Presentation of Rules and Procedures for Allocation of Incomes and Expenses between Related Parties

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This Prakas is divided into

- ម ទូទៅ
  3 Chapters

- ស៊ម ក្រុម
  21 Articles
• ជំពូកទី ១ សំលេកសែនតាមអំពីរដូវ (ទស ៤ អន្តរការ)

• Chapter 1: General Provision (4 Articles)

• ជំពូកទី ២ សំលេកអំពីការបំពេញ (ទស ៤ អន្តរការ)

• Chapter 2: General Principle (4 Articles)

• ជំពូកទី ៣ របាយការណ៍សេចក្តីថ្លាស់ប្រយុទ្ធការដែលប្រការការបំពេញជំនួយនិយមន៍សម្រាប់រដូវទំនិញ(ទស ១៣ អន្តរការ)

• Chapter 3: Methods for allocation of incomes and expenses among related parties (13 Articles)
Chapter 1: General Provision

✓ ប្បការ ៣: វិសាលភាព

✓ Article 3: Scope

“The scope of this Prakas covers every business transaction among two or more related parties whom at least one party is a resident taxpayer”.
ប្រការ ៤: និយម្ន័យ

A. Any member of the taxpayer’s relative
លេខទឹកកូដអាចឈ្នះបានផ្សេងៗក្នុងសុខប្រការ

9- ប្រការថ្មីមួយគឺអាចប្រការឱ្យអាចឈ្នះបាននៅក្នុងក្រុមហ៊ុនផ្សេងៗក្នុងរូបវនតបុគ្គលិក។ ប្រការថ្មីមួយនឹងអាចធ្វើឱ្យអាចឈ្នះបាននៅក្នុងក្រុមហ៊ុនផ្សេងៗក្នុងរូបវនតបុគ្គលិក បើសូម្ម័ន់សេះ។ ប្រការថ្មីមួយគឺថ្មីមួយមានសេះពីប្រការថ្មីមួយ។

B. Enterprise which controls or is controlled by or is under common control with, the taxpayers. The term “Control” means ownership of 20 percent or more in the value or voting right of the equity interest in the enterprise. To determine the degree of control of a taxpayer who is physical person, shall taken into consideration all equity interest owned by the taxpayers and owned directly or owned indirectly by spouse of taxpayer.
ការបំពេញការណ៍អនុវត្ត (Arm’s Length Principle) មាននេះដោយប្រការការអនុវត្តអាចមានលក់ចំនួនដែលមានរបាយការណ៍ឬប្រការផ្លាស់ប្តូរដែលទើបវានឹងកនុងចំណោមប្រការដែលមានទើបលើប្រការការអនុវត្តដែលមានរបាយការណ៍។

• The term “Arm’s Length Principle” refers to the principle for determining the price of transactions under the same or similar conditions that are conducted between independent enterprises in order to compare with price of any transaction that is conducted between related parties. For the purpose of this Prakas, the price determined under the Arm’s Length Principle shall be called “Arm’s Length Price”.

ប្រការសំខាន់ៗ
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• ពាក្យ "ប្រិយត័យការសំខាន់ (Controlled Transaction)" ប្រសិនបើប្រិយត័យការសំខាន់មានការដឹកនាំប្រការតាមលេខនេះការពនធនៅអង្គការពនធនៅប្រទេសដែលមានប្រការលុយប្រការគឺត្រូវបានការពនធនៅដូចជា។ សប្មាប់ទៅម្នេរបានប្រការសំខាន់នេះ រាល់ប្រិយត័យការជាម្ួយនឹងភាគ្ីដែលបទងកើត្ទើងទៅកនុងប្រទសដែលមានដែនយុត្តិការពនធនៅអង្គការពនធនៅប្រទេសដែលមានប្រការលុយប្រការគឺត្រូវបានរំដោះ។

