Transfer Pricing Country Summary
Cambodia

July 2018
Legislation

Existence of Transfer Pricing Laws/Guidelines

On 10 October, 2017 Cambodia’s Ministry of Economy and Finance (MEF) issued the country’s first transfer pricing regulations (Prakas No. 986). The new regulations adopt the arm’s length principle as stated by the OECD’s transfer pricing guidelines, and include transfer pricing methods, documentation standards, penalties, and specific rules for intangible property and intragroup services.

Definition of Related Party

Enterprises are related if:

- they are members of the same family of enterprises, or;
- if and enterprise controls another enterprise, or;
- if an enterprise is controlled by another enterprise, or;
- if two enterprises are under common control of third party.

Control is established when an enterprise holds 20% or more of dividend rights or an equivalent amount of voting rights in the Board of Directors. The same is applicable to both domestic and international transactions.

Transfer Pricing Scrutiny

The introduction of the Prakas No. 986 is a significant first step in the increasing transfer pricing scrutiny in Cambodia. Further development of the new TP regulations also seems likely since currently many details (for example, deadline for submission of the documentation) are missing from the Prakas. Currently, the application of the new rules is not tested well enough, however, it is expected that in 2018 the TP scrutiny will increase.

Transfer Pricing Penalties

Non-compliance of taxpayers with the guidelines can result in several possible penalties:

- Revoke of the taxpayer’s certificate of tax compliance;
- Increase of tax due, including a 2% interest as an additional compensation;
- Criminal charges, for example, in cases of tax evasion or obstruction of the implementation of the tax.
Advance Pricing Agreement (APA)

The new regulations do not cover APAs.

Documentation And Disclosure Requirements

Tax Return Disclosures

Related-party transactions must be disclosed in the annual tax return.

Level of Documentation

Taxpayers are obligated to prepare transfer pricing documentation regarding related party transactions details and the methodologies used to justify the arm’s length nature of transaction. The following information is required:

- General information on the enterprise and the related parties;
- Information about the related party transactions (documents related to payment, transportation, products, etc. and transaction documents);
- Information regarding the transfer pricing method (documents which justify the chosen transfer pricing method).

Record Keeping

Cambodian tax laws require records to be kept for a period of ten years starting from the end of the tax year in which a recording of information concerning the enterprise was made. Transfer pricing documentation should be kept for the same period.

Language for Documentation

Documentation for submission to the tax authority must be in Khmer and/or English.

Small and Medium Sized Enterprises (SMEs)

There are no special provisions governing SMEs.

Deadline to Prepare Documentation

There is no requirement to prepare transfer pricing documentation. However, it is recommended due to the onus of proof resting with the taxpayer.

Deadline to Submit Documentation
There is no deadline to submit the required documentation, however, taxpayers should keep in mind that they are required to retain the required documentation and then submit it to the tax authorities upon request. Therefore, it is advisable that taxpayers prepare their TP documents in advance of the deadline for submitting TOP returns in order to prevent incurring penalties.

**Statute Of Limitations**

The general statute of limitation for transfer pricing adjustments is three years from the end of the tax year. This period can be extended to ten years in case taxpayers have engaged in activities that impede tax collections.

**Transfer Pricing Methods**

The new regulations recognize 5 transfer pricing methods which comply with the OECD guidelines:

1. Comparable uncontrolled price;
2. Resale price method;
3. Cost plus method;
4. Profit-split method;
5. Transaction net margin method.

The appropriateness of the method depends on the situation, and the taxpayer shall provide enough evidence and supporting documentation to justify their chosen method. In cases where the taxpayer is unable to make that justification, the tax authorities can determine the appropriate method for the taxpayer.

**Comparables**

Foreign comparables should be acceptable as supporting documentation if (as is likely) no or limited domestic comparables are available.