



Technical Update

November 2024

Extension of Incentives for Voluntary Amendment of Tax Declarations

(Prakas No. 625 MEF.Prk, dated 10 October 2024)

The Ministry of Economy and Finance (MoEF) issued this new Prakas to amend and extend the tax period covered by the tax relief on administrative penalties, including the additional tax, interest and fines for voluntary amendments of tax declarations, which were previously introduced under Prakas no. 071, dated 30 January 2024.

Below is the summary of the tax relief:

Prior to the Tax Auditor's Findings	After the Tax Auditor's Findings
Additional tax, interest, and fines may be exempted (if no minutes of the meeting were prepared or provided by the tax auditors for their findings).	10% additional tax and 1.5% interest shall remain payable in accordance with prevailing laws and regulations. However, the additional tax and interest paid on the voluntary amendment can be offset against the amount of additional tax and interest during the tax audit.

The above tax relief shall be applicable to the amendment of accounting records and tax declarations pertaining to transactions **prior to August 2024, provided that the amendment was submitted no later than June 2025.**

Our comments

It has been observed that the tax amnesty program introduced under Prakas no. 071 has received positive responses from taxpayers. With this extension period covered by Prakas no. 625, taxpayers should consult with their existing tax agents and/or tax advisors to carefully consider the benefits of availing the tax relief by submitting voluntary amendments not later than June 2025.

Moving forward, businesses should seek to improve their ongoing tax compliance process to mitigate any issues requiring amendments to tax declaration.

Continuation and Additions of Tax Incentives for the Real Estate Sector

(Notification No. 014 MEF, dated 9 October 2024)

This notification was issued to further clarify, extend, and/or include additional tax exemptions, relief, and suspensions of tax(es) applicable to the real estate sector, which was previously covered by Notification no. 001, dated 4 January 2024.

I. Stamp Duty (SD) exemption on the transfer of immovable property

Value of Housing Development (e.g., Borey)	Tax Exemption / Relief *
Less than or equal to USD70,000	SD exemption until the end of 2025
Over USD70,000	Allowed to deduct USD70,000 from the basis of calculation of SD until the end of 2025
*Subject to the same conditions stated under the previous Notification no. 001, dated 4 January 2024. Please read our previous Technical Update covering this topic on this link .	

II. Capital Gains Tax (CGT)

CGT on capital gains derived from finance lease, investment assets, goodwill, intellectual property, and foreign currencies shall be implemented from **1 January 2025 onward**.

However, CGT on capital gains derived from **immovable properties** realised by a physical person shall be delayed **until the end of 2025**.

III. Tax on Immovable Properties

Type of Immovable Properties	Tax Exemption / Relief
Land used for agricultural cultivation	<ul style="list-style-type: none">Exemption on tax on immovable property, including administrative penalties (additional tax and interest)
Land used for construction (e.g., housing, building, other construction), and not for agricultural cultivation	<ul style="list-style-type: none">None
Housing land located in the royal and provincial capitals that is actually used for agricultural cultivation	<ul style="list-style-type: none">Exemption on tax on immovable property. This must be supported by an approval letter or certificate issued by the local authorities on the use of the land for agricultural purposes.
For registered immovable properties	<ul style="list-style-type: none">Exemption from tax reassessment (i.e., including basic tax, additional tax, interest, and administrative penalties) until the end of 2024.
For non-registered immovable properties	<ul style="list-style-type: none">Permit the registration and tax payment from the year in possession or the last beneficiary of the immovable properties.Immovable properties which have already been registered as above but have undeclared or unpaid taxes in some years shall be allowed exemption from payment of additional tax, interest, and administrative penalties until the end of June 2025.

IV. Tax on Unused Land

Tax on unused land shall be implemented **from the year 2025 onwards**. The conditions for tax exemption shall follow the same conditions provided under the previous Notification no. 001, dated 4 January 2024. Please read our previous Technical Update covering this topic on this [link](#).

All the above-mentioned tax exemptions, reliefs, delays, and suspensions shall not be applicable to tax(es), including administrative penalties, that have already been paid.

Our comments

Except for the update relating to the implementation of CGT, the abovementioned notification refers to extension of the tax exemptions/reliefs which were already provided under the previous Notification no. 001, dated 4 January 2024, with additional tax relief provided to immovable properties used for agricultural purposes.

