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## Internet Taxation in Lao PDR

### I. Background and Context

The internet has transformed the global economy in fundamental ways and there is considerable evidence that facilitating access to affordable, high-quality broadband services has been instrumental in enhancing the competitiveness of a country's digital economy. Toward that end, Lao PDR will need to take proactive steps to create an appropriate legal and regulatory environment to develop its embryonic digital economy. However, the country faces several immediate challenges which will continue to place it a significant competitive disadvantage – both globally and relative to its ASEAN neighbors. Key issues include the following:

- **Internet cost.** Lao PDR's internet costs are expensive relative to its ASEAN neighbors, particularly when measured as a percentage of GDP per capita. A 2015 report on the ASEAN

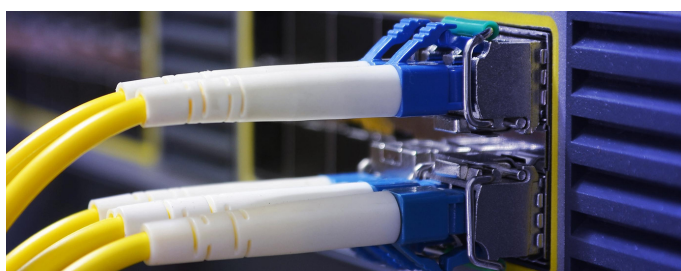


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This brief is published by the Secretariat of the Lao Business Forum, based at the Lao National Chamber of Commerce & Industry (LNCCI).

The LBF Brief provides a summary and analysis of a specific business issue that was highlighted as a priority during the annual LBF process and which significantly impacts the Lao PDR business environment. The views expressed in the LBF Brief reflect the opinions and perspectives held by relevant stakeholders.

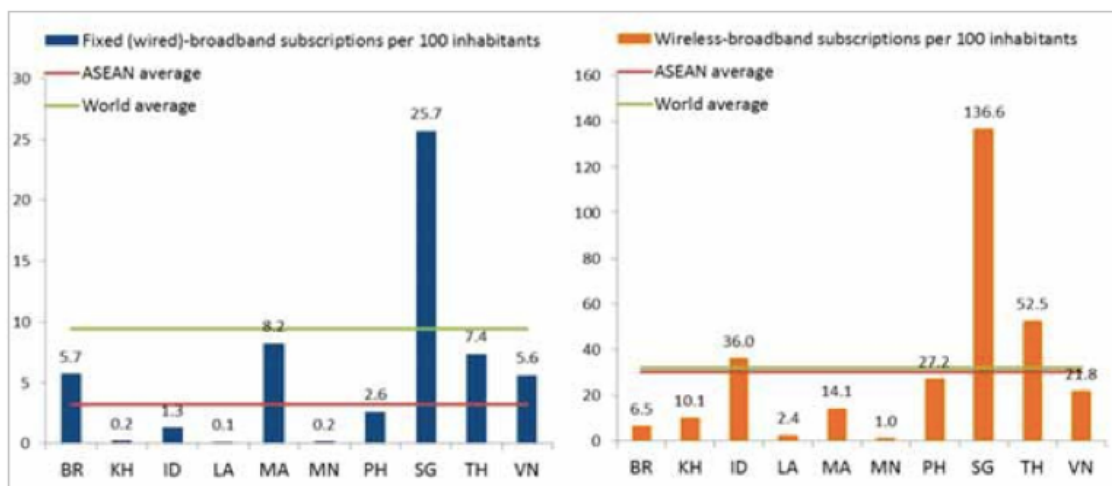
digital economy prepared by the Internet Society revealed that the cost of a simple broadband internet package in Lao PDR is approximately 8% of GDP per capita compared to Thailand (0.1%) and Vietnam (0.2%).<sup>1</sup> In addition, a World Economic Forum study ranked Lao PDR among the most expensive countries in the world for the cost of monthly internet service packages, with a ranking of 192nd among 196 countries surveyed.<sup>2</sup>



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- **Internet access.** Among ASEAN countries, Lao PDR ranks near the bottom in terms of the number of its citizens with internet access. According to 2017 figures prepared by Internet World Statistics, only 35% of the country’s population has access to the internet compared to 82.4% for Thailand; 66.3% for Vietnam; and 49.3% for Cambodia.

