CAMBODIA TAX BOOKLET 2018 - 2019

VDB | Loi

Published by VDB LOI Limited November 2018

Printed in Cambodia by Nova Cambodia

Contents

Quick Reference Tax Rate Tables

Tax on Income

Type	TOI rate
Standard	20%
Oil or natural gas production sharing contract and the exploitation of natural resources, including timber, ore, gold and precious stones	30%
Gross premiums received in the tax year for the insurance or reinsurance of property or risk in Cambodia	5%
Tax deferral period, such as for a QIP	0%

Tax on Salary

Taxable Monthly Salary							
	Khmer Riel (KHR)			Equivalent to US$*			Progressive Tax Rate
From	0	-	1,200,000	0	-	300	0%
From	1,200,001	-	2,000,000	300	-	500	5%
From	2,000,001	-	8,500,000	500	-	2,125	10%
From	8,500,001	-	12,500,000	2,125	-	3,125	15%
Over	12,500,000			3,125			20%

**Using an exchange rate of KHR4,000:US$1*

Withholding Tax

Resident withholding tax	
Type of payment	**Rate**
Services (except by those registered for tax) *All services provided by residents that are not registered for tax.*	15%
Royalties	15%
Interest payments *All interest payments other than the interest paid by a domestic bank.*	15%
Rental payments except those made on subleases from a company in the real estate rental business	10%
Interest paid by a domestic bank on fixed term deposits	6%
Interest paid by a domestic bank on non-fixed term deposits	4%

Non-resident withholding tax	
Type of payment	**Rate**
All payments of Cambodian-sourced income: • Income from services performed in Cambodia • After-tax net income from business activities carried on by a non-resident through a PE • Royalties, rent and other income related to movable or immovable property • Interest • Management and technical services (currently undefined in the LOT) • Dividends	14%

Registration Tax

Applied on:	Registration Tax rate
Transfer of ownership of all immovable property, including buildings and other structures, and land, which also includes the contribution of immovable property as capital in kind into a Cambodian company	4%
Transfer of ownership of all means of transportation, including passenger vehicles	4%
Transfer of ownership or possession of shares in a Cambodian company	0.1%
Registration of "government contracts related to the supply of goods or services"	0.1%
Certain legal documents	KHR1,000,000

Specific Tax on Certain Merchandise and Services (not an exhaustive list)

Goods/Services	Rate
Local and international air tickets sold in Cambodia	10%
Entertainment services	10%
Locally produced or imported cigarettes and cigars	20%
Locally produced alcoholic beverages (excluding beer)	35%
Locally produced beer	30%
Locally produced non-alcoholic beverages	10%
Lubricant, brake oil, raw material for producing engine oil (imported)	10%
Local and international telecommunications services	3%

Other Taxes

Item	Rate	Tax base
Minimum Tax	1%	Turnover
Fringe Benefit Tax	20%	Value of fringe benefit
Property Tax	0.1%	Value of property as per the Property Evaluation Commission
Patent Tax	From KHR400,000 – KHR5,000,000 per business activity	
Public Lighting Tax	3%	Sales value or assumed gross margin of alcohol and cigarettes/cigars
Accommodation Tax	2%	Room charges and other related services
Tax on Property Rental	10%	Gross rental income
Unused Land Tax	2%	Value of land as per the Unused Land Valuation Commission

Abbreviations

Term	Definition
ADDT	Additional Dividend Distribution Tax
AEC	ASEAN Economic Community
ASEAN	Association of Southeast Asian Nations
AT	Accommodation Tax
CDC	Council for the Development of Cambodia
DTA	Double Taxation Agreement
FBT	Fringe Benefit Tax
GDT	General Department of Taxation
LOT	Law on Taxation
MT	Minimum Tax
NSSF	National Social Security Fund
PE	Permanent establishment
PLT	Public Lighting Tax
PTOI	Prepayment of Tax on Income
QIP	Qualified Investment Project
ST	Specific Tax on Certain Merchandise and Services
TOI	Tax on Income
TOS	Tax on Salary
TSA	Tax service agent
VAT	Value Added Tax
WHT	Withholding Tax

Overview

Over the past two years, the General Department of Taxation ("**GDT**") has eliminated the different estimated and real regime systems of taxation and moved to a single taxation regime (referred to as the "self-declaration regime"), which is a formalized system of taxation and incentives, with taxpayers being subject to audits.

