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Worldwide Tax Summaries

Corporate Taxes 2014/15

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All information in this book, unless otherwise stated, is up to date as of 1 June 2014.

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1. Myanmar

Myanmar

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Significant developments

A new taxation law has been introduced and legislated with effect from 1 April 2014.

Furthermore, effective 23 January 2014, the Myanmar Special Economic Zone Law 2014 has been introduced to repeal the Myanmar Special Economic Zone Law 2011 and the Dawei Special Economic Zone Law of 2011 (*see Special economic zones [SEZs] in the Tax credits and incentives section*).

Taxes on corporate income

Foreign investors may register their companies under the Myanmar Companies Act (CA) or in conjunction with the Union of Myanmar Foreign Investment Law (MFIL). The differences between companies registered under the CA and the MFIL are in relation to their eligibility for tax incentives and longer land use terms, as well as minimum foreign share capital requirements.

Generally, resident companies are taxed on a worldwide basis, and as such, income from sources outside Myanmar is taxable. MFIL companies, although treated as resident companies, are taxed only on income derived from sources within Myanmar.

Non-resident companies are taxed only on income derived from sources within Myanmar. Income received from any capital assets within Myanmar and from any source of income within Myanmar is deemed to be income received within Myanmar. The income is generally subject to tax under the normal rules for residents, except that different tax rates apply.

A company registered under the MFIL is entitled to enjoy certain exemptions and relief from taxes (*see the Tax credits and incentives section for details*).

Type of taxpayer or income	Tax rate (%)
Companies incorporated in Myanmar under the Myanmar CA	25
Enterprises operating under MFIL	25
Non-resident foreign organisations, such as a branch of a foreign company	35

Local income taxes

There is no separate corporate income tax at the local level.

Corporate residence

A resident company is a company as defined and formed under the Myanmar CA 1913 or any other existing law of Myanmar.

A non-resident company is one that is not formed under the Myanmar CA 1913 or any other existing law of Myanmar. Generally, foreign branches are deemed to be non-resident companies.

Permanent establishment (PE)

Currently, there is no definition of a PE under the Myanmar Income Tax Act. In current practice, the Myanmar tax authorities seek to collect taxes from a non-resident foreigner on its income received from Myanmar by way of a withholding tax (WHT) mechanism, regardless of whether the foreigner has a PE in Myanmar or not. The term 'PE' may be defined in the tax treaties that Myanmar has with other countries. Subject to the relevant tax treaty, a foreigner who is tax resident of the treaty country may not be subject to Myanmar taxes if it does not have a PE in Myanmar.

Other taxes

Valued-added tax (VAT)

There is no VAT in Myanmar.

Customs duties

Customs duty is levied under the Customs Tariff of Myanmar (2012) at rates of up to 40%.

Companies registered under the MFIL that have obtained permits from the Myanmar Investment Commission (MIC) may, at the discretion of the MIC, be given relief from customs duty on machinery, equipment, instruments, machinery components, spare parts and materials used during the period of construction or expansion, and on raw materials for the first three years of commercial production (*see the Tax credits and incentives section for details*).

Excise duties

Excise duty is levied on alcoholic drinks and is collected by the General Administration Department under the Ministry of Home Affairs.

Property taxes

Immovable property (land and buildings) situated within the Yangon development area is subject to property tax. However, as foreign ownership of land and immovable property is currently expressly prohibited, property tax is not relevant for foreign investors.

Stamp duties

Stamp duty is levied on various instruments. Some of the rates are given below:

- 3% of the amount or value of the consideration for conveyances, such as for the sale or transfer of immovable property, plus an additional 2% for immovable property situated in Yangon, Mandalay, and Nay Pyi Taw.
- 0.3% of share value for the transfer of shares.
- 1.5% of the average annual value of rent for lease agreements between one and three years, and 3% of the average annual value of rent where the term of the lease agreement is more than three years.

