

Government of the Republic of the Union of Myanmar

Ministry of Planning and Finance

Internal Revenue Department

Practice Statement No <sup>4</sup>---/2019

Nay Pyi Taw

~~10~~<sup>10</sup>th day of July, 2019

**Treatment of specific goods where no tax label is affixed, or inaccurate or incorrect amounts of tax labels are affixed**

1. Internal Revenue Department (IRD) issues this practice statement in accordance with the power conferred by Rule 63 of Specific Goods Tax Rules (SGTR).

**What this practice statement is about**

2. This practice statement tells you how IRD treats specific goods that have no tax labels affixed as required by law, or that are affixed with inaccurate or the incorrect amount of tax labels.

**Who this practice statement applies to**

3. This practice statement applies to the importers, exporters and manufacturers as well as the owners and holders of any specific goods that are required to affix tax labels.

**The relevant provisions in the law, Rules and notifications**

4. The following laws, rules and notifications are relevant for the requirement to affix tax labels:
  - (a) Explanations (a) and (b) of Section (7)(a)(iii) of the SGT law define un-taxed specific goods as follows:

Explanation (a) of Section (7)(a)(iii) - "for specific goods which sales are required to be affixed with tax labels, specific goods that are not affixed with tax labels as specified"

Explanation (b) of Section (7)(a)(iii) - "for other specific goods, the specific goods that are imported without registered permit as specified or that are not bought from legal importer or that are produced/manufactured without registered permit or that fail to submit all evidence of the tax payment made for buying from legal producer/manufacturer"
  - (b) Rule 25 of Specific Goods Tax Rules 2019 (SGTR) stipulates that "affixing tax labels as prescribed in this regulation on the specific goods proves that the tax is included in the sale price of the sold goods"
  - (c) Notification No. 53/2016 and Notification 59/2017 issued by the Ministry of Planning and Finance stipulate that the following are specific goods that require affixing of tax labels when selling-
    - (1) Various types of cigarette
    - (2) Various types of liquor
    - (3) Various types of wine

- (4) Various types of cheroot
- (5) Various types of cigar
- (d) For holding the un-taxed specific goods or failure to affix the specified tax labels, Sections 22(c) and 22(f) of SGT Law stipulate the offences and penalties as follows:

Section 22 (c) – “the holder of any un-taxed specific goods is subject to a penalty equivalent to 100% of the value of such specific goods and in addition the goods shall be confiscated”

Section 22 (f) – ‘the specific goods that are found failure to affix the specified tax labels by township revenue officer shall be subject to a penalty equivalent to 50% of the value of such specific goods.’

### Practice Statement

5. Taxes on specific goods are directly collected from the importers and manufacturers at the time of manufacture/import. This aligns with the intention of the specific goods tax law to collect the right and full amount of tax and to prevent tax evasion (revenue loss). Manufacturers/sellers of specific goods need to make monthly payments payable on the manufactured/sold specific goods at the rate specified by category and size (volume) of the goods. The importers of the specific goods need to pay the required tax along with the payable customs duty before the goods are collected.
6. Therefore, the businesses are urged NOT to buy, hold or possess any specific goods that are not affixed with tax labels or that are affixed with inaccurate or incorrect amount of tax labels. Otherwise, section 22(c) of the SGT Laws shall apply and force a penalty equivalent to 100% of the value of such specific goods and confiscation of the goods. The manufacturer who fails to affix the tax labels shall be subject to a penalty equivalent to 50% of the value of the specific goods, according to section 22(f) of the SGT Law.
7. The following examples describe how this practice statement applies.

#### (a) Example 1 – Incorrect tax labels affixed

**Facts:** Company ‘A’ distills liquors. For 2018-2019 fiscal year, the liable specific goods taxes for liquor are 122 MMK for one litre bottle of liquor with a price up to 1000 MMK and 609 MMK for one litre bottle liquor with a price between 2001-3000. During April 2018, Company ‘A’ produces 100 000 (1 litre) bottles of liquor with a price of 1000 MMK per litre and 200 000 (1 litre) bottles of liquor with a price of 2500 MMK per litre, and sells them to U Phyu.

