

MONTHLY LEGAL UPDATE

I. OVERVIEW

Our Monthly Legal Update for this September would cover the followings:

- Prakas No. 211/24 on the Determination of Minimum Wages for Workers/Employees in Textile, Garment, Footwear, Travel Goods, and Bag Sectors for the Year 2025;
- Notification No.026/24 on Application for the Use of Foreign Workforce for the 2025;
- Instruction No. 33000 on the implementation of Tax Obligation for the Rental of Immovable Property;
- Instruction No. 32775 on the Procedures for Business Cessation;
- Instruction No. 042 on the Minimum Principles for Micro-insurance Contract; and
- Circular No. T7.024.005 on the Release of the Title Deeds of the Collateral to Loan Customers.

II. MINIMUM WAGES FOR TGF, TRAVEL GOODS AND BAG SECTORS

On 20 September 2024, the Ministry of Labor and Vocational Training issued a Prakas No. 211/24 on the Determination of Minimum Wages for Workers/Employees in Textile, Garment, Footwear, Travel Goods, and Bag Sectors (TGFGTB) for the Year 2025.

The monthly minimum wages of TGFTGB sectors are USD 206 for probationary workers and USD 208 for regular workers. The workers of productivity-based wage (piece-rate pay) will be paid based on the actual output. If this output exceeds the above minimum wages, the workers are entitled to the wage of that exceeding amount. If the actual output is lower than the above minimum wages, the workers are entitled to receive the minimum wage adjustment to meet USD 206 for probationary workers and USD 208 for regular workers.

All the previous benefits received by the workers are retained. This minimum wage is applicable from 01 January 2025.

III. THE USE OF FOREIGN WORKFORCES

On 11 September 2024, the Ministry of Labor and Vocational Training issued Notification No.026/24 on Application for the Use of Foreign Workforce for 2025.

In order to hire a foreign workforce, an enterprise is required to apply for the permit for the use of a foreign workforce in accordance with the Labor Law. Any failure or late to obtain this permit will be subject to penalties.

The duration to apply for the permit for 2025 commences from 1 September 2024 to 31 November 2024. It can be applied through the Foreign Workers Centralized Management System (FWCMS) via the website: www.fwcms.mlv.gov.kh. An enterprise established after the above deadline is required to immediately apply for this permit after the commencement of operation if such enterprise intends to hire any foreign workforce.

IV. TAX OBLIGATION FOR THE RENTAL OF IMMOVABLE PROPERTY

On 18 September 2024, the General Department of Taxation issued Instruction No. 33000 on the implementation of Tax Obligation for the Rental of Immovable Property. It provides instruction on the tax implementation for the period of construction, decoration, reparation, or renovation on land, warehouse, building, or office for business purposes where the rental fee is normally waived or reduced. The following shall apply:

- The tax on income, withholding tax on property rental, and value-added tax (VAT) are implemented as per the lease agreement, where the rental fee for a certain period is waived or set at a specific rate for the purpose of construction, decoration, reparation, or renovation (“Rent Exception Period”). This Rent Exception Period must not exceed 10% of the lease term.
- If the above agreement exists, the landlord is required to submit this agreement to the tax administration within 30 days after the execution date of the agreement.
- If there is any extension to the Rent Exception Period, the landlord is required to request the tax administration for review and approval.

V. BUSINESS CESSATION PROCEDURES

On 17 September 2024, the General Department of Taxation (GDT) issued an Instruction No. 32775 on the Procedures for Business Cessation. As per the Law on Taxation 2023, the taxpayers have the obligation to notify the tax administration within 15 days after the cessation of business. This instruction outlines the formalities and procedures for business cessation as follows:

Application Procedures

The instruction provides two options for taxpayers to submit their applications for business cessation:

- First Option: The taxpayers can apply for business cessation through an information technology platform via the website: registrationservices.gov.kh.

- Second Option: The taxpayers can submit the documents to the tax administration using the business cessation application form (form_103) signed by the authorized person along with other required documents detailed in this instruction. This application can either be submitted to the GDT e-Administration app or submitted directly to the GDT or its branches.

An enterprise is required to complete the tax registration or the enterprise's information update prior to the processing of the business cessation application.

