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Cambodian Tax Audit and its Implications to Private Enterprises

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ABSTRACT

Cambodia tax system is a self-assessment tax system which required enterprises that meet the requirement for tax registration including but not limited to their legalities and turnover's thresholds to register with the Cambodian tax authority as a small taxpayer, medium taxpayer, or a large taxpayer. These enterprises will self-assess the amounts of taxes to be paid and submit their tax returns with payment of taxes to the tax authority on monthly and annually basis. However, the Cambodia tax regulations provide powers to tax authority to conduct the tax audit and reassess the tax amounts of the enterprises. This research paper aims to provide analysis on how importance the tax audits which conducted by relevant tax authorities are and also discusses the implications of this tax audit for the private enterprises in Cambodia. Based on the data analysis, the research shows that the comprehensive tax audit is more useful for private enterprise compared to the desk tax audit or limited tax audit. This paper provides a suggestion that a combined tax audits would be best for both the tax authority and private enterprise to deal with issues encountered during the tax audit process and can help minimize the tax cost including penalty and interest of private enterprises.

Keywords: tax audit, desk tax audit, limited tax audit, comprehensive tax audit

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CAMBODIAN TAX AUDIT AND ITS IMPLICATIONS TO PRIVATE ENTERPRISES

Taxation is the main source of revenue for most governments to run their public expenditures. Each government may have different tax laws and regulations and may also have different approaches in the implementation of these laws and regulations to ensure its efficiency in collecting taxes from private enterprises.

Cambodia, as a free market economy, allows private enterprises or individuals to freely run their business activities on their own business strategies to earn incomes. However, as part of their obligations in paying taxes to the government, the individuals or enterprises doing business activities in Cambodia are required to register their business enterprises with the relevant Cambodian tax authorities.

These individuals or enterprises may register their business with the tax authorities as small, medium or larger taxpayers based on their turnovers or their forms of legal entity. After registration, the taxpayers need to do the assessment of their own taxes to be paid to the tax authorities by themselves. The tax authorities will later have power to review or audit the base of the tax and reassess the tax amounts to be paid if they found that the taxpayers did declare the tax base correctly.

The procedure for review or reassess of tax base is defined under the Cambodian tax law, providing power to the tax authorities to conduct a desk review on documentation and/or onsite audit to the enterprises' businesses premises.

These tax audits, in principal, help to ensure the tax compliances of the business enterprises as well as to increase the tax revenue for government. However, since the Cambodia tax law and regulations provide wide power to tax authorities to assess and audit the tax base of business enterprises with various type of tax audits, there is a question whether these tax audits are really effectively conducted and what are the implications for private enterprises resulting from these types of tax audit?

REGULATORY REVIEW

Cambodia Tax System is a Self-Assessment System of Taxation which means that taxpayers/entities have to assess the tax amounts by themselves and pay as taxes to the tax administration. As per the Financial Law 2016, taxpayers are classified as a Small Taxpayer, a Medium Taxpayer or a Large Taxpayer depends on their level of turnovers and/or their legal entity. The small taxpayers are the sole proprietorship or partnership which have the turnover from 250 million Riel (approximately USD62,500) to 700 million Riel (approximately USD175,000) or those who participate in bidding, quotation or survey for the supply of the goods and services inclusive of duties. The Medium Taxpayer are those whose turnover from 700 million Riel (approximately USD175,000) to 2,000 million Riel (approximately USD500,000); or business enterprise that has been legally registered as legal entity. The Sub-national government institutions, associations, non-governmental organizations are also required to register as the Medium Taxpayer. For business with turnover over 2,000 million Riel (approximately USD500,000) will be classified as Large Taxpayer. The large Taxpayer also include Branch of foreign companies, enterprises registered as Qualified Investment Project, as well as the Government institutions, foreign diplomatic missions and consular, international organizations and agencies of technical cooperation of other governments.

