



# Transfer Pricing in Cambodia

# Transfer Pricing regulations

Since 1997, Article 18 of the Law on Taxation has allowed the General Department of Taxation (GDT) to make adjustments to income and expenses between Cambodian taxpayers and their related parties.

On 10 October 2017, the Cambodia Ministry of Economy and Finance issued Prakas No. 986 MEF.PrK. ("Prakas 986"), which provides additional rules and guidance on acceptable Transfer Pricing (TP) methodologies and the requirement for formal supporting documentation. Prakas 986 took effect from 10 October 2017 and applied from the tax year 2018 onwards.

## Compliance requirements

Under the local TP regulations, all related party transactions are required to be carried out at arm's length. Any taxpayers that have transactions with related parties will have the obligation to fully prepare the following information:

### TP FORM (Related party transaction application schedule "RPT" or "Annex 1")



**Annex 1** – Information on related parties and related party transactions.

No specific threshold. However, any enterprise that undertakes related party transactions is required to complete and submit this RPT schedule.



- Mandatory lodgement of **Annex 1** must be submitted together with the annual corporate income tax return within three (3) months after fiscal year ending.

### TP Documentation (local file)



**Local File** – Providing specific information on related party transactions of the local taxpayer and analysis of such transactions including the Transfer Pricing method.

No specific threshold. However, any enterprise that undertakes related party transactions is required to maintain TP documentation to justify the arm's length nature of the transactions.



- No specific deadline. But the local file must be available upon request by the local tax authority during the future tax audit event.



- Under the Cambodian TP regulations, there are no "safe harbor" provisions to exempt mandatory TP documentation requirements.
- Any enterprise that undertake related party transactions is required to maintain TP documentation to justify the arm's length nature of the transactions.

# Transfer Pricing administration

## Transfer Pricing administration and enforcement

### Transfer Pricing Audit



There has been a significant increase in the number of Transfer Pricing matters that have been scrutinized by the tax authority during tax audit, including:

- Any enterprise continuously making losses or having low profitability;
- Transfer Pricing compliance;
- Transfer Pricing of complex transactions, intra-group services, royalty payments for intangibles, and financial transactions;
- Multinational enterprises having significant transactions with related parties;
- Validation the comparable companies selected in the TP documentation; and
- Imposing profitability adjustments and resulting in abundant administrative challenges.

### Transfer Pricing Assessment and Penalties



#### Transfer Pricing assessments

Non-compliance with mandatory disclosures or contemporaneous Transfer Pricing documentation, or non-arm's length Transfer Pricing may be subject to reassessment of transfer prices or profits for Corporate Income Tax purposes.

#### Consequences for lack of compliance may be as follows:

- Withdrawal of taxpayer's certificate of tax compliance;
- GDT TP adjustment, resulting in additional tax;
- Tax penalties, ranging from 10% to 40% of any additional tax arising from any adjustment made, plus interest charge of 1.5% (per month);
- Criminal charges (imprisonment or further monetary punishment);
- High risk of unilateral assessment/deemed assessment.

### Transfer Pricing Dispute Resolution



Taxpayers may consider the following alternative to resolve Transfer Pricing disputes or mitigate potential disputes in the future:

- Consider implementation of new / "refresh" TP policy of the company;
- Analyse the basis of comparability adopted by the taxpayer Vs GDT and undertake functional analysis, benchmarking, etc.;
- Negotiate a compromise position with the authorities at the local level, or seek relief from higher authority; or
- Domestic remedies (i.e., appeal, litigation);

# Points to be aware of

## Compliance



Recently, the tax authority has been proactively reviewing the Transfer Pricing practices of different taxpayers to make sure they are in compliance with Cambodian Transfer Pricing regulation. Thus, having an annually updated, comprehensive, and accurate local file report can help companies avoid potential penalties and disputes with tax authorities.

## Reporting data



The accuracy and consistency of the reporting data are frequently questioned. The same level of scrutiny is applied to the consistency of the Transfer Pricing methodology used in declaration forms and other documentation.

## Benchmarking analysis



For benchmarking analysis, database reliability and transaction comparability are commonly problematic. Local entities are preferred for benchmarking studies, despite the scarcity of publicly available local data. Additionally, the use of internal data for benchmarking is frequently suggested, regardless of the nature of transactions.

## Specific related party transactions



Royalties, intra-group services, interest expense, and the purchase of fixed assets are all examples of related-party transactions that necessitate extensive documentation to prove their authenticity. These documents are important for justifying both the financial report and regulatory compliance, especially if the company incurs a significant amount of related party transactions.

## Abnormal business performance



Consecutive losses, highly fluctuating profits, and abnormally low profitability are common red flags that the tax authority may investigate to determine if a business is engaging in tax evasion or other illegal activities. It is important for businesses to maintain accurate financial records and seek professional advice if they are experiencing abnormal performance.

## About KPMG

**KPMG firms operate in 143 countries and territories, and collectively employed close to 265,000 people, serving the needs of business, governments, public-sector agencies, not-for-profits and through KPMG firms' audit and assurance practices, the capital markets.**

**KPMG is committed to quality and service excellence in all that we do, bringing our best to clients and earning the public's trust through our actions and behaviors both professionally and personally.**

## KPMG in Cambodia

KPMG in Cambodia was established in 1994. Today, with over 350 professionals, KPMG is one of the largest professional services firms in Cambodia with a balanced mix of international and local clients.

## KPMG's Global Transfer Pricing Services

Globally, KPMG Global Transfer Pricing Services has access to more than 2,300 Transfer Pricing experts in all relevant countries of the world. We work together with specialists in all tax areas and are integrated in the strong global KPMG network of Audit, Tax and Advisory experts.

## KPMG's Transfer Pricing Dispute Resolution Services

KPMG's Transfer Pricing Dispute Resolution Services can help clients resolve disputes and respond to challenges that come with Transfer Pricing controversy - whether domestically or globally. Our professionals, carefully chosen to handle your particular needs, can assist you in determining which dispute resolution approach to use, providing robust economic analysis in support of existing transfer prices, helping prepare strong responses to detailed inquiries, and supporting negotiations with the GDT.

## How can KPMG help



### Transfer Pricing planning

Transfer Pricing policies should be designed to strike a balance between compliance, operational, and tax-efficiency needs. In addition, Transfer Pricing and business strategies should be aligned across the value chain to deliver enhanced overall benefits.

KPMG can assist you with evaluating, designing and implementing commercially viable Transfer Pricing strategies that are aligned with your global business and operational goals.



### Transfer Pricing compliance support

Our Transfer Pricing compliance services (including preparation or review of disclosure forms and Transfer Pricing documentation) can help manage risks and ease the overall compliance burden in a cost-effective manner.



### Transfer Pricing controversy and dispute resolution

Companies that are audited by the tax authorities without a well-defined defense strategy may face aggressive and sometimes discretionary adjustments and penalties.

KPMG has wide-ranging experience in helping clients respond to various regulatory challenges.

Our professionals offer a suite of pre-audit, in-audit, and post-audit services aimed at resolving disputes triggered by Transfer Pricing enquiries, including assistance with:

- Review your existing Transfer Pricing policies to identify potential Transfer Pricing challenges and risks;
- Assist with preparation of the disclosure forms, and Transfer Pricing documentation (where needed); as well as other information and documents requested by the tax authorities;
- Formulate audit defense strategies; provide robust economic analysis in support of existing transfer prices; prepare responses to detailed inquiries; and support negotiations with the tax authorities during the audit; and
- Advise and assist with administrative appeals, judicial process on Transfer Pricing.

# Contact us



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