partnership or limited company. Subsidiaries can conduct business the same as local companies except for activities that are prohibited to foreigners, such as owning land.

## Restrictions on foreign ownership

Cambodian law does not prohibit 100% foreign company ownership, so there are no restrictions on foreign shareholders. However, there are a few restrictions on foreign investment and shareholders.

## Ownership of land

Foreigners cannot own land in Cambodia, under Article 44 of the Constitution. Cambodia's Investment Law of 1994. However, there are some options for them to enjoy control over land, such as incorporating a local company, i.e. 51% Cambodian owned, set up a joint venture with Cambodia partners or sign perpetual leases.

Foreign investment is also prohibited in the following areas:

- Production/processing of psychotropic substances and narcotic substances.
- Production of poisonous chemicals, agricultural pesticides/insecticides and other goods using chemical substances prohibited by the World Health Organisation.
- Processing and production of electric power by using waste imported from a foreign country.
- Forestry exploitation, under the Forestry Law.

The foreign transfer of funds equal to or more than USD10,000 must get a prior declaration from the National Bank of Cambodia.

## Investment incentives

Cambodia offers investors one of the most liberal incentive schemes in Southeast Asia. Except for the ownership of land, Cambodia does not discriminate against foreign nationals. Additionally, Cambodia does not fix prices on products and services, allowing business owners greater control of company operations.

Cambodian law also offers investors various tax and duty exemptions and employment allowances. Concerning tax exemptions, investors can enjoy a corporate tax exemption for up to eight years depending on the nature of the project. Additionally, there is a 100% exemption of export tax available for some investors. Cambodia also allows investors to employ foreign nationals if the business requires skilled workers or managers.

## Special Economic Zones

Special Economic Zones (SEZ) provide an industrial park setting with good infrastructure and communications, streamlined management and shared services. Incorporations, registrations, licensing and labour matters are all dealt with on-site. Investment approvals, customs inspections and import-export procedures are also conducted on-site. Most importantly, companies in an SEZ may be entitled to tax holidays up to nine years, zero-rate value-added tax ("VAT"), full import duty exemption, certain import duty exemptions, and free repatriation of profits.

Sources: Acclime Cambodia. *Nine types of business entities to register in Cambodia*. Retrieved from <https://cambodia.acclime.com/guides/business-entities/?sfw=pass1629191539>

Thomson Reuters. *Doing business in Cambodia*. Retrieved from [https://uk.practicallaw.thomsonreuters.com/3-524-4317?transitionType=Default&contextData=\(sc.Default\)&firstPage=true#co\\_anchor\\_a541434](https://uk.practicallaw.thomsonreuters.com/3-524-4317?transitionType=Default&contextData=(sc.Default)&firstPage=true#co_anchor_a541434)

Open Development Cambodia. (2020, November 10) *Business structures and legal registration*. Retrieved from <https://opendevelopmentcambodia.net/topics/business-structures-and-legal-registration/>

"Guide to Doing Business in Cambodia" 2014

# Regulatory environment

## Banking and finance

### Banks

The National Bank of Cambodia (“NBC”), known as the central bank, is the sole regulatory body of the banking system. The NBC issues licenses, revokes licenses, regulates and supervises banks, financial institutions and other relevant establishments.

The banking system in Cambodia consists of commercial banks, specialised banks, microfinance institutions (“MFIs”), rural credit institutions, financial lease companies, third-party processors and payment service institutions.

Commercial banks are authorised to take deposits, make loans, conduct foreign exchange operations and carry on other basic banking activities. Specialised banks operate in the same way as finance companies, since they are not allowed to collect deposits but are permitted to provide credit facilities. MFIs and rural credit institutions have generally been regarded as banking for the poor. MFIs are generally not permitted to accept deposits unless they have obtained a separate licence from the NBC after fulfilling certain conditions including, inter alia, being in operation for at least three years. As at the end of 2020, the NBC had granted licences authorising the collection of deposits to six microfinance institutions (“MDIs”). Financial lease companies provide the lease of all movable property except land and buildings to the public. There have been some adjustments to the characteristic of players under the current payment system; companies that can retain their legal form as third-party processors are limited to only those companies that conduct the payment service, specifically to remit money and receive money remittance order, by using a bank's premises. In contrast, payment service institutions are eligible to conduct a wider range of payment service transactions.

Banks established in Cambodia must be either a locally incorporated entity or a branch of a foreign bank. Foreign banks may also establish representative or liaison offices whose activities are strictly limited to conducting market research and gathering information. In theory, the representative office has a life span of two years, which may be renewed once only.

As at the end of 2020, there were 52 commercial banks, 14 specialised banks, 81 MFIs (including six microfinance deposit-taking institutions “MDIs”), 15 financial lease companies, four third-party processors, one credit bureau (Credit Bureau Cambodia), 24 payment service-providing institutions and 246 rural credit institutions in Cambodia.

### Licensing

Every banking institution shall be incorporated as a public limited company and must comply with minimum capital requirements. The NBC recently raised the minimum capital of commercial banks, including foreign bank branches whose parent bank does not have an investment grade rating, from USD 37.5 million to USD 75 million, while the minimum capital of foreign bank branches whose parent bank is rated as investment grade has increased to USD 50 million. An investment grade rating is confirmed to be valid for only one year from the reporting date to the NBC. Likewise, the minimum capital of specialised banks has been increased from USD 7.5 million to USD 15 million. The NBC also requires any newly established MFIs and existing MFIs to have a minimum capital of USD 1.5 million, which is much higher than the amount set by the previous regulation (USD 62,500). MDIs are also subject to a new minimum capital requirement to increase their previous minimum capital from USD 2.5 million to US 30 million. The minimum capital requirement for financial leasing companies and rural credit institutions remains the same, at USD 50,000.

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## Investment incentives

Even though the Cambodian banking system is still generally considered to be in its development phase, foreign banks continue to express great interest in the sector, taking into account the country's continuous economic growth and the entry of new investors in this emerging market located in one of the world's fastest-growing regions. In addition, the existing legal framework offers notable incentives – no restriction on foreign ownership, no local joint venture requirement, and minimum currency risk due to Cambodia's highly dollarised economy, to which foreign investors might not be entitled in neighbouring countries, in addition to the following:

- **Liberalisation of interest rate setting**

The NBC issued Prakas on the Liberalisation of Interest Rate Setting No. B7-09-213 Prokor, dated 9 September 2009. The objective of this Prakas is to provide banks and financial institutions the right to determine interest rates on deposits and loans, both in the local and foreign currencies, according to each institution's ability and interest rate policy.

To ensure consumer protection from excessive interest rate charged by the institution and to effectively promote the use of affordable loan, the NBC promulgated Prakas on Interest Rate Ceiling on Loan No. B7-017-109 PK, dated 13 March 2017. This Prakas requires MFIs, MDIs and rural credit operators to set interest not exceeding 18% per annum on its loans.

## Foreign exchange

Law on the Foreign Exchange of 1997 stipulates that “there shall be no restriction on foreign exchange operations” through authorized banks (Article 5) but the authorized banks shall report to the NBC the amount of each transfer equaling or exceeding USD 10,000 US (Article 17). Residents are allowed to hold foreign currencies freely (Article 7).

