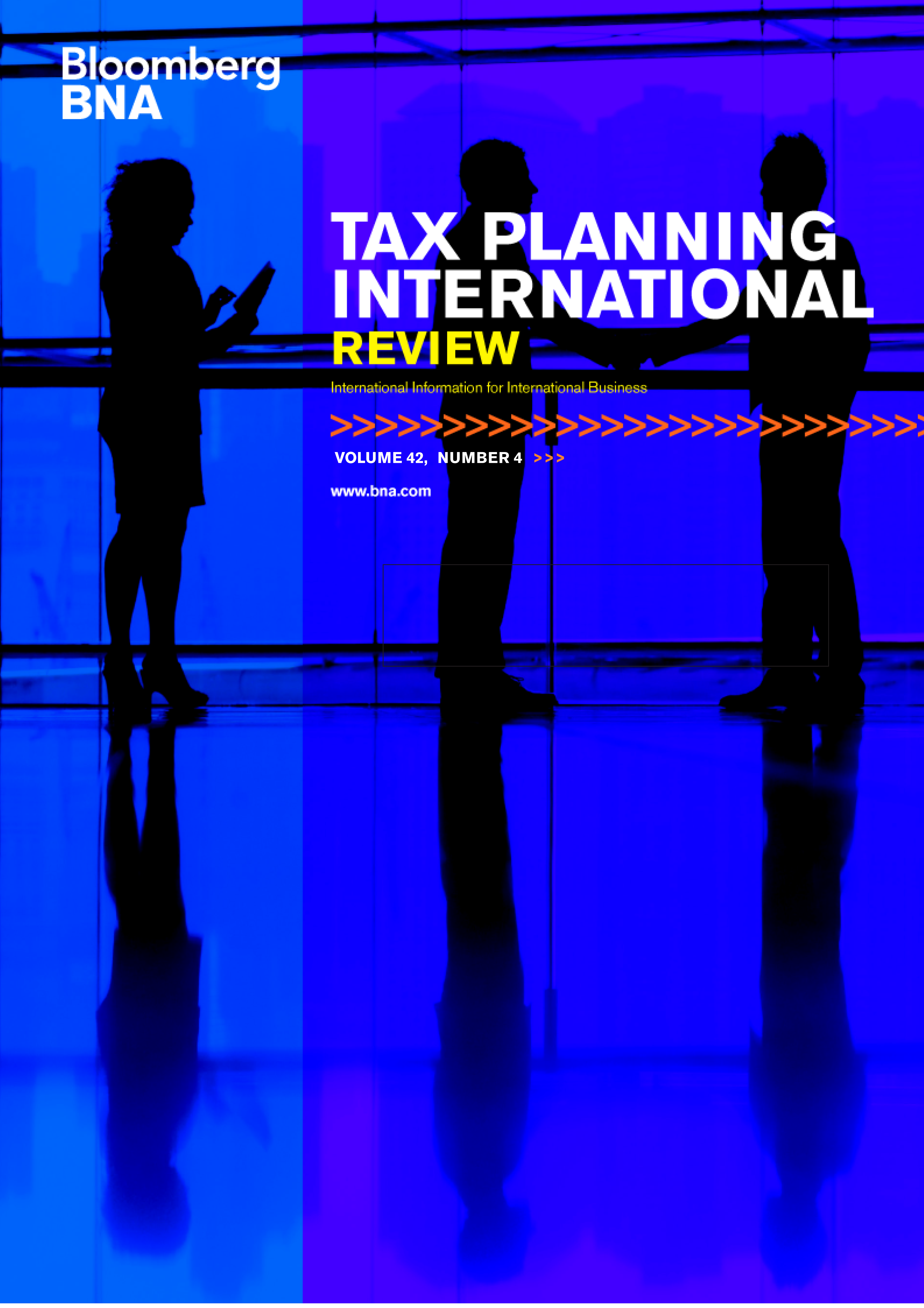

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Overview of Cambodia's Tax System

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The following article provides an overview of Cambodia's tax system, including coverage of tax rates, tax returns and penalties, double taxation agreements and transfer pricing rules.

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I. Overview

Cambodia's Law on Taxation ("LOT") provides three types of tax regime: the real regime, the simplified regime, and the estimated regime. Taxpayers which are not sole proprietorships are subject to the real regime system. However, a sole proprietorship will be regarded as a real regime taxpayer if its level of turnover or type of business activity meets the conditions stated in the tax regulations.

