



**Consolidated Version  
16 December 2020**

*Unofficial translation of the*

## **TAX ADMINISTRATION ACT**

**3/2010**

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*This document consolidates the following:*

- 1. Tax Administration Act (Law Number 3/2010), ratified by the President on Thursday the 18th of March 2010 (2 Rabi al-Akhir 1431).*
- 2. First Amendment to the Tax Administration Act (Law Number 14/2011), ratified by the President on Thursday the 29th of December 2011 (4 Safar 1433).*
- 3. Second Amendment to the Tax Administration Act (Law Number 13/2019), ratified by the President on Thursday the 12th of September 2019 (13 Muharram 1441).*
- 4. Third amendment to the Tax Administration Act (Law Number 27/2020), ratified by the President on Wednesday the 16th of December 2020 (1 Jumadhal Ula 1442).*

### **DISCLAIMER OF LIABILITY**

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

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# TAX ADMINISTRATION ACT

## 1. Introduction

- (a) This Act contains the provisions for the establishment and implementation of an administrative framework for the purpose of tax administration in the Republic of Maldives.
- (b) This Act shall be cited as the “Tax Administration Act”.

## CHAPTER 1: ADMINISTRATION OF TAX

### 2. Establishment and perpetuation of the Maldives Inland Revenue Authority

A separate and independent legal entity named the “Maldives Inland Revenue Authority (MIRA)” is hereby established under this Act. The administration of such entity shall perpetuate indefinitely without any interruptions. And such entity shall have the right to sue and be sued; acquire, receive and own moveable and immovable property in such manner as prescribed by law; engage in transactions under its own name; and have a distinct seal of its own.

### 3. Main aims of the MIRA

The main aims of the MIRA are as follows:

- (a) Enforce the tax laws and implement tax policies.
- (b) Carry out all work in respect of collecting all taxes imposed by the State pursuant to the law.
- (c) Ascertain whether the amount of tax payable has been calculated in accordance with the laws and regulations by all taxpayers and that any tax, fees or other monies payable are paid in full as and when they fall due.

- (d) Have regard for the rights of taxpayers whilst exercising the authority of the MIRA.
- (e) Give full information to taxpayers on the tax laws and regulations, and make efforts to minimize the costs involved for taxpayers in paying taxes.
- (f) Plan a system, whereby the costs of administering tax will be minimized.
- (g) Prescribe the content and prepare tax returns, claims, statements, notices and other such forms required under the tax laws and make any amendments, if required.
- (h) Establish a convenient mechanism for the administration of tax by means of modern technology.
- (i) Give technical advice in determining tax policies if required by the Government.

#### **4. Board of MIRA**

- (a) A Board shall be established in accordance with this Act in order to determine the administrative policies of MIRA and carry out the responsibilities stipulated in this Act.
- (b) The functions of the Board shall include the following:
  - (1) Formulating regulations required to be made pursuant to the tax laws;
  - (2) Reviewing the assets of the Commissioner General of Taxation and employees of MIRA and making regulations required for such review;
  - (3) Ensuring that MIRA implements the tax policies as determined by the Minister, and advising the Minister on the actions required to achieve the objectives of MIRA;
  - (4) Advising the Commissioner General of Taxation on the administration of MIRA, where required;
  - (5) Formulating the Code of Conduct to be followed by the Commissioner General of Taxation, Deputy Commissioner General of Taxation and the staff of MIRA.
- (c) The Board of Directors shall be established within 60 days of the establishment of the MIRA.

- (d) The Board of MIRA shall consist of the following 7 members.
- (1) The person appointed by the Minister to superintend the function of tax policy at the Ministry with the mandate of the finance function of the State;
  - (2) Five members appointed by the President;
  - (3) The Commissioner General of Taxation.
- (e)
- (1) The member of the Board specified in subsection (d)(1) shall be appointed by the President.
  - (2) The members of the Board specified in subsection (d)(2) shall be appointed by the President with the approval of the People’s Majlis. In this regard, the President shall review the applications made by persons for membership of the Board upon public announcement, order the names based on the results of such review, submit the names in that order to the People’s Majlis, and then appoint those persons approved by the People’s Majlis. In submitting names in the aforementioned manner, more than the required number of names for Board membership shall be sent. If the number of applicants is less than that required for the Board, then the names of all of the applicants shall be sent to the People’s Majlis.
- (f) A person appointed to membership of the Board shall have the following characteristics:
- (1) be a Muslim;
  - (2) be a citizen of the Maldives;
  - (3) be of sound mind;
  - (4) have attained the age of 18 years;
  - (5) shall not be a person who has been convicted of an offence for which a “hadd” is prescribed in Islam in a Court of Law;
  - (6) shall not be a person who has been declared bankrupt;
  - (7) shall not be a person who has been convicted of an offence relating to bribery;
  - (8) shall not be a person who holds an elected post, pursuant to elections held under the Constitution of the Republic of Maldives or under a law;



- (9) shall not be a person who holds a key position in a state-owned company or a private company, or any position on the Board of Directors of such a company;
  - (10) shall be a person who holds a master's degree or an equivalent qualification, from an institution recognized by the Government, in the field of taxation, economics, finance, accounting, business or law, or holds a first degree or an equivalent qualification in any of those fields and has gained post-qualification experience of not less than 5 (five) years;
  - (11) shall not be a person who is a member of any political party.
- (f-1) The Commissioner General of Taxation shall sit on the Board as a non-voting member.
- (g) Appointees to the Board shall hold their membership for a term of 5 years. All members, with the exception of those members who are removed in accordance with Section 5 of this Act, may be re-appointed for another term.
- (h) The Chairperson of the Board shall be the member specified in subsection (d)(1). The Deputy Chairperson of the Board shall be appointed by the Board from amongst the members specified in subsection (d)(2).
- (i) The Deputy Chairperson shall discharge the duties of the Chairperson under the circumstances where the Chairperson is unable to attend to the work of the Board. Under such circumstances, the Deputy Chairperson shall have all the powers which have been granted to the Chairperson under this Act.

