
THAILAND
LAOS
CAMBODIA
Sisophon
Temples of Angkor
Siem Reap
Stoeng Treng
Batdambang
Tonle Sap
Mekong
Pouthisat
Kracheh
Kampong
Chhnang
Kampong
Cham
Krong
Kaoh
Kong
PHNOM
PENH
VIETNAM
Kampong
Saom
Kampot
GULF OF
THAILAND
SOUTH CHINA
SEA
50 km
50 miles
© wordtravels.com

C A M B O D I A

CAMBODIA

Capital	: Phnom Penh
Land area	: 69, 898 sq mi
Population	: 13, 388, 910 (2008 estimate)
Official Language	: Khmer
Religion	: Buddhism, Islam, Christianity
Member of	: WTO
Currency	: United State Dollar (USD) and Cambodian Riel (CR)
GDP	: $12.61 billion (2007 estimate)
Major Industries	: Tourism, garments, rice milling, fishing, wood and wood products, rubber, cement, gem mining, textiles
Major Exports	: Clothing, timber, rubber, rice, fish, tobacco, footwear
Major Imports	: Petroleum products, cigarettes, gold, construction materials, machinery, motor vehicles, pharmaceutical products

INTRODUCTION

Cambodia is situated in the heart of the Southeast Asian region, bordered by Thailand and the Lao People¡s Democratic Republic on the west and north, the Socialist Republic of Vietnam on the east and southeast, and the Gulf of Thailand to the southwest. The country occupies an area of about 181,035 square kilometers, and is divided into 23 provinces.

Combodia is rich in natural resources, particularly gems, rubber, timber and fisheries, and has vast areas of land for agricultural development and an abundant supply of low cost labour. In recent years there has been an increase in interest in off-shore oil exploration.

The total population is approximately 13 million and is growing at an estimated rate of 2.5% to 3% annually. About 90% of the population are ethnic Khmer, with the remainder of the population being Chinese, Vietnamese, Cham and Khmer Highland ethnicity. Around 85% of the population lives in rural areas.

Khmer is the official language, although English, French and Chinese are widely used, particularly in commerce and industry.

The predominant religion of Cambodia is Theravada Buddhism, which is practiced by approximately by 90% of the population.

The basic unit of currency is the Riel, although the US Dollar is in common circulation and majority of commerce is denominated in US dollars.

FOREIGN INVESTMENTS

Cambodia offers many opportunities to investors with its open free market system, plentiful natural resources and low cost labour force. It has an open approach to foreign investment in which wholly owned or controlled foreign investment are allowed in almost all types of industries and business activities.

The Law on Investments 1994 (amended in 2003) provided generous incentives that are attractive to foreign investors. The Council for the Development of Cambodia was created as a ¡one-stop-service¡ to facilitate foreign investments. The Cambodian Investment Board (CIB), the operational arm of the CDC, is responsible for evaluating and approving private investment projects, and granting investment incentives.

Investment incentives may be granted to investors investing in the areas of pioneer and high-tech, labour intensive that lead to job creation, export-orientation, tourism, agro-processing, physical infrastructure and energy, provincial and rural development.

Environmental protection, and designated special promotion zones (SPZ) and export processing zones (EPZ) are listed as development priority.

Qualified investment projects (QIPs) that are approved by the CDC are eligible for investment incentives. A conditional registration certificate issued to a QIP will specify the approvals, authorizations and licenses that enable it to operate and confirm the investment incentives.

Investment guarantees are also provided to investors in the form of equal treatment of all investors, no nationalisation policy that would adversely affect private properties of investors, no price controls on the products or services produced by investors, and no restriction on the purchase of foreign currencies through the banking system or remittance of those currencies abroad as payments for imports, repayment of loans, payment for royalty and management fees, profit remittances and repatriation of capital.

A legal person that has also acquired a QIP through a merger or takeover may on application to the CDC inherit all and any guarantees, rights, privileges, incentives and obligations granted to the QIP, subject to the merger or acquisition procedures specified by law.

