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The Law Amending the Commercial Tax Law

(The Pyihtaungsu Hluttaw Law No. 16/2014)

The 9th Waning day of Dabaung, 1375 M.E

(24th March, 2014)

The Pyihtaungsu Hluttaw hereby enacts the following law:

1. This Law shall be called the Law Amending the Commercial Tax Law.
2. The provisions of this Law shall be effective in the whole country commencing from the 2014-2015 financial year.
3. The word “ Region or State Revenue Officer or Head of the Companies’ Circle Tax Office” in Commercial Tax Law shall be substituted by the word “Area Revenue Officer of the Union or Region or State Revenue Officer or Head of the Companies’ Circle Tax Office or Head of the Assessment Office”.
4. In section 3 of the Commercial Tax Law:
 - (a) Sub-section (b), (d), (i) and (q) shall be substituted as follows:
 - “(b) **Assessee** means a person who is responsible to pay tax under this Law.
 - (d) **Service** means the rendering of a service for remuneration, a fee or consideration.
 - (i) **Importer** means a person who imports goods or services by any method from a foreign country.
 - (q) **Township Revenue Officer** means the officer-in-charge of the relevant Township Revenue Office who is assigned duty to assess the tax which shall be paid by the assessee. This expression includes Staff Officers or Deputy Staff Officers who are assigned duty to assess the tax under section 10 of the Commercial Tax Law.”
 - (b) After sub-section (q), sub-section (r), (s) and (t) shall be inserted as follow:
 - “(r) **Trade** means commercializing goods by a system of cash-payment, credit, deferred payment, pre-selling, exchange and sale-and-return.

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(s) **Trader** means a person who trades on his own behalf or as a representative or by any other means.

(t) **The Union Tax Law** means the tax law that shall be submitted yearly by the Union Government to the Pyihtaungsu Hluttaw under the provisions of the Constitution.”

5. Section 4 of the Commercial Tax Law shall be substituted as follows:

“4. Commercial tax as specified in the Schedule shall be imposed on anybody engaging in the following activities:

- (a) Domestic manufacturing and distribution,
- (b) Importing,
- (c) Trading,
- (d) Providing services.”

6. Section 5 of the Commercial Tax Law shall be substituted as follows:

“5. The tax due under section 4:

- (a) Shall be paid by the importer for importing
- (b) Shall be paid by the producer, trader, importer or service provider if they sell *[domestically]* produced or imported goods or resell goods or provide services; these persons must collect the tax, together with the net purchase price or the net service fees, from the purchaser or the recipient of the services;
- (c) Shall be paid by the manufacturer or importer of Special Goods

7. Section 6 of the Commercial Tax Law shall be substituted as follow:

“6. For any year:

- (a) Expressions and tax rates in the Schedule may be amended, added and abrogated by the Union Tax Law.
- (b) The amounts of sale proceeds and revenue from services on which no commercial tax is assessed may be specified.

8. After Section 7 of the Commercial Tax Law, the following explanation shall be inserted:

“Explanation- Charitable actions include actions to improve education and health, helping the poor and victims of natural disasters as long as the supply or donation are for the benefit of the people.

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9. Section 8 of the Commercial Tax Law shall be substituted as follow:

“8. (a) The Union Tax Law may provide for the following:

- (1) Grant of tax exemption or relief and withdrawing of any category of goods or services or assesseees;
- (2) In respect of any newly established or ongoing enterprise, the following may be stipulated:
 - (aa) Grant of tax exemption or relief on the import of machineries, equipment and other articles that are imported in order to use or install them in new or ongoing construction;
 - (bb) Grant tax exemption or relief for thirty six consecutive months at most, starting from the date of commencement of commercial operation of the production or services business;
- (3) Grant of tax exemption or relief in respect of any category of goods produced in the country and exported or sold.

(b) The Union Government may grant commercial tax exemption and relief in respect of the following items:

- (1) Donations by local or international donors or internal organizations for social, religious, health or educational purposes;
- (2) Goods supplied by local or international organizations to the State;
- (3) Equipment from donors or international organizations that is imported in order to be used by scholars or practitioners who are engaged in the development of the State;
- (4) Goods used by diplomats if the exemption or relief is granted reciprocally.”

10. After Section 15 (c) of the Commercial Tax Law, Sub-section (d) shall be inserted as follow:

“(d) Person who pays a monthly fixed rate.”

