



LEGAL  
PARTNERS  
ACROSS  
ASIA

**Kelvin Chia Yangon Ltd (KCY)**

Level 8A, Union Financial Center, Corner  
of Mahabandoola Road and Thein Phyu  
Road, Botahtaung Township, Yangon.

(951)8610348/8610349

[csg@kcyangon.com](mailto:csg@kcyangon.com)

[www.kcpartnership.com](http://www.kcpartnership.com)

---

**KCY Newsletter | Issue No. 75**

16 May 2023

**New Private Education Law**

On 12 May 2023, the Ministry of Education issued the 2023 Private Education Law (“**PEL**”) which requires the private basic education schools, private technical and vocational education training schools, and private higher education institutes to register in accordance with its provisions. The PEL supersedes the 2011 Private School Registration Law.

To administer the registration of private schools, the PEL mandates the formation of the central Supervisory Board as well as regional Supervisory Boards for respective regions, states, and the union territory. The relevant Supervisory Board will oversee the issuance of private school and private teacher registrations, specifying the standards thereof, handling registration fees, annual fees, and other functions as necessary.

The PEL states that whoever wishes to establish a private school shall apply for registration in accordance with the stipulated requirements to the relevant Supervisory Board. Notably the PEL requires the Supervisory Board to review whether the application is in compliance with the Myanmar Investment Law and other applicable laws. Previously, the investment in private education services is governed by Myanmar Investment Commission’s Notification 7/2018 which allows 100% and joint venture foreign investment in the education sector, provided that it complies with National Education Law (2014) and any subsequent law relating to private education, private technical and vocational education training schools, and higher education. The validity of the registration of a private school under the PEL is 5 years, and it is required that private schools established before the enactment of the PEL be re-registered within 1 year from the date of the enactment. The PEL prohibits anyone from establishing and operating a private school without the relevant private school registration certificate, and anyone convicted of violating this provision will be subject to either a fine from a minimum of 30 million Kyats to a maximum of 50 million Kyats or an imprisonment for a term from 1 year minimum to 2 years maximum, or both fine and the imprisonment.

Further to the registration of private schools, the PEL also requires private school teachers to register with the Supervisory Board as well. The registration requirement is applicable to both citizen and foreign educators who wish to work as a teacher. The registration certificate of private school teachers will be valid for a term of 3 years. Failure to comply with the registration requirement is an offence punishable with the fine of 3 million Kyats to 5 million Kyats.

Under the PEL, private schools are now required to notify the relevant regional Supervisory Board with regards to the appointment, suspension and/or dismissal of foreign teachers or staff members within 14 days. The

registered private schools are also required to submit annual reports to the regional Supervisory Board. The contents or format of the annual report are still unknown, and it is expected that more details will be included in the implementing rules.

### **MoPF issues SOP for Assessing Remittances of Foreign Currency**

The Ministry of Planning and Finance had issued a Standard Operating Procedure (“SOP”) applicable to the Internal Revenue Department (“IRD”) and the licensed banks with Foreign Exchange Authorized Dealer License (“AD Banks”) as well as remitting parties, formalizing the requirements in assessing the various overseas remittances of foreign currency.

The SOP specified that its requirements are applicable to remittances of at least USD 10,000 and above, and is effective from 1 May 2023.

The AD Banks are required under the SOP to check for the following:

1. In the case of remittances for dividends or payments for goods, evidence that the income tax has been paid for the relevant fiscal year by checking the relevant tax filings submitted to the IRD, or for the tax clearance certificate issued by the IRD,
2. For remittances relating to salaries, evidence of withholding of personal income tax on the salary to be remitted.
3. For remittances relating to interests, license fee, trademark, intellectual property, royalty payments and service fees, evidence that withholding tax has been deducted, or evidence that there’s no tax applicable, as issued by the IRD.
4. In the event that the remitting party is a new tax payer who have yet to conduct a tax filing, the AD Banks are required to check for the Taxpayer Identification Number form PaTaKha(WaNga)-01-02 issued by the IRD.

The SOP also requires that the remitting party is to submit to the AD Banks the following documents while applying for offshore remittance:

1. In the case of dividend remittances and payments for goods, to submit to the AD Bank the forms PaTaKha(WaNga)-8 (the notice of tax demand form), or the SAS-1 (confirmation of self-assessment system form) that were submitted to the IRD.
2. In the case of remittances for salaries, to submit to the IRD PaTaKha(WaNga)-15(a) - the form for payment of personal income tax withheld from salaried income.
3. In the case of remittances relating to payments of interests, license fees, trademark, royalty, intellectual property or service fees, evidence of withholding tax being deducted, or confirmation that there’s no tax applicable, as issued by the IRD.
4. In the case that the remitting party is a new taxpayer, the Tax Payer Identification Number Form PaTaKha(WaNga)-01-02.