Taxpayers' Obligations

This instruction outlines the following obligations:

- Before processing the application, the taxpayer is required to close their accounting books and completely file the monthly tax return and annual income tax return as of the date of business cessation.
- After the receipt of the business cessation application, the taxpayer is no longer required to file a monthly tax return and an annual income tax return. The operation of the management system or e-tax services other than tax payment service and tax arrears settlement for the enterprise will be ceased. The validity of all tax certificates will be suspended. The enterprise can no longer issue invoices for business operations, including import and export.

The tax administration may also conduct the on-site inspection of the enterprise business premises as well as the on-site liquidation tax audit as per the relevant regulation and guidelines. The taxpayer is required to comply accordingly.

VI. MINIMUM PRINCIPLES FOR MICRO-INSURANCE CONTRACT

On 5 September 2024, the Insurance Regulator of Cambodia (IRC) issued Instruction No. 042 on the Minimum Principles for Microinsurance Contracts. It is applicable to all microinsurance. However, any micro-insurance certificate and micro-insurance policy that obtained approval from the IRC are still enforceable unless the microinsurers request an amendment as per this instruction. This instruction outlines the followings:



Micro-insurance Contract

A microinsurance contract is a written agreement made by the microinsurer and the insured person whereby the microinsurer accepts the specific risk in return for the insurance premium paid by the insured person. The maximum sum insured under a microinsurance contract is 20 million Riels (approx. USD 5,000).

The contract must clearly stipulate the relationship between the rights and obligations of the parties. This contract must be in Khmer (prevailing language) and signed and/or affix the thumbprint by the parties. This microinsurance contract can also be formed through the phone-based system. In this case, the contract is validly formed and enforceable when the offer and acceptance are met. For this e-contract, the microinsurer is required to clearly disclose the offer and acceptance between the microinsurer and the insured person.

After the contract execution, the microinsurer is required to provide the microinsurance policy, microinsurance certificate, and other relevant documents in one file to the owner of the insurance policy or the insured person. The minimum details stated in the micro-insurance certificate and micro-insurance policy can be found in this instruction.

Disclosure Obligations

For the phone-based insurance sale, the micro-insurer is required to provide brief information in Khmer through SMS to the owner of the insurance policy or the insured person. Such information must be clear and include the name of the insurance product, the name of the owner of the insurance policy or the insured person, the coverage period, specific insurance benefits, the sum insured, the insurance premium, and the insurer's contact number. This SMS shall also include the link to download the full micro-insurance policy and micro-insurance certificate for future use as per the micro-insurance contract sample in the annex of this instruction.

