

## **Tax Administration Law**

### **Law No. 20 of Union Parliament 2019**

**June 7, 2019**

**ENACTED** by the Union Parliament as follows —

#### **PART I**

#### **Title, Effective Date, the Scope of the Law and Definitions**

##### **Title and Effective Date**

1. (a) This Law may be cited as the Tax Administration Law.  
(b) This Law shall take effect from October 1, 2019.

##### **The Scope of the Law**

2. Except as otherwise provided, this Law applies to —
  - (a) income tax
  - (b) commercial tax
  - (c) specific goods tax
  - (d) a tax assigned to the Director General under another law.

##### **Definitions**

- 3.(a) The following expressions under this Law have the meanings indicated:

“assessment” means entering a taxpayer’s liability for tax for a specific taxation period into the records of the Department , and includes a revised assessment and an assessment described in section 27(e);

“Director General” means the Director General of the Internal Revenue Department;

“Department” means the Internal Revenue Department of the Ministry of Planning and Finance;

“designated officer” means, with respect to taxation functions, taxation staff designated by the Director General as being responsible to carry out those functions;

“document” includes

- (a) a book, account, record, register, or bank statement, whether electronic or otherwise, and
- (b) any information or data stored on a data storage device;

"expert" means an individual with expertise or specific qualifications in taxation, law, accounting or another relevant field to support effective tax administration.

"Ministry" means the Ministry of Planning and Finance of the Union Government.

"Union Minister" means the Union Minister for the Ministry of Planning and Finance;

"State" means the Republic of the Union of Myanmar;

"tax" means a compulsory payment to the Government under a tax law, and includes interest or penalty in relation to a tax;

"tax legislation" means the following laws, including rules, regulations, notifications, orders and directives issued under such a law, that administer taxes to which this Law applies-

- (a) Income Tax Law
- (b) Commercial Tax Law
- (c) Specific Goods Tax Law, and
- (d) another tax law assigned to the Director General;

"taxpayer" means

a person who is required to pay tax under a tax law and includes a person who is liable to pay tax by operation of this Law; or

a person who is required to withhold tax and pay it to the Department;

"tax return" means a return, including an information return, that a person is required to file with the Department or that is completed on behalf of a taxpayer by the Department in which information about that person's or some other person's possible tax liability is provided.

"taxation staff" means a staff member working in the Internal Revenue Department.

- (b) Any term not defined in this Law has the meaning that it has for the purposes of the relevant tax law.

## **PART II PURPOSE OF THE LAW**

4. Purposes of the Law are as follows:

- (a) to effectively collect taxes;
- (b) to make the administration of different types of taxes consistent;
- (c) to precisely establish rights and obligations of taxpayers;
- (d) to exactly specify the powers and duties of the Internal Revenue Department;
- (e) to facilitate and simplify the application of the self-assessment system);

## **PART II GENERAL PROVISIONS**

### **Duties and Responsibilities of the Director General**

5. The Director General is responsible, subject to the general control and supervision of the Union Minister—

- (a) for the collection and accounting for taxes applicable under this Law; and
- (b) for the administration and application of the provisions of this Law.

### **Delegation of Official Duties and Powers**

6.(a) The Director General

- (1) shall have the right to exercise power or official duties under this Law;
  - (2) may delegate to a taxation staff, a specific individual who is entitled to be officially delegated, or to the incumbent of a specific post, a power or official duty conferred or imposed on the Director General by this Law, other than this power of delegation.
  - (3) The Director General may, at any time, revoke an official duty and power delegated under paragraph (2).
- (b) Subject to conditions specified, the Director General may provide that any information, declaration, or document required to be furnished to the Director General is to be supplied to such other person as the Director General may nominate.
- (c) A delegation under this section-
- (1) does not prevent the Director General from personally exercising the official duty and power;
  - (2) does not relieve the Director General of the official duty and power conferred on the Director General.

### **Assistance of Experts**

7.(a) The Director General may engage experts that the Director General thinks appropriate, in accordance with terms and conditions and with the approval from the Ministry, to assist the Department in the proper performance of its functions.

(b) A tax office staff designated for the function in question must supervise assistance provided by an expert.

(c) Every person has the right to refuse to deal directly with an expert but a person must not obstruct an expert that is assisting a designated officer.

(d) A person has the right to complain to the Director General that the engagement of a particular expert involves a conflict of interest.

(e) The Director General must decide on a complaint made under subsection (d) and the decision of the Director General whether to continue with the engagement is final.

(f) The appointment of an expert is ineffective unless it is in writing or is expressly made under this section.

(g) An expert to whom this section applies must regard and deal with as secret and confidential all information and documents that, by reason of the employment, engagement, or assistance, come into the expert's possession in connection with a tax law.

(h) Section 8 and section 80 apply to experts engaged under this section.

### **Confidentiality**

8.(a) Except as provided in subsection (c), (d), or (e), every person having a duty under this Law or being employed in the administration of this Law, must regard as secret and confidential all information and documents the person has received in an official capacity in relation to a specific taxpayer, and may disclose that information only to the following persons, offices, agencies and organizations:

- (1) other agents and employees of the Department and employees of the Customs Department and Excise Division of the General Administration Department in the course, and for the purpose, of carrying out their duties;
- (2) the Union Minister in the course, and for the purpose, of carrying out supervision of the Department;
- (3) employees of the Ministry, for the purpose of reviewing and evaluating tax issues;
- (4) the Office of the Union Auditor General, for the purpose of regular review of the Department;
- (5) tax authorities of a foreign country that has entered into a treaty with the State in accordance with international convention;
- (6) law enforcement agencies and government departments, for the purpose of the prosecution of a criminal offence; and
- (7) a court, in a proceeding to establish a taxpayer's tax liability or responsibility for an offence under a law.

(b) If a person is permitted to disclose information under subsection (a), the person must maintain secrecy except to the minimum extent necessary to achieve the object for which disclosure is permitted.

(c) If a person receives the information under subsection (a), the person must maintain secrecy except to the minimum extent necessary to achieve the object for which disclosure is permitted.

(d) The Director General may disclose information concerning a taxpayer's affairs to a person claiming to be the taxpayer or the taxpayer's designated representative only after obtaining reasonable assurance of the authenticity of the claim.

(e) Information concerning a taxpayer may be disclosed to another person with the taxpayer's written consent.

### **Taxpayer Identification Numbers**

9. (a) The Director General must assign a unique taxpayer identification number to every taxpayer.

(b) When a notice about the taxpayer identification numbers is officially published in the Gazette, the unique taxpayer identification number must be assigned to a taxpayer or designated group of taxpayers and must be used for all taxes.

(c) The Director General may assign a taxpayer identification number to a person who is not a taxpayer, but is responsible to withhold tax and pay it to the Department.

(d) In accordance with rules, regulations, notifications, orders, directives or procedures, a person is required --

- (1) to include the person's taxpayer identification number on tax returns, notices, or other documents relating to a tax; and
- (2) to furnish the number to another person designated in rules, regulations or directives as a person who is required to furnish tax information with respect to the person furnishing the number.

(e) The Director General must include the taxpayer identification number on all correspondence sent to a taxpayer concerning the taxpayer's tax liability.

(f) A taxpayer must notify the Director General in writing of a change in name (including business name or other trading name), address, place of business, or nature of the taxable activity carried on.

(g) In notifying under subsection (f), if the change is related to *The Commercial Tax Law or The Specific Goods Tax Law*, notice of the change must be made to the Director General in writing within fifteen days of the change occurring; if it is related to *The Income Tax Law*, notice must be provided within one year.

### **Tax Clearance Certificate**

10.(a) A taxpayer may request a Tax Clearance Certificate from the Director General.

(b) The Director General may provide a taxpayer with a Tax Clearance Certificate only if the Director General is satisfied that—

- (1) the taxpayer does not have tax due and outstanding and has provided security for tax in dispute; or
- (2) the taxpayer has made arrangements that the Director General believes will result in the payment of tax due and outstanding and the taxpayer has paid all instalments of tax when due in accordance with the arrangements.

