

## Myanmar introduces 2% advance income tax collection on all imports and exports of goods

Edwin Vanderbruggen and Ngwe Lin Myat Chit

### SUMMARY

A new Notification of the Internal Revenue Department slaps a 2% income tax on the value of nearly all imported and exported goods.

These are the key points:

- Importers must pay an advance income tax assessment of 2% on the customs value of the goods for import
- Exporters must pay an advance income tax assessment of 2% on the value of all exported goods
- There are a few exceptions, including import of materials and equipment during the construction period of projects with an Investment Permit from the Myanmar Investment Commission (MIC)
- Implemented as from 14 June 2013
- The tax collected is counted as an advance payment of the income tax payable by the importer or exporter in question, and can also be reimbursed

In a move to improve tax compliance by a wide base of taxpayers with business activities, the Internal Revenue Department has just released a Notification imposing a 2% tax collection on nearly all imports and exports of goods. As from 14th of June 2013, importers will need to pay a 2% tax on the value of the goods they import. It does not matter whether the goods are meant for reselling or for own use. The same rule is mutatis mutandis applied for exported goods.

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### ABOUT VDB LOI

VDB Loi is a leading law and tax advisory firm with more than 60 transactional lawyers and tax advisors across our offices in Cambodia, Indonesia, Laos, Myanmar, Vietnam and our liaison office in Singapore. We provide the highest quality solutions for transactions and taxation.

With approximately 20 lawyers and tax advisers on the ground in our offices in Yangon and Nay Pyi Taw, we are a leading advisory firm in Myanmar.

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The tax which is collected is in fact an advance payment for Income Tax. It is counted as an advance payment of the income tax which is yearly payable by the importer or exporter in question, and can also be reimbursed.

## Exceptions for investors

The advance payment does not apply for investors with an MIC Permit, the investment license issued by the Myanmar Investment Commission. At least, the tax is not levied during the construction period of an importer with an MIC Permit. Goods that a company with an MIC Permit imports which are not materials or equipment that falls within the scope of the MIC Permit's tax exemption are likely subject to the 2% advance tax as well.

Another exception has been created for CMP contracts (Cut-Make-Pack) which are common in the garment and footwear business.

Temporary import or import meant for drawback (such as drilling rigs and vessels) are exempt from the new 2% tax as well.

## Special rules for vehicles

Against the background of the Government's reconsideration of the car importation policy, the IRD will apply the 2% tax to personal vehicles as well. However, the Notification does provide in a number of exceptions, and one particular exception relates to vehicles. A number of conditions are imposed to import vehicles without the new 2% tax.

Importation of used cars is also subject to Commercial Tax and customs duties. There is no Excise Duty at this time in Myanmar, a role that is largely taken over by the Commercial Tax.

The Customs Department will be responsible to collect the 2% advance income tax in cases of importation vehicles, and for that matter for all other imports of goods as well.

## Who will collect the tax?

A number of agencies have been given the duty to collect the new tax, notably:

- Directorate of Internal Revenue Department performing duties in Border

Trade Camp (OSS) group for exporting or importing from border trade

- Customs Department if importing with normal trade system
- Company Circle Tax Office (CCTO) if exporting from Yangon sea port, airport
- Pyi Gyi Ta Kun Directorate of Township Internal Revenue Office if exporting from Mandalay airport

## Background

The collection of a new advance tax payment features in an IRD policy to improve the compliance with the country's system of advance tax payment. The Income Tax is assessed on a yearly basis but is actually payable in advance through monthly or quarterly installments. However, these installments are not paid by every taxpayer. In fact, a large group of taxpayers only pays this tax as a lump sum at the end of the tax year.

As a result, the IRD has been seeking to strengthen the advance collection of taxes through other means. Another notable example, introduced last year, was the 30% advance tax payment for purchase of real estate.

The new Notification states that the IRD expects that the collection of 2% on imports and exports will lead to a more evenly spread out collection of Income Tax.

## Are you impacted?

A 2% cash leakage for all imports will likely impact every business and consumer in Myanmar, but in most cases rather slightly. Trading companies working on high volumes with very tight margins might be affected if their contractual framework does not allow the company to pass on any unforeseen costs to their customers, and if they have difficulty financing the suddenly missing 2%. In some types of commerce, the margin may actually be less than 2% and that might easily cause problems for the importer/distributor.

In theory, exporters should not be adversely affected by the new 2% rule, unless of course they are not compliant with their tax situation as it is, or when they are operating without generating a profit. The 2% paid at the border can be refunded

to companies that do not turn a profit at the end of the year, but the cash loss will remain.

Investors should not be impacted if your project secures an MIC Permit. However, not everybody does, or is able to do so. For those without, the cost of doing business just went up. Besides paying customs duties (at various rates) and

Commercial Tax (at 5%) you will now also bear the temporary cost of 2% Income Tax.

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May directs our licensing team, focusing primarily on investment permits, operating licenses and import/export licensing. In addition, her practice areas include customs duties, customs valuation, compliance and company establishment. She holds a bachelor's degree in Commerce from the Institute of Economics, University of Yangon.



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Marla is an American of Burmese descent with a degree in law from the College of Law of England and Wales and a bachelor's degree from Fordham University in New York. She has seven years of experience with the United Nations and law firms in New York, where she worked on commercial and civil legal matters and prepared briefs on Myanmar law. She lives in Yangon.



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Chaw has built up a comprehensive knowledge of taxation, including calculation of tax liabilities, preparation of tax returns, and in particular, the tax clearance and audit process. She holds a Bachelor's degree and has a diploma in Accounting. She also has an extensive knowledge of company establishment and investment licensing.



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Kyi Naing is a Myanmar-qualified lawyer with seven years of experience, most recently with DFDL in Myanmar. Experienced in cross-border legal issues, he has assisted international clients with their investment projects in Myanmar, and advised on a wide range of corporate and commercial issues.



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Nay has six years of experience in tax, accounting and corporate compliance working for international enterprises in Myanmar. She liaises with various authorities on licensing issues, and is an accomplished corporate tax advisor. Nay holds a bachelor's degree from Yangon University.



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Aung Myat Thu advises on corporate establishment and investment licensing. He has extensive experience liaising with Government offices, especially for the Directorate of Investment and Company Administration, the Myanmar Investment Commission, and the Trade Department.

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Huy is a tax lawyer with a J.D. from Hofstra University and an LL.M. in taxation from Georgetown University. After practicing with Latham & Watkins and Ernst & Young in the US, he came to Southeast Asia in 2008. Huy combines his international tax expertise with a detailed knowledge of tax and laws in Southeast Asia. Huy has worked on Myanmar projects in oil & gas, FMCG, mining, and oilfield services. He is based in Vietnam.



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