



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

**Government of the Republic of the Union of Myanmar
Ministry of Planning and Finance
Internal Revenue Department**

Public Ruling No. 1/2022

**1384, 13th Waxing Day of Thadingyut
(7 October 2022)**

Determining the practice regarding tax refunds

Introduction

1. Exercising the authority conferred by section 11, sub-section (a) Tax Administration Law, the Director General of the Internal Revenue Department hereby issues this public ruling in order to ensure clarity and uniformity in the practice to be observed by taxpayers and tax officers regarding the making of refunds in accordance with the Tax Administration Law when the amount of tax paid exceeds the amount of tax assessed or the amount of tax due.
2. This public ruling is binding on the Internal Revenue Department pursuant to section 11, sub-section (b) Tax Administration Law.

Topics

3. Clarification how the Internal Revenue Department handles refunds under the Tax Administration Law of income tax, commercial tax, and specific goods tax.

Applicable legislation

4. This public ruling is subject to section 43 Tax Administration Law.

Conditions to be met to be entitled to claim a refund

5. A taxpayer shall be entitled to claim a refund in any of the following circumstances -
 - (a) If income tax paid, either quarterly, or as capital gains tax, or when exporting or importing, or as withholding tax, exceeds the income tax due as per an assessment;
 - (b) for commercial tax -



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- (1) if the commercial tax paid when importing goods for export or when purchasing goods in the country for export, including the commercial tax paid monthly for export activities, exceeds the commercial tax due for the export of goods;
 - (2) in case of other businesses, if the commercial tax paid monthly according to section 12 Commercial Tax Law exceeds the commercial tax due as per an assessment;
 - (3) if a refund is requested under the principle of reciprocity through the Ministry of Foreign Affairs of commercial tax paid by diplomats and embassy staff of foreign embassies in Myanmar;
- (c) if specific goods tax paid monthly or at any other specified time according to section 8 [*Specific Goods Tax Law*] exceeds the tax as per an assessment;
- (d) in addition to the above cases, if tax was overpaid, including by miscalculated payment, either because an original assessment was verified to be incorrect or because an assessment was amended.

Order of setting off liabilities prior to making a refund

6. If a refund of income tax, commercial tax or specific goods tax arises in an income year or a financial year, the refund shall be offset according to the schedule below:
- (a) In case of a refund of income tax:
 - (1) All income tax liabilities as well as interest and penalties relating to income tax that are incurred in the income year shall be set off first; and if thereafter there is still an income tax refund available, commercial tax liabilities, interest and penalties shall be set off in a second step, and specific goods tax liabilities, interest and penalties in a third step.
 - (2) If there is still a refund left after the setoffs made according to subsection (a), sub-clause (1), the income tax to be paid by the taxpayer for the next 12 months after the end of the month in which the refund was confirmed shall be set off in a first step, commercial tax in a second step, and specific goods tax in a third step (advance tax).
 - (b) In case of a refund of commercial tax:



- (1) All commercial tax liabilities as well as interest and penalties relating to commercial tax that are incurred in in the financial year shall be set off first; and if thereafter there is still a commercial tax refund available, income tax liabilities, interest and penalties shall be set off in a second step, and specific goods tax liabilities, interest and penalties in a third step.
 - (2) If there is still a refund left after the setoffs made according to subsection (b), sub-clause (1), the commercial tax to be paid by the taxpayer for the next 12 months after the end of the month in which the refund was confirmed shall be set off in a first step, income tax in a second step, and specific goods tax in a third step (advance tax).
- (c) In case of a refund of specific goods tax:
- (1) All specific goods tax liabilities as well as interest and penalties relating to specific goods tax that are incurred in the financial year shall be set off first; and if thereafter there is still a specific goods tax refund available, income tax liabilities, interest and penalties shall be set off in a second step, and commercial tax liabilities, interest and penalties in a third step.
 - (2) If there is still a refund left after the setoffs made according to subsection (c), sub-clause (1), the specific goods tax to be paid by the taxpayer for the next 12 months after the end of the month in which the refund was confirmed shall be set off in a first step, income tax in a second step, and commercial tax in a third step (advance tax).

Calculating the advance tax to set off refunds

7. When calculating the advance tax for the next 12 months, the amounts of income tax, commercial tax and specific goods tax shall be as follows:
 - (a) In case of income tax, the amount that is left after having deducted withholding tax and advance income tax in this income year from the income tax incurred in the income year immediately preceding the income year in which the refund was confirmed;
 - (b) in case of commercial tax, the amount of commercial tax incurred in the financial year immediately preceding the financial year in which the refund was confirmed;
 - (c) in case of specific goods tax, the amount of specific goods tax incurred in the financial year immediately preceding the financial year in which the refund was confirmed;



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- (d) If the immediately preceding financial year is a period of 6 months, twice the amount of tax due for that year.

