

The State Law and Order Restoration Council
The Law Amending the Income-tax Law
(The State Law and Order Restoration Council Law No. 6/89)
The 1st Waning Day of *Tabaung*, 1350 M.E.
(22nd March, 1989)

The State Law and Order Restoration Council hereby enacts the following Law:-

1. This Law shall be called the Law Amending the Income-tax Law.
 2. The provisions of this Law shall come into force with effect from the assessment year 1989-90.
 3. The Preamble of the Income-tax Law, 1974 shall be deleted.
 4. Section 3 sub-sections (j) and (k) of the Income-tax Law shall be substituted by the following sub-sections:-
 - (j) **Association of persons** includes partnership, joint-venture company, association formed by individuals, co-operative society and economic organizations of the Government;
 - (k) **Foreigner residing in Myanmar** means the following:-
 - (1) in the case of an individual foreigner who resides in Myanmar for not less than one hundred and eighty three days during the income year;
 - (2) in the case of a company formed under the Myanmar Companies Act or any other existing law with share holders who are foreigners or a company including share holders who are foreigners;
 - (3) in the case of an association of person other than a company formed with foreigners and where control and management of its affairs is situated wholly in the Union of Myanmar or an association of persons including foreigners.
2. Section 3 sub-section (n), clause (3) of the Income - tax Law shall be substituted by the following clause:-

- (3) Total income derived within the Union of Myanmar in the case of a non-resident foreigner, and foreigner or foreign economic organization investing under the Union of Myanmar Foreign Investment Law

6. In Section 3 of the Income - tax Law the following shall be inserted [after] sub-sections (o), (p), (q) and (r):-

- (o) **Company** means a company as defined in the Myanmar Company Act or any other existing law. The expression includes any foreign economic organization carrying on business in the Union of Myanmar determined by the Government to be a company for the purpose of this Law;
- (p) **Citizen** includes an associate citizen and a naturalized citizen for the purposes of this Law;
- (q) **Capital Assets** means land, building, vehicle and property of capital nature connected with an enterprise;
- (r) **Capital Gains** means profit realized from the sale, exchange or transfer of capital assets. Transfer shall not include inheritance, gift without consideration and donation.

7. Section 5 sub-sections (b) and (c) of the Income - tax Law shall be substituted by the following sub-sections:-

- (b) The Government may, in connection with any assessee or any class of assessee or any source of income or any kind of income:-
 - (1) grant exemption of income-tax;
 - (2) grant relief of income - tax;
 - (3) grant other rights in connection with income-tax.
- (b) The Government may grant tax exemption to any newly established business enterprise or any kind of business enterprise within Myanmar by the Government sector, Co-operative sector or Private sector for a period extending to 3 consecutive years including the year of commencement of business.

8. In Section 5 of the Income-tax Law the following shall be inserted as sub-section (d):-

(d) If provisions are made in any other existing law for benefit in relation to Income - tax, there shall be a right to enjoy the same in accordance with such provisions.

9. Section 8 of the Income-tax Law shall be substituted by the following section:-

8 (a) Income shall be computed under each of the following heads of income:-

- (1) Salaries;
- (2) Professional earnings;
- (3) Business;
- (1) Property;
- (2) Gains from capital assets;
- (3) Undisclosed sources;
- (7) Other sources.

(b) In the case of income from salary or profit from capital assets, income tax

(c) In the case of other heads of income, income from each shall be added and assessment shall be made on the total income.

10. Section 13 of the Income-tax Law shall be substituted by the following section:-

13. Whoever sells, exchanges or transfers any capital asset or more than one capital asset within a year, tax on the profits made on such transactions shall be paid under the heading profits from capital assets. Gains from capital assets shall be computed and assessed in accordance with the rules prescribed.

10. The following section shall be inserted as section 14-A of Income-tax Law:-

14-A. Tax on income not applicable to any of the above mentioned heads of income, shall be paid under the head of other sources. In computing the income under such head, expenditures shall be deducted. Provided that the following shall not be deducted:-

- (a) Capital expenditure;
- (b) Personal expenditure;
- (c) Inappropriate expenditure.

12. The following section shall be inserted as Section 14-B of Income - tax

Law:-

14-B. Income derived from property transferred by the assessee either directly or indirectly and without sufficient cause to his wife and unmarried children or income derived from the business shall be added to the total income of the assessee and assessment made accordingly.

13. In Section 16-sub-section (h) of the Income-tax Law the expression "shall be liable to pay a fine of an amount equivalent to ten per cent of the difference" shall be substituted by the expression "may be liable to pay a fine of an amount not exceeding ten per cent of the difference."

14. In Section 17 sub-section (a) and Section 18 of the Income-tax Law. the expression "within ninety days" shall be substituted by the expression "within three months."

15. Section 30 of the Income-tax Law shall be substituted by the following section:-

30. (a) Assessment of the following shall be made as prescribed by the[se] rules or regulations:-

(1) economic organizations of the Government;

(2) foreigner or association of individuals formed abroad, participating in Government or Government sponsored project, business enterprise or carrying out any transaction with the approval of the Government;

(3) co-operative society;

(4) non-resident citizen;

(5) person earning foreign currency.

(b) Provisional assessment in relation to any person who has furnished a return of income shall be made as prescribed by the regulations.

13. The following section shall be inserted as Section 33-A of the Income-tax Law:-

33-A. The order of the Assessment Committee shall be final if the tax is up to kyats 500, the decision of the First Appellate Committee shall be final if the tax is up to kyats 10,000 and the decision of the Second

Appellate Committee shall be final if the tax exceeds kyats 10,000 and if no question of law arises.

17. In Section 46 sub-section (a) of the Income-tax Law, the expression "shall be liable to pay a fine of an amount equivalent to ten per cent of the difference" shall be substituted by the expression "may be liable to pay a fine of an amount not exceeding ten per cent of the difference."

Sd./ Saw Maung
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