After registration with the tax authority, these taxpayers are required to file monthly and annual tax returns to the tax authorities with payments of taxes on their own assessment based on the business transactions (1997 Law on Taxation). However, in the case where a taxpayer fails to do so, or does not maintain proper records of account and other documents as required by the tax law, or does not provide the necessary information to the tax administration to properly determine tax, the taxpayer’s assessment of tax shall be the unilateral tax assessment made by the tax administration (article 116 of the Law on Taxation). The tax administration can re-assess the tax of the taxpayers within 3 years after the date the tax return was submitted; or within 10 years if there is evidence of the obstruction of the implementation of tax provisions. Nevertheless, a taxpayer can request in writing to the tax authority to conduct the tax reassessment any time after the submission of the tax returns to the tax administration (article 117 of the Law on taxation).

The tax administration is responsible for the control of the accuracy and sincerity of the taxpayer's tax return. This control has two aspects including desk audit where a control of the accuracy and sincerity of the declared data by just checking and cross-checking various information that the tax administration has received from the taxpayer's tax return or clarification (as required by the tax administration), or from information received through the use of the right to receive information as stated in article 92 and 100 of LOT (especially the right of inquiry and cross-checking of information from outside sources). The other way of control is on site audit where its purpose is to gather information about the real situation of the business activity (mark-ups for each product or activity, checking of purchase value, staff number, various fixed assets, ...) for use in the cross-checking with the data shown in accounting books, with the living conditions of the managers of the audited enterprises.

Article 100 of Law on Taxation states that, the tax authority with a letter of mission has the right to enter the business establishment, the place that is considered to be the business establishment, the place that is open to the public, or other places, to assess tax to be paid by a person or to collect taxes. The tax authority can use this right during the business hours or at any time according to the condition and reason stated in the warrant issued by a judge. In actual implementation and for a normal case, so as to facilitate the taxpayer's preparatory work (gather books and documents, find an advisor) the tax administration has adopted a policy of notifying the relevant enterprise of an onsite audit at least 10 days in advance.

The business enterprise must cooperate and give facilities to the audit work as otherwise it will be considered as an obstruction to the implementation of tax provisions in the case where a person attempts to obstruct the assessment or the collection of taxes. Even though the tax audit is made at the headquarters of the enterprise but the tax administration may select another place for conducting audit like the actual management office of the enterprise.

In 2008, the Cambodian Tax Department has been upgraded to the General Department of Taxation by Sub-Decree No.134 ANK issued by the Royal Government of Cambodia. The General Department of Taxation is responsible for preparation of tax policy and collection of all types of taxes for the state budget. The General Department of Taxation comprises of various departments including but not limited to the Department of Large Taxpayer and Department of Enterprise Audit. One amongst other duties of Department of Large Taxpayer is to implement the tax audit program on documentation and on certain type of taxes of taxpayers for a period of tax year in order to help taxpayers to comply with the tax provisions (Sub-Decree No.134 ANK).

The Department of Enterprise Audit has various functions including the performance of comprehensive tax audit on all types of taxes of the business enterprises throughout the countries who are registered under the self-assessment tax system (Prakas No932 MEF).

LIMITATION OF THE RESEARCH

This paper will review the regulatory framework for each type of audit and provide discussion on the implications of tax audits to private enterprises based on the primary data responses from the private enterprise. However, since the research was conducted in a small scale (i.e., on 49 enterprises in Phnom Penh), this paper also suggests for future research on the same in a larger scale to present the result for the whole country.

DISCUSSION

Based on the tax law and regulations, the tax audit will be conducted by the Department of Large Taxpayers on certain type of taxes in a taxation year, where a compressive tax audit on all type of taxes for the periods of one tax year or more will be conducted by the Department of Enterprise Audit.

The purpose of tax audit is to help business enterprises to comply with the Cambodian tax regulations. Therefore, this paper aims to find out whether business enterprises have aware of the tax audit to their enterprise and what would be the implication for their business entities.

