



## **Council for the Development of Cambodia (CDC) – Law on Investment No. NS/RKM/1021/014 dated 15 October 2021 (“LoI”)**

On 15 October 2021, the Law on Investment, promulgated under Royal Kram No. NS/RKM/1021/14, applies to all Qualified Investment Projects (QIPs), Expanded Qualified Investment Projects (EQIPs) and Guaranteed Investment Projects (GIPs) registered with the Council for the Development of Cambodia (CDC) or Municipal-Provincial Investment Sub-Committees (MPISC).

### **Registration and Implementation of Investment Projects**

Any persons who wish to implement QIPs, EQIPs, and GIPs shall submit a written application to the CDC or MPISC or through relevant information technology platforms. Note that the procedure for registration of investment projects with MPISC shall be determined by a separate Sub-Decree. The mentioned Sub-Decree is yet to be issued. Currently, we understand that QIP registration can be performed via the information technology platform while for EQIPs and GIPs it is yet to be confirmed whether they can be done via the information technology platform or not.

Upon receipt of the investment project application, the CDC shall review and decide on the application through a One-Stop Service mechanism. If the proposed investment project is not on the Negative List, the CDC shall issue a Registration Certificate (RC) to the applicant within 20 working days. Note that under Article 4 of Sub-Decree No. 111 on the Implementation of the Amendment to the Law on Investment of the Kingdom of Cambodia, dated 27 September 2005 (Sub-Decree No. 111), the “Negative List” refers to a list set out in Schedule 1 of Sub-Decree No. 111 which, in accordance with Article 7 New, is a list of the investment activities which cannot be performed by an entity if it is to be registered as a QIP.

Note that the RC shall be affixed with a barcode with an identification number or QR code or other technology that contains preliminary data related to the registered investment project. Relevant ministries and institutions requiring registrations and conducting compliance reviews of the investment project implementation shall not require the applicants or investors to provide documentation already included in the barcode with an identification number or QR code or other technology affixed to the RC issued by the CDC.

### **Investment Guarantees and Protection**

The investors are entitled to:

- Treatment without discrimination.
- Freely purchase foreign currencies and repatriate those foreign currencies to settle financial obligations associated with their investment through authorised intermediary banks.

- The protection of their intellectual properties.
- The use of the land through economic land concessions or perpetual leases or leases for a fixed duration in accordance with the law and regulations in force.
- The right to hire foreign employees to manage or operate an investment project within a quota not exceeding the number stipulated by the laws and regulations in force, in the event that it is not possible to find qualified Cambodian employees to manage or operate the investment project. The permission to hire foreign employees is based on current circumstances and is not permanent.
- The right to obtain a temporary long-term stay permit for oneself, spouse, and children who are minors during the period when the investment project is operating.
- The right to request temporary long-term stay permits for foreign employees and their spouses and children who are minors during the valid period of the employment contract. The CDC or MPISC shall issue a letter to certify the investment status for the persons involved in the investment project at the request of the investors to be used for applying for a temporary long-term stay permit, work permit, employment book, and other necessary purposes in accordance with the procedure in force. Formalities and special procedures for applying for a temporary long-term stay permit shall be determined by a separate Sub-Decree.
- The right to obtain a work permit and employment book for oneself and foreign employees. Special procedures for application of work permits and employment books shall be set out in the Joint Prakas between the CDC and the Ministry of Labour.
- Receive after-care services for the investment project registered with the CDC or MPISC. The conditions, formalities, and procedures for providing this after-care service for investment projects shall be determined by a Sub-Decree. We understand that this Sub-Decree will be issued following the release of the current Lol. As of the date of this technical update, we are not aware of the Sub-Decree having been released.

In addition, the state shall not:

- Fix the price of products or services created or rendered by the investment project.
- Undertake any nationalisation actions which may affect the assets of the investors in Cambodia.
- Undertake any expropriation which may affect, either directly or indirectly, an approved investment project or undertake any measures similar to expropriation, except for the purpose of public interest and that such expropriation shall meet with the following conditions:
  - Non-discrimination;
  - Fair and just compensation; and
  - Compliance with the laws and procedures in force for the expropriation.