The following chart prepared by the International Telecommunications Union (ITU) clearly illustrates how Lao PDR (LA) lags well behind both ASEAN and global averages in terms of both fixed and wireless broadband access (measured in the number of subscriptions per 100 inhabitants).<sup>3</sup>



Source: International Telecommunications Union (ITU)

## II. Internet Taxation and the LBF – Issue Analysis

During LBF 11, the LBF’s SME Working Group prepared a position paper proposing the removal of Lao PDR’s 10% internet excise tax. Article 20 of the country’s 2015 tax law regards the internet as a luxury good and on this basis, an excise tax has been imposed. The SME Working Group has argued that Lao PDR remains the only ASEAN country that imposes a tax on internet usage. Given the early stage of Lao PDR’s digital economy and the urgent need to exponentially increase internet accessibility,

the Government of Lao PDR should take immediate steps to reduce internet costs and encourage the development of Lao PDR’s broadband infrastructure. This issue was previously raised during LBF 10 in 2017. The Prime Minister agreed to rescind this tax and his office subsequently issued Notification No. 1194/PMO, dated 9 August 2017 which instructs the relevant line ministries to address the issues raised during the Lao Business Forum. Section 1.1 of Notification No. 1194 specifically states that the Ministry of Finance should take steps to amend the relevant section of the tax law pertaining to

internet taxation and subsequently obtain approval from the National Assembly. These measures have not been implemented to date.

The Tax Department of the Ministry of Finance has, however, formally responded to LNCCI's requests for status updates. They note that the "excise tax and income tax laws will be drafted and established separately from the current tax law; the drafts will be reviewed and approved by the National Assembly by the end of 2018." This statement has generated further uncertainty regarding the status of the internet excise tax.

### III. Internet Taxation – International Perspectives

There has been an ongoing debate globally on whether the internet should be taxed. In many countries, there is a common view that the internet economy is now sufficiently developed and should be subject to taxation. Since the internet economy has grown so large and countries have developed fiscal deficits, the internet economy should be fair game for tax authorities.

The OECD and EU do not believe that the internet should be tax-exempt. Indeed, it is their view that the same principles should be applied toward taxation of e-commerce activities as they are towards general commercial activities: neutrality, efficiency, certainty and simplicity, effectiveness and fairness, and flexibility.<sup>4</sup> In addition, the European Commission does not support the notion of a special tax regime for digital companies.<sup>5</sup>

Many non-EU countries – Russia, India, Israel and Indonesia – have begun to tax internet companies that are not based in their countries<sup>6</sup> (i.e., online purchases made by their citizens with companies such as Amazon that are not locally based).

The USA has been the principal advocate of the internet as a tax-free zone. The US Congress passed the Internet Tax Freedom Act in 1998. The US Senate subsequently approved legislation to: 1) prevent local authorities from taxing internet access; and, 2) permanently extend the Internet Tax Freedom Act.<sup>7</sup>

Since Lao PDR is at such an early stage in the development of its digital economy, the government should take proactive measures to lower internet access costs and expand coverage. The internet is an essential requirement for participation in the digital economy and facilitating – not impeding – access will generate significant economic benefits to the country including job creation and skills development, among others.

It is important to note, however, that the removal of the internet excise tax is only a first step; there are significantly more complex and systemic legal and regulatory issues that will need to be addressed by the Lao government in order to support the development of the country's digital economy. Some of these issues are highlighted in a recent World Bank policy note on Lao PDR's digital economy:<sup>8</sup>

1. Development of secondary enabling regulations for the telecoms sector including the licensing framework; wholesale access and infrastructure sharing; interconnection; service quality; and consumer protection
2. Full implementation of the electronic transactions law that was introduced in 2012
3. Development of an e-commerce law
4. Development and enactment of a law on data protection and data privacy
5. Amendment of the 2010 Consumer Protection Law to include electronic commerce



