

**Kingdom of Cambodia
Nation Religion King**

Ministry of Economy and Finance
No. 017/SRN/MEF

**SARACHOR NERNOAM
ON
THE INSTRUCTION FOR ENFORCEMENT OF TAXATION ON UNUSED LAND**

Pursuant to the provisions of the 1995 Financial Management Law promulgated by Reach Kram No. 11/NS/94 of December 31, 1994, and the Law on Financial Regime and Provincial/Municipal Properties promulgated by Reach Kram No. CS/RKM/0298/03 of February 25, 1998.

In implementing Sechdey Samrech No. 004/SSR/MEF of August 24, 1998, regarding the collection of tax on unused land and pursuant to the spirit of the seminar on the management and collection of tax on unused land held on August 20-21, 1999 at Siem Reap provincial office, the Ministry of Economy and Finance hereby issues the following instructions:

1) Identification of unused land:

To ensure fair, equal treatment and transparent management of tax collection on unused land it is important to make a distinction between used land and unused land that has been purchased for re-sale at a higher price.

(a) Land with building located in residential zone:

This type of land, often situated in the cities, towns, and along national roads, rivers, or streams, shall be considered as used land if there is a construction on such land which its owner uses as his/her principal domicile and resides in for 183 days or more during the period from the 31st of October of the preceding year through the 30th of September of the taxation year. The owner's principal domicile is the place where the owner has actually been sleeping and eating everyday after his/her day-to-day work. For the purpose of the determination of this tax, the owner shall not have more than one principal domicile.

Land with construction located in any residential zones that does not qualify as land stated in paragraph (a) above shall be considered unused land and shall be subject to taxation thereon.

(b) Leased land with construction and possession:

This refers to land located in residential zones or belonging to a zone having economic activities, including industrial, agricultural, commercial, and tourism zones with constructions such as residences, buildings, or warehouses leased to customers for monthly or annual rental or subject to long-term contracts. This type of land shall be considered as used land and shall not be subject to taxation unless it produces monthly revenue of more than 80% of one-twelfth (1/12) of the value of the land during the taxation year multiplied by an amount to be determined by a Prakas of the Ministry of Economy and Finance. The value of the land shall be determined by the Appraisal Committee for Unused Land.

Leased land with construction and possession that does not qualify as land stated in paragraph (b) above shall be considered as unused land and shall be subject to taxation thereon.

(c) Land having economic activity according to State zoning:

This refers to land used by its owner for economic activities, including cultivation, industry, commerce, and tourism. This land shall be considered as used land and shall not be subject to taxation unless it produces revenue more than 80% of one-twelfth (1/12) of the price of land during a taxation year multiplied by a coefficient determined by Prakas of the Ministry of Economy and Finance. The value of the land shall be determined by the Unused Land Appraisal Committee.

Leased land having economic activities which does not qualify as land stated in paragraph (c) above shall be considered unused land and shall be subject to taxation thereon.

In this paragraph (c), attention shall be given to the distinction between cultivating land and real farming land of citizens that is not subject to taxation and land on which speculators have planted banana, sugar cane, and other trees with an illusory purpose of making the unused land appear as used land with the intention of avoiding taxation on unused land. In this regard, to determine whether it is used land or unused land it is important to try to ascertain the monthly revenue derived from the economic activities as stated above.

(d) State land leased to a legal entity or natural person:

Land shall be considered as public land when it is owned by the State whether or not it is recorded in the State property inventory book. If State land is leased to any legal entity or natural person and the monthly rent is less than 80% of one-twelfth (1/12) of the land value during the taxation year multiplied by a coefficient determined by a Prakas of the Ministry of Economy and Finance, then such land shall be subject to taxation. The value of the land shall be determined by the Unused Land Appraisal Committee.

(e) Land under investment agreements:

These lands shall include land under investment or concession agreements approved by the Council for the Development of Cambodia (CDC) for investment project or short, medium, or long-term concessions that are approved by the Royal Government for project implementation. If the investor or concessionaire fails to operate or has not yet implemented his/her project on such investment or concession land due to force majeure, including regular flooding, landmines, or other insecurity, then such land shall not be subject to taxation, but only if such failure or delay was certified as acceptable by the competent authority and the Ministry of Economy and Finance.

