



# Client Alert

KPMG in Myanmar



## Withholding tax changes from 1 April 2017

### Notification 2/2017 date 10 January 2017

The Ministry of Finance and Planning issued the above notice which supersedes the prior notifications 41/2010 and 167/2011 dated 10 March 2010 and 26 August 2011 in relation to withholding tax.

The above notice will take effect from 1 April 2017 and included (amongst others) several key changes highlighted below.

#### Official inclusion of a de-minimis threshold for withholding tax

The prior lack of a de-minimis threshold for withholding tax posed many difficulties in relation to small day to day expenses where withholding tax imposition was impractical.

To address this point, the above notification now exempts payments from withholding tax if the total amount of payments (in aggregate) to a recipient within a fiscal year is less than MMK500,000.

The proposed de-minimis would help resolve some of the practical difficulties but does not seem to provide guidance on what should happen to earlier payments which were made when it was unclear if the total payments would exceed MMK500,000 within the fiscal year. Tax payers could potentially withhold a larger amount on later payments if the payments exceed MMK500,000 but this raises an issue if the withholding taxes on earlier payments would be regarded as late payments.

#### Application of the Avoidance of Double Taxation Agreements (“DTAs”)

Myanmar currently has concluded eight DTAs with various countries. The above notification states that tax payers should submit the certificate of residency of the recipient of payments in order to apply the reduced DTA withholding tax rates.

However, no details in relation to the submission process was provided. We would expect further guidance to be forthcoming at a later date.

#### Changes to rates of withholding

Please see below as the table with the changes to the rates of withholding:-

	Old rate	New rate from 1 April 2017
Royalties paid to resident	15%	10%
Royalties paid to non-resident	20%	15%
Payment for goods, services, work performed in the country to a non-resident	3.5%	2.5%

The reduction in withholding tax rates is well appreciated and would go some way to make Myanmar a more attractive investment destination.

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## Non-residents receiving payments subject to withholding tax

Generally, withholding tax suffered by a non-resident would be regarded as a final assessment. However, the above notification has clarified that where the branch office of the non-resident foreigner carries out business in Myanmar and receives an assessment in relation to its income taxes in Myanmar, it will be able to use the withholding tax suffered to offset against its tax assessment.

This is a much welcomed clarification as it would help many legitimate tax payers that are registered as branches in Myanmar and paying income taxes to not be taxed twice on the same income. This would help put branches on a more equitable treatment when compared to a company registered in Myanmar.

### How can KPMG help

KPMG can assist in managing your tax compliance needs whilst operating in Myanmar including corporate tax, personal income tax, commercial tax and withholding tax filings.

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