Taxpayers are classified into three categories, as follows:

1. Small taxpayers are sole proprietorships or partnerships that:
   - Have annual turnover of from KHR250 million to KHR700 million (approx. US$62,500 to US$175,000); or
   - Have turnover of at least KHR60 million (approx. US$15,000) for any three-month period ending in the current fiscal year; or
   - Expect turnover for the next three-month period to be at least KHR60 million (approx. US$15,000); or
   - Participate in any bidding or quotation for the supply of goods or services, including market stall management (Phasi).
2. Medium taxpayers are:
   - Enterprises that have annual turnover of from over KHR700 million to KHR4 billion (approx. US$175,001 to US$1 million); or
   - Enterprises that have been incorporated as a legal entity, representative office; or
   - National and subnational government institutions, all types of organizations or associations, including non-governmental organizations; or
   - Foreign consulates and embassies, international organizations, and technical cooperation agencies of other countries.
3. Large taxpayers are:
   - Enterprises that have annual turnover exceeding KHR4 billion (approx. US$1 million); or
   - Branches of foreign companies or subsidiaries of multinational companies; or
   - Enterprises registered as Qualified Investment Projects ("**QIPs**").

Anyone falling within one of the above categories is required to begin the tax registration process within 15 working days of commencing business activities or incorporating. One of the main hurdles in registering for tax is the GDT's requirement that one of the principals of the entity appear in person at the GDT at the time of registration.

A taxpayer's classification will determine the amount of patent tax that must be paid. Additionally, small taxpayers have fewer requirements when it comes to recordkeeping. Small taxpayers are permitted to use a simplified accounting system, whereas medium and large taxpayers are expected to keep proper accounting records and books in line with Cambodian Accounting Standards.

Tax service agents

On 12 April 2013, Prakas on Tax Service Agents No. 455 SHV.PrK was issued requiring that those who offer tax services for entities other than their own employer must be licensed as a tax service agent ("**TSA**"). With the GDT's issuance of Notification No. 17509 GDT on 18 October 2016 advising that TSA licenses had been issued to 34 companies, this requirement is now being enforced.

For taxpayers, this means that they may continue to file their own monthly and annual returns and represent themselves at the GDT. However, if they hire outside tax service assistance, a licensed TSA must be engaged, and they must provide a written power of attorney for the TSA to act as their tax representative.

As of 1 January 2017, individuals or companies that do not have a TSA license are not allowed to provide tax services, or act as a taxpayer representative. Those found to be in breach of this provision will be penalized and taxpayers who engage unlicensed TSAs will be subject to a fine of KHR5 million.

Tax Audits

Taxpayers may be subject to tax audits at the discretion of the GDT. These may be conducted up to 10 years after the initial filing of a tax return.

There are three kinds of tax audits:

1. **Desk audit**: This level of control is designed to verify the accuracy of declared information by cross-checking it with the tax return or other information requested by the tax administration.
2. **Limited audit**: This audit is more extensive. The tax auditors will use all available resources, including visits to the taxpayer's place of business, to verify the accuracy of the taxpayer's returns.
3. **Comprehensive tax audit**: In practice, this is the same as a limited audit, only more extensive and thorough. The important distinction between a comprehensive audit and a limited audit is that once the audit has been completed, and any resulting tax reassessments have been paid, all tax years covered by the audit will be closed.

Although a comprehensive tax audit is normally final, if the tax administration has reason to believe a taxpayer has committed tax evasion or fraud they may re-open the case. Taxpayers achieving Gold or Silver Compliance Status are exempt from desk audits, and may be subject to other audits on a less frequent basis.

Tax on Income

Residency

Tax on Income ("**TOI**") applies to both resident and non-resident persons, but residents are taxed on their worldwide income.

Legal persons are considered residents of Cambodia for tax purposes if the principal place of business is in Cambodia or if they are managed from Cambodia; therefore, a company incorporated in Cambodia is taxed as a resident.

A non-resident taxpayer will be deemed to be a Cambodian resident for tax purposes if such taxpayer is found to have a permanent establishment ("**PE**") in Cambodia. In such an instance, the non-resident will be subject to tax in Cambodia in respect of its Cambodian-sourced income.

Income derived from Cambodian-based activities or assets located in Cambodia is determined to be Cambodian-sourced.

Rates of tax

The TOI rates are as follows:

Type	TOI rate
Standard	20%
Oil or natural gas production sharing contract and the exploitation of natural resources, including timber, ore, gold and precious stones	30%
Gross premiums received in the tax year for the insurance or reinsurance of property or risk in Cambodia	5%
Tax deferral period, such as for a QIP	0%

For insurance companies, the 5% on premiums applies only to non-life insurance or reinsurance, and life insurance or reinsurance that does NOT have any type of savings component. Per the 2017 Financial Management Law dated 19 December 2016, any income from any other activities, including the insurance or reinsurance of life that has a savings component, is taxed as normal at the standard 20% rate on taxable income.