Capital gains taxes
Income tax is levied on gains from the sale, exchange, or transfer of capital assets (i.e. any land, building, vehicle, and any capital assets of an enterprise, which include shares, bonds, and similar instruments). Intangibles may fall within the definition of capital assets, and capital gains arising from such assets would also be taxable.

Capital gains from the sale, exchange, or transfer of capital assets in the oil and gas sector are taxed at different rates from those in other sectors.

Type of taxpayer or income	Tax rate (%)
Capital gains tax (except transfer of shares in an oil and gas company, where rates ranging from 40% to 50% will apply on gains):	
Resident companies	10
Non-resident companies	40

Turnover taxes
Commercial tax, at rates ranging from 0% to 100%, is levied as a turnover tax on goods and services. The commercial tax that a business charges and collects is known as output tax, which has to be paid to the Myanmar tax authorities. Commercial tax incurred on business purchases and expenses are known as input tax. Businesses that are registered for commercial tax can claim if certain conditions are satisfied.

Commercial tax is imposed on a wide range of specified goods and services produced or rendered within the country, based on the sales proceeds, and on imported goods (*see Customs duties above for details*).

Prior to 1 April 2014, services such as trading, transport, entertainment, insurance, and printing were subject to commercial tax at 5% of the total receipts. With effect from 1 April 2014, all services are subject to 5% commercial tax except 25 types of services that are specifically exempt from commercial tax (e.g. home rental services, life insurance, banking services, public transportation).

Prior to 1 April 2014, no commercial tax was imposed if the sales or receipts from services for a financial year were not more than 10 million Myanmar kyats (MMK). With effect from 1 April 2014, the threshold of MMK 10 million has been increased to MMK 15 million.

Commercial tax is exempt on all exports, except for five natural resource items: natural gas, crude oil, jade, gem stones, and wood.

Companies registered under the MFIL that have obtained permits from the MIC may, at the discretion of the MIC, be granted exemption from commercial tax on goods that are manufactured for export (*see the Tax credits and incentives section for details*).

Registration taxes
There is a registration fee of MMK 1 million payable to the Directorate of Investment and Company Administration for setting up a company or a branch in Myanmar.

Payroll taxes
An employer is responsible for deducting income tax due from salaries at the time of payment to employees and must pay the amount within seven days from the date of deduction. If the employer fails to deduct and pay the tax, the employer is deemed to be a defaulter and held responsible for such payment. In addition, the employer is also responsible for filing the statement of annual salary within three months after the end of the income year, and failure to file by the stipulated deadline may be result in a penalty of 10% of the amount of tax to be deducted on annual salaries.

Social security contributions
Under Social Security Law 2012, an employer with five or more employees is required to provide Social Security Scheme benefits to those workers, such as general benefit insurance and insurance against employment-related injuries.

With effect from 1 April 2014, the rates of contribution by employees and employers are 2% and 3% of the total salaries and wages, respectively. Prior to 1 April 2014, the contribution could be made in Myanmar kyats or in United States dollars (USD), depending on the currency in which the employee was paid. With effect from 1 April 2014, the contribution will need to be made in Myanmar kyats for all currencies that the salaries are paid in.

The maximum contribution is limited to MMK 9,000 by the employer and MMK 6,000 by the employee.

Contributions made by the employees are deductible for tax purposes in the hands of the employees. The employer is obligated to withhold the employees' contributions from their salaries.

Branch income

Generally, foreign branches are deemed to be non-resident companies. Non-resident companies are taxed only on income derived from sources within Myanmar. The income is generally subject to tax under the normal rules for residents, except that a branch is subject to a higher (i.e. 35%) corporate income tax rate.

Income determination

Income is categorised as income from a profession, business, property, capital gains, other sources, and undisclosed sources. Income from capital gains is assessed separately.

Tax is levied on total income, after the deduction of allowable expenditure and depreciation.

The Ministry of Finance, with the approval of the government, may, by notification, prescribe, amend, and add assessable income and rates of income tax.