Image Source: Pixabay

## IV. Gender Dimension of Internet Taxation

Data compiled by the International Telecommunications Union indicates that approximately 37% of women globally use the internet versus 41% of men. In terms of actual numbers, 200 million fewer women than men use the internet.<sup>9</sup> Women and girls encounter more constraints to obtaining internet access along with opportunities to obtain relevant ICT skills that would enable them to be competitive in the workplace. Research conducted by the Broadband Commission in 2012 revealed that only 29% of 119 countries surveyed identified gender as an issue in their National Broadband Plans.<sup>10</sup> Research by the Global Initiative on Inclusive Information and Communications Technology indicated that only 14% of countries surveyed actually had specific policies for women.<sup>11</sup>

There is indeed a global “digital gender gap” which needs to be addressed. ASEAN also has a significant digital gender gap. There is, for example, no reference to gender in the 2015 ASEAN ICT Masterplan document. Additional gender-related research on the internet is required for Lao PDR; however, given the very limited development of Lao PDR’s digital economy, it can be inferred that gender-related gaps in terms of internet usage are likely to be significant, particularly in rural northern and southern provinces.

## V. Post - LBF 11 Update and Next Steps

During the LBF 11 plenary meeting held on July 5, 2018, private sector stakeholders presented a set of recommendations regarding the internet excise tax, followed by a response from the Ministry of Finance. A member of the LBF SME Working Group and the Lao ICT Commerce Association outlined the private sector’s assessment of the impact of the internet excise tax and proposed a set of remedial measures:

- **Short term:** The Tax Department of the Ministry of Finance should comply with Notification No. 1194/PMO regarding the removal of the internet excise tax and make the requisite amendments to the current draft of the law
- **Medium term:** The government should establish an independent regulatory authority that would lay the groundwork for a highly competitive internet industry in Lao PDR that would improve overall service quality and lower costs

### Government Response to Private Sector Recommendations

In response to the private sector internet tax proposal, the Vice Minister of Finance provided the following update on the government’s actions:

- The Tax Department of the Ministry of Finance has proposed drafts of three new laws: 1) an excise tax law; 2) a tax management law; 3) an income tax law. These draft laws were circulated for public comment in June 2018
- According to the new excise tax law, the internet excise tax will remain in place, but it will be reduced in phases (i.e., from 10% to 5% to 3%). The government has indicated that it would be open to removing the tax entirely if alternate revenue sources could be identified

The government’s timeframe for the phased reduction of the internet excise tax is unclear; moreover, it is uncertain whether there has been any rigorous cost-benefit analysis of the broader economic impact of eliminating the internet excise tax. In the coming months, the government should present a more detailed and specific proposal for the phased reduction and eventual removal of the internet excise tax, including key milestones and deadlines.

## Notes

<sup>1</sup> *Unleashing the Potential of the Internet for ASEAN Economies*, Internet Society and TRPC PE Ltd, 2015.

<sup>2</sup> World Economic Forum 2017

<sup>3</sup> ITU World Telecommunication/ICT Indicators database 2014 and *Unleashing the Potential of the Internet for ASEAN Economies*. Internet Society and TRPC PE Ltd, 2015.

<sup>4</sup> *Digital Watch Observatory*, Geneva Internet Platform in partnership with Internet Society, June 2018

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> *Policy Note on Digital Connectivity - Lao PDR (Draft)*, World Bank, May 2018

<sup>9</sup> ITU/UNESCO (2013), *Doubling Digital Opportunities: Enhancing the position of Women and Girls in the Information Society*, A Report by the Broadband Commission Working Group on Broadband and Gender

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.



## LBF Secretary General: Mr. Phouxay Thepphavong

Kaysone Phomvihane Avenue

Saysettha District, Vientiane Capital, Lao PDR, P.O. Box 4596

Tel: (856-21) 453 312

Web: [www.Incci.la/lbf](http://www.Incci.la/lbf)



The Lao Business Forum is a public-private dialogue platform that was launched in March 2005. The objectives of the LBF are to: 1) facilitate public and private sector dialogue, including participation by the broadest range of private sector companies, from domestic SMEs to foreign investors; 2) ensure consistent enforcement and transparent interpretation of laws and regulations; 3) remove the bureaucratic impediments that businesses encounter in entry and exit processes and provide feedback on business-related policies, laws and regulations that impact the private sector; and, 4) provide feedback on draft government laws and regulations that could potentially impact the business community and assist the Lao government in private sector-related policy development.

