



Cambodia

**ARBITRATION COUNCIL FOUNDATION**

**Management Letter  
Year ended 31 December 2010**



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Phnom Penh

29 June 2011

Dear Sir

### **Management Letter – Audit for the year ended 31 December 2010**

We have audited in accordance with Cambodian International Standards on Auditing the financial statements of Arbitration Council Foundation (“the Organisation” or “ACF”), for the year ended 31 December 2010, and have issued our report thereon dated 29 June 2011. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we considered internal control relevant to the Organisation’s preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Organisation’s internal control. Accordingly, we do not express an opinion on the effectiveness of the Organisation’s internal control.

During our audit we noted certain matters involving internal control and other operational matters that are presented for your consideration. These comments and recommendations, all of which have been discussed with the appropriate members of management, are intended to improve internal control or result in other operating efficiencies and are summarised in the enclosed report.

Our audit procedures are designed primarily to enable us to form an opinion on the financial statements, and therefore may not bring to light all weaknesses in policies or procedures that may exist. We aim, however, to use our knowledge of the Organisation gained during our work to make comments and suggestions that we hope will be useful to you.

We would be pleased to discuss these comments and recommendations with you at any time.

The Organisation’s written response to our comments and recommendations has not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.



This communication is intended solely for the information and use of the Organisation's management, and is not intended to be and should not be used by anyone other than these specified parties.

Yours faithfully  
***KPMG Cambodia Ltd***

A handwritten signature in black ink, appearing to read 'Craig McDonald'.

Craig McDonald  
*Audit Partner*



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## **1. Complying with withholding tax regulations**

### *Observations*

During our audit, we noted that:

- (a) the Organisation paid service allowance to arbitrator on the basis of a fixed amount per arbitrator per case. However, no relevant tax was withheld and paid to tax authority.
- (b) the Organisation has incorporated and transferred tax obligation to lessor in office rental contract; however, the Organisation has not obtained tax payment receipt from the lessor for the evidence of the withholding tax payment.
- (c) the Organisation has incorporated and transferred the tax obligation to individual service providers who are non-real regime tax payer in the consultancy contract on research and study on baseline study, demand for Arbitrator Council services, and developing term of reference. In addition, the Organisation has not obtained tax payment receipt from those service providers for the evidence of their withholding tax payment.

### *Implication*

Under the Cambodian Law on Taxation, the rental of an office and service provided by resident person are subjected to withholding tax of 10% and 15% respectively. Non-compliance with the Cambodian tax regulations can lead to unnecessary penalties and interest.

### *Recommendations*

- (a) The Organisation should review all expenditures subject to withholding tax and ensure that the withholding tax is paid to the General Department of Taxation (“GDT”) in accordance with the Cambodian Law of Taxation.
- (b)&(c) The Organisation should obtain withholding tax payment receipt from lessor and service provider for the evidence of tax payment to the GDT or either considers withholding on relevant tax on those service payments if they fail to declare withholding tax and remitted to the GDT.

## **2. Complying with withholding tax regulations (continued)**

### *Management's response*

- (a) We disagree with the recommendation that payment to arbitrators for their dispute resolution is subjected to withholding tax. The work of arbitrators of the Arbitration Council is not to perform services on management, consulting or other similar services that would subject the payment for such services to 'withholding tax'.

We will withhold 'tax on salary' on the payment made to arbitrators for their labour dispute resolution work. The payment is made as salary to arbitrators for their part-time labour dispute resolution work under the Labour Law of Cambodia of 1997 and relevant Ministerial regulations of the Ministry of Labour and Vocational Training.

- (b)&(c) We will seek to obtain tax payment receipts from relevant lessor and service providers evidence of their withholding tax payment.

### **Status of the previous year's recommendation**

No.	Auditors' recommendation – in the previous year's report	Status
<i>1.</i>	<i><b>Data migration</b></i>  A proper migration should be performed and a reconciliation of the opening balances against those of the previous chart of accounts should be performed. Any discrepancies must be investigated and resolved immediately.	Implemented.