

The State Peace and Development Council
The State Budget Law, 2005
(The State Peace and Development Council Law No. 3/2005)
The 6th Waning of *Taboung*, 1366 M.E.
(30th March, 2005)

The State Peace and Development Council hereby enacts the following
Law : -

PART I

Title and Date of Effectiveness

1. (a) This Law shall be called the State Budget Law, 2005.
- (b) The provisions relating to commercial tax contained in section 28 to section 33 under Part VI of this Law and the provisions relating to income-tax contained in section 36 to section **45**, the provision contained in section **47** and section 48 and the provisions contained in section 51 to section 63 under Part VII shall take effect commencing from the assessment year 2005-2006.
- (c) With the exception of sections contained in sub-sections (b) of section 1 of this Law, the provisions of the remaining sections shall take effect commencing from 1st April, 2005 for the financial year 2005-2006.

PART II

The State Peace and Development Council, Multi-Party Democracy General Election Commission, Government, Chief Justice, Attorney General, Auditor General, Ministries and Departments

Chapter I

Receipts and Expenditures

2. The State Peace and Development Council, Multi-Party Democracy General Election Commission, Government, Chief Justice, Attorney General, Auditor General, Ministries and Departments shall carry out their functions in accordance with the State Budget Programme. In carrying out such functions, all receipts shall be credited to the State Budget and all expenditures payable shall be debited from the State Budget.
3. (a) The respective persons who have been assigned responsibility for the receipts and expenditures of the State Peace and Development Council, Multi-Party Democracy General Election Commission, Government, Chief Justice, Attorney General, Auditor General, Ministries and Departments shall supervise and collect those receipts and administer those expenditures as are shown against them in Schedules (1), (2), (3) and (4).
 - (b) The respective persons who have undertaken the responsibility under sub-section (a) may delegate their powers to the respective persons serving under them.
 - (c) Supervision and collection of the receipts and administration of the expenditures shall be in accordance with the provisions of this Law, relevant laws, rules, regulations, bye-laws, orders, directives and procedures.

4. (a) Out of the estimated receipts shown in Schedules (1) and (3), if foreign aids and loans received under Chapter ? exceed the estimated amount, and if expenditures of those works which are to be incurred out of such excess amount received as foreign aids and loans are in excess of the sanctioned expenditures shown in Schedules (2) and (4), the Government may approve after scrutiny. Provided that, if expenditures to be incurred out of the State Budget in Kyats converted from the aforesaid foreign aids and loans are not covered by the sum shown in Schedules (2) and (4), then it may be incurred out of the reserve fund in accordance with the provisions of section 6
- (b) The Government shall submit matters relating to expenditures in excess permitted under sub-section (a) to the State Peace and Development Council, together with objects and reasons case wise
5. In respect of any alterations of sums shown in Schedules (1), (2), (3; and (4) under requirement of work, it shall be shown in the revised estimate budget for the 2005-2006 financial year submitted to the State Peace and Development Council.

Chapter II

Reserve Fund

6. (a) Expenditures incurred by the State Peace and Development Council, Multi-Party Democracy General Election Commission, Government, Chief Justice, Attorney General, Auditor General, Ministries and Departments out of the reserve fund shown in Schedule (4), column 12 shall be effected only in accordance with the following conditions :
- (i) being expenditure which cannot be anticipated .

- (ii) being a case in which expenditure must be incurred within the financial year;
- (iii) where transfer of budget heads cannot be effected or where there is no allotment for transfer of budget heads under the existing laws, rules, regulations and bye-laws.

(b) Any expenditures from the reserve fund shall be made only by the decision of the Government.

(c) The Government shall submit matters relating to expenditure to be incurred out of the reserve fund to the State Peace and Development Council together with objects and reasons case-wise.