Investment Incentives

1. Exemption from corporate profit tax, which is subject to an annual certificate of obligation satisfaction. The tax exemption period is composed of a trigger period of 3 years plus a priority period as determined by law. The maximum trigger period is to be the first year of profit or three years after the QIP earns it first revenue, whichever is sooner.

2. A preferential corporate profit tax rate of 9% for a period up to 2007 (a transitional period), thereafter and after the exemption period, the tax rate will increase to 20%.

3. Exemption from import duty on the importation of production equipment and input, and construction materials for a domestically oriented QIP.

4. Exemption from import duty on the importation of production equipment, construction materials, raw materials, intermediate goods, and production input accessories for an export QIP which elects or which has elected to use the Customs Manufacturing Bonded Warehouse mechanism.

5. Exemption from import duty on the importation of production equipment, construction materials, raw materials, intermediate goods, and production input accessories for a supporting industry QIP.

6. Exemption from the export tax, except for activities prohibited by law.

7. Allowance fro special depreciation at rate of 40% of the cost of eligible capital expenditure in place of a tax exemption period.

Other incentives provided include employment of foreign nationals (subject to immigration laws), and long-term lease on land.

TAXATION

THE Law on Taxation of 1997 (and its subsequent amendments in March 2003) governs Taxation in Cambodia. The main taxes imposed are the profit tax, minimum tax, tax on salary, fringe benefits tax, value added tax, withholding tax, special tax on certain goods and merchandises, tax on public lighting and import duties.

Taxpayers are categorized into three main regimes, i.e. the real regime, simplified and estimate regime. A legal person and QIP fall under the real regime system of tax and are subject to the profit tax.

Resident legal persons are subject to tax on worldwide income, whereas non-resident legal persons are subject to tax only on Cambodia source income. Real regime taxpayers that do not have investment privileges are subject to a flat corporate profit tax rate of 20%.

Value added tax is levied on a wide range of taxable goods and services supplied in Cambodia and on the importation of goods and services. Value added tax is levied at a rate of 10% or 0% on export goods and services.

Resident individuals are liable for personal income tax on income from Cambodian sources and foreign sources. Non-resident persons are liable for income tax on income from Cambodian source only. Employment income is subject to tax on salary deducted at source and the highest marginal tax is 20%. At present, individual persons are not

required to file a personal income tax return and the salary tax deducted is a final tax. Other income, such as interest and dividend, is subject to the withholding tax.

Non- resident individuals are subject to the non-resident withholding tax at a flat rate of 20%.

Corporate Profit Tax

Legal persons, defined as ¡an enterprise or organization carrying on a business whether or not officially recognized by the competent authority¡, are subject to the real regime system of tax, and accordingly are subject to tax on profits. Legal persons are resident of Cambodia if they are organized and managed in Cambodia have their principal place of business in Cambodia, or permanent establishment (PE) in Cambodia.

For non- residents, the term ¡legal person¡ means any permanent establishment or a fixed place of business in Cambodia , the branch of a foreign company or an agent resident in Cambodia through which the non-resident person carries on business.

Non-profit organizations are exempted from the profit tax subject to approval by the Ministry of Economy and Finance. They include religious, charitable and non-profit organizations and government institutions.

Tax Rates

The standard corporate profit tax rate is 20%. However there are special rates for specific industries.

Insurance companies engaged in the insurance or reinsurance of life, property or other risks, are taxed at 5% of gross premiums earned in Cambodia.

Income of an oil or natural gas production sharing contact and the exploitation of natural resources including timber, ore, gold and precious stones, is taxed at 30%.

Qualified investment projects are taxed at preferential rate of 9%. The rate will increase to 20% in 2008 and after the exemption period has expired.

