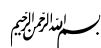




Unofficial Translation of

BUSINESS PROFIT TAX ACT

In accordance with Article 92 of the Constitution, the “Business Profit Tax Bill” passed in the 31st sitting of the 3rd session of the People’s Majlis held on Monday the 30th of December 2010, has become law and has been published in the Government Gazette upon its ratification by the President on Tuesday the 18th of January 2011 (14 Safaru 1432).



BUSINESS PROFIT TAX ACT

- Introduction and citation** 1. (a) This Act contains provisions for the establishment and implementation of an administrative framework for the purpose of implementing Business Profit Tax in Maldives.
- (b) This Act shall be cited as the "Business Profit Tax Act".

Chapter 1 The Charge to Tax

- Charge to tax on profit from sources outside Maldives** 2. (a) This Section applies to any company, not being a partnership, which as respects the tax year in which their accounting period ends satisfies the conditions in Section 2(b).
- (b) Tax on profits from sources outside Maldives shall be charged provided the following conditions are met:
- (1) The company is registered under the Companies Act of Maldives (Act Number 10/96) and is not resident outside Maldives;
 - (2) Such company derives income in that period from:
 - (a) any business carried on wholly outside Maldives; or
 - (b) bonds, shares, debentures, loans or any other financial instruments issued or granted by a Person who is not resident in Maldives; or
 - (c) bonds, shares, debentures, loans or any other financial instruments issued or granted by a Person who is resident in Maldives, for the purpose of any capital project carried on outside Maldives; or
 - (d) loans of any nature; or any royalties payable by a Person who is not resident in Maldives; or
 - (e) any immovable property situated outside Maldives; and
 - (3) does not carry on any other business or have any other source of income.

- (c) Except as otherwise provided by this Act, tax for the tax year shall be charged in the name of the company on the taxable profits of the company of that year, that is to say, the full amount of its profits of that year, wherever the profits arise and whether or not they are received in or transmitted to Maldives, computed in accordance with this Act and without any other deduction than is authorised by this Act.

**Charge to
business
profit tax: compa
nies**

- 3. (a) Except as otherwise provided by this Act, tax for any tax year shall be charged on the taxable profits of that year of a company, not being a partnership, and shall be charged in the name of the company.
- (b) The taxable profits of the company are the full amount of its profits of that year, wherever the profits arise and whether or not they are received in or transmitted to Maldives, computed in accordance with this Act and without any other deduction than is authorised by this Act.
- (c) Where the company is not resident in Maldives its taxable profits of any tax year shall be based on the following:
 - (1) Any rent received by the company in respect of lease of land and building in Maldives;
 - (2) The full amount of any other profits of the company which are attributable to the whole or any part of a business carried on by the company through a permanent establishment in Maldives, computed in accordance with this Act and without any other deduction than is authorised by this Act; and
 - (3) Any royalty or management fee not taken into account under Section 3(c)(2) and payable by a Person who is resident in Maldives in that year or by another Person with a permanent establishment in Maldives at any time in that year.
- (d) Where a company within Section 3(c) is chargeable to tax in respect of more than one business or source of income otherwise than as a partner, its taxable profits for that year shall be the aggregate of the amounts in respect of which it is so chargeable.
- (e) The amount of a company's taxable profits of a tax year shall be determined by reference to accounting periods of the company.
- (f) Regulations made pursuant to this Act shall make provision with respect to companies being wound up.

**Charge to
business profit
tax: other
Persons**

- 4. (a) Except as otherwise provided by this Act, tax for any tax year shall be charged on the taxable profits of that year of any Person, not being a company or a partnership, carrying on the whole or any part of a business or businesses in Maldives, and shall be charged in the name of that Person.
- (b) The taxable profits of any such Person carrying on any business shall be the aggregate of the following amounts:

- (1) Any rent received by the Person in respect of lease of land and building in Maldives;
 - (2) The full amount of any other profits of that business or those businesses, computed in accordance with this Act and without any other deduction than is authorised by this Act; and
 - (3) Any royalty or management fee (not included in those profits) which is received by that Person and is payable by a Person who is resident in Maldives in that year or by a Person with a permanent establishment in Maldives at any time in that year.
- (c) Except as otherwise provided by this Act, in the case of a Person who in a tax year is not a company, is resident in Maldives and is carrying on any shipping or air transport business, tax for that tax year shall be charged on the taxable profits of that year of that business, that is to say, on the full amount of the profits of that year of that business, and shall be charged in the name of that business.
 - (d) In Section 4(c) "shipping or air transport business" means any business carried on by a Person as owner or charterer of any ship or aircraft engaged in international traffic.
 - (e) Where a Person is chargeable to tax for any tax year under this Section in respect of more than one business or source of income otherwise than as a partner, that Person's taxable profits for that year shall be the aggregate of the amounts in respect of which he is so chargeable.

**Charge to
business profit
tax: partnerships**

5. (a) The following provisions shall apply in relation to a partnership in a tax year, whether or not it is registered under the Partnership Act (Act Number 9/96):
 - (1) The taxable profits of the partnership of that year, or any losses, shall be computed as if it were a body corporate;
 - (2) Business profit tax shall be charged in the name of the partnership;
 - (3) A partner in such a partnership shall not be charged to tax in respect of his share of the profits nor shall any loss accruing to him from the partnership be brought into account in computing the tax liability of the partner;
 - (4) Every Person who is a partner in that year shall be jointly and severally liable to pay any tax due and payable under this Act in respect of those profits.
- (b) In computing the taxable profits of any partnership, no deduction shall be made in respect of any payments to partners of a share in the partnership profits or of the interest on partner's capital.

Royalties and other payments subject to tax at source

6. (a) If the following payments are paid or payable in any tax year to a Person who is not resident in Maldives in that year, then the Person who makes the payment shall be chargeable to tax in respect to such payment, under this Section.
- (1) Rent, royalties and any other such consideration for the use of plant, machinery, equipment or other property for the purposes of a business;
 - (2) Payments made for carrying out research and development;
 - (3) Payments made for the use of computer software;
 - (4) Payment of fees for management, personal or technical services and any other commission or fee not constituting income from any employment;
 - (5) Payments made in respect of performances by public entertainers;
 - (6) Rent in respect of the viewing in Maldives of cinematographic films (whatever the format of the film).
- (b) In this Section “payments” includes the transfer of anything of value, whether or not money.
- (c) This Section does not apply to any payment made by the Government or an individual who does not carry on business in Maldives.
- (d) In this Section “public entertainer” means a stage, radio or television artiste, a musician, an athlete or an individual exercising any profession or vocation of a similar nature.

Rates of tax

7. (a) Tax shall be charged for any tax year on taxable profits of that year within Section 2 of this Act at the following rates:
- (1) 0% (zero percent) on taxable profits of the year not exceeding MVR500,000 (Five Hundred Thousand Maldivian Rufiyaa)
 - (2) 5% (five percent) on taxable profits of the year exceeding MVR500,000 (Five Hundred Thousand Maldivian Rufiyaa)
- (b) Tax shall be charged for any tax year on taxable profits of that year not within Section 2 and Section 6 of this Act at the following rates:
- (1) 0% (zero percent) on taxable profits of the year not exceeding MVR500,000 (Five Hundred Thousand Maldivian Rufiyaa)
 - (2) 15% (fifteen percent) on taxable profits of the year exceeding MVR500,000 (Five Hundred Thousand Maldivian Rufiyaa)
- (c) Under this Section, “taxable profits” refers to profits computed in accordance with the Tax Acts.
- (d) Payments chargeable to tax under Section 6 of this Act shall be charged to tax at the rate of 10% (ten percent).