After several delays, it appears that the GDT is now keen on implementing the 20% CGT on capital gains derived from finance leases, investment assets, goodwill, intellectual property, and foreign currencies, effective from **1 January 2025 onward**. However, as of this date, the GDT has still yet to release detailed guidelines on the implementation of the CGT, including the draft CGT return. It is also still unclear whether this new CGT regime is intended to cover capital gains realized from January 2025 onwards or whether it will retrospectively apply to capital gains realized from 1 July 2020 as provided under the CGT Prakas no. 346, dated 1 April 2020.

Meanwhile, this notification also provides that CGT on capital gains derived from **immovable properties** realised by a physical person shall be delayed **until end of 2025**. It is unclear if this extension also covers capital gains on immovable properties realised by a non-resident legal person. These concerns should be addressed by the GDT, to ensure the effective implementation of this new CGT regime.

Impacted taxpayers are recommended to consult their trusted tax advisors to further understand the impact of the above mentioned in their on-going tax compliance obligations, and future business plans.

Stamp Duty (SD)

(Prakas No. 577 MEF.Prk.GDT, dated 19 September 2024)

This new Sub-Decree was issued to implement the provisions under the 2023 Law on Taxation (New LoT), anchoring on the provisions of the previous SD Prakas no. 507, dated 26 April 2017.

Below are the salient provisions under this new Prakas:

Updates	Details
Scope (Art. 2)	Same scope as per new New LoT and previous Prakas No. 507.
Tax rates (Art 4)	SD rates shall apply as follows: <ol style="list-style-type: none">4% of the value of immovable property for the transfer of ownership or possession rights of immovable property as construction and/or land, or placement of shares as immovable property to the company, or the transfer of shares or similar interests of a real estate company.4% of the value of the movable property is for the transfer of ownership or possession rights or the placement of shares as movable property to the company.0.1% of the value of shares for the transfer, partly or wholly, of shares in a company.0.1% of the contract value for contracts of supply goods or services using the state budget.1,000,000 (one million) Riels per legal document such as company merger letter and company closure letter.
Tax base (Art. 5)	The tax base for calculating SD shall be as follows: <ul style="list-style-type: none">The value of immovable property and movable property shall be based on the market value at the time of the transfer of ownership or possession rights. The MoEF shall determine the value of immovable property and movable property used as the basis for the calculation of this tax.The value of shares or similar interests shall be based on the market value at the time the transfer of shares or similar interests occurs.

Updates	Details
	<ul style="list-style-type: none"> The value of the contract shall be the value of the contract for the supply of goods or services using the state budget, <i>exclusive of VAT</i>. Legal documents shall be subject to 1,000,000 (one million) Riels for each legal document.
Tax exemptions [Art. 6(1)]	Same conditions and tax exemption provision as per previous Prakas no. 507.
Tax reliefs [Art.6(2)]	<p>There is a slight update in the tax relief covering transfers within a relative circle under the previous Prakas no. 507, as follows:</p> <ul style="list-style-type: none"> Transfer of ownership or possession rights of immovable property within a relative circle (i.e., between biological parent-in-law and child-in-law, grandparent-in-law and the grandchild's spouse, biological siblings and siblings) shall be allowed a reduction of the base for the SD calculation amounting to: <ul style="list-style-type: none"> – KHR200M in case of a succession – KHR100M in case of a gift. <p>This new Prakas is silent whether the abovementioned relief shall also apply retrospectively for taxes already paid prior to this new Prakas No. 577.</p>
Taxpayer's obligation (Art. 8)	Same provisions as per previous Prakas No. 507.
Penalty (Art. 9)	If the new owner or possessor fails to pay SD, the new certificate of ownership or possession right of the property, the transfer of ownership or possession rights of immovable property, or a new identification (ID) card for any means of transportation covered under this Prakas shall not be issued.

Any provisions contrary to this Prakas shall be abrogated.

Our comments

Generally, the provisions under this new Sub-Decree are consistent with the provisions under the New LoT and the previous SD Sub-Decree. However, one key point to note is the updated SD rate applicable to transfer of immovable properties.

Under the previous SD Sub-Decree, the transfer of shares of a company (wholly or partly) shall attract a 0.1% SD rate. However, as introduced under the New LoT and this new SD Sub-Decree, the transfer of shares or similar interests of a **real estate** company shall attract a 4% SD rate. Also, note that Art. 157 of the New LoT has now defined what a real estate company is. This begs the question of whether the transfer of shares or any interest over a real estate company would attract the 4% SD rate (i.e., similar to transfers of immovable property) or whether the standard 0.1% SD rate on the transfer of shares would still apply. Further clarity should be sought from the GDT on this aspect, as this would not only impact the domestic real estate sector but could also impact the investment decisions of foreign investors in Cambodia.

