



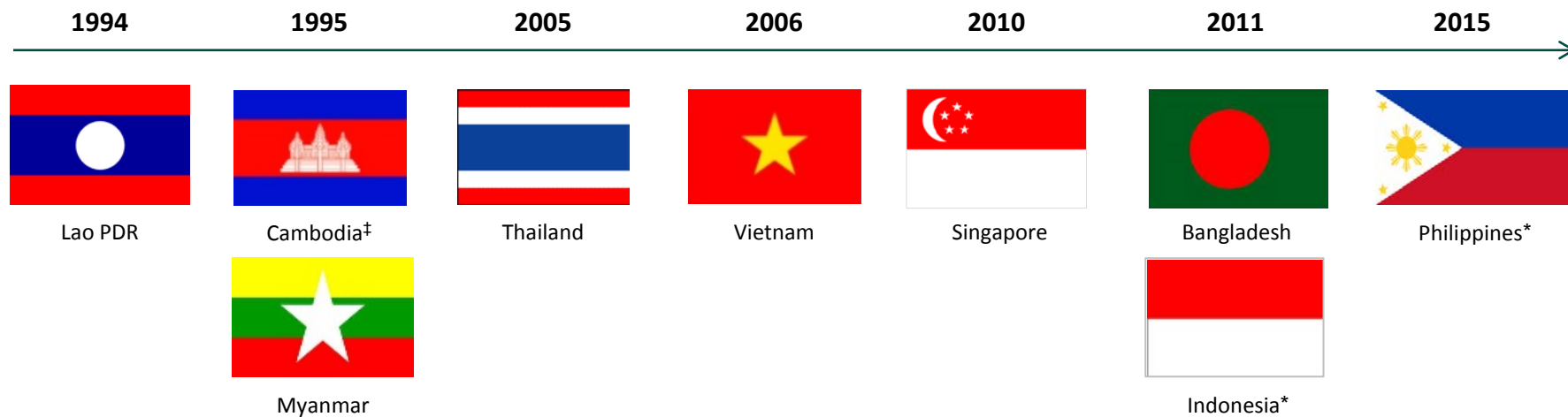
Cambodia Tax and Investment Briefing

Clint O'Connell

Bangkok, Thailand - 19 May 2016

What makes us unique?

“We are pioneers in emerging markets”



*DFDL collaborating firms | †In commercial cooperation with Sarin & Associates

Regional Reach: ASEAN and South Asia



Bangladesh (2011)

Country Partner: 1

Advisers: 5

Cambodia* (1995)

Sarin & Associates

Partners: 5

Advisers: 42

Lao PDR (1994)

Partners: 2

Senior counsels: 1

Advisers: 10

Indonesia* (2011)

Mataram Partners

Partner: 1

Advisers: 10

Myanmar (1995)

Partners: 2

Senior Counsel: 1

Advisers: 20



Philippines* (2015)

Ocampo & Suralvo Law Office

Partners: 3

Singapore (2010)

Partners: 2

Advisers: 3

Thailand (2005)

