



White Book 2021 - 2024



Working Group D

“Law, Tax and Governance”

Issues – Recommendations – Responses

The Government-Private Sector Forum (G-PSF) aims to help the Kingdom of Cambodia improve its economy by forging strong ties between the government and the private sector. Its basic mission is to achieve the following goals:

- Promote communication, cooperation and understanding between the private sector and the Royal Government of Cambodia (RGC)
- Cooperate with the government in overcoming challenges that foreign and domestic enterprises are facing.
- Promote sustainable economic development by improving the climate for investment and operating businesses in Cambodia.
- Represent, express, and advance the opinions of private sector working group members on matters of common interests.
- Promote the interests of the national and international business community in the Kingdom of Cambodia.

The Working Group D is grateful to our contributing members for their input and support in making this revised edition of the White Book possible.

The White Book 2021-2024 is a collective expression of the views of the Private Sector Working Group D member companies on specific aspects of the business environment in Cambodia. The information and views put forward in this publication are solely intended to promote constructive dialogue and offer suggestions for the improvement of Cambodian Law, Taxation and Governance System. The Private Sector Working Group D has made all efforts to ensure that the information contained in the White Book 2021-2024 is accurate at press time to the best of our knowledge and belief. However, the Private Sector Working Group D does not assume, and it hereby disclaims any liability or responsibility to any party for the contents of the White Book 2021-2024 and/or the outcome of any decision as a result of this publication.

CO-CHAIRMEN'S INTRODUCTION



Arnaud Darc

CEO of THALIAS &
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Co-Chair of Working Group D



H.E Dr. Aun Pornmoniroth

Minister of Economy and Finance &
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Co-Chair of Working Group D

On behalf of the Working Group D on "Law, Tax and Governance" and our members, we are deeply honored as Co-Chairmen to introduce this revised edition of the White Book, a set of trade and investment policy recommendations that have been collectively developed by our members for consideration by the Royal Government of Cambodia. As the result of the collaboration with coordination from the Chamber of Commerce (CCC) joined as representative of the private sector, and newly appointed Neak Oknha Kith Meng, President of CCC, as chair of the Committee for coordinating the private sector working groups of the Government-Private Sector Forum (CC G-PSF PSWGs) by the decision No.253 SSR, dated 30 December 2024, and also collaborated from companies and business associations with the governmental institutions and the Ministry of Economy and Finance, this White Book aims at providing constructive and realistic solutions to issues that investors and entrepreneurs may cope with when doing business within the Kingdom of Cambodia. To that extent, we believe this fruitful cooperation to be the path towards an attractive and modern Cambodian business environment, as it was the wish of H.E Prime Minister Hun Sen when re-establishing the Government-Private Sector Forum in early 2019.

Having suffered a pandemic crisis that deeply hampered its economic development, Cambodia faces more than ever a growing necessity for structural and coherent transformations to improve its business landscape. As national growth is inherently tied to the revenues from the private sector, the Kingdom needs to remain an attractive and competitive destination for investments. To that extent, we firmly believe the strong relationship between public and private actors to be a key element towards economic growth. Private initiative may substantially contribute by providing relevant input and feedback to policymakers.

This revised edition of the White Book traces the WGD's discussions and proposals from when Mr. Arnaud Darc took over as being Co-Chair on 1 July 2021 until 12 September 2024 (before the next GPSWG-D Meeting on 7 October 2024) to assist the Royal Government in improving the ease of doing business in Cambodia.

As a set of policy proposals, this White Book addresses every issue identified by member companies and associations of the Private Sector Working Group D, as we both assume it represents the perception and aspirations of investors willing to engage funds within the Kingdom.

Following a clearly defined public-private dialogue mechanism, each policy recommendation tied to a raised issue shall be discussed with the related and responsible public institution, before being submitted for observation to the Royal Government of Cambodia. This White Book retains records of everything that has been debated considering 69 issues, all classified across the specific range of topics handled by the "Law, Tax and Governance" Working Group D: Taxation system, Commerce in Cambodia, Business Registration, and Diverse Matters. All the resultant propositions are at the core of a stimulation and simplification process of Cambodia's economy and bureaucracy, and we believe it to be the seed for efficient and appropriate reform projects.

While both the Royal Government of Cambodia and the Kingdom's Private Sector share the common goal of strengthening a compliant, competitive, and diversified economy, this White Book does not aim exclusively at promoting investment and economic sustainability. As a matter of fact, this joint initiative is also driven by the desire of convincing hesitant and faltering companies or associations tackling major obstacles to catch up with public-private cooperation: by getting involved in the shared effort proper to Working Group D, our members shall benefit of concrete support within an official framework, with the assurance of having their problems heard and taken care of.

Within this context of dynamic reconstruction, we nurture hope that this White Book will be warmly welcomed by both the Royal Government and the Cambodian business community and used as a basis for further dialogue between them. Through the success of this meaningful partnership, we rejoice to see the capacity of the Kingdom's economy to adapt itself to the current challenges to conserve its competitiveness and attractivity within the ASEAN.

As the Co-Chairmen of the Working Group D, we would like to express our sincere gratitude to all those who participated in the elaboration of this White Book, without whom none of this would have been possible. We remain, as ever, committed to the close collaboration that has defined our joint work so far. Over the upcoming year, we encourage all our members and partners to seize the opportunity to get involved in the public-private dialogue, as a mean to ultimately foster trade and investment in Cambodia."

Arnaud Darc

CEO of THALIAS &
IBC Vice-Chairperson,
Co-Chair of Working Group D

H.E Dr. Aun Pornmoniroth

Minister of Economy and Finance &
Deputy Prime Minister of Cambodia
Co-Chair of Working Group D

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I. ISSUES RAISED TO GPSWG-D

Tax on Signboard and Tax on Commercial Panel/Plate

Raised by Mrs. Meng Mariane the Association of Cambodian Local Economic Development Agencies (ACLEDA) on 31st August 2022.

Latest update from GPSWG-D Meeting on 13th September 2022.

Issue Description In current practice, all Banking and Financial Institutions (BFIs) are allowed to have only one signboard, applying tax rate under article 6.b3 of Prakas No. 982 ; and if the BFIs wish to display their logo in its branches other than the Headquarter, it will be considered as poster or picture for commercial purposes and shall apply the tax rate under the article 6.b4 of Prakas 982. By not allowing the use of signboards at the lower tax rate in all branches of the BFIs, the BFIs face significantly increased expenses as they have more branches.

Therefore, the banking and financial sector in Cambodia is significantly improving and has been the leading sector in implementing the policy of the Royal Government of Cambodia (RGC) in the development of national economics and solving the over-indebtedness problem caused by unofficial loans. For instance, people in rural areas are benefitting of these assets in compliance with the Financial Inclusion policy of the RGC, especially since BFIs are extending their financial services to get closer to those targeted people with better financial products.

Regarding Sub-decree no. 40 and Prakas no. 982, the companies will have to increase their expenses if they wish to extend more branches, which will hurt their business operation. As a result, they must increase the fees of their financial services to cover the tax expenditure which will affect the standard of living of the general population.

Moreover, allowing the institutions to use the tax rate for a signboard on all logo display at each BFI's branch does lower the expenditure of the BFIs and enable them to continue their services at a low fee which support the Financial Inclusion policy of the RGC as well as encourage the customer to use the formal financial service other than an unofficial loan which will lead to the over-indebtedness.

Policy Recommendation The private sector would like to request to consider applying the tax rate of the signboard on all logo displays at each branch of the BFIs to be consistent between headquarter and branch location and reduce administrative burden and confusion as an incentive to expand branch networks industry to people in rural areas.

Response and Current Status Official instructions were given by the Deputy Prime Minister and Minister of Economy and Finance (MEF) on December 9th, 2022. Pursuant to Sub-decree N°40 អនក្រឹត្យ.ប្រក្រតី dated 31 March 2015, on adjustment to the stamp tax tariff, and Prakas N° 982 សហវិ.ប្រក្រតី, on implementation of Sub-decree N°40 អនក្រឹត្យ.ប្រក្រតី dated 31 March 2015, on adjustment to stamp tax tariff dated 18 August 2015 and with the aim to ease

enterprise in implementing Stamp tax, Ministry of Economy and Finance would like to give instructions as follows : Branches of enterprise registered with the GDT are allowed to have only one signboard, for branches' signboard having the same name as main enterprise. Other posters of the branches will be considered as poster for commercial purposes Owner of the posters publicized in Phnom Penh shall file tax declaration and payment at Phnom Penh Tax Department. Likewise, the owner of posters publicized in provinces shall file tax declarations and payment at relevant provincial tax department.

Minutes Response from GPSWG-D Meeting on 13th September 2022:

Mrs. Meng Mariane, the representative of the Association of Banks in Cambodia, shared her concern about the payment of signboard tax. This issue has been discussed and resolved with the General Department of Taxation (GDT). However, without the issuance of additional Prakas or guidelines from the GDT, implementation remains a challenge. In addition, the implementation of GDT in Phnom Penh and provinces does not seem to be consistent. Therefore, the private sector requests the government to allow one location to pay tax on at least one signboard tax, and for other labels, the private sector will pay tax on the commercial panel tax rate.

In response, **H.E Dr. Aun Pornmoniroth** invited **H.E. Roth Mony**, Deputy Director General of General Department of Taxation (GDT) to clarify. **H.E. Roth Mony** stated that GDT is pleased to accept the request and has set up a working group to study, re-introduce, and examine the inconsistent practice of GDT, including problems faced by the Bank's branches.

Share Transfer Taxation Issue

Raised by Mr. Clint O' Connell from DFDL Mekong (Cambodia) Co., Ltd. on 17th March 2022.

Updated from GPSWG-D Meeting on the 13th September 2022.

Updated on 21st March 2023 (meeting between GDT and PSWG-D).

Latest update from GPSWG-D Meeting 18th September 2023.

Issue Description Based on their recent experience with tax audit clients and a recent meeting with GDT that involved H.E Kong Vibol, the Head of the GDT Litigation Department and Head of the Enterprise Audit Department, the private sector outlined the issues below:

The cases they have dealt with involve the direct transfer of shares in a Cambodian company by a non-resident shareholder,

At the time of the share transfer the taxes paid in Cambodia included withholding taxes on deemed dividends as per Prakas 372 and stamp duty,

During tax audits, the GDT has re-assessed the Cambodian company for 20% Tax on Income relating to gains made on the share transfer,

The arguments raised to protest the assessment were based on the notion that the gains made from the share transfer were gains of the non-resident shareholder does not gain of the Cambodian company. In addition, the capital gains tax Prakas 986 which explicitly referenced the taxation of capital gains from share transfers was not yet in force,

The GDT has referred to Article 7 of the Law on Taxation which was amended by the 2007 Law on Financial Management to provide the following:

Article 7 (new)

Taxable income is the net income received from business activities and activities other than the business of the physical or legal person. Taxable income shall include capital gains, interest, rental, royalties, as well as income from financial or investment assets including immovable assets.

For a legal person, taxable income is a result of the adjustment on the accounting results in the tax year in accordance with the provisions stated in this chapter. For a physical person, taxable income is the result of total income in the tax year minus any expenses and endowments as determined by Sub-Decree. The rules and procedures of tax gathering shall be determined by a Prakas issued by the Minister of the Economy and Finance.

It seems that the view of the GDT is, Cambodian company is responsible to declare and pay the 20% Tax on Income, on gains derived by non-resident shareholder on a share transfer, on behalf of the non-resident shareholder.

The private sector acknowledges that under Prakas 098 that gains arising from the transfer of shares in a Cambodian company is Cambodian sourced income.

To date there has been no guidance provided by the GDT or MEF as to how the Cambodian company is to implement the declaration of Tax on Income on behalf of the non-resident shareholder,

Since 2007 they are not aware of any self-assessed disclosure of Tax on Income that has been made by a Cambodian taxpayer on behalf of a gain derived by a non-resident shareholder on a share transfer.

Until the last 18 months they are not aware of any occasion whereby the GDT had re-assessed a Cambodian company for Tax on Income relating to gains realized by a selling non-resident shareholder in a Cambodian company.

Policy Recommendation

According to the Prakas 346 and the Notification No. 4577 GDT, private sector, the ABC and the Cambodia Microfinance Association (CMA) understand that any Capital Gains originating before the 1st of January 2024 should not be taxable. Moreover, Capital Gains Tax is the obligation of the taxpayers, and it shall apply only to the party who received the gains from the sale of their shares. Whereas the company and the new shareholders should not be under any obligation in any respective instance.

In addition, this new practice of Article 7-New will conflict with double tax agreements that have been made with some countries: as a result, it will discourage foreign investors from investing in Cambodia because of an inconsistent and unclear interpretation of the tax law. GDT should accept Article 7-New only determines the capital gain as a part of the taxable income. However, it has no rules and procedures for the tax declaration for resident physical person and non-resident taxpayer, as this is the role of Prakas No.346, which is to apply on transaction incur from 1st January 2024 onward and not retrospectively before said date.

Therefore, the private sector would like to request as follow:

1. A new Prakas to clarifies the process and calculation of tax on gains arising from the transfer of shares in a Cambodian company by non-resident shareholders. This will provide certainty to both taxpayers and GDT with respect to this issue. The Prakas should be implemented prospectively and not retrospectively by the GDT.
2. To refrain GDT from retrospectively auditing Cambodian companies on historical share transfers, with respect to Tax on Income, as this creates investor uncertainty and concern at a time when the Kingdom is trying to encourage more foreign investment via the new Law on Investment and other means.

As there was a disagreement between GDT and the private sector, the private sector proposed raising this agenda to the level of the MEF.

Response and Current Status

Minutes Response from GPSWG-D Meeting on 13th September 2022:

Mr. Clint O'Connell, representative of Private Sector Working Group D articulated concern with respect to Article 7 of the Law on Taxation on the taxable income and how it was amended in 2007 under the law on financial management to include capital gains as an aspect of taxable income. According to GDT interpretation, Cambodian companies and the shares being sold or transferred are responsible for the clearing and payment of taxable income on behalf of non-resident shareholders that are transferring the shares.

Mr. Te Jeudi, Head of the Department Enterprise Audit Bureau, General Department of Taxation emphasized that the new Article 7 of the Law on Taxation does not discriminate against residents or non-residents, meaning that the type of capital gains tax applies equally to both resident and non-resident taxpayers for all enterprises. The main purpose of Proclamation No. 346 MEF.PrK dated 1 April 2020 on Capital Gains Tax is to levy a profit tax on only the sale or transfer of real estate transactions, specifically personal income, and this Prakas has been postponed until January 1, 2021. The postponement of the implementation of this Prakas may confuse taxpayers who have previously fulfilled their obligations; hence, the MEF issued Notification No. 008 MEF dated 9 May 2022, which clearly states that the postponement does not cover the sale or transfer of shares for taxpayers in the self-declaration regime.

H.E Dr. Aun Pornmoniroth stated that this issue will be discussed further on the technical level and any disputes related to this issue may be put on hold until there is a clear understanding. The outcome of the discussion will be used to solve the existing problems.

Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):

According to Notification No. 008 MEF dated 09 May 2022 on the implementation of income tax on capital gains for self-assessment taxpayers, the extension of the deadline for the implementation of capital gains tax until 2024 will not be effective to apply for capital gains for taxpayers under the self-assessment system that has been implemented, and many companies have already paid tax on capital gains from this share transfer. According to the examples cited by the private sector, GDT considered that they are subjected to tax on capital gains, even if the shareholders are individuals, because these profits are made through taxpayers under the self-assessment system in Cambodia.

GDT will request the Ministry of Economy and Finance to prepare regulations on the mechanism for implementing the taxation of capital gains on the transfer of shares of non-resident shareholders who hold shares in a company in Cambodia.

Minutes Response from GPSWG-D Meeting on 18th September 2023:

Mr. Kea Borann, representative of Working Group D addressed his concern the **GDT** has previously done tax assessments to the private sector about capital gain tax on businesses whose shareholders are non-resident. The capital gain tax was not calculated for any of those transactions, the **GDT** must recalculate it in accordance

with new Article 7 of the 2007 law on financial management. Although the phrase "capital gain" is mentioned, however, it is stated at the end of Article 7 that the MEF will decide on the rules and procedures for tax collection, including the 2019 amendment of new Article 7 and the 2023 Law on Taxation. To the private sector understanding, the new Article 7 in the existing tax law does not specify the capital gain tax, and its procedures or rules for tax collection. On April 1, 2020, the MEF released Prakas No. 346, which addresses capital gain tax, and the private sector believe this announcement signifies the implementation of Article 7. Second, considering income tax and other rules, this income tax are subjected only to self-declared enterprises.

H.E Te Jeudi, Director of Department of Enterprise and Auditing of **GDT** provided insight that Prakas No. 346 focuses on capital gains earned by individuals (Personal Income Tax). The Royal Government decided to postpone the implementation of Prakas No. 346 on capital gains until January 2024 by issuing Notification No. 4577.

H.E Dr. Aun Pornmoniroth concluded the issue **firstly**, **GDT** to prepare one set of standard documents for the implementation of Capital Gain Tax for taxpayer under the self-declaration regime and one set for the implementation for individuals. **Secondly**, there is no implementation of on related case, until further notification is issued. And **lastly**, to prepares a new Prakas and addresses all issues of concern, including matters relating to taxpayers, non-resident shareholders, and overseas companies. Promulgation shall be applied from the date of issuance without reversal for other matters.

Minutes Response from PSWG-D Meeting on 13th July 2023:

As this issue remains un-resolved **Mr. Arnaud Darc** confirmed to put this issue onto the G-PSWGD meeting agenda.

VAT on E-Commerce and Provision of Primary Financial Services in the Financial Sector

Raised by Mr. Thomas Schings from ABC on 31st August 2022.

Updated from GPSWG-D Meeting on the 13th September 2022.

Latest update from PSWG-D Meeting on 13th July 2023, updated by Mr. Long Sakanan from ABC.

Issue Description E-Commerce Transactions under primary financial service

Generally, purchase transactions in the Banking sector are complicated and diverse. BFIs acquire Digital Goods and Digital Services from non-resident suppliers on various matters. Whilst most of the items are required to stay compliant with banking laws and regulations to support the development of the project/program related to FinTech, safety, and security of the banking industry, many are also directly related to primary financial services.

On 6th July 2017, the GDT issued Notification No. 11278 to suspend the implementation of “Non-Taxable Supplies for Primary Financial Services” defined in Prakas No. 559 on Instruction to Implementation of VAT on Non-Taxable Supplies, dated 25th May 2017, until further notice and to rework on the definition of “Primary Financial Services”. The controversy is centered on the exclusion of “fees and charges” under the Prakas 559 definition of Primary Financial Services. Prior to the passing of Prakas 559, BFIs in Cambodia have taken the approach that all their service revenue streams from banking operations were considered as non-taxable supplies for VAT purposes, including documentation and transaction fees.

Regarding the Prakas No. 542 on Rules and Mechanisms for Implementation of E-Commerce dated 8th September 2021, the E-Commerce transactions under “Primary Financial Services” shall be treated as non-taxable supply. With the absence of a definition of “Primary Financial Services”, the same practice as the treatment of banking service revenue streams as non-taxable supplies should be applied.

Various transactions such as:

- Payment to Moody’s or S&P for credit rating
- Bank Charges (such as monthly charges from correspondent banks, TT fee)
- Customer’s transactions (overseas transfers)
- Training costs, such as tuition fees and purchasing e-learning material (E-documents) or membership fees
- All costs related to borrowing from offshore lenders
- Charge from cards schemes (such as Visa, Master Card, Union Pay)
- Swift charge
- Payment related to overseas fund transfer service providers
- Benefit of Gold/Platinum for cardholders to use the Airport’s VIP lounge
- Payment for the services performed overseas (e.g. legal services)

- Any payment to suppliers through a card under the personal name (to avoid the double VAT charge)
- Director's fee

Policy Recommendation The private sector would like to request clarification on the listed items as if they were under primary financial services.

Response and Current Status

Minutes Response from GPSWG-D Meeting on 13th September 2022:

Mr. Thomas Schings, representative of the Association of Banks in Cambodia (ABC), explained overseas suppliers' concerns in which the banking sector already pays withholding tax (WHT) of 14%. The WHT is levied on the supplier themselves, and as an overseas supplier will not be levied the cost by themselves, the banks need to pay on their behalf. After the deduction under cooperative tax, this will make for a total tax rate of 22% on any supply or digitalization and it could lead to another issue, which is two types of taxation for digital infrastructure (WHT and VAT) to be imposed on BFI. Hence, in order to support the banking sector and digitalization process, ABC seeks to request the MEF to exempt the financial sector from Prakas No.542 and to not levy any VAT on banking and financial services.

In response, **H.E Dr. Eng Ratana**, Director of Department of Large Taxpayers of GDT explained that Sub-Decree No. 65 NrK.Bk on the Application of Value Added Tax on E-Commerce which has been approved in April 2021, and implemented in September 2021. This sub-decree has been postponed twice, at the end of 2021 and the end of March 2022, and will be implemented from April 1, 2022. In addition, there are no overlap taxes on digital infrastructure. He added that the 14% withholding tax is levied from those who get profit, meaning that the supplier collects in the form of withholding tax from non-residents, while VAT is levied on consumers, even if banks are not the final consumer. GDT believes that it is reasonable to levy a tax on that subject since it would promote fair competition between foreign and local suppliers and encourage them to invest in Cambodia, which might lead to the development of advanced technology, increased job opportunities, and an increase in tax revenue.

H.E Dr. Aun Pornmoniroth added that for technical issues like uncertainties about particular service types and whether or not tax can be claimed, will be discussed between the private sector and GDT, and RGC is pleased to reconsider the policy if there is a significant impact on the overall process and implementation.

Minutes Response from PSWG-D Meeting on 13th July 2023:

The New Law on Taxation states to issue a sub-decree to define E-Commerce. **Mr. Arnaud Darc** confirmed to put this issue on hold until the government issued a sub-decree on the definition of "Primary Financial Service".

Value Added Tax Refund Pre-2020

Raised by Working Group D on 21st March 2023 (meeting between GDT and PSWG-D).

Updated from the Private Sector Internal Meeting on 23rd May 2023.

Latest update from GPSWG-D Meeting on the 18th September 2023.

Issue Description During the year of 2022, many members of TAFTAC informed that they could not refund the VAT before 2020. Tax officers requested the factories to quit all VAT input before 2020 and the reason is that it's been too long, GDT is difficult to do the cross check when factories applying for refund. Anyway, all TAFTAC members request TAFTAC to intervene and help resolve this issue with GDT. TAFTAC members also raised that even as the spread of COVID-19 gradually eases and many countries have relaxed epidemic prevention measures, they are still facing some problems such as competition with neighboring countries is getting tougher, the decrease in orders and the lower price from buyer, all these have seriously affected the factories' business operation. The VAT refund pre 2020 may help them alleviate financial burden and keep their company operating normally.

Policy Recommendation All TAFTAC members request GDT to approve the VAT refund pre 2020 in case they have applied properly in accordance with the law.

Response and Current Status Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):

Pursuant to Prakas No. 270 MEF. PrK dated 13 March 2019 on "Tax Audit", the VAT Refund Audit is a limited audit type which can only be conducted during the tax years of Current tax (N) and tax year prior to current tax year (N-1) only. It also states that a comprehensive audit can only take place within three years of the back-tax (N-3), for which the company must cooperate in providing information and providing audit documents. Similarly, GDT also needs to implement efficiently and on time, as the search for documents before 2020 also takes a lot of time, the invoices at that time were not clear and accurate, and unreliable. Therefore, GDT will implement as previously announced that VAT refund before 2020 is not allowed.

In the past, **Mr. Kong San** and **Mr. Ken Loo**, representatives of the Garment Manufacturers Association of Cambodia (GMAC), have also agreed not to allow refunds before 2020, and Ken Loo also acknowledged that it will be difficult to monitor and verify the documents of the tax payment in case of a VAT refund request for many years backwards.

Finally, Co-chair of the private sector working group D said that he will convene a private sector meeting with its members, JBAC and TAFTAC to have some clarifications from their side. Private sector will submit a list of all the companies that Request VAT

refund to GDT to get written confirmation so that they can use as the proof to write off VAT credit balance in their balance sheet.

Minutes Response from the Private Sector Internal Meeting on 23rd May 2023:

Mr. Ken Loo stated that companies cannot request for VAT refund pre-2019 because GDT uses Prakas 270 dated March 2019 to apply on the pre-2019 VAT refund application. GDT stated that a VAT refund can only be claimed in year N, N-1.

As this issue has been discussed on a technical level, **Mr. Arnaud Darc** advised TWG to send a letter to inform GDT that this matter will be brought to the GPSWGD agenda.

Mr. Arnaud Darc informed the meeting that during the last private sector meeting on 23rd May 2023 with JBAC and TAFTAC, the representative of TAFTAC, **Mr. Ken Loo**, stated that they did not agree with the GDT to off-set the VAT. However, during the meeting with GDT on 21st March, **H.E Kong Vibol** claimed that TAFTAC has agreed with GDT.

Given the contradictory information from both parties, **Mr. Arnaud Darc** convened a private sector meeting with members (TAFTAC and JBAC) to have some clarification from their side and submit a list of companies that request VAT refund.

To move forward, **Mr. Arnaud Darc** advised TAFTAC, JBAC, PPSEZ, and members of TWG to submit a list of compliance companies that are claiming the refund from GDT along with their pending amounts from 2019 by 29th June 2023.

TWG requests member companies to separate the list into two: one for refund from 2019 backward and another one for refund 2020 onwards. The TWG asked to add two more columns to the lists to show the audit status and one column to tell if it has been approved by GDT of the claim yet.

The data will be attached with the letter to **H.E Dr. Aun Pornmoniroth**, Co-Chair of Working Group D, prior to the meeting to further discuss this issue.

Minutes Response from GPSWG-D Meeting on 18th September 2023:

Mr. Arnaud Darc, Co-Chair of Working Group D presented the challenges faced by our members such as Phnom Penh Special Economic Zone (PPSEZ), Technical Working Group on Tax (TWG), Japanese Business Association of Cambodia (JBAC), and the Textile, Apparel, Footwear & Travel Goods Association in Cambodia (TAFTAC) have been denied for Value Added Tax (VAT) refunds for the period before 2020 by GDT is indeed a matter of concern. Currently, there are approximately 115 companies that have submitted their claim to WGD. While it is understandable that the GDT would find it challenging to cross-check older records, technology could be utilized to streamline this process. Nevertheless, since companies have followed the proper legal processes requesting refunds, their claims should not be rejected. In conjunction to this, it should be possible for businesses to deduct additional taxes from their VAT input when they are levied on their VAT output. This is a standard procedure that is aligned and practiced VAT neutrality in various tax systems throughout the world and

Companies should be allowed to claim a refund of excess VAT input credit, even in the absence of a taxable supply. This would not only ease the financial burden on companies but also increase trust in the tax governance system.

H.E Kong Vibol proposed collaborating with the technical working group between the GDT and TWG on Tax, Co-Chaired by **Oknha Sok Piseth**, within the framework of the technical working group. Referring to Prakas No. 270, which mandates that the GDT determines the best year for the audit is no later than three years resulting in VAT refunds pre-2020 are on hold. **H.E Dr. Aun Pornmoniroth** recently determined that, provided the company that has supporting document, and a record of transactions can come to claim for VAT pre-2020.

To sum up this agenda, **H.E Dr. Aun Pornmoniroth** advised this issue will be further discussed on the technical level to find possible solution or examine the current practice.

Implementation of Value Added Tax on Imported Tobacco Products

*Raised by Mr. Um Rattana, Association of Tobacco Industry of Cambodia (ATIC)
13th July 2023.*

Latest update from GPSWG-D Meeting on 18th September 2023.

Issue Description Recently, some of our members have received via telegram and some by direct delivery a Notification concerning the Implementation of VAT on Imported Tobacco Products dated 28th June 2023 (the “Notification”). As per this Notification, the implementation of VAT output on imported tobacco products will take effect as of 1st August 2023.

On behalf Association of the Tobacco Industry of Cambodia, we fully support the agenda of GDT to collect more revenue, however, we would like to request a grace period until 31st December 2023 due to the following reasons:

Firstly, the implementation of VAT collection in Cambodia requires all tobacco importing companies to collect VAT from end users via their partnership customers. Given the current world economic crisis, while the cost of legitimate business increases significantly, industry volume and revenue decline which leads to lots of difficulties in business operations. Due to income reduction, consumers tend to tighten their spending and are very price-sensitive. This VAT policy at the same time as the CIF price increase from 1 January 2023 may exacerbate the difficulties for the whole legitimate tobacco industry. Subsequently, the implementation of this VAT collection will impose negative financial and volume decline on the tobacco industry which subsequently will be counterproductive to the higher revenue generation objectives of the government.

Secondly, tobacco companies in Cambodia, comprising international companies, have complicated internal financial and accounting systems and procedures that require sufficient time for adjustment and adoption of such VAT changes. Similarly, our partnership customers also require the proper timeframe to reform their business plans and their internal processes. In this regard, both tobacco companies and their partnership customers need the proper timeframe for preparing for the new tax change including the notification to subsequent partnership customers, negotiation, business plan reform, and the internal process. Thus, providing such a short period until 1st August 2023 is a very big challenge to the tobacco companies in Cambodia. Our unreadiness will result in market supply disruption, customers experience sudden increases more business expenses, and the lack of proper notification and customer negotiation will badly impact the revenues of tobacco companies leading to employment lay-off, increasing unemployment rates, and reduced tax payments.

Thirdly, illicit and/or counterfeit products are rapidly growing in the market which has significantly impacted the business of the tobacco industry. During this tough time, VAT collection shall lead to an increase in price and will, in turn, lead to the consumers’

down-trading. Accordingly, consumers tend to switch to using illicit and/or counterfeit products with low quality but less costly. As a result, the sustainability of legitimate business will not be adhered to. The increase in illicit products will cause a huge loss of tax which will not be in line with the government's target of increasing revenue through VAT collection which could result in flat to lower revenue in the long run.

Fourth, while the input VAT is paid to customs authorities, the output VAT shall be paid to the GDT. Thus, we need further guidance and clarification on procedures for such tax settlement. With these above-mentioned reasons, we sincerely hope that the General Department of Taxation not impose such VAT collection from 1st August 2023. Instead, we kindly request a grace period until 31st December 2023 so that the tobacco industry has sufficient time to prepare properly and minimize negative impacts on legitimate tobacco businesses.

Policy Recommendation

ATIC hereby would like to request the General Department of Taxation to give a grace period to the implementation of this VAT till 31st December 2023.

Response and Current Status

Mr. Um Ratana, representative of ATIC informed that recently companies in the tobacco industry received notification from GDT that 10% VAT will be imposed on tobacco products when sell to consumers.

He addressed two concerns arise from this:

- Firstly, this implication increases the price and will lead to the growth of illicit trade in the market.
- Secondly, the implementation of the notification came in short notice (come into effect on August 1st, 2023). Hence, ATIC requests to extend the grace period to January 1st, 2024, for allowing companies to revise their financial plan.