2) Taxable person for unused land:

A taxable person for unused land is the owner of the unused land. The tax payment shall not be considered a requirement to certify the legality of land ownership. For the purpose of collecting unused land tax, the term "owner" means any legal entity or natural person to whom the Cadastral or local authority of khums or sangkat or higher levels issued official documents recognizing his/her rights to permanently or temporarily use the land.

An owner who is a natural person means the family, including the father, mother, the owner, spouse and children under his/her support or head of family and dependant members listed in the family book issued by the competent authority.

3) Subject of taxation and tax rate:

The subject of taxation is the market price of land at the municipal or regional level which is appraised based on the price per square meter and determined by the Unused Land Appraisal Committee no later than the 30th of June in the taxation year.

In the calculation of tax, 1,200 square meters shall be deducted from the total area of each plot of land subject to taxation.

This tax shall be imposed at a rate of two percent (2%) of the subject of taxation in compliance with the following calculation:

Taxable amount = (Total size of land - 1,200 square meters) x Subject of taxation x 2%

4) Declaration of tax payment:

The unused land tax is a tax imposed by way of a declaration return. The owner of taxable land has an obligation to file a declaration of tax payment with his/her own calculation following the sample declaration given by the Tax Department and the tax due shall be paid in full no later than the 30th of September of each taxation year at the tax authority having jurisdiction over such land.

There shall be two (2) copies of the declaration return for each plot of land.

5) Procedure and serious measures for collecting debt tax:

The tax authority shall have the right to inspect the subject of taxation and the tax payment made by each landowner from October 1st of the taxation year. If inspection shows that an owner has:

- failed to perform his/her obligation as to filing a declaration of tax payment;

- made an inadequate payment of tax by not declaring all of his/her land; or
- delays in making tax payment on the specified date,

Then the tax authority shall prepare:

(a) Tax payment reminder (Sample 1)

A tax payment reminder shall be made by a tax authority and sent to the landowner who filed the declaration of tax payment and the owner shall have fifteen (15) days to file such declaration for unused land.

(b) Notice of unilateral tax determination (Sample 2)

If the owner failed to file his/her tax declaration obligations as stated in the above tax payment reminder as required by the provisions on taxation rules and procedures under Article 116 of the 1997 Taxation Law, the tax authority must unilaterally determine such tax. In this case, the tax becomes due within three (3) days after the date of delivery of notice demanding the tax payment.

(c) Notice of re-determination of tax (Sample 3)

A re-determination of tax shall be applied to an owner who filed a declaration that is inadequate, incorrect, or contained a mistake which resulted in less payment than the actual tax which is stipulated in the provisions of the Taxation Law.

The owner shall have thirty (30) days to respond to the Tax Department which is in charge of tax re-determination. During this period, the owner may accept or object to such re-determination. Any failure to reply by the owner shall be considered an acceptance of such tax re-determination.

(d) Notice demanding unilateral determination of tax debt (Sample 4-A)

- After a unilateral determination of tax, the tax determination authority shall submit to the tax collection authority the result by preparing a list of fiscal debts and the notice of unilateral determination of tax. After receiving this notice, the tax collection authority shall prepare a notice demanding the tax debt and shall send the notice of unilateral tax determination and notice demanding the tax debt to the owner.
- The notice demanding the tax debt shall clearly indicate the tax debt and the relevant penalty which shall become due within three (3) days from the date of delivery/receipt of such notice.

(e) Notice demanding for re-determination of tax debt (Sample 4-B)

- After receiving the list of fiscal debts from the tax determination authority, the tax collection authority shall prepare a notice demanding the tax debt and send the same to the owner of unused land.
- The notice demanding the tax debt shall clearly indicate the tax debt and the relevant penalty which shall become due within thirty (30) days from the date of delivery/receipt of such notice.

(f) Reminder notice demanding tax debt (Sample 5)

If the owner fails to pay the tax debt within thirty (30) days from the date of delivery/receipt of such notice or within three (3) days of the date of delivery of notice of tax debt collection for unilateral determination of tax, the tax collection authority shall furnish a reminder notice demanding the tax debt.

If the owner refrains from paying such tax debt within fifteen (15) days of the receipt of the reminder notice demanding the tax debt, the tax collection authority shall implement the following measures to enforce the tax debt:

- Seizure of accounts at the debtor's bank;
- Cessation of his/her import-export operations;
- Attachment and auction of debtor properties;
- Cancellation of authorizations and licenses.

