

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

**Government of the Republic of the Union of Myanmar**

**Ministry of Planning and Finance**

**Notification No. 44/2024**

**Directives regarding action for failure to comply with the provisions of any tax law**

**1386, 8<sup>th</sup> Waxing Day of Nayon**

**(13 June 2024)**

The Ministry of Planning and Finance has issued this notification exercising the powers conferred by section 86 (b) Tax Administration Law to ensure uniformity when taking action for failure to comply with the provisions of any tax law.

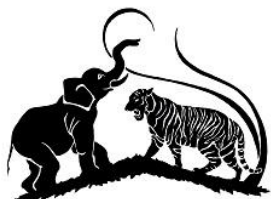
## **Chapter 1**

### **Distinction between cases where the police may take action and cases where the police may not take action**

1. These directives shall distinguish cases according to section 77 Tax Administration Law where the police have the right to take action from cases according to sections 78 and 80 Tax Administration Law where the police do not have the right to take action and the procedures to take action according to the relevant offence.

### **Issuance of notices in cases where the police have the right to take action**

2. Anyone who knowingly and deliberately evades a tax assessment, payment or collection or knowingly and deliberately requests a refund without entitlement is considered to have committed tax evasion and shall be prosecuted under section 77 Tax Administration Law.
3. If the head of the township revenue department or officer in charge finds from the tax collection procedure, from information received or from the verification of information submitted by the taxpayer that there has been tax evasion according to para. 2, he shall send a notice with the "full disclosure" form in appendix A to the relevant taxpayer to fully and correctly disclose within 15 days from the date of receipt of the notice the tax evasion according to section 77 Tax Administration Law.
4. If the taxpayer is unable to make the disclosure within the time specified in para. 3 and applies for an extension of the due date for submission with the application form in appendix B, the head of the township revenue department or officer in charge may extend the due date by 15 days if the following particulars apply:

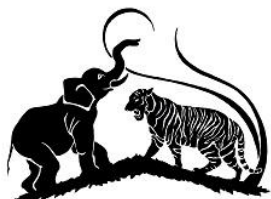


## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

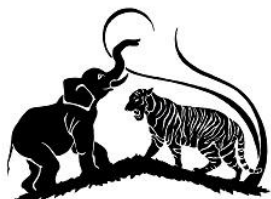
- (a) Examining and re-drafting of financial statements (e.g., income, revenue, sales revenue, services revenue, expenses, bank account opening and maintenance);
  - (b) examining proof of payment of taxes (e.g., advance taxes, taxes paid, taxes to be paid, income tax to be deducted from the source (withholding tax), stamp duty);
  - (c) directors of the company or persons appointed according to section 17 Tax Administration Law or representatives according to section 41 Tax Administration Law are travelling abroad or receiving medical treatment abroad or are ill and receiving treatment in the country;
  - (d) submission of other good data that may extend the due date.
5. If the head of the township revenue department or officer in charge accepts the taxpayer's application, he shall reply to the relevant taxpayer with the notice form in appendix C that the extension of the due date is approved or rejected. A due date extension according to para. 4 may be granted only once.
6. If the taxpayer does not make disclosure or does not make full disclosure within the specified or extended time, the head of the township revenue department or officer in charge shall request permission from the director general to initiate prosecution under section 77 Tax Administration Law.

### **Issuance of notices in cases where the police do not have the right to take action**

7. If any person is found to have failed to keep matters confidential that are deemed confidential according to section 8 (b) or (c) Tax Administration Law, he shall be deemed to have failed to maintain confidentiality and be prosecuted according to section 80 Tax Administration Law.
8. If any person is found to have deliberately obstructed or attempted to obstruct the performance of tax administration according to the Tax Administration Law, he shall be prosecuted according to section 78 (a) Tax Administration Law, and if a person commits any of the following acts or omissions, he shall be deemed to have obstructed tax administration according to section 78 (b) Tax Administration Law:
- (a) Failure to comply with a lawful request by a tax officer to inspect records, documents or data retained;
  - (b) failure to comply with a lawful summons to appear before a tax officer;