Inventory valuation
There are no prescribed inventory valuation methods for tax purposes.

Capital gains
Income from capital gains is assessed separately. *See Capital gains tax in the Other taxes section for details*.

Dividend income
Myanmar has a one-tier corporate tax system, under which share of profits received by a Myanmar taxpayer from an association of persons (i.e. partnerships, joint ventures, companies, etc.) are exempted from income tax.

Interest income
Interest income and income from movable property are treated as business income.

Partnership income
A partnership is taxed as an entity and not on the individual profit share of the partners. Partnership income is not taxed in the hands of the partners.

Foreign income

Resident companies are taxed on a worldwide basis, and, as such, income from sources outside Myanmar is taxable in Myanmar.

MFIL companies and non-resident companies are not taxed on their foreign income.

There is no deferral regime available to foreign income in Myanmar.

Deductions

In respect of business income, deductions are allowed for expenditure incurred for the purpose of earning income.

Non-deductible items include capital expenditure, personal expenditure, expenditure that is not commensurate with the volume of business, payments made to any member of an association of persons other than a company or a cooperative society, and inappropriate expenditure.

Depreciation and amortisation

Income from movable property is considered as business income, and depreciation allowance for the cost of such movable property can be deducted. Income from immovable property is generally computed in the same way as business income, except that no depreciation allowance can be deducted.

Technically, a taxpayer entity is required to claim tax depreciation on the qualifying assets used for its business purposes based on rates prescribed under the Myanmar Income Tax Law, using a prescribed tax depreciation claim form. A taxpayer is entitled to full year tax depreciation in the year the asset is acquired. On the other hand, no tax depreciation is allowed in the year the asset is disposed of.

The tax depreciation rates of fixed assets as prescribed under the Myanmar Income Tax Law are as follows:

- Buildings: 1.5% to 10%.
- Furniture and fittings installed in buildings: 5% to10%.
- Machinery and plant: 5% (generally) to 6.25% (items such as electrical appliances).
- Machinery equipment: 2.5% to 20%.
- Road transport vehicles: 12.5% to 20%.
- Miscellaneous: 10% to 20%.
- Other miscellaneous: 2.5% to 20%.

Goodwill

There is no specific provision under the current Myanmar Income Tax Law governing the tax deductibility of goodwill.

Start-up expenses

There is no specific provision under the current Myanmar Income Tax Law governing the tax deductibility of start-up expenses.

Interest expenses

There is currently no specific provision in the Myanmar Income Tax Law indicating the tax treatment of interest expenses. In current practice, interest expenses and the related financing costs are likely deductible only in the year these expenses are incurred or paid, provided that the interest expenses incurred are commensurate with the volume of business or benefits that the taxpayer received. Further, interest expenses on the loan may be deductible for Myanmar corporate income tax purposes when paid to the non-resident lender by a Myanmar corporate taxpayer only after the relevant WHTs on interest have been paid to the Myanmar tax authorities.

Bad debt
There is no specific provision under the current Myanmar Income Tax Law governing the tax deductibility of bad debt.

Charitable contributions
Prior to 1 April 2014, donations/gifts, whether to charitable institutions or not, were not deductible for tax purposes. With effect from 1 April 2014, deductible charitable donations are limited to those made to approved charitable organisations/activities and are subject to an overall limitation of 25% of total income.

Fines and penalties
Fines and penalties are generally not deductible as they are not incurred in the production of business income.

Taxes
There is no specific provision under the current Myanmar Income Tax Law governing the tax deductibility of taxes paid.

Net operating losses

Ordinary losses
Losses from any source may be set off against income accruing from any other sources in that year, except where the loss is from capital assets or a share of loss from an association of persons. Losses that are not fully deducted in a year can be carried forward and set off against profits in the next three consecutive years.

There is no provision for the carrying back of losses.

Capital losses
Capital losses and a share of loss from an association of persons cannot be set off against income from other sources or carried forward.