Based on the survey of forty nine (49) registered business enterprises, only 78% of business enterprises aware that the tax returns they submitted to the tax administration on monthly and annual basis will be later subject to tax audit by the tax authority. Among those who aware of tax audit, twelve (12) enterprises response that their enterprises were subject to more than one tax audits at the same time. This means that the tax audit is not fully aware by all registered taxpayer, which require more action from the tax authority to raise the awareness of tax audit as well as the scope of work for each type of tax audit. Therefore, this paper suggests that information and scope of each type of tax audit should be precisely presented to business enterprise to increase the percentage of aware so that the enterprises can be ready for the tax audit when a letter for tax audit is sent to their business premises.

With respect to tax audit which are conducted more than one at the same time, we got responses and comments from the private enterprises that there should not be more than one tax audit at the same time since each enterprise may have limited resource in its finance an accounting department to provide well cooperation with the tax auditors during their audits. In addition, doing more than one type of tax audit will lead to a long process to complete each audit. The survey also indicated that the audit may take long due to the insistency in the tax viewpoint between taxpayers and the tax auditors from different tax audit departments.

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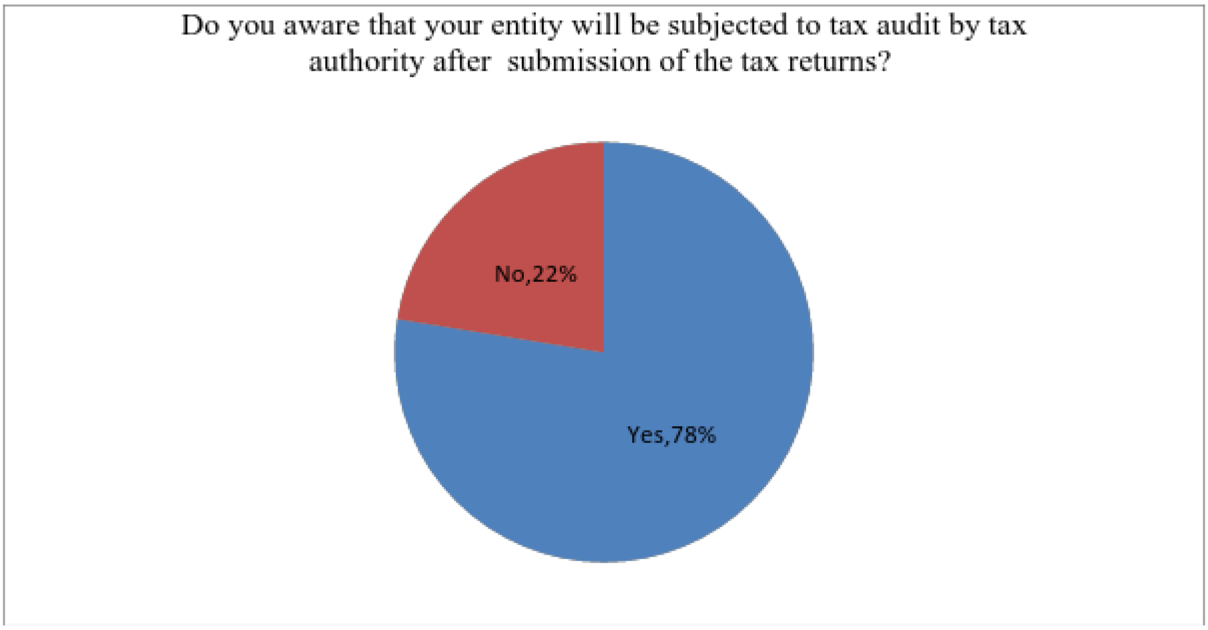
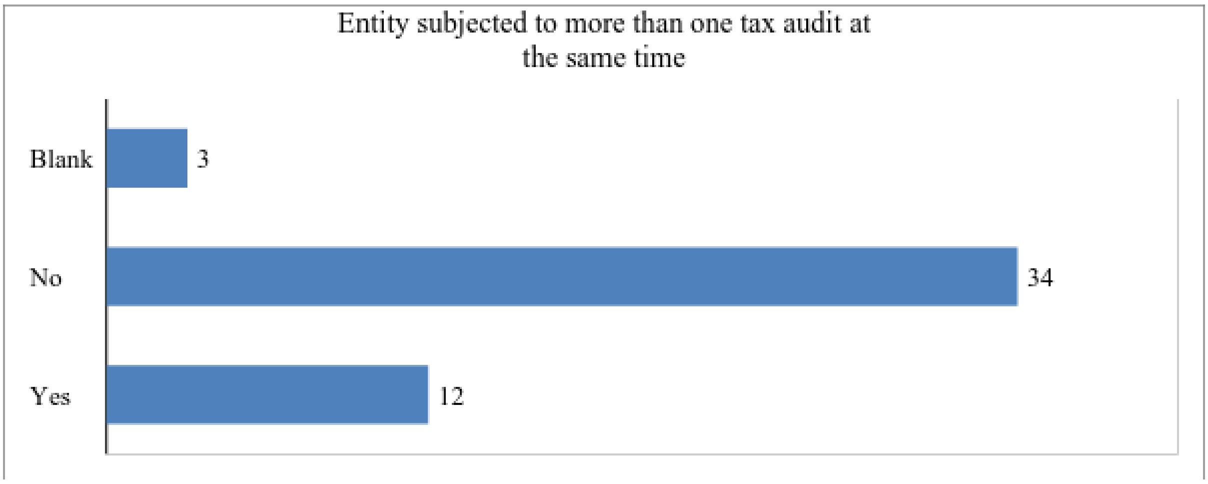
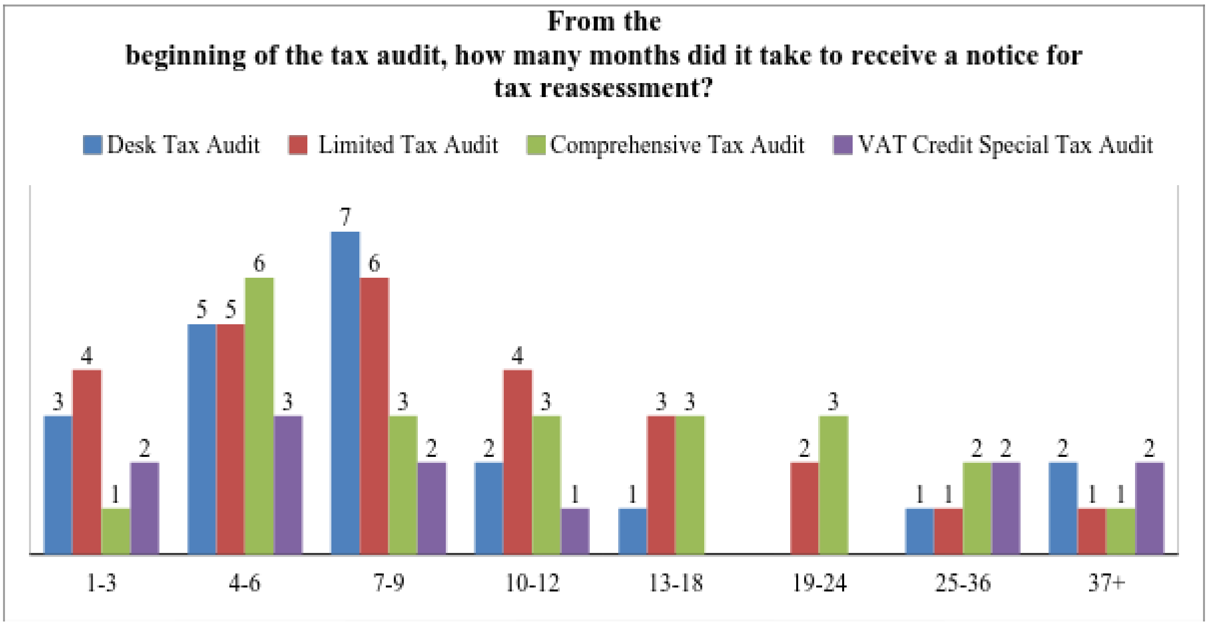
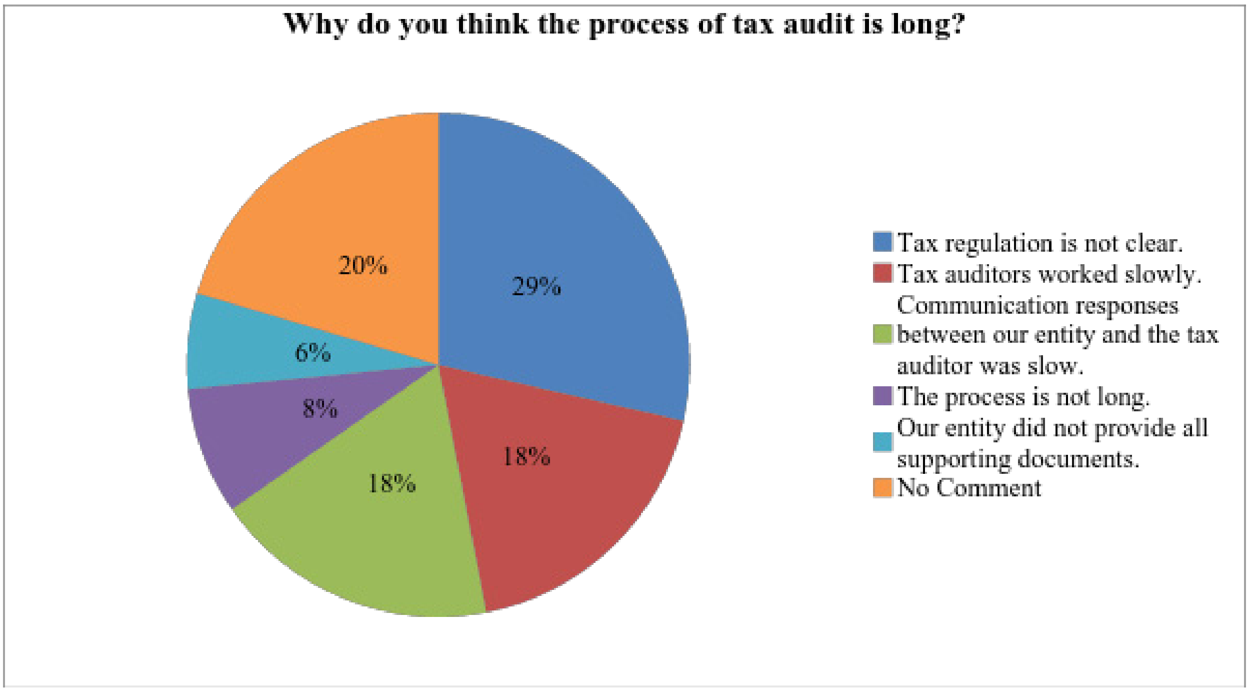




