

UPDATES



Samantha Keith Attorneys at Law

LAW ON TAXATION 2023 (Royal Kram No. NS/RKM/0523/004, dated 16 May 2023)

As of May 16, 2023, the 2023 Law on Taxation will replace the previous LoT from February 24, 1997, the revised LoT from March 31, 2003, and any other regulations that conflict with the new law. The 2023 LoT encompasses 20 chapters and 255 articles, consolidating 15 types of taxes currently in place in Cambodia. Its purpose is to complement, ensure consistency, and address gaps in existing regulation.

The following are the significant modifications included in the 2023 List of

There have been significant updates made to the provisions and articles.

UPDATES

COMPONENT

Chapter 2 - Income Tax Act deals

As per the recent legal amendment, the definition of "**LEGAL PERSON**" now encompasses associations and political parties as well.

Article 5 Definition

The definition of **Permanent Establishment (PE)** has been expanded in the new 2023 Law on Taxation (LoT). Now, any person who has the authority to sign contracts in the name of a non-resident or plays a significant role in facilitating the conclusion of a contract is considered a PE. However, the PE definition under Prakas 098, which covers non-resident online businesses providing goods or services in Cambodia, is not included in the new PE definition under the 2023 LoT.

Furthermore, the term "**CONTROL**" in the definition of "related person" refers to the ownership of 20 percent or more of the enterprise's value or voting power of equity interest.

The new LoT introduces the term "**Joint Venture**," which refers to joint business activities between resident/non-resident taxpayers of two or more parties without establishing separate legal entities.

ARTICLE 10

Article 10 – Determination of Income of Partnership and Joint Venture This Article shall now apply to both Partnerships and Joint Ventures.

ARTICLE 18

Allocation of Income and Deduction Among Taxpayers Income from supply of similar goods or services by non-resident taxpayers' PE in Cambodia is taxable.

ARTICLE 24

Minimum Tax It is proposed that QIP should be exempted from (MT) and be required to have audited financial statements.

ARTICLE 68

Input Tax Credit and Non-Taxable Supplies
Chapter 4 – Value Added Tax, VAT input credits are allowed for and non-taxable supplies w/o conditions. However, this provisions applies only to diplomatic consular mission, international organizations, & government technical cooperation agencies.

ARTICLE 75

Implementation of VAT for Qualified Investment Project (QIP) The supply of locally produced inputs for QIP implementation, as stated in the Law on Investment of Cambodia, is subject to (zero) 0% VAT.

Chapter 5 – Specific Tax

The term “Specific Tax on Certain Merchandise or Services” (STCMS) is replaced by the term “Specific Tax” (ST).

ARTICLE 97

Time of Supply
Chapter 6 – Public Lighting Tax, Public Lighting Tax (PLT) shall be due and payable at the first stage of the supply chain. Previously, PLT is imposed on all stages of the supply chain.

Chapter 9 – Tax on Advertising Banner

The term “Stamp Tax” is replaced by the term “Tax on Advertising Banner”.

Chapter 11 – Tax on Immovable Property Rental

The term "Tax on House and Land Rental" has been replaced with "Tax on Immovable Property Rental".

Article 157

Chapter 13 – Stamp Duty,

.Real estate company is defined to cover any companies with direct or indirect ownership of immovable properties that account for more than 50 percent of the total value of fixed asset of the company. The term “movable properties” refers to all means of transportation including ships, ferries, boats, motorboats, speedboats, cars, truck, semi-truck, motorcycle, tricycle, tractor, and similar vehicles.

Chapter 16 – Tax on Transportation Means

The term "Tax on Transportation and All Kinds of Vehicles" has been replaced with "Tax on Transportation Means".

ARTICLE 194

Powers and Obligations of the Tax Administration

The tax administration has been granted additional powers beyond what was stated in the previous LoT. This includes the authority to reject or re-evaluate the actual components of any transactions, if it is found that the taxpayer has intentionally provided false information in order to reduce or elim-

Chapter 17 – Rules and Procedures on Taxation,

ARTICLE 202

Right to Receive Information

Please find below the key points mentioned in this Article:

- Taxpayers, banks, insurance enterprises, and financial institutions must submit reports or response letters to the tax administration within 30 days of receiving the request for taxpayer’s information.
- Any person shall report to tax administration on the related tax information. A “person” refers to both physical and legal persons, although the new LoT did not provide further criteria on who should be covered by this provision.
- -Professional confidentiality will not prevent the implementation of any articles under this 2023 LoT.

