

**Government of the Republic of the Union of Myanmar**

**Ministry of Finance and Revenue**

**INCOME-TAX LAW**

**November 2011**

**(As amended up to November 2011)**

**CHAPTER I**

**Title, Application and Definitions**

Title and coming into force

1. (a) This Law shall be called the Income-tax Law.
- (b) This Law shall come into force with effect from 1974-75 assessment year.

Extent

2. This Law shall extend to the whole of the Republic of the Union of Myanmar and shall also apply to all the citizens of the Republic of the Union of Myanmar residing outside the Republic of the Union of Myanmar.

Definition

- 3 The following expressions contained in this Law shall have the meanings given hereunder;-
  - (a) Myanmar means the Republic of the Union of Myanmar ;
  - (b) This Law means the Income-tax Law ;
  - (c) Rules means rules made under this Law;
  - (d) Tax means income-tax payable under this Law, and includes penalty imposed under this Law;
  - (e) Assessee means a person who, having received assessable income under this Law, is liable to pay income-tax on that income;

- (f) Income received means income received or deemed to be received, or income which has accrued or arisen or which is deemed to have accrued or arisen;
- (g) Year means the financial year;
- (h) Income year means the year in which income is received;
- (i) Assessment year means the year next following the income year;
- (j) Association of persons includes partnerships, joint-ventures, companies, associations formed by individuals, an association or institution formed and registered under existing law, co-operative societies and Government economic enterprises;
- (k) Resident foreigner means:-
  - (i) in the case of an individual, a foreigner who resides in Myanmar for not less than one hundred and eighty three days during the income year;
  - (ii) in the case of a company, a company formed under the Myanmar Companies Act or any other existing law wholly or partly with foreigner share-holders;
  - (iii) in the case of an association of persons other than a company, an association formed wholly or partly with foreigners and where the control, management and decision making of its affairs is situated and exercised wholly in Myanmar;
- (l) Non-resident foreigner means any foreigner who is not a resident foreigner;
- (m) Non-resident citizen means any citizen of the Republic of the Union of Myanmar who resides and earns income outside Myanmar during any time in a year of income;
- (n) Total income means the following income received in the income year:-

- (i) in the case of a resident citizen or a resident foreigner, all income received within and without the Myanmar;
  - (ii) in the case of a non-resident citizen, all income as prescribed by the Rules;
  - (iii) in the case of a non-resident foreigner, or a foreigner or a foreign economic organization investing under the Republic of the Union of Myanmar Foreign Investment Law, all income received within Myanmar;
- (o) Company means a company as defined in the Myanmar Companies Act or in any other existing law. This expression includes any foreign economic enterprise carrying on business in Myanmar which is treated as a company by the Union Government for the purposes of this Law;
- (p) for the purpose of this Law, Citizen includes an associate citizen or a naturalized citizen;
- (q) Capital Asset means any land, building, vehicle and any capital asset connected with an enterprise; This expression includes shares, bonds and similar instruments.
- (r) Capital gain means any profit realized from the sale, exchange or transfer of any capital asset. Any inheritance, gift without consideration and donation shall not be included within the meaning of the term transfer.
- (s) Township Revenue Officer means the officer in charge of the Township Revenue Office authorized to make assessments of taxpayers under this Law. This expression also includes staff officers of the Companies Circle Tax Office authorized to make assessments of taxpayers.
- (t) defaulter means:

- (i) a person who fails to pay any amount of tax specified in the notice of demand within the time mentioned in that notice, or within the time extended for payment
- (ii) a person who fails to deduct and remit the tax under this Law for such payment

## **CHAPTER II**

### **Charge of Income Tax**

4. The Ministry of Finance and Revenue may with the approval of the Union Government:-

#### Charge of income-tax

- (a) prescribe, amend and add by notification the following:
  - (i) assessable total income;
  - (ii) rates of income-tax for each class of income;
  - (iii) rates of income-tax for each class of income and assessable income in respect of foreign currency receipts.
- (b) issue a notification under sub-section (a),
  - (i) the date of effect or the assessment year shall be specified;
  - (ii) the tax shall be charged at rates prescribed for each class of income for those who receive assessable total income within the year relating to the assessment year or the date of effect as the case may be.

#### Exemptions

5. (a) The following classes of income are exempt from income tax:-
- (i) income received by a religious or charitable institution and applied solely for religious or charitable purposes;
  - (ii) income of a local authority;
  - (iii) any receipt in respect of savings as prescribed by the Rules;

- (iv) a sum received in commutation of a pension;
- (v) compensation received for death or injury;
- (vi) a sum received from an insurance; policy (vii) any receipt of a casual and non-recurring nature excluding the following:-
  - (aa) capital gains under section 13;
  - (bb) income from an enterprise;
- (viii) dividends from an association of persons.
- (b) The Union Government may, in respect of any assessee or any class of assessee or any income or any class of income, grant the following:-
  - (i) tax exemption;
  - (ii) tax relief;
  - (iii) other benefits in respect of tax.
- (c) The Union Government may, in respect of any newly established economic enterprise or any class of newly established economic enterprises, within in the public sector, the co-operative sector, or the private sector in Myanmar, grant tax exemption up to a period of three consecutive years commencing from the year of establishment.
- (d) Where benefits in respect of income-tax are prescribed in any other existing law, those benefits shall be allowed accordingly.

