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KINGDOM OF CAMBODIA
NATION RELIGION KING

The National Assembly

LAW ON TAXATION

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on January 8, 1997 at the 7th session of the 1st legislature.*

TABLE OF CONTENTS

CHAPTER 1: PROVISIONS FOR THE TAX ON PROFIT

Section 1: General Provisions

Article 1: Change to Tax

Article 2: Object of the Tax

Article 3: Definitions

Article 4: Tax Regimes

Section 2: Taxable Profit and Tax Rates

Article 5: Tax Year

Article 6: Accounting Rules

Article 7: Taxable Profit

Article 8: Determination of Taxable Profit

- Article 53: Payment of Tax Withheld
Article 54: Tax Withholding, Record Keeping and Reporting Requirements

CHAPTER 3: PROVISIONS FOR THE TAX ON VALUE ADDED

Section 1: General Provisions

- Article 55: Charge to Tax
Article 56: Definitions
Article 57: Non Taxable Supplies
Article 58: Non Taxable Supplies for Diplomatic Missions and International Organizations

Section 2: General Principles for the Tax on Value Added

- Article 59: Taxable Person
Article 60: Taxable Supply
Article 61: Taxable Value
Article 62: Time of Supply
Article 63: Location of Supply

Section 3: Tax Rate and the Calculation of Tax

- Article 64: Tax Rate
Article 65: Input Tax Credit and Non Taxable Supplies
Article 66: Determination of Tax
Article 67: Capital Assets that Cease to be used in the Business
Article 68: Necessary Documentation to Claim an Input Tax Credit
Article 69: Input Tax Not Allowed as a Tax Credit

Section 4: Payment of Tax

- Article 70: The Monthly filing of the Value Added Tax Declaration
Article 71: Treatment of Excess Credits
Article 72: Refunds for Exporters
Article 73: Refunds where Excess Credits Continue for Three Months or More
Article 74: Refunds to Diplomatic Missions and International Organizations
Article 75: Liability for the Collection and Payment of Tax

Section 5: Administrative Provisions

- Article 76: Registration
Article 77: Value Added Tax Invoice
Article 78: Failure to Issue Value Added Tax Invoice
Article 79: Books, Records, and Information
Article 80: Special Rules for Imports
Article 81: Cessation of Business
Article 82: Transfer of Business
Article 83: Contracts Entered Into Before the Effective Date of this Tax
Article 84: Tax Credit for Stocks of Goods

CHAPTER 4: AMENDMENTS TO THE FINANCE ACT OF 1994 AND TO THE AMENDMENTS TO THE FINANCE ACT OF 1995

Section 1: Provisions for the change of the Specific Tax on Certain Merchandise to the Specific Tax on Certain Merchandise and Services

Article 85:

Section 2: Provisions for the Change of the Tax on Turnover

Article 86:

CHAPTER 5: PROVISIONS ON TAX RULES AND PROCEDURES

Section 1: General Provisions

Article 87: Object

Article 88: Definitions

Article 89: International Treaties

Article 90: Language Used in Tax Declarations and Tax Documents

Section 2: Rights and Obligations

Article 91: Rights and Obligations of the Taxpayer

Article 92: Powers and Obligations of the Tax Administration and Obligations

Article 115: Order Nullifying Permit and License

Section 7: Tax Assessment

Article 116: Assessment of Tax

Article 117: Tax Re-Assessment and Period of Tax Re-Assessment

Article 118: Procedure for Tax Re-Assessment

CHAPTER 1: PROVISIONS FOR THE TAX ON PROFIT

Section 1: General Provisions

ARTICLE 1: CHANGE TO TAX

The provisions for the tax on profit as stated in the Finance Act of 1994 promulgated by the Royal Kram No. 02NS dated 28 December 1993, the Amendment to the Finance Act of 1994 promulgated by the Royal Kram No. 08NS dated 30 November 1994, the Finance Act of 1995 promulgated by Royal Kram No. 11NS94 dated 31 December 1994, and the Amendment to the Finance Act of 1995 promulgated by Royal Kram No. CS/RKM/0995/01 dated 01 September 1995 shall be amended as follows for the benefit of

which a non-resident person engages in economic activity in the Kingdom of Cambodia.

2. The rules and procedures for the assignment of taxpayers to one of the three regimes as above will be determined by sub-decree and shall be based on the form of the business, the type of business activity, and the level of turnover.

SECTION 2: TAXABLE PROFIT AND TAX RATES

ARTICLE 5: TAX YEAR

The tax year shall be determined as follows:

1. The tax on profit for the real regime system of taxation is calculated from the balance sheet results realized in the previous tax year.
2. If there is no closing balance sheet during any one year the tax to be paid for the following year is assessed on the profit made in the previous period from the end of the last taxable period. For new enterprises the calculation is made from the start of business operations up to the 31st of December of the year for which the tax is calculated.
3. If many successive balance sheets are drawn up during the same year the results of these balance sheets are added up to have the base for the tax to be paid.
4. The tax on profit for the simplified and estimate regime systems of taxation shall be calculated on a cash method of accounting on the past calendar year.
5. Directives on the reporting and the filing of a final declaration for enterprises that cease activities, are reorganized, or are sodou85c.1477§6c2a86TJ9.36 0 Gransferralcre drawn up

4. Domestic banks and savings institutions shall be allowed to establish provisions for bad debts for the determination of the taxable profit. The rules and procedures on deductions shall be provided by sub-decree.

ARTICLE 7: TAXABLE PROFIT

The taxable profit is the net profit obtained from all the results of all types of operations realized by the enterprise including capital gains from the sale of various parts of the asset during the operation or at the close of the business, as well as income from financial or investment operations and interest, rental, and royalty income.

ARTICLE 8: DETERMINATION OF TAXABLE PROFIT

The taxable profit is made up of the excess gross product realized on the expenditure that is made with the view of acquiring and preserving profit.