(c) Regulations may be made to specify the circumstances required to produce a Tax Clearance Certificate.

(d) A Tax Clearance Certificate is of no effect if it was obtained based on fraudulent information or negligently provided incorrect information.

### **Public Rulings**

11.(a) To achieve consistency in the administration of tax legislation and to provide guidance to the general public and taxation staff of the Department, the Director General may issue public rulings setting out the Director General's clarification of the application of the tax legislation.

(b) A public ruling is binding on the Department until revoked by the Director General.

(c) A public ruling is not binding on taxpayers.

### **Advance Rulings**

12.(a) On the request of a taxpayer, the Director General may issue to the taxpayer an advance ruling setting out the Department's position regarding the application of tax legislation to a specific transaction proposed by the taxpayer.

(b) If the taxpayer has made a full and true disclosure of the transaction proposed under subsection (a), and acted in full compliance with the ruling, the advance ruling is binding on the Department and on the taxpayer in accordance with the provisions that apply on the transaction at the time the advance ruling is issued.

(c) For reasonable cause, the Director General may amend or revoke an advance ruling, in whole or in part, by written notice served on the applicant.

(d) Revocation or amendment of an advance ruling has prospective effect only, and the specifics of how it is applied must be stated in the notice of revocation or amendment.

(e) The subsequent passage of legislation that is inconsistent with an advance ruling revokes the ruling to the extent of inconsistency and the Director General must notify the taxpayer that the inconsistent part has been amended or revoked.

(f) The Director General may publish advance rulings, deleting or redacting the taxpayer's name and other information specific to the taxpayer that is not needed for others to understand the advance rulings so the public will know the content of the ruling.

(g) The Director General may specify means for the issuance of advance rulings and reasonable fees to be charged.

### **Other Statements**

13. With the exception of an advance ruling issued under section 12 and other cases authorised by law, no statement or agreement concerning a taxpayer's tax liability made by a taxation staff is binding on the Department.

### **Communications with Taxpayers and Other Persons**

14.(a) A notice, statement, or agreement issued by the Director General to a taxpayer or other person is effective only if it is—

- (i) authorised by law;
- (ii) in writing, is signed by a taxation staff, and
- (iii) served upon the taxpayer or other person to whom it is addressed.

(b) If the Director General is required to give notice in writing to an individual, the notice is considered sufficiently served if it is—

- (1) served personally on that person;
- (2) sent by registered mail to the person's last known address; or
- (3) communicated electronically to an address the Director General knows to be active.

(c) If the Director General is required to give notice in writing to a company, the notice is considered sufficiently served if it is —

- (1) served personally on, or communicated electronically to, the appointed tax agent;
- (2) delivered to the company's principal place of business in the Republic of the Union of Myanmar;
- (3) sent by registered mail to the registered office of the company; or
- (4) communicated electronically to an address the Director General knows to be active.

(d) A notice sent by registered mail is considered served twenty-one days succeeding the day when posted where the address is in the Republic of the Union of Myanmar and, where the address is not in the Republic of the Union of Myanmar, thirty days succeeding the day when posted, and a notice sent by electronic mail is considered served on the day sent.

(e) A signature written on a notice, statement, agreement, return, form, declaration, table, or other document is considered to be the signature of that person unless the contrary is shown.

(f) If a person refuses service done in accordance with subsections (b) or (c), the Director General may affix the notice at the entrance of the dwelling of the person and the notice is considered sufficiently served.

## **Forms and Notices**

15.(a) The Director General may determine and issue for the efficient administration of this Law notices, declarations, statements, forms, tables, and other documents to be prescribed or published by the Department. .

(b) The Department must make the documents described in subsection (a) available to the public in a manner it determines appropriate.

(c) Every public notice to be given by the Director General under this Law must be signed by the Director General or by a taxation staff delegated by the Director General, and is considered valid if the signature is printed or written on it.

### **Defect Does not Affect Validity**

16.(a) A notice of assessment or other notice or document issued under this Law is not to be considered invalid or ineffective by reason of a failure to comply with the requirements of section 14 if the taxpayer had effective knowledge of the fact of the notice and of its content.

(b) A notice of assessment or other notice or document issued under this Law is not to be considered invalid or ineffective by reason of defects if it is in conformity with this Law, and the person assessed, or affected by the document, is designated in it according to common understanding.

### **Agents and Officers**

17.(a) Directors of a company must appoint a company secretary or other officer of the company for keeping and maintaining books, accounts and records required by the company.

(b) A partnership or other body of persons that is subject to a tax or that has a duty under a tax law must nominate a member or officer whose duty is to comply with the requirements of this Law.

(c) A person who is not resident, whether a citizen or a foreigner, and who is liable to pay tax or who has a duty under a tax law must nominate as agent, for the purposes of compliance with this Law, a person resident in the Republic of the Union of Myanmar.

(d) The appointment of a company secretary, member, staff, or agent under this section does not of itself relieve a person from liability for failure to comply with the requirements of this Law.

### **Taxpayer's Right to Information**

18. (a) A taxpayer may request the Department for the status of the taxpayer's account with respect to tax.

(b) Upon request by the taxpayer under subsection (a), the Department must

- (1) inform the taxpayer of the status of the taxpayer's account with respect to tax; and
- (2) provide a copy of a tax return filed by the taxpayer and still on file with the Department.

### **Due Dates**

19.(a) If the last day for performing an act prescribed by tax legislation falls on a day on which the Department is not open to the public for business, the act is considered timely if it is performed on the next succeeding day on which the Department is open for business.

(b) A declaration, appeal, or other document, other than a payment, is considered filed on the date it is stamped as received by the Department or, in the case of filing by mail, on the date of the postmark.

(c) Where the document described in subsection (b) is filed electronically, it is considered filed on the date it is received electronically by the Department and if that date falls on a day on which the Department is not open to the public for business, the document is considered received on the next succeeding day on which the Department is open for business.



## PART IV RECORDKEEPING AND INFORMATION COLLECTION

### Keeping Accounts and Records

20.(a) A taxpayer engaged in business or independent professional activity or required to make a tax return under tax legislation is required to keep and maintain in the Republic of the Union of Myanmar records and accounts sufficient to record all transactions and to ascertain the gains and profits made or the loss incurred in respect of those transactions.

(b) In addition to the records and accounts described in subsection (a), a taxpayer must also retain source documents and underlying documentation utilized in the creation of the records and accounts.

(c) A person required to prepare or retain records of a transaction under tax legislation must retain the documents—

- (1) for a period of seven years from the date on which the transaction took place; or
- (2) if longer than the period of seven years, until expiration of the time limit for assessment of tax for a tax period to which the records are relevant.

(d) If a person has prepared records required under this section in a language other than Myanmar or English, that person is required at that person's expense, upon request, to provide a Myanmar or English translation.

(e) Financial statements, invoices, books of original entry, and all written communications between the Department and the taxpayer must be in Myanmar or English.

(f) For the purposes of this section, source documents include—

- (1) sales and purchase invoices, costing documents, bookings, diaries, purchase orders, delivery notes, bank statements, contracts, and other documents which relate to an element of a transaction; and
- (2) for purposes of a tax law, a copy of all invoices, credit notes, debit notes issued and received by the person, all customs documentation relating to imports and exports of goods by a person and, sufficient written evidence to identify the producer, service provider, or importer and the recipient, and to show the nature and quantity of goods or services supplied, the time of supply, the place of supply, the consideration for the supply, and the extent to which the supply has been used by the recipient for particular purposes.

### Obligations of Financial Institutions

21. A bank or financial institution is required to keep account of all transactions with a client, including the client's profile and taxpayer identification number.

### Tax Returns

22.(a) Every taxpayer must, if required by a tax law, furnish to the Director General a tax return in accordance with subsection (b), within the time and at the place specified by that law, or as demanded by the Director General.

