Oil and Gas (upstream) and Minerals Taxation in Cambodia

The Asia Tax Forum

20-22 October, 2010, Sokha Angkor Hotel,

Siem Reap, Cambodia

Presented by Mr. Eng Ratana
Deputy director
Department of Large Taxpayers
General Department of Taxation

OUTLINE

I. Brief of Cambodian Oil & Gas and Minerals Taxation

1. Oil and Gas Upstream Taxation
2. Mineral Taxation

II. Conclusion

I. Brief of Cambodian Oil & Gas and Mineral Taxation

1. Oil and Gas (upstream) Taxation

- Cambodia's oil and gas industry is in the early stages; Only one block, Block A given to Chevron is in the early stages of development;
- Petroleum Regulation introduced in 1991 (out of date);
- Up to now, no Petroleum Law implemented in Cambodia (the Law on Petroleum has been drafted by Cambodia National Petroleum Authority and reviewing by Council of Minister;
- Existing LOT, there is no specific rule on natural sector and the coverage of the law is very limited (tax rate 30% for all kinds of natural resources), and depreciation method (UOP);
- Interest expense attributable to exploration and development costs.

I. Brief of Cambodian Oil & Gas and Mineral Taxation

1. Oil and Gas (upstream) Taxation (con't)

- Petroleum Tax Law is in the drafting processes;
- The coverage of the draft is specifically covered on petroleum sector;
- Ring fencing by block;
- Head Office expenditures is allowable for deduction 2%;
- Taxable losses carried forward up to 10 years;
- Interest Deduction = interest income and 50% of net non-interest income;
- Provision on Decommissioning Costs are deductible; Depreciation is alternative SL or UOP;
- Transfer of interest in PA;
- Join Venture

I. Brief of Cambodian Oil & Gas and Mineral Taxation

2. Mineral Taxation

- Cambodia's mineral resources are also in the early stages.
- The Law on Mineral Resource Management & Exploitation proposed by MIME and adopted by National Assembly in 2001;
- Fiscal regime is divided into non-tax and tax charges. The non-tax charges based on law & regulations issued by MIME or inter-ministries MEF-MIME;
- MIME has issued mineral licenses to more than 60 investors;

I. Brief of Cambodian Oil & Gas and Mineral Taxation

2. Mineral Taxation (con't)

- All mineral license holders have to pay the state fees for registration, mineral license, renewal of mineral license, right transfer, annual land rental, and royalties and taxes if the minerals exploited;
- Existing LOT has no specific rule on mineral sector;
- GDT has been studying and planning to make a draft law on minerals resources in the near future;
- The new draft law on mineral is part of LOT.

Comparison Table

Contents	Existing LOT	Draft Petroleum Tax Law	PA
1. Income Tax Rate	30%	30%	25%
2. Income Tax Based	Taxable profit.	Taxable profit.	Profit oil
3. Depreciation	Unit of Production	Alternative UOP or Straight line	No mentioned
4. Loss carry forward	5 years	10 years	unlimited
5. Ring Fencing	Not mention	Ring fencing by block	No mentioned
6. HO expenditures	Not mention	2% of PE deductible expenses	No limitation
7. Interest expenses	Included in exploration/Develop	LOT general rule	No mentioned
8. Decommission cost	Not mention	Allowable deduction	No mentioned
9. Transfer of interest	Not mention	Depreciation same as transferor	No mentioned
10. Withholding tax on non-residents	14% on interest, royalties, rent, management or technical services, dividends (existing LOT)	14% on interest, royalties, rent, management or technical services, dividends (LOT)	Exemption
11. VAT local or export	10% or 0% (existing LOT)	10% or 0% (existing LOT)	Exemption
12. Salary Tax	20% for non residents and progressive rate 0% – 20% for resident (Existing LOT)	20% for non residents and progressive rate 0% – 20% for resident (Existing LOT)	Exemption

II. Conclusion

- The legal framework is one of the most important factors, constitutes the overall investment regime which investors take into account;
- Globally, there is keen competition among countries to attract FDI capital for exploration and mining; they may select favorable countries to be invested;
- All laws and regulations should be consistency, and fiscal regime should be given investor a reasonable share of profit; and also to make sure our nation receive blessing from the unrecoverable resources;

II. Conclusion

- The reasonable share of profit need to take into account the fiscal regime as a whole including royalty, gov’t share profit oil, state participant and profit tax;
- In the process of drafting legislation many parties intervene. Draft laws make transit through several other government agencies before some sort a consensus is reached. So the cooperation of relevant government agencies is very crucial for developing regulatory framework for Cambodia;

II. Conclusion (con’t)

- Human Resource Development is the key to achieve the development of efficient regulatory legal framework; and strengthening institutional capacity.
- To design efficient fiscal policy, some key factors need to considered including, in particular, the geological attractiveness, considerations about the cost of extraction, processing and shipping as well as issues of institutional and political risk;

II. Conclusion (con't)

- Strengthening of the institutional and regulatory implementation of legislation need to be improved and in line with those policies;
- Any change (reform) should maintain the certainty of investor's interest and government take known as economic rent;
- Environmental responsibility and sustainable development need to be considered and very careful;
- The study need to be continued to make sure what is appropriate policy selected for Cambodia

Thank You