

Luther.

Myanmar News

Update on Tax Exemptions for Development Projects

August 2019



Table of Content

I. Introduction

Page 3

II. Notification 69/2019

Page 3

III. Annex

Unofficial English Translation of Notification
No. 69/2019

Page 5

IV. Your Contacts

Page 8

I. Introduction

In 2018, the Ministry of Planning and Finance and the Union Government Cabinet issued two Notifications (Notification No. 38/2018 and Notification No. 49/2018), which stipulated that national development projects carried out with Grant Aid or Development Assistance Loans provided to the Union may be entitled to enjoy exemptions from income tax and commercial tax. Both Notifications made it mandatory to apply with Ministry of Planning and Finance for recognition that such projects are in fact implemented with Grant Aid or Development Assistance Loans. No further details were provided (e.g. on the necessary documents/information and assessment procedure).

On 23 August 2019, the Ministry of Planning and Finance published Notification No. 69/2019, further clarifying the requirements for organizations and their staff carrying out national development projects with Grant Aid and Concession Loans to enjoy tax exemptions. The new Notification will come into effect on 1 September 2019 and supersede Notification No. 38/2018.

Please find below a short summary of the new Notification.

II. Notification 69/2019

1. Grant Aid Projects

Companies, consultants and service providers participating as primary contractors or sub-contractors in projects being implemented with Grant Aid shall be granted exemption from income tax or commercial tax as follows:

- Exemption from income tax on salary income of project staff other than Myanmar citizens;
- Exemption from corporate income/profit tax for relevant companies involved in the projects;
- Exemption from commercial tax on goods, machinery and auxiliaries imported for use in the projects; and
- Exemption from commercial tax for the projects.

2. Concessional Loans

Further, companies, consultants and service providers participating in projects being implemented with Concessional Loans shall be granted exemption from Income Tax or Commercial Tax as follows:

- Exemption from income tax on interest payments on the loans taken by the Union; and
- Exemption from corporate income/profit tax on income of companies which participate as primary contractors (not sub-contractors) in project activities.

3. Application Process

To ensure that requests for tax exemptions are systematic, applications shall be submitted through the Ministry of Planning and Finance to the Internal Revenue Department.

Projects carried out with both Grant Aid and Concessional Loans shall be deemed as Concessional Loan projects and shall be entitled only to those exemptions allowed to Concessional Loan projects.

3.1 Personal Income Tax

For personal income tax exemptions, companies shall submit the following:

- Evidence by the primary contractors or sub-contractors that the staff concerned is actually working on the project (including recommendation letters from the relevant government department or government organization in case of a primary contractors; sub-contractors shall provide recommendation letters of the primary contractor);
- Evidence by the primary contractor that the project is carried out with Grant Aid or Concessional Loan; and
- Recommendation letter from the relevant ministry and budget department (through the Ministry of Planning and Finance) that the project is carried out with Grant Aid or Concessional Loan.

3.2 Corporate Income Tax, Commercial Tax and Customs Duties

Applications by the primary contractors or sub-contractors of Grant Aid projects or by primary contractors of Concessional Loan projects shall include the following documents:

- Evidence that the relevant activity is a Grant Aid project or a Concessional Loan project (i.e. letter of representation from the company concerned, recommendation letter from the relevant ministry and recommendation letter from the budget department in case of aid taken by the Ministry of Planning and Finance with the recommendation from the relevant ministry, and recommendation from the Treasury Department in case of loans);
- In case of a primary contractor, the project agreement concluded with the relevant department;
- In case of a sub-contractor, the agreement concluded with the primary contractor and recommendation of the primary contractor;
- Import permit and opinion remarks of the Customs Department in respect of exemption from custom duties; and
- Agreement of the Development Assistant Coordination Unit for procurement of vehicles, machinery and equipment.

Comment Luther: Application for such tax exemption is offered as part of Luther's legal services.

