



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 27 - 27 June 2017

Dear Readers,

Welcome to a new edition of our newsletter.

1. The new Myanmar Investment Law - first experiences

Please find the seminar presentation here: <http://tinyurl.com/yeh3kf9j>.

The new Myanmar Investment Law has brought some important improvements, among others a major reduction of red tape. We have in the meantime clarified a few items that had remained unclear at the seminar with the MIC and hope to publish a summary in the next newsletter.

In a nutshell, the MIC has confirmed that, in order to apply for an MIC endorsement, no financial forecast and no CSR commitment are required. For an MIC permit, however, these things are required and have to be presented at the latest in the power point presentation at the MIC meeting.

2. Trade fertilizers, seeds, pesticides, hospital equipment and construction materials

Ministry of Commerce Notification 36/2017 dated 12th June 2017 ditches the joint venture requirement and allows 100% foreign-invested companies to import and sell fertilizers, seeds, pesticides, hospital equipment and construction materials. All a foreign investor has to do is to (i) register a company of the “trading” type with DICA; (ii) bring in the minimum paid-up capital (USD 50,000 - half to be injected at the time of company incorporation and the remaining half within five years) and (iii) register as an exporter/importer with the Ministry of Commerce.

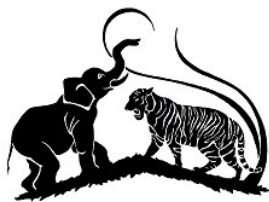
Please find a translation of the notification here: <http://tinyurl.com/y7u32eu9>

3. Draft Law Amending the Stamp Act proposes to increase duty rates for the transfer of immovable property, to reduce the penalty for late-stamping

On 26th June 2017, the state-owned press published the draft of a Law to Amend the Stamp Act (please find an English translation here: <http://tinyurl.com/ydaorgqb>). If enacted, the following will change:

(a) Increase of duty rates in Yangon, Nay Pyi Taw and Mandalay

The stamp duty for the transfer of immovable property in Yangon and Nay Pyi Taw will increase from 4% to 6%.



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This result may not be apparent from reading the text, but is due to the fact that the draft revokes an exemption from a 2% surcharge (“**Surcharge II**”) for properties in Yangon and Nay Pyi Taw that is presently contained in section 3-A Stamp Act.

If the new law is enacted as it is presently drafted, the transfer of property in Yangon and Nay Pyi Taw will, in addition to the 2% stamp duty (“**Basic Duty**”) for a “conveyance” according to no. 23 Schedule I to the Stamp Act and a surcharge of 2% (“**Surcharge I**”) according to section 63 (1) Yangon Development Trust Act 1921 and section 36 (a) Nay Pyi Taw Development Law 2009, be subject to the Surcharge II.

It is a curious thing with Mandalay: Section 31 (a) of the Mandalay City Development Law 2002 also provided for a 2% Surcharge I, but this law was repealed in its entirety by Law No. 35/2016 dated 29th July 2016, and we are not aware of another law that would fill the gap with regard to the Surcharge I. As the present section 3-A Stamp Act contains an exemption from the Surcharge II for property in Mandalay (which the draft aims to remove), a transfer of Mandalay property should therefore presently only attract the Basic Duty of 2% (although we suppose that the tax offices in Mandalay will disagree).

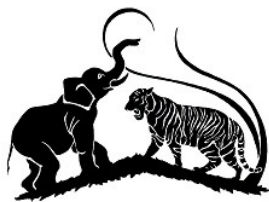
In contrast to the Mandalay City Development Law, the Yangon City Development Trust Law (although its main subject, the Trustees for the Development of the City of Yangon - at the time of course referred to as “Rangoon” - became defunct long ago) and the Nay Pyi Taw City Development Law never seem to have been repealed.

The present and planned duty rates for the transfer of immovable property are therefore as follows:

	Present rate	Planned rate
Yangon, Nay Pyi Taw	Basic Duty + Surcharge I = 4%	Basic Duty + Surcharge I + Surcharge II = 6%
Mandalay	Basic Duty = 2%	Basic Duty + Surcharge II = 4%
Rest of Myanmar	Basic Duty + Surcharge II = 4%	Basic Duty + Surcharge II = 4%

(b) **Reduction of the penalty for late-stamping**

The draft proposes to reduce the penalty for late-stamping (which in practice means stamping more than one month after the date shown in the instrument) from ten times the applicable duty to three times the applicable duty.



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(c) Confirmation of duty reductions

The draft - if enacted - will confirm the following duty reductions made by Ministry of Planning and Finance Notification No. 146/2016 with effect 1st October 2016:

No. in Schedule 1	Description	Old rate	New rate
15	Bond	1.5%	0.5%
23	Conveyance	3%	2%
35(c)	Fine or premium or money advanced in addition to rent (if the stamped lease agreement is executed)	Ks. 600	Ks. 300
62	Transfer of shares or debentures	0.3%	0.1%

Nos. 15 and 23 are often referenced to in other numbers of Schedule 1. The reduction of the stamp duty rates for bonds and conveyances means that rates for other instruments have gone down as well, e.g. for lease agreements with a term of not more than 3 years from previously 1.5% of the annual rent to now 0.5%, and for lease agreements with a term in excess of 3 years from previously 3% of the annual rent to now 2%.

4. Rep offices of foreign securities companies not allowed to open in Myanmar

The Myanmar Securities and Exchange Commission points out in Notification 1/2017 dated that it so far has not allowed any foreign securities companies (dealers, brokers, underwriters, investment advisors and those offering depository and clearing services) to open a rep office in Myanmar, and that the public should be aware that the ones being here are operating illegally.

5. Electricity and energy news

- (a) NLD and government are reconsidering the ban on new coal-fired power plants: <http://tinyurl.com/ybj936zt>
- (b) Ministry will increase electricity prices (but no date set): <http://tinyurl.com/yaxf9tvv>

6. Market access and other news

- (a) South Korea and Myanmar agree to build an industrial zone in northern Yangon; construction to start in 2018: <http://tinyurl.com/y9h9on76>
- (b) Local entrepreneurs suggest construction of a deep sea port and a pipeline between Yangon and Mandalay: <http://tinyurl.com/ydyztmdv>



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- (c) Four new companies to join the Yangon Stock Exchange by 2018: <http://tinyurl.com/ya24o7wg>
- (d) Car import policy to be issued by year end?: <http://tinyurl.com/y7oasrn8>
- (e) YCDC to invite private enterprises to build pedestrian overpasses: <http://tinyurl.com/ybv5grkh>
- (f) PE Delta Capital to close USD 50m for second fund by July: <http://tinyurl.com/y7zst8gl>
- (g) New gemstone licenses and license renewals only after the new Gemstone Law is passed: <http://tinyurl.com/y8n8pd4e>
- (h) World Bank extends partnership framework and pledges USD 1.2bn in additional financing: <http://tinyurl.com/ybdcbnaf>

7. Tenders

- (a) **Myanma Oil and Gas Enterprise:** Purchase of various equipment: <http://tinyurl.com/y8p6yf7y>
- (b) **Roche Myanmar:** Workplace engagement evaluation: <http://tinyurl.com/y75go5nf>

We hope that you have enjoyed reading our newsletter and found it useful.

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director