

# INVESTMENT INFORMATION

[www.cambodiainvestment.gov.kh](http://www.cambodiainvestment.gov.kh)

## Policies towards Foreign Direct Investment (FDI)

### **GOVERNMENT ATTITUDES**

As one of the poorest countries in the region, international assistance remains a vital component in overcoming the challenges faced in Cambodia's development. Nonetheless, private sector investment will become increasingly important for the country as the private sector assumes its position as the main engine for economic growth in Cambodia. To this end, the Royal Government of Cambodia sees private sector investment as integral to the development of a fully democratic and prosperous Cambodia in the years ahead.

The government is fully aware that if the country is to achieve its developmental goals, it cannot rely on foreign aid and assistance indefinitely, and that real economic growth and development lie in the private sector. Consequently, a programme of reform is now being undertaken by the government in order to create a conducive environment for private sector investment. In 1994, the Law on Investment of the Kingdom of Cambodia was passed with the aim of streamlining the foreign investment regime and providing generous and competitive concessions for direct private sector investment. The Law on Investment also created the Council for the Development of Cambodia (CDC), a one-stop service Organisation for investment in Cambodia. The CDC, through the executive arm of the Cambodian Investment Board (CIB), is now responsible for the processing of applications for investment projects and is required to give a decision within 45 days of submission. As such, the government is fully committed to the speeding-up of new investment-project approvals by making the CDC a truly effective and well-disposed one-stop service.

### **SUMMARY OF FOREIGN INVESTMENT POLICY**

In order to attract FDI, the government has strengthened the country's legal framework, bolstered its institutions and liberalised the relevant regulations, in ways that are conducive to private sector investment and business activities in Cambodia. The 1994 Law on Investment provides similar treatment to foreign and domestic investors alike, with the exception of the issue of land ownership, as set forth in Cambodia's constitution. Even in this area, the regulations are generous, with foreign investors able to lease land for a period of up to 70 years, with the possibility of renewal thereafter.

The government provides investors with a guarantee neither to nationalise foreign-owned assets, nor to establish price controls on goods produced and services rendered by investors, and to grant them the right to freely repatriate capital, interest and other financial obligations.

Investors can set up 100 per cent foreign-owned investment projects and employ skilled workers from overseas, in cases where these workers cannot be found in the domestic labour force.

In addition, the Law on Investment and its related Sub-Decree grant generous incentives to investors, especially those concerned in investment projects geared towards exports.

Attention is also accorded to private investment in Build-Operate-Transfer (BOT) projects, and private investment in infrastructure, including public utilities such as electricity, water supply and telecommunications.

In order to facilitate investors in their applications for investment approval, the government has established an institution to oversee investment policy and strategy called the Council for the Development of Cambodia (CDC). The CDC, being the highest decision-making level of the government on private (CIB) and public (CRDB) investments, is chaired by the prime minister and composed of senior ministers from related government ministries.

The Cambodian Investment Board (CIB), the operational arm of the CDC, has been designated as the *etat major* and one-stop service of the government, responsible for the evaluation of investment proposals and projects from all investors, both individual and corporate.

Cambodia has obtained "Generalised System of Preferences (GSP)" and "Most Favoured Nation (MFN)" status from its major trading partners, including the European Union, the USA, Japan, Canada and Australia.

Apart from facilitation and support at the national level, attention is also being given by the government to opening up access to international sources of finance for private sector investment. Cambodia is already a member of the IFC and MIGA, and is currently applying for membership to the ICSID (International Centre for Settlement of Investment Disputes). It has also signed agreements with the Asian Development Bank (ADB), providing private sector investors with the opportunity to obtain funding for their investment projects from this international financing institution.

## Transparency

### INVESTMENT LAWS (SUMMARY)

- Law on Investment of the Kingdom of Cambodia, 4 August 1994.
- Sub-Decree on the Organisation and Functioning of the Council for the Development of Cambodia (CDC) 26 June 1995.
- Sub-Decree No. 048 ANKR-KB on the amendment of the Sub-Decree on the Organisation and Functioning of the CDC, 21 May 1999.
- Sub-Decree on the Implementation of the Law on Investment of the Kingdom of Cambodia, 29 December 1997.
- Sub-Decree No. 053 ANKR-KB on the amendment of the Sub-Decree on the Implementation of the Law on Investment of the Kingdom of Cambodia, 11 June 1999.

Sectors in which investment is strongly encouraged:

- Pioneer and/ or high-technology industries.
- Job creation.
- Export-oriented industries.
- Tourism industry.
- Agro-industry and processing industry.
- Infrastructure and energy.
- Provincial and rural development.
- Environmental protection.
- Investment in the Special Promotion Zones (SPZs).

**According to Sub-Decree No. 053 ANKR BK, 11 June 1999**

- Investment capital should be in excess of \$1 million for any national or foreign investment project.
- Investment sectors in which special incentives do not apply include the telecommunication sector, and the exploitation of natural resources, with the exception of oil and natural gas exploration.
- All fuels, lubricants and other petroleum-based products used as raw materials or intermediate goods are not eligible for exemptions from import duties.

## National Treatment

### **SECTORS SUBJECT TO EXCEPTIONS TO NATIONAL TREATMENT**

The following sectors are subject to local equity participation:

- Gemstones, clay bricks both hollow and solid, tiles, rice milling, wood and stone carving, and silk-wear.

### **LIMITATIONS ON FOREIGN FIRMS' ACCESS TO FINANCING**

There is no limitation on foreign firms' access to sources of finance on the basis of their nationality.

## Areas of Investment

### **Crop Production**

- Paddy farming greater than 1,000 ha.
- All types of cash crops greater than 500 ha.
- Vegetables greater than 50 ha.

### **Livestock Production**

- Livestock of more than 1,000-head.
- Dairy farming of more than 100-head.
- Poultry & eggs of more than 10,000-head.

#### **Fisheries**

- Hatcheries of more than 2 hectares.
- Shrimp farming and other aqua-culture production greater than 10 hectares.