Taxable Income

Taxable income is gross income less allowable deductions after offsetting available tax losses. Gross income includes gains from sale of fixed assets (including land and buildings) in the course of or at the cessation of business operations, as well as income from financial or investment operations such as interest, rental and royalty.

Deductions

Expenses incurred in the course of carrying on business are allowable as tax deduction with certain limitations. The limitations apply to charitable contributions and interest expenses. Non-deductible expenses include:

- Any expense on activities generally considered to be amusement, recreation, entertainment or the use of any means in connection with such activities.
- Personal expenses, except for fringe benefits subject to fringe benefit tax.
- Loss on sales/ exchange of property, between related parties.
- Penalties and fines.
- Donations, grants or subsidies.

Depreciation

Depreciation is an allowable deduction in accordance with the rates specified if the assets are used in the course of carrying on a business. Land is not a depreciable asset.

Depreciation recovered on the disposal of an asset is included as income. Losses on disposal of assets are generally deductible where the asset has been used in the course of carrying on a business.

Qualifying investment projects may elect to adopt the special rate of 40% of the cost of eligible capital expenditure in place of the tax exemption period.

Amortization

Intangible assets, including preliminary and formation expenses, research and development costs, patents, copyrights, trademarks, computer software, and purchased goodwill can be amortized over the useful life of the property. If the life of the intangible assets cannot be determined, then a tax depreciation rate of 10% based on the straight line method is used.

All exploration and development costs of a natural resource, including interest, shall be capitalized and written off in accordance with the depletion of the resource recorded as a percentage of the estimated total production from the resource.

Losses

Losses can be carried forward to offset against future taxable income for a maximum of 5 years.

Tax Administration ¡ Tax Returns

Taxpayers are required to register with the tax authorities and obtain a tax identification number within 15 days after the commencement of business.

The corporate profit tax return must be filed within three months following the tax balance date together with the financial statements. The return must be filed irrespective of whether the company is making a profit or loss.

The tax year-end is deemed to 31 December and the tax authorities has not approved any request made by foreign companies seeking to change the tax year-end to align with that of their parent company since the adoption of the Taxation Law.

Payment of Tax

Real regime taxpayer is subject to prepayment of profit tax, which is self-assessed at 1% of turnover inclusive of all taxes except for value added tax. Payments are made on a monthly basis by the 15th day of the following month.

The minimum tax is a separate and distinct tax from the tax on profits, and is payable by taxpayers regardless of whether they are in a profit of loss situation. The minimum tax is calculated at 1% of annual gross revenue inclusive of all taxes except for value added tax. Qualified investment projects are exempted from the minimum tax.

Taxpayer is subject to either the profit tax or minimum tax which ever is highest. Prepayment of profit is deductible against the profit tax or minimum tax payable at the year-end. Late payment penalties apply to all tax payments not made by the due date.

Tax Credits

Tax paid overseas on foreign source income is available as a tax credit, subject to the taxpayer providing sufficient evidence to substantiate the foreign tax credit. The tax credit is to be determined separately for each foreign country and is the lower of the foreign tax paid or the Cambodian tax payable on the foreign income.

Book of Accounts

All books of accounts, accounting records and other documents must be maintained in Khmer language and Riel denominated, and kept for a period of 10 years.

Capital Gains Tax

Cambodia does not impose a separate tax on capital gains. Gains arising from the disposal of real property and other assets are treated as ordinary income and are therefore subject to the normal profit tax.

Tax on Dividends

Dividend is defines as a distribution of property or money, made by a legal person to a shareholder, by virtue of the equity interest held by the shareholder in the legal person. Specially excluded from the definition of dividend is a distribution arising from a complete liquidation.

Dividends received from resident companies from which the additional tax on dividend distribution and withholding tax (for non-resident shareholders) has been paid are not subject to income tax.

Dividends received from non-resident companies are subject to income tax in Cambodia. A credit is allowed against tax paid overseas on foreign source income, subject to certain conditions.