• The term “Controlled Transaction” refers to transactions between related parties that are normally pre-arranged. For the purpose of this Prakas, every transaction with a party that occurs within a country that has lower tax jurisdiction than the Kingdom of Cambodia shall be deemed as controlled transaction.
• ការ “ប្រទេសប្រការប្រាកដ (Uncontrolled Transaction)” ជាទំនៀបប្រទេសប្រការប្រាកដដែលមិនប្រតិបត្តិការមានការទរៀបចំ និងដែលបានទើបវត្តមានសហប្រជាជាប់។ សប្តាហ៍លទៅម្នាក់ទៅនេះ ការការសំខាន់ៗ សហប្រជាជាប់ ។

• The term “Uncontrolled Transaction” refers to transactions that are not controlled transaction and are arranged by an independent enterprise. For the purpose of this Prakas, the term “independent enterprise” refers to physical person or legal person that is not a related party.
Chapter 2: General Principle

✓ [Section 7]: Factors of comparability

✓ Article 7: Comparability factors

Under the arm’s length principle, in order to determine comparability, compare the conditions between controlled transactions and transactions of independent enterprises.
បែបបញ្ជាក់ដើម្បីបានប្រការប្រការដូចខាងក្រោម Contractual terms of the transaction
2) ការវិភាគបង្រួញ Functional Analysis
3) ប្រការសន្និសីទសម្រាប់ Characteristics of property or service
4) សារសំខាន់ៗស្មុគស្មារ Economic conditions
5) ប្រការសាស្រ្តសម្រាប់ Business strategy
✓ Article 8: Arm’s Length Range

The arm’s length range is the range of relevant financial indicators (ex. price or profit level) obtained from implementing transfer pricing methods.
ប្រការសំខាន់ៗ

A controlled transaction will not be adjusted, if the relevant financial indicators obtained from the controlled transaction was tested with a proper transfer pricing method that is within the arm’s length range. In contrast, financial moderator in a controlled transaction that is outside arm’s length range will be adjusted according the median of the arm’s length range.
Chapter 3: Methods for Allocation of Incomes and Expenses among related parties

✓ ប្រការ ១០ ដើម្បី “ស្លាប់” Comparable Uncontrolled Price (CUP)
✓ ប្រការ ១១ ដើម្បី “ស្លាប់” Resale Price Method (RPM)
✓ ប្រការ ១២ ដើម្បី “ប្រលាយ” Cost Plus Method (CPM)
✓ ប្រការ ១៣ ដើម្បី “ធ្វើរបស់” Transactional Net Margin Method (TNMM)
✓ ប្រការ ១៥ ដើម្បី “ប្រហែល” Profit Split Method (PS)
✓ Article 15 Important points to consider for intangible assets

✓ Article 16 Determination of intangible asset ownership among related parties

✓ Article 17 Intra-Group Services
Taxpayers must issue invoices for every business transaction, and record, document, and maintain accounting records, legal documents and other financial documents as determined by provisions on taxation, which shall be provided to the tax administration as required. Said accounting records, legal documents and financial documents must be kept for a duration of 10 years, counting from the end of the tax year.
Not limited to the following, taxpayers that have transactions with related parties will have the obligation to fully prepare the following information:

๑. ព័ត្៌មានទូទៅរបស់សហប្ាស និងបុគ្គលទាក់ទិន
General information on the enterprise and related party

๒. ព័ត្៌មានសដីពីប្បត្ិបត្តិការរបស់សហប្ាស
Information on operation of the enterprise

๓. ព័ត្៌មានអំពីវិើីទទារម្លៃ
Information on the transfer pricing method
Taxpayers are required to complete annual Tax on Income returns that contain certain information relevant to the transactions between related parties and are required to provide all documents as stated in paragraph 2 of this article to the tax administration as required.
✔️ Article 19: Penalty

Without considering other penalties, for failing to implement obligations as stated in article 18 of this Prakas, the taxpayer’s certificate of tax compliance will be withdrawn or be re-evaluated and taxpayer will face penalties as stated in article 133 of the Law on Taxation.
If necessary, the tax administration can bring charges and demand punishment for criminal violation of the provisions on taxation as stated in article 134 to article 138 of the Law on Taxation.
សំនួរ និង ចត់ម៉ង

Q & A