

Cambodia Tax Alert:

Changes to Import Duties, Salary Tax and Taxpayer Classification

The first month of 2018 has brought with it a number of important tax and customs updates which we summarise in this tax alert. We should note that this month began with an important statement from the General Department of Taxation (**GDT**) announcing the entry into force and effect of two Double Taxation Agreements, one between Cambodia and Singapore, and the other between Cambodia and Thailand. For those who missed our previous alert on that important development, please click [here](#).

Modification of the procedure for determining Specific Tax and Value Added Tax on Imported Goods

Notification 11825

Notification 11825, dated 18 December 2017, took effect on 1 January 2018.

This Notification amends the formula by which a Cambodian importer must calculate the Specific Tax (also known as Excise Tax) or Value Added Tax (**VAT**) in the scenario where the importer has benefited from a reduced Import Duty rate on goods imported into Cambodia under a Free Trade Agreement (**FTA**).

Before the introduction of Notification 11825, the tax base on which an importer would calculate the Specific Tax included the value of the imported good (cost, insurance, and freight, or **CIF**) plus the value of Import Duty imposed, excluding VAT.

Consequently, if an importer were to take advantage of a reduced Import Duty rate under a FTA, this would also impact the calculation of the Specific Tax.

Under Notification 11825 however, an importer benefitting from a reduced Import Duty rate under a FTA must now use the standard Import Duty rate (which would have applied in the absence of a FTA) when calculating the Specific Tax and VAT. As a result, an importer that utilizes a reduced Import Duty under a FTA now pays a higher amount of Specific Tax than before.

Notification 11825 also affects the calculation of VAT on imported goods, which is amplified if the same goods are also subject to Specific Tax. For imported goods, the VAT calculation is based on CIF plus Import Duty, plus Specific Tax (if applicable).

We illustrate how Notification 11825 impacts the calculation of the Specific Tax and VAT using the examples below:

Example:

A Cambodian importer imports beer into Cambodia. The CIF value of the beer is USD 100. The standard Import Duty rate for beer is 35%, but for the purposes of this example, we assume that the Import Duty rate is reduced to 0% under a FTA. The rate of Specific Tax on imported beer is 30%.

Calculation of Specific Tax prior to Notification 11825

Pre-Notification 11825 Calculation of Specific Tax on the imported beer	$\begin{aligned} & \text{(CIF value + FTA Duty value) x rate of Specific Tax} \\ & (100 + 0) \times 30\% \\ & = \text{Specific Tax of USD 30} \end{aligned}$
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Calculation of Specific Tax after Notification 11825

Post-Notification 11825 Calculation of Specific Tax on the imported beer	$\begin{aligned} & \text{(CIF value + Standard Import Duty rate) x rate of Specific Tax} \\ & (100 + 35) \times 30\% \\ & = \text{Specific Tax of USD 40.5} \end{aligned}$
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For the calculation of VAT the example below uses the same scenario as above with a Cambodian importer importing beer:

Calculation of VAT prior to Notification 11825

Pre-Notification 11825 Calculation of VAT on the imported beer	$\begin{aligned} & \text{(CIF value + FTA Duty Value + Specific Tax) x VAT} \\ & (100 + 0 + 30) \times 10\% \\ & = \text{VAT of USD 13} \end{aligned}$
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Calculation of VAT after Notification 11825

Post-Notification 11825 Calculation of VAT on the imported beer	$\begin{aligned} & \text{(CIF value + Standard Import Duty + Specific Tax) x VAT} \\ & (100 + 35 + 40.5) \times 10\% \\ & = \text{VAT of USD 17.55} \end{aligned}$
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Commentary:

Those most affected by the change in the calculation of Specific Tax and VAT brought about by Notification 11825 will be importers relying on a reduced Import Duty rate under FTA who must pay Specific Tax on those goods at the time of importation. The increase in Specific Tax payable in that scenario is a direct cost to the importer which will either decrease their profit margins or require them to pass the costs on to their customers.

The issue with the increase in VAT for most importers will be restricted to cashflow and timing to the extent that the increase in VAT on the imported goods is carried by the importer until such time as they resell the goods and charge VAT. The margin between the VAT input (from the imported goods) and the VAT output (from the resale of the goods) of the importer will be less resulting in most cases in a smaller payment of VAT being paid to the GDT than before.

Monthly Tax on Salary Rates

As discussed in our December 2017 [tax alert](#), one of the key features of the 2018 Law on Financial Management is the increase in the bottom two tiers of the monthly Tax on Salary (TOS) rates. The General Department of Taxation issued Instruction No.002 on 15 January 2018 providing instructions on the implementation of the new monthly TOS rates effective from 1 January 2018.

The key points of Instruction 002 are:

Beginning from 1 January 2018, all resident enterprises must withhold and pay the TOS for tax resident employees as per the table below:

Monthly Tax on Salary Rates from 1 January 2018

2018 MONTHLY TAX ON SALARY BANDS			TAX ON SALARY CALCULATION
KHMER RIEL	US DOLLARS	TAX BANDS	KHMER RIEL
From 0 riels to 1,200,000	0-300	0%	0
From 1,200,001 to 2,000,000	300 - 500	5%	(Tax Base x 5%) - 60,000
From 2,000,001 to 8,500,000	500 – 2,125	10%	(Tax Base x 10%) - 160,000
From 8,500,001 to 12,500,000	2,125 – 3,125	15%	(Tax Base x 15%) - 585,000
Over 12,500,000	Above 3,125	20%	(Tax Base x 20%) - 1,210,000

Tax Rebate

The current rebate amount for each dependent child and non-working spouse remains the same at KHR 150,000.

In order to claim a deduction for a child, the child must be under 14, or under 25 and a full-time student at an accredited institution. Each child may be used as a deduction once only. So if both parents work, only one of them may claim the deduction for the child.