7. The State Peace and Development Council, Multi-Party Democracy General Election Commission, Government, Chief Justice, Attorney General, Auditor General, Ministries and Departments shall not be allowed to submit supplementary budget of the State in respect of receipt of amounts in excess of or less than the estimated amount under this Law or appropriation of allotment by transferring budget heads within the sanctioned expenditure or expenditure incurred from the reserve fund or expenditures incurred with the sanction of the Government under section 4. Provided that, if expenditures in conformity with the conditions contained in section 6 are not covered by the reserve fund allowed under this Law, then such expenditure may be submitted to the State Peace and Development Council together with objects and reasons case-wise.

Chapter III

Taking of Loans

8. For the purpose of projects or for expenditures shown in the State Budget, the Government may take loans by issuing security bonds guaranteed by Government or debentures or by other means, within the country or from abroad. Reasonable rates of interest may be prescribed for such loans. Conditions for repayment, redemption or provision otherwise may also be stipulated.
9. Regarding loans obtained by issuing security bonds for covering the deficit in the budget of the previous financial year, new security bonds may be issued when payment of the loan becomes due.
10. The State Economic Organizations and Cantonment Municipalities may take loans from abroad for their projects, with the approval of the Government.
11. The Government may grant permission to any Government Department to borrow money from abroad for any project.
12. (a) The Government may empower the Minister of the Ministry of Finance and Revenue for carrying out wholly or partly the duties contained in this Chapter III.

(b) The Minister for the Ministry of Finance and Revenue may, on behalf of the State, furnish guarantees for taking of loans under this Chapter III.
13. During the financial year commencing from 1st April, 2005 and ending on 31st March, 2006 the total amount of loans actually received by execution of loan agreements under this Chapter III shall not exceed Kyats four hundred thousand million.

PART III

State Economic Organizations

14. The State Economic Organizations shall carry out their functions in accordance with the State Budget Programme. In carrying out such functions, all receipts shall be credited to the State Budget and all expenditures payable shall be debited from the State Budget.

15. (a) The respective persons who have been assigned responsibility for the receipt and expenditure of the State Economic Organizations shall supervise and collect those receipts and administer those expenditures as are shown against them in Schedules (5) and (6).

(b) The respective persons who have undertaken the responsibility under sub-section (a) may delegate their powers to the respective persons serving under them.

(c) Supervision and collection of the receipts and administration of the expenditures shall be in accordance with the provisions of this Law, relevant laws, rules, regulations, bye-laws, orders, directives and procedures.

(a) The Government may alter the amounts shown in Schedules (5) and (6), if it becomes necessary for the functions of the State Economic Organizations. Such alterations shall be shown in the revised estimate budget for the 2005-2006 financial year submitted to the State Peace and Development Council, together with objects and reasons therefor.

(b) The Government may determine the amount of money to be contributed by the State Economic Organizations towards the State.

PART IV

Cantonment Municipalities

17. The Cantonment Municipalities shall subsist on their own funds and shall carry out their functions in accordance with their Budget Programmes.
18. (a) The respective persons who have been assigned responsibility for the receipt and expenditure of Cantonment Municipalities shall supervise and collect those receipts and administer those expenditures as are shown against them in Schedules (7) and (8).
- (b) The respective persons who have undertaken the responsibility under sub-section (a) may delegate their powers to the respective persons serving under them.
- (c) Supervision and collection of the receipts and administration of the expenditures shall be in accordance with the provisions of this Law, relevant laws, rules, regulations, bye-laws, orders, directives and procedures.
19. (a) The Government may alter the amounts shown in Schedules (7) and (8), if it becomes necessary for the functions of Cantonment Municipalities. Such alterations shall be shown in the revised estimate budget for the 2005-2006 financial year submitted to the State Peace and Development Council, together with objects and reasons therefor.
- (b) The Government may permit Cantonment Municipalities to obtain money required for carrying out their functions or for investment from grants or loans.
20. The Cantonment Municipalities may collect only such rates and taxes permitted under the existing laws, rules, regulations, bye-laws, orders, directives as are relevant to them.