- (e) In any case where a Person (“the holding company”) is required by regulations to submit consolidated accounts to the MIRA giving an overview of the financial affairs of the holding company and other entities (“subsidiaries”), Section 7(b) shall apply in relation to the holding company and to each of those subsidiaries with the substitution for MVR500,000 (Five Hundred Thousand Maldivian Rufiyaa) as per the following formula.

$$\frac{MVR500,000}{1 + A},$$

where A is the number of those subsidiaries which are within the charge to tax in Maldives.

- (f) Where the taxable profit of a Person for a tax year is computed by reference to a period of less than 12 (twelve) months, any reference above to MVR500,000 (Five Hundred Thousand) shall be proportionately reduced.

Computation of taxable profits: general rules

8. (a) Subject to the provisions of this Act, the full amount of the profits of a tax year is:
- (1) in the case of a Person who makes up accounts or is required by this Act or any other law of Maldives to make up accounts, the profit of the accounting period or periods of that Person which ends in or at the end of that year; or
 - (2) in any other case, the Person’s taxable profit of that tax year shall be computed in accordance with this Act.
- (b) Subject to the provisions of this Act, the taxable profits of a tax year of a Person within Section 8(a)(1) shall be computed in accordance with this Act and regulations made pursuant to it, or if there is no such requirement, in a method generally accepted.
- (c) Any amount paid to a Person carrying on business in full or partial satisfaction of a debt in respect of which a deduction has been made in accordance with Section 10(d)(7) shall be treated as a receipt of the business in the year in which it is received.

Deductions against rent

9. (a) In any case where a Person, who is chargeable to tax for any tax year in respect of an amount received by that Person as rent for immovable property in Maldives elects that this Section shall apply for the computation of taxable profits for that tax year, this Section shall apply to the exclusion of Section 8 and any other provision of this Act which allows a deduction to be made in respect of rent in computing taxable profits for the purposes of this Act.
- (b) Where this Section applies a deduction may be made in computing the taxable profits of that Person for that year equal to 20% (twenty percent) of the actual rents so received in that tax year.
- (c) An election under Section 9(a) by any Person for any year must be made on that Person’s tax return for that year, and such an election shall only be changed in accordance with the regulations made pursuant to this Act.

- (d) For the purpose of this Section, “rent” means anything of value given in respect of the use of immovable property, including any premium, and also including any value, however described, received for a service;

**Amounts
deductible**

- 10. (a) Subject to this Act and in particular to Sections 10(c) and 10(d) below, deductions may not be made in computing any taxable profits for any tax year except in respect of expenditure incurred during that year wholly and exclusively for the purpose of production of income.
- (b) Expenditure which is incurred partly for the production of income and partly for some other purpose shall be apportioned between the different purposes on a just and reasonable basis, with the consent of the MIRA, and only so much as is apportioned to the purpose of the production of income shall be deemed to be expenditure within Section 10(a).
- (c) Where the accounting period of a company or establishment ends on a date other than 31st December, then any expenses incurred wholly and exclusively for the purpose of production of income during such accounting period shall be deemed for the purposes of this Section to be expenses incurred during the tax year in which the accounting period ends.
- (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:
 - (1) expenditure to which Section 12 of this Act applies, reduced in accordance with Section 10(e), but only where the start date falls in the accounting period the taxable profits of which are being computed or in the case of a Person not required to make up accounts and not making up accounts, in that tax year;
 - (2) capital allowance so far as such permitted by regulations;
 - (3) amounts in respect of head office expenses so far as such permitted to be deducted by regulations;
 - (4) any expenditure approved by the MIRA and incurred in that tax year on the welfare of employees;
 - (5) any expenditure approved by the MIRA and incurred in that tax year in respect of pension contributions;
 - (6) audit fees incurred in that year;
 - (7) subject to Section 10(g), any debt which in the opinion of the MIRA has become bad in that tax year, provided that the debt arose from a transaction resulting in production of income;
 - (8) any receipt which has suffered withholding tax; and
 - (9) any other deduction prescribed by regulations made pursuant to this Act.

- (e) Subject to Section 10(f), a donation made by any Person to a body, association or public institution which is approved by the MIRA and established for the promotion of Islam, relief of the poor, medical relief or education or any other object of similar general public utility shall be deductible in computing that Person's taxable profits for the tax year in which the donation is made.
- (f) The maximum amount which may be deducted under Section 10(e) in computing a Person's taxable profits for any tax year shall not exceed 5% (five percent) of those profits after making all deductions allowed by this Act except any deduction in respect of donations or loss relief.
- (g) Amounts in respect of bad debts may not be brought into account under Section 10(d)(7) if the debt was incurred in an accounting period ending before the commencement date.

**Other amounts
not deductible**

- 11.** (a) Without prejudice to the generality of Section 10(a), in computing a Person's taxable profits for a tax year, a deduction shall not be allowed in respect of:
- (1) domestic or private expenses;
 - (2) capital expenditure including the cost of any improvement, alteration or addition to a capital asset except as may be provided by regulations;
 - (3) rent of or expenses in connection with any premises or part of any premises not occupied or used for the purpose of producing the profits;
 - (4) rent of any premises owned or leased by that Person and used by him in connection with the carrying on of his business except as may be allowed by regulations;
 - (5) interest if and to the extent that it is payable at a rate exceeding 6% (six percent) per annum except interest payable to a bank or financial institution approved by the MIRA;
 - (6) a fine or interest payable in respect of any failure to comply with any law, including this Act and regulations made pursuant to it.
- (b) A deduction shall not be allowed under a provision of this Act in respect of any expenditure if a deduction is allowed in respect of the same expenditure under any other provision of the Act.
- (c) In addition, but subject to Section 11(d), a deduction shall not be allowed in computing a Person's taxable profits of a tax year in respect of remuneration payable to or in respect of:
- (1) where the remuneration is payable by a company, a director or a Person holding a substantial interest in the company or is an associate of the company, or a Person who is related to, or is an associate of, a director or such a Person, or

- (2) where the remuneration is payable by a trust or a body of persons, a trustee or member of the body of persons and any person associated with a trustee or such a member, or
 - (3) where the remuneration is payable by a partnership, a partner or a Person holding a substantial interest in the partnership, or is an associate of the partnership, or a Person who is related to, or is an associate of a partner.
- (d) Section 11(c) does not apply if the aggregate of the remuneration referred to in that subsection and payable in the tax year does not exceed 10% (ten percent) of the specified profits.
- (e) For the purposes of this Section, one individual is related to another if one is the spouse, child, parent, brother or sister of the other, or is the step-child, step-parent, step-brother or step-sister of the other; and
- (f) For the purposes of this Section the following Persons are associated with each other:
- (1) partners in the same partnership;
 - (2) entities which as respects each other are either a holding company or a subsidiary within the meaning of Section 7(e);
 - (3) individuals who are related to each other;
- and any Person associated with a second Person is also associated with any other person associated with that second person.
- (g) "specified profits" means the aggregate of the taxable profits, the amount of any donation which is deductible accordance with Section 10(e), and any remuneration mentioned in Section 11(c).

Pre-trading and pre-registration expenditure

- 12.** (a) Expenditure incurred for the purposes of a business before the business commences shall be deemed to be incurred on the first day on which the business is carried on.
- (b) Section 12 (a) does not apply to any expenditure which falls within-
- (1) Section 12(c), or
 - (2) regulations under Section 10(d)(2) or which would have fallen within those regulations if the business had been carried on, or those regulations had been in force, when the expenditure was incurred,
- in the case of a permanent establishment, if the expenditure was incurred outside Maldives before the permanent establishment was established, or where the business is carried on by an individual, when the individual was not resident in Maldives.
- (c) Expenditure incurred-

- (1) before the day on which a company is registered under the Companies Act of Maldives (Act Number 10/96) “the day of registration”, and
- (2) in connection with the formation of the company or otherwise for the purposes of the company;

shall be deemed to have been incurred by the company on the day of registration.

