

CLIENT UPDATE 2016 JANUARY

TAXATION

Patent Tax and Reclassification of Taxpayers

The Cambodian system of taxation has seen a major overhaul in a concerted push towards modernisation over the past two years. The government’s recently launched taxation strategy aims to increase revenues “by improving transparency, efficiency and equity of the tax system, and monitoring tax collection more closely”. With a view to further these objectives, the National Assembly and the Senate adopted the Law on Financial Management for 2016, which was promulgated by Royal Kram No. NS/RK/1215/016 on 17 December 2015.

The most conspicuous and salient feature of this piece of legislative reform has been the discontinuance of the Estimated Regime of Taxpayers, and the mandate for reclassification of all eligible taxpayers under the Self-Assessed Regime (or the Real Regime of Taxpayers). Pursuant to this, the Ministry of Economy and Finance (“MEF”) issued Prakas No. 1819 MEF.P on the Classification of Taxpayers in the Self-Assessment Regime, and Prakas No. 1821 MEF.P on the Procedure for Management of Patent Tax Collection. The proclamations categorize the taxpayers for Cambodian Tax purposes, and determine the new amounts of Patent Tax applicable on such categories, respectively.

All taxpayers are required to make annual payments for Patent Tax at the tax administration office possessing jurisdiction between 1 January and 31 March, as described below:

Taxpayer Classification	Description	Annual Patent Tax
Small Taxpayer	<ul style="list-style-type: none"> - Annual turnover from KHR 250 million to KHR 700 million (USD 62,500 – USD 175,000); - Turnover of any consecutive three months which end in the current fiscal year from KHR 60 million (USD 15,000) and above; - Expected turnover of the next three consecutive months from KHR 60 million (USD 15,000) and above; - Participation in any bidding process or providing quotation for supply of goods or services (including Phasi applicable for street vendors). 	KHR 400,000 (USD 100)
Medium Taxpayer	<ul style="list-style-type: none"> - Enterprises with annual turnover from KHR 700 million (USD 175,000) to KHR2,000 million (USD 500,000); - Enterprises that are incorporated as legal entities; - Sub-national government institutions, associations and non-governmental organisations. 	KHR 1.2 million (USD 300)
Large Taxpayer	<ul style="list-style-type: none"> - Enterprises with annual turnover above KHR 2,000 million (USD 500,000); - Subsidiaries of foreign companies; - Enterprises registered as Qualified Investment Projects; - Government institutions, foreign embassies and consulates, international organisations and technical cooperation agencies of different countries. 	Entities with annual turnover <ul style="list-style-type: none"> - between KHR 2 billion (USD 500,000) and KHR 10 billion (USD 2.5 million): KHR 3 million (USD 750) - above KHR 10 billion (USD 2.5 million): KHR 5 million (USD 1,250)

*Values in USD are approximate

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The Prakas on the Procedure for Management of Patent Tax collection makes a few clarifications and provides illustrations as follows:

- (i) Taxpayers with multiple business activities are required to pay the corresponding number of Patent Taxes for each business activity.

Example: A taxpayer with business activities in import-export, transportation, and the hotel industry, shall pay Patent Tax for three different business activities.

- (ii) Related activities of business are considered as single business activity.

Example: A hotel with entertainment clubs, restaurants, massage parlours, fitness clubs, or other activities related to the primary hotel activity under direct management of one taxpayer and located in the same compound as the hotel shall pay single Patent Tax.

- (iii) Taxpayers with branches, warehouses, factories, and workshops for a business activity located within the same local jurisdiction, such as Phnom Penh Capital City or a Province, shall pay a single Patent Tax.

- (iv) Taxpayers with business activities in different local jurisdictions (either Capital City or Provinces) shall pay the respectively applicable Patent Taxes in each such corresponding jurisdiction.

The Prakas additionally clarifies that taxpayers who commence business operations during the first six months of the year shall pay the applicable Patent Tax for one full year, while those who commence business operations during the last six months shall pay Patent Tax for half a year. Furthermore, the Patent Tax paid shall be deemed valid only for the taxpayers with their name in the Patent Certificates. In case of change in location to a different local jurisdiction, or a change in business activities, a new Patent Tax amount will need to be paid.

Businesses that engage in a bidding process or provide quotations of price for supply of goods and services shall be required to possess Patent Certificates with the listed business activities conforming to those of the bidding process or quotation provided. In case of change in ownership of the business, the new owners shall be required to pay the applicable Patent Tax unless the following conditions are fulfilled: (a) no change in business activities; and (b) new owners are the parents, spouse, children, or legal successors of the previous owners.

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ASEAN Economic Community Portal

With the launch of the ASEAN Economic Community (“AEC”) in December 2015, businesses looking to tap the opportunities presented by the integrated markets of the AEC can now get help a click away. Rajah & Tann Asia, United Overseas Bank and RSM Chio Lim Stone Forest, have teamed up to launch “Business in ASEAN”, a portal that provides companies with a single platform that helps businesses navigate the complexities of setting up operations in ASEAN.

By tapping into the professional knowledge and resources of the three organisations through this portal, small- and medium-sized enterprises across the 10-member economic grouping can equip themselves with the tools and know-how to navigate ASEAN’s business landscape. Of particular interest to businesses is the “Ask a Question” feature of the portal which enables companies to pose questions to the three organisations which have an extensive network in the region. The portal can be accessed at <http://www.businessinasean.com/>.

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