



## Announcement of Internal Revenue Department



### Commercial Tax Obligations and Offsetting (3/2017)

#### 1. Purpose of Publication

The purpose of this publication is to help the taxpayers understand their commercial tax obligations and the requirements for commercial tax offsetting.

#### 2. What is Commercial Tax?

Commercial Tax Law was enacted in 1990 and has effect in state-owned, co-operatives and private sectors. It is not the same as Income Tax which is collected directly from taxpayer. It is an indirect tax where the tax is collected from taxpayers indirectly by manufacturers, importers, traders and service providers.

#### 3. Types of business with Commercial Tax obligations

Any person is liable to pay Commercial Tax for the following transactions:

- a) Manufacturing in the country,
- b) Trading,
- c) Providing Services,
- d) Importing, and
- e) Exporting.

#### 4. Who is responsible to pay Commercial Tax?

- a) For importing, the importer should pay Commercial Tax
- b) The manufacturer, trader, importer and service provider should collect Commercial Tax altogether with the value of the goods from the buyer or service user, and should make payment. However, the manufacturer, trader, importer and service provider could collect Commercial Tax only if they have Commercial Tax business registration (Pa Ta Kha Ka Tha Kha -2).



## **5. Businesses with or without Commercial Tax liabilities**

### **a) Identifying goods and services not liable to pay Commercial Tax**

Business which imports and buy/produces/ sells goods, or provides services which are identified as not being liable to pay Commercial Tax by Union Taxation Law are not required to register as Commercial Tax taxpayer.

### **b) Commercial Tax not being liable due to the amount of sale proceeds or service income**

Pursuant to Union Taxation Law, the business which does not meet the threshold for Commercial Tax liability are not required to pay Commercial Tax.

### **c) Exporting**

Pursuant to 2017 Union Taxation Law, exportation of electric power will be subject to 8% Commercial Tax whereas exportation of crude oil will be subject to 5% Commercial Tax. The other goods will be subject to zero rate Commercial Tax.

## **6. Paid Commercial Tax that can be offset**

a) A manufacturer can offset the following Commercial Taxes paid within the fiscal year for manufacturing of the goods against the Commercial Tax due on manufacturing of those goods.

1. Commercial Tax paid on the landed value of self-imported goods
2. Commercial Tax paid altogether with the value of the goods when those goods were purchased from other manufacturers, traders or importers
3. Commercial Tax paid altogether with the value of the services when those services were provided

(For example, U Kyaw is a manufacturer of plastic pipes. He rented a factory and a plot of land for his business, imported machinery and vehicles, purchased plastic seeds within the country, and purchased semi-finished products from another

manufacturer. Commercial Tax paid for renting/purchasing/ importing will be allowed to offset against Commercial Tax due on manufacturing of plastic pipes but Commercial Tax paid for capital assets such as machinery and vehicles will not be allowed for the purpose of offsetting. Commercial Tax could be recognized altogether with the original value of fixed assets on the balance sheet of the business and depreciation will be allowed for those assets.)

b) A trader and an importer can offset the following Commercial Taxes paid within the fiscal year for the goods against the Commercial Tax due on the trading of those goods.

1. Commercial Tax paid on the landed value of self-imported goods
2. Commercial Tax paid altogether with the value of the goods when those goods were purchased within the country
3. Commercial Tax paid altogether with the value of the services when those services were provided

(For example, U Shwe is running Enforcement Trading Co. Ltd which imports computers and trades computer accessories within the country. In doing so, they purchased an electric transformer, hired a showroom, used advertisements for promotion, and hired local and international experts. All Commercial Tax paid except for the ones paid for purchasing transformer can be offset against Commercial Tax due on the sale of computers.)

c) A service provider can offset the following Commercial Taxes paid within the fiscal year for the services against the Commercial Tax due on those services.

1. Commercial Tax paid on the landed value of self-imported goods
2. Commercial Tax paid altogether with the value of the goods when those goods were purchased within the country

### 3. Commercial Tax paid altogether with the value of the services when those services were provided

(For example, Daw Mya owns Ngal Chit Hotel. She imported the hotel accessories such as bed sheets, shampoo and soap, purchased pillows and beds within the country, purchased a Cherry Picker Crane for the purpose of cleaning the building, and hired tour guides and tour cars through the tourism board. All the Commercial Taxes paid for hotel business except for the one paid for fixed asset could be offset against Commercial Tax due on hotel business.)