#### **Manufacture and Processing of Food & Related Products**

(Investment capital greater than \$500,000)

- Beverages.
- Fats & oils.
- Sugar confectionery.
- Meat products.
- Dairy products.
- Preserved fruits and vegetables.
- Grain mill products.
- Bakery products.
- Animal feed products.

#### **Manufacture of Textile Mill Products**

(Investment capital greater than \$1 million)

- Weaving mill cotton, wool and man-made materials.
- Narrow fabric mills.
- Floor covering mills.
- Knitting mills.

#### **Manufacture of Apparel and Other Textiles**

(Investment capital greater than \$500,000)

#### **Manufacture of Furniture & Fixtures**

(Investment capital greater than \$500,000)

- Household furniture.
- Office furniture.
- Building partitions and fixtures.

### **Manufacture of Paper & Allied Products**

(Investment capital greater than \$1 million)

- Tree plantations for paper and pulp mills.
- Paper production.
- Paperboard mills.
- Paperboard containers.

### **Manufacture of Chemicals & Allied Products**

(Investment capital greater than \$500,000)

- All types of chemicals including agricultural chemicals.
- Plastics and other synthetics.
- Drugs.
- Cleaning products.
- Paint & allied products.

### **Manufacture of Rubber & Miscellaneous Plastics**

(Investment capital greater than \$500,000)

### **Manufacture of Leather & Other Products**

(Investment capital greater than \$500,000)

### **Manufacture of Fabricated Metal Products**

(Investment capital greater than \$500,000)

### **Manufacture of Electrical and Electronic Equipment**

(Investment capital greater than \$500,000)

### **Manufacture of Transportation Equipment**

- Automobiles and spare parts.
- Aircraft and spare parts.
- Construction and means of water transport.
- Equipment and means of rail transport.
- Bicycles and motorcycles.

### **Highway & Bridge Construction**

### **Exploitation of minerals, ore, coal, oil and natural gas**

### **Production of machinery and industrial equipment**

(Investment capital greater than \$1 million)

## **Production of consumption goods**

## **Hotel construction**

(Three stars or higher)

## **Medical complex of international standard, educational facilities of international standard, vocational training centres**

## **Physical infrastructure facilities to support the tourism and cultural sectors**

## **Production and exploitation activities to protect the environment**

## Procedure

The Investment Board welcomes all potential investors who would like to invest in Cambodia.

In order for the Board to take into consideration your investment proposal, please kindly submit the following documents:

1. Investment Project Application Form CIB 01A
2. Financial Feasibility Study of your project.
3. Latest Annual Report of your company.
4. A \$100 application fee.

Upon reception of the above documents, the Board will render its decision within 45 days at the latest. The Information Desk is at your disposal for any questions that you may have.

Tel: +855-23-50428, Fax: +855-23-61616

## Taxation

### **SUMMARY OF TAXES PERTINENT TO BUSINESS AND INVESTMENT IN CAMBODIA**

#### **General overview**

Most foreign investments and foreign investors will be affected by the following taxes:

- Tax on Profit.
- Minimum Tax.
- Various withholding taxes (e.g. Tax on profit withholding obligations).
- Value Added Tax.
- Turnover Tax.
- Import Duties.
- Salary Tax on Cambodian and expatriate employees.

**There are various other taxes affecting certain categories of investor, including:**

- Specific Tax on Certain Merchandise and Services
- Various other minor taxes

### **Scope of taxation**

Cambodia's taxation rules vary according to a particular taxpayer's "regime". Most activities associated with foreign investments fall into the "real regime". Therefore, unless otherwise stated, the following text refers to real-regime taxpayers.

Tax on Profit seeks to tax business profits and designated passive income. Business profits include capital gains. Passive income includes interest, royalties and rental income. Dividend income is usually exempt (see comments on Advance Tax on Dividends below).

Various taxpayer entities are recognised, including companies, partnerships and individuals. In addition, there is an internationally recognised Permanent Establishment (PE) definition included in the recent 1997 Law on Taxation.

### **Residency and source**

Cambodian residents are taxable on worldwide income/profits, while non-residents are taxable only on Cambodian-sourced income/profits. Residents earning foreign-sourced income/profits are entitled to receive credits for foreign taxes incurred.

Cambodian residents include companies that are "organised or managed" in Cambodia, or that have their "principal place of business" in Cambodia. In terms of individuals, a non-Cambodian national will be considered a resident by having a "domicile" or making his or her "principal place of abode" in Cambodia, or by being present in Cambodia for more than 182 days in a calendar year.

### **Rate of Tax**

The standard rate of Tax on Profit for companies and PEs is 20 per cent. Resident individuals are taxed at progressive rates up to a ceiling of 20 per cent. Non-resident companies and individuals may be subject to tax on a withholding basis (see below).

A preferential rate of 9 per cent is available from the CDC where certain criteria are met and the proposed activity is being specifically encouraged by the government. Preferential rates are granted for the life of the relevant investment. A preferential rate can be granted, following approval and issuance of the relevant licence by the CDC.

Oil and gas, together with certain other mineral exploitation activities, are subject to tax at a rate of 30 per cent.

Insurance activities are taxable at a rate of 5 per cent of gross premium income.

## **Prepayments**

A Tax on Profit prepayment, equal to 1 per cent of turnover, must be paid on a monthly basis by the 15th day of the following month. The prepayment may be offset against the annual Tax on Profit liability and the Minimum Tax (see below).

Where a taxpayer has a Tax on Profit exemption, the taxpayer is also exempt from prepayment obligations (but not the obligations for Minimum Tax).

## **Tax holidays**

Certain investors may be granted tax holidays by the CDC. These holidays take the form of a complete exemption from Tax on Profit. The exemption period begins from the first year in which the project becomes profitable (but before the offset of losses). The duration of these holiday periods can be up to eight years. A Tax on Profit exemption also relieves the taxpayer of Tax on Profit prepayment obligations (see above).

