



MALDIVES INLAND REVENUE AUTHORITY

Malé, Republic of Maldives

TAX RULING

Business Profit Tax: Thin capitalization

Reference No.: TR-2018/B64

Date of issue: Thursday, 26 April 2018

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 references to the Act are to the Business Profit Tax Act (Law Number 5/2011), and all references to the Regulation are to the Business Profit Tax Regulation (Regulation Number 2011/R-35) as amended. This ruling is legally binding.

Introduction

1. This ruling prescribes a thin capitalization rule for the deduction of interest and payments economically equivalent to interest, in the computation of taxable profit.

2. Section 10 of the Act states:

Amounts deductible

(d) Notwithstanding Section 10(a), deductions may be made in accordance with regulations made by the MIRA, in computing the taxable profits of any tax year in respect of the following expenditure and allowances:

...

(9) any other deduction prescribed by regulations made pursuant to this Act.

3. Section 29 of the Act states:

Transfer pricing

(a) This Section applies where the computation of the taxable profits of a Person (“the first Person”) for a tax year takes into account a transaction entered into directly or indirectly between that Person and another Person (“the second Person”) and those two Persons are associated with each other.

(b) For the purposes of this Section a transaction is entered into indirectly by two Persons if there is a series of transactions which are linked and those Persons are parties to one or more of the transactions in the series, whether or not they are parties to the same transaction.

...



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- (e) In this Section “the arm’s length terms”, in relation to any transaction, are the terms on which the transaction would have been made, or might reasonably be expected to have been made, if it had been made between persons not associated with each other.
- (f) (1) If a transaction is to be considered in assessing tax:
 - the terms on which the transaction was actually made are not the same as the arm’s length terms, and
 - (2) if the taxable profits of the first Person are less, or that Person’s allowable losses are greater, than would have been the case if the transaction had been made on the arm’s length terms, then the taxable profits of that Person shall be computed as if the transaction had been made on the arm’s length terms instead of the actual terms.

4. Section 30 of the Act states:

Arrangements designed to avoid or reduce liability to tax

- (a) The MIRA may exercise any of the powers set out in Section 30(d) where the MIRA has reasonable grounds for believing that the main purpose or one of the main purposes for which a transaction was effected, whether before or after the commencement of this Act, was the avoidance or reduction of any liability to tax for any tax year.

...

Ruling

- 5. The total amount of interest paid or payable except to a bank or financial institution approved by MIRA that is deductible by a person in the computation of that person’s taxable profit shall not exceed the lesser of:
 - (a) the total amount of interest paid or payable except to a bank or financial institution approved by MIRA, calculated at a rate of 6% per annum; or
 - (b) the actual amount of interest paid or payable except to a bank or financial institution approved by MIRA.
- 6. Notwithstanding paragraph 5 of this ruling, the total amount of interest paid or payable by a person exceeding the amount of 30% of the profit / (loss) before loss relief increased by the amount of interest otherwise deductible under section 11(a) of the Act and the amount of capital allowances deductible under chapter 4 of the Regulation, shall not be deductible in the computation of taxable profit of that person.
- 7. For the purpose of this ruling, interest means:
 - (a) interest on all forms of debt;
 - (b) payments economically equivalent to interest; and
 - (c) expenses incurred in connection with the raising of finance, including arrangement fees and guarantee fees.



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8. For the purpose of this ruling, debt refers to any loan, financial instrument, finance lease, financial derivative, or arrangement that gives rise to interest, coupons, discounts or any other finance charges deductible.
9. Paragraph 6 of this ruling shall not apply to:
 - (a) insurance companies;
 - (b) housing finance companies;
 - (c) leasing finance companies;
 - (d) persons whose turnover for the tax year is MVR 20 million or less;
 - (e) State-Owned Enterprises (SOEs), of which the Government of the Maldives directly holds majority of the ordinary share capital.
10. For the purpose of this ruling, a lessee shall use the classification test that applies to lessors under IFRS 16 Leases to classify leases as either operating lease or finance lease.
11. Rental payments under an operating lease shall be deductible over the lease term on a straight-line basis in the computation of the taxable profit.
12. Notwithstanding anything to the contrary in this ruling, the total amount of interest paid or payable to a bank or housing finance company or leasing finance company licensed by Maldives Monetary Authority (MMA) and operated in the Maldives shall be deductible in full in the computation of the taxable profit.
13. Notwithstanding anything to the contrary in this ruling, the total amount of interest paid or payable to a bank or financial institution approved by MIRA in respect of a debt used to finance the following public benefit services shall be deductible in full in the computation of the taxable profit:
 - (a) Education provided by an educational institution registered with the relevant Government authority;
 - (b) Health services provided by a health service provider registered with the relevant Government authority.
14. Paragraph 13 of this ruling shall cease to apply to the public benefit service after the elapse of 5 years from the 1st day of the tax year in which the operation of that public benefit service commences.
15. The amendments to this ruling via Tax Ruling 2018/B68 shall apply to the tax year 2018 and thereafter.



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Date of Effect

16. This ruling shall have effect from its date of publication in the Government Gazette, and apply to the tax year 2018 and thereafter.

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.