## **5. Removal and resignation of members of the Board**

- (a) A member of the Board shall be removed from office upon the occurrence of any of the following circumstances:
- (1) is declared bankrupt by a judgment of the court; or
  - (2) is convicted on indictment for a criminal offence; or
  - (3) no longer meets the criteria for membership prescribed in this Act;

- (b) Notwithstanding subsection (a), where a member of the Board is found negligent in the performance of the responsibilities as a member of the Board, or where the committee of the People's Majlis which has the mandate to oversee the administration of MIRA is of the opinion that a member is unlawfully using his or her position on the Board, such member shall be removed from the position on the Board, with the approval of the majority of the members of the People's Majlis who were present in the sitting and participated in the vote.
- (c) A member of the Board may resign from the Board by submitting a letter to the President to such effect. The resignation shall be deemed final upon receipt of the letter by the President.
- (d) In the event of the resignation, or removal of a member of the Board, for any reason, prior to the expiry of the term for which the member had been appointed, a person shall be appointed for that position within not more than 45 days.

## **6. Salaries and other benefits of members of the Board**

The People's Majlis shall determine the salaries and other benefits of the members of the Board.

## **7. Board meetings**

- (a) A meeting of the Board shall be held at least once every Gregorian month.
- (b) Board meetings may be held under circumstances where the Chairperson sees it fit to hold such meetings necessary to discharge the duties of the Board.
- (c) It shall be deemed that the quorum to hold a meeting of the Board of Directors has been met if 4 members of the Board are present.
- (d) In a vote to resolve any matter by the Board, the Chairperson of the Board may give a casting vote in the event an issue receives equal votes. In all matters resolved by the Board, how each member votes shall be recorded distinctively in the minutes of the Board meeting.
- (e) The secretariat of the board shall be carried out by the Ministry with the mandate of the finance function of the State.

## **8. Appointing, removing and determining the salaries of the Commissioner General of Taxation and the Deputy Commissioner General of Taxation**

- (a) The Commissioner General of Taxation and the Deputy Commissioner General of Taxation of the MIRA shall be appointed by the President with the approval of the People's Majlis. In this regard, the President shall review the applications made by persons for the two posts upon public announcement, order the names based on the results of such review, submit the names in that order to the People's Majlis, and then appoint those persons approved by the People's Majlis. In submitting names in the aforementioned manner, more than the required number of names for the two posts shall be sent.
- (b) Where the Commissioner General of Taxation or the Deputy Commissioner General of Taxation is found negligent in the performance of their official duties, or where the committee of the People's Majlis which has the mandate to oversee the administration of MIRA is of the opinion that the Commissioner General of Taxation or the Deputy Commissioner General of Taxation is unlawfully using his or her position or is not adhering to the code of conduct approved by the Board, the Commissioner General of Taxation or the Deputy Commissioner General of Taxation shall be removed from office upon the passing of such that by the People's Majlis, with the approval of the majority of the members of who were present in the sitting and participated in the vote.
- (c) The Deputy Commissioner General of Taxation shall discharge the duties of the Commissioner General of Taxation under the circumstances where the Commissioner General of Taxation is unable to attend to the work of the MIRA.
- (d) The People's Majlis shall determine the salaries and benefits of the Commissioner General of Taxation and the Deputy Commissioner General of Taxation.
- (e) The Commissioner General of Taxation and the Deputy Commissioner General of Taxation may resign from office by submitting a letter to the President to such effect. The resignation shall be deemed final, upon receipt of the letter by the President.
- (f) In the event that the office of the Commissioner General of Taxation or the Deputy Commissioner General of Taxation has been vacated for any reason, a person shall be appointed to the same office within not more than 45 days.

- (g) The term of the office of the Commissioner General of Taxation and the Deputy Commissioner General of Taxation shall be 5 years starting from the date of appointment. However, except when the Commissioner General of Taxation or the Deputy Commissioner General of Taxation is removed from office under subsection (b), this Act does not prohibit a person who had been appointed as Commissioner General of Taxation or Deputy Commissioner General of Taxation from being reappointed for another term.
- (h) A person appointed as the Commissioner General of Taxation or Deputy Commissioner General of Taxation under this Act shall not have more than two five-year terms.

