

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

Government of the Republic of the Union of Myanmar

Ministry of Planning and Finance

Internal Revenue Department

Practice Statement No. 1/2019

Nay Pyi Taw

February 20, 2019

Lease Premium shall not be regarded as expense in calculation of income tax and monthly rental shall be allowed as expense

1. IRD, in exercise of the power conferred by Income Tax Regulation (51)(c), hereby issues this practice statement in order to clearly understand that lease premium is not allowed as expense in calculation of income tax but monthly rental payment (and advanced rental payment) is allowed as expense.

What this Practice Statement is about

2. This Practice Statement tells you how IRD applies the provisions of the Income Tax Law concerning with lease premium which is not allowed as expense in calculation of income tax but monthly rental payment (and advanced rental payment) is allowed as expense.

Who this Practice Statement applies to

3. This Practice Statement applies to the lessor.

Definition of this Practice Statement

4. In this Interpretation Statement, a **lessor** is a person who typically owns property or an asset and rents it to the lessee in return for rental payments and who earns lease premium;

5. A **lessee** is a person who rents any property or asset from another person (the lessor) and makes rental payments and lease premium to that person;

6. **Lease Premium** means lump sum amount that a lessee pays to a lessor for granting of a lease.

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The Law

7. Section (10)(b)(i), 11(b)(i) and 14-A of Income Tax Law say that incurred expenditure for the income and depreciation as prescribed in the Regulations are allowed to be deducted **except Capital Expenditure**.

Practice Statement

8. The lease premium is considered to be a payment that a lessee pays for renting any asset. The lease premium is paid to grant the lease. That means it is a payment for transferring, according to the lease agreement, intangible asset of lessor. Such lease premium is a capital expenditure. Thus, a lessee shall not be entitled to a deduction for lease premium as an expense in transaction occurred year or income year, in computing income tax for business income.

9. However, rent payment (including advance rent payment) is allowed as a deduction for year since the rent payment is not capital expenditure but an expenditure incurred for the business income.

10. The following examples are provided to clearly understand on this practice statement:

Facts: Company "A" rent a building from Company "B". The lease agreement agrees that

(a) "A" to pay MMK 2,000,000 per month as a rental payment to "B".

(b) "A" to pay MMK 24,000,000 as lease premium to "B".

Application of Interpretation Statement – Lease premium MMK 24,000,000 is an investment to secure the lease for intangible asset. That means the payment is to ensure the rent of the building. "A" is not allowed to claim lease premium MMK 24,000,000 as a deduction for income tax calculation.

However, the rental fee MMK 2,000,000 per month (including advance rent payment if the rent is paid in advance) is the expense incurred for business income so that payment is not capital expenditure and allowed as a deduction for income tax calculation.

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11. This Practice Statement is hereby signed and issued.

Sd. xxx
(Min Htut)
Director General

Letter No. 1(2)/HO-1/ird/2019 (2081)

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