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Mapping Fiscal Policy in Myanmar's Telecom Sector



Myanmar Taxation Working Group

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Objective

This document is intended to provide an introduction and overview of the taxation and regulatory fees in Myanmar telecommunication sector, particularly from the perspective of private sector – i.e. consumers and enterprises.



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Understanding the telecom sector in Myanmar

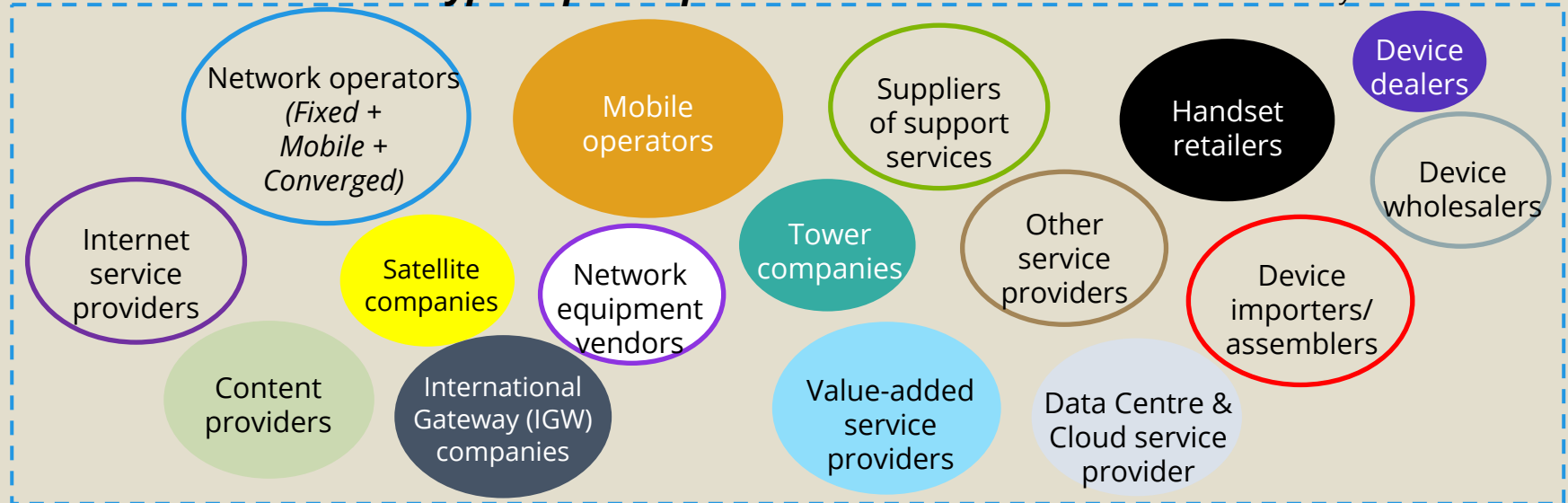


The opening-up of the telecoms sector to foreign investors in 2013 revolutionized the market landscape in Myanmar.

The Government of the Republic of the Union of Myanmar commenced a significant program of telecommunications sector reform in 2013. This resulted in the steps toward establishment of a competitive and vibrant market for telecommunications services that experienced unprecedented connections growth and expansion.

Typical participants in a telecom sector

This may not be exhaustive



Participants in Myanmar's Telecom Sector

This may not be exhaustive

Telecom mobile operators



Handset retailers



Tower companies



Network equipment vendors



Handset vendors



Other service providers



Internet Service Providers (ISP)



Regulatory fees and taxation framework in Myanmar

Direct Taxes	Indirect Taxes	Other payments	Telecom related fees
Corporate Income Tax	Commercial Tax	Property Tax	Universal Service Fund
Personal Income Tax	Specific Goods Tax	Stamp Duty	License Fee
Capital Gain Tax	Custom Duty	Social Security Contribution	Spectrum Fee
Withholding Tax		Company Registration Fee	Numbering Fee
Undisclosed source of income			

Findings from other case studies:

The tax and regulatory system should be simple, easily understandable and enforceable. Uncertainty and lack of transparency over taxation systems and liabilities may deter investors and are also likely to increase enforcement costs for government.

Understanding rationale for taxation & regulatory fee

Taxation and regulatory fee may burden taxpayers, *consumers and enterprises*.

Impact of taxation on consumers

- Not being able to access network services (**Accessibility**)
- Not being able to afford devices and services (**Affordability**)

Economic consideration regarding taxation to enterprises

- Lower profits, and hence lower incentive to re-invest to the business.
- Lower investment and discourage foreign direct investment
- Lower financial resource availability for investment in networks.
- Operators may pass taxes onto consumers in a non-transparent way, resulting in lower market volumes and higher prices.

Impact of taxation on consumers

Taxation may create barriers for people to access telecom services.

