



**Dear Readers,**

Welcome to a new edition of our newsletter.

**1. Payment of income tax on salary agreed to be paid in foreign currency but actually paid in MMK**

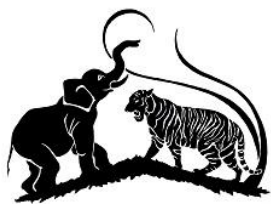
On 24 December 2024, the Medium Taxpayers' Office 2 (and presumably other tax offices) informed their taxpayers that income tax on salary stated in a foreign currency in the employment contract may be paid in MMK if the salary is paid out in MMK.

*CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED*

**Notice to inform taxpayers who need to resolve their tax matters at the Medium Taxpayers' Office 2**

1. Section 30 Union Taxation Law 2024 dated 1 April 2024, published by the Internal Revenue Department, states: "Income in foreign currency under all heads except the capital gains head shall be calculated in accordance with regulation 8 Income Tax Regulations, and the income Tax shall be paid in the type of currency received." Therefore, taxpaying companies must pay taxes for income earned in foreign currency or for payments made to non-residents, based on the type of income or type of payment.
2. However, regarding salaries and wages, it is known that some taxpaying companies agreed to pay salaries in foreign currency at the time of signing the employment contract, but due to various difficulties, when the actual salary is paid, they pay their employees only in Myanmar kyats. Therefore, we would like to inform you that if the contract states the salary in foreign currency, but the employees actually receive it in Myanmar kyats when they are paid, the income tax on the salary may be paid in Myanmar kyats.
3. If you have any questions regarding this information, please contact the Taxpayer Service Division, Medium Taxpayers' Office 2, in person or by phone at 018-657537 and 018-657589. We highly appreciate the cooperation of the taxpayers.

**Taxpayer Service Division**



**Medium Taxpayers' Office 2**

Letter No. Pa Ta Hka/A La Hka-2 A Hka Ya (Mail)/2024 (220)

Date: 24 December 2024

**2. Industrial design registration applications published**

The Intellectual Property Department recently started to [publish](#) applications for the registration of industrial designs.



1.1 Perspective View



1.2 Front View



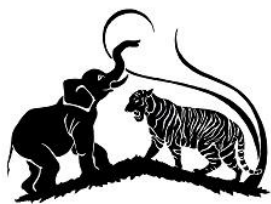
1.3 Top View



1.4 Bottom View

To enjoy protection, an industrial design must be novel (both in Myanmar and abroad), free from imitation, and cannot consist in the technical or functional features of a product.

It is recommendable to check this publication once in a while to prevent competitors from trying to monopolise designs that may not meet the criteria for protection.



### 3. Important tax judgment on BOT contracts

The Myanmar Gazette dated [22 November 2024](#) published a tax judgment that is highly important for BOT (build, operate, transfer) contracts (judgment by the Revenue Appellate Tribunal dated 31 October 2022).

The taxpayer had concluded a BOT contract with the Hydropower Planning Department of the Ministry of Electric Power No. 1 for a period of 60 years for the construction and operation of the Thauk Ye Khat (2) Hydropower Project. In its accounting, the taxpayer had (i) capitalised its costs for “Civil Work” and amortised them with an amortisation period of 60 years, and (ii) capitalised its acquisition costs of in total MMK 53,238,600,000 for “Machinery Work” (infrastructure, electricity generation plant and equipment) and originally “amortised” them (as the taxpayer put it) over an amortisation period of 10 years.

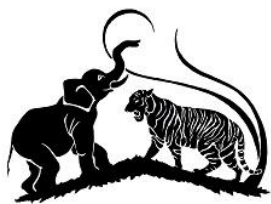
The Large Taxpayers’ Office conducted a tax audit for the 2017-2018 income year, revised the reported income from MMK 2,573,354,616 to MMK 7,315,505,271, and assessed additional income tax in the amount of MMK 592,768,832, as it was of the opinion that the Machinery Work should be categorised as intangible assets and amortised until the end of the BOT contract with an amortisation period of 60 years.