### Reliefs

- 6. (a) The Ministry of Finance and Revenue may with the approval of the Union Government prescribe amend and add the following allowances by notification:
  - (i) basic allowance in respect of an association of persons;
  - (ii) basic allowance in respect of an individual and allowance in respect of spouse and children;
- (b) In issuing a notification under subsection (a) the date of effect or the assessment year shall be specified.

- (c) The following amount shall be deducted from the total income and the tax shall be computed on the remaining amount of income:-
- (i) basic allowance in the case of an association of persons;
  - (ii) in the case of an individual:---
    - (aa) basic allowance;
    - (bb) allowance in respect of the spouse and children of the assessee;
    - (cc) premium paid for the life insurance policy of an assessee and spouse;
    - (dd) contribution towards savings funds as prescribed by the Rules.

Provided: Sub-section (a) & (c) shall not apply to the computation of capital gains under section 13 or non-resident foreigner under section 26.

- (d) in making an assessment under sub-Section (c) contributions to religious or charitable institutions, sponsored by the State, or recognized by notification by the Ministry of Finance and Revenue may be deducted but the deductions shall not exceed 25 per cent of the total income of the assessee.

Explanation: Charitable institutions under Sub-section (d) include institutions relating to education, health and relief for the poor.

### **CHAPTER III**

#### **Powers and Duties**

##### Powers and duties

7. The Ministry of Finance and Revenue of the Union Government may with the approval of the Union Government form committees to exercise the powers conferred under this Law by notification. If necessary, the Ministry of Finance and Revenue of the Union Government may with the approval of the Union

Government, by notification delegate the powers and duties of any of the committees to any individual.

## **CHAPTER IV**

### **Computation of Income**

#### Heads of income

8. (a) Income shall be computed under each of the following heads of income:-
- (i) salaries;
  - (ii) profession;
  - (iii) business;
  - (iv) property;
  - (v) capital gains;
  - (vi) undisclosed sources of income;
  - (vii) other sources of income.
- (b) In the case of income from salaries or capital gains the tax shall be separately assessed under each head of income.
- (c) In the case of other heads of income, income from each head shall be aggregated and an assessment shall be made on the total income.

#### Salaries

9. The tax shall be payable by any person under the head salaries in respect of the following income received or receivable by him from his employer:-
- (a) salary, wages, annuity, pension, gratuity; and
  - (b) any fees, commissions or perquisites received in lieu of or in addition to any salary and wages.

#### Profession

10. (a) The tax shall be payable by any person under the head profession in respect of the income received from his profession.

- (b) In computing that income, expenditure incurred for the purpose of earning that income, and depreciation allowance prescribed by the Regulations, shall be deducted.

Provided that the following shall not be deducted:-

- (i) capital expenditure;
- (ii) personal expenditure;
- (iii) expenditure not commensurate with the extent of the professional service.

Explanation 1.- Profession means rendering of service for fees with one's skill and includes services rendered for fees by a doctor, a nurse, a lawyer, an engineer, an architect, a film artiste, a theatrical artiste, a writer, a painter, a sculptor, an accountant, an auditor, an astrologer, a teacher, etc.

Explanation 2.- In computing income from profession, only the income received by way of fees other than salary shall be included.

Explanation 3.- If the professional service is not rendered personally but by employing some other person, it shall be treated as a business and assessed accordingly.

### Business

11. (a) The tax shall be payable by any person under the head business in respect of his income derived from business.

- (b) In computing that income, expenditure incurred for the purpose of earning that income, and depreciation allowance as prescribed by the Regulations , shall be deducted.

Provided that the following shall not be deducted;

- (i) capital expenditure;
- (ii) personal expenditure;
- (iii) expenditure not commensurate with the volume of business;

- (iv) payment made to a member of an association of persons other than a company and a co-operative society.

Provided that payment made for professional service shall be deducted.

Explanation- Business includes investments made for purposes of earning interest, as well as income from securities, treasury bonds and debentures.

### Property

12. (a) The tax shall be payable by any person under the head property, in respect of the income received by letting land, or land and building.

Explanation--- Letting land, or land and building include subletting land or building.

- (b) In computing that income, the expenditure incurred for earning that income shall be deducted from the actual rent receivable or the annual rental value as assessed by the local authority, whichever is greater.