ARTICLE 235

Cash Penalty for Obstruction of the Implementation of Tax Provisions under Administrative Sanctions

There has been a significant increase in fines and penalties for obstructing tax provisions.

NON-COMPLIANCE PENALTY

PENALTY

Failure to register, update tax information, and file a tax declaration, despite receiving a warning letter

KHR5M
(USD1,250)

*Failure to use a recording system and keep proper accounting records and documents

KHR10M
(USD2,500)

*Failure to issue invoices

*Failure to provide requesting information and/or not permitting the tax administration to check the enterprise’s accounting records and any documents

Taxpayers who have paid the above mentioned fines and still repeat the behaviors that lead to the obstruction of the implementation of tax provisions

Criminal penalties

Article 242

Tax Evasion Offense

Imprisonment from 1 year to 5 years plus a fine of KHR100M to KHR200M (USD25,000 to USD50,000)

Article 243

Criminal Sanctions for Obstruction of the Implementation of Tax Provisions

Imprisonment from 1 month to 1 year plus fine of KHR50M to KHR100M (USD12,500 to USD25,000)

Article 244

Violation of Confidentiality

Article 245

Practicing as a Tax Agent without a License

Imprisonment from 1 month to 1 year plus a fine of KHR10M to KHR20M (□ USD2,500 to USD5,000)

Article 246

Failure to Pay the Collected Taxes

Imprisonment from 1 year to 3 years plus a fine from KHR50M to KHR100M (□ USD12,500 to USD25,000)

Article 247

2. Newly Added

There are 61 new articles added to the LoT, 30 of which pertain to tax collection rules and procedures. Below are some noteworthy new articles.

ARTICLES	STATE
Chapter 8 – Patent Tax,	Patent tax exemption shall be provided to the following:
Article 110 – Patent Tax Exemption	<ul style="list-style-type: none">*Government institutions, diplomatic missions, consular missions, international organization, agencies of technical cooperation's of other government's*Organizations established for the purpose of religion, charity, science, literature, education (i.e., not for personal benefits)*All business activities having 'turnover' lower than the threshold as per taxpayer's classification
Chapter 14 – Capital Gain Tax,	The new Law on Taxation (LoT) has introduced a provision that outlines the taxation of capital gains. This applies to the sale or transfer of capital in Cambodia or abroad by a physical resident person, as well as the sale or transfer of capital in Cambodia by non-residents. The term "capital" includes immovable properties, finance lease, investment assets, intellectual properties, and foreign currencies. This definition is based on the one provided in the CGT regulation (Prakas 346).
Article 165 – Objective of Tax	
Chapter 17 – Rules and Procedures on Taxation,	
Article 196 – Rights and Power of the Country Under Emergency State	In case of economic crisis or emergency, government may provide tax incentives upon MoEF's request.
Article 215 – of Business or Share Transfer and Merger	In the case of business or share transfer or merger, the new owner or the incoming enterprise shall be responsible for all the enterprise's tax liability.
Chapter 18 – Regulatory Penalties,	
Article 227 – Reason for Lawsuit Dismissal	The tax administration can intervene with courts if enterprise settles tax, including penalties and interest, for tax-related criminal offenses.

Article 228 – Competence in Criminal Case

Article 229 – Judicial Police Rehabilitation of Tax Official Competence in Criminal Case

These two Articles were added to reflect the tax administration's rights and power to investigate and handle all tax-related criminal offense.

Article 231 – Types of Administrative Sanctions

The tax administration shall determine the sanctions imposed on the enterprise, which may include additional taxes, interest, cash penalties, suspension of business license or activities, and others.

Article 234 – Written Warning Letter

The tax administration must issue a written warning if the taxpayer fails to register, update, or file taxes.

OVERVIEW

On May 16th, 2023, a new law regarding taxation in Cambodia, known as the "New Taxation Law", was introduced through Royal Kram No. NS/RKM/0523/004. This law supersedes the previous laws on taxation, namely the Law on Taxation from February 24, 1997 (Royal Kram No. NS/RK/0297/03) and the Law on Amendment to the Law on Taxation from March 31, 2003 (Royal Kram No. NS/RK/0303/010).

The New Taxation Law comprises of 20 chapters and 255 articles, which is a significant increase from the previous Law on Taxation that had only 7 chapters and 155 articles. Although it does not represent a complete overhaul of the country's existing tax framework, the new law aims to fill gaps and ensure consistency by