



Practical issues with regard to business operations and investment in Myanmar

June 2015




Disclaimer

This brief presentation on Myanmar Taxes managed by Internal Revenue Department is intended to provide an introduction to some of the key points and information to participants of the Seminar.

The information is intended for general information purposes only and should **not** be used for decision making purposes. The applicability of the information to specific situations should be determined through consultation with professional advisors, including any updates to Myanmar tax legislation which is a regular event.



Agenda

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- A hand holding a wooden hammer over wooden letters spelling 'KEYS'. The background is a textured, light-colored surface. The letters are arranged in a row, and the hammer is positioned as if about to strike them.
- **Brief introduction to Myanmar tax and recent changes**
 - **Tax obstacles to cross border business operations**
 - **Tax obligations of foreign entity when doing business with Myanmar enterprises**
 - **Permanent establishment recognition in Myanmar and possible tax exposures**
 - **Legal registration requirements and possible tax exposures**

Brief introduction to Myanmar tax



- **Tax Residency based on registration.**

- Resident companies subject to tax on world wide source income – except companies registered under the Myanmar Foreign Investment Law, (MFIL) which are subject to tax on Myanmar source income only.

- **Corporate Income Tax Rates:**

- Resident companies, branch with incentives under the MFIL, Branches without MFIL incentives – 25%

- **Capital Gains Tax rates:**

- Resident tax payers – 10%
- Non-resident tax payers – 10%
- Oil and gas industry – 40 to 50%

- **Withholding Tax on transactions with Non-Residents:**

- Dividends – 0%
- Interest – 15%
- Royalties – 20%
- Services and goods – 3.5%

Recent Changes in the 2015 Union Tax Law – Corporate



Description	2014	2015
Foreign Branches (treated as non resident foreigners)	35%	25%
Business registered under MIC permit	Not mentioned previously	25%
Donations by local or foreign organizations made for the purpose of healthcare, education, social matters, religion, literature, arts and culture	Exempt	Taxable
Precious stones & jewelry (Corporate Income Tax)	-	Taxable
Capital gains on non resident foreigner	40%	10%

Recent Changes in the 2015 Union Tax Law – Individuals

- **Individuals are tax resident in Myanmar if they stay for 183 days – or more – during the fiscal year.**
- **Resident taxpayers subject to tax on world-wide source income.**
- **Non-residents subject to tax on Myanmar source income.**
- **Tax rates - Salaries:**

Progressive scale ranging from 0% to 25% is applicable to both resident and non- resident taxpayers.



Recent Changes in the 2015 Union Tax Law – Individuals



Description		Tax Rate 2014	Tax Rate 2015 (From 1 April 2015)
Non resident foreigner's Remuneration (Gross)		35%	Progressive rate ranging from 0-25%
Personal Income Tax rates for remuneration received for resident local, foreigner and non-resident foreigner			
From (kyat)	To (kyat)		
1	2,000,000	0%	0%
2,000,001	5,000,000	5%	5%
5,000,001	10,000,000	10%	10%
10,000,001	20,000,000	15%	15%
20,000,001	30,000,000	20%	20%
30,000,001 and above		25%	25%

Withholding tax rates

Withholding Tax Rates on payments		
Type of Payments	Resident Recipients	Non-Resident Recipients
Interest	0%	15%
Dividends	0%	0%
Royalties	15%	20%
Payments for purchases of goods in the country under a deed of contract, deed of agreement or any agreement by State Organizations, Development Committees, Co-operatives, Partnerships, Companies and Organizations established under any existing law.	2%	0%*
Payments for services under a deed of contract, deed of agreement or any agreement by State Organizations, Development Committees, Co-operatives, Partnerships, Companies and Organizations established under any existing law.	2%	3.5%
Payment for services and purchases of goods in the country, under a deed of contract, deed of agreement or any agreement by a foreign entrepreneur or a foreign company.	2%	3.5%
Source: Notification 41/2010 and 167/2011 of Income Tax Law * Advance tax 2% applies on import under notification issued on 6 th June 2013 by IRD		

Withholding tax rates under Thailand – Myanmar DTA



Payer	Resident recipient	Non-resident recipient	TH recipient (DTA)
Dividend	0%	0%	0%
Interest	0%	15%	10%
Royalties	15%	20%	5/10/ 15%*
Purchase of goods in Myanmar	2%	0%	0%
Payment of service	2%	3.5%	0%

Remarks:

- * Under Thailand-Myanmar DTA, the withholding tax rates are reduced as follows:
- to 5% on the royalties for the use of copyrights of literary, artistic or scientific work;
 - to 10% on the royalties paid as consideration for any services of a managerial or consultancy nature, or for information concerning industrial, commercial, or scientific experience; or
 - to 15% in all other cases.

Recent changes in the Union Tax Law 2015 – Commercial Tax

Description	Commercial Tax	Commercial Tax (From 1 April 2015)
Special goods	8% - 100%	5% - 120%
Sale /construction of buildings/ apartments & condo's	5% (previously not clarified)	5% (clarified)
Exporting goods except certain natural resources	Exempt	0%
Goods produced by local business & states owned organization	2%	5%
Offset & Refund (except special goods & natural resources)	-	Available

Tax obstacles to cross border business operation

❑ In absence of clear interpretation on application of Myanmar tax laws on certain issues

➤ Corporate income tax:

- Providing services to Myanmar companies: Unlike any other countries, Myanmar collects withholding tax from certain payments payable to a non-resident at the rate of 3.5% and this withholding tax would constitute a final tax on the non-resident.
- Sending foreigners to work in Myanmar or having an operating office on a temporary basis may constitute permanent establishment (PE) exposure.
- Recognition of PE in Myanmar: There is no PE concept under Myanmar tax laws. PE is recognized by bilateral treaties, e.g. Thailand – Myanmar Double Taxation Agreement (Myanmar – Thailand DTA) etc.
- Recommendation: Seeking a written confirmation from the Internal Revenue Office (IRD) prior to taking on the rights under Thailand – Myanmar DTA.

