

Government of the Republic of the Union of Myanmar

Ministry of Planning and Finance

Internal Revenue Department

Practice Statement No. 5 /2019

Nay Pyi Taw

(~~23~~²³th day of August, 2019)

Loyalty Programs

1. This Practice Statement is released by the Internal Revenue Department (IRD) in exercise of its power under the Section 51(c) of Income Tax Law and Section 55(b) of commercial tax law to clarify the treatment of loyalty points.

Background

2. Customers who shop at retail outlets or who use services, often can become members of a loyalty program. The membership entitles the member to be awarded loyalty points after payment is made for goods or acquiring services. After a threshold number of points has been accumulated in accordance with the terms and conditions of the loyalty program, the member is entitled to spend points on qualifying products or services.
3. The retailer or service provider can also be part of a marketing group and receive reimbursement for loyalty points allocated and used by customers on purchases and use of services.

What this practice statement is about

4. This practice statement tells you how IRD treats payments received by the retailer when loyalty points are used, and payments made by the marketing company group head office to the retailer. It also tells you how the IRD treats the member of the loyalty points program who is Commercial tax registered. Both tax types are considered:
 - Income tax
 - Commercial tax

Who this practice statement applies to

5. This practice statement applies to the
 - Members of the loyalty program

- Retailer
- Marketing company

The relevant provisions in the law, notifications and instructions

6. Income tax law (ITL)

- Section 3(f)
- Section 11(a)
- Section 11(b)

Commercial Tax Law (CTL)

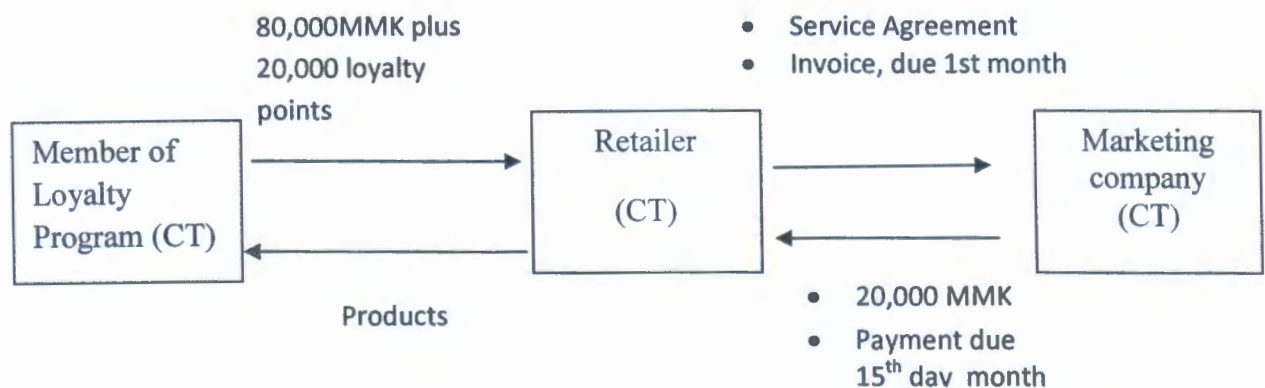
- Section 3(e)
- Section 3 (f)
- Section 12(a)
- Regulation 42(c) (iii) and (j)

Practice Statement

The following examples demonstrate the application of the law for the use of loyalty programs.

Example 1

Facts



7. A member of a loyalty program purchases 100,000 MMK of qualifying products from a retailer in accordance with the terms and conditions of the loyalty program on 1 May 2019. The member operates a small business and the products purchased are for use directly and are sold in the member's business.

The member presents his/her "App" barcode or membership card to the cashier and elects to use 20,000 points for part payment, which is accepted by the cashier. The

cashier scans the barcode, or the membership card and the 20,000 points are automatically deducted from the member's accumulated points. The amount payable by the member to the retailer is reduced to 80,000 MMK.

The retailer is part of a marketing group and has signed a service agreement with the marketing company's group's Head Office (an unrelated company, that analyses the shopping behavior of the loyalty program's members on behalf of the marketing group) which states that the retailer will be reimbursed the equivalent monetary amount for the number of points it has accepted by members of the loyalty program. The reimbursement will be made on a one (1) to one (1) basis (1 point = 1 MMK).

The retailer is required to submit an invoice to the marketing company specifying the amount of points accepted and the member's membership code (which contains the data of the member's spending pattern) requesting reimbursement on the first day of each month, reimbursement for those points will be paid by the marketing company no later than 15 day of the same month. The liability for reimbursement does not accrue until the invoice requesting reimbursement is issued by the retailer to marketing company.

Both the member, retailer and marketing group are registered for CT purposes.

