

Tax Alert

Documentation on Interest between Related Parties

(Instruction 4909, dated 18 March 2019)

The General Department of Taxation (GDT) issued Instruction no. 4909 on documentation for loans with related parties, further to previous Instruction no. 11946 on rules for interest with related parties.

As per the Instruction, enterprises must at least maintain certain important documents for loans with related parties as follows:

- Loan agreement with clear terms of borrowing;
- Business plan in relation to the loan;
- Documents explaining the basis for determining interest rate; and
- Board's resolution (for enterprise which is not a single member private company limited).

Enterprises must maintain the above documents, regardless of the significance of the interest rate and provide to the tax administration when required.

Khmer Riel on Invoices for Self-Assessment Regime Taxpayers

(Instruction 4908, dated 18 March 2019)

The GDT issued Instruction no. 4908, on the usage of Khmer Riel on invoices for registered self-assessment regime taxpayers, to facilitate the recent online system for VAT refund and VAT credit requests.

As per the Instruction, taxpayers must:

- disclose Khmer Riel of the total amount on invoice;
- use last month's exchange rate issued by the GDT or the market rate, provided the rate is not lower than the GDT's rate; and
- round up and down the Khmer Riel figures as necessary.

Prakas on Tax Audit

(Prakas 270, dated 13 March 2019)

The Ministry of Economy and Finance recently issued a new Prakas on Tax Audit which provides updated rules and procedures for tax audit of registered taxpayers.

The following key points should be noted:

The periods, which tax audits can be conducted on, are the current and one year back for limited audits and up to 3 years* back for comprehensive audits.

** can be 5 years if there is evidence of fraud, losses or tax credit carried forward from longer than 3 years ago, etc (i.e. the 4th or 5th year); or*

*** longer, but the GDT must request the Ministry of Economy and Finance for approval.*

Depending on the completeness of required document provided to tax auditors, the timeframe of the tax audit is limited to 3 months for desk audits and limited audits and 6 months for comprehensive audits.

The selection criteria for enterprises to be subject to tax audits shall be based on the followings:

- risk assessment;
- result from information crosscheck;
- information obtained from third party;
- information about types of taxes or specific industries;
- Information of particular taxpayer; and
- Location of enterprise, etc.

A “**committee** for enterprise allocation” shall be established by the General Department of Taxation (GDT) which will manage the allocation of enterprise audits to ensure that there are not multiple tax audits being conducted on a particular enterprise.

While the penalty rate is still the same at 10%, 25% and 40%, the (monthly) interest rate on tax reassessment is reduced to **1.5%** (down from 2%).

Please refer to the Prakas for more details.

Market Interest Rate Limit for Loans in 2018

(Notification 4630, dated 13 March 2019)

The GDT issued Notification 4630 to provide the annual market interest rate limit for loans in 2018.

The interest rates are as follows:

- Loans in Khmer Riels, 9.44% annually; and
- Loans in United States Dollars, 8.35%, annually.

Implementation of Double Taxation Agreement (DTA)

(Prakas 241, dated 6 March 2019)

The Ministry of Economy and Finance issued a Prakas to implement the recent DTAs with Vietnam and Indonesia. The effective implementation dates are as follows:

- DTA with Vietnam, effectively implemented on 1 January 2019; and
- DTA with Indonesia, to be implemented on 1 January of the year after the agreements is enacted*.

* This indicates Indonesian side has not enacted the agreement on their end yet.

As a committed tax advisor to our clients, we welcome any opportunity to discuss the relevance of the above matters to your business.

Contact us

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