



# Technical Update

February 2024

## Incentives for Voluntary Amendment of Tax Declarations

(Prakas No. 071 MEF.Prk. GDT, dated 30 January 2024)

The Ministry of Economy and Finance (MEF) issued this Prakas to provide taxpayers or withholding agents under the self-assessment regime with an exemption from administrative penalties, including additional tax, interest, and fines, for the voluntary amendment of their tax declarations due to unintentional errors until the **end of June 2024**.

This penalty exemption shall be applicable to the amendment of accounting records or tax declarations pertaining to transactions **prior to January 2024 only**.

The below penalty exemption shall apply to any amendment during tax audit periods:

Prior to the Tax Auditor's Findings	After the Tax Auditor's Findings
The taxpayers or withholding tax agents shall be eligible for the exemption on additional tax, interest, and fines upon filing for the amendment of tax declarations (if no minutes of the meeting were prepared or provided by the tax auditors for their findings).	10% additional tax and 1.5% interest shall remain payable in accordance with prevailing laws and regulations. However, the additional tax and interest paid on the voluntary amendment can be offset against the amount of additional tax and interest during the tax audit.

### Our comments

This MEF Prakas amends Prakas No. 217, dated 14 March 2022, and introduces more favourable incentives for the voluntary amendment of tax declarations. Previously, taxpayers submitting voluntary amendments may be eligible for reduced interest, subject to certain conditions, but additional tax will still be imposed. Furthermore, the additional tax and penalties are generally not allowed as offset against the tax audit reassessment. This Prakas covers amendments to tax declarations made prior to 2024. It did not specify how far back the amendments can be made but under the Law on Taxation, taxpayers are allowed to request for amendment of tax declarations within 3 years after lodgement.

Under this new Prakas, taxpayers are now incentivised to voluntarily amend erroneous tax declarations thereby encouraging a more transparent compliance process and good governance. This also provides a window of opportunity for taxpayers to review their current tax compliance practice and determine any areas of non-compliance or further improvement to mitigate any financial implications associated with unintentional errors or oversight in the tax declarations. It should be noted as provided under the Law on Taxation, taxpayers are allowed to voluntarily amend the tax declarations within 3 years after the submission date.

To avail of the above-mentioned incentives, the voluntary amendments should be made on or before **30 June 2024**.

# Market Interest Rate Loans in 2023

(Notification No. 3830 GDT, dated 24 January 2024)

On 24 January 2024, the General Department of Taxation (GDT) issued this Notification to set the market interest rates for employee loans and loans between related parties for the year 2023, based on the relevant tax rules and regulations in force.

Based on the average annual lending rates of 12 major local banks, **2023** interest rates are as follows:

Currency	Rate
Khmer Riel	9.66% per annum
US Dollar	8.75% per annum

## Our comments

Whilst taxpayers may use these rates as initial reference, careful analysis and consideration should be made to assess the appropriate interest rates to be applied for related party loans and employee loans considering the required documentation and the guidance on 20% FBT on loans to employees below market rate.

It should be noted that at the outset, Instruction 10979, dated 25 May 2022, provides that the interest rates for related party loans may refer to the interest rate agreed by both parties as per loan agreement, provided that it satisfies the required documentation under the said Instruction. With this, the GDT appears to provide a limit on the interest rate imposed on related parties' loans to the annual market interest rate issued. It could be inferred that the GDT may disallow any portion of the interest expense on related party loans that exceeds market interest.

Impacted taxpayers are highly suggested to consult with their trusted tax advisors to understand the impact of this notification, as this may trigger fringe benefits, tax deductibility, and transfer pricing concerns.

As committed tax advisors to our clients, we welcome any opportunities to discuss the relevance of the above matters to your business.

## Contact us

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