#### **9. Qualifications of the Commissioner General of Taxation and the Deputy Commissioner General of Taxation**

Persons appointed to the office of Commissioner General of Taxation and the Deputy Commissioner General of Taxation shall satisfy the following criteria:

- (a) be a person who has obtained a Master's degree in economics, finance, business or any other field related to taxation or, has obtained a qualification of the same level from an institution recognized by the Government or, has a minimum of 10 years of experience in a finance related field in the Government;
- (b) shall not be engaged in any other employment;
- (c) shall not be a person who holds a key position in a state-owned company or a private company, or any position on the Board of Directors of such a company;
- (d) shall not be a person who holds an elected post, pursuant to elections held under a law;
- (e) shall not be a person who has been convicted on indictment for an offence of theft, extortion, robbery, deception, criminal breach of trust, bribery or negligence;
- (f) shall not be a person who has been convicted on indictment in a narcotics related case;

- (g) shall not be a person who is a member of any political party.

## **10. Duties of the Commissioner General of Taxation and the Deputy Commissioner General of Taxation**

- (a) The Commissioner General of Taxation shall carry out the functions of the Commissioner General of Taxation as prescribed in this Act and in any other tax law, and oversee the day-to-day administration of the MIRA.
- (b) The functions of the Deputy Commissioner General of Taxation shall include discharging the duties of the Commissioner General of Taxation in the event that the Commissioner General is unable to attend to the work of the MIRA, and carrying out any other work determined by the Commissioner General.

### **10-1. Asset declaration**

- (a) Every Board member appointed under Section (4)(d) of this Act, the Commissioner General of Taxation and the Deputy Commissioner General of Taxation shall submit to the Auditor General, in a manner prescribed by the Auditor General, a statement of all the properties and monies owned by him or her, business interests, and all assets and liabilities, for the year prior to when such person was appointed to office, and for every year thereafter until the completion of 1 year after such person is relieved from office. The declarations submitted to this effect shall be published on the website of MIRA.
- (b) The asset declaration submitted yearly as specified in subsection (a) shall include the information relating to the previous year and shall be submitted before the 31<sup>st</sup> of March of the current year.
- (c) The asset declaration submitted in accordance with this section shall be reviewed by the Auditor General, and a report prepared based on the observations made to that effect shall be submitted to the relevant committee of the People's Majlis by the Auditor General.

## **11. Budget and annual report of the MIRA**

- (a) An annual budget shall be prepared in accordance with the Public Finance Regulation, which shall include the expected revenue, recurrent expenses and capital expenditure

of the MIRA, and shall be submitted to the Ministry of Finance and Treasury on or before the date specified in the Public Finance Regulation.

- (b) The MIRA shall prepare and have audited its income statement and balance sheet in the manner determined by the Auditor General, and submit an annual report comprising the following information, before 31st May of each year to the People's Majlis and the President:
  - (1) Revenue collected by the MIRA during the year as tax and other income;
  - (2) Work undertaken during the year to achieve the objectives of the MIRA, and the outcome;
  - (3) Details of administrative activities carried out during the year with respect to the management of the MIRA and its employees.
- (c) The MIRA shall publish the report referred to in subsection (b) within 14 (fourteen) days following the submission of the report to the People's Majlis and the President.
- (d) Notwithstanding subsection (b), where a special circumstance arises, the Commissioner General of Taxation has the discretion to submit a special report to the People's Majlis and the President, in relation to such circumstance.

## **12. Administration of the MIRA, appointing, removing and determining salaries of employees**

- (a) The Commissioner General of Taxation may, in consultation with the Board, establish and dissolve any number of offices in various regions of the Maldives as required, for the strengthening of the administration of the MIRA. An office established in this manner shall be responsible for carrying out the functions relating to the work of the MIRA, which are assigned to it by the Commissioner General of Taxation in consultation with the Board.
- (b) The Commissioner General of Taxation shall, in consultation with the Board and in accordance with the laws and regulations of the Republic of Maldives, appoint officers and employees and give promotions, based on competency; appoint and remove agents and advisors; and determine salaries and terms of employment.

- (c) The Commissioner General of Taxation shall consult with the Ministry of Finance and Treasury in determining the salaries and benefits of the positions referred to in subsection (b).
- (d) The decisions of the Commissioner General of Taxation made pursuant to this Section shall be in writing.

### **13. Legal immunity provided to the employees of the MIRA**

All employees of the MIRA shall be entitled to legal immunity as provided below:

- (a) No employee shall be held responsible in their individual capacity for any loss or legal action resulting from fulfilling their obligations in accordance with this Act or any regulations made pursuant to this Act. The MIRA shall bear the responsibility under such circumstances.
- (b) The employee shall be held responsible for any offence which is proven in court to have been committed by that employee in contravention of subsection (a). The MIRA shall not bear any responsibility under such circumstances.

### **14. Obstruction of the work of employees of the MIRA**

- (a) The work of the employees of the MIRA is carried out under the powers conferred by this Act and in accordance with the directions of the Commissioner General of Taxation.
- (b) It shall be an offence to obstruct or influence the work of the Commissioner General of Taxation or any other person acting under the direction of the Commissioner General of Taxation, by using force, bribery, written or oral threats, or by aiding or abetting the commission of such acts. The penalty for such offences shall be:
  - (1) the imposition of a fine not exceeding MVR 200,000; or
  - (2) imprisonment or house arrest for a period between 3 and 36 months; or
  - (3) both the imposition of a fine not exceeding MVR 200,000 and imprisonment or house arrest for a period between 3 and 36 months.

## 15. Confidentiality

- (a) The content of any document made pursuant to any Taxation Acts or any information relating to Taxpayers which comes into the possession of a MIRA employee by virtue of their office, or any information obtained under an agreement made pursuant to Section 51 or 51-1 of this Act shall be considered confidential, and an employee of the MIRA shall not disclose any such information.
  
