

# Technical Update

October 2024

## Implementation of Fiscal Obligations for Real Estate Leases

*(Instruction No. 33000 GDT, dated 18 September 2024)*

Instruction no. 33000 clarifies the tax implications on lease transactions with “**lease-free period**”, i.e., a specified period in the lease contract whereby the lessor does not charge any fees to the lessee, allowing the lessee to perform design, repair, renovation, or construction activities on the leased premises.

Below are the salient provisions of this Instruction:

1. Withholding tax (WHT), Value Added Tax (VAT), and Tax on Income (ToI) obligations shall be based on the provisions of the lease agreement. The “lease-free period” shall not exceed 10% of the total lease period specified in the lease agreement.
2. If a lease agreement contains a “lease-free period”, the lessor must submit the lease agreement to the GDT within **30 days** after the date of signing the lease agreement.
3. If the time for design, repair, renovation, or construction is extended, the lessor must submit a request for extension for the GDT’s review and approval.

This Instruction is effective from **18 September 2024**.

### Our comments

This new Instruction provides much-needed clarity on the taxes applicable to lease transactions with a “lease-free period” provision. The instruction indicates that no WHT, VAT, or ToI should apply during the lease-free period, provided the abovementioned conditions are fulfilled. However, we wish to highlight that taxpayers would still need to comply with the applicable accounting standards with respect to lease transactions and “lease-free periods” (i.e., CIFRS 16). In this case, there would be expected timing differences in the recording of rental expense/income per accounting books vs. the rental expense/income per tax declarations. Therefore, impacted taxpayers should ensure proper substantiation and reconciliation of this timing difference in case questioned by the GDT during future tax audit events.

## Procedures of Cessation of Business

*(Instruction No. 32775 GDT, dated 17 September 2024)*

This GDT Instruction outlines the procedures for cessation of business in Cambodia:

### 1. Application letter

Taxpayers can apply for cessation of business via the following options:

Option 1: Submit online via this website [www.registrationservices.gov.kh](http://www.registrationservices.gov.kh)

Option 2: Submit a duly signed application form (Form-103) through the **GDT e-Administration** application or via physical submission at the GDT or Provincial-Khan Tax branch.

## 2. Required Documents

- a. Notification letter to apply for business cessation
- b. Application form for business cessation (Form-103)
- c. Tax payment receipt of Stamp Duty (~US\$250) for the legal letter on the Company's cessation

Taxpayers applying for cessation of business must close their accounting records and file the final monthly and annual tax declarations based on existing tax rules and regulations in force. Upon successful submission of the application for business cessation, the taxpayer's E-filing account will be blocked, except for the E-payment and tax debt settlement facility for settlement of any tax obligations, and the taxpayer will not have the obligation to submit any tax declarations moving forward.

During this period, tax certificates such as patent tax certificates, tax registration certificates, VAT registration certificates, tax incentives and/or any approval letters of the enterprise that were issued by the GDT shall be suspended. Accordingly, the taxpayer will not be allowed to issue tax or commercial invoices on all business transactions, including conducting any import and export activities.

The GDT will also conduct a tax audit procedure for the cessation of the business in accordance with Prakas no. 270 MEF.Prk, dated 13 March 2019, and the Standard Operating Procedure (SOP) for tax audit, implemented on 9 April 2024. The taxpayer must prepare the relevant documents and cooperate fully to expedite the audit work for tax clearance.

### Our comments

Under existing tax rules and regulations, taxpayers applying for business cessation only have 15 days from the business "closure date" to submit their final monthly and annual tax declaration; late lodgment may result in corresponding penalties. Therefore, taxpayers who are planning to apply for business cessation must properly plan ahead to fully understand the process, deadlines, the risks, as well as the manpower requirements during the cessation period, in view that this winding-up process can be quite tedious which could last for a considerable period.

Taxpayers are also highly recommended to conduct a self-review of their tax compliance process (e.g., doing a tax health check, etc.) to identify areas of improvement and to rectify any existing tax risks prior to the tax clearance audit to minimize any tax exposures and the financial impact of fines and penalties being imposed by the GDT.

## Reduction of Withholding Tax (WHT) and Specific Tax (ST) for Airline Companies

*(Instruction No. 009 GDT, dated 7 June 2024)*

The GDT issued this Instruction to ease the tax burden on airline companies leasing aircraft from foreign firms and to relieve some cost burden for air travelers by reducing the applicable WHT and ST on the following:

1. The WHT rate on the aircraft leases from foreign firms by domestic airlines is lowered from 14% to 10%.
2. The ST rate on passenger air transport services, whether provided by domestic or foreign airlines, is lowered from 10% to 5%.
3. The reductions above will be in effect for 3 years, from **1 June 2024 to 31 May 2027**.

### Our comments

The government has implemented these tax relief measures in the hopes of relieving some of the tax burden on Cambodian airline companies that lease aircraft from foreign lessors.

It can also be observed that this tax relief aligns with the government's efforts to revitalize the tourism sector post-pandemic. The reduction in both WHT and ST could lower the airline's operating costs, stimulating a more competitive domestic airline sector. This, in turn, could increase the availability and affordability of flights to and from Cambodia, attracting more tourists, creating new business opportunities, and ultimately boosting Cambodia's overall economic growth.

In respect of the tax relief provided, impacted taxpayers should ensure to comply with tax declaration requirements and other administrative compliance obligations to avoid any future risks.

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

## Contact us

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