PART V

Development Committees and Municipalities

21 The Government may grant loans and contributions to the Development Committees and Municipalities

PART VI

Commercial Tax

22 In the list of non-taxable goods contained in annexed Schedule (1) of the Commercial Tax Law, serial numbers 66, 67, 68, 69, 70, 71 and 72 shall be inserted respectively after serial number 65, as mentioned in Schedule (9) of this Law.

23. In the list of goods on which tax shall be levied at 5 per cent contained in annexed Schedule (2) of the Commercial Tax Law, serial numbers 32, 33, 34, 35, 36, 37, 38, 39, 40,41, 42, 43, 44, 45, 46,47, 48,49, 50, 51, 52, 53, 54, 55, 56 57, and 58 shall be inserted respectively after serial number 31, as mentioned in Schedule (10) of this Law.

24. In the list of goods on which tax shall be levied at 10 per cent contained in annexed Schedule (3) of the Commercial Tax Law.

- (a) the expression "Containers buckets made of iron or steel and metal plated utensils" contained in serial number 58 shall be substituted by the expression, "boxes, containers, buckets made of iron or steel and metal plated boxes, buckets and utensils" ;
- (b) serial numbers 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133 and 134 shall be inserted respectively after serial number 120, as mentioned in Schedule (11) of this Law.

25. In the list of goods on which tax shall be levied at 20 per cent contained in annexed Schedule (4) of the Commercial Tax Law, serial numbers 89, 90 and 91 shall be inserted respectively after serial number 88, as mentioned in Schedule (12) of this Law.

26. In the list of goods on which tax shall be levied at 25 percent contained in annexed Schedule (5) of the Commercial Tax Law,

- (a) the expression, "light vans, saloons, sedans, light wagons, estate wagons and coupes contained in serial number 22 shall be substituted by the expression, "light vans, saloons, sedans, light wagons, estate wagons, coupes and jeeps";
- (b) the expression, "gramophone records" contained in serial number 41, shall be substituted by the expression, "gramophone records, laser discs and memory sticks" ;
- (c) serial numbers 52, 53, 54 and 55 shall be inserted respectively in Schedule (13) of this Law.

27. In the list of services contained in annexed Schedule (7) of the Commercial Tax Law, serial numbers 6, 7, 8, 9 and 10 shall be inserted respectively after serial number 5, as mentioned in Schedule (14) of this Law.

28. Notwithstanding the provisions contained in annexed Schedule (1) to Schedule (6) and in serial number 3 of Schedule (7) of the Commercial Tax Law, if foreign currency is included in the proceeds of sale or total proceeds of sale received by any person from any production and sale of goods in respect of the kinds of goods contained in Schedule (1) to Schedule (6) or from any commercial transaction of purchase and sale of goods contained in serial number 3 of Schedule (7), commercial tax equivalent to 8 per cent of the amount of foreign currency so included shall be paid in such foreign currency.

29. Notwithstanding the provisions contained in annexed Schedule (1) to Schedule (6) and in serial number 3 of Schedule (7) of the Commercial Tax Law, if Kyat is included in proceeds of export and sale received by any person from production and sale of goods in respect of the kinds of goods contained in Schedule (1) to Schedule (6) or from any commercial transaction of purchase and sale of goods contained in serial number 3 of Schedule (7) in border trade between the Union of Myanmar and the People's Republic of China, the Union of Myanmar and the Republic of India, the Union of Myanmar and Thailand, commercial tax equivalent to 8 percent of the amount of Kyat so included shall be paid in Kyat.

30. The provisions contained in sections 28 and 29 shall not be applicable to proceeds of sale from export items re-exported by the enterprises by cutting, making and packing (CMP) system. However, if sale is made locally in foreign currency, commercial tax equivalent to 8 per cent of the proceeds of sale shall be paid in such foreign currency.