ARTICLE 9: INCOME EXEMPT FROM TAX

Income exempt from tax shall be as follows:

1. Except for contrary provisions and for income that is taxable under article 22 of this law the tax on profits shall not apply to:
 - a. the income of the Royal Government and institutions of the Royal Government;
 - b. the income of any organization that are:
 - organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes;
 - no part of the assets or earnings of which is used for any private interest;
 - c. the income of any labor organization, or any chamber of commerce, industry, or agriculture, in the case where the income of these organizations is not used for the private benefit of any shareholder or physical person.
 - d. The profit from the sale of agricultural produce that a person who is not a real regime system of taxation taxpayer has produced by himself whether the produce is sold in its raw state or after transformations that are an extension of habitual agricultural work. Operations by industrial means including transformation, preservation, and commercial packaging are not considered part of habitual agricultural work.
2. The Ministry of Economy and Finance shall define by prakas the procedures for the application for tax exemptions, the loss of tax exemptions, for tax declarations, and for registration.

ARTICLE 10: DETERMINATION OF INCOME OF A PASS-THROUGH

The income of a pass-through shall be determined as follows:

1. With regard to a pass-through, each member in determining one's income for a taxable year shall take into account separately one's distributive share of the items of

income, gain, loss, deduction, credit, and charitable contributions for such year. For this purpose each item shall retain its character and shall be treated as distributed during the taxable year whether or not actually distributed. The loss to be carried forward will be determined after the items have been distributed.

2. The rules for determining the amount distributed, the treatment of contributions, and the adjustment to each member's base distributive share in the pass-through in any taxable year shall be determined by sub-decree.

SECTION 3: DEDUCTIONS

ARTICLE 11: ALLOWABLE DEDUCTIONS

Allowable deductions shall be as follows:

- a. Category 1 shall include buildings and their basic components. Each asset in this category shall be depreciated according to the straight-line method at a rate of 5 percent per year.
 - b. Category 2 shall include property having a useful life of up to 4 years and have a straight line depreciation rate of 25 percent on each property.
 - c. Category 3 shall include property having a useful life of greater than four years through eight years and have a straight line depreciation rate of 12.5 percent on each property.
 - d. Category 4 shall include all other tangible property and have a straight line depreciation rate of 10 percent on each property.
3. Those taxpayers electing the declining balance method of depreciation shall use a rate of depreciation equal to 200 percent of the straight line method rate and shall apply it to the aggregate remaining undepreciated value of all assets in each category. The declining balance method shall be allowed only for category 2, 3, and 4 property.
 4. Enterprises under the Law on Investment shall use the straight line method for all categories.
 5. Procedures for establishing property categories, adding a new asset to a category, disposing of an asset from a category, and the treatment of repairs and various expenses shall be determined by sub-decree.
 6. A taxpayer subject to the tax on profit prior to 1 January 1997 must make an irrevocable election to depreciate either by the straight line method or the declining balance method the remaining undepreciated value of property by 31 December 1997. For a new taxpayer the election must be made by the 31st of December of the year of registration.

ARTICLE 14: DEPRECIATION OF INTANGIBLE PROPERTY

For intangible property including patents, copyrights, drawings, models, and franchises, having a limited life the depreciation rate on each property shall be calculated on the life of that property according to the straight line method of depreciation. If the life of the intangible cannot be determined the annual depreciation deduction shall be at the rate of 10 percent of the value of the intangible property.

ARTICLE 15: D

- b. The amount of the depletion for each natural resource deductible for the tax year shall be determined by multiplying the balance of the account for the natural resource with the ratio of the quantity produced from the natural resource during the year to the estimated total production from the natural resource.
2. Procedures for the determination of the estimated total production shall be provided by sub-decree.

ARTICLE 16: CHARITABLE CONTRIBUTIONS

A deduction shall be allowed for charitable contributions to an organization as provided in article 9 of this law. But it shall not exceed 5 percent of taxable profit determined before taking the charitable contribution deduction.

The criteria for charitable contributions shall be determined by sub-decree.

ARTICLE 17: CARRY FORWARD OF LOSSES

In case of a loss in any one tax year, this loss is considered as a charge to the following tax year and shall be deducted from the profit realized in that following year. If this profit is not sufficient to definitively settle it, the remaining part of the loss is carried over successively to following tax years until the fifth tax year.

When losses occur in more than one year, this article shall be applied to the losses in the order in which they arose.

ARTICLE 18: ALLOCATION OF INCOME AND DEDUCTIONS AMONG TAXPAYERS

In the case of two or more enterprises, whether incorporated or organized in or outside of the Kingdom of Cambodia, which are under common ownership, the tax administration may as may be necessary distribute, gross income, deductions, or other benefits among such enterprises and their owners in order to prevent the avoidance or evasion of taxes or to clearly reflect the income of such enterprises, or their owners.

For purposes of this article, two or more enterprises are under common ownership if a person owns 20 percent or more in the value or the equity interests of each enterprise.

ARTICLE 19: NOT ALLOWED AS DEDUCTIONS

For the provisions for the Tax on Profit, expenses that shall not be allowed as a deduction are:

1. Any expense on activities generally considered to be amusement, recreation, or entertainment or the use of any means in connection with such an activity.
2. Personal living or family expenses except for fringe benefits in cash or in kind subject to withholding tax according to the provisions for the Tax on Salary,
3. Any tax imposed by the provisions for the Tax on Profit or withholding tax imposed by the provisions for the Tax on Salary.
4. For the loss on any sale or exchange of property, directly or indirectly, between related persons.

5. For any expense except for expenses already incurred and for which the taxpayer can establish the amount of the expense, and the business purpose of the expense in a manner as determined by sub-decree.