## **Refunds on reinvestment**

The amount of "positive taxable profit" in any one year may be reduced depending on the extent to which it is reinvested in plant and equipment in the same year. The depreciable value of plant and equipment must, however, be reduced by the same degree.

## **Calculation of taxable profits**

For Cambodian residents, taxable profit is essentially the difference between total revenue, whether from domestic or foreign sources, and "allowable expenses" paid or incurred in carrying out the business, plus designated passive income such as interest, royalties and rent.

## **Allowable and non-allowable deductions**

Cambodia's tax rules contain a general deductibility provision under which all expenditure satisfying the general criteria will be deductible, unless specific provisions apply, such as where an item falls into the list of non-deductible expenditure.

Specific deductibility provisions apply to the following expenditure:

- a) Designated payments to company officers, directors etc. - deductible to the extent the payments are "reasonable".
- b) Plant- and building-related interest and tax - to the extent incurred during the construction/acquisition phase, the expenditure must be capitalised and depreciated on the relevant property.
- c) Interest not falling into (b) - deductible to the extent of interest income and 50 per cent of residual income. The non-deductible portion may be carried forward into the following year's calculation.
- d) Expenditure on tangible property - depreciable at designated rates. For CDC-licenced entities these rates are (item straight-line depreciation rate):
  - Building - 5 per cent
  - Property (4 years of useful life) - 25 per cent

- Property (4 to 8 years of useful life) - 12.5 per cent
- Other tangible property - 10 per cent

(e) Expenditure on intangible property - depreciable over the life of the property (or at 10 per cent annually).

(f) Expenditure constituting exploration and development costs - amortizable with reference to the exploitation of the relevant natural resource.

(g) Charitable contributions - deductible to the extent that the amount does not exceed 5 per cent of taxable profit.

(h) Amusement, recreation and entertainment - non-deductible.

(i) Personal expenditure not subject to Salary Tax - non-deductible.

(j) Tax on Profit itself, including cases in which the tax is paid on another taxpayer's behalf - non-deductible.

(k) Certain losses suffered on sales to (51 per cent) related parties - non-deductible.

(l) Purchases from "simplified regime" taxpayers - deductible on a cash basis only.

### **Losses**

Taxpayers may carry forward their losses for up to five years. The carry-back of losses is not permitted. There is no provision for any form of consolidated filing or group loss relief.

### **Transfer Pricing**

Article 18 of the 1997 Law on Taxation provides the Cambodian authorities with wide powers to redistribute income and deductions between parties under "common ownership", in order to prevent "avoidance or evasion of taxes" Common ownership exists at the relatively low level of 20 per cent.

Article 19 (4) of the 1997 Law on Taxation automatically denies a deduction for certain losses incurred on dealings between 51 per cent commonly owned parties.

### **Administration**

Tax on Profit returns must be filed annually within three months of the end of the tax year. The standard tax year is the calendar year, although different accounting year-ends can be granted upon application. The 1 per cent Tax on Profit prepayments are due on a monthly basis, by the 15th day of the following month.

### **MINIMUM TAX**

## **General overview**

Real-regime taxpayers are subject to a separate Minimum Tax. The Minimum Tax is an annual tax with a liability equal to 1 per cent of the taxpayer's turnover during the year in question.

As a separate tax to Tax on Profit, Minimum Tax is due "irrespective of any Tax on Profit exemption or the taxpayers" profit or loss position.

## **Administration**

Minimum Tax is due three months after the financial year-end and, therefore, at the same time as the annual Tax on Profit. A Minimum Tax liability may be reduced by Tax on Profit payments, including prepayments.

## **Advance Tax on Dividends**

Cambodia's Law on Investment contains a general guarantee against the taxation of repatriated profits. Consequently, dividends are generally not subject to a dividend withholding tax. Instead, the company paying the dividend is required to pay an Advance Tax on Profit at the time of dividend distribution. This advance payment is levied at the prevailing Tax on Profit rate of the dividend-paying company and on the gross dividend value.

The advance payment is creditable (except in the case of insurance companies) to the dividend paying company (not the shareholder) against future Tax on Profit payments.

A 20 per cent-interest shareholder is entitled to establish a special "dividend account", from which the relevant dividend may be paid without further advance payment obligations.

Dividends for which Advance Tax on Profit has already been paid are exempt from Tax on Profit.

## **Other payments**

The 1997 Law on Taxation introduced a draft for Tax on Profit-related Withholding Obligations for certain income payments. Of importance here, is that these obligations only apply to payments made by residents (and to those who are also under the "real regime"). The withheld tax also constitutes a final tax when withheld in respect of non-residents.

The types of payments are as follows:

### **Interest**

- Payment by a resident to:
  - a resident not constituting a Cambodian bank - 15 per cent
  - any non-resident - 15 per cent
- Payment by a resident bank to:
  - a resident individual on non-savings deposits - 5 per cent

## Rent

- Payment by any resident to:
  - any (non-real regime) resident - 10 per cent
  - any non-resident, where property used is in Cambodia - 15 per cent

## Consulting payments

- Payment by any resident to
  - a resident individual only - 15 per cent
  - any non-resident, where services are performed in Cambodia - 15 per cent

## Royalties (including those for minerals, oil and gas)

- Payment by any resident to
  - any resident - 15 per cent
  - any non-resident, where property used is in Cambodia - 15 per cent

## Capital gains-sale of immovable property

- Payment by any resident to
  - any resident - N/A
  - any non-resident, where property is located in Cambodia - 15 per cent

## Gains-sale movable property

- Payment by any resident to
  - any resident - 15 per cent
  - any non-resident - N/A

## Insurance premiums

- Payment by any resident to
  - any resident - N/A
  - any non-resident, where risk is in Cambodia 15 per cent

Withheld Tax on Profit must be remitted by the income payer on a monthly basis by the 15th day of the following month.

## **VALUE ADDED TAX (VAT)**

### **General overview**

Value Added Tax (VAT) was implemented for "real regime" (i.e. large and/or incorporated) taxpayers on 1st January 1999.