## Investment Incentives

The sectors and investment activities listed in the table below that are not in the Negative List shall receive basic tax and/or customs duty incentives in whole or in part after obtaining the RC certifying the QIP status.

The sectors and investment activities that are not entitled to both tax and customs duty incentives will be stipulated in the Negative List of the Sub-Decree. We understand that this Sub-Decree will be issued following the release of the current Lol. As of the date of this technical update, we are not aware of the Sub-Decree having been released.

Investment activities registered as a QIP are entitled to choose basic incentives as well as to

receive additional incentives.

Please refer to the table given below for the Sectors and Activities Entitled for Investment Incentives, Basic Incentives, and Additional Incentives.

Note that any specific sector and investment activity having high potential to contribute to national economic development may receive special incentives to be set out in the Law on Financial Management.

Sectors and Activities entitled for Investment Incentives	Basic Incentives	Additional Incentives
<p>The following investment sectors and activities are entitled to investment incentives:</p> <ol style="list-style-type: none"> <li>1. High-tech industries involving innovation or research and development.</li> <li>2. Innovative or highly competitive new industries or manufacturing with high added value.</li> <li>3. Industries supplying regional and global production chains.</li> <li>4. Industries supporting agriculture, tourism, manufacturing, regional and global production chains, and supply chains.</li> <li>5. Electrical and electronic industries.</li> <li>6. Spare parts, assembly, and installation industries.</li> <li>7. Mechanical and machinery industries.</li> <li>8. Agriculture, agro-industry agro-processing industry, and food processing industries serving</li> </ol>	<p>Investment activities registered as QIP are entitled to choose basic incentives under either of the following two options:</p> <p><b><u>Option 1:</u></b></p> <ul style="list-style-type: none"> <li>– Income tax exemption for 3 to 9 years, depending on the sector and investment activities, as well as the period of income. Sectors and investment activities, as well as the period of income tax exemption, shall be determined in the Law on Financial Management and/or the Sub-Decree. We understand that the new Law on Financial Management (LoFM) and this Sub-Decree will be issued following the release of the current LoI. As of the date of this technical update, we are not aware of the LoFM or this Sub-Decree having been released. After the income tax exemption period has expired, the QIP is entitled to paying income tax at a progressive rate proportional to the total tax due as follows: <ul style="list-style-type: none"> <li>– 25% for the first 2 years;</li> <li>– 50% for the next 2 years; and</li> <li>– 75% for the last 2 years.</li> </ul> </li> <li>– Prepayment tax exemption during income tax exemption period;</li> <li>– Minimum tax exemption, provided that an independent audit report has been carried out;</li> <li>– Export tax exemption, unless otherwise provided in other laws and regulations; or</li> </ul> <p><b><u>Option 2:</u></b></p> <ul style="list-style-type: none"> <li>– Deduction of capital expenditure through special depreciation as stated in the tax regulations in force;</li> <li>– Eligibility of deducting up to 200% of specific</li> </ul>	<p>In addition to the basic incentives, investment activities registered as QIPs receive, additional incentives are available as follows:</p> <ul style="list-style-type: none"> <li>– Value added tax exemption for the purchase of locally made Production Inputs to be utilized by the QIP.</li> <li>– Deduction of 150% from the tax base for any of the following activities: <ul style="list-style-type: none"> <li>– Research, development, and innovation;</li> <li>– Human resource development through the provision of vocational training and skills to Cambodian workers/ employees;</li> <li>– Construction of accommodation, food courts, or canteens where reasonably priced foods are sold, nurseries and other facilities for</li> </ul> </li> </ul>

