



MALDIVES INLAND REVENUE AUTHORITY

Malé, Republic of Maldives

TAX RULING

Goods and Services Tax: GST treatment of agency relationships

Reference No.: TR-2012/G8

Date of issue: Tuesday, 13 November 2012

This ruling is issued pursuant to the authority granted under Section 84 of the Tax Administration Act (Law Number 3/2010) as amended by Law Number 14/2011. Unless otherwise stated, all legislative references are to the Goods and Services Tax Act (Law Number 10/2011). This ruling is legally binding.

Introduction

1. This ruling applies in respect of a registered person's liability to account for output tax or entitlement to claim a deduction for input tax under the Goods and Services Tax (GST) Act (the Act) where that person is a principal or agent in an agency relationship.

Ruling

Agent

2. For the purposes of this ruling, an agent is a person who acts for or represents another person (the principal) by supplying the principal's goods and services to a third party or by obtaining goods and services for the principal from a third party.

Taxable agency services

3. An agent that is a registered person is liable to account for GST on its supply of agency services that it makes to its principal and, where the principal is a registered person, the principal is entitled to an input tax deduction in respect of that supply of agency services.



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Agent may substitute principal

Supplies by agent

4. Where an agent supplies goods and services on behalf of a person who is the principal of that agent, the supply shall be treated as if it was made by the principal. Where the principal is a registered person, the principal shall issue a tax invoice, credit note or debit note, and account for the GST applicable to the supply.
5. Where the supply referred to in paragraph 4 is a taxable supply and the agent is a registered person, the agent may issue a tax invoice, credit note or debit note, and account for the GST applicable to the supply, as if the agent had made the taxable supply.
6. Where paragraph 5 applies, the principal shall issue a tax invoice, credit note or debit note to the agent in relation to that supply and account for the GST applicable to the supply.
7. Where the supply referred to in paragraph 4 is a taxable supply and the agent is not a registered person, the principal shall issue a tax invoice, credit note or debit note to the agent, and account for the GST applicable to the supply.

Supplies to agent

8. Where a registered person makes a taxable supply of goods and services to an agent that is acting on behalf of its principal, that supply shall be treated as if it was made to the principal and not to the agent. In that case, the registered person that makes the supply shall issue a tax invoice to the principal and the principal may claim an input tax deduction in relation to that supply, provided that the principal is a registered person.
9. Where paragraph 8 applies, and the agent is a registered person, the agent may request that the supplier issues the agent with a tax invoice, credit note or debit note in relation to the supply, and the supplier shall issue such invoice or note. In that case, the supplier shall not also issue a tax invoice, credit note or debit note to the principal.
10. Where paragraph 9 applies, the agent may claim an input tax deduction in respect of the supply, as if the supply had been made to the agent. In that case, the agent shall issue a tax invoice to the principal and account for GST applicable to the supply and the principal may claim an input tax deduction in respect of the supply, provided that the principal is a registered person.



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11. Where a tax invoice is issued to an agent that is not a registered person, the principal may claim an input tax deduction in relation to that supply if:
 - (a) the principal is a registered person; and
 - (b) the invoice states that the goods or services are supplied to the agent on behalf and for the benefit of the principal.

General

12. In any case where a tax invoice, credit note or debit note has been issued by or to an agent in relation to a supply by or to a principal of the agent, the agent shall maintain sufficient and proper records to identify the principal's name, address and taxpayer identification number (where the principal has been issued with such a number).

Registered auction businesses

13. Where a registered person approved by MIRA carries on an auction business as an agent for a principal which is a registered person, the agent may issue a tax invoice, credit note or debit note, as if it had made the supply. In that case, the principal shall not also issue a tax invoice, credit note or debit note.
14. Where paragraph 13 applies, the principal may account to MIRA for GST chargeable on the supply. In that case, the agent shall not account for GST on the supply, but shall provide the principal with a copy of the tax invoice that the agent issued to the purchaser, clearly showing the principal's name and taxpayer identification number, to support the calculation of output tax disclosed in the principal's GST return. Under no circumstance shall more than one original tax invoice be issued in respect of any one supply.
15. Where the principal is not a registered person, the agent shall not charge GST on the supply, and shall not issue a tax invoice to the purchaser.

Disbursements

16. Where an agent who is a registered person charges its principal to recover expenditure in the nature of a disbursement incurred by the agent on behalf of the principal, the agent shall not charge GST on that amount if the agent is not legally liable to make payment for the supply. In that case the principal may claim an input tax deduction in relation to that supply, provided that the principal is a registered person and, at the time that the claim is made, the principal holds a valid tax invoice specifying the principal's details.



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Exempt supplies

17. Where a provider specified in Section 20 of the Act (the provider)–
- (a) makes an exempt supply of goods or services through an intermediary, to a person who consumes the goods or services (the consumer); and
 - (b) the consumer makes payment for the goods or services to a person other than the provider of the goods and services,
- the amount paid by the consumer shall not be subject to GST, unless the amount on-charged by the intermediary to the consumer includes any amount in addition to the amount of expenditure incurred by the intermediary, in which case the intermediary shall charge GST on the total amount on-charged.
18. Paragraph 17 shall not apply where the provider pays the intermediary a commission for the intermediary's services, whether or not the commission is paid directly to the intermediary or by way of a deduction from the amount of consideration received by the intermediary from the consumer and payable to the provider. In such case, paragraph 3 shall apply.

Suppliers outside the Maldives

19. Where–
- (a) a person that is not a registered person:
 - (1) makes a supply of services in the Maldives through an agent that is in the Maldives at the time of the supply; and
 - (2) is outside of the Maldives at the time of the supply; and
 - (3) would have been liable under the Act to register and account for GST on the supply if it had made the supply in the Maldives directly without the use of the agent; or
 - (b) a person that is a registered person:
 - (1) makes a supply of services in the Maldives through an agent that is in the Maldives at the time of the supply; and
 - (2) is outside of the Maldives at the time of the supply; and
 - (3) fails to properly account for GST on the supply,

the agent shall be liable to register in accordance with Section 51 of the Act (if the agent is not so registered) and to account to the MIRA for the correct amount of GST applicable to the supply.

Definitions

20. For the purposes of this ruling, “taxable supply” means a supply of goods or services that is chargeable with GST under the Act, and includes a supply of goods or services that is chargeable with GST at the rate of 0% (zero percent).



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21. For the purposes of Section 51 of the Act, the total value of an agent's sales of goods and supplies of services shall consist of the aggregate of the value of:
- (a) the agent's agency services; and
 - (b) supplies in respect of which the agent accounts for, or is liable to account for, GST under this ruling; and
 - (c) any other supplies made by the agent that are not exempt supplies or supplies that otherwise do not fall within the scope of GST under the Act.

Date of Effect

22. This ruling shall take effect from its date of issue.

This is the unofficial translation of the original ruling issued in Dhivehi. In the event of conflict between this translation and the Dhivehi version of this ruling, the latter shall prevail. Therefore, it is advised that both the Dhivehi version of this ruling and this translation be read concurrently.