#### The specific goods tax payable by Company ‘A’

100 000 (1 litre) bottles liquor valued at 1000 MMK per litre x 122 MMK = 12 200 000 MMK

200 000 (1 litre) bottles liquor valued at 2500 MMK per litre x 609 MMK = 121 800 000 MMK

Total SGT payable = 134 000 000 MMK

#### The SGT payment made after wrongly affixing the tax labels

100 000 (1 litre) bottles of liquor valued at 2500 MMK per litre x 609 MMK = 60 900 000 MMK

200 000 (1 litre) bottles of liquor valued at 1000 MKK x 122 MMK = 24 400 000 MMK

Total SGT paid after wrongly affixing the tax labels = 85 300 000 MMK

**Application of this practice statement:** U Phyu in buying the liquors from Company 'A' needs to ask for the transport pass and tax certificates (i.e. IRD (CT) form 31 and IRD (SGT) form 20) and to check whether the goods are affixed with the correct amount of tax labels. If any inspection team for specific goods observes the specific goods that are wrongly affixed with tax labels (i.e. incorrect amount of tax labels as described in Example 1), all the goods shall be deemed as un-taxed goods and seized. Both U Phyu, the holder of such goods and Company 'A', the manufacturer shall be fined and the goods shall be confiscated according to sections 22(c) and 22(f) of specific goods tax law.

The penalty is calculated as follows:

Under section 22(c) of the SGT Laws a penalty equivalent to 100% of the value of the specific goods applies.

100 000 (1 litre) bottles liquor valued at 1000 MMK per litre = 100 000 000 MMK

200 000 (1 litre) bottles liquor valued at 2500 MMK per litre = 500 000 000 MMK

Total penalty payable = 600 000 000 MMK

Under section 22(f) of the SGT Law a penalty equivalent to 50% of the specific goods applies

50% of 100 000 (1 litre) bottles liquor valued at 1000 MMK per litre = 50 000 000 MMK

50% of 200 000 (1 litre) bottles liquor valued at 2500 MMK per litre = 250 000 000 MMK

Total penalty payable = 300 000 000 MMK

#### (b) Example 2 – Inaccurate tax label reporting

**Facts:** Following application of Section 22(f) of the SGT law, Company 'A' has been penalized for selling the self-manufactured specific goods that are affixed with incorrect labels. Meanwhile, Company 'A' has paid the monthly specific goods tax and commercial tax during 2018-2019 fiscal year. IRD have reviewed (either an audit, officer or inspection team) the final assessment and found robust evidence that Company A:

- (a) Intentionally purchasing and affixing incorrect labels to evade or reduce the SGT payable
- (b) Intentionally understating proceeds from sales/receipts from service to evade commercial tax
- (c) Intentionally concealing income to evade Income Tax

This meant that quarterly SGT returns were filed based on the sale proceeds of specific goods on which the incorrect amount of SGT labels were affixed, and that annual commercial tax return and income tax return were also prepared based on such incorrect information.

**Application of this practice statement:** Although Company 'A' has paid the penalties imposed under the provisions of Section 22 of the SGT law, it has still failed to provide

correct and/or complete information for the quarterly SGT assessment and in filing the annual CT and IT returns. Thus, Company 'A' shall be assessed or re-assessed according to Section 19 of SGT law, Section 17 of Commercial Tax law and Section 21 of Income Tax law. In addition, Company 'A' may be fined and prosecuted for such defaults under Sections 23 and 24 of SGT law, Section 22 of CT law and Section 47 of Income Tax law.

**(c) Example 3 – No tax labels affixed**

**Facts:** U Ba is the owner of a liquor house and holds/sells liquors that are not affixed with SGT tax labels as required by law. An inspection team finds the liquors that are held by U Ba and are not affixed with SGT tax labels.

**Application of this practice statement:** As the law requires that the liquors are sold with SGT tax labels affixed, U Ba would have held or sold those specific goods only after he has checked whether they are affixed with the right amount of tax labels on those liquors. If an inspection team finds U Ba is holding or selling the liquors that are not affixed with tax labels, U Ba shall be deemed to hold the un-taxed specific goods and the goods shall be confiscated. Both U Ba and the manufacturer shall face fines according to Sections 22(c) and (f) of SGT law.

8. This Practice Statement is hereby signed and issued.



(Min Htut)

Director General  


Letter No. 1(2)/U-Sa-1/ird/2019 (၇၇၇၆)

Date: 10<sup>th</sup> day of July, 2019

**Distribution to**

- Myanmar Accounting Council
- Director General, Printing and Publishing Department (With a request to include this statement in Myanmar National Gazette)
- All DDGs, IRD
- All Directors (HQ directorates)
- Head of Office, LTO (with an instruction to inform/explain the concerned taxpayers)
- Heads of Office (MTO1, 2, 3 and 4) (with an instruction to inform/explain the concerned taxpayers)
- Heads of State/Regional Revenue Offices (with an instruction to inform/explain the concerned taxpayers)

- Head of Revenue Office, Union Territory (with an instruction to inform/explain the concerned taxpayers)
- MICPA
- UMFCFI

**Copy to**

- Office copy
- Archive