

This Interpretation is published by IRD. The English translation is intended to the taxpayers' clarification. Only Myanmar version is official.

The Republic of the Union of Myanmar
Ministry of Planning and Finance
Internal Revenue Department

Interpretation Statement No. 5/2018
Nay Pyi Taw
26 December 2018

Whether the owner can offset Commercial Tax paid on the purchasing or construction costs of a fixed asset

1. Pursuant to Section 55(b) of Commercial Tax Regulation, IRD is empowered to interpret if a business registered for Commercial Tax can offset Commercial Tax paid on the purchasing or construction costs of a fixed asset.

What this Interpretation Statement is about

2. This Interpretation Statement tells you how IRD treats commercial tax on purchasing or construction costs of fixed assets.

Who this Interpretation Statement applies to

3. This Interpretation Statement applies to the taxpayers who are purchasing or constructing fixed assets.

The Law

4. Section 42 (d) of the Commercial Tax Regulations states that:

d) a purchaser must submit to the Township Revenue Officer the evidence certificate(s) that he received from the seller, together with the prescribed form detailing the set off; and

Interpretation Statement

5. Section 42(d) of Commercial Tax Regulation provides that Commercial Tax paid for purchasing or constructing the fixed assets of a business shall not be included in the Commercial Tax which may be offset against the Commercial tax due on the sale of goods or the provision of services.

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Example

6. Following is the example for better understanding –

Facts (1)

- a) Construction Company “A” uses its own labour, machinery and expertise to construct a new administration office in 2017/2018 financial year, and paid Commercial Tax MMK 1,500,000 and the cost of asset MMK 30,000,000 to the supplier. Construction Company “A” received MMK 100,000,000 from their construction services within that year and collected Commercial Tax MMK 5,000,000 along with the service fees.

Application of Interpretation Statement

- b) Construction Company “A” is not allowed to offset the commercial tax MMK 5,000,000 collected with the service fess against the commercial tax MMK 1,500,000 paid on construction of a new office. The reason is that such costs are for fixed assets or capital assets and Commercial Tax Regulation Section 42 (d) does not allow offsetting for commercial tax paid for fixed assets or capital assets. (However, the owner of the asset may request with the specified form for the yearly depreciation allowance by stating the commercial tax paid for the assets with the original value of new office building in balance sheet.)

Facts (2)

- c) Manufacturing Company “B” engages an architectural firm “C” to design a new factory in 2017/2018 financial year. The architectural firm “C” charges commercial tax MMK 500,000 on the contract price MMK 10,000,000 to “B”. “B” company also purchased the required machines for their business within same year costing MMK 100,000,000 and paid applicable commercial tax MMK 5,000,000 to suppliers.

Application of Interpretation Statement

- d) Manufacturing Company “B” is not allowed to offset the commercial tax MMK 500,000 paid to an architectural firm “C” for design against the commercial tax MMK 5,000,000 paid on purchasing the required machines

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for their business in the same financial year, 2017/2018. Because such costs are for fixed assets or capital assets and Commercial Tax Regulation Section 42 (d) does not allow offsetting for commercial tax paid for fixed assets or capital assets. (However, the owner of the asset may request with the specified form for the yearly depreciation allowance by stating the commercial tax paid for the assets with the original value of new building and machines in balance sheet.)

7. This Interpretation Statement is issued by:

Sd. xxx
(Min Htut)
Director General

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