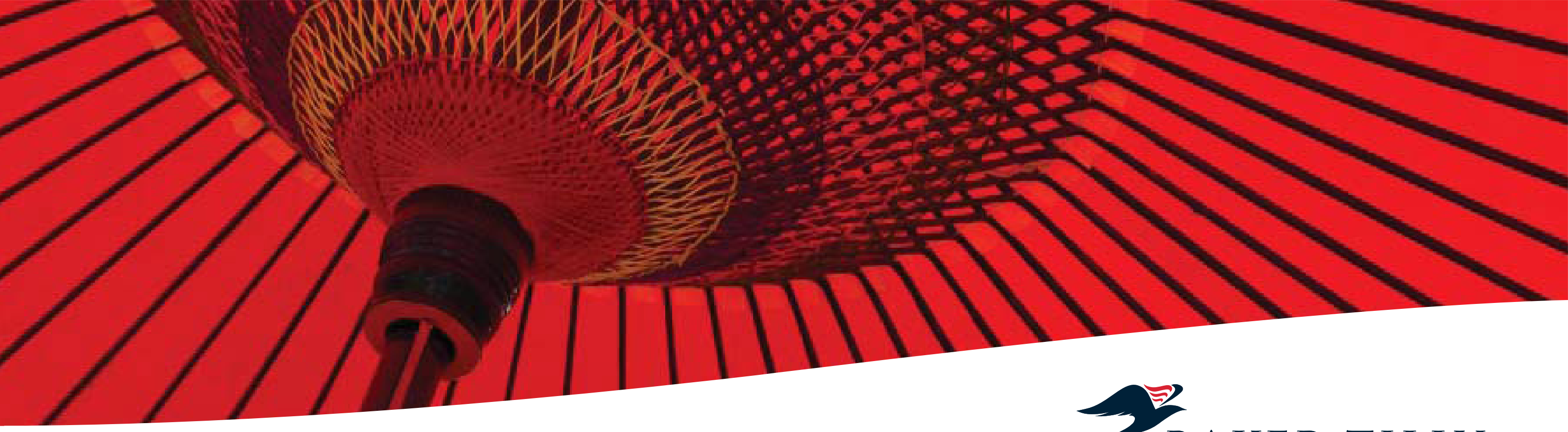

BAKER TILLY
THAILAND

Myanmar Tax Law: Updates
Withholding Tax Changes Effective 1 April 2017

Operating a business or investing in Myanmar? Here's some good news: The Myanmar Ministry of Planning and Finance is set to reduce withholding tax rates this year. Withholding tax refers to a tax deducted at source, especially one levied by some countries on interest, dividends, royalties, technical service fees or capital gains paid to a non-resident of that country.

Starting from 1 April 2017, the following changes will take place:

Hiring and Royalty Withholding

- Withholding tax rates on hiring arrangements such as rental or lease payments to non-residents, will be reduced from 3.5% to 2.5%. The new rate will also apply to goods, work and services in Myanmar.
- All payments made to residents and non-residents of Myanmar will enjoy a reduced royalty withholding tax rate of 10% (down from 15%) and 15% (down from 20%), respectively. However, this may not apply for non-residents who are already paying a withholding tax rate of 15% or lower.
- Goods and services sold and fulfilled outside Myanmar, together with leasing agreements, will no longer be subject to withholding taxes.

One thing to take note of: In the event the payee refuses to accept payment with tax withheld as a full settlement, the payer will still be required to make a withholding tax deduction.

Bank Branches

Those making interest payments to Myanmar-based branches of Foreign banks will no longer have to pay withholding tax. Both lenders and borrowers stand to benefit, with the burden of sharing the previous withholding tax rate of 15% now eliminated.

Government

Transactions between government and state-owned enterprises will no longer be subject to withholding tax.

Closing the Gap for Non-Resident Investment

With the introduction of the new measures, changes made in recent years to close the gap on taxation between residents and non-residents and establish clearer guidance and compliance with the rule of law, will continue. Some of these recent changes are as follows:

Changes in the Union Tax Law (2016)

- Unreported income that had previously 'escaped' taxation will now be subject to a tax rate of 15% to 30%.
- A special goods tax regime of 5% to 120% will apply for goods such as cigarettes, alcohol, vehicles, petroleum, gas, diesel and natural gas.

Changes in the Union Tax Law (2015)

- Capital gains tax (CGT) for non-residents have been reduced from 40% to 10% (refer to section on holding companies, below).
- Local branches of foreign companies are now being taxed at a reduced rate of 25% (down from 35%), which is in line with the tax rate that local companies pay.
- Non-resident foreigners enjoy a reduced personal tax rate of 25% (previously 35%). This reduction was previously available only to non-resident foreigners working for companies under the Myanmar Foreign Investment Law (MFIL).

Holding Companies

Following the 40% to 10% reduction in Myanmar's capital gains taxes for non-residents, there may be fewer incentives to use holding companies to invest in Myanmar. Rather, investors may find it better to invest directly from their home country.

Regardless, taxpayers should ensure that they seek counsel on tax structuring before they implement structures or repatriate income. The taxation structuring and planning process should take into account factors such as income, timing, tax risk and administrative costs – all these in view of the changes in local and international law under the Organisation for Economic Cooperation and Development's (OECD) Base Erosion and Profit Shifting (BEPS) initiatives.

Summary

In addition to the above legislative changes, it is understood that the Myanmar government is making further changes within the Internal Revenue Department to increase objectivity in their legislation. These recent changes are indications that the Myanmar taxation system is adapting to encourage foreign investment, lure non-resident investors through incentives, align taxation rates with residents and clarify the interpretation of their laws.

Contacts

Enquiries - Tax
Michael ANASTASIA
Tel: +66 2679 5400
Email: michael@bakertillythailand.com

Enquiries - other
Stuart MONLEY
Tel: +66 2679 5400
Email: stuart@bakertillythailand.com