31. For the avoidance of double tax payments, if any person has previously paid commercial tax for a certain type of goods in foreign currency, no commercial tax shall be assessed again on export sale proceeds in foreign currency for such goods.

32. The provisions contained in sections 28, 29 and 30 shall not be applicable to the exemption and relief from tax permitted by notification issued under section 8 of the Commercial Tax Law.

33. Whoever imports goods in border trade between the Union of Myanmar and People's Republic of China, the Union of Myanmar and Republic of India, the Union of Myanmar and Thailand, and the Union of Myanmar and Bangladesh, using Kyat or foreign currency, as a special case, shall pay tax in kyat if the landed cost of goods was paid in kyat, and shall pay tax in foreign currency if the landed cost of goods was paid in such foreign currency according to the rates prescribed in the

the Commercial Tax Law. The commercial tax to be paid in this manner shall not apply to the goods exempted from commercial tax on imports under any (?) existing law.

PART VII
Income-Tax

Chapter I
Definition

34. The interpretation of expressions contained in this Part shall be as mentioned in the Income-tax Law.

Chapter II

35. Any person having income under the head of salary shall be assessed income tax at rates prescribed in the following table : -

Serial Number	Level of income to be assessed income-tax on the remaining income of salary after deducting the reliefs prescribed		Rate of Income-tax to be assessed
	From	To	
	Kyat	Kyat	
1	1	5000	3 per cent
2	5001	10000	5 per cent
3	10001	20000	7 per cent
4	20001	30000	10 per cent
5	30001	50000	12 per cent
6	50001	70000	15 per cent
7	70001	90000	16 per cent
8	90001	110000	17 per cent
9	110001	150000	18 per cent
10	150001	200000	19 per cent
11	200001	300000	20 per cent
12	300001	500000	22 per cent
13	500001 and above		30 per cent

36. In the case of non-resident Myanmar citizens, the income tax shall be assessed the rate of 10 per cent on the total income accrued abroad in foreign currency before any reliefs allowed under section 6 of the Income-tax Law are deducted.

37. In case of a foreigner engaged in any project or transaction of the State or sponsored by the State, with the approval of the Ministry concerned the income-tax shall be assessed at the rate of 20 per cent of the total income, earned in kyats by such person, before any reliefs allowed under section 6 of the Income-tax Law are deducted.

38. In case of an association of persons formed in a foreign country, which is engaged in any project, or transaction of the State or sponsored by the State, with the approval of the Ministry concerned, the tax shall be assessed at the rate of 30 per cent of the total income, earned in Kyats by such association of person, before any reliefs allowed under section 6 of the Income-tax Law are deducted.

39. In case of a company incorporated and registered in Myanmar under the Myanmar Companies Act or under the Special Company Act, 1950, the income tax shall be assessed at the rate of 30 per cent of the total income, earned in kyats by such company, before any reliefs allowed under section 6 of the Income-tax Law are deducted.

40. In the case of a non-resident foreigner, the income-tax shall be assessed at the rate of 35 per cent of the total income before any reliefs allowed under section 6 of the Income-tax Law are deducted. (If the income is earned in foreign currency, the income-tax shall be paid in such foreign currency. However, if the Income-tax calculated at the relevant rates mentioned in the table under section 41 exceeds the sum calculated at 35 per cent, then the greater sum of income-tax shall be paid.)

41. With the exception of sections 36, 37, 38, 39 and 40, the income earned under the heads -- profession, business, property, income from undisclosed source and income from other source -- shall be assessed income tax at rates mentioned in the following table : —

Serial Number	Level of income to be assessed income-tax on the remaining income after deducting the reliefs prescribed		Rate of Income-tax to be assessed
	From	To	
	Kyat	Kyat	
1	1	5000	5 per cent
2	5001	10000	10 per cent
3	10001	20000	11 per cent
4	20001	30000	12 per cent
5	30001	40000	14 per cent
6	40001	50000	15 per cent
7	50001	80000	16 per cent
8	80001	110000	17 per cent
9	110001	150000	18 per cent
10	150001	200000	19 per cent
11	200001	300000	20 per cent
12	300001	400000	22 per cent
13	400001	1000000	25 per cent
14	1000001	2000000	35 per cent
15	2000001 and above		40 per cent