The Fiscal Debt Collection Committee of each province/municipal shall have the duties to perform the above tasks.

6. Penalties:

Any insufficient or late payment of tax or failure to file a tax declaration shall be subject to Articles 116 and 117 of the 1997 Taxation Law. Under Article 134 of the Taxation Law, the owner shall pay an additional tax at the rate of 10%, 25%, or 40% of the outstanding balance of actual tax plus interest of 2% on the outstanding balance of each month or of part of the month in which the outstanding balance has not been paid.

7. Incentives for collection of unused land tax:

The incentives for collection of actual tax and its effectiveness is defined in the Taxation Law promulgated by Reach Kram No. NS/RKM/0297/03 of February 24, 1997, under Article 97 which states that "the Ministry of Economy and Finance shall establish an incentive system for tax administration officials." Moreover, in order to ensure the effectiveness of tax collection for unused land, the Ministry of Economy and Finance shall authorize the creation of monetary rewards to be managed and allocated by provincial/municipal tax authorities. The source of such monetary rewards shall be the revenues from tax on unused land. The person who is eligible to receive such tax shall include tax administration officials, communal authorities, district authorities, committees, and unused land appraisal sub-committees.

The deduction rate for the reward shall be ten (10%) percent of the unused land tax revenues which is authorized to be deducted prior to payment into provincial/municipal treasuries and shall be deposited in a separate account created for the purpose of the rewards.

The distribution of the reward shall be proportioned as follows:

- 1) Ten (10%) percent allocated to the unused land appraisal committee;
- 2) Fifteen (15%) percent allocated to the tax department;
- 3) Twenty (20%) percent allocated to the provincial/municipal tax authority;
- 4) Twenty-five (25%) percent allocated to the appraisal sub-committee for unused land;
- 5) Fifteen (15%) percent allocated to the district authority; and
- 6) Fifteen (15%) percent allocated to the communal authority.

Such distribution of rewards shall apply only to the provinces/municipalities, districts, and communes that received revenues from unused land tax. The tax authority shall distribute the reward each month based on the proportions stated above and shall report to the Tax Department at the end of each month.

The monetary rewards shall be managed in proper accounting records as instructed by the Ministry of Economy and Finance.

This Sarachor Nernoam shall become effective from the date of its signature.

Phnom Penh, December 1, 1999

For Senior Minister

Minister of Economy and Finance

Secretary of State Phnom Penh, December 1999

Kong Vibol

**Kingdom of Cambodia
Nation Religion King**

**Ministry of Economy and Finance
Tax Department**

Provincial/municipal tax authority

No land tax

.....Date:.....

**REMINDER
Tax Declaration for Unused Land**

TO: Mr./Mrs:

Address:

Based on an inspection of the status of your fiscal tax, we have found that you have not submitted to the provincial/municipal tax authority a tax declaration concerning the following:

- Tax on unused land for fiscal year:
.....
- Location: Zone number: Village: Khum/sangkat:
district/khan: province/municipal: land deed no
.....
dated

It is noted that you violated the provisions of the Law on Taxation of the Kingdom of Cambodia, in particular, Article 32 of the 1995 Law on Financial Management and Article 104 of the 1997 Law on Taxation. We will allow fifteen (15) days from the date you receive this reminder for you to appear and meet your tax obligations as defined by the law. If such specified duration elapses, you shall be subject to a unilateral determination of tax by the tax authority as defined by Article 116 of the Law on Taxation of the Kingdom of Cambodia.

In addition, you will be fined under Articles 131, 132, and 133 of the Law on Taxation. Any delay for the purpose of avoiding payment of such tax will render you subject to criminal prosecution.

Please accept the assurance of my high consideration.

Provincial/municipal Tax
Authority

Director

**Kingdom of Cambodia
Nation Religion King**

**Ministry of Economy and Finance
Tax Department**

Provincial/municipal tax authority

No. land tax

..... Date:

**NOTICE
OF
UNILATERAL DETERMINATION OF TAX**

TO: Mr./Mrs.:

Address:.....

Based on an inspection of your land in connection with tax on unused land for year:

Due to your failure to fulfill your tax obligations as defined by the law and Article 116 of the 1997 Law on Taxation, the tax authority has made a unilateral determination of the tax due as calculated on the reverse side of this notice.

