

EuroCham focus: Work permit

Cambodia, 2015

Who needs a work permit?

If you are a foreigner working in Cambodia, you need a work permit. Generally a business visa (E Visa) is required to obtain a work permit as the first step. It seems that some expatriates residing and working in Cambodia were under the impression that they did not require a work permit. The general belief was that a long-term business visa (E Visa), which is issued for 3, 6 and 12 month durations, was sufficient enough to stay and work in the Kingdom. However this was not the case and to the surprise of many expatriates working in Cambodia, a work permit, is required if you are earning a salary in Cambodia.

Since when do expatriate workers need a work permit in Cambodia?

Cambodian Labor Law dates as far back as the 1920 Civil Code and its 1927 Sub-decree. The modern era Labor Law was promulgated in October of 1992, and from there onwards a number of labor laws and regulations have been enacted, among them the 1997 Labor Law and 2002 Law on Social Security. The Law states that no foreign worker can work in Cambodia unless they possess a work permit and employment card issued by the Ministry of Labor. Other conditions must also be met. For instance, the employee must have a legal work permit to work in Cambodia, the employee must have legally entered Cambodia with a valid passport and have a valid visa, the employee must be fit for the job and not have any contagious diseases.

Why is the work permit such a hot topic right now?

First a Phnom Penh Post article dated July 30th 2014, and headlined "Expatriates need IDs: government", reported that the Ministry of Labor and Vocational Training and the Ministry of the Interior had issued a joint statement on July 16th stating expatriates working in Cambodia without labor identification cards will face fines and possibly jail with "strict new enforcement". Secondly there has been historically a lack of enforcement, probably due to a lack of resources.

The larger companies in Cambodia have probably followed the strict letter of the law, especially the major international companies. The small to mid-size companies most likely haven't, mainly due to a lack of awareness of the law and market enforcement and compliance. There is undoubtedly also a large degree of confusion as to how to comply and who is exactly impacted.

What are the risks involved if you do not comply with the law?

Under the Labor Law, failure to comply with foreign employee work permit requirements could result in fines of up to USD180 or, in serious circumstances, imprisonment of up to three months and the potential deportation of any foreign employee not duly registered. In addition, the penalty in the amount of USD100 also applies for each year that a foreigner has worked in Cambodia without a valid work permit. The penalty for failure to comply with foreign employee quota is between USD122 up to USD180 or, in serious circumstances, imprisonment of up to one month.

CASE BY CASE

I am a foreign worker. How can I know if I already have work permit?

If you are an expatriate working for a company which is registered with the Ministry of Labor and you are earning a salary, the company should have registered you and provided you with a work permit.

I am a business owner, freelancer, volunteer, NGO employee, or retiree. Do I need a work permit?

The law is unclear whether a **business owner** should obtain a work permit. Based on the current practice with the Ministry of Labor and Vocational Training, a business owner or **shareholder owner** who is working is also required to file the application for work permit. **Volunteers** who do not receive a salary or compensation generally don't require a work permit. If you are a **NGO employee**, you do need a work permit.

Retirees do not receive a salary so they do not need a work permit, however they should review their Visa requirements.

Freelancers living, working and receiving a salary in Cambodia should register their business, pay taxes and obtain a work permit.

I am a student and I come for a 6 months internship. Do I need a work permit?

No. A work permit is relevant to foreigners who are "working" in Cambodia and not studying.

I am an investor and I have a Visa (E). Do I need a work permit?

In the strict sense of the law, if an investor is "working", then he requires a work permit. The Labor Law explicitly states "No foreigner can work unless he possesses a work permit and employment card issued by the Ministry of Labor", while the definition of a worker includes they must have remuneration. The Department of Labor has in the past advised that investors who

are not earning an income don't require a permit. However the Immigration Department has taken the view that all foreign workers remunerated or not, require a permit. In summary, it is becoming more evident that any foreigner working requires a work permit, salaried or not.

It's been 3 years I am in Cambodia but I have been working for only 6 months. Should I pay any retroactivity fees for the work permit?

You are required to pay USD 100 per annum retroactively from your first (E) Visa, the first being the 30 day Business Visa granted. Even if you have a new passport, they will ask to check the old one in order to find the first (E) Visa granted.

I have a Visa (E) and never worked in Cambodia. Can I renew my visa without any work permit?

Presently, yes you can, although this may be subject to change in the future.

I am a foreigner and I just arrived to set up my company in Cambodia. I have a Visa (T). What is the process to follow?

If you have a (T) Tourist Visa and intend to work, you need first to get an (E) Business Visa, to start the work permit process.

Generally when incorporating a business in Cambodia, the prospective company registers the business with the Ministry of Commerce, or another appropriate Ministry, and then the Tax Department, obtaining a Tax Patent and VAT Certificate. 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. Effectively the company needs to register with the Ministry of Labor, this is the company level registration. The company must also make a declaration to the Labor Inspector each time a worker is hired or dismissed.

When registering with the Ministry of Labor, the

business will obtain employee handbooks for its Khmer employees and work permits for its foreign workers. Effectively the registration starts with the company and then drills down to the employee level, Khmer and expatriate alike.

What are the necessary documents to bring to the Ministry of labor to obtain a work permit?

- **Company Level**
 - Certificate of Incorporation with company stamp
 - Registered Business Address
 - Tax Patent with company stamp
 - List of expatriate and local employees
 - MOC approval
 - Article of Incorporation of the Company
- **Employee Level Information**
 - Name, gender, date of birth, height
 - Copy of ID card and/or passport, copy of E Visas
 - Current residential address
 - Full name of father and mother
 - Education
 - Employee photo
 - Health certificate
 - Start date at company, functional role, weekly hours worked, salary, how salary is paid (by cash or bank transfer)
 - Year in which expatriate received first E visa

Notes:

Enforcement is likely to start with the larger companies and work downward. Presently the Ministry of Labor appears to be embracing those seeking to comply, so it is better to get compliant now rather than deal with a potentially more difficult environment later.

Sources

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