- (d) Expenditure which is deemed by Section 12(a) or 12(c) to have been incurred by a company or an establishment on a particular date (“the start date”) shall be reduced by the amount of any income accruing or arising to or for the benefit of the company or establishment on or before the start date.
- (e) Where the amount of any income accruing or arising to or for the benefit of the company or establishment on or before the start date exceeds the amount of any expenditure deemed to have been incurred on the start date by Section 12(a) or 12(c), the amount of that excess shall be deemed to be income accruing to the company or establishment on that date.

Loss Relief

13. (a) Subject to the provisions of this Act, where on the computation of the taxable profits of any Person for any tax year, a loss is found to have been incurred by that Person for that year, an amount equal to the amount of that loss may be carried forward and set off, so far as possible, against the Person’s taxable profits of the next tax year, and so on for subsequent tax years.
- (b) A loss may not be set off under Section 13(a) unless a claim for the loss is included in the tax return for the tax year in which the loss was incurred.
- (c) A loss may not be carried forward under Section 13(a) more than 5 (five) years from the end of the tax year in which it was incurred, and an earlier loss shall be taken to have been set off in accordance with this Section before a later loss.
- (d) A Person may not make a claim to set any amount off as a loss under this Section unless the loss results from a transaction or arrangement of any kind, any profits from which had they existed, would have formed part of the taxable profit of that Person for the tax year in which the loss is incurred.
- (e) Losses accruing in an accounting period ending before the commencement date may not be carried forward to a later period

Special provisions relating to insurance companies

14. (a) The following provisions of this Section shall have effect notwithstanding any provision to the contrary in this Act.
- (b) In any case where the gains or profits of an insurance company other than a life insurance company accrue in part outside the Maldives, the gains or profits on which tax is chargeable for a tax year shall be ascertained by:
 - (1) taking the gross premiums and interest and other income received or receivable in Maldives (less any premiums returned to the insured and premiums paid on re-insurances), and;

- (2) deducting from the balance so arrived at, a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the relevant accounting period, and;
 - (3) adding thereto a reserve similarly calculated for unexpired risks outstanding at the beginning of the relevant accounting period, and;
 - (4) from the net amount so arrived at deducting the actual losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in Maldives and a fair proportion of the expenses of the head office of the company.
- (c) Subject to Section 14(d) below, the taxable profits of a life insurance company, (whether mutual or proprietary), shall be the investment income less the management expenses (including commission).
 - (d) Where such a company receives premiums outside Maldives, the gains or profits shall be the same proportion of the total investment income of the company as the premiums received in Maldives bore to the total premiums received after deducting from the amount so arrived at the agency expenses in Maldives and a fair proportion of the expenses of the head office of the company.

Chapter 2

Exemptions from Tax

Exemption for banks, charities and foreign investments

- 15. (a) The provisions of this Act, apart from this Section, do not apply to the following Persons:
 - (1) the Maldives Monetary Authority;
 - (2) any bank which is within the charge to bank profits tax under the Law on Taxing Profits of Commercial Banks operating in Maldives (Act Number 9/85);
 - (3) any body, association or public institution which is approved by the MIRA and established for the promotion of Islam, relief of the poor, medical relief or education or any other object of similar general public utility.
- (b) A Person who is party to an agreement under the Law on Foreign Investments in Maldives (Act Number 25/79) made after the commencement day shall be exempt from tax under this Act to the extent that the agreement confers such an exemption.
- (c) Exemptions from tax purported to be granted under such agreements before commencement day shall be of no effect for the purposes of this Act.

Exemption for shipping or aircraft businesses

- 16. (a) The profits of any tax year of any business carried on by an owner or charterer of a ship or aircraft as such owner or charterer who:
 - (1) is not resident in Maldives, and

(2) does not carry on any other business,

shall be exempt from tax if the Commissioner General is satisfied that a similar exemption from business profit tax or any other similar tax is granted by the country in which such Person is resident, to a Person resident in Maldives.

(b) For the purposes of this Section, a company shall be deemed to be resident only in that country in which it's central management and control is situated.

Chapter 3

Tax Returns, Assessments and Payment of Tax

**Tax Return and
Self Assessment**

17. (a) Any Person, who is required to register under the Tax Administration Act (Act Number 3/2010), other than a company, partnership or any Person who is required to make up accounts under any law may be exempted from submitting the tax returns, provided that the gross income of the Person for any tax year does not exceed a threshold determined by the MIRA.
- (b) A Person who is within the charge to tax for any tax year shall file "tax return" of that year and must include in the return:
- (1) a computation, made in accordance with this Act, of his taxable profits of that year or of any loss incurred for that year, and
- (2) an assessment of the tax, if any, in respect of that year to which that Person is chargeable under this Act.
- (c) An assessment contained in a tax return for any tax year made by any Person under Section 17(b)(2) is an assessment of the tax payable by that Person for that year, and may be referred to as a self-assessment.
- (d) Where a Person is required by regulations to make up accounts for any period ending in a tax year, that Person's tax return for that tax year must be delivered to the MIRA:
- (1) before the end of the period of 6 (six) months from the end of the Person's accounting period ending in that year, or
- (2) on or before 30th April in the following tax year,
- whichever is the later.
- (e) A tax return required to be made by any Person not within Section 17(d) shall be made on or before 30th April in the following tax year.
- (f) Where on the computation of a Person's taxable income for any year, a loss is shown to have been incurred by that Person, his tax return for that year must state the amount of that loss.
- (g) Any reference in this Act to the due date in relation to a tax return is a reference to the last date by which that tax return is required to be delivered to the MIRA under this Section.

Power of MIRA to require tax return in certain cases

18. (a) This Section applies in any case where the MIRA has reasonable grounds for believing that a Person is proposing to leave Maldives, or in the case of a company, proposing to cease to be resident in Maldives, otherwise than by winding up, or to transfer any funds or assets out of Maldives and that a loss to the revenue may result there from.
- (b) The MIRA may by notice require that Person to deliver a tax return relating to such period or periods as may be specified in the notice within 7 (seven) days of the date of the notice, or such longer period as the MIRA may specify in the notice, and the return must include:
- (1) a computation made in accordance with this Act of his taxable profits of that period or of any loss incurred for that period, and
- (2) an assessment of the tax, if any, in respect of that period to which that Person is chargeable under this Act.
- (c) An assessment contained in a tax return for any period made by any Person under Section 18(b)(2) is an assessment of the tax payable by that Person for the tax year or years in which the period ends (or periods end), and may be referred to as a self-assessment. And any tax so assessed shall, notwithstanding any other provision of this Act, be due and payable within 7 (seven) days of the date on which the return is required to be delivered or the date of the proposed departure or transfer or of the company's ceasing to be resident in Maldives (as the case may be), whichever is the earlier.
- (d) For the purposes of making a computation of profit or losses, in a return under this Section, any reference in this Act to a tax year or an accounting period shall, so far as may be necessary, be read as a reference to any such period as may be specified in the notice.
- (e) Where any return delivered in compliance with the notice does not relate to a complete tax year, the provisions of this Act relating to interest and penalties and recovery of tax and interest and penalties shall apply as if it were a tax year.
- (f) A notice under Section 18(a) served on any Person on any date may not specify any period of time as respects which that Person has delivered a tax return under Section 17 of this Act before that date.
- (g) Submission of a tax return under this Section, does not override any obligation to deliver a tax return under Section 17, but where a return is made under Section 17 whilst tax has been paid to MIRA based on a return which has been made under this Section, the assessed tax or loss stated in the Section 17 return shall be reduced by the amount of any assessed tax stated in the return submitted under this Section.