Please be informed that, by application of Articles 131 and 132 of the Law on Taxation, promulgated by Reach Kram NS/RKM/0297/03 of February 24, 1997, in addition to the tax due, a 40% penalty on the specified tax amount and monthly interest of 2% on the specified tax amount shall be added.

Please accept the assurance of my high consideration.

Provincial/municipal Tax Authority

Director

**Kingdom of Cambodia
Nation Religion King**

**Ministry of Economy and Finance
Tax Department**

Provincial/municipal tax authority

No. land tax

.....Date.....

**NOTICE
OF
RE-DETERMINATION OF TAX**

TO: Mr./Mrs.

Address:

Based on a review on your declaration and examination over tax on used land for the year:....., the tax authority has changed the data as the basis for calculating tax on unused land and you are required to make an additional payment due to the grounds specified on the reverse side of this notice.

You have thirty (30) days to send your approval or comments to us. A failure to respond within the specified period shall be considered an acceptance of the decision of the tax authority.

Please be informed that, by application of Articles 131 and 132 of the Law on Taxation 1997, the fixed tax amount shall include the 10% or 25% penalty on the specified tax amount and monthly interest of 2% on the specified tax amount.

Please accept the assurance of my high consideration

Provincial/municipal Tax Authority

Director

**Kingdom of Cambodia
Nation - Religion - King**

**Ministry of Economy and Finance
Tax Department**

Provincial/municipal tax authority

No. land tax

.....Date:

**NOTICE
FOR
DEMANDING TAX DEBT**

TO: Mr./Mrs.:

Address: # Street: Khum/sangkat: district/khan: province/municipal:

.....Phone:..... P . O. Box:

Based on an inspection of the status of your fiscal tax obligations, we found that you have not paid:

the amount of:

as tax on unused land for year:

Under Article 107 of the Law on Taxation, you have thirty (30) days from the date of receiving of this notice to appear and make such payment at our Cashier office. A failure to make payment within the specified period the amount due shall result in a 10% penalty on the specified tax amount and monthly interest of 2% on the specified tax amount as provided in Article 132 of the 1997 Law on Taxation.

Note:

Account number:.....

Date of taxation:.....

Provincial/municipal Tax Authority

Director

**Kingdom of Cambodia
Nation - Religion - King**

**Ministry of Economy and Finance
Tax Department**

Provincial/municipal tax authority

No. land tax

.....Date:

**NOTICE
FOR
DEMANDING TAX DEBT**

TO: Mr./Mrs.:

Address: # Street: Khum/sangkat: district/khan: province/municipal:

.....Phone:..... P . O. Box:

Based on an inspection to status of fiscal tax, we found that you have not paid:

the amount of:

as tax on unused land for year:

Under Article 107 of the Law on Taxation, you have thirty (30) days from the date of receiving this notice to appear and make such payment at our Cashier office. A failure to make payment within the specified period the amount due shall result in a 10% penalty on the specified tax amount and monthly interest of 2% on the specified tax amount as provided in Article 132 of the 1997 Law on Taxation.

Note:

Account number:.....

Date of taxation:.....

Provincial/municipal Tax Authority

Director

**Kingdom of Cambodia
Nation - Religion - King**

**Ministry of Economy and Finance
Tax Department**

Provincial/municipal tax authority

No. land tax

.....Date:

**REMINDER NOTICE
FOR
DEMANDING TAX DEBT**

TO: Mr./Mrs.:

Address: # Street: Khum/sangkat: district/khan: province/municipal:

.....Phone:..... P . O. Box:

After an inspection to status of your fiscal tax, we found that you have not paid:

the amount of:

as tax on unused land for year:

We have informed you through a Notice for Demanding Debt Tax No.:, dated: you were given thirty (30) days from the date of its receipt to appear and pay the amount specified above.

Once again, we will give you another fifteen (15) days from the date of receiving this Reminder for Demanding Debt Tax to appear and make such payment, including the 10% penalty on the specified tax amount and monthly interest of 2% on the specified tax amount:; total amount due:

Any failure to make payment within fifteen (15) days, a 25% penalty on the specified tax amount and monthly interest of 2% on the amount due shall be included until you appear and pay the tax and penalties. Failure to pay may ultimately result in the seizure of your property as provided in Article 111 of the Law on Taxation.

Note:

Account number:.....

Date of taxation:.....

Provincial/municipal Tax Authority

Director

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