(b) The Director General specifies—

- (1) the form for tax returns;
- (2) the information to be furnished on the tax return and attachments, if any, required to be filed with the tax return; and
- (3) the manner of filing.

(c) A taxpayer may file an amended tax return no later than six years after the latest date on which the original tax return was required to be filed.

(d) A taxpayer must attest to the accuracy and completeness of the tax return or, in the case of a taxpayer under a legal disability, the taxpayer's legal representative must attest to its accuracy and completeness.

(e) If a tax return or part of a tax return was prepared for reward by some other person, that other person must also sign the tax return.

(f) The Director General may, by notice in writing, require a person to file, whether on that person's own behalf or as agent or trustee for another person, more complete or additional tax returns for a tax period as the Director General specifies, even if the taxpayer has not submitted a tax return for the period.

### **Information Returns**

23. The provisions of this Law relating to tax returns apply to a person required by a tax law to file a return of information related to matters other than the person's own tax liability.

### **Extension of Time to File Returns**

24.(a) The Director General may extend the time limit prescribed for filing a tax return if the taxpayer or other person required to file applies for the extension of the time limit.

(b) The granting of an extension of time under subsection (a) does not affect the due date for payment of tax, unless an extension of time for payment is also expressly granted.

### **Access to Information, Assets, and Land**

25.(a) A designated officer may enter a business premises, or other premises open to the public, without prior notice, to carry out a task for an authorised purpose—

- (1) during normal business hours; or
- (2) at another time authorised in writing by a Township Court or judge upon application by the Director General.

(b) The designated officer may enter a taxpayer's dwelling, or other premises not described in subsection (a), to carry out a task for an authorised purpose—

- (1) with the consent of the taxpayer; or

- (2) at the time stated and in the manner authorised in writing by a Township Court or judge upon application by the Director General and a showing of necessity to enter.

(c) The designated officer may enter on, examine, search, survey, and value any property owned by a taxpayer—

- (1) with the consent of the taxpayer; or
- (2) after giving not less than twenty-four hours' notice in writing.

(d) A designated officer who is lawfully upon premises or in a dwelling under subsections (a), (b), or (c) may—

- (1) make a copy of a document;
- (2) seize a document or other item if necessary that appears to be relevant to an authorised purpose; or
- (3) seal documents or other items in order to be recognized.

(e) If a designated officer seizes a document or other item pursuant to the authority provided under this section, the Director General may make a copy of the document or other item and must return the original to the person in the shortest time practicable, unless otherwise permitted by court order.

(f) If a designated officer seizes an other item pursuant to the authority provided under this section, and the item cannot be copied, the Director General may keep the item for a reasonable period, subject to an order by the court that the item must be returned to its owner.

(g) A copy of a document made pursuant to the power conferred by this section may be produced in Court and has the same evidentiary value as if it were an original.

(h) This section does not authorise access to premises of diplomatic, consular, or other missions of foreign countries and international organizations that enjoy immunity from such investigations under international law.

(i) Documents specifically requested by a designated officer or the Director General under this section, and which a taxpayer or other specified person fails to provide, cannot be used by the taxpayer or other person in a judicial proceeding challenging an assessment, except with the agreement of the Director General.

(j) A person whose books, records, documents, or other items have been seized under this section may examine them and make copies, at the person's expense, during office hours.

(k) The Director General or authorized staff must sign for all records, books, documents, or other items removed and retained under this section and must return them to the owner within fourteen days of the conclusion of the investigation or related proceedings.

(l) The Director General may cause any land to be visited, inspected, and measured and may call on any person to produce for inspection any document in the custody or under the control of that person which relates to the land.

(m) The Director General may require a police officer or administration authority to be present for the purposes of exercising powers under this Part.

(n) In this section and section 26, “authorised purpose” means:

- (1) the collection of information for the purpose of determining the liability of a specific person for a tax;
- (2) the collection of information for the purpose of collecting tax from a specific person; or
- (3) the collection of information related to the investigation or prosecution of tax matters related to a specific person.

(o) The owner or lawful occupier of the premises or place to which an exercise of power under this section relates must provide all reasonable facilities and assistance to the designated officer or the Director General.

### **Notice to Obtain Information**

26.(a) In respect of an authorised purpose, the Director General may, by giving reasonable notice in writing, require a person, whether a taxpayer or not—

- (1) to furnish the information that is required by the notice, including information concerning another person; or
- (2) to appear at the time and place designated in the notice for the purpose of being examined or of producing documents or other evidence in the control of that person which are described in the notice.

(b) Section 25 and this section have effect notwithstanding an existing law or a contract, including the Central Bank of Myanmar Law, with respect to the production of or access to documents or other evidence.

## **PART V ASSESSMENTS**

### **Assessments**

27.(a) An assessment of a taxpayer’s liability to pay tax is to be made in the manner prescribed by this Law and a tax law.

(b) An assessment by the Director General may be based upon the information in a tax return and upon any other relevant information available to the Director General.

(c) If a taxpayer fails to file or complete a tax return as required, the Director General may make an assessment of the amount of tax payable, based upon the related information reasonably available to the Director General.

(d) If the Director General bases an assessment in whole or in part on information other than that supplied by a taxpayer in a tax return, the Director General must provide an indication of the nature of the information on which the assessment is based.

(e) If a tax law requires the taxpayer to include in a tax return a calculation of the amount of tax payable, the filing of the tax return has the same effect as if the Director General had made an assessment of that amount, but does not prevent the Director General from issuing a new or revised assessment.

(f) If the Director General finds an evidence that a taxpayer may leave the Republic of the Union of Myanmar before the due date for payment of an amount that would be due under a tax law, that tax is regarded as due on the date specified by the Director General by notice in writing to the person.

### **New or Revised Assessment**

28.(a) The Director General may make a new assessment, or may revise an assessment previously made, within the time limits specified in section 29, if the Director General finds an evidence that the original assessment was incorrect.

(b) If the taxpayer has failed to comply with record keeping requirements or has submitted inaccurate information, the Director General may use best judgement and information reasonably available in making a new or revised assessment.

(c) If a taxpayer files an amended tax return under subsection (c) of section 22, the Director General must revise the original assessment if an evidence is found that the original assessment was based on incorrect information.

### **Time Limits for Assessments and Revised Assessments**

29.(a) The Director General can make an assessment, including a new assessment or a revised assessment, within six years after the end of the tax period to which the assessment relates.

(b) In the case of an assessment made –

- (1) under subsection (c) of section 27; or
- (2) under subsection (a) of section 28 if the original assessment was based upon incorrect information due to the fraud or willful neglect of the taxpayer,

a new assessment or a revised assessment may be made within twelve years after the end of the tax period to which the assessment relates.

(c) If an assessment is not made within the time limits specified in this section, and no assessment has been made under subsection (e) of section 27, an assessment is treated to have been made in the amount of tax, if any, that has been withheld for the tax period, or, if no tax has been withheld, that no tax is payable.

(d) Nothing in this section prevents the amendment of an assessment to give effect to a decision of the Revenue Appellate Tribunal or Supreme Court.

### **Jeopardy Assessment**

30.(a) The Director General may make an assessment, and information reasonably available, in advance of the date on which tax is normally due, in order to secure the collection of the tax.

(b) In addition to a right of appeal under Part VI, an appeal against an advance assessment made under this section may be made by a taxpayer to the Revenue Appellate Tribunal on the ground that—

- (1) its amount is excessive; or
- (2) circumstances that justify an advance assessment do not exist.

### **Notice of Assessment**

31. When an assessment under subsection (b) or (c) of section 27, or a new assessment or revised assessment under section 28, or an assessment under section 30 is made, the Director General must issue a notice of assessment, to be served on the person assessed, which must be signed by the Director General or other designated officer, and contain the following information—

- (a) the name of the taxpayer;
- (b) the taxpayer identification number;
- (c) the date of issue of the notice;
- (d) the matter to which the notice relates;
- (e) the amount of tax payable;
- (f) a demand for payment of the tax by the date stipulated in the notice or a statement that the tax due has been paid;
- (g) the place at which payment is to be made;
- (h) the time, place, and manner of objecting to the assessment..