Accessibility



Poor network coverage:

Taxes on operators lead to higher cost and lower profit, which in turn lower incentive to re-invest into the business.



Couldn't access mobile network in some part of the area in Myanmar: Consumers couldn't access mobile network in certain rural areas.

Affordability



High device price: Due to taxation, higher price of handset will limit people's affordability to buy handset.



Couldn't afford to buy handset: People couldn't afford to buy appropriate handsets in terms of features and capabilities beneficial to their livelihoods.



High service price: Due to taxation, higher service price / tariff (voice, SMS, data price) will create barriers to consumer to use networks.



Couldn't afford to use mobile service: People couldn't afford to use certain telecom services

Typical tax paid by consumers

From consumer perspective

NON EXHAUSTIVE

Among different types of taxes, consumers are paying as

	TAX TYPE	TAX RATE	TAX BASE
TAXES ON ON USERS	Commercial Tax	5%	Device
		5%	Usage (Voice / SMS / Data)
TAXES ON IMPORTERS/ VENDORS/RETAILERS	Advance Payment of Corporate Income Tax	2%	Device
	Commercial Tax	5%	
	Custom Duty	Vary	
	Withholding Tax	2-15%	
			Usage (Voice / SMS / Data)

Typical tax paid by enterprises

From business perspective

NON EXHAUSTIVE

Among different types of taxes and regulatory fees, participants in telecom sector are applicable to pay as :

TAX TYPE	Who are applicable			
Corporate Income Tax	Telecom operators	Tower companies	Vendors/retailers	Service providers
Capital Gain Tax	Telecom operators	Tower companies	Vendors/retailers	Service providers
Commercial Tax	Telecom operators	Tower companies	Vendors/retailers	Service providers
Withholding Tax	Telecom operators	Tower companies	Vendors/retailers	Service providers
Custom Duty	Telecom operators	Tower companies	Equipment vendors	
Stamp Duty	Telecom operators	Tower companies	Vendors/retailers	Service providers
License Fee	Telecom operators	Internet Service Providers (ISP)		Device dealer
Spectrum Fee	Telecom Operators		Internet Service Providers (ISP)	
Numbering Fee	Telecom Operators			
Company Registration	Telecom operators	Tower companies	Vendors/retailers	Service providers
Universal Service Fund	Telecom Operators			

Overview of fiscal policy in Myanmar telecom sector (1/3)



NON EXHAUSTIVE

TAX TYPE	DESCRIPTION	TAX RATE
Corporate Income Tax	All enterprises that do not enjoy tax incentives are subject to income tax.	25%
Capital Gain Tax	Income tax is levied on gains from the sale, exchange or transfer of capital assets, i.e. any land, building, vehicle and any capital assets of an enterprise, which include shares, bonds and similar instruments	10%
Commercial Tax	Commercial tax is imposed on a wide range of goods, imported into or produced in Myanmar, trading sales, and services.	5%
Withholding Tax	Any person making some kind of payments is required to withhold income tax at the time of payment at the specific WHT rates	2-15%
Custom Duty	Customs duty is levied under the Customs Tariff of Myanmar (2012) at rates of up to 40%.	up to 40%
Stamp Duty	Stamp duty is a form of tax charged on certain legal instruments (e.g. lease contracts or share transfers) and requires the use of impressed or adhesive stamps on the instrument.	Vary

Overview of fiscal policy in Myanmar telecom sector (2/3)



NON EXHAUSTIVE

TAX TYPE	Description	
License Fee	Registration Fee (One-off)	<p>License fee may vary depending on the types of license. There are 4 different types of license :-</p> <ol style="list-style-type: none"> 1) NFS-I License (e.g. telecom operator) 2) NFS-C License (e.g. tower companies, satellite companies) 3) NS License 4) AS License (e.g. value-added service provider) <p>License term is 15-year.</p>
	Initial Fee (One-off)	
	Annual Regulatory Fee	
	Fee to provide additional service	
	Renewal Fee	
	Penalties for non-payment of fees	
Spectrum Fee	Initial Fee (One-off)	<p>Spectrum license term is 15 year. Method of assigning frequencies (license awarding method):</p> <ul style="list-style-type: none"> • First come, first served (<i>Non-market-based</i>) • Tender (or) Beauty contest (<i>Non-market-based</i>) • Auction (<i>Market-based</i>) <p><i>Note: Spectrum MHz (such as 900MHz, 2100MHz and 1800MHz) were assigned to mobile operators.</i></p>
	Spectrum Management Fee	
	Renewal Fee	
	Other Fee	
	Penalties for non-payment of fees	
Numbering Fee	To be invoiced and collected by the Department	

See slide #21 for detail

See slide #22 for detail

** **The Department** means Posts and Telecommunication Department under Ministry of Transport and Communications

Overview of fiscal policy in Myanmar telecom sector (3/3)