Chapter III
Income-tax Rates for Co-operative Societies

42. Income of Primary Co-operative Society, Co-operative Syndicate, Union of Co-operative Syndicates or Central Co-operative Society formed and registered under the Co-operative Society Law, shall be assessed income-tax at rates **mentioned** in the following table : -

Serial Number	Level of income to be assessed income-tax on the remaining income after deducting reliefs prescribed		Rate of Income-tax to be assessed
	From	To	
	Kyat	Kyat	
1	1	5000	3 per cent
2	5001	10000	5 per cent
3	10001	20000	7 per cent
4	20001	30000	10 per cent
5	30001	50000	12 per cent
6	50001	70000	15 per cent
7	70001	90000	16 per cent
8	90001	110000	17 per cent
9	110001	150000	18 per cent
10	150001	200000	19 per cent
11	200001	300000	20 per cent
12	300001	500000	22 per cent
13	500001 and above		30 per cent

Chapter IV

Income-tax Rate for State-owned Economic Organizations

43. The income-tax on the total income of the State-owned Economic Organizations shall be assessed at the rate of 30 per cent, before any reliefs allowed under a section 6 of Income-tax Law are deducted.

Chapter V

Income-tax Rates on Profits Gained from Capital Assets of Private Sector, Co-operative Societies and State-owned Economic Organization

44. The tax on the profit gained from capital assets shall be assessed at the rate of 10 per cent before any reliefs allowed under section 6 of the Income-tax Law are deducted. However, in the case of a non-resident foreigner, the income-tax shall be assessed at the rate of 40 per cent.

Chapter VI

Income-tax Rate of Enterprises of Private Sector and Co-operative Societies Undertaken with a Permit of the Myanmar Investment Commission

45. With the exception of an enterprise undertaken by cutting, making and packing (CMP) System, the enterprise is undertaken with a permit issued by the Myanmar Investment Commission, the income-tax shall be assessed at the rate of 30 per cent on its total income before any reliefs allowed under section 6 of the Income-tax Law are deducted.

Chapter VII

Determination of Non-assessable income

46. In assessing income-tax under the head of salary under section 35, no income-tax shall be assessed if total income of salary does not exceed Kyats 30000.

47 In assessing income-tax under sections 41 and 42, no income-tax shall be assessed if the total income does not exceed Kyats 30000

48. If capital assets of one or more if are sold, exchanged or transferred, and if the total value of such transaction within a year does not exceed Kyats 100000, no income-tax shall be assessed thereon.

49. In assessing income-tax in cases where, the income exceeds the amount shown in sections. 46, 47 and 48, but the excess is not substantial, the Ministry of Finance and Revenue may, by notification, prescribe special modes of calculating the assessment of income-tax as required, so that there shall be fairness in assessment and without imposing a heavy burden.

50. Notwithstanding any provision contained in sub-section (b) of section 4 of the Income-tax Law, no additional income-tax shall be assessed other than the taxes to be assessed under the rates of this Part.

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Chapter VIII

Exemption and Relief

51. The basic relief allowed under sub-section (a) and clause (1) of sub-section (b) of section 6 of the Income-tax Law shall be an amount equivalent to 20 per cent of each class of income. Provided that, the total of basic relief for a year shall not exceed Kyat 12000.

52. The reliefs for the spouse and children of an assessee, other than an association of persons under clause (2) of sub-section (b) of section 6 of the Income-tax Law, shall be allowed as follows : -

- (a) Kyats 5000 for only one spouse of an assessee ;
- (b) Kyats 1000 for each child not over 5 years of age ;
- (c) Kyats 1200 for each child above 5 years of age, who has not yet attained 10 years;
- (d) Kyats 1600 for each child above 10 years of age, who has not yet attained 15 years ;
- (e) Kyats 2000 for each child who is above 15 years

53. The reliefs allowed under clauses (3) and (4) of sub-section (b) of section 6 of the Income-tax Law shall be the amount actually paid by the assessee during the relevant income year.