Partners: 4

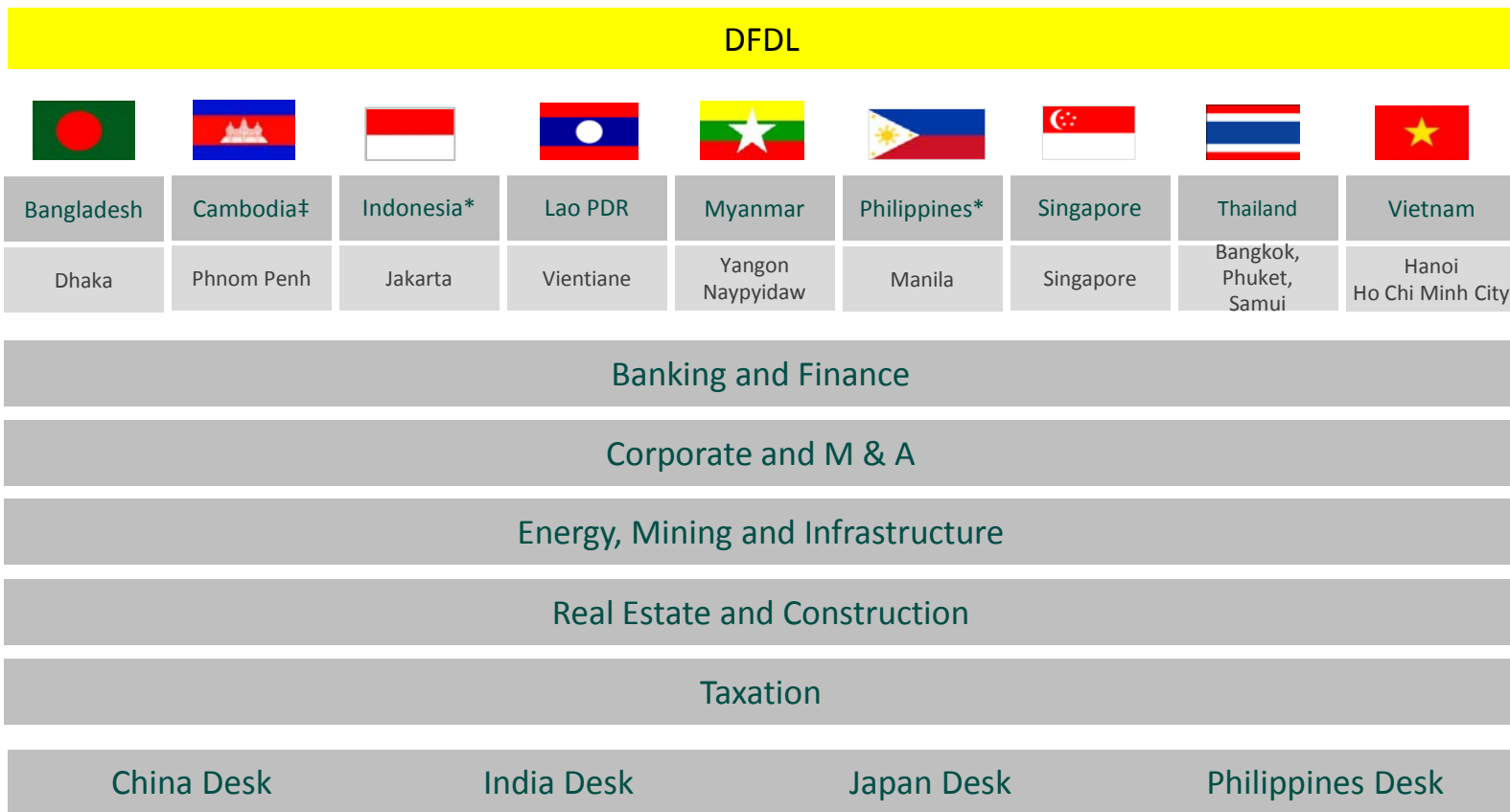
Advisers: 28

Vietnam (2006)

Partners: 4

Advisers: 17

In Cambodia, DFDL works in commercial cooperation with Sarin & Associates. In Indonesia, DFDL works in association with Mataram Partners. DFDL collaborates with Philippine law firm, Ocampo & Suralvo Law Offices, which provides local legal advice.



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Overview of Foreign Investment in Cambodia

2

Tax Regime in Cambodia

3

Tax Issues facing Foreign Investors

- Qualified Investment Projects (QIP)
- Register with the Council for Development of Cambodia (CDC)
- Negative List
- Investment incentives

Some of the projects included in the Negative List:

- All kinds of commercial activities, import and export, any transportation services (except railway sector)
- Currency and financial services
- Activities related to newspaper and media
- Production of tobacco products
- Provision of value added services of all kinds of telecommunication services
- Real estate development (with some exception)

- Minimum Tax exemption
- Why is this important?
- Tax holiday (trigger period + 3 years + priority period) /Special depreciation (maximum 9 years tax holidays)
- Custom duties exemption

The Law On Commercial Enterprise

- Limited liability company
- Branch/subsidiary
- Representative Office

- a) Public and private limited company
- b) No restriction on foreign ownership
- c) Shareholders – 1 to 30
- d) Directors – 1 or more
- e) Minimum capital is USD1,000
- f) Khmer company – 51% owned by Cambodian

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Tax Issues facing Foreign Investors

- Tax regime change
- Disputes resolution committee
- Accounting procedures for small taxpayers
- More stringent invoicing requirements
- DTA - Singapore

- Withholding Tax
- Tax on Salary and Tax on Fringe benefit
- Value Added Tax
- Prepayment of Tax on Profit
- Tax on Profit / Minimum Tax

Payment to residents:

- Rental/Operating leases – 10%
- Interest expenses – 15% (except to local banks)
- Royalties – 15%
- Services – 15% for R & M, casual workers, etc

Payments to non resident - 14%

- Interest
- Royalties
- Management or technical service (not defined)
- Dividend

- Resident – worldwide employment income (0% to 20%)
- Non-resident – Cambodian employment income. (20% flat)
- Residency – Cambodian resident includes person who:
 - I. Domicile in Cambodia
 - II. Place of abode in Cambodia
 - III. Present in Cambodia > 182 days in any 12 months period

- Fringe benefits are benefits in cash or kind provided to staff
(local/expatriate)
- Benefit including accommodation, meals, utilities, vehicle, life or health insurance etc
- Rate – 20%

Output – 10%

- I. Sales of finished products
- II. Sales of by-products, scrapped materials
- III. Sales of fixed assets

Input – 10%

- I. Import of goods
- II. Local purchase – fixed phone, professional services, purchase of fixed assets, etc

- Turnover – is not defined
- Rate – 1% of monthly turnover exclusive of VAT

- Rate – 0% and 20%
- Non deductible expenses – entertainment expense, provision etc
- Deductibility of interest expenses
- Depreciation of fixed assets

Or

Minimum Tax – 1% of annual turnover

- Carry forward - 5 years
- Subject to certain conditions i.e. change of ownership, business activities, etc

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Tax Issues facing Foreign Investors

Additional Tax on Profit (AToP)

- No AToP – taxpayers subject to 20% ToP
- 11/91 (just over 12%) – taxpayers subject to 9% ToP
- 20/100 (20%) – taxpayers subject to 0% ToP

WHT @ 14% on dividend paid to non-resident

Effective tax paid on dividend – 31.2%

Alternatives to Dividends:

- Debt (negative gearing) principal no tax – WHT on interest
- Cambodia does not have any thin capitalisation rules i.e. Debt/equity
- Intercompany agreements i.e.
 - a) Management agreement,
 - b) Licence agreement,
 - c) Consultancy agreements
- WHT @14 versus 31.2%
- No transfer pricing regime in Cambodia, however,
- Beware Article 18 of the Law on Taxation

Asset sale or share sale?

(1) Asset sale

- i. 20% ToP on any gain
- ii. VAT
- iii. Tax clearance certificate

(2) Share sale

- i. Gains from shares taxable
- ii. Currently no mechanism to tax non-resident
- iii. Share sale at offshore Holding Company level
- iv. Corporate structure important

- Reduction of share capital
- Mergers
- Foreign Exchange
- Land ownership
- Double Tax Agreement

Thank you



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