## 7. Designated Forms

- a) For importation, the importers should prepare two original copies of Pa Ta Kha (Kha Tha Kha) 32 and Pa Ta Kha (Ka Tha Kha) 33. One copy should be sent to Township Revenue Officer and another one should be kept as receipt.
- b) For manufacturing, trading and service providing, the taxpayer should prepare three original copies of Pa Ta Kha (Kha Tha Kha) 31 and Pa Ta Kha (Ka Tha Kha) 33. The first copy should be sent buyer, the second copy should be sent to Township Revenue Officer and the third one should be kept as receipt.
- c) For the purpose of offsetting, an importer, a manufacturer, a trader or a service provider should have annual Commercial Tax business registration - Pa Ta Kha (Ka Tha Kha) 2.
- d) Monthly Commercial Tax due should have been paid within 10 days pursuant to Commercial Tax Law's regulations. Offsetting could be done only if monthly Commercial Tax payments are made.
- e) Commercial Tax quarterly returns should be filed within one month from the end of the respective quarter. (For example, Commercial Tax quarterly return for the quarter of April, May and June should be filed in the month of

July.) Pa Ta Kha (Kha Tha Kha) 33 with Pa Ta Kha (Kha Tha Kha) 31 or Pa Ta Kha (Kha Tha Kha) 32 should be attached for the purpose of offsetting.

- f) Offsetting could be done on the amount paid within the respective fiscal year. Commercial Tax paid for the unsold inventory could be carried forward so that it will be offset when it is sold by using Pa Ta Kha (Kha Tha Kha) 33.
- g) For the purpose of offsetting, the following forms could be requested at respective township revenue offices, LTO and MTOs.

1. For importing,

- aa. Import Declaration Form (original/copy)
- bb. Pa Ta Kha (Kha Tha Kha) 32 (original/copy) (attachment -2)
- cc. Pa Ta Kha (Kha Tha Kha) 33 (original/copy) (attachment -3)
- dd. Pa Ta Kha (Kha Tha Kha) 2 (original/copy) (attachment -4)

2. For manufacturing, trading and service providing,

- aa. Pa Ta Kha (Kha Tha Kha) 31 (original/copy) (attachment -1)
- bb. Pa Ta Kha (Kha Tha Kha) 33 (original/copy) (attachment - 3)
- cc. Pa Ta Kha (Kha Tha Kha) 2 (original/copy) (attachment “ 4)

**8. Who can offset and when to offset**

- a) All the businesses liable to pay Commercial Tax can offset paid Commercial Tax against Commercial Tax due in accordance with the provisions of Commercial Tax Law.

In order to be entitled to offsetting, a business should fulfill the following requirements pursuant to Regulation 42.

1. It should be registered annually for Commercial Tax business registration, and registration should still be valid
2. Monthly Commercial Tax payment should have been made within 10 days from the end of the respective month.
3. Commercial Tax quarterly returns should be filed within one month from the end of the respective quarter. **Pa Ta Kha (Kha Tha Kha) 33 with Pa Ta Kha (Kha Tha Kha) 31 or Pa Ta Kha (Kha Tha Kha) 32** should be attached for the purpose of offsetting.

(For example, Commercial Tax quarterly return for the quarter of April, May and June should be filed in the month of July.)

- b) If there is any taxable sale or service proceeds within a year as stipulated by Union Taxation Law, paid Commercial Tax could be offset against monthly Commercial Tax payments.

#### **9. Matters not eligible for offsetting**

- a) Commercial Tax paid for goods which were recognized as capital asset or fixed asset could not be used for the purpose of offsetting
- b) Commercial Tax paid for goods which were damaged or would no longer be sold could not be used for the purpose of offsetting
- c) the portion of paid Commercial Tax which exceeds the Commercial Tax due (that exceeding part will be allowed as business expenses when income is computed)

#### **10. Obligations of taxpayers**

- a) Registering one month before the commencement of business
- b) Sending the notice of business commencement within 10 days from the date of commencement
- c) Making monthly payment within 10 days from the end of respective month

- d) Filing quarterly return altogether with Pa Ta Kha (Kha Tha Kha) 31 and Pa Ta Kha (Kha Tha Kha) 32 within one month from the end of respective quarter
- e) (For business who would like to offset) requesting Pa Ta Kha (Kha Tha Kha) 31 from businesses issuing Pa Ta Kha (Kha Tha Kha) 31 and checking the original copy
- f) (For businesses issuing Pa Ta Kha (Kha Tha Kha) 31), keeping accurate records of sales
- g) filing annual return within three months from the end of respective fiscal year
- h) making on-time payment for tax due and penalty

(Remark: The documents required for offsetting have to be submitted altogether with the quarterly returns. If the documents were submitted altogether at the time assessment, respective township revenue office may not allow the offsetting)

## **11. Rights of taxpayers**

- a) Right to amend the return before the assessment if there is any mistake or discrepancy
- b) Right to be heard in regards with assessment and appeal
- c) Right to request the rectification if it is found a mistake apparent from the record relating to the assessment
- d) Right to appeal and revision in accordance with the law
- e) Right to request for the refund within one year from the date of receiving the notice
- f) Right to offset for manufacturer, trader, importer and service provider to ensure single taxation as per Commercial Tax Regulation 42

## **12. Penalties for taxpayers' offences**

Penalty will be imposed as follows by percentage or prescribed amount for any failure to comply with Commercial Tax Law.