Companies under the real regime system are liable to the following taxes:

- Annual Taxes:
  - Tax on Profit ("TOP"); and
  - Minimum Tax ("MT").
- Monthly Taxes:
  - Prepayment of Profit Tax ("PPT");
  - Withholding Tax ("WHT");
  - Tax on Salary ("TOS"); and
  - Value-Added Tax ("VAT").
- Other Significant Taxes:
  - Patent Tax ("PT");
  - Specific Tax on Certain Merchandise and Services ("ST");
  - Accommodation Tax ("AT");
  - Tax on Public Lighting ("TPL");
  - Tax on Unused Land;
  - Tax on Immovables; and
  - Additional Tax on Dividend Distribution ("ATDD").

II. Annual Taxes

At the end of each taxable year, real regime taxpayers pay either the TOP or the MT, whichever is greater.

A. Tax on Profit

TOP is a tax on income with a standard rate of 20%. Special rates apply to taxpayers in extraction or insurance industries. It is imposed on a resident taxpayer's worldwide income. A resident taxpayer is primarily an enterprise that has a place of management and carries on business in Cambodia. A non-resident taxpayer is an enterprise that is not a resident taxpayer but maintains a permanent establishment (PE) in Cambodia. A non-resident taxpayer with a PE in Cambodia is considered a resident legal person but only with respect to its Cambodian source income.

1. Taxable Profit and Calculation

Taxable profit is the net profit from all types of business operations including capital gains realized, interest, rental income, royalty income, and income from financial or investment activities. Taxable profit is generally calculated by adjusting the accounting profit for expenses that are non-deductible under the LOT for tax purposes.

2. Rates of Tax on Profit

Business Types	Tax Rates
Legal entities (general businesses)	20%
Oil or natural gas production-sharing contract, or realized in the exploitation of natural resources	30%
Insurance companies	5% on gross premiums income

3. Deductibility of 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. The tax law provides that "expenses linked to abnormal management," expenses that "provide benefits to third parties," "expenses for personal needs", and "extravagant expenses" are not deductible for tax purposes.

4. Non-Deductible Expenses

Expenses which are specifically not allowed as deductions include:

- any expense in relation to amusement, recreation or entertainment;
- personal or living expenses;
- penalties and fines;
- donations, grants or subsidies;
- PPT, MT or TOP;
- withholding tax and salary tax borne by the enterprise;
- losses on the sale or exchange of property directly or indirectly between related parties; and
- non-related business expenses.

5. Tax Depreciation

Tax depreciation is based on the following depreciation methods:

	Method	Rate
Intangible Property		
Having a specific useful life	Straight-line	Varies based on the estimated useful life
If there is no specific useful life	Straight-line	10%
Tangible Property		
Class 1: Buildings and structures including their basic components	Straight-line	5%
Class 2: Computers, electronic information systems, software and data-handling equipment	Declining Balance	50%
Class 3: Automobiles, trucks, and office furniture and equipment	Declining Balance	25%
Class 4: All other tangible property	Declining Balance	20%

B. Minimum Tax

MT is a yearly tax and is separate from the TOP. MT is calculated at one percent of annual turnover inclusive of all taxes except VAT. Note however that the monthly settlement of the PPT (see below) is usually sucient to cover the MT. Hence, if the MT is payable instead of the TOP, it is usual that no additional MT payments need to be made.

II. Monthly Taxes

A. Prepayment of Profit Tax

PPT is calculated on one percent of a taxpayer's monthly turnover inclusive of all taxes, except VAT. Any PPT payments made will be credited against the TOP liability.

B. Withholding Tax

WHT regulations require a resident taxpayer carrying on a business in Cambodia to withhold certain amounts from payments made to resident and non-resident taxpayers. The amounts withheld are remitted to the General Department of Taxation ("GDT"). The following payments are subject to WHT:

Payments by resident taxpayers to residents in respect of:

- the performance of services—15% (except payments to a tax-registered taxpayer that are supported by a valid VAT invoice);
- interest—15% (except domestic bank and saving institution);
- royalties—15%;
- rental—10%;
- interest payments on fixed deposits made by local banks to residents—6%; and
- interest payments on saving accounts made by local banks to residents—4%.

Payments by resident taxpayers to non-residents in respect of:

- interest—14%;
- royalties, rental and other income connected to the use of property—14%;
- management and technical fees—14%; and
- dividends—14%.

WHT does not apply to payments in respect of the sale of goods.

C. Tax on Salary

A resident taxpayer is subject to TOS on Cambodian and foreign sourced salary income at progressive rates from 0% to 20%, while a non-resident taxpayer is subject to a flat rate of 20% on Cambodian-source salary income only.

Individuals are classified either as resident or non-resident taxpayers. An individual is deemed to be resident if he has his residence or principal place of abode in Cambodia, or is present in Cambodia for more than 182 days in any 12-month period ending in the relevant tax year. A non-resident is a person who does not meet the above test of residency.

Salary includes remuneration, wages, bonuses, overtime, compensation and loans or advances provided by the employer.