Additional Tax on Dividend Distribution

Addition tax on dividend distribution (ATDD) is imposed on dividends distributed to shareholders at a percentage equal to the standard profit tax rate of 20%. The ATDD is to be paid when a dividend is declared from earnings that had not been fully taxed.

Withholding Taxes

Withholding taxes imposed in Cambodia comprise resident withholding tax and non-resident withholding tax. Payment of withholding tax is due by the 15th day of the following month.

Payment of the certain income to residents is subject to withholding tax ranging from a high of 15% to the lowest which is 4%.

Personal Income Tax

A person is resident in Cambodia if the person ¡domiciled in¡ or the ¡a principal place of abode¡ in Cambodia, or the person is present in Cambodia for more than 182 days in any period of 12 months ending in the current tax year.

Individual residents in Cambodia are liable to income tax on Cambodia and foreign source income, whereas non-residents are subject to income tax paid is allowed against Cambodia income tax. The credit is limited to the Cambodia tax payable in respect of the overseas income.

Individuals receiving remuneration in the course of employment are subject to personal income tax known as ¡Tax on Salary¡. The remuneration includes salary, wage, bonus, overtime and other compensation. Employers are required to withholding income tax from salaries and other benefits paid to employees.

Dividend payments, whether to residents or non-residents of Cambodia, are subject to Additional Tax on Dividend Distribution and withholding tax (refer previous section). This is a final tax for the recipient of the dividend in Cambodia.

Fringe Benefits

A fringe benefits tax on employer-provided housing, cars, low-interest loans and free, subsidized or discounted goods and services is levied on employers according to the taxable value of the fringe benefits provided to their employees. The rate of tax is 20% and it is payable monthly.

Fringe benefits in which fringe benefits tax has been paid shall be deductible to the employer.

Exempt income

Employment related payments, which are not subject to income tax include:

- Re-imbursement of business expenses by the employer, provided the costs were incurred in the course of employment, the amount is not excessive and can be substantiated;
- Indemnity for layoff within the limit as stated in the Labour Law;
- Additional remuneration received with social characteristics as provided in the Labour Law;
- Supply of free or subsidized costs of uniforms or special professional equipment used in the course of employment; and
- Flat allowances for mission and travel costs received in the course of employment.

Tax Reliefs

Reliefs are provided to resident individuals for each dependent child under the age of 14 years old or up to 25 years old provided that the child is still at school and for dependent spouse (must be housewife). The allowable relief is 75,000 Riels per month.

Rates-Residents/ Non-Residents

The personal income tax rates for residents range from 0% (R500T) to 20% (R12,500T).

Non-residents are taxed according to the type of income derived from or in Cambodia. Salary income of non-resident is taxed at a flat rate of 20%. Other Cambodia source income is subject to non-resident withholding tax of 14%.

Presently, individuals are not required to file a personal income tax return.

Value Added Tax

Value Added Tax (VAT) introduced in 1999 (replacing turnover tax) is chargeable on a wide range of goods/ services supplies in Cambodia and on importation of goods.

Taxable supplies attract VAT either the standard rate of 10% or at the zero rate. Zero rating applies to export of goods and services, and certain charges in relation to international transportation of people and goods.

Exempt supplies are not subject to VAT, including postal services, hospitals/ medical services, insurance and financial services.

VAT registration must be made at the commencement of business operations or within 30 days in which the taxpayer becomes a taxable person. VAT returns and payment are due to be filed and paid to the Tax Department by 20th day of the following month.

VAT is payable at 10% on imports by reference to the value of the import, including any customs duty, insurance and freight charges.

Import duties

Import duties have been simplified to a four-band system, with the rates ranging from 0% to 50%. These four bands are broadly defined as:

- 50% for many key consumer goods
- 35% for industries with some ¡infant industry potential¡
- 15% for capital goods
- 7% for inputs used in domestic production

Items exempt from import duties include agricultural equipment and inputs, school facilities, pharmaceutical products, spot facilities, fertilizer, rice seeds and tractors.