- a) ten percent of the tax due upon the assessment for failure to register and failure to send notice of business commencement,
- b) ten percent of the tax due upon the assessment in each default for failure to pay the tax due monthly, failure to send quarterly return and failure to file annual return within the stipulated time,
- c) ten percent of the additional tax payable upon the assessment in each default for failure to pay tax as per annual return and failure to comply with the notice of summon for examination in regards with the assessment,
- d) ten percent of the additional tax payable in the assessment for failure to pay tax within stipulated or extended dates,
- e) ten percent of the tax due upon the assessment for failure to keep the receipt or evidence of receiving money in accordance with Commercial Tax Regulations,
- f) one hundred percent of the tax due upon such receipt or evidence of receiving money shall be paid for failure of providing such receipt or evidence of receiving money to the buyer or service user despite keeping those documents or failure for affixing tax labels (equal amount of tax payable) on receipts or any other evidence of receiving money even though they produce those documents. In addition, the following penalties will also be applied taking the number of default into consideration.
  - 1. 200,000 kyats for the first time of default
  - 2. 500,000 kyats for the second time of default
  - 3. 700,000 kyats for the third time of default
  - 4. One million kyats for each default more than three times.

If any of the following defaults has been identified, anyone would be subject to prosecution, and, if found guilty, imprisonment and penalty in accordance with the law.

- a) a person found to have evaded payment of tax or concealed particulars relating to the proceed of sale or receipt from service to reduce tax fails to



disclose within the stipulated time or underreports the concealed proceed of sale or receipt from service,

- b) a person filed the false return relating to his proceed of sale or receipt from service or to have produced incorrect books of accounts, or statements of accounts intentionally, or
- c) a person fails to comply with the provisions of Commercial Tax Law without sufficient reason.

For more details, please contact respective township revenue offices, Internal Revenue Department (Headquarters) at 067-430009, Taxpayer Service Unit (Yangon) at 01-378370 and Taxpayer Service Unit (Mandalay) at 02-30192 through telephone or in person. FAQs and answers will be provided later.

Annex 1  
patakha (kathakha) - 31

**According to sub-section (h) and (i) of Section 42 under Commercial Tax  
Regulation,**

**Evidence Certificates to be prepared 3 copies**

**(Local Purchase/ Service provided locally)**

Name of Seller.....

Name of Buyer.....

Service Provider

Recipient of the Service

Address .....

Address .....

NRIC No.....

NRIC No.....

Date of Sale .....

Sales..... Voucher No. .....

Date of Service Provided

Service Revenue

Serial No.	Type of goods/ Service	Unit	Quantity	Price		Proceeds		Tax due
				Kyat	Pya	Kyat	Pya	
Total tax due -----								

I have acknowledged that the abovementioned amount of tax (in words)  
\_\_\_\_\_ due on the sales proceeds/ service revenue for \_\_\_\_\_  
(month) \_\_\_\_\_ (year) shall be payable altogether with this certificate.

Signature of Seller/ Service Provider

Remark: A registered producer / trader/ service provider shall prepare 3 copies of evidence certificate, when the other registered producer/ trader/ service provider purchases goods/ receives services from him, and send the original to the buyer, send one copy to the relevant Township Revenue Officer or the head of Large Taxpayer Office/ Medium Taxpayer Office, and keep a remaining copy for himself.

Annex 2  
patakha (kathakha) - 32

**According to sub-section (h) of Section 42 under Commercial Tax Regulation,  
Evidence Certificates to be prepared 2 copies  
(Importation of goods from abroad)**

Name of the producer/ trader .....

Address .....

NRIC No.....

Declaration of the importation of partly finished goods for production of finished goods/ for trading business

Sr No.	Type of goods	Unit	Quantity	Landed cost	Tax rate	Tax due	Tax due per unit
1	2	3	4	5	6	7	8

I have acknowledged that the abovementioned goods are partly finished goods and they are imported to be used in the production of finished goods/ they are imported for resale.