4. NGOs

Projects being carried out, not with Grant Aid or Development Assistance Loans provided to the Union, but by foreign/domestic organizations, non-governmental organizations, or programmes being carried out by companies with assistance from those entities, shall not be eligible under this Notification.

III. Annex - Unofficial English Translation of Notification No. 69/2019

Government of the Republic of the Union of Myanmar

Ministry of Planning and Finance

Notification No. 69/2019

23 August 2019

1. Exercising the powers conferred under section (15) sub-section (a) and section (31) sub-section (b) of the Union Tax Law (2018-2019), the Ministry of Planning and Finance, with the agreement of the Union Government Cabinet, hereby issues this Notification to facilitate tax exemptions with respect to national development projects carried out with Grant Aid and Concession Loans in accordance with the law
2. All companies, advisors and service providers participating as primary contractors or sub-contractors in projects being implemented with **Grant Aid** are granted exemption from income tax ("INT") or commercial tax ("CT") as follows:
 - a. Exemption from income tax on salary income of project staff other than Myanmar citizens;
 - b. Exemption from corporate income/profit tax for relevant companies involved in the projects;
 - c. Exemption from commercial tax on goods, machinery and auxiliaries imported for use in the projects; and
 - d. Exemption from commercial tax for the projects.
3. All companies, consultants and service providers involved in projects which are implemented with **Concessional Loan** provided to the Union are exempted from income tax as follows:
 - a. Exemption from income tax on interest payments on the loans taken by the Union; and
 - b. Exemption from corporate income/profit tax on income of companies which participate as Main Contractors (not sub-contractors) in project activities.
4. With regard to commercial tax in respect of projects implemented with Concessional Loans, the relevant government departments and government organizations must allocate and request budget for commercial tax payable on projects undertaken by them, and make payment to the Internal Revenue Department.
5. To ensure that requests for tax exemptions for projects implemented with Grant Aid or Concessional Loans are systematic, applications for tax exemption "certification" must be submitted through the Ministry of Planning and Finance to the Internal Revenue Department, supported by "substantiating documents" as prescribed on a case-by-case basis.

6. Companies applying for salary income tax exemption "certification" for staff other than Myanmar citizens must comply with the following:
 - a. Submission by the main or sub company that [the staff concerned] is actually working on the project (attaching recommendation from the relevant government department, government organization in case of a main company, and also attaching the recommendation of the main company in case of a sub company);
 - b. Submission by the main company that the project is carried out with Grant Aid or a Concessional Loan; and
 - c. Recommendation by the relevant ministry and by the Budget Department (through the Ministry of Planning and Finance) that the project is carried out with Grant Aid or a Concessional Loan.

7. Applications by the main contractor and subcontractors of Grant Aid projects or by the main contractor in Concessionary Loan projects for "certification" toward tax exemption in respect of their activities must include the following documents:
 - a. Regarding the fact that its activity is a project under a Grant Aid project or a Concessional Loan project:
 - (1) Letter of representation from the company concerned;
 - (2) Recommendation from the relevant ministry; and
 - (3) Recommendation from the Budget Department in case of aid taken by the Ministry of Planning and Finance with the recommendation from the relevant ministry, and recommendation from the Treasury Department in case of loans;
 - b. The project agreement concluded with the relevant department, in case of a main contractor;
 - c. The agreement concluded with the main company and recommendation of the main company, in case of a subcontractor;
 - d. Import permit and opinion remarks of the Customs Department in respect of exemption from custom duties; and
 - e. Agreement of the Development Assistant Coordination Unit for procurement of vehicles, machiner and equipment.

8. Where a project is carried out with both Grant Aid and Concessional Loans, it shall be deemed as a Concessional Loan project and shall be entitled only to those exemptions allowed to Concessional Loan projects.
9. Projects carried out by domestic and foreign organizations or non-governmental organizations, or programmes carried out by companies with the assistance of such entities shall not be eligible under this Notification.
10. This Notification supersedes Notification No. 38/2018 dated 21 May 2018 of the Ministry of Planning and Finance.
11. This Notification shall be effective commencing from 1 September 2019.