Provided that the following shall not be deducted:-

- (i) capital expenditure;
- (ii) personal expenditure;
- (iii) inappropriate expenditure.

### Capital Gains

13. The tax shall be payable by any person under the heading capital gains in respect of the gains realized from the sale, exchange or transfer by any other means of one or more capital assets within a year. Capital gains shall be computed and assessed in accordance with the Rules.

### Undisclosed sources of income

14. The tax shall be payable by any person under the head undisclosed sources of income in respect of any immovable property or movable property

including money for which he is unable to account for . Income under this section shall be computed in accordance with the Rules.

#### Other sources of income

14A. The tax shall be payable under the head other sources of income in respect of the income which is not included under any of the preceding heads of income.

In computing that income, expenditure incurred for the purposes of earning that income shall be deducted. Provided that the following shall not be deducted:-

- (a) capital expenditure;
- (b) personal expenditure;
- (c) inappropriate expenditure;

14B. Income derived from property or business transferred by an assessee, either directly or indirectly, without sufficient cause, to his wife or unmarried children, shall be included in the total income of the assessee and the assessment shall be made on that total income.

## **CHAPTER V**

### **Payment of Tax at the time of receiving Income**

#### Payment of tax at the time of receiving income

15. (a) Whoever has a total income or capital gains chargeable to tax in any year shall be liable to pay income-tax at the time of receiving that income.
- (b) If the Township Revenue Officer considers a person has total income or capital gains, chargeable to tax, in the income year, he may require that person to pay income tax, based on information available to him.

## Procedures for deduction and payment

- 16 (a) Income-tax payable under section 15 shall be the tax due as computed on the estimated total income of that year. The tax shall be paid either in monthly or quarterly installments. However, if that income is from capital gains by means of sale, exchange or other transfer, the tax shall be paid within 30 days starting from the date of the sale, exchange or transfer.
- (b) If the total income comprises income solely under the head salaries, the tax due in respect of that income shall be paid out of that income whenever it is received.
- (c) If the total income includes income under any of the other heads, in addition to income under the head salaries, the tax in respect of the income under the head salaries shall be paid as prescribed under subsection (b) and the remaining tax shall be paid as prescribed under subsection (a).
- (d) Any person responsible for disbursement of payments under the head salaries shall, at the time of payment, deduct income- tax on the amount payable. In so deducting, the income of the assessee for the year under the said head shall be estimated, and the tax due there on shall be deducted in as much equal installments as possible.  
Provided that if the tax has been deducted in excess or less during the year in which income is received, it may be adjusted in the remaining installment or installments.
- (e) The Ministry of Finance and Revenue may with the approval of the Union Government by notification, direct a person responsible for disbursement of money to deduct and remit the tax in respect of any class of income other than the income under the head salaries.

- (f) The person who has made a deduction under sub-section (d) and (e) shall pay the amount to the credit of the Union Government within the prescribed period, and shall comply with all the conditions prescribed.
- (g) A person who fails to deduct and pay the tax under sub-section (d) and (e) without sufficient cause shall be deemed to be a defaulter. The Ministry of Finance and Revenue of the Union Government may by notification fix the penalty for that default.
- (h) If the tax payable under this section remains unpaid or if the tax paid is less than the amount due under the relevant assessment, a penalty equal to ten percent of the amount by which the tax so paid falls short of the actual tax payable shall be imposed. Provided that no penalty is payable under this section in respect of the tax liable under sub-section (d) and (e) .

Explanation--- The person responsible for disbursement under this section means: where the enterprise is owned by an individual the owner himself; and where the enterprise is owned by an association of persons that association itself. In the case of the Union Government or a local authority, the person responsible is the administrative official responsible for disbursement of the relevant money.

## **CHAPTER VI**

### **Filing of Return of Income and Annual Salary Statement**

#### Return of income

17. (a) Every person who has assessable total income in any income year shall file a return of income for that year as prescribed by the Regulations within three months from the end of that year. Provided that a person who has income only under the head salaries is not so required.

- (b) Notice may be served upon any person to file his return of income in accordance with the Regulations.
- (c) Whoever, having filed a return of income, wishes to amend his return for some mistakes in the return, may file a revised return before the assessment is made.

#### Annual Salary Statement

18. An employer shall file yearly the annual salary statement as prescribed by the Regulations within three months from the end of the income year.

### **CHAPTER VII**

#### **Assessment of Income-tax**

#### Assessment

19. (a) If it is satisfied that the return of income filed under section 17 is correct and complete, income-tax shall be assessed on the basis of that return.
- (b) The Township Revenue officer may, if necessary, give notice to a person who has already filed a return of income or upon whom a notice has been served to file the return, to produce supporting evidence, accounts, and a list of property not included in the accounts. The person may also be required to attend for examination. The list of property mentioned in this sub-section may be prescribed by regulations.
- Provided that, the accounts relating to a period of more than three years prior to the income year shall not be called for examination.
- (c) If the income can be correctly computed from supporting evidence produced by the assessee under sub-section (b), income-tax shall be assessed on the basis of that supporting evidence.