The import or export of raw gold, uncut precious stones or other raw precious metals shall be free but subject to prior declaration to the NBC, and the import or export of the means of payment equaling or exceeding USD 10,000 in foreign currencies or the equivalent amount in domestic currency by a traveler shall be declared to customs officers (Article 12 and 13).

Loans and borrowings, including trade credits, may be freely contracted between residents and nonresidents as long as the loans disbursement and repayments are made through authorized banks (Article 18).

There are currently no significant restrictions on the repatriation of profit or capital derived from investments made in Cambodia.

Sources: Bun and Associates. (2021, May 4). *The Banking Regulation Review: Cambodia*. Retrieved from <https://thelawreviews.co.uk/title/the-banking-regulation-review/cambodia>

Council for the Development of Cambodia. *Foreign exchange*. Retrieved from <http://www.cambodiainvestment.gov.kh/investors-information/foreign-exchange.html#>

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## Insurance

The Ministry of Economy and Finance (“MEF”) is the competent authority that can issue insurance regulations and supervise and administer any insurance businesses in accordance with the Insurance Law of 2014. The MEF can also establish an insurance development fund for the purposes of development, support and promotion of the insurance industry and public awareness of the benefits of insurance.

The insurance industry consists of general, life insurance, reinsurance and micro-insurance companies, insurance brokers, agents and loss adjusters.

General insurance, which includes insurance for health, automobiles, fire and personal injury, is the most common form of insurance. Purchasers of fire insurance are mostly garment factories, warehouses and hotels. As Cambodia is a less developed country and the concept of insurance was only introduced in the last decade, micro-insurance (that is, insurance for the protection of low-income people against specific perils) also plays a role in Cambodia's insurance market.

According to the report on the insurance market issued by the Insurance Association of Cambodia earlier in 2021, the country has 16 general insurance companies, 11 life insurance companies and 5 micro-insurance companies, representing 56.1%, 41.9% and 2% of the total premiums in Cambodia, respectively. The total amount of compensation paid out by all insurance companies in Cambodia to customers in 2020 represented USD 37 million.

## Licensing

Under the Insurance Law, all insurance businesses including insurers, insurance agents, insurance brokers and insurance loss adjusters, must obtain a licence from the MEF.

Insurers include life insurers, general insurers, micro-insurers and reinsurers.

The Insurance Law provides a minimum capital of USD five million special drawing rights for general, life insurance or reinsurance companies; one-quarter of the amount of the underwritten premiums with a minimum of USD 150,000 for micro-insurance companies, both life and non-life; USD 50,000 for insurance brokers; and, USD 5,000 for insurance agents and loss adjusters.

## Investment incentives

Despite the fact that the insurance market is still nascent, Cambodia has many assets, even if pitfalls exist. The following are key assets of the Cambodian insurance market:

- Cambodia has an insurance penetration rate of only 10% of the population, and its middle class is the fastest growing in the Association of Southeast Asian Nations (“ASEAN”);
- A very fast premium growth rate of 20% per year during the past 15 years.
- Very few businesses subscribe to insurance policies to cover their risks and when they do it is generally through a fire insurance policy that the banks require for granting loans;
- While some foreign businesses are covered in Cambodia through their worldwide policies, any risk in Cambodia must be underwritten by a duly authorised insurance company; and
- The existing legal framework offers notable incentives that foreign investors might not be entitled to in neighbouring countries.

Source: Bun and Associates. (2021, April 14). *The Insurance and Reinsurance Law Review: Cambodia*. Retrieved from <https://thelawreviews.co.uk/title/the-insurance-and-reinsurance-law-review/cambodia>

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# Regulatory environment

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## Securities markets

The securities market is primarily governed by the Securities Law and Government Securities Law of 2007, and regulated by the Securities and Exchange Regulator of Cambodia (“SERC”).

## Securities market operator

When Cambodia joined ASEAN on 30 April 1999, the goal to modernize the financial sector to better benefit from ASEAN financial sector development became a priority. The reliance on short-term and intermediate sources of capital provided by commercial banks was insufficient to fund long-term development. The commercial lending interest rate is relatively high and loans granted are usually limited to 50% of collateral value.

To overcome these challenges, the Cambodia Securities Exchange (“CSX”) was officially inaugurated on 11 July 2011. CSX has been granted approval to function as market operator, clearing and settlement facility operator and depository operator. CSX is a joint venture between the Royal Government of Cambodia (55%) and the Korea Exchange (45%). Phnom Penh Water Supply Authority became the first domestically listed company on the CSX. To date, there are 7 companies and 8 bonds listed on the CSX.

In order to encourage further public listings, listed companies are eligible for a tax incentive of a 10% deduction on corporate income tax.

## Initial Public Offering

Before starting the process for an Initial Public Offering (“IPO”), the issuer must engage an underwriter that advises the issuer to comply with the requirements above, to prepare the prospectus, and to determine the amount of shares or other securities to be issued and the price.

Next, the issuer must file an application to the CSX to determine whether it may be able to be listed on the CSX. After the CSX confirms the listing eligibility of the issuer, the issuer files the final prospectus to the SERC for its IPO.

After the SERC issues approval-in-principle for the IPO, the issuer prepares and submits the terms and conditions, including the securities pricing to be approved by the CSX and then by the SERC. After the prospectus is registered and approved by the SERC, the newly issued securities (20% reserved for Cambodian individuals and 80% for the public) are offered to and subscribed by the public through securities underwriters, dealers and/or brokers. The underwriter itself is required to subscribe the outstanding newly issued securities after the end of the subscription date, if any. At the end of the IPO, the issuer is required to register with the CSX so that its securities may be traded.

## Securities intermediaries

The securities intermediaries are classified into four business categories regulated under separate licenses providing permissions to carry out different level of activities – Securities underwriting; Securities dealing; Securities brokerage; and Investment advisory

Securities underwriters may trade securities in the securities market under their own account or on behalf of their clients. Additionally, a securities underwriter may also operate a securities dealing, securities brokerage and investment advisory business. A securities dealer may trade securities on its own account and at its own risk. Also, a securities dealer may operate a securities brokerage and investment advisory business. A securities broker may buy or sell securities on behalf of and by the order of its clients for a commission. A securities broker may also operate an investment advisory business. An investment advisory firm is a professional firm providing investment advisory services to public investors regarding decisions on securities investment.

# Regulatory environment

## Licensing

For licensing purposes, different capital, legal, logistic, corporate and human resources requirements are imposed by relevant regulation. It is noted however that, subject to human resources requirements, only firm licensed to operate as securities underwriter is automatically allowed to carry out all securities business without requiring additional or separate license. All licenses have an initial validity of two years and then renewal for every three years.

The minimum capital of a securities underwriter firm is set for approximately USD 10 million. A securities dealing firm is required to have a minimum capital of approximately USD 6.25 million. The minimum capital of a securities brokerage firm is approximately USD 1.5 million. An advisory firm is required to meet the minimum capital requirements of approximately USD 1 million. Any individual person who wishes to provide investment advisory services needs to be sponsored by an investment advisory firm and be a resident of Cambodia.