SECTION 4: TAX RATES AND TAX DUE

ARTICLE 20: DETERMINATION OF TAX DUE

The tax rates on the annual profit are as follows:

1. 20 percent for the profit realized by a legal person.
2. 30 percent for profit realized under an oil or natural gas production sharing contract and the exploitation of natural resources including timber, ore, gold, and precious stones.
3. 9 percent for an investment enterprise after the period of tax exemption.
4. 0 percent for an investment enterprise during the period of tax exemption.
5. According to the progressive tax rate by tranche for the table below for the profit realized by the physical person and the distributive share to each member of a pass-through that is not classified as a legal person.

<u>Parts of the annual taxable profit</u>	<u>Tax rate</u>
From 0 to 6,000,000 Riels	0%
From 6,000,001 to 15,000,000 Riels	5%
From 15,000,001 to 102,000,000 Riels	10%
From 102,000,001 to 150,000,000 Riels	15%
From greater than 150,000,000	20%

ARTICLE 21: TAX ON INSURANCE COMPANIES

The tax on an insurance company shall be determined as follows:

1. For an enterprise having principal activity in the insurance or reinsurance of life, property, or other risks, the tax on profit shall be determined as follows:
 - a. 5 percent of the gross premiums received in the tax year for the insurance or reinsurance of risk in the Kingdom of Cambodia,
 - b. according to the rates in article 20 of this law for other of activities that are not insurance or reinsurance.
2. The rules and procedures for the payment of the tax on profit for an insurance company shall be determined by prakas of the Ministry of Economy and Finance.

ARTICLE 22: TAX ON UNRELATED BUSINESS PROFIT

For an unrelated business the tax on profit shall be determined as follows:

1. The tax on profit shall be fixed at 20 percent of taxable income from unrelated business income of organizations as stated in article 9 of this law.
2. For purposes of the tax on profit, the term “unrelated business taxable income” is the gross income realized from an unrelated business regularly carried on by any organization, reduced by the deductions which are directly related to the carrying on of such business and which are allowed by the provisions of tax on profit.
3. The term “unrelated business” means any commercial or industrial business, or any other business of the organization aiming to obtain profit or funds and which are not substantially related to the purpose or function constituting the basis for tax exemption as stated in article 9 of this law.

ARTICLE 23: ADVANCED TAX ON DIVIDEND DISTRIBUTIONS

The advanced tax on dividend distributions shall be determined as follows:

1. If an enterprise distributes dividends to its domestic and foreign shareholders during the tax year, it shall withhold and pay as tax an amount equal to the product of the amount of the dividend grossed up by the tax on profit rate and multiplies by the appropriate annual tax rate as stated in article 20 of this law.
2. The above mentioned withheld tax shall become a tax credit against the tax on profit

the annual turnover inclusive of all taxes and is payable at the time of the annual liquidation of the tax on profit.

The minimum tax may be reduced by the annual tax on profit that is actually paid according to the rules found in articles 37, 38, and 39 of this law.

SECTION 6: WITHHOLDING TAXES AND PREPAYMENT OF TAX ON PROFIT

ARTICLE 25: GENERAL WITHHOLDING TAX

The general withholding tax shall be determined as follows:

1. Any resident payor making any payment in cash or in kind to a resident person shall withhold, and pay as tax, an amount according to the below mentioned rates which are applied to the amount paid before withholding the tax:
 - a. The rate of 15 percent on:
 - income received by a physical person from the performance of services including management, consulting, and similar services;
 - royalties for intangibles and interests in minerals, oil or natural gas, and interest paid to a physical person or an enterprise except interest paid to a domestic bank or savings institution.
 - b. The rate of 10 percent on the income from the rental of movable and immovable property.
 - c. The rate of 5 percent on interest paid by a domestic bank or savings institution to a resident physical person having a non-fixed term savings account.
2. The withholding in this article shall not apply to the payment of tax exempt income as stated in article 9 of this law.
3. For purposes of this article and article 26 of this law, the term “resident payor” means:
 - a. any resident enterprise or pass-through;
 - b. any physical person, but only with respect to payments made by such physical person in carrying on a business in the Kingdom of Cambodia.

ARTICLE 26: WITHHOLDING ON PAYMENTS TO FOREIGN PERSONS

A resident payor making any payment of Cambodian source income to a non-resident person shall withhold, and pay as tax, an amount equal to 15 percent of the payment before withholding.

This article shall not apply to dividends as stated in article 23 of this law.

ARTICLE 27: WITHHOLDING TAX AS FINAL TAX

The tax withheld on distributions under article 23 of this law, on payments to a resident physical person under article 25 of this law, and on payments to a non-resident person under

article 26 of this law shall be considered the final tax on the recipients of the payments or distributions described in those articles.

ARTICLE 28: PREPAYMENT OF THE TAX ON PROFIT

An enterprise liable to the tax on profit according to the real regime system of taxation including an investment enterprise liable to the tax on profit at the rate of 9 percent, has the obligation to make a monthly prepayment of the tax on profit at the rate of 1 percent of turnover inclusive of all types of taxes realized in the previous month. This prepayment will be deducted from the tax on profit at the annual liquidation of the tax.

SECTION 7: OBLIGATIONS OF TAXPAYERS

ARTICLE 29: GENERAL OBLIGATIONS OF REAL OR SIMPLIFIED REGIME SYSTEM TAXPAYERS

Real or simplified regimes system taxpayers have the obligations:

1. All taxpayers liable to the tax on profits who must pay taxes according to the real regime or simplified regime system of taxation shall send every year to the tax administration a declaration of the profit they have realized in the previous tax year. This declaration must absolutely be registered in the period of 3 months after the end of the tax year.

3. This tax level on estimated profit shall be kept constant for a period of 3 months, 6 months or 1 year.
4. The taxpayer subject to the tax on profit under estimated regime system of taxation shall pay this tax every month at the time fixed by the tax administration.

