

Tax Updates for Local and Foreign Non-Governmental Organizations

DFDL

18 July 2019

LINDA OUM



SPEAKER



LINDA OUM

*Deputy Tax Manager
Cambodia Tax Practice Group
linda.oum@dfd.com*



A hand is holding a dark wooden letter 'T' on a grey surface. To the right, the wooden letters 'A' and 'X' are visible. A dark green circular graphic with a white horizontal line above the text is overlaid on the right side of the image.

TAX
UPDATES

TAX REGISTRATION

Self-assessment regime of taxation is divided as follows:

SMALL TAXPAYERS

- Enterprises that have annual turnover from KHR250 million (USD62,500) to KHR700 million (USD175,000);
- Participate in any bidding, quotation or survey for the supply of goods and services including duties.

MEDIUM TAXPAYERS

- Enterprises that have annual turnover from KHR700 million (USD175,000) to KHR4 billion (USD1 million) or that have been registered as a legal person;
- Sub-national government bodies, associations, **LNGOs and FNGOs**; and
- Government Bodies, Foreign Diplomatic, and Consular missions, International Organization and Agencies.

LARGE TAXPAYERS

- Enterprises that have annual turnover over KHR4 billion (USD1 million) or that have registered as a Qualified Investment Project (QIP);
- Government Bodies, Foreign Diplomatic and Consular missions, **International Organization and Agencies**.



TAX REGISTRATION (CONT.)



- ❑ **Local Non-Governmental Organization (“LNGO”)**
 - Established under the laws of Cambodia by natural persons and/or legal entities aiming at providing funds and services in one or several sectors for the public interest without generating or sharing profits
 - Register with the Ministry of interior.
 - Register with the GDT
- ❑ **Foreign Non-Governmental Organization (“FNGO”)**
 - legal organization established outside the country aiming at conducting activities to serve the public interest without generating profits.
 - register with the Ministry of Foreign Affairs and International Cooperation by signing a MOU.
 - Register with the GDT
- ❑ **International Organization (“IO”)**
 - the inter- Governmental Organization (at least two governments) such as World Bank, JICA
 - Aiming at conducting activities to serve the public interest without generating profits.
 - Register with the GDT

TAX REGISTRATION (CONT.)



Compliance with the tax regulations.

▪ Article 20 of the Law on Association and Non-Governmental Organizations:

*An association or **non-governmental organization**, which has registered or signed a Memorandum of Understanding, shall be subjected to the **existing taxation regime law**, and receive incentives and enjoy exemptions in accordance with the existing laws and provisions.*

▪ Article 3 of the LOT:

***Legal Person** refers to any enterprise or organization carrying on a business whether or not officially recognized by the competent institutions of the Royal Government. The term “Legal Person” includes any government institution, religious organization, **charitable organization, non-profit organization**. For non-resident person, the term “Legal Person” means any permanent establishment in the Kingdom of Cambodia. The term “Legal Person” does not include a pass-through or sole-proprietorship.*





RECENT
DEVELOPMENT

1. Prakas no. 464 MEF.PrK
2. Prakas no. 006 MEF

PRAKAS NO. 464 MEF.PRK DATED 12 APRIL 2018

Instruction on Tax Compliance of Associations and Non-Governmental Organizations

Article 4: Definition

1. *“**Association** refers to membership organization or similar organization created by individuals or/and entities with the aims of representing and protecting the interest of its members without seeking any profit or sharing proceeds. Association also includes commercial, industrial or agricultural chamber. For the purpose of this Prakas, an association created in Cambodia is referred to as “**Local Association**”, while an association created outside Cambodia is referred to as “**Foreign Association**”.*
2. *“**NGO** refers to non-membership organization or similar organization, including foundation, created by individuals or/and entities other than government institutions with the aim of providing funds or services in one or more sectors to serve the public interest without seeking any profit or sharing proceeds. For the purpose of this Prakas, an NGO created in Cambodia is referred to as “**Local NGO**”, while an NGO created outside Cambodia is referred to as “**Foreign NGO**”.*



PRAKAS NO. 464 MEF.PRK DATED 12 APRIL 2018 (cont.)

Instruction on Tax Compliance of Associations and Non-Governmental Organizations

Article 5: Tax registration

“... All associations and NGOs are required to register with tax administration in accordance with the applicable tax laws and regulations.”

Article 6: Exemption from income tax

“... Income subject to tax exemption under this Prakas includes legal funds or donation from individuals or entities, resources or assets of the association or NGO, contribution of its members, and other sources of income, except the income from business activities as stated in article 8 of this Prakas.”



PRAKAS NO. 464 MEF.PRK DATED 12 APRIL 2018 (cont.)

Instruction on Tax Compliance of Associations and Non-Governmental Organizations

▪Article 8: Activities not related to its objectives

1. *“All activities of associations or NGOs, which are not related to their objectives as stated in paragraph a, article 6 of this Prakas, for the purpose of seeking profit or funds are deemed as separate business activities and shall be subject to tax in accordance with applicable tax laws and regulations.”*
2. *“The associations and NGO shall be obliged to register with tax administration and record a separate account book for their business activities which are outside their principal objectives.”*
3. *“Separate business activities of the association and NGO in this article shall be categorized into any type of taxpayer based on their annual turnover as stated in Prakas no. 025 MEF.PrK.GDT dated 24 January 2018.”*



PRAKAS NO. 464 MEF.PRK DATED 12 APRIL 2018 (cont.)

- **Business activities provided as examples under Prakas 464**
 - Restaurant;
 - Motor vehicle repair house; and
 - Training school.

Income generated by these business activities are subject to TOI even if it is used to support the organization's activities.



PRAKAS NO. 006 MEF DATED 30 JANUARY 2019

- Association and NGOs are required to register for tax by 31 March 2019. Association and NGO registered within the aforementioned period will be forgiven for any penalty such as penalty on obstruction of the implementation of tax law, additional tax, and interest on late payment of taxes related to tax registration.
- Association and NGOs that are not operated exclusive for charitable purpose are required to register separately latest by 31 March 2019 in accordance with Prakas 464 dated 12 April 2018 and Prakas 025 dated 24 January 2018. Tax registration within the aforementioned period will be forgiven for any penalty such as penalty on obstruction of the implementation of tax law, additional tax, and interest on late payment of taxes related to tax registration.
- After the tax registration, association and NGOs shall comply with the tax laws effective from the date of the tax registration without retroactive manner.
- Association and NGOs which have already registered for tax and have been complying with the tax laws shall be forgiven of any penalty in case they voluntarily amend their tax returns and pay additional taxes on underpayment of taxes not later than 31 March 2019.



NEXT STEPS

1

Register for Tax.

2

Evaluate Exposure – especially for WHT, TOS & TOFB for both locals and expatriates.

3

Obtain Tax Exemption Certificates for TOI , VAT, and TOS (if applicable).

4

Make sure that all filings are current.



EXCELLENCE · CREATIVITY · TRUST

Since 1994

BANGLADESH | CAMBODIA* | INDONESIA* | LAO PDR | MYANMAR | PHILIPPINES* | SINGAPORE | THAILAND | VIETNAM

* DFDL collaborating firms