Under the VAT system, "output tax" is collected from a customer by adding VAT to the amount charged. However, a business also pays an "input tax" to its suppliers on purchases made. The business must pay the output tax after deducting the input tax paid to its suppliers. In theory, the business therefore pays tax on the value that it adds in the supply chain. The tax is ultimately borne by the consumer or a business that is exempt from the tax, as consumers/exempt businesses cannot recover input tax paid.

### **Scope of application**

Cambodia's VAT system is currently restricted to the business activities of real-regime taxpayers producing taxable supplies (and certain importers, see below). Real-regime taxpayers include most large and/or incorporated taxpayers involved in the production, trade and provision of services. In each case, the business must charge VAT on the value of goods or services supplied. Non-real regime taxpayers may be included in the VAT system at a later stage.

VAT also applies to the duty-paid value of imported goods. There are concessions, however, for exporters, certain tax-exempt bodies, and cigarettes, alcoholic and automotive products imported for the purposes of re-export. Imported goods may be treated as including associated services. The importer must pay VAT to Customs at the same time as the importer pays Import Duties.

VAT may be payable on the appropriation of goods for personal use and on gifts.

### **Exempt goods and services**

VAT is not payable on a number of activities, including the supply of:

- Public postal services
- Hospital and medical services, and the provision of goods for these activities.
- Public transportation activities operated by owned providers
- Insurance activities
- Certain financial services
- The importation of certain personal effects
- Non-profit activities in the public interest (as approved)

If a business sells exempt goods or services, it will be unable to recover any input tax paid on its purchases. This contrasts with "zero rating", where sales are within the VAT system (albeit at a VAT rate of zero), and hence input tax can be recovered. Where a business generates both taxable and exempt sales, it will only be able to claim a deduction of input for that portion of inputs used in the taxable activity.

## **Rates of tax**

There are two rates of VAT as follows:

- 0 per cent - This rate applies only to goods exported from Cambodia and services 'consumed' outside Cambodia. Exports are defined as including the international transportation for passengers or goods, and the services connected to this international transportation.
- 10 per cent - This standard rate applies to all other non-exempt supplies.

## **Basis of taxation**

The output tax is generally calculated by multiplying the taxable value (net of VAT) taken from the invoice price by the applicable VAT rate. With respect to imported goods, VAT is calculated on the CIF imported price plus Import Duty plus any Specific Tax on Certain Merchandise and Services.

For goods sold on a hire-purchase or financial-lease basis, VAT is calculated on the total price at the time of supply, as opposed to the instalments actually received. For goods made available under rental or periodic payment arrangements, the goods are treated as being successively supplied.

Input credits are available for VAT charged on entertainment, certain petroleum products and the purchase of passenger motor vehicles.

## **Registration**

All real-regime taxpayers producing supplies of taxable goods and services in Cambodia should register for VAT. Voluntary registration for non-real regime taxpayers and CDC-licensed entities in the pre-operation phase is also possible.

## **Administration**

For domestic supplies, taxpayers are required to file VAT returns and make VAT declarations and payments on a monthly basis, by the 20th day of the following month. For imports, VAT is payable to Customs at the time of importation.

Where a taxpayer's input VAT for the month exceeds output VAT, the business generally has to carry the excess forward for three months. The business can then apply for a refund from the tax authorities. Special refund rules apply for exporters and CDC-licensed entities in the pre-operating phase. Detailed rules exist with regard to specific invoicing and record-keeping obligations. Invoices vary according to whether a VAT registered or non-registered person is being invoiced.

## **TURNOVER TAX**

### **General overview**

Until 31 December 1998, Turnover Tax applied to all persons or entities (whether local or foreign, company or individual) deriving revenue in Cambodia. With the introduction of VAT on 1 January

1999, Turnover Tax no longer applied to real-regime (large and/or incorporated) taxpayers. The former 4 per cent Consumption Tax was also lifted on all importers (although VAT may still apply).

Turnover Tax continues to apply to non-real regime taxpayers at the flat rate of 2 per cent. For Turnover Tax purposes this includes revenue from the supply of goods or services (although most exports are exempt).

Turnover not subject to Turnover Tax is limited to the following areas:

- The sale of unprocessed agricultural produce, where sold by the producer
- Certain small-business activities
- The majority of exports.

### **Basis of taxation**

Turnover Tax is a tax on gross turnover received. It is not a VAT. It is generally calculated by multiplying the total amount invoiced by the applicable rate. It is common for the tax to be passed on by the invoicing party. In such a case the Turnover Tax collected is generally accepted as the full Turnover Tax liability (i.e. there is no grossing up).

### **Rates of tax**

Since 1 January 1999, Turnover Tax has been levied at the flat rate of 2 per cent.

### **Administration**

Taxpayers must make monthly Turnover Tax declarations and payments, not later than the 10th day of the following month. Detailed rules exist with regard to specific invoicing and record-keeping obligations.

## **SPECIFIC TAX ON CERTAIN MERCHANDISE AND SERVICES**

### **General overview**

The Specific Tax on Certain Merchandise and Services is a form of excise 'tax that applies to the importation or domestic production and supply of certain goods and services.

### **Rates of tax**

- The goods/ services and rates of tax are as follows:
- Most automobiles and parts displacement - 2000cc: 30 per cent
- Most automobiles and parts displacement - 2001cc: 20 per cent
- Most large automobiles (e.g. buses, trucks): 10 per cent
- Motorcycles - displacement - 124cc: 10 per cent

- Certain petroleum products: 20 per cent
- Certain carbonated and similar non-alcoholic drinks: 10 per cent
- Beer, wines and most other alcoholic beverages: 10 per cent
- Cigarettes and cigars: 10 per cent
- Hotel accommodation and entertainment charges: 10 per cent
- International air tickets - commencing in Cambodia: 2 per cent
- Certain international telecommunication activities: 2 per cent

*Note that the implementation of the Specific Tax on hotel room rental has been postponed until further notice.*

### **Basis of taxation**

For domestically produced goods, Specific Tax is generally due on the 'ex-factory selling price'. For imported goods, the tax is due on the CIF value inclusive of Customs Duty. For air, hotel and telecommunication services, the tax is generally payable on the invoice price, although for air tickets this is limited to tickets issued in Cambodia.

