LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

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Dear Readers,

Welcome to a new edition of our newsletter.

Standard operating procedures to ensure that the sender does not owe taxes when remitting money abroad

On 25 April 2023, the SAC's Ministry of Planning and Finance on its website published standard operating procedures (SOP) for verifying whether entrepreneurs, companies, organisations and individuals paid taxes due to the state and cleared the tax record when remitting foreign currency abroad (English translation).

These SOP take effect on 1 May 2023 and cover remittances in excess of USD 10,000.

They oblige banks to in particular check the following prior to dispatching remittances:

(a) Payments made to transfer profits or pay for goods

These payments may only be made from income reported to the tax authorities in the previous two fiscal years. Banks are expected to verify this by checking form SAS-1 ("Confirmation for Self-Assessment") or form Pa Ta Kha (Wa Nga)-8 if the sender is not paying taxes under the self-assessment system.

Apart from other difficulties involving foreign remittances, this may create a problem if there are delays in the tax assessment and the issuance of the forms. Furthermore, importers of goods may be inconvenienced as the SOP seem to suggest that they may not pay for the goods from other sources such as income in the current fiscal year, older income, and loans.

Somewhat strangely (we think), it appears from the SOP that newly incorporated companies that have not been taxed yet may make remittances by simply proving their tax registration.

(b) Remittance of salary income

Such remittances may only be made from salary income from the previous fiscal year, which banks are expected to verify by checking the certificate of withholding from salary income issued by the sender's employer with form Pa Ta Kha (Wa Nga)-15 (Ka).

(c) Payments for interest, a license, a trademark, royalties, a copyright or service fees

Banks are expected to check the certificate issued by the relevant tax office under the Internal Revenue Department that the withholding tax has already been paid or that no tax is due. Furthermore, the SOP

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may suggest that they also have to check the certificate of residence issued by the foreign tax authorities if the sender of the remittance claims relief under a double taxation agreement.

The following points are also noteworthy:

- In addition, a foreign remittance may require approval from the Foreign Exchange Supervisory Committee.
- The SOP do not mention any exemptions for MIC or Thilawa SEZ companies.
- The SOP do not mention remittances for other reasons, such as the repayment of the principal of a cross-border loan.

We hope that you have found this information useful.

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About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

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