

# Technical Update

February 2022

## Notification on Annual Tax on Income 2021 declaration

*(Notification no. 1265 GDT, dated 24 January 2022)*

Notification No. 1265 GDT, dated 24 January 2022, was issued by the General Department of Taxation (GDT) to remind taxpayers, under the self-assessment regime, of their obligation to lodge the return and pay annual Tax on Income (ToI) for tax year 2021 within the prescribed deadline. In the said notification, the GDT clarified the following points:

- The 2021 annual ToI shall be filed online (i.e., ToI E-filing) by following Instruction No. 3140 GDT dated 18 February 2021. The ToI E-filing and the payment of tax must be completed at the latest by 31 March 2022 (or within 3 months after the end of tax year for taxpayers with different tax year). The balance sheet, income statement, and related party transaction listing should be attached to the ToI return.
- Enterprises with multiple branches shall declare their annual ToI based on the consolidated result of the primary establishment and all branches. The list of income and expense accounts and fixed asset schedule of each branch should be attached to the ToI return.
- Enterprises with multiple Qualified Investment Project (QIPs), or other projects which are QIP and non-QIP, receiving ToI exemption or subject to ToI at different rates, shall lodge the return and pay annual ToI as stated above and comply with the tax obligations of enterprises with multiple projects (i.e., Prakas no. 1127 MEF.Prk, dated 11 October 2016).
- Staff or tax agents liaising with the tax officers on behalf of taxpayers must have proper identification or a written authorization letter in accordance with the prevailing rules issued by the GDT.

### Our comments

Taxpayers should ensure compliance with their tax obligations in Cambodia, which includes the timely filing and payment of their tax. Following the introduction and implementation of ToI E-Filing system in the 2020 ToI, taxpayers are now expected to be more familiar with this new E-Filing process as compared to last year.

It is also noted that some tax reliefs and fiscal incentives (e.g., QIP incentives, SME incentives, incentives to the educational sector, Minimum Tax exemption, Gold Status certificates, etc.) provided by the government include a condition that the taxpayer should properly comply with its tax compliance obligations. Hence, the timely filing and payment of tax liabilities is vital for taxpayers to continuously avail themselves of such relief/incentives, and to avoid any penalties being imposed by the GDT in accordance with the tax rules and regulation in force.

# Rules and procedures for VAT adjustments

(Instruction No. 1280 GDT, dated 24 January 2022)

Notification No. 1280 GDT, dated 24 January 2022, was issued by the GDT to clarify the proper rules and procedures in case the VAT amount of a supply is adjusted after the time of supply or the issuance of the invoice.

Below are the salient provisions of the said GDT Instruction:

## I. Conditions for adjusting the VAT amount

A taxable person, who has issued a VAT invoice and/or filed the monthly tax declaration, can adjust the VAT amount if any of the following events occurred:

- The supply was cancelled, or
- The nature of the supply has varied or changed fundamentally, or
- The benefit of the supply, as previously agreed, has varied or changed due to a new agreement with the recipient of the supply because of discount of the price or other reasons, or
- The goods or part of the goods or packaging was returned to the supplier or the service was not fulfilled.

## II. Rules and procedures for VAT adjustments

Description	VAT compliance obligation	
	Supplier	Purchaser
There is an <b>increase</b> in the value of the original supply	<ul style="list-style-type: none"><li>– Supplier should issue a Debit Note (DN) and account for the additional supply and output VAT in the taxable period when the adjustment occurred.</li><li>– Supplier should apply the daily exchange rate issued by the National Bank of Cambodia (NBC)</li></ul>	<ul style="list-style-type: none"><li>– Purchaser should recognize an additional purchase and input VAT based on the DN issued by the supplier in the taxable period the adjustment occurred.</li></ul>
There is a <b>decrease</b> in the value of the original supply	<ul style="list-style-type: none"><li>– Supplier should issue a Credit Note (CN) and account for the reduction of the supply and output VAT (i.e., negative amount) in the taxable period when the adjustment occurred</li><li>– If the purchaser is a non-taxable person, the supplier can claim the VAT credit (i.e., reduction of the supply), if it has paid back to the purchaser the excess (i.e., overcharged) amount, or offset it against the outstanding liability of the purchaser</li><li>– Supplier should apply the exchange rate applicable on the original invoice</li></ul>	<ul style="list-style-type: none"><li>– Purchaser should recognize a reduction of the purchase and input VAT (i.e., negative amount) based on the CN issued by the supplier in the taxable period the adjustment occurred</li></ul>

For any transactions resulting in VAT adjustments as mentioned above, both the supplier and the purchaser should keep proper substantiation to support such adjustments (e.g., delivery receipt, service agreements, proof of payment, etc.)

### III. Usage of Credit Note or Debit Note

1. The taxable person can issue multiple CNs/DNs during the month or after the monthly tax declaration to adjust the VAT amount on issued tax invoices. However, the total VAT amount on the CN must not exceed the VAT amount on the original invoice
2. CNs/DNs issued should include reference to the invoice number of the original invoice and the clear reason for such adjustment
3. CN/DNs issued should include the important details stated in the VAT invoicing rules (Prakas No. 723 MEF.Prk dated 14 August 2019)

### IV. Penalty

Taxpayers who intentionally issue CNs/DNs incorrectly or fraudulently for the purposes of adjusting the VAT amount in order to obtain VAT credit or request for VAT refund shall be considered as obstructing the implementation of the tax regulations as stated in Article 128 of the Law on Taxation (LoT), subject to administrative fines and penalties under Article 133 and Article 136, including temporary closure of business premise, tax reassessment, or criminal sanctions which shall be liable to pay a fine of KHR10 million or to imprisonment for up to one (1) year or both.

### Our comments

Instruction no. 1280 has clarified the rules and procedures on VAT adjustments which were previously set out in the LoT and VAT Sub-Decree No. 114, dated 24 December 1999. More importantly, it has clarified the rules on the issuance of CNs/DNs, the timing of reporting, and the required information to be included in the CNs/DNs.

The said Instruction also provides various scenarios wherein CNs/DNs may be applicable. Ideally, both the supplier and purchaser should account for the CNs/DNs in the same taxable period when the adjustment occurred. Hence, taxpayers expecting CN/DN transactions should closely communicate with their respective suppliers/customers to properly account for such VAT adjustment in the proper period.

Given the above, taxpayers should ensure proper compliance with the rules and procedures on issuance of CNs/DNs, as mentioned above, to avoid any tax risks and penalties.

As a committed tax advisor to our clients, we welcome any opportunity to discuss the relevance of the above matters to your business.

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