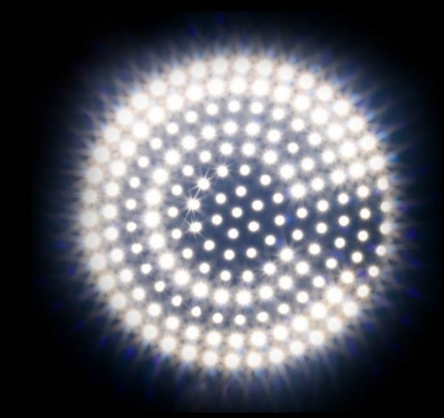
International Tax
Myanmar Highlights 2017



Investment basics:

Currency – Myanmar Kyat (MMK). US dollars are converted into MMK using the exchange rate issued by the central bank of Myanmar.

Foreign exchange control – Citizens, foreigners and companies in Myanmar generally must obtain permission from the Foreign Exchange Management Department for all dealings with foreign exchange, including borrowing from abroad and repaying principal and interest, making payments to a person abroad, opening accounts in a foreign bank abroad and remitting profits. However, companies registered under the Foreign Investment Law (FIL) are permitted to repatriate investments and profits in the foreign currency in which the investments were made, subject to the approval of the Investment Commission and the central bank.

Accounting principles/financial statements – IFRS. Financial statements must be prepared annually and be audited. A company is required to file audited accounts with its annual income tax return.

Principal business entities – These are the private and public limited liability company, partnership and joint venture with a citizen, private company, cooperative society or state-owned economic organization and sole proprietorship.

Corporate taxation:

Residence – A company is resident if it is formed under the Myanmar Companies Act or any other law of Myanmar; an association of persons other than a company is resident in Myanmar where the control, management and decision-making for its affairs are situated and exercised wholly in Myanmar. Companies registered under the FIL are treated as resident companies. Branches of foreign companies generally are deemed to be nonresident.

Basis – Resident companies are taxed on their worldwide income. However, resident companies registered under the FIL are not taxed on foreign income. Nonresident companies are taxed only on Myanmar-source income.

Taxable income – Taxable income includes income from a business, profession, property, other sources and income that was not assessed, as well as capital gains. Taxable income is calculated after deduction of allowable expenses and depreciation.

Taxation of dividends – Myanmar operates a one-tier corporate tax system, under which dividends received from a company or other association of persons are exempt from income tax in the hands of shareholders.

Capital gains – There is no separate capital gains tax law. Income tax is levied on gains from the sale, exchange or transfer of capital assets (e.g. land, buildings, vehicles and any capital assets of an enterprise). Capital assets also include shares, bonds and similar instruments. The rate of tax is 10% for both resident and nonresident companies.

Losses – Losses from any source may be set off against income accruing from any other source for the same entity in that year. Unused losses may be carried forward and offset against income in the following three consecutive years. The carryback of losses is not permitted.

Capital losses and a share of losses of an association of persons may not be offset against income from other sources or carried forward. Such losses may be offset only against capital gains derived in the same year.

Rate – A 25% rate applies to companies incorporated under the Myanmar Companies Act, enterprises operating under the FIL and foreign organizations that have obtained special permission to be engaged in state-sponsored projects, enterprises or undertakings.

A branch of a foreign company also is taxed at a rate of 25% on Myanmar-source income.

A 2% advance corporate income tax is levied on the import and export of goods; this tax is creditable against the corporate income tax liability of a Myanmar entity at the end of the year.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – There is no provision for unilateral relief. However, where there is a tax treaty, the provisions of the treaty will be followed, regardless of any provisions to the contrary in the Income Tax Law.

Participation exemption – No

Holding company regime – No

Incentives – There are two main laws providing incentives to foreign investors: the FIL and the Special Economic Zone Law (SEZ).

Tax incentives under FIL include: a tax exemption for five consecutive years, a tax exemption for the production of goods or services and for reinvested profits; accelerated depreciation; 50% tax relief for export profits; and special deductions and exemptions from customs duty and domestic taxes on imported materials, machinery and equipment.