TOS Calculation

The term “salary” refers to remuneration, wages, bonuses, and overtime, compensation, and fringe benefits which are paid to an employee, or paid for the fulfillment of employment activities.

Allowances provided to employees of factories and enterprises for the fulfillment of employment activities under Circular No.001 MEF dated 6 October 2016 *on the Implementation of Obligation to Withhold Tax on Fringe Benefits (“TOFB”)*, may be excluded from taxable salary and are not subject to TOFB.

TOS Formula

- Rebate for dependent children and spouse = KHR 150,000 × number of dependent children and spouse.
- Tax base for TOS calculation = taxable salary - rebate for dependent children and spouse.
- TOS calculation = tax base for TOS calculation × TOS rate – deductions.
- **Example of TOS calculation:**

1. An employee receiving monthly salary of KHR 1.8 million including travelling and meal allowances of KHR 100,000:
 - a. In the case of an unmarried individual:
 - TOS Base= KHR 1,800,000 – KHR 100,000 = KHR 1,700,000 \Rightarrow TOS rate is 5%
 - Deduction = KHR 60,000
 - Hence, TOS= (KHR 1,700,000 \times 5%)- KHR 60,000= **KHR 25,000**
 - b. In the case of an married individual (having 1 spouse who stays at home and 3 dependent children):
 - Rebate= KHR 150,000 \times 4= KHR 600,000
 - TOS Base = KHR 1,800,000 – KHR 100,000 – KHR 600,000= KHR 1,100,000 \Rightarrow TOS rate is 0%
 - Hence, TOS = (KHR 1,100,000 \times 0%) = **KHR 0**
2. A Manager who receives monthly salary of KHR 8,600,000.
 - a. In the case of an unmarried individual:
 - TOS Base = KHR 8,600,000 \Rightarrow TOS rate is 15%
 - Deduction = KHR 585,000
 - Hence, TOS= (KHR 8,600,000 \times 15%)- KHR 585,000= **KHR 705,000**
 - a. In the case of an married individual (having 1 spouse who stays at home and 3 dependent children):
 - Rebate= KHR 150,000 \times 4= KHR600,000
 - TOS Base = KHR 8,600,000- KHR 600,000= KHR 8,000,000 \Rightarrow TOS rate is 10%
 - Deduction = KHR 160,000
 - Hence, TOS = (KHR 8,000,000 \times 10%)- KHR 160,000= **KHR 640,000**

Monthly Tax on Salary Declarations

Please be advised that the GDT has also issued updated monthly tax on salary declarations which take into account these recent changes. These can be found at the GDT website [here](#).

Revised Taxpayer Classification Criteria

One of the major changes to come from the Law on Financial Management 2016 - promulgated on 17 December 2015 (Royal Kram No. NS/RK/1215/016 - was the abolition of the Estimated Regime of Taxation and a restructuring of the Self-Assessed Regime. As most are aware the Self-Assessed Tax Regime is now comprised of Small, Medium, and Large Taxpayers.

Prakas 025 - On the Amendment of Classification of Taxpayers under the Self-Assessment Regime - issued on 24 January 2018, amends and revokes the earlier criteria of taxpayers under the Self –Assessed Tax Regime and has replaced it with the following:

SELF-ASSESSED REGIME	CRITERIA
<p>SMALL TAXPAYER</p>	<ul style="list-style-type: none"> ▪ Annual taxable turnover* from KHR 250 million (USD 62,500) to KHR 700 million (USD 175,000) ▪ Taxable turnover in any period of three consecutive calendar months**, exceeding KHR 60 million (USD 15,000) ▪ Expected taxable turnover of KHR 60 million (USD 15,000) or more in the next three consecutive months ▪ Participation in any tendering, quotations, or surveys for the supply of goods and services ▪ Sole Proprietorships or Partnerships
<p>MEDIUM TAXPAYER</p>	<ul style="list-style-type: none"> ▪ Annual taxable turnover from KHR 700 million (USD 175,000) to KHR 4 billion (USD 1 million) ▪ Enterprises incorporated as legal entities; representative office; or ▪ Sub-national government institutions, associations, and non-governmental organizations; and ▪ Government Institutions, foreign diplomatic and consular missions, international organizations and agencies
<p>LARGE REAL REGIME</p>	<ul style="list-style-type: none"> ▪ Annual taxable turnover more than KHR 4 billion (USD 1 million) ▪ Branches of foreign companies; ▪ Subsidiary of multinational companies, ▪ Enterprises registered as Qualified Investment Project (QIP)***; and ▪ Government institutions, foreign diplomatic and consular missions, international organizations and agencies.

- The term “turnover” refers to the level of a taxable supply of goods and services related to a taxpayers business activities.

***Calendar months: Within the current tax year*

**** Qualified Investment Project (QIP): As approved by the Council for the Development of Cambodia*

Commentary

The salient changes in the criteria of the taxpayer classes that make up the Self-Assessed Tax Regime relate to the turnover threshold. Previously the annual turnover threshold for medium taxpayers was USD175,000 up to USD500,000. That range has now been increased to USD175,000 to USD1 million.

We note that subsidiaries of multinationals are now treated as large taxpayers regardless of their annual turnover. Finally international organisations are now specifically referred to as medium taxpayers.

Prakas 025 makes no mention of the Patent Tax fee for Large Taxpayers which is based on turnover. If the annual turnover of the Large Taxpayer exceeds USD2.5 million then the annual Patent Tax payable will be USD1,250. If the annual turnover of the Large Taxpayer is less than USD2.5 million then the annual Patent Tax payable will be USD500.

The DFDL tax team, stand ready to answer any questions that you may have on this and other tax issues of concern.

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