NON EXHAUSTIVE

TAX TYPE	DESCRIPTION	TAX RATE
Company Registration Fee	Registration fee is payable to the Directorate of Investment and Company Administration (DICA) for setting up a company or a branch in Myanmar.	Vary
Universal Service Fund	USF is to ensure that all people in a country have access and are able to use telecommunications services, in particular for people living in rural and remote parts of the country and poorer households	N/A

Corporate Income Tax

Corporate Income Tax

All enterprises that do not enjoy tax incentives are subject to income tax at **25 percent**

<u>Typical type of enterprises</u>	<u>Income Tax Rate</u>
Companies incorporated in Myanmar under the Myanmar Companies Act <ul style="list-style-type: none"> • Trade / business income • Rental income from movable or immovable property 	25%
Enterprises operating under MFIL	25%
Foreign organization engaged under special permission in State-sponsored projects, enterprise or any undertaking	25%
Non-resident foreign organizations such as a branch of a foreign company	25%

Tax residence and basis of taxation

<i>Tax residence</i>	<i>Description</i>	<i>Scope of taxation</i>
Resident companies	A company incorporated under the Myanmar Companies Act or any other existing law of Myanmar	On a worldwide basis
Non-resident companies	Foreign branch	On income derived from sources within Myanmar

* A **company operating under the MIC permit** is entitled to enjoy certain exemptions and relief from taxes.

Capital Gain Tax

Capital Gain Tax

Income tax is levied on gains from the sale, exchange or transfer of capital assets, i.e. any land, building, vehicle and any capital assets of an enterprise, which include shares, bonds and similar instruments at the rate of **10 percent**

<u>Typical type of enterprises</u>	<u>Tax Rate</u>
• Resident companies	10%
• Non-resident companies	10%

* Except transfer of shares in an oil and gas company where the rates ranging from 40% to 50% will apply on gain

Commercial Tax

Commercial Tax

Generally, **5 percent** of commercial tax is imposed on a wide range of goods, imported into or produced in Myanmar, trading sales, and services.

General Concept



- Not Value Added Tax (VAT) system
- Turnover tax is commercial tax that is non broad-based
- Tax rates: 0-8% (Generally, 5%)

Tax Implication

Commercial tax ("CT") is levied on four types of taxable person:

- Producer of prescribed goods
- Provider of prescribed services
- Traders of goods
- Importer of goods

No CT is imposed if the amount of sales or receipt from services for a financial year, i.e. 1 April till 31 March of the following year, is not more than **MMK50m** under the Union Taxation Law 2017 (prior to 1 April 2017, the threshold was MMK 20m)

Further Note:

- There are some goods and services exempted from commercial tax under the Union taxation law 2017. Please refer to Union Taxation Law 2017 for detailed information. However, none of them are directly impact on telecom sector.

Withholding Tax

Withholding Tax

Any person making the following payments is required to withhold income tax at the time of payment at the rates between **2 - 15 percent**.

Kind of payment	Percentage to be deducted from payments to:	
	Residents	Non-residents
Dividend	0%	0%
Interest payment for a loan or indebtedness or a transaction of a similar nature.	None	15%**
Royalties for the use of licenses, trademarks, patent rights, etc.	10%	15%
Payment by State organizations, State enterprises, Development Committees, Co-operative societies, foreign companies, foreign enterprises and organizations, local companies and under an existing law for purchase of goods, work performed or supply of services and hiring within the country under a tender, contract, quotation or other modes (other than the services mentioned in above items of this table)	2%	2.5%

** The interest payment for a loan or indebtedness or a transaction of similar nature or saving made to a branch of non-resident foreigner bank within the country will not be subject to WHT.

Further Note:

- The Ministry of Planning and Finance issued Notification 2/2017 dated 10 January 2017 ("Notification 2") and the above percentage has reflected it.
- **Exemption of WHT** if the interest payment for a loan or indebtedness or a transaction of similar nature or saving is made to a branch of non-resident foreigner within the country.

Custom Duty

Custom Duty

Customs duty is levied under the Customs Tariff of Myanmar (2012) at rates of **up to 40%**.

- Custom duty is levied in accordance with the Sea and Land Customs Act.
- Customs duty is levied on Assessment Value and is payable according to the tariff schedule listed by HS code published by the Customs Department.

Importation

Advance payment of
2% Corporate Income
Tax (CIT)



5%
Commercial
Tax (CT)



Custom
Duty

Stamp Duty

Stamp Duty

Stamp duty is a form of tax charged on certain legal instruments (e.g. lease contracts or share transfers) and requires the use of impressed or adhesive stamps on the instrument.