- (c) preventing and interfering with the lawful right of a tax officer, agent or team to access business or residential premises;
  - (d) failure to file a tax return in order to obstruct tax administration;
  - (e) using a false or irrelevant taxpayer identification number;
  - (f) issuing a false invoice, receipt, credit note or debit note, except for section 78 (c) of this law;
  - (g) providing or failure to provide invoices, receipts, credit notes or debit notes that are not in accordance with any tax law, except for section 78 (c) of this law;
  - (h) refusing to allow the director general to inspect or measure land, or refusing to present for inspection a map, form, ownership contract, lease contract, any other contract or document;
  - (i) preventing in any other way the determination, assessment or collection of tax.
9. If the head of the township revenue department or officer in charge finds from the tax collection procedure, from information received or from the verification of information submitted by the taxpayer that there has been a deliberate obstruction or attempt to obstruct tax administration according to para. 8, he shall send a notice with the “full disclosure” form in appendix D to the relevant taxpayer to fully and correctly disclose within 15 days from the date of receipt of the notice the act or omission that obstructs tax administration according to section 78 (b) Tax Administration Law.
10. If the taxpayer is unable to make the disclosure within the time specified in para. 9 and applies for an extension of the due date for submission with the application form in appendix E, the head of the township revenue department or officer in charge may extend the due date by 15 days if the following particulars apply:
- (a) Incomplete or missing information or evidence on accounts (e.g., deposit *challan*, withdrawals of revenue-stamps, tax exemption certificate, export declaration or import declaration (customs ED/ID));
  - (b) re-examination of evidence submitted in the tax return;
  - (c) inability to provide proof of ownership related to tax administration (e.g., renewal of a certificate, application to change the name in a certificate);

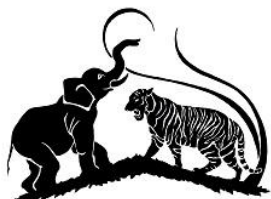


- (d) directors of the company or persons appointed according to section 17 Tax Administration Law or representatives according to section 41 Tax Administration Law are travelling abroad or receiving medical treatment abroad or are ill and receiving treatment in the country;
  - (e) submission of other good data that may extend the due date.
11. If the head of the township revenue department or officer in charge accepts the taxpayer's application, he shall reply to the relevant taxpayer with the notice form in appendix F that the extension of the due date is approved or rejected. A due date extension according to para. 10 may be granted only once.
12. The head of the township revenue department or officer in charge shall request permission according to para. 16 from the director general to initiate prosecution according to section 80 Tax Administration Law for failure to maintain confidentiality and according to section 78 (a) Tax Administration Law if the taxpayer does not make disclosure or does not make full disclosure within the specified or extended time.

### Chapter 2

#### Issuance of notices in civil proceedings

13. If it has been verified that a person failed to pay all or part of the taxes due within the specified time, the relevant taxpayer is considered a defaulter according to section 45 (c) Tax Administration Law and the unpaid taxes become arrears, and the head of the township revenue department or the officer in charge shall send such determination to the relevant taxpayer with the notice form in appendix G.
14. When commencing proceedings in any competent court according to section 56 (b) Tax Administration Law to recover arrears under any tax collection method:
- (a) The relevant township revenue department head or officer in charge shall submit to the relevant Regional, State or Union Territory revenue department head or division head (officer in charge) the evidence in para. 15 together with his comments in order to file a lawsuit against the taxpayer.
  - (b) If the relevant head of the Regional, State or Union Territory revenue department or division head (officer in charge) receives the submission according to sub-clause (a), he shall submit to the director general a list with the name of the plaintiff and the names of the witnesses with his additional comments to obtain approval for the lawsuit against the taxpayer and to delegate the lawsuit on behalf of the director general.

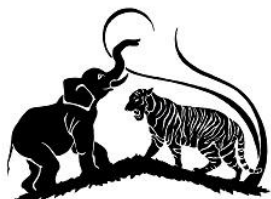


- (c) If the director general's approval is obtained on the submission according to para. (b), the delegated plaintiff shall notify the relevant taxpayer with the notice form in appendix (H) that he will commence proceedings in any competent court according to section 56 (b) Tax Administration Law.
- (d) The delegated plaintiff may request legal advice from the relevant law office if necessary before filing a lawsuit against the taxpayer.