Correction of Tax Return

19. (a) A Person may correct his tax return by notice given to the MIRA within 12 (twelve) months following the due date for that return.

- (b) The MIRA may correct obvious errors and omissions in a Person's tax return by notice given to that Person within 12 (twelve) months after the due date for that return or, if the tax return is delivered after the due date, within 12 (twelve) months following the date on which it is delivered.
- (c) The MIRA may correct obvious errors and omissions in a Person's notice of correction to a tax return by notice given to that Person within 12 (twelve) months after the notice is received by the MIRA, and a notice under this subsection has effect as a correction to the tax return.
- (d) Any correction to a tax return which is effective under this Section shall have effect as if included in the return as originally delivered to the MIRA.

Notice of inquiry

- 20.**
- (a) The MIRA may serve a notice on any Person in accordance with this Section stating that the MIRA are proposing to enquire into that Person's tax affairs for such tax years as may be specified in the notice for the purpose of establishing that Person's taxable income or losses and assessed tax for those years, and such a notice is referred to in this Act as a notice of enquiry.
 - (b) Subject to Section 20(c), in any case where a Person has delivered a tax return for a tax year on or before the due date for that return, the MIRA may serve a notice of enquiry on that Person not later than 12 (twelve) months after the due date for submission of that return.
 - (c) In any case where a Person has delivered a tax return for a tax year after the due date for that return or has served a notice of correction under Section 19 of this Act relating to the tax return for a tax year, a notice of enquiry may be served on that Person not later than 12 (twelve) months after the date the tax return was delivered or the date of the notice of correction.
 - (d) Where a Person does not deliver a tax return for a tax year, the MIRA may serve a notice of enquiry on that Person at any time.
 - (e) The MIRA may also serve a notice of enquiry on any Person who has submitted a withholding tax return under Section 26 of this Act, or who the MIRA has reasonable grounds for believing has failed to submit a return in accordance with that Section for the purpose of establishing that all withholding tax for which that Person is required to account to the MIRA has been properly accounted for.
 - (f) A notice of enquiry under Section 20(e) may be served within 12 (twelve) months of the date on which a withholding tax return has been submitted and may relate to any payments made or received during the 12 (twelve) months prior to the date of the notice of enquiry.

- (g) In any case where the MIRA have reasonable grounds for believing that a Person has deliberately or fraudulently evaded tax, including withholding tax, a notice of enquiry may be served within 3 (three) years of the date on which sufficient information becomes available to the MIRA from which they formed or could have formed that belief.

**Assessments by
MIRA**

- 21.**
- (a) This Section applies where a notice of enquiry has been served on any Person (“the Person in default”) in respect of any tax year (“the default year”), and a determination under this Section may be referred to as a “MIRA assessment”.
 - (b) The MIRA may make a determination, to the best of their information and belief, of the taxable profits or losses for the default year of the Person in default and of the amount of tax (if any) payable for that year in respect of those profits, or of any loss accruing to that Person for that year
 - (c) The MIRA shall notify the Person in default of any determination made under Section 21(b) and:
 - (1) if a tax return for the default year has been delivered (whether by the due date or later) the notice shall be an amendment to that tax return (effective from the date of the return or the due date for the return whichever comes earlier), or
 - (2) if there is no such tax return, the notice shall be an assessment under this Section for the default year.
 - (d) A notice under Section 21(c) shall be in writing and shall include:
 - (1) the name and address of the Person in default,
 - (2) the default year,
 - (3) the amount of taxable profits or losses determined for the default year by the MIRA under Section 21(b),
 - (4) TIN of the registered Person,
 - (5) the amount of tax so determined,
 - (6) due date for the payment of tax determined.
 - (e) An assessment under Section 21(c)(2) on any Person shall, for the purpose of determining any interest or penalties which may apply, be deemed to have been made on the due date for that Person’s tax return for the default year.
 - (f) Where more than one year is specified in the notice of enquiry, Section 21(b), 21(c), 21(d) and 21(e) shall apply separately in relation to each such year

- (g) A notification under Section 21(c) may not be made more than 3 (three) years after the date of service of the notice of enquiry
- Records, accounts and audit requirements** **22.** The Commissioner General may make regulations with respect to records which must be kept by any Person within the charge to tax, and with respect to accounts which Persons required to file a tax return for any tax year must make up and deliver to the MIRA, and the auditing of such accounts.
- Interim payments** **23.** (a) Interim payments of tax for any tax year shall be made in accordance with this Section on or before 31st July, the first interim payment, in the tax year and 31st January, the second payment, in the immediately following tax year, and shall be payable without any demand being made by the MIRA.
- (b) In the case of a Person who is within the charge to tax under this Act for any tax year, the first and second interim payment shall each be equal to one-half of his assessed tax for the preceding tax year.
- (c) If a Person was not within the charge to tax under this Act for the preceding tax year, that Person shall make a reasonable estimate of the amount of his assessed tax for the following tax year, and the amount of the first and second interim payment required to be made under Section 23(a) for that following tax year shall each be equal to one-half of that estimated amount.
- (d) Any Person within the charge to tax under this Act for the first tax year shall make a reasonable estimate of the amount of his assessed tax for that tax year, and the amount of the first and second payments required to be made under Section 23(a) for the first tax year under this Act shall each be equal to one-half of that estimated amount.
- (e) This Section applies whether or not a tax return has been delivered by the due date or is corrected or amended under Section 20 or 21 of this Act.
- (f) This Section does not apply in relation to tax required to be withheld under Section 6 of this Act.
- (g) This Section does not apply in the case of any Person whose assessed tax for the preceding year does not exceed MVR2,000 (Two Thousand Maldivian Rufiyaa), or in case within Section 23(c) or (d) if the aggregate of the interim payments does not exceed MVR2,000 (Two Thousand Maldivian Rufiyaa).
- (h) Tax which is not paid on or before the date it is due under this Section shall carry interest at the rate of 5% (five percent) per annum from one month after that date until the tax is paid.
- Final payment** **24.** (a) A Person who is required to file a tax return under Section 17 of this Act for any tax year must make a payment of any tax due for that year under the provisions of this Section on or before the due date for that tax return, without any demand being made by the MIRA.

- (b) The tax due and payable by any Person under this Section for any tax year shall be the amount (if any) by which that Person's assessed tax for that year exceeds the aggregate of:
 - (1) any interim payments of tax made by that Person in respect of that tax year, and;
 - (2) any amounts of tax overpaid in respect of any earlier tax year and not repaid by the MIRA to that Person.
- (c) Tax which is not paid on or before the date it is due under this Section shall carry interest at the rate of 5% (five percent) per annum from one month after that date until it is paid.

**Accounting for
and payment of
withholding tax**

- 25. (a) Tax charged in respect of any payment under Section 6 of this Act:
 - (1) shall be deducted from the gross payment subject to tax by the Person liable to make the payment, and;
 - (2) shall be considered payable to MIRA and recoverable from that Person, and;
 - (3) shall be paid to the MIRA not later than the 15th day of the month following the month in which the payment is paid or adjusted from accounts, whichever is the earlier.
- (b) The Person liable to deduct tax under Section 25(a) in respect of any payment shall deliver to the MIRA, together with the tax, a return in the prescribed form, certified as correct by that Person, specifying:
 - (1) the gross amount of the payment and a brief indication of what the payment relates to;
 - (2) the date when the payment is made or adjusted from accounts;
 - (3) the name and address, of the recipient of the payment and the address or account to which it was sent;
 - (4) the tax required to be deducted under this Section

and such other information as may be required, and shall send a certificate of tax withheld in the prescribed form to the recipient of the payment within one month of the date mentioned in Section 25(b).
- (c) If any tax required to be deducted from any payment under this Section is not accounted for in accordance with Section 25(b), the Person liable to make that deduction shall be liable to pay interest to the MIRA at the rate of 1% (one percent) per month on the tax for the time being outstanding.
- (d) The Person entitled to any payment charged to tax under this Section shall not be entitled to recover any tax paid under this Section from any Person.