Mr. Arnaud Darc advised ATIC to revise on the recommendation, to explain the importance of requesting the prolonged the grace period to 6 months and to detail the action plan timeline during the requested grace period.

To conclude, this issue will be put onto the G-PSWGD agenda.

Minutes Response from GPSWG-D Meeting on 18th September 2023:

Mr. Um Rattana, representative of Association of Tobacco Industry in Cambodia (ATIC) articulated concern on the implementation of VAT on imported tobacco products. After receiving the notification issued by GDT in June 2023, the ATIC submitted a letter requesting a postponement of the implementation till December 31, 2023.

Mr. Arnaud Darc added that the private sector strongly supports the implementation of VAT but the principle of implementation is a concern. The Royal Government of Cambodia (RGC) frequently issues decision letters in a short notice and in turn has impact on businesses and necessitates adoption of this crucial measure throughout the whole industrial supply chain. In connection to this, we would like to request RGC

to consider the relevant principles while taking such action and to postpone the implementation of VAT on Tobacco products until December 2023.

H.E Kong Vibol, Director General of GDT emphasized that, according to the government's decision to impose taxes on this industry, it is GDT's responsibility to notify the public and require all enterprises to abide by the decision. We would like to inform that the implementation of VAT output has been exempted for more than 20 years. GDT noticed that only three companies filed letters to this tobacco organization. The others were executed without any issues.

H.E Dr. Mey Sambo, Secretary of State of the Ministry of Health (MoH), supports GDT's implementation and any measurement or implementation that helps reduce the distribution of tobacco products and aligns with the WHO's strategy to lower tobacco product users' mortality and disability rates, thereby lowering consumer consumption through taxation. Cambodia has the lowest tax rate among ASEAN nations.

In summary, **H.E Dr. Aun Pornmoniroth** indicated that GDT is open to address the case of the three companies that have raised the request for further discussion, and that the government will take the recommendation into consideration for further implementation. The government also recognizes the importance of this principle to ensure predictability, allowing investors to do business.

Illicit Trade - Cigarettes and Alcohol

Raised by Mr. Um Rattana, Association of Tobacco Industry of Cambodia (ATIC) and Mr. \ Wine Spirit & Beer Importers and Distributor Association (WSBIDA) on 17th March 2022.

Updated from GPSWG-D Meeting on 13th September 2022.

Latest update from GPSWG-D Meeting on 18th September 2023.

Issue Description Illicit Cigarettes

Recently, we have continued to see a dramatic increase in illicit/counterfeit cigarettes and alcohol in Cambodia.

Those illicit cigarettes are produced in different forms:

Cigarette packs without graphic health warnings and tax stamps as required by laws.

Counterfeit cigarette packs with only English or other language health warnings, with graphic health warnings and fake tax stamps.

Based on the illicit trade survey conducted in late 2020 by Kantar, stated that around 18.5% percent of illicit cigarettes have been found in the Cambodian market which caused a government revenue loss of approximately 10 million US dollars.

The Association of Tobacco Industry in Cambodia (ATIC) would like to express our concern over the increasing number of non-compliant as well as illicit/counterfeit tobacco products largely available for sale in the marketplaces especially in the provinces which severely impact the fair and level playing field of the legitimate tobacco business in Cambodia.

Illicit Alcohol

The source of illicit trade, whose prevailing forms include counterfeit, smuggling, illicit artisanal, and tax leakage, should not be ignored. Illicit trade in alcohol robs the global economy of US \$2.2 trillion of fiscal revenue every year, depriving governments of revenues, removing legitimate jobs, funding organized crime, and damaging ecosystems and human lives (Ref. Tacking Illicit Alcohol in Southeast Asia).

In 2019, unrecorded alcohol in Cambodia was 43% (source: WHO, the Global Health Observatory-2021), and in 2021 the unrecorded alcohol was 46.8% as the record was 53.2% (Ref. Tacking Illicit Alcohol in Southeast Asia 2022).

Internal and external factors that drive markets for illicit alcohol generally can be structured around 4 pillars: lack of public awareness, price differentials between legal and illicit products, restrictions and burdens on legal products, and inadequate penalties and enforcement.

Policy Recommendation

Therefore, we would like to request as following:

- Request relevant competent authorities to step up their actions to find the counterfeit cigarette manufacturing location to be raided, shut down, and take legal action against the suspects.
- Strengthen the enforcement of the regulations by GDT, GDCE, Counterfeit Committee of Cambodia (CCCC), and National Police to have a regular monitoring inspection program on the market to check illicit cigarettes.
- Joint operation with ATIC (Tobacco Association) to conduct an illicit cigarettes survey and action plans to eliminate illicit cigarettes.
- Have regular meetings every quarter between the Ministry of Economy and Finance and the Tobacco Special Task Force to update and follow up on illicit issues.
- Developing tax policies that disincentivize illicit trade.
- Building consumer awareness.
- Enacting adequate legislation to protect consumer safety.

Response and Current Status

Minutes Response from GPSWG-D Meeting on 13th September 2022:

Mr. Gopinath Sunderason, representative of the Association of Tobacco Industry of Cambodia (ATIC), addressed concerns over the increase of illicit cigarettes in the market which could potentially impact on the Cambodian economy and the public health of users. Therefore, ATIC seeks government support to tackle counterfeit cigarette factories in Cambodia and to have proper enforcement in the market and to inform the public that selling illicit cigarettes is a major offense.

Prior to today's meeting, **Mr. Arnaud Darc** said the government was considering raising special taxes on tobacco and alcohol products. He explained that by raising taxes on these products will probably not increase the revenue for the government but may encourage more companies into illicit trade.

In response, **H.E. Dr. Aun Pornmoniroth** called on **H.E Dr. Ung Phirun**, Secretary of State of Ministry of Health, **H.E. Kun Nhem**, Minister attached to Prime Minister, General Director of the General Department of Custom and Excise (GDCE), and **H.E. Roth Mony**, Deputy Director General of GDT for their inputs.

H.E Dr. Ung Phirun expressed his support and shared the actions taken by Ministry of Health (MoH). The first step involves combating the fight against counterfeit cigarettes through the Anti-Counterfeiting Committee, which poses a risk to health and social safety, and the Ministry of Health has sued four companies for advertising-related offenses. The Ministry of Health has won against two companies, one of which is under investigation and the other faced issues regarding location and address issues. The second step focuses on health education campaigns. Since the introduction of the Tobacco Products Control Act of 2015, people have become more aware of the health risks of using tobacco products. However, sub-national administrations find it difficult to implement because we do not have inter-ministerial promulgation on the provision of public services and fines. Hence, the Ministry of Health calls for the promulgation of an inter- ministerial on the provision of public

services and fines between the Ministry of Economy and Finance and the Ministry of Health as soon as possible for the sub-national administration to implement and take procedural action.

H.E Dr. Aun Pornmoniroth instructed the Ministry of Health to cooperate with the General Department of State Property and Non-Tax Revenue of the Ministry of Economy and Finance, and relevant ministries to coordinate the relevant work and prepare the promulgation.

H.E Kun Nhem acknowledged counterfeit cigarette production and cigarette smuggling are two parallel problems that are interwoven throughout the region. It is reported that sales of stamps for cigarette factories have improved and increased significantly compared to the previous year. Moreover, GDCE cracked down on the manufacture of counterfeit cigarettes produced in the country and those that were intended for export. GDCE is willing to collaborate with relevant ministries and authority such as the Counter Counterfeit Committee of the General Department of Consumer Protection and Fraud and Anti-Fraud of Ministry of Commerce, and MoH. To successfully crack down on goods, especially illicit cigarettes, GDCE is ready to receive any information provided by the private sector.

H.E Roth Mony, the General Department of Taxation agreed to strengthen the existing working group to inspect all cigarette stamps and control the counterfeit cigarettes sold in the market, which can affect the health of the people and loss national revenue. He suggested creating new stamps to avoid the previous stamps being copied.

To conclude the second point, **H.E Dr. Aun Pornmoniroth** comprehends as follows:

Firstly, to have relevant ministries and working groups work on the preparation and implementation of laws, regulations, and procedures to address and solve the problem of counterfeit products, specifically counterfeit cigarettes, and illicit trade. Secondly, relevant ministries and institutions are to open a telegram channel or account and/or Social Media channel for the private sector and the public to participate and share problems or potential instance that may arise for authorities to act effectively and in a timely manner. Thirdly, support in principle and consideration of having a monthly meeting or once every four months to exchange information, evaluate work progress and identify issues that need to be addressed between competent and relevant institutions, especially the Ministry of Economy and Finance. Fourth, regarding a proposal for joint cooperation between the Ministry of Economy and Finance and ATIC, especially in surveying illicit cigarettes, the Ministry will accept any survey, study, and information provided by the private sector and consider taking action as necessary on a case-by-case basis and implement all those measures. Lastly, **H.E Dr. Aun Pornmoniroth** requested **H.E Dr. Hean Sahib**, together with the working group under the Ministry of Economy and Finance, to coordinate and prepare a platform for dialogue.

Minutes Response from GPSWG-D Meeting on 18th September 2023:

Mr. Tan Ser Chhay, representative of Wine, Spirits, Beer Association, addressed that alcoholic drink trade has affected legitimate taxpayers and made a huge difference in prices. A study conducted by association shown that Illicit trade in alcohol robs the

global economy of US \$2.2 trillion of fiscal revenue every year. In 2019, unrecorded alcohol in Cambodia was 43%, followed by 46.8% in 2021 and, 53.2% in the respective year. In the past, it has been noted that illegal liquor is imported into Cambodia under personal uses, but it is being used for business purposes. Furthermore, those who import illegally can be exempted from special import tax of 35%, excluding 10% of the tax system. The increment of tax rate on alcohol imposed by government has encouraged tax evasion.

Additionally, **Mr. Um Rattana**, representative of ATIC, conveyed concern about the increasing in number of illegal cigarettes in the market, especially in the provinces that cause unfair competition in the tobacco industry as a whole. Based on the illicit trade survey conducted in late 2020 by **Kantar**, stated that around 18.5% of illicit cigarettes was found in Cambodia market which caused government revenue loss of approximately 10 million US dollars. In the past, there were only imported illegal cigarettes, but currently, illegal cigarettes are also produced in Cambodia, and recently found in Tbong Khmum province such as Esse, BNT, 555, and Malboro.

In response to this, **H.E Boun Sarakmony**, provided an update on action taken by MoC. Firstly, MoC took part in a meeting and requested the Royal Government to make a decision on the Ministry in charge. Secondly, MoC will soon release a draft announcement on Smart Stamps for designate companies with the legal authority to comply. We will provide these companies with a sticker that resembles a certificate so that users can see and identify them.

Furthermore, **H.E Boun Honn**, Secretary of State of Ministry of Interior (Mol), added that in this respect, the Counter Counterfeits Committee of Cambodia (CCCC) has adhered to guidelines, especially with regard to the execution of work that we consider to be illegal. The Mol has also carried out its duty to gather information on the manufacture or sale of counterfeit goods in the tobacco, beverage, and other industries. In the government's new mandate, **H.E Dr. Sar Sokha**, Deputy Prime Minister, Minister of Interior respectfully informed the principles to Prime Minister to examine the composition of the committee because some members were transferred to new role or position.

H.E Pha Engveng, Deputy Director General of General Department of Customs and Excise (GDCE) informed that the import of cigarettes allowed through three international ports which are Sihanoukville Port, Phnom Penh Port and Phnom Penh International Airport (PPIA), If entering at another gate, company has to submit an application to the GDCE for tax assessment and approval. The gateway measure is one of a number of measures in addition to stamping. In connection with the results of the eight-month crackdown in 2023, the GDCE cracked down on illegal imports and production, along with a joint committee that initially cracked down on 1,807 cases of cracked cigarettes and 1503 cases of which are of locally produced cigarettes and 304 cases of imported cigarettes were suppressed. In the meantime, 1,837 cases of imported wine and 195 cases of imported beer were suppressed. In August, two counterfeit cigarette warehouses in Memot district were cracked down and found 1463 cases of counterfeit cigarettes.

H.E Dr. Aun Pornmoniroth advised as follows: first and foremost, relevant ministries and institutions to follow the laws, rules, and regulations within their respective jurisdictions, and cooperate with the CCCC to establish a defined mechanism. The MEF is in charge of formulating a policy that would lessen illicit trade and combat increased tax evasion. Second, MEF agrees to the request for quarterly meeting. Third, the survey can be conducted; however, kindly forward the results to the appropriate

committees and institutions to jointly analyze and take action accordingly. Lastly, CCCC shall be responsible for arranging and establishing a transparent communication channel in situations where mediation is required. He further added that in regard to the request for open discussion on the import of duties taxation on alcohol can be discussed within the framework of the Customs Technical Working Group with the private sector and at the same time the GDCE may have the opportunity to explain in more detail the procedures and current practice.

Exclusive Rights and the Import of Latest Model Vehicles while Others Are Holding Exclusive Rights

Raised by Mr. Peter Brongers from Cambodia Automotive Industry Federation (CAIF) on 16th June 2022. Updated from GPSWG-D Meeting on 13th September 2022.

Take on by Mr. Soeun Dara, on 18th January 2023.

Latest update from GPSWG-D Meeting on 18th September 2023.

Issue Description Authorized distributors in the automotive industry are facing ultimate challenges in competition with parallel importers. Prakas 2287 of the Ministry of Commerce, dated July 20, 2020, stated that the scope of exclusive rights covers 100% of new vehicles only where the registered or transferred vehicles overseas would be categorized as used vehicles. This allows parallel importers to import the latest-model vehicles without restriction with the requirement to attach the invoice and registration or transfer documents from overseas to prove the import.

With this condition, parallel importers can import the same vehicles as authorized distributors for sales in the country and they can even get the vehicles faster and cheaper compared to authorized distributors. In this case, unauthorized distributors can import the latest-model vehicles from high-volume committed countries for sale in Cambodia where the authorized distributors who hold the exclusivities do not have the right to ban the import. With high-volume committed to order, vehicle price is generally cheaper, and their import tax is paid based on the value in the custom-valued table (docket price) where the authorized distributors pay import tax based on actual invoice price from manufacturers.

As a result, some of the authorized distributors are operating at a loss. They are suffering from unfair competition and their exclusive rights are not being protected or supported by the government.

Policy Recommendation

As the automotive industry representative, we would like to recommend as follows:

1. RGC to amend MOC's Prakas 2287 by adding a condition to latest-model vehicles import while others are holding the exclusive right as follows:

Vehicles in production/model years within the current year, one year before, and one year after (N-1, N, N+1) with 5,000km and below on the clock would be considered as vehicles imported for personal use and must follow the MEF's Prakas 11148, dated on Dec 29th, 2021, on "Measure on Personal Import under Exclusive Right".

Vehicles in production/model years within the current year, one year before, and one year after (N-1, N, N+1) with over 5,000km on the clock would be considered as used vehicles under the exclusive right and required to pay an additional 10% to invoice

price which is not below the docket price to ensure the exclusive right is being protected.

2. RGC to consider reducing at least 10% of Special Tax (from 25% to 15%) for new spare-part import because to current rate is still considered high and to help users both new and used car owners to access new spare parts and set up measures to strengthen the process of tax collection from all spare-parts imports.

Response and Current Status

Minutes Response from GPSWG-D Meeting on 13th September 2022:

Mr. Seoun Dara, representing Cambodia Automotive Industry Federation, mentioned three points that authorized distributors in the automotive industry are facing against parallel importers. First, MOC Prakas 2287, dated 20 July 2020, stated that the scope of exclusive rights covers 100% of new vehicles only where the registered or transferred vehicles overseas would be categorized as used vehicles. This allows unauthorized distributors to import the latest model vehicles without restriction, with the requirement to attach the invoice and registration or transfer document from overseas to prove the import, and to import the same vehicles as authorized distributors for sales in the country with faster service and at a cheaper price. Second, the contradictory understanding of provision. According to the 2005 guideline on the management of non-commercial imported goods, an additional 20% tax is added. However, Ministry of Commerce Prakas No. 007 dated August 11, 2022, on export and import without a VAT identification number stated to impose additional 10% of VAT on imported goods and vehicles subjected to VAT and 20% on VAT on other goods that are not yet subjected to VAT. Third, request for a special tax discount from 25% to 15% on the import of spare parts to ensure that new spare parts are publicly used and prevent illegal imports.

The four characteristic of new vehicles is derived from the original content of the preliminary agreement between CAIF and CADA in the above meeting, and the Ministry of Commerce decided to remove one point related to driving distance setting which do not exceed 100 (one hundred) miles or 160 (one hundred and sixty) Kilometers, depending on the odometer, without prior agreement from both parties.

The Representative from the Ministry of Commerce demonstrated that letter No. 2287 PNK/SB dated July 20, 2020, defining the qualifications of new vehicles as a result of five meetings between the Cambodia Automotive Industry Federation and the Automotive Dealers Association. The request was made for MOC to revise the existing letter, which will be further discussed by stakeholders.

The Ministry of Commerce will review and further study this Prakas with related parties to find further solutions in the future.

H.E. Kun Nhem demonstrated that the letter of Ministry of Commerce Letter No. 2287 PNK/SB on the "Determining the Qualifications of New Vehicles Concerning the Registration and Retention of Exclusive Brand Authorization" dated July 20, 2020, is the foundation principle for the GDCE to follow and implement. In the past, the Ministry of Economy and Finance has made two consecutive adjustments to the customs duty on vehicles imported exclusively for import and distribution: the first is the addition of 5% on the customs duty in force (Letter No. 10220 MEF.GDCE dated 10 December 2020 of the Ministry of Economy and Finance) and the second is to increase the addition from 5% to 10% on the customs duty in force (Letter No. 11148

MEF.GDCE dated 29 December 2021 of the Ministry of Economy and Finance). In addition, in accordance with Circular No. 007 MEF dated August 11, 2022 on the import of cars by individuals without VAT identification numbers, an additional 10% must be added, which adds up to 20% of the total customs duty.

H.E. Dr. Aun Pornmoniroth sums up that MOC has agreed to review the Prakas in accordance with the private sector proposal. The GDCE has agreed to further study on the request to reduce of special tax for the import of spare parts and continue to implement what has stated in the Prakas in the meantime.

Minutes Response from GPSWG-D Meeting on 18th September 2023:

Mr. Seoun Dara, representing Cambodia Automotive Industry Federation (CAIF) informed the meeting that there were two meetings between MoC and CAIF to examine and discuss about ideas pertaining to exclusive intellectual property rights as highly advised by **H.E Dr. Aun Pornmoniroth** during the meeting on September 13, 2022. Following the MoC's inspection of its Proclamation No. 2287, which concluded that the proclamation's interpretation was adequate, hence, both meetings were unsuccessful. Furthermore, MoC highlighted their legitimate authority that stands in between the parallel importers and the CAIF. In order to verify that the registered car is a used car and not a new car with exclusive rights, the MOC also invited the Ministry of Public Works and Transport (MPWT) to the meeting.

H.E Boun Sarakmony stated that it is important to note that exclusive rights are not given by MoC but by the original copyright holder. Businesses that want to establish a protection mechanism must register with the MoC; the degree of protection provided by the mechanism will depend on the terms of the parties' contract. The MoC cannot change provisions in any manner or grant rights beyond what the right holder has offered; it can only mediate and defend the rights as specified in the contract.

In response to the proposed recommendation, **H.E Pha Engveng** stated that 10% of the VAT was already added for models of automobile that registered exclusive importing or distributing right. An addition 10% is charged, making the total VAT (20%) if the business does not have a VAT TIN. Regarding the second request, the GDCE underwent a significant revision of the tariff rate, which came into effect on July 1, 2023, in relation to the special tariffs on the import of spare parts. With this, the special tax rates will be dropped to 25% for car spare part, to 10% for vehicle spare part, and to 0% for machinery and tractor spare part.

H.E Dr. Aun Pornmoniroth concluded that the first request will be up for discussion, and parties to these exclusive rights will be invited to continue discussions with the MoC. If there are any proposal to changes, it will have to be made within the framework of trade regulations, particularly those set forth by the WTO and Cambodian law. The second request is to lower the special tax rate on spare parts. GDCE have already taken some steps to lower the import tariff and customs charge on spare parts, but they might not be sufficient. Consequently, GDCE is available for further discussion.

Updating information of Small Taxpayers or Enterprise Transforming from Estimated Regime of Taxation

Raised on 21st March 2023 (Meeting between GDT and PSWG-D)

Latest update from GPSWG-D Meeting on 18th September 2023.

Issue Description Some enterprises registered under the self-declaration regime, initially set up as enterprises under the estimated regime, were registered with the tax administration without registering with the Ministry of Commerce ("MOC"). As a result, these enterprises have no registration certificate issued by the MOC and no company extract from the MOC's system.

When updating the information on this type of enterprise, the tax administration must attach an MOC registration certificate and a company extract. When an enterprise requests registration with the MOC, the MOC requires the enterprise to close and reopen the old enterprise, as there is currently no procedure for the above enterprise to re-register.

Policy Recommendation The private sector requests the following:

- Facilitate the update procedure without the need to attach a registration certificate with the Ministry of Commerce and company's Extract.
- Cooperate with the MOC to establish procedures for the above enterprises to process new registration.

Response and Current Status **Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):**

GDT accepts private sector proposals to facilitate the update procedures without the need to attach the registration certificate issued by the Ministry of Commerce and company's extract, and cooperate with the Ministry of Commerce to establish procedures for registering enterprises, for that changed legal from estimated tax regime.

Minutes Response from the GPSWG-D Meeting on 18th September 2023:

TWG shared his concern about the process of updating information of enterprise.

Some institutions registered to pay taxes after the estimated tax regime was abolished without going through the Ministry of Commerce (MoC), and up until now not yet fully complied. There is a Cambodia Data Exchange (CamDx) listing, that requires all institutions need to be updated with company information, and tax registration, however, it is difficult to re-register all those companies with the MoC without appropriate guidelines.

Therefore, the private sector requests to facilitate the registration procedure with the MoC using the same value added tax identical number (VAT TIN) as in GDT for enterprises registered in GDT and has not yet registered in MoC.

In response, **H.E Dr. Aun Pornmoniroth** invited **H.E Boun Sarakmony**, Secretary of State of Ministry of Commerce and **H.E Kong Vibol**, Director General of General Department of Taxation to provide clarification.

To clarify, **H.E Boun Sarakmony** stated that in accordance with The Law on Commercial Enterprises, all companies must register at MoC, which mean the businessman have to have the Business Registration Certificate. In this case, the MoC has solved this issue through the registration on CamDX and is still open to facilitate the businesses to be legally registered.

H.E Kong Vibol informed that some businesses have not yet been registered for tax because their business is covered by the MoC 's Prakas. The GDT encourages registration with CamDx and will approve with the same VAT TIN.

To conclude, **H.E Dr. Aun Pornmonrith** concluded by urging the Private Sector to continue monitoring and confirming in principle the private sector's request. If there are any issues in joining or operating the system, MEF will discuss, facilitate and provide assistance to businesses, particularly small and medium enterprises (SMEs).

Adding New shareholders of small taxpayers or Enterprises Transforming from Estimated Tax Regime or Sole Proprietorship

Raised on 21st March 2023 (meeting between GDT and PSWG-D).

Latest update from GPSWG-D Meeting on 18th September 2023.

Issue Description Adding additional shareholders of small taxpayers or enterprises transformed from enterprises under an estimate regime or some sole proprietorship is impossible. When an enterprise requests the MOC to add additional shareholders, the Ministry of Commerce requires the enterprise to close the existing enterprise and set up a new enterprise formed as a sole proprietorship, as there is currently no procedure for this update for a sole proprietorship.

Policy Recommendation The private sector requests the following:

- To facilitate closing procedures for enterprises as described above and allow business transfer procedures without VAT levied and without having to be audited for business transfer.
- Cooperate with the Ministry of Commerce to establish procedures to change the legal form of the above enterprises and allow them to add new shareholders at both the Ministry of Commerce and the GDT.

Response and Current Status **Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):**

GDT has agreed to allow small taxpayers or enterprises that have been transformed from Estimated Tax Regime or sole proprietorship to continue the business transfer procedure without being subject to VAT. At the same time, for the preparation of procedure for the change of legal form of the enterprise, the private sector should request the Ministry of Commerce directly.

Minutes Response from the GPSWG-D Meeting on 18th September 2023:

TWG addressed concerns according to the law, it is not possible to transform into a private company; but, when the estimated tax regime is abolished, every member of the estimated tax regime becomes a sole proprietorship. For instance, in order to have investors, a company must be a private limited company, however, the current state of the law prohibits companies from doing so. Therefore, the private sector would like to request the government to consider enacting regulations that would facilitate closing procedure for enterprise and allow businesses to transfer without VAT levied and to be audited when they do so, and to request MoC to establish procedures to

change the legal form to allow business to add new shareholders at both MoC and GDT.

Explained by **H.E Boun Sarakmony**, since the Commercial Enterprises Law was amended in 2022, a sole proprietorship is described as follows: it is characterized by the presence of a single individual serving as the director and shareholder. Furthermore, all obligations and liabilities of the sole proprietorship are the personal responsibility of the proprietor. The primary issue is related to a license bearing an individual's name. In this case, MoC will use the existing mechanism to solve this issue.

GDT explained small taxpayers or those who change from estimated tax regime to a sole proprietorship, or the change of company's status or adding shareholders are not subjected to audit. Secondly, only the sale of shares is subject to VAT and tax reassessment.

To conclude, **H.E Dr. Aun Pornmoniroth** instructed as follows: first, the MoC to review procedure and facilitate finding solution. Second, regarding the implementation under the Ministry's framework for institutions that have previously registered on the CamDx platform. This is because the third phase of CamDx involves expanding to include labor law license, which we shall examine. Third, to set up a technical working group meeting to identify issues under the leadership of **H.E Dr. Phan Phalla**, a representative of the GDT, a representative of CamDx, a facilitator from the MoC, and a representative from the private sector. Depending on the outcome of the discussion, the government may set up a formal working group if required.

II. ISSUES RAISED TO GDT

Outside Border Sale

Raised at PSWGD on 14th October 2021. Handed over to TWG on 20th April 2022.

Updated on 21st March 2023 (meeting between GDT and PSWG-D).

Latest update from TWG at PSWG-D Meeting on 16th May 2024.

Issue Description Companies have obtained import duties and/or Value-Added Tax (VAT) exemptions. They issue the purchase order at the border, and process importation themselves. By doing so, this sale would not be subject to 10% VAT, and it would be classified as non-taxable supply (sell at border) even though the customer is in Cambodia and the goods will be used in Cambodia. Otherwise, they would not enjoy the tax exemption obtained, and it would be double charge of VAT if they only obtain import duties exemption.

Policy Recommendation The private sector requests GDT to consider allowing Company B to issue a tax invoice at 0% tax rate to Entity A. Doing so, GDT will get the following benefits:

- 20% income tax from Company B from foreign government of overseas suppliers.
- Encourage local suppliers to pay local taxes.

Response and Current Status GDT has agreed with the aforesaid recommendation, but a point of sale needs to be determined, and the transfer of ownership needs to be made at the area under customs control i.e. Phnom Penh autonomous port, SHV autonomous port.

Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):

GDT has agreed with the private sector that the supply of goods subject to 0% VAT must be applicable within the Area Under Custom Control. GDT observes that the area under custom control is a custom bonded warehouse where there is an operator to control the goods. In the past, Japan International Cooperation Agency (JICA) has proposed to implement this Bonded Warehouse, but the private sector believes that the area Under Custom Control is just a port and not necessarily be a Bonded warehouse., so, GDT and the private sector have agreed to study in depth and more comprehensively the practice of Area Under Custom Control as well as to discuss this case with the General Department of Customs and Excise (GDCE).

Minutes Response from TWG at PSWG-D Meeting on 16th May 2024:

TWG informed the meeting that GDT will assign technical teams to conduct further studies and practices in neighbouring countries such as Singapore and Thailand.

MEF Prakas No. 701 dated 14th August 2020 on Tax Registration and Update of Taxpayers' Information

Raised by Anthony Galliano, AmCham on 17th March 2022.

Updated on 21st March 2023 (meeting between GDT and PSWG-D).

Latest update from TWG at PSWG-D Meeting on 15th June 2023.

Issue Description As a result of MEF Prakas No. 701 dated 14th of August 2020 on Tax Registration and Update of Taxpayers' Information, the following issues have arisen: Enterprises registering through the online business registration system are still being asked to visit the General Department of Taxation to complete tax registration forms and the representative to be present to take photographs and fingerprints.

The Online Business Registration System was meant to have company registrations fully online without physical presence. After a company is registered on the system, the GDT asks the company to still complete tax registration forms and the representative to visit for fingerprint and photograph. The GDT has stated this is random and selective and only about 20% of the new registrants are being asked to visit, but surveying companies that register online and companies which act as agent in this capacity, it appears closer to 100%.

Furthermore, original blue ink signatures/initials are required on certain documents by the MOC, during the Online Registration process, especially on the Memorandum and Articles of Association. This could be better achieved by digital signatures.

Shareholders and Directors are being placed on a “Negative List” not allowing those placed on the list to be shareholders or directors of a newly registering enterprise, as a result of a previous association with companies who have committed tax evasion, owe taxes, fail to provide additional information to GDT, GDT has reason to believe the shareholder or director isn’t the real business beneficiary, or the taxpayer commits criminal acts under the tax regulations. While this is sensible in almost all cases, there are instances where such persons were independent directors and were not involved in the company operations, were not aware of tax issues, or had any authority whatsoever over the company’s operations. Furthermore, there have been instances of company fraud against shareholders and/or directors who have processed the necessary documentation to remove themselves from the company before any non-compliance occurs, and the company failed to process the documents. An appeal process is recommended.

As there is no means for a director to simply remove themselves independently, without the consent of shareholders, there is a need for protection if a director wants to remove themselves without the consent of the shareholders.

Policy Recommendation The online business registration remains a substantial success for the Kingdom of Cambodia and advances the nation in the ease of doing business. Requiring the

business to visit, be present, and register for tax dilutes the benefits of registering online and not requiring physical presence. It is recommended that only in exceptional circumstances the registering company be required to visit GDT to file registration documents and the representative take photographs and fingerprints.

For the MOC documents, rather than printing all the documents and signing/initiating in original blue ink, they also accept digital signatures.

For those placed on the "Negative List" in some cases, it may not have been their own, or completely out of their control. It is recommended to have an appeals process in this case, and a policy to exempt those that are placed on it but are at no fault.

It is further recommended that a director can resign and remove themselves from the company without the shareholder/other director's consent, which current documentation requires.

Response and Current Status

TWG mentioned that business registration is a new issue, hence they will bring to discuss with GDT.

Ms. Siek Poline raised about "Negative List" that during the meeting with **H.E Kong Vibol**, he did not agree with the private sector's suggestion by saying that it is what either directors or shareholders should be aware of, and it is not GDT responsibility to deal with these things as it is a private issue.

Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):

(a) Pursuant to Prakas No. 701 MEF.PrK dated 14 August 2020:

"The Tax Administration may inspect the business situation at the location of the taxpayer or invite the Chairman of the Board of Directors, the owner of the enterprise or the president of the association and NGO which is responsible for tax affairs to visit tax administration to provides information, provide relevant documents or verifies identity by signing, photographing, fingerprinting and consulting on tax laws and regulations."

In this case, the tax administration invites only the chairman or a representative to verify the identity, the information and supporting documents to ensure the accuracy and completeness of the registered information. This action shall be carried out after the enterprise gets the approval to register taxes via the business online registration platform.

(b) The recording of people on the negative list shall be carried out in accordance with Articles 11 and 12 of Prakas No. 701 MEF.PrK dated 14 August 2020.

The persons to be recorded in the negative list for registration are those who:

- Is involved in other enterprises committed to tax evasion.
- Have tax debts or are related to other enterprises that have tax debts.
- Failed to appear, provide additional information, and provide required documents at the invitation of the tax administration.

- Involves enterprises, associations or other organizations that are unilaterally registered by the GDT and do not provide the information and documentation required for complete tax registration.
- The tax administration has a clear basis of belief that he/she is not a person who benefits from the business or commits a crime directly or intends to give ideas or encourage or assist or entice a taxpayer or another person to commit a crime. Penalties for tax provisions or money laundering or terrorist financing offenses.

Individuals who have been placed on the negative list of the GDT have the right to file a complaint to the Director General of the GDT to request a review of the denial of tax registration or negative listing for registration or delisting from the tax register. In case the taxpayer does not agree with the decision of the Director General of the GDT, the taxpayer may appeal to the Tax Dispute Resolution Committee.

Latest update from TWG at PSWG-D Meeting on 15th June 2023:

A. The online business registration:

TWG agreed to the meeting's outcome on the requirement for the Chairman of the board of directors, the owner of enterprise or the resident of the association to provide the fingerprints and photographs in person.

B. The negative list:

Mr. Arnaud Darc stated that stronger argument based on study is needed to bring to GDT to discuss. He further emphasized that **H.E Kong Vibol** agreed to properly notify directors or shareholders about their status of being added to the negative list. However, it is not written in the minute.

Therefore, this issue has been put on hold until TWG have in-depth information.

Deemed Taxation on Board of Directors and Shareholder Representatives

Raised on 21st March 2023 (meeting between GDT and PSWG-D).

Latest update from TWG at PSWG-D Meeting on 13th July 2023.

Issue Description The Board of Directors and the shareholder representatives of a company, both resident and non-resident, are not subject to salary tax or withholding tax unless they earn their income from the company. Therefore, Cambodian companies are not obligated to withhold or pay tax on their income.

However, as a practice of GDT, there are many cases where the Board of Directors or Shareholder representatives are recognized as deemed income and Cambodian corporations are subject to additional taxation on the grounds of non-compliance with withholding and payment obligations.

Policy Recommendation The Private Sector would like to seek advice and further request that this deemed taxation will not be carried out by GDT. Those board of directors or shareholder representatives, both resident and non-resident, should only suffer tax on salary or tax on fringe benefits on the employment income that actually paid to them as they should qualify as employees under Prakas No. 543 on Salary Tax and Law on Taxation.

Some directors have been nominated as directors of several companies in the same group of companies but received only salaries from the companies in which they worked. Therefore, the private sector requests the GDT to study more on this point.

Response and Current Status

Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):

GDT stated that according to Article 3 of Prakas No. 543 MEF.PrK dated 8 September 2021 on salary tax, point 3 states that “employee” refers to a physical person who receives salary from his/her work activities. It includes the person in charge of the director of the enterprise, civil servants, elected officials, except for members of the National Assembly or the Senate. Therefore, the director shall be considered as an employee.

Moreover, according to Article 4 of Prakas No. 543 dated September 8, 2021, on the salary tax, the non-executive director is also considered as an employee because he has met two out of four conditions.

However, GDT has stated that the non-resident director is not taxed on the salary in case the non-resident director is just named in the patent/commercial registration without performing any work for the enterprise in Cambodia. However, in the case of a non-executive director acting on behalf of the parent company, the subsidiary in Cambodia shall apply a withholding tax on non-resident (for providing technical management services) at a rate of 14%. However, GDT will accept the request of the

private sector to study further and to issue additional instructions in detail on this case.

Latest update from TWG at PSWG-D Meeting on 13th July 2023:

Mr. Arnaud Darc confirmed to remove this issue from WGD because it is the same as issue: “GDT has recently reassessed tax on salary on shareholders of the company”.

Fringed Benefit Tax and Withholding Tax Paid Instead of the Person Liable to Pay

Raised on 21st March 2023 (meeting between GDT and PSWG-D).

Latest update from TWG at PSWG-D Meeting on 15th June 2023.

Issue Description Tax on Fringe Benefits: Taxpayers are required to deduct salary tax from their employees to pay GDT. In case the taxpayer pays the salary tax on behalf of the employee, the tax amount is the fringe benefit given to the employee and will be taxed on the fringe benefit tax of 20%. Salary tax paid on behalf by the employer, which is fringe benefit tax base, is deductible.

The private sector said that for transactions that occurred prior to the issuance of the new Prakas, GDT allowed the company to adjust the above tax base, which has been in error in the past in relation to the above issues, without penalty and interest for companies that are not yet subject to tax re-assessment by the tax auditor.

Policy Recommendation The private sector proposes that GDT not reassess fringe benefit tax or salary tax or withholding tax on salary tax and withholding tax paid on behalf in accordance with the spirit of Prakas No. 599, stating that GDT will amend Prakas No. 599, allowing using the Gross up formula to calculate the withholding tax base.

Response and Current Status GDT states that the salary tax on behalf of employees is subject to a 20% fringe benefit tax, and the salary tax paid on behalf is also allowed to be deductible for income purposes but is not allowed to calculate with the Gross up formula. In connection with the failure to declare tax on fringe benefits for the payment of salary tax on behalf of employees in the past, the enterprise may request to GDT to waive additional tax and applicable interest, and then GDT will request for approval from the MOF. At the same time, GDT accepted the request of the private sector to further study International Best Practice on the basis of Fringe Benefit tax calculation with Gross up formula on payment of fringe benefit tax on behalf of employee.

For the payment of Fringe Benefits Tax on behalf of employees, the taxpayer is not subject to Fringe Benefits Tax again, but the fringe benefit tax paid on behalf is not allowed as a deductible expense either.

Separately, the withholding tax paid on behalf of the lessor by the lessee is not subject to withholding tax again, but the paid tax is not allowed as a deductible expense either.

In order to further clarify the above-mentioned issues, GDT will prepare regulations, instructions or Prakas for the management to review and decide.

Last update from TWG at PSWG-D Meeting on 15th June 2023:

As stated in the minute of the meeting from PSWG-D and GDT on 21 March 2023, this issue will be put on hold until further clarification made by General Department of Taxation.

Tax Rule for Pension Scheme

Raised on 21st March 2023 (meeting between GDT and PSWG-D).

Latest update from TWG at PSWG-D Meeting on 15th June 2023.

Issue Description The private sector would like GDT to confirm the interpretation made by the private sector as listed below:

Policy Recommendation

- Pension contribution amount that employer or owner paid on half of employees (in accordance with Labor law or/and company's policy) within an amount not exceeding 10% of the monthly wage, shall not be subject to Fringe benefit tax or salary tax and is allowed as deductible expense.
- Whereas the pension amount that the employer withheld from employees must be removed from the salary tax calculation basis.
- However, GDT and the private sector have not confirmed in case the amount of pension contribution paid by employer on behalf of employees exceeds 10% of monthly wage, whether the whole pension amount paid on behalf or just the amount exceeding 10% that is subject to FBT. But currently the private sector thinks that only excess should be considered.

Response and Current Status **Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):**

GDT agrees with the private sector. Pursuant to Prakas No. 543 MEF.PrK dated September 08, 2021, on Salary Tax, Chapter 3, Article 15, Clause 2(m), states that the amount of pension payment that exceeds 10% of the monthly salary without adding fringe benefit of the employees, shall be subject to fringe benefit tax. If the pension paid by the employer or the business owner exceeds 10% of the monthly salary without adding fringe benefit, the tax base for fringe benefit tax calculation is only the portion that exceeds 10%.

Last update from TWG at PSWG-D Meeting on 15th June 2023:

TWG stated that this issue is solved as we received the positive response from the previous meeting with GDT in which they agreed that if the pension paid by the employer or the business owner exceeds 10% of the monthly salary without adding fringe benefit, the tax base for fringe benefit tax calculation is only the portion that exceeds 10%.

Tax and Accounting Obligations for Enterprises transformed from Small to Medium Taxpayers

Raised on 21st March 2023 (Meeting between GDT and PSWG-D).

Latest update from TWG at PSWG-D Meeting on 15th June 2023.

Issue Description	<p>The private sector requests the following:</p> <ul style="list-style-type: none"> - In case of a change of taxpayer classification, let the effect start from the beginning of the fiscal year, e.g., from January 1. - Prepare guidelines for taxpayers to implement when there is a change in taxpayer classification. - In the absence of instruction / guideline, please ask the tax officers, tax auditors, relevant tax officials and other enforcement officers to perform their duties with gentleness and understanding in the event of any disagreement between the taxpayer and the enforcement officer, such as the possible mistakes in filing declarations, requesting corrections on tax declarations by not imposing any penalties for obstruction, and if there are errors, please limit tax penalties to a minor level (10%).
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Policy Recommendation	<p>The private sector also added that in filling in some information during the period of being small taxpayers, such as balance sheet statements and long-term asset lists, there was a difference from the practice of the medium taxpayer, which led to the implementation of tax declaration and payment still being unclear and slow.</p>
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Response and Current Status	<p>Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):</p> <p>GDT accepts requests from the private sector and accepts input from the private sector to prepare guidelines for taxpayers to implement when there is a change in taxpayer classification.</p> <p>Latest update from TWG at PSWG-D Meeting on 15th June 2023:</p> <p>The TWG informed the meeting that this issue is solved as GDT has issued an Instruction No.16118 GDT on the Implementation of Tax Obligations for Small Taxpayers being transferred to Medium or Large Taxpayers dated May 19, 2023.</p>
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Return of Online Applications for Companies that register online when GDT calls the number on the application and cannot reach the Person and Penalties for the Company when the Chairman/Country Representative has been called to take a photograph and fingerprint but are unable to do so in time or can't be reached

*Raised by Mr. Anthony Galliano, AmCham on 17th November 2022.
Latest update on 21st March 2023 (meeting between GDT and PSWG-D).*

Issue Description The new online business registration system (Single Portal) was launched on June 15, 2020. Initially, the MOC, GDT, and MLVT registration took place fully online without any need for in-person presence from the three ministries. Subsequently, around 4 months after the launch, the GDT began calling companies that registered online, post registration, and in most cases when the company had already been filing tax for some time, requiring the Chairman/Country Representative to visit the GDT for photograph, fingerprint, and completion of a tax registration application. The GDT has advised this is random, about 20%, however, it seems it is much higher.

Initially, the issue was that applicants who registered online in some cases did not have a local representative, and therefore the Chairman was not present in the country. Most registrants also thought the process was fully online and were confused by the request to visit as the Tax Patent and VAT certificate were issued, and tax filings had begun. While GDT recommends the appointment of local director, it will require these companies to take additional steps and at additional cost to exchange established documents that have already been proceed through the online business.

Subsequently the GDT called companies to visit the GDT to photograph and fingerprint. In some cases, they could not reach the company. There have been cases whereby the company has been fined for failing to update, by visiting GDT for photograph and fingerprint of the owner/representatives but was unaware of the fine and request to visit. The company only discovers the fine when there is a change in corporate status, (i.e. shareholder, address, capital), no fine has been formally issued and the company is requested to pay the fine at that time in order to change the corporate status. The fine is KHR 2M.

Policy Recommendation	<p>(1). If it is likely in future a company will be required to have their Owner/Chairman/Country Representative visit the GDT for a photograph, fingerprint, registered address confirmation, and completion of an application for tax registration, then the registration process should be in fact changed.</p>
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- (a). to ensure registrants are aware they will need the Chairman or must appoint a Country Representative in the country who can be available within the timeframe the GDT calls them to visit;
 - (b). to add a remark in the GDT's tax registration form that the contact number/email used will be important in that the GDT will use this to contact the registrant for the visit;
 - (c). a firmer process to make sure the company is notified of the requirement to visit and confirm it is aware it must fulfil this obligation within a very firm timeframe. At times the GDT may call a foreigner (number given), and they could not understand the purpose of phone call.
- (2). Request more robust notification process like the MOC whereby several requests/reminders by registered email are sent, that the visit is required before resubmission or levied a fine such multiple notifications and reminders provide convenience to business. as the person required to visit may not be in the country, traveling, or otherwise unavailable to answer. The MOC sends a series of reminders/requests before a fine is levied. Potentially a request for a telegram, WhatsApp, or WeChat number. There should be confirmation by the Chairman/Country Representative, their signature, and affirmation that the notification is received, and not just any person in the company when a letter is sent.
- (3). Request notification of any fine should be sent through postal mail or registered email, with confirmation the notification was received.
- (4). Request more approach from GDT to reach the person. Unofficially some GDT persons have said they try just one time to call.

Response and Current Status

Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):

- (1) For verification purposes, the company will be required to have their owner, president or country representative shown themselves at the GDT, to register and complete the tax registration documents at the GDT, the registration process should be changed:
- a) Pursuant to Article 9 of Prakas No. 701 MEF.PrK dated 14 August 2020, in the event that the Chairman of the Board of Directors, the owner of the enterprise or the President of any association and non-governmental organization may not appear in person at the tax administration, he/ she shall make a letter of authorization to any representative on the board of directors of the company or association and non-governmental organization recognized by the relevant ministry or institution to perform its duties on its behalf or, if necessary, may request the tax administration to provides services to take fingerprints to any enterprise location or appropriate place. In addition, the documents to be attached after registration are required only for the bank account information of the enterprise issued by the bank (bank account certificate bank statement, or bank account book).
 - b) The telephone numbers and emails provided in the tax registration are important for official communication with the tax administration, especially in accessing the online tax filing management system (E-Filing) and the new monthly tax return form for taxpayers.
 - c) Taxpayer communication shall be made by all means, including the telephone number of the legal representative, in requesting business registration, the Chairman of the Board of Directors, the Directors, or in person at the location of the enterprise. Business location inspections during registration are

conducted for enterprises with addresses that do not have house numbers, street numbers, or at-risk enterprises.

(2) For notification to the taxpayer to come and update the identity verification is done in the following ways:

- Send a letter to the official email (Email) of the enterprise and the business owner.
- Contact the telephone number of the enterprise and the business owner or legal representative to apply for business registration to receive the letter or
- Handing over the letter to the enterprise headquarters

(3) Failure to fulfil the obligation to update the information at the invitation of the tax administration shall be deemed to have obstructed the implementation of tax provisions and shall be punished in accordance with articles 123 and 133 of the tax law.

(4) Taxpayer communication shall be made by all means, either by the telephone number of the legal representative responsible for applying for business registration, the Chairman of the Board of Directors, the directors, or delivered in person at the location of the enterprise. Business location inspections during registration are conducted for enterprises with addresses that do not have house numbers, street numbers, or at-risk enterprises.

Therefore, the private sector or taxpayers must ensure that all their registration information is accurate, avoiding the provision / completion of inaccurate or old information that could lead to the inability to transmit tax documents to taxpayers.

Government Official Notification Not Received by the Owner of Company

*Raised by Mr. Somethearith Din, Cambodia Hotel Association (CHA) on 16th June 2022.
Latest update on 21st March 2023 (meeting between GDT and PSWG-D).*

Issue Description The government sent official notifications to the company, yet the company never received such notification. When the government takes action because of that letter, it is a big surprise for the company since they cannot recall receiving any letter.

Policy Recommendation The private sector would like to request:
All official notifications from the government are to be sent by registered mail and need to be signed by the person addressed in the notification to confirm they received it.
The soft copy of the notification is to be sent to the company's email that has been given to GDT.

Response and Current Status **Mr. Arnaud Darc** requests a burden of proof from GDT that the letter is received by the targeted company.

Mr. Ken Loo, representative of TAFTAC requests that the penalty / punishment shall only be effective 30 days upon receiving a document signed by third parties to prove the receiver of notification and delivered to registered address.

TAFTAC will join this issue and **TWG** will bring this issue to discuss with GDT.

Minutes Response on 21st March 2023 (meeting between GDT and PSWG-D):

GDT now recognizes this challenge because in the past, the addresses of some enterprises have not been properly updated in the GDP's registration system, making it impossible for tax officials to find the actual location of taxpayers' addresses. GDT is currently trying to collect taxpayers' information at the time of registration, such as address, phone number and e-mail, ect., but some taxpayers' information is inaccurate and inaccessible. At the same time, GDT urges the private sector to strengthen and update this information accurately and comprehensively so that the GDT can contact taxpayers accurately and in a timely manner. As a matter of practice, GDT communicates and notifies in writing to the last updated company address. In case there is no representative who can be contacted, it will be sent by registered email or post.

In response, the private sector confirms that in this case it refers only to companies that have been properly updated, such as addresses, telephone numbers, e-mails,

where they need official proofs signed by a company representative to confirm that the company has indeed received an official letter from GDT. Also, for the companies that are properly registered, the private sector requested that the effective date (for the purpose of imposing penalty for any late action of the private sector) shall start from the receiving date, and not from the issuance date as written on the Letter.

III. ISSUES RAISED TO PSWG-D

Signed Board

*Raised Ms. Hem Panha, EFG (Cambodia) Co., Ltd. on 16th July 2021.
Handed over to TWG on the 16th of June 2022.
Latest update from TWG at PSWG-D Meeting on 10th of August 2023.*

Issue Description The company have to pay stamp tax of billboard to the General Department of Taxation and is also required to pay to Phnom Penh Municipal via a company named RKS. So, the Company pay double for signed board.

Policy Recommendation The private sector recommends paying only one time per year to either the General Department of Taxation or Phnom Penh Municipal.

Response and Current Status **Ms. Hem Panha**, representative of EFG (Cambodia) Co., Ltd shared her concern that companies pay stamp tax on signboard to both GDT and to Phnom Penh Municipal via representative agency known as “RKS” with different rate under the same signboard. She was informed by GDT official that these are two difference authorities to collect revenue in which GDT collects for Ministry of Economy and Finance whereas RSK collects for Phnom Penh Municipal.

TWG suggests compiling supporting documents and study on the purpose of collecting tax, where does the revenue go to in case the objective of the license overlaps with one another.

Mr. Arnaud Darc confirms once the study is complete to add this issue to the G-PSWGD meeting with **H.E Dr. Aun Pornmoniroth**, Co-Chair of WGD.

Fixed Asset Write Off

Raised by Ms. Hem Panha, EFG (Cambodia) Co., Ltd. on 14th October 2021

Latest update from TWG at PSWG-D Meeting on 16th June 2022.

Issue Description Based on Instruction 15301, in Point 2. For any tangible Fixed Asset (FA) for which VAT credit has been claimed and no longer used in the business of the taxable person, the asset is considered as being sold and is subject to VAT on its market value at the time it is no longer used. In case, the FA is loss or no longer usable, so it is hard to benchmark a market value, and it is unfair for the company that have not sold and did not receive any cash, but they are reassessed on VAT. Therefore, it is necessary to share the real practice of FA write off.

Policy Recommendation FA write-off should not be subject to 10% VAT if it is no longer usable. It is only subject to 10% VAT if the Company has sold it. Moreover, the sufficient supporting document for FA write off should approved by management and technical person.

Response and Current Status **TWG** updated that the tax authority has issued clarification in order to address the VAT concern related. A brief explanation: No VAT implication if the fixed asset has not been disposed of or the fixed asset written off has a value under \$500. VAT applies only when the fixed asset is sold.

Further to Instruction No. 15301 dated 22 June 2020, the GDT issued a supplementary Instructions No. 12093 dated 7 June 2022 to clarify the points below:

Regardless of whether a taxpayer has claimed the input VAT credit or not (at the time of purchase), the sale of the tangible fixed assets (which are no longer used in the taxpayer's business) as reusable assets or scraps shall be subject to 10% VAT following tax laws and regulations in force.

Any disposal of fixed assets (which are destroyed, damaged or have no sale value) shall not be subject to 10% VAT, provided there is clear evidence of the disposal. Enterprises are required to notify the GDT at least ten working days before any destruction of any fixed assets with accounting Net Book Value (NBV) from KHR200,000 (approx. USD50). The GDT will assign tax officers to visit the destruction site within ten working days after receiving the notification.

For a charitable contribution (as stated in Article 16 of Law on Taxation) of any tangible fixed assets that the taxpayer has already claimed VAT input credit and has been used in the business, it shall not be treated as sales and so shall not be subject to 10% VAT and Tax on Income in the below cases:

Tangible fixed asset class 2 has been used in the business for over three years, and its accounting NBV.

Does not exceed KHR1,000,000 (USD 250).

Tangible fixed asset classes 3 and 4 have been used in the business for over five years, and its accounting NBV does not exceed KHR2,000,000 (USD 500).

For tangible fixed asset class 1 (whether newly built or purchased) of which the input VAT credit has been claimed but not yet been put into use in the business is not treated as a sale and therefore not subject to 10% VAT.

If a tangible fixed asset class 1 has been put into use in the business but then ceased to be used for more than one year, the enterprise [taxpayer] shall notify the GDT of the appropriate reason for stopping using the asset to be exempt from the obligation to pay 10% VAT.

The term 'tangible fixed asset which is no longer used' refers to a tangible asset maintained but not used in the business to produce any output from one year onwards.

Latest update from TWG at PSWG-D Meeting on 16th June 2022:

TWG updated that tax authority has issued clarification in order to address the VAT concern related.

Brief explanation: No VAT implication, if the fixed asset has not been disposed of or the fixed asset written off has value under 500\$. VAT applies only when the fixed asset is sold.

Loan Write Off

Raised by Ms. Sok Chantheara, Phillip Bank Plc on 13th July 2023.

Issue Description Is loan write-off considered as deductible expense or non-deductible expense?

Policy Recommendation If it is non-deductible expense, once bank collected some of those amounts back, bank will record as income and pay tax 20%. If so, the bank is going to pay double tax.

Response and Current Status

Ms. Sok Chantheara, representative of Phillip Bank informed that when the loan is not written off, it is considered as deductible income but once it is written off, it considered as non-deductible. So, when the bank collects loan from the customer, it is considered as income to the bank and the bank is required to pay tax on income 20%.

TWG explained that loan provision is called debit expense and credit provision. So, when we write-off loan, it becomes a debit provision and credit loan receivable, no Profit and Loss intake. The TWG also stated that according to the rule of deductible, loan loss is deductible, and loan recovered back is considered as income and is taxable.

Mr. Arnaud Darc advised **Ms. Chantheara** and the **TWG** to discuss this issue separately and if required put on the agenda for the next PSWG-D meeting.

Refundable Customer Deposit

Raised by Ms. Hem Panha, EFG (Cambodia) Co., Ltd. on 16th July 2021.

Latest update from TWG at PSWG-D Meeting on the 16th June 2022.

Issue Description Is the refundable customer deposit subject to 10% VAT? If it does, should the company issue a Credit Note when the company refunds the deposit?

Policy Recommendation The company supposes that it would not be subject to 10% VAT since it is not a taxable income. Moreover, if the customer breaks the term per contract and deposit is not refunded to the customer, the deposit should be classified as other income and not subject to 10% VAT (not income from sale activities).

Response and Current Status TWG mentioned that **H.E Kong Vibol** has agreed in principle, saying that refundable deposits should not be subject to either VAT or 1% income tax. Currently, they are waiting for the legal committee to have the sign off.

Recognition of Customer Deposits as Income

Raised by Ms. Kimline Nuch, ATCam Consulting, on 10th August 2023.

Issue Description An agricultural company received a deposit of \$3 million in December, so according to Prakas No. 98, Article 20, the deposit from the customers must be recognized as revenue and income tax be paid $20\% = 3,000,000 \times 20\% = 600,000$ USD as we will not have cost of sales at that time. The company will never have the profits to be paid. This rule does not reflect the reality of businesses' performances.

Implication:

Proclamation No. 98, Article 20, Paragraph D, Deposit from the Customer. The deposit is paid by the buyer in advance of the full purchase of goods or services as part of the purchase price of the goods or services, and the supplier shall record that money as income on the day of receipt Money.

Policy Recommendation

There are two options:

Option 1: The recognition of the income of the agricultural sector should be the same as that of the construction sector. Recognize the revenue and expenditure according to the estimated cost incurred or according to reliable cost forecasts.

Option 2: Recognition of revenue when goods and services are delivered.

Response and Current Status

Ms. Kimline Nuch, representative of ATCAM Consulting, stated that when the company receives a deposit from the client as a part of a sale agreement, it should be a part of revenue, and when a declaration is made, it is considered revenue/ profit that is needed to pay tax on income.

Ms. Panha Hem, representative of EFG (Cambodia) Co., Ltd commented that based on accounting standards, the customer's deposit does not meet the criteria of revenue and should be considered the company's liability because it has not fulfilled the contract obligation. Once the project and payments are completed, the deposit will be re-classified from liability to revenue. She added that normally the profit margin is not as high as 20% of the total amount that a company must pay tax on income to the government.

TWG informed that according to the previous discussion with GDT, they agreed that refundable deposits can be exempt from tax, whereas non-refundable deposits or deposits as a part of a purchase order is recognized as revenue that must be pay tax. He further emphasized that Prakas No. 98 on tax on income is clear and we cannot use accounting principles to challenge GDT.

To conclude, **Mr. Arnaud Darc** requests that the Cambodia Chamber of Commerce (CCC) reach out to the working group on logistics to gather information or any

supporting documents that GDT has issued before in regard to this. And advised TWG to take over this issue and discuss with GDT to get clear clarification on how they process the deposit and explain to GDT the process, procedure, and how companies/business conducted.

Interest Rate on Loan Between Related Parties

Issue Raised by Etienne Chenevie, CITYSTAR on 30th January 2019.

Latest update from TWG at PSWG-D Meeting on 16th June 2022.

Issue Description Reminder on initial discussion: The Working Group D of January 30, 2019, debated on the issues coming from the Instruction 11946 GDT dated 21 August 2018, regarding the definition of the Arm's Length Principle imposed to related parties as per this Instruction.

The Instruction 11946 cancelled the Instruction 151 GDT of 22 January 2014 for related parties only, and let non-related parties decide freely what rate they want to apply to their intercompany loans if they were between zero-rate and the market rate. It imposed the application of the Arm's Length Principle for intercompany loans between related parties without specifying clearly whether loans below the market rate were still acceptable, and what potential tax consequences could occur in case of future tax audits.

In the meeting of Working Group D of January 30, 2019, the MOEF confirmed that Arm's Length Principle is a global trend with many countries in the world including OECD, and established that the Arm Length's Principle does not refuse to accept a loan with a zero interest rate, but the taxpayer must have clear documents confirming the purpose of lending, business planning, and timeline of the loans at zero interest rate. MOEF also requested that GDT and Private Sector Working Group discuss the details of the implementation of the Prakas with detailed instructions on how to implement this Prakas, or consider adding to the Prakas on the role of Audit Team.

On 18 March 2019, GDT issued Circular 4909 on the required documents to support the interest rate of a related party loan. This Circular requires enterprises to maintain and provide to GDT's demand the following documents:

- Loan agreement stating the specific borrowing period
- Business plan related to the borrowing
- Documents explaining the basis of the interest determination
- Board resolution passed in the relation to the borrowing

Issues:

- The Circular 4909 does not answer all issues discussed in January 2019, and gives way to questions about whether future tax audits could lead to questioning interest rates applied and calculating tax reassessments in the future.
- During the meeting of 9 October 2019 of the TWG, it was mentioned by GDT that the first, second and fourth items of the requested documents above would suffice for providing documentation, but none of the following issues were given a clear answer, and no Circular or official Minutes was published following this meeting:

1) The Circular 4909 talks about loans for a specific borrowing period, when a lot of intercompany loans are simple cash advances repayable at will upon lender's request and granted for undefined periods, for the purpose of financing the treasury needs of the borrowing related company. It should be useful to clarify whether an undefined borrowing period is acceptable when the loan is a treasury cash advance that in most cases is repayable at will from the lender and with no specific schedule for reimbursement.

2) The Circular requests companies to produce a specific business plan for each specific loan, not defining what a business plan is ; such term of business plan could designate a small paragraph in an exchange of letters between the lender and the borrower (case of a cash advance agreement for example), or a 50-page document or more in case of a heavy investment presented to the Board of Directors.

3) The Circular does not specify whether this business plan can be opposed by GDT to the Company 3 years later during future tax audits if the development of the Company does not reach the expected objectives, and what tax consequences could result from this situation; this is a fundamental issue that could introduce uncertainties about security of foreign investment in Cambodia.

4) The Circular does not specify clearly that zero-rate or rates below market are acceptable in principle and does not specify whether GDT could question during future tax audits the validity of the choice made by the related parties when they contract their loan together, and on which bases this questioning could be made.

The market interest rates of the domestic market in Cambodia published by GDT (9.44% for KHR loans and 8.35% for USD loans in 2018) are extremely high compared to the actual remuneration of cash on current accounts in places like Singapore, US or Hong Kong that is close to zero per cent. Such a low remuneration allows shareholders or holding companies abroad to lend to their subsidiaries at zero rate that reflects the remuneration of their liquidities in their domestic market. This big difference in interest rates leads to considerable uncertainty from shareholders or holding companies about their freedom to decide whether they can transact with their subsidiaries at zero rate, because of the risk of huge tax reassessments in Cambodia a few years after the establishment of their cash advances or shareholder loans with their Cambodian subsidiaries in the future.

For example, if a cash advance is contracted between the related parties at zero rate and the tax audit is performed 3 years after the signature of the cash advance agreement, if the interest rate is questioned by GDT then GDT could reassess the interest rate for each of the 3 years and claim 14% Withholding Tax on a deemed interest rate of 8.35% per year for the 3 years, plus 25% penalty for each year of the loan (tax audits being for each year separately) and 2% penalty per month for each month of the loan during 3 years, which could lead to a reassessed cumulated Withholding Tax over 3 years of $8.35\% \times 14\% \times [1 + (25\% \times 3) + (2\% \times 36 \times 37 / 2 / 12)] = 3.34\%$ of the cash advance, i.e. the total Withholding Tax that would be payable over 3 years for a cash advance contracted at 7.95% per year.

In other words, a zero-rate cash advance between related parties could be reassessed 3 years later, with tax penalties equal to tax applicable to a 7.95% per year cash advance. When sums advanced can be of several million USD, the matter of whether

zero-rate cash advances between related parties are allowed in principle and in which specific cases they could be questionable is a fundamental issue.

5) The contrast with loans between non-related parties, which can be freely contracted at zero rate without adverse tax consequences during future tax audits, is obviously a subject of preoccupation for international companies if they cannot be guaranteed that below published market rates, they are free to determine which rate they want to apply, including zero-rate for their subsidiaries in Cambodia, without adverse tax consequences during future tax audits.