- (b) Disclosure of the following information by an employee of the MIRA shall not be considered as a contravention of subsection (a):
  - (1) information which is already in the public domain;
  - (2) information relating to a person who has consented in writing to its disclosure;
  - (3) information revealed during civil proceedings under a tax law;
  - (4) information revealed during criminal proceedings under a tax law or any other law;
  - (5) Information given to another employee acting in the course of their employment for the purpose of administration of the tax laws;
  - (6) information revealed for the purpose of obtaining advice on the interpretation of tax laws;
  - (7) Information disclosed in accordance with a double tax agreement specified in Section 51 of this Act or tax information exchange agreement specified in Section 51-1 of this Act;
  - (8) Information, not falling within the scope of the subsection (b)(7), that is required to be disclosed, about a person who is liable to pay tax in the Maldives, to the officers authorized to administer tax laws of a foreign country or territory in that respective country or territory;
  - (9) information revealed under any agreement made between the Government of Maldives and a foreign government for the purpose of preventing or investigating any criminal offence;



- (10) information disclosed for inclusion in Government statistics, without disclosing the identity of taxpayers to whom the information belongs.
- (c) Every employee of the MIRA shall sign a confidentiality agreement in relation to their employment prior to commencing their duties under the tax laws.
- (d) Where the Board is of the opinion that an employee has breached the confidentiality, agreement specified in subsection (c), the Board has the power to suspend such employee until the court passes a judgment in relation to the said matter.
- (e) The penalty for any person convicted of breach of the confidentiality agreement specified in subsection (c) shall be:
  - (1) termination of employment and a fine of an amount not exceeding MVR 100,000; or
  - (2) termination of employment and imprisonment or house arrest for a period between 3 and 24 months; or
  - (3) termination of employment and a fine of an amount not exceeding MVR 100,000 and imprisonment or house arrest for a period between 3 and 24 months.
- (f) Any employee whose employment has been terminated in accordance with subsection (e) shall not be employed at the MIRA for a period of 5 years from the date of removal.
- (g) For the purposes of this Section, employees of the MIRA shall include in addition to persons employed by the MIRA, persons appointed by the MIRA for specific period to undertake a specific task.

## **16. Disclosure of information**

- (a) Notwithstanding anything to the contrary in this Act or any other Act, information received or exchanged under an agreement made pursuant to Sections 51 or 51-1 of this Act may only be disclosed to another person in a manner prescribed in such agreement.
- (b) Subject to subsection (a), where a concession or relief from tax on income is available from a foreign country or territory, disclosing information as may be necessary for the

purpose of obtaining such relief or concession does not contravene subsection 15(a) of this Act.

- (c) Disclosure of information relating to a defaulter of tax or fine payable under a Taxation Act shall not be considered a violation of the confidentiality requirement in Section 15 of this Act.
- (d) Policies and decisions of the MIRA shall be disclosed on behalf of the MIRA to the media or any other party, by the Commissioner General of Taxation or by any person determined by the Commissioner General of Taxation.

### **17. Signing documents**

- (a) Any document issued by the Commissioner General of Taxation or in the name of the MIRA shall be signed by the Commissioner General of Taxation or a person authorized by the Commissioner General of Taxation. All documents signed by the Commissioner General of Taxation or an authorized person shall be considered an authentic document, unless proven to the contrary as provided below:
  - (1) it is proven that the document was signed by a person other than the signatory named on the document; and
  - (2) it is proven by a copy of the document that the signature is not valid.
- (b) A signature shall be deemed valid for the purposes of this Section whether it is printed, stamped or in manuscript.

### **18. Service of documents**

- (a) Any document required under a tax law to be served by the Commissioner General of Taxation or by an authorized person shall be served in accordance with this Section.
- (b) Service of documents on a person may be effectuated by the MIRA by serving the documents on any service agent in the Maldives notified to the MIRA as being authorized to accept service of documents on such person's behalf.
- (c) A document required to be served on a company or on a partnership resident in the Maldives shall be served in accordance with the following guidelines:

- (1) by delivery to the company's or partnership's last known address in the Maldives notified to the MIRA in accordance with this Act; or
  - (2) by serving it personally on the responsible person of a company, or on the representative partner of a partnership; or
  - (3) by delivery to the last known residential address of the responsible person of the company, or the representative partner of the partnership notified to the MIRA in accordance with this Act.
- (d) A document required to be served on a person other than a company or partnership shall be served:
- (1) by serving it personally on such person; or
  - (2) by delivery to the last known business address of such person notified to the MIRA in accordance with this Act; or
  - (3) by delivery to the last known residential address of the responsible person of such business notified to the MIRA in accordance with this Act.
- (e) Where a person has not notified an address to the MIRA in accordance with this Act, service of documents shall be made at the person's last address known to the MIRA.
- (f) Any document sent by post under this Section shall be sent by registered post. A document sent in this manner shall be deemed delivered upon delivery of the document to the person or to the address of that person.
- (g) Any tax return, notice or other document required to be delivered to the MIRA or to the Commissioner General of Taxation shall be delivered to the MIRA at its head office unless the MIRA has agreed to accept delivery at another address.
- (h) Documents delivered in accordance with regulations enacted to provide for the electronic delivery of documents to the Commissioner General of Taxation shall be deemed to be authentic for the purposes of this Act.

