



KINGDOM OF CAMBODIA
NATION RELIGION KING

Royal Government of Cambodia

No. 65 ANKr.BK

(Unofficial Translation)

SUB-DECREE
ON
IMPLEMENTATING THE VALUE ADDED TAX ON E-COMMERCE

ROYAL GOVERNMENT

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Royal Decree No. NS/RKT/0918/925 dated 06 September 2018 on the Appointment of the Royal Government of Cambodia;
- Having seen the Royal Decree No. NS/RKT/0320/421 dated 30 March 2020 on the Appointment and Revision of the Composition of the Royal Government of Cambodia;
- Having seen the Royal Kram No. NS/RKM/0618/012 dated 28 June 2018 promulgating the Law on Organization and Functioning of the Council of Ministers;
- Having seen the Royal Kram No. NS/RKM/0196/18 dated 24 January 1996 promulgating the Law on the Establishment of the Ministry of Economy and Finance;
- Having seen the Royal Kram No. NS/RKM/0508/016 dated 13 May 2008 promulgating the Law on Public Finance System;
- Having seen the Royal Kram No. NS/RKM/0297/03 dated 24 February 1997 promulgating the Law on Taxation;
- Having seen the Royal Kram No. NS/RKM/0303/010 dated 31 March 2003 promulgating the Law on the Amendment of the Law on Taxation;
- Having seen the Royal Kram No. NS/RKM/1119/017 dated 02 November 2019 promulgating the Law on E-commerce;
- Having seen the Sub-Decree No. 488 ANKr.BK dated 16 October 2013 on the Organization and Functioning of the Ministry of Economy and Finance;
- Having seen the Sub-Decree No. 75 ANKr.BK dated 25 May 2017 on the Revision of Sub-Decree No. 488 ANKr.BK dated 16 October 2013 on the Organization and Functioning of the Ministry of Economy and Finance;

- Having seen the Sub-Decree No. 114 ANKr.BK dated 24 December 1999 on the Value Added Tax;
- Pursuant to the Request of the Minister of Economy and Finance;

HEREBY DECIDES

CHAPTER I GENERAL PROVISION

Article 1.. Purpose and Objective

This Sub-Decree is to determine the special conditions and to set out the mechanism for implementing the Value Added Tax (VAT) on digital goods and digital services being commercially transacted via an electronic system for consuming in the Kingdom of Cambodia which are supplied by non-resident taxpayers who do not have a permanent establishment in the Kingdom of Cambodia in order to ensure the effective implementation of Article 75 of the Law on Taxation.

Article 2.. Scope

This Sub-Decree covers the supply of digital goods or services or any e-commerce activity via an electronic system carrying out by non-resident suppliers from the outside of the Kingdom of Cambodia into the Kingdom of Cambodia. Whereas e-commerce activities conducting within the Kingdom of Cambodia shall comply with the tax law and regulations in force.

Article 3.. Definitions

The key terms used in this Sub-Decree are defined as follows:

- 1- "Supply of goods or services from Business to Business (B2B)" refers to the supply of goods or services from one enterprise to another enterprise.
- 2- "Supply of goods or services from Business to Consumer (B2C)" refers to the supply of goods or services from one enterprise to consumer.
- 3- "Digital Goods" refers to intangible goods that is ordered, supplied and delivered entirely via an electronic system.
- 4- "Digital Service" refers to service being transacted via electronic system.
- 5- "Electronic Commerce" refers to the activities involving the purchases, sales, rents, exchanges of goods or services, including business activities and civil activities via an electronic system. E-commerce includes but not limited to business activities or transactions, as set out in the Annex to this Sub-Decree.
- 6- "Reverse Charge " refers to the mechanism by which a recipient of a supply of digital goods or services via an electronic system shall be accounted for VAT on behalf of the supplier for the taxable value.
- 7- "Resident Taxpayer" refers to a self-assessment taxpayer who has registered in accordance with the tax law and regulations and who supplies/receives digital goods or services via an electronic system or who carries out business activities in the Kingdom of Cambodia.

- 8- "Non-resident Taxpayer" refers to any person who is not a resident taxpayer in paragraph 7 of this Article who supplies digital goods or services via an electronic system from overseas into the Kingdom of Cambodia.
- 9- " VAT " refers to Value Added Tax.

CHAPTER II TAX OBLIGATIONS

Article 4.. Tax Registration

Any non-resident taxpayer, who does not have a permanent establishment in the Kingdom of Cambodia and conduct commercial transactions via an electronic system for consumption in the Kingdom of Cambodia, shall be obliged to complete tax registration based on the taxpayer classification under the Self-Assessment Taxpayer determined by the Prakas of the Minister of Economy and Finance. This tax registration is applicable for VAT purpose only.

Article 5.. Supply of Goods or Services from Business to Consumer (B2C)

A non-resident taxpayer, who supplies digital goods or services or any e-commerce activity to consumers in the Kingdom of Cambodia, shall be obliged to file the tax return and pay the due VAT amount to the tax administration by the 20th of the following month of payment.

