DFDL

Cambodia Tax and Investment Briefing

Clint O'Connell

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What makes us unique?

DFDL

"We are pioneers in emerging markets"

1994	1995	2005	2006	2010	2011	2015
Lao PDR	Cambodia‡	Thailand	Vietnam	Singapore	Bangladesh	Philippines*
	Myanmar				Indonesia*	

*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.

DFDL Organization

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	Bangladesh	Cambodia‡	Indonesia*	Lao PDR	Myanmar	Philippines*	Singapore	Thailand	Vietnam
BUSINESS UNITS	Dhaka	Phnom Penh	Jakarta	Vientiane	Yangon Naypyidaw	Manila	Singapore	Bangkok, Phuket, Samui	Hanoi Ho Chi Minh City

REGIONAL PRACTICE GROUPS

- Banking and Finance
- Corporate and M & A
- Energy, Mining and Infrastructure
- Real Estate and Construction
- Taxation

ASIAN DESKS

China Desk | India Desk | Japan Desk | Philippines Desk

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Agenda

1 Overview of Foreign Investment in Cambodia

2 Tax Regime in Cambodia

3 Tax Issues facing Foreign Investors

Investing in Cambodia - Law on Investment

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

Negative List

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)

Investment incentives

- 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

Types of legal entities

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The Law On Commercial Enterprise

- Limited liability company
- Branch/subsidiary
- Representative Office

Limited Liability Company

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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Recent Developments

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

Major taxes in Cambodia

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

Withholding Tax (WHT)

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Payment to residents:

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

Withholding Tax (WHT)

*Payments to non resident - **14%***

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

Tax on Salary

- 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

Tax on Fringe Benefit

- 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%

Value Added Tax (VAT)

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*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

Prepayment of Tax on Profit

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

Tax on Profit

- 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

Tax Losses

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

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Profit Repatriation - Dividend distribution

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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%

Profit Repatriation

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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

Exit

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

Other points to note

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

Thank you

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