## **19. Errors in documents such as assessments and notices**

- (a) An “assessment” or other document issued by the MIRA in accordance with the law shall not be quashed, or be declared void or voidable, for want of form, or be affected by reason of any mistake, defect or omission provided that it is in substance and effect in conformity with or in accordance with the intent and meaning of the law, and provided that the person assessed by the document is identified by name or by the name by which he is usually known.
- (b) A person’s tax assessment shall not be invalid because of a:
  - (1) mistake in the full name of the person assessed, or the calculation of profits, or the amount of tax assessed;
  - (2) variance between the amount assessed as tax and the amount specified in the notice.
- (c) Notwithstanding subsection (b), the assessment may be altered where it omitted the main particulars required to be specified in such an assessment, or was not duly served on the person intended to be served.

## **20. Electronic form**

The Board shall have the authority and discretion to enact regulations allowing any tax return, notice, form or other document to be delivered to and by the MIRA using electronic means, and such regulations may contain different provisions for different circumstances.

## **21. Provision of information on company and entity taxpayers**

- (a) The Registrar of Companies shall, within 3 months from the commencement of this Act, provide notice to the MIRA in respect of every company, which is either registered or resident in the Maldives.
- (b) The Registrar of Companies shall, after the commencement of this Act, provide notice to the MIRA in respect of every company incorporated in the Maldives within 2 months of incorporation.

- (c) The Registrar of Companies shall, after the commencement of this Act, provide notice to the MIRA of any company not registered in the Maldives, becoming resident in the Maldives within 2 months from the date it becomes resident.
- (d) Any person, not being a company, carrying on business in the Maldives on the date of commencement of this Act shall provide notice to the MIRA of that fact within 3 months from the commencement of this Act.
- (e) Any person (not being a company) commencing business in the Maldives after the commencement of this Act shall provide notice to the MIRA of that fact within 2 months from the date of commencement of such business by that person.

## **22. Responsible person**

- (a) Regulations made pursuant to this Act shall contain provisions for the determination of responsible persons who shall discharge the obligations of companies or partnerships under this Act and notification of such persons to the MIRA.
- (b) A taxpayer may appoint a person to act on his behalf for the purposes of the tax laws except with respect to the payment of any tax or interest or imposition of any penalty for contravening the law.

## **23. Registration of taxpayers**

- (a) The MIRA shall maintain a register of all persons liable to give notice to the MIRA pursuant to Section 21 of this Act (the "Taxpayers Register").
- (b) Regardless of any notice given or not to the MIRA pursuant to Section 21, the MIRA may for the purpose of completing the Taxpayers Register, require a person to provide such information on a prescribed form.
- (c) A notice under subsection (b) must be complied with before the end of the period stipulated in that notice (provided that such period is not less than 30 days from the date of the notice).
- (d) Any changes to the information provided in the Taxpayers Register must be notified to the MIRA by the responsible person within 15 days of the occurrence of the change.

## **24. Issuing the Taxpayer Identification Number**

- (a) The MIRA shall issue a Taxpayer Identification Number (TIN), to every person registered under Section 23 of this Act. Registered persons must use their TIN in all communications with the MIRA.
- (b) Failure to include a person's TIN in any document or information required to be submitted to the MIRA pursuant to the tax laws shall be considered as a failure to comply with the tax laws.

## **25. Tax agent**

- (a) It shall be the responsibility of the MIRA to authorize tax agents to assist in the preparation of documents required under a Taxation Act, and the MIRA shall compile a register of authorized tax agents and publicise it.
- (b) Tax returns and financial statements required to be submitted to the MIRA by a taxpayer may be prepared on behalf of the taxpayer by a tax agent authorized under subsection (a).
- (c) Authorization to act as a tax agent in accordance with the provisions of the Regulation made pursuant to this Act shall be given to individuals.
- (d) Authorization of tax agents in accordance with subsection (a) and termination of tax agents shall be in accordance with the Regulation made pursuant to this Act.
- (e) Notwithstanding the appointment of an authorized tax agent under subsection (a), it shall be the responsibility of the taxpayer to pay tax and fulfil other obligations required under a Taxation Act.
- (f) It shall be an offence for an authorized tax agent to act in contradiction with a provision of a Taxation Act or a regulation made pursuant to it.
- (g) The extent of work of tax agents shall be determined by the Regulation made pursuant to this Act.

## CHAPTER 2: OBLIGATIONS

### 26. Obligations on the taxpayer

It is the obligation of every taxpayer under a Taxation Act to perform the following in paying tax under that Taxation Act:

- (a) Assess correctly the amount of tax payable to the MIRA;
- (b) Make any deductions required under the Taxation Act;
- (c) Where withholding tax is payable under the Taxation Act, deduct the amount of tax from the relevant payment and pay such tax to the MIRA;
- (d) Pay tax within the prescribed period;
- (e) Maintain all information about the taxpayer, documents, and financial accounts in accordance with the requirements;
- (f) Provide full cooperation in accordance with the Regulation made pursuant to this Act to the Commissioner General of Taxation and to a person appointed by the Commissioner General of Taxation in audits and investigations carried out for the purpose of determining the validity of tax returns, documents and other information submitted by the taxpayer to the MIRA and in the assessment by the MIRA of the amount of tax payable by the taxpayer.