The tax base is reduced by 75,000 Cambodian riels per month for every dependent child and non-working spouse of the resident taxpayer.

1. Exempt Salaries

The following salary payments received by a resident taxpayer are not subject to TOS:

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- reimbursement of business expenses by the employer, provided the costs were incurred in the course of employment, the amount is not excessive, and can be substantiated;
- indemnity for layoff within the limit of the labor law;
- additional remuneration received with social characteristics as stated in the labor law;
- supply of free or below-cost uniforms or special professional equipment used in the course of employment; and
- flat allowances for mission and travel cost received in the course of employment, where the amount of allowance is not be in excess of expenditure incurred.

2. Salary Tax Rates

Monthly Salary		Rate
Khmer Riel (KHR)	Approx. USD equivalent	
0 - 800,000	0 - 125	0
800,001 - 1,250,000	125 - 312.50	5%
1,250,001 - 8,500,000	312.50 - 2,125	10%
8,500,001 - 12,500,000	2,125 - 3,125	15%
12,500,001 - upwards	3,125 - upwards	20%
Exchange rate USD1 = KHR4,000		

3. Fringe Benefits Tax ("FBT")

Fringe benefits are subject to FBT at a rate of 20%.

FBT is primarily imposed on the following benefits:
- vehicles for private usage;
- accommodation, food, utilities, household personnel;
- educational assistance (except for employment-related training);
- low interest loans;
- discounted sales;
- social contributions in excess of the level provided by the labor laws of Cambodia;
- life and health insurance premiums (except where provided to all employees regardless of job classification);
- pension contributions in excess of 10% of the employee's monthly salary; and
- entertainment, amusement or recreation expenses which are not part of employment activity.

D. Value Added Tax

VAT is applicable to the supply of goods and services. Goods are defined as tangible goods other than land and money. Services are defined as the supply of something of value other than goods, land or money.

An enterprise is required to charge VAT at the standard rate of 10% on taxable supplies in Cambodia including the importation of goods into Cambodia. A VAT rate of 0% ("zero-rate") is applied to goods exported from Cambodia. Taxable supplies are defined as all supplies other than exempt supplies. Exempt supplies are not subject to VAT and include:
- public postal services;
- hospital, clinic, medical, and dental services and the sale of medical and dental goods incidental to the performance of such services;
- the service of transportation of passengers by a wholly state-owned public transportation system;
- insurance services;
- primary financial services;
- the importation of articles for personal use that are exempt from customs duties; and
- non-profit activities for the public interest that have been recognized by the Ministry of Economy and Finance.

The Cambodian VAT system follows conventional VAT systems, whereby a VAT-registered enterprise can offset input VAT incurred on purchases against its output VAT. In circumstances where the taxpayer's input VAT for the month exceeds its output VAT (i.e. VAT credit), the taxpayer is allowed to carry forward the VAT credit to offset output VAT in the succeeding period.

VAT paid on the following expenditures cannot be used as VAT input:
- entertainment expenses;
- products or imports of certain petroleum products;
- purchases or imports of passenger motor vehicles; and
- mobile telephone calls.

III. Other Taxes

A. Patent Tax

Businesses are required to pay the PT upon initial business registration and annually thereafter in the amount of 1,140,000 kiels ($285). The PT must be paid at the place where taxpayers have their specific/real business operation.

B. Specific Tax on Certain Merchandise and Services

The ST is imposed on a number of local and imported products and services. The rate ranges from 3% to 45%. Goods subject to this ST include soft drinks, alcoholic products, cigarettes, beer and certain services such as entertainment services, domestic and international air tickets, and telephone services.

C. Accommodation Tax

AT is a tax levied on the provision of accommodation services by hotels. AT is calculated at the rate of 2% of the accommodation fee inclusive of other service charges and all taxes except AT itself and VAT.

D. Tax on Public Lighting

TPL is collected at the rate of 3% on the selling price of alcoholic drinks and cigarettes, both imported and domestically manufactured, at each stage in the supply-chain. The tax base of the TPL is calculated inclusive of all applicable taxes, but exclusive of TPL itself and VAT.

E. Stamp Duties

Stamp duty is imposed on the transfer of ownership of immovable property, all kinds of vehicles and shares. It is also imposed on contracts for the supply of goods and services to public institutions and certain legal documents relating to the establishment, merger or dissolution of business. The stamp duty rates are as follows:

- transfer of ownership or right of possession of immovable property and the contribution of immovable as capital in a company—4% of the value of the immovable property.
- transfer of ownership or right of possession of vehicles—4% of the value of the vehicle.
- transfer of any or all parts of the company's shares—0.1% of the value of shares transferred.
- registration of contracts to supply goods or service to the government—0.1% of the contract price.
- registration of legal documents such as certificates of incorporation, certificates of merger, and a letter evidencing the winding up of a company 1,000,000 kiels (approximately $250).