Provided that if the income cannot be correctly computed from the supporting evidence supplied by the assessee, income-tax shall be assessed after scrutinizing other supporting evidence required by the Township Revenue Officer.

- (d) A person who fails to file the return of income under sub-section (a) of section 17 or under sub-section (b) of that section, or who fails to comply with the requirements of the notice given under sub-section (b) of this section shall be assessed by the Township Revenue Officer on the basis of available supporting evidence.

#### Set-off of Loss

20. (a) If there is any loss from a source of income, any loss shall be setoff against the income from the remaining sources of income of that year. In doing so, the loss shall be set-off in stages among the sources of income starting with the income at the lowest income tax rate and then on to income at higher income-tax rates.

Provided that this section shall not apply to the following:-

- (i) loss in respect of capital assets;  
(ii) the share of loss from an association of persons.

### **CHAPTER VIII**

#### **Procedures relating to Assessment of Income-tax in Certain Special Cases**

##### Income that has escaped assessment

21. (a) If it is found necessary, on account of the fraudulent intention of any person, to make an assessment or re-assessment on the income which has escaped assessment of tax under this Law and assessment or re-assessment may be made at any time after the end of the relevant assessment year. Provided that such assessment shall be made only after obtaining prior sanction from the Ministry of Finance and

Revenue of the Union Government. Prior sanction shall only be accorded where it is of opinion that in the circumstances of each particular case, there is an intention to defraud in order to evade tax under this Law.

Provided that the assessment as aforesaid shall be made at the rates of income-tax prevailing in the relevant assessment year.

- (b) In any case where sub-section (a) is not applicable, assessment or re-assessment as mentioned above shall be made only within three years from the end of the following matters:-
- (i) income chargeable to income-tax has escaped assessment;
  - (ii) income has been under-assessed; or
  - (iii) assessment has been made at a low rate;
  - (iv) relief in excess of the amount actually allowable under the Law has been allowed.

#### Rectification of mistakes

22. (a) Any person authorized under section 7 of this Law may, within three years from the date of order passed by him or by any equivalent authority under this Law, rectify any mistake apparent from the record and shall within the period rectify any mistake which has been brought to his notice by the assessee.

Provided that no such rectification having the effect of increasing the assessment or reducing the refund shall be made unless the assessee concerned has been given an opportunity of being heard.

- (b) Amending the original amount of the penalty imposed under subsection (a) of section 46, or sub-section (b) of section 47, or subsection (c) of section 47 on account of the difference of tax between the final assessment made under an order of appeal, revision or reference and the original assessment, shall be deemed to be a

rectification of mistake apparent from the record within the meaning of sub-section (a). For this purpose the period of three years mentioned in sub-section (a) shall be computed from the date on which the final order has been passed.

#### Assessment of deceased and legally incapable persons

23. Income-tax shall be assessed on the legal representative or on the person legally responsible in connection with the relevant income in the following cases:-

- (a) deceased person;
- (b) legally incapable person, sue to certain reason;
- (c) a person who cannot undertake lawful responsibility in providing solution.

Provided that income-tax payable under this section by the legal representative or legally responsible person shall only be to the extent to which the estate which they have taken responsibility is capable of meeting the tax assessed.

#### Liability when business is discontinued

24. When a business is discontinued, every person who has a share in that business at the time of discontinuance shall in respect of the income of that business be jointly and severally liable to assessment of income-tax and for the amount of tax payable.

#### Change of ownership of business

25. When a business is succeed by a person from the owner of that business an in case if there is difficulty in communication with that owner the successor shall be treated as the agent of the previous owner and income-tax shall be assessed for the following periods:-

- (a) the period in the income year of succession within which the previous owner carried on the business;

- (b) the income year preceding the income year of succession;

#### Assessment of non-resident foreigner

26. (a) If a non-resident foreigner has received income by any of the following means, that income received shall be deemed to be income received within Myanmar and income-tax shall be assessed accordingly:
- (i) income received from any capital asset within Myanmar ;
  - (ii) income received from any source of income within Myanmar ;
- (b) In lieu of the non-resident foreigner, income-tax may be assessed and collected from his agent in respect of that income. Any arrears of income- tax may be recovered from any assets of the non-resident foreigner which are, or may at any time come, within Myanmar.