- The Stamp Act, as amended on 1 August 2017, is the fundamental legislation in respect of stamp duty (“SD”) obligations.
- The main purpose of levying SD is to give legal effect to chargeable instruments.
- Chargeable instruments are documents that create, transfer, extinguish or record rights or obligations.
- As a general rule, SD is levied on all chargeable instruments, unless explicitly exempted.

Further Note:

- **Exemption of Custom Duty:** Companies registered under the MIC/SEZ Committee may, at the discretion of the MIC/SEZ, be granted exemption from customs duties during certain stipulated periods

Penalties for non-payment of taxation



NON EXHAUSTIVE

Tax	Payment	Filing	Penalty
Corporate Income Tax	Payments quarterly, within 10 days after the end of each quarter	Annual return by 30 June	Yes, if taxes are not paid by 10 April and the return is not filed by 30 June. 10% of total payable tax as a late payment penalty and late filing penalty.
Withholding Tax	Payment within 7 days of payments to suppliers. In practice, the returns and payments are done on a monthly basis.		The IRD may recover the applicable WHT amount from the payer in case deduction of WHT was not made.
Commercial Tax	Payment on a monthly basis within 10 days after the month-end	Quarterly, within one month of the end of each quarter and annual returns by 30 June	10% of CT due as a late payment penalty and 10% of annual CT payable levied on annual total revenue as late filing penalty.
Stamp Duty	Payment before or at the time of execution of the instruments		Penalty of 10 times the amount of the overdue SD.

Abbreviation

CIT = corporate income tax
 WHT = withholding tax
 CT = commercial tax
 SD = stamp duty
 IRD = Internal Revenue Department

Reference: Myanmar Tax Booklet 2017 by VDB Loi

Licensing fees

According to Licensing Rule Schedule A



TYPE OF LICENSE					
License Fee	Telecom Service License				Telecom Equipment License**
	NFS (I) License	NFS (C) License	NS License	AS License	
Application / Registration Fee	MMK 10,000,000	MMK 2,500,000	MMK 5,000,000	MMK 2,500,000	MMK 5,000
Initial Fee	MMK 50,000,000	MMK 12,500,000	MMK 25,000,000	MMK 10,000,000	None
Annual Regulatory Fee	2% of relevant revenues	0.5% of relevant revenues	1% of relevant revenues	0.5% of relevant revenues	None
Fee to provide additional services	MMK 50,000,000	MMK 1,250,000	MMK 2,500,000	MMK 1,250,000	N/A
Renewal Fee	MMK 50,000,000	MMK 12,500,000	MMK 25,000,000	MMK 10,000,000	None
Other Fee	To be determined by the Ministry				
Penalties for non-payment of fees	For any fees failure to pay within 30 days, penalties (i.e. <i>principal due amount due + interest***</i>) will be charged.				

** **Telecom Equipment License** is required to apply in order to possess and use such equipment as 1) Satellite equipment (eg. satellite telephones) 2) Radar equipment and devices, and 3) HF radio equipment.

*** **Interest Rate** is the rate to be specified by the Ministry based on the then-prevailing commercial lending rate in the Republic of the Union of Myanmar

Spectrum Fees

according to Spectrum Rule (7 March 2016)



TYPE OF PAYMENT	Spectrum Fee	All type of spectrum licenses ¹
	Initial Fee	Fixed fee ²
	Spectrum Management Fee	Vary (Some are fixed fee and others are variable fee. For variable fee, calculation depends on specific type of service). Calculation³: Spectrum Usage Fee = (Bandwidth x Price/MHz x Frequency Constant) + Minimum Charge)
	Renewal Fee	1% of the Licensee's average annual Relevant Revenue for the three previous calendar years multiplied by the number of years that the License is to be extended.
	Other Fee	To be determined by the Ministry
	Penalties for non-payment of fee	For any fees failure to pay within 30 days, penalties (i.e. <i>principal amount due + interest</i> ⁴) will be charged.

¹ **Type of spectrum licenses:** According to Spectrum Rule, 7 March 2016, there are different types of spectrum license: 1) public land mobile spectrum license, 2) maritime station license, 3) aircraft station license, 4) satellite spectrum license, 5) private network spectrum license, 6) fixed spectrum licenses, 7) broadcasting spectrum licenses, 8) amateur spectrum licenses, 9) government spectrum use licenses, 10) other radio communication services, and 11) special temporary licenses.

² **Initial fee:** For licenses awarded according to non-market-based method, the Ministry determines the fee. For licenses awarded according to market-based method, initial fees will be those submitted by the winning bidder(s) in the auction

³ **Calculation for spectrum management fee:** The same calculation is used for the public land mobile spectrum licenses, satellite spectrum licenses and fixed spectrum licenses.

⁴ **Interest Rate** is the rate to be specified by the Ministry based on the then-prevailing commercial lending rate in the Republic of the Union of Myanmar.

Sources

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THANK YOU!



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