

LOAN FOR CONSUMPTION

1. What is loan for consumption?

Nowadays in society, we often observe the relationship between individuals and the active financial transactions with each other that serve the relationship of activities in society. Obviously, in a country or a society, the lives of the people are always different in this sense, some individuals are very wealthy and some individuals are poverty, which leads to a shortage of needs of daily life. In everyday life, this has created the image of borrowing between the poor and needy, borrowing from the affluent who have very wealthy, and in legal terms called **Loan for Consumption**.

According to the 2007 Civil Code of the Kingdom of Cambodia, **Article 578 stated about "Definition of Loan for Consumption"** "A loan for consumption is a contract whereby one party, referred to as the Lender, assumes an obligation to entrust the free use of money, foodstuffs, paddy or other fungible objects for a specified term to another party, referred to as the Borrower, who assumes the obligation to return objects of the same type, quality and quantity as those received from the Lender upon the expiry of the said term". At this point there may be two cases of loan for consumption namely a **Loan Contract with interest** and a **Loan Contract without interest**.

2. What is the principle of the formation of contract of loan for consumption?

According to **Article 579** of the 2007 Civil Code, **"Formation of contract of loan for consumption"** "A loan contract for consumption shall be formed through the agreement of the Lender and the Borrower alone". In principle, the Civil Code respects the free will of the individual to enter into a contract, so only the consent of the parties can make the contract effective. By that agreement, the parties may take place orally or in writing. In fact, if we look at the real social reality in the context of Cambodian society nowadays, this type of contract is widely used to borrow money for business operations in daily life. Therefore, in a loan contract or loan for consumption, we should create a written contract with the signature or fingerprinting between the lender and the borrower in the contract is to ensure integrity and honesty between the lender and the borrower to ensure the clear implementation of the rights and obligations of the parties, as well as to ensure the repayment of cash that is the subject of the loan to the lender. In addition, the creation of a written loan agreement shall be signed or Thumb printed between the lender and the borrower to protect the interests of the parties to the contract in the event that either party fails to perform the obligations under the agreement in the contract as well as engaging in reconciliation to maintain good relations between the parties to the contract in this sense to prevent conflicts that may arise in the future.

For example: On January 1, 2023, Mr. A was applied for a \$9,000 (US \$9,000) loan from his neighbor that is Mr. B to expanding his autocar repair business, and Mr. A promising to repay back to Mr. B on the same day in next year. Mr. B agreed to Mr. A to borrow money and create a loan agreement with interest in writing and signed by Mr. A as a borrower with a fixed interest rate of 10% per annum. Therefore, when the due date upcoming, Mr. A is obliged to repay Mr. B with the principal plus the contract interest rate.

Disclaimer: *The information stated in publication is for information purposes is not intended to suggest any legal advice. Please kindly note that legal advice must be obtained from and provide by competent and qualified lawyers and counsels for all situations.*

WHAT'S NEW

The Telecommunication Regulator of Cambodia (TRC) release dated 31 August 2024 was Announcement on Deactivation and Resale of Consumers' Mobile Phone Numbers and Deductions from Mobile Phone Number Account Balances Contrary to Applicable Law

3. Conditions and leverage of creating a loan for consumption

In general, the creation of a loan for consumption which verbal agreements can also create the power of contract. But in terms of the scope of the contract, verbal agreements are more likely to happen to close parties, such as borrowing money from friends, borrowing money from parents or relatives. Establishing a loan agreement by verbal agreement does not work the interest rate of the loan. Pursuant to the Civil Code of 2007, **Article 583, “paragraph 3 states that the parties to a loan for consumption contract may by agreement bring into existence a claim having as its subject the payment of interest. This shall assume that a claim for interest shall not come into effect unless it is in writing and bears the signature of the Borrower”**. Furthermore, in establishing loans for consumption with interest, the parties may freely agree to set the interest rate in the contract, but may not set the interest rate in excess of the maximum interest rate set by law. According to the Declaration of December 21, 2011 of the Ministry of Justice on the limited interest rate is set at no more than 18% per annum.

Finally, we hope that the above legal brief will be part of the information as well as additional knowledge for the public and readers to better understand the creation of loans for consumption with interest, and interest rate agreements in accordance with the law in the Kingdom of Cambodia.

CONTACTUS

Anna & Associates Law Office
Website: www.anna-associates.com
Email: info@anna-associates.com
Tel: (855) 99 888 737

Address: Building No. 234, 7th Floor, Mao Tse Toung Blvd, Sangkat Tumnob Tuek, Khan Beoung Keng Kang, Phnom Penh, the Kingdom of Cambodia.