Prepayment of Tax on Income

Taxpayers are subject to a Prepayment of Tax on Income ("**PTOI**") calculated at 1% of monthly turnover. Note that this is not actually a separate tax; rather it is a prepayment of either Minimum Tax ("**MT**") or TOI. The payment is made monthly and is offset against the MT or TOI, whichever is higher, due when the annual TOI return is filed at year-end.

In order to calculate PTOI, we must consider what is included in "turnover". Turnover, also referred to as revenue, is not a clearly defined term under the Law on Taxation ("**LOT**"). In the GDT's questionnaire booklet published in 2015, turnover is defined as "the total revenue generated from the sale of goods or services that are part of the taxpayer's ordinary business activity inclusive [of] all taxes, except value added tax". Based on this, it appears that the GDT considers turnover as the revenue generated by the taxpayer's main business activities only, and thus, turnover would not include interest income and proceeds from the disposal of assets.

Tax deferrals

Foreign investors seeking to make significant investments into Cambodia outside of the sectors restricted by law may apply to the Council for the Development of Cambodia ("**CDC**") for QIP status.

Most QIP companies benefit from a deferral of TOI (often referred to as a "TOI holiday") during which investment activity income is exempt from both TOI and PTOI. We use the term deferral, as later on distribution, any income generated during this time will be subject to the additional dividend distribution tax ("**ADDT**"), which taxes income not previously subject to TOI at the usual rate of 20%.

The tax deferral period is divided into three sections: (1) the trigger period, which begins upon issuance of the Final Registration Certificate and ends either upon the first year of profit or three years after revenue is first derived; (2) a three-year period; and (3) the priority period, which is between 0 and 3 years, depending on the industry and level of investment.

Calculation of taxable income

Taxable income must be calculated on an annual basis by adjusting the accounting income for expenses that are not allowable or are subject to limitation under the tax law, such as entertainment expenses.

Income included in calculating taxable income comprises business income from the operations of the entity, along with other types of income, such as capital gains from the disposal of assets, rental income, royalty income, and interest income.

Deductible expenses

As a general rule, expenses are deductible if they are paid or incurred in a tax year to carry on the business of the taxpayer. There are further provisions which disallow specific types of expenses, as follows:

Type of expense	Deductibility
Personal expense	Non-deductible
Donations and grants (not including charitable contributions)	Non-deductible
Tax payments, tax penalties, and interest on penalties	Non-deductible
Loss on sale of property between related parties	Non-deductible
Expense not related to the business, extravagant expense of little use to the business	Non-deductible
Amusement, recreation, or entertainment expense	Non-deductible
WHT, TOS, and FBT paid on behalf of recipients	Non-deductible
Expense pertaining to previous or subsequent periods	Non-deductible
Provisions	Generally non-deductible, with some exceptions
Depreciation	Deductible when calculated using the method set out in the tax law
Unpaid expense due to unrelated parties	Deductible if it is a genuine liability
Unpaid salary	Deductible if paid within 60 days after the end of the tax year
Related party expense that is not salary	Deductible if paid within 180 days after the end of the tax year

Type of expense	Deductibility
Interest expense	Deduction is limited to an amount equal to 50% of adjusted income without taking into account any interest income or expense, plus the interest income
Charitable contribution	Deduction limited to an amount equal to 5% of taxable income, without taking the charitable contribution deduction

There is a further limitation on the deductibility of interest expenses with regard to related parties. For loans from a related party, the interest rate cannot exceed the market interest rate; while for those from an unrelated party, the allowed interest rate is up to 120% of the market interest rate.

The market interest rate is determined and announced on an annual basis by the GDT and is an average of the interest rates of at least five large commercial banks. For 2017, the market interest rate was 9.31% per annum for US$ and 12.12% for KHR.

Depreciation

Under Cambodian tax law, depreciation rates and methods are specified based on the asset class, and therefore, only the depreciation expense allowed under the rate for the asset's particular class may be deducted in calculating taxable income.

	Asset	Depreciation Rate	Depreciation Method
Tangible Property	Class 1: Buildings and basic components	5%	Straight Line
	Class 2: Computers, electronic information systems, data handling	50%	Declining Balance
	Class 3: Automobiles, trucks, office furniture and equipment	25%	Declining Balance
	Class 4: All other tangible assets	20%	Declining Balance

	Asset	Depreciation Rate	Depreciation Method
Intangible Property	Having no specific useful life	10%	Straight Line
	Having a specific useful life	Over the useful life of the property	Straight Line

Instead of the tax deferral, QIP companies may elect to benefit from a special depreciation rate of 40% in the first year of use of the asset in addition to the normal tax depreciation charge. This special depreciation rate applies only to tangible assets used in "manufacturing and processing" and the asset should be held for a minimum of four years, otherwise the QIP will be required to add back a portion of the depreciation expense.