6) It is interesting to come back to the origin of the Transfer Pricing regulation, i.e., the Prakas 986. MEF.P. of 10 October 2017, which sets in its article 5 that related parties “may transfer benefits” through Transfer Pricing if these transfer pricing transactions are made at market rate “like the business transactions carried out between independent enterprises”.

If we notice that:

- A zero-rate cash advance or intercompany loan is maximizing the Tax on Profit paid by the Company in Cambodia, and
- If this kind of transaction is legally acceptable between independent enterprises without having to bring any justification or documentation to tax auditors about it, then this kind of transaction between related parties should not be deemed to reduce the exposition to tax of the company in Cambodia or to reduce future taxes on dividends, and it should be acceptable in principle between related companies without justification or documentation.

7) GDT has already started to question zero-rated cash advances signed in 2015 by some Singapore companies with their subsidiaries in Cambodia, pretending to reassess their interest rates to 4% per year and to claim Withholding Taxes on these reassessed interest rates, with all penalties attached to this late reassessment. It is therefore important to clarify these issues rapidly.

Policy Recommendation

The private sector would suggest that below published market interest rates, related parties would be free to decide what interest rate is convenient for the interest of their business, provided of course that they keep clear documentation about the loans or cash advances that they contract together. This freedom should be clearly written in Circular 4909 or further Prakas, the same way that this freedom is extremely clear in Instruction 151 for non-related parties.

Response and Current Status

Latest update from TWG at PSWG-D Meeting on 16th June 2022:

TWG updated on the good progress with GDT in terms of this tax update. This case is considered solved because the tax authority has issued the official instruction on this matter by making some adjustments to the previous regulations.

The first point of the law remains unchanged, which is no contact between the borrower and the lender. The second point of the updated law states that the borrower could have the business plan and the objective of the loan. However, it is still quite unsure on what type of business plan, to what level of details should they

prepare for. Should there be any challenges, they will have a further discussion with the tax authority.

Third point, DOD resolutions for those companies that have the DOD.

Fourth point, Cash Advance: There are many questions when it comes to treating short-term advances as loans and having interest.

However, the new regulation gives companies certain flexibility: for instance, if the advance is less than 12 months, it should not be treated as a loan and no interest should be applied. Under the regulation, it does not specify the rate of interest if your interest rate aligns with and does not exceed the market rate.

Notification No. 10979 GDT on the “Required Documents to Support the Interest Charge on Related Party Loans dated 25th of May 2022

To ensure compliance with Prakas No. 986 MEF.P. dated 10 October 2017 on Transfer Pricing, and to provide a reasonable basis for determining the interest rate on related party loans, the GDT provided the following guidance:

A- A Cambodian enterprise entering a loan with a related party may determine the interest based on an interest rate that is mutually agreed upon. The enterprise does not need to comply with the Arm’s Length Principle (contained in Prakas 986), provided that the enterprise has the following documents to support the loan:

A loan agreement that specifies the terms of loan and repayment obligations. A business plan or current/forecasted financial statements at the time of borrowing that provides evidence of the purpose of the borrowing, as well as explanations. Approval of the Board of Directors (for those enterprises that are not single-member private limited companies)

B- When borrowing money from related parties, the interest rate used by the enterprise shall not exceed the prevailing annual market interest rate at the time of borrowing. The prevailing market rate is the average of the lending interest rates of five large Cambodian banks. The market interest rate is issued on an annual basis by the GDT.

C- Those enterprises that have received a cash advance from a related party that is repaid within one year of receipt shall not be a related party loan for the purpose of Prakas 986 and the Arm’s Length Principle contained within.

Unilateral Reassessment

Raised by Ms. Hem Panha, EFG (Cambodia) Co., Ltd. on 16th July 2021.

Latest update from TWG at PSWG-D Meeting on 16th June 2022.

Issue Description The company has actively participated in meetings and provided requested documents. However, some documents are not available or missing as they were back in the old years. So, using the reason of not providing one or two types of documents, the tax auditor reassessed the company unilaterally and charged penalties at 40%.

Policy Recommendation As long as the company actively participates and provides almost all requested documents, the company should be reassessed unilaterally at 40%.

Response and Current Status TWG informed that during their discussion, GDT has mentioned that unilateral reassessment will be used only when the taxpayers neither cooperate nor provide support during the tax update.

However, there is concern on how the tax authority defines the term "actively cooperate" as its definition can be interpreted differently from one to another. Thus, the TWG will discuss this issue again after the implementation to come up with further law and procedure.

Request for Accrued Interest Expense to related party over 180 days of BFIs as Deductible Expense

Raised by Mr. Thomas Schings, Association of Banks Cambodia (ABC) on 16th June 2022.

Issue Description According to Article 25.2.C of Prakas on Tax on Income No. 098, dated 29th January 2020,

"[...] for those expenses being made for the related party, the institutions could deduct in a current taxable year if those expenses made within 180 days of the next year except deductible expenses of assets depreciation. Those expenses being made for the related party who is not under the self-assessment regime are not allowed to deduct before the actual expense made. In case of expenditure made for the related party as mentioned in this paragraph has not been paid within 180 days of the next year, that expense shall add be backed as taxable income for the current taxable year and shall not be allowed for deduction in the next years."

The main business of the BFIs is providing loans and receiving deposits. With the deposit operation, the BFIs will cover interest expenses to the depositors in accordance with the types of deposit products such as Fixed-term Deposits, and normal savings. Generally, the fixed-term deposit can be up to 3-month, 6-month, 1-year, 2-year, or 3-year, which the customers could select as their best option.

Example: Sok San Company, which is a subsidiary of the Commercial Bank. Sok San company has placed a deposit KHR 100,000,000 in the Commercial bank with a fixed term of 3-year, from January 2020 to December 2022, receiving a fixed interest rate of 5% per annum. In the financial statement, the commercial bank shall record the accrued interest expense of KHR 5,000,000 per year for each year from 2020 to 2022 totaling KHR 15,000,000 which will be settled on 31st December 2022.

According to Article 25.2.C of Prakas No. 098 on Tax on Income, the Commercial Bank cannot claim a deduction on the accrued interest expense incurred for 2020 and 2021. Only the accrued interest expense incurred for 2022 can be claimed for deduction.

Similarly, the loan transactions in which BFIs borrowed from the related party with a specific tenure to pay the interest after the current taxable year will face the same challenges.

Policy Recommendation The private sector requests to claim accrued interest expenses to the related party over 180 days into the deductible expenses in the current taxable year for BFIs and not to comply with Article 25.2.C of the Prakas No. 098.

Response and Current Status TWG stated that they will be responsible for further dialogue with GDT.

Unreasonable Taxation from GDT to SALASUSU

Raised by Mr. Kenta Aoki, SALASUSU on 16th June 2022.

Issue Description According to Article 25.2.C of Prakas on Tax on Income No. 098, dated 29th January 2020, We SALASUSU, became independent from its former organization; Kamonohashi Project, in 2018.

Before independence, we have paid taxes, in terms of payroll and office rental fee. However, in terms of income-related taxes, such as prepaid tax or income tax, we were unable to pay. This is because the Tax department stated that “NGOs cannot declare taxes and consumption taxes on income”, despite we attempted to make tax applications. In August 2021, Cambodian tax authorities conducted an inspection and demanded a fine of approximately 54 millions yen (around \$500,000), for the interests and penalties, besides the tax we have been unable to pay so far.

Basically, we would like to levy the taxes, since that is also one way to contribute to Cambodian society and people who live here. However, there are some unreasonably high amounts demanded from the tax department. GDT demands unreasonable requests from NGOs, including SALASUSU, because of not only drastic changes in tax rules, but also the continued ambiguity in the treatment of NGOs. For instance, the expenditure we spent in villages will not be seen as formal expenditure, since it does not have a logo/or cannot be seen as a formal invoice. In the end, GDT has put 15% deemed profit (WHT), and the tax based on it. Based on chapter 5 of Prakas on TOI, it is strictly stated that “A deductible expense is an expense which the taxpayer has paid or incurred in the tax year to carry on the business, and which did not cause the inclusion in the assets or elimination from any liabilities”. Though, as mentioned above, the expenditures in villages are not seen as deductible expenses. Although we are trying to reduce the fine through negotiation, the total fine is expected to be approximately 720,000,000-1,400,000,000 Riel. (\$180,000-\$350,000). We already made one counter statement, although the total amount of penalties was not decreased as we expected. When we consulted with CCC (Cooperation Committee for Cambodia), we realized that other NGOs have been faced with similar tax issues and dealing with them, so as to avoid bankruptcy.

Policy Recommendation

We would like to propose the GDT for 5 requests below.

- Requesting to make an appointment to the top officer or H.E Kong Vibol, Director, the Royal Government delegate in charge of the Director General of Department of Taxation, in order to further explanation and question and answer sessions.
- Requesting for discussion of the amount of 15% WHT, including the possibility of waiving it, (along with reconsideration of expenditures in villages)
- Requesting to approve for waiving all Income tax since all income is for NGO activities not the business for profit.
- Requesting to approve for waiving tax interest and penalty.
- Requesting for clarification around Tax payment by an NGO

**Response and
Current Status**

Mr. Arnaud Darc explained that this case is not in PSWG-D scope of focus, thus would like to turn the case over to the TWG for further discussion and advice. **TWG** agreed and will arrange to meet with SALASUSU.

Request to Delay the Implementation of Prakas 542, dated 08th September 2021

Raised by Mr. Thomas Schings, Association of Banks Cambodia (ABC) on 16th June 2022.

Issue Description References: - Prakas No. 542, dated 08th September 2021 on Rules and Procedures of the Implementation of VAT on E-Commerce

Sub-decree No. 65, dated 08th April 2021, on the Implementation of VAT on E-Commerce

Prakas No. 098, dated 29th January 2020, on Tax on Income

Law on Taxation

In the recent years, the banking and financial sector in Cambodia has been significantly improving. The Digital Operation Platforms for operating financial transaction have been developed by members of the ABC and the CMA, using their own efforts and resources under the directive from the Royal Government of Cambodia (RGC) and the National Bank of Cambodia following the national strategic policies for enhancement of the digital sector development. The digital financial operating systems such as Internet Banking, Mobile Banking, Bakong and Retail Pay that have been created by the National Bank of Cambodia (the NBC), and other digital operation systems have been developed with multi-functions, providing more convenience to the users to transact financial transactions. In 2020 and 2021, Cambodia as well as other countries around the world have been facing the difficulty caused by the Covid-19. The RGC have been taking responsibly actions and efforts to fight against the Covid-19 throughout the immediate health measures especially the curfew in some regions in order to stop the movement of the people. During that hard time, banking and financial institutions (BFIs) played an important role to support the national economic stability strategy, and with the direct leading from the NBC, the BFIs could maintain the normal working of their digital operating systems to enable the customers to make digital payment for purchasing food and other necessary household goods.

However, to get the digital operating system developed, the members of the ABC and the CMA always face two challenges such as 1. lack of local experts and 2. the budget. The lack of local experts gives the members of the ABC and the CMA an alternative to hire experts from overseas with a higher cost to develop the digital system in which most of the expenditure is subject to 14% Withholding Tax. Therefore, if the VAT on E-Commerce is implemented, every expenditure to the overseas experts will be added 10%VAT over the existing 14% Withholding Tax that the member of the ABC and the CMA already bore directly or indirectly. The imposition of 2 taxes totalling 24%, is a big obstacle to slow down the development process of digital system for the BFIs due to the limited budget; it also impacts the short-term and medium-term budget plan of the BFIs. This will make the banking and financial sector could not follow the strategic policies of the RGC for enhancement of the digital sector development.

**Policy
Recommendation**

Request for a delay of implementation of Prakas No. 542, for banks and financial institutions until 31st December 2024 as an incentive for the BFIs during the impact of Covid-19 and to encourage the BFIs to continue to develop more the digital technology system to follow the RGC policy on the development of technology in the digitalization economy, industry 4.0. Moreover, the delay in the implementation of VAT on E-Commerce will give more time to the BFIs to get a well understanding of the related regulation and types of digital transactions which is under primary financial service as well as to find a local expert to replace the overseas one.

**Response and
Current Status**

TWG mentioned that a better option of this case is to seek for tax exemption.

Mr. Arnaud Darc added that this case cannot be brought to the GPSWG-D meeting yet, more clarity on the recommendations is required, together with TWG's suggestion that concrete evidence and information (can use neighboring countries for comparison) are needed to make this argument become stronger.

Suggestion: For ABC to write a letter to GDT based on above suggestions and to share a copy of the letter to Working Group D secretariat.

Mechanism for the Implementation of Additional Tax Incentives for Qualified Institutional Placement (QIP) Companies or Enterprises

*Raised by Kaing Monika, Garment Manufacturers Association of Cambodia (GMAC)
on 17th March 2022.*

Issue Description The new Investment Law of the Kingdom of Cambodia is promulgated by Royal Code NS/RKM/1021/014 dated 15 October 2021 and the important part of this law is concerning tax incentives. However, there is no detailed instruction on the procedures and conditions for the implementation of tax incentives for QIP companies or enterprises as stipulated in Article 27 of this law.

Policy Recommendation The private sector requests the MEF to issue a Prakas or detailed instruction on procedures and conditions for the implementation to get additional tax incentives for QIP companies or enterprises as stipulated in Article 27 of the new Investment Law. In addition, to ensure reality and convenience in the implementation, the private sector requests an opportunity to provide input for the draft Prakas or instructions.

Response and Current Status **Mr. Arnaud Darc** mentioned that the draft Sub Decree to implement the Law on Investment is now being reviewed by the Ministry of Economy and Finance. He requested a copy of the draft for the Private Sector to review but received the response that we need to wait for a response from MoEF.

TWG suggested that rather than asking them to provide definition and example, GMAC should list down the example they feel should be eligible to claim and provide definition, to get the endorsement from the Council for the Development of Cambodia (CDC) through Working Group D.

Updated information:

On 26 June 2023 the Royal Government of Cambodia issued Sub Decree No. 139 ANKr.BK specifically Chapter 7 – Article 29 and 30 – Acquisition, Sale or Merger of Investment Project.

Deemed Taxation on Non-Resident Directors

Raised by Mr. Yoshida Shigeki, Japanese Business Association of Cambodia (JBAC) on 17th November 2022.

Latest update from TWG at PSWG-D Meeting on 18th January 2023.

Issue Description There are some cases among JBAC's members that:

Non-resident directors of a company are not subject to payroll tax unless they have Cambodian source income. Therefore, Cambodian companies with non-resident directors are not obligated to withhold or pay salary tax.

However, as a practice of GDT, there are many cases where non-resident directors are recognized as deemed income and Cambodian corporations are subject to additional taxation on the grounds of non-compliance with withholding and payment obligations.

JBAC thought:

Taxation on non-existent taxable income should not exist. Previously, the GDT explained that taxation by recognizing fictitious taxable income (deemed taxation) would not be carried out when taxable income such as income does not exist, and it is a common understanding.

However, as a matter of fact, there are many cases where non-resident directors who do not receive any remuneration are recognized as having non-existent income and are subject to additional taxation.

For non-executive directors, Cambodia-sourced income should be unthinkable, and additional taxation penalties are extremely unreasonable.

JBAC requests that the GDT make it clear that such deemed taxation will not be carried out and ensure that all relevant departments are thoroughly informed.

Responses from the GDT:

Tax avoidance is not permitted, and if there is Cambodian source income, it will be taxable even if it is not paid by a Cambodian corporation.

- Even non-executive directors may be recognized as receiving income from Cambodia, such as the exercise of voting rights at the board of directors, and the amount equivalent to their compensation may be recognized and taxed.
- When JBAC pointed out that the taxation of non-executive directors is against international practice, GDT proposed to continue discussions after confirmation by both parties, and it was agreed.

Policy Recommendation	JBAC would like to seek advice and further request that this deemed taxation not be carried out by GDT.
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Response and Current Status

Minutes Response from PSWG-D Meeting on 17th November 2022:

TWG will arrange a meeting with JBAC and other companies with the same issue to prepare for meeting with GDT.

Latest update from TWG at PSWG-D Meeting on 18th January 2023:

TWG will bring this issue for further discussion with GDT for clarification.

GDT has recently Levied Fringe Benefit Tax on VISAS and Work Permits Paid by the Company on behalf of its Foreign Employees

Raised by Mr. Anthony Galliano, AmCham on 17th November 2022.

Issue Description Recently in audits, auditors have reassessed the fringe benefit tax on visas and work permits in cases where a company pays on behalf of the foreign employee. This is a recent practice, as in the past this was not the case. A visa is required by the government for a foreign to stay in the country and is by law required for a work permit. A work permit is required by law for a foreigner to work in the country, for the company.

In fact, Cambodian Employment Book for Cambodian employees are required by law and the company practice is to pay for these as well, however the GDT does not consider this a fringe benefit. If the visa and work permit are required by law for the foreigner to work for the company, and the company must ensure that these documents are in place, or the company will be fined, then this should not be considered a fringe benefit, as Cambodian Employment Books for Cambodian employees are not.

Policy Recommendation The private sector requests the GDT to recognize that visas are required for work permits by law, and work permits are required by law for a foreigner to work for the company, therefore if this is a requirement under law then it is not a benefit. Also, Cambodian Employment Books paid by the company for Cambodian employees are not considered fringe benefits.

Response and Current Status **Mr. Anthony Galliano** shared his concern that visas, and work permits are required by law and should not be the responsibility of a company to pay tax on employees' behalf.

Mr. Arnaud Darc and **TWG** stated that in this case, companies are responsible to pay tax because it is considered "fringe benefit tax".

Delay in issuing enterprise Tax branch certificate (renewal) by the GDT

Raised by Ms. Sun Rasey, THALIAS Co.Ltd on 18th January 2023.

Issue Description On October 13, 2022, we applied for the renewal of the certificate of enterprise branch for our branch, through the GDT online filing system. On November 2, 2022, we got a phone call from the tax official asking us to submit the original documents to tax administration for verification purpose. Therefore, on the 4th of November, we went to the 6th floor of the National Tax School to submit the application form and supporting documents. Later, on November 24, 2022, we scan the QR Code to check the status of our application form, it only showed that the documents is still at the administration office. We kept waiting until December 5, 2022, we checked via Track and Check application, it showed the status as "Successful", so we assumed the tax branch certificate is ready for us to collect. We went to the National Tax School, tax officer said the certificate is not yet issued, they will contact us once it's issued. Until December 26, we received a contact from the tax officer to collect the certificate of enterprise branch at the National Tax School, 6th floor.

So in brief, we have been waiting for almost 3 months to receive Tax registration certificate for one branch, this means the process was prolonged. While according to Article 7 of Prakas No. 701 on tax registration and updating enterprise's information, the taxpayer may receive a tax registration decision or update the information within 7 to 10 working days.

Policy Recommendation Request the General Department of Taxation to expedite the procedure in issuing the certificate and in responding to the taxpayer affects the business of the taxpayer.

Response and Current Status TWG explained that 15 days from the lease of output of E-Commerce will be given to company when they register new branch at MOC. And when company proceed to request with GDT, there is no more penalty.

Request to fix error in the Company's directors details on MOC's online system which obstructs the company to file annual declaration online

Raised by Ms. Sun Rasey, THALIAS Co.Ltd on 18th January 2023.

Issue Description From 2018 until 2020, our company has filed annual declaration through the MOC's online system, but in April 2020 we started filing annual declaration, as usual we need to update each section as required in the online system, to the "Board of Director", there is an error message. This error message made it impossible for the company to move on to the next step, causing us not being able to submit AD online in 2020. On the same day, the company contacted MOC officials in charge, and we were advised to submit AD directly to the Department of Business Registration, and the department will look into the matter and fix it for us later. However, to date, the company has not been able to submit AD in the system due to an error in the details of the Board of Directors. Until the 9th of January 2023, we submitted a written request to MOC to fix error issue so that next year we can submit AD online, however business registration department officers said MOC's online system said they cannot fix the error in the online system for us. All we have to do is submit AD directly to MOC. The officers didn't receive our request.

Policy Recommendation Request MOC to provide more support to private sector, like in this, officer should have received our letter and provide us with official response which could explain us more clearly.

Response and Current Status Mr. Arnaud Darc advised that this issue can be discussed in GPSWG-D meeting.

MOC to review the company branch's name written on the letter approving branch registration from MOC

Raised by Ms. Sun Rasey, THALIAS Co.Ltd on 18th January 2023.

Issue Description Prakas No. 0169 on the Usage of Abbreviated Words to Identify the Legal Form of Companies dated August 12th, 2021 “Local branches include the name of the principal in the name and the words “Local Branch” above or before the name.

In 2014, our company filed for registration of a new branch “Malis Siem Reap” restaurant, located at # 250, Sangkat Svay Dangkum 1, Siem Reap City, Siem Reap Province, however the letter approving branch registration from MOC is written "Branch of THALIAS Co., Ltd" Siem Reap".

Later in 2017, we request to register another branches also located in Siem Reap named "Khema Angkor" and the Ministry of Commerce has issued letter approving branch registration by writing the name as “Branch of THALIAS Co., Ltd "Siem Reap". These 2 names written on the letter approving branch registration from MOC are almost the same name, made it impossible for our stakeholder, business partner to identify which one the certificate does refers to any of our branch because the certificate does not include the name of the Restaurant itself.

On the other hand in practice, on tourism license, Ministry of Tourism doesn’t take after the name of the branch as written on the approval letter from MOC. This also means we don’t have the same name for the branch on the official documents from MOC, GDT, MLVT, MOT, business signboard permit (as this is for the business signage displayed at the premises)

Policy Recommendation We request MOC to look on this to make sure the name on these official letters are the same, illustrating the name of the branch as registered at Intellectual Property department of MOC.

Response and Current Status Mr. Arnaud Darc advise Thalias to send a letter to MOC under WGD request for a Prakas or circulation for clear explanation.

Issuance on Certification on quality, effectiveness of prevention and fire-fighting system by Ministry of Interior

Raised by Ms. Sun Rasey, THALIAS Co.Ltd on 18th January 2023.

Issue Description Article 19 of Law on Fire Prevention and Fire Fighting dated 2013: "Inspection and issue of certification on quality, effectiveness of prevention and fire-fighting system to locations is made for a period of 2 years. If necessary, the owner of location can request for a review before expiration of the certificate. The form and procedure of inspection, qualification certificate, effectiveness of prevention and fire-fighting system are determined by Prakas of Minister of Ministry of Interior".

However, the said Prakas determining the form and procedure of inspection, qualification certificate, effectiveness of prevention and fire-fighting system has never been issued. The public service fee for this certification has not yet been issued neither.

Policy Recommendation This firefighting certificate is one among the other required document to apply for tourism license, we went to fire-fighting department and contact to the general commissariat of National police but we didn't get any clarification on that. Therefore, we would like to request Ministry of Interior to issue the relevant Prakas on procedure to apply the certificate, as well as the public service fee, which facilitate private sector to be abide by those and implement the Law on Fire prevention and fire-fighting more effectively.

Response and Current Status Mr. Arnaud Darc advised Thalias to send a letter to MOI under WGD to request for Prakas or circulation to support such practice.

Estimate by GDT of the Yearly Net Income Which Should Have Been Declared

Raised by Mrs. Isabelle Leroux, LBL International on 15th June 2023.

Latest update from TWG at PSWG-D Meeting on 13th July 2023.

Issue Description GDT thinks that Net Income in Construction Company must be at some margin level that they determine and doesn't accept that Net Income by Projects can be different from the bill of quantity (BOQ) or can be different from one Project to another.

They also do not want to understand that when you have fixed Company Overhead, with less Income Revenues automatically the Company Net Income is affected and decreases.

Policy Recommendation No policy recommendation provided

Response and Current Status

Minutes Response from PSWG-D Meeting on 15th June 2023:

TWG suggested narrowing the scope of the issue. In this case, the auditor may intervene if they cannot identify the completeness of the revenue. To avoid them making assumption, we need to have concrete evidence.

Latest update from TWG at PSWG-D Meeting on 13th July 2023:

TWG informed this issue is the similar to other issues raised:

- Estimate of Foreigners Salary,
- GDT has recently reassessed Tax on Salary on Shareholders of the Company,
- Cases Where Taxpayer is Compliant with the Law, but Auditors still make Reassessments all of which are estimated by GDT to deem for tax reassessment.

TWG explained that GDT has different grounds on how they assess companies, and which should and should not be deemed.

The possible way to exclude those entities from being deemed are:

1. They received a good accounting practice certificate from GDT
2. They are good compliance companies acknowledged by GDT

For instance, in the case of Deem Tax on Salary, **Mr. Heng Thy**, representative of PwC, added that GDT tried to fill out the gap in where they assume foreign employee/residents receive income from overseas and/or work for more than one

company. He suggested that taxpayers should possess evidence to prove such as clear balance sheet and employment contract.

To conclude, **Mr. Arnaud Darc** suggested to collectively revise this issue, along with Estimated by GDT of the yearly net income which should have been declared, Estimate of Foreigners Salary, GDT has recently reassessed Tax on Salary on Shareholders of the Company, and Cases Where Taxpayer is Compliant with the Law, but Auditors still make Reassessments to include evidence of current practice and bring it to the next GPSWG-D meeting.

December Client Progress Claim which are invoiced more than 31 December + 7 Days

Raised by Mrs. Isabelle Leroux, LBL International on 15th June 2023.

Latest update from TWG at PSWG-D Meeting on 13th July 2023.

Issue Description To invoice our Monthly Progress Claim, we must follow our Projects contracts signed. The progress is submitted to the Client and Consultant at the end of the month. Normally, they have around 15 days to check, update if necessary, and validate. Only after this validation can we issue our Tax Invoice, attached with the Progress Claim signed. Sometimes it takes more time, especially at the end of a Project and we can issue Tax Invoices only 2 or 3 months later.

This is a problem for yearly closing (cut-off) regarding VAT payment as they will be considered as late payment (February or March of following year). For TOI and 1% PPT these incomes are accrued so it's okay.

Policy Recommendation *No policy recommendation provided*

Response and Current Status Mr. Arnaud Darc requested Ms. Isabelle Leroux and TWG to discuss this issue with the Private Sector Working Group in Construction for more understanding of the process and resolution. He added that this issue will be on the agenda for the next PSWG-D meeting if there is an update.

Estimate of Foreigners Salary

Raised by Mrs. Isabelle Leroux, LBL International on 15th June 2023.

Latest update from TWG at PSWG-D Meeting on 13th July 2023.

Issue Description Willingness to re-assess on tax on salary for some foreigners wages they estimate too low, without looking at their skills or duties.

Policy Recommendation No policy recommendation provided

Response and Current Status

Minutes Response from PSWG-D Meeting on 15th June 2023:

TWG addressed that this issue is similar to issue Deemed Taxation on Board of Director and Shareholders that has been discuss with GDT.

Ms. Isabelle Leroux and **TWG** will work together to combine this case with the deem taxation.

Latest update from TWG at PSWG-D Meeting on 13th July 2023:

TWG informed this issue is the similar to other issues raised:

- Estimate of Foreigners Salary,
- GDT has recently reassessed Tax on Salary on Shareholders of the Company,
- Cases Where Taxpayer is Compliant with the Law, but Auditors still make Reassessments all of which are estimated by GDT to deem for tax reassessment.

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The possible way to exclude those entities from being deemed are:

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2. They are good compliance companies acknowledged by GDT

For instance, in the case of Deem Tax on Salary, **Mr. Heng Thy**, representative of PwC, added that GDT tried to fill out the gap in where they assume foreign employee/residents receive income from oversea and/or work for more than one company. He suggested that taxpayers should possess evidence to prove such as clear balance sheet and employment contract.

To conclude, **Mr. Arnaud Darc** suggested to collectively revise this issue, along with Estimated by GDT of the yearly net income which should have been declared, Estimate

of Foreigners Salary, GDT has recently reassessed Tax on Salary on Shareholders of the Company, and Cases Where Taxpayer is Compliant with the Law, but Auditors still make Reassessments to include evidence of current practice and bring it to the next GPSWG-D meeting.

Retained Earnings Equal Cash

Raised by Mrs. Isabelle Leroux, LBL International on 15th June 2023.

Issue Description The Audit officer of the General Department of Taxation thinks that the retained profit should be equal to the cash in the bank.

Policy Recommendation *No policy recommendation provided*

Response and Current Status **TWG** stated it could be either a taxpayer or a tax officer issue. Hence, more burden of proof as an industry is needed in order to tackle the root of this problem.

GDT has Recently Reassessed Tax on Salary on Shareholders of the Company

Raised by Mr. Anthony Galliano, CIM Holding on 15th June 2023.

Latest update from TWG at PSWG-D Meeting on 13th July 2023.

Issue Description Recently in audits, auditors have made reassessments of Tax on Salary for Shareholders of the Company based on the assumption that the Shareholder is a working shareholder of the business, whether the Shareholder is in Cambodia or overseas.

Policy Recommendation Shareholders are owners of the business, equity holders, and have made an investment in the business, and are not seeking to take their investment out of the business as salary, which defeats the purpose of investing in a business. As investors and owners of the business, Shareholders should not be reassessed for Tax on Salary if they are not taking a salary. There have been cases where Shareholders have been reassessed for Tax on Salary where they are in an overseas office and are in Group CEO positions spanning several countries and are not working for the Cambodia business at all. In cases where Shareholders are taking a salary, then the Shareholder should pay Tax on Salary.

Response and Current Status

Minutes Response from PSWG-D Meeting on 15th June 2023:

TWG addressed that this issue is similar to issue Deemed Taxation on Board of Director and Shareholders that has been discuss with GDT.

Mr. Anthony Galliano and **TWG** will work together to combine this case with the deem taxation.

Latest update from TWG at PSWG-D Meeting on 13th July 2023:

TWG informed this issue is the similar to other issues raised:

- Estimate of Foreigners Salary,
- GDT has recently reassessed Tax on Salary on Shareholders of the Company,
- Cases Where Taxpayer is Compliant with the Law, but Auditors still make Reassessments all of which are estimated by GDT to deem for tax reassessment.

TWG explained that GDT has different grounds on how they assess companies, and which should and should not be deemed.

The possible way to exclude those entities from being deemed are:

1. They received a good accounting practice certificate from GDT

2. They are good compliance companies acknowledged by GDT

For instance, in the case of Deem Tax on Salary, **Mr. Heng Thy**, representative of PwC, added that GDT tried to fill out the gap in where they assume foreign employee/residents receive income from overseas and/or work for more than one company. He suggested that taxpayers should possess evidence to prove such as clear balance sheet and employment contract.

To conclude, **Mr. Arnaud Darc** suggested to collectively revise this issue, along with Estimated by GDT of the yearly net income which should have been declared, Estimate of Foreigners Salary, GDT has recently reassessed Tax on Salary on Shareholders of the Company, and Cases Where Taxpayer is Compliant with the Law, but Auditors still make Reassessments to include evidence of current practice and bring it to the next GPSWG-D meeting.