Article 6.. Supply of Goods or Services from Business to Business (B2B)

A resident taxpayer, who receives the supply of digital goods or services or any e-commerce activity from one or more non-resident taxpayers, shall collect VAT using the Reverse Charge mechanism and file the tax return and pay the due VAT amount to the tax administration in accordance with the tax law and regulations in force.

Article 7.. VAT Input

The VAT input as stipulated in Article 6 of this Sub-Decree shall be allowed as an input VAT credit in accordance with the tax law and regulations in force.

Article 8.. The Detailed Rules and Procedures

The detailed rules and procedures for implementing this Sub-Decree shall be determined by the Prakas of the Minister of Economy and Finance.

CHAPTER III PENALTY PROVISION

Article 9.. Penalties

Any resident taxpayer and non-resident taxpayer who have failed to fulfill the obligations in this Sub-Decree shall be punished in accordance with the tax law and regulations of the Kingdom of Cambodia in force.

CHAPTER IV
FINAL PROVISIONS

Article 10.. Abrogation

All provisions contrary to this Sub-Decree shall be abrogated.

Article 11.. Application

The Minister in charge of the Office of the Council of Ministers, Minister of Economy and Finance, all Ministers and Heads of the concerned ministries and institutions shall be responsible for implementing this Sub-Decree according to their respective duties from the signing date.

Phnom Penh, 08 April 2021

Prime Minister

(Signature and Seal)

Samdach Akka Moha Sena Padei Techo HUN SEN

Respectfully Submitted to
Samdach Akka Moha Sena Padei Techo, Prime Minister, to sign
Deputy Prime Minister
Minister of Economy and Finance
[Sign]

Akka Pundit Sapheacha AUN PORNMONIROTH

Receiving Places:

- Ministry of Royal Palace;
- General Secretariat of Constitutional Council;
- General Secretariat of the Senate;
- General Secretariat of the National Assembly;
- Cabinet of Samdach Akka Moha Sena Padei Techo, Prime Minister;
- Cabinet of Samdach, H.E. Deputy Prime Ministers;
- As stipulated in Article 11;
- Royal Gazette.

ANNEX

Of Sub-Decree No. 65 ANKr.BK dated 08 April 2021 on Implementing the Value Added Tax on E-Commerce

Forms of E-Commerce Activities or Transactions and Explanations

1. Electronic Order Processing of Tangible Products

The customer selects an item from an online catalogue of tangible goods and orders the selected item electronically directly from a commercial provider; the tangible product is then physically delivered to the customer by a common carrier. There is no separate charge to the customer for using the online catalogue.

2. Electronic Ordering and Downloading of Digital Products

The customer selects an item from an online catalogue of software or other digital products and orders the selected product electronically directly from a commercial provider; the digital product is then downloaded onto the customer's hard disk or other non-temporary media. There is no separate charge to the customer for using the online catalogue.

3. Electronic Ordering and Downloading of Digital Products for purposes of Commercial Exploitation of the Copyright

The customer selects an item from an online catalogue of software or other digital products and orders the product electronically directly from a commercial provider; the digital product is then downloaded onto the customer's hard disk or other non-temporary media. There is no separate charge to the customer for using the online catalogue. The customer acquires the right to commercially exploit the copyright in the digital product (e.g. a book publisher acquires a copyrighted picture to be included on the cover of a book that it is producing).

4. Updates and Add-Ons

The provider of software or other digital product agrees to provide the customer with the updates and add-ons to the digital product. There is no agreement to produce the updates or add-ons specifically for a given customer. The customer does not acquire the right to commercially exploit the copyright in the digital product or in the update or add-on.

5. Limited Duration Software and other Digital Information Licenses

The customer receives the right to use the software or other digital products for a period of time that is less than the useful life of the product. The product is either downloaded electronically or delivered on a tangible medium such as a CD. All copies of the digital products are deleted or become unusable upon the termination of the license.

6. Single-Use Software or other Digital Product

The customer receives the right to use the software or other digital products one time. The product may be either downloaded or used remotely (e.g. use of the software stored on a remote server). The customer does not receive the right to make copies of the digital product other than as required to use the digital product for its intended use.

7. Application Hosting-Separate License

A customer has a perpetual license to use a software product. The customer enters into a contract with a provider whereby the provider loads the software copy onto the servers owned and operated by the provider. The provider supplies the technical support to protect against any failures of the system. The customer can access, execute and operate the software application remotely. The application is executed either on the customer's computer after it is downloaded onto the RAM or remotely onto the provider's server. This type of arrangement could apply, for example, for financial management, inventory control, human resource management or other enterprise resource management software applications.