Utilization of losses

If a company sustains a loss, this can be utilized against future income and can be carried forward for up to five years.

The accumulated tax losses can be carried forward if all of the following conditions are met:

- There is no change in the business activities of the entity;
- There is no change in the ownership of the entity;
- The loss is recorded in the tax return that has been submitted to the tax administration within the period of time as specified in the tax provisions; and
- The GDT has not issued a unilateral tax assessment for any of the tax years in question.

Minimum Tax

MT is a separate and distinct tax from TOI, and is calculated at 1% of annual turnover. Turnover is not defined under the LOT, but is inclusive of all taxes excluding value added tax ("**VAT**").

A taxpayer will be subject to either TOI or MT, whichever is greater. If only MT is due, this should have already been paid in advance by the PTOI payments, which are also calculated at 1% of turnover.

Note that QIPs are not subject to MT, but will still be required to pay PTOI every month after the conclusion of their TOI deferral period.

Newly-introduced legislation allows for an exemption from MT for **all** taxpayers maintaining proper accounting records, imposing MT only on taxpayers found to have "improper accounting records".

Prakas 638 details what are considered improper accounting records, and states that a GDT committee will evaluate taxpayers' accounting records based on the criteria detailed in the Prakas. This evaluation will take place every two years. At the time of publication, the committee had not yet been formed, however the GDT has indicated that taxpayers with audited financial statements, or those having Gold Compliance Status may be assumed to have proper accounting records.

Withholding Tax

Overview

Certain payments are subject to a withholding tax ("**WHT**") that must be deducted by the payer at the time of payment. WHT is imposed at varying rates depending on the transaction type and whether the payment recipient is a resident or a non-resident.

WHT is a tax on the income recipient; however, the responsibility for deducting and making payment to the GDT is placed on the party that makes the payment, referred to as the Withholding Agent.

Resident WHT

Payments of certain Cambodian-sourced income by a resident taxpayer carrying on a business in Cambodia, to a Cambodian resident, are subject to the following WHT:

Type of payment to a resident	Rate
Services (except by those registered for tax) *All services provided by residents that are not registered for tax.*	15%
Royalties	15%
Interest payments *All interest payments other than the interest paid by a domestic bank.*	15%
Rental payments except those made on subleases from a company in the real estate rental business	10%
Interest paid by a domestic bank on fixed-term deposits	6%
Interest paid by a domestic bank on non-fixed-term deposits	4%

Non-resident WHT

WHT at the rate of 14% must be deducted from payments of Cambodian-sourced income made to non-residents by residents carrying on business, including PEs of non-resident taxpayers, except for payments of premiums for the reinsurance of property or risk in Cambodia. Per Article 33 of the LOT, Cambodian-sourced income includes:

- Income from services performed in Cambodia
- After-tax net income from business activities carried on by a non-resident through a PE

- Royalties, rent, and other income related to movable or immovable property
- Interest
- Management and technical services (currently undefined in the LOT)
- Dividends

Additional Dividend Distribution Tax

If dividends are paid out of earnings that have not been subject to at least 20% TOI, then ADDT will apply to the dividends.

Therefore, when a dividend is paid out of income realized during a tax deferral period, or out of retained earnings that were realized during a tax deferral period and so not previously subject to TOI, the dividend will be subject to ADDT at 20%.

If a dividend is received from another enterprise and the proper amount of TOI was paid on the income used for such distribution, then ADDT will not need to be paid on any of that dividend income used in an enterprise's subsequent dividend distribution. This is with the caveat that the dividend income received must have been recorded into a separate dividend income account and that portion can be clearly identified.

Previously, there was a 9% TOI rate that existed for QIPs. Although QIPs are no longer taxed at the 9% rate, there are QIP companies that have retained earnings that when earned were taxed at 9%.

The ADDT amount is determined as the difference between what the taxpayer actually paid, and the amount the taxpayer should have paid.

The ADDT rates are therefore as follows:

DIVIDEND PAID OUT OF EARNINGS SUBJECT TO TOI AT:	ADDT RATE
0%	20%
9%	11/91
20% or 30%	Nil

Deductibility of withholding taxes

WHT is a tax on the income recipient and not the Withholding Agent. Hence, if the WHT is not deducted from the payment and is borne by the Withholding Agent, it is not deductible by the Withholding Agent.

Tax on Salary

Overview

Employers are liable to deduct Tax on Salary ("**TOS**") from payments of salaries, wages, and other remuneration made to all employees. Employees that are tax residents of Cambodia are taxed on their worldwide employment income at progressive rates, whereas non-residents are taxed only on their Cambodian-sourced employment income at a flat rate.