Cases where the Taxpayer is Compliant with the Law but Auditors Still Make Reassessments

Raised by Mr. Anthony Galliano, CIM Holding on 15th June 2023.

Latest update from TWG at PSWG-D Meeting on 13th July 2023.

Issue Description In certain audit cases, a taxpayer may be fully compliant with the Law of Taxation, however, the auditor still makes reassessments. These are not instances where an auditor doubt reporting of revenue or expenses, which is often a point of discussion in audits, but where the auditor doesn't accept the supporting evidence provided, may not understand the business or accounting, or doesn't condone how the business operates. At times reassessments can be made on speculation by the auditor that revenue is under-reported and expenses over-stated. While this may be the case for non-compliant taxpayers, compliant taxpayers experience unnecessary difficulties in audits.

An example of such a case is with the 7 Makara Tax Branch for Regiotels (Cambodia) Co. Ltd. The company uses the XERO accounting system, has been fully compliant with tax filings, has provided piles and piles of evidence to the auditor, but has been assessed for KHR 105,778,791 (USD 26.4K) for the year 2021. For context, the company lost USD 42K on revenue of USD 29K as a start-up from Luxembourg, it is believed the first Luxembourg company to come to Cambodia.

Issues are:

Obstruction for failing to keep bookkeeping and provide documents. The company used XERO from the beginning and kept perfect bookkeeping records. The company provided all the reports from XERO, but the auditor claims he doesn't understand them. All documents were provided and there are piles and piles of evidence.

The auditor is assessing VAT and PPT on Receivables (where evidence was provided such tax was paid when revenue was posted), on Shareholder Loans (where 14% withholding was paid on interest and loan agreement was supplied), On Interest Payable, and Rent Payable.

Auditor is assessing VAT on Equity Injections from Bank Statement,

The auditor is assessing revenue on a contract based on the signing date rather than the start (onboarding date)

The auditor is assessing Tax on Salary on a USD 5K per month salary on the Shareholder, residing in Luxembourg who does not work for the company in Cambodia. The revenue whole year is USD 26.4k.

The auditor is assessing a salary of USD 2,000 per month, Tax on Salary, for the Independent Director who is being paid through a tax company for keeping tax records.

The auditor is assessing a USD 400 per month payment, withholding tax of 15%, for a single bank deposit made by an employee of the company who incorporated the company for making a one-time bank opening deposit of USD 100 to open the bank account as part of the company registration (which the company was paid for this service to make the deposit).

Policy Recommendation

In instances where complaint taxpayers are confronted with clear erroneous reassessments, there is normally a lengthy objection process with an auditor who may not change the reassessment despite supporting evidence, for multiple objections. This is costly to the taxpayer and the GDT, and a hardship to the taxpayer. If there is a strong belief there is a conduct issue, to save time and expense for both the taxpayer and GDT, a reporting or appeals process in these instances would expedite these cases and add balance.

Response and Current Status

Minutes Response from PSWG-D Meeting on 15th June 2023:

TWG addressed that this issue is similar to the issue Deemed Taxation on Board of Director and Shareholders that has been discussed with GDT.

Mr. Anthony Galliano and **TWG** will work together to combine this case with the deem taxation.

Latest update from TWG at PSWG-D Meeting on 13th July 2023:

TWG informed this issue is the similar to other issues raised:

- Estimate of Foreigners Salary,
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For instance, in the case of Deem Tax on Salary, **Mr. Heng Thy**, representative of PwC, added that GDT tried to fill out the gap in where they assume foreign employee/residents receive income from oversea and/or work for more than one company. He suggested that taxpayers should possess evidence to prove such as clear balance sheet and employment contract.

To conclude, **Mr. Arnaud Darc** suggested to collectively revise this issue, along with Estimated by GDT of the yearly net income which should have been declared, Estimate

of Foreigners Salary, GDT has recently reassessed Tax on Salary on Shareholders of the Company, and Cases Where Taxpayer is Compliant with the Law, but Auditors still make Reassessments to include evidence of current practice and bring it to the next GPSWG-D meeting.

Double Taxation/Taxing an Offshore Office

Raised by Mr. Anthony Galliano, Tilleke & Gibbins (Cambodia) Ltd on 10th August 2023.

Issue Description Tilleke & Gibbins (Cambodia) Ltd. charged its Thailand (sister and head) office a monthly retainer fee for services it provided to the Thailand office. The retainer fee was charged with a Tax Invoice and VAT and PPT were paid to the GDT. The Thailand (head office) provided services to international clients and sourced the local work to the branches where applicable, including Cambodia. The purpose of the retainer fee paid to Cambodia from Thailand was for services Thailand sourced from these international clients, that were required to be performed in Cambodia.

Thailand, the head office, billed the international clients from Thailand and paid taxes in Thailand. If there was any need to use the Cambodia office, services were sought from Cambodia and billed from Cambodia to Thailand through the Retainer Fee.

Cambodia billed Thailand a monthly retainer fee, by a Tax Invoice, and paid VAT and PPT to the GDT for the services provided to Thailand. The Retainer Fee received by Cambodia for the period was higher than the fees billed by Thailand. Thus, the Cambodia office paid more taxes than necessary.

In a present audit, the auditor through reassessment, is attempting to tax the revenues received by the Thailand office, in addition to the taxes paid by the Cambodia office on the Retainer Fee. The auditor is attempting to tax both the Cambodia and Thai offices.

Policy Recommendation We humbly ask the GDT management to intervene as this would be double taxation/Cambodian tax authority taxing an offshore office out of its jurisdiction, through a local office. Cambodia paid taxes, VAT, and PPT, on the Retainer Fee billed to Thailand, and Thailand also paid taxes, in Thailand, on the revenue it received from the international clients.

Response and Current Status TWG addressed that this issue is an individual case rather than an industry. However, she supports the recommendation made by the issue owner that GDT does not have a valid reason to impose tax on offshore companies.

Mr. Arnaud Darc asked companies facing the same issue to gather evidence to prepare a response.

Applications for Pre-approval of Double Taxation Agreement Relief Do Not Have Clearly Defined Approval Timelines

Raised by Mr. Lucas R Moro, AMK Microfinance Institution Plc on 10th August 2023.

Issue Description Under Instruction 4084 (18 March 2018), to claim relief under the Double Taxation Agreement, resident taxpayers must apply for pre-approval from the Department of Legal Affairs, Taxation Policy, and International Tax Cooperation of the GDT.

The required documents for a legal person to apply for relief under the DTA include:

- Certificate of Residence issued by a competent authority of the contracting state.
- Certificate of Incorporation.
- Company Statute.
- Contract/document related to income payment; and
- Authorization Letter.

Separate requests must be submitted for separate service components. Approval, once obtained, is only valid for the calendar year in which the approval is granted.

Instruction 30856 (19 December 2022) provides details for lodging these requests online. However, there are no clearly defined approval timelines.

Currently, we have requests which have been pending for more than 14 weeks without confirmation. As the DTA relief application requires a completed contract, and as the DTA relief must be pre-approved (not retrospective), the timely processing of these requests is important to enable smooth operations between counterparts. As requests are only valid for each calendar year, significant delays in approval may limit the capacity to obtain the relief available under the agreement.

Policy Recommendation	<ul style="list-style-type: none"> - Propose Pre-Approval of Double Taxation Agreement relief approval timelines of up to four weeks from the date of submission. - Propose that approval be granted for the contract period (not limited to the calendar year).
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Response and Current Status	<p>Mr. Lucas R Moro, representative of AMK Microfinance Institution shared challenges that companies face while requesting Pre-approval of a double taxation agreement, first is the timeline of getting the approval takes up to 14 weeks and it is only valid for each calendar year which prolongs the capacity to obtain the relief available under the agreement. Hence, he requests to cut down the approval timeline to 4 weeks and process without an informal fee.</p>
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Mr. Arnaud Darc understands the difficulties and advises TWG to take over this issue to discuss with GDT, requesting a counterpart to relief approval timeline to 4 weeks starting from the receiving date of the confirmation letter from GDT.

BOGO (Buy One Get One) Sale or Sale 1 Free 1

Raised by Ms. Hem Panha, EFG (Cambodia) Co., Ltd. on 10th August 2023.

Issue Description Normally, the Company has sale discounts or promotional sales to general customers as a marketing strategy like buy 1 free 1. The taxable amount, that is subject to 10% VAT and 20% TOI, should be the actual cash received. Based on tax law, the Company should recognize revenue and 10% VAT on 2 products. This is the marketing strategy that is implemented globally. So, our tax law should keep updated to catch up with global development.

Policy Recommendation Per the issue raised up above, I would recommend that the for sale discount to the general customer is not subject to 10% VAT and be reassessed to 20% TOI as long as there is an announcement to the public and the Taxpayer has an obligation to file proper documents.

Response and Current Status **Mr. Arnaud Darc** stated GDT used to require enterprises to pay VAT on the complete gross price before the discount, but after discussions, they decided to apply VAT on the price after the discount.

TWG indicated that GDT will accept discounts provided the business can offer proof using systems, memos, and programs to demonstrate the discount time and discount rate. However, this only applies to discounts that are valid for the entire store and not just for particular customers.

Mr. Ken Loo and **Mr. Arnaud Darc** advise companies to adapt or convert their internal system from "buy 1 get 1 free" to "2 items each with 50% off."

Request for an implementation delay of New Public Lighting Tax

*Raised by Ms. Hun Oudamsoriya, JTI. on 10th November 2023.
Latest update from TWG at PSWG-D Meeting on 11th April 2024.*

Issue Description Sub-decree No. 286 AnKr.BK dated 20 September 2023 has been issued to increase the public lighting tax ("PLT") on tobacco and alcohol products from 3% to 5%, effective from 1 January 2024 ("Sub-Decree on PLT").

We, Association of Tobacco Industry in Cambodia (ATIC), supports a simplification of tax collection policy. However, due to a current world economic downturn, a few consecutive tobacco tax increases in a short period, additional stringent tobacco regulations, and increase in illicit trade, PLT Increase within a short notice grace period shall adversely affect tobacco industry' sales and operation in this difficult situation. We'd like to summarize the key factors driving the severe impact on tobacco industry due to new PLT increase as below.

1) Excessive tax burdens – two different tax rates increase within 5 months on top of existing tax burden. Legitimate tobacco industry is bearing high tax burden in comparing to most of other FMCG industry, including but not limited to excise tax, value-added tax (VAT: 10%), PLT (3% of invoice value to be increased to 5%), import tariff (7%-35% of CIF) and corporate income tax (20% of profit). Within just 5 months, there are a few tobaccos related tax consecutively increased:

a) PLT increase from 3% to 5% - Effective 01 January 2024
The Prime Minister signed Sub-decree on PLT approving the increase of PLT on tobacco products to 5% as of 1 January 2024.

b) Implementation of VAT output - Effective 01 August 2023
Recently, since 1 August 2023 with a short notice period, output VAT exemption on tobacco products has been removed which has caused significant financial impact on the whole legitimate tobacco industry. Tobacco companies are taking several actions to minimize negative effects of such new tax policy on their business operations and to maintain jobs for thousands of workers in tobacco industry including business of retailers nation-wide.

c) Customs Value increase - Effective 01 January 2023
In early this year, the Customs Value for imported cigarettes has dramatically increased from 10% to 40% depending on Stock Keeping Units (SKUs). As per a current practice, Customs Values are reviewed annually which might lead to the fact that CIF prices increase every year and become higher than actual market prices.

In this context, the implementation of these new taxation policies shall exacerbate the difficulties to the whole legitimate tobacco industry.

2) Economic downturn and less predictable regulations increase pressure on the legitimate tobacco creating risks of sustainability.

a) The current world economic crisis causes significant impacts not only business operations but also budget of consumers. Hence, legitimate industry volume and revenue are declined because consumers tighten their spending and become more price sensitive.

b) Less predictable and volatile regulations create an unfavorable business environment which severely impact the business sustainability and limit further investment.

3) Additional burden of stricter graphic health warning (GHW). Legitimate tobacco industry is facing many difficulties from upcoming changes to GHW. Pursuant to Directive of Ministry of Health dated 20 April 2023, two new GHW shall be enforced from 1 May 2024. Such new GHW requires tobacco companies to change the entire packaging, tooling, designs, etc. and write off certain volume of current packaging which creates a huge burden of cost.

4) Continued increase of illicit trade with limited enforcement. Based on a Kantar survey conducted in 2020, there was approximately 18.5% illicit trade in the market causing a gov't tax revenue loss of circa \$10 million every year. We believe there is a continued increase in illicit and/or counterfeit products rapidly and dramatically growing in the market which has adversely impacted the business of tobacco industry. New taxation policies together with other taxes imposed on tobacco products shall lead to the increase of price of legitimate product and will, in turn, lead to larger price gap between legitimate tobacco products and illicit products. Subsequently, consumers will switch to use illicit products or lower quality product with lower prices. On top of the current limited/low regulatory enforcement, this will, increase illicit products, definitely causing a huge loss of tax revenue, which will not be in line with the Ministry's target on the increasing of revenue through taxation policies.

In overall, the immediate implementation of these taxation policies particularly the new PLT increase will impose long-term negative financial and volume decline on the tobacco industry which subsequently will be counterproductive to higher revenue generation objectives of the Government. As per the above, some international players possibly close its business or limit the investment leading to a reduction or loss of thousands employment and also to increase in illicit trade and the tax evasion.

Policy Recommendation

ATIC would like to humbly request the implementation delay of Sub-decree on PLT Increase from implementation date of 1 January 2024 to take effect as of 31 December 2024.

This extended timeline will give sufficient time for the business to be able to properly plan its business during this hard time and to mitigate the unexpected financial impact to ensure a business sustainability and further investment. It will also give time to law enforcement authorities to take prioritized actions on the illicit tobacco companies to ensure a fair and level playing field in the market before full implementation by every tobacco company without any exception.

A balanced tax policy with a reasonable grace period will not only ensure sustainability of the tobacco industry as well as their employees and retailers' income but also help the Government achieve its objective to raise revenue in the long run.

We further believe that the prioritized action to enforce and strengthen existing regulations on illegal tobacco products without paying tax would be a much more important step than releasing any new regulations to ensure a fair and level of the playing field in support of a transparent business environment in line with the latest government policy reform.

Response and Current Status

Mr. Um Rattana, representative of British Tobacco Association of Cambodia and JT International stated that his concern over Sub-decree signed by **H.E Dr. Aun Pornmoniroth**, Deputy Prime Minister to increase the PLT from 3% to 5% starting from January 2024. BTAC, ATIC and JT International support the tax collection policy and any other regulation to support the government, however, the recent increase of tax consecutively pose a concern to the whole industry.

Ms. Hun Oudamsoriya from JT International informed that in just five months, two new tax laws that inflict a significant burden on the tobacco business and raise concerns on sustainability of the tobacco industry in the future has been implemented.

As a result, **Mr. Arnaud Darc** advised the Tobacco association, Alcohol association and related companies to update matrix of issue by demonstrating the reason why companies need a year grace period and highlight the unfair playing field between compliant and non-compliant companies.

The updated matrix of issue shall be sent to the secretariat team by December 2023.

Latest update from TWG at PSWG-D Meeting on 11 April 2024:

TWG said this issue is considered closed.

Mr. Arnaud Darc requested the secretariat to contact ATIC to confirm they consider the issue resolved and closed.

Request for postponing the implementation of PLT 5% until the early of 2025

Raised by Mr. Tuy Sovandara, WSBIDA on 10th November 2023.

Issue Description Referring to the Sub-decree No. 286, dated 20th September 2023, regarding the increase in the public lighting tax ("PLT") on tobacco and alcohol products from 3% to 5%, effective from 1 January 2024 ("Sub-Decree on PLT").

We, the Wine Spirits & Beer Importers and Distributors Association (WSBIDA) and other alcohol signatories such as HEINEKEN Cambodia and CamBrew, value the dedication and commitment of the Royal Government of Cambodia in its endeavors to strengthen our national economy through pivotal tax reforms. Recognizing the importance of these reforms, we wish to share some considerations that, if taken into account, can ensure the mutual prosperity of our industry and our nation.

Policy Recommendation

WSBIDA members and other alcohol signatories such as HEINEKEN Cambodia and CamBrew would like to suggest and recommend as below:

- We are very much supportive of the idea of tax reform. However, in light of the present economic situation impacting our sales, we recommend a reconsideration of the timeline for the proposed increase in the PLT from 3% to 5%. Postponing its implementation until early of 2025 would provide our industry with a more conducive environment to adapt and thrive.
- To maximize the potential revenue for the Royal Government of Cambodia, we suggest an emphasis on rigorous enforcement of the current tax regulations. Ensuring strict adherence to tax obligations across all sectors can significantly bolster revenue collections.
- An increase in taxes may inadvertently lead to a rise in illicit trade activities. With higher taxes, the incentives for smuggling and other unauthorized operations often intensify. This not only poses a threat to the government's revenue, the public health and safety but also jeopardizes legitimate businesses. It is these businesses that genuinely contribute to the nation's economy, and their sustenance is vital for our collective progress.

We are eager to collaborate closely with the Royal Government of Cambodia. We believe that through collective efforts and thoughtful strategies, we can navigate the current challenges and pave the way for a prosperous future for Cambodia.

Response and Current Status

Mr. Um Rattana, representative of British Tobacco Association of Cambodia and JT International stated that his concern over Sub-decree signed by **H.E Dr. Aun Pornmoniroth**, Deputy Prime Minister to increase the PLT from 3% to 5% starting from January 2024. BTAC, ATIC and JT International support the tax collection policy

and any other regulation to support the government, however, the recent increase of tax consecutively pose a concern to the whole industry.

Ms. Hun Oudamsoriya from JT International informed that in just five months, two new tax laws that inflict a significant burden on the tobacco business and raise concerns on sustainability of the tobacco industry in the future has been implemented.

As a result, **Mr. Arnaud Darc** advised the Tobacco association, Alcohol association and related companies to update matrix of issue by demonstrating the reason why companies need a year grace period and highlight the unfair playing field between compliant and non-compliant companies.

The updated matrix of issue shall be sent to the secretariat team by December 2023.

The Enterprise Audit Department (EAD) deems 5% Tax on Income “ToI” on deemed Annual Premium Equivalent (APE) rather than audited Premiums by big 4 audit firm

*Raised by Sopheara Chhorn, Prudential (Cambodia) Life Insurance Plc. (PRUDENTIAL)
on 10th November 2023.*

Issue Description Life Insurance firm takes its tax obligations seriously. Financial transactions have been regularly audited by Big 4 audit firms since the inception of business and received the highest tax compliance certificate as “GOLD” status for the last 6 consecutive years under the Prakas on Classification of Tax Compliance.

Despite that, the Enterprise Audit Department (EAD) of the GDT conducted a comprehensive tax audit and issued Notification of Tax Reassessment (“NoTR”) as a result of audit. Among other tax reassessments, there is a 5% tax on income (ToI) on deemed premiums on top of declared premiums which were audited by big 4 audit firm.

Based on the NoTR, the EAD takes Annual Premium Equivalent (APE) and its cumulated amounts from inception of business to the end of tax audit year as taxable premium revenues for ToI purposes. The APE data was obtained from the policy listing that we submitted to the tax auditors for review during the course of tax audit. Comparing to the total premium revenues declared in the ToI returns during tax audit years, the EAD assumed that the different amount is the under-reporting of gross premium that is subject to 5% Income Tax and accordingly reassessed additional 5% ToI and inclusive of penalty and interest respectively.

Based on Section 11.1 of ToI Prakas No. 1059, an insurance company is required to pay income tax equal to 5% of gross premiums received. Under tax regulations, gross premium received is defined as the amounts of money paid by the insurance policy holders on a cash basis though the payments are made in full or in instalment.

Analysis of APE vs Actual gross premium (cash basis)	
APE	Actual gross premium (Cash basis)
APE is a measure used by an insurance industry to compare life insurance revenue by normalising policy premiums into the equivalent of regular annual payments. This is particularly used when the sales contain both single premium and regular premium business. Single premium insurance policies require a single lumpsum payment from	In actual business, not all issued policies remain active or in-force for the insurance company. From time to time, the policy holders may choose to surrender their policies and stop paying premiums to insurance company due to various factors depending on their financial status, interest, or other causes.

<p>the policy holder. The regular premium policies are annualized by taking the premium amount and multiplying it by the frequency of payments in the billing cycle.</p> <p>A common approach taken by insurance companies is that APE is the sum of total value of regular or recurring premiums. In short, APE is an equivalent amount and not actual gross premiums received annually.</p>	<p>It would be ideal if the insurance company can receive full payments of premiums from policies holders over the insured period. That will be our expected maximum premium revenues we would get from the policy holders. But in reality, it is not possible to achieve such perfect scenario.</p>
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To simplify our explanation, we provide below one example of why the sum of APE differs from actual gross premium (cash basis).

Scenario 1 – Ideal scenario

Year 1	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
APE	1,200	0	0	0	0	0	0	0	0	0	0	0	1,200
Premium received	100	100	100	100	100	100	100	100	100	100	100	100	1,200

Under this ideal scenario, the policy holder would keep paying their premium on time. In this perfect scenario the APE and the gross premium received during the fiscal year equals. There will be no premium shortfall to be deemed as under-declared premiums revenue for tax purpose.

Scenario 2 – Termination of policy

Year 1	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
APE	1,200	0	0	0	0	0	0	0	0	0	0	0	1,200
Premium received	100	100	100	100	100	100	100	0	0	0	0	0	700

Under this scenario, the policy holder decides to stop paying premiums from August onwards and wish to terminate their policy. The policy holder may have his/her reasons to decide to stop paying the premium and terminate the policy. In such circumstance, the premium per APE listing for the fiscal year is USD1,200, but the gross premium revenue received from the policy holder is only USD700.

This simply means the APE is just an annual indicator of sale comparison for insurance company on the expected maximum premium revenues received from policy holder, and not the actual gross premium received. Additionally, in life insurance industry there are common changes that would disrupt the premium collection where the policy becomes lapsed, surrendered, premium alteration, death claim, total permanent disability (TPD) and accident claim.

We believe the above examples could provide a conceptual clarification for the difference between APE and actual gross premium and that the EAD's tax reassessment basis using APE listing is incorrect for the 5% Tax on Income purpose.

Policy Recommendation

As explained above. We kindly request the GDT's review and revoke the findings

**Response and
Current Status**

Mr. Chhorn Sopheara, representative of Prudential Cambodia shared his concern that the Enterprise Audit Department (EAD) of GDT deemed that the different amount between Annual Premium Equivalent (APE) and Premium revenue is unreported revenue that is subject to 5% income tax. GDT required more burden of proof to justify every transaction made and reassess tax retrospectively to 2013-2016.

He further underlined that Prudential has received the highest tax compliance certificate as “GOLD” status for the last 6 consecutive years from GDT and there was not any issue until the audit in July 2023. The company has sent an objection letter to GDT and has not received any response.

Mr. Arnaud Darc advised to keep this issue under the WGD and wait for the response from GDT. In the meantime, Prudential should reach out to relevant companies in this industry to study if they are encountering with the same issue.

Credit note functions of Withholding Tax (WHT) in E-filing

*Raised by Mr. Mey Sovanna, EFG (Cambodia) Co.,Ltd. on 11th January 2024.
Latest update from TWG at PSWG-D Meeting on 16 May 2024.*

Issue Description Normally, the Company have accrual expenses and pay WHT based on accrual basis. In the following month, the Company will receive invoice with actual amount. Hence, the Company need to do the reconciliation. If the Company underpaid, the Company will declare an additional amount. However, if we are overpaid, we also need to credit note in the E-filing to claim back the overpaid WHT. In another example, the Company is overcharged, and supplier issue Credit note to offset the overcharge amount. Hence, it is compulsory to have Credit note functions of WHT in E-filing.

Policy Recommendation On behalf of private sector, we would request the GDT to develop this function in E-filing. Since, we are real regime taxpayer and make self-declaration, the GDT should allow to have this function and during tax audit, the Company has obligation to show the supporting documents to justify the Credit note.

Response and Current Status **Mr. Mey Sovanna**, representative of EFG (Cambodia) Co., Ltd stated that based on the withholding tax (WHT), WHT applies at the time you record the amount. Apply that concept to the accounting principle, when companies accrue the expense, they accrue based on estimate invoice.

TWG explain that despite company receiving the actual invoice or not, the WHT principle require the company to pay tax in the month that company record the expense. Under the GDT declaration system, it constraints taxpayer from having any adjustment to the system. Thus, the private sector requests to work with GDT system technical team. By rightfully following the law, the system should allow users to make adjustment in the subsequent months.

TWG added that in case that company pay the amount under the actual invoice, company can revise and pay the short amount. However, if company pay the amount over the actual invoice and would like to claim back, taxpayer need to write a letter to GDT which is time-consuming for such process.

To conclude, **Mr. Arnud Darc** acknowledge the challenge faces by the private sector and advise EFG (Cambodia) to work directly with TWG and include this in the meeting between **TWG** and **GDT**.

TWG accepted the request and will proceed accordingly.

Latest update from TWG at PSWG-D Meeting on 16th May 2024:

TWG informed the meeting that GDT has positively confirmed to create a function for users without the need to request for approval from GDT. GDT Technical Team expected to complete the function within a month. He emphasized that GDT collects information on e-services and requests taxpayers to review functions stated in the draft SOP on taxpayer services and tax declaration.

Appropriation of goods or services for the needs of the business not considered as sale

Raised by Mr. Mey Sovanna, EFG (Cambodia) Co., Ltd. on 11th January 2024.

Issue Description Based on Article 28. Point 6 of the New ToI Prakas 098, the appropriation of goods or services for the needs of the business not considered as sale but must have clear evidence and not record for expenses.

Policy Recommendation Based on the above Article, the Company understand that when the Company appropriate its inventory for the needs of the business, it would not be considered as sale. Hence, it would not be subject to neither 10% VAT nor profit tax.

Response and Current Status **TWG** informed that this issue has been discussed and solved during the meeting with GDT in January 2024. He emphasized that taken inventory of a business to support the income should not be apply for VAT and that value of stock transfer from inventory to cost of business (expense) and treat as deductible expense.

Mr. Arnaud Darc stated that the official minutes of the meeting with GDT will be shared when they become available.

Export Tax on Copper Concentrate (25% on selling price plus transport costs) makes copper mining non-profitable

Raised by Mr. Richard Stanger, Golden Resource Development Co., Ltd. on 7th March 2024.

Issue Description An export tax of 25% on copper concentrate renders copper mining in Cambodia non-profitable therefore thwarting investment and development which could potentially benefit the nation and provide employment. 80 percent of downstream processing costs and value add of copper production occurs at the mine-site to the concentrate level (Mining, Crushing, grinding, floatation, concentrate). The final stages of copper processing are smelting and refining which account for 20% of the value add cost. Capital costs to construct a smelter are very high and there are environmental considerations. There exists excess smelter capacity globally. Government tax and non-tax revenue rates are currently 30% company tax for mining companies and 6% royalty on sale price of concentrate.

Policy Recommendation Reduce the 25% export tax to 0% on selling price plus transport costs to makes copper mining non-profitable.

Response and Current Status **Mr. Richard Stanger**, representative of Golden Resource Development Co., Ltd stated that the Export Tax of 25% is making the possibility of mining copper concentrate unprofitable and therefor the tax should be removed. The government will be still receiving other revenue such as 6% royalties on the production of copper concentrate and 30% tax on profit. **Mr. Richard Stranger** will update the issue and translate the presentation into Khmer.

Discussion held around the 30% Income Tax for the mining sector which is higher than the 20% for most industries.

Mr. Arnaud Darc request once issue on Export Tax is updated to be raised at the next GPSWG-D Meeting.

Pharma Industry Concern for Tax on Sample Sales

*Raised by Mr. Babulal Pariha, Indian Business Chamber in Cambodia on 7th March 2024.
Latest update from TWG at PSWG-D Meeting on 11th April 2024.*

Issue Description To promote the pharma product (medicines), companies need to give samples to customers/doctors. For which companies have been asked to pay 10% VAT, 1% PPT and Profit Tax @20% (if profit). The sample goods have no commercial value and It's an industry practice to give medicine as free samples to promote products.

Policy Recommendation As free samples are not the sales, companies shall not be asked to treat it as normal sales. The GDT can limit the % of sample sale against the Invoice value.

Response and Current Status **Mr. Babulal Pariha**, representative of Indian Business Chamber in Cambodia acknowledges the challenges faces by the private sector and request TWG to take on this issue of limit the % of sample sale against the invoice value. Discussion held around the 10% vat, 1% PPT and Profit Tax 20%.

TWG emphasized that the pharma industry needs to identify a good reason to change the laws.

Mr. Arnaud Darc advised to secretariat IBC to follow up on this issue and invite pharmaceutical companies to come up with a comprehensive proposal for GDT that the TWG can take on.

Latest update from TWG at PSWG-D Meeting on 11th April 2024:

TWG advised this issue is pending. To be considered with new issue raised on 11th April 2024 "Discounts are Not Allowed as a Reduction in Revenue."

Pharma Industry Concern on Fixed Discount Rate

*Raised by Mr. Babulal Pariha, Indian Business Chamber in Cambodia on 7th March 2024.
Latest update from TWG at PSWG-D Meeting on 11th April 2024.*

Issue Description On Sales invoices, GDT has advised companies to choose only two rates of discount. One rate for retail discount and another for wholesale discount.

Policy Recommendation In normal business practice companies cannot specifically choose one rate of discount for retail and one discount rate for wholesale trade. The discounting rate differs from client to client based on the several criteria and hence GDT shall allow the flexible rate of discount or shall at least give a range of rate for retail discount and whole discount separately.

Response and Current Status

Mr. Babulal Pariha, representative of Indian Business Chamber in Cambodia discussed the issue around only have two rates of discount, between retail and wholesale discount.

TWG said there are a lot of marketing schemes within the pharmaceutical industry, if they can be collaborated and reviewed as one issue.

Mr. Arnaud Darc, advised to secretariat IBC to follow up on this issue and invite pharmaceutical companies to come up with a comprehensive proposal for GDT that the TWG can take on.

Latest update from TWG at PSWG-D Meeting on 11th April 2024:

TWG advised this issue is pending. To be considered with new issue raised on 11th April 2024 "Discounts are Not Allowed as a Reduction in Revenue."

Proposal for Reducing Import Duty and Excise Tax on Pleasure Boats and Yachts in Cambodia

*Raised by Mr. Peter Brongers, Royal Cambodia Yacht Club Association on 7th March 2024.
Latest update from TWG at PSWG-D Meeting on 11th April 2024.*

Issue Description Background of the Issue

High Tax Burden: Currently, import duty, excise tax, and VAT combined impose a 39.15% tax on the true value of imported yachts and boats in Cambodia. (CD 15%, ST 10% and VAT 10% for Code number HTS 903.22.00 and 903.93.00). For this ship is the same for all engine sizes.

