



LEGAL
PARTNERS
ACROSS
ASIA

Kelvin Chia Yangon Ltd (KCY)

Level 8A, Union Financial Center, Corner
of Mahabandoola Road and Thein Phyu
Road, Botahtaung Township, Yangon.

(951)8610348/8610349

csg@kcyangon.com

www.kcpartnership.com

KCY Newsletter | Issue No. 65

7 April 2022

2022 Union Tax Law Comes into Effect from 1 April 2022

On 30 March 2022, the State Administration Council (“SAC”) enacted the 2022 Union Tax Law (“**2022 UTL**”) which is effective from 1 April 2022.

The 2022 UTL specifies the Special Goods Tax rates, Commercial Tax exemptions and income tax rates for the fiscal period beginning on 1 April 2022.

Special Commodities Tax (“SGT”)

Under the 2022 UTL, SGT is applicable on manufacturing, sale and importation of the following commodities:

Commodity	SGT Rate
Cigarettes	From 10 Kyats to 27 Kyats per cigarette
Tobacco	60%
Virginia tobacco, cured	60%
Cheroot	1 Kyat per item
Cigars	80%
Pipe tobacco	80%
Various types of betel chewing preparations	80%
Various kinds of alcohol	From 190 Kyats per litre to 60% per litre value
Various kinds of beer	60%
Various kinds of wine	From 92 Kyats per litre to 50% per litre value
Logs and processed timber	5%
Vans, saloons, sedans and estate wagons including double cab and 4 door pick-up cars	From 10% to 50%
Kerosene, petrol, diesel, aviation jet fuel	5%
Natural gas	8%

DISCLAIMER: The information contained in this newsletter is intended to provide general information only. We accept no liability whatsoever for any use of this document and that we make no representation, express or implied, as to the accuracy of its contents. Any reliance you place on such information is therefore strictly at your own risk.

Furthermore, there is SGT applicable on exportation of commodities for “Logs and converted timber” with the rate of 10%. The 2022 UTL also prescribe that no SGT will be levied on the domestic production and sale of tobacco, cheroot and cigar if the total annual sales revenue does not exceed 20 million kyats.

Commercial Tax (“CT”)

Under the 2022 UTL, the number of goods and services allowed for CT exemption remains as 45 items and 33 items respectively, as compared to the 2021 Union Tax Law (“**2021 UTL**”). The CT exempted goods include certain food commodities, agricultural and livestock-related commodities, school and stationery commodities, health-related commodities, commodities used for religious and community purposes, transportation related commodities, commodities used for industrial purposes, defense related commodities, gems and minerals, and other specified general commodities.

The CT exempted services are from foreign affairs sector, defense sector, religious and cultural sector, transportation and telecommunications sector, education and press sector, health sector, planning and finance sector, social welfare and resettlement sector, industrial and power sector, and general sector.

For the sale of goods and service other than the CT exempted goods and services, CT is applicable where the annual turnover exceeds the threshold amount of 50 Million Kyats, and CT rates applicable are as follow;

- 5% for sales of goods and service in general;
- 3% for sales value of property development;
- 3% for hotel and tourism services;
- 1% for sales of gold jewelries, and there is no input-tax offset allowance is provided for gold jewelries.

The 2022 UTL states that exempted commercial tax needs to be paid if there is no re-export for the products which are initially imported under temporary admission or under the drawback system. Further, the 2022 UTL requires that new SIM cards activations will be subject to one-time CT of MMK 20,000 and internet services (both mobile and fixed services) will be subject to 15 % CT. This provision is carried verbatim from the amendment to the 2021 UTL published by SAC on 6 January 2022.

Exporting of the following products are subject to CT with the respective rate;

- 8% for exporting of electricity
- 5% for exporting of crude oil

Except for the CT on electricity and crude oil, Commercial Tax for export is 0%, and the CT payment incurred at the time of purchase or production can be offset, or where the CT paid upon production or purchase is greater than the CT applicable at export, refund may be applied for

Income Tax

Under the 2022 UTL, Corporate Income Tax (“**CIT**”) rate remains the same as under the 2021 UTL, which is 22% on the net profits for the following type of entities:

1. Companies incorporated under Myanmar Company Law or Special Company Act 1950,
2. Income of non-resident foreigners, other than their salary,
3. Companies operating under permission from the Myanmar Investment Commission (“**MIC**”), and
4. State-owned enterprises.

Additionally, the 2022 UTL specifies that the applicable CIT for the companies listed on Yangon Stock Exchange is 17% on the net profits.



Personal Income Tax (“PIT”) related to salary income is exempted for tax payers whose income are below 4,800,000 Kyats per annum. The applicable income bracket and tax bracket for PIT remain unchanged, as described in the following table.