## **SPECIFIC TAX ON CERTAIN MERCHANDISE AND SERVICES**

### **Administration**

For domestic sales, taxpayers must make Specific Tax declaration fund payments on a monthly basis, not later than the 10th day of the following month. For imports, Specific Tax is payable to Customs at the time of importation. Detailed rules exist with regard to invoicing and record-keeping obligations.

## **IMPORT AND EXPORT DUTIES**

### **Import Duties**

Import Duties are levied on a wide range of products. Rates are generally 7 per cent, 15 per cent, 20 per cent, 35 per cent or 50 per cent.

### **Investment incentives**

Import Duty exemptions can be granted by the CDC as an investment incentive. Exemptions can apply to:

- Construction materials.
- Plant and equipment (and related spare parts) to be used in production.
- Raw materials and intermediate goods to be used in production.

Investment projects typically entitled to Import Duty incentives include:

- Export orientated (minimum 80 per cent) projects.

- Projects located in Special Promotion Zones.
- Projects in the tourism industry.
- Labour-intensive production projects.
- Projects in infrastructure and energy.

### **Export Duties**

Export Duties are levied on only a limited number of items, such as timber and certain animal products (including most seafood).

## **SALARY TAX**

### **General Overview**

Cambodia's Salary Tax regulations follow internationally accepted residency and source principles. A Cambodian resident's worldwide salary is subject to Cambodian Salary Tax. For non-residents, only the Cambodian sourced salary is subject to Salary Tax. The location of the salary payment is not relevant in determining the source.

Cambodia draws a distinction between cash salary and "fringe benefits". Cash salary is taxable to the employee while Salary Tax due on fringe benefits is payable by the employer.

Salary Tax extends to employment-related remuneration only, as opposed to general personal income per se. Genuine consulting income is also excluded (although such income is subject to Tax on Profit). These rules enable the authorities to consider certain consultants as employees.

### **Residency**

A Cambodian resident is defined as an "employee, taxpayer, or person" who is:

- domiciled in Cambodia, or
- has his/her principal place of abode in Cambodia, or
- is physically present in Cambodia for more than 182 days in a calendar year.

### **Taxable Salary**

A distinction is made between cash and fringe benefit salary components. Different tax scales apply.

#### **Cash salary**

Cash salary includes remuneration, wages, bonus payments, overtime, compensation and employer-provided loans and advances.

#### **Fringe Benefits**

Fringe benefits include:

- the use of motor vehicles;
- the provision of accommodation support (including utilities and domestic helpers);

- low-interest loans and discounted sales;
- educational assistance (unless employment related, for example for training);
- certain insurance support;
- excessive or unnecessary" cash allowances, and social welfare and pension contributions;
- entertainment or recreational expenditure (which may additionally be non-deductible to the provider for Tax on Profit purposes).

### **Exempt Salary**

Exempt salary includes:

- certain redundancy payments;
- reimbursement of employment-related expenses;
- certain traveling allowances;
- certain uniform entitlements;
- the salaries of employees of approved diplomatic, international and aid organisations;
- the salaries of non-residents where the salary cost is not deducted in Cambodia.

### **Deduction**

These are limited to small statutory amounts for an employee's dependents, and for the repayment of employer loans or advances.

### **Salary Tax Rate**

Cash Salary – Resident (monthly salary (Riels) Rate):

- 0 - 500,000: 0 per cent
- 500,001 - 1,250,000: 5 per cent
- 1,250,001 - 8,500,000: 10 per cent
- 8,500,001 - 12,500,000: 15 per cent
- 12,500.001 – upwards: 20 per cent

Cash Salary - Non-resident:

- The rate for non-residents is a flat 15 per cent. This tax also constitutes a final tax.

### **Fringe Benefits**

Fringe benefits are taxable on the employer (not the employee) at the flat rate of 20 per cent of the market value of the benefit.

As the rate scales are stated in Cambodian Riel, earnings in foreign currency have to be converted into Riel. Official exchange rates are provided for this purpose.

### **Administration**

Employees must make monthly salary tax declarations and payments, not later than the 15th of the following month. There is no annual return.

## **OTHER TAXES**

### **Tax on House and Land Rent**

Businesses (other than real-regime) renting out land, buildings, certain equipment, storage facilities etc. are liable to Tax on House and Land Rent. The tax is levied at 100/o of the relevant rental fee. This tax is not imposed where Tax on Profit has been withheld from the rental payment (see earlier comments on withholding taxes).

### **Patent Tax**

Registered businesses must pay a nominal Patent Tax on initial business registration, which then becomes payable on an annual basis thereafter. Patent Tax is levied with reference to the prior year's turnover or estimated turnover.

### **Fiscal Stamp Tax**

Fiscal Stamp Tax is paid on certain official documents and, perhaps more importantly for foreign investors, certain advertising postings and signage. Amounts vary according to such factors as the location of the signage, illumination and the language used (foreign or Cambodian).

### **Tax on Unused Land**

Land in towns and other specified areas, without construction, or with unused construction, and certain developed land, is subject to Tax on Unused Land. The tax is calculated by the Commission for the Evaluation of Unused Land, on 30 June every year. The first 1,200 sq m of land is free of tax. The owner of the land is required to pay the tax by 30 September each year.

### **Registration Tax (or "Transfer Tax")**

Certain documents relating to the establishment, dissolution or merger of a business, or the transfer of title in certain assets (such as land vehicles) are subject to Registration Tax. The tax is generally levied at 4 per cent of the transfer value.

### **Tax on Means of Transportation**

This tax imposes a number of statutory fees on the registration of certain transportation vehicles, including trucks, buses, motor vehicles and ships.