Since 2010, SERC has licensed 15 securities and investment advisory companies. Currently, there are seven securities underwriters, one securities dealer and four securities brokers licensed by the SERC.

Sources: DFDL Cambodia. (2017, May 17). *Investment Guide Cambodia : The Securities Markets*. Retrieved from <https://www.dfdl.com/resources/legal-and-tax-updates/investment-guide-cambodia-the-securities-markets/>

Cambodia Securities Exchange. *Frequently Asked Questions*. Retrieved from [http://csx.com.kh/news/faq/listPosts.do?MNCD=7070#sec1\\_2](http://csx.com.kh/news/faq/listPosts.do?MNCD=7070#sec1_2)

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# Labour law

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# Labour law

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Like many other developing countries, Cambodia's economic growth drives job creations making the country have the highest labor participation rate in the Southeast Asia and the Pacific region.

The Cambodian Labour Law and related regulations apply to all employer-employee relationships where the work is performed within Cambodia. As a matter of public policy, none of the rights, or benefits guaranteed under the Labour Law may be abrogated by contract or any other agreement between a company and the employee. The benefits and protections stated in the Law should be treated as a minimum guarantee. A company is free to offer more generous terms, though is not required to do so.

The Ministry of Labour and Vocational Training ("MLVT") is empowered to administer and enforce the Labour Law.

## Hiring employees

The Cambodian Constitution guarantees equal protection for all citizens under the Law. Employees engaged in the same work, and possessing the same skill and ability, should be paid the same wage, irrespective of any immutable traits. Prior to employment, all employees are required to have a medical examination. The cost of the examination is the responsibility of the company.

## Employment contract

The purpose of employment contracts is fundamentally to legally establish employment relationships. There are two types: a fixed duration contract ("FDC") and an unfixed duration contract ("UDC").

A contract for work to be performed is defined as FDC if:

- The contract is written;
- The contract contains precise commencement and termination dates; and,
- The contract duration, including any renewal period, does not exceed two years.

If any of these conditions is not met, then the contract is defined as UDC. Any employee who has been working continuously for a single employer for over two years is automatically on a UDC.

If a contract meets the requirements necessary to be a FDC, but work continues past the contract's expiration date without a renewal, then the contract will automatically become a UDC.

While UDCs are not required to be in writing, to ensure that the parties are aware of their rights and obligations, it is recommended that they are in writing. UDCs must meet the minimum standards set by the Labour Law (and its related regulations), otherwise they will be unenforceable. However, this does not preclude the parties from agreeing on more favourable terms.

Certain mandatory content must be specifically included in any employment contract, such as wages, working hours, night work, weekly time off, paid holidays, paid annual leave, special leave, etc. Additionally, the employer may include other necessary terms based on the business's operational needs or requirements. These terms should be added only to the extent necessary and must not contradict the mandatory terms under the Labour Law.

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# Labour law

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## Wages

### Working time

Employees can work for a maximum of 8 hours per days, 48 hours per week. Employees must be given one full day off, meaning 24 consecutive hours, per week. Unless the company's operations require otherwise, this should be taken on Sunday.

### Overtime

Companies can ask their employees to work overtime for exceptional and urgent jobs. Performance of overtime work is voluntary, so employees cannot be penalised for refusing to work overtime. In addition, the employer is supposed to ask the permission of the Labor Inspector before giving employees overtime work.

Overtime must be compensated at 150% of the employee's wages, if the overtime is completed before 10 pm. If the overtime is scheduled after 10 pm, on Sunday, or a public holiday, then the company must pay 200% of the employee's wages. In any event, overtime is generally limited to 2 hours per shift.

Employees who work overtime must receive either 1,000 riels or a free meal when they work overtime. This meal can be provided in the middle of the shift or before overtime starts.

### Payment

On 21 September 2018, the MLVT issued Prakas No. 442 requiring companies to pay their employees twice a month as follows:

- First payment: Must be made in the second week of the month and consist of 50% of the employee's actual wages for the month.
- Second payment: Must be made in the fourth week of the month and consist of the remaining 50% of actual wages for the month, plus fringe benefits and other benefits the employee is entitled to each month.

This payment scheme has been in effect since January 2019.

### Minimum wage

The MLVT issued Prakas No. 33 which stipulated that the country's 2021 monthly minimum wage was set at USD 192 for regular workers in the textile, garment, and footwear industries, an increase of USD 2 from 2020. The new rate has been in effect from 1 January 2021.

As the minimum wage has only been specified for certain sectors, most businesses are relatively unrestricted. When setting the wage for its lowest-paid employee, companies should consider the following;

- Basic needs of workers and their families;
- Cost of living;
- Inflation;
- Productivity;
- Competitiveness;
- Labor market; and
- Sector profitability.

### Holidays, leave and benefits

#### **Paid public holidays**

Each year, the MLVT issues a Prakas determining the number and dates of paid public holidays. In the event that such a holiday is on a Sunday, employees must be given the following Monday off. During the holiday period, the company must pay their employees their normal wages.

Employers that must remain open during public holidays can request employees to work on such days. If they agree, the employee must be paid 200% of their regular wage for that day's work.

#### **Paid annual leave**

Employers are required to give their employees paid annual leave of 1.5 days per month, for a total of 18 days per year. For every 3 years of continuous service, employees are entitled to an additional day of leave per year.

# Labour law

Part-time employees (those working less than 48 hours per week) must be given annual leave proportional to their work hours.

Employees are entitled to use their leave after one year of service resulting in a backlog of leave time. Many companies, therefore, allow employees to take leave during their first year. If an employment contract is terminated prior to one year, the employee is entitled to an indemnity based on the 1.5 days per month scale.

Companies are required to pay employees in advance when taking paid leave days. The allowance is calculated by the average wages that the employee had earned during the previous 12 months, and cannot under any circumstances be less than what would have been earned had the employee worked.

Employees may choose to defer annual leave, in excess of 12 days per year, until the end of their labor contract. However, annual leave cannot be deferred more than three consecutive years without expiring.

## Sick leave

Sick leave of employees which present certification from a doctor confirming their illness should be paid on the following scale:

- During the 1st month of illness: 100% of wages.
- During the 2nd and 3rd months of illness: 60% of wages.
- During the 4th month and longer: no wages paid.

Additionally, the company must pay the employee any attendance or seniority bonuses that are interrupted due to illness.

An employer is required to hold a sick employee's position, without pay, for at least six months, otherwise, contract may be terminated.

## Special leave

Employees have the right to request up to seven days of "special leave" on occasions directly affecting his immediate family, which include the following:

- Marriage, either of the employee themselves or a child;
- Birth of an employee's child; and,
- Death, or sickness of an employee's spouse; parent or child.

In the event of a special leave request, the employer may deduct the leave taken from the employee's annual leave. If the employee has no annual leave remaining, the employer may require the employee to work overtime in order to make up for the leave taken. However, when working overtime, the employee cannot work more than 10 hours per day or 54 hours per week.

## Maternity leave

Expectant mothers are entitled to 90 days of maternity leave after one year of continuous service. There is no restriction on whether the leave must start before or after the birth.