Prakas on Tax on Salary (“ToS”)

(Prakas No. 575 MEF.Prk.GDT, dated 19 September 2024)

This new ToS Prakas 575 supersedes the previous ToS Prakas no 543, dated 8 September 2021, and was issued to implement the provisions of the 2023 New Law on Taxation (New LoT).

Below are the key highlights under the new Prakas no. 575 with comparison under the previous Prakas no. 543:

Provision	Details
Definition (Art. 3)	<p>There are slight changes under Prakas no. 575 to refine the definition of “salaries” vs “wages”, as follows:</p> <ul style="list-style-type: none"> • “Salaries” refers to the basic salary being paid to employee for performing works including family allowance, either directly or indirectly paid, or in cash or in kind. • “Wages” refers to the wage being paid to employees for performing work, either based on hourly/daily/weekly, directly or indirectly paid, or in cash or in kind. <p>The above changes do not impact the substance of the definition earlier laid out under the previous Prakas 543, as ‘salaries’ and ‘wages’ will both attract ToS.</p>
Tax residency Criteria [Art. 5 (1)]	<p>Same conditions and provisions as per previous Prakas no. 543.</p>
ToS on non-resident physical person [Art. 5 (3)]	<p>Same provisions as per previous Prakas no. 543, save for the added definition of the term “technical assistance”, which will not be subject to ToS. This definition is consistent with the same definition for “technical services” under the Tax on Income (ToI) regulation, which reads as follows:</p> <p><i>“Technical service refers to all services that are technical in nature, required to have technical skill or knowledge in the development or creation of inputs in the business such as services in science, physics, medicine, dentistry, pharmacology, legal, hydraulic, physiology, art, education, engineering, architecture, research study, accounting, economy, welfare, nuclear power including consultation services from professional.”</i></p>
Exemption on the obligation of payment of ToS	<p>Prakas 575 has removed Art. 5(4) in the old Prakas 543 stipulating the following conditions to be exempt from paying the ToS in Cambodia:</p> <ol style="list-style-type: none"> The employee is not present in the Kingdom of Cambodia more than 182 days per time or many times within 12 months completed in the current tax year. The employee receives a salary paid by or in the name of the employer who is not a resident of the Kingdom of Cambodia. The employee receives a salary that is not in charge of a permanent establishment or specific operation base that the employer operates in the Kingdom of Cambodia.
Taxable vs Non-taxable items for ToS (Art. 7 & 8)	<p>Prakas 575 anchors on the provisions under Prakas 543 regarding non-taxable items, with additional clarifications relating to the following non-taxable items:</p> <ul style="list-style-type: none"> • Indemnity for the layoff under the limitation and condition of the Labor Law and the type of indemnities that are exempted from the tax shall be determined by the Prakas of the Minister of MEF. • Additional incentive for the establishment of pensions and insurance of social welfare or with social affairs characteristics as provided in the Labor Law and Social Security Schemes Law shall be determined by the Prakas of the Minister of the MEF. • Fixed allowance for mission and travel expenses, including travel, accommodation, and meal expenses, subject to certain limitations/ conditions.
Non-taxable Fringe Benefits (Art. 15)	<p>Prakas no. 575 clarifies that the provision of transportation vehicles for commuting employees, as well as furnishing accommodation and meal allowances, shall be exempted from FBT, provided that these benefits are available to all employees, regardless of position.</p>

Provision	Details
Claiming of foreign tax credits (Chapter 4)	Same condition and provision under the previous Prakas no. 543.

Our comments

Generally, the provisions under the new Prakas no. 575 are consistent with the provisions under the previous Prakas no. 543, save for a few notable updates regarding non-taxable items and the removal of an article regarding the conditions for being exempt from payment of ToS.

Particularly, Art. 7 and 8 provide those benefits related to pensions, insurance with social welfare or with social affair characteristics, and labour indemnities may be exempted from tax, subject to the fulfilment of specific criteria to be determined by the MoEF. Subject to certain criteria, fixed allowances for business mission purposes may also be exempted without the need for substantiation. Lastly, the inclusion of communal transportation, accommodation, and meals as exempt from FBT under Art. 15, is a positive change, encouraging employers to provide these essential benefits to employees without added tax burdens.

Meanwhile, the removal of the conditions for being exempted from ToS provided under the old ToS Prakas 543 may be intended to manage the inconsistent interpretation of this provision. With the introduction of the definition of “technical services”, it becomes clearer that arrangements involving technical services may be exempted from ToS, but could still be subject to other applicable tax (e.g., WHT, VAT, etc.).

As committed tax advisors to our clients, we welcome any opportunities to discuss the relevance of the above matters to your business.

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