Residency

An individual is considered a resident for tax purposes if they fulfill any one of the following criteria: (1) their residence is in Cambodia; or (2) their principal place of abode is in Cambodia; or (3) they are present in Cambodia for more than 182 days in any period of 12 months ending in the current tax year.

Taxable salary

Salary as defined by the LOT includes "*remunerations, wages, bonuses and overtime, compensations, and fringe benefits which are paid to an employee, or which are paid for the direct or indirect advantage of the employee for the fulfillment of employment activities*" and is taxed at TOS rates.

Payments that are exempt from TOS include reimbursements of business expenses incurred by the employee on a work assignment, indemnity payments upon employee dismissal up to a limit, social security contributions, and uniforms and equipment required for the performance of employment duties.

Deductions

Deductions for dependent family members reduce the monthly taxable base on which TOS is calculated. A deduction of KHR150,000 per month (approximately US$37.50) may be deducted for each minor dependent child under 14, or under 25 and in full-time education, and a deduction for the same amount for one non-working spouse.

Rates of tax

Non-residents are subject to TOS only on their salary income at a flat rate of 20%. Residents are taxed at progressive rates as follows:

Taxable Monthly Salary							
	Khmer Riel (KHR)			Equivalent to US$*			Progressive Tax Rate
From	0	-	1,200,000	0	-	300	0%
From	1,200,001	-	2,000,000	300	-	500	5%
From	2,000,001	-	8,500,000	500	-	2,125	10%
From	8,500,001	-	12,500,000	2,125	-	3,125	15%
Over	12,500,000			3,125			20%

**Using an exchange rate of KHR4,000:US$1*

Fringe Benefit Tax

Employers may also provide employees with additional cash or in-kind employee benefits, such as home leave air tickets or private use of motor vehicles. These fringe benefits are subject to a flat Fringe Benefit Tax ("**FBT**") of 20% on the market value of the fringe benefits provided to an employee.

The Ministry of Economy and Finance issued Circular No. 011 on 6 October 2016 which allows for certain benefits provided to all employees to be exempt from FBT. These include items such as meal allowances or transportation allowances. Although the circular does not specify that this applies only to Cambodian employees, the practice thus far is that it does not apply to expatriate employees. In order to access this exemption, an employer must provide notification to the GDT.

National Social Security Fund

Employers having one or more employees must register with the National Social Security Fund ("**NSSF**") and make NSSF contributions on a monthly basis. The NSSF contribution is 0.8% of average monthly salary up to a maximum contribution of KHR9,600 (approximately US$2.40) for work-related injuries and compensation for loss of earning capacity due to injuries sustained at work, plus 2.6% of average monthly salary up to a maximum contribution of KHR31,200 (approximately US$7) for healthcare.

Value Added Tax

Overview

VAT is applicable on the taxable supply of goods and services. An entity registered under the VAT provisions is required to charge VAT on all sales of taxable supplies (output VAT). Such entities can offset the VAT paid on purchases (input VAT) against their output VAT.

Scope of application

Taxable supplies are the supply of goods, services or imports for taxable sale or for use in producing taxable supplies. Taxpayers must charge and collect VAT on taxable supplies. The supply of goods includes the transfer of the rights to movable property; meaning all property except land or money.

Sale of land and buildings

As per Notification No. 1728 dated 9 October 2013, the GDT has confirmed that for the sale of land with buildings, registered taxpayers are required to charge VAT on the building component (but not on the land component).

Non-taxable goods and services

In order to promote the provision of certain key public services, specific taxable supplies have been exempted from VAT. The following is a list of non-taxable supplies under the LOT:

- Public postal services
- Hospital, clinic, medical and dental services, and the sale of medical and dental goods incidental to the performance of such services
- Transportation of passengers by a wholly state-owned public transportation system
- Insurance services
- Primary financial services
- Imported articles for personal use that are exempt from customs duty
- Non-profit activities in the public interest that have been recognized by the Ministry of Economy and Finance
- Education services
- The supply of electricity and clean water
- Unprocessed agricultural products
- Services related to the collection and/or cleaning of solid or liquid waste

If a business makes non-taxable supplies only, it will not be able to claim any input VAT; the VAT on purchases must be borne as a cost. If a business makes a mix of non-taxable and taxable supplies, it will be able to claim a portion of input VAT based on the portion of taxable supplies.

Registration

Compulsory VAT registration applies to any self-declaration taxpayer who makes taxable supplies. Further, all companies, import/export businesses and QIPs must register for VAT. Other taxpayers are required to register as VAT taxpayers if they meet certain turnover thresholds. Other businesses not compelled to register by law may register voluntarily.

