



*cutting through complexity*

# Cambodia Tax Profile

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# 1 Corporate Income Tax

## Corporate income tax

Corporate Income Tax (CIT) / Tax on Profit (ToP)

## Tax rate

The CIT/ToP tax rate is 20 percent, with the exception of:

- 30 percent for the profit realised under an oil or natural gas production sharing contract and the exploitation of natural resources including timber, ore, gold and precious stones.
- 0 percent for the profit of Qualified Investment Project (QIP) during the tax exemption period as determined by Council for the Development of Cambodia (CDC).
- 5 percent on gross premiums received in Cambodia for insurance companies engaged in the insurance or reinsurance of life, property or other risks and 20 percent on non-insurance income of such businesses.

## Minimum Tax

Minimum tax is a separate and distinct tax to ToP, and is payable by taxpayers (with certain exceptions) regardless of whether they are in a profit or loss situation. Minimum tax is calculated at 1 percent of annual turnover inclusive of all taxes, except VAT.

If the ToP liability exceeds the minimum tax liability, the minimum tax will not be applicable. In contrast, if the minimum tax liability exceeds the ToP liability, the minimum tax will be payable.

## Residence

A resident taxpayer is primarily an enterprise that is organised and managed in Cambodia or its principal place of business is Cambodia.

A non-resident taxpayer is an enterprise that derives Cambodia sourced income, but does not have a place of management in Cambodia. A non-resident taxpayer will be deemed to be a Cambodian resident for tax purposes if it is found to have a permanent establishment in Cambodia.

A resident taxpayer is subject to CIT/ToP on income derived from both Cambodian and foreign sources, whereas, a non-resident taxpayer is subject to CIT/ ToP in respect of its Cambodian sourced income only.

## Compliance requirements

Cambodia has a self assessment system for the filing of CIT/ToP returns.

CIT/ToP returns are filed annually, and are due three months after the end of the tax year.



## International withholding tax rates

Dividends, royalties (including rent and other payments connected with the use of property) and interest paid to a non-resident are subject to withholding tax of 14 percent.

Other non-resident payments include compensation for management or technical services, and are also subject to withholding tax of 14 percent.

Cambodia is not a party to any double tax agreements. Accordingly, no tax treaty relief from withholding tax is available.

## Holding rules

Dividends received from resident companies are not subject to income tax. Dividends received from non-resident companies are subject to income tax in Cambodia. However, a credit for tax paid overseas on foreign source income is generally allowed.

Additional Profit Tax on Dividend Distribution (APTDD) is applicable on the distribution of retained earnings/annual profit after tax that were subject to the following rates:

Tax on Profit Rate	Additional Profit Tax on Dividend Distribution
0%	20%
9%*	12%*
20% - 30%	0%

Dividend distributions to Cambodian resident taxpayers, after payment of the APTDD are exempt income in the hands of the Cambodian resident taxpayer.

\* The 12 percent rate is applicable to only a Company which had its profit taxed at 9 percent ToP. The 9 percent rate expired in 2010.

## Tax losses

Losses can be carried forward for a maximum of five years. Tax losses may be forfeited upon a change in ownership of the business or if there is a change in the business activity. Tax losses will also be forfeited in the event a taxpayer is subject to a unilateral tax assessment.

There is no restriction on the amount of taxable income that can be offset by tax losses – all of the tax losses available can be used to offset against the taxable income of one year.

Losses cannot be carried back to prior periods.



**Tax consolidation / group relief**

There are no grouping provisions in Cambodia.

**Transfer of shares**

All realized gains (including capital gains) are treated as income. Registration tax (stamp duty) of 0.1 percent applies to the value of shares transferred.

**Transfer of assets**

Cambodia does not impose a separate tax on capital gains. Gains arising from the disposal of real property and other assets are treated as ordinary income and are therefore subject to tax at the prevailing CIT/ToP rate.

In addition, there is a four percent property transfer tax on the transfer of title of certain assets, such as land, buildings and vehicles. The four percent tax is imposed on the transferred value and payable by the party acquiring the asset (within three months from the date of execution of the agreement to transfer the title).

**CFC rules**

There is no CFC regime in Cambodia.

**Transfer pricing**

There is no specific Transfer Pricing legislation in Cambodia.

However, the related party provision gives wide power to the tax authority to re-determine related party transactions. This provision is generally applied to impose pricing that "arm's length" parties would have contracted for in the transaction.

A related party relationship is one where the entities have commonality of shareholding of 20 percent or more.

Cambodia has no Advance Pricing Agreement (APA) or Mutual Agreement Procedures (MAP) regime.



### **Thin capitalisation**

Cambodia has no specific thin capitalization legislation.

However, the allowable interest deduction on loan is as follows:

- 1) For loans from a non-related party, the interest expense shall not exceed 120 percent of the market interest rate, and
- 2) For loans from a related party, the interest expense shall not exceed the market interest rate.

The General Department of Taxation will issue the applicable market interest rate annually.

The amount of interest expenditure permitted under point (1) and (2) is further limited by the following rule.

