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MYANMAR TAX UPDATE

Additional COVID-19 Tax Relief for Businesses in Myanmar

On 17 June 2020, the Ministry of Planning, Finance and Industry ("**MOPFI**") issued Notification No. 65/2020 ("**Notification 65**") which outlines additional forms of tax relief that can be availed by businesses affected by the COVID-19 pandemic in Myanmar. This Notification is issued in line with the fiscal stimulus provided under Myanmar's COVID-19 Economic Relief Plan ("**CERP**") and the President's Executive Order Concerning the Union Tax Law as recently issued on 12 June 2020.

We outline below the forms of tax relief that may apply to businesses in Myanmar:

1. 10% Non-refundable tax credit for incremental wages and salaries

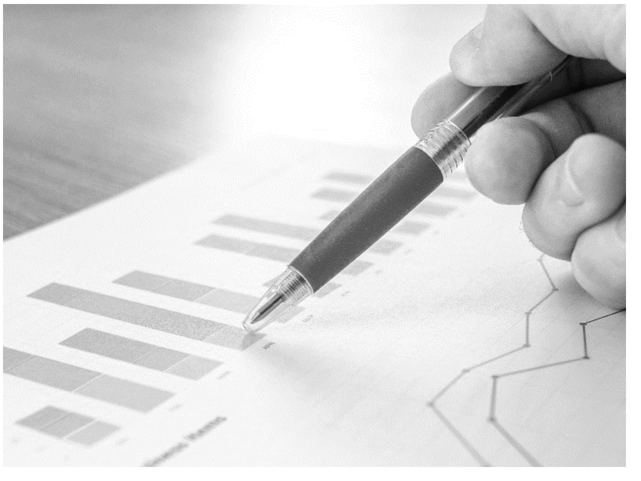
Notification 65 defines "incremental wages and salaries" as additional wages and salaries paid during the current financial year (1 October 2019 to 30 September 2020 or "**FY 2019-2020**") as compared to payments made in the prior year. The increment will be attributed to: (1) increases in wages and salaries of employees (employed as of last year); and (2) from hiring additional employees during the year.

In determining the incremental wages and salaries, the following procedures will be applied:

Calculation of incremental wages and salaries	
For companies that adopted a 12-month FY reporting period in the prior year (i.e. 1 October 2018 to 30 September 2019) ("**FY 2018-2019**")	(Total wages and salaries for FY 2019-2020) – (Total wages and salaries for FY 2018-2019)
For companies that adopted a 6-month transition period in the prior year (i.e. 1 April 2019 to 30 September 2019) **("FY 2019**")	(Total wages and salaries for FY 2019-2020) – (2 x Total wages and salaries for FY 2019)

A taxpayer will be allowed to claim 10% of the incremental wages and salaries as a tax credit for corporate income tax ("**CIT**") purposes. This tax credit can only be applied after the prior year's excess tax payments and the current year's advance income tax payments have already been offset. In addition, the tax credit is non-refundable, thus any excess CIT payment after deducting the 10% tax credit will not be allowed as a refund nor can be offset against other tax payments.

Note: Under the 2016 Payment of Wages Law, the term "wage" refers to the fee and salary entitled to be obtained by the worker for carrying out work, and includes overtime, bonuses or other remunerations and benefits which may be determined as income. This however excludes the following: (1) travelling allowances or special allowances for travelling; (2) temporary expenses given in advance by virtue of prior agreement; (3) cash benefits under the Social Security Scheme; (4) contributions paid for employees under any existing law; (5) allowances for accommodation and meals, electricity charges, water service charges, and taxes; (6) medical treatment allowances and recreation allowances; (7) compensation for dismissal and gratuities; (8) pension and retirement gratuities; and (9) other fees stipulated by the notification issued by the Ministry with the approval of the Union Government.



2. 125% deduction for incremental wages and salaries

Notification 65 provides that a taxpayer can claim 125% of the incremental wages and salaries as deductible expenses during the current year. This means that taxpayers will be allowed an additional 25% deduction based on the incremental wages and salaries as determined in item (1).

This special deduction will apply to all corporate taxpayers (including those with tax exemptions and relief under the Myanmar Investment Law (["**MIL**"] and the Special Economic Zone Law ["**SEZ**"]) and regardless of whether they are in a profit or loss position during the year. If the taxpayer is in a loss position, the taxpayer can carry-forward the loss (including the 25% increment) for the next three years (or five years for SEZ-registered enterprises).

3. 10% non-refundable tax credit for incremental investments on capital equipment

Notification 65 defines "incremental investments on capital equipment" to exclude the following:

- Acquisition of intangible property;
- Purchase, upgrade or expansion of land and/or buildings;
- Increase due to revaluation of the capital equipment owned in the prior year; and
- Investments that are covered by tax relief or exemptions (including reinvestment exemptions) as granted under the MIL and SEZ Law.

The incremental investments on capital equipment will be based on the increase in the value of depreciable assets during FY 2019/2020 as compared to assets in the prior year (whether the taxpayer adopted a 12-month period or a 6-month transitional period).

A taxpayer will be allowed to claim 10% of the incremental investment in capital equipment as a tax credit for CIT purposes. Similar to item (1), this tax credit can only be applied after the prior year's excess tax payments and the current year's advance income tax payments have already been offset. In addition, the tax credit is non-refundable, so any excess CIT payment after deducting the 10% tax credit will not be allowed as a refund nor can be offset against other tax payments.

Please note that the claim for the 10% tax credit may be disallowed if the capital equipment is sold within three years after the year of purchase.

4. 125% depreciation for incremental investment on capital equipment

Notification 65 provides that a taxpayer can claim 125% of the depreciation on the incremental investment on capital equipment. This means that taxpayers will be allowed to claim an additional 25% deduction on depreciation related to the additional purchase of capital equipment during FY 2019-2020.

This special deduction will apply to all corporate taxpayers (including those eligible to MIL and SEZ tax exemptions and relief) and is available only for FY 2019-2020. If the taxpayer is in a loss position, the taxpayer can carry-forward the loss (including the 25% increment) for the next three years (or five years for SEZ-registered enterprises).

We provide below a sample illustration for reference:

Sample Format for FY 2019-2020 CIT	
(a) Net Profit (before adjustments)	XX
– Additional 25% deduction on incremental wages and salary	XX
– Additional 25% depreciation of incremental investment on capital equipment	XX
(b) Net Profit (as adjusted)	**XX**
(c) CIT Rate	25% (or 20% for listed companies)
(d) CIT (b x c)	**XX**
(e) Tax Credits	
– Income Tax Paid / Advance Tax Payment	(XX)
– Prior Year Excess Tax Credits	(XX)
(f) CIT before non-refundable tax credits (d - e)	**XX**
(g) Non-refundable tax credits (not to exceed f)	
– 10% tax credits on incremental wages and salary	(XX)
– 10% tax credits on incremental investment on capital equipment (not applicable to companies with incentives under the MIL and SEZ Law)	(XX)
(h) CIT Payable (f – g)	**XX**

Conclusion

Notification 65 is a welcome development as it provides corporate taxpayers with additional tax relief to help them mitigate the ongoing economic impacts caused by COVID-19 and the disruption to everyday life that is making commercial activities difficult for everyone. The tax relief provided by Notification 65 encourages companies, especially labor-intensive and capital-intensive businesses, (1) to capitalize on people by incentivizing the company to hire, maintain and avoid laying off employees, and (2) to invest in capital equipment by incentivizing companies to make additional capital expenditures at lower applicable tax during the COVID-19 pandemic.

If you have any questions or wish to know more about the topic, please do not hesitate to contact us.

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