Rates of tax

Taxable supplies made in or imported into Cambodia are subject to VAT at one of two rates:

Type of supply	Rate
Standard rate	10%
Zero-rated supplies, which include: • Exported goods • Exported services • The supply of international transportation services • Services in support of the supply of international transportation • Other specific sectors, including supporting industries that supply the export-oriented garment, textile and footwear industries; the supply of rice; and the import and supply of certain goods for agricultural purposes	0%

Zero-rated supplies are not the same as non-taxable supplies, as it is possible for entities providing zero-rated supplies to claim input VAT credit.

Basis of taxation

For local supplies, the cost of the goods or services is the tax base. For imports, the tax base is the CIF value plus customs duty plus any Specific Tax on Certain Merchandise and Services ("**ST**").

Proper VAT invoices

Taxpayers must issue proper VAT invoices for all sales of taxable supplies. VAT invoices must:

- Be sequentially numbered for the year, and the format must meet the GDT's requirements
- Be in Khmer or if in both Khmer and English, the English must be written below the Khmer
- Contain the following:
  - Name, address, and VAT tax identification number of the supplier, and of the customer
  - Date of issuance
  - Description of the transaction, quantities, and selling prices of the goods or services
  - Separate total price before VAT and VAT amount charged

The GDT will seek to deny expense deductions or input VAT claims if they are not supported by proper VAT invoices.

Specific Tax on Certain Merchandise and Services

Overview

ST is a form of excise tax imposed on the importation or domestic production and supply of certain goods and services. Tax is levied once only; for imports, this is at the inward checkpoint, and for domestic goods, it is upon the sale from the factory if the products are locally produced.

We expect that, in light of the reduction in import duty tariffs as noted in the Customs Duty section, greater emphasis will be placed on excise tax in the future. Accordingly, it is likely that there will be a number of changes to the calculation and collection of ST.

Rates of tax

The ST amount due is calculated by applying the applicable rate to the applicable tax base, as per the table below (not an exhaustive list):

Goods/Services	Rate
Local and international air tickets sold in Cambodia	10%
Entertainment services	10%
Locally produced or imported cigarettes and cigars	20%
Locally produced or imported alcoholic beverages (ex-cluding beer)	35%
Locally produced or imported beer	30%
Locally produced or imported non-alcoholic beverages	10%
Lubricant, brake oil, raw material for producing engine oil (imported)	10%
Local and international telecommunications services	3%

Basis of taxation

For locally supplied goods, ST is calculated on the “ex-factory selling price”, which is defined as 90% of the selling price excluding VAT and ST. For locally supplied services, the tax base is the invoice price of the services supplied.

For imported goods, ST is calculated inclusive of customs duty and the cost, insurance and CIF value, excluding VAT.

Customs Duty

Import duties

There are a number of goods on which import duty applies when they are brought into Cambodia, with some exemptions, including goods temporarily imported into Cambodia, goods for personal use, goods exempted by international treaty, humanitarian aid, and imports for use by a QIP. Exemptions from import duty may also be granted by the CDC for specific industries.

Customs duty is levied on goods entering Cambodia at rates from 0% to 35%. Cambodia is part of ASEAN and therefore party to the ASEAN Free Trade Agreement and Common Effective Preferential Tariff scheme. This requires ASEAN Member States to offer preferential tariff rates on a broad range of products originating from other ASEAN countries.

Accordingly, the customs duty rates in Cambodia have been reduced so that now many goods coming from other ASEAN countries have a maximum 5% import duty imposed.

Export duties

There are no export duties other than on a limited list of restricted products at rates of 2% to 10% as follows:

- Natural rubber
- Uncut precious gemstones
- Processed wood
- Fish, crustaceans, mollusks and other aquatic products

Other Taxes

Tax on property rental

House and land rental tax is set at 10% of gross rental income from the lease of buildings and land, when the lessor is an individual.

Fiscal stamp tax

A fiscal stamp tax is due on advertising leaflets and banners, levied at different bands of rates, based on the dimensions of the advertising item, the number of letters and whether the lettering is Khmer only or includes a foreign language.

Patent tax

Patent tax is a registration tax that is paid by all business enterprises upon establishment of a business and by 31 March on an annual basis thereafter. Patent tax ranges from KHR400,000 to KHR5,000,000 (approximately US$100 to US$1,250) depending on the taxpayer's classification, and must be paid for each separate business activity, and for each branch located in a different province.

Registration tax

Also referred to as seal tax or stamp duty, registration tax is a tax imposed on the transfer of ownership or possession of certain types of property.