- **Disadvantageous Compared to Neighboring Countries:** This high tax rate makes Cambodia significantly less attractive for luxury tourism and maritime activities compared to neighboring countries like Thailand, which offer 0% import, excise, and luxury tax on yachts and boats.
 - **Limited Impact of Temporary Tax-Free Import:** The available one-year Temporary Tax-Free Import status only offers temporary relief and is not a long-term solution, especially for local yacht owners and residents.
 - **Uncertain and Burdensome Clearance Process:** Clearance costs for entering yachts into Cambodia are uncertain, variable, and subject to negotiation or policy changes, creating an unfavorable regulatory environment.
- High import duty and excise tax on pleasure boats and yachts, make Cambodia less attractive for luxury tourism and maritime activities. As a result:
- **Lost revenue opportunities:** Cambodia misses out on potential economic benefits from luxury tourism and maritime activities.
 - **Disadvantage compared to regional competitors:** High taxes limit Cambodia's ability to compete with neighboring countries.
 - **Discouragement of yacht ownership and use:** The high tax burden discourages individuals from owning and using yachts in Cambodia.

Policy Recommendation

Reduce import duty and excise tax on pleasure boats and yachts to 0%. This will:

- **Increase Cambodia's competitiveness:** It creates a more attractive environment for luxury tourism, sailing sports and all other forms of maritime activities, bringing in more visitors and yacht and boat owners.
- **Boost local economies:** Increased tourism, sailing and yachting activity will lead to increased revenue for businesses in coastal areas like Kampong Som, Kep, and Dara Sakor.
- **Encourage long-term investment:** Lower taxes incentivize yacht ownership and have them base their vessels in Cambodia, leading to sustained economic activity. Consequently, there will be a demand for marinas with surrounding infrastructure of which a high level of development and construction will not be feasible without having these maritime activities and yachts in Cambodia.

**Response and
Current Status**

Mr. Peter Brongers, representative of Royal Cambodia Yacht Club Association requests the private sector to remove Import Duty and Excise Tax on Pleasure Boats and Yachts in Cambodia. This will have a positive impact including increase tourism opportunities.

Mr. Arnaud Darc, requested the association to review whether taxation is by boat type or engine power like with the automotive industry and to update the issue.

Latest update from TWG at PSWG-D Meeting on 11th April 2024:

Mr. Arnaud Darc advised this issue is currently on hold awaiting an update from the issue owner.

VAT on Deposit for Agriculture

Raised by Ms. Lynda Chea, KD Consultants Company Limited on 7th March 2024.

Issue Description

1. TOI charge on deposit for agriculture industry, except construction industry.
2. VAT refund before 2021, not receive refund yet.
3. PLT some large companies already paid PLT 5% from January 1, 2024.

Policy Recommendation

1. We request GDT not to apply income tax on advance or deposit received from customer because the agriculture business doesn't make profit that much.
2. VAT refund has not been refunded yet, has already followed up with GDT but they have not worked it out yet. Please keep following up with GDT to speed up this matter.
3. PLT – some large companies have already processed and paid since January because they follow the sub-decree. Since they already paid PLT since January, we request GDT not to implement the old Prakas (3% of 20% for distributors) when they audit because they don't know it was extended to April 1.

Response and Current Status

TWG suggested not to raise because the law has already been prepared. But, if we want to request, we could request for the specific industry only.

Excessive Interest Charged on Reassessments

Raised by Mr. Casey Barnett, AmCham on 11th April 2024.

Issue Description We accept the need to charge penalties and interest on reassessments, but the interest charge of 18% is excessive, punitive, and out of line with international best practice and often effectively doubles and triples and quadruples the penalty and exceeds the average market rate of interest.

The 2023 Law on Taxation Article 233 charges penalties on reassessments ranging from 10-40% of the amount reassessment plus interest of 1.5% per month (18% per year).

This includes reassessments arising from “negligence” which includes simple errors due to misunderstanding or misinterpretation of the tax law.

We do not challenge the penalties, but there is serious unfairness and problems with the amount of interest charged.

The penalty on reassessment due to negligence in Article 233 is 10% of the amount due, but one year of interest is 18%. This is more than double punishment for the same mistake.

The timing of the reassessment is not in the control of the taxpayer, it is in control of the tax auditor. As a result, if the tax audit is done quickly and recently, the taxpayer pays 10%, but if the tax audit is slow and years late, the taxpayer will pay 28% - 100% or more of the reassessed amount. It is unfair to punish the taxpayer for the slow audit of the tax auditor, especially when the tax auditor is receiving a bonus based on the interest on the reassessment.

Best practice from:

Singapore

1% per month, maximum 12 months²

USA

0.5% per month, maximum 25%³

UK

Annually determined base rate + 2.5%, currently 5% + 2.5% = 7.5%⁴

Also, the IMF recommends that interest on late penalties not be punitive (punishment) but only designed to capture the time value of money and be slightly higher than the market rate to encourage payment.⁵ In contrast, the interest on taxes in Cambodia is clearly punitive as it is nearly double the market interest rate and is unlimited in the duration.

1. *Law on Taxation*, 2023, Article 200
2. Singapore Interest on Late/Unpaid Taxes <https://www.iras.gov.sg/taxes/individual-income-tax/basics-of-individual-income-tax/receive-tax-bill-pay-tax-check-refunds/late-payment-or-non-payment-of-individual-income-tax>
3. US Interest on Late/Unpaid Taxes
<https://www.irs.gov/taxtopics/tc653>
4. UK interest on Late/Unpaid Taxes
[https://www.gov.uk/government/publications/rates-and-allowances-hmrc-interest-rates-for-late-and-early-payments/rates-and-allowances-hmrc-interest-rates#:~:text=There%20are%20%20rates%3A,as%20the%20'minimum%20floor'\)](https://www.gov.uk/government/publications/rates-and-allowances-hmrc-interest-rates-for-late-and-early-payments/rates-and-allowances-hmrc-interest-rates#:~:text=There%20are%20%20rates%3A,as%20the%20'minimum%20floor'))
5. IMF Best Practice on Tax Penalties
<https://www.imf.org/-/media/Files/Publications/TLTN/TLTNEA2019001.ashx>

Policy Recommendation

1. Charge the average market rate for companies of interest plus 1%
2. Limit interest on reassessments to 12 months from the original due date

Response and Current Status

Mr. Casey Barnett from AmCham stated that the charges penalties on reassessments ranging from 10-40% of the amount reassessment plus interest of 1.5% per month. He further emphasized in encouraging Cambodia to follow international best practice like in Singapore and Thailand.

Mr. Arnaud Darc will put this issue on agenda for the next GPSWG-D Meeting.

Investors Uncertain Whether Share Premium is Subject to Tax

*Raised by Mr. Casey Barnett, AmCham on 11th April 2024.
Latest update from TWG at PSWG-D Meeting on 16th May 2024.*

Issue Description When a company sells or issues additional share capital in the years following formation, these shares are typically sold above par value.

For example, the par value is \$1, but the investor contributes \$5 which is split in equity as \$1 ordinary share capital and \$4 share premium.

Some AmCham members have received conflicting advice as to whether or not share premium will be subject to tax. This results in unnecessary hesitation to invest in Cambodia.

TOI Prakas No. 98 dated 29 January 2020

Policy Recommendation As per the TOI Prakas No. 98, we would appreciate it if the GDT provides confirmation that in accordance with Article 10, paragraph 3, that contributions of share capital including share premium are not subject to tax.

Response and Current Status **Mr. Casey Barnett**, from AmCham stated that American Investor want to bring capital to Cambodia, but they have received conflicting advice as to whether or not share premium will be subject to tax. This results in unnecessary hesitation to invest in Cambodia. He further emphasized to GDT for provide a clarification on share premium are not subject to tax.

TWG said to request for clarification on share premium are not subject to tax from GDT.

Mr. Arnaud Darc, requested TWG to take direct to GDT to confirm.

Latest update from TWG at PSWG-D Meeting on 16th May 2024:

Mr. Casey Barnett, representative of AmCham, informed the meeting that GDT confirmed share premium should not be subject to tax. Minutes from the meeting with TWG and GDT should be circulated by Thursday, 30th May 2024, and then the issue can be considered closed.

Bad Debts Not Allowed as a Deductible Expense for Companies

*Raised by Mr. Casey Barnett, AmCham on 11th April 2024.
Latest update from TWG at PSWG-D Meeting on 16th May 2024*

Issue Description Banks are allowed to record bad debts as an expense, but other types of business are not.

TOI Prakas No. 98, Article 15(2) and Articles 6 and 8 of Prakas 1535 allow banks to expense bad debts, with 100% of the debt expensed in the case that the no payments from the loan have been collected for 360 days or more.

There is no reason to discriminate against non-bank businesses in recognizing bad debts. Many businesses such as property developers and construction companies suffer large bad debts and doubly suffer because they are taxed on that income even though they suffered a loss and didn't receive any benefit.

However, GDT has the practice of not allowing bad debt expenses for non-banking business unless there is a court judgment, a process that is time-consuming and expensive.

TOI Prakas No. 98 dated 29 January 2020

International best practice:

Australia: Bad debt is tax deductible with evidence including reminder notices and/or phone calls. No court complaint is required.¹

USA: Bad debt is tax deductible with evidence including reminder notices and/or phone calls. No court complaint is required.²

Singapore: Bad debt is tax deductible when 12 months have passed from the time of supply of goods and the seller has attempted to collect the debt by contacting and providing reminders to the customer.³

Malaysia: Bad debt is tax deductible as long as the seller has issued 3 reminders.⁴

1. Australia Tax Office <https://www.ato.gov.au/businesses-and-organisations/income-deductions-and-concessions/income-and-deductions-for-business/deductions/deductions-for-unrecoverable-income-bad-debts>

2. United States Internal Revenue Service
<https://www.irs.gov/taxtopics/tc453#:~:text=To%20show%20that%20a%20debt,year%20the%20debt%20becomes%20worthless.>

3. Inland Revenue Authority of Singapore
[https://www.iras.gov.sg/taxes/goods-services-tax-\(gst\)/charging-gst-\(output-tax\)/common-scenarios---do-i-charge-gst/bad-debt-relief](https://www.iras.gov.sg/taxes/goods-services-tax-(gst)/charging-gst-(output-tax)/common-scenarios---do-i-charge-gst/bad-debt-relief)

4. Malaysia

<https://www.gskassociates.net/post/bad-debts-written-off-tax-deductible>

Policy Recommendation	We recommend that GDT provides practical, reasonable guidance for recognition of a bad debt as an expense. For example, non-payment of 360 days or more is sufficiently reliable evidence of a bad debt.
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Response and Current Status

Mr. Casey Barnett From AmCham stated that Banks are allowed to record bad debts as an expense, but other types of business are not. Many businesses such as property developers and construction companies suffer large bad debts and doubly suffer because they are taxed on that income even though they suffered a loss and didn't receive any benefit. He further emphasized for Cambodia to clarify when we can write-off the bad debt and recommended to follow the international practice in Singapore as a good model for Cambodia.

TWG emphasized TOI Prakas No. 98, Article 15(2) by changing into Article 33(5) in this issue to GDT. She further emphasized for the recommendation to follow the international practice will be clarified with the Tax Authority before being attached to supporting documentation.

Mr. Arnaud Darc advised TWG to follow up on Tax Net Revenue with GDT.

Latest update from TWG at PSWG-D Meeting on 16th May 2024:

Mr. Casey Barnett representative of AmCham, informed the meeting that this issue is still under consideration with GDT. The maximum size of a receivable that may be declared by GDT and in combination with a limit of a number of (360) days. We will need to wait for their response.

TWG informed we should follow up GDT frequently to ensure regulations are issued.

Discounts are Not Allowed as a Reduction in Revenue

*Raised by Mr. Casey Barnett, AmCham on 11th April 2024.
Latest update from TWG at PSWG-D Meeting on 16th May 2024.*

Issue Description The right to set prices is an essential component of a functioning free market. The Cambodian constitution also guarantees a market economy.

However, GDT has made public statements that discounts are only allowed as a reduction in revenue if a company has a written standard policy for discounts.

As anyone who has visited a Cambodian market knows, it is common that discounts are issued on a customer-by-customer basis. It is not possible to have a comprehensive discount policy to cover all eventualities.

Similarly, it is common that sellers give bonus items (e.g. 3 for 2, 2 for 1) at no cost. But some tax officials deem income on these free items.

We have not found any major country in the world that does not allow trade discounts to be deducted from taxable income. Cambodia appears to be different from the rest of the world on this point.

Policy Recommendation We recommend that GDT recognize only net revenue after discounts (also in accordance with CIFRS and CIFRS for SMEs) and not deem income for free promotional items.

The seller did not receive any additional income and such taxation is an unfair burden

Response and Current Status **Mr. Casey Barnett** from AmCham stated that GDT recognize only net revenue after discounts (also in accordance with CIFRS and CIFRS for SMEs) and not deem income for free promotional items.

TWG said to discount based on net amount and clarify with sufficient document to discuss with GDT.

Mr. Arnaud Darc request for GDT to consider tax based on invoice.

Mr. Arnaud Darc requested TWG to raise this issue to GDT.

Latest update from TWG at PSWG-D Meeting 16th May 2024:

Mr. Casey Barnett representative of AmCham, informed the meeting that **H.E. Kong Vibol** seemed positive. There was a suggestion on companies should have a clear public policy on discounts. **H.E. Kong Vibol** disagreed saying it is not reasonable to

make public policy. No decision was made, at this meeting. **Mr. Casey Barnett** requested we await GDT decisions before raising at PSWGD.

TWG agreed with **Mr. Casey Barnett** requesting we give time for GDT to make decisions.

Mr. Arnaud Darc advised this issue is currently on hold awaiting a decision from GDT.

Conditions for Applying Accounting Proper

Raised by Ms. Hem Panha, EFG (Cambodia) Co., Ltd. on 8th August 2024.

Issue Description	<p>Based on Article 5 of Prakas 638 dated 4 July 2017, the conditions for improper accounting records include:</p> <ul style="list-style-type: none"> - fail to keep enough records as per the requirements stipulated in Article 4 of this Prakas. - fail to issue an invoice for business transactions as stipulated in Article 77, Article 78, Article 79 and Article 98 of the Law on Taxation - have committed serious misconduct as stipulated in Article 126 of the Law on Taxation - have evaded taxes as stipulated in Article 127 of the Law on Taxation - have no report that is audited by an independent auditor in the event that the enterprise has a turnover exceeding 2,000 million Riels per year.
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In addition to the above conditions, the General Department of Taxation (GDT) has rejected this request due to having tax reassessments pending. In common case, tax auditor conduct a sequent tax audit on taxpayer and issue tax reassessment based on different interpretation or judgement. The taxpayer is actively engaged in discussions with the tax auditor to address and resolve specific points of disagreement in the reassessments. The Company are committed to working diligently to resolve these issues promptly. However, it would take sometime due to some reasons.

Policy Recommendation	<p>On behalf of private sector, we would request the GDT not putting pressure on the Company for having tax reassessment pending by rejecting our application for accounting proper since it is different story. Even though, there is a correlation between having tax reassessment and committing serious misconduct as stipulated in Article 126, the tax officers should refrain from concluding that the Company does not meet the requirements of Prakas 638 at this stage as the tax reassessment has not yet been finalized.</p>
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Hence, having pending tax reassessment should not be considered as conditions for rejecting proper accounting record application.

Response and Current Status	<p>Ms. Hem Panha representative of EFG (Cambodia) Co., Ltd stated that having a pending tax reassessment should not be considered as reason for rejecting proper accounting record application.</p>
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Mr. Arnaud Darc requested the TWG to take this issue. TWG will present this issue to the GDT. **Mr. Arnaud Darc** requested the GDT to decouple the issue of pending tax reassessment from the application for proper accounting practices.

The implementation of Certificate of Origin (C.O) to get tax incentive under the Free Trade Agreement (FTA)

Raised by Mr. Soeun Dara, Cambodia Automotive Industry Federation on 8th August 2024.

Issue Description CAIF's members notified the irregularity in importing new vehicles by the vendors or unauthorized dealers for sales in Cambodia; with the display price is much lower than the basic price of vehicles plus the import duty.

Regarding to this issue, CAIF's members found out that some vehicles imported by the vendors or unauthorized dealers were able to use the certificate of origin to apply for tax reduction under the terms of Free Trade Agreement. Hence, those new vehicles were imported at the low price comparing to vehicles under the authorized distributors; and are causing many troubles to CAIF's members and the authorized distributors in which they are unable to compete with those low-price vehicles in the market.

Policy Recommendation

CAIF's request as follows:

- General Department of Customs and Excise of Cambodia (GDCE) to clarify the procedure of applying the Certificate of Origin (C.O) to get tax incentive for vehicles import under the FTA and who can apply the Certificate of Origin (C.O) to get this tax incentive.
- In case, there is import by unauthorized distributors by applying the Certificate of Origin (C.O) and get tax incentive under the FTA, CAIF request the MEF to review and remove those Certificate of Origin (C.O) from unauthorized distributors to ensure the benefit of FTA to the authorized distributors who invested millions US dollars in the business operation in Cambodia and ensure fair playing field in automotive industry.

Response and Current Status

Mr. Soeun Dara representative of Cambodia Automotive Industry Federation state that CAIF's members notified the irregularity in importing new vehicles by the vendors or unauthorized dealers for sales in Cambodia; with the display price is much lower than the basic price of vehicles plus the import duty.

Mr. Arnaud Darc made a few suggestions:

- Raise this issue with the GDCE working group
- Conduct a survey to research common practice and preventative measure in neighbouring countries
- Organise a workshop/forum in Cambodia with neighbouring countries to discuss issues, potential solutions and formulate recommendations.

Distributor's tax issue on 1% Prepayment Tax on Income on selling price/minimum tax on turnover

Mr. Roeurn Bunheng, Member WGD and Standing Vice Co-Chair, TWG on 8th August 2024.

Issue Description Background:

We understand Prakas No. 597 on “the Recognition and Tax Obligation regarding the supply of Goods and Services made by an Agent on behalf of a Principal” (**Prakas 597**) issued in June 2018 was intended to reduce tax burden for distributors by taxing their commissions only instead of sales or turnover. We support this objective to modernize and streamline the tax system, while supporting critical players in the value chain. However, in practice the existing fiscal framework does not effectively reduce the tax burden of distributors and retailers because:

- Manufacturers and importers must voluntarily adopt agent-principal as their business model. This is unlikely because manufacturers/importers have thousands of small and medium wholesalers and outlets as customers. Registering these wholesalers/outlets as agents is not commercially practical due to additional requirements in stock management and POS system for issuing invoices at each agent that lead to heavier administrative burden and cashflow issue due to slower inventory turnover and sales.
- Distributors/wholesalers/retailers selling various products from different manufacturers and importers have to obtain separate agent licenses, use separate POS systems, have separate stock controls for each product that they sell on behalf of different principals (importer & manufacturer).

Currently, distributors are disadvantaged and bear heavier tax burden than agents because 1% Prepayment Tax on Income (**PTOI**)/minimum tax is taxed on distributors' sales or turnover. If their operating profit margin is between only 2% – 5%, they'll end up paying 1% PTOI or minimum tax higher than Corporate Income Tax (**CIT**). This undermines the principle to align taxes to taxpayers' ability to pay.

Not double but triple and quadruple taxation on the same tax base:

For example, a manufacturer/importer sells a product at \$10 excluding VAT to distributors. Distributors mark up 1\$ as their margin and resell at \$11 excluding VAT to smaller wholesalers. Wholesalers mark up 1\$ as their margin and resell at \$12 to drink shops and small outlets. These outlets mark up \$1 and sell to final consumers at \$13.



1% PTOI tax implication based on the above scenario:

- Manufacturer/Importers 1% PTOI/minimum tax payable: $\$10 \times 1\% = \0.10
- Distributors 1% PTOI/minimum tax payable: $\$11 \times 1\% = \0.11
- Wholesalers 1% PTOI/minimum tax payable: $\$12 \times 1\% = \0.12
- Outlets/drink shops 1% PTOI/minimum tax payable: $\$13 \times 1\% = \0.13

Based on the above, profitability of each distributor down the value chain is lesser due to 1% PTOI even if they have the same gross margin, posing an ever-increasing pressure on smaller businesses. Distributors/wholesalers/retailers need to stock inventories which have additional costs including insurance, stock aging and expiration, and cashflow, unlike agents who have no stock ownership, so operating costs of being a distributor is even higher than agents, but they end up paying higher 1% PTOI/minimum tax than agents.

Prakas 638 MEF.PrK dated 4 July 2017 on the Criteria for Incorrect Accounting and Procedures for Minimum Tax Payment:

Overall, this Prakas provides criteria for minimum tax exemption but the 1% PTOI is still imposed on turnover, so there is little to no economic benefit for distributors to go through a rigorous application process to obtain the minimum tax exemption.

Is there 1% PTOI in other ASEAN countries?

If compared with other ASEAN countries, there's no 1% PTOI/minimum tax imposed on turnover under the tax jurisdiction of these countries. Distributors and retailers in ASEAN countries declare income taxes based on their annual taxable profits.

Policy Recommendation

To ensure fair level of taxes between distributors/retailers and agents, we recommend the following mechanism:

- 1% PTOI/minimum tax: shall be taxed on distributors and retailers' gross profit margin instead of the selling price. To obtain this tax incentive, distributors/retailers shall submit their P&L to the GDT to ensure the gross profit margin is properly applied for the 1% PTOI/minimum tax calculation purpose.
- 10% VAT: maintain the same current mechanism – imposing VAT on the selling price.
- 20% CIT and other taxes: maintain the same current mechanism.

Based on economic census data in 2022, MSMEs in wholesales, retails, and vehicle repair sector comprises of 71% of the total MSMEs in Cambodia. 63% of the 71% of MSMEs in the aforementioned sector is outside of the system. The proposal above is a win-win policy for MSMEs in wholesales and retails business and the Royal Government of Cambodia (RGC) because:

- a. The above solution doesn't impact the tax revenue collected from distributors /wholesalers and retailers;
- b. The solution will allow distributors to pay the same level of taxes compared with their agent counterpart, unlock operating cash flow for MSMEs in the wholesale and retail sector, encouraging them to move from informal economy to formal system. This is in line with the RGC's Pentagon Strategy Phase I – Realizing the Cambodia Vision 2050 - Pentagon Strategy 3 – Development of Private Sector and Employment and aligned with the National Strategy on the Development of Informal Economy FY2023-2028 in reducing tax compliance burden for MSMEs and supporting them to transition into formal economy.

**Response and
Current Status**

TWG informed the meeting that TWG will submit this issue to GDT at the upcoming meeting between TWG and GDT on 5 September 2024.

Mr. Arnaud Darc requested TWG to keep this issue. He further suggested TWG to survey other countries to see if any other countries follow this practice.

Threshold for Transfer Pricing Documentation

Raised by Mr. Casey Barnett, AmCham on 12th September 2024.

Issue Description It is too costly for small and medium sized businesses to prepare and maintain transfer pricing documentation.

The requirement for transfer pricing document is from Article 18 of Ministry Order 986 (Prakas 986). Ministry Order 986 requires transactions with related parties to prepare and maintain a significant number of documents, including these which are listed in Article 18, point 2, paragraph C:

1. Pricing policy, profitability potential of products, market information and division of profits among associated enterprises;
2. Documentation supporting the choice of transfer pricing method(s);
3. In the case that there are many transfer pricing methods, there must be detailed justification of a choice of a particular method and why other methods were not chosen;
4. Evidence detailing discussions with related parties about the pricing decision and business operations;
5. Other documents related to transfer pricing.

Preparing the documents above requires significant cost and expertise, which is burdensome and excessive. Moreover, it should be noted that transfer pricing expertise in Cambodia is limited.

Best practice from:

Singapore

Exemption from transfer pricing documentation for purchases, sales and loans under \$15,000,000 Singapore dollars; in these cases a standard minimum mark-up or margin is set by the tax authority.

Vietnam

1. Domestic related party transactions for which both parties are subject to the same tax rate are exempt.
2. Transfer pricing documentation is exempted for entities with revenue under \$2,000,000 (50 billion Vietnamese Dong) and which submit an advance pricing agreement (APA).

Thailand

1. Taxpayers with annual income less than \$5,444,000 (THB 200 million) are exempt from transfer pricing documentation.

Taxpayers with an advanced pricing agreement

Policy Recommendation

Following international practice, we recommend the following exemptions and safe harbor thresholds be set for taxpayers to be required to prepare and maintain transfer pricing documentation:

1. Transactions with related parties that total \$20,000 or less;
2. Any transactions for related parties who are both resident registered taxpayers subject to non-concessionary tax rates in Cambodia (e.g. 20% TOI);
3. Any transaction for which an advance pricing agreement has been approved by GDT

Response and Current Status

Mr. Casey Barnett, from AmCham, stated that it is too costly for small and medium sized businesses to prepare and maintain transfer pricing documentation.

Mr. Arnaud Darc requested the TWG to take on this issue to GDT at the upcoming meeting with GDT.

Deemed Salary of Company Directors

Raised by Mr. Casey Barnett, AmCham on 12th September 2024.

Issue Description Our members have continued to report that tax audits have deemed salary of directors who have in fact not received any remuneration from a company.

In public forums, GDT officials have stated that they do not have the intention to deem salaries of directors who are shareholders and that enterprises should maintain documentation of the agreement between the director and the company to clarify the amount of compensation or lack thereof. However, our members report the practice of deeming salary for directors has continued.

It is common in Cambodia and other countries that directors do not receive any compensation other than dividends. Directors are typically shareholders or the family and friends of the shareholder. They often work without compensation and may join meetings for only a few hours or days in a year.

Therefore, the absence of pay for the director reflects reality; it is not a form of tax evasion.

International best practice:

Nearly all countries in the world, including the US, UK, Australia, Singapore, do not deem income for directors. The practice in Cambodia is not aligned with international practice.

Policy Recommendation It is requested that GDT clarify GDT will not deem salary on directors.

Response and Current Status

Mr. Casey Barnett, from AmCham, stated that the directors must pay the salary and follow international practice.

Mr. Arnaud Darc advised this issue has been raised previously with GDT. And asked Casey to review the respond from GDT and discuss with JBAC.

Mr. Arnaud Darc requested TWG to take on this issue at the upcoming meeting with GDT.

Establishing Standards for Supermarket Expenses for Expired and Damaged Products

Raised by Kirk MacManus, Super Duper Supermarkets on 16th June 2022.

Issue Description The GDT currently has no clear written guidelines for recognizing expired and damaged products as a legitimate expense for the food/supermarket industry.

In every audit the GDT is denying claims for legitimate expenses on expired and damaged products (known shrinkage)

The GDT auditors want us to apply in writing and wait for an inspector to attend before any damaged or expired products can be disposed of. This is not practical as supermarkets must dispose of these products on a daily basis, otherwise there will be public health issues with rotting food accumulating on site. Also, supermarkets do not have the storage space even to hold the large volumes that are disposed of if they had to wait for a tax inspector every time.

GDT accepts our POS computer record to determine the value of products sold, while they refuse to accept it to determine the value of products expired or damaged.

Policy Recommendation GDT to accept supermarkets electronic record of all expired and damaged products, the same as they accept electronic records of sales to customers

Eliminate requirement for GDT officers to inspect every disposal of supermarket shrinkage

The GDT to accept supermarkets records on shrinkage amounts, providing that shrinkage percentages are within industry standards.

The GDT and the supermarket industry to work together to write a set of standards which can accommodate both the needs of the GDT and the supermarket industry

Response and Current Status Mr. Arnaud Darc proposed that TWG handle this issue by further discussion with GDT in the next meeting for more recommendations.

Concerning the Local Manufacturers' Obligation to Place Devices for Measuring the volume of Beers and Non-alcoholic Drinks

Raised by Khoun Sopheak, Cambrew Ltd. on 14th October 2021.

Updated from PSWG-D Meeting on 11th November 2021

Take on by Mr. Anthony Galliano, AmCham on 17th March 2022.

Issue Description PSWG-D Meeting on 14th October 2021

As set out by the Prakas No. 010 and the Instruction No. 15015, it is required the manufacturer to install and implement as per set timeline by GDT. Yet there is no guidance technical manual and clarification on the technical standard specifications for the acceptance of the required devices: Flowmeter, Conductivity Meter, Filed Control Box including the type, installation procedure, sealing, calibration and maintenance. Per the implementing Instruction No.15025 the following timeline is set:

- 20 September 2021 to place an order of the devices from supplier.
- 25 November 2021 to install the devices; and
- 1 December 2021 to commence the operation of the devices

However, there is no clarity on the technical standard specifications for the acceptance of the required devices. Further, the technician of manufacturer needs to study and understand on how the system and hardware are connected with the GDT's infrastructure.

The timeline set out above is not practical especially during this pandemic Covid-19.

Further, while the flower meter would be a major capital expenditure for local manufacturers especially during the Covid 19 pandemic, the practicability and efficiency of the flower meter is not certain. In other countries like Thailand and Nepal, experiences showed that the flower meter does not serve its purpose.

PSWG-D Meeting on 17th March 2022

As set out by the Prakas No. 010 and the Instruction No. 15015, it is requiring the manufacturer to install Flowmeter, Conductivity Meter, Filed Control Box and implement as per set timeline by GDT. The following timeline is set:

- 20 September 2021 to place an order of the devices from supplier;
- 25 November 2021 to install the devices; and
- 1 December 2021 to commence the operation of the devices.

The flower meter would be a major capital expenditure for small local brewers and producers of non-alcoholic drinks especially during the Covid 19 pandemic. This is

unaffordable for small breweries and craft brewers, given the cost of the equipment and installation. Furthermore, the supplier suggested by GDT has expressed no interest in installing the equipment for small brewers and advised that the equipment would be too expensive, if not suitable.

The timeline set out above is not practical, especially during this pandemic Covid-19.

Policy Recommendation

PSWG-D Meeting on 14th October 2021

Manufacturer would like to request:

- Meeting with GDT for detail discussion;
- Written guidance and clarification, and technical manual on the technical standard specifications for the acceptance of the required/ installation devise devices;
- Onside visit first in case the equipments are not fit with the manufacturing system;
- delay the due date at least 6 month period;
- our concern on the failure of installation flow meter in others countries are addressed.

PSWG-D Meeting on 17th March 2022

Smaller Brewers and producers of non-alcoholic drinks request the GDT to:

- An exemption, or non-applicability provision, for small brewers and manufactures of non-alcoholic beverages based on revenues/volume;
- Alternative supplier, with more reasonable costs for smaller brewers and manufactures of non-alcoholic beverages
- Extension to comply with the Prakas until such matters above are resolved.

Response and Current Status

Minutes Response from PSWG-D Meeting on 14th October 2021:

As the issue will provide a wider impact to the industry, **Mr. Clint O'Connel** and **Mr. Anthony Galliano** will lead a meeting with other breweries to discuss the industry position, summaries all issues for this sector, and provide recommendation for the TWG.

Minutes Response from PSWG-D Meeting on 11th November 2021:

Mr. Anthony Galliano mentioned that the original issue owner, Cambrew Brewery, does not have any issue in implement this Prakas and has been in contact with GDT. **Mr. Anthony Galliano** has met with **Mr. Tassilo Brinzer** to review the situation. The larger breweries appear to be complying and accepting of this Prakas. The issue is that the Prakas seem to be encompassing of all breweries. The minimum cost is very high and not affordable for small and micro breweries. We need to revise the matrix to understand whether there is a minimum amount of production where the flowmeter is not required.

