

Kingdom of Cambodia
Nation Religion King

Ministry of Economy and Finance
No. 270 MoEF. BrK

Prakas
On
Tax Audit

Deputy Prime Minister
Minister of Economy and Finance

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen Royal Decree NS/RKT/0914/925 dated 06 September 2018 on Appointment of Royal Government of the Kingdom of Cambodia
- Having seen Royal Code NS/RKM/0618/012 dated 28 June 2018 promulgating the Law on Organization and Functioning of the Council of Ministers
- Having seen Royal Code NS/RKM/0196/18 dated 24 January 1996 promulgating the Law on Establishment of Ministry of Economy and Finance
- Having seen Royal Code NS/RKM/0508/016 dated 13 May 2008 promulgating the Law on Public Financial System Having seen Royal Code NS/RKM/0297/03 dated 24 February 1997 promulgating the Law on Taxation
- Having seen Royal Code NS/RKM/0303/010 dated 31 March 2003 promulgating the Law on Amendment to the Law on Taxation
- Having seen Royal Code NS/RKM/1216/019 dated 14 December 2016 promulgating the Law on Finance for 2017 Management
- Having seen Sub-decree 488 OrNKR.BK dated 16 October 2013 on Organization and Functioning of the Ministry of Economy and Finance
- Having seen Sub-decree 75 OrNKR.BK dated 25 May 2017 on Adjustment to Sub-decree 488 OrNKR.BK dated 16 October 2013 on Organization and Functioning of the Ministry of Economy and Finance
- According to the necessity of the Ministry of Economy and Finance,

Decide

Article 1 Purpose

The purpose of this Prakas is to improve the audit procedures to ensure transparency in paying taxes and increasing competitive environment in a fair manner in doing business in the Kingdom of Cambodia.

Article 2 Objective

The objective of this Prakas is to determine rules and procedures as well as rights and obligations of the tax administration and taxpayers related to tax audit.

Article 3 Scope

This Prakas covers taxpayers under self-assessment regime who do business in the Kingdom of Cambodia.

Article 4 Definition

Tax audit refers to the review and certification of accounting records, financial reports and various documents related to the business of the taxpayer to certify that the calculation, declaration and tax payment are correct in accordance with the law and regulations on taxation. Tax audit is a very important measure in managing and collecting taxes in a transparent and effective manner to ensure equity in paying taxes.

Article 5 Desk Audit

Desk audit shall be conducted at the tax administration office. Desk audit is a review and judgment of tax returns that are irregular or inconsistent to ensure the correctness of the declaration of taxpayers. In general, this audit shall focus mainly on irregular and unclear points found in the tax returns such as verification of tax returns with the information that the tax administration has received from various sources, in which the tax administration may invite the taxpayer to clarify and present documents concerning the irregularities found in the tax returns. In the event that the risks found are of systematic complication or are of high risks, the desk audit shall be stopped and transformed into on-site audit. This kind of audit shall be conducted within 12 months after the submission of tax returns.

Article 6 On-site Audit

On-site audit is a visit to conduct an audit at the business location of the enterprise that is subject to an audit to examine the actual business status, accounting records, supporting documents and other documents. This audit includes:

- 1- Limited audit: is a short-term and immediate audit on some kinds of taxes such as special tax on some goods and services, public lighting tax, value-added tax (VAT) including refund and other taxes except income tax by checking the points that are of risks in accounting records and relevant documents. This audit may be conducted for only tax period in the current tax year (N) and tax year before the current tax year (N-1).
- 2- Comprehensive audit: is an audit conducted on all kinds of taxes and assess the accounting records of the enterprise by reviewing the actual business operation and verify it with the accounting records, financial reports and documents related to the business to ensure that the enterprise has prepared correct accounting reports and financial reports in accordance with the law and duly fulfill the tax obligation in accordance with the law and regulations on taxation. This audit may only be conducted within 3 tax years backwards (N-3). In the event that there is clear evidence on tax evasion or loss carried forward or credit carried forward from tax year or previous tax period that requires a comprehensive audit exceeding 3 tax years backwards, the comprehensive audit may be conducted within 5 tax years backwards. If necessary and there is clear evidence on tax evasion that requires a comprehensive audit exceeding 5 tax years backwards, the comprehensive audit may be conducted in accordance with the regulations of the Law on Taxation by seeking approval in advance from the Minister of Economy and Finance for each actual case.
- 3- Unless there is clear evidence, the same tax calculation basis [and] the same tax type that have already been assessed shall not be subject to re-audit.