### Chapter 3

#### Documenting the case and requesting approval

- 15. The documentation of the case shall include the following evidence:
  - (a) Complete personal information of the taxpayer;
  - (b) complete evidence that tax education activities were conducted for the taxpayer *[on the consequences]* if he fails to comply with any tax law and that he was informed and elucidated, e.g., with a notice;
  - (c) copies of notices sent to the taxpayer;
  - (d) if the taxpayer has done an act, complete information or verified evidence of the offence and evidence of *[the taxpayer's]* failure to send a full disclosure notice within the specified time;
  - (e) complete and sufficient evidence that the taxpayer should be sued or prosecuted in relation to any act or failure to comply with any tax law;
  - (f) keeping complete written records of all activities in the daily log.
- 16. To obtain permission before prosecution in a case where the police have the right to take action and in a case where the police do not have the right to take action:
  - (a) The relevant township revenue department head or officer in charge shall submit the evidence in para. 15 to the relevant Regional, State or Union Territory revenue department head or division head (officer in charge) in order to prosecute the taxpayer.
  - (b) If the relevant head of the Regional, State or Union Territory revenue department or division head (officer in charge) receives the submission according to sub-clause (a), he shall submit to the director general a list with the name of the complainant *[literally, "plaintiff"]* and the names of the witnesses with his additional comments to obtain



approval for the prosecution of the taxpayer and to delegate the prosecution on behalf of the director general.

- (c) If the director general's approval is obtained on the submission according to para. (b), the delegated complainant shall take action to prosecute the relevant taxpayer.

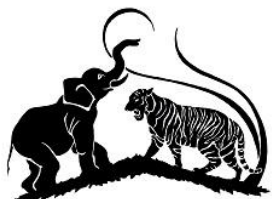
### **Chapter 4**

#### **Prosecution, settlement and withdrawal**

17. Cases shall be prosecuted within the time limit stipulated in section 76 Tax Administration Law.
18. The delegated complainant shall start proceedings at the police station where the relevant revenue office is located if it is a case where the police have the right to take action and at the competent court where the relevant revenue office is located if it is a case where the police do not have the right to take action. The witnesses included in the list of names submitted to the director general shall testify in relation to the case.
19. In cases where the police do not have the right to take action, the delegated complainant may, at any time before the final order of the relevant court, apply to the relevant court to allow the taxpayer to settle the case with the director general's approval, subject to the provisions of section 83 (b) Tax Administration Law.
20. In cases where the police have the right to take action, the delegated complainant may, at any time before the final order of the relevant court, apply to the relevant law office to allow the taxpayer's withdrawal from the case with the director general's approval, subject to the provisions of section 83 (b) Tax Administration Law.

#### **Persons subject to legal proceedings**

21. Legal proceedings shall be directed against the following persons:
  - (a) In case of a company that is currently operating, this company;
  - (b) in case of a company that has ceased to operate and has not been liquidated,
    - (1) chairman;
    - (2) managing director;
    - (3) members of the board of directors;
    - (4) general manager;



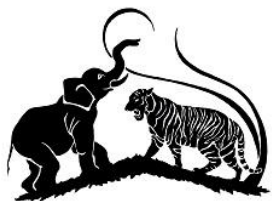
## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

- (5) operator doing the management on the company's behalf;
- (c) in case of a partnership, the members of the partnership;
- (d) in case of a trust, the trustee;
- (e) in case of an association other than a company or partnership, the person responsible for entering receipts and payments into the accounts on behalf of such association;
- (f) in case of a citizen or foreigner living abroad, the manager of the business organisation owned by such a person in the Union or the person in charge of the business affairs of such person;
- (g) if a person has two or more representatives, all such representatives;
- (h) In case of liquidated companies:
  - (1) Shareholders within 1 year prior to the time of liquidation of the company;
  - (2) if the cause of action against the company arose during a time when the shareholders owning the company were different from the shareholders at the time of liquidation, such shareholders;
- (i) If the taxpayer died or an indebted company's property is seized, the administrator, agent or trustee of the taxpayer's property or the person who continues or closes the business that is subject to tax;
- (j) in case of a business operation subject to tax for which mortgaged land or other assets are used, the mortgagee.