During the maternity leave period, the company must pay 50% of the employee's average wage earned during the preceding 12 months. The payment should be made before the employee begins the leave. For a period of two months after returning from leave, the employee is only obligated to perform light work. An employee may not be terminated because they become pregnant, or while they are on maternity leave.

## Seniority indemnity payments

The MLVT issued Prakas No. 443 requiring companies to make seniority payments to employees under UDCs. Employees hired under FDCs will not receive the seniority payment, but are entitled to severance pay, calculated at 5% of the wages the employee would have received during the length of the contract unless otherwise stated in the collective bargaining agreement.

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# Labour law

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Seniority payments are made every six months as follows:

- 7.5 days of the employee's wages and other fringe benefits, to be paid in June of each year; and,
- 7.5 days of an employee's wages and other fringe benefits, to be paid in December of each year.

For employees who have been employed prior to 1 January 2019 and continue to be employed after 1 January 2019, the employer shall also pay back the seniority payment accrued before 2019 as follows:

- For textile, garment and footwear enterprises/establishments, the employer shall pay back 30 days of basic salary for each year from 2019 onward as below:
  - 15 days of basic salary shall be paid in June of each year, and,
  - 15 days of basic salary shall be paid in December of each year.
- For other enterprises/establishments besides the textile, garment and footwear sectors, the employer shall pay back 15 days of basic salary for each year from 2019 onward as below:
  - 7.5 days of basic salary shall be paid in June of each year, and,
  - 7.5 days of basic salary shall be paid in December of each year.

The maximum amount of seniority payment accrued prior to 2019 shall not exceed six months of the average wages of each year.

For the first year of service, employees who work continuously for at least one but less than six months will be entitled to a seniority payment of 7.5 days. Employees who work for six months or more, will be considered to have worked for the entire year, and will be entitled to 15 days of seniority pay.

Employees who resign from their positions shall not receive the retrospective payment of the remaining seniority payments.

## National Social Security Fund

The National Social Security Fund ("NSSF"), which is an independent and autonomous public institution, was established in order to administer the schemes of Social Security protection in accordance with the law and was fully functional at the end of 2008.

The NSSF only applies to enterprises and establishments with 8 employees and more. Workers in these enterprises and establishments include:

- All workers defined by the provisions of the Labor Law, if those persons perform work in Cambodia in an enterprise or establishment of nature, form and validity of the contract or kind and amount of the wage received by the person.
- Trainees, apprentices and persons who are attending rehabilitation center.
- Seasonal or occasional workers.

NSSF also applies to state workers, public workers and every personnel who are not governed by the common statute for civil servants or by the Diplomatic statute as well as officials who are temporarily appointed in the public service.

All contributions to the NSSF are borne by the employer at a uniform rate, applied to all risk class or industry, of 0.8% of the assumed wage based on the employee's monthly wage before taxation.

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NSSF provides compensation to all NSSF members who suffer occupational accident. The compensation or benefits are categorised as followings:

- Medical treatment benefit
- Temporary disablement benefit
- Nursing benefit
- Permanent disablement benefit
- Constant attendance benefit
- Survivors benefit

Injured employee is provided with medical treatment benefits including medical care and transportation. Temporary cash will be provided for the period of temporary disablement on the second day after the accident at a rate of 70% of the daily contributory average wage, and lasts for 180 days. Daily contributory average wage is the division of average assumed wage (of the last 6 months prior to the accident) by 30 days.

## Pensions

On 4 March 2021, the Cambodian Government issued Sub-Decree 32 implementing a pension scheme in Cambodia for old-age, invalidity, survivors and funerary allowances.

Enterprises employing one or more workers will be obliged to register with the NSSF for the pension scheme unless the enterprise has already registered prior. All new employees will need to be registered with the NSSF for the pension scheme within three days from the date of employment whereupon those new employees will also be enrolled under the pension scheme. Employers will also be required to report periodically on the movement of personnel within its enterprise.

## Old-age

Employees who are NSSF members are entitled to receive an old-age pension if they fulfil the following conditions:

- Have registered for a pension scheme;
- At least 60; and,
- Have paid contributions to the pension scheme for at least 12 months.

If someone doesn't meet condition 3, they will receive an old-age allowance instead.

NSSF members who fulfil all the pension conditions must complete the benefit claim form three months before the date of having the right to claim. For the old-age allowance, the NSSF member must complete the claim form within the month after becoming 60.

## Invalidity

NSSF members who are employees and become invalid are entitled to an invalidity pension if they meet the following conditions:

- Have registered for a pension scheme; and,
- Have paid contributions to the pension scheme for at least five years before the date of incurring the invalidity.

The minimum rate of invalidity pension is 45% of the contributory wage of the employee.

NSSF members who meet the conditions to receive the invalidity pension must complete the benefit claim form within one month of becoming invalid. If the invalid person is unable to make the claim, their legal representative can do it on their behalf.

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# Labour law

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## Survivors

Beneficiaries of a survivors' pension are entitled to receive the pension only if the old-age pensioner, invalidity pensioner or NSSF member who dies had contributed to their pension scheme for at least five years. The beneficiaries of the survivors' pension must complete the benefit claim form within the three months after the death.

## Funeral allowance

The beneficiary of the survivor's pension shall be entitled to funeral benefits when the old age pensioner or invalidity pensioner dies. If the funeral is not arranged by the beneficiary of the survivor's pension, the funeral benefits may be provided to those who arrange the funeral.

The requirements for funeral benefits shall be as follows:

- Give notice to the NSSF about the death of the old age pensioner or invalidity pensioner no later than two weeks from the date of the death.
- Fill out the form for funeral benefits and attach the death certificate or other documents recognized by the NSSF.

The NSSF shall issue a decision on the provision of funeral benefits no later than two weeks from the date of receiving the application form.

The procedures and formalities for the provision of funeral benefits shall be determined by a Prakas of the MLVT at the request of the NSSF Governing Board.

## Timing of payments and contributions

Old-age pensions, invalidity pensions and survivors' pensions are calculated on a monthly basis. The NSSF pays the first half-monthly payment no later than the 15th day of each month and the second half-monthly payment no later than the 30th day of each month.

Pension contributions are paid monthly.

The employer must pay the pension contributions (both the employer and employee parts) to the NSSF account at a partner bank no later than the 15th date of the following month. If the employer wants to make an annual contribution payment, they can ask the NSSF for permission.

## Pension under voluntary contribution

NSSF members who have met any of the following conditions shall be entitled to apply to the NSSF to join the pension scheme under voluntary contribution:

- Lose a paid job before the age of 60 and can afford to continue to pay contributions.
- 60 years of age and wish to continue to pay contributions to receive more old age pension than the actual old age pension that the person is entitled to under the compulsory contribution.
- Have a higher income than the ceiling wage that the person is obliged in the compulsory contribution scheme. The ceiling wage shall be determined by a particular Sub-decree.

The contribution rate for this scheme shall be equal to the contribution rate of the compulsory contribution scheme. The contributory amount shall be paid according to the amount requested by the person.

The amount requested to be contributory for NSSF members who lose their job before the age of 60 and can afford to continue to pay contributions shall be determined to be equal to the average wages of the last 6 months from the date they lose their job.

