

# Technical Update

## Tax and Corporate Services

January 2016



### 2016 Law on Financial Management (LoFM) *(Promulgated on 17 December 2015)*

**Prakas on classification of taxpayers under Real Regime System** *(Prakas no. 1819.MEF.Prk dated 25 December 2015)*

**Prakas on procedure for the management of patent tax collection and Instruction on the declaration and payment of the 2016 patent tax** *(Prakas no. 1821.MEF.Prk dated 25 December 2015 and notification no. 032.GDT dated 4 January 2016)*

Subsequent to the promulgation of the 2016 Law on Financial Management (LoFM) on 17 December 2015, the Ministry of Economy and Finance (MoEF) issued a **Prakas no. 1819 MEF.Prk** dated 25 December 2015, providing the criteria for classification of Real Regime taxpayers into three categories; small, medium and large taxpayers.

On the same day the MoEF also issued **Prakas no. 1821.MEF.Prk** detailing a procedure for the patent tax collection and followed by a **Notification no. 032 GDT** dated 4 January 2016 on declaration and payment of the 2016 patent tax.

We summarize the main changes and the Patent Tax requirements as follows:

| Taxpayers     | Classification criteria  | Patent tax requirement   |
|---------------|--|--|
| <b>Small</b>  | <ul style="list-style-type: none"> <li>Annual turnover from KHR250 million (~USD62,500) to KHR700 million (~USD175,000)</li> <li>Three consecutive months turnover or expected turnover more than KHR60 million (~USD15,000) within the calendar year</li> <li>Sole proprietorship or partnership</li> <li>Participating in any bidding, negotiation, or quotation for supply of goods or services.</li> </ul> | <ul style="list-style-type: none"> <li>Pay patent tax of KHR400,000 (~USD100)</li> <li>Pay it to respective tax branch's bank account of ACLEDA Bank Plc or Canadia Bank Plc.</li> </ul>   |
| <b>Medium</b> | <ul style="list-style-type: none"> <li>Annual turnover from KHR700 million (~USD175,000) to KHR2,000 million (~USD500,000)</li> <li>A registered legal entity with competent institution</li> <li>Sub-national institutions, associations and non-governmental organizations.</li> </ul>   | <ul style="list-style-type: none"> <li>Pay patent tax of KHR1,200,000 (~USD300)</li> <li>Declare and pay it through ACLEDA and Canadia Bank at respective Tax Branches</li> </ul>  |
| <b>Large</b>  | <ul style="list-style-type: none"> <li>Annual turnover more than KHR2,000 million (~USD500,000)</li> <li>A Qualified Investment Project approved by the Council for the Development of Cambodia</li> <li>Foreign company's branches</li> <li>Government institution, diplomatic mission and foreign consulate, International organization and other Government Technical Cooperation Agency</li> </ul>         | <p>Pay patent tax of KHR3,000,000 (~USD750) for annual turnover from KHR2,000 million up to KHR10,000 million (~USD2.5 million)</p> <ul style="list-style-type: none"> <li>KHR5,000,000 (USD1,250) for annual turnover more than KHR10,000 million (~USD2.5 million)</li> <li>Declare and pay it through ACLEDA and Canadia Bank at the Department of Large Taxpayers</li> </ul> |



**“Turnover”** refers to the value of the supply of goods or services from the taxpayer’s business activity.

Additional Patent Tax shall be paid under the following conditions:-

- If an enterprise changes the business activity or the address to different cities or provinces; or
- If an enterprise carries out different types of businesses, a separate patent tax certificate is required for each activity.
- If the enterprise carries out any branch, warehouse or business in different cities or provinces, a separate patent tax certificate for each location is required. However, Large Taxpayers is required to pay KHR3,000,000 (~USD750) for each additional patent tax certificate, if the enterprise carries out any branch, warehouse or business in different cities or provinces.

In respect of this, it is noted that taxpayers that have completed the update of tax registration information and obtained the new **Tax Registration Identification Card (Tax ID card)**, are not required to fill in the Patent Tax declaration form for 2016 year, and the 2016 patent tax certificate will be issued to taxpayers immediately, once the tax payment is made.

Taxpayers that have not completed the update of tax registration information, not obtained the new Tax ID card or have not registered, must fill in the new patent tax declaration form and then are required to apply for update or registration at the Department of Large Taxpayer, Tax Branches or Registration Working Group at 6th floor of the National Tax School, in order to receive the 2016 Patent Tax certificate.

## Our comment

Following the above Prakas, it seems that there is now only one tax regime (i.e. Real Regime), as the Estimated Regime would be eliminated which would now mean that all taxpayers have to be registered under the Real Regime system based on the classification above. However, the required documents and procedure to register and convert the existing Estimated Regime taxpayers into Real Regime taxpayers are not yet available. As verbally advised by various tax officials, related Prakas or Notification will be issued for further explanation and clarification.

In addition, with regard to the declaration of 2016 Patent Tax, we recommend those taxpayers, who have not completed their update of tax registration information to do so as soon as possible in order to obtain the 2016 Patent Tax certificate.



## Prakas on determination of rules and procedures for the implementation of the simplified account booking for small taxpayers (Prakas no. 1820.MEF.Prk dated 25 December 2015)

On 25 December 2015, the MoEF has also issued a **Prakas no. 1820. MEF.Prk** to provide further rules and procedures for the implementation of the simplified accounting for small taxpayers. The objective of this Prakas is stated to provide guidance on simplified accounting requirement in order to facilitate the small and family businesses operations.

In brief, the Prakas stipulates that the small taxpayer is required to maintain only 3 simplified accounting books such as:

- Purchase Day Book is to record daily purchases including fixed assets, goods for sale and services, raw material, staff-worker, water-electricity, rental, etc.
- Sales Day Book is to record transactions on the supply of goods or services.
- Inventory Book is to record the beginning stock, purchase during the year, and ending stock for enterprises who making supply of goods. For enterprises who make supply of both goods and services, the enterprises may not maintain the Inventory Book if the estimated revenue generated from the supply of goods is equal to 10% or less than the total supplies.

In addition, the Prakas also requires small taxpayers to follow specific tax treatments for various items such as withholding tax obligation, capitalization of fixed assets, tax loss carry forward, and limitation of VAT input claim etc., as indicated in more details in the Prakas above.

Furthermore, the Prakas also gives wide power to the Tax Office to deem estimated revenue and reassessed tax on profit on deemed taxable profit at a rate ranging from 20%, 40% to 50%.

### Our comment

It seems that the Tax Office is trying to facilitate the conversion from Estimated Regime to Real Regime taxpayers by issuing this Prakas to provide clear guidance and instruction for both the accounting and tax perspectives for small taxpayers to follow, as well as imposing penalties in cases where the small taxpayers do not follow the rules.

Where most of the Small and Medium Enterprises (SMEs) were under Estimated Regime where there was a lack of clarification and little compliance with regard to accounting and tax treatment. The simple accounting and tax requirements and imposition of penalties for any non-compliance set out in this Prakas may help the Tax Office to enhance compliance, while somewhat increasing transparency in tax collection revenue.

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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