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Tax alert – Union Tax Law 2014

The Pyidaungsu Hluttaw enacted the Union Tax Law on 28 March 2014. The provisions introduced therein will take effect from 1 April of 2014.

It should be noted that just prior to the introduction of the above Union Tax Law, the Pyihtaungsu Hluttaw enacted the changes to the Commercial tax Legislation and the Pyidaungsu Hluttaw enacted the changes to the Income Tax Legislation on 24 March 2014.

Upon deeper examination, it is observed that changes introduced on 24 March related to legislative changes whilst the Union Tax Law introduced the respective tax rates for the fiscal year 2014/2015. This represents a positive change in direction for the Myanmar tax system in providing a way to update the tax legislation on an annual basis.

Broadly speaking, the Union Tax Law 2014 has introduced changes to:-

- Income Tax
- Commercial Tax

We will highlight some of the key changes in relation to the above.

Income tax changes

With the enactment of the Union Tax Law 2014, the applicable tax rates for resident companies and non-resident entities continues to be 25% and 35% respectively.

Notwithstanding the above, the highest applicable tax rate for resident individual's salary, property, business and other income has increased from

20% to 25% accordingly. A table showing the new tax brackets is illustrated below.

No	Income Schedule for assessing income tax on the remaining income after offsetting it with specified reliefs		Income Tax Rate
	From	To	
	Kyat	Kyat	
1.	1	2,000,000	0%
2.	2,000,001	5,000,000	5%
3.	5,000,001	10,000,000	10%
4.	10,000,001	20,000,000	15%
5.	20,000,001	30,000,000	20%
6.	30,000,001 and above		25%

Further to the above, individuals will also enjoy a slight increase in spouse relief and child relief. The new amounts for the relief are as follows:-

- a. 500,000 kyat for spouse (limited to one spouse);
- b. 300,000 kyat per child

Previously unassessed income

Prior to 2014, income that has not been subject to tax would be taxed at 30%. However, from 1 April 2014, anyone purchasing, constructing or acquiring a capital asset will be taxed on a the following rates if the is unable to demonstrate the source of the income.

No	Income Schedule for assessing income tax on the remaining income after offsetting it with specified reliefs		Income Tax Rate
	From	To	
	Kyat	Kyat	
1.	0	50,000,000	5%
2.	50,000,001	150,000,000	10%
3.	150,000,001	300,000,000	20%

4.	300,000,001 and above	30%
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Capital gains tax

Capital gains of resident companies will continue to be taxed at 10% and capital gains tax of 40% will be applicable to non-resident entities. However, oil and gas entities will be subject to capital gains tax at the following progressive rates:-

No	From	To	Capital Gains Tax Rate
	Kyat	Kyat	
1.	0	100 billion	40%
2.	100 billion	150 billion	45%
3.	150 billion and above		50%

Changes to Commercial Tax

Prior to the changes to Commercial Tax introduced in 2014, the commercial tax rates applicable to the various goods and services were set out in the 7 schedules of the commercial tax legislation. This was administratively cumbersome as new items would need to be continuously added as the economy in Myanmar matured.

As such, the negative list system was introduced to the commercial tax legislation where only exemptions to the general rule would be listed. However, it is important to note that the detailed regulations for the implementation of the changes have yet to be released.

We will discuss the commercial tax changes in greater detail below.

Commercial taxes on goods

It has been clarified that generally products that are produced and sold within Myanmar would be subject to 5% commercial tax. The exceptions to this general rule are listed in table (1) and (2) below.

Table (1) (Section 11(b) of the Union Tax Law 2014)

Goods listed in table (1) will be subject to commercial tax based on its landed cost if it is imported and on sale proceeds if it is produced within Myanmar.

No	Description of the Goods	Commercial tax rate
1.	Cigarettes	100%

2.	Tobacco	50%
3.	Virginia tobacco, cured	50%
4.	Cheroots	50%
5.	Cigars	50%
6.	Pipe Tobacco	50%
7.	Betel Chewing preparation	50%
8.	Various kinds of liquor	50%
9.	Various kinds of beer	50%
10.	Various kinds of wine	50%
11.	Teak, hardwood logs and conversions	25%
12.	Jade, rubies, sapphires, emeralds, diamonds and other precious stones	30%
13.	Jewelry made from jade, rubies, sapphires, emeralds, diamonds or other precious stones	15%
14.	Vehicles above 1800 CC, light vans, saloons, sedans and light wagons, estate wagons and coupes	25%
15.	Petrol, diesel, aviation jet fuel	10%
16.	Natural Gas	8%

Table 2 (Section 11 (c) of the Union Tax Law 2014)

If the products listed in the table below are produced within Myanmar, they would not be subject to commercial tax. However, if the products are imported, they would be subject to 5% commercial tax on the landed cost.