Payments to foreign affiliates
A Myanmar corporation can claim a deduction for royalties, management service fees, and interest charges paid to affiliates, provided that these payments are commensurate with the volume of business.

Group taxation

There is no group taxation regime in Myanmar.

Transfer pricing regime
There are currently no transfer pricing rules in Myanmar.

Thin capitalisation rules
Generally, there is currently no specific safe harbour with respect to a debt-to-equity ratio in Myanmar. The Central Bank of Myanmar has recently indicated that Myanmar may introduce a debt-to-equity ratio in the near future. As of May 2014, there is no indicative timeline on when the ratio will be introduced.

Controlled foreign company (CFC) regime
There are currently no CFC rules in Myanmar.

Tax credits and incentives

Union of Myanmar Foreign Investment Law (MFIL) incentives
Under the new MFIL, companies registered under the MFIL that have obtained permits from the MIC are entitled to the following special benefits and tax incentives, which are granted at the MIC's discretion:

1. Exemption from income tax for up to five consecutive years for an enterprise. The exemption may be extended for a further reasonable period, depending on the success of the enterprise.
2. Exemption or relief from income tax on profits of a business that are maintained in a reserve fund and subsequently re-invested in Myanmar.
3. The right to deduct depreciation of machinery, equipment, building, or other capital assets used in the business at rates prescribed by the MIC.
4. Relief from income tax for up to 50% of the profits accrued from the export of manufactured goods.
5. The right to pay income tax on the income of foreign employees at the rates applicable to citizens residing within the country.
6. The right to deduct from taxable income research and development costs that are necessary for the country.
7. The right to carry forward tax losses for up to three consecutive years, provided the losses are sustained within two years from the end of the tax exemption in (1) above.
8. Exemption or relief from custom duty and/or other internal taxes on imported machinery, equipment, instruments, machinery components, spare parts, and materials used in the business, which are required for use during the period of construction.
9. Exemption or relief from customs duty or other internal taxes on imported raw materials for the first three years of commercial production following the completion of construction.
10. If the investor increases the amount of investment and expands the business within the approved timeframe, it may enjoy exemption and/or relief from customs duty or other internal taxes on machinery, equipment, instruments, machinery components, spare parts, and materials that are imported for the expansion of business.
11. Exemption from commercial tax on goods that are manufactured for export.

Special economic zones (SEZs)
In addition to foreign investment under the MFIL, foreign investors may invest under the Myanmar Special Economic Zone Law of 2014 enforced on 23 January 2014 (Myanmar SEZ Law), which abolished the Myanmar Special Economic Zone Law 2011 and the Dawei Special Economic Zone Law of 2011.

The Myanmar SEZ Law is a basic law for any SEZ within Myanmar. The main regulatory body handling foreign investment under the Myanmar SEZ Law is the Central Body for the Myanmar SEZ.

The Myanmar SEZ Law contains provisions relating to the exempted zone, business promoted zone, other zone, exempted zone business, other business, developers and investors, exemptions and reliefs, restrictions, duties of developers or investors, land use, banks and finance management and insurance business, management and inspection of commodities by the customs department, quarantine, labour and guarantee of non-nationalisation, dispute resolution, WHT, bank and financial management and insurance business, etc.

Incentives under the Myanmar SEZ Law include:

For investors:

- Income tax holidays for the first seven years starting from the date of commercial operation in respect of those investment businesses operated in an exempted zone or exempted zone businesses.
- Income tax holidays for the first five years starting from the date of commercial operation in respect of those investment businesses operated in a business promoted zone or other business in a promoted zone.
- 50% income tax relief for the investment businesses operated in an exempted zone and a business promoted zone for the second five year period.
- For the third five year period, 50% income tax relief on the profits of the business if they are maintained for re-investment in a reserve fund and re-invested therein within one year after the reserve is made.
- Exemption on customs duty and other taxes for raw materials, machinery and equipment, and certain types of goods imported for investors in exempted zones; whereas, for investors in prompted zones, exemption on customs duty and other taxes for the first five years in respect of machinery and equipment imported that are required for construction starting from the date of commercial operation, followed by 50% relief of customs duty and other taxes for a further five years.
- Carry forward of loss for five years from the year the loss is sustained.