### **1999 Finance Law**

The 1999 Finance Law specifies taxes levied on the distribution of certain petroleum, cigarette and alcohol products.

## Agreements

### **DOUBLE TAXATION AGREEMENTS**

Currently, there are no double-taxation agreements with Cambodia.

### **SUMMARY OF INTERNATIONAL INVESTMENT AGREEMENTS**

Bilateral Agreements for the Protection and Promotion of Investment have been signed with the following countries:

- Indonesia
- Malaysia
- Singapore
- Thailand
- China
- Germany
- Republic of Korea
- Sweden

## Administrative Procedures

### **INVESTMENT APPLICATION**

#### **Prior Approval**

All investors wishing to obtain privileges and incentives for their investments are required to apply for prior approval from the CDC.

#### **Application Submission**

Duly completed applications must be signed and submitted by the applicant, or by a representative of the applicant authorized by a certified power of attorney executed in favor of the representative, and submitted to the CDC for review and consideration. A certified copy of any power of attorney must be produced at the time of the submission of the application.

#### **Requirements for Application**

Application documents: A completed application should include one set of the following documents:

1. A completed application, in the form prescribed by the CDC and signed by a duly authorised representative of the applicant, whose power of attorney is attached.

2. A letter stating the intention of the applicant to invest in Cambodia, with a brief summary of the investors, the investment project, the objectives and any special requests to the CDCI regarding the investment project.
3. The constituent documents of the proposed investment enterprise, such as the Memorandum of Association and Articles of Association, in accordance with the existing laws of Cambodia.
4. A detailed study of the economic and technical feasibility of the investment enterprise, including an outline of the manufacturing flow process.
5. Details of the qualifications of the applicant, including:
  - a. technical capacity;
  - b. marketing capacity;
  - c. human resources and managerial capacity; and financial capacity.

### **Appeals**

The investment enterprise can file an appeal to the CDC within 25 working days of receipt of notification to revoke or cancel, partially or wholly, privileges and incentives.

## **RELEVANT AGENCIES FOR INVESTMENT PROCESSES**

### **Application Agencies**

Council for the Development of Cambodia (Cambodia Investment Board)

Government Palace

Sisowath Quay, Wat Phnom, Phnom Penh, Cambodia

Tel: (855) 23 981154 Fax: (855) 23 428 426

Monitoring and Enforcement

### **AGENCY FUNCTIONS**

Council for the Development of Cambodia (Cambodia Investment Board)

- Approving investment projects.
- Providing investment advise.
- Administering investment activities.

## **APPROVAL PERIOD FOR APPLICATION CONSIDERATION**

The CDC issues a decision to approve or reject an application within 45 working days from the date of receipt of a completed application.

## Investment Promotion and Incentives

### INVESTMENT INCENTIVES

The Law on Investment provides the following incentives to investment projects in Cambodia:

- A corporate income tax rate of 9 per cent, except for the exploration and exploitation of natural resources, including timber, oil and gas, gold, and precious stones.
- A corporate tax exemption of up to eight years, depending on the characteristics of the project and the priorities of the government.
- Losses carried forward for up to five years.
- Non-taxation on the distribution of dividends, profits or proceeds of investments, whether transferred abroad or distributed within the country.
- 100 per cent import duty exemption on construction materials, means of production, equipment, intermediate goods, raw materials and spare parts used by:
  - a) An export-oriented project with a minimum of 80 per cent of the production set apart for export,
  - b) Projects located in the designated Special Promotion Zone (SPZ)
- 100 per cent exemption of export tax, if any.

For investment projects excluded from the category covered by (5) a) and b), the 100 per cent exemption from duties and taxes shall only be authorised for the construction of factories and buildings, and for a period of one year following the start-up of production operations.

### INVESTMENT GUARANTEES

- The Law on Investment contains a number of important guarantees for investors, as follows:
- Equal treatment of all investors,
- No nationalisation adversely affecting the property of investors,
- No price controls on products or services produced by licenced investors,
- Remittance of foreign currencies abroad.

### PROMOTED SECTORS FOR INVESTMENT

The list of eligibility is as follows, classified under these broad headings:

1. Crop production.
2. Livestock production.
3. Fishery.
4. Manufacturing and processing of food and related products.

5. Manufacturing of textile mill products.
6. Manufacturing of apparel and other textiles.
7. Manufacturing of furniture and fixtures.
8. Manufacture of paper and allied products.
9. Manufacturing of chemicals and allied products.
10. Manufacture of rubber and miscellaneous plastics.
11. Manufacture of leather and other products.
12. Manufacture of fabricated metal products.
13. Manufacture of electrical and electronic equipment.
14. Manufacture of transportation and equipment.
15. Highway and bridge construction.
16. Exploitation of minerals, ore, coal, oil and natural gas.
17. Production of machinery and Industrial equipment.
18. Hotel construction.
19. Medical complex of international standards, educational facilities of international standards, vocational training centres.
20. Physical infrastructure facilities to support the tourism and cultural sectors.
21. Production and exploitation activities to protect the environment.

## Repatriation and Convertibility

### **RESTRICTIONS ON THE REPATRIATION OF FUNDS**

There are currently no restrictions on the repatriation of profit or capital derived from investments made in Cambodia, nor on most transfers of funds abroad. The Law on Investment guarantees that investors can freely remit foreign currencies abroad for the purposes of:

- Payment of imported goods and services and repayment of loans including interests and principles made by foreign banks or institutions.
- Royalties and management fees.
- Profits after discharge of obligations due and payment of all relevant taxes and royalties.
- Repatriation of invested capital on dissolution of an investment project.

### **FOREIGN EXCHANGE REGIME**

According to the Law on Foreign Exchange dated 22 August 1997, as well as the regulations issued by the National Bank of Cambodia, foreign currencies can be freely purchased through the banking system. The Law on Foreign Exchange specifically states that there are no restrictions on foreign exchange operations, specifically including the purchase and sale of foreign exchange, and transfers and all other types of international settlements. However, the Law on Foreign Exchange requires that these transactions are only performed by authorised intermediaries. These intermediaries are legally recognised banks in Cambodia, which are required to report to the National Bank of Cambodia transactions in excess of \$10,000. There is no requirement that the investor sending or

receiving the funds make a report on the transaction. The burden rests solely on the bank as the authorised intermediary.