No	Description of the goods
1.	Paddy, rice, split, bran, rough bran, paddy husk
2.	Wheat grain, flour, smooth and rough flour
3.	Maize and other cereals, powder maize and other powder cereals
4.	Pulses, chick peas, pea flour
5.	Groundnuts, shelled or unshelled
6.	Sesame, flower sesame

7.	Mustard seeds, sunflower seeds, tamarind seeds, cotton seeds
8.	Oil palm
9.	Various cottons
10.	Jute and similar fibers
11.	Garlic, onions
12.	Potatoes
13.	Cassava plants, cassava powder
14.	Spices (leaves, fruits, seeds, bark), prepared spices
15.	Various fresh fruits
16.	Vegetables
17.	Sugarcane
18.	Mulberry leaves
19.	Medicinal plants or herbs
20.	Animal feed, fresh and dried (farm products only)
21.	Thatch, reeds, 'dani' and such agricultural products not elsewhere specified
22.	Wood, bamboo
23.	Live animals
24.	Silk cocoons
25.	Canes, finished and unfinished
26.	Honey and bee wax
27.	Lac
28.	Residue of groundnuts, sesame, cotton seeds, rice bran, etc.
29.	Soap stocks (oil residue)
30.	Bleaching substances
31.	Ginned cotton
32.	Coir yarn
33.	Bird feathers, duck feathers
34.	Umbrella cloths
35.	Stamps, all sorts
36.	Sealing wax and sticks

37.	Slates, slate pencils and chalk
38.	Shrimp paste (ngapi)
39.	Shrimp and fish sauces (ngan-pya-ye)
40.	Groundnut oil, sesame oil, sunflower seed oil, rice bran edible oil and oil cakes
41.	Fresh fish, fresh prawns
42.	Sterilized and other pasteurized milk
43.	Chili, chili powder
44.	Saffron, saffron powder
45.	Ginger
46.	Fish paste
47.	Ripe tamarinds
48.	National flag
49.	Various kinds of beads
50.	Various kinds of rulers, erasers, sharpeners
51.	Alternatives to firewood
52.	Coconut oil
53.	Various kinds of fowl eggs
54.	Pumpkin seeds, watermelon seeds
55.	Religious clothes (thingan robe etc.)
56.	Oil dregs
57.	Salt
58.	Latex
59.	Betel nuts
60.	Computers, telephone handsets

Table (3) (Section 18 of the Union Tax Act, 2014)

No commercial tax will be applicable on the importation or sale of the goods in Myanmar listed in the table below.

No	Description of the Goods
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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.	Animal breed
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.	Various kinds of gun powder, various kinds of dynamite and accessories thereto used by the civil departments
18.	Crop seeds, nursery plants
19.	Printed material of the Ministry of Defense relating to defense; arms and ammunition, auxiliary goods and motor vehicles of the Ministry of Defense
20.	Duty free goods to be sold in foreign currency at the departure places to passengers departing for overseas
21.	Motor vehicles imported for the staff of foreign embassies and consulates

22.	Goods purchased for the consumption of the armed forces if the expenses are in the budget of the Ministry of Defense
23.	CMP goods, packing material for such goods
24.	Fuel sold to foreign embassies, UN organizations and foreign diplomats by the Ministry of Energy

Table 5 (Section 14 of the Union Tax Act, 2014)
Commercial tax will apply to the following products if they are exported.

No.	Description of the Goods	Tax Percentage
1.	Crude Oil	5%
2.	Natural Gas	8%
3.	Teak, hardwood logs and conversion	50%
4.	Jade, Rubies, Sapphires, emeralds, diamonds and other precious stone	30%
5.	Jewelry made from Jade, rubies, sapphires, emeralds, diamonds and other precious stone	10%

Commercial taxes on services

Table 5 (Section 11(f) of the Union Tax Act, 2014)

From 1 April 2014, commercial tax of 5% will be generally applicable to all domestic services. The exception to the above are listed in the table below.

No	Description of the goods
1.	Services consisting of renting out houses
2.	Services consisting of renting out car parks
3.	Life insurance services
4.	Microfinance services

5.	Health care services
6.	Education services
7.	Services consisting in the transportation of goods
8.	Services of employment agencies
9.	Banking services
10.	Customs clearance services
11.	Renting out objects such as tables, chairs or crockery for social functions
12.	Licensed slaughtering of animals
13.	Contract manufacturing
14.	Funeral services
15.	Container transport services
16.	Child nursery services
17.	Myanmar traditional massage / massage performed by a blind person
18.	Moving services
19.	Services for which a road toll is charged
20.	Animal health care services
21.	Services consisting in the provision of public toilets
22.	Outbound air transport services
23.	Services concerning culture and art
24.	Information technology services
25.	Technology and management consultancy services
26.	Public transport services (bus, railway and ferry boat)

Restriction on commercial tax set off

Commercial tax on the import or production of the goods listed below will not be allowed to be offset against the commercial tax applicable on the proceeds of their sale. However, offset will be allowed in trading transactions.

No.	Description of the Goods
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1.	Cigarettes
2.	Tobacco
3.	Virginia Tobacco, cured
4.	Cheroots
5.	Cigars
6.	Pipe tobacco
7.	Betel Chewing preparation
8.	Various kinds of liquor
9.	Various kinds of beer
10.	Various kinds of wine

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