No.	Level of Income		Tax Rates
	From (Kyats)	To (Kyats)	
1	1	2,000,000	0%
2	2,000,001	10,000,000	5%
3	10,000,001	30,000,000	10%
4	30,000,001	50,000,000	15%
5	50,000,001	70,000,000	20%
6	70,000,001 and above		25%

PIT shall be paid according to the prescribed tax rates after deducting the following allowances under Section 6 of Income Tax Law:

- 20% for own allowance (maximum 10 Million Kyats)
- 1 Million Kyats allowance for each parent
- 1 Million Kyats allowance for spouse (if spouse has no-taxable income)
- 5 Million Kyats allowance for each of child
- Own Life Insurance Premium and for spouse

Rental Income: Rental of properties except where the lessor is a state-owned enterprise, companies operating with a MIC permit, other companies, and cooperatives, the income tax applicable on such rental is 10%, as it was stipulated in the 2021 UTL.

For rental of properties where the lessor is a state-owned enterprise, businesses operating with a MIC permit, companies, and cooperatives; income from rental are included in its cumulative income, where CIT of 22% is assessed on net profits.

Capital Gain Tax (“CGT”): For profits arising from the sale of capital asset, including land, building, vehicles and other capital assets, there is CGT of 10% applicable on sale of capital assets in non-oil and gas related sectors, as it was under the 2021 UTL. CGT is applicable to both resident and non-resident taxpayers deriving a profit from the sale, exchange or a transfers of capital assets in Myanmar if the total value of capital asset sold, exchanged or transferred is 10 million Kyats and above.

CGT for companies in the oil and gas sector is as follows,

No.	Profit	Tax Rates
1.	up to equivalent of Kyat (100,000) millions	40 %
2.	from equivalent of Kyat (100,001) to (150,000) millions	45%
3.	equivalent of Kyat (150,001) millions and above	50%

Tax Relief for Small and Medium Enterprises: For newly incorporated small and medium enterprises, as it was in the 2021 UTL, CIT is exempted for the three years from the date of business commencement, including the year of business commencement, on net profits of up to 10 million Kyats.

Undisclosed Source of Income: Under the 2022 UTL, the tax rate assessable on undisclosed source of income, in comparison to the tax rate assessable on undisclosed income under 2021 UTL is as follows:

No.	2022 UTL			2021 UTL		
	Income Amount		Tax Rates	Income Amount		Tax Rate
	From (Kyats)	To (Kyats)		From (Kyats)	To (Kyats)	
1.	1	300,000,000	3%	1	100,000,000	3%
2.	300,000,001	600,000,000	5%	100,000,001	300,000,000	5%
3.	600,000,001	1,000,000,000	10%	300,000,001	1,000,000,000	10%
4.	1,000,000,001	3,000,000,000	15%	1,000,000,001	3,000,000,000	15%
5.	3,000,000,001 and above		30%	3,000,000,001 and above		30%

Gemstones Tax

Under the 2022 UTL, sales of gemstones will be assessed based on the higher amount between the actual sales price and the sales price as determined by the Myanmar Gemstones Enterprise. The applicable tax rates under the 2022 UTL remain unchanged from the 2021 UTL as follow:

No.	Type of Gems	Tax Rates
1.	Uncut jades	11 %
2.	Rubies, sapphires, and other uncut gemstones (except for diamonds and emeralds)	9%
3.	Polished jades, rubies, sapphires, and other gemstones (except for diamonds and emeralds). Also, polished jewelry in which jades, rubies, sapphires, and other valuable gemstones (except for diamonds and emeralds) are embedded.	5%
4.	Items made from gemstones	5%

Central Bank of Myanmar Issues Orders Clarifying Requirements on Foreign Currency Conversion

On 5 April 2022, the Central Bank of Myanmar (“**CBM**”) has issued follow-on instructions, Order No. 5/2022 and Order No. 6/2022 clarifying the foreign currency notification and order issued on 3 April 2022.

The Order No. 5/2022 of the CBM specifies that the accounts of the Union Ministries are exempted from the conversion requirements under the previous Order of 3 April 2022. Based on the text of the Order No. 5/2022, only accounts of Union Ministries are exempted; state-owned economic enterprises appear not to be exempted.