- 4- Except the following cases, the audit as stipulated in this Prakas shall not be conducted in all tax years or tax periods. It shall only be conducted in any tax year or tax period that has a risk to tax revenue.
 - A- There is a request from the taxpayer
 - B- The enterprise that has a loss carried forward or credit carried forward from tax year or previous tax period.
 - C- There is evidence that the enterprise has evaded taxes.
- 5- In the event that evidence is found unexpectedly or actual crime that proves tax evasion intentionally organized by the enterprise, the Director General of the General Department of Taxation may appoint any unit to conduct a special audit or investigate the criminal crime against the enterprise based on the regulations on taxation. In this case, the unit that is conducting desk audit, limited audit or comprehensive audit shall stop and withdraw themselves from their audit and if the investigation into the tax crime does not result in filing a complaint to court, the unit that has investigated the criminal crime against the regulations on taxation shall transfer the case to the relevant unit to resume their audit.

Article 7 Selection of Enterprise for Audit

The selection of enterprises to be audited shall be based on the following criteria:

- Analysis of risk
- Result from crosscheck
- Information received from a third party
- Information on tax type or any specific sector
- Information of any group of taxpayers
- Location of the enterprise etc.

Article 8 Preparation of Audit

- 1- To avoid an overlapping audit, the General Department of Taxation shall set up an enterprise selection committee that has a duty to prepare a name list and numbers of enterprises to be distributed for desk audit, limited audit and comprehensive audit for each tax year. The composition of this committee shall be set by the designation letter of the General Department of Taxation.
- 2- After the distribution of numbers of enterprises, the Department of Enterprise Audit, Department of Large Taxpayer, Department of Small and Medium Taxpayer, Phnom Penh Municipal Department of Taxation and District Branches of Taxation shall choose enterprises to be audited based on the criteria set in Article 7 of this Prakas and clearly prepare programs and plans for an audit in accordance with the type of each enterprise and shall send it to the General Department of Taxation for review and decision.
- 3- To ensure sustainability of the audit, the Enterprise Selection Committee for Tax Audit shall prepare a name list of enterprises to be audited before January of the audit plan year. The unit that has a duty to conduct an audit shall prepare an audit schedule already at the end of the year of the audit plan or no later than the end of the 1st quarter of the following year. In the event that the taxpayer cannot be found negligent or seriously negligent, the tax auditors shall sum up the result and close their audit. In necessary case that the audit cannot be closed, the director of the unit shall seek a decision of the Director General of the General Department of Taxation by stating a clear reason.

- 4- In any special case, the Director General of the General Department of Taxation may allow a unit or many units to conduct a joint audit on the enterprise.

Article 9 Notice of Audit

1- Before starting an audit, the tax administration shall give notice of an audit to the taxpayer or representative of the taxpayer. The notice letter shall state the following:

- Name, address and tax identification number (TIN) of the enterprise
- Date of audit
- Period (tax period or tax year) to be audited
- Type of audit (desk audit, limited audit or comprehensive audit)
- Names of officers tasked to conduct the audit.

2- The notice letter shall be considered having been sent properly when it has been sent to the taxpayer or representative of the taxpayer or sent by post as a mailed letter to the legal address of the taxpayer although the taxpayer who has been given the notice letter rejects the letter or refuses to receive this mailed letter.

3- The date of the notice letter is the date of giving the notice letter to the taxpayer. In the event that the notice letter is sent as a mailed letter, the date of the notice is the date the Post Office stamped the mailed letter.

4- In the event that the taxpayer has changed his/her business address and fails to give notice to the tax administration, the notice letter sent to the last address that the taxpayer declared for the last time shall be considered having been given and received properly.

5- For any reason that the notice letter cannot be sent to the taxpayer via any ways stipulated in Paragraph 2, Paragraph 3 and Paragraph 4 of this Prakas, the notice letter shall be considered having been given properly if the tax administration has:

- Stuck the notice letter to the gate of the residence or business location of the taxpayer or
- Published the notice letter in the media by requiring the taxpayer to appear at the tax administration no later than 15 days following the publication date.

6- An audit may begin 10 days of working day after the delivery of the notice letter on the audit to the taxpayer or sooner at the request of the taxpayer. In special case based on Article 100 and Article 116 of the Law on Taxation, the tax administration may conduct an audit without giving notice to the taxpayer.

7- In case of having enough documents, the audit duration is set no later than 03 months for desk audit and limited audit and 06 months for comprehensive audit.

Article 10 Request for Audit Delay

In case of being unable to accept an audit as stipulated in Article 9 of this Prakas, the taxpayer may request a delay in the audit based on a proper reason not exceeding 30 days from the due audit date stated in the notice letter. In case of requesting less than 10 days, the taxpayer may make an oral request to the tax auditors. In case of requesting from 10 days to 30 days, the taxpayer shall make a request in writing to the Department Director or Director of Provincial/District Tax Branch.

