

Government of the Republic of the Union of Myanmar

Ministry of Planning and Finance

Internal Revenue Department

Interpretation Statement No. 7 /2019

Nay Pyi Taw

(7th September , 2019)

Interpretation Statement on charge of commercial tax on extra sales and promotional stock

1. Internal Revenue Department (IRD) has issued this statement under the authority of Commercial Tax Regulation 55 (b) so taxpayers know the commercial tax ramifications of:

- a) Extra goods included in sales and purchases.
- b) Stock given away as samples for promotion.

What this Interpretation Statement is about

2. This Interpretation Statement states how IRD interprets the provisions of the Commercial Tax Law concerning whether to charge commercial tax or not on sales of stock that are added or given away as promotions.

Who this Interpretation Statement applies to

3. This Interpretation Statement applies to both buyers and sellers of trading goods.

Relevant Interpretation Statement

4. **Extra good included:** Many sellers of goods offer terms where if the purchaser reaches a certain number of goods ordered, they are offered an extra good. For example, if they purchase ten items, they will be given an extra one for the same price of ten.

5. **Good/s given away:** This is where the seller of goods gives away goods for promotion to entice the purchaser to buy the product.

The relevant enacted Law

6. The following relevant enacted law will be applied:

- a) Commercial Tax Law (CTL) Section 3(e) and Section 12(a)
- b) Regulation 42 of the Commercial Tax Regulations

Interpretation Statement

7. **Extra good included:** For the buyer to obtain an extra item with purchase they must first reach a certain number of goods ordered. The outcome for the seller in the example above is that they provide eleven items for the sale proceeds of ten. The seller has sold the goods including the extra item of stock. The seller would have proceeds of sale, as per section 3(e) of the CTL inclusive of CT and the purchaser would have purchases of eleven items CT inclusive. The CT inclusive amount would be the ten items sales price * 5/105.

Example 1

'A' is in business of selling trading stock. 'B' is a purchaser of trading stock from A and will use the stock to sell in their business. 'A' the seller of trading stock offers terms of trade where if 'B' buys 10 items, 'B' receives 11 items. The sales price of each item of stock is 1000MMK inclusive of CT. For 'B' to obtain an extra item with purchase they must order a certain number of goods with 'A'. In this example the order number is ten. The outcome is that 'A' is providing eleven items for the sale proceeds of ten. 'A' has sold the goods including the extra item. 'A' would have proceeds of sale CT inclusive for eleven items and the purchaser 'B' would have purchases of eleven items CT inclusive. The CT inclusive amount would be $10,000 * 5/105$ MMK. 'B' must pay 'A' 10,000MMK for the eleven items of stock purchased.

- a) For the CT return 'A' must show sales of 10,000MMK inclusive of the CT charged to 'B' of 476 MMK
- b) For the CT return 'B' must show purchases of 10,000MMK inclusive of the CT charged by 'A' of 476 MMK and is allowed an input credit for this amount.

8. **Goods given away:** This is different to the above situation as the buyer does not need to purchase a certain number of products. The product is given away by the seller. Giving away products is a way of promoting the stock to the buyer in hope for

future purchases. The goods have not been sold. However, they do not remain in inventory of the seller.

Example 2

'A' is in business of selling trading stock. 'B' is a purchaser of trading stock from 'A' and will use the stock to sell in their business. 'A' the seller of trading stock offers to give five items of stock, with a sales value of 1000MMK each, to 'B' as a promotion. Each item of stock costs the seller 800MMK to produce or buy and is CT inclusive of 38MMK. 'B' does not pay anything for the five items of trading stock.

- a) For 'A' the CT inclusive amount included in the stock given away would be allowed as an input credit. In this example that would be 5 items of stock multiplied by 38MMKS equalling 190MMK.
- b) The cost of the goods given away as a promotion can be expensed exclusive of the CT cost. In this example, for five items that would be 4,000 MMK minus 190 MMK equalling 3,810 MMK.
- c) For 'B', the buyer there is no CT consequences as the goods were not purchased but given for free.

Application of Interpretation Statement

9. This Interpretation Statement is to be followed as prescribed and shown in the examples.
10. This Interpretation Statement is hereby signed and issued.

(Min Htut)

Director General

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