### 27. Maintaining records

- (a) If the MIRA wishes to obtain and review information regarding the following in relation to a taxable period or periods of a taxpayer, the taxpayer must maintain documents and financial accounts sufficient for such purpose, in addition to the obligations of taxpayers in relation to the maintenance of documents and financial accounts under a Taxation Act:

- (1) Taxable profit or total amount of income, during a taxable period of the taxpayer;
  - (2) Expenses deducted in computing the taxable profit or income of the taxpayer;
  - (3) Additional information specified in the Regulation made pursuant to this Act.
- (b) Documents and financial accounts required to be maintained for the purposes of subsection (a), shall be maintained in accordance with the provisions of the relevant Taxation Act or the Regulation made pursuant to that Act.
- (c) Documents required to be maintained under a Taxation Act shall be maintained for a period of not less than 5 (five) years commencing from the end of the tax year to which the documents relate.
- (d) Notwithstanding subsection (c), if the MIRA has completed the audit and investigation of the accounts of any person under a Taxation Act, and where any other law does not require the maintenance of such accounts, the audited documents may be destroyed with the authorization of the Commissioner General of Taxation.

## **28. Obligations on the payer of withholding tax**

If a person is required to pay withholding tax under any Taxation Act, such person shall be obliged to perform the following:

- (a) Unless required and authorized by law, no withholding tax shall be deducted from a payment made or remuneration paid by that person;
- (b) If the Act concerned requires that person to pay withholding tax on a monthly basis, withholding tax required to be paid monthly to the MIRA shall be paid within the period specified in that Act;
- (c) If the Act concerned requires that person to pay withholding tax on a monthly basis, the tax return pertaining to the withholding tax required to be paid monthly to the MIRA shall be filed together with the payment of withholding tax for the subsequent month.



- (d) If the Act concerned does not require that person to pay withholding tax on a monthly basis, it shall be paid to the MIRA within the period specified in that Act;
- (e) If the Act concerned does not require that person to pay withholding tax on a monthly basis, the tax return for the period of payment of withholding tax to the MIRA required under that Act shall be filed together with the payment of withholding tax for the subsequent month.
- (f) If any payment has been made to the MIRA as withholding tax, obtain a withholding tax certificate from the MIRA in relation to that payment, and issue a copy of that certificate to the payee of the payment or to the person whose remuneration was affected by the tax deduction.
- (g) Even if the Taxation Act concerned requires that person to pay withholding tax on a monthly basis, that person shall within the period specified in the relevant Act, file a tax return with the MIRA stating the withholding tax payable or paid in a tax year, in addition to the tax return required to be filed with the MIRA every month.

## **29. Filing tax returns by employees**

- (a) If any person, in addition to remuneration received from employment, also receives other taxable income, that person shall include income derived from all sources when filing the tax return for his taxable period pursuant to the relevant Taxation Act, and since that person's remuneration has been subject to withholding tax, his tax return shall also include details of such deductions.
- (b) Based on a tax return filed by a person specified in subsection (a), withholding tax paid may be deducted from the tax payable by that person.

## CHAPTER 3: POWER TO AUDIT AND INVESTIGATE

### 30. Auditing

- (a) Subject to this Section, the Commissioner General of Taxation may by notice, inform the taxpayer that his accounts and documents are being audited in order to determine the amount of tax required to be paid for the tax year or years specified in the notice, and to verify that the amount calculated by the taxpayer is in accordance with the Taxation Acts.
- (b) The notice specified in subsection (a) shall be given by the MIRA within 2 (two) years from the following dates:
  - (1) Where the tax return is filed on or before the date required for filing, from the date required for filing;
  - (2) Where the tax return is filed after the date required for filing, or where an amended tax return is filed, from the date of filing that return or the amended return.
- (c) If a tax return is not filed by a person required to do so, a notice of audit may be given to that person at any time.
- (c)-1 Notwithstanding subsection (b), where an offence involving fraud in the payment of tax or an offence involving tax evasion is committed, or where there is suspicion that such offence has been committed, MIRA may issue a notice of audit within 3 (three) years from the dates specified in subsection (b).
- (d) Where a notice is given under subsection (a) or (c), the person addressed in the notice shall give full cooperation to the Commissioner General of Taxation and persons appointed by the Commissioner General of Taxation, to carry out the tasks specified in the notice.
- (e) To determine the validity of tax returns, documents and other information submitted to the MIRA by the taxpayer, and in circumstances where the amount of tax required

to be paid by the taxpayer has to be determined by the MIRA, the Commissioner General of Taxation and persons appointed by the Commissioner General of Taxation shall have the power to enter the taxpayer's administrative office and business premises to conduct audits.

### **31. Power to call for documents from taxpayers**

- (a) This Section shall apply where a notice of audit has been given to a taxpayer for any tax year.
- (b) For the purpose of obtaining the information specified in the notice referred to in subsection (a), the MIRA may by notice require the taxpayer, within such time as may be stipulated in the notice (which shall not be less than 30 days), to produce to the MIRA such documents as are in his possession or power for the purpose of achieving the following objectives:
  - (1) whether and, if so, the extent to which the taxpayer's tax return for that year is correct; or
  - (2) if the taxpayer has not filed a tax return for that year, the amount of his taxable profits for that year
- (c) *[Repealed]*
- (d) *[Repealed]*
- (e) *[Repealed]*
- (f) *[Repealed]*
- (g) The MIRA may take photocopies of, or make extracts from, any document produced under subsection (b).
- (h) An appeal may be made to the Tax Appeal Tribunal objecting to any requirement in a notice under subsection (b) to produce any document within 30 days of the date of the notice.