The taxpayer appealed and, during the process, changed its original stance with regard to the Machinery Work: The taxpayer now wanted to look at each item in this position separately and depreciate it with the depreciation allowance provided for the respective item in the depreciation table in regulation 13 (a) Income Tax Regulations.

The Revenue Appellate Tribunal ultimately sided with the taxpayer. It ruled that the items in the position Machinery Work were tangible assets, and that the taxpayer had the right according to section 11 (b) Income Tax Law to deduct the depreciation allowance provided for in the Income Tax Regulations as there was no special law to the contrary.

### 4. Export by foreign companies

On 17 December 2024, the Ministry of Commerce under the State Administration Council (“SAC”) updated the list of goods that foreign-invested companies may export without a wholesale or retail registration certificate (which requires a high investment) and the export criteria as follows:



*CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED*

**Government of the Republic of the Union of Myanmar**

**Ministry of Commerce**

**Notification No. 93/2024**

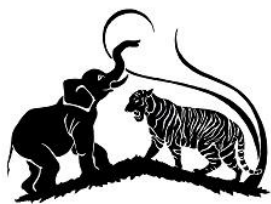
**1386, 2<sup>nd</sup> Waning Day of Nadaw**

**(17 December 2024)**

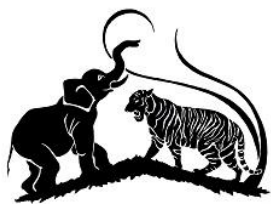
**Allowing foreign companies to export certain domestically produced goods**

The Ministry of Commerce has issued this notification exercising the powers conferred by section 13 (b) Export and Import Law to improve productivity, gain access to more foreign markets, and obtain higher selling prices for producers, all by exporting more high-quality domestic products to foreign markets.

1. The Ministry of Commerce allows foreign companies to export the following product groups, either by producing them themselves or purchasing them from manufacturers:
  - (a) Highly processed meat, fish and seafood products;
  - (b) highly processed agricultural products [*such as rice, peas, corn, etc.*];
  - (c) various types of pulp and paper;
  - (d) seeds;
  - (e) refined minerals;
  - (f) high-quality semi-finished or finished products made from fruits and horticultural raw materials;
  - (g) furniture made from wood;
  - (h) environmentally friendly products that support [*environmental conservation*].
2. Foreign companies exporting the 8 product groups in para. 1 shall:



- (a) For highly processed meat, fish and seafood products, obtain an export license from the Department of Trade with a recommendation from the Department of Livestock and Veterinary Services and the Department of Fisheries;
- (b) if processing highly processed agricultural products,
  - (1) obtain a recommendation from the Food and Drug Administration, comply with other specifications set by relevant departments and obtain an export license from the Department of Trade, if exporting pulses, corn and sesame;
  - (2) submit the following documents in full and obtain an export license from the Department of Trade, if exporting rice and broken rice:
    - (aa) evidence of having transferred from abroad to a local bank an initial investment of at least USD 3 million;
    - (bb) evidence of having sufficient storage facilities;
    - (cc) evidence of membership in the Myanmar Rice Federation;
- (c) comply with the procedures set by the relevant departments and obtain an export license from the Department of Trade, if exporting various types of pulp and paper;
- (d) comply with the Seed Law and the procedures of the Department of Agriculture and obtain an export license from the Department of Trade, if exporting seeds;
- (e) obtain a mineral sale and purchase permit from the relevant Ministry and a recommendation from the Department of Mines according to the Mines Law, and thereafter obtain an export license from the Department of Trade, if exporting refined minerals;
- (f) comply with the National Food Law and the procedures set by relevant departments and obtain an export license from the Department of Trade, if exporting high-quality semi-finished or finished products made from fruits and horticultural raw materials;



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- (g) obtain a recommendation from Myanma Timber Enterprise and the Forest Department and thereafter obtain an export license from the Department of trade, if exporting furniture made from wood;
  - (h) comply with prescribed procedures and obtain an export license from the Department of Trade, if exporting environmentally friendly products that support *[environmental conservation]*, such as such as fuel pellets made from by-products such as rice husks and sawdust.
3. This notification supersedes and repeals Ministry of Commerce Notification No. 24/2019 dated 6 June 2019 and Notification No. 48/2023 dated 20 July 2023.