<p>the domestic market or export.</p> <p>9. Small and medium-sized enterprises in priority sectors and small and medium-sized enterprise cluster development, industrial parks, and science, technology, and innovation parks.</p> <p>10. Tourism and tourism-related activities.</p> <p>11. Special economic zones.</p> <p>12. Digital industries.</p> <p>13. Education, vocational training, and product promotion.</p> <p>14. Health.</p> <p>15. Physical infrastructure.</p> <p>16. Logistics.</p> <p>17. Environmental management and protection, biodiversity conservation, and the circular economy.</p> <p>18. Green energy, technology contributing to climate change adaptation and mitigation.</p> <p>19. Other sectors and investment activities not listed by the Law deemed by the Royal Government of Cambodia to have the potential for socio-economic development.</p>	<p>expenses incurred for up to 9 years. Sector and investment activities, specific expenses, as well as the deductible period, shall be determined in the Law on Financial Management and/or the Sub-Decree. We understand that the new Law on Financial Management (LoFM) and this Sub-Decree will be issued following the release of the current Lol. As of the date of this technical update, we are not aware of the LoFM or this Sub-Decree having been released;</p> <ul style="list-style-type: none"> <li>- Prepayment tax exemption for a specific period of time based on sectors and investment activities to be determined in the Law on Financial Management and/or the Sub-Decree. We understand that the new Law on Financial Management (LoFM) and this Sub-Decree will be issued following the release of the current Lol. As of the date of this technical update, we are not aware of the LoFM or this Sub-Decree having been released;</li> <li>- Minimum tax exemption, provided that an independent audit report has been carried out;</li> <li>- Export tax exemption, unless otherwise provided in other laws and regulations.</li> </ul> <p>In addition to the incentives stated above:</p> <ul style="list-style-type: none"> <li>- Export QIP and supporting industry QIPs are entitled to customs duty, special tax and value-added tax exemption for the import of Construction Materials, Construction Equipment, Production Equipment, and Production Inputs.</li> <li>- Domestically oriented QIPs are entitled to customs duty, special tax, and value-added tax exemption for the import of Construction Materials and Construction Equipment. The incentives for Production inputs shall be determined in the Law on Financial Management and/or the Sub-Decree. We understand that the new Law on Financial Management (LoFM) and this Sub-Decree will be issued following the release of the current Lol. As of the date of this technical update, we are not aware of the LoFM or this Sub-Decree having been released.</li> </ul> <p>Note that QIPs located in special economic zones are entitled to the same incentives and protections as other QIP set forth in this law.</p>	<p>workers/ employees;</p> <ul style="list-style-type: none"> <li>- Upgrade of machinery to serve the production line; and</li> <li>- Provision of welfare for Cambodian workers/ employees, such as comfortable means of transportation to commute from their homes to factories, accommodation, food courts, or canteens where food is sold at reasonable prices, nurseries, and other facilities.</li> <li>- Entitlement to income tax exemption for EQIPs which will be determined in a Sub-Decree. We understand that this Sub-Decree will be issued following the release of the current Lol. As of the date of this technical update, we are not aware of the Sub-Decree having been released.</li> </ul>
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Chapters 7, 8, and 9 of the Lol also mentioned the requirements and procedure for acquisition, sale, or merger of Investment Projects, as well the nullification, dispute, and dispute resolution.

## Commentary

We understand that the current Lol provides more favourable investment incentives bringing benefits to investors compared to the previous Law on Investment. Those investment incentives provided under the current Lol include the basic incentives, additional incentives, and special incentives.

One key change in the new Lol is that it is very clear on the components of the import duty incentives, which includes exemptions for customs duty, special tax, and value-added tax. This is an improvement on the previous Law on Investment which only specifically provided for a customs duty exemption and investors have previously had to clarify or seek additional approvals for the exemption of other import taxes (i.e. special tax and value added tax).

Additionally, the current Lol has made it easier for investors to comply with Cambodian laws and regulations through the digitalisation policy of Cambodia, i.e. the registration of a QIP through the IT platform.

Should you require any support or assistance, please contact us.

## Contact us

### KPMG Cambodia Ltd.

KPMG in Cambodia and Vietnam is one of the leading professional services firms, with over 1,700 staff working from our offices in Phnom Penh, Hanoi, Ho Chi Minh City and Da Nang. We work with our colleagues across Asia and around the world to provide a broad range of services.

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