ARTICLE 31: OBLIGATIONS OF WITHHOLDING AGENTS

The person or designated payor who withholds tax under articles 25, and 26 of this law, or withhold tax on dividends under article 23 of this law shall submit a tax declaration and pay the tax withheld to the tax administration in the form as specified by the tax administration by the 15th day of the month following the month in which the withholding is made.

ARTICLE 32: OBLIGATIONS OF PERSONS REQUIRED TO MAKE PREPAYMENTS OF THE TAX ON PROFIT

Persons required to make prepayments for the tax on profit shall submit a tax declaration and pay the prepayment of the tax on profit to the tax administration in the form as specified by the tax administration by the 15th day of the month following the month in which the liability arose.

SECTION 8: SOURCES OF INCOME

ARTICLE 33: INCOME FROM CAMBODIAN SOURCES

Except for contrary provisions in this law, the income as below shall be treated as from sources within the Kingdom of Cambodia:

1. interest paid by a resident enterprise or resident pass-through, or a governmental institution of the Kingdom of Cambodia;
2. dividends distributed by a resident enterprise of the Kingdom of Cambodia;
3. income from services performed in the Kingdom of Cambodia;
4. income from the rental of movable or immovable property for use in the Kingdom of Cambodia;
5. royalties from the use, or right to use intangible property in the Kingdom of Cambodia;
6. gain from the sale of immovable property located in the Kingdom of Cambodia or from the transfer of any interest in immovable property situated in the Kingdom of Cambodia;
7. gain from the sale of movable property, other than inventory, where the seller is a resident of the Kingdom of Cambodia;
8. premiums from the insurance or reinsurance of risks in the Kingdom of Cambodia.

ARTICLE 34: INCOME FROM FOREIGN SOURCES

The definition of foreign source income is obtained by taking the income definition as stated

3. minus any tax paid by the taxpayer on dividend distributions under article 23 of this

- b. the amount by which the tax credit is reduced in complying with the subparagraph a of this paragraph, shall be considered as payment of the minimum tax for the tax year.

CHAPTER 2: PROVISIONS FOR THE TAX ON SALARY

SECTION 1: GENERAL PROVISIONS

ARTICLE 40: CHARGE TO TAX

The provisions for the tax on salary as stated in the Finance Act of 1995 promulgated by the Royal Kram No. 11NS94 dated 31 December 1994 shall be amended as follows for the benefit of the State Budget.

ARTICLE 41: OBJECT OF TAX

The tax on salary is a monthly tax imposed on salary that has been received within the framework of fulfilling employment activities

A physical person resident in the Kingdom of Cambodia is liable to the tax on salary for Cambodian source salary and foreign source salary.

A non-resident physical person is liable to the tax on salary for Cambodian source salary.

ARTICLE 42: DEFINITIONS

For the purposes of the provisions for the tax on salary:

1. The term “resident” when used for an employee, taxpayer, or physical person means domiciled in, or having a principal place of abode in, the Kingdom of Cambodia, or present in the Kingdom of Cambodia on more than 182 days in the calendar year.
2. The term “non-resident” means not resident.
3. Except for contrary provisions, any reference to the terms employee, taxpayer, and physical person are references to both residents and non-residents as defined in this article.
4. The term “employer” includes any government institution, any resident legal person, any resident pass-through, any permanent establishment in the Kingdom of Cambodia, any non-profit organization, or any resident physical person carrying on a business.
5. The term “employee” means any physical person receiving salary from their employment activity including any governmental officer, any elected official and the officer or director of an enterprise.
6. The term “Cambodian source salary” means salary received within the framework of fulfilling employment activities in the Kingdom of Cambodia. As for the salary received by a non-resident for furnishing technical assistance it shall be treated as from sources in the country where the payor of such income resides.

LAW ON TAXATION

<u>Taxable Parts of the Monthly Salary</u>	<u>Tax Rate</u>
From 0 to 500,000 Riels	0%
From 500,001 to 1,250,000 Riels	5%
From 1,250,001 to 8,500,000 Riels	10%
From 8,500,001 to 12,500,000 Riels	15%
Over 12,500,000	20%

ARTICLE 48: THE DETERMINATION OF THE TAX ON FRINGE

LAW ON TAXATION

6. The importation of articles for personal use that are exempt from customs duties and

5. In the case of the import of goods, the time of supply shall be the time the importer files a declaration to the customs administration according to the regulations in force.

ARTICLE 63: LOCATION OF SUPPLY

The location of supply shall be determined as follows:

1. The supply of a good takes place in the Kingdom of Cambodia if the good is delivered in the Kingdom of Cambodia, whether that delivery takes on the characteristic of a transfer of the right to use or to dispose. In the case where the supply must include transportation, the supply takes place in the Kingdom of Cambodia if the good is in the Kingdom of Cambodia when the transportation starts.
2. The supply of a service takes place in the Kingdom of Cambodia if the service is performed in the Kingdom of Cambodia, except that:
 - a. the supply of a service in connection with immovable property is deemed to take place where the property is located;
 - b. the supply of a service in connection with transport is deemed to take place where the transport occurs.
3. Goods are imported into the Kingdom of Cambodia if they are brought within the customs territory of the Kingdom of Cambodia.

SECTION 3: TAX RATE AND THE CALCULATION OF TAX

ARTICLE 64: TAX RATE

The tax rate shall be as follows:

1. The tax on value added shall be imposed at the tax rate of 10 percent on the taxable value of each taxable supply in the Kingdom of Cambodia.
2. The tax on value added shall be imposed at the tax rate of 0 percent on the taxable value of each taxable supply of goods exported from the Kingdom of Cambodia and of the taxable supply of a service rendered outside of the Kingdom of Cambodia as stated in article 63 of this law.
3. The tax administration may use a number of documents to certify that export has in fact occurred including export certification from the Customs Department, import documents from the country of import, executed letters of credit, and payments received by a domestic bank.

