

# Technical Update

## Tax and Corporate Services

January 2018

### Public service fees of the Ministry of Commerce (MoC) for the year 2018

#### Ministry of Economy and Finance (MEF) & MoC Joint Prakas No. 1217 of 27 November 2017 on MoC Public Service Fees

The MoC public service fees have increased, effective from 01 January 2018. The following are some of the significant changes:

- The penalty for failure to lodge the Annual Declaration of Commercial Enterprise (ADCE) on time is increased from KHR1 million (~USD250) to KHR2 million (~USD500).
- The request to extract a company's Certificate of Incorporation or an extract of company information now costs KHR80,000 (~USD20).
- The penalty for non-registration of changes to the company required to be registered with the MoC is increased from KHR500,000 (~USD125) to KHR1 million (~USD250).
- The administrative penalty for fraudulently falsifying information for the purpose of business registration is KHR1 million (~USD250) for one count of fraud.
- The official fees for intellectual property services are increased and some new service fees are introduced for trademarks under the new Madrid System, in accordance with the Madrid Protocol.

**Commentary:** Since the introduction of the online business registration system, the MoC has been more focused on compliance with the laws and regulations on commercial registration. In order to avoid the increased penalty fees for corporate compliance, we advise all commercial enterprises to take note of their compliance deadlines. We are happy to assist you with any MoC corporate compliance issues.

### Extension of commercial entity online re-registration to 31 December 2018

#### MoC Notification No. 0281 of 22 January 2018

The MoC has extended the deadline for online re-registration until 31 December 2018 to allow more commercial entities to comply. If an entity wishes to

register within this period, it must attach its ADCE for the years 2015, 2016, and 2017.

In the event that an entity has not lodged its ADCE for the years 2015, 2016, and 2017, it must pay the ADCE lodgment fees for all three years and incur the penalty fees in accordance with the new Prakas No. 1217 on MoC Public Service Fees (summarized above).

**Commentary:** If a commercial entity has not yet done so, in order to avoid incurring excessive penalties, it is advisable to register within the timeframe provided by the MoC.

### Amendments to the Law on Patents, Utility Model Certificates, and Industrial Designs

#### Royal Government of Cambodia (RGC) Royal Kram No. 1117/016 of 22 November 2017 on the Amendment of Articles 37, 38, 109, and 136 of the 2003 Law on Patents, Utility Model Certificates, and Industrial Designs

The Law on Patents, Utility Model Certificates and Industrial Designs has been amended as follows:

- Article 37: Addition of a clause stating that the Registrar must publish applications for patents, and results of search and examination reports of patent applications.
- Article 38: Addition of clause that in the event the patent granted in another country has benefit to Cambodia, the Ministry Official may decide to recognize that patent in Cambodia.
- Article 109: Additions: (1) The international registration of industrial designs under the Hague Convention on International Registration of Industrial Designs are considered to also be Cambodian registrations having the same filing date, and (2) in the event the industrial design registration granted in another country has benefit to Cambodia, the Ministry Official may decide to recognize that in Cambodia.
- Article 136: Pharmaceutical products mentioned in Article 4 of the law are not permitted for patent protection until the exemption period has passed, as determined by the resolution on the extension of exemption duration for least developed countries of the World Trade Organization (WTO).

**Commentary:** These amendments conform to Cambodia's gradual implementation of international intellectual property conventions since Cambodia joined the World Trade Organization and Cambodia's increasing recognition of international marks and the international registration process. Our team will keep up-to-date with the MoC for further updates and clarification, especially regarding implementing regulations.

### **New law on trade remedies**

#### **RGC Royal Kram No. 1117/014 of 17 November 2017 on Trade Remedies**

The new law on trade remedies aims to protect domestic industries and regulate the flow of international trade into Cambodia. The law outlines some trade-related concepts, procedures, and rules related to trade remedies and trade activities in Cambodia. The law also creates a National Committee on Trade Remedies.

The law outlines safeguard procedures to protect the country against harmful effects of the increased imports of products into Cambodia. It also aims to regulate and monitor the import of products at a cheaper rate than their costs in the originating country, also known as product dumping. Certain taxes may be imposed on the product if it has been found by the National Committee to have caused harm.

**Commentary:** This law has the potential to increase confidence and investment in commercial trading. It provides a means for the government to monitor the imports of products whose prices could negatively impact competition in Cambodia.

### **Notification: Claiming additional maternity benefits**

#### **Ministry of Labor and Vocational Training (MLVT) Notification No. 002/18 of 12 January 2018 on Maternity Benefits after Registration with the National Social Security Fund (NSSF)**

In an effort to increase efficiency of claim requests for maternity benefits, the MLVT urges all employees to bring along their (1) Cambodian Identity Card and current phone number and (2) NSSF Membership Card or other healthcare cards. The employees or their relatives must inform the NSSF through their hotline (1286) if they will deliver at a health clinic that is not affiliated with the NSSF. Health clinics that provide maternity services should provide information and collaborate with the NSSF.

**Commentary:** The Government hopes everyone collaborates to make the process of claiming additional maternity benefits more efficient, so employees receive their benefits as soon as possible.

### **Banners and advertisements at construction sites must be in the Khmer language**

#### **Ministry of Land Management, Urban Planning, and Construction Letter No. 3323 of 26 December 2017 on the use of Khmer and Foreign languages on banners and advertisements at construction sites**

All construction sites are advised to abide by the following guidelines when displaying banners and advertisements:

- The Khmer language must be in the top row, in a bigger font than the foreign language
- The foreign language can be written below the Khmer language, in a font that is half the size of the Khmer language
- The dictionary of Samdech Porthinhean Chuon Nath must be used as a reference for Khmer spelling.

The guidelines came into effect on 26 December 2017.

**Commentary:** From displaying Riels currency for various products and services to using Khmer language on signs and banners, the Government is increasingly prioritizing the use of national currency and language.



## New regulation on the management of plastic bags

### RGC Sub-Decree No. 168 of 10 October 2017 on the Management of Plastic Bags

This new regulation, which came into force on 10 October 2017, encourages reduction of the use of plastic bags through recycling and using substitutes for plastic bags. We summarize the important highlights of this Sub-Decree as follows:

- The import, manufacturing, distribution, and use of small plastic bags are prohibited
- Permission must be obtained from the Ministry of Environment for most plastic bag import and manufacturing
- The import and production of packaging materials produced from biodegradable or bioplastic ingredients are subject to special duties which are the burden of the state
- The provision of plastic bags to consumers will be subject to additional costs, which must be included in the commercial invoice effective from 10 April 2018.



Penalties for violation of the Sub-Decree include: issuance of a written warning, confiscation, temporary suspension of business or production activities, suspension or revocation of Permission Letters to import or produce locally, and monetary fines.

**Commentary:** This Sub-Decree has significant implications on businesses, who rely primarily on the use of plastic bags and other plastic products. At the moment, it is unclear whether the Government will implement these new provisions on local markets and street vendors, who are also the main providers and users of plastic bags and other plastic products.

In the near future, we expect more regulations on the use of other plastic products, such as cups and straws.

As a committed tax and corporate consultant, we welcome the opportunity to discuss the applicability of these laws and regulations to your business at a mutually convenient time. Please do not hesitate to contact us if you have any query on the above.

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