(e) Any tax required to be withheld from any payment under this Section and not accounted for to the MIRA in accordance with this Section shall be deemed to be tax assessed:

(1) on the Person who is required to withhold the tax, and

(2) on the Person to whom the payment is made,

and accordingly such Persons are jointly and severally liable for the assessed tax.

(f) Where tax is deemed to be assessed on any Person by virtue of Section 25(e), the MIRA may serve a notice of assessment on that Person within 3 (three) years from the date on which the MIRA knew or ought to have known that the tax had been deemed to be assessed on that Person. And any provision of the Tax Acts requiring anything to be done within a period beginning on a particular day or on the happening of a particular event shall have effect as if it required that thing to be done in the period beginning instead with the service of the assessment under this subsection.

(g) Where any Person has failed to deduct tax as required by this Section but the MIRA is satisfied that any amount withheld from an earlier or later payment is sufficient to meet the amount of tax which he failed to withhold, the MIRA may by notice given to that Person exempt that Person from any liability under this Section in respect of the amount not withheld.

(h) A return is required to be made under Section 25(b) even if the tax required to be deducted from any payment is not accounted for in accordance with Section 25(b). And in such a case the return must be made to the MIRA not later than the 15th day of the month following the month in which the payment is paid or adjusted from accounts, whichever is the earlier.

**Objections to
assessment**

26. (a) Where a MIRA assessment is made on any Person under Section 21 of this Act, the MIRA shall give notice of it to that Person as soon as is reasonably practicable after it is made, stating the amount of his assessed taxable profits, his assessed tax, the amount of tax payable and any interest and penalties due, and informing him of his rights under this section; and a notice under this subsection is referred to in this Act as a "notice of assessment".

(b) Any Person who is given a notice of assessment under this Section or under Section 25 of this Act may by notice to the MIRA object to the assessment. In this Section "the Person assessed" means the Person to whom a notice of assessment is given.

(c) A notice under Section 26(b) ("a notice of objection") shall state the grounds on which the Person assessed objects to the assessment.

- (d) A notice of objection shall be delivered to the MIRA within 30 (thirty) days from the date of the service of the notice of assessment to which it relates but the MIRA shall, if satisfied that owing to any reasonable cause (whether absence from Maldives or sickness or any other cause) the Person assessed was prevented from making the application within the 30 (thirty) days allowed, extend that period to such longer period as may be reasonable in the circumstances.
- (e) A notice of objection shall not be valid unless all amounts due under the Tax Acts, including interest and penalties and tax which may be the subject of the objection, have been paid to the MIRA in full before the expiry of the 30 (thirty) day period allowed for making the objection.
- (f) On receipt of a notice of objection the MIRA shall reconsider the assessment and may require the Person assessed:
 - (1) to furnish such particulars as the MIRA may require with respect to that Person's income, and
 - (2) to produce all books or other documents in his custody or under his control relating to such income.
- (g) If the MIRA has reasonable grounds for believing that any Person is able to give evidence respecting the assessment, the MIRA may, by notice, summon that Person to attend at a place and time specified in the notice, and the MIRA may examine that Person on oath or otherwise, but a Person shall not be required to give any evidence under this subsection which he could not be compelled to give in proceedings in court.
- (h) If the Person assessed has objected to the assessment made and subsequently agrees with the MIRA the amount at which he is liable to be assessed, the assessment shall be amended accordingly and served on that Person.
- (i) If the MIRA determines on reconsideration of the assessment that the assessment was incorrect in any particular, the MIRA shall amend the assessment accordingly and serve it on the Person assessed.
- (j) The MIRA must complete consideration of an objection within a reasonable period of time and notify the objector of the result of that consideration as soon as it is completed.
- (k) If the decision of the MIRA on an objection is that the assessment objected to was too high, the MIRA shall issue an additional assessment as soon as is reasonably practicable and any amount overpaid shall be refunded to the objector or set against any existing tax liability of the objector.
- (l) The Person assessed may not appeal in the Tax Appeal Tribunal against the assessment unless:
 - (1) he has given a valid notice of objection to the assessment under this Section, and

- (2) the MIRA has completed reconsideration of the assessment under this Section and the Person assessed remains dissatisfied with the MIRA's determination.

Appeal 27. Appeals against penalties, assessments, and claims made under Tax Acts shall be heard by the Tax Appeal Tribunal.

Chapter 4 Tax Avoidance

Disposition in favour of minor to be disregarded 28. (a) Where a Person ("the child"), who has not reached the age of 18 on the first day of any tax year, is carrying on a business in Maldives in that tax year, then for all purposes of the Tax Acts the business shall be treated as being carried on:

(1) if the business was transferred to the child by another Person, by the transferor; or

(2) if Section 28(a)(1) does not apply, by the child's father, or if the father is deceased, by such Person as may be determined or appointed in accordance with regulations.

(b) Where the business is being carried out by a child pursuant to Section 28(a):

(1) the child shall not be personally responsible for complying with any of the requirements imposed by or under this Act; but

(2) the Person who is treated as carrying on the business shall be responsible for complying with the Tax Acts, including filing tax returns and paying any tax, interest and penalties due, with respect to that business.

Transfer pricing 29. (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.

(c) For the purposes of this Section Persons are associated with each other if:

(1) One exerts power over the other, or the same Person exerts power over both; or

(2) one is a relative of the other.

(d) For the purposes of Section 29(c) a Person is a relative of another Person if he or she is:

(1) the individual's spouse, or

- (2) abrother, sister, parent, grandparent, or child of the individual or the individual's spouse,
 - (3) a spouse of a person within Section 29(d)(2); and "child" includes a stepchild.
- (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.
- (g) If the transaction would not have been entered into between Persons who were not associated with each other, then in computing the taxable profits of the first Person, such transactions shall be disregarded.
- (h) The MIRA may give a direction that Section 29(i) shall apply, under the following circumstances:
- (1) in relation to a transaction, Section 29(f) or 29(g) has applied for the computation of the taxable profits of the first Person for a tax year, and
 - (2) the second Person ("the claimant") makes a claim to the MIRA for relief under this subsection, and
 - (3) the MIRA is satisfied that in computing the claimant's taxable profits, disregarding this subsection, that transaction would have been taken into account,
- (i) Where this subsection applies, then with regard to the transaction in question, the claimant's taxable profits shall also be computed in accordance with Section 29(f) or 29(g), whichever applied for the computation of the first Person's taxable profits.
- (j) A claim under Section 29(h) shall be made in writing not later than 12 (twelve) months after an assessment on the first Person for the tax year mentioned in Section 29(h)(1) has become final.
- (k) All such adjustments and assessments shall be made as may be necessary to give effect to any claim under Section 29(h).

Arrangements designed to avoid or reduce liability to tax

30. (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.
- (b) Section 30(a) does not apply in relation to any transaction falling within Section 29 of this Act.
- (c) Section 30(a) also applies where the avoidance of or reduction in tax is obtained through the combined effect of two or more transactions or through the combined effect of one or more transactions and the liquidation of a company, and references in this Section to a transaction shall be construed accordingly.
- (d) The MIRA may, in any case where the MIRA considers it to be just and reasonable:
- (1) issue an assessment to tax not exceeding the amount of tax which in the opinion of the MIRA has been avoided or reduced;
 - (2) issue a notice nullifying any right to a repayment of tax; or
 - (3) issue a notice requiring any repayment already made to be returned within such time as may be specified in the notice.
- (e) For the purposes of the provisions of this Act relating to the following, a notice served under Section 30(d)(2) or (3) shall be deemed to be an assessment;
- (1) objections on assessments and appeals against decisions on objections; and
 - (2) interest on tax not paid when due,
- (f) Section 30(a) does not apply in relation to any transaction the main purpose or one of the main purposes of which is to enable a company formed for the purpose to succeed to a business carried on by an individual.