The Order No. 6/2022 of the CBM clarifies the requirement to exchange foreign exchange, as follows:

- For export earnings received: the Bank with Authorized Dealer License (“**AD Bank**”) is to credit the foreign currency account of the relevant company on the date of the receipt of the export earning, then the AD Bank is to purchase the export earning fund received at the exchange rate specified by the CBM and credit the Kyat account of the relevant company,
- For income from services: the AD Bank is to credit the foreign currency account of the relevant company or individual on the date of the receipt, and the AD Bank is to purchase the received foreign currency from the company or individual at the rate specified by the CBM, and credit the Kyat account of the relevant company or individual,
- For funds related to investment: except for foreign currency exempted by the Foreign Exchange Supervisory Committee, to credit the foreign currency account of the company on the date of the receipt, the AD Bank is to purchase the foreign currency received at the rate specified by the CBM, and to deposit the Kyat account of the relevant company,
- For offshore loans related to investment: AD Bank is to assess whether the CBM’s approval in accordance with the Foreign Exchange Management Law (the “**FEML**”) and the Foreign Exchange Management Rules (the “**FEMR**”) has been obtained. If such approval has been obtained, except for foreign currency as exempted by the Foreign Exchange Supervisory Committee, to credit such foreign currency amount into account of the relevant company on the date of the receipt, and on the same date the amount is credited into the foreign currency account of the relevant company, the AD Bank is to purchase the credited foreign currency amount at the rate specified by the CBM and deposit the Kyat account of the relevant company,
- For one-sided transfers (these generally cover gifts, donations, maintenance fees, inheritance, receipts from transfer from estate, and other allowance or aid other than aid or allowance approved by the Union Government as stipulated under the FEMR): AD Bank is to confirm whether the approval of the CBM has been obtained in accordance with the FEMR Sections 54 and 55, and to credit the account of the relevant company on the date of the receipt, and on the date the amount is credited into the foreign currency account of the relevant company, the AD Bank is to purchase the credited foreign currency amount at the rate specified by the CBM and deposit the Kyat account of the relevant company.

For outbound transfers by internal residents, in accordance with Notification No. 12/2022, approval of the Foreign Exchange Supervisory Committee is required. Thus, for all outbound transfers, including the following,



the AD Banks are to assess whether they are in compliance with the FEML and FEMR and to seek the approval of the Foreign Exchange Supervisory Committee:

- Payments for imports (including advance payments)
- Payments for services and other expenses,
- Payment of dividends and repatriation of invested capital,
- Transfers for investment abroad,
- Repayment of offshore loans' principal and interest,
- Payments related to transfer of expenses for foreign trips, medical treatment, schooling charges and examination fees, attending conferences and workshops, living expenses for external residential family members up to USD 10,000 or equivalent foreign currency as specified in Section 27 of FEMR.

After obtaining the approval of the Foreign Exchange Supervisory Committee for such outbound transfers, in accordance with the Order No. 6/2022, the AD Bank shall sell the foreign currency to the internal resident for the purpose of the transfer at the rate specified by the CBM, and may collect a service fee of 3 Myanmar Kyats per 1 US Dollar.

Note that this newsletter does not constitute legal advice and reliance should not be placed on its contents. KCY does not accept or incur any liability in respect of any statements made in this newsletter.

About Kelvin Chia Yangon (KCY)

KCY has been in active operation in Myanmar since 1995, currently with offices in Yangon and Mandalay. KCY is the firm of choice for those seeking to navigate Myanmar's fast-changing and complex regulatory landscape, a jurisdiction in which KCY has gained in-depth legal expertise from the numerous transactions it has handled.

Our main practice areas

Foreign Investments | Incorporation and Company Maintenance | General Corporate and Commercial | Due Diligence | Mergers and Acquisitions | Joint Ventures and Production Sharing Agreements | Investment Funds | Energy/Oil and Gas | Natural Resources/Mining | Banking | Project and Project Financing | Manufacturing | Education | Agriculture | Real Estate | Infrastructure | Construction | Telecommunications | Compliance / Regulatory | Licensing and Permits | Labour and Employment | Immigration | Taxation | Insurance | International Arbitration | Intellectual Property | Special Economic Zones

Our Partners



Cheah Swee Gim
Director of Kelvin Chia Yangon
Senior Partner of Kelvin Chia Partnership
cheah.sweegim@kcpartnership.com



Pedro Jose F. Bernardo
Principal Foreign Attorney of Kelvin Chia Yangon
Partner of Kelvin Chia Partnership
pedro.bernardo@kcpartnership.com



Khin Leimar Ban Aye
Principal Legal Manager of Kelvin Chia Yangon
Partner of Kelvin Chia Partnership
klm@kcyangon.com



Lyra Miragrace Flores Bisnar
Principal Foreign Attorney of Kelvin Chia Yangon
Partner of Kelvin Chia Partnership
lmcf@kcyangon.com

Yangon Office: Level 8A, Union Financial Center (UFC), Corner of Mahabandoola Road and Thein Phyu Road, Botahtaung Township, Yangon.

Mandalay Office: Room No. A-3 (2nd Floor) | Win Yin Mon Condo | 67th Street (31st x 32nd Street) | Chan Mya Thar Zan Township | Mandalay.

