



Dear Readers,

Welcome to a new edition of our newsletter.

1. Union Tax Law 2017 and other pieces of (proposed) legislation

The Union Tax Law 2017 was passed on 1st March. Please find a translation on our homepage (<http://tinyurl.com/ms3x8c6>) and a summary in this newsletter.

The draft of a Law Amending the Special Goods Tax Law was also published recently which would, if enacted, include gemstones in the law's scope of application.

The long-awaited draft of a new Gemstone Law was also published this month. The draft still largely bans foreigners from the sector, but the processing of gemstones and production of finished jewelry may be done with foreign investment if the law is enacted as currently drafted.

A Personal Freedom and Personal Security (Privacy) of Citizens Protection Law was passed on 8th March (Pyidaungsu Hluttaw Law no. 5/2017). It deals mainly with the protection of citizens from state intrusion, not with the protection of personal data collected by private businesses, an area that is still largely unregulated in Myanmar.

The Ministry of Commerce issued a notification on the requirements for the import of used machinery; a translation can be found on our homepage (<http://tinyurl.com/mchdckf>).

2. Water Festival holidays cut to five days

In a move that surely made it very popular, the government announced (<http://tinyurl.com/kpbwruu>), about one month prior to the start of this year's Water Festival, that the holidays (originally scheduled for ten days) would be cut by half with the eliminated days being added to various official holidays later during the year.

As was to be expected, this did not go down well with people with prior arrangements, so the Ministry of Labour Immigration and Population recently announced that employees who had already made travel plans "only get five days as holidays, but are entitled to five more days off" if they trade in their annual leave (<http://tinyurl.com/kagy43p>).

Now, obviously, the long Water Festival holidays were introduced by the military government only in 2007 and the present government does have a point in saying that they put a strain on the country's economic output during April, but seriously, a lot of confusion and ill will could



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have been avoided by simply saying that the revised schedule would take effect next year instead of this year.

In any case, our office will be closed for the full ten days from 12 to 21 April. We reopen after the weekend on Monday, 24 April.

3. Foreign direct investment down by 30%

FDI dropped 30% in 2016/17 (<http://tinyurl.com/n673lwj>). Admittedly, this figure does not include investments in the Thilawa SEZ and company incorporations without MIC permit, and the 2015/16 figures were inflated by oil and gas deals and last minute approvals, but the 2016/17 numbers do not really indicate a stellar performance on the part of the new government in attracting foreign investment. The reasons are known; let's see if it gets better in the next financial year.

Partly in response to the figures, the Minister of Planning and Finance announced (<http://tinyurl.com/m5mdex3>) that there will be further market access liberalizations in oil and gas retail distribution, microfinance, insurance, infrastructure, supply chains, logistics, communication and transportation. However, as always, it remains to be seen what comes out of this announcement.

4. Electricity and energy news

(a) The **two big power projects in Yangon Region** which would have provided the region with combined 600MW daily for five years are apparently not moving forward (<http://tinyurl.com/k2sozor>) as the Ministry of Electricity and Energy seems to have no budget to purchase the electricity (<http://tinyurl.com/n4bfd76>).

To recap: Electricity is heavily subsidized. Privately produced electricity is purchased by a state-owned buyer and sold at a loss of apparently Ks. 470bn per year. This loss would apparently increase to Ks. 900bn annually if the two new power generation facilities in Yangon were to go online. The Ks. 430bn difference is not included in this year's Union budget, and it is a bit difficult to see where the government could source it from to begin with.

The hefty state subsidies are an important cause for concern to investors in the power generation sector and their financiers as they fear that the government may simply run out of funds to purchase electricity at the contractually agreed price. On the other hand, increasing electricity prices for end-customers would obviously be an immensely unpopular move for the government to make which might, if done abruptly, quite easily



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spark riots. In the end, it seems that the government's choice is only between either accepting power cuts, thereby hampering the development of the country, or risking popular anger by increasing prices.

In this context, it is important to note that government guarantees are only valid if the funds for the project for which they are used are included in the Union budget.

- (b) The **big LNG tender** will apparently be held in April: <http://tinyurl.com/lh77o3w>. The USD 2bn project includes a floating LNG terminal (possibly in Mon State), a 200 km pipeline and a 1 GW gas-fired power plant. In one of the previous newsletters, we laid out a few legal and tax thoughts on the construction and operation of the LNG terminal (<http://tinyurl.com/hl8wt48>), pieces on the pipeline and the power plant are to follow. We just hope that there will be a budget for the project in time...
- (c) Market access liberalization in oil and gas retail distribution on the way? See here: <http://tinyurl.com/m5mdex3>.
- (d) Myanmar-China oil pipeline nears start-up: <http://tinyurl.com/lrkpjgf>

5. Market access

- (a) **MIC Notification 10/2017** (<http://tinyurl.com/kjsmk5t>) now lists the development zones: Investment projects may qualify for corporate income tax holidays for seven, five or three years if they are located in a less developed ("zone 3"), moderately developed ("zone 2") or developed ("zone 1") region. In order to qualify for this tax exemption, the investment additionally has to be made in a specified sector. The notification with the specified sectors is not out yet.
- (b) **MIC Notification 11/2018** (<http://tinyurl.com/l8bxw6y>, text in Myanmar) allows States and Regions to approve investments of up to USD 5 million/Ks. 6 billion. It still remains to be seen how this will be implemented in practice.