(Signed)  
Thun Aung  
Union Minister

Letter No. Sa Ka 14/2-37/2024 (46)

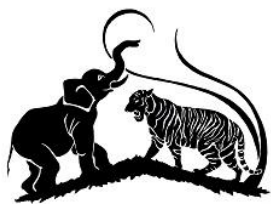
Date: 17 December 2024

Copies: *[Omitted]*

#### **5. Goods that may be imported into a bonded warehouse without obtaining an import license in advance**

On 30 November 2024 ([English translation](#)), the Department of Trade under the SAC reduced the lines of goods which may be imported into a bonded warehouse without obtaining an import license in advance from 1,100 lines to 685 lines. Now, the following goods may be imported in this way:

- |     |  |           |
|-----|--|-----------|
| (a) | Medicines  | 110 lines |
| (b) | Various electric vehicles {passenger vehicles (the value of which shall not be higher than the Standard Grade as determined by the National Electric Vehicle and Related Industries Development Steering Committee), taxis, public transport vehicles and commercial vehicles) and related accessories | 12 lines  |
| (c) | Industrial raw materials and industrial chemical raw materials   | 539 lines |



- (d) Food raw materials 24 lines
- (e) Raw materials, machinery and accessories imported for the garment industry (contract manufacturing system - CMP)

### 6. **Addition of goods to the list of goods for which 25% of the export earnings in border trade must be converted**

On 30 October 2024, the Department of Trade under the SAC added goods to its list of goods for which 25% of the export earnings must be converted to MMK at the Central Bank rate when they are exported in border trade. We understand that the remaining 75% can be used by the exporter for imports or sold to a bank at the “online trading platform” rate.

The Department’s letter is silent on what happens to the export earnings for goods that are not on the list - according to Central Bank Notification [37/2024](#) dated 7 August 2024, their conversion should be split in the same way 25%/75%.

*CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED*

**Government of the Republic of the Union of Myanmar  
Ministry of Commerce  
Department of Trade  
Export/Import Newsletter No. 6/2024**

Date: 30 October 2024

**Subject: Additional designation of types of goods in border trade export subject to the 25%/75% export earnings scheme**

1. The following 8 types of goods exported by sea and through border trade are designated as goods for which 25% of the export earnings (foreign currency) are to be converted as specified by the Central Bank of Myanmar according to Foreign Exchange Supervisory Committee meetings no. 66/2022, 16/2023 and 49/2023:
  - (a) Various pulses (black gram, mung bean, pigeon pea, chickpea)
  - (b) Oilseed crops (groundnut, sesame)



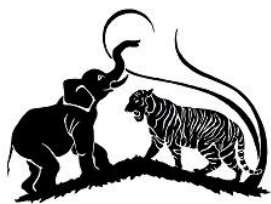
- (c) Maize
  - (d) Rubber
  - (e) Aquatic products (various fish, shrimp, crab, dried fish)
  - (f) Livestock and livestock products (live buffalo, live cattle, live goat, buffalo hide, cow hide, goat hide, frozen meat, dried meat)
  - (g) Rice and broken rice
  - (h) Sugarcane
2. It is hereby announced that in addition to the 8 types of goods, 25% of the export earnings (foreign currency) shall be converted from 1 November 2024 as specified by the Central Bank of Myanmar for the following goods exported through border trade:
- (a) Various pulses
  - (b) Garlic, onions
  - (c) Various fruits, various crops
  - (d) Seeds
  - (e) Cotton (raw cotton)
  - (f) Minerals and ores

**Department of Trade**

We wish our readers a Happy New Year.

Sebastian Pawlita  
Managing Director





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### About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

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