#### Treatment as agent

27. The Township Revenue Officer may, after informing any of the following persons his intention of treating him as agent of the non-resident foreigner or non-resident citizen, deem him as such agent for all income tax purposes :-
- (a) any person delegated in anyway by a non-resident foreigner or by a non-resident citizen in respect of his income;
  - (b) any person who has a business connection with that non-resident person ;
  - (c) any person who is receiving income on behalf of that non-resident person;
- Provided that the person whom it is intended to be treated as the agent shall not be treated as such under this section without giving him an opportunity of being heard.

#### Assessment of shipping business

28. (a) If a non-resident foreigner carries on a business as owner or charterer of a ship in any year he shall be assessed in accordance with the Rules.

- (b) A person who is authorized to grant a port clearance certificate shall deliver the certificate only when the master of the ship, the ship owner, or the agent of the charterer, has produced the certificate that income-tax has been fully paid, or satisfactory arrangement has been made for the payment of income-tax.

#### Assessment within the income year

29. Where the Union Government prescribes by notification in respect of any class of assessee or any class of income, that the income year shall be the assessment year, or that assessment may be made within the income year, or how a particular assessment shall be dealt with, the assessment concerned shall be made in accordance with the prescribed Rules.

#### Other matters

30. (a) Assessment and collection of tax for the following shall be made in accordance with the prescribed rules or regulations:-
- (i) economic organizations of the Union Government;
  - (ii) a foreigner or an association of persons formed abroad, participating in Union Government or Union Government sponsored project, business enterprise or any particular work with the approval of the Government;
  - (iii) a co-operative society;
  - (iv) a non-resident citizen;
  - (v) a person receiving income in foreign currency.
- (b) Provisional assessment in respect of any person who has filed a return of income shall be made as prescribed by the Regulations.

## **CHAPTER IX**

### **Agreement made between States**

#### Making agreement with other states

31. The Union Government may
- (a) enter into an agreement with any foreign state or with any international organization relating to income-tax and if the agreement is notified, the terms of the said agreement shall be followed, notwithstanding anything contained in any other provisions of the Law.
  - (b) publish the Agreement in the Official Gazette.

## **CHAPTER X**

### **Appeal, Revision and Reference**

#### First Appeal

32. (a) If the assessee is not satisfied with any Order concerning him passed by the Township Revenue Office, he may appeal to the Region or State Revenue Office or Head of the Company Circle Tax Office in accordance with the regulation prescribed.
- (b) The assessee shall present a memorandum of appeal within thirty days of the receipt of the notice of demand or of the order with which he is dissatisfied.
- Provided that the Region or State Revenue Office or Head of the Company Circle Tax Office may admit the appeal after the expiry of thirty days if it is satisfied that there is sufficient cause for not presenting it within the thirty days.
- (c) An assessee desiring to appeal has the right to present the appeal under this section only after he has complied with the following:-
- (i) income-tax payable has been fully paid; or

- (ii) application is made to the Committee delegated by the Union Government for this purpose and has complied with the decision of that Committee in respect of that tax;
- (d) In disposing of the appeal, the Region or State Revenue Officer or Head of Company Circle Tax Office shall give the appellant an opportunity of being heard and may pass any order thereon as he thinks fit.  
Provided that if an increase of income-tax is intended, the appellant shall be allowed an opportunity to show cause why it shall not be increased.

### Second Appeal

33. (a) If the appellant assessee or the Township Revenue Officer is not satisfied with the order of the Region or State Revenue Office or Head of the Company Circle Tax Office, an appeal may be referred to the Revenue Appellate Tribunal within sixty days of the receipt of that order.
- (b) The Revenue Appellate Tribunal may admit an appeal under this section after the expiry of sixty days referred to in sub-section (a) if it is satisfied that there was sufficient cause for not presenting it within that period.
- (c) In an appeal under this section, the memorandum of appeal to the Revenue Appellate Tribunal shall be presented in accordance with the procedure laid down by that Committee. When the appeal is referred by an assessee, documentary proof for payment of Kyats one thousand as a fee must be attached.
- (d) The Revenue Appellate Tribunal, after giving the appellant and the respondent an opportunity of being heard, shall pass such orders thereon as it thinks fit regarding the appeal.

- (e) Except as provided in section 34, the orders of the Revenue Appellate Tribunal passed in an appeal shall be final.

Explanation- The Revenue Appellate Tribunal appearing in this section and in succeeding sections means the Committee delegated by the Ministry of Finance and Revenue of the Union Government under section 7 to dispose of second appeals referred either by the assessee or the Township Revenue Officer who is dissatisfied with the order of the Region or State Revenue Officer or Head of the Company Circle Tax Office.

#### Limitations

33A. The order of the Township Revenue Officer shall be final if the tax is up to 30,000 Kyats; the decision of the Region or State Revenue Officer or Head of Company Circle Tax Office shall be final if the tax is up to 100,000 Kyats; and the decision of the Revenue Appellate Tribunal shall be final if the tax exceeds 10,000 Kyats and if no question of law arises.