- (i) Where, on an appeal under this Section, the Tribunal has confirmed the validity of any requirement in the notice, the notice shall have effect within 30 days from the determination of the appeal.
- (j) Regulations may provide for an extension of the time within which a notification by the MIRA in respect of tax liability under any tax law may be made where an appeal has been lodged against a notice issued under subsection (b).
- (k) *[Repealed]*
- (l) *[Repealed]*

### **31-1. Country-by-Country Report**

- (a) Multinational entities which are resident in the Maldives shall prepare and submit to MIRA a Country- by-Country report, in accordance with the rules stipulated in the Regulation made pursuant to this Act, and, such report shall comprise of information on business operations and management of the group to which the entity belongs.
- (b) Notwithstanding that MIRA may obtain Country-by- Country reports specified in subsection (a), such reports shall only be shared with foreign countries or territories in accordance with an agreement made pursuant to Section 51-1 of this Act.

### **32. Power to call for documents from others**

- (a) Subject to this Section, where a notice of enquiry into the tax liability of any person (the taxpayer) has been served on that person, MIRA may, for the purpose of the enquiry, by notice require any other person to deliver the same information to the MIRA or, where the person to whom the notice is given objects to doing so, to make available for inspection by the MIRA, such documents as are in his possession or power. If, in the opinion of the MIRA, such documents contain, or may contain, information relevant to any tax liability to which the taxpayer is or may be, or may have been, subject, or to the amount of any such liability, the MIRA may order the submission of such documents.
- (b) A notice under this Section shall name the taxpayer with whose liability the MIRA is concerned, and shall require documents to be delivered or made available, or information to be furnished within such time as may be specified in the notice, which shall not be less than 30 days after the date of the notice.

- (c) The MIRA may take copies of, or make extracts from, any document made available to it under this Section.
- (d) A notice under this Section shall contain a summary of the reasons why the notice is given, and those reasons shall be sent to the taxpayer together with a copy of the notice.
- (e) Notwithstanding subsections (a) to (d), where a person is believed to be in possession of any information that is required under an agreement made pursuant to Section 51 or 51-1 of this Act, MIRA shall have the power to order such person to deliver such information to MIRA within 30 days, in a manner prescribed in the regulation made pursuant to this Act.

### **33. Power to summon for oral examination**

Where a notice of enquiry into the tax liability of any person has been served on that person, the MIRA may by notice require the taxpayer or any other person that the MIRA considers to be in possession of any information relating to the tax affairs of the taxpayer to attend at a time and place specified in the notice to answer questions relating to the tax affairs of the taxpayer.

### **34. Restrictions on powers under Sections 31, 32 and 33**

- (a) A notice under Section 32 or 33 of this Act shall not be given unless the MIRA has reasonable grounds for believing:
  - (1) that the taxpayer has failed or may fail to comply with any provision of any tax law; and
  - (2) that any such failure is likely to seriously prejudice the proper assessment or collection of tax.
- (b) Before a notice is given to any person by the MIRA pursuant to Section 31, 32 or 33 of this Act, a reasonable period must be given to deliver or make available the documents in question, and that person or the taxpayer named in the notice need not produce documents relating to the conduct of any pending objection or appeal relating to tax due.
- (c) Copies of documents may be produced instead of originals. However, such copies shall be a photocopy of the original or a copy made using an electronic device.

- (d) For the purposes of subsection (c), “copied using an electronic device” refers to the conversion of a document to a portable document format (pdf) using a computer or any electronic device, or copying such document in any other format using a computer or any electronic device.
- (e) Notwithstanding subsection (c), if the MIRA requires for the investigation the original of a document specified in the notice, the original of that document shall be submitted to the MIRA within the period specified in that notice.
- (f) A notice under Section 32 of this Act, naming a deceased taxpayer cannot be sent if more than 6 years have elapsed since his death.
- (g) A notice under Section 31 or 32 of this Act does not oblige a person to produce or make available any document:
  - (1) the whole of which originates more than 6 years before the date of the notice unless the MIRA has reasonable grounds for believing that tax has, or may have been, lost owing to fraud by the taxpayer; or
  - (2) with respect to which a claim to legal professional privilege could be maintained without the consent of the lawyer’s client; or
  - (3) which are the property of an auditor appointed in accordance with the Companies Act or were created by him or on his behalf for or in connection with the performance of his functions under that Act; and
  - (4) which are the property of a tax adviser and consist of relevant communications.
- (h) For the purposes of subsection (g)(4) “relevant communications” means communications between the tax adviser and:
  - (1) a person in relation to whose tax affairs he has been appointed; or
  - (2) any other tax adviser of such a person, the purpose of which is the giving or obtaining of advice about any of those tax affairs, except any document which contains information explaining any information, tax return, accounts or other

document which the person to whom the notice is given has (as tax accountant) assisted any client of his in preparing for, or delivering to, the MIRA.

(i) In this section:

“Tax adviser” means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another advisor advising him on tax).