### Chapter 5 Miscellaneous

- 22. Information concerning legal proceedings may be released only with the director general's permission.
- 23. Evidence and paperwork concerning legal proceedings shall be separated from the taxpayer's original file, classified as confidential, and kept safe by the township revenue department head or officer in charge.

Win Shein  
Union Minister



## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

### Appendix A: Notice to correctly and completely disclose tax evasion

#### Appendix A

According to article 389 of the 2008 Constitution of the Republic of Myanmar, every citizen has the duty to pay the taxes due by law.

#### Notice to correctly and completely disclose tax evasion (section 77 Tax Administration Law)

Letter no.: .....

Date: .....

To:

Taxpayer name: .....

Taxpayer identification number (TIN/GIR): .....

Address: .....

.....

1. Upon review, it was found that ..... committed the following acts or omissions which may be considered tax evasion according to section 77 Tax Administration Law:
  - (a)
  - (b)
  - (c)
2. Therefore, you are hereby notified to correctly and completely disclose the acts or omissions referred to in para. 1 by .....
3. You are furthermore notified that if no disclosure or no full disclosure is made within the specified time in spite of having been given the opportunity to do so, this may result in prosecution according to section 77 Tax Administration Law and if convicted, in a sentence of imprisonment of not more than 7 years, or a fine of MMK 250,000 and up to an amount equivalent to 100% of the tax evaded for the relevant period, or both.

[Office seal]

Officer in charge

Signature: .....

Name: .....

Position: .....

Office: .....





## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

Copy:

Office receipt

Appendix B: Application to extend the due date by which correct and complete disclosure of tax evasion must be made according to section 77 Tax Administration Law

### Appendix B

According to article 389 of the 2008 Constitution of the Republic of Myanmar, every citizen has the duty to pay the taxes due by law.

#### **Application to extend the due date by which correct and complete disclosure of tax evasion must be made according to section 77 Tax Administration Law**

Date: .....

To:

Officer in charge  
Internal Revenue Department  
..... Office

1. The company / we / I ....., taxpayer identification number (TIN/GIR) ....., must submit by - - 20 correct and complete disclosure of any acts or omissions that may be considered tax evasion according to section 77 Tax Administration Law.
2. However, the company / we / I are not able to submit in time correct and complete disclosure of any acts or omissions that may be considered tax evasion due to the following reasons and therefore submit this application to extend the due date for submission to - - 20 .

.....  
.....  
.....

Signature: .....

Name: .....



## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

[Office seal]

Position: .....

Phone, e-mail, address .....

.....  
.....

### Receipt

We received 1 application from taxpayer company / Mr. / Ms. ...., taxpayer identification number (TIN/GIR) ....., to extend the due date for correct and complete disclosure of acts or omissions that may be considered tax evasion.

Signature: .....

Name: .....

Position: .....

Office: .....

Date: .....

Appendix C: Reply letter regarding the application to extend the due date by which tax evasion must be correctly and completely disclosed according to Section 77 Tax Administration Law

### Appendix C

According to article 389 of the 2008 Constitution of the Republic of Myanmar, every citizen has the duty to pay the taxes due by law.

**Reply letter regarding the application to extend the due date by which tax evasion must be correctly and completely disclosed according to Section 77 Tax Administration Law**

Letter no.: .....

Date: .....

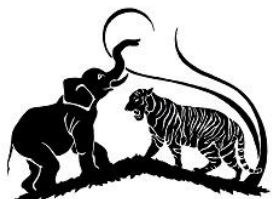
To:

Taxpayer name: .....

Taxpayer identification number (TIN/GIR): .....

Address: .....

.....



## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

1. You have been found to have committed acts or omissions which may be considered tax evasion according to section 77 Tax Administration Law and applied on - - 20 for an extension of the due date by which the acts or omissions must be correctly and completely disclosed.
2. Regarding your application:

☐

The grounds presented in your submission are accepted as sufficient. You are notified to submit the acts and omissions correctly and completely by the due date - - 20 .