Interest expenditure allowed as a deduction is limited to an amount equal to the total interest income plus 50 percent of net non-interest profit earned for the year. Net non-interest profit is the gross income, other than interest income, less allowable non-interest expenses. The excess interest expense can be carried forward to future years.

### **General anti-avoidance**

There is no general anti-avoidance provision contained in Cambodian tax law.

### **Anti-treaty shopping**

Cambodia is not a party to any double tax agreements.

### **Rulings**

There is no formal or binding ruling system in Cambodia.

A taxpayer can submit a letter seeking a ruling, but the Tax Office is usually reluctant to respond, or does not respond at all. Obtaining a ruling request from the Tax Office is likely to be a time consuming process.

Likewise, the tax authority is reluctant to give an informal opinion or ruling.

There is no public ruling system in Cambodia.

### **Intellectual property incentives**

There are no intellectual property incentives available in Cambodia.

### **R&D incentives**

There are no R&D incentives available in Cambodia.



## Other incentives

Cambodia provides a number of investment incentives. These incentives are available to all sectors, except those that are included on the “negative list”, and generally include:

- ToP exemption for up to nine years (specific conditions apply)
- Accelerated depreciation on manufacturing assets
- Import duty exemption on production equipment, raw materials and inputs to manufacturing
- Right to employ foreign labour

## Hybrid instruments

There are no special rules applicable to hybrid instruments.

## Hybrid entities

There are no special rules applicable to hybrid entities.

## Special tax regimes for specific industries or sectors

There are currently no special tax regimes for specific industries or sectors.

Petroleum and mining tax laws are currently being drafted, however further delays are expected.

## Related Business Factors

In general, businesses operate in Cambodia via the following vehicles:

- Company (“Single Member Private Limited Company” having only one shareholder and “Private Limited Company” having more than one shareholder);
- Branch of a company incorporated outside of Cambodia; and
- Commercial representative office of a company incorporated outside of Cambodia.

The minimum capital for establishing a commercial company is KHR4,000,000 (approx. USD1,000)

The name of the company must first be cleared and permitted by the Ministry of Commerce.

To apply for a particular license to carry out some specific business operations, additional information may be required.

The Foreign Exchange Law of 1997 provides for foreign currencies to be freely purchased via the banking system. In particular, the Law states that there should be no restrictions on foreign exchange operations; however, these operations can only be performed through an authorized financial institution.



## 2 Income Tax Treaties for the Avoidance of Double Taxation

<b>In Force</b>	Cambodia does not have any bilateral or multilateral international double tax treaties currently in force at the time of writing.
<b>Negotiated, not yet in force at time of publication</b>	Treaty negotiations are anticipated between Cambodia and a number of the other Association of South-East Asian Nations (ASEAN) countries. Thailand and Vietnam are in preparations for negotiation.

*Source: IBFD and the Cambodia Tax Office*



# 3 Indirect Tax

**Indirect tax**

Value Added Tax (VAT)

**Standard rate**

The standard rate of VAT is 10 percent.

Zero rating applies to export of goods and services and certain charges in relation to international transport of people and goods. Also, this zero rating is applicable for any goods and services supplied by supporting industries' Qualified Investment Project (QIP)/contractors to particular export industries.

VAT on certain supply and import of certain agricultural products shall be borne by the State (i.e. State Charges).

**Further information**

For more detailed indirect tax information across various countries, refer to:

[2015 KPMG Asia Pacific Indirect Tax Guide](#)



## 4 Personal Taxation

<b>Income tax</b>	Personal tax / tax on salary
<b>Top rate</b>	20 percent (residents and non-residents)
<b>Social security</b>	<p>National Social Security Fund (NSSF)</p> <p>Every month, an employer (with eight or more staff) shall report the number of workers they employ, and pay a contribution of 0.8 percent of the average monthly wage of the workers to the NSSF, by the 15<sup>th</sup> of the following month.</p> <p>An employee is not required to make contributions to the NSSF.</p>
<b>International social security agreements</b>	Cambodia has no such agreements.
<b>Further information</b>	<p>For more detailed personal taxation information across various countries, refer to:</p> <p><a href="#">KPMG's Thinking Beyond Borders</a></p>



## 5 Other Taxes

### Resident withholding tax

A resident taxpayer is required to withhold tax from certain payments of Cambodian sourced income to a resident entity, including:

- Payment for services to a physical person (15 percent)
- Payments of royalties for intangible assets and interests in minerals, oil, or natural gas (15 percent)\*
- Interest payments (various rates depending on the recipient)
- Income from rental of moveable or immovable property (10 percent)

\* Interest paid to domestic banks or saving institutions is exempt from withholding tax.

### Patent tax

Patent tax is an annual business registration tax which all enterprises carrying on business activities in Cambodia are required to pay by 31 March each year. A "patent tax certificate" will be issued by the Tax Office upon registration.

If an enterprise carries out different types of businesses, a separate patent tax certificate is required for each distinct business activity. Likewise, if a taxpayer carries out business in different cities or provinces, a separate patent tax certificate is required for each location. The standard patent tax payment is KHR1,140,000 (approximately USD285).

### Customs duty

Customs duty is levied on certain goods entering Cambodia. The rates vary depending on the type of goods.