ARTICLE 65: INPUT TAX CREDIT AND NON TAXABLE SUPPLIES

The input tax credit and the non taxable supplies shall be determined as follows:

1. The tax paid by a taxable person on goods and services for use in the business which are supplied by another taxable person or the tax paid by the taxable person as an importer on imported goods or services for use in his own business shall become an

input tax credit deductible against the output tax. Input means any goods or services purchased and output means any goods or services sold.

2. In the case where goods and services purchased are used partly for taxable supplies and partly for non taxable supplies, the tax credit shall be allowed only for that portion used for taxable supplies.

ARTICLE 66: DETERMINATION OF TAX

The tax amount shall be determined as follows:

1. The tax charged under article 64 of this law shall become a debt to the State at the time of supply.
2. The tax to be paid to the State is equal to the total output tax according to the rates in article 64 of this law minus the total input tax credit allowed for the same month.

ARTICLE 67: CAPITAL ASSETS THAT CEASE TO BE USED IN THE BUSINESS

If a capital asset for which a tax credit has been received under article 65 of this law ceases to be used in the business of the taxable person, such asset shall be treated as sold and taxable for its then fair market value at the time of cessation of use.

ARTICLE 68: NECESSARY DOCUMENTATION TO CLAIM AN INPUT TAX CREDIT

The request for an input tax credit shall be attached with:

1. a value added tax invoice, drawn up in accordance with article 78 of this law,
2. a customs Bill of Entry for Import, certified by customs authorities, which must state the name of the taxable person as consignee or importer and the amount of tax paid at the time of import.

ARTICLE 69: INPUT TAX NOT ALLOWED AS A TAX CREDIT

The input tax that shall not be allowed as a tax credit includes the tax paid by a taxable person on entertainment, amusement, or recreation expenses; the purchase of automobiles; or the purchase of certain petroleum products.

SECTION 4: PAYMENT OF TAX fo

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2. Where a person required to register fails to register the tax administration may register that person from the time that the person should have been registered. The person so registered shall be liable for all tax in article 64 of this law from the date person should have been registered.
3. Where a taxable person registered under this article expects not to be classified as a taxable person for the current and succeeding year, such person may apply for de-registration.
4. For a group of two or more related persons where one or more of those persons is not a taxable person the tax administration may treat a taxable person as registered in respect to all or part of the related economic activities. Where none of the related persons is a taxable person the tax administration may register one or more of those persons of the group in respect to all or part of the related economic activities.
5. For registration purposes and with the approval of the tax administration, for a group of taxable persons who are related as defined in article 56 of this law, the activities of

person registered according to article 77 of this law, and the goods or services supplied are taxable goods or services.

4. Without prejudice to any other penalties, where any invoice falsely claims to be a Value Added Tax Invoice and shows that an amount of tax is payable, the person issuing such invoice shall pay to the tax administration within seven days of the date of issue of the invoice any amount shown on the invoice whether or not such tax amount would otherwise be properly payable.
5. In the case of sales at retail where most sales are not to a taxable person the invoice as required in paragraph 1 of this article shall be considered satisfied if the seller has provided a detailed cash register receipt or other documentation which shall be determined by sub-decree.
6. In the case of an import, the customs Bill of Entry properly filled and containing certification of the payment of the tax shall be used as the control document for establishing eligibility for a tax credit.

ARTICLE 78: FAILURE TO ISSUE VALUE ADDED TAX INVOICE

The failure to issue value added tax invoices shall be subject to penalties as follows:

1. Without prejudice to any other penalties, if the tax administration can find for a second time that an establishment of the a taxable person has failed to issue the required invoice, the tax administration may lock and seal the establishment for a specified period not to exceed 7 days.
2. If any establishment which has been closed under paragraph 1 of this article, has committed again such an offense, such establishment may again be closed for a specified period not to exceed 7 days.

ARTICLE 79: BOOKS, RECORDS, AND INFORMATION

The principles for the books, records, and information for the tax on value added shall be as follows:

1. For the purposes of the provisions in this chapter the taxable person shall keep copies of all invoices issued and all invoices received.
2. The taxable person shall properly record and preserve books and records of every transaction made together with an account showing the amounts of tax collected on his sales and the amount of tax paid on his purchases and any adjustment to sales value or tax amount in a manner prescribed by the tax administration.
3. The works referred to in paragraph 2 of this article shall be maintained daily and totaled at the end of each month and a balance struck. The taxable person shall prepare monthly a Value Added Tax Statement in the manner prescribed by the tax administration.
4. The invoices, records and any other document relating to the tax shall be kept in chronological order in a manner and at the place prescribed by the tax administration

2. If satisfied to the correctness of such documents, the tax administration may authorize a tax credit for those supplies made within 60 days prior to the date of registration or the effective date of this law. Such a credit can be taken in one or more declarations for this tax subject to such conditions as the tax administration may impose.

CHAPTER 4: AMENDMENTS TO THE FINANCE ACT OF 1994 AND TO THE AMENDMENTS TO THE FINANCE ACT OF 1995

SECTION 1: PROVISIONS FOR THE CHANGE OF THE SPECIFIC TAX ON CERTAIN MERCHANDISE TO THE SPECIFIC TAX ON CERTAIN MERCHANDISE AND SERVICES

ARTICLE 85:

From the date of the promulgation of this law the Specific Tax on Certain Merchandise of the amendment to the Finance Act of 1995 promulgated by the Royal Kram No CS/RKM/0995/01 dated 01 September 1995 shall be called the “Specific Tax on Certain Merchandise and Services” and a number of articles shall be amended as stated in this chapter.