6. Tenders

- (a) **Mandalay City Development Committee:** design, building and operation of a waste water treatment plant at Nankad Lake (Asia Development Bank-funded): <http://tinyurl.com/mjsgrt2>



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- (b) **Myanma Timber Enterprise:** Auction of teak and hardwood round logs and sawn timber: <http://tinyurl.com/k2p3akv> (in this context, also read this article: Denmark blocks the sale of Myanmar teak <http://tinyurl.com/krj2g6l>)
- (c) **Department of Rural Development:** Purchase of t-shirts, caps and vinyl posters as promotional material (IDA funded): <http://tinyurl.com/ln29v5k>
- (d) **Ministry of Construction and Ministry of Agriculture, Livestock and Irrigation:** International environmental and social safeguard specialist: <http://tinyurl.com/lkqx7v6>
- (e) **Department of Mines:** Purchase of cathode copper: <http://tinyurl.com/lzt23v7>
- (f) **No. 1 Heavy Industries Enterprise:** Privatization of No. 16 Heavy Industry (manufacturing of agricultural equipment and machinery): <http://tinyurl.com/m3x5kef>
- (g) **No. 3 Heavy Industries Enterprise:** Privatization of an industrial complex in Thaton: <http://tinyurl.com/nxyzla6>
- (h) **Department of Rural Development:** Supply and installation of satellite equipment and high speed connection in Paletwa, Hpasawng and Madupi (IDA funded): <http://tinyurl.com/lbjy3ea>
- (i) **Myanma Oil and Gas Enterprise:** Purchase of (i) batteries and (ii) horizontal directional drilling services for the installation of a 20" gas pipeline between Myainggalay and Yangon at Sittaung River Crossing: <http://tinyurl.com/mpn373s>
- (j) **Myanma Railways:** Design, execution and completion of rolling stock (diesel electric multiple unit): <http://tinyurl.com/kv2xhqf>, and purchase of 4 train sets of 6 cars each: <http://tinyurl.com/n3qrpzl> - JICA-funded, so bidding is only open to Japanese main contractors or Japanese/Myanmar joint ventures with Japanese majority ownership

We hope to publish one more newsletter before Thingyan, but in case there is none: Happy New Year!

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director



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Press review (23 February - 23 March 2017)

- Market access liberalization in several sectors on the way?: <http://tinyurl.com/m5mdex3>
- UK firm James Fisher to enter the marine industry and the oil and natural gas sector in a joint venture: <http://tinyurl.com/m4evy8v>
- Uber and Grab bring taxi-on-demand war to Myanmar: <http://tinyurl.com/n6q2d8y>
- Myanmar-China oil pipeline nears start-up: <http://tinyurl.com/lrkpijgf>
- Denmark blocks the sale of Myanmar teak: <http://tinyurl.com/krj2g6l>
- Big LNG tender to be held in April: <http://tinyurl.com/lh77o3w>
- NLD lawmakers shutter dozens of state factories: <http://tinyurl.com/kv9exmf>
- The two big power projects in Yangon Region not moving forward: <http://tinyurl.com/k2sozor>
- Construction association takes over low-cost housing projects: <http://tinyurl.com/kcnlkvg>
- Two-lane highway to link Thailand and Dawei SEZ: <http://tinyurl.com/kaah679>



Union Tax Law 2017

Every year, a “Union Tax Law” is enacted that makes amendments to the special goods tax, commercial tax and income tax regime. The following changes will occur in the 2017/2018 financial year:

(1) Special goods tax

- Increase of the rates for cigarettes, cigars, pipe tobacco, betel chewing preparation, most liquor, most wine, vehicles (massive increase in case of vehicles above 4001 CC)
- Reduction of the rate for cheroots, wood logs and wood cuttings, raw jade, rubies, sapphires and emeralds, vehicles between 1800 and 2000 CC
- Electricity, specified electronic devices, cosmetic products and decorative elements of cars not subject to special goods tax (unlike the proposition in the draft)
- Unlike in the draft, the special goods section does not specifically mention liquefied natural gas

(2) Commercial tax

- Some amendments to the list of exempted goods; in particular, raw stones and jewelry sold at state-sponsored domestic jewelry exhibitions are now exempt
- Clarification that the import of goods admitted temporarily into the country is not subject to commercial tax
- “House rental services” no longer exempt; “industrial farming services” (whatever this is) now exempt
- Commercial tax rate for the sale of gold jewelries reduced from 5% to 1% (the draft had proposed 3%)
- Ministry of Planning and Finance given authority to exempt “businesses that are operated by local or foreign organizations with donated money” from commercial tax
- Businesses with a turnover of up to Ks. 50 million are exempt from commercial tax (up from presently Ks. 20 million)
- The import of perishable goods (“goods that are sent and received quickly”) up to a ceiling set by the Customs Department is exempt from commercial tax



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(3) Income tax

- Ministry of Planning and Finance can exempt (i) local and foreign organizations operating with donated money and (ii) capital gains realized at the Yangon Stock Exchange from income tax.