The second concern is the deadline which was set for December that is really tough. **Mr. Anthony Galliano** and **Mr. Tassilo Brinzer** are working on the research to see if

other countries are doing the same or just Cambodia, and whether that's appropriate for self-assessment regime.

Minutes Response from PSWG-D Meeting on 17th March 2022:

Mr. Anthony Galliano mentioned that as it is now clear that this Prakas will be implemented exclusively for the Brewers and producers of non-alcoholic breweries that are under the umbrella of large taxpayers, the group decided to withdraw this issue.

Limited Number of MOC Agent License for Company Registration Effective from 2 August 2021

*Raised by the European Chamber of Commerce (EuroCham) on 14 October 2021.
Latest update from TWG at PSWG-D Meeting on 17th March 2022.*

- Issue Description**
1. The MoC only allows those who have attended training class for the MOC Agent License to be eligible to apply for MOC Agent License. However, the announcement of training class as well as the number of registration for the class are very limited and so far only 74 persons can receive the the MOC Agent License. To date, there is no available training class to be conducted by the MOC and if it is any, it can only accommodated a limited number of attendees.
 2. Currently, there is only MoC Agent License approved for an individual, but not for a company level. Since the individual, who is the employee of the company and obtains the MoC Agent License to work for the company, can leave the company anytime, it is hard for the company to re-apply the MoC Agent License immediately and all the time after the staff's resignation especially when the MoC requires to attend the training class before applying the MoC Agent License and the class is not always available for registration.

- Policy Recommendation**
- The Private Sector kindly request the Ministry of Commerce to consider as follows:
1. Publicly re-opening the training class and the new application for the MoC Agent License for company registration soon. Moreover, please consider allowing more number of trainers/applicants for registering for the class and applying for the MoC Agent License. If the MoC cannot open the class or application soon due to the recent Covid-19 pandemic, please consider delaying the implementation of notification letter no. 1497 MOC dated 5 July 2021 until the time that the MoC can accept more new applicants for the MoC Agent License.
 2. Requesting the MoC to consider:
 - Automatically providing the MoC Agent License to the accounting firms and law firms as licensed by the competent authorities in Cambodia (i.e. KICPAA)
 - Allowing the MoC Agent License under a company level
 - Allowing individual person to authorize to other persons under the same company

Response and Current Status Latest update from TWG at PSWG-D Meeting on 17th March 2022:

Mr. Noe Schellinck updated the response from MOC that since there is an individual who must attend the training to become an agent, the license can only attach to the individual. MOC also mentioned that since the COVID19 situation has been eased,

there will be the new training in June and MOC will organize the training twice a year for individuals in the company to attend.

TWG the owner of the issue, mentioned that the updates from the meeting with MOC are different from what **Mr. Noe Schellinck** updated. Therefore, TWG would like to have a meeting with **EuroCham** to align their understanding before TWG decide the next step.

Re-registration of the Existing Entities That Fail to Re-register With the Ministry of Commerce by December 31st, 2019

Raised by EuroCham on 14 October 2021.

Latest update from TWG at PSWG-D Meeting on 17th March 2022.

- Issue Description**
- The entities want to file annual declaration of the commercial enterprise online, but they can't.
 - The entities want to de-register properly, they can't do because the re-registration wasn't done by 31-12-2019 and importantly all existing board of directors left so there is passport or information of existing board members for online re-registration purposes.
 - Some of them have lost the original registration documents but maintained a black and white version but some completely lost the documents. So they can't have colour scanned registration documents for online re-registration purpose.

- Policy Recommendation**
- The private sector requests the Ministry of Commerce to consider:
- 1) Re-opening the online re-registration for the entities who fail to do so by 31-12-2019, and introduce the penalty for late re-register instead.
 - 2) Allowing the entities to register the information of new boards at time of online re-registration if the registered boards are no longer with the firm. In this case, MoC should introduce the penalty for not register the change, on the top of the penalty for late re-registration of item 1 above.
 - 3) Accepting the scanned black and white version of registration documents. In the case, the entities have lost such documents the MoC allows to provide a copy of the documents from MoC's warehouse and introduce a formal on-off warehouse fee for this purpose.

Response and Current Status

Mr. Noe Schellinck provided an update on this issue. A meeting between MOC and the owner of the issue was organized to discuss. As this issue is a private issue of one between the clients of the issue owner, there is no general response other than there is no mechanism in place for the re-registration if a company is already a few years late and there will be penalty based on the specific case.

TWG the owner of the issue mentioned this is not an individual issue and many companies are facing the same problem. TWG requests to meet with Mr. Noe Schellinck to have mutual understanding and decide whether to raise this issue at the GPSWG-D Meeting or not.

Support for the Tourism Sector

Raised by Mr. Luu Meng, Cambodia Tourism Federation Association (CTFA) on 12th August 2021.

Updated from TWG at PSWG-D Meeting on 17th March 2022.

Updated from TWG at PSWG-D Meeting on 16th June 2022.

Latest update from G-PSF Meeting on 13th November 2023.

Issue Description PSWG-D Meeting on 17th March 2022

By forcing restaurant to close or reduced their scope of operations, the government have pushed all enterprises toward insolvencies.

PSWG-D Meeting on 16th June 2022

A broader support for tourism is necessary during the post-COVID19 era.

Policy Recommendation

PSWG-D Meeting on 17th March 2022

1. Invest in the future of the sector by proposing a recovery program (financial relief) to enterprises of the sector. Use this program to incentivize the formalization of the sector. Only properly lawfully registered company with all authorities would benefit. a) Debt Forgiveness (Taxes and others). Allow enterprise to capitalize their operation and raise funds to relaunch. b) Reduced VAT (10% to 5%) in 2022 and 2023 c) No tax on profit for 2022 and 2023
2. Option for sector to move to part-time and hourly wages

PSWG-D Meeting on 16th June 2022

The private sector would like to request to invest in the future of the sector by proposing a recovery program (financial relief) to enterprises of the sector; and to use this program to incentivize the formalization of the sector. Only a properly lawfully registered company with all authorities would benefit.

- a) Debt Forgiveness (Tax and others). To allow enterprises to capitalize their operation and raise funds to relaunch.
- b) To reduce VAT from 10% to 5% in 2022 and 2023.

To cancel the tax on profit for 2022 and 2023. Possible option for sector to move to part-time and hourly wages.

Response and Current Status

Minutes Response at PSWG-D Meeting on 12th August 2021:

These issues have already been raised through Working Group B and some meetings were held with the relevant government counterparts. These issues will be raised through Working Group D to have the process of following up with MoEF on what has been suggested because the previous meetings were ad hoc meetings that cannot be followed up.

Minutes Response from TWG at PSWG-D Meeting on 17th March 2022:

Mr. Luu Meng provide updates on recommendations regarding the economic and financial support for tourism industries. Some of the recommendations received positive feedback with official announcements. However, the government funding program is not fully applicable yet, and two other requests on the recovery program and the option to move to part-time and hourly wages are still pending.

Mr. Arnaud Darc shared that these recommendations were raised formerly to **H.E Dr. Phan Phalla Secretary of State at the Ministry of Economy and Finance**. The Ministry responded that they will work on it and make a proposal. He also mentioned that from his experience, financial supports are not easily accessible clarification will be required.

For the recovery program, **Mr. Arnaud Darc** advised **Mr. Luu Meng** to follow up with **H.E Dr. Phan Phalla** through Working Group B. If there is no update by the end of March, we will add this to the agenda to discuss with **H.E Dr. Aun Porn Moniroth, Deputy Prime Minister, Minister of Ministry of Economy and Finance** at the GPSW-D Meeting.

In regard to the option to move to part-time and hourly wages, **Mr. Luu Meng** will send an official letter to the Ministry of Labour and Vocational Training requesting for an official response.

Minutes Response from TWG at PSWG-D Meeting on 16th June 2022:

Mr. Luu Meng requested for government support regarding the (a). debt forgiveness by letting the company to have a shutdown so that they can request not to pay tax. By doing so, companies can have clean background which makes it easier for them to find new funding/investors from overseas.

Mr. Arnaud Darc mentioned that it is not easy for a company to start up again even with the help of funds. Moreover, the number of companies that are not legally registered is large which is hard to receive government support. He also stated that, if the companies are lawfully registered, suggestion could be tax exemption and/or no fee on the license.

On point (b). **Mr. Luu Meng** suggested that by reducing the VAT to 5% in 2022 and 2023, it could encourage companies to formalize their business, compared to the risk of not paying the 5% VAT. Moreover, the more companies apply for formalization

there will be more taxpayers in the future and in return it could generate profit for the government.

TWG asked if it is possible to narrow down the scope to specific sector/ type of business as for example, the term travel agent is board and different type of business may encounter different difficulties as well.

To answer, **Mr. Arnaud Darc** explained that there are two ways to look at VAT which are import and export. The export (what you sell to visitors e.g., service, products) is VAT included, so lowering the VAT to 5% may help to attract more tourists and encourage agents to formalize their companies as well.

Mr. Ho Vandy, asked for suggestion on how to make Cambodia's tourism sector become more attractive for example by lowering the fees on the entrance to some tourist's attractions such as Angkor Wat and National Museum.

Samdech Thipadei Prime Minister Hun Manet addressed this issue at the 19th meeting of the Royal Government-Private Sector Forum on the 13th November 2023.

Unofficial Translation by CamEd Business School

3.6. Other incentives

In addition to agriculture and tourism, the Royal Government has also received proposals related to other sectors from the Working Group "D" on Law, Tax and Governance (WGD) and the Working Group "G" on Export Processing and Trade Facilitation (WGG). Well, especially Involves an enterprise as a Qualified Investment Project (SEC-QIP). In response to this request, the Royal Government decided to take the following measures:

- No1.** *Provide minimum tax exemption to enterprises as SEC For the first year without an independent audit report, stipulating that the enterprise must provide an independent audit report to the General Department of Taxation no later than the end of June of the following year;*
- No2.** *Provides temporary suspension of monthly income tax exemption payment until the end of 2025 for SEC enterprises. Includes Garment Logo, Glove, Sock, Towel, Pillow Case, Duvet Cover, Bed Sheet), And Table Clothes, as well as enterprises in the textile sector. In order to receive this incentive, the enterprise must be associated with tax compliance in accordance with the laws and regulations as stated in Article 4 of ministry order (Prakas) No. 002 MEF.PrK.PTD dated 6 January 2023 of the Ministry of Economy And Finance*
- No3.** *Amendment to ministry order (Prakas) No. 217 MEF.PrK dated 14 March 2022 on Incentives for Voluntary Correction of Tax Declarations for the Exemption of Administrative Sanctions for Voluntary Correction of Voluntary Declarations with a Deadline June 2024. Separately, requests to amend the declaration after this date will be punished in accordance with the laws and*

regulations in force. Meanwhile, this authorization will not apply to corrections on the results found during the tax audit; And

No4. *The Royal Government has provided some incentives for businesses in the tourism sector, especially the tourism business in Siem Reap, which I will detail in the section on the rehabilitation and promotion of tourism development.*

Telecommunication Industry as part of the Recovery Plan - Use the telecommunication industry to launch the post COVID-19 recovery plan for Cambodia by deploying 5G

Raised by Mr. Thomas Hundt, Association Telecom of Cambodia (ATOC) on 12th August 2021.

Issue Description 1. **Telecom Industry as respected development partner of the RGC:** The telecom operators are the enablers of a Digital Cambodia, of the digital lifestyle the Cambodians have adopted, being essential for a large number of industries (banking, commerce, F&B, Tourism, manufacturing...). The telecom operators have massively invested into the development of the telecom sector of the Kingdom throughout the years. Our mission is to enable a truly digital Cambodia. We are the ones enabling the various online platforms which being part of the daily life of the socio-economy of the Kingdom. We are creating jobs. We are paying heavily into the state coffer.

However, present relationship between MPTC/TRC does in the view of the industry not give sufficient credit to the role the industry is playing, we believe a respectful partnership between MPTC/TRC and the industry to be re-established.

The industry seeks for less bureaucratic dealings but more government-private sector partnership approach with MPTC/TRC. A high number of data and information inquiries being received by the industry without transparency on purpose and further use of the data and information. Forms to be filled by the industry are burdensome and, in many cases, impractical.

Upcoming new regulations such as the Infrastructure Sub decree and to certain extend Spectrum Sub decree contain restrictions and impose limits and requirements contradicting to the objective of best possible Quality of Service.

The MNOs have successfully established the association, namely the Association of Telecommunications Operators in Cambodia "ATOC". Since the day of establishment, MPTC and TRC have not welcomed ATOC for industry dialogs.

2. **Sustainability of Sector:** Payables to MPTC/TRC (Revenue Share, USO Fund, CBRD Fund, Annual Spectrum Fees, Microwave Fees, Interconnect Fees, Numbering Fees...) stack up and have increased over the years while being looked at separately from general and specific taxes payable to the GDT (general taxes plus Telecom Specific Tax). As result the total amounts paid into the state coffer by the industry went up to 25% to 30% of revenue; excluding by MPTC expected significant proceeds from future spectrum allocations to the industry for i.e. 5G.

Further, terms & conditions of licenses, such as revenue share calculation principles and deductibles have been altered, partially even applied retro-perspectively which lead to significant additional fees imposed to the industry.

The magnitude of investments needed to be made by the operators require a predictable, stable and dependable regulatory environment as well as a balanced approach between incentivizing and encouraging investments and industry contributions to state coffer.

3. **5G:** While Cambodia has been an early adopter of 4G, Cambodia is lacking behind its peers in ASEAN on launching 5G. Cambodia has well adopted digital services, the vast majority of population is using the mobile Internet on a daily basis while many, if not all sectors of the economy depend on modern, state of the art, Internet based communication and business platforms.

As result of the very high mobile Internet consumptions, the existing 4G networks are overly utilized, 5G as the latest technology standard offers a far greater capacity and efficiency than 4G and enables as result new use cases.

Foreign investment attraction requires Cambodia to be competitive, amongst other areas, in the field of infrastructure. Nowadays digital infrastructure is as important as physical infrastructure. While all neighboring countries and the vast majority of ASEAN countries has commercially launched 5G already, Cambodia hasn't yet.

The upcoming ASEM and ASEAN events offer a unique opportunity to demonstrate that Cambodia is technologically advanced and at par with peers.

Policy Recommendation

1. Open, mutually respectful dialogs between MPTC/TRC and the industry – operators individually and with ATOC – to be established, allowing the industry to express their challenges, concerns, and issues for mutual resolution.
2. MPTC and MEF together should carry out a holistic assessment of the total regulatory fees and taxes (all kinds) imposed onto the industry as a basis for a constructive dialog with the industry on the right sustainable level of government contributions by the industry. Operators should be incentivized to invest more for the sake of driving the for the digitization of Cambodia needed broadband Internet connectivity.
3. MPTC to award 5G spectrum and licenses to the telecom operators by September 2021. Spectrum costs and license terms shall be balanced and facilitative, encouraging operators to invest and to rollout.

Response and Current Status

These issues were sent to MoEF as we wanted it on the agenda of the last GPSWG-D meeting on the 3rd August 2021 but were asked to postpone to a later date as the meeting on 3rd August was only to discuss the Quarantine Requirements for Residents, Business owners, Employees, and Investors.

The MoEF team has asked us to send these issues after the meeting. These issues are in the process so we should be prepared for the GPSWG-D presentation once there is the meeting confirmed with the ministry.

For the strategy moving forward, we need to see how the government responds first. If they respond with indication that we should organize the meeting with relevant working group or ministry, then we will need to follow their recommendation just like we did with the quarantine issues.

Request to remove the ban on alcohol sales and explore other policy options that support in the prevention of the spread of COVID-19

Raised by Mr. Daren Ong, Pernod Ricard Cambodia on 12th August 2021.

Issue Description

Pernod Ricard (Cambodge) Co., Ltd has been officially registered in Cambodia since 2017. The company has been working with the EuroCham's Beer, Wine and Spirits Sectoral Committee and other business & trade associations to ensure that distribution & consumption of alcoholic beverages in Cambodia is conducted in a fully compliant manner and with the safety of consumers as its utmost priority.

Through the mechanism of the Working Group D, Pernod Ricard would like to request the National Committee on Implementation of the Lockdown Measures to consider removing the current temporarily ban on alcohol sales as one of the Lockdown Measures implemented during this pandemic.

Pernod Ricard recognises the decisive and crucial measures the Royal Government of Cambodia (RGC) has taken to respond to and curb the spread of COVID-19 in the kingdom, especially the new Delta variant. We have strictly abided by all related guidelines and measures. Furthermore, we have demonstrated our support in the fight against COVID-19 by donating rapid test kits and protection materials to the Ministry of Health.

Nonetheless, these measures unavoidably place undue pressure on businesses who are struggling to survive during these testing times, particularly alcohol importers and producers, large retailers and distributors, as well as thousands of restaurants, small shops and family-owned businesses that constitute a highly relevant part of the hospitality and tourism sectors, a crucial backbone of the economy.

We further wish to draw the government's attention to the fact that any further extension on the ban on alcohol sales may result in several unintended consequences, including further incentivising the illicit sale of alcohol and increasing the production of unrecorded home-brewed alcohol, both which pose a great risk to consumer safety.

Moreover, in markets where retail sales are increasingly being permitted, there has been little evidence that this has contributed to breaches of physical distancing or other negative consequences that contribute to the spread of the virus. There is however ample evidence to show that markets which have experimented with retail prohibition have struggled with public order as consumers will find other ways to access alcohol, potentially breaching other COVID-19 preventative measures.

Policy Recommendation

Pernod Ricard Cambodia welcomes the opportunity to offer our support and share international best practice to assist and work with the RGC in continuing to consider and develop appropriate policy responses and options that prevent the spread of

COVID-19 and addresses any concerns around the irresponsible consumption of alcohol during this pandemic and in a post-pandemic future.

Pernod Ricard Cambodia stands ready to work with the National Committee on Implementation of the Lockdown Measures and relevant line ministries and committees to revisit the current COVID19 measures and propose a set of possible preventive measures, especially regarding the alcohol industry.

**Response and
Current Status**

We need a broader discussion on illicit trade, counterfeit products and investment protection. We need to look at all angles and not focus on one specific industry.

The last “ban on alcohol sales” in relation to COVID-19 from The Phnom Penh Capital Administration was for 14 days from 24 September till 7 October 2021. Decision No. 302/21 SSR.

IV. METHODOLOGY

The revised edition of the White Book presents 69 policy proposals intended to improve the Law, Taxation and Governance System in Cambodia, to create an attractive environment for investors.

These policies have been elaborated throughout numerous meetings between representatives of the Private Sector, the Government, and the General Department of Taxation (GDT).

As the embodiment of the cooperation between the Private Sector and the Royal Government of Cambodia, the White Book aims at summarizing our fruitful reflections and proving our capacity and will to resolve various issues.

As such, our recommendations shall take the following format:

~ Issue Description ~

Details the current situation and the problem faced by the Private Sector

~ Policy Recommendations ~

Presents specific actions that could improve the situation.

~ Response and Status ~

Depict the evolution of the discussion concerning that same issue.

Note: This edition of the White Book traces the WGD's discussions and proposals from when Mr. Arnaud Darc took over as being Co-Chair on 1 July 2021 until 12 September 2024 (before the next GPSWG-D Meeting on 7 October 2024).

V. ABBREVIATIONS

ABC: ASSOCIATION OF BANKS IN CAMBODIA

ACLEDA: ASSOCIATION OF CAMBODIAN LOCAL ECONOMIC DEVELOPMENT AGENCIES

AMCHAM: AMERICAN CHAMBER OF COMMERCE IN CAMBODIA

ASEAN: ASSOCIATION OF SOUTHEAST ASIAN NATIONS

ATIC: ASSOCIATION OF TOBACCO INDUSTRY OF CAMBODIA

AUCC: AREA UNDER CUSTOM CONTROL

BFIS: BANKING AND FINANCIAL INSTITUTIONS

BOQ: BILL OF QUANTITY

CAIF: CAMBODIA AUTOMOTIVE INDUSTRY FEDERATION

CCC: CAMBODIA CHAMBER OF COMMERCE

CCCC: COUNTER COUNTERFEIT COMMITTEE OF CAMBODIA

CDC: COUNCIL FOR THE DEVELOPMENT OF CAMBODIA

CGT: CAPITAL GAINS TAX

CHA: CAMBODIA HOTEL ASSOCIATION

CIFRS: CERTIFIED INTERNATIONAL FINANCIAL REPORTING STANDARDS

CMA: CAMBODIA MICROFINANCE ASSOCIATION

CTFA: CAMBODIA TOURISM FEDERATION ASSOCIATION

DPM: DEPUTY PRIME MINISTER

DTA: DOUBLE TAXATION AGREEMENT

EUROCHAM: EUROPEAN CHAMBER OF COMMERCE IN CAMBODIA

FA: FIXED ASSET

GDCE: GENERAL DEPARTMENT OF CUSTOMS AND EXCISE

GDT: GENERAL DEPARTMENT OF TAXATION

**GMAC: GARMENT MANUFACTURERS ASSOCIATION IN CAMBODIA
(NOW TAFTAC)**

GPSE: GOVERNMENT PRIVATE SECTOR FORUM

GPSWGD: GOVERNMENT-PRIVATE SECTOR WORKING GROUP D

GST: GOODS AND SERVICES TAX

IBC: INTERNATIONAL BUSINESS CHAMBER OF CAMBODIA

JBAC: JAPANESE BUSINESS ASSOCIATION IN CAMBODIA

JICA: JAPAN INTERNATIONAL COOPERATION AGENCY

KHR: KHMER RIEL

KICPAA: KAMPUCHEA INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS AND AUDITORS

MEF: MINISTRY OF ECONOMY AND FINANCE

MLVT: MINISTRY OF LABOR AND VOCATIONAL TRAINING

MOC: MINISTRY OF COMMERCE

NBV: NET BOOK VALUE

NGOS: NON-GOVERNMENTAL ORGANIZATIONS

OECD: ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

PPT: PROPERTY PURCHASE TAX

PS: PRIVATE SECTOR

PSWGD: PRIVATE SECTOR WORKING GROUP D

QIP: QUALIFIED INVESTMENT PROJECTS

RGC: ROYAL GOVERNMENT OF CAMBODIA

SHV: SIHANOUKVILLE

TAFTAC: TEXTILE, APPAREL, FOOTWEAR & TRAVEL GOODS ASSOCIATION IN CAMBODIA

TCP: TAX COLLECTION PROCEDURE

TOI: TAX ON INCOME

**TWG: TAX WORKING GROUP
(TECHNICAL WORKING GROUP ON TAX)**

USD: US DOLLAR

VAT: VALUE-ADDED TAX

WGD: WORKING GROUP D

WHT: WITHHOLDING TAX

WSBIDA: WINE SPIRIT AND BEER IMPORTERS AND DISTRIBUTORS ASSOCIATION



Kingdom of Cambodia
Nation Religion King

Royal Government of Cambodia
No. 253 SSR

DECISION
on
Official Recognition of Committee for Coordinating the Private Sector
Working Groups of the Government-Private Sector Forum
The Royal Government of Cambodia

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/0823/1981 dated 22 August 2023 on Nomination of the Royal Government of The Kingdom of Cambodia.
- Having seen Royal Decree No. NS/RKT/0224/205 dated 21 February 2024 on Nomination of the Additional Members of the Royal Government of The Kingdom of Cambodia.
- Having seen Royal Decree No. NS/RKT/0924/1169 dated 20 September 2024 on Adjustment and Nomination of the Members Composition of the Royal Government of The Kingdom of Cambodia.
- Having seen Royal Decree No. NS/RKT/1124/1477 dated 20 November 2024 on Adjustment and Nomination of the Additional Members Composition of the Royal Government of The Kingdom of Cambodia.
- Having seen Royal Code No. NS/RKM/0618/012 dated 28 June 2018 on promulgating the Law on Organization and Functioning of the Council of Ministers.
- Having seen Royal Code No. NS/RKM/1021/014 dated 15 October 2021 on promulgating the Law on Investment of the Kingdom of Cambodia.
- Having seen Royal Decree No. NS/RKT/1223/2564 dated 09 December 2023 on the Organization and Functioning of the Council for the Development of Cambodia.
- Having seen Royal Decree No. NS/RKT/0719/1024 dated 06 July 2019 on the Establishment of the Committee on Economic and Financial Policy.
- Having seen Sub-Decree No. 307 OrNKR.BK dated 06 October 2023 on Establishment and Operation of the Coordinating Committee for the Government-Private Sector Forum (CC G-PSF) Mechanism.

- Having seen the Decision of the Royal Government of Cambodia No. 153 SSR dated on 03 November 2023 on Nomination of the Coordinating Committee of the Government-Private Sector Forum (CC G-PSF).
- Having seen the Decision of the Royal Government of Cambodia No. 52 SSR dated 25 March 2019 on Official Appointment of Composition of the Sectoral Working Groups of the Government-Private Sector Forum.
- Having seen the Decision of the Royal Government of Cambodia No. 35 SSR dated on 02 May 2023 on Establishment of Additional Sectoral Working Groups for Partnership Discussion with the Private Sector.
- Having seen the Decision of the Royal Government of Cambodia No. 242 SSR dated on 25 December 2023 on Establishment of Additional Sectoral Working Groups for Partnership Discussion with the Private Sector.
- Having seen the Decision of the Royal Government of Cambodia No. 97 SSR dated 21 May 2024 on the Official Recognition of the Composition of the 16 Private Sector Working Groups of the Government-Private Sector Forum.
- According to the necessity of the Royal Government.

DECIDE

Article 1.-

To officially recognize the compositions of the Committee for Coordinating the Private Sector Working Groups of the Government-Private Sector Forum (CC G-PSF PSWs) with the following composition:

1-	NeakOknha Kith Meng	President of the Cambodia Chamber of Commerce	Chair
2-	NeakOknha Lim Heng	Vice President of the Cambodia Chamber of Commerce	Permanent Vice Chair
3-	Oknha Sok Piseth	Vice President of the Cambodia Chamber of Commerce	Vice Chair
4-	Oknha Lim Socheat	Vice President of the Cambodia Chamber of Commerce	Vice Chair
5-	Oknha Dr. Tan Monivann	Vice President of the Cambodia Chamber of Commerce	Vice Chair
6-	Oknha Kouch Pheng	Vice President of the Cambodia Chamber of Commerce	Vice Chair
7-	NeakOknha Ly KhunThai	Vice President of the Cambodia Chamber of Commerce	Vice Chair
8-	NeakOknha Lav Kang	Vice President of the Cambodia Chamber of Commerce	Vice Chair

9-	NeakOknha Vinh Hour	Vice President of the Cambodia Chamber of Commerce	Member
10-	NeakOknha Phe HokChhuon	Vice President of the Cambodia Chamber of Commerce	Member
11-	NeakOknha Thai CheaHuot	Vice President of the Cambodia Chamber of Commerce	Member
12-	NeakOknha Tuy Ky	President of the Chamber of Commerce of Pursat Province	Member
13-	Oknha Dr. Huy Pheav	President of the Chamber of Commerce of Siem Reap province and OddarMeanChey province	Member
14-	NeakOknha Phuo Veasna	President of the Chamber of Commerce of Battambang province	Member
15-	Oknha Tan Tat	President of the Chamber of Commerce of Preah Sihanouk province	Member
16-	Oknha Dr. Nang Sothy	Member of the Cambodia Chamber of Commerce	Member
17-	NeakOknha Ung Se	Member of the Cambodia Chamber of Commerce	Member
18-	NeakOknha Kong Sang	Member of the Cambodia Chamber of Commerce	Member
19-	NeakOknha Cheam KhunNat	Member of the Cambodia Chamber of Commerce	Member
20-	Oknha Vann Charles Chuon	Member of the Cambodia Chamber of Commerce	Member
21-	LCT. Dith Nita	Member of the Cambodia Chamber of Commerce	Member
22-	H.E. Dr. Heng Vuthy	Member of the Cambodia Chamber of Commerce	Member
23-	NeakOknha Ly SengKheang	Member of the Cambodia Chamber of Commerce	Member
24-	Oknha Tan Khee Meng	Member of the Cambodia Chamber of Commerce	Member
25-	Mr. Paul CLEMENTS	Member of the Cambodia Chamber of Commerce	Member
26-	Oknha Nuon Rithy	Member of the Cambodia Chamber of Commerce	Member
27-	Mrs. Mar Amra	Member of the Cambodia Chamber of Commerce	Member

28-	H.E. Oknha Nguon Meng Tech	Director General of the Cambodia Chamber of Commerce	Member
29-	LCT. Oknha Nuon Pichsophal	Senior Deputy Director General of the Cambodia Chamber of Commerce	Member
30-	Mr. Keo Veasna	Director of Development and Cooperation Department	Secretary

Article 2.-

CC G-PSF PSWGs could add additional member composition, if necessary. The Cambodia Chamber of Commerce has the right to decide on additional member composition based a number of specific criteria, including: sustainability, effectiveness, representation, etc. of respective theme/sector of each working group.

Article 3.-

The composition of the committee members as stipulated in Article 1 will end its mandate when the individual member resigns from their membership or from relevant sectoral private sector duties, or being decided by the president through proper recruitment and replacement in accordance with Cambodia Chamber of Commerce procedure.

Article 4.-

The CC G-PSF PSWGs is responsible for the following duties:

- Act as a representative of the sectoral working group of the private sector to coordinate with the Coordinating Committee for the Government-Private Sector Forum (CC G-PSF) and as a one-stop service for the private sector in coordinating, reviewing, and consolidating challenges and requests raised by the private sector for the sectoral working groups of the Royal Government to review and resolve under the G-PSF mechanism.
- Lead the coordinating, monitoring and evaluation activities of all the sectoral working groups in each sectoral working group of the private sector and in working with the respective ministries and institutions of the Royal Government, promote the resolution of private sector's issues or requests under the G-PSF mechanism and other relevant mechanisms in order to improve the business and business environment.
- Collaborate with the CC G-PSF in facilitating and organizing the G-PSF.
- Coordinate with the CC G-PSF in proposing the Royal Government to form, add or dissolve working group(s) and to request the appointment or replacement of co-chairs, deputy chairs, and members of the private sector working groups as necessary.

- Coordinate to inform the private sector about the results and measures taken by the Royal Government under the G-PSF, as well as the results and measures jointly decided by the Royal Government and private sector of the respective sectoral working groups.
- Monitor and promote the implementation of the tasks of the sectoral private sector working groups, and monitor the progress made by the competent institutions in resolving issues.
- Develop Standard Operating Procedures for sectoral Private Sector Working Groups to ensure efficient results in accordance with the policy of the Royal Government.
- Perform other duties as requested by the Private Sector Working Groups.

Article 5.-

Any provisions contrary to this Decision shall be abrogated.

