

# Technical Update

April 2020



## Additional Government Tax Relief Measures to Support the Private Sector

*(Letter No. 9648 GDT, dated 9 April 2020, Prakas No. 319 MEF.Prk., 28 March 2020)*

In addition to the tax relief measures provided in February (per our March 2020 Technical Update publication), the Royal Government of Cambodia (RGC) has provided further relief for certain industries which have continued to face pressure from the outbreak of Covid-19, as well as the garment industry which has seen a decline due to the suspension of the “Everything-but-Arms” (EBA) incentives from Europe.

For this purpose, the General Department of Taxation (GDT) and the Ministry of Economy of Finance (MEF) issued an Instruction and a Prakas, respectively to provide additional tax relief measures as follows:

**Airline sector:** Airline companies operating within the country shall be exempted from Minimum Tax (MT) for three months, from March to May 2020. During this exemption period, they are not required to pay the monthly 1% Prepayment of Tax on Income (PTol).

**Tourism sector:** Enterprises operating hotels, guesthouses and restaurants and travel agency companies with business activities in Phnom Penh, Bavet and Poipet cities and Siem Reap, Kep and Kampot provinces, shall receive the following tax relief:

- a. exemption from payments of all kinds of monthly taxes from March to May 2020; and
- b. allowance to settle any unpaid or underpaid 2019 Tax on Income (Tol) in installments every month until November 2020.

This is an expansion to the previous tax relief measures made back in February, which were provided to hotels and guesthouses in Siem Reap province, and for monthly taxes only.

### Garment Industry

The Prakas No. 319 issued by the MEF, which is effective from the signature date of 24 March 2020, determines the rules and mechanisms to provide tax relief for the garment related sector such as garments, footwear, handbag and hat producing enterprises, which have been impacted by the suspension of the EBA.

Enterprises in this sector shall receive tax relief on Tol for the year 2020 based on the level of impact\* as follows:

1. Exempt from Tol for six (6) months for factories with level of impact from 20% to 36%, i.e. 50% reduction to Tol payable.
2. Exempt from Tol for one (1) year for factories with level of impact from 40% to 100%, i.e. 100% reduction of Tol payable.

$$*Level\ of\ impact = \frac{Size\ of\ export\ impacted}{total\ export} \times 100$$

To receive the above tax relief, eligible enterprises must submit documentation to the tax administration verifying the level of impact from the suspension of the EBA during the Tol declaration period.

## Our comments

These further tax relief measures are sure to be welcomed by the private sectors which have seen suffering due to current events.

Practical implementation of some of the tax reliefs above, however, may pose a challenge to the taxpayers.

For the garment industry, it is unclear what the tax administration would deem as sufficient documentation to verify the impact level from the suspension of the EBA, which is the basis for the calculations above. This then puts the burden on the taxpayers to provide proof and potentially having to defend them to the tax administration during a future tax audit, depending on how aggressive the GDT is in their tax audit review.

For the airline sector, the voided requirement to pay the 1% PTol is just a timing matter, since PTol is used as a credit at the year's end to offset against either Tol or MT (whichever is the higher). However, it is not made clear what exemption of MT for a period of three months means. MT is a tax on annual turnover of a company and is currently imposed on those companies deemed to have improper accounting records. One way to implement this, could be to calculate the 1% MT only on the nine months turnover, by not including turnover from March to May 2020 in the calculations. However, the affected taxpayers may consider seeking further confirmation from the GDT on this matter during the annual tax calculation to avoid any inconsistent interpretation while the matter is not totally clear.

For the tourism sector, a point of contention is still whether "exemption of payments of all kinds of monthly taxes" as worded in the letter truly means all taxes. It is possible for different interpretation in practice by tax officials such that this only applies to taxes on the company's income itself, such as the monthly Prepayment of Tol and Value Added Tax, whereas Withholding Tax (WHT) and Salary and Fringe Benefit Tax (SFBT) are taxes on their vendor and employees respectively and are thus not applicable.

However, it should be inferred that it is in the spirit and intention of the government to provide exemption for the whole sector, in order to relieve the current pressures. Hence, it is only sensible that the exemption should apply for all kinds of taxes, i.e. is intended for the companies themselves and their vendors/suppliers and employees. Nonetheless, as this matter is not very clear, the affected taxpayers should seek further clarification from the GDT to ensure that they can properly fulfil their compliance requirements with their suppliers/employees in respect of the WHT and SFBT respectively.

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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