### **Anti-avoidance**

32. In making an assessment, the Director General may disregard a transaction or series of transactions that are artificial or fictitious done with the purpose of reducing the tax payable. Moreover, the transaction or series of transactions that has been mischaracterised may be treated according to its economic substance.

## **PART VI ADMINISTRATIVE REVIEWS AND APPEALS**

### **Taxation Decisions**

33. No taxation decision may be prosecuted in another proceeding except in an administrative review, an appeal to the Revenue Appellate Tribunal, or a request filed with the Supreme Court in accordance with this Part. or

### **Administrative Review**

34.(a) A taxpayer who is dissatisfied with an assessment or other decision of the Department may request the Director General to review the decision.

(b) A request for administrative review must be made to the Director General in writing not later than thirty days after the taxpayer was notified of the decision, and must specify in detail the grounds upon which it is made.

(c) The Director General must consider the taxpayer's request and make a decision and notify the taxpayer in writing of the Director General's decision and the reasons for the decision.

### **Appeal from Administrative Review**

35.(a) A taxpayer aggrieved by the decision of the Director General under subsection (c) of section 34 may appeal against the decision to the Revenue Appellate Tribunal within ninety days.

(b) If ninety days have elapsed since the request for administrative review was made and no decision has been received from the Director General under subsection (c) of section 34, the taxpayer may appeal against the assessment or other decision of the Department under subsection (a) of section 34 to the Revenue Appellate Tribunal within thirty days from the date on which the ninety days have elapsed.

### **Burden of Proof**

36. The burden of proof is on the taxpayer making an objection to an assessment to show that the assessment is incorrect, except as provided for in subsection (d) of section 64.

### **Appeals do not Suspend Collection of Undisputed Amounts**

37 (a). If a request for administrative review of an assessment has been filed or an appeal against an assessment has been made by a taxpayer, the undisputed tax liability remains due and payable, unless the Director General grants an extension of time to pay tax under section 44.

(b) The Director General may require the taxpayer to provide security for the disputed tax liability.

### **Finality of Assessment**

38 (a). Subject to the right of the Director General to issue a new or revised assessment under section 28, and subject to subsection (b), if no request for review is made within the time permitted by section 34, an assessment is treated as final.

(b). If an assessment is final under subsection (a), and the taxpayer timely files an amended tax return under section 22, the filing of the amended tax return has the effect, but only if the tax shown on the amended tax return exceeds the tax assessed.

### **Sending a Copy of the Referral Application**

39. When a person who appeals or who is appealed against requests to the Union Supreme Court in accordance with section 12 of the Revenue Appellate Tribunal Law, a copy of the application must be sent to the other person within a week from the date of application.

## PART VII LIABILITY FOR AND PAYMENT OF TAX

### Liability for Tax and Due Date for Payment

40.(a), The tax is due and payable at the time provided by a tax law.

(b) Subject to subsection (a), the amount of tax stated in a notice of assessment to be due; or

(2) deemed to be stated to be due under subsection (e) of section 27 or subsection (c) of section 29,

is due and payable on the date stated in the notice.

(c) Tax must be paid in the manner and place prescribed by the Director General.

### Liability and Obligations of Representatives

41.(a) For the purposes of this Law, “representative,” in respect of a person, means—

- (1) if the person is an individual under a legal disability, the guardian or manager who receives or is entitled to receive income on behalf of, or for the benefit of, the individual;
- (2) if the person is a company, a principal responsible individual of the company;
- (3) if the person is a partnership, a partner;
- (4) if the person is a trust, a trustee;
- (5) if the person is a body of persons other than a partnership or company, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the body;
- (6) if the person is the Union Government, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the Government;
- (7) if the person is Naypyidaw Council, regional, or state authority, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the local authority;
- (8) if the person is a foreign government or an embassy or consular section of a foreign government, an individual responsible for accounting for the receipt and payment of moneys or funds in the Republic of the Union of Myanmar on behalf of the government or political subdivision of the government; or
- (9) if the person is a non-resident, whether a citizen or not, a person controlling the person’s affairs, or a manager of a business of that person in the Republic of the Union of Myanmar.

(b) If a representative of a person designated under subsection (a) is unable to perform duties, the Director General may, by notice in writing, declare another individual to be a representative of the person for the purposes of this Law.



(c) Every representative of a person is responsible for performing duties or obligations imposed by this Law on the person, including the payment of tax.

(d) Subject to subsection (f), tax that, by virtue of subsection (c), is payable by a representative of a person is recoverable from the representative only to the extent of any assets of the person that are in the possession or under the control of the representative.

(e) A representative of a person who pays tax owing by the person is entitled to recover the amount so paid from the person or to retain the amount so paid out of any moneys of the person that are in the representative's possession or under the representative's control.

(f) A representative is personally liable for the payment of tax due by the representative if, while the amount remains unpaid, the representative —

- (1) alienates, charges, or disposes of moneys received or accrued in respect of which the tax is payable; or
- (2) disposes of moneys or funds belonging to the taxpayer that are in the possession of the representative or which come to the representative after the tax is payable, if the tax could legally have been paid from or out of the moneys or funds.

(g) Nothing in this section relieves a person from performing duties that the representative of the person has failed to perform.

(h) If there are two or more representatives of a person, the duties or obligations referred to in this section apply jointly and severally to the representatives but may be discharged by any of them.

(i) If—

- (1) a partnership or other unincorporated association or body is dissolved or otherwise ceases to exist because of the retirement or withdrawal of one or more, but not all, of its partners or members, or because of the admission of a new partner or member; and
- (2) apart from the provisions of this Law a new partnership, association, or body, consisting of the remaining members, or of the existing or remaining members and one or more new members, thereby comes into existence; and
- (3) the new partnership, association, or body continues to carry on the activity that was carried on by the dissolved partnership, association, or body,

the dissolved partnership, association, or body and the new partnership, association, or body are, for the purposes of this Law, deemed to be one and the same, unless the Director General, , otherwise directs.

(j) If, after the death of a taxpayer or the sequestration of a taxpayer's estate, a taxable activity previously carried on by the taxpayer is carried on by or on behalf of the executor or trustee of the person's estate or anything is done in connection with the termination of the taxable activity, the estate of the taxpayer, as represented by the executor or trustee, is deemed for the purposes of this Law to be the taxpayer in respect of the taxable activity.

(k) If a mortgagee is in possession of land or other property previously mortgaged by a mortgagor who is a taxpayer, and the mortgagee carries on a taxable activity in relation to the land or

other property, the mortgagee is deemed, for the period when the mortgagee is in possession of the land or property, to be the taxpayer carrying on the taxable activity.

(l) For the purposes of this Law, if a person is a trustee in more than one capacity, the person is treated as a separate person in relation to each of those capacities.

### **Liability for Tax Following Winding-up**

42.(a) This section applies to a company that is wound up without having satisfied its tax liabilities, including any liability to withhold and remit tax.

(b) A person who was a shareholder of the company at the time of the winding-up is jointly and severally liable to pay the unpaid tax to the extent of a distribution of cash or property from the company received as a shareholder within one year prior to its winding-up.

(c) If the tax liability of a company described in this section is in respect of a period when the company was under different ownership from its ownership at the time of the winding-up, the Director General may collect taxes owed by the company from a person who was a shareholder during the period for which taxes are owed.

(d) A person liable for tax of a company under this section may invoke any rights as against the Department that would have been available to the company.

(e) No person who would be liable under this section is liable if the company obtains a Tax Clearance Certificate on winding-up.

### **Refundable Amounts**

43.(a) If the amount of tax which has been paid by a taxpayer exceeds the amount of tax assessed or found to be payable, the Director General must—

- (1) apply the refundable amount against the taxpayer's assessed liability to pay tax, interest, or penalties to which this Law applies; and
- (2) apply an amount remaining against the taxpayer's liability to make advance payments of tax that will become due within the succeeding twelve months.