For NSSF members who have met the conditions in Point 1 or 2 shall comply with the procedures for paying contributions for this scheme for at least six months.

For NSSF members who have met the conditions in Point 3 shall be implemented via the comprehensive financial system.

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# Labour law

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## Termination

Generally, an FDC terminates at the end of the term specified in the agreement. An FDC can be terminated prematurely only if:

- Both parties are in agreement, made in writing and signed in the presence of the Labor Inspector;
- There has been serious misconduct by either party; or,
- An Act of God makes performance of the contract impossible.

Any employer-initiated termination in violation of this rule entitles the employee to the remaining pay under the contract.

If the employee quits in violation of this rule, they are required to pay the company damages resulting from the termination of the contract.

The amount of damages can be difficult to determine, and will depend on the circumstances.

An employer can terminate a UDC for any reason relating to the employee's aptitude or behavior, or based on the requirements of the company.

A downturn in the company's finances constitutes a valid reason for termination. An employee can terminate a UDC for any reason.

## Notice period

The company must give notice of FDC's expiration and non-renewal as follows:

- Six to twelve months: at least 10 days prior to the expiration date.
- Greater than one year: at least 15 days prior to the expiration date.

Failure to give an employee prior notice will result in the FDC being renewed for a duration equal to the original contract. If the renewal is greater than two years, then the contract will be considered a UDC.

When terminating a UDC, both the employer and employee must give prior written notice. The length of continuous service determines the notice period as follows:

- Less than 6 months of service: 7 days.
- 6 months to 2 years of service: 15 days.
- 2 years to 5 years of service: 1 months.
- 5 years to 10 years of service: 2 months.
- 10 years and greater: 3 months.

Throughout the notice period, each party is obligated to perform their contractual duties.

If the employer terminates the contract without observing the proper notice period, it must pay the employee the wages that would have been earned during the proper notice period. The law is silent on the consequences of the employee failing to give proper notice. Presumably, the employer could bring a suit seeking compensation for any damages sustained.

During the notice period, the employee is allowed two days of paid leave per week to look for new employment.

Neither party is required to observe the notice requirement in the following situations:

- The employee is probationary, or an intern;
- Serious misconduct by either party; and,
- Acts of God that make it impossible to perform contractual obligations.

## Foreign employees

All types of employees enjoy the same protection and mandatory benefits as those of local employees.

Employers are obliged to keep immigration and labour documents on-site, so that they are immediately available for labour inspection purposes.

# Labour law

For foreign workforce inspections, the joint foreign labour inspectors can request a company to disclose original documents, such as:

- the initial declaration of employees;
- all declarations of staff movement in and out;
- foreign employee quota approvals;
- certification of foreign employees' employment contracts issued by the MLVT;
- passports (with two photos measuring 4cm x 6cm);
- visas and the latest extensions thereof; and,
- employee work permits issued by the MLVT.

The employer must therefore retain original copies of the aforementioned documents for the duration of the employment period.

Companies employing (or intending to employ) foreign employees are required to apply for a foreign employee quota via the MLVT online system. Under the quota system, no more than 10% of an employer's total local workforce may be foreign nationals (based on a calculation of foreign employees and local employees), as follows:

- skilled labour employees (6%);
- office employees (3%); and,
- unskilled labour employees (1%).

Through the online system, the MLVT generally adheres very strictly to the foreign employee quota within the scope of the 10% cap.

However, the MLVT has issued Prakas No. 277, allowing the owners or directors of enterprises to submit a letter to the MLVT requesting the hiring of additional foreign workers in excess of the 10% cap in special circumstances; for example, if they are unable to recruit any Cambodian employees to perform work at any workplace, job or work shift.

As Prakas No. 277 does not specify that the MLVT must grant such a request, whether a request will be approved or declined remains subject to the sole discretion of the MLVT.

Foreign nationals intending to work in Cambodia are required to obtain a Visa EB. They can apply for in initial Visa E either in advance from Cambodian embassies and consulates located overseas or on arrival in Cambodia. However, it should be noted that there are certain nationalities for which an application for a visa on arrival may be denied. After obtaining a Visa E and entering Cambodia, the foreign workers will have to extend the visa to a Visa EB. The initial Visa E is valid for 30 days from arrival in Cambodia and may be extended to a Visa EB for between six months and one year.

Foreign nationals intending to work or do business in Cambodia are also required to hold a work permit. A foreign national can apply for a work permit with only one year's validity through the MLVT's online system. No matter when the work permit is issued by the MLVT, it expires on 31 December of that year. If foreign nationals continued to work into the following year, the employer must apply for renewal of the work permits before 31 March of the following year.

Besides the initial labour registration, an employer must register new foreign employees with the MLVT when they join (by issuing a written declaration of staff movement) and then also declare when they leave, within 15 days of their start or termination date.

Sources: BNG Legal. (2014). *Guide to Doing Business in Cambodia*. Retrieved from <http://bnglegal.com/cn/wp-content/uploads/2014/06/BNG-Guide-to-Business-in-Cambodia-2014.pdf>

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**Finance**

# Taxation



# Taxation

Compared to neighbouring countries, Cambodia has more lenient tax regimes. The tax requirements, however, are different from most countries and it is important for investors to adhere to the regulations.

## Tax registration

Once a business registers with the Ministry of Commerce, it must then register with the General Department of Taxation (“GDT”) for a tax identification number. Prakas 009 issued by the MEF, which has been in effect since 1 January 2021, determine the criteria for small, medium, and large taxpayers under the new self-declaration regime, with the agriculture, industrial, service, and commerce sectors (core sectors to the Cambodian economy) being the primary targets for this regulation.

Moreover, with the (“EU”) withdrawing Cambodia’s ‘Everything but Arms’ status, the government is looking at other forms of revenue. Cambodia-based exports to the EU now must pay full tariffs, impacting over 30 product categories or one-fifth of the country’s total exports, totaling USD 1.1 billion.

Taxpayers are assessed on their annual turnover or the value of their assets. In this case, turnover refers to the cost of supplying goods or services that are the business activities of the taxpayer. They are then classified into small, medium, or large taxpayers.

### • Small taxpayers

- Has annual turnover from KHR 250 million (USD 62,500) to KHR 1,000 million (USD 250,000) for agricultural, service and commercial sectors;
- Has annual turnover from KHR 250 million (USD 62,500) to KHR 1,600 million (USD 400,000) for the industrial sector;

- Has had, or expects to have, turnover in any period of three consecutive calendar months, exceeding KHR 60 million (USD 15,000); and,
- Participates in any bidding or quotation for the supply of goods and services.

### • Medium taxpayers

- Annual turnover from KHR 1,000 million (USD 250,000) to KHR 4 billion (USD 1,000,000) for taxpayers in the agricultural sector;
- Annual turnover from KHR 1,000 million (USD 250,000) to KHR 6,000 million (USD 1,500,000) for taxpayers in the service and commercial sectors; and,
- Annual turnover from KHR 1,600 million (USD 400,000) to KHR 8,000 (USD 2,000,000) in the industrial sector.

### A medium taxpayer also includes:

- Enterprises incorporated as legal entities or as a representative office;
- National and sub-national government institutions, associations or non-governmental organizations, or projects under these institutions; and,
- Foreign embassies and consulates, international organizations and technical cooperation agencies of other countries.

