

Government of the Republic of the Union of Myanmar

Ministry of Planning and Finance

Internal Revenue Department

Practice Statement No. 7/2019

Nay Pyi Taw

(14th, November, 2019)

**Applying the accurate documentations and evidence of imports and exports by
Importers and Exporters**

1. IRD, in exercise of the power of conferred by Income Tax Regulation(51)(c) and by Commercial Tax Regulation (55)(b), hereby issues this practice statement to ensure importers and exporters understand their obligation in computing the tax payable on imports and exports to provide the income tax expenditures to be claimed for imported goods and all the income reported from exporting those goods must be based on the true cost and true sale price.

What this Practice Statement is about

2. This Practice Statement tells you how the IRD applies the provisions of the Income Tax Law and Commercial Tax law concerning income and payments claimed as expenses in the Income tax return and Commercial Tax sales reported in the commercial tax return.

Who this Practice Statement applies to

3. This Practice Statement applies to both Exporters and Importers of goods.

Relevant Definitions

4. For consistency and understanding the following terms are defined-
 - (a) **Assessed Value** - The value approved by the Ministry of Commerce and accepted by Customs for import or export purposes.
 - (b) **Pro-forma Invoice** - An invoice prepared showing the Assessed Value (which will generally not be the actual price paid for the goods).

- (c) **Commercial Invoice** – An invoice that is presented to Customs reflecting the Assessed Value.
- (d) **True Commercial Invoice** – The supplier issued invoice which reflects the true price of the goods.

The Law

5. The relevant laws are as follows;

(a) Income Tax

- (1) Sections 8(a)(iii),
- (2) Sections 11(a), 11(b).

(b) Commercial Tax Rules

- (1) Rules 42, (a) (i),
- (2) Rules 42, (b) (i),
- (3) Rules 42, (c) (i).

(c) Tax Administration Law

- (1) Section 20,
- (2) Section 27,
- (3) Section 66,
- (4) Section 68,
- (5) Section 69 (a),
- (6) Section 70,
- (7) Section 77,
- (8) Section 78.

(d) The Penal Code

- (1) Section 177.

Practice Statement

6. Taxpayers when filling out their Income Tax and Commercial Tax Returns should use correct prices based on the true commercial invoice. Pursuant to section 11(a) and (b) of the Income Tax Law in computing the tax payable allowable expenditure is based on the amount incurred. That is the actual amount paid. This amount must be supported by proper evidence of purchase (The True Commercial Invoice) and payment.

7. Likewise, income from exports must be reported on the actual sales price of the exported goods, not the Assessed Value. Export sales must be supported by proper documentation of the actual sales price and payment received.
8. Given Commercial Tax paid upon importation is an advance tax offsets of that tax are limited to the actual amounts paid pursuant to Commercial Tax Rules 42 (a)(i), (b)(i) and (c)(i).
9. The following examples are provided to have more clear understanding to this Practice Statement.

(a) Example-1

(1) **Facts:** Myanmar Company "A" exports goods to Company "B" in a foreign country. The assessed value of the goods is not determined by their commercial value. The valuation applied by customs for the export documentation "ED" and the invoice relies upon either;

- A predetermined Customs valuation or
- Customs applying Ministry of Commerce valuation.

(2) **Application of Practice Statement:** Company "A" has to provide the True Commercial Invoice for the evidence of their payment receipt and true sales price. If the export sales are differ from the value of True Commercial Invoice of the goods exported, these values provided by Company "A" cannot be used and input in computing for Income Tax purposes.

(b) Example-2

(1) **Facts.** Myanmar Company "C" imports goods from Company "D" located in a foreign country. The assessed value of the goods is not determined by their commercial value. The valuation applied by customs for the import documentation "ID" and the invoice relies upon either;

- A predetermined Customs valuation or
- Customs applying Ministry of Commerce valuation

(2) **Application of Practice Statement:** Myanmar Company "C" has to provide the True Commercial Invoice for the amount of true payment on the importation of goods from foreign country. If the values for Importation are differ from the value of True Commercial Invoice which had mentioned true price paid for those goods, these values provided by Company "C" cannot be used and input in

computing for Income Tax purposes. In the same way, the true and accurate sales income has to be provided for the local sales of imported goods.

Potential Penalties and Punishment

10. Submitting tax return such as Income Tax return and Commercial Tax return knowing the import prices claimed or the export prices declared are overstated or understated may be liable for a penalty under section 68, 69(a) of the Tax Administration Law and may also be punished under section 77 and 78 the Law. Using a false invoice or sales documentation may be liable for a penalty under section 66 and may also be punished 78 of the Tax Administration Law and failure to maintain documents may be liable for a penalty under section 70 of the Tax Administration Law. Submitting documents, including income tax return and commercial tax return, knowing them to be false may also constitute an offence under the Penal Code, Section 177.
11. Internal Revenue wants to ensure taxpayers understand their obligations to file accurate Tax returns so that they will not risk suffering these penalties and punishment.
12. This Practice Statement is hereby signed and issued.



(Min Htut)

Director General



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