Chapter IX

Income-tax Assessment in Kyat and Foreign Currency

54. Notwithstanding any provision contained in the Income-tax Law, with the exception of an enterprise undertaken by cutting, making and packing (CMP) system, Myanmar citizens, who earn foreign currency from the sale of goods produced, carrying out any kind of business, and any kind of service shall pay 2 per cent of the total foreign currency earned as income-tax in such foreign currency.

55. Payment of income-tax at the rate 2 per cent on the total receipts of foreign currency earners prescribed in section 54 shall not be applicable to receipts of enterprises doing business under a permit issued by the Myanmar Citizens Investment Law with the exception of an enterprise undertaken by cutting, making and packing (CMP) system.

56. Notwithstanding any provision contained in the Income-tax Law, if the enterprise undertaken by cutting, making and packing (CMP) system earns foreign currency, the income-tax shall be paid at the rate of 10 percent on the said earnings in such foreign currency.

57. With the exception of an enterprise undertaken by cutting, making and packing (CMP) system, if the enterprises carrying out under a permit issued under the Myanmar Citizens Investment Law earn foreign currency, the income-tax shall be calculated according to the provisions contained in Regulation 5-B of the Income-tax Regulations and be paid in such foreign currency.

58. Notwithstanding any provision contained in clause (1) of sub-section (n) of section 3 of the Income-tax Law, if a resident foreigner earns any of the following types of income in foreign currency, the income-tax shall be paid at the rate of 15 per cent on the total foreign currency earnings in such foreign currency : —

- (a) income from renting building, apartment, vehicles, machineries and other property;
- (b) income under the head of salary;
- (c) with the exception of an association of persons, the income derived from service rendered as agent, income under the head of profession and income from other services such as advisory and agency.

59. Notwithstanding any provision contained in clauses (1) and (2) of sub-section (n) of section 3 of the Income-tax Law, if resident Myanmar citizens and non-resident Myanmar citizens earn any type of income mentioned in section 58 in foreign currency, the income-tax shall be paid at the rate of 10 per cent in such foreign currency on the total foreign currency earned.

60. The provisions contained in sections 58 and 59 shall not be applicable to income of enterprises carrying out under the permit issued under the Union of Myanmar Foreign Investment Law. Provided that in respect of receipts from enterprises carrying out under the permit issued under the Foreign Investment Law, the income-tax shall be paid at in foreign currency at the same rate which is applicable to Myanmar citizens who earn foreign currency.

61. With the exception of enterprise undertaken by cutting, making and packing (CMP) system, if a resident foreigner earns foreign currency from the sale of goods produced, carrying out any kind of business and any kind of service, the income-tax on such receipt shall be calculated according to the provisions contained in Regulation 5-B of Income-tax Regulations and be paid in such foreign currency.

62. In the private sector and co-operative sector, if the proceeds of export sale in border trade between the Union of Myanmar and the People's Republic of China, the Union of Myanmar and the Republic of India, the Union of Myanmar and Thailand are received in Kyats, the income-tax shall be paid in Kyat on the said total proceeds of sale Provided that, it is not applicable to the income of enterprises carrying out under a permit issued under the Myanmar Citizens Investment Law.

63. If an enterprise carrying out under a permit issued under the Myanmar Citizens Investment Law earns income in Kyat, the income-tax shall be calculated and paid according to the provisions of the Income-tax Law. If it earns income both in Kyat and foreign currency, the income-tax shall be calculated and paid according to the provisions of Regulation 5-B of the Income-tax Regulations.

(Sd.) Than Shwe
Senior General
Chairman
The State Peace and Development Council