It is payable by the person who receives the ownership and is applied to the transfer value at rates as follows:

Applied on:	Registration Tax rate
Transfer of ownership of all immovable property, including buildings and other structures, and land, which also includes the contribution of immovable property as capital in kind into a Cambodian company	4%
Transfer of ownership of all means of transportation, including passenger vehicles	4%
Transfer of ownership or possession of shares in a Cambodian company	0.1%
Registration of "government contracts related to the supply of goods or services"	0.1%
Certain legal documents	KHR1,000,000

There are certain exemptions and relief available on the transfer of immovable property between relatives.

The tax base used to calculate the registration tax on the transfer of immovable property is the value set by the Ministry of Economy and Finance for all cities and provinces in Cambodia.

Unused land tax

Land is determined to be unused if it does not have any structure on it or there is a structure, but it is unused. Unused land tax is levied on an annual basis at a rate of 2% on the market value per square meter, with the market value determined by the Unused Land Valuation Commission. The unused land tax is paid annually by the landowner. Since the introduction of property tax, it was understood that if property tax is paid on a piece of land, then unused land tax no longer applies. This was codified under Article 12 of the 2015 Law on Financial Management dated 18 December 2014.

Accommodation tax

Accommodation tax ("**AT**") is an indirect tax imposed on the supply of accommodation services at a rate of 2%. AT must be charged by hotels, hotel apartments, motels, lodges, guesthouses, campgrounds and similar, but does not include the rental of houses or apartments.

Public lighting tax

Public lighting tax ("**PLT**") is an indirect tax imposed on sales of alcohol and cigarettes at all stages of supply, on both imports and domestically-produced goods, at a rate of 3%. All types of cigarettes, including e-cigarettes, and alcohol are subject to PLT, including beer, grape wine and spirits, with the exception of palm wine. In late 2017, the method of calculating PLT was amended such that for importers and producers the tax base remains the selling price, but for distributors, the tax base was reduced to 20% of the selling price.

Property tax

Property tax is a direct tax imposed on the value of immovable property, including land and buildings, on property valued above KHR100,000,000 (approx. US$25,000) at a rate of 0.1%. The property value is per the valuation issued by the Property Evaluation Commission.

Property taxpayers may be individuals or companies. Owners, possessors or "final beneficiaries" of immovable property may be liable for the property tax. A final beneficiary includes those with the right to use the property, and so includes long-term lessees.

Administration

Tax	Filing and payment date
Tax on Income	TOI must be paid and filed within 3 months of the end of the tax year, which is normally 31 December unless an application to amend the tax year is approved.
Prepayment of Tax on Income	PTOI must be paid and filed by the 20th of the following month.
Minimum Tax	MT must be paid at the same time the annual TOI return is due, that is, 3 months after the end of the tax year.
Withholding Tax	WHT must be paid to the GDT by the 20th of the month following the month in which the payment is made or accrued.
Additional Dividend Distribution Tax	ADDT must be paid and declared on the PTOI return, by the 20th of the month following the month the dividend was paid out.
Value Added Tax	VAT is to be paid on the 20th of each month for the VAT liabilities accrued during the previous month. VAT on imported goods is collected by the customs administration at the time of import.
Tax on Salary	TOS and FBT are deducted by the employer and remitted to the GDT by the 20th of the month following the month that the salary and fringe benefits were provided to the employee.
Specific Tax on Certain Merchandise and Services	ST on domestic sales must be paid and declared on the PTOI return, by the 20th of the month following the time of supply. ST on imported goods is due at the time of import, and is collected by the customs administration along with VAT and customs duty.
Customs Duty	Customs duty is collected by the customs administration at the time of import.
Patent Tax	Patent tax is payable by 31 March each year.
Registration Tax	Registration tax is due within 3 months of the transfer.
Unused Land Tax	Unused land tax is due on an annual basis by 30 September each year.
Accommodation Tax	AT is declared in the PTOI return, due with payment by the 20th of the month following the time of supply.

Tax	Filing and payment date
Public Lighting Tax	PLT is declared in the PTOI return, due with payment by the 20th of the month following supply.
Property Tax	Property tax is due on an annual basis by 30 September each year.

Double Taxation Agreements

The past two years have seen major developments for Cambodia, with the signing of its first double taxation agreements ("**DTAs**"). The first DTA was signed with Singapore on 20 May 2016. The second one was signed with China, a major investment partner, on 13 October 2016 (note that Hong Kong and Macau are not included as they have their own taxation systems). The third one was signed with Brunei on 27 July 2017. On 7 September 2017, a DTA with Thailand was signed.

On 1 January 2018, the DTAs with Singapore and Thailand entered into force. In order to utilize DTA benefits, an application must be made to the GDT which if approved, is valid for one year.