### **CONVERTIBILITY OF CURRENCY FOR OVERSEAS TRANSFER**

There are no restrictions on the convertibility of currencies for the overseas transfer of funds related to foreign investment.

### **Labour Policies**

Cambodia's low labour costs are attractive to foreign investors. About 45 per cent of Cambodia's population of 11.7 million is of working age, while over 60 per cent of the work force comprises women. The minimum wage rate for unskilled workers is currently around \$45 per month.

### **ALIEN EMPLOYEES**

Investors are permitted to bring into Cambodia foreign nationals who are:

- Qualified managerial personnel.
- Technical personnel.
- Skilled workers.

A Law on Immigration was passed by the National Assembly on 26 August 1994. According to Article 28 of the Law, foreigners who have already received a "letter of investment approval" from the CDC, will be allowed to stay in Cambodia, together with their families, for a period stated in the letters of investment approval.

### **RELEVANT LABOUR LAW**

A Labour Law was adopted on 10 January 1997 by the National Assembly. This law, which contains 396 articles, lays down general working conditions and other related matters, such as:

- Wages.
- Hours of work, both daily and weekly.
- Night work.
- Weekly time off.
- Paid holidays.
- Paid annual leave.
- Special leave.
- Child Labour, women labour.
- Trade union freedoms and workers representation in the enterprise.

- Settlement of labour disputes.

## Investment Protection

### **COMPETITION POLICIES**

The government first started to adopt free-market policies in 1991. Both foreign and local investors and their business activities are accorded equal rights within the free-market system, although government agencies and state-enterprises are accorded special privileges over and above those given to private sector enterprises.

### **INTELLECTUAL PROPERTY LAWS**

An investor may apply for intellectual property protection by filing an application with the appropriate ministry. All dealings in trademarks, patents, copyright and know-how must comply the laws relating to intellectual property.

### **EXPROPRIATION AND COMPENSATION**

As mentioned in bilateral agreements on the promotion and protection of investment between Cambodia and other Asian countries, investments of multinational and other companies will not be nationalised, expropriated or subject to measures having an effect equivalent to nationalisation or expropriation. The only exception to this is for public purposes related to the internal needs of the country. In such cases, any decisions will be made on a non-discriminatory basis and require prompt, adequate and effective compensation.

### **DISPUTE SETTLEMENT**

Disputes relating to promoted investments established in Cambodia or involving foreign nationals concerning rights and obligations under the law should be settle amicably as far as possible through consultation between the parties in dispute.

Should the parties fail to reach an amicable settlement within two months of the date of the first requesting consultation, the dispute can be brought to a higher level by either party:

- Conciliation before the CDC, which will then provide its opinion, or
- Referral of the dispute to the court of Cambodia, or
- Referral to international rules to settle the dispute, as agreed by both parties.

The government is currently applying to become a member of the International Centre for Settlement of Investment Disputes (ICSID).

## Trends in FDI

### **OVERVIEW OF RECENT TRENDS**

Net foreign investment in Cambodia peaked in 1995, and then declined in 1996. The manufacturing sector, in particular the textile industry, receives the largest share of overall FDI.

### **SOURCES AND DESTINATIONS OF FDI**

The top five sources of FDI are:

1. China
2. Korea
3. Malaysia
4. US
5. Taiwan

### **LAW OF INVESTMENT IN CAMBODIA**

This law is adopted by the National Assembly of the Kingdom of Cambodia in Phnom Penh on August 4, 1994 during the extraordinary session of the first legislature.

#### **CHAPTER 1 - General Provision**

Article 1: This law governs all investments projects made by investors who are Cambodian citizens and/or foreigners within the Kingdom of Cambodia.

Article 2: Investor can be either a natural person or a legal entity.

#### **CHAPTER 2 - Council for the Development of Cambodia**

Article 3: The Council for the Development of Cambodia is the sole and one-stop service organisation responsible for the rehabilitation, development and investment activities. The Council for the Development of Cambodia is the Royal Government's headquarter responsible for the evaluation and the decision making on all rehabilitation and development, and investment project activities.

Article 4: The Council for the Development of Cambodia comprises the following two executive Boards:

- 1) The Cambodian Rehabilitation and Development Board.
- 2) The Cambodian Investment Board.

Article 5: The organisation and functioning of the Council for the Development of Cambodia shall be mentioned by Sub-Decree.

### **CHAPTER 3 - Investment Procedure**

Article 6: Investors have to submit investment applications to the Council for the Development of Cambodia for review and decision.

Article 7: The Council for the Development of Cambodia shall provide a response as to its decision to all investors/applicants within a period of forty five (45) days maximum following the date of submission of the complete investment application.

Any Government officials who, without proper justification, refuse to review and respond to investor's application past the above mentioned period of time shall be punished by law.

### **CHAPTER 4 - Investment Guarantees**

Article 8: Investors shall be treated in a non-discriminatory manner as set by law, except for ownership of land as set forth in the Constitution of the Kingdom of Cambodia.

Article 9: The Royal Government shall not undertake nationalization policy which shall adversely affect private properties of investors in the Kingdom of Cambodia.

Article 10: The Royal Government shall not impose price control on the products or services of investors who have received prior approval from the Government.

Article 11: In accordance with the relevant laws and regulations issued and published to the public by the National Bank of Cambodia, the Royal Government shall permit investors to purchase foreign currencies through the banking system and to remit abroad these currencies for the discharge of financial obligations incurred in connection with their investments. This current the following payments:

- 1) Payment for imports and repayment of principal and interest on international loans.
- 2) Payment of royalties and management fees.
- 3) Remittance of profits.
- 4) Repatriation of invested capital in compliance with Chapter 8.

