Global Tax Alert

Myanmar Tax Authority issues guidance on withholding tax reporting obligations

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The Myanmar Internal Revenue Department (MIRD) promulgated Practice Statement 2/2020 (the Practice Statement) on 3 September 2020 regarding withholding tax (WHT) reporting obligations. This Alert summarizes the required conditions under the Practice Statement for the WHT exemption to apply on payments made to nonresident foreigners, without the requirement to request upfront approval from the MIRD.

Prior to the issuance of the Practice Statement, the following payments made to nonresident foreigners were exempted from WHT, but required upfront approval from the MIRD:

- ▶ Payments for services performed entirely outside Myanmar
- Payments for services performed in Myanmar if there was no permanent establishment (PE) in Myanmar under a relevant tax treaty concluded with Myanmar

WHT reporting obligations under Practice Statement 2/2020

- With effect from 3 September 2020, taxpayers can adopt the 2.5% WHT
 exemption without seeking upfront approval from the MIRD, for service
 contracts with a value of less than US\$100,000 (i.e., US\$2,500 of WHT) or
 the equivalent amount in another currency, where the services are either:
 - Performed by nonresident foreigners entirely outside Myanmar



- Performed by a business resident in a country with which Myanmar has signed a tax treaty agreement, and the provision of those services is not related to, and will not create, a PE in Myanmar
- 2. Practice Statement 2/2020 is applicable to all taxpayers assessed under the Self-Assessment System (SAS).
- 3. The MIRD has provided the following examples for a clear understanding of the Practice Statement (extracted from the English translation of Practice Statement 2/2020 issued by the MIRD):

Example	Case	Application of this Practice Statement
1.	A Myanmar company sends all of its basic accounting records electronically to an accounting firm in Singapore for preparation of the annual financial accounts. The charge to the Myanmar company is US\$80,000.	All the services are performed outside Myanmar. No withholding tax would be payable. The Myanmar company would not need to seek prior confirmation from the IRD regarding their obligation to withhold payments to the Singapore firm. All services are performed outside the country of Myanmar. The value of the services is less than US\$100,000.
2.	An Indian architect firm is commissioned to design a bridge to be constructed in Myanmar by a Myanmar company. The architect firm sends a representative to Myanmar who meets the client and spends two days taking measurement and soil samples, and then returns to India. Over the next three months the Indian architect firm does bridge design drawings and specifications, which it sends to Myanmar via e-mail for the three months work. The total cost of this work is US\$50,000. The services are performed predominantly in India with only two days spent in Myanmar by the Indian company's representative. As such no PE is created in Myanmar.	The services are predominately performed in India. The Myanmar company would not need to seek prior confirmation from the MIRD regarding their obligation to withhold payments to the Indian firm. Predominately all services are performed outside the country of Myanmar. The two days in country would not create a "PE." The value of the services is less than US\$100,000.
3.	A Myanmar company contracts with a Vietnam company to provide consulting services on development of its supply chain. The Vietnam company will be providing the services for a period of 10 months from a fixed base in Myanmar country. The value of the consulting services provided by the Vietnam company is US\$95,000.	As the Vietnam company will be providing consultancy services in Myanmar for more than six months within a 12-month period it is deemed to have a PE in Myanmar and the Myanmar company will need to obtain prior confirmation from the MIRD regarding its obligation to withhold tax regardless of the fact that the value of the contract is less than US\$100,000.

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