For developers:

- Income tax holidays for the first eight years starting from the date of commercial operation.
- 50% income tax relief for the second five year period.
- For third five year period, 50% income tax relief on the profits of the business if they are maintained for re-investment in a reserve fund and re-invested therein within one year after the reserve is made.
- Exemption on customs duty and other taxes for raw materials, machinery and equipment, and certain types of goods imported.
- Carry forward of loss for five years from the year the loss is sustained.

Land use may be granted under an initial lease of up to 50 years and renewable for a period of an additional 25 years. Developers/investors may rent, mortgage, or sell land and buildings to another person for investment purposes within the term granted with the approval of the management committee concerned.

The rules and procedures relating to the Myanmar SEZ Law have not yet been prescribed.

Foreign tax credit

There is no provision for unilateral relief. Relief may be available pursuant to a tax treaty, but the application of the tax treaties is at the sole discretion of the Ministry of Finance.

Withholding taxes

Any person making the following payments is required to withhold income tax at the time of payment at the rates listed below. The tax withheld must be paid to the Inland Revenue Department (IRD) within seven days from the date of withholding.

Tax withheld from payments to residents will be set off against the tax due on their final assessments. Tax withheld from payments to non-resident companies is a final tax.

The application of the tax treaties is at the sole discretion of the Ministry of Finance. In general, it is suggested by the Company Circle Tax Office (CCTO) under the IRD that enquiries be made with the CCTO before deducting WHT from payments made to non-resident companies from treaty countries listed below.

For payments for services rendered and for procurement made within the country, or under contracts or agreements or any other agreement made by a state organisation, local authorities, co-operatives, partnership companies, or entities formed under any existing laws, the WHT rates are 2% if the payment is made to a resident and 3.5% if it is made to a non-resident.

Recipient	Dividends (%) (1)	Interest (%)	Royalties (%)
Resident national or resident foreigner	0	0	15
Non-resident corporations and individuals:			
Non-treaty	0	15	20
Treaty:			
India	0	10 (2)	10
Korea, Republic of	0	10 (2)	10/15 (3)
Laos	0	10	10
Malaysia	0	10 (2)	10
Singapore	0	8/10 (2, 4)	10/15 (3)
Thailand	0	10 (2)	5/10/15 (5)
United Kingdom	0	N/A	0 (6)
Vietnam	0	10 (2)	10

Notes

1. There is no WHT on dividends, branch profits, and share of profits of an association of persons that have been taxed.
2. Exempt if paid to the government.
3. Lower rate for payments in connection with patents, designs, secret formulas/processes, or industrial, commercial, or scientific equipment/experience.
4. Lower rate if received by a bank or a financial institution.
5. The 5% rate applies for payments in connection with copyrights of literary, artistic, or scientific work, and the 10% rate applies to payments for services of a managerial or consultancy nature, and for information concerning industrial, commercial, or scientific experience.
6. Exempt if the amount is fair and reasonable.

Tax administration

Taxable period

The taxable period of a company is the same as its financial year (income year), which is from 1 April to 31 March. Income earned during the financial year is assessed to tax in the assessment year, which is the year following the financial year.

Tax returns

In general, income tax returns must be filed within three months from the end of the financial year, i.e. by 30 June of the financial year.

Tax returns for capital gains must be filed within one month from the date of disposal of the capital assets. The date of disposal refers to the date of execution of the deed of disposal or the date of delivery of the capital assets, whichever is earlier.

If a taxpayer discontinues one's business, returns must be filed within one month from the date of discontinuance of business. The failure of a taxpayer to file income tax returns, knowing that assessable income has been obtained, is deemed to have 'fraudulent intention'.