## Exporter Importer Registration Updates

The Ministry of Commerce (“MOC”) issued Notification 35/2023 – Order relating to Exporter Importer Registration. Exporter/Importer Registration is required for any and all activities related to export and import in Myanmar and is a prerequisite to applying for the export/import licenses for specified goods. Previously, the Exporter/Importer Registration procedures were undertaken with various issuances from the MOC and now the Notification 35/2023 consolidates and updates current procedures.

It appears that most procedures and requirements remain the same as before although the Notification 35/2023 now includes specific timelines for the Department of Trade which is set as (15) working days for new registrations and (3) working days for amendments and renewals. The Notification also prescribes all the Exporter/Importer Registration matters to be conducted over the Myanmar TradeNet 2.0 system (<https://myanmartradenet.com>) – an online portal developed and managed by the MOC. The Notification also includes the procedures for the individuals and organisations whose Exporter/Importer Registration were suspended due to the Department taking actions against them together with the appeal procedures and relevant penalty fees.

## New Import/Export Licensing Requirements

The Ministry of Commerce (MoC) has recently issued two important notifications, namely Notification No. 18/2023 and Notification No. 19/2023, which provide comprehensive lists of goods subject to import/export licensing requirements. These notifications were released on 31 March 2023, and they supersede the previous versions.

Notification No. 18/2023 outlines the export negative list, comprising 1556 items of goods. Before exporting any of these items, it is mandatory to obtain an export license as per the requirements specified by the MoC. Similarly, Notification No. 19/2023 covers the import negative list, which includes 8774 items of goods for which an import license is necessary. All these items are designated with the corresponding 10-digit H.S Code, ensuring compliance with the 2022 Myanmar Customs Tariff.

Both notifications has come into effect from 1 April 2023, and they serve as the definitive guidelines for importers and exporters in Myanmar.

## Customs Duty Exemptions: Import of Solar Panels and Related Equipment

The Ministry of Planning and Finance has announced that starting from 1 April, solar panels, solar modules, and related equipment will be exempt from customs duties. The detailed items exempt from the customs duties are as follows:

1. PV Module / Solar Module /PV Panel / Solar Panel / Solar Panel 92 Watt CIGS (Copper Indium Gallium Selenide)
2. PV / Solar (Hybrid/Smart Array) Controller, Charge Controller for PV/ Solar
3. PV / Solar Inverter (String / Hybrid / Battery / Bidirectional / Central)
4. PV / Solar Mounted Structure, PV / Solar Mounted Frames, PV / Solar Mounted Kits (Roof and Ground Mounted)
5. PV / Solar Mounted System (Floating)
6. PV / Solar Controller and Battery Box

These items are also granted exemptions from the commercial tax payment under the 2023 Union Tax Law enacted on 31 March 2023.



## About Kelvin Chia Yangon (KCY)

KCY has been in active operation in Myanmar since 1995, currently with offices in Yangon and Mandalay. KCY is the firm of choice for those seeking to navigate Myanmar's fast-changing and complex regulatory landscape, a jurisdiction in which KCY has gained in-depth legal expertise from the numerous transactions it has handled.

## Our main practice areas

Foreign Investments | Incorporation and Company Maintenance | General Corporate and Commercial | Due Diligence | Mergers and Acquisitions | Joint Ventures and Production Sharing Agreements | Investment Funds | Energy/Oil and Gas | Natural Resources/Mining | Banking | Project and Project Financing | Manufacturing | Education | Agriculture | Real Estate | Infrastructure | Construction | Telecommunications | Compliance / Regulatory | Licensing and Permits | Labour and Employment | Immigration | Taxation | Insurance | International Arbitration | Intellectual Property | Special Economic Zones

## Our Partners



**Cheah Swee Gim**

Director of Kelvin Chia Yangon  
Senior Partner of Kelvin Chia Partnership  
cheah.sweegim@kcpartnership.com



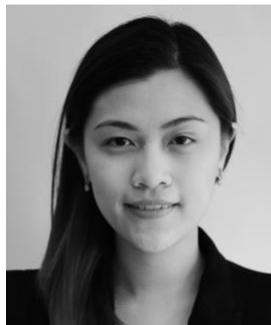
**Pedro Jose F. Bernardo**

Principal Foreign Attorney of Kelvin Chia Yangon  
Partner of Kelvin Chia Partnership  
pedro.bernardo@kcpartnership.com



**Khin Leinmar Ban Aye**

Principal Legal Manager of Kelvin Chia Yangon  
Partner of Kelvin Chia Partnership  
klm@kcyangon.com



**Lyra Miragrace Flores Bisnar**

Principal Foreign Attorney of Kelvin Chia Yangon  
Partner of Kelvin Chia Partnership  
lyra.floresbisnar@kcpartnership.com



**Chin Wai Yip**

Foreign Attorney of Kelvin Chia Yangon  
Partner of Kelvin Chia Partnership  
chin.waiyip@kcpartnership.com

**Yangon Office:** Level 8A, Union Financial Center (UFC), Corner of Mahabandoola Road and Their Phyu Road, Botahtaung Township, Yangon.

**Mandalay Office:** Asean Street | Shwe Ge Ward | Nge Toe Group | Amarapura Township | Mandalay.