Chapter 5 Offences and Penalties

Offences involving evasion of tax

31. (a) This Section applies in any case where a Person wilfully and with intent to evade or to assist any other Person to evade tax;
- (1) fails to file a tax return or to give any notice or information in accordance with the requirements of Tax Acts; or
 - (2) omits from a tax return any income or profits which should be included; or
 - (3) makes any false statement or entry in any tax return; or

- (4) gives any false answer, whether orally or in writing to any question or request for information asked or made in accordance with the Tax Acts; or
- (5) prepares or maintains or authorises the preparation or maintenance of any false books of accounts or falsifies or authorises the falsification of any books of accounts; or
- (6) fails to submit accounts to the MIRA in accordance with regulations or submits accounts which have not been properly made up;

and any such Person is referred to below as “the Person in default”.

- (b) In any case falling within Section 31(a) above, the Person concerned commits an offence and shall be liable on conviction to a fine not exceeding MVR100,000 (One Hundred Thousand Maldivian Rufiyaa) or to six months to two years house arrest or imprisonment or banishment, or to both such fine and house arrest, imprisonment or banishment.
- (c) In any case falling within Section 31(a) above, in addition to any penalty under Section 31(b), the Person in default shall be liable to a civil penalty equal to double the amount of tax for which he is liable for the tax year in respect of or during which the offence was committed.
- (d) Whenever in any proceedings under this Section it is proved that any false statement or entry is made in any return by or on behalf of any Person or in any books of account or other records maintained by or on behalf of any Person, that Person shall be presumed, until the contrary is proved, to have made that false statement or entry with intent to evade tax.

Offences relating to failure to file tax returns, filing incorrect returns, and such other offences

- 32. (a) This Section applies where a Person without reasonable excuse:
 - (1) fails to file a tax return or to give any notice or information in accordance with the requirements of the Tax Acts; or
 - (2) files an incorrect tax return by omitting or understating any income which he is required to include in the return; or
 - (3) fails to submit accounts to the MIRA in accordance with regulations or submits accounts which have not been properly made up;
 - (4) fails to keep proper records as required by regulations;
 - (5) gives any incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other Person or of a partnership;

and any such Person is referred to below as “the Person in default”.

- (b) In any case falling within Section 32(a) above, the Person in default commits an offence and shall be liable on conviction to a fine not exceeding MVR250,000 (Two Hundred and Fifty Thousand Rufiyaa) or to three months house arrest or imprisonment or to both such fine and imprisonment or house arrest.

- (c) In any case falling within Section 32(a) above, the Person in default, in addition to any penalty under Section 32(b), shall make a payment determined by either of the following:
- (1) in a case falling within Section 32(a)(1) or 32(a)(3), a penalty equal to double the amount of tax payable by that Person for the accounting period to which the return, notice, information or accounts related, or
 - (2) a penalty equal to double the amount of tax payable where the tax payable has been undercharged in consequence of the incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct.
- (d) In a case falling within Section 32(a)(1) or 32(a)(3), the Tax Appeal Tribunal may, on an application made to them by the MIRA, direct that the Person in default shall be liable to a further civil penalty or penalties not exceeding MVR500 (Five Hundred Maldivian Rufiyaa) for each day on which the failure continues after the day on which he is notified of the direction.
- (e) In a case falling within Section 32(a)(4), the Person in default shall be liable to a civil penalty not exceeding MVR250,000 (Two Hundred and Fifty Thousand Maldivian Rufiyaa)
- (f) Without prejudice to any penalties under Sections 32(b), 32(c), 32(d) and 32(e) above, if, in a case falling within Section 32(a)(1) the Person in default shall be liable to a penalty of an amount not exceeding the liability to tax which would have been so shown.
- (1) the failure of the Person in default continues after the anniversary of the filing date, and
 - (2) there would have been a liability to tax shown in the return,
- (g) Any Person who assists in or induces the preparation or delivery of any information, return, accounts or other document which;
- (1) he knows will be, or is or are likely to be, used for any purpose related in any way to business profit tax, and
 - (2) he knows to be incorrect, shall be liable to a civil penalty of MVR50,000 (Fifty Thousand Maldivian Rufiyaa).
- (h) If in a case where a civil penalty is payable by a Person in default in respect of any failure to deliver a tax return in accordance with this Act, that Person proves to the satisfaction of the MIRA that the liability to tax shown in the return would not have exceeded a particular amount, the penalty or penalties shall not exceed that amount.

**Failure to pay
tax and other
breaches of law**

33. (a) A Person who fails to pay any amount of tax, including withholding tax, by the due date shall incur a civil penalty of MVR250,000 (Two Hundred and Fifty Thousand Maldivian Rufiyaa), or twice the amount of tax unpaid by the due date, whichever is the higher.
- (b) A Person who refuses to allow a deduction of withholding tax authorised by this Act to be taken out of any payment shall incur a civil penalty of MVR50,000 (Fifty Thousand Maldivian Rufiyaa).
- (c) Every agreement for payment of any amount subject to withholding tax under this Act in full without allowing deduction of that tax shall be void.
- (d) Any Person who fails to comply with any requirement of the Tax Acts for which no other civil penalty is provided, shall be liable to a civil penalty of MVR125,000 (One Hundred and Twenty Five Thousand Maldivian Rufiyaa).
- (e) A Person convicted of an offence under this Act for which no other criminal penalty is provided is liable on conviction to a fine not exceeding MVR250,000 (Two Hundred and Fifty Thousand Maldivian Rufiyaa) or up to 3 (three) months house arrest or imprisonment.

**Determination
of penalties by
MIRA**

34. (a) A civil penalty under this Act shall be imposed by a determination of the MIRA.
- (b) In the case of a penalty which is not a fixed sum, the amount of the penalty shall be such amount as, in the opinion of the MIRA, is correct, in the case of a tax-gearred penalty, or appropriate, where the amount of the penalty is discretionary.
- (c) Notice of a determination of a penalty under this Section shall be served on the Person liable to the penalty and shall state the date on which it is issued and the time within which an appeal against the determination may be made.
- (d) If it is discovered by the MIRA that the amount of a penalty determined under this Section is or has become insufficient, the MIRA may make a determination increasing the penalty to the amount at which, in the MIRA's opinion, it ought originally to have been determined.
- (e) In any case where a determination under this Section is of a tax-gearred penalty, and after the determination has been made it is discovered by the MIRA that the amount of tax which was taken into account in fixing the penalty is or has become excessive, the determination shall be revised so that the penalty is set at the amount which is correct; and, where more than the correct amount has already been paid, the appropriate amount shall be refunded.
- (f) In this Section "tax-gearred penalty" means a penalty the amount of which is determined by reference to a variable amount of tax.