F. Tax on Immovable Property

Immovable property is defined as including land, houses, buildings, and other constructions built on the land. Tax on immovable property is imposed at the rate of 0.1% of the value of the immovable property exceeding the threshold of 100 million kiels (approximately $25,000). The value of the immovable property is determined by the Immovable Property Assessment Committee. The property tax return must be filed, and the taxes must be paid by September 30 each year.

G. Tax on Unused Land

Tax on Unused Land is imposed on land on which there are no constructions and land on which there are abandoned constructions. The tax is imposed only on areas identified by the Unused Land Appraisal Committee ("ULAC"). The Tax on Unused Land is collected at the rate of two percent of the market value of the land as determined by the ULAC. The deadline for payment is September 30 each year.

H. Additional Tax on Dividend Distribution

ATDD applies to the distribution of profits that has not previously been taxed at the full rate of 20% (such as those distributed by qualified investment projects ("QIPs"). Profits realized when a company is exempt from TOP are not subject to the ATDD until the retained earnings are distributed, either during or after the tax holiday period.

IV. Import and Export Duties

Import duties are collected on all goods (other than those specifically exempted from import duties as stated by law or relevant authorities) crossing the border, at rates of between 0% to 35%. Cambodia is a member of the World Trade Organization ("WTO") and applies the most-favored nation rate to imports from other WTO members. The country is also part of the ASEAN Free Trade Area and applies the tariff rates agreed upon under the ASEAN Trade in Goods Agreement to imports from other ASEAN states.

Cambodia levies export duties on a few items such as timber, rubber, uncut precious stones and certain aquatic products.

V. Tax Administration

A. Patent and Annual Profit Tax Return

Companies must submit TOP and patent tax returns not later than three months following each year. Newly registered enterprises are required to lodge a PT return within 15 days after they receive approval for business registration from the Ministry of Commerce.

B. Monthly Tax Returns

Companies are required to lodge Monthly Tax Returns with the tax authority on a monthly basis.

Monthly Tax Returns consist of:

Return of Prepayment of Profit Tax*	15th day of the following month (lodgment)
Return for Withholding Tax	15th day of the following month (lodgment)
Return for Tax on Salary	15th day of the following month (lodgment)
Return for Value Added Service	20th day of the following month (lodgment)
*Specific Tax, AT, PPT, ATTD and other taxes are also included in this return.	

VI. Tax Loss

Companies are allowed to carry forward tax losses for a maximum of five years. Tax losses cannot be set-off against previous years' profits.

Tax losses will be forfeited upon a change of ownership of the business, or if there is a change in business activity. Tax losses will also be forfeited in the event that a taxpayer is subject to a unilateral tax reassessment by the GDT.

VII. Tax Audit

The LOT provides the GDT with the power to carry out an audit of a taxpayer's activities and to reassess taxes. The GDT has a three-year period following the submission of any monthly or annual tax return in which to raise a tax reassessment. However, this period is extended to 10 years where there is evidence that the taxpayer has obstructed the implementation of the tax provisions. The definition of obstruction is very broad and includes a failure to lodge tax returns within 30 days of the due date. Consequently, a 10-year reassessment period may be applied in many circumstances.

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VIII. Penalties

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

- where a taxpayer or withholding agent is considered negligent (deficiency is 10% or less than amount of taxes due) the penalty will be 10% of the unpaid tax;
- where a taxpayer or withholding agent is considered seriously negligent (deficiency is more than 10% of taxes due) or the taxpayer has failed to settle tax liabilities by the due date stated in a tax notification on late payments issued by the GDT, the amount of penalty will be 25% of the unpaid tax; and
- where a tax audit conducted by the GDT exposes an underpayment of taxes, the amount of the penalty will be 40% of the unpaid tax.

In addition, there are penalties imposed for late payment of taxes and late lodgment of returns. Interest is charged at 2% per month on unpaid taxes.

IX. Double Tax Agreement

Currently, Cambodia has not entered into any double taxation agreements with any country.

X. Group Relief

There is no group relief provision in Cambodia.

XI. Thin Capitalization

There is no thin capitalization rule in Cambodia.

XII. Transfer Pricing Rules

Currently, Cambodia does not have actual transfer pricing statutes or regulations. Subject to certain conditions, the GDT may exercise the authority to adjust the allocation of income and expenses between related enterprises. Two or more enterprises will be deemed to be under common ownership if a person owns 20% or more of the value or the equity interest of each enterprise.

XIII. Foreign Exchange Control

At this time, there is no restriction on foreign currency exchange.

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