

The Guide to Corporate Establishment in Cambodia

Cambodia has been one of Asia's fastest growing developing countries since the late 1980s when it dropped its planned economy plan for the free market. Its annual growth averaged 7.5 percent over the last decade, driven by robust garment exports, services, real estate, and construction. It is largely expected that the country's prospects will remain robust in the coming years, although Cambodia is increasingly exposed to greater competition from other countries in the region, in particular Myanmar and Vietnam.

Investors who want to get involved in ASEAN can establish a business as long as they follow all required steps in formulating their business. In the case that uncertainty over requirements arises, it is important investors resolve any questions with the appropriate authorities or engage the service of business advisory specialists in order to ensure that compliance is maintained.

This article outlines the steps required to set up a Representative Office (RO) or a Wholly Foreign-Owned Enterprise (WFOE). The best type of investment depends solely on what kind of operations which is planned in the country.

Options for Investment

Using RO's is a suitable option for investors that hope to familiarize themselves with the Cambodian market. It is a lot easier and quicker to set up a RO than a public/private limited company, but the functions will be limited. Like all corporate establishments, Cambodian authorities must approve the registration of the office, which affects how quickly an RO can be established. ROs are prohibited from undertaking any profit-making activities, including the buying or selling of goods performance, service, or engagement in manufacturing, processing or construction.

Another option may want, if they prefer more flexibility is a Wholly Foreign-Owned Enterprise (WFOE) where foreign parties can incorporate a foreign-owned limited liability. WFOEs are limited liability corporations organized by foreign nations and capitalized with foreign funds. This gives greater control over the business venture in mainland Cambodia, and avoids a multitude of problematic issues which can potentially result from dealing with a domestic joint venture partner. The involvement of a Cambodian investor is not required, unlike other investment vehicles.

Option 1: RO

Step 1 – Apply for Conditional Registration Certificate

The business must submit the following information to be granted a Conditional Registration Certificate:

- A list of all required approvals, authorization, licenses, permits and registrations for the QIP approval
- The ministries, departments, or agencies responsible for issuing the permits
- The applicant choice of tax exemption
- Recognition of the status of the legal entity which will have the responsibility of the QIP
- Investment guidelines and assessment criteria for each of the approvals, authorizations, licenses, permits and registrations.

Time: 3 days maximum

Step 2 – Apply for the Final Registration Certificate

The CDC is required to obtain all the approvals, authorizations, licenses, permits and registrations on behalf of the applicant, as listed in Step 1, within 28 business days of issuance of the Conditional Registration Certificate

Time: 28 days

Option 2: Wholly Foreign-Owned Enterprise

Step 1 – Deposit the legally required startup capital in a bank, and obtain deposit evidence

Startup capital of KHR 4 million is required before registration and should be deposited to any authorized bank in Cambodia. The bank must provide a bank statement certifying the deposit. No time limit is imposed on the company to pay the entire amount

Time: 1 day

Step 2 – Conduct initial check to confirm the company name is not already in use

Under Prakas no. 063 MOC/SM2013 on the General Procedure of Providing Services related to the Commercial Registration dated February 27, 2013 a company search application must be submitted to the Business Registration Department of the Ministry of Commerce through the side window. The uniqueness of the company name will be checked and confirmed as part of this process. As part of the application process, the following documents need to be submitted:

- Application for review of name (1 copy)
- Application for registering the name of the enterprise in the commercial registry (3 copies)
- Copy of identification cards or passports of the owners (3 copies)
- Passport sized photo of the sole owner (3 copies)
- Receipt of payment fee (1 copy)

Time: 2-7 days

Step 3 – Incorporate the company with the Business Registration Department, within the Ministry of Commerce.

The articles of association and memorandum of the company need to be prepared based on the company form and must be consistent with applicable law, regulations, and standards set out by the Cambodian Ministry of Commerce. Original copies of these documents must be submitted.

Time: Average 3 weeks

Step 4 – Company Seal

The Ministry of Commerce will issue a seal to the company alongside the registration certificate.

Time: 1 day

Step 5 – Have registration documents stamped and approved; register for Tax Identification number (TIN), Patent Tax and VAT

To register for a Tax Identification Number (TIN) and subsequent enrollment in patent tax and VAT, a company must have its registration documents stamped and approved at the General Tax Department. Once the certification process has been completed, these documents will be used in the registration process. Key documents that must be prepared include:

- Memorandum and Articles of Association
- Ministry of Commerce Letter of Approval
- Certificate of Incorporation

Time: 30 days

Step 6 – Notify the Ministry of Labor of the start of operations & hiring of employees

Businesses are required to submit a written declaration to the Ministry of Labor before they may commence operations. All employers are required to submit a written declaration to the Ministry of Labor when an employee is hired or dismissed, within 15 days of the date of hiring or termination at the latest.

Businesses with at least 8 employees must have established internal regulations that conform with the general provisions outlined in the labor code including: conditions on hiring, payment of wages, application of benefits, work hours, health and safety requirements, and personal leave – including holidays.

Documents outlining internal regulations must be filed within 3 months of the business commencing operations. Businesses are required to maintain a payroll ledger, declaration of personnel, and a book of establishment and labor regulations, all of which must be in Khmer. Local employees are provided with a "labor book" upon completion of a physical health examination with the Labor Health Center, at a cost of KHR 10,000 for each employee, usually covered by the employer.

The total cost of procedure covers:

- Announcement of the opening of a new company and its registration with the Ministry of Labor
- Declaration of staff
- Development of internal regulations
- Obtaining the payroll ledger and book record of establishment
- Electing staff delegates
- Filing employment contracts
- Obtaining employee handbooks and work permits for foreign employees
- Registration with the National Social Security Fund
- Payment of contributions to staff for the NSSF and obtaining occupational risk insurance cards

Time: 30 days

Step 7 – Receive inspection from the Labor Inspector

The Labor Inspector from the Ministry of Labor will inspect all new businesses.

Time: Occurs at the same time of previous step

Cost: Covered in cost of the previous step.

Further Support from Dezan Shira & Associates

Corporate establishment can prove a complex and challenging procedure, particularly in a country with emerging regulatory standards, such as Cambodia. With decades of experience helping companies set up businesses in the region, specialists at Dezan Shira & Associates are well placed to help overcome these challenges. For more information, please get in touch with our advisors at asean@dezshira.com.

Since its establishment in 1992, Dezan Shira & Associates has been guiding foreign clients through Asia's complex regulatory environment and assisting them with all aspects of legal, accounting, tax, internal control, HR, payroll and audit matters. As a full-service consultancy with operational offices across China, Hong Kong, India and emerging ASEAN, we are your reliable partner for business expansion in this region and beyond.

For inquiries, please email us at info@dezshira.com. Further information about our firm can be found at: www.dezshira.com