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2018 Tax Update

DOUBLE TAX AGREEMENT (DTA)

Cambodia has entered into DTA with following countries:

1) Singapore on 20 May 2016
2) China on 13 October 2016
3) Brunei on 27 June 2017
4) Thailand on 7 September 2017

Effective date

Based on Press Release of the General Department of Taxation (GDT) dated 5 January 2018, the DTA between Cambodia and Singapore and the DTA between Cambodia and Thailand become effective from **1 January 2018**.

Important points

With the effect of these DTAs, the following is of notice.

Withholding Tax (WHT)

WHT rates are reduced as follows:

- Fee for technical services - 10% (previously 14%)
- Interest - Thailand - 10% for payments to financial institutions and 14% for payments to other (previously 14%)
- Interest - Singapore - 10% (previously 14%). There is no distinction between payments to financial institutions and payments to non-financial institutions.
- Royalties - 10% (previously 14%)

Foreign employees working in Cambodia

Salaries paid by a Singapore/Thailand resident employer to a resident employee working in Cambodia will be taxed in Cambodia if:

- the employee is present in Cambodia for more than 183 days in any 12 month period;
- the remuneration is not paid by or on behalf of a Cambodian company; and
- the remuneration is not born by a Permanent Establishment (PE) in Cambodia.

Singapore/Thailand based international airlines

Singapore/Thailand based international airlines will not be taxed in Cambodia.

Singapore/Thailand based international shipping companies

They are taxed in Cambodia. However, they are given a 50% reduction in the tax due.

2018 LAW ON FINANCIAL MANAGEMENT

2018 Law on Finance Management (2018 Finance Law) was passed by the National Assembly on 27 November 2017 and promulgated on 9 December 2017. There are important points on taxes.

Tax on Salary

The tax base of the resident employees is as revised as follows:

Previous rates

Monthly taxable salary (KHR)		Rate (%)
From	To	
0	1,000,000	0
1,000,0001	1,500,000	5
1,500,0001	8,500,000	10
8,500,001	12,500,000	15
From 12,500,000		20

Current rates

Monthly taxable salary (KHR)		Rate (%)
From	To	
0	1,200,000	0
1,200,0001	2,000,000	5
2,000,0001	8,500,000	10
8,500,001	12,500,000	15
From 12,500,000		20

The tax threshold is revised upward for the salary subject to 0% and 5%.0% threshold increase from US$0-US$250 to US$0-US$300 and the 5% threshold from US$250-US$375 to US$300-US$500.

Tax on Petroleum and Mining Operations

The 2018 Finance Law provides details on Tax on Petroleum and Mining Operations.

The law provides such important definitions as research costs, prospecting costs, reserves for dismantling and cleaning costs, approved total costs for dismantling and cleaning etc.

Petroleum and Mining Operations are subject to Income Tax at the rate of 30%. In addition, excess income is taxed at the following rates:

Class	Proportion of excess income		%
	From	To	
1		1.3	0
2	1.3	1.6	10
3	1.6	2	20
4	More than 2		30

Proportion of excess income is equal to accumulated income divided accumulated costs from petroleum or mining operations.

Detailed rules on the calculation of the proportion of excess income is to be provided in a Prakas (detailed regulation) to be issued by the Ministry of Economy and Finance (MEF).

Deductions

For Petroleum Operations, deductions allowed are:

- Costs related to the petroleum operations: allowed a year the costs incurred.
- Excess costs: allowed to be carried forward as an expense for the following year.
- Tax losses are allowed for carry forward for 10 years.

For Mining Operations, deductions allowed are:

- Costs related to the mining operations: allowed to be deducted from the gross income in a tax year the costs incurred.
- Excess costs: allowed to be carried forward as an expense for the following year.
- Tax losses: allowed for carried forward for 5 years.

Tax losses are not allowed to be carried forward one contracted/licensed zone to another.

Interest deduction

Interest deduction is limited to 3:1 debt equity ratio.

Provisions

Provision for dismantling and environmental cleaning cost for approved plan is deductible. Provision for a non-approved plan is deductible.

Reserves for dismantling and environmental cleaning costs is based on the approved total costs.

Reserves

Reserves for dismantling and environmental cleaning costs are deductible per schedule of the dismantling and environmental cleaning and restoration.

Actual excess costs of dismantling and cleaning is deductible.

Excess reserve cost is a taxable income.

Amortization

Straight-line method is required for amortization of prospecting, research and development costs. The amortization rates are as follows:

Petroleum Operations

a) Prospecting and research costs - the shorter of expected life of commercial production or 5 years.

b) Development costs - the shorter of expected life of production means or 10 years.

c) In case where the expected life of commercial production is changed, the amortization of the prospecting, research and development costs is changed and based on the remaining revised expected life. However, the revised life should not be longer than the above expected life.

Mining Operations

a) Prospecting and research costs - the shorter of expected life of commercial production or 5 years

b) Development costs - the shorter of expected life of production means or 7 years.

c) In case where the expected life of commercial production is changed, the amortization of the prospecting, research and development costs is changed and based on the remaining revised expected life. However, the revised life should not be longer than the above expected life.

d) In case where the development project is shorter than one year, the development costs can be included and amortized in the prospecting and research costs.

The start of amortization

1) Amortization starts when the commercial production initially starts.

2) Once the commercial production starts, prospecting, research and development costs incurred afterward are amortized as follows:

   a) at the end of each tax year, prospecting research costs in order of the year when the cost is incurred.

   b) at the end of a tax year when the production means are put into use for development costs.

   Means of production under development are desperately amortized.

3) For tangible and intangible property other than prospecting, research and development costs, acquired after the commercial production starts, depreciation/amortization is made at the end of the year when the property is put into use.

Transfer of Interest

Partial or whole transfer of interest in the petroleum agreement or mining license or agreement through sales/purchase or donation, the transferor and the transferee are required as follows:

1) The transfer shall record the revenue from the interest transfer as income from petroleum or mining operations as taxable income.

2) The transferee shall

   a) continue to fulfill its tax obligations from the transferors in relation to the interest received.

   b) continue to depreciate tangible property and amortize intangible property and prospecting, research and development costs based on the method and basis from the transferor.

3) In case where the transfer is greater than net book value, the difference is considered as "goodwill". This goodwill can be amortized using straight-line method at expected useful life or 10 years for petroleum operation or 7 years for mining operations whichever is shorter.

4) In case where the transfer is smaller than net book value, the difference is considered as income. The transfer shall record income based on the proportion of expected life of the remaining commercial production or 10 years for petroleum operation or 7 years for mining operations whichever is shorter.

Operating company

For a petroleum or mining contract, a Cambodian incorporated company is required be set up at least 15 days before commencement of economic activities.