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Strong economic growth, low startup costs, and a wealth of untapped markets make Cambodia an attractive environment for starting up a business. Many foreigners arriving with no intention of becoming an entrepreneur, find themselves opening their first business in this exciting marketplace.

Whether you are an experienced entrepreneur coming here to start another venture, or are transitioning to self-employment for the first time, properly establish your company in full compliance with the law is crucial. While many businesses operate informally, many more have been shut down or encounter ongoing problems from the authorities. Spending the time and money to do everything properly is the only way to avoid potentially insurmountable hassles in the future.

Choice of Legal Entity

Private Limited Company

When establishing a company, the first choice is what legal entity to use. For most ventures, a private limited company (PLC) is the obvious choice. A PLC is a legal entity distinct from its shareholders and directors. It therefore limits the liability of shareholders and directors - they will not be personally liable for the company's debts.

A PLC can have from two to 30 shareholders. If there will be only one shareholder, it is called



a single member limited company, with all the advantages of a PLC. The law also allows for public limited companies, though these will only be established once the Cambodian Securities Exchange is opened, sometime this year.

Sole Proprietorship

A sole proprietorship is owned and operated by a single person, who owns all its capital and is entitled to all its profits. Conducting business on your own, without ever formally registering, will be deemed a sole proprietorship. All obligations and liabilities of the proprietorship are the sole personal responsibility of the proprietor, a significant burden and danger.

General & Limited Partnerships

A general partnership is an agreement between two or more persons to combine their property, knowledge or activities to carry on business. This agreement does not need to be formalized, it can arise simply by the partners conducting business together. Like a sole proprietor, general partners are each personally liable for all of the partnership's debts and obligations.

A limited partnership is a contract between one or more general partners who run the business, and at least one limited partner, who contributes capital. A limited partner is liable only to the extent of their capital contribution, while the general partners are personally liable for all debts and obligations.

Limited partnerships must be registered with the Ministry of Commerce, or else it will be deemed a general partnership.

Foreign Subsidiary, Branch & Representative Offices

Foreign companies have several options for entering the Cambodian market. All three must be

NEW BUSINESS TO-DO LIST:

- Open a bank account and deposit the required amount
- Check the uniqueness of the company name, and register any trademarks
- Incorporate with the Ministry of Commerce
- Obtain a Tax Identification Number and pay the Patent Tax
- Make the declaration to the Ministry of Labor
- Obtain all licenses necessary for the business activities

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registered with the Ministry of Commerce.

The first choice is to create a subsidiary of the foreign parent. This is a locally incorporated limited company with at least 51% of the shares held by the foreign company. Its formation, management, rights and obligations must be provided for in the memorandum and articles of association of the limited company.

Second, a branch office can be opened by a foreign company for conducting a particular commercial activity. The branch office is the same entity as the parent company, and therefore the parent is liable for all the branch's debts and obligations. It can engage in general business activities, such as buying and selling products.

Finally, a representative office can be setup, but is only allowed to facilitate the sourcing of local goods and services and to collect information for its parent company. Crucially, it is not allowed to make sales or buy products in Cambodia.

Bank Account & Deposit

The Ministry of Commerce requires proof of at least 4 million Riel (approx. US\$1,000) deposited in a local authorized bank. Be sure to obtain a bank statement certifying the deposit.

Registering a Private Limited Company

Private limited companies are registered with the Ministry of Commerce. In response to the initial application, the MOC will prepare and provide the applicant with the official application form. The applicant must also submit a Memorandum and Articles of Association, documents which sets out the corporate structure. One can use the MOC's standard MAA, or make modifications - though the MOC has the right to review and reject any substantial changes.

The application form and MAA must be signed by all shareholders and directors before the MOC, a Cambodian lawyer, or a Notary Public. It takes around 30 working days to process a new company registration at the MOC, counting from when the completed application documents are submitted. The MOC will issue the applicant with a Commercial Registration Certificate, a Certified MAA, and an MOC Business License.

Company Name & Trademark

New businesses should take care in selecting and properly registering the names of the company and of its goods and services. When incorporating the company, the Ministry of Commerce will reject

any application for a company name that is already registered. To avoid this delay, it is best to request the MOC check the uniqueness of the name at before submitting the registration documents.

Trademarks are registered separately at the Department of Intellectual Property, and give their owner the right to prevent others from using confusingly similar marks.

Choosing a name similar to a registered trademark can be a costly mistake. After investing in signs, advertising, and product packaging, a new business can be forced to change its name and start from scratch. Such problems are easily avoided by a requesting a clearance search from the Department of Intellectual Property.

Tax Considerations

The Ministry of Economy and Finance (MEF), Department of Taxation, requires that all companies registered to do business in Cambodia register with the tax department to obtain a taxpayer identification number within fourteen days of opening a business.

Companies are generally subject to an annual business registration tax (the Patent Tax), a Profit Tax (20%, or a Minimum Tax of 1% or turnover) and VAT charges (10%), as well as the Salary Tax for employees (0%-20%), and a Rental Withholding Tax (10%). While there is a 20% dividend withholding tax (basically a salary or profit tax on the recipient), this is not double taxed.

Labor Obligations

Upon opening a business, employers must make a declaration to the Ministry of Labor. This declaration, called the Declaration of the Opening of a Business, must be made in writing and be delivered to the Ministry of Labor before the actual opening of the business. Employers must also make a declaration to the Labor Inspector each time that the business hires or dismisses a worker. This declaration must be made in writing within seven calendar days after the date of hiring or dismissal.

Licensing

Finally, a new business should take care to obtain all necessary licenses from the relevant ministries. There are dozens of licenses specific to particular business activities,, ranging from restaurants to solid waste management. It is the business owner's responsibility to obtain the proper licenses, failure to do so can result in fines and even the closure of the business.