RAJAH & TANN ASIA

Tax

Cambodia's New Law on Taxation

The new Law on Taxation was promulgated on 16 May 2023 by virtue of Royal Kram No. NS/RKM/0523/004 ("**Law on Taxation**") on an urgent basis and therefore has come into force from 17 May 2023. The Law on Taxation abrogates the old law on taxation dated 24 February 1997 and its amendment dated 31 March 2003.

The Law on Taxation consists of 20 chapters and 255 articles.

In this Update, we highlight key features of the Law on Taxation.

1. Definition of Permanent Establishment ("PE")

The definition of PE has been updated to include a scenario whereby a person possesses a right and regularly exercises such right to sign any contract on behalf of a non-resident person or performs main duties in facilitating the process toward the signing of any contracts.

This means that although a person may not directly enter into a contract on behalf of a non-resident person, he or she will still be considered as a PE of that non-resident person if he or she regularly negotiates contracts and plays a key role leading to the conclusion of the contracts.

2. Definition of Related Parties

The definition of related parties has been revised to:

i. include both direct and indirect control;

ii. reduce the value/voting right percentage threshold from 51% to 20% or more; and

iii. include the right of the tax administration to determine on a case-by-case basis whether or not there is control.

3. Qualified Investment Projects ("QIPs")

The Law on Taxation has been aligned with the new Law on the Investment promulgated on 15 October 2021 on:

i. the deduction of expenses (Article 11.6);

ii. the minimum tax exemption provided that a QIP has a financial report audited by an independent auditor (Article 24); and

iii. the 0% VAT in case of supply of goods or services by a local entity to a QIP (Article 75).

4. Cambodian sourced income

Article 33 on Cambodian sourced income has been updated to also include gains from the sale or transfer of movable or immovable properties or interest thereof, including intangible assets located in the Kingdom of Cambodia.

5. Public lighting tax

The Law on Taxation now provides that public lighting tax shall be determined and paid at the first time of supply and that its rate shall be determined by a Sub-decree to be adopted at the request of the Minister of Economy and Finance, while the base for calculating such public lighting tax shall be determined by Prakas of the Ministry of Economy and Finance.

6. Stamp duty

Under this new Law on Taxation, any company that directly or indirectly owns real estate that is worth more than 50% of the total assets of the company is defined as a real estate company for the purpose of determining the applicable rate of the stamp duty for share transfer, which shall be 4% as opposed to 0.1% in the case of non-real estate company.

7. Delivery of information to taxpayers

Under the new Law on Taxation, the written form of any letter or notification that the tax administration needs to provide to the taxpayer in order to impose an obligation on the taxpayer may now be in electronic form, such as fax and email, and the date of the notification shall be the date on which the message was sent.

8. Merger and acquisition

Article 215.1 states that in the event of transfer of businesses or transfer of interests, the new owner shall be held responsible for all tax debts of such businesses or enterprises.

Article 215.2 mentions that in the event of merger of two or more enterprises, the enterprise that continues or is born from the merger of two or more enterprises shall be held responsible for all tax debts.

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9. Increase of penalties on obstruction of tax implementation

Article 225 lists down 13 items of acts considered to be obstruction of implementation of tax law.

No.	Description of obstructions	Penalties
1	Failure to register with the tax administration in accordance with this Law on Taxation and other relevant regulations.	A fine of KHR5 million (approx. US$1,250) (Article 235.1).
2	Failure to inform the tax administration of any change in the registration related information.	
3	Failure to file tax returns.	
4	Failure to use the recording system as determined by the tax administration.	A fine of KHR10 million (approx. US$2,500) (Article 235.2). Repeating of offenses stated in points 1-8 shall be subject to criminal penalty as per Article 243.
5	Failure to issue invoices.	
6	Failure to provide information or submit requested reports.	
7	Not permitting the tax administration to check the accounting records or any other documents.	
8	Failure to keep accounting records and other documents.	
9	Attempt to obstruct the tax assessment and collection.	i. Imprisonment from one month to one year; and ii. Fine from KHR50 million (approx. US$12,500) to KHR100 million (approx. US$25,000) (Article 243).
10	Producing or providing fake records, documents, reports, or information.	
11	Concealment or intentional destruction of accounting records, documents, reports, or other information.	
12	Issuance of fake invoices.	
13	Not permitting tax administration to enter the business premises to assess and collect taxes.	

If you have any queries on the above, please feel free to contact our team members below who will be happy to assist. Please click here to access the Client Update in Chinese.

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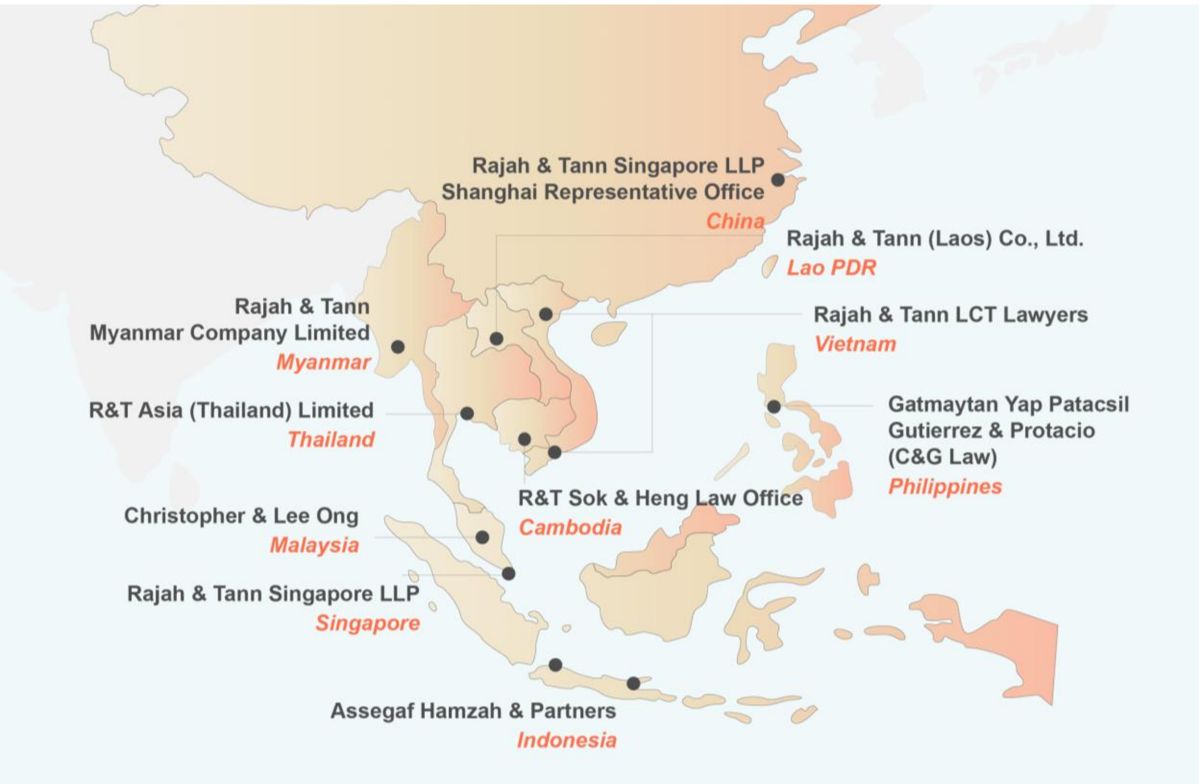

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