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Recent Tax Legislations Signal Restructuring of Tax Regime

The proposed 2014 Union Tax Law together with the enactment of amendments to the Income Tax Law and the Commercial Tax Law aim to provide a consolidated and simplified tax regime for income, commercial and capital gains taxes.

Amendments to the Income Tax Law (1974) and the Commercial Tax Law (1990)

On 24 March 2014, amendments to the existing Income Tax Law (1974) and the Commercial Tax Law (1990) respectively were passed by the Union Parliament. These amendments prepare the pre-existing tax regime in Myanmar for the introduction of a Union Tax Law (the "**Draft Union Tax Law**"), which as of today remains in draft form open to public comment. Upon its promulgation, the Draft Union Tax Law will contain income and commercial tax rates, along with a variety of ancillary stipulations, while the Income Tax Law (1974) and Commercial Tax Law (1990) will continue to regulate the actual collection of taxes and operation of the tax authorities.

In the previous regulatory regime, the Union Ministry of Finance with the approval of the Union Government could propose alterations to the tax rates without the need to go through the Parliament. By contrast, the Draft Union Tax Law presently includes a provision requiring the approval of the Parliament for the amendment of the tax rates.

Pending Significant Changes in the Tax Rates

A draft version of the Union Tax Law ("**Draft Union Tax Law**") was published in early March for public comment and review. The primary modifications to be made to the existing regulatory regime by the Draft Union Tax Law include adjusting the standardized tax rates collected on commercial items and the means of amending the rates of income, commercial and capital gains taxes. Specific updates to the commercial tax include clarification on taxes payable on goods generally, as well as the categorization of all services not otherwise exempted as taxable.

Whereas currently, only those goods enumerated in the commercial tax law are taxable at 5% of the sale price, the Draft Union Tax Law, once enacted, will require that all goods not listed as "special goods" or "tax exempt goods" will be taxable at the standard 5% rate. From the list of "special goods," gasoline, diesel oil and jet fuel will be removed, lowering their tax rates from 10% to 5%. Also, additions will be made to the list of tax-exempt goods, including notably, solar panels and accessories, and synthetic fertilizers.

Also noteworthy, especially for those businesses providing services that are not currently taxable, the Draft Union Tax Law appears to categorize all services as taxable except those specifically exempted. Section 10(f) of the law stipulates that all services shall now be subject to a 5% tax except those "exempted by the Union Government Ministry of Finance by notification." This change could have significant ramifications for investors and businesses providing services heretofore non-taxable.

Draft Myanma Airways Law to Reorganize Myanma Airways

A draft version of the Myanma Airways Law provides for plans to reorganize Myanma Airways and to improve its business model to be in line with Myanmar's progressing market economy.

A draft of the Myanma Airways Law (the "**Draft Myanma Airways Law**"), published earlier this month, describes the government's plans to restructure Myanma Airways, the government-owned airline. When enacted, the Draft Myanma Airways Law will repeal the Myanmar Air Transport Board Act of 1952, and will expressly allow Myanma Airways to do business with foreign investors. Among other things, this will allow for Myanma Airways to enter into management contracts, joint ventures and build-operate-transfer agreements with foreign investors. Additionally, the law will allow Myanma Airways to lease machineries, land, buildings, aircrafts, and other properties to domestic and foreign investors alike.

The Draft Myanma Airways Law will also reorganize the management of Myanma Airways by creating a Management Board of nine members approved by the Union Government capable of authorizing the execution of business arrangements such as those mentioned above. The Draft Myanma Airways Law additionally puts forward financial reporting obligations and procedures for Myanma Airways.

Myanmar's aviation industry has recently gained the attention of foreign investors because of the recent infrastructure tenders issued by the Ministry of Transport for the construction of the new Hanthawaddy International Airport and the upgrade of 30 domestic airports as well as the Yangon and Mandalay International Airports. Myanma Airways itself has recently signed a deal with General Electric Capital Aviation Services for the lease of 10 commercial aircraft.

While the results of most of the infrastructure tenders are pending and airport projects are yet to commence, industry experts predict that Myanmar's aviation industry is poised for dramatic developments, especially with the anticipated increase of tourists and travelers to Myanmar.

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