Article 18 of the above mentioned law shall be changed as follows:

30 percent for automobiles classified under the harmonized tariff heading 8703 with an engine displacement of more than 2000 cc. and spare parts for those automobiles;

20 percent for petroleum products and automobiles classified under the harmonized tariff heading 8703 with an engine displacement of up to 2000 cc. and spare parts for

Add the paragraph as below to article 23 of the above mentioned law:

“the supplier for services supplied in the Kingdom of Cambodia.”

Add the paragraph as below to article 24 of the above mentioned law:

“For telecommunication and transport services in the Kingdom of Cambodia a separate register containing the date and value of services supplied from points inside of the Kingdom of Cambodia to points outside of the Kingdom of Cambodia.”

SECTION 2: PROVISIONS FOR THE CHANGE OF THE TAX ON TURNOVER

ARTICLE 86:

The Tax on Turnover as stated in the Finance Act of 1994 promulgated by the Royal Kram No 02NS dated 28 December 1993 shall be changed as follows.

1. Delete paragraph 2 of article 39 of the above mentioned law.
2. The phrase “value out of customs.” in article 46 of the above mentioned law shall be changed to “value inclusive of customs duty and the specific tax on certain merchandise and services.”
3. Add the paragraph as below to article 47 of the above mentioned law: -h .

taxpayers under the other regime systems of taxation shall be subject to the tax on turnover rate at the of 2 percent;

articles 44, 45, 46, 47, and 48 of the Finance Act of 1994 and article 37 of the Finance Act of 1995 are repealed.”

CHAPTER 5: PROVISIONS ON TAX RULES AND PROCEDURES

SECTION 1: GENERAL PROVISIONS

ARTICLE 87: OBJECT

By the provisions of this chapter there shall be establish the rights and obligations of the taxpayer and the tax administration, procedures for the review of tax paid, procedures for resolving disputes, tax penalties.

The provisions of this chapter apply to all taxes unless a specific tax provides otherwise.

ARTICLE 88: DEFINITIONS

For the purpose of this chapter:

1. The term “tax” means any direct or indirect tax.
2. The term “person” means a physical person or a legal person.
3. The term “taxpayer” means a person obligated to pay tax.

ARTICLE 91: RIGHTS AND OBLIGATIONS OF THE TAXPAYER

The rights and obligations of the taxpayer shall be as follows:

1. The taxpayer has the rights as follows:
 - a. to be considered as confidential and used only for the purposes specified in tax provisions all information related to his activities which are provided to the tax administration as stated in article 94 of this law;
 - b. to regularly receive information concerning the process of tax system and procedure in tax assessment as stated in articles 96 and 118 of this law;
 - c. to receive information about one's own rights including the rights to appeal as stated in articles 118 and 122 of this law;
 - d. to appeal as stated in this law to every decision made by the tax administration as stated in articles 118 and 122 of this law;
 - e. to pay no more tax than what is required by tax provisions as stated in article 107 of this law.
2. The taxpayer has the obligations as follows:
 - a. to register with the tax administration as stated in article 101 of the law;
 - b. to submit the tax declaration and provide information as required by tax provisions as stated articles 98 and 104 of this law;
 - c. to pay taxes according to the schedule as stated in tax provisions;
 - d. to maintain books of account, supporting documents, and other documents and to show them to the tax administration as stated in tax provisions and article 98 of this law;
 - e. to present oneself to the tax administration according to the date as stated in the letter of notification of the tax administration as stated in article 99 of this law;
 - f. to pay various taxes, additional taxes, and interest as determined by the tax administration according to the date as stated in the tax provisions or as notified by the tax administration in writing as stated in tax provisions and articles 107, 130, 131, and 132 of this law.

ARTICLE 92: POWERS AND OBLIGATIONS OF THE TAX ADMINISTRATION

The power of the tax administration includes the following :

1. to assess the tax base of the taxpayer or the withholding agent as stated in articles 116 and 117 of this law;

2. to request the presence of the taxpayer or the withholding agent as stated in article 99 of this law;
3. to determine the necessary books, documents, and supporting documents that the taxpayer or the withholding agent must maintain and provide to the tax administration as stated in articles 98 and 100 of this law;
4. to require the taxpayer or third person to provide information related to the taxpayer or withholding agent as stated in article 99 of this law;
5. to enter the residence or the business establishment of the taxpayer, the withholding agent, or a third person to obtain information related to the taxpayer or the withholding agent as stated in article 100 of this law;
6. to receive from state institutions information concerning or related to the taxpayer or the withholding agent as stated in article 116 of this law;

ARTICLE 94: CONFIDENTIALITY OF TAX INFORMATION

The tax administration and every person who is or has been official and agent of the tax administration must keep confidential the information pertaining to the taxpayer that they have received during their official performance of their duty and can provide the information only to the person that this article allows.

The official and the agent of the tax administ

ARTICLE 96: PUBLICITY AND EXPLANATION OF TAX LAW

The Tax Administration must prepare short explanatory booklets about the important contents of each tax.

For a tax that the tax administration determines as advisable to explain and to guide, the local tax officials must arrange to educate those taxpayers so that they understand their obligations and rights.

ARTICLE 97: INCENTIVES FOR THE EFFICIENT AND EFFECTIVE COLLECTION OF TAX

The Ministry of Economy and Finance shall establish an incentive system for officials and agents of the tax administration. The procedures for the operation of the incentive system shall be determined by prakas.

ARTICLE 98: THE KEEPING OF FINANCIAL AND OTHER SUPPORTING DOCUMENTS

The taxpayer must keep books of account, supporting documents, and other financial documents as determined by the tax provisions and must submit these books and documents to the tax administration for inspection when requested.

As to the taxpayer who has no obligation to keep books of account according to the General Chart of Accounts of the Kingdom of Cambodia, he must keep a journal with chronological recording of all income and expenses pertaining to the business in line with a form prescribed by tax administration.