(b) Subject to subsection (a), refundable amounts must be paid to the taxpayer.

(c) A refund or credit may be made under this section only if the taxpayer applies for it within six years after the end of the tax period to which the assessment relates or if the Director General finds it within that period.

### **Extension of Time for Payment**

44.(a) The taxpayer may apply, on a form prescribed, to the Director General, for an extension of the time for payment of tax beyond the date on which it is required to be paid under section 40.

(b) The Director General may, with good cause, extend the time for payment as requested under subsection (a), or may grant an extension period different from the period requested by the taxpayer, and may make such arrangements to ensure payment of the tax as requiring the person to pay the amount due in instalments.

(c) If the Director General does not notify the person who made an application under subsection (a) of the decision in writing within thirty days from the date the application is received, the application is granted.

(d) If a taxpayer has been granted an extension under subsection (a), interest is payable under Part VIII notwithstanding the extension of time.

(e) If an extension is granted by permitting the taxpayer to pay by instalments and the taxpayer defaults in paying any of the instalments, the whole balance of the tax outstanding becomes payable immediately.

### **Default in Payment**

45. (a) The Director General may send a notice to the taxpayer demanding payment when a tax is not paid by the date on which it became due and payable.

(b) The notice must state:

- (1) the name of the taxpayer;
- (2) the taxpayer identification number;
- (3) the date of issue of the notice;
- (4) the amount of tax, interest, and penalties payable, and the tax period or periods to which they relate;
- (5) a demand for payment of these amounts under paragraph d;
- (6) the place at which payment is to be made; and
- (7) that the taxpayer is on notice that, if payment is not made within thirty days after service of the notice, the Director General has the right to pursue collection action to collect the amounts specified in the notice.

(c) The taxpayer is in default and the tax unpaid becomes arrears thirty days after service of the notice from the Director General under this section.

(d) Subsection (c) does not apply if the taxpayer has –

- (1) entered into a payment arrangement with the Director General pursuant to tax legislation; or
- (2) received an extension pursuant to section 44,

and has remained in compliance with the terms of the arrangement.

### **Order of Payment of Tax**

46.(a) Payments of a specific tax are applied against the taxpayer's liability in the following order—

- (1) penalties;

- (2) interest; and
- (3) the principal amount of the tax.

(b) The Director General may apply a tax payment to any tax which has been assessed and is due—

- (1) if the taxpayer fails to indicate to which specific tax or taxation period the payment should be applied; or
- (2) if the payment has been collected pursuant to Part IX. Currency

47. Tax and refunds are payable in kyat, except as otherwise provided in a tax law.

## PART VIII INTEREST

### General Provisions on Interest

48.(a) Procedures for the payment, collection, and dispute of a tax apply equally to interest relating to a tax.

(b) Liability for interest under this Law is calculated separately and is in addition to penalties provided by law.

(c) If a person has paid interest under this Part and the taxpayer is found not to be liable for the amount to which the interest relates, the interest paid on that amount must be refunded to the person.

### Interest on Underpayments

49.(a) If an amount of tax is not paid by the due date, the taxpayer is liable for interest on the amount for the period from the due date to the date the tax is paid.

(b) In the case of tax due under a new or revised assessment, the due date for the calculation of interest is the original due date of the tax.

### Interest on Refundable Amounts

50.(a) If the Director General is required to refund an amount under subsection (b) of section 43, interest must be paid to the taxpayer from the due date until the date on which the refundable amount is paid.

(b) A refundable amount that is applied against another tax liability under subsection (a) of section 43 is considered to have been paid to the taxpayer on the due date of the liability against which the refundable amount was applied.

### Interest Rate

51. The Ministry, with the approval from the Union Government, may specify or vary the interest rate in this Part by notification.

## PART IX RECOVERY OF TAX

### General Provisions on Recovery

52. The Director General may proceed with any remedy for recovery under this Part once the taxpayer is determined to be in default pursuant to section 45.

### Period of Limitations for Collection

53.(a) Proceedings for recovery under this Part must be commenced within six years of the date on which the taxpayer was determined to be in default.

(b) Subject to subsection (a), no enactment relating to the limitation of time bars or affects an action or remedy for the recovery of unpaid tax, interest, or penalties under this Law.

### Extinguishment of Uncollectible Amounts

54.(a) If the Director General is unable to recover an amount of tax, interest, or penalty due and payable by a person under a tax law, the Minister may, on approval by the Union Government, order the extinguishment of the liability as a debt due to the State.

(b) If the Director General determines that a person whose debt was extinguished under subsection (a) has assets that may be attached to recover all or part of the unpaid amounts, the liability for the debt may be reinstated with the approval of the Minister revoking the order made under subsection (a).

### Managers of Entities

55.(a) If an entity fails to pay tax on time, every person who is or has been a manager of the entity at any time since the relevant time is jointly and severally liable with the entity and every other such person for payment of the tax.

(b) Subsection (a) applies irrespective of whether the entity ceases to exist.

(c) Subsection (a) does not apply to a manager who has exercised the degree of care, diligence, and skill that a reasonably prudent person in the position of the manager would have exercised in preventing the initial and continuing failure to pay tax.

(d) The defence in subsection (c) is not available in the case of a manager who is a current partner of a partnership.

(e) Amounts payable to the Director General by a manager under this section are a personal tax liability of the manager.

(f) If a manager pays tax by reason of a liability under subsection (a), the manager may recover the payment from the entity as a debt due.

(g) A manager of an entity may not be assessed for an amount under this section after the period of limitations for assessing the entity for the relevant tax has expired.

(h) In this section –

- (1) "manager" of an entity includes a person purporting to act as a manager of the entity; and
- (2) "relevant time" is six months before the events that gave rise to the entity's tax liability.

### **Court Proceedings**

56.(a) Tax that is due and payable is a debt to the State, which has priority over the debts owed to other creditors, and is payable to the Director General.

(b) If a person fails to pay tax when it is due, the Director General may commence proceedings in a court of competent jurisdiction to recover the debt outstanding in respect of the amount owing.

(c) In any proceedings under this section, the production of a certificate signed by the Director General, stating the name of the defendant and the amount of tax owing, is sufficient evidence that the amount is due.

### **Lien**

57.(a) If a taxpayer fails to pay a tax by the due date, a lien in favour of the Director General is created in the amount owing together with interest, penalty, and costs of collection that may accrue on all property belonging to the taxpayer, and has priority as against all other rights, except as otherwise provided in this section.

(b) The lien described in subsection (a) arises at midnight at the end of the due date and continues until the liability is satisfied or becomes unenforceable by reason of lapse of time.

(c) The lien imposed by this section is not valid against the interest of a person who has purchased a property from the taxpayer in good faith, a holder of a security interest granted by the taxpayer, or other lien holder under existing legislation, if —

- (1) the person has acquired the property legally prior to the knowledge of the lien imposed on the property; or
- (2) the property has been acquired legally before the Director General informs the relevant government agencies that register the property, in written notice barring the transfer.

(d) The Director General may file notice of a lien at any time after a taxpayer has a tax liability, or related interest or penalties, assessed but unpaid in whole or in part.

(e) Regulations may prescribe ways of filing notice of a lien and may prescribe categories of interests against which the lien is not valid even though notice of the lien has been filed.

(f) Prior to registering a lien at the relevant registration office, the Director General must send notice of the intention to register the lien to the taxpayer.

(g) Subsection (f) does not apply if the Director General finds an evidence that the ability to collect tax is in jeopardy.

(g) The Director General may file an action in the relevant court, if necessary, to enforce the lien imposed by this section.

(h) An affected person under this section may apply to the Director General for a release of the lien on the person's property. The decision by the Director General not to release a lien may be appealed to the relevant court.

### **Execution against Taxpayer's Property**

58.(a) If the taxpayer is in default, the Director General may cause execution to be levied on the taxpayer's property but, except when a determination has been made under subsection (g) of section 57, the Director General may proceed to execution only if the taxpayer has been served with a notice of intention to levy execution, and the taxpayer has failed to pay the tax within thirty days after service of the notice.

