Capital Gains Tax Implementation - Double Taxation Agreements: New Instruction Issued

As Cambodia's capital gains tax (CGT) regime continues to evolve, the General Department of Taxation (GDT) issued Instruction 23862 dated 4 August 2025 on the Implementation of Capital Gains Tax under the Framework of Double Taxation Agreements (DTAs). This follows the enactment of Prakas No. 496 MEF.P, dated 18 July 2025 – click here for more information, and builds upon existing DTA implementation guidance from Instruction No. 4084 GDT (2018).

Instruction 23862 clarifies how Cambodia will apply CGT rules where a DTA is in force, and how taxpayers may access relief or exemption from CGT under such agreements.

🔍 Key Takeaways from Instruction 23862

1. *Capital Gains Tax Allocation Under DTAs*

Instruction 23862 reinforces the principle that provisions of enacted DTA's override domestic law as provided in Article 191 of the Law on Taxation. This means where a DTA limits Cambodia's right to tax capital gains, the DTA will prevail. Each DTA outlines specific rules on which country has taxing rights dependent on, tax residency, the asset type and the location of the gain.

2. *Scope of CGT Under DTAs*

The instruction outlines five primary categories of taxable assets, with specific DTA-based taxing rights for each:

Immovable Property: Gains from Cambodian real estate are taxable in Cambodia, regardless of the seller's residency.

Movable Business Property: If related to a permanent establishment or base in Cambodia, gains are taxable in Cambodia.

Transport Assets in International Traffic: Gains from sale or transfer of ships, aircraft, rail or land transport used in international operations are only taxable in the seller's country of residence.

Shares or Similar Interests: Taxation depends on the scope in the CGT Article of the DTA but typically looks at the proportion of Cambodian immovable property within the enterprise's asset base. If the property component is below the DTA threshold, Cambodia may not have taxing rights.

Other Property: Typically, taxable in the country of residence unless specified otherwise.

3. Accessing DTA Relief or Exemption

Residents of Cambodia's DTA partner countries can apply for capital gains tax relief or exemption through the GDT's online platform. This process follows the existing DTA implementation procedures and **requires prior approval.**

4. Implications for Investors and Cross-Border Transactions

This development is highly relevant to foreign investors, multinational companies, and regional holding structures, particularly those engaged in cross-border real estate and share transactions involving Cambodian assets. Correct application of the relevant DTA provisions can substantially reduce or eliminate CGT exposure in Cambodia.

5. Reinforcement of Cambodia's Treaty Network

The issuance of this Instruction reflects Cambodia's increasing integration into international tax norms. With the recent expansion of its DTA network, the GDT is now actively aligning capital gains taxation with treaty obligations, improving legal certainty and reducing the risk of double taxation.

DFDL Commentary

This latest Instruction provides much-needed guidance for taxpayers navigating capital gains transactions in a cross-border context. It also opens opportunities for CGT exemptions, but only where procedural compliance is followed and the relevant DTA conditions are met.

We recommend that affected clients:

- Review whether their transactions may be covered under a DTA with Cambodia.
- Assess the CGT implications based on the type and location of assets involved.
- Ensure timely and compliant filing of DTA relief applications via the GDT platform.

Need Help?

DFDL's Cambodia Tax Practice is assisting clients with:

- Determining DTA applicability for recent or planned disposals
- Preparing and submitting CGT exemption applications
- Structuring investments for optimal treaty relief

Tax services required to be undertaken by a licensed tax agent in Cambodia are provided by Mekong Tax Services Co., Ltd, a member of DFDL and licensed as a Cambodian tax agent under license number – TA201701018

Contact

Clint O'Connell
Partner, Managing Director,
Head of Cambodia Tax and
Accounting Practice