11. After Section 15 of the Commercial Tax Law, Section 15A shall be inserted as follow:

“15A. Anybody leaving the Republic of the Union of Myanmar shall, in the manner prescribed by the regulations, obtain a recommendation letter showing that he paid tax under this law.

In respect of this matter, however, the Ministry of Finance of the Union Government may grant exemptions by notification.

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12. Section 19 (b) of the Commercial Tax Law shall be substituted as follow:

“(b) An assessee dissatisfied with any order may appeal in accordance with the regulations. If the order was issued by the Township Revenue Officer, the assessee shall appeal within thirty days from the date of receipt of the tax collection letter or order with which the assessee is dissatisfied. If the objecting assessee or the Township Revenue Officer are dissatisfied with the order of the Area Revenue Officer of the Union or State or Region Revenue Officer or Head of the Companies’ Circle Tax Office or Head of the Assessment Office, they have the right to appeal within sixty days from the date of the receipt of the order with which they are dissatisfied. In counting the limitation period, the following periods shall be excluded:

- (i) Time required for obtaining the copy of the order against which the appeal is intended to be filed:
- (ii) time for filing a request to be entitled to appeal without paying the tax in full.”

13. After Section 19 of the Commercial Tax Law, Section 19A shall be inserted as follows:

“19A. (a) The assessee or Area Revenue Officer of the Union or Region or State Revenue Officer or Head of the Companies’ Circle Tax Office or Assessable Office may, if it is a question of law which arises from the order of the Revenue Appellate Tribunal, propose to that Revenue Appellate Tribunal within sixty days from the date of the receipt of order with which they are dissatisfied to hand over the matter to the Supreme Court of the Union.

(b) If a proposal filed in accordance with sub-section (a) is rejected by the Revenue Appellate Tribunal, the person who filed the proposal may apply to the Supreme Court of the Union within sixty days from the date of the receipt of the order which rejectets the proposal.

14. Section 21 of the Commercial Tax Law shall be substituted as follow:

“21. If any person, without sufficient cause, defaults in any of the following matters, the Township Revenue Officer shall cause him to pay a fine at the following stipulated percentage. When causing him to pay fine, the fine mentioned in sub-section (f) shall be collected separately before the end of the financial year:

- (a) a fine equivalent to ten percent of the tax payable in the relevant assessment for the failure to register or to send intimation of commencement of the operation of the enterprise;

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- (b) a fine equivalent to ten percent of the tax payable in the relevant assessment for each of the following failures: failure to pay the monthly tax within the stipulated time, to submit the quarterly return or the annual return.
 - (c) a fine equivalent to ten percent of the additional tax payable in the relevant assessment for each of the following failures: failure to pay tax in accordance with the annual return, failure to comply with a notice requesting personal attendance for an examination relating to the assessment;
 - (d) a fine equivalent to ten percent of the additional tax payable in the relevant assessment for the failure to pay tax within the stipulated period or within the extended period.
 - (e) a fine equivalent to ten percent of the tax payable in the relevant assessment for the failure to keep receipts or documents showing acceptance of the money that are required to be kept according to the Commercial Tax Regulations;
 - (f) a fine equivalent to hundred percent of the tax payable in the relevant assessment if the Township Revenue Officer finds out that *[the taxpayer]* failed to give the receipt or document showing acceptance of the money to the purchaser or recipient of the service in spite of *[the taxpayer]* having kept such receipt or document.
15. Section 27 of the Commercial Tax Law shall be substituted as follows:
- “27. The Union Tax Law may, for any year, prescribe the tax rate for *[revenue in]* foreign currency if foreign currency is received as purchase price for the sale of any goods or as remuneration for the rendering of any service.”
16. The word “the producer, service provider or importer” that is mentioned in Section 30 shall be substituted by the word “the producer, trader, service provider or importer”.
17. After Section 30 of the Commercial Tax Law, Section 31, 32 and 33 shall be inserted as follow:
- “31. The Union Government may, except for money collected on export, give a stipulated percentage of the money collected in Myanmar currency as commercial tax from a Region or State to the fund of this Region or State.
32. The producer, trader, importer or service provider shall, after having collected the tax together with the net purchase price for the sale of domestically produced goods, bought goods

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or imported goods or the net fee for the service, give a receipt or a document showing acceptance of the money to the purchaser or recipient of the service.

33. Regulations may be issued with regard to the sale, production, distribution and import of special goods where a tax stamp is affixed.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein

President

The Republic of the Union of Myanmar