# Taxation

## • Large taxpayers

- Annual turnover above KHR 4,000 million (USD 250,000) for taxpayers in the agricultural sector; (companies/sole proprietorship/partnership);
- Annual turnover 6,000 million (USD 1,500,000) for taxpayers in the service and commercial sectors; and,
- Annual turnover above KHR 8,000 (USD 2,000,000) in the industrial sector.

A large taxpayer also includes:

- Branches of foreign companies;
- Subsidiary of multinational companies; and,
- Enterprises registered as QIPs.

Under Prakas 009, the GDT now has the authority to re-determine the classification of a taxpayer if the declared turnover does not reflect actual turnover. In this circumstance a taxpayer will be classified using the value of their assets (current and non-current) as follows:

## • Small taxpayers

- Has assets valued at KHR 200 million (USD 50,000) to KHR 1,000 million (USD 250,000) in the agricultural, service and commercial sectors; and,
- Has assets valued at KHR 200 million (USD 50,000) to KHR 2,000 million (USD 500,000) for the industrial sector.

## • Medium taxpayers

- Has assets valued at KHR 1,000 million (USD 250,000) to KHR 2,000 million (USD 500,000) for taxpayers in the agricultural, services and commercial sectors; and,
- Assets valued at KHR 2,000 million (USD 500,000) to KHR 4,000 million (USD 1,000,000) in the industrial sector.

## • Large taxpayers

- Assets valued above KHR2,000 million (USD 500,000) for taxpayers in the agricultural, services and commercial sectors; and,
- Assets valued above KHR 4,000 million (USD 1,000,000) industrial.

## VAT registration

Enterprises providing taxable supplies of goods and services are required to register for VAT if they meet one of the following criteria specified below:

- Companies, importers, exporters and QIPs;
- Taxpayers with taxable turnover in respect of goods sold exceeding KHR 125 million (USD 31,250) for the preceding three consecutive months or in the next three consecutive months;
- Taxpayers with taxable turnover in respect of services provided exceeding KHR 60 million (USD 15,000) for the preceding three consecutive months or in the next three consecutive months;
- Taxpayers undertaking government contracts with a total taxable turnover exceeding KHR 30 million.

VAT registration must be made before the commencement of business operations for investment and import-export businesses, or within 30 days in which the taxpayer becomes a taxable person. However, normally, VAT registration is undertaken at the same time as the registration. Without VAT certificate, company is not allowable to make importation.

## Patent tax

While registering for the TIN, the company must also apply and pay a patent tax, which must be made within 15 days of business registration. This tax is payable annually, before 31 March each year.

# Taxation

Patent tax rates are determined as follow:

- Small taxpayers: KHR 400,000 (USD 200).
- Medium taxpayers: KHR 1.2 million (USD 300).
- Large taxpayers:
  - Annual turnover from KHR 2 billion (USD 500,000) to KHR 10 (USD 2.5 million): KHR 3 million (USD 750).
  - Annual turnover from KHR 10 Billion (USD 2.5 million): KHR 5 million (USD 1,250).

## Corporate income tax

The annual and principal tax obligations imposed on registered entities in Cambodia is the Tax on Income (“TOI”). TOI tax rate ranges from 0% to 30% based on business activity. The standard rate is 20%.

TOI is calculated on the difference between taxable profit derived from all income sources including capital gains and passive income (i.e. interest, rent and royalty income) and deductible expenses during the year.

In addition to the normal 20% corporate tax rate, oil and gas, and certain agriculture and resources companies may be taxed at 30%; gross premium realised by general risk (non-life) insurance enterprises at 5%; and, income realised by life insurance enterprises at 20%. QIPs can enjoy tax rates of 0% during tax holiday period, as approved by the Council for the Development of Cambodia.

## Minimum tax

Minimum Tax (“MT”) is a separate and distinct tax from the TOI and imposed at 1% on annual turnovers. It is payable at the time of the annual TOI when a taxpayer is in a loss position, or the TOI liability is less than the MT liability.

MT exemption is only available to enterprises that maintain proper accounting records.

Accordingly, the criteria for assessing if a taxpayer has improper accounting records are as follows:

- Does not maintain the accounting records with the enough conditions;
- Does not issue sales invoice;
- Has serious negligence;
- Has avoided tax; and,
- Does not have an independent audit report, in case the company has generated annual turnover more than KHR 4 billion.

## Loss carried forward

Losses can be carried forward to offset future taxable profit for the maximum period of five years, subject to the following conditions:

- The loss must be recorded in the TOI return and submitted to the GDT on time; and,
- The GDT has not issued a unilateral tax assessment for any of tax years.

## Administration

### Tax year-end

The default tax year for all registered entities is the calendar year commencing from 1 January to 31 December. However, any registered entity with 51% foreign ownership is allowed to request for new tax year-end different from the calendar year.

### Tax declaration and payment

Taxpayers are required to make tax declarations and pay taxes on a monthly and annual basis. The monthly tax return is to be filed by the e-Filing system and taxes paid not later than the 25th day of the following month. The annual TOI finalisation return is to be filed and the taxes paid not later than 3 months from the year end of the fiscal or calendar year. Where prepayment on income tax exceed the annual TOI, the difference will become income tax payable or income tax credit carried forward.

# Taxation

## Tax audits

Within 10 years after initial filing of tax return, GDT can carry out an audit of a taxpayer's activities and to re-assess tax payment where the taxpayer has not complied with the Law on Taxation ("LOT") and the tax regulations. There are four forms of audit:

- **Desk audit**

It is designed for checking the accuracy and cross-checking with the requested document from auditor.

- **Limited audit**

It is designed with more expanded scope. Normally the auditor looks into salary and withholding taxes. Auditor can enquiry to access taxpayer's business premise.

- **Comprehensive audit**

It is the final/completed audit. It can override the desk and limited audit which has been done. Auditor carry out comprehensive audit for large taxpayer more frequent or at the time of company dissolution.

- **Special audit**

It is designed specifically for VAT audit at the discretion of GDT.

During the process of tax re-assessment, taxpayer can file the dispute on reasonable ground with sufficient supporting document at specified timeframe, normally 30 days.

## Penalties

Tax penalties are imposed for violations of the LOT and its regulations. The level of penalty is depends on the nature of the violation, and is determined as follows:

- 10% if the taxpayer is considered negligent, being an underpayment of less than 10%, or if the taxpayer fails to file a tax declaration or to pay tax by the due date

- 25% if the taxpayer is considered seriously negligent, being an underpayment of more than 10% or for failure to pay the tax due within 15 days after receiving a reminder letter from the tax authorities
- Where the taxpayer receives a unilateral tax assessment, the amount of the penalty will be 40% of the unpaid tax.

In addition, there are penalties imposed for late payment of taxes and submission of returns of KHR 2 million (USD 500) on each occasion plus 1.5% monthly interest.

## Withholding taxes

Withholding tax ("WHT") is imposed on the income of recipient while a payer is obligated to withhold and remit it to the GDT. It is due when the expense is paid or recorded in the accounting records of the payer (i.e. accrual basis). WHT payment and return submission are due on the 20<sup>th</sup> of the following month. WHT schemes are separated between payment to resident and non-resident tax payers.

