

# Myanmar's New Tax Law(s)

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Amendments to Myanmar's tax regime have been long-awaited. On March 24, 2014, the Union Government enacted two new tax laws with immediate effect. These are the *Law Amending the Income Tax Law*, Pyihtaungsu Hluttaw Law No. 15/2014 and the *Law Amending the Commercial Tax Law*, Pyihtaungsu Hluttaw Law No. 16/2014. On March 28, 2014 a third tax law, the *Tax of the Union Law*, Pyihtaungsu Hluttaw Law No. 20/2014, was enacted as well. The new laws clarify exemptions and tax rates charged as well as outlining a certain amount of tax administration housekeeping. New tax rates will apply to the forthcoming tax year.

## Income not Subject to Taxation

The *Law Amending the Income Tax Law* specifies that certain types of income are not subject to income taxation. These are:

1. Income received by any religious or charitable organization and used exclusively for matters of religion or charity;
2. Income received by a local authority;
3. Proceeds of the commutation of a pension, condolence payments [which otherwise would have to be] categorized as "salary";
4. Compensation obtained for death or injury;
5. Insurance proceeds;
6. Income of a casual, nonrecurring nature with the following exceptions:
  - (i) capital gains;
  - (ii) income from an enterprise;
7. Share of the aftertax profit of an association.

Tax exemptions granted in the Foreign Investment Law are confirmed.

The payor of monies subject to tax is required to withhold estimated tax due and forward it to the Ministry of Finance. Failure to withhold taxes due is subject to fines and penalties. There is a three year statute of limitations for tax matters since the obligation to provide the Ministry with supporting tax documentation is limited to three years. If there is a failure to file a return the Ministry may nonetheless assess income tax. The Revenue Office of the Ministry of Finance is vested with the same enforcement powers as a civil court.

## Commercial Tax Law

The second of these revenue laws is the *Law Amending the Commercial Tax Law*. The *Commercial Tax Law* in Myanmar is a revenue-raising measure similar, but not identical, to the well-known value-added tax (VAT). The tax is imposed on anyone engaged in manufacturing, distribution, importation of goods, trading or the provision of services. The tax is to be paid by the manufacturer, importer, trader or service provider. [5] Under the new law, in order to leave Myanmar, a person must obtain a tax clearance from the Ministry of Finance.

It is not clear how this provision will be applied in practice. In some Latin American countries, such a tax clearance is called a *paz y salvo* and without the document, one is barred from leaving the country.

## Commercial Tax Rates

The third and perhaps most important law, the *Tax of the Union Law*, sets forth the tax rates for the major taxes imposed in the Union. The Commercial Tax rates are as follows

General goods	5%
Cigarettes	100%
Other tobacco	50%
Alcohol	50%
Teak, hardwood logs	25%
Jade and gemstones	30%
Jewelry	15%
Vehicles with +1800cc motor	25%
Gasoline, diesel, avgas	10%
Natural gas	8%

## Services Tax

There is a 5% tax on services. The following activities are exempt:

1. Real estate brokerage
2. Car parks brokerage
3. Life insurances
4. Microfinance
5. Health care
6. Education
7. Transportation of goods
8. Employment agencies
9. Banking
10. Customs clearance
11. Party Rentals
12. Abattoirs
13. Contract manufacturing
14. Funeral-related
15. Container Transport
16. Child nurseries
17. Traditional Massage
18. Moving Toll roads
19. Veterinary
20. Public sanitation
21. Air transport
22. Cultural

- 23. Information technology
- 24. Technology and management consultancy
- 25. Public transportation (bus, railway, and ferry)

With respect of the sale of goods, provision of services or trading, commercial tax is not assessed unless the company has sales in excess of Ks. 15,000,000 annually.

**Commercial Tax on Exports**

Commercial tax on exports is at the following rates:

General	5%
Crude oil	5%
Natural gas	8%
Teak, hardwood logs	50%
Jade and gemstones	30%
Jewelry	10%

To promote local manufacturing, a rate of 2% instead of the general rate of 5% is charged in respect of locally produced goods.

**Imports Exempt from Commercial Tax**

Commercial tax is not levied on the following imported goods:

- 1. Fertilizers
- 2. Insecticides, pesticides, fungicides, etc.
- 3. Farm equipment, farm machines and machine parts
- 4. Fish feed, shrimp feed (raw material, finished goods)
- 5. Animal feed (raw material, finished goods)
- 6. Animal medicines
- 7. Breeding livestock
- 8. Solar panels, solar charge controllers and solar inverters
- 9. X-ray films and plates and other X-ray, surgical, medicinal or pharmaceutical apparatus and equipment
- 10. Bandages, gauze, other surgical dressing material, hospital and surgical outfit and sundries
- 11. Pharmaceuticals and other medicines (except medicine restricted by rules and regulations)
- 12. Drugs
- 13. Textbooks, exercise and drawing books of various kinds and papers for the production of such books and all sorts of pencils
- 14. Graphite for the production of pencils
- 15. Condoms
- 16. Defense and military equipment
- 17. Civilian use munitions and demolition equipment
- 18. Crop seeds, nursery plants

**Income Tax Rates**

**Personal**

Income tax rates have been established as follows (in kyat):

1-2 million	0%
2-5 million	5%
5-10 million	10%
10-20 million	15%
20-30 million	20%
Over 30 million	25%

A foreigner who works part of the year in Myanmar but who resides abroad is taxed at the rate of 35%. If the Myanmar-source income is paid in a currency other than kyat the tax must be paid in the currency in which the income was earned. Overseas Burmese citizens pay at a rate of 10%. The standard deduction is 20% of income but may not exceed 10 million Ks. for a single tax year. There is an additional spousal deduction of 500,000 Ks. and a 300,000 Ks. deduction for each child.

### **Corporate**

Companies formed under Myanmar law are taxed at a rate of 25%. New businesses enjoy a tax holiday if their income does not exceed 5 million Ks. for three years in a row.

### **Capital Gains**

There is a 10% capital gains tax except with respect to capital gains earned in the oil and gas sector. These are taxed at substantially higher and regressive rates (in billions of kyat):

0-100	40%
100-150	45%
150 and above	50%

Capital gains of less than 5,000,000 Ks. in a single year are exempt from tax. Funds paid as a reward for reporting certain types of crime are exempt from tax as are international awards, such as the Nobel Prize.

### **Public Awareness Campaign**

Finally, the relevant ministries are ordered to conduct a public awareness campaign concerning the need to pay income taxes.