### **CHAPTER 5 - Investment Incentives**

Article 12: The Royal Government shall make available incentives to encourage investments in such important fields as:

- 1) Pioneer and/or high technology industries.
- 2) Job creation.

- 3) Export-oriented.
- 4) Tourism industry.
- 5) Agro-industry and Transformation industry.
- 6) Physical infrastructure and energy.
- 7) Provincial and rural development.
- 8) Environmental protection.
- 9) Investments in Special Promotion Zone (SPZ) as shall be created by law.

Article 13: Incentives shall include the exemption, in whole or in part, of duties and taxes.

Article 14: Incentives shall consist of the following:

- 1) A corporate tax rate of 9 per cent except for the exploration and exploitation of natural resources, timber, oil, mines, gold, and precious stones which shall be set in separate laws.
- 2) A corporate tax exemption of up to 8 years depending on the characteristics of the project and the priority of the government which shall be mentioned in a Sub-Decree. Corporate tax exemption shall take effect beginning from the year the project derives its first profit. A 5-year loss-carried forward shall be allowed. In the event the profits are being reinvested in the country, such profits shall be exempted from all corporate tax.
- 3) Non-taxation on the distribution of dividends or profits of proceeds of investments, whether they will be transferred abroad or distributed in the country.
- 4) 100 per cent import duties exemption on construction materials, means of production, equipments, intermediate goods, raw materials and spare parts used by:
  - a) An export-oriented project with a minimum of 80 per cent of the production set apart for export.
  - b) Located in a designated Special Promotion Zone (SPZ) listed in a development priority list issued by the Council.
  - c) Tourism industry.
  - d) Labour-intensive industry, transformation industry, agro-industry.
  - e) Physical Infrastructure and energy industry.

*These 100 per cent exemption of duties and taxes mentioned above shall be in effect according to the terms of the agreement or requirement book of the investment projects which will produce goods for export in minimum of 80 per cent of total production as stipulated in the above point (4) a and for the investment projects which will be located in Special Promotion Zone (SPZ) as in (4) b. Beside the investment projects mentioned in the above points (4) a and (4) b the 100 per cent exemption of duties and taxes shall only be authorized for an arrangement of construction period of enterprises, factories, building and the first year of operation of business production.*

- 5) 100 per cent exemption of export tax, if any.
- 6) The permission to bring into the Kingdom of Cambodia foreign nationals who are:
  - a) Management personnel and experts
  - b) Technical personnel
  - c) Skilled workers

- d) Spouses and dependents of the above persons as authorized by the Council for Development of Cambodia and in compliance with the immigration and Labour law.

Article 15: The approval and incentives granted by the Council for Development of Cambodia shall not be transferable or assigned to any third parties.

## **CHAPTER 6 - Land Ownership and Use**

Article 16: In accordance with the Constitution and relevant laws and regulations pertaining to the ownership and use of land:

- 1) Ownership of land for the purpose of carrying on promoted investment activities shall be vested only in natural persons or in legal entities holding Cambodian citizenship. Legal entity holding Cambodian citizenship is the legal entity in which more than 51 per cent of the shares are owned by natural persons or legal entities holding Cambodian citizenship.
- 2) Use of land shall be permitted to investors, including long-term leases of up to a period of 70 years, renewable upon request. Upon such use may include the right of ownership of real and personal property situated on the land as may be permitted by the law.

## **CHAPTER 7 - Employment Practices**

Article 17: Investors in the Kingdom of Cambodia shall be free to hire Cambodian nationals and foreign nationals of their choosing in compliance with the Labour and immigration law.

Article 18: The investors shall be allowed to hire foreign employees who are listed in Article 14 (6) provided that:

- 1) The qualification and expertise are not available in the Kingdom of Cambodia among the Cambodian population. In the even of such hiring, appropriate documentation including the photocopies of the employee's passport, certificate and/or degree, and a resume shall be submitted to the Council.
- 2) Investors shall have the obligation to provide adequate and consistent training to Cambodian employees.
- 3) Promotion of Cambodian staff to senior positions will be made over time.

Article 19: Foreign employees shall be allowed to remit abroad their wages and salaries earned in the Kingdom, after payment of appropriate tax, in foreign currencies obtained through the banking system.

## **CHAPTER 8 - Disputes and Dissolution**

Article 20: Any dispute relating to a promoted investment established in the Kingdom by a Cambodian or a foreign national concerning its rights and obligations set forth in the Law shall be settled amicably as possible through consultation between the parties in dispute.

Should the parties failed to reach an amicable settlement within two month, the dispute shall be brought by either party for:

- conciliation before the Council which shall provide its opinion or
- refer the matter to the court of the Kingdom of Cambodia, or
- refer to any international rules to settle the disputes as mutually agreed by the parties.

Article 21: In the event a promoted company intend to end its activity in the Kingdom of Cambodia, it will have to inform the Council through either a registered letter or a hand delivered letter stating the reasons of such a decision, which letter shall be signed by the investors' authorized directors.

Article 22: In the event of a proposal for a dissolution of a company without judicial procedures, the investor shall provide proofs to the Council that the company has properly settled its potential creditors, suitors and claims from the Ministry of Economy and Finance before the investor is allowed to officially dissolve his company according to the applicable commercial law.

Article 23: Once the investor is allowed to officially dissolve his company either within the judicial procedures or not, the investor can transfer the remaining proceeds of its assets overseas or use them in the Kingdom of Cambodia. However, in the event that the dissolving company had used machineries and equipment which were imported duty free for less than five years, the company will have the obligations to pay the duties applicable to those machineries and equipment.

## **CHAPTER 9 - Final Provisions**

Article 24: Investment authorized under the previous "Law on Investment" of the State of Cambodia and its Sub-Degree shall be subject to the same benefits and obligations as stated under this law. This law is not retroactive.

Article 25: In the case where the promoted company violates or fails to comply with the conditions stipulated by the Council, the Council shall have the power to withdraw the rights and benefits granted to him, in whole or in part.

Article 26: This Law shall be promulgated immediately.