Moreover, the tax due in column 7 has been paid together with the customs duty at the Customs department.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Remark: A registered producer/ trader who imports partly finished goods to be used in the production of finished goods / imports goods for resale, shall prepare 2 copies of evidence certificate, and send a copy to the relevant Township Revenue Officer and keep a remaining copy for himself.

Annex 3  
patakha (kathakha) - 33

**According to sub-section (j) of Section 42 under Commercial Tax Regulation,**

**Declaration of tax offset**

Date. \_\_\_\_\_

To

Township Revenue Officer  
\_\_\_\_\_ Township

1. In respect of the goods that are sold/ the services that are provided by \_\_\_\_\_ business/ enterprise/ company/ partnership, located at \_\_, \_\_\_\_\_ (street), \_\_\_\_\_ (township), for the month \_\_\_\_\_, \_\_\_\_\_ year, the total amount of commercial tax due on the sales proceed/ service revenue is \_\_\_\_\_ kyat.
2. The value of the abovementioned goods at the time of purchase in the country, importation, providing service was \_\_\_\_\_, and the commercial tax was paid according to the calculation stated at the backside of the form. The amount of tax paid was offset against the tax due, and the remaining amount of tax due was paid at \_\_\_\_\_ (bank) with the challan no. \_\_\_\_\_ on \_\_\_\_\_.
3. The remaining amount of tax paid for the goods which are currently held as inventory shall be offset against the tax due on the sale proceeds of the goods at the time of sale.
4. The evidence certificate (kathakha 31/ kathakha 32) prepared at the time of purchase in the country, importation, providing service are attached here/ have been furnished.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Name of business \_\_\_\_\_

Company Registration \_\_\_\_\_  
Number

Annex 3- cont' d  
patakha (kathakha) - 33 cont' d

**Schedule of commercial tax paid at the time of purchase in the country/  
providing service/ importation and the offset**

**To offset the tax paid for the goods purchased**

Description	Unit	Quantity	Value of the goods	Total tax paid	Tax due per unit	Remarks
1	2	3	4	5	6	7
Opening balance						
Net purchases						
( - - )						
( - - )						
Total						
Goods sold/ Services provided						
Total						
Damaged goods						
Inventory						



**To offset the tax paid for the services received**

Type of service	Unit	Number of services received	Service revenue	Total tax paid	Tax due per unit	Remarks
1	2	3	4	5	6	7
Total						

I declare that to the best of my knowledge and belief, the information above is correct and complete.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Name of business \_\_\_\_\_

NRC No. \_\_\_\_\_

Remark: Offset shall be done against the goods/services which have been sold/provided. The tax paid for damaged goods are not allowed to offset. The money offset shall not exceed the tax due on the resale of goods/ services provided.

## Annex 4

According to the Constitution of the Republic of the Union of Myanmar Section 389, every citizen has the duty to pay taxes to be levied according to the law.

Patakha(kathakha) -2

**Certificate of registration issued to producer or trader or service provider  
(Reference: regulation 4)**

**Ministry of Planning and Finance**

**Internal Revenue Department**

\_\_\_\_\_ Township

\_\_\_\_\_ Union Territory/ Region/ State/ \_\_\_\_\_

Registration No. \_\_\_\_\_

Date \_\_\_\_\_

Name of the producer or trader or service provider/ Name of the business owner/company \_\_\_\_\_

NRC No./ Company Registration No. \_\_\_\_\_

Address \_\_\_\_\_

1. According to the section 4 of Commercial Tax Regulation, the certificate of registration is issued to U/Daw \_\_\_\_\_, who produces/ carries out/ provides the following goods/ trading business/ service.

Goods produced/ Trading business/ Service provided \_\_\_\_\_

2. This certificate of registration is issued for the business carried out in the following address.

Address of main business \_\_\_\_\_

Branches

(1)

\_\_\_\_\_

—

(2)

\_\_\_\_\_

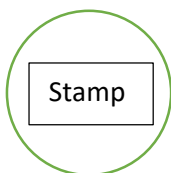
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3. If the business is discontinued, the return for the period up to the date of discontinuance shall be furnished to the Township Revenue Officer together with this registration certificate within 15 days from that date.

4. This certificate of registration or the copies of certificate shall be displayed visibly in the business premise.

5. This certificate of registration is valid through \_\_\_\_ (dd), \_\_\_\_ (mm), \_\_\_\_ (yyyy).

6. This certificate of registration is hereby signed and issued on \_\_\_\_ (dd), \_\_\_\_ (mm), \_\_\_\_ (yyyy).



Signature of

Township Revenue Officer

Date : \_\_\_\_\_

\_\_\_\_\_ Township