

# Technical Update

## Tax and Corporate Services

February 2016



### Sub-decree on the organization and functioning of the Committee of Tax Arbitration

*(Sub-Decree, no. 03 SD, dated 6 January 2016)*

Further to Prakas **1470 MEFPrk** on the rules and procedures for resolving tax protests letters, dated 6 November 2015, the Royal Government of Cambodia (RGC) has issued a Sub-Decree on the organization and functioning of the Committee of Tax Arbitration (CTA), dated 6 January 2016.

This CTA shall review, resolve and make decisions on protests regarding customs, excise and tax disputes arising from final decisions or rulings by the General Department of Customs and Excise (GDCE) and/or the General Department of Taxation (GDT).

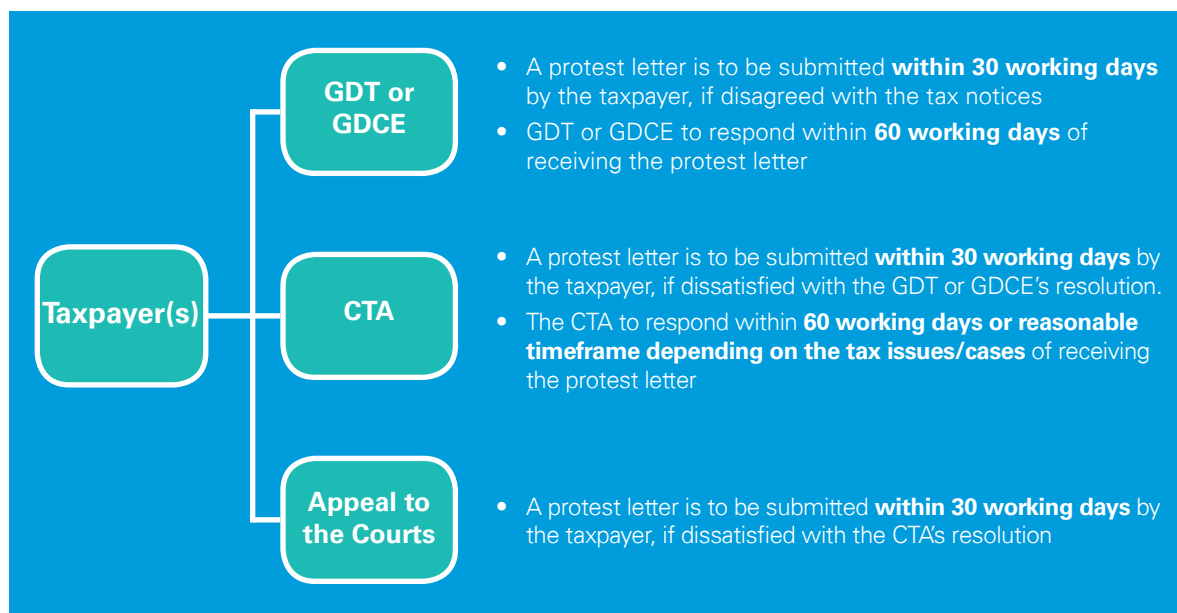
The CTA's composition will be:

- Minister of Economy and Finance as the Chairman;
- Secretary General of the Ministry of Economy and Finance (MEF) as the Vice-Chairman; and
- Representative of the National Accounting Council, the General Director of the General Department of Policy for Economy and Public Finance, and the General Director of the General Department of Internal Audit as Members.

The CTA's members will conduct meetings, invited by the Chairman (or Vice Chairman), with relevant officials of ministries, institutions, auditors, representative of private sector and even the General Director of the GDT or the GDCE invited as is necessary, to provide explanations or comments. Additionally, the CTA will consist of one secretariat, as the chief of staff, who will assist with the overall administrative works of the CTA (i.e. registration of protests, working with relevant officials to obtain explanations and evidences, proposed resolutions).

The Sub-Decree also provided the overall procedure of resolving protests, summarizing the procedure of resolving protests with the GDT, already detailed in the Prakas 1470 MEFPrk (covered in our Technical Update for December 2015 issues) and now also provides the CTA's detailed procedure for resolution of protests.

We have summarized the protest letter process in a flow chart as follows:



\* With regard to the above, the appeal to the court does not prevent the implementation of the resolution by the CTA, as per the existing law, *“The taxpayer must deposit in the national treasury an amount of money equal to the taxes, additional taxes and interest under dispute and as assessed by the tax administration before filing the appeal to the court.”*

### **Our comment**

Any tax dispute in Cambodia has always suffered from a lack of any independent body to settle such a dispute between a taxpayer and the GDT, as the GDT is the final decision maker over any tax dispute. Therefore, having set up the CTA is potentially a welcoming sign. There is no update on where the CTA is officially located or when it is to be operational.

It seems that the MEF will mostly likely be responsible for the organization and functioning of this CTA, with the Minister of the MEF set as the Chairman. As such, we can expect future update on the CTA's official operation from the MEF in the near future. We will cover such updates as they come out.

Furthermore, the Sub-Decree allows taxpayers to appeal to the court, however it is noted that there is no tax tribunal and/or court yet established.

Accordingly, we cannot pass any comment on how real or effective the CTA may be. It is hoped that it will act as a true tribunal of merit. However, this is yet to be seen.

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



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