Article 11 Documents Required for Audit

After receiving a notice letter on an audit, the taxpayer shall prepare all documents related to the business for the tax auditors in case there is a request. The documents include:

- 1- Enterprise information
 - Management structure
 - Certificate of Registration
 - Certificate of Registration of Value-Added Tax (VAT)
 - Statute
 - Other certificates for carrying out business from authorities such as the Council for the Development of Cambodia, Ministry of Tourism etc. etc.
- 2- Accounting documents:
 - Financial report
 - Detailed list of each account of assets
 - Detailed list of each account of owner's equity and liabilities
 - Detailed list of each account of income statement (profit/loss)
 - Original voucher of documents:
 - Monthly payroll
 - Employment contract of foreign staff and managers
 - Lease or sale contracts
 - Bidding contract, if any
 - Monthly and annual tax returns
 - Monthly purchase-sale journals
 - Table of adjusted tax calculation
 - Purchas-sale invoices etc.

During the audit, if seeing that some documents are necessary to be used as a basis in assessing taxes, the auditors may make a photocopy or request the taxpayer to provide those documents. The taxpayer shall provide the requested documents no later than 7 days after the request. For failure to provide the requested documents, the auditors may assess taxes based on the information that the auditors have in accordance with the law and regulations on taxation.

Article 12 Right to Collect Information

1- According to the law and regulations on taxation, to assess taxes to be paid or to collect taxes, the tax administration may make a notice letter to the taxpayer or third person to:

- Provide information related to the business of the taxpayer as stipulated in the notice letter such as information on suppliers, customers or bank accounts or other relevant documents
- Appear at the time and place as stated in the notice letter in order to provide information and to show or provide documents or data managed by that person which is stated clearly in the notice letter.

2- For each audit, the tax administration has the right to enter the business establishment, the location that is considered the business establishment or location publicly open or other locations to assess taxes of any person or to collect taxes during the business operation or at any time when there is a warrant from the prosecutor or judge.

3- The tax administration who legally enter the location as stipulated above may:

- Select or copy documents in those areas.
- Confiscate documents or evidence which could be the information source for assessing taxes to paid of each person.
- Place equipment for reviews or stick seal, detain goods if they are related to tax enforcement.
- Make an inventory of assets, raw materials, products being produced, finished products and other stocks.

4- The tax auditors may require the taxpayer to provide documents other than business documents (for example: personal bank account, personal expenses, purchase-sale of assets or other expenses) in the event that the enterprise is a sole proprietorship.

5- In the event that the location provided by the taxpayer is not suitable for the auditors to carry out their audit or does not have a photocopier, the tax auditors may take the documents to be reviewed at their office with the taxpayer's consent. In this case, all documents shall be returned to the taxpayer when the audit is completed. The documents to be returned to the taxpayer shall have a proper list of documents received and to be returned.

6- In the event that the documents and accounting records are kept in electronic form, the enterprise shall have the original copies of the documents for review. If during the examination, the taxpayer cannot provide hard documents, the taxpayer shall allow the auditors to examine the computer system and copy the electronic form via a copying tool.

Article 13 Document Review

1- The taxpayer shall provide documents for the audit as stipulated in Article 11 of this Prakas as required by the tax auditors. In the event that the taxpayer fails to provide documents or information as required, the tax auditors may assess taxes based on specific information that the tax administration has as follows:

- Information in the tax returns or other documents that the taxpayer has submitted to the tax administration.
- Information in the information declaration
- Other information that the tax administration has received.

2- If the taxable income or the income declared by the taxpayer are much different compared to the purchase of assets or other things which make the expenses of the taxpayer noticeable, the tax auditors have the right to assess taxes based on an estimated income appropriate to the size of the expenses for buying those assets or things. Finding evidence to prove that the tax amount assessed by the tax administration is not correct is the burden of the taxpayer.

Article 14 Explanation of Audit Result

1- After reviewing the documents, the tax auditors shall sum up the audit results by giving an explanation to the taxpayer about:

- A- Acceptance or objection to any part or the whole of the tax returns of the taxpayer
- B- Violation of regulations on taxation that has been found
- C- Basis and regulations on taxation related to the tax assessment
- D- Tax amount to be re-assessed

2- The taxpayer may give comments in which they may agree or object to any part or the whole of the audit result as stipulated in paragraph 1 of this Prakas by having to show additional supporting documents for their objection.

3- If the taxpayer fails to have a valid reason and fails to show enough supporting document for their objection, the tax auditors shall confirm a disagreement to the objection of the taxpayer.