## Payments made to residents

- **Services**

WHT is imposed at the rate of 15% on income for service performance, except when payment is lesser than KHR 50,000.

Examples of service performance include commission or brokerage; transport, repair construction management or consulting activities; and, scientific or technical artistic services.

- **Royalty**

A 15% WHT applies to royalty payments for intangible properties and interest in minerals.

# Taxation

Royalties for intangibles refer to:

- Copyright, patent, brand name, trademark, model, design, drawing or other rights.
- Know-how, skill, information related to knowledge or experience in the field of industry, commerce, science of technology.
- Transfer of a right on knowledge or information.
- Consultancy or any other service to the use of rights.

- **Rental**

A 10% WHT is levied on income from the rental of moveable property (i.e. industrial, commercial, technical or scientific equipment) and immovable property (i.e. land, house, or other constructions).

Rental of moveable and immovable properties recorded as state property in the property register maintained by the MEF is exempt from WHT, only if the MEF certifies that the rental payment is a revenue to be paid to the national budget.

- **Interest**

Interest, other than those from local banks and saving institutions shall be subjected to a 15% WHT. WHT at 6% is levied on fixed deposit interest and 4% for saving deposit interest from local banks or saving institutions.

Payments to a self-declaration taxpayer for management, consulting and other similar services and for the purchase of shrink-wrap software, site licence, downloadable software and software bundled with computer hardware are all exempt from WHT.

## Payments made to non-residents

All payments made to non-residents are subject to 14% WHT.

## VAT

The standard rate of VAT in Cambodia is 10%. However, 0% VAT rate applies to support industries who supply certain goods and services for export, including:

- Supporting industries or sub-contractors to exporters (i.e. garment and footwear industries);
- International transportation service providers (i.e. international ports and airport or the first entrances to the territory of Cambodia); and,
- Paddy rice, milled rice and milled rice production services by contractors to the rice exporters.

Suppliers of specific agricultural products, including all types of fertilisers, plant seeds, animal medicine, animal food, animal species and agricultural machinery and tools and QIPs are also entitled to 0% VAT.

Several good and services are exempted from VAT, which include:

- Public postal services;
- Medical and dental goods and services;
- Wholly state-owned public transportation services;
- Insurance services;
- Primary financial services, which profit is from deposit, credit or loan transactions, initial public offerings of stock, trading of stock, currency exchange or trading of gold;
- Educational services;
- Non-profit activities recognised by the MEF;
- Unprocessed agricultural products;
- Supply of water and electricity; and,
- Solid and liquid waste collection services.

# Taxation

VAT-registered enterprises can use its input VAT to offset against its output VAT, except for any tax paid on:

- Entertainment (food, beverages, tobacco, accommodation, or hospitality of any kind.), amusement and recreation expense unless the taxable person carries on a business as a provider of entertainment, amusement or recreation;
- Purchases or imports of automobiles (designed solely for the transport of person not exceeding ten in number), unless the taxable person carries on the business of dealing in, or hiring such automobiles; or,
- Purchases or imports of certain petroleum products (regular or super gasoline, and lubrication oil), unless the taxable person carries on the business as a supplier of such petroleum products.

Taxpayers must file monthly VAT returns and pay applicable tax by the 20<sup>th</sup> day of the following month.

## Tax on Salary

Tax on Salary (“TOS”) is imposed each month on the salary paid to individuals for the purpose of fulfilling employment activities in Cambodia. Residents are liable for TOS for salaries from both Cambodian and foreign sources, while non-residents are only taxed on salaries received from Cambodian sources at a flat rate of 20%.

For tax purposes, an individual is a resident of Cambodia if he has a principal place of abode in Cambodia or is present more than 182 days in the country in any 12-month period ending in the current tax year.

Residents are taxed on salaries at rates of:

- Below KHR 1.3 million (0 to USD 325): 0%.
- Above KHR 1.3 million to KHR 2 million (USD 326 to USD 500): 5%.
- Above KHR 2 million to KHR 8.5 million (USD 501 to USD 2,125): 10%

- Above KHR 8.5 million to KHR 12.5 million (USD 2,126 to USD 3,125): 15%.
- More than KHR 12.5 million (over USD 3,125): 20%.

Certain income is exempt from TOS, which include:

- Actual reimbursements of professional expenses;
- Limited indemnity for a layoff in accordance with Labour Law;
- Remuneration provided under the Labour Law and limited flat allowances for mission and travel expenses; and,
- Seniority payments.

Although the employee is responsible for the debt, the obligation to withhold and pay the tax each month rests with the employer. The employer must declare and pay the tax not later than the 15<sup>th</sup> day of the succeeding month.

## Fringe benefits

Fringe benefits are benefits received from the course of employment beside salary, bonus and overtime. Every month, the employer shall withhold and pay tax by 15<sup>th</sup> of the following month at the rate of 20% of the total value of fringe benefits given to employees. The value of fringe benefit is the fair market value inclusive of all taxes.

## Capital gains tax

Cambodian tax regulations do not have a separate capital gains tax (“CGT”). Any gain on the sale of shares, immovable property (i.e. land and building) and other assets are subject to the TOI at a rate of 20% on the higher of the contract price or the market value.

Currently, the MEF and GDT issued Prakas No. 346, requiring taxpayers to submit a tax return and remit CGT payable to the GDT within three months after the capital gain is realized, effective from 1 July 2020. However, the government has decided to postpone the implementation of CGT until the end of 2021.

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# Taxation

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## Transfer pricing

The MEF issued Prakas No. 986 which regulates Cambodian enterprises that have transactions with related parties must comply with new compliance requirements consisting of:

- An annual transfer pricing declaration, to be submitted together with the annual declaration on tax on income.
- Annual transfer pricing documentation, to be submitted upon request by the GDT.

The transfer pricing regulation aims to ensure that transactions between related parties are consistent with the arm's length standard.

Failure to comply with the above requirements would lead to:

- Transfer pricing adjustments, which would result in additional tax;
- Tax penalties, which range from 10% to 40% of the additional tax for violations of the LOT according to Article 133 of the LOT, plus an interest charge of 2% on late payment; or,
- A law suit filed by the local tax administration against enterprises for charges stipulated under the LOT.

