Client Update
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DFDLPlus

Cambodia Clarifies Tax Obligations for Directors: Salary or Services?

Via Instruction 19116 dated 20 June 2025 Cambodia's General Department of Taxation ("**GDT**") has released detailed guidance on the tax treatment of **board members and company directors**, offering clarity on how compensation—whether domestic or offshore—is categorized either as salary, and subject Tax on Salary ("**ToS**"), or as services and subject to Withholding Tax ("**WHT**"). This move underscores Cambodia's commitment to applying substance-over-form principles, particularly in the context of cross-border personnel arrangements.

<u>*Key Legal References:*</u>

- Article 42, Law on Taxation (Promulgated May 2023)
- Prakas No. 575 MEF.P.GDT (Issued September 2024), Articles 4 and 7
- Articles 25 and 26, Law on Taxation – governing WHT and intercompany allocations
- Instruction 19116 Tax obligations for Board Members and Directors dated 20 June 2025

<u>*Summary of Core Guidance*</u>

1. Employment Status Determines Tax Treatment

A board member or director will be treated as an *employee*—and subject to **ToS**—if they meet **any two of four conditions**, including:

- No risk of payment loss when performing work duties.
- Inability to choose work schedule or location.
- No capital investment in work tools.
- Exclusivity to one company at a time.

If these criteria are *not* met, payments for their services are treated as **independent services**, and subject to **WHT.**

2. Treatment Location of Payment Is Irrelevant

Salary or service fees paid by **foreign parent companies** or **affiliated entities** are **taxable in Cambodia** if the work is performed there. This effectively closes common structuring gaps where offshore salary splits were previously used to mitigate local tax burdens.

3. Intercompany Cost Allocation Triggers WHT

Even if directors are unpaid, Cambodia's tax rules may require WHT on *intercompany recharges* if value is delivered to the Cambodian entity.

Real-World Scenarios: How the Rules Apply

Let's walk through examples illustrating how different arrangements are treated under the law.

***Example 1:* Seconded CEO = Employment Income**

Mr. A, a Japanese national, is seconded to Cambodia to serve as the CEO of a Cambodian branch. He receives 4 million Khmer Riel from the Cambodian entity and 16 million Khmer Riel from the parent company in Japan.

Implication:

Mr. A meets at least two employment conditions (no payment risk; fixed location), and his total compensation of 20 million Khmer Riel is subject to Tax on Salary in Cambodia.

***Example 2:* Non-Resident Director Paid by Parent = Withholding Tax**

Mr. C, a non-resident, is appointed as a board consultant for Company D in Cambodia. The Japanese parent company charges Company D - 4 million Khmer Riel per month for Mr. C's services.

Implication:

Payment is deemed a **service fee**, not salary. Company D must withhold **14% WHT** on the 4 million Khmer Riel service fee—even though payment goes to the parent company and not Mr. C directly.

***Example 3:* Unpaid Director Services Still Trigger WHT**

Mr. E, also a non-resident director, regularly attends board meetings for Company D a Cambodian incorporated entity. No fees are charged by the Japanese parent, and **Mr. E** receives no direct compensation.

Implication:

Because Company D benefits from Mr. E's services, it must still account for and apply **14% WHT** through an intercompany cost allocation under Articles 25–26 of the LOT.

***Example 4:* Meeting Allowance ≠ Salary, But Still Taxable**

Mr. E, a Cambodian tax resident, serves as a board member of Company C and receives **4 million Khmer Riel per meeting**.

Implication:

Since Mr. E does not meet the employment conditions, his allowance is subject to **15% WHT** as independent service income—not Tax on Salary.

***Example 5:* Passive Directors = No Tax, but Must Document**

Board members who:

- Are registered in legal documents but **not actively managing** the company.
- Only attends occasional meetings.
- Receive **no remuneration** from the Cambodian entity.

Implication:

Are not subject to Tax on Salary or WHT—but the company should retain supporting documentation evidencing that the board member does not provide value to the Cambodian company.

Action Points for Businesses

- **Review Director Contracts**: Align terms with actual working conditions to ensure correct tax classification.
- **Audit Salary Split Arrangements**: If offshore entities are paying part of the compensation, ensure the full amount is declared if services are rendered in Cambodia.
- **Document Intercompany Benefits**: If Cambodian subsidiaries benefit from foreign-based directors, be ready to apply WHT—even without direct invoicing.
- **Recalculate WHT on Allowances**: For ad hoc payments or board attendance fees, apply 10%, 14% or 15% WHT accordingly.
- **Maintain Clear Records**: Employment tests, payment flows, and meeting participation logs should be readily available for inspection.
- **Make sure that VAT reverse charge is assessed if applicable:** Under Cambodia's tax regime non-resident directors or board members that provide services electronically to a Cambodian entity may require the Cambodian entity to account for and apply a VAT reverse charge on those services.
- **Recent Ministry of Labor updates:** When reviewing the status of Board members and directors of Cambodian entities care should also be taken to consider recent updates by the Ministry of Labor and Vocational Training in Cambodia particularly around non-resident directors who appear on the Patent Tax certificate of Cambodian entities – see our recent update here.

Final Thoughts

In Cambodia's evolving tax landscape, form no longer shields function. Legal titles and offshore payment mechanics are no longer sufficient to sidestep local obligations. Employers, boards, and parent companies must collectively recalibrate their policies to reflect these new enforcement realities—or face significant exposure.

In addition, it should be noted that not all directors or board members may receive compensation for their roles however to protect from future tax audit scrutiny taxpayers should be mindful to document the limited role that those individuals play in the ongoing affairs of the Cambodian entity.

Cambodian entities should not forget to apply a reverse charge VAT on services that are provided electronically by non-resident board members or shareholders which may include attending board meetings electronically or providing advice by email. Cambodian entities should also be mindful of the work permit requirements now in place with respect to non-resident directors who may appear on the Patent Tax Certificate of the Cambodian entity and the large potential fines which may apply for non-compliance.

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