(b) If the Director General finds an evidence that the collection of tax is in jeopardy, the Director General may demand immediate payment of the tax and, on failure of the taxpayer to pay the tax, may proceed to levy on the taxpayer's property immediately, notwithstanding subsection (c) of section 45.

(c) A person, including a bank or other financial institution, in possession of, or holding security over, property on which a levy has been made must, on demand of a designated officer, surrender the property, or discharge the security, to the Director General, except in respect of the part of the property that is already subject to attachment or execution by the relevant court under the Civil Procedure Code.

(d) A person who fails to comply with the demand is liable to the Director General in the amount of the value of the property or security held, but not in excess of the amount for the collection of which the levy is made.

(e) A person complying with the requirements of this section or of section 60 is, from the time of compliance, discharged from an obligation to the taxpayer or another person to the extent of the value of property surrendered, or the security discharged, to the Director General and is not personally liable for loss or damage incurred as a consequence of compliance.

(f) A levy under this section must be commenced within six years of the date on which the taxpayer was determined to be in default.

(g) A taxpayer's personal effects and household furnishings without substantial value are exempt from a levy.

Explanation: "Execution against taxpayer's property" means the process of seizing and transferring a taxpayer's assets, moneys or property in recovering the tax debts of the taxpayer.

### **Sale of Seized Property**

59.(a) Unless the Director General has good reason to release the seized property, the Director General is to sell property seized pursuant to a levy.

(b) The sales proceeds are applied first against the expenses of the levy and sale, then against the liability for penalties, interest, and tax and the excess must be returned to the taxpayer.

(c) The Director General may specify procedures on sale by public auction under the duties and power of sale conferred on the Director General by this Law, and may—

- (1) fix an amount of a deposit to be made by the highest bidder;
- (2) reserve a price;
- (3) prescribe a time within which a deposit must be made and the conditions in which it may be returned; and
- (4) declare, in the event that the highest bidder fails to make the required deposit or to complete the purchase within the required time, the next highest bidder to be the highest bidder and purchaser of the property.

(d) Seized goods or property must be sold at public auction at a time and place as the Director General may direct; but no sale is to take place within fourteen days of the seizure of the goods or property, unless the Director General finds an evidence that the goods seized are in the opinion of a perishable nature, or the owner of the goods has requested their earlier sale.

(e) All goods seized under this Law must be deposited in some fit place, or left in the possession of some fit person, as the Director General may determine.

(f) The date, time, and place of sale of all goods seized must be provided in a notice given to the taxpayer prior to the date of sale unless those goods are being sold before the expiry of the fourteen day period under subsection (d) and announced in the State-owned newspapers that sale will take place--

(g) For the purpose of seizing and selling goods, a person may, if expressly authorised in writing by the Director General, --

(1) execute a warrant of distress, and if necessary break open a building in the day-time to levy such distress; and

(2) may seek assistance from Myanmar Police Force, when so required, to assist in the execution of a warrant of distress and in levying the distress under paragraph (1).

(h) At the sale of goods or other property under the provisions of this Law a duly designated public officer may bid for and purchase the goods or other property on behalf of the Government of the Republic of the Union of Myanmar.

(i) If goods or property advertised for sale are not sold on the day appointed for the sale, the property may be put up for sale again.

(j) The officer or other person conducting the sale may report to the Director General the result of the sale and the Director General may direct that, upon payment of the purchase money the property be conveyed to the purchaser.

(k) Where the Director General, after review of the report provided pursuant to subsection (j), finds an evidence that there has been fraud or improper conduct in relation to the sale of a property mentioned in the report, the Director General may declare the sale to be null and void.

(l) Upon the execution of the deed of conveyance or the assignment to the purchaser by the Director General under this section in accordance with the existing law, the goods or property shall be vested in the purchaser freed and discharged from all encumbrances arising under this Law.



(m) Notwithstanding anything contained in this Law authorising the Director General to sell a property for the recovery of tax, the conveyance or assignment executed to give effect to the sale shall not affect any estate, interest, or right of the Government of the Republic of the Union of Myanmar in the property.

### **Third Party Debtors**

60.(a) If a taxpayer is in default, the Director General may serve a notice in writing on a third party debtor.

(b) On receiving a notice, the third party debtor must pay to the Director General (on account of the taxpayer and by the date specified in the notice) an amount not exceeding the lesser of—

- (1) the amount in respect of which the taxpayer is in default;
- (2) the money owed by the third party debtor to the taxpayer; and
- (3) the amount specified in the notice.

(c) The date for payment specified in the notice must not be before either—

- (1) the date the money owed by the third party debtor becomes payable to the taxpayer or is held on behalf of the taxpayer; or
- (2) fifteen days following the date the third party debtor is served with the notice.

(d) On receiving a notice under subsection (a), the third party debtor must not pay an amount to the taxpayer, or any other person in lieu of the taxpayer, until the Director General withdraws the notice.

(e) As soon as practicable after service of the notice on the third party debtor, the Director General must serve the taxpayer with a copy of the notice.

(f) Amounts payable to the Director General by a third party debtor under this section are a personal liability of the third party debtor, which may be collected in the same manner as a tax.

(g) Money owed to a taxpayer includes:

- (1) amounts currently owing or that may subsequently become owing to a taxpayer;
- (2) amounts held or that may subsequently be held for or on account of a taxpayer;
- (3) amounts held or that may subsequently be held on account of a third person for payment to a taxpayer;
- (4) amounts held by a person who has been granted duties and power by a third person to pay the money to a taxpayer; and
- (5) in relation to a third party debtor that is a financial institution, amounts that the taxpayer holds in an account with the institution.

(h) A notice may be served on the taxpayer's employer, requiring the employer to

pay to the Department, for a specified period, some part of the future wages or salary that become payable to the taxpayer.

(i) The first K150,000 of wages and salary per month are not subject to withholding under a notice described in subsection (h).

(j) A third party who pays the Director General pursuant to this section is treated as having acted with the duties and power of the taxpayer and of all other persons concerned and may not be held personally liable in respect of the payment in any proceeding, civil or criminal.

(k) A third party who pays the Director General pursuant to this section may be entitled to recover the amount paid from the taxpayer originally liable to make the payment.

(l) In this section—

(1) "money" includes a debt obligation denominated or payable in money; and

(2) "third party debtor", in relation to a taxpayer, means a person who owes money to the taxpayer.

### **Compliance with Notice**

61.(a) A third party who pays the Director General pursuant to section 60 is—

(1) treated as having acted with the duties and power of the taxpayer and of all other persons concerned; and

(2) indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extra judicial.

(b) Subsection (a) applies irrespective of a provision to the contrary in written law, contract, or agreement.

(c) A notice under section 60 ceases to have effect once the tax or obligations described in it is paid or otherwise satisfied or once the Director General determines, with good cause, that the notice should be revoked.

(d) If a third party served with a notice under section 60 is unable to comply with the notice by reason of lack of money owing to or held for the taxpayer, the person must notify the Director General in writing.

(e) A third party notice must—

(1) set out the reasons for the inability; and

(2) be filed as soon as practicable after the third party becomes aware of the inability and, in any event, before the payment date specified in the section 60 notice.

(f) On receipt of a third party notice the Director General may, by notice in writing served on the third party—

(1) accept the third party notice and cancel or amend the section 60 notice; or

(2) reject the third party notice.

(g) The filing of a third party notice has no effect on the third party's personal liability for amounts under section 60 unless and until the Director General cancels or amends the section 60 notice.

(h) In this section, "third party" means a third party debtor of a taxpayer served with a notice under section 60.

### **Non-Arm's Length Transferees**

62.(a) If a taxpayer's liability has not been satisfied after levy of execution on property known to the Director General, a person who has received assets of the taxpayer in a transaction that is not at arm's length in the period of one year preceding the date of the levy is secondarily liable for the tax to the extent of the value of the assets received.