Paying refunds

8. If there is still a refund after making the setoffs according to section 6, this amount shall be refunded to the taxpayer.
9. For greater clarity, this public ruling is illustrated with the following examples.

Example 1

- (a) **Case:** Company “A” submitted an income tax return for the 2021-2022 income year (from 1-10-2021 to 31-3-2022) on 20 June 2022 in which it declared that it had paid MMK 80,000,000 more in that income year than the income tax due. The relevant tax office issued a confirmation letter (SAS-1) on 20 August 2022. The relevant tax office issued income tax adjustment notices (SAS-3) to the company for the 2018-2019 income year and for the 2019-2020 income year on 22 August 2022. According to the notices issued on 22 August 2022, the company has to pay MMK 50,000,000 income tax for the 2018-2019 income year as well as a penalty of MMK 5,000,000 (10% of the additional tax due), and MMK 20,000,000 income tax for the 2019-2020 income year as well as a penalty of MMK 5,000,000 (25% of the additional tax due).
- (b) **Application of the public ruling:** The income tax surplus of company “A” shall be set off as follows:

Sr.	Income tax surplus (deficit)	
		MMK 80,000,000
1	Income tax assessment (SAS-3)	MMK 70,000,000
2	Income tax interest	XXXXXXXX
3	Income tax penalty (SAS-3)	MMK 10,000,000
4	Commercial tax assessment	XXXXXXXX
5	Commercial tax interest	XXXXXXXX
6	Commercial tax penalty	XXXXXXXX
7	Specific goods tax assessment	XXXXXXXX
8	Specific goods tax interest	XXXXXXXX
9	Specific goods tax penalty	XXXXXXXX
10	Advance income tax	XXXXXXXX
11	Commercial tax (advance)	XXXXXXXX
12	Specific goods tax (advance)	XXXXXXXX



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Tax to be refunded / additional tax due	MMK 0
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Therefore, the income tax surplus of company “A” arising in the income year 2022-2023 will be offset against the income tax assessment and income tax penalty incurred in this income year, and there is no need to make a refund as there is no more income tax surplus after this setoff.

Example 2

- (a) **Case:** Company “B” submitted an income tax return for the 2020-2021 income year (from 1-10-2020 to 31-9-2021) on 20 December 2021, and an amended income tax return on 20 July 2022. According to the amended income tax return, it had overpaid income tax in the amount of MMK 200,000,000 in the 2020-2021 income year. The relevant tax office issued a notice of approval (SAS-1a) or assessment notice on 20 August 2022. On 22 August 2022, the relevant tax office issued a confirmation letter (SAS-1) or assessment notice according to which the company had an income tax liability of MMK 20,000,000 and a commercial tax liability of MMK 30,000,000 for 2021-2022 (from 1-10-2021 to for 2021-2022 (from 1-10-2021 to 31-3-2022)). Company “B” is not subject to specific goods tax. For the 2022-23 income year, the advance income tax is MMK 40,000,000 and the commercial tax (advance tax) is MMK 60,000,000.
- (b) **Application of the public ruling:** The income tax surplus of company “B” shall be set off as follows:

Sr.	Income tax surplus (deficit)	MMK 200,000,000
1	Income tax assessment (SAS-1 or assessment notice)	MMK 20,000,000
2	Income tax interest	XXXXXXXX
3	Income tax penalty	XXXXXXXX
4	Commercial tax assessment (SAS-1 or assessment notice)	MMK 30,000,000
5	Commercial tax interest	XXXXXXXX
6	Commercial tax penalty	XXXXXXXX
7	Specific goods tax assessment notice	XXXXXXXX
8	Specific goods tax interest	XXXXXXXX
9	Specific goods tax penalty	XXXXXXXX
10	Advance income tax	MMK 40,000,000
11	Commercial tax (advance)	MMK 60,000,000



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12	Specific goods tax (advance)	XXXXXXXX
	Tax to be refunded	MMK 50,000,000

Therefore, the income tax surplus of company “B” arising in the income year 2022-2023 are offset against the income tax assessment, commercial tax assessment, advance income tax and commercial tax (advance tax) incurred in this income year, and as MMK 50,000,000 remain, this amount has be refunded to the company.

10. This public ruling shall take effect from the 2022-2023 financial year.
11. I hereby sign and publish the public ruling.

(Signed)
Min Thut
Director General

Letter no. 1 (1) / U Sa-1 / Pa Ta Kha / 2022 (8628)

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