Special corporate income tax incentives under the SEZ law include: a tax exemption for the first seven years for investors in a free zone; a tax exemption for the first five years for investors in a promotion zone; 50% relief for the second five years for investors in a free zone or promotion zone and 50% relief for the third five years if the profits are reinvested within one year; a tax exemption for the first eight years for a developer, 50% relief for the second five years; and 50% relief for the third five years if the profits are reinvested within one year. There also is an exemption from import duty on certain goods.

Withholding tax:

Dividends – No tax is levied on dividends paid to a resident or nonresident.

Interest – No tax is withheld on interest paid to a resident; the rate is 15% on interest paid to a nonresident.

Royalties – As from 1 April 2017, royalties paid to a resident are subject to a 10% withholding tax; the rate is 15% for royalties paid to a nonresident. (The previous rates were 15% and 20% for royalties paid to residents and nonresidents, respectively.)

Technical service fees – See under “Other,” below.

Branch remittance tax – No

Other – Amounts paid to a resident for the procurement of goods within the country and services rendered are subject to a 2% withholding tax; as from 1 April 2017, the rate is 2.5% (reduced from 3.5%) if paid to a nonresident company.

Other taxes on corporations:

Capital duty – No, but registration fees apply on the incorporation of a company or registration of a branch valued at MMK 1 million or more.

Payroll tax – The employer must withhold tax on employment income.

Real property tax – No

Social security – The employer must contribute 3% of an employee's basic salary and wages (capped at MMK 9,000) to social security.

Stamp duty – Stamp duty is levied on various types of instruments required to be stamped under the Stamp Act.

Transfer tax – Aside from capital gains tax, there is no other tax on transfers of capital assets, but see under “Stamp duty,” above.

Other – Government royalties are payable in the oil and gas, mining, forestry and fishery industries.

Customs duties are levied at rates ranging from 0% to 40%. Excise duty is levied on alcoholic beverages.

Anti-avoidance rules:

Transfer pricing – No

Thin capitalization – No

Controlled foreign companies – No

Disclosure requirements – No

Compliance for corporations:

Tax year – The tax year is 1 April to 31 March. A company is not allowed to adopt different year-end.

Consolidated returns – There is no provision for group treatment in the tax legislation; each entity must file a separate return.

Filing requirements – The income tax return must be filed within three months of the end of the income year (the end of the income year is 31 March, so the tax return must be filed by 30 June). The return for capital gains must be filed within one month from the date of disposal of the capital assets. The date of disposal of immovable property is defined as the earliest of the date of execution of the deed of disposal, the date title passes or the date of delivery.

The Inland Revenue Department (IRD) generally will review the tax return and raise any queries before finalizing the assessment. Therefore, unless there is an expectation of fraud, the IRD generally will not conduct a tax audit.

Advance payments must be made monthly (for commercial tax (see under "Value added tax," below)) or quarterly (for corporate income tax), based on the estimated total income for the year. The advance payments and any taxes withheld are creditable against the final tax liability. The date for settling the final tax liability is specified in the notice of demand issued by the IRD. Excess tax paid may be refunded once the tax office has authorized and approved the refund, but this may take six to nine months. Tax refunds generally are used to offset against current year tax liabilities.

Penalties – If a taxpayer is found to have concealed income or details relating to income, it may fully disclose the facts within a specified time frame, but a penalty equal to 50% (for corporate income tax) or 100% (for commercial tax) of the additional tax will be imposed. If the disclosure is not made within the deadline or the taxpayer does not make a full disclosure, it may be subject to prosecution; upon conviction, an authorized director of a corporate taxpayer may be imprisoned for three to 10 years (corporate income tax) or for no more than one year (commercial tax), in addition to the taxpayer's liability to pay the tax and penalty. The penalty for failure to file an income tax return is 10% of taxable income.

Rulings – No

Personal taxation:

Basis – All Myanmar citizens are treated as tax residents. Salary income of Myanmar citizens working outside Myanmar is exempt from tax, but other sources of income are taxable.

A resident foreigner is subject to tax on all income derived from sources within or outside Myanmar. Individuals working for FIL companies are treated as resident foreigners, and are taxed on a worldwide basis. A nonresident foreigner is subject to tax on all income derived from Myanmar sources.