Tax obstacles to cross border business operation

❑ In absence of clear interpretation on application of Myanmar tax laws on certain issues (cont'd)

➤ Personal income tax

- Misperception given by most of foreigners as to when an individual has to pay tax
- Under Income Tax Law (ITL), it provides that whoever receives income from work performed in Myanmar will have to pay tax in Myanmar - Meaning that any person receives income from work undertaken in Myanmar will be subject to personal income tax in Myanmar, irrespective of the length of stay and how the payment is made

Tax obstacles to cross border business operation

❑ In absence of clear interpretation on application of Myanmar tax laws on certain issues (cont'd)

➤ Commercial tax

- Unclear concept as to whether commercial tax will be applicable to foreign companies as well
- Commercial tax is also applicable to services rendered in Myanmar. Thus, it may also be applicable to non-resident entities.

Legal registration requirements and possible tax exposures

- ❑ **In absence of clear interpretation on application of Myanmar tax laws on certain issues (cont'd)**
 - There is no definition provided for the term “carrying out business in Myanmar”.
 - The Directorate of Investment and Company Administration (“DICA”) may have an expectation that foreign companies register an entity in Myanmar when it has a significant physical presence of employees and equipment in Myanmar.
 - Practical challenges: Cannot rent an office, obtaining visas for foreign staffs, cannot access to banking services, e.g. opening a bank account
 - Possible risks: Operating business in Myanmar on a long term basis without the registration of an entity in Myanmar may constitute PE exposure in Myanmar resulting in foreign company being subject to corporate income tax in Myanmar

Tax compliance checklist

WHT on Salary

Monthly returns – 12 monthly Wa Nga (15)	One yearly return – Wa Nga (16)	Total obligations – 13 times annually	10% fines on the tax due can be imposed for individual default
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Corporate Income Tax

Quarterly advance payments	Yearly return	Total obligations – 5 times	10% fines on the balancing amount of tax liability shortfall
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Commercial Tax

Monthly returns – 12 monthly Wa Nga (15)	Quarterly return	Yearly return	10% fines on due tax on non compliance activities
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Accounting compliance requirements

- **Financial Statements**

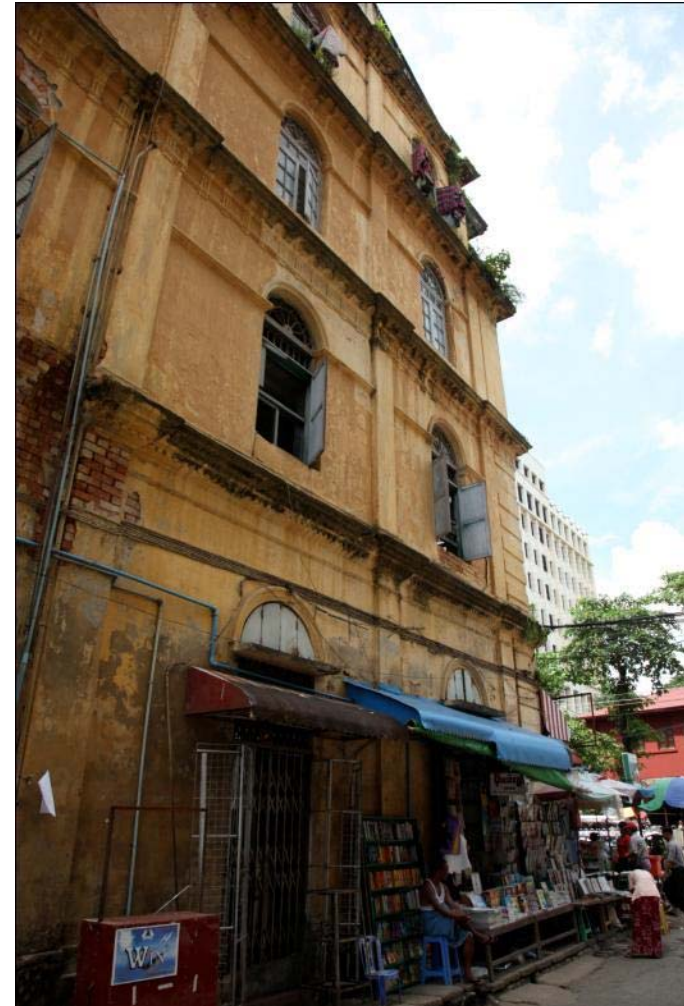
- The Myanmar Accounting Standards, 2004 based very closely on International Accounting Standards.
- Companies must maintain proper books of accounts which are required to be kept at the registered office of the company.

- **Audit Requirements**

- It is required that the annual accounts of a company to be audited.

- **Fiscal year/ Currency**

- The fiscal year in Myanmar is 1 April to 31 March.
- Myanmar Kyat (MMK)



The background features a series of overlapping, slanted rectangular shapes in various shades of blue, from light to dark, and white. The shapes are arranged in a way that creates a sense of depth and movement, with some shapes appearing to be in front of others. The overall composition is modern and clean.

Q&A



Thank you



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