Article 6.-

The Minister in charge of the Office of the Council of Ministers, the Minister of Economy and Finance, the First Vice-Chairman of the Council for the Development of Cambodia, ministers of all ministries and heads of all relevant institutions, President of the Cambodia Chamber of Commerce, and respective individuals shall be responsible for the implementation of this decision according to their respective roles from the date of signature onwards.

Phnom Penh, 30 December 2024
Prime Minister
(signed and stamped)

Samdech Moha Borvor Thipadei HUN MANET

Recipients:

- The Ministry of the Royal Palace;
- Secretariat General of the Constitutional Council;
- General Secretariat of the Senate;
- General Secretariat of the National Assembly;
- Cabinet of Samdech Moha Borvor Thipadei, Prime Minister;
- Cabinet of His Excellency Deputy Prime Minister;
- As per Article 6;
- Royal Gazette;
- Document-Archive.

**Kingdom of Cambodia
Nation Religion King**

Royal Government of Cambodia
No. 75 SSR

**Decision
On
Official Recognition of The Composition of The Working Group on Law Tax and Governance of
Private Sector of the Government-Private Sector Forum
Royal Government**

- Having seen the constitution of the Kingdom of Cambodia
- Having seen Royal Decree No. NS/RKT/0918/925 date 06 September 2018 on the appointment of the Royal Government of the Kingdom of Cambodia.
- Having seen Royal Decree No. NS/RKT/0320/421 dated 30 March 2020 on the appointment and adjustment of the composition of the Royal Government of the Kingdom of Cambodia
- Having seen Royal Code No. NS/RKM/0618/012 date 28 June 2018 promulgating the law on the organization and functioning of the Council of Minister
- Having seen Royal Code No. 03/NS/94 date 05 August 1994 promulgating the Law of Investment of the Kingdom of Cambodia
- Having seen Royal Code No. NS/RKM/0303/009 date 24 March 2003 promulgating the Law on the Amendment of the Law of Investment of the Kingdom of Cambodia
- Having seen Royal Decree No. NS/RKT/1213/1444 dated 31 December 2013 on the Establishment of the Economic and Financial Policy Committee
- Having seen Sub-Decree No. 60 ANKR.BK date 05 April 2016 on the Organization and Functioning of the Council for the Development of Cambodia
- Having seen Sub-Decree No. 41 ANKR.BK date 30 January 2014 on the Establishment of the Steering Committee for Private Sector Development
- Having seen Decision No. 52 SSR date 25 March 2019 of the Royal Government of Cambodia on the Establishment of Sectoral Working Groups for Partnership with Private Sectors.
- Having seen Decision No. 53 SSR date 25 March 2019 of the Royal Government of Cambodia on the appointment of Sectoral Working Groups to be a Working for Partnership with Private Sectors.
- Having seen Decision No. 54 SSR date 25 March 2019 on the Official Recognition of The Composition of the 13 Working Groups of The Private Sector of The Government - Private sector Forum
- According to Letter No. 146/21 dated 13 April 2021 of the Cambodia Chamber of Commerce
- According to the requirements of the Royal Government

Decide

Article 1.

Official Recognition of The Composition of The Working Group on Law Tax and Governance of Private Sector of the Government-Private Sector Forum:

1. Mr.	Darc	Arnaud	Chair
2. Oknha	Sok	Piseth	Vice chair
3. Dr.	Tan	Monivann	Vice chair
4. Oknha	Kouch	Pheng	Vice chair
5. Oknha	Ly	Kunthai	Vice chair
6. Mr.	Lim	Socheat	Vice chair
7. Mr.	Clements	Paul	Vice chair
8. Oknha	Vinh	Hour	Member
9. Oknha	Van	Sou Ieng	Member
10. Dr.	In	Channy	Member
11. Oknha	Nang	Sothy	Member
12. Mr.	Luu	Meng	Member
13. Oknha	Vann	Charles Chuon	Member
14. Oknha	Hun	Lak	Member
15. Oknha Dr.	Bun	Mony	Member
16. Mr.	Kea	Boran	Member
17. Mr.	Heng	Thy	Member
18. Mr.	Yogo	Kanda	Member
19. Oknha	Noun	Rithy	Member
20. Mr.	Sok	Lor	Member
21. Mrs.	Yuni	Lee Heathcote	Member
22. Mr.	Manu	Rajan	Member
23. Mr.	Hor	Bunthe	Member
24. Mr.	Chhun	Vattanak Pheakdey	Member
25. Mr.	Keo	Sophy	Member
26. Mr.	Pel	Sopheak	Member
27. Mrs.	Pok	Pheakdey	Member



(គណៈកម្មាធិការសហប្រតិបត្តិការរវាងរដ្ឋាភិបាល និង ឯកជន)
Government-Private Sector Forum (G-PSF)

28. Chumteav Oknha	Keo	Mom	Member
29. Oknha	Sin	Chanthy	Member
30. Oknha	Song	Saran	Member
31. Doctor	Chea	Chandy	Member
32. Oknha	Men	Sopheak	Member
33. Mr.	Ho	Vandy	Member
34. Mr.	Hep	Seka	Member
35. Mr.	Tanheang	Davann	Member
36. Mr.	Brinzer	Tassilo	Member
37. Mr.	Galliano	Anthony	Member
38. Mr.	Antoine	Fontaine	Member
39. Mr.	Massin	Guillaume	Member
40. Mr.	Rendall	Matthew	Member
41. Mrs.	Chhiv	Kimsroy	Member
42. Mr.	Sarin	Denora	Member
43. Ms.	Tan	Mona	Member
44. Mr.	Chan	Veasna	Member
45. Mrs.	Siek	Poline	Member
46. Ms.	Touch	Darith Reangsey	Member
47. Mr.	Roeurn	Bunheng	Member
48. Mrs.	Sun	Kimhin	Member

Article 2

In case there is a need to add on other compositions in the working group of the private sector, it is the decision of the Cambodia Chamber of Commerce to have a unanimous discussion with the co-chair of the working group based on a clear criterion, such as: sustainability, efficiency and representation, etc. of each professional face.

Article 3

The compositions of the Working Group on Law Tax and Governance, as stated in Article 1, shall end its term when the new co-chair is replaced by a selection in accordance with the procedures set by the Cambodia Chamber of Commerce.



Article 4

The co-chair and the compositions of the Private Sector Working Group have the following responsibilities:

1. Discuss in the working group to gather key issues to be raised with the government partner working group or to be raised during the Government-Private Sector Forum through the Council for the Development of Cambodia.
2. Participate in the meetings according to the schedule set by the co-chair of the Royal Government to resolve all issues that are concerns or obstacles of the general business within its jurisdiction.

Only issues that cannot be resolved at the working group level can be prepared to be included in the agenda of the Government-Private Sector Forum.

Article 5.

Any provisions that are contrary to this decision shall be abrogated.

Article 6.

Vice President of the Council for the Development of Cambodia, The Minister in charge of the Council of Ministers, the Minister of Economy and Finance, all the Ministers of all the Ministries, Cambodia Chamber of Commerce, and the compositions as stated in Article 1 above shall be responsible for the implementation of this decision in accordance with their respective duties from the date of signing.

Phnom Penh 01 July 2021

Prime Minister

(Sign and Stamp)

Samdach Akak Moha Sena Padei Techo Hun Sen

CC:

- Ministry of Royal Palace
- General Secretariat of Constitutional Council
- General Secretariat of Senate
- General Secretariat of National Assembly
- Cabinet of Samdech Akka Moha Sena Padei Techo Prime Minister of Cambodia
- Cabinet of H.E/Luk Chumteav Deputy Prime Minister
- As in Article 6
- Official Journal
- Document – Archive

UNOFFICIAL TRANSLATION BY IBC

**KINGDOM OF CAMBODIA
NATION RELIGION AND KING**

Royal Government of Cambodia

No.97 SSR

DECISION

ON

**OFFICIAL RECOGNITION OF COMPOSITION OF
THE 16 WORKING GROUP OF THE ROYAL GOVERNMENT – PRIVATE SECTOR FORUM**

Royal Government

- Having seen the Constitution of Kingdom of Cambodia
- Having seen Royal Decree No. NS/RKT/0823/1981 dated on 22 August 2023 ,on the Appointment of the Royal Government of Cambodia;
- Having seen Royal Decree No. NS/RKT/0224/205 dated on 21 February 2024, on the Appointment and Adjustment of the Composition of the Royal Government of Cambodia;
- Having seen Royal Kram No. NS/RK/ 0618/012 dated on 28 June 2018,which promulgated the Law on Organization and Functioning of Council Minister;
- Having seen Royal Kram No.NS/RK/1021/014 dated on 15 October 2021, which promulgated the Law on Investment of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/1213/1444 dated on 31 December 2013, on the Establishment of the Economic and Finance Policy Committee;
- Having seen Royal Decree No. NS/RKT/1223/2564 dated on 06 December 2023, on the Organization and Functioning of The Council for the Development of Cambodia;
- Having seen Sub- Decree No.307 dated on 06 October 2023 , on the Organization and Functioning of coordinating committee of the Royal Government-Private Sector Forum;
- Having seen Decision of the Royal Government No. 153 SSR dated on 03 November 2023 on the Appointment and Adjustment of the composition of the coordinating committee of the Royal Government-Private Sector Forum;
- Having seen Decision of the Royal Government No.52 dated on 25 March 2019, on Official Appointment of Composition of the Sectoral Working Group of the Government – Private Sector Forum;
- Having seen Decision of the Royal Government No.35 dated on 02 May 2023, on Establishment of Additional Sectoral Working Groups for Partnership Discussion with the Private Sector;
- Having seen Decision of the Royal Government No.242 dated on 25 December 2023, on Establishment of Additional Sectoral Working Groups for Partnership Discussion with the Private Sector;
- According to the necessity of the Royal Government.

HEREBY DECIDED**Article 1**

Officially recognized the composition of the 16 private working groups of the Royal Government -Private Sector Forum, which consists of the following:

D. Working Group on “Law, Tax and Governance”

1. Mr. **Arnaud Darc** (Co-chair)
2. Oknha. **Sok Piseth** (Vice Co-chair)
3. H.E Dr. **Tan Monivann** (Vice Co-chair)
4. Oknha. **Kouch Pheng** (Vice Co-chair)
5. H.E. Neak Oknha. **Ly Kunthai** (Vice Co-chair)
6. Oknha. **Lim Socheat** (Vice Co-chair)
7. Mr. **Paul Clements** (Vice Co-chair)
8. Neak Oknha. **Vinh Hour** (Member)
9. Oknha. **Van Sou Ieng** (Member)
10. Dr. **In Channy** (Member)
11. Oknha Dr. **Nang Sothy** (Member)
12. Oknha. **Luu Meng** (Member)
13. Oknha. **Vann Charles Chhoun** (Member)
14. Neak Oknha. **Hun Lak** (Member)
15. Oknha Dr. **Bun Mony** (Member)
16. Mr. **Kea Boran** (Member)
17. Mr. **Heng Thy** (Member)
18. Neak Oknha. **Noun Rithy** (Member)
19. Mr. **Sok Lor** (Member)
20. Mrs. **Yuni Lee Heathcote** (Member)
21. Mr. **Manu Rajan** (Member)
22. Mr. **Hor Bunthe** (Member)
23. Mr. **Chhun Vattanak Phakdey** (Member)
24. Mr. **Keo Sophy** (Member)
25. Mr. **Pel Sopheak** (Member)
26. Mrs. **Pok Pheakdey** (Member)
27. Oknha. **Keo Mom** (Member)
28. Oknha. **Sin Chanthy** (Member)
29. Oknha. **Sok Saron** (Member)

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30. Dr. **Chea Chandy** (Member)
31. Oknha. **Men Sopheak** (Member)
32. Mr. **Hep Seka** (Member)
33. Mr. **Tan Heang Davann** (Member)
34. Mr. **Anthony Galliano** (Member)
35. Mr. **Antione Fontaine** (Member)
36. Mr. **Matthew Randall** (Member)
37. Mrs. **Chhiv Kimsroy** (Member)
38. Mr. **Sarin Denora** (Member)
39. Miss. **Tan Mona** (Member)
40. Mr. **Chan Veasna** (Member)
41. Mrs. **Siek Poline** (Member)
42. Mrs. **Touch Darith Reangsey** (Member)
43. Mr. **Roeurn Bunheng** (Member)
44. Mrs. **Sun Kimhin** (Member)
45. Oknha. **Tan Kee Meng** (Member)
46. Mr. **Hong Piseth** (Member)
47. Representative from International Business Chamber of Cambodia (IBC) (Member)
48. Representative from the Association of Banks in Cambodia (ABC) (Member)
49. Representative from Cambodia Microfinance Association (CMA) (Member)
50. Representative from Cambodia Digital Tech Association (Member)
51. Representative from European Chamber of Commerce in Cambodia (Member)
52. Representative from Young Entrepreneurs Association of Cambodia (Member)
53. Representative from Cambodia Women Entrepreneurs Association (Member)
54. Representative from Textile, Apparel, Footwear, and Travel Goods Association in Cambodia (Member)
55. Representative from Japanese Business Association of Cambodia (Member)
56. Representative from Japan External Trade Organization (Member)
57. Representative from Thai Chamber of Commerce in Cambodia (Member)
58. Representative from The Australian Chamber of Commerce in Cambodia (Member)
59. Representative from The Indian Business Chamber in Cambodia (Member)
60. Representative from The Malaysian Business Chamber of Cambodia (Member)
61. Representative from The China Hongkong and Macau Expatriate Business Association of Cambodia (Member)
62. Representative from Chinese Chamber of Commerce in Cambodia (Member)
63. Members of the Cambodia Chamber of Commerce (Member)

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Article 2

In case of additional requirement or changes to the composition of the private sector working group, decisions should be made by the Cambodia Chamber of Commerce based on the consultation and agreement with each respective working group Co-chair. These decisions should consider specific criteria such as sustainability, effectiveness, and representing within each working group.

Article 3

Composition of the 16 working group as stated in Article 1 shall be terminated when the new Co-chair is replaced by a selection in accordance with the procedure set by the Cambodia Chamber of Commerce.

Article 4

The Co-chair and the composition of the private sector working group have the following responsibilities:

1. Discuss in the working group to gather all the key issue to raise with the working group of the Royal Government as a partner or to raise during the plenary session of the Royal Government Private Sector Forum through the Council for the Development of Cambodia.
2. Participate in meetings according to the schedule set by the Co-Chair of the Royal Government Working Group to participate in solving all problems that are concerns or obstacles of general business within the jurisdiction.

Only key issues that cannot be resolved at the working group level can be prepared to be included in the agenda of the next plenary session of the Government-Private Sector Forum.

Article 5

Royal Government Decision No. 130 dated on 12 October 2023 on the “Official Recognition of the composition of the 14 working groups of the private sector of the Government-Private Sector Forum” and any provisions contrary to this decision shall be an abrogated.

Article 6

The Minister in charge of the Council of Ministers, the Minister of Economy and Finance, the First Chairman of the Council for the Development of Cambodia, the ministers of all ministries and heads of all relevant institutions, the President of the Cambodia Chamber of Commerce and the composition member must be responsible for implementing this decision according to their respective duties from the date of signing.

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Phnom Penh, 21 May 2024

Prime Minister

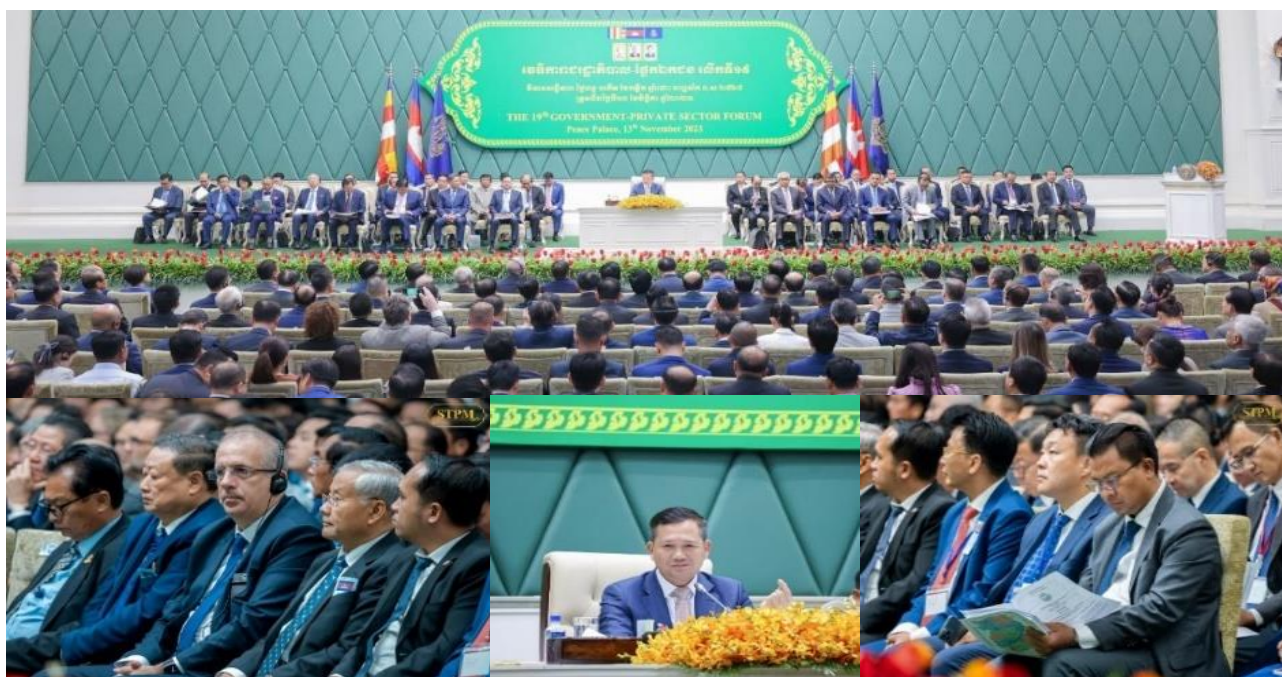
(Signed and Sealed)

Samdech Moha Borvor Thipadei HUN MANET

Place to receive:

- Ministry of the Royal Palace
- General Secretariat of Constitutional Council
- General Secretariat of the Senate
- General Secretariat of the National Assembly
- Cabinet of Samdech Moha Borvor Thipadei Prime Minister of Cambodia
- Cabinet of the Deputy Prime Ministers
- As stated in Article 6
- Official Gazette
- Document- Archive

G-PSF: Government-Private Sector Forum



19th Government-Private Sector Forum on November 13, 2023

GPSWG-D: Government-Private Sector Working Group D Meeting



Government-Private Sector Working Group D Meeting on September 13, 2022

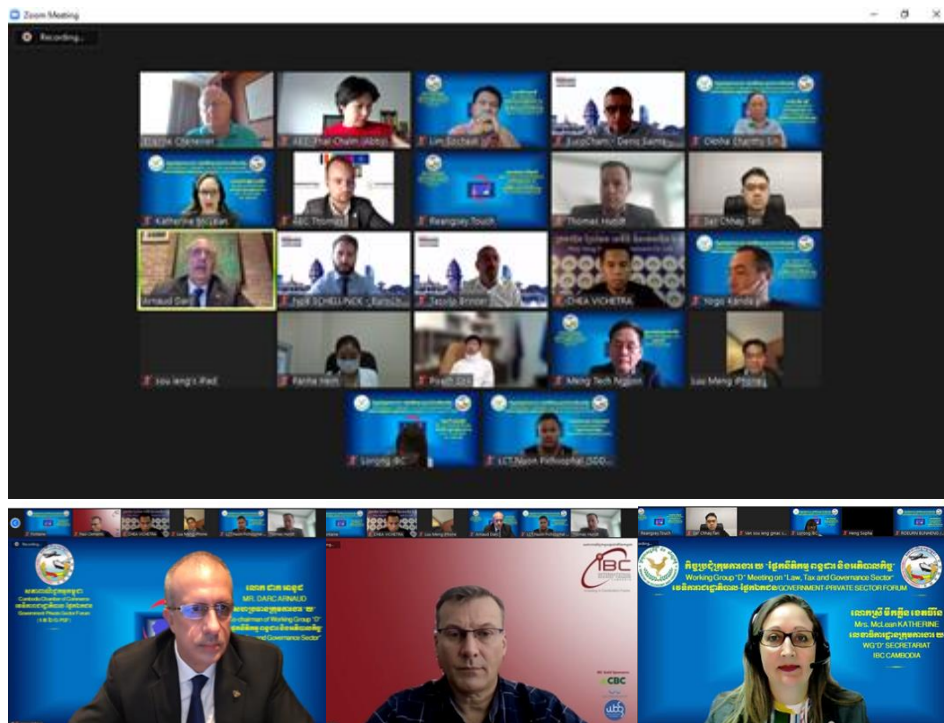


Government-Private Sector Working Group D Meeting on September 18, 2023



Government-Private Sector Working Group D Meeting on October 07, 2024

PSWG-D: Private Sector Working Group D Meeting



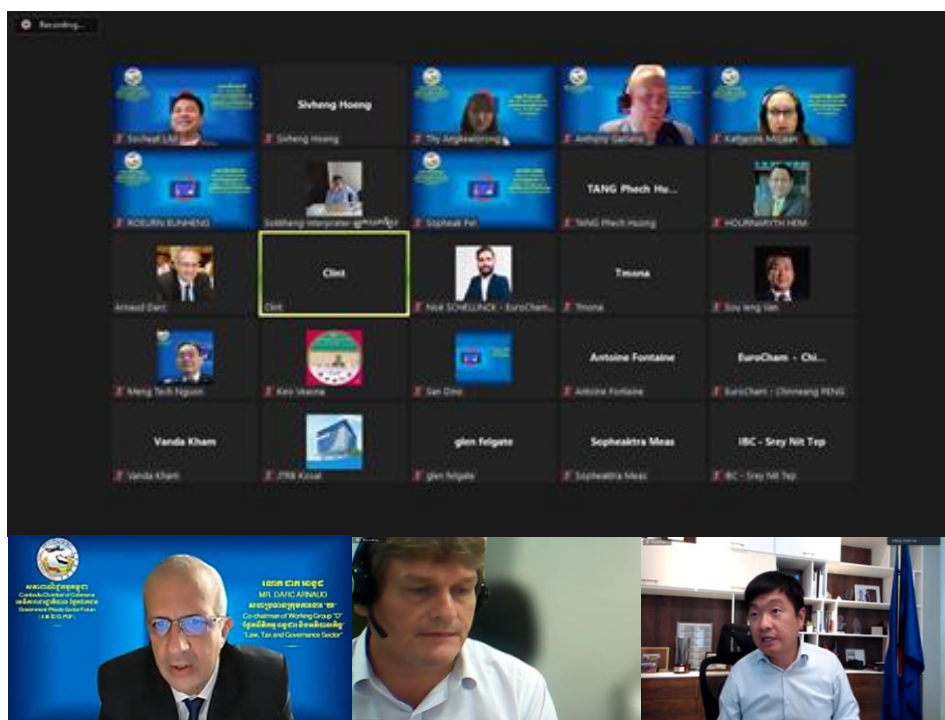
Private Sector Working Group D Meeting on August 12, 2021



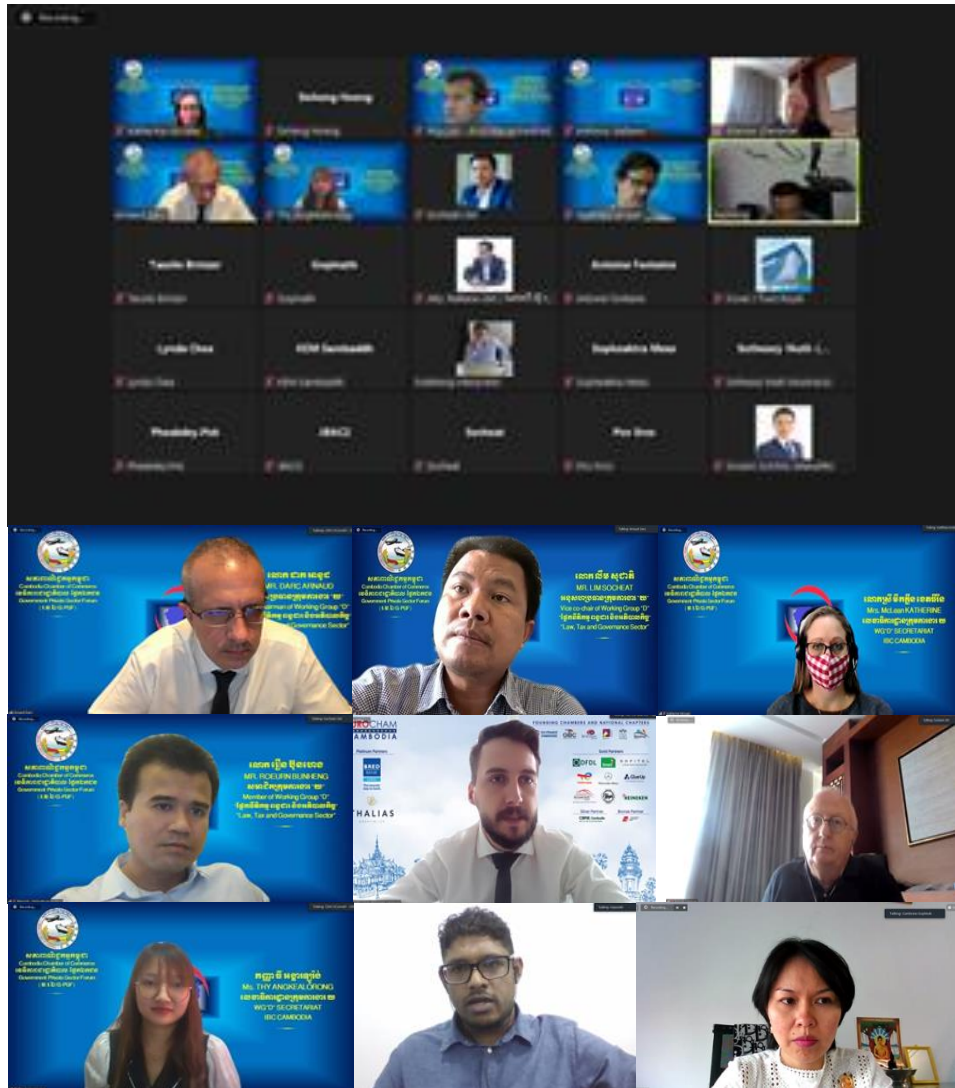
Private Sector Working Group D Meeting on September 09, 2021



Private Sector Working Group D Meeting on October 14, 2021



Private Sector Working Group D Meeting on November 11, 2021



Private Sector Working Group D Meeting on March 17, 2022



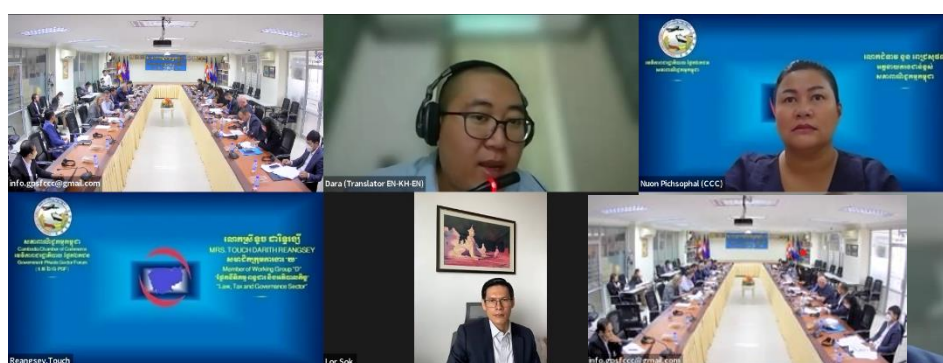
Private Sector Working Group D Meeting on June 16, 2022



Private Sector Working Group D Meeting on August 31, 2022



Private Sector Working Group D Meeting on September 09, 2022



Private Sector Working Group D Meeting on November 17, 2022



Private Sector Working Group D Meeting with GDT on March 21, 2023



Private Sector Working Group D Meeting on June 15, 2023



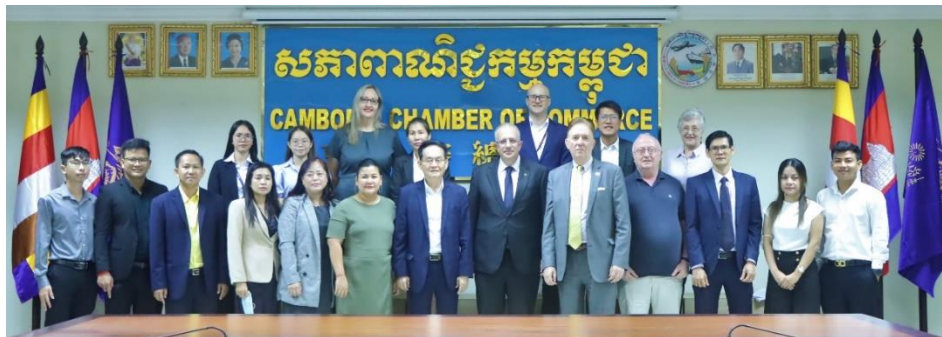
Private Sector Working Group D Meeting on July 13, 2023



Private Sector Working Group D Meeting on August 10, 2023



Private Sector Working Group D Meeting on November 10, 2023



Private Sector Working Group D Meeting on January 11, 2024



Private Sector Working Group D Meeting on March 07, 2024



Private Sector Working Group D Meeting on April 11, 2024



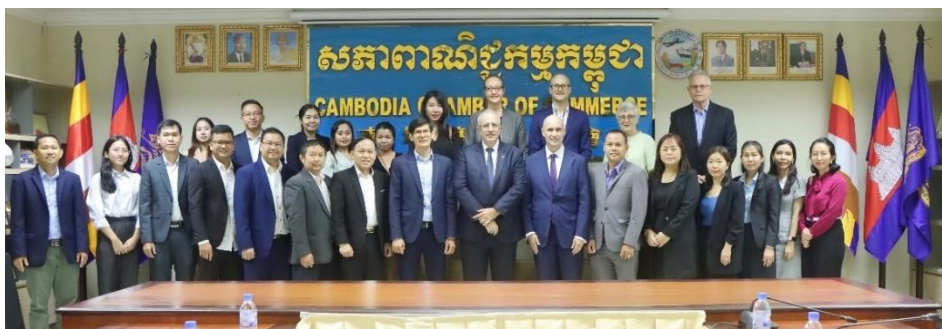
Private Sector Working Group D Meeting on May 16, 2024



Private Sector Working Group D Meeting on June 26, 2024



Private Sector Working Group D Meeting on August 08, 2024



Private Sector Working Group D Meeting on September 12, 2024



Private Sector Working Group D Meeting on November 07, 2024



Private Sector Working Group D Meeting on November 21, 2024



Private Sector Working Group D Meeting on January 23, 2025



Private Sector Working Group D Meeting on February 13, 2025

សភាពាណិជ្ជកម្មអន្តរជាតិនៃកម្ពុជា



Investing in Cambodia's Future for Over 30 Years!

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