#### Reference for decision

34. (a) If there is any question of law arising from the order of the Revenue Appellate Tribunal, the assessee or the Region or State Revenue Officer or Head of Company Circle Tax Office may within sixty days after the receipt of the order of the Tribunal, propose to the Tribunal to refer the case to the Supreme Court.
- (b) If the Revenue Appellate Tribunal for any reason refuses to draw up a statement of the case and refer it to the Supreme Court, the person whose proposal is rejected may apply to the Supreme Court within sixty days of the receipt of the rejection order to direct the Revenue Appellate Tribunal to draw up a statement of the case and refer the statement of case to the Supreme Court.

- (c) If the Supreme Court accepts that there is question of law arising out of the case which requires decision, then the Supreme Court shall decide that question and it shall inform the Revenue Appellate Tribunal of its judgment .
- (d) An appeal shall lie to the Supreme Court from an order passed by it under sub-section (c).

### Revision

35. (a) The Revisional Committee may, within three years from the date of the order passed by the Township Revenue Officer under this Law, call for the records of proceedings on its own motion or on the application of the assessee, to revise that order. The Revisional Committee may make the necessary enquiry or may cause such enquiry to be made when the records of proceedings are received. An appropriate order may be passed at any time thereafter. Provided that in passing the following orders, the assessee shall be given an opportunity of being heard:-
- (i) an order increasing the amount of income-tax payable by the assessee;
  - (ii) an order reducing the amount of refund to be paid to the assessee;
  - (iii) an order setting aside the assessment made on the assessee.
- (b) The Revisional Committee shall not revise any order under this section if:-
- (i) an appeal lies to the Region or State Revenue Office or Head of the Company Circle Tax Office and the time allowed for presenting the appeal has not expired; or
  - (ii) the order is one where an appeal has been referred to the Region or State Revenue Office or Head of the Company Circle Tax Office.

- (c) Application for revision by an assessee can only be made when he has complied with the provisions under sub-section (c) of section 32.

Explanation- The Revisional Committee mentioned in this section means a Committee delegated by the Union Government under section 7 to open revision proceedings and exercise revisional powers regarding the order passed by the Township Revenue Officer, in the following cases:-

- (a) where the assessee being dissatisfied with the order of the Township Revenue Officer has applied for revision;
- (b) where the Revisional Committee is of the opinion that action taken by the Township Revenue Officer is incorrect.

#### Distribution of copies

36. Copies of order passed under section 32, 33 and 35 shall be sent to the relevant assessee, the Township Revenue Officer, Region or State Revenue Office or Head of the Company Circle Tax Office, as the case may be.

### **CHAPTER XI**

#### **Refund**

37. (a) If any person satisfies the Township Revenue Officer with supporting evidence that the amount of tax paid by him or on his behalf for any year exceeds the amount which he is properly chargeable under this Law, he shall be entitled to a refund of the excess. If any excess payment of tax has been found by the Township Revenue Officer the excess shall also be refunded to the relevant assessee.
- (b) The claim for refund must be made within one year from the date of receipt of the letter requesting the refund.

## **CHAPTER XII**

### **Matters relating to Persons Leaving the Union of Myanmar**

#### Requirement of certificate

38. (a) No person shall leave the Union of Myanmar unless he obtains a certificate from the authority delegated for this specific purpose stating that he has no liability to pay tax or that Satisfactory arrangement has been made for the payment of the tax.
- Provided that the Union Government may by notification make exceptions to the above requirement .
- (b) The owner or charterer of any vehicle who issues a ticket to carry any person from the Union of Myanmar to any place outside the Union of Myanmar has carried him by the vehicle without the certificate required by subsection (a) shall be liable to pay the amount of tax payable by that person, and shall also be liable to a fine which must not exceed ten thousand Kyats.

## **CHAPTER XIII**

### **Recovery of Tax**

#### Arrears to be recovered as money decree

39. (a) Any amount of tax specified in the notice of demand under section 53 shall be paid within the time mentioned in that notice or within the time extended for the payment. In case of failure so to pay, the unpaid tax shall be deemed to be an arrear and the person failing to pay the tax shall be deemed to be a defaulter.
- (b) The arrears of tax may be recovered from the defaulter by the Township Revenue Officer as if it were a money decree passed by a Civil Court.