Exemptions can also be obtained as part the invectives offered by the Council for the Development of Cambodia for qualified investment projects (refer section II).

Imported items are subject to VAT, although, goods imported for re-export are generally exempted from import duty and VAT.

Patent Tax

Patent tax is a yearly business registration tax that all enterprises carrying on business activities in Cambodia are required to pay by 31 March each year. A patent tax certificate will be issued by the tax authorities after the payment of tax due. The certificate is required for the customs clearance of the products import or export to/ from Cambodia. The patent tax is levied at 1,140,000 Riels (about US$ 300).

Tax on Public Lighting

Tax on public lighting is tax levied on the sale of tobacco and cigarette products at each stage of supply. The rate of tax is 3% of the selling price. The revenue from the collection of this tax is to be used to improve public lighting in cities and the provinces.

Stamp Duty

Stamp duty is levied at 6% on the registration of ownership of real property or other immovable assets, and is calculated based on the property value as determined by the Land Registry Office depending on its location.

Legal documents are subject to stamp duty of 100,000 Riels (about US$ 25) are company formation, company merger, dissolution of a company, and an agreement to provide goods or services to public organizations.

TRADE AND COMMERCE

The Cambodia legal system has evolved slowly over the years, however the government has pledged to devote full energies to acceleration economic and political reform program.

Cambodia enjoys Normal Trade Relations and GSP benefits from the United States and many other trading partners. The country has recently been accepted as member of the WTO and is on track to joining the ASEAN Free Trade Area.

Registration of Enterprises

There is no Company Law effective in Cambodia as the Law of Commercial Enterprises is currently in the draft stage. However, matters in relation to corporate structure, shareholders rights and other corporate governance are dealt with by the Law on Commercial Regulations and the Commercial Register 1995.

The Ministry of Commerce maintains a commercial register of all business in Cambodia and registration of business/ enterprise is a simple process. The current regulations allow foreign owned or controlled comprises to undertake business activities in almost all type of industries, provided that prior approval is obtained for restricted sectors such as banking, finance and insurance.

Under the Cambodia Constitution 1993, only Cambodia nationals have the right to own land. A legal entity is considered to have Cambodia nationally if it has more than 50% of its shares are owned by Cambodia nationals.

Corporate Accounts

The enactment of the Law on Corporate Accounts, their Audit, and the Accounting Profession 2002 has seen the start of the development of the accounting profession in Cambodia. The National Accounting Council and Kampuchea Institute of Certified Public Accountants and Auditors have been established in 2003.

Companies that have met the criteria set in the law are required to prepare their financial statements in compliance with international standards and have their financial statements audited by registered auditors.

Trade Barriers

Most non-tariff barriers to trade had been eliminated with minimal restrictions on certain products such as firearms, pharmaceuticals, precious stones and other strategical items of national interest. Import licenses are required for these products.

Export licenses are required for antiques, precious metals and stones, rubber and timber. Garment exports require certificates of origin from the Ministry of Commerce.

Exchange Control

There are currently no restrictions on the repatriation of profits or capital from Cambodia, and the Law on Investment 1994 guarantees the rights of foreign investors to remit foreign currencies abroad.

The Foreign Exchange Law 1997 provides for foreign currencies to be freely purchased via the banking system. There are no restrictions on foreign exchange operations; however, these operations can only be performed through an authorized financial institution.

Disclaimer Notices

The views expressed in this publication are not the official opinion of the Company, partners and member firms, their Councils or any of their Committees. The views are provided gratuitously and without liability. Neither the Company, partners nor member firms, their Councils or any of their Committees shall be responsible or liable for any claims, loss, damages, costs or expenses arising in any way out of or in connection with any person relying upon such views.

It will often be necessary to refer to the laws and regulation of Cambodia and to obtain appropriate accounting and legal advice when specific problem occurs in practice.