☐

The grounds presented in your submission cannot be accepted as sufficient and no extension of the due date for correct and complete disclosure will be allowed. You are notified to make your submission not later than by the specified time.

[Office seal]

Officer in charge

Signature: .....

Name: .....

Position: .....

Office: .....

Copy:

Office receipt

Appendix D: Notice to correctly and completely disclose any act or omission obstructing tax administration [Section 78 (b) Tax Administration Law]

### Appendix D

According to article 389 of the 2008 Constitution of the Republic of Myanmar, every citizen has the duty to pay the taxes due by law.

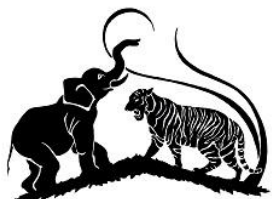
#### Notice to correctly and completely disclose any act or omission obstructing tax administration [Section 78 (b) Tax Administration Law]

Letter no.: .....

Date: .....

To:

Taxpayer name: .....



## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

Taxpayer identification number (TIN/GIR): .....

Address: .....

.....

1. Upon review, it was found that ..... committed the following acts or omissions which obstruct tax administration according to section 78 (b) Tax Administration Law:  
  
(d)  
  
(e)  
  
(f)
2. Therefore, you are hereby notified to correctly and completely disclose the acts or omissions referred to in para. 1 by ..... .
3. You are furthermore notified that if no disclosure or no full disclosure is made within the specified time in spite of having been given the opportunity to do so, this may result in prosecution according to section 78 (a) Tax Administration Law and if convicted of having willfully obstructed or attempted to obstruct tax administration, in a sentence of imprisonment of not more than 1 year, or a fine of MMK 250,000, or both.

Officer in charge

Signature: .....

Name: .....

Position: .....

Office: .....

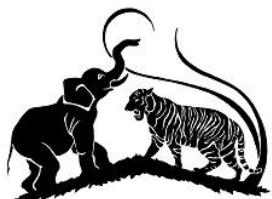
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Office receipt

Appendix E: Application to extend the due date by which correct and complete disclosure of acts or omissions obstructing tax administration must be made according to section 78 (b) Tax Administration Law

**Appendix E**



## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

According to article 389 of the 2008 Constitution of the Republic of Myanmar, every citizen has the duty to pay the taxes due by law.

**Application to extend the due date by which correct and complete disclosure of acts or omissions obstructing tax administration must be made according to section 78 (b) Tax Administration Law**

Date: .....

To:

Officer in charge  
Internal Revenue Department  
..... Office

1. The company / we / I ....., taxpayer identification number (TIN/GIR) ....., must submit by - - 20 correct and complete disclosure of any acts or omissions obstructing tax administration according to section 78 (b) Tax Administration Law.
2. However, the company / we / I are not able to submit in time correct and complete disclosure of any acts or omissions obstructing tax administration due to the following reasons and therefore submit this application to extend the due date for submission to - - 20 .

.....  
.....  
.....

Signature: .....

Name: .....

Position: .....

Phone, e-mail, address .....

.....

.....

[Office seal]

### Receipt

We received 1 application from taxpayer company / Mr. / Ms. ...., taxpayer identification number (TIN/GIR) ....., to extend the due date for correct and complete disclosure of acts or omissions obstructing tax administration.

Signature: .....



## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

Date: .....

Name: .....

Position: .....

Office: .....

Appendix F: Reply letter regarding the application to extend the due date by which acts or omissions obstructing tax administration must be correctly and completely disclosed according to Section 78 (b) Tax Administration Law

### Appendix F

According to article 389 of the 2008 Constitution of the Republic of Myanmar, every citizen has the duty to pay the taxes due by law.

**Reply letter regarding the application to extend the due date by which acts or omissions obstructing tax administration must be correctly and completely disclosed according to Section 78 (b) Tax Administration Law**

Letter no.: .....

Date: .....

To:

Taxpayer name: .....

Taxpayer identification number (TIN/GIR): .....

Address: .....

.....