- (c) For the purpose of recovering the arrears of tax under sub-section (b), the Township Revenue Officer shall have the following powers:-
- (i) the powers of a Civil Court in finalizing execution of a money decree ;
  - (ii) the appointment of a receiver for the whole of the property in which the defaulter has partial interest (a co-owner or co-sharer shall be advised before the appointment);
  - (iii) the right to sell the whole of the property and to distribute the sale proceeds, if the part of the property in which the defaulter has partial interest cannot be sold for any of the following reasons (before doing so, those having a beneficial interest shall be advised) :-
    - (aa) the nature of the property ;
    - (bb) the number of co-owners or co-sharers ;
    - (cc) other special circumstances ;
  - (iv) the right to sell the property to the co-owner or co-sharer where the sale is of indivisible immovable property and the said co-owner or co-sharer is one of the bidders who gives equal bid, and the right to sell the property to the person who first submitted his name if the number of co-owners or co-sharers who give equal bid is more than one.

Other modes of recovery

40. (a) The Township Revenue Officer may impose a penalty as required on the defaulter for the arrears of tax.  
Provided that the total amount of the penalty so imposed shall not exceed the arrears of tax.
- (b) The Township Revenue Officer may direct a person from whom money is due or may become due to the defaulter, or who holds or may

subsequently hold money for or on account of the defaulter, to pay that money for the arrears of tax on behalf of the defaulter. In so doing, it shall be directed that the tax shall be paid as soon as the money becomes payable, or when the money comes into possession, or within the time mentioned in the notice. If that money exceeds the arrears of tax, only the amount equal to the arrears of tax shall be paid and if it is equal to or less than the amount of arrears, the whole of the money shall be paid. A copy of the aforesaid intimation shall be sent to the last known address of the defaulter. The Township Revenue Officer may extend the time of payment mentioned in the notice.

- (c) Any person making payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the defaulter, and the receipt of the Township Revenue Officer shall constitute a good and sufficient discharge of the liability of the person to the defaulter to the extent of the amount referred to in the receipt.
- (d) If the person on whom a notice under sub-section (b) is served fails to make payment in pursuance thereof, further proceedings may be taken on the footing that the Township Revenue Officer notice has the same effect as a warrant of attachment of property under subsection (b) and (c) of section 39.
- (e) Where the person on whom a notice has been served under subsection (b) is able to show with supporting evidence to the Township Revenue Officer that the sum demanded or any part thereof is not due to the defaulter or that he does not hold any money for or on account of the defaulter, then he shall not be liable to pay under sub-section (b).

### Interlocutory order

41. Notwithstanding anything contained in any other law for the time being in force, no authority or court shall be competent to make an interlocutory order staying recovery proceedings under this Law. Provided that the aforesaid authority or court may pass an interlocutory order on the sale of property within its jurisdiction in the following cases:-
- (a) proceedings instituted by a person other than the defaulter, regarding the said property;
  - (b) in the case of proceedings instituted by an assessee, where an appeal or a revision or a reference preferred by the defaulter under this Law is pending.

## **CHAPTER XIV**

### **Supplemental Powers**

#### Power to call for information

42. Any Township Revenue Officer or Region or State Revenue Officer or Head of the Company Circle Tax Office or any person or committee delegated under section 7, may require any person who has any information relating to income tax, to provide such information.

#### Powers of Civil Courts

43. A Township Revenue Officer , Region or State Revenue Officer or Head of the Company Circle Tax Office and any committees delegated by the Government under section 7 shall have the same powers as are vested in a Civil Court in the course of proceedings under this Law. These revenue officers and committees shall be deemed to be functional courts.

#### Power to enter and inspect buildings

44. The Township Revenue Officer, Region or State Revenue Officer or Head of the Company Circle Tax Office and any committees delegated by the

Government under section 7, shall have the powers to carry out the following matters:-

- (a) the right to enter and inspect any place or building for purposes of assessment or disposal of any appeal;
- (b) the right to place marks of identification on the books of account or documents or to make extracts or copies there from in the course of entry into the premises and inspection thereof.

Power to search and seize books of accounts or documents

45. If the Township Revenue Officer or Region or State Revenue Officer or Head of the Company Circle Tax Office has reason to suspect that any books of account or documents have been withheld from production or may not forthcoming when required in the course of proceedings under this Law, that Committee has the following powers;-

- (a) the right to search any building, place, or business premises;
- (b) the right to seize any books of account or documents found in that place.

In case of such seizure;-

- (i) a receipt shall be granted;
- (ii) they shall be retained in its custody only for so long as may be necessary for examination pending the final disposal of the assessment or appeal as the case may be.

**CHAPTER XV**

**Offences and Penalties**

46 (a) If the Township Revenue Officer or in the course of any proceeding under this Law believes and is satisfied that any person fails without reasonable cause, to comply with the requirements under sub-section (a) or (b) of section 17 or under section 18 or under sub-section (b) of

section 19, a penalty not exceeding ten percent of the tax shall, in addition to the tax payable, be imposed for each default.

Explanation. The person who is liable to pay penalty for failure to comply with the requirement under section 18, is the one who is responsible to file the annual statement of salaries. The penalty payable by him shall be ten per cent of the tax required to be deducted from the salaries in accordance with that statement.