Renewal of Micro-insurance Contract

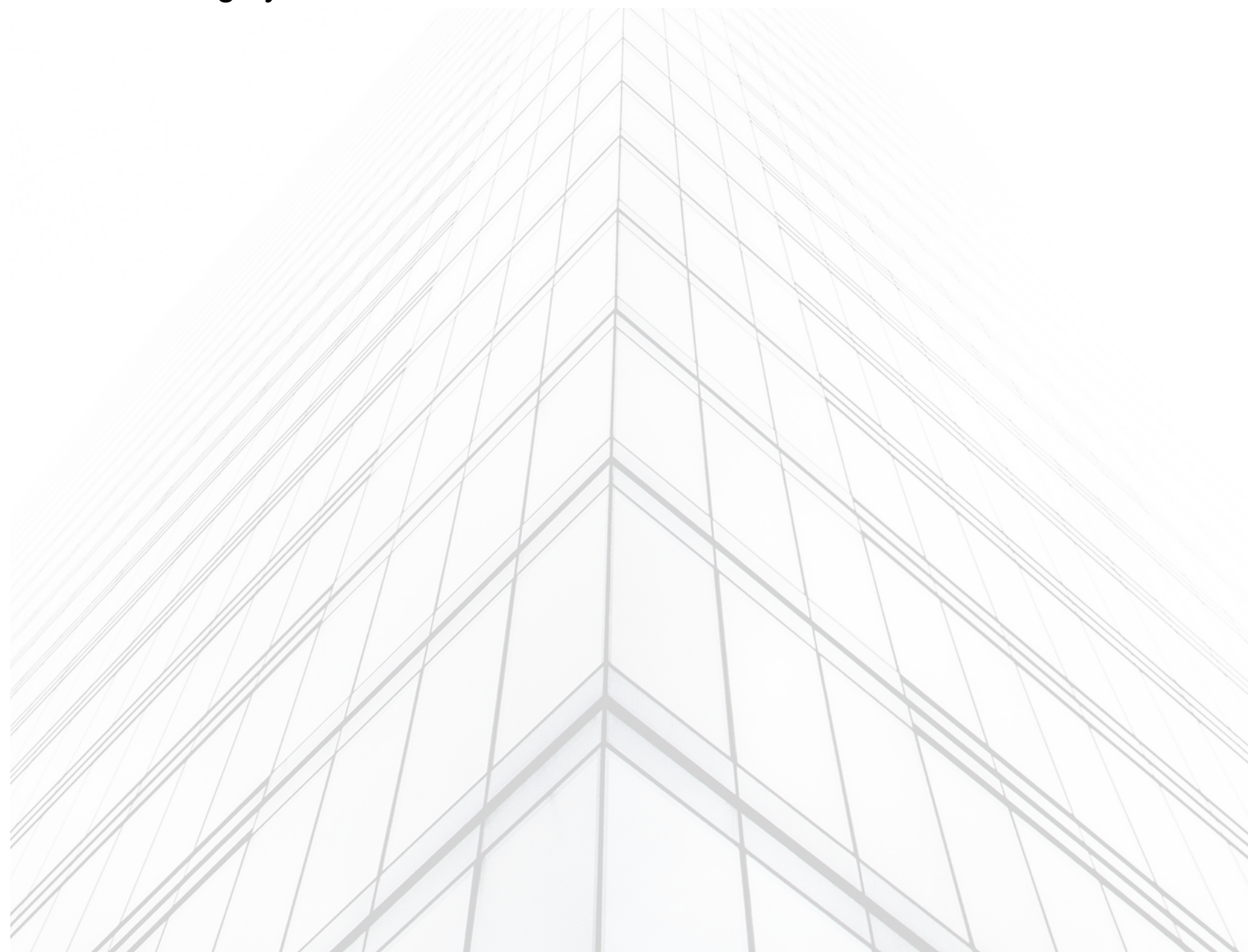
The microinsurance certificate is renewed in the case that the microinsurer does not reject the renewal request within 15 days from the receiving date. After the renewal, the microinsurer is required to provide the microinsurance policy and microinsurance certificate to the owner of the insurance policy or the insured person. For the micro-insurer using the format of certificate and policy prior to this instruction, they are required to provide the micro-insurance certificate to the owner of the insurance policy. For the renewal of phone-based microinsurance, the microinsurer is required to comply with the above disclosure obligations.

Insurance Premium and Insurance Indemnity

The payment of insurance premium could be made through the following methods: (i) deduction of balance from mobile phone of the owner of insurance policy or insured person; (ii) electronic payment instrument; (iii) cash payment. The micro-insurer could settle the insurance indemnity through the following methods: (i) cash payment; (ii) electronic payment instrument. The settlement through balance in the mobile phone is not allowed. There can be a special agreement between the parties, but the amount must not exceed USD 5.

VII.THE PERIOD OF COLLATERAL RELEASE

On 23 September 2024, the National Bank of Cambodia (NBC) issued Circular No. T7.024.005 on the Release of the Title Deeds of the Collateral to Loan Customers. The NBC instructs all banking and financial institutions to release the certificate of ownership over immovable property or the title deed of the collateral and letter of debt settlement to the customer within 7 (seven) working days after the debt settlement. This instruction is made with respect to the relevant banking law and regulations and to maintain consumer trust in the whole banking system.



*This **Monthly Legal Update** is a general information only and is not considered as legal advice or opinion. If you require any further information or have any questions, please contact **Mr. HOUN Vannak**, managing partner of **RHTLaw Cambodia**.*

OUR MANAGING PARTNER



Mr. HOUN Vannak
Managing Partner

Mobile: +(855) 12 737 123
Office: +(855) 23 886 616
Email: vannak.houn@rhtlawcambodia.com

AUTHORS



Mr. SAT Sokvisal
Senior Associate

Mobile: +(855) 60 333 161
Office: +(855) 23 886 616
Email: sat.sokvisal@rhtlawcambodia.com



Ms. PICH Cheymorokot
Associate

Mobile: +(855) 81 885 388
Office: +(855) 23 886 616
Email: morokot.pich@rhtlawcambodia.com