The person who must keep books of account, documents, or journals that are prescribed by the tax provisions or other provisions, must preserve these books or documents for a period of 10 years starting from the end of the tax year.

An invoice shall be issued for every transaction between the taxpayer and another person. The rules and the content of the invoice shall be determined by sub-decree.

The taxpayer shall correctly record the details of the invoice in the journals of account.

ARTICLE 99: RIGHT TO RECEIVE INFORMATION

For the purpose of determining the tax that any person must pay or for the purpose of collecting taxes, the tax administration can issue a letter of notification to the taxpayer or a third person:

to provide information related to the taxpayer as stated in the letter of notification such as information on suppliers, clients, or bank accounts;

to present oneself at the time and place designated in the letter of notification for the purpose of showing or providing information, documents, or data that are in the possession of the person and that are clearly stated in the letter of notification.

In addition to the information required as stated in paragraph 1 of this article, the letter of notification must contain the name and the identification number of the taxpayer (if available) and the signature of the tax administration issuing the letter of notification.

ARTICLE 100: POWER OF INVESTIGATION (WITHOUT AN ADVANCED LETTER OF NOTIFICATION)

For each inquiry for which a letter of mission is issued, the tax administration has the right to enter the business establishment, the place that is considered to be the business establishment, the place that is open to the public, or other places for the purpose of assessing the tax of any person that must be paid or for the purpose of collecting taxes:

during the business hours;

any time according to the condition and reasons stated in the warrant issued by a judge.

The tax administration that has entered legally the place as stated in paragraph 1 of this article can:

compile or copy documents that are in that place;

confiscate documents or other evidence that can become information for assessing the tax of a person that must be paid;

install different control instruments or seal goods if they are related to any application of tax;

inventory assets, raw materials, work in progress, finished products, and all other stock.

The tax administration can request a banking institution in the Kingdom of Cambodia to provide information about the taxpayer's account in the bank.

When making its inquiry on entry the tax administration must demonstrate the proper behavior and avoid any possible damage to the honor or the business of the taxpayer. In any case, the on site inquiry shall not be more than what is necessary.

ARTICLE 101: REQUIREMENT TO REGISTER

A person must register with the tax administration within 15 days after the person begins economic activity.

A person shall inform the tax administration within 15 days of any change in the address, form, name, or object of the business, the transfer or cessation of the business, the leadership or the person in charge of tax matters of the enterprise.

ARTICLE 102: CERTIFICATE OF REGISTRATION AND TAX IDENTIFICATION NUMBER

When the registration is complete the tax administration shall issue a certificate of registration which will include the tax identification number of the person. This identification number shall be used on all tax related documents.

All departments under the Ministry of Economy and Finance shall use the identification number of this article. All contracts with government institutions must bear the tax identification number to be considered valid.

ARTICLE 103: THE RIGHT OF THE TAX ADMINISTRATION TO REGISTER A TAXPAYER

The tax administration has the right to register a person who is required by law to be registered and who has failed to register. In this case, the tax

ARTICLE 110: REMINDER LETTER OF NOTIFICATION FOR TAX COLLECTION

The tax administration must send a reminder letter of notification for tax collection to the taxpayer at least 15 days before proceeding with any recovery measure.

ARTICLE 111: CONFISCATION

The confiscation of the taxpayer's properties shall be as follows:

1. If the taxpayer fails to pay the tax debt within 15 days after receiving the reminder letter of notification for tax collection, the tax administration can confiscate the taxpayer's properties to guarantee the payment of the tax debt as well as the expenses for the collection of the tax. For the purpose of this law the term "confiscation" means the confiscation by all means and the sale of the taxpayer's properties by the tax administration but the confiscation of properties shall not exceed the tax debt and expenses for the collection of the tax debt.
2. The person holding or administering the taxpayer's properties confiscated by the tax administration under paragraph 1 of this article can not return those properties to the taxpayer or use those properties to make various payments except for payments that tax administration has authorized.
3. The tax administration can implement the confiscation of the taxpayer's properties which are held or administered by another person 15 days after notifying the person holding or administering the properties.
4. The person who is holding or administering such confiscated properties, must surrender those properties or pay taxes, additional taxes, interest, and expenses for the collection of taxes to the tax administration, except for such part of properties which are under the proceedings of liquidation of the business activity.
5. Any person who fails to surrender property, as stated in paragraph 1 of this article, shall be liable for the payment of the tax debt and expenses for the collection of the tax debt.

law to confiscate or to hold those properties. If there is sale of properties confiscated by this law, any part of the proceeds, which are in excess of the tax liability of the taxpayer under this law, must be returned to the owner of those properties.

ARTICLE 113: THE FREEZING OF BANK ACCOUNTS

The confiscation in article 111 of this law may include also the freezing of the taxpayer's account at the bank by the tax administration's letter of notification which goes into effect immediately upon delivery of that letter to the bank.

Under this notification for the freezing of bank accounts, the bank cannot open new accounts for this same taxpayer and cannot make payments from the accounts, except for the payments prescribed by the tax administration for settling the taxes to be paid, interest, and other additional taxes.

The frozen bank accounts can only be reopened with a letter of notification from tax administration.

The bank that does not comply with the letter of notification as described in paragraph 1 of this article, shall be responsible to the tax administration to the extent of the amounts in the taxpayer's account at the time when the letter of notification is delivered.

ARTICLE 114: STOPPING EXPORT-IMPORT OPERATIONS

The confiscation in article 111 of this law may include stopping export-import operations. Stopping export-import operations means the distraint by the customs administration of imported goods to be sent to the taxpayer and the goods to be exported by the taxpayer, under a letter of notification from the tax administration which takes immediate effect upon delivery of that letter to the customs administration.