(b) Subsection (a) does not apply to an amount for which a person is liable under section 42.

### **Receivers**

63.(a) A receiver is required to notify the Director General of the receiver's appointment within fourteen days after being appointed.

(b) The Director General may notify the receiver of the amount that appears to the Director General to be sufficient to provide for payment of tax owing, or that will become owing, by the person whose assets are in the possession or care of the receiver.

(c) A receiver must pay tax that is due and payable to the Government of the Republic of the Union of Myanmar, which has priority over the debts owed to other creditors, to the Director General. The receiver may not dispose of an asset situated within the Republic of the Union of Myanmar held in the receiver's capacity as receiver, without having paid the tax and without the prior permission of the Director General.

(d) A receiver must set aside out of the proceeds of sale of an asset the amount notified by the Director General under subsection (b), or a lesser amount as may be agreed with the Director General.

(e) A receiver is personally liable for the amount of tax notified in subsection (b) to the extent of an amount required to be set aside under subsection (d), if the receiver fails to comply with the requirements of this section.

(f) In this section, "receiver" means a person who, with respect to an asset situated in the Republic of the Union of Myanmar, is designated as —

- (1) a liquidator of a company or other entity;
- (2) a receiver appointed out of court or by a court;
- (3) a trustee in bankruptcy;
- (4) a mortgagee in possession;
- (5) an executor, administrator, or heir of a deceased individual's estate;

- (6) conducting the affairs of an incapacitated individual; or
- (7) a successor in a corporate reorganisation.

## **PART X PENALTIES**

### **General Provisions on Penalties**

64.(a) This section applies to penalties under this Law or under any other tax law.

(b) Procedures for the assessment, payment, collection, and dispute of a tax apply equally to penalties relating to a tax.

(c) A person's liability for a penalty under a section in this Part is separate and distinct from the person's liability for a penalty under other sections of this Law or a tax law and does not affect interest levied under Part VIII and criminal proceedings done under Part XI.

(d) The burden of proof is on the Director General to show non-compliance with the provisions of this Law or other tax laws with respect to the imposition of a penalty.

(e) The Director General may make an assessment of a penalty charged as if the penalty were tax payable under this Law, and may specify the date on which the penalty is payable.

(f) A notice of an assessment of a penalty must be served on the person subject to the penalty and must state the amount of the penalty payable, the provision under which it is payable, and the due date for payment, and on service of the notice

- (1) the notice and the assessment are treated as if they were a notice and assessment of tax payable under this Law;
- (2) the amount of the penalty specified in the notice is treated as tax payable under this Law; and
- (3) the due date for payment is the date specified in the notice.

(g) A person's liability to pay a penalty arises on the making of an assessment by the Director General under subsection (f).

(h) The period of limitations for assessing a penalty is seven years after the violation that causes the penalty to occur, unless the violation includes the taxpayer's provision of incorrect information due to fraud or wilful neglect in which case the limitation for assessing a penalty is twelve years.

(i) If a person liable for a penalty shows reasonable cause, the Director General may—

- (1) refrain in whole or in part from assessing the penalty; or
- (2) remit or waive in whole or in part a penalty that has been assessed.

(j) A penalty payable for each day, month, or other period during which a particular state of affairs exists or continues, is payable in full for part of that day, month, or other period in which the state of affairs commences, continues, or ends.

### **Failure to Register or to Notify of Changes in Taxpayer Information**

65. A person who fails to

- (a) register as a taxpayer as required under a tax law;
- (b) notify the Director General of changes in taxpayer information as required by subsections (f) and (g) of section 9; or
- (c) apply for cancellation of the person's registration as required by a tax law,

is liable for a penalty of 10 percent of the amount of tax due.

### **Falsification of Invoices, Receipts, Credit and Debit Notes**

66. (a) A person is liable for a penalty not exceeding K250,000 if the person—

- (1) uses a false taxpayer identification number or a taxpayer identification number that does not apply to the person;
- (2) issues a false invoice or sales receipt;
- (3) issues a false credit note or debit note; or
- (4) provides, or fails to provide, an invoice, credit note, debit note, or sales receipt otherwise than as provided for pursuant to a tax law.

(b) A producer, service provider, importer or trader under a tax law is not liable for a penalty under paragraph a(2), (3) or (4) only because information relating to the recipient of the supply, which was relevant to the issue of, or required to be included in, the invoice, debit or credit note, or sales receipt including information about the registration status or taxpayer identification number of the person was incorrect, if the person, having exercised all due care, believes on reasonable grounds that the information relating to the recipient was accurate.

(c) A producer, service provider, importer or trader under a tax law is not liable for a penalty under paragraph (1) if the producer, service provider, importer or trader, having exercised all due care, believes on reasonable grounds that the recipient of the supply for which an invoice, debit or credit note, or sales receipt was required to be issued was or was not a registered person.

### **Late Filing**

67. (a) A person who fails to file a tax or other return on or before the date by which filing is required is liable to a penalty equal to the greater of—

- (1) five percent of the amount of the tax owing, plus further one percent of the amount of tax owing for each month or part of a month during which the failure to file

continues, but not beyond the time when the Director General issues an assessment;  
and

(2) K100,000.

(b) For the purposes of this section, “amount of tax owing” includes monthly or quarterly instalments of tax for the year.

### **Negligent or Fraudulent Underpayment**

68. If tax is underpaid, or might have been underpaid, as a result of an incorrect statement or a material omission in a taxpayer’s tax return, and that statement or omission is a result of intentional conduct or negligence on the part of the taxpayer, the taxpayer is liable to a penalty in the amount of—

- (a) 25 percent of the underpayment if paragraph (b) does not apply; or
- (b) 75 percent of the underpayment if the amount of the underpayment is more than K100,000,000 or 50 per cent of the person’s tax liability.

### **False or Misleading Statements**

69.(a) A person who makes a statement to a taxation staff that is false or misleading in a material particular is liable for a penalty if an amount properly payable by or refundable to the person exceeds or is inferior to the amount that would be payable or refundable if the person were assessed on the basis that the statement were true and the amount of the penalty for which the person is liable is K150,000 and the greater of —

- (1) the difference between an amount of tax properly payable and an amount of tax that would have been reduced; or
- (2) the difference between an amount properly refundable and an amount that would have been refunded in excess.

(b) No penalty is imposed under this section if the person who made the statement did not know and could not reasonably be expected to know that the statement was false or misleading in a material particular.

Explanation (1):

A reference in this section to “a statement made to a taxation staff” includes a reference to a statement made orally, in writing, or in another form to that staff acting in the performance of the taxation staff’s duties under this Law, and includes a statement made—

- (a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, lodged, or furnished under this Law;
- (b) in any information required to be furnished under this Law;
- (c) in a document furnished to a taxation staff otherwise than pursuant to this Law;
- (d) in an answer to a question asked of a person by a taxation staff; or

- (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a taxation staff,

but does not include a statement to which section 68 applies.

Explanation (2):

A reference in this section to “a statement that is misleading in a material particular” includes a reference to a statement that is so because of the omission of a matter or thing from the statement.

### **Failure to Maintain Documents**

70.(a) A person who fails to maintain proper documents as required by this Law or any tax law is liable for a penalty under subsection (b) for each day or part of a day during which the failure continues.

(b) The penalty is—

- (1) K5,000 per day for each day the failure continues if the person has a tax liability of not more than K500,000;
- (2) K50,000 per day for each day the failure continues if the person has a tax liability of not more than K5,000,000; and
- (3) K100,000 per day for each day the failure continues if the person has a tax liability of more than K5,000,000.

(c) Notwithstanding subsection (b), the Director General may waive the application of the penalty for a maximum of thirty days from the date that the Director General notifies the taxpayer of a violation of this section.

### **Failure to Comply with Third Party Notice**

71. A person who fails to comply with a notice issued under section 60 is liable for a penalty of 25 percent of the difference between the amount payable by the third party and the amount paid to the Director General by the due date specified in the section 60 notice.