- (b) If any person fails to furnish information Under section 42, an extension of time up to fifteen days may be granted to him.
  - (i) If the assessee continues to fail to provide the information within the extended time, the Township Revenue Officer may, by exercising judicial powers conferred by section 43, issue a warrant causing him to be brought and may investigate why he fails to provide the information. If the cause of failure to provide is due to the loss of documents and the loss is not owing to his fault, he may then be allowed to divulge whatever he remembers by an affidavit.
  - (ii) If the Township Revenue Officer has found that there is no sufficient excuse for the failure to provide the information, he may be prosecuted. If the court finds him guilty, he shall be punishable with imprisonment for a term which may extend from one to three years.
- 47. (a) If the Township Revenue Officer in the course of proceedings finds that any person has concealed his income or concealed the particulars relating to his income, he shall be permitted to disclose those facts fully within the specified time.
- (b) If the person discloses fully in the specified time, he shall pay, in addition to the tax payable on his total income, a penalty equal to fifty

per cent of the amount of tax increased on account of the concealment.

- (c) If the person fails to disclose the particulars within the specified time or discloses less than the income concealed, he shall, in addition to paying the tax and penalty in accordance with sub-section (b), also be liable to prosecution. If the Court finds him guilty, he may be punishable with imprisonment for a term which may extend from three to ten years that no prosecution shall be instituted under this section without the prior sanction of the Ministry of Finance and Revenue of the Union Government for this purpose. The said authority shall, by taking into consideration the magnitude of that person's fraudulent intention to evade the tax leviable under this Law and the feasibility of such disclosure, decide whether to grant sanction or not. The time within which disclosure is allowed to be made may be extended if necessary.

#### Penalty for taking bribe

48. Whoever gives and takes bribes or attempts to do so in connection with this Law, shall be liable to be punished under the Penal Law or under any other law specifically enacted for this office.

#### Disclosure of Particulars

49. (a) All the particulars appearing in the proceedings dealt with under this Law shall be deemed to be of confidential nature. Notwithstanding anything contained in the Evidence Act, no Court shall be competent to summon any public servant to produce particulars or to give evidence in respect thereof.
- (b) No public servant shall disclose particulars except in the case of a matter relating to the Union Government.

- (c) Any public servant who contravenes the provisions of sub-section (b) shall be prosecuted and if he is found guilty he may be punished with imprisonment for a term up to 6 months.

Explanation Public servant means any person whom the Union Government has designated as a public servant from time to time.

#### Prosecution by sanction

50. Prosecution for the purpose of section 49, shall only be instituted with the prior sanction of the Ministry of Finance and Revenue of the Union Government.

### **CHAPTER XVI**

#### **Power to make Rules**

##### Power to make rules, regulations, etc.

51. To implement the provisions of this Law, the Ministry of Finance and Revenue of the Union Government may make if necessary:-
- (a) with the approval of the Union Government, by-laws, rules and regulations; and
  - (b) notifications orders, directives and procedures.

### **CHAPTER XVII**

#### **Miscellaneous**

##### Particulars to be contained in books of accounts

52. (a) All the accounts kept for the assessments under this Law shall be in Myanmar or in English.
- (b) The Ministry of Finance and Revenue of the Union Government may, by notification, prescribe regulations as to what particulars should be contained in the accounts of any class of income, or any class of assesseees.

### Notice of demand

53. When any tax becomes payable by an order passed under this Law, the Township Revenue Officer shall send to the assessee the notice of demand in the prescribed form, specifying the amount of tax payable.

### Receipts

54. A receipt shall be given to the assessee for any tax collected under this Law.

### Service of notices

55. A notice or a summons issued under this Law may be served on a person named therein or in the case of an association of persons on any adult member of that association, or on any director or the manager or the secretary either by post or as if it were a summons in a civil matter issued by a Court.

### Indemnity

#### Transfers to Development Committees

56. Every person deducting or paying any tax in pursuance of this Law in respect of income belonging to another person is hereby indemnified for the said deduction and payment.

### Bar of suits

57. No suit shall be filed in any Civil Court to set aside or modify any assessment made under this Law and no prosecution shall lie against any public servant for anything done in good faith under this Law.

### Computation of period of limitation

58. In computing the period of limitation prescribed for an appeal, or a revision, or a reference under this Law, the time requisite for obtaining a copy of the order resulting in the appeal or the revision or the reference and the time requisite for obtaining permission to appeal under clause (ii) of sub-section (c) of section 32 shall be excluded.

## **CHAPTER XVIII**

59. A prescribed proportion of Kyat collections from individuals in each Township, may be transferred to the fund of the respective Township Development Committee at the rate prescribed by the Union Government. The prescribed rate may be varied between Townships from time to time.