1. You have been found to have committed acts or omissions obstructing tax administration according to section 78 (b) Tax Administration Law and applied on - - 20 for an extension of the due date by which the acts or omissions must be correctly and completely disclosed.
2. Regarding your application:

☐

The grounds presented in your submission are accepted as sufficient. You are notified to submit the acts and omissions correctly and completely by the due date - - 20 .

☐

The grounds presented in your submission cannot be accepted as sufficient and no extension of the due date for correct and complete disclosure will be allowed. You are notified to make your submission not later than by the specified time.



## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

[Office seal]

Officer in charge

Signature: .....

Name: .....

Position: .....

Office: .....

Copy:

Office receipt

Appendix G: Notice of unpaid tax arrears and consideration as a defaulter according to section 45 (c) Tax Administration Law

### Appendix G

According to article 389 of the 2008 Constitution of the Republic of Myanmar, every citizen has the duty to pay the taxes due by law.

#### Notice of unpaid tax arrears and consideration as a defaulter according to section 45 (c) Tax Administration Law

Letter no.: .....

Date: .....

To:

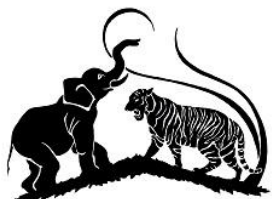
Taxpayer name: .....

Taxpayer identification number (TIN/GIR): .....

Address: .....

.....

It has been found that, although we sent a notice to pay tax (commercial tax, specific goods tax, income tax) on ..... and the due date for payment has already passed, the tax amount due, MMK ....., has not been paid yet. Concerning such taxes and fines, unpaid taxes are determined as tax arrears and you, being a person who failed to pay taxes, as a defaulter according to section 45 (c) Tax Administration Law. You are hereby notified to make payment within 30 days from the date of receipt of this notice either by *challan* or by electronic means to ..... Town Office, ..... Bank, ..... Branch, bank account no. MD ..... . You are notified that we will apply the



## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

collection methods according to section 52 Tax Administration Law if payment is not made within the specified time.

Sr.	Assessment year	Tax arrears									Total unpaid tax arrears
		Commercial tax			Specific goods tax			Income tax			
		Tax amount	Fine	Interest	Tax amount	Fine	Interest	Tax amount	Fine	Interest	

Officer in charge

Signature: .....

Name: .....

Position: .....

Office: .....

[Office seal]

Copy:

Office receipt

**Remark:** If signed by the officer in charge, state "by order". (The officer in charge refers to the person to whom functions were delegated by the director general according to Notification No. 215/2021)

Appendix H: Notice that proceedings will be commenced in the competent court according to section 56 (b) Tax Administration Law

### Appendix H

According to article 389 of the 2008 Constitution of the Republic of Myanmar, every citizen has the duty to pay the taxes due by law.

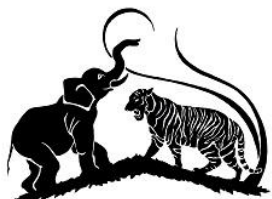
**Notice that proceedings will be commenced in the competent court according to section 56 (b) Tax Administration Law**

Letter no.: .....

Date: .....

To:





## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

Taxpayer name: .....

Taxpayer identification number (TIN/GIR): .....

Address: .....

.....

As you failed to pay the assessed tax due for the 20 - 20 fiscal year assessment within the specified time, a notice to pay tax [Pa Ta Kha ( )-04-09] was sent according to section 45 Tax Administration Law on ....., and for unpaid taxes of in total ....., a notice was sent on ..... determining the tax arrears and [you] as defaulter according to section 45 (c) Tax Administration Law and that collection methods will be applied according to section 52 Tax Administration Law for the unpaid arrears, but as you are still in default, you are hereby notified that proceedings will be commenced in the ..... Township Court according to section 56 (c) Tax Administration Law.

Officer in charge

[Office seal]

Signature: .....

Name: .....

Position: .....

Office: .....

Copy:

Office receipt

**Remark:** If signed by the officer in charge, state "by order". (The officer in charge refers to the person to whom functions were delegated by the director general according to Notification No. 215/2021)



## LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

### 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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