The tax administration can confiscate and sell the taxpayer's goods which are distrained by the customs administration according to the conditions as stated in article 111 of this law.

The release of export-import operation from the stopping shall be implemented under a letter of notification from the tax administration.

Goods distrained by the custom administration that do not belong to the taxpayer shall be released from this distraint with the approval from the tax administration.

ARTICLE 115: ORDER NULLIFYING PERMIT AND LICENSE

The confiscation in article 111 of this law can include the issue of a letter of notification by the tax administration to the competent authorities requesting them to nullify various permits and licenses of the taxpayer to implement an activity.

SECTION 7: TAX ASSESSMENT

ARTICLE 116: ASSESSMENT OF TAX

The tax amount shall be assessed as follows:

1. In the case where the taxpayer's tax is paid through the withholding method and the taxpayer does not have the obligation to make the tax declaration, the taxpayer's

assessment of tax shall be the assessment of the tax amount withheld in the calendar year.

2. In the case where the taxpayer or withholding agent has the obligation to submit a tax declaration, the taxpayer's or withholding agent's assessment of tax shall be the assessment of tax that the taxpayer or withholding agent has calculated on the tax declaration submitted to the tax administration.
3. In the case where the taxpayer or withholding

4. The taxpayer or withholding agent can request the tax administration to amend a tax re-assessment within 3 years of the date the tax administration made the tax re-assessment on the basis of additional information that was not available to the taxpayer or the tax administration at the time of the tax re-assessment.
5. Where a taxpayer or withholding agent amends his own tax declaration or requests the tax administration to amend a tax re-assessment, the time limitations for tax re-assessment under paragraphs 1 and 2 of this article will apply from the date the amended tax declaration was submitted or from the date the tax administration amends the tax re-assessment.

ARTICLE 118: PROCEDURE FOR TAX

protest must be limited to facts or other information contained in the tax re-assessment or the decision or the procedures of the tax re-assessment.

2. The administrative protest must be made in writing according to the form as stated in the article 121 of this law, and must be submitted to the tax administration within 30 days after the day the taxpayer receives the letter of notification for tax collection from the tax administration.
3. The administrative protest does not relieve the taxpayer of any obligation to pay various taxes, additional taxes, and interest as specified in the letter of notification for tax collection.

ARTICLE 121: CONTENTS OF THE ADMINISTRATIVE P

- i. willfully supports any of the above acts.
2. In the case where an official of the government:
 - a. discloses confidential information without authorization;

Where a person fails to pay tax within 15 days after receiving a reminder letter of notification for tax collection, additional tax shall be imposed at the rate of 25 percent of the amount of the late tax payment plus 2 percent interest on the amount of the late tax payment for each month or part of a month that the tax amount is not paid.

In the case of a unilateral tax assessment for the non-submission of a tax declaration, additional tax shall be 40 percent of the amount of the tax assessed plus 2 percent interest on the amount of the tax assessed for each month or part of a month that the tax amount is not paid.

Late interest shall be calculated from the first day of the month following the month in which the tax must be paid. For the tax on profit the late interest shall be calculated from the first day of the following month for which the period for the filing of the declaration of the annual result has already expired.

The additional tax for the late payment of tax on means of transport shall be 100 percent of the tax that must be paid.

ARTICLE 133: ADDITIONAL TAX FOR THE OBSTRUCTION OF THE IMPLEMENTATION OF TAX LAW

For the obstruction of the implementation of tax provisions the additional tax shall be as below for each act:

1. two million riels for a person or a taxpayer or a withholding agent under the real regime system of taxation or a government official;
2. five-hundred thousand riels for a taxpayer or a withholding agent under the simplified or estimated regime system of taxation.

SECTION 11: CRIMINAL VIOLATIONS

ARTICLE 134: POWER TO SUE FOR CRIMINAL CHARGES

Except for violations stated in the articles 139 and 140 of this law, legal action to seek prosecution for criminal violations of tax provisions, shall be made by the Director of the Tax Department with the approval of the Minister of Economy and Finance.

ARTICLE 135: TAX EVASION

Without prejudice to any other penalties, a director or manager or owner of an enterprise or a person entrusted with a responsibility for an enterprise who commits an act of tax evasion as stated in article 127 of this law shall be liable to pay a fine from ten million riels to twenty million riels and to imprisonment from 1 year to 5 years or both.

ARTICLE 136: OBSTRUCTION OF THE IMPLEMENTATION OF TAX

Without prejudice to any other penalties, any person who commits acts obstructing the implementation of tax provisions as stated in article 128 of this law shall be liable to a fine from five million riels to ten million riels and to imprisonment from 1 month to 1 year or both.

ARTICLE 137: AIDING OR ABETTING

Any person who deliberately aids or abets another person to commit criminal violations to this law, or deliberately advises or induces another person to commit such violation, shall be guilty and liable to the same penalty as if he has committed the violation himself.

ARTICLE 138: TO REVEAL THE CONFIDENTIALITY

Without prejudice to any other penalties, any person who violates the article 94 of this law shall be guilty of violation of law and liable to a fine from five million riels to ten million riels and imprisonment from 1 month to 1 year or both.

ARTICLE 139: VIOLATIONS BY THE TAX OFFICIALS

Any person who has been assigned to implement tax provisions and who has deliberately committed act as below shall be guilty of a violation of the law and liable for a fine from five million riels to ten million riels or imprisonment from 1 month to 1 year or both:

1. withholding an amount of tax for his own use or for other uses not mentioned in the tax provisions;
2. submitting incorrect reports of the tax amount that he has collected or has received/T TD-.001 T1E

This law is adopted by the National Assembly of the Kingdom of Cambodia on January 8, 1997 at the 7th session of the 1st legislature.

Phnom Penh, January 8, 1997

President of the National Assembly