8. Application Hosting-Bundled Contract

The customer enters into a contract whereby the provider, who is also the copyright owner, allows access to one or more software applications, hosts the software applications on a server owned and operated by the provider, and provides technical support for both the hardware and software. The customer can access, execute and operate the software application remotely. The application is executed either on a customer's computer after it is downloaded onto the RAM or remotely on the provider's server. The contract is renewable annually for an additional fee.

9. Application Service Provider -ASP

The provider obtains a license to use a software application in the provider's business of being an application service provider. The provider makes available to the customer access to a software application hosted on the computer servers owned and operated by the provider. The software automates a particular back office business function for the customer. For example, the software might automate sourcing, ordering, payment, and delivery of goods or services used in the customer's business. The provider does not provide the goods or services. It merely provides the customer with the means to automate and manage its interaction with third-party providers of these goods and services. The customer has no right to copy the software or to use the software other than on the online provider's server.

10. ASP License Fees

The ASP pays the provider of the software application a fee which is a percentage of the revenue collected from customers under the contract.

11. Website Hosting

The provider offers space on its server to host websites. The provider obtains no rights in the copyrights created by the developer of the website content. The owner of the copyrighted material on the site may remotely manipulate the site, including modifying the content on the site. The provider is compensated by a fee based on the passage of time.

12. Software Maintenance

The software maintenance contracts typically bundle the software updates together with the technical support. A single annual fee is charged for both the updates and the technical support. In most cases, the principal object of the contract is the software updates.

13. Data Warehousing

The customer stores its computer data in the computer servers owned and operated by the provider. The customer can access, upload, retrieve and manipulate data remotely; software is licensed to the customer under this transaction but the customer enters into a contract for the use of this service with the service provider.

14. Customer Support over a Computer Network

The provider provides the customer with the online technical support, including installation advice and trouble-shooting information. This support can take the form of online technical documentation, a trouble-shooting database, and communications with human technicians by e-mail or by phone.

15. Data Retrieval

The provider makes a repository of information available for customers to search and retrieve. The principal value to customers is the ability to search and extract a specific item of data from amongst a vast collection of widely available data.

16. Delivery of Exclusive or other High-Value Data

The provider makes a repository of information and makes data analysis in order to make a report or some special extracted data available to the customers. (Examples of such products may include special industry or investment reports). The customer can make a payment to download those data or reports from an online catalogue.

17. Advertising

Advertisers pay the fee to have their advertisements disseminated to users of a given website. Advertising rates are most commonly specified in terms of a cost per number of times an advertisement is displayed to a user or number of times the advertisement is clicked by a user (e.g. rates might be based on thousand "impressions" or the number of "click-throughs").

18. Electronic Access to Professional Advice

A consultant, a lawyer, a doctor or other professional service provider advises customers through email, video conferencing, or other remote means of communications.

19. Technical Information

The customer is provided with an undivulged technical information concerning a product or process (e.g. narrative description and diagrams of a secret manufacturing process).

20. Information Delivery

The provider electronically delivers data to subscribers periodically in accordance with their personal preferences. The principal value to customers is the convenience of receiving widely available information in a custom-packaged format tailored to their specific needs.

21. Access to an Interactive Website

The provider makes available to subscribers a website featuring digital contents, including information, music, video, games, and activities. Subscribers pay a fixed periodic fee for the access to the site as preferences.

22. Online Shopping Portals

A website operator hosts electronic catalogues of multiple merchants on its computer servers. Users of the website can select products from these catalogues and place orders online. The website operator has no contractual relationship with shoppers. It merely transmits orders to the merchants, who are responsible for accepting and fulfilling the orders. The merchants pay the website operator a commission fee equivalent to a percentage of the orders placed through the site.

23. Online Auctions

The provider displays many items for purchases by auctions. The user purchases the items directly from the owner of the items, rather than from the enterprise operating the site. The vendor compensates the provider with a percentage of the sales price or a flat fee.

24. Sales Referral Programs

An online provider pays a sales commission fee to the operator of a website that refers the sales leads to the provider. The website operator will list one or more of the provider's products on the operator's website. If a user clicks on one of these products, the user will retrieve a web page from the provider's site from which the product can be purchased. When the link on the operator's web page is used, the provider can identify the source of the sales leads and will pay the operator a percentage commission fee if the user buys the product.

25. Content Acquisition Transactions

A website operator pays various content providers for news, stories, information, and other online contents in order to attract users to the site. Alternatively, the website operator may hire a content provider to create a new content specifically for the website.

26. Streamed (Real Time) Web Based Broadcasting

The user accesses a content database of copyrighted audio and/or visual materials. The broadcaster receives subscription or advertising revenues.

27. Carriage Fees

A content provider pays a particular website or network operator a certain amount of fee in order to have its content displayed by the website or network operator.

28. Subscription to a Website Allowing the Downloading of Digital Products

The provider makes available to subscribers a website featuring copyrighted digital contents. Subscribers pay a fixed periodic fee for the access to the site. The principal value of the site to subscribers is the possibility to download these digital products.