Currently, the duty rates are 0 percent, 7 percent, 15 percent, and 35 percent. Exemptions can also be obtained as part of the tax incentives offered in Cambodia.

As a member of the Association of Southeast Asian Nations (ASEAN), Cambodia is party to the ASEAN Trade in Goods Agreement (ATIGA), which reduces customs duty of most goods to 0 percent - 5 percent from 2015.



## Specific tax regime

Specific tax on certain merchandises and services (STCMS) is a form of “excise tax” that applies to the importation or domestic production and supply of certain goods and services, including:

- Domestic and international telephone services (3 percent)
- Domestic and international air ticket (10 percent)
- Entertainment services (10 percent)
- Cigarettes (15 percent)
- Cigars (25 percent)
- Beer (25 percent)

Payment of STCMS is due on the 15<sup>th</sup> day of the following month.

For domestically produced goods STCMS is calculated on the ex-factory selling price. The ex-factory selling price is determined as 90 percent of the selling price exclusive of VAT and STCMS.

## Registration tax

Registration tax (stamp duty) of 0.1 percent applies to a transfer of shares. 0.1 percent registration tax also applies on the government contract value related to the supply of goods/services that are used under the state budget.

Registration tax applies to the following legal documents at a flat rate of KHR1,000,000 (approximately USD250):

- Company formation
- Company merger
- Dissolution of a “Company”

## Tax on unused land

A tax is levied on unused land and the registered owner of the land is responsible for the payment of the tax. Tax on unused land is based on two percent of the market price per square meter as determined by the Committee for the Valuation. Tax on unused land is due to be paid annually by 30 September. However, unused land that is already declared and ‘Tax on immovable property’ (TIP) paid on it, is not subject to tax on unused land., effective from 2011 onwards.



**Tax on immovable property (TIP)**

TIP was created in the 2010 Law on Financial Management (LFM) and is imposed on certain immovable properties. The term "immovable property" is defined as land, houses, buildings and construction that are built on the land.

TIP will be collected annually at the rate of 0.1 percent on the value of immovable property that is more than the threshold of KHR100,000,000 (approximately USD25,000). The value of the immovable property is assessed by the Assessment Committee, which is set up by the Ministry of Economy and Finance.

The deadline for paying the TIP is on 30 September each year.





## 6 Free Trade Agreements

### In force

Cambodia is a member of the ASEAN Free Trade Area Trade Agreement

Member countries:

Brunei	Malaysia	Singapore
Cambodia	Myanmar	Thailand
Indonesia	Philippines	Vietnam
Laos		

Cambodia is party to bilateral agreements with the following jurisdictions:

China	Korea (Republic)	Switzerland
Germany	Laos	Thailand
Indonesia	Malaysia	Vietnam
Japan	Singapore	

*Source: WTO International Centre*

# 7 Tax Authority

## Tax authority

General Department of Taxation

[Link to General Department of Taxation](#)

## Tax audit activity

A tax audit can be conducted within three years of the date a tax declaration was required to be submitted, or within 10 years of the date the tax declaration was required to be submitted if there is evidence of the “obstruction” of the implementation of tax provisions. The Tax Office defines “obstruction” very broadly, and the practical reality is that a 10 year time frame for tax audit activity is enforced.

The majority of companies can expect to be audited by the tax authority every two or three years of business operations.

There are three types of tax audits; desk audit, limited audit, and comprehensive / final tax audit.

### *Desk and limited tax audits*

The desk and limited audits should be conducted on limited certain items of a particular tax year. However, this may not be the case in practice as what is audited by the desk and limited audits is often out of the scope of what is supposed to be audited.

In our experience, if a desk audit is conducted on a particular tax year, the limited audit will not be conducted in that tax year and vice versa. The tax year which has already been audited by the desk or limited audit is still subject to be audited by a comprehensive tax audit.

### *Comprehensive / final tax audit*

A final audit is conducted to review the detail of the Company’s transactions and would “close off” the tax year. A comprehensive or final audit can include two or three years of prior returns in one audit. In our experience, the Tax Office predominantly adopts a risk based approach, and the size of the Company’s operations is a criterion on which the Tax Office determines whether to conduct a tax audit.

A tax year which has been audited by the comprehensive/ final tax audit is considered as “closed”.

### *Audit process*

A typical audit commences with a notification to conduct the tax audit from the Tax Office, together with a list of the required documents. Taxpayers are advised to contact their tax advisor immediately when a tax audit commences or any audit related correspondence is received from the tax authority. There will be an audit visit at the taxpayers’ office to discuss and obtain documents in relation to the tax audit. Thereafter, there will be a discussion or clarification from the taxpayers to the tax authority either at the Company’s office or Tax Office after the review of the documents. Each audit

can take up to one or two years.

Key focus areas for the tax authority in tax audits conducted in recent years have included:

- Related party transactions
- Salary tax of expatriates
- Withholding tax obligations – particularly on cross border payments for management and technical services
- Income recognition per accounts and tax declaration purposes

## Appeals

There is an objection process, but there is no independent tax court or tribunal. Appeals are finally decided by the Tax Office.



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