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Myanmar's Union Tax Law 2017: Changes for Specific Goods Tax



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A shifting economic and political landscape is driving significant changes in Myanmar's tax sector. Many amendments have been enacted in this fiscal year, including the changes announced in the Union Tax Law 2017.

Specific Goods Tax (similar to excise tax in other countries) ("SGT") was implemented under the SGT Law and enacted in 2016. SGT impose additional tax on specific goods that are hazardous to consumers' health, Myanmar's natural resources, and goods that are harmful to the environment. SGT is imposed on the importer, the local producer and the exporter of specific goods.

The applicable tax rates and specific goods subject to SGT is announced in the Union Tax Law ("UTL") which is enacted by the Pyidaungsu Hluttaw (the Union Parliament of Myanmar) every year before the start of each financial year. The UTL basically amends the tax rates and the activities subject to tax as well as

sets tax collection targets for each type of tax and by government department. Therefore, investors in Myanmar need to take a flexible approach to long-term tax planning, since the tax rates are subject to change on an annual basis.

The UTL 2017 was enacted on March 1, 2017 and is effective for the financial year 2017–18 (April 1, 2017 to March 31, 2018). The major changes seen are with regard to the SGT rates, and the goods subject to Commercial Tax ("CT"). Under the UTL 2016, there were 16 specific goods categories that were subject to SGT. Although the total number of specific goods categories has increased to 17 under the UTL 2017, this is only because raw jade has been given its own cat-

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egory (it was previously included under the general “raw gemstones” category). No new goods have been added.

Tax Base for SGT Calculation

Previously, separate SGT rates were imposed on the importation of certain specific goods, resulting in a higher tax burden for importers as compared to local producers. Under the UTL 2017, local producers and importers are subject to the same SGT rates, although there are different SGT rates for exporters. There are two types of specific goods under the UTL 2017; goods that are taxed based on their price range determined under the UTL, and goods that are taxed on some other basis. The Internal Revenue Department (“IRD”) will determine the tax base value for this latter type of specific goods.

With regard to specific goods taxable as per price range, the SGT base for local production is the higher of the factory sales price (ex-factory price) or the sales price determined by the IRD. Therefore, it is noteworthy that if a producer uses its own factory sales price (ex-factory price), and it is lower than that determined by the IRD, there is a risk of underpayment of SGT, which may be subject to a hefty penalty under the SGT Law.

For importation, the SGT base will be the CIF landed value. For exportation, the SGT base is not clearly defined under the UTL 2017 or the original SGT Law. However, there is a draft law amending the original SGT Law (“Draft Law”), which clarifies that the SGT base for exportation is the FOB shipped value.

Ex-factory Price

For each financial year, the IRD will hold a stakeholder meeting with local producers of specific goods at the IRD’s head office in Nay Pyi Taw before the retail price is determined. During the meeting, the producers can propose retail prices for each brand and products that they wish to sell in the market. After considering the proposed retail prices, the IRD will determine the retail price which will be used as base for calculation of ex-factory price. Although there is no official regulation or notification regarding with

the calculation of ex-factory price, currently the IRD uses 60 percent of the retail price as the ex-factory price for calculation of SGT. This is a huge risk for manufacturer as this percentage is not regulated under a regulation.

Hefty Tax Burden for Alcoholic Beverages, Tobacco-related Products and Luxury Goods

The bad news is that SGT rates have been increased for most specific goods that are hazardous to the environment, health of consumers including tobacco-related products, liquor and wine. However, SGT rates remain the same for beer. In addition, SGT rates for vehicles will be imposed according to their engine power, with higher rates for vehicles with more engine power.

Any Good News?

SGT rates have been reduced significantly for the country’s natural resources because the government hopes to better control logging and natural resource extraction by decreasing the tax costs, and thus decreasing the incentive to illegally conduct such activities. SGT rates remain the same for petroleum products as well.

SGT on Exportation

Apart from the five specific goods (natural gas; wood logs and wood cuttings; raw jade; other raw gemstones; and finished goods and jewelries), export of other specific goods is exempt from SGT. Input SGT paid on purchases, importation and production can be offset against the output SGT due at the exportation for taxable specific goods.

SGT Rates under the UTL 2017

The threshold for exemption from SGT is applicable only on the local production and sale of tobacco, cheroots and cigars by cooperatives and private enterprises whose sales revenue does not exceed 20 million kyat. The table below provides a summary of the changes in SGT rates compared to 2016 for local production and importation.

No.	Description	Price Range UTL 2016	Price Range UTL 2017	Tax Rate UTL 2016	Tax Rate UTL 2017
1	Cigarettes, all sorts	5 level of prices ranging from 400 kyat and below – 801 kyat and above	4 level of prices ranging from 400 kyat and below – 801 kyat and above	5 level of tax rates ranging from 3-15 kyat per cigarette and 120% for importation	4 level of tax rates ranging from 4-16 kyat per cigarette
2	Tobacco			60%	60%
3	Virginia tobacco, cured			60%	60%
4	Cheroots		2 level of prices ranging from 10 kyat and below – 11 kyat and above	60%	2 level of tax rates ranging from 50 Pyas – 1 kyat per cheroot
5	Cigars			60%	80%
6	Pipe tobacco			60%	80%

No.	Description	Price Range UTL 2016	Price Range UTL 2017	Tax Rate UTL 2016	Tax Rate UTL 2017
7	Betel quid preparations			60%	80%
8	Liquor, all sorts	17 level of prices ranging from 500 kyat and below - 20,001 kyat and above per liter	16 level of prices ranging from 750 kyat and below - 26,001 kyat per liter	17 level of tax rates ranging from 56 kyat - 3,375 kyat per liter and 60% for importation	16 level of tax rates ranging from 91 kyat - 5,911 kyat per liter
9	Beer, all sorts			60%	60%
10	Wine, all sorts	17 level of prices ranging from 500 kyat and below -20,001 kyat and above per liter	16 level of prices ranging from 750 kyat and below - 26,001 kyat and above per liter	17 level of tax rates ranging from 50 kyat -3,000 kyat per liter and 50% for importation	16 level of tax rates ranging from 81 kyat - 5,254 kyat per liter
11	Wood logs and wood cuttings			25%	5%
12	Raw jade				15%
13	Raw gemstones of ruby, sapphire, emerald, diamond and other precious gems			20%	10%
14	Finished goods and jewelry of jade, ruby, sapphire, emerald, diamond and other precious gems			5%	5%
15	Vans, saloons, sedans, wagons (estate wagons), and coupes with engine capacity of from 1,500 cc to 2,000 cc; 2,001 cc to 4,000 cc; and above 4,001 cc, except double cab 4-door pickups			25%	20%, 30%, 50%
16	Kerosene, gasoline, diesel and jet fuel			5%	5%
17	Natural gas			8%	8%

Conclusion

The target revenue collection for SGT under the 2017 UTL is approximately around US\$500 million which is a 15 percent increase compared to the target collection in the 2016 UTL. There are hefty penalties on unpaid SGT and underpaid SGT; 100 percent penalty

on the unpaid and underpaid amount. In addition, there is also a 10 percent penalty on the late payment and filing.

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