- Payment of penalties, and appeals**
35. (a) A penalty determined under Section 34 of the Act shall be due and payable on or before the last day of the period of 45 (forty five) days beginning with the date of the issue of the notice of determination, and that last day is referred to as “the penalty payment date”.
- (b) A penalty determined under Section 34 of this Act shall for all purposes be treated as if it were assessed tax due and payable on the penalty payment date.
- (c) A Person who is subject to a civil penalty may appeal against the determination of the penalty to the Tax Appeal Tribunal referred to in Section 27 of this Act.
- (d) A penalty which has been determined under Section 34 of this Act is payable in full by the penalty payment date notwithstanding that an appeal is brought against the penalty, or against any amount of tax to which the penalty relates, but if on appeal the penalty is reduced or cancelled the MIRA shall refund the penalty so reduced or cancelled together with interest at 5% (five percent) per annum from the date the penalty was paid.
- (e) If, at the time any refund is due under Section 35(d) to any Person, that Person has any outstanding tax liabilities under this Act, the amount of the refund and interest shall be set against those liabilities and only such amount as cannot be so set off shall be paid to that Person.
- Evidence for purposes of proceedings relating to penalties**
36. (a) A certificate signed by the MIRA that an amount of tax is assessed tax, is sufficient evidence of that fact for the purposes of Chapter 5 of the Act and of proceedings in respect of any offence under this Act.
- (b) A certificate signed by the MIRA that a penalty of any amount has been imposed is sufficient evidence of that fact for the purposes of Chapter 5 of the Act and of proceedings in respect of any offence under this Act.
- Mitigation of penalties**
37. The MIRA may in their discretion mitigate any penalty, or stay or compound any proceedings for a penalty, and may also, after judgment, further mitigate or entirely remit the penalty.
- Saving for other criminal proceedings**
38. The provisions of this Act shall not affect any criminal proceedings under any other law, except that a Person shall not be prosecuted more than once for the same offence.
- Time limits for prosecutions and determinations**
39. (a) A criminal prosecution against any Person for the commission of any offence under this Act shall not be brought unless it is commenced before the expiry of the period of 6 (six) years beginning with the end of the tax year in which the offence is alleged to have been committed (“the default year”) or 3 (three) years from the end of the tax year in which the tax for the default year becomes assessed tax, whichever is the earlier.

- (b) A determination of the imposition or amount of any penalty under this Act for any act or omission shall not be made after the expiry of the period of 4 (four) years beginning with the end of the tax year in which the act or omission is alleged to have been done or not to have been done (“the default year”) or 2 (two) years from the end of the tax year in which the tax for the default year becomes assessed tax, whichever is the earlier.
- (c) Where the MIRA did not know or had no reasonable grounds for suspecting that an offence has been committed or that a penalty was due, the period referred to in Section 39(a) and 39(b) above shall not begin to run until the end of the tax year in which the Commissioner did so know or had reasonable grounds for so suspecting.
- (d) In the case of any offence involving fraud, wilful neglect or wilful evasion of tax, proceedings may be commenced before a court at any time within 10 (ten) years after the date on which the offence is alleged to have been committed.
- (e) In the case of any civil penalty for an act or omission where fraud, wilful neglect or wilful evasion of tax is alleged, a determination of the penalty may be made at any time within 10 (ten) years after the date on which the act or omission is alleged to have been committed.

Interest on penalties

- 40.** A penalty under any of the provisions of this Act shall carry interest at the rate of 5% (five percent) per annum from the date on which it becomes due and payable until payment.

Chapter 6

General and Supplementary Provisions

Commencement of the Act

- 41.** Commencement of this Act will be upon 6 (six) months of passing, ratification and publication in government gazette. And this Act shall apply for the charge to tax, on the date of commencement of this Act or, for the tax years beginning thereafter.

Administration and make regulations

- 42.** (a) Unless otherwise stated in this Act, the Act will be administered and regulations be made by the MIRA. The regulations pursuant to this Act shall be made within 6 (six) months from the commencement of this Act.

Definitions

- 43.** (a) In this Act, unless the context otherwise requires:
- “accounting period” has the meaning given by regulations made pursuant to this Act;
- “accounts” means the Statement of Financial Position, Statement of Comprehensive Income, any notes or schedules to the accounts, the directors’ report and auditors’ report relating to the accounts and any other documents attached to or included in those documents;
- “assessed tax” and “assessment” and related expressions have the meanings given by Section 44 of this Act;

“body of persons” means any unincorporated fraternity, fellowship or society but excluding a company or partnership;

"business" includes

- (1) any profession or vocation and every trade, commerce or manufacture or every adventure in the nature of trade, agriculture, horticulture, forestry and timber growing, aqua-culture, fishing, fish farming, poultry or cattle raising or any other activity carried on with a view to making profits,
- (2) the granting of the right to occupy immovable property for valuable consideration;

but does not include any employment;

“business profit tax” means the tax charged under this Act;

“commencement day” means the day on which this Act comes into force;

“company” means any body corporate, wherever registered or incorporated;

“control” has the meaning given by Section 45 of this Act;

“MIRA” means the Maldives Inland Revenue Authority established pursuant to Tax Administration Act (Act Number 3/2010);

“due date”, in relation to a tax return, means the last date by which that tax return is required to be made under Section 17 of this Act;

“employment” means employment under a contract of service;

“family” means a husband and wife and their dependent children and step-children;

“gross income”, in relation to any taxable profits, means the income on which the computation of those profits is based, before any deductions or set off are made in accordance with this Act;

“Commissioner General” means the Commissioner General of Taxation appointed pursuant to the Tax Administration Act.

“notice” means notice in writing;

“notice of assessment” means a notice under Section 21 of this Act;

“notice of enquiry” means a notice under Section 20 of this Act;

“permanent establishment” has the meaning given by Section 43(e) and 43(f);

“Person”, subject to Section 43(g), includes an individual, a company, a partnership, corporative society, a trust and a body of persons;

“Person holding a substantial interest in a company” means a Person who is the beneficial owner of shares carrying voting rights of not less than 5% (five percent) of the aggregate of such rights;

“prescribed form” means a form prescribed by the MIRA;

“regulations” means regulations made pursuant to this Act;

“remuneration” includes any benefit received in respect of the performance of any duties as a director or partner, or otherwise as the holder of the office or employment of director or partner whether or not in money, but where the benefit is not money or money’s worth it is included only to the extent that regulations provide for its valuation;

“resident” has the meaning given by Section 46 of this Act;

“royalty” means any of the following payments:

- (1) payments made in consideration for the use of, or the right to use any copyright of literary, artistic or scientific work; any patent, trade mark, design or model, plan, secret formula or process; industrial, commercial or scientific equipment;
- (2) payments made for information concerning industrial, commercial or scientific experience, and
- (3) variable or fixed payments made in consideration for any right to work in extraction of mineral or mineral oil deposits, and other natural resources;

“Tax Acts” means this Act, or Tax Administration Act (Act Number 3/2010) and any regulations made under this Act or that Act;

“taxable profits” has the meaning given by Sections (2), (3), (4) and (5) of this Act;

“tax return” means a return under Section 17 or 18 of this Act and includes a return made late or corrected in accordance with Chapter 3 of this Act;

“tax year” means any period of 12 (twelve) months commencing on the first day of January in each year. For example, the tax year 2012 means the tax year from 1st January 2012 to 31st December 2012;

“TIN” means the taxpayer identification number allocated to Persons in accordance with the Tax Administration Act;

“withholding tax” means the tax charged under Section 6 of this Act.

- (b) This Act shall be read as one with the Tax Administration Act and accordingly any word or expression defined in that Act shall, unless the context otherwise requires, have the same meaning as it has in that Act.
- (c) For the purposes of this Act, a Person is within the charge to tax for a tax year if that Person is a company resident in Maldives in that year or is carrying on a business in Maldives in that year or has income or gains or losses which fall to be taken into account in any computation of that Person’s taxable profits for that tax year which is required to be made in accordance with this Act, (whether or not, in any case, that Person in fact has any taxable profits for that year).