Below is a comparison table showing the key points of the four DTAs.

Term	Brunei	China	Singapore	Thailand
PE time test: Building site Project services	 183 days 183 days	 9 months -	 6 months 183 days	 6 months 183 days
Dividend withholding tax	10%	10%	10%	10%
Interest withholding tax	10%	10%	10%	10%
Royalties withholding tax	10%	10%	10%	10%
Technical service fees	14%	10%	10%	10%

The significant differences between the DTAs are highlighted below:

- Technical service fees: The Brunei DTA provides for technical service fees to be taxed at 14%, in contrast to the lower rate of 10% in the other three DTAs.
- Article 3 Beneficial Ownership issue: In the Singapore DTA, a trust is deemed to be the beneficial owner, which is quite unusual, in that normally reduced rates of withholding tax under a DTA are available only to a beneficial owner eligible for treaty relief (i.e. a resident in the other Contracting State), to avoid "treaty shopping". This provision is absent from the DTAs with Brunei, China, and Thailand.
- Article 5 Permanent Establishment issue: The time period for determining whether there is a PE for building sites differs, with nine months in the China DTA, as opposed to the earlier six months/183 days in the other three DTAs. In addition, in the Brunei, Singapore, and Thailand DTAs, as in most DTAs, the furnishing of services for

more than 183 days creates a PE, but the China DTA does not contain this provision. Thus, the furnishing of services by a Chinese company through employees or others in Cambodia will not create a PE, provided the activities do not take place in a "fixed base" operated by the Chinese company. For example, a Chinese consulting company could send employees to work at a client's office in Phnom Penh for unlimited periods of time, and this would not create a PE. (Note however that the fees received from the client would be subject to 10% WHT, and the individual employees may, depending on their circumstances, be subject to tax on their earnings.)

ASEAN Economic Community

The aim of the ASEAN Economic Community ("**AEC**") is to provide regional economic integration by creating a single market across ASEAN countries, similar to the European Union. The purpose of this is to encourage economic growth in all participating countries by allowing a free flow of human resources, goods, services and investment between countries.

From a tax perspective, the AEC will work towards establishing more agreements on the avoidance of double taxation by ASEAN countries and will aim to enhance the withholding tax structure by removing withholding taxes that may apply on interest, royalty, dividend and service fee payments.

Transfer Pricing

In October 2017 the Royal Government issued Prakas 986 concerning the allocation of income and expense between related parties. This Prakas (the "**TP Prakas**") is consistent with OECD guidelines, and requires that transactions between related parties should be at arm's length values, as determined under one of the five acceptable methods listed in the TP Prakas. The five acceptable methods are:

- Comparable Uncontrolled Price
- Resale Price Method
- Cost Plus Method
- Transactional Net Margin Method
- Profit Split Method

The TP Prakas also requires that taxpayers having related party transactions have a transfer pricing report with the following content:

Corporate Background – including a description of the company, the corporate and ownership structure, the nature of the business, and summary financial information.

Business Analysis – including the competitive environment, the market and its trends, added value, and unique selling points.

Overview of Related Party Transactions – describing the nature and volume of such transactions and the pricing method used.

Functional Analysis – describing the activities performed by each party to the related party transactions.

Economic Analysis – including a discussion and justification of the appropriate transfer pricing method, and an analysis of comparable prices for the related party transactions.

Conclusion – including an identification of the acceptable range of "arm's length" prices.

Although not stated in the TP Prakas, the GDT has confirmed that the transfer pricing report must be available at the time the 2018 TOI return is filed.

Qualified Investment Projects

Some types of investment may be eligible to be approved as a QIP by the CDC. QIP companies benefit from:

- TOI deferral period, which could be three or more years, during which they are also exempt from PTOI
- MT exemption
- Special depreciation rate of 40% in the first year on manufacturing and processing equipment. This is only available if the TOI deferral is not taken
- Import duty exemption on the import of construction materials and equipment

Under Prakas No. 1127 (11 October 2016), QIP companies that operate more than one QIP activity are required to register each activity for a separate VAT tax identification number, file separate tax returns, and have separate books of accounts and records for each of the activities.

Penalties

Tax penalties are imposed for violations of the LOT and its regulations, ranging from 10% to 40% of the tax amount due, together with interest that is charged at 2% per month.

Generally, ordinary negligence is subject to a penalty of 10% of the unpaid taxes, while serious negligence is subject to 25%. Obstructing the operations of the tax administration, fraud or other criminal acts carry more substantial penalties of 40% of the unpaid taxes.

Other penalties may include fines, closure of business, and potentially, criminal sanctions, according to the nature and severity of the offense. Repeat offenses generally garner more severe penalties.