Soe Win
Union Minister

Letter No.: SaBa/Banda-2/1/254(2133/2018)
23 August 2019

Distribution

Office of the Union President

All divisions under this Minister's Office

By Order
signed 23 August 2019
(Tun Tun Naing)
Permanent Secretary

IV. Your Contacts



Alexander Bohusch
Rechtsanwalt/Attorney-at-law (Germany)
Luther Law Firm Limited
Myanmar
Phone +95 1 500021
alex.bohusch@luther-lawfirm.com



Fabian Lorenz, M.A.
Rechtsanwalt/Attorney-at-law (Germany)
Luther Law Firm Limited
Myanmar
Phone +95 1 500021
fabian.lorenz@luther-lawfirm.com



Fanny Tatin
Avocat/Attorney-at-law (France)
Luther Law Firm Limited
Myanmar
Phone +95 1 500021
fanny.tatin@luther-lawfirm.com



Thi Ha
Higher Grade Pleader
Luther Law Firm Limited
Myanmar
Phone +95 1 500021
thi.ha@luther-lawfirm.com



Maung Maung Min Khaung
Higher Grade Pleader
Luther Law Firm Limited
Myanmar
Phone +95 1 500021
maungmaung.minkhaung@luther-lawfirm.com



Saw Thaw Tu Htoo
Higher Grade Pleader
Luther Law Firm Limited
Myanmar
Phone +95 1 500021
saw.thaw.tu.htoo@luther-lawfirm.com



Nang Kay Si Kham
Higher Grade Pleader
Luther Law Firm Limited
Myanmar
Phone +95 1 500021
nang.kay.si.kham@luther-lawfirm.com

Imprint

Luther Rechtsanwaltsgesellschaft mbH, Anna-Schneider-Steig 22,
50678 Cologne, Phone +49 221 9937 0, Fax +49 221 9937 110,
contact@luther-lawfirm.com

Editor: Alexander Bohusch, Rechtsanwalt/Attorney-at-law (Germany),
Luther Law Firm Limited, Luther Corporate Services Limited, Uniteam Marine Of-
fice Building, Level 8, Unit #1, 84 Pan Hlaing Street, Sanchaung Township
11111 Yangon, Myanmar, Phone +95 1 500 021, Fax +95 1 502 852,
HP (MM): +95 9 425 0136 00, HP (SG): +65 9 829 1829, alexander.bohusch@
luther-lawfirm.com

Copyright: These texts are protected by copyright. You may make use of the infor-
mation contained herein with our written consent, if you do so accurately and cite
us as the source. Please contact the editors in this regard
contact@luther-lawfirm.com

Disclaimer

Although every effort has been made to offer current and correct information, this
publication has been prepared to provide information on recent regulatory and le-
gal developments in Myanmar only. It is not exhaustive and thus does not cover
all topics with which it deals. It will not be updated and cannot substitute individ-
ual legal and/or tax advice. This publication is distributed with the understanding
that Luther, the editors and authors cannot be held responsible for the results of
any actions taken on the basis of information contained herein or omitted, nor for
any errors or omissions in this regard.

Luther Rechtsanwaltsgesellschaft mbH advises in all areas of business law. Our clients include medium-sized companies and large corporations, as well as the public sector.

Berlin, Brussels, Cologne, Dusseldorf, Essen, Frankfurt a. M., Hamburg, Hanover, Leipzig, London, Luxembourg, Munich, Shanghai, Singapore, Stuttgart, Yangon

Luther Corporate Services: Delhi-Gurugram, Kuala Lumpur, Shanghai, Singapore, Yangon

Your local contacts can be found on our websites www.luther-lawfirm.com and www.luther-services.com.



Hits the mark. Luther.