## Double tax agreements

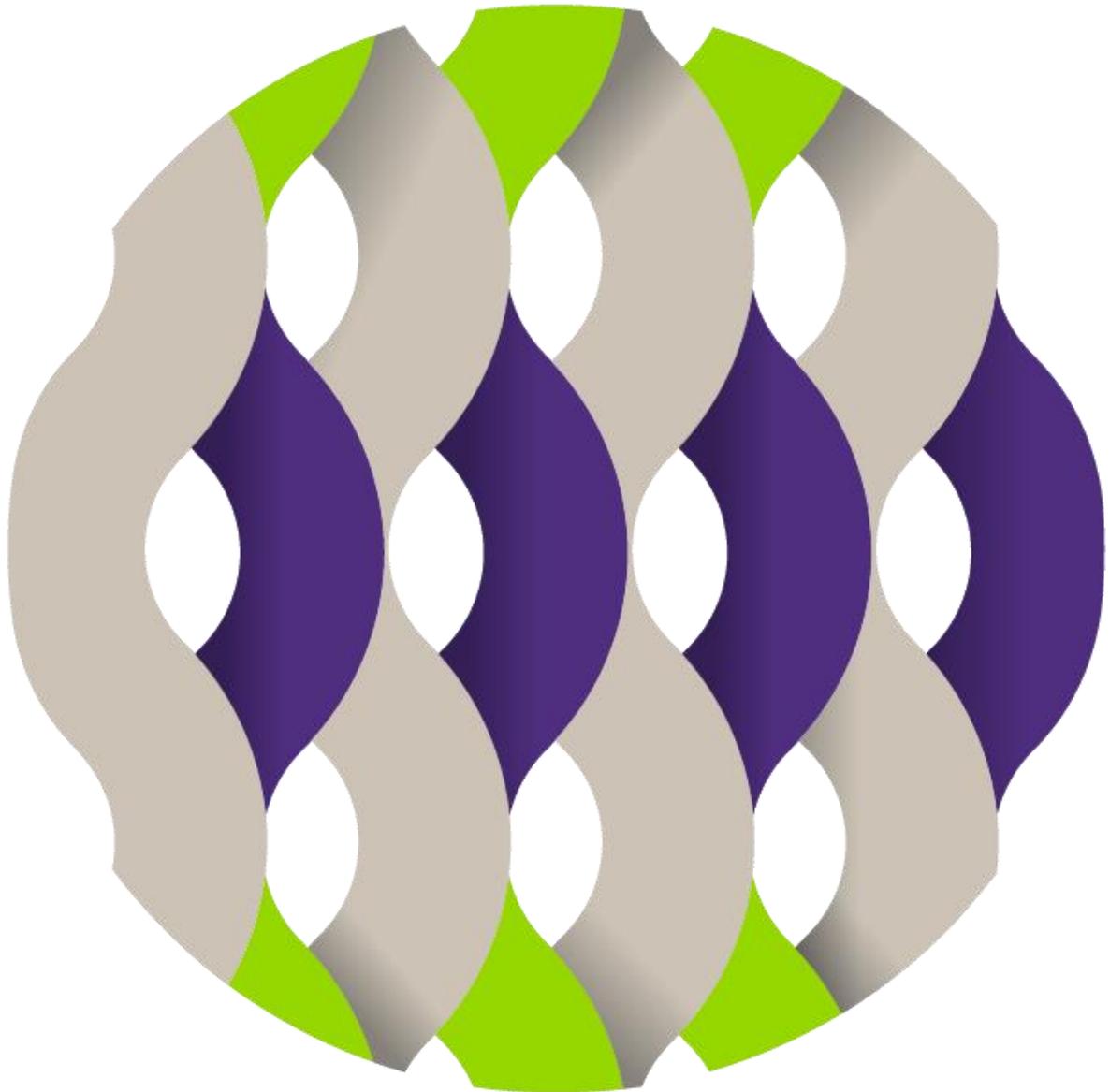
Double tax agreements (“DTA”) intends to increase cross-border trade and investments, and to improve the mechanism for tax collection, information exchange and the double taxation reduction on the same income.

Currently, Cambodia has existing DTAs with the following countries:

- Singapore (20 May 2016).
- China (13 October 2016).
- Brunei (27 July 2017).
- Thailand (7 September 2017).
- Indonesia (13 October 2017 in Phnom Penh; 23 October 2017 in Jakarta).
- Hong Kong (20 June 2019 in Phnom Penh; 26 June 2019).

Cambodia has entered DTAs with Malaysia and Korea on 3 September 2019 (signed in Phnom Penh) and on 25 November 2019 (signed in Republic of Korea), respectively. To date, these DTAs are not yet in force.

# Accounting and auditing



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# Accounting and auditing

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As a result of the introduction of and continuing improvements to, the accounting and auditing standards, together with the development of professional bodies, accounting and auditing practices in Cambodia have improved dramatically over the past few years.

## Accounting

The Accounting and Auditing Regulator (“ACAR”) is a division within the MEF which is responsible for oversight of accounting, including standard-setting.

The ACAR has adopted the International Financial Reporting Standards (“IFRSs”) without any amendments as the Cambodian International Financial Reporting Standards (“CIFRSs”). The IFRS for Small- and Medium-sized Entities (“SMEs”) was also adopted and referred to as the Cambodian International Financial Reporting Standards for SMEs (“CIFRS for SMEs”).

All public interest entities (PIE), including listed companies, banks, microfinance institutions and insurance companies are required to apply the CIFRS. Non-PIEs are allowed to use the CIFRS for SMEs, or CIFRS if preferred.

In Cambodia, there are four categories of enterprises classified as follows:

- Micro: 10 employees; assets of less than USD 50,000.
- Small: 11-50 employees; assets ranging from USD 50,001 to USD 250,000.
- Medium: 51-100 employees; assets ranging from USD 250,001 to USD 500,000.
- Large: over 100 employees; assets of more than USD 500,001

The financial year-end in Cambodia begins on 1 January and ends on 31 December.

Companies may seek permission from the MEF to adopt an alternative accounting year.

For newly established companies, the fiscal year is calculated for the first year from the date of incorporation to 31 December of the year of its creation.

## Bookkeeping

All books, records and documents must be kept for 10 years at the business premise in Cambodia, and be in the Khmer language and Cambodian Riel.

Companies that carry out business with foreign countries or are subsidiaries of foreign companies can prepare the accounting records in another language (usually English) and use other currencies along with the records in Khmer and Riel.

## Financial statements

Financial statements include the balance sheet, income statement, statement of changes in equity, cash flow statement and notes to the financial statements and accounting policies notes.

The following must be included in the notes to financial statements:

- Information about the basis of preparation of the financial statements;
- Description of the accounting policies; and,
- Additional information of the balance sheet, income statement, cash flow statement and statement of changes in equity.

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# Accounting and auditing

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Accounting policies must describe:

- The measurement basis used in preparing the financial statements; and,
- The specific accounting policy that is necessary for proper understanding of the financial statements.

## Auditing

The MEF issued Prakas No. 563 which provides guidance under which all enterprises and non-profit organisations (“NPOs”) must have its financial statements audited by an independent external auditor, if it meets the following criteria:

- **Enterprises other than PLCs and QIPs**

Meet any two of the following criteria:

- Annual turnover exceeding KHR 4 billion (USD 1,000,000);
- Total **assets** exceeding KHR3 billion (USD750,000); or,
- More than 100 employees.

- **NPOs**

Meet the following two criteria:

- Annual expenses exceeding KHR 2 billion (USD 500,000); and,
- More than 20 employees.

Financial statements audit is compulsory for PLCs and QIPs.

The deadline to submit audited financial statements with the ACAR is within six months and 15 days after the closing date of the accounting books.

The ACAR has issued penalties to be imposed for non-compliance with the Law of Accounting and Auditing (“LOAA”). The purpose of this is to increase the responsibility of enterprises, NPOs, accountants and auditors so as to ensure that the LOAA is implemented effectively.



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