Application of this practice statement

Example 1

Income Tax

The Retailer

8. The value of the sale made from the retailer to the member is 80,000 MMK (inclusive of CT) on 1 May 2019. The reimbursement received from the marketing company by the retailer is 20,000 MMK (inclusive of CT) on 14 June 2019. The retailer has received in total 100,000 MMK, the original sale price (inclusive of CT).

The retailer is required to disclose the income received in accordance with Section 3 (f) of the ITL which defines the term "income received" and Section 11 (a) ITL which states that all income derived from a business must be reported in the income tax return.

The income to be disclosed by the retailer, For this example this would be:

95,238 MMK CT exclusive. ($100,000 \times 5 / 105 = 4,762$ MMK, CT component, $100,000$ MMK - $4,762$ MMK = $95,238$ MMK).

Marketing company

The marketing company is entitled to a deduction in relation to the reimbursement paid to the retailer of 19,048 MMK, CT exclusive, ($20,000 \times 5 / 105 = 952$ CT component). $20,000 - 952 = 19,048$ MMK is allowable in accordance with Section 11 (b) of the ITL which states that business expenditure incurred shall be deducted.

The Member

The member spent 80,000 MMK in relation to the products for use directly in his/her business. The member is only entitled to claim as a business deduction of 80,000 MMK not 100,000 MMK, as per Section 11 (b) ITL which states that business expenditure incurred shall be deducted. Because the member is registered for commercial tax the allowable deduction is exclusive of the CT component $80,000 \times 5 / 105 = 3810$. $80,000 - 3810 = 76190$ MMK which is deductible.

If the member was not registered for CT then the full 80,000 MMK would have been allowed as a business deduction.

Commercial Tax

The Retailer

9. The retailer will be required to collect CT on the proceeds of the goods sold and the proceeds of rendering a service to Head Office by collecting membership data by accepting points. The value of the goods sold is, 80,000 MMK (CT inclusive) and the value of the service rendered is 20,000 MMK (CT inclusive). Total CT payable will be 4,762 MMK ($100,000 \times 5 / 105$),

The amount $80,000 \times 5 / 105 = 3810$ MMK will be payable by 10 June 2019 for the sale made on 1 May 2019 and $20,000 \times 5 / 105 = 952$ MMK by 10 July 2019 for the invoice rendered to Head Office on 1 June 2019 in accordance with Sections 3 (e) (f) and 12 (a) CT Act.

Marketing Company

The marketing company will be entitled to claim an offset in relation to the CT component of $20,000 \times 5 / 105 = 952$ MMK included in the invoice from the retailer in relation to the reimbursement when the invoice is paid. The invoice from the retailer

was paid on 14 June 2019. The CT offset will be included in the calculation of CT where payment is due no later than 10 July 2019. Refer Regulations 42 (c) (iii) and (j).

Member

The member is entitled to claim an offset in relation to the CT component of $80,000 \times 5 / 105 = 3810$ MMK. The CT offset will be included in the calculation of CT where payment is due no later than 10 June 2019. Refer Regulations 42 (c) (iii) and (j).

However, if the member was not registered for CT they are not required to register then there are no CT consequences.

Example 2 Facts

10. The facts are the same as Example one except that the retailer is not part of a marketing group and does not receive any reimbursement for accepting points. The retailer is however part of a retail group that operates a variety of retail outlets which sells a range of goods, such as, groceries, books, music and operates cafes where the points maybe accepted in accordance with terms and conditions of the loyalty program.

The data contained in the “App” barcode or membership card allows the retail group to analyse the shopping behavior of loyalty card members which may result in the retail group improving profitability.

Application of this practice statement

Income Tax

The Retailer

Although the goods are normally 100,000MMK, the value of the sale made on 1 May 2019 from the retailer to the member is 80,000MMK (inclusive of CT).

The part payment in points has no monetary or equivalent value. This is different to the situation described in Interpretation Statement 6/2018 where a service is provided for non-cash payments, such as company shares, which are classified as remuneration or consideration. In this example the redemption of points is only an exercise of the taxpayers right in the loyalty scheme and is not consideration.

The retailer is required to disclose the income received in accordance with Section 3 (f) of the ITL which defines the term “income received” and Section 11 (a) ITL which

states that all income derived from a business must be reported in the income tax return.

The income to be disclosed by the retailer in respect of the above example is 76,190 MMK CT exclusive. ($80,000 \times 5/105 = 3810$ MMK CT component, $80,000 - 3,810 = 76,190$ MMK).

The Member

Same as example 1.

Commercial Tax

The Retailer

11. The retailer will be required to collect CT on the proceeds of the goods sold. The value of the goods sold is, 80,000 MMK (CT inclusive). Total CT payable will be MMK ($80,000 \times 5/105 = 3810$ MMK), payable by 10 June 2019 for the sale made on 1 May 2019.

Member

The same as example 1.

12. This Practice Statement is hereby signed and issued.



(Min Htut)

Director General

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Date: 23rd day of August, 2019

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