Article 15 Notice Letter on Tax Re-Assessment

- 1- After completing an audit, the taxpayer shall make a report on the audit result in which there could be tax re-assessment or no tax re-assessment and the notice letter on the tax re-assessment shall be sent to the taxpayer or taxpayer representative as per the rules as stipulated in paragraph 2, paragraph 3, paragraph 4 and paragraph 5 of Article 9 of this Prakas.
- 2- In the event of agreeing to the tax re-assessment of the tax administration, the taxpayer shall pay the tax amount, additional tax and interest set on the date of the notice letter as stipulated in the regulations on taxation.
- 3- In the event of objection, the taxpayer has 30 days to respond in writing to the tax re-assessment to the tax unit that is in charge of conducting this audit. During this period, the taxpayer may accept or object to any part or the whole of the tax re-assessment. The taxpayer shall be considered having agreed to the tax re-assessment if they fail to respond.
- 4- The unit that has re-assessed taxes shall keep 30 days before sending the notice letter on tax re-assessment to the tax collection unit. When receiving the notice letter from the tax assessment unit, the tax collection unit shall record the tax arrears to be claimed and shall issue a notice letter on collection of tax arrears to the taxpayer.

Article 16 Protestation against Tax Re-Assessment

Any taxpayer who disagrees to any part or the whole of the tax re-assessment and protests to the tax assessment unit as stipulated in paragraph 3 of Article 15 of this Prakas has the right to protest in writing to the General Department of Taxation within 30 days after receiving the notice letter on tax collection by attaching the letter of protest to the tax assessment unit and evidence to prove that the tax assessment is not correct. The rules and procedures for the protest shall follow Prakas 1470 dated 06 November 2015 on Rules and Procedures for Resolution of Tax Protest.

Article 17 Additional Tax and Interest

For tax re-assessment, additional tax and interest shall be determined as follows:

- 1- In the event that the tax amount re-assessed is less than or equal to 10% of the tax amount to be legally paid, the taxpayer is considered having been negligent and shall be subject to additional tax of 10% of the missing tax amount plus 1.5% interest per month or per part of the month that the missing tax amount has not been paid.
- 2- In the event that the tax amount re-assessed is more than 10% of the tax amount to be legally paid, the taxpayer is considered having been seriously negligent and shall be subject to additional tax of 25% of the missing tax amount plus 1.5% interest per month or per part of the month that the missing tax amount has not been paid.
- 3- In the event that the taxpayer has no accounting registration or keep fake accounting records or fails to cooperate in providing documents related to the audit, the taxpayer is considered having evaded taxes and shall be subject to additional tax of 40% of the missing

tax amount plus 1.5% interest per month or per part of the month that the missing tax amount has not been paid.

Besides additional tax and interest as stipulated in paragraph 1, paragraph 2 and paragraph 3 of this Prakas, the taxpayer shall be subject to other penalties in accordance with the law and regulations on taxation.

Article 18 Obligation of Auditor When Conducting an Audit

When conducting an audit, the auditors shall show a designation letter issued by the General Department of Taxation or authorized representative and shall give a clear explanation to the taxpayer about the rights and obligations of the tax administration to conduct an audit, procedure for conducting an audit and rights and obligations of the taxpayer who is subject to an audit in accordance with the code of ethics.

Article 19 Rights and Obligations of Taxpayer

During the audit, the taxpayer has the right and obligation as follows:

- Right to choose his/her legal representative with written authorization
- Right to receive explanation of the law and obligations on taxation
- Right to receive explanation of the reason and basis of the tax re-assessment
- Shall provide documents as required by the tax administration as stipulated in Article 11 of this Prakas
- Shall appear on the date and venue as stated in the notice letter of the tax administration.

Article 20 Protestation against Auditor's Misconduct against Audit Procedure

In the event that the tax auditors fail to follow the rules and procedures as stipulated in this Prakas, the taxpayer may protest to the General Department of Taxation.

Article 21 Abrogation

Any regulation contrary to this Prakas shall be abrogated.

Article 22 Implementation

Cabinet Director, Secretary General, Delegate of the Royal Government in charge as Director General of General Department of Taxation, Delegates of the Royal Government or Director Generals of all General Departments, Inspector General of General Inspectorate and directors of all relevant units under the supervision of the Ministry of Economy and Finance shall implement this Prakas in an effective manner from the date of signature herein.

Phnom Penh, 13 March 2019

Deputy Prime Minister

Minister of Economy and Finance

(signed and stamped)

Akka Bandit Sapheacha Aun Pornmoniroth

Recipients:

- Office of the Council of Ministers
- Cabinet of Samdech Akka Mona Sena Padei Techo Prime Minister
- Cabinet of Samdech, Excellency, Lok Chumteav Deputy Prime Minister
- Municipal and provincial halls

- As in Article 22 “for implementation”
- Royal gazette
- Archives