### **Failure to Provide Facilities to Perform Official Duties**

72. A person who fails to provide a taxation staff with reasonable facilities and assistance to perform official duties as required under this Law or a tax law is liable for a penalty not exceeding K500,000.

### **Failure to Comply with Notice to Give Information**

73. A person who fails to comply with a request for information by the Director General properly made under this Law or a tax law, within the specified time, is liable for a penalty not exceeding K500,000.

### **Late Payment**

74.(a) A person who fails to pay all or part of a tax due for a tax period within fourteen days of the date of assessment or reassessment, or by the due date specified in the notice of assessment, is liable to a late payment penalty equal to 10 percent of the amount of tax due but not paid.

(b) A person who fails to pay all or part of an instalment required pursuant to a tax law by the due date for the instalment is liable to a late payment penalty equal to 10 percent of the amount of tax due but not paid.

(c) If a person who is deemed to make a withholding payment under a tax law to which this Law applies fails to make the payment without sufficient reason, the person will be treated as default with respect to that tax and is liable to make the payment of the amounts the person has failed to withhold.

(d) If a person who fails to make a withholding payment under a tax law to which this Law applies within the specified period, the person must pay a late payment penalty of 10 percent of the amount so failed to pay.

(e) Where an extension is granted under section 44, a person is not liable to a late payment penalty under subsection (a) if the payment of tax has been made within the extension period.

## **PART XI CRIMINAL PROCEEDINGS, OFFENCES AND PUNISHMENTS**

### **General Provisions on Criminal proceedings**

75.(a) The Director General may investigate an offence specified in this Law and in a tax law.

(b) Proceedings under this Law may be done in accordance with the Criminal Procedure Code and the Civil Procedure Code.

(c) Proceedings under this Law do not affect criminal proceedings that may be brought under any other Law or law.

### **Period of Limitations for Proceedings**

76. Proceedings under this Part may be commenced—

- (a) if the offence alleged involves the doing of an act, within twelve years after the doing of the act;
- (b) if the offence alleged involves the failure to do an act, within twelve years after the failure occurred or, if later, within three years after the Director General becomes aware of the failure; or
- (c) if the offence alleged involves the non-disclosure or incorrect disclosure by a person of information relating to that person's liability under a tax law, within three years after the person's correct liability to tax becomes final for that tax period.

### **Tax Evasion**

77. A person who wilfully evades the assessment, payment, or collection of tax, or who wilfully claims a refund of tax to which the person is not entitled, is guilty of an offence and is liable on conviction to a fine that is the greater of K250,000, or 00 per cent of the tax the person has evaded for the period,



or to imprisonment for a term of up to seven years, or both.

### **Impeding Tax Administration**

78.(a) A person who wilfully impedes or attempts to impede taxation staff in the administration of this Law is guilty of an offence and is liable on conviction to a fine of K250,000, or to imprisonment for a term of up to one year, or both.

(b) In the application of this Law for the purposes of this section, a person impedes the administration of this Law if the person—

- (1) fails to comply with a lawful request by taxation staff to examine documents, records, or data within the control of the person;
- (2) fails to comply with a lawful request by taxation staff to have the person appear before the taxation staff;
- (3) interferes with the lawful right of taxation staff, agents and the team to enter onto a business premises or a dwelling unit;
- (4) fails to file a tax return in order to impede tax administration;
- (5) uses a false taxpayer identification number or a taxpayer identification number that does not apply to the person;
- (6) issues a false invoice, sales receipt, credit note, or debit note;
- (7) provides or fails to provide an invoice, sales receipt, credit note, or debit note, otherwise than as provided for pursuant to a tax law;
- (8) refuses to allow the Director General to inspect or measure land or refuses to delivery for inspection any map, plan, title deed, instrument of title, or other document; or
- (9) otherwise impedes the determination, assessment, or collection of tax.

(c) A producer, service provider, importer or trader is not treated as impeding the administration of this Law under subsections (b) paragraph (6) and (7) only because information relating to the recipient of the supply, which was relevant to the issue of, or required to be included in, the invoice, debit or credit note, or sales receipt (including, but not limited to, information about the registration status or taxpayer identification number of the person) was incorrect, if the person, having exercised all due care, believes on reasonable grounds that the information relating to the recipient was accurate.

### **Aiding and Abetting**

79. A person who attempts or aids, abets, assists others to commit a criminal offence under this Law is liable on conviction to the same penalty for the offence.

### **Failure to Preserve Secrecy**

80. A person who contravenes subsection (b) or (c) of section 8 is guilty of an offence of failure to preserve secrecy and is liable on conviction to a fine of not more than K200,000, or to imprisonment for a term of not more than one year, or both.

### **Offences by Corporations or Partnerships**

81.(a) If an offence under this Law is committed by a body of persons—

- (1) in the case of a company, every director or similar officer of that body is deemed to have committed the offence; or
- (2) in the case of a partnership or association, every partner or officer of the partnership or association is deemed to have committed the offence.

(b) Subsection (a) does not apply in respect of a person if—

- (1) the offence was committed without the person's consent or knowledge; and
- (2) the person exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

### **Offences by Taxation Staff**

82. A taxation staff who, in the application of the provisions of this Law—

- (a) directly or indirectly asks for, or takes, in connection with the staff's duties, a payment or reward, whether pecuniary or otherwise that the staff is not lawfully entitled to receive, or a promise or security for the payment or reward; or
- (b) enters into or acquiesces in an agreement to do, abstain from doing, permit, conceal, or connive at an act or thing that is contrary to the provisions of this Law or to the proper execution of the staff's duty, or that has the effect that the tax revenue is or may be defrauded,

commits an offence and is liable to conviction under a relevant law.

### **Compounding of Offences**

83.(a) If a person has committed an offence under this Part or under another tax law, other than an offence under section 80 or 81, the Director General may, at any time prior to the verdict by a Court of the proceedings relating thereto, request to compound the offence and order the person to pay the sum of money not exceeding the maximum amount of the fine prescribed for the offence.

(b) The Director General may compound an offence under subsection (a) only if the person concerned-

- (1) has paid the tax owing and the sum of money not exceeding the maximum amount of the fine ordered under subsection (a), or provided security sufficient to pay the amount of tax and the fine, and

(2) requests in writing to do so.

(c) If the Director General compounds an offence under this section, the order described in subsection (a) must—

(1) be in writing and have attached the written request described in subsection (b);

(2) specify—

(i) the offence committed;

(ii) the sum of money to be paid; and

(iii) the due date for the payment; and

(3) be served on the person who committed the offence.

(d) An order made by the Director General under subsection (a) is final and not subject to appeal.

(e) If the Director General compounds an offence under this section, the offender is not liable for another prosecution or penalty in respect of that offence.

(f) The amount ordered by the Director General to be paid under subsection (a) is recoverable as if it were tax due and payable under this Law.

## **PART XII MISCELLANEOUS**

### **Overruling Other Tax Laws**

84. Notwithstanding the provisions in an existing tax legislation, matters relating to a provision under this Law shall be dealt with in accordance with this Law.

### **Transitional Provisions**

85.(a) Appeal cases, prosecutions and other proceedings performed under another tax legislation before the date on which this Law takes effect shall be dealt with in accordance with provisions under that legislation.

(b) Liabilities for tax that arose before this Law was enacted shall be recovered in accordance with the provisions of this Law without affecting the actions already taken in recovering the tax.

(c) In the period after this Law has been enacted and before necessary rules and regulations can be prescribed, the rules, regulations, notifications, directives and procedures issued under Income Tax

Law, Commercial Tax Law and Specific Goods Tax Law, may still apply unless otherwise specified, as long as they do not contradict this Law and fall within the period of limitation.

**Power to Make Rules and Regulations**

86. In implementing the provisions under this Law —

- (a) the Ministry, with the approval of the Union Government, may make rules and regulations;
- (b) the Ministry and the Department may issue necessary notifications, order, directives and procedures.

Unofficial Translation