Residence – A foreigner who lives in Myanmar for at least 183 days during the income year is treated as a resident. Individuals working for FIL companies are treated as resident foreigners, regardless of their period of stay in Myanmar.

Filing status – Each individual is required to file a separate tax return. Married couples are not allowed to file a joint return.

Taxable income – Taxable income includes salary income (including perquisites and any benefits) and capital gains; income from a profession, business, property or other sources; and any income that has escaped assessment.

Capital gains – A 10% rate is levied on gains from the sale, exchange or transfer of capital assets (e.g. land, buildings, vehicles, any capital assets of an enterprise, shares, bonds, etc.) by a resident national, resident foreigner or nonresident foreigner.

Deductions and allowances – Premiums paid on a life insurance policy and donations made to government-sponsored organizations or organizations recognized under a notification are allowed a deduction of up to 25% of total income under certain circumstances. A basic allowance of 20% of each class of income is available, but the total basic allowance for a year cannot exceed MMK 10 million. Spouse and child reliefs are available in certain cases.

Rates – Progressive rates ranging from 0% to 25% apply to income from salary, the exercise of a profession or business, property and other sources. The 25% rate applies to chargeable income exceeding MMK 30 million.

Income that escaped assessment is taxed at progressive rates ranging from 15% to 30%.

A nonresident foreigner is subject to tax on Myanmar-source income at a progressive rate ranging from 0% to 25%.

Other taxes on individuals:

Capital duty – No

Stamp duty – Stamp duty is levied on various types of instruments required to be stamped under the Stamp Act.

Capital acquisitions tax – No

Real property tax – No

Inheritance/estate tax – No, but registration fees are payable for inheritances under an arrangement of settlement and for gifts, depending on the value of the property.

Net wealth/net worth tax – No

Social security – An employee must contribute 2% of his/her total salary and wages, capped at MMK 6,000.

Compliance for individuals:

Tax year – The tax year is 1 April to 31 March, e.g.

income earned in the income year from 1 April 2016 to 31 March 2017 is assessed to tax in year of assessment 2017.

Filing and payment – The employer is responsible for deducting income tax due from salary at the time the salary is paid. A statement of the monthly deduction must be provided to the tax authorities within seven days of the date of deduction. The employer also is required to furnish an annual salary statement within three months of the end of the income year.

For other income, including income from a business, advance tax payments are made monthly (for commercial tax) or quarterly (for corporate income tax), based on the estimated total income for the year. The advance payments and any taxes withheld are creditable against the final tax liability. The date for settling the final tax liability is specified in the notice of demand issued by the IRD.

Income tax returns must be filed within three months from the end of the income year, i.e. by 30 June after the end of the income year. Tax returns for capital gains must be filed within one month from the date of disposal of capital assets. The date of disposal of immovable property is defined as the earliest of the date of execution of the deed of disposal, the date title passes or the date of delivery.

Penalties – Failure to file an income tax return while knowing that assessable income has been obtained is considered fraudulent intent, and the penalties are the same as those for corporate tax and commercial tax purposes. The penalty for failure to file an income tax return is 10% of taxable income.

Value added tax:

Taxable transactions – Myanmar does not levy a VAT, but a commercial tax is levied as a turnover tax on goods and services. The commercial tax applies to all service transactions unless the transactions are listed as exempt.

Rates – The commercial tax rate may be 5% or may range from 5%-120%, depending on the types of products and services.

Registration – Commercial tax registration applies to both Myanmar-resident entities and to businesses receiving taxable income. Registration for commercial tax is required when the amount of income from sales and services for an income year is MMK 20 million or more.

Filing and payment – Commercial tax returns must be submitted on a quarterly basis, on 30 April, 31 July, 31 October and 31 January, and the payment of the commercial tax is due by the 10th day of the following month.

Source of tax law: Income Tax Law; Commercial Tax Law; and Foreign Investment Law (FIL)

Tax treaties: Myanmar has eight tax treaties.

Tax authorities: Inland Revenue Department (IRD)

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