- (d) For the purposes of this Act:
- (1) any loss shall be computed on the same principles as those on which taxable profits are computed; and
 - (2) in relation to any individual whose computation of taxable income is not based on accounts, any reference in this Act, however expressed, to the incurring of expenses in any tax year shall be read as a reference to amounts paid in that year
- (e) In this Act “permanent establishment” means a fixed place where a business is wholly or partly carried on, including:
- (1) a place of management of business;
 - (2) a branch;
 - (3) an office;
 - (4) a factory;
 - (5) a warehouse;
 - (6) a workshop;
 - (7) a farm or plantation;
 - (8) a mine, oil field, quarry or other place of extraction of natural resources;
 - (9) a building or work site or a construction, installation or assembly project;
 - (10) the maintenance of plant and machinery for rental.
- (f) Without prejudice to generality of Section 43(e), a Person shall be deemed to have a permanent establishment in Maldives if that Person:
- (1) carries on supervisory activities in connection with a building or work site or a construction, installation or assembly project; or
 - (2) has another Person acting on that Person’s behalf in Maldives who:
 - (2.1) has and habitually exercises an authority to conclude contracts; or
 - (2.2) maintains a stock of goods or merchandise for the purpose of delivery on behalf of that Person; or
 - (2.3) habitually secures orders wholly for that Person or for any other enterprise controlled by that Person.
- (g) For the purposes of this Act references to a “Person” do not include references to any government department or body forming part of a government department, but do include a Minister when acting otherwise than in his capacity as Minister.

(h) For the purposes of this Act, the singular shall include the plural and the plural shall include the singular.

Assessed tax, assessment and related expressions

- 44.** (a) This Section has effect for the interpretation for the purposes of this Act of “assessed tax”, “assessment” and related expressions.
- (b) “Assessed tax” means the tax assessed either in a self-assessment or in an assessment issued by the MIRA under Section 21 of this Act.
- (c) “Assessment” means an assessment under Section 17, 18 or 21 of this Act.
- (d) “MIRA assessment” means an assessment under Section 21 of this Act.
- (e) “Self-assessment” means an assessment of tax made in a tax return under Section 17 or 18 of this Act, and includes any correction made to the return under Section 19 of this Act.
- (f) An assessment to tax becomes final when:
- (1) the time within which a notice of enquiry can be served expires without such a notice being served, or
 - (2) the time within which an objection under Section 26 of this Act can be made expires without any such objection being made, or
 - (3) any such objection is finally determined.
- (g) An objection under Section 26 of this Act is finally determined when the time within which an appeal under Section 26 of this Act can be made expires without any such appeal being made, or when any such appeal has been finally disposed of.

Meaning of "control"

- 45.** (a) For the purposes of this Act, a Person who manages the affairs of a company, or is able to manage the affairs of a company either directly or indirectly, or is entitled to manage the affairs of a company either directly or indirectly, shall be taken to have control of that company.
- (b) In particular, a Person shall be taken to have control of a company if that Person possesses or is entitled to acquire:
- (1) the greater part of the share capital or issued share capital of the company or of the voting power in the company; or
 - (2) such part of the issued share capital of the company as would, if the whole of the income of the company were in fact distributed among the participators, without regard to any rights which any Person has as a loan creditor, entitle that Person to receive the greater part of the amount so distributed; or

- (3) such rights as would, in the event of the winding up of the company or in any other circumstances, entitle that Person to receive the greater part of the assets of the company which would then be available for distribution among the participators.
- (c) For the purposes of this Section, a Person who is entitled, or will at a future date be entitled, to acquire any right or interest or power of any kind at a future date, shall be treated as entitled to acquire that right or interest or power.
- (d) For the purposes of this Section, there shall be attributed to any Person any rights or powers which:
 - (1) another Person possesses on that Person's behalf, or
 - (2) another Person may be required to exercise on that Person's direction or behalf.
- (e) For the purposes of this Section, there shall also be attributed to any Person all the rights and powers:
 - (1) of any company controlled by that Person or by that Person together with any associates of that Person, or
 - (2) of any two or more such companies, or
 - (3) of any associate of that Person or of any two or more such associates, (including those attributed to a company or associate under Section 45(d)), but not those attributed to an associate under this subsection.
- (f) For the purposes of this Section, a participator is, in relation to any company, a Person having a share or interest in the capital or income of the company.
- (g) For the purposes of this Section, "associate" means, in relation to any Person;
 - (1) any relative of that Person
 - (2) any Person who is in partnership with that Person;
 - (3) where that Person has an interest in any shares or obligations of the company, any other Person who also has an interest in those shares or obligations.
- (h) For the purposes of Section 45(g) a person is a relative of another person if he or she is:
 - (1) the individual's spouse, or
 - (2) grandparents, parents, child, brother, sister, half-brother, half-sister, or
 - (3) the wife or husband of a person within Section 45(h)(2); and "child" includes a stepchild.
- (i) Notwithstanding Section 45(k), for the purposes of this Act, "loan creditor", in relation to a company, means a creditor in respect of

- (1) any debt incurred by the company
 - for any money borrowed or capital assets acquired by the company;
 - or
 - for any right to receive income created in favour of the company; or
 - for consideration, the value of which to the company was substantially less than the amount of the debt (including any premium thereon); or

(2) any redeemable loan capital issued by the company.

- (j) Notwithstanding Section 45(k), a Person who is not the creditor in respect of any debt or loan capital to which Section 45(i) above applies but nevertheless has a beneficial interest therein shall, to the extent of that interest, be treated for the purposes of this Section as a loan creditor in respect of that debt or loan capital.
- (k) A Person carrying on a business of banking shall not be deemed to be a loan creditor in respect of any loan capital or debt issued or incurred by the company for money lent by him to the company in the ordinary course of that business.

Residents

- 46.** (a) In this Act any reference to a Person being resident in Maldives in any tax year is, in the case of an individual, a Person
- (1) who is actually in Maldives for 183 (one hundred and eighty three) days or more in that year; or
 - (2) who arrives in Maldives in that year with the intention of establishing his residence in Maldives; or
 - (3) who is ordinarily resident in Maldives in that year but who leaves before the end of that year.
- (b) In this Act any reference to an individual who is ordinarily resident in Maldives is a reference to a Person who is habitually resident in Maldives except for such absence as the MIRA considers to be of a temporary nature.
- (c) A partnership or trust or other body of Persons shall be regarded for the purposes of this Act as resident in Maldives if it or they carry on any business in Maldives.
- (d) Subject to Section 16, a company which is incorporated in Maldives shall be regarded for the purposes of this Act as resident in Maldives.
- (e) In the case of a company which is not incorporated in Maldives, the company's place of residence shall be determined by reference to the place where the central management and control of the company's business is, or if that place cannot be ascertained, the place of incorporation or registration shall be the company's place of residence.
- (f) For the purposes of this Act a company which;

(1) is no longer carrying on any business; or

(2) is being wound up outside Maldives,

shall be regarded as continuing to be resident in Maldives if it was so regarded for those purposes immediately before it ceased to carry on business or, as the case may be, before any of its activities came under the control of a Person exercising functions which, in Maldives, would be exercisable by a liquidator.

Days to be disregarded in computing time limits

47. (a) Where any provision of this Act requires anything to be done within a specified period (however that requirement is expressed), then the day or days (if any) following the day which is the last working day of that period shall be disregarded in determining the last day of that period.

(b) For the purposes of Section 47(a) a working day is any day on which government offices are open.

Payment of interest

48. Interest charged under this Act shall accrue on a daily basis, shall be payable without demand and shall be recoverable as unpaid assessed tax.

Implementation of the Act

49. Unless otherwise prescribed in this Act, the Maldives Inland Revenue Authority shall make regulations pursuant to this Act and shall administer the provisions of this Act.

DISCLAIMER OF LIABILITY – The Maldives Inland Revenue Authority shall not accept any liability or responsibility arising out of any reliance whatsoever on the translation contained herein. In the event of conflict between the translations contained herein and the *Dhivehi* Business Profit Tax Act, the latter shall prevail for all given purposes. Therefore, it is advised that both the *Dhivehi* Business Profit Tax Act and its English translations be read concurrently.