

Technical Update

May 2019

1. Labor - Provision of Some Labor Compliance Services under the Sub-National Administration

Royal Government of Cambodia – Sub-Decree No. 18 dated 8 February 2017 on the establishment of one window service mechanism for the provision of administrative services under the sub-national administration

This Sub-Decree aims to transfer the provision of public services to the sub-national administration (i.e. municipal/provincial administration and administration of Krong, Srok and Khan - Cities and Districts). The public services to be provided by sub-national administration covers various sectors including but not limited to health, tourism, public works and transport, culture and fine arts, industry and handicrafts, mines and energy, land management and construction, agriculture forestry and fisheries, labor and vocational training.

Particularly for labor compliance services, the following services will be provided by the One Window Service Unit of municipal/provincial administrations and administrations of Krong, Srok and Khan:

1. Provision of Cambodian employment card and labor book
2. Registration of the election of the staff representative(s)
3. Declaration of the opening of enterprises
4. Registration of the Internal Work Rules
5. Permission for the overtime work.

2. Labor - Update on Back Pay of Seniority Payment

Ministry of Labor and Vocational Training (MLVT) – Instruction No. 042/19 of 22 March 2019 on the back pay of

seniority payment by employers other than those in the textiles, garment, and footwear industries

The back pay of seniority payment by employers other than those in the textiles, garment, and footwear industries is postponed until 2021. The amounts due must be paid in instalments of six (6) days per year (3 days in June and 3 days in December).

During the period of postponement, for any employee who has been terminated due to reasons other than serious misconduct, retirement or death, the employer must pay the full amount of the back pay seniority payment entitlements.

The update does not affect the obligations of employers to pay the future (prospective) seniority payments from 2019 onwards of 15 days per year in two instalments per year.

3. Labor - Registration of Employment Contracts of Foreigners

Ministry of Labor and Vocational Training (MLVT) – Instruction No. 043/19 of 29 March 2019 on Registration of Employment Contracts of Foreigners

Employment contracts of foreign employees may be either Fixed Duration Contracts (FDC) or Unspecific Duration Contracts (UDC). Employment contracts of foreign employees must be registered with the MLVT for those who work in Phnom Penh or at the Provincial Department of Labor and Vocational Training for those who work in the provinces.

Employers can use their own employment contract templates for registration. If the contract is made in a foreign language, a translation into Khmer must be attached.

Employers must re-register the employment contracts of foreigner in case the contracts expire or there are any modifications to the contracts.

Commentary: Registered employment contracts are required to be filed with applications for foreigner work permits. Previously, the MLVT only accepted FDC contracts of up to two years duration and such contracts had to be in the Khmer language only. With this new Instruction, the MLVT has relaxed its former practices, making it easier for employers to submit foreigner employment contracts for registration and for the obtaining of work permits by foreign employees.

4. Labor – Seniority Payments and Payrolls for Staff of Embassies, Agencies of the United Nations and International Non-Governmental Organizations

Ministry of Labor and Vocational Training (MLVT) – Instruction No. 044/19 of 5 April 2019 on the implementation of Prakas No. 442 and 443 for Staff of the Embassies, the Agencies of the United Nations (UN), and the International Non-Governmental Organizations (INGO) in Cambodia

The staff of embassies, agencies of the UN and INGOs in Cambodia are exempt from the application of the following regulations:

1. Prakas No. 442 of 21 September 2018 on the Payment of Wages to Employees/Workers. This Prakas provides that all employers must release their payroll to their employees/workers twice per month starting from January 2019 onwards.
2. Prakas No. 443 of 21 September 2018 on the Payment of Seniority Indemnity. This Prakas provides that all employers pay seniority payments to their employees from 2019 onwards.

5. Health - Licensing of Good Storage Practice (GSP) Certificates

Ministry of Health (MoH) - Prakas No. 014 of 8 January 2019 on Licensing of GSP Certificate of Health Products in the Private Sector

This Prakas aims to ensure the quality, effectiveness, and safety of health products through the proper storage of the products in accordance with the GSP policy of health products.

This Prakas is applicable to all medicine manufacturers, medical equipment manufacturers, import and export medicine institutions, import and export cosmetic institutions, and wholesale medicine institutions in Cambodia.

Health products in this Prakas refers to medicines, nutritional products, health supplementary products, medical equipment, raw materials for medical production, traditional medicines, and cosmetics.

The GSP certificate is valid for two (2) years.

6. Law on Trusts

The Law on Trusts was promulgated on 2 January 2019. A “trust” is the transfer of property to a Trustee to be held and managed for a beneficiary under the conditions set down in a Trust Instrument and in accordance with the law. The law on trusts provides for the setting up, registration, management and supervision of trusts. The law provides for four types of trusts:

- Commercial trust (for the purpose of providing profits for the beneficiaries)
- Public trust (for the purpose of the benefit of the general Cambodian public)
- Social trust (for providing benefits for a social purpose, e.g. a not-for-profit Foundation)
- Private trust (for the purpose of providing benefits to an individual)

All trusts must be registered with the Ministry of Economy and Finance (MoEF). The MoEF is also responsible for supervising, auditing and inspecting trusts and trustees.

Further instruments to be issued in the future will set out the detailed procedures for the implementation of the law on trusts.

Commentary: Trusts are new to Cambodia. The effect that they will have will be better understood once the implementing regulations have been adopted. However, it is likely that they will have an impact in the areas of financial planning and succession.

As a committed tax and corporate consultant, we welcome the opportunity to discuss the applicability of these laws and regulations to your business at your request.

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