Payment of tax
Advance payments are made either in monthly or quarterly instalments throughout the income tax year 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.

Capital gains tax payments are required to be made within one month from the date of disposal of the capital assets.

Tax audit process
Under the Myanmar Income Tax Law, if it is found that there is a fraudulent intention to evade tax, the assessment or reassessment of income tax can be made at any time on the income that has escaped assessment of tax.

Failure by a taxpayer to file a return of income knowing that assessable income has been obtained, failure to comply with the notice of the IRD to submit accounts and documents, including the tax return and profit and loss accounts within the time prescribed, or submitting forged instruments and other documents are included within the meaning of fraudulent intention. If the tax authority in the course of investigation finds that a taxpayer has concealed income or particulars relating to income, the taxpayer may be permitted to fully disclose the facts within the specified time. In addition, the taxpayer must pay a penalty equal to 50% of the tax increased on account of the concealment. If the taxpayer fails to disclose the particulars within the specified time or discloses less than the income concealed, the taxpayer will also be subject to prosecution, in addition to paying the tax and penalty. If the taxpayer is found guilty, the taxpayer may be punishable with imprisonment for between three to ten years.

Statute of limitations
The statute of limitation to raise an assessment is three years after the financial year end. It does not apply in cases of fraudulent default. Mere filing of the income return and payment of advance tax in time does not constitute a final tax assessment.

Topics of focus for tax authorities
The following issues are currently being focused on by the tax authorities:

- Strengthening tax administration and reinforcement of tax compliance.
- Creation of tax policies to improve the overall tax collection.
- Introduction of international tax principles in the future.

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The *Worldwide Tax Summaries – Corporate Taxes 2014/15* guide represents the combined efforts of more than 500 local PwC tax specialists in over 150 countries and territories. While too numerous to name individually, we thank them for their efforts in preparing this guide.

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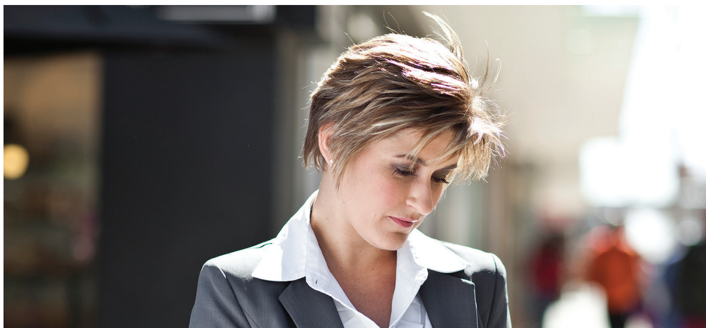
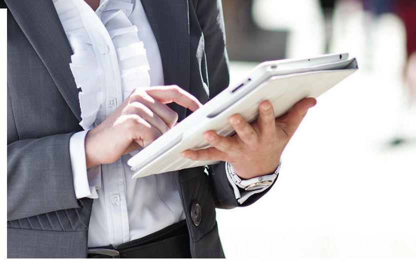

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The world's taxes at your fingertips

If you are responsible for managing taxes in a business that trades or operates across a number of different countries, you will recognise how much of a challenge it can be trying to keep on top of the corporate tax rates and rules in each of them, notwithstanding the fact that these frequently change.

Worldwide Tax Summaries – Corporate Taxes 2014/15 is a useful reference tool, to help you manage taxes around the world. It offers quick access to information about corporate tax systems in 155 countries worldwide, in an easily digestible format.

Written by local PwC[1] tax specialists in each country, this guide covers recent changes in tax legislation as well as key information about income taxes, residency, income determination, deductions, group taxation, credits and incentives, withholding taxes, indirect taxes, and tax administration, up to date (unless otherwise stated) as of 1 June 2014. Also included is a global directory of PwC contacts organised by their tax speciality area.

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