With regard to how long is for each type of tax audit, the enterprises have response that the time length of audit, from the time the tax audit started to the time the enterprises received a notice for tax reassessment depending on the type of tax audit. The survey shows the fastest process for limited tax audit is between one to three months and for comprehensive tax audit is for four to six months. The longest time for completion of limited audit and comprehensive audit is more than thirty seven (37) months. However, in average, the survey shows that the average time to complete Comprehensive tax audit is around 6 months to 20 months, where the average time length for the limited tax audit is around 4 months to 10 months.



The pie chart below shows some reasons with cause the tax audit to be in long time. Among all the other reasons, the survey indicates that tax regulation is not clear causes the delay in finalizing the tax audit. This means that improvement of tax regulations and clarification of tax law to reflect the business transactions of business enterprises is required. In addition, communication on documentation of taxpayers and the responses from the tax auditor is also slow which cause the time length of tax audits. Therefore, this paper suggests that both taxpayers and tax auditors should be well cooperate with each other to find a way to work faster.



Regardless of the long process, which lead to certain implications including time consuming

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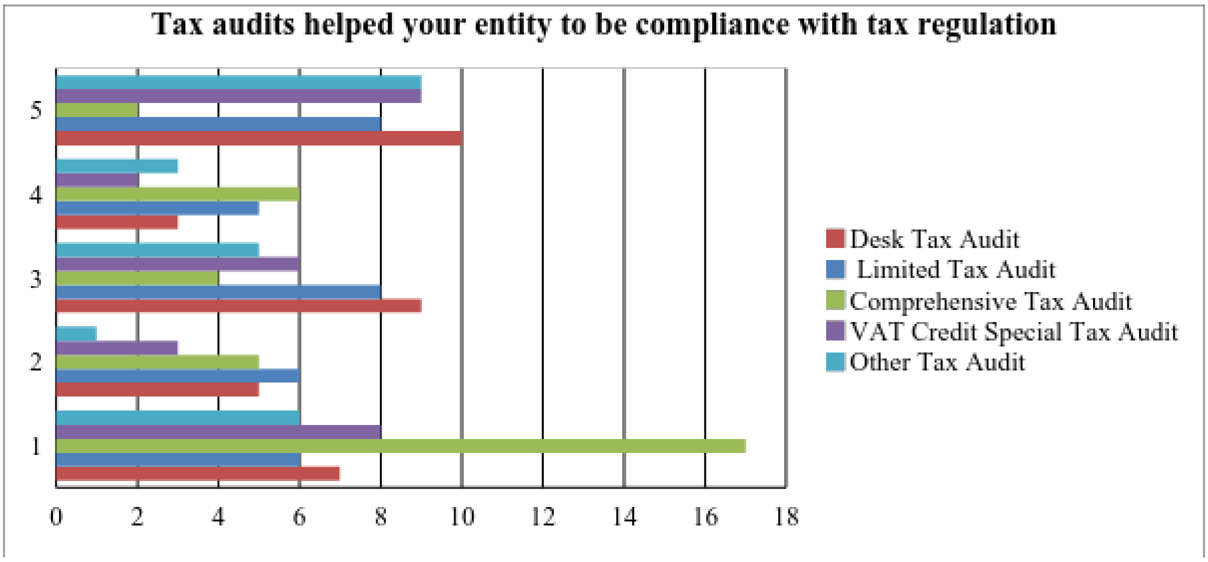
and high cost for the enterprises as discussed , all business enterprises aware how importance each type of tax audits to help their business entity to comply with the Cambodia tax regulations. The enterprises have indicated the level of importance for each type of tax audits. Interestingly, the survey shows that the comprehensive tax audit is most important amongst other tax audit for these enterprises.



In addition, the enterprises also request that the comprehensive tax audit should be conducted regularly with specific timeframe so that the enterprise can manage their tax compliance. Furthermore, since comprehensive tax audit is done on all type of taxes and on all type of business enterprises, the tax regulations should be clear or at least a guideline for specific industry should be issued so that tax auditors and taxpayer can comply with.

Conclusion and Future Study

Based the data analysis the survey shows that the comprehensive tax audit is more useful for private enterprises compared to the limited tax audit or other tax audits. This conclusion may due to the reason that enterprises have limited knowledge of type of tax audit and scope of work for each type of tax audit. The paper suggest that the authority should provide clear guideline and the time frame for each type of tax audit and ensure that the information on each tax audit is shared between the department of limited tax audit and department for comprehensive tax audit so that no duplicated tax audit is conducted on the business enterprises. This paper also provides a suggestion that a combined tax audits may be best for both the tax authority and private enterprise to deal with issues encountered during the tax audit process and can help minimize the tax cost including penalty and interest of private enterprises. However, since the research was conducted in a small scale (i.e., on 49 enterprises in Phnom Penh), this paper also suggests for future research on the same in a larger scale to present the result for the whole country.

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