

Technical Update

August 2024

The Establishment of a Special Tax Audit Unit

(Sub-Decree No. 160 ANK.BK, dated 16 July 2024)

The Royal Government of Cambodia established a Special Tax Audit Unit (“**STAU**”), which has an equivalent status to a department managed by the General Department of Taxation (GDT) of the Ministry of Economy and Finance (MEF). It has been established as a mechanism to promote and expedite the resolution of taxpayer issues related to tax audits and is aimed at improving the business, trade, and investment environment.

Article 2 of the Sub-Decree provides that the STAU has the following roles and responsibilities, among others:

- To manage and conduct tax audits in accordance with the laws and regulations in force, as well as within the Standard Operating Procedures (SOP) for tax audits.
- To review documents and conduct risk analysis for a one-time comprehensive audit without having to conduct a desk and limited tax audit of enterprises.
- To prepare an annual special tax audit plan based on SOP and the unit’s risk analysis.
- To conduct a tax audit at the request of a taxpayer in accordance with SOP and laws and regulations in force.
- To provide information to enterprises on reasons for selecting them for tax audits.

In accordance with Article 7 of the Sub-Decree, the enterprises to be transferred under the jurisdiction of the STAU will be among those that have received gold tax compliance certificates and other enterprises as identified through a committee to be established by the GDT.

Also, Article 8 of the Sub-Decree provides that the STAU may request the GDT to work on and resolve the outstanding and ongoing tax audit cases of enterprises under its authority by working together with relevant tax audit units of the GDT.

Our comments

The creation of the STAU marks a positive step towards enhancing the transparency and efficiency of the tax audit program in Cambodia and aligning it with the best practices set out in the Tax Audit SOP issued last April 2024 by the GDT. The STAU has jurisdiction over those taxpayers with gold tax compliance status and other enterprises which may be determined by a committee established by the GDT.

It is important to note that further clarification is needed regarding the tax audit process for taxpayers with a ‘Gold’ Certificate of Tax Compliance who appear to be exempt from tax audits during the validity period of the Certificate of Tax Compliance, subject to the discovery of any tax risk and/or irregularity, under the Tax Audit SOP. The set of criteria that would render other enterprises to be transferred to the STAU should also be laid out clearly. Furthermore, we are yet to see how the STAU’s conduct of one-time tax audit for taxpayers falling under its jurisdiction, as stated in the Sub-Decree effective from 16

July 2024 onwards, would be factored in with the tax audit work done by other departments under the GDT (e.g., Department of Enterprise Audit (DEA), Department of Large Taxpayers (DLT), Litigation Office, etc.).

Implementation of Sub-Decree on the Tax Incentives for Informal Economic Development

(Prakas No. 360 MEF.Prk.GDT, dated 19 June 2024)

Subsequent to the release of Sub-Decree No. 113, dated 21 May 2024, on the Tax Incentives for Informal Economic Development, the MEF issued Prakas No. 360 MEF. Prk, dated 19 June 2024, detailing the criteria, tax incentives, and obligations to receive the tax incentives upon voluntary registration with the GDT.

In accordance with the Prakas, Micro, Small and Medium Enterprises (MSMEs) in the following priority sectors can enjoy tax incentives if they voluntarily register with the GDT:

- Wholesale, retail, and repair
- Accommodation and food services
- Handicrafts
- Agricultural co-operatives¹

This Prakas introduces micro-enterprises, which are defined as sole-proprietorship or partnership enterprises with annual turnover under KHR250 million or assets under KHR 200 million or having one to four employees. The SME classification remains unchanged as per Prakas 009, dated 12 January 2021, on the Classification of Taxpayers under the Self-Assessment Regime, except for the inclusion of employee count as part of the criteria (i.e., five to 49 employees for small enterprises and 50 to 199 for medium enterprises).

We have summarized below the tax incentives which can be availed by MSMEs that voluntarily registered with the GDT within the indicated period:

Enterprise	Tax Incentives	Period
Micro	<ul style="list-style-type: none"> • Exempt from tax registration fee, information update fee, and Tax ID printing fee. 	2023-2028
Small	<ul style="list-style-type: none"> • Exempt from any tax liabilities, penalties, and fines for non-compliance prior to voluntary registration. • Exempt from tax registration fee, information update fee, and Tax ID printing fee. • Exempt from Patent tax upon registration and for the next two years if successfully registered by 2024 or 2025. • Exempt from Prepayment of Tax on Income (PTol), Tax on Income (Tol), and Minimum Tax (MT) for two years after registration. 	2023-2028

¹ Refer to Annex 1 of Instruction No. 18412 dated 20 May 2024 for a comprehensive list which consists of 96 business activities for wholesale, retail and repair; 17 business activities for accommodation and food services; 174 business activities for handicrafts sector; and 103 business activities for agriculture sector.

Enterprise	Tax Incentives	Period
Medium	<ul style="list-style-type: none"> Exempt from any tax liabilities, penalties, and fines for non-compliance prior to voluntary registration. Exempt from Patent tax upon registration and for the next two years if successfully registered by 2024 or 2025. Exempt from PTol, Tol, and MT for two years after registration. 	2024-2025

MSMEs can voluntarily register through the business registration platform ([CamDX](#)) or directly at the GDT.

This Prakas also provides the obligations of MSMEs as follows:

Enterprise	Obligations
Micro	<ul style="list-style-type: none"> Report annual turnover to the GDT from 1 January to 31 March of the following year; and Update the GDT within 15 days for any change of information (i.e., address, enterprise's name, business objective, transfer, deregistration, phone number and email address).
Small and Medium	<ul style="list-style-type: none"> Update the GDT within 15 days for any change of information (i.e., address, structure, enterprise's name, business objective, transfer and changes of shareholders, enterprise or branch's management, deregistration, person in charge of tax-related matters, bank account information, contact information, phone number and email address) Maintain proper accounting records and declare tax declarations even during the exemption period Declare and pay other monthly and annual taxes in accordance with the tax regulations.

Any provisions contrary to this Prakas shall be abrogated.

Our comments

As an integral component of the National Strategy for 2023-2028, the informal economy serves as a driving force in business generation, employment opportunities, and economic development². In this regard, the government has provided tax incentives to encourage voluntary registration. The GDT has emphasized that such incentives are provided only to voluntary registration in the priority sectors, which means that enterprises registered unilaterally by the GDT do not qualify for these incentives.

There remains uncertainty on whether MSMEs that voluntarily registered with the GDT before the issuance of this Prakas (in 2023 and early 2024) are eligible to enjoy the tax incentives and whether these enterprises can claim tax credit or refund for taxes already paid but should have been exempt under this Prakas. MSMEs might be required to submit a tax ruling letter to seek further clarification from the GDT on these matters.

Lastly, it is important to note that such tax incentives may be revoked if MSMEs fail to comply with the obligations set by the GDT. Hence, affected taxpayers should take the necessary actions to remain eligible for the tax incentives.

² Refer to the National Strategy for Informal Economic Development 2023-2028 by the Cambodian Government.

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