“Tax accountant”, in relation to any person, means a person who assists or has assisted the other person in the preparation or delivery of any information, accounts or other document which he knows will be, or is or are likely to be, used for any tax related purpose; and his clients are all those whom he has so assisted.

“Tax agent” means a person authorized under this Act to prepare and submit tax returns and other documents to the MIRA on behalf of the taxpayer who is required to do so under a Taxation Act.

### **35. Matters such as falsification of documents**

- (a) Subject to subsection (b) and (c), a person shall commit an offence if he intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a document which he has been required by a notice under Section 31 or 32 of this Act to deliver or to make available for inspection.
- (b) A person does not commit an offence under subsection (a) if he acts:
- (1) with the written permission of the MIRA; or
  - (2) after the document has been delivered or inspected; or
  - (3) after a copy has been delivered in accordance with Sections 31, 32 or 33 of this Act and the original has been inspected; or
  - (4) in the case of records which the Regulations require to be kept for any period, after the end of that period; or
  - (5) in any other case, at the end of the period of 2 years beginning with the date on which the notice is given, unless before the end of that period the MIRA has

notified the person in writing that the notice has not been complied with to the satisfaction of the MIRA.

- (c) A person found guilty of an offence under subsection (a) shall be liable on conviction to a fine not exceeding MVR 250,000 or to imprisonment or house arrest for a period between 3 and 42 months, or to both such fine and imprisonment or house arrest.

### **36. Power to enter premises to obtain documents**

- (a) If there is a suspicion that an offence involving serious fraud in relation to tax is being, or is about to be committed, and if there is evidence that such an offence is being committed, and if the MIRA believes that evidence of it is to be found on premises specified in the information relating to tax, the MIRA may request the President of the Tax Appeal Tribunal, or the member who at that time is undertaking the responsibilities of the President, to issue a warrant to enter such premises.
- (b) The validity of a warrant issued by the President of the Tax Appeal Tribunal, or the member who at that time is undertaking the responsibilities of the President, upon request by the MIRA in accordance with subsection (a), shall be 36 (thirty-six) hours.
- (c) If the MIRA requires the validity of the warrant specified in subsection (b) to be extended, a request may be submitted to the Tax Appeal Tribunal with the reason for such an extension, and the validity of the warrant may be extended by not more than 14 (fourteen) days, if such an extension is approved by the majority of the total number of members in the Tribunal.
- (d) If the Tax Appeal Tribunal is satisfied on information on oath given by employees of the MIRA that:
  - (1) there are reasonable grounds for suspecting that an offence involving serious fraud in relation to tax is being, has been or is about to be committed; and
  - (2) evidence of it is to be found on premises specified in the information, the Tribunal may issue a warrant authorizing the MIRA to enter the premises in accordance with the warrant, if required, at any time within 14 days from the date of issue of the warrant, search them and exercise any of the powers conferred by this Section.



- (e) Without prejudice to the generality of subsection (d):
- (1) any offence which involves fraud is for the purposes of this Section an offence involving serious fraud if its commission had led, or is intended or is likely to lead, either to substantial financial gain to any person or to serious prejudice to the proper assessment or collection of tax.
  - (2) an offence which, if considered alone, would not be regarded as involving serious fraud may nevertheless be so regarded if there are reasonable grounds for believing that it forms part of a course of conduct which is, or but for its detection would be, likely to result in serious prejudice to the proper assessment or collection of tax.
- (f) The Tribunal shall specify in the warrant:
- (1) the officer of the MIRA in overall charge (the "Officer in Charge");
  - (2) the times of day during which the powers may be exercised;
  - (3) if the Tribunal considers it necessary, that a police officer in uniform must be present when the powers are exercised.
- (g) The Officer in Charge entering the premises under the authority of a warrant under this Section may:
- (1) take with him such other persons as appear to him to be necessary;
  - (2) remove any things whatsoever found there which he has reasonable cause to believe may be required as evidence for the purpose of proceedings in respect of an offence that is mentioned in subsection (d); and
  - (3) search any person found on the premises whom he has reasonable cause to believe to be in possession of any such things; but no person shall be searched except by a person of the same sex.
- (h) Where information stored in any electronic form is information that:

- (1) the Officer in Charge who enters the premises as mentioned in subsection (g) has reasonable cause to believe may be required as evidence for the purpose mentioned in subsection (g)(2); and
  - (2) is accessible from the premises, the power of seizure under subsection (g) includes a power to require the information to be produced in a form in which it is visible and legible and in which it can be taken away or from which it can readily be produced in a visible and legible form.
- (i) Nothing in subsection (g) authorizes the seizure and removal of items subject to legal professional privilege.
  - (j) In subsection (i), “items subject to legal professional privilege” means:
    - (1) communications between a legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
    - (2) communications between a legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purpose of such proceedings; and
    - (3) items enclosed with or referred to in such communications and made in connection with the giving of legal advice; or in connection with or in contemplation of legal proceedings and for the purpose of such proceedings, when they are in the possession of a person who is entitled to possession of them.
  - (k) Items held with the intention of furthering a criminal purpose are not subject to legal professional privilege.
  - (l) The Officer in Charge:

- (1) if the person in charge of the premises concerned is present at the time the search is to begin, shall supply a copy of the warrant endorsed with his name to the occupier; and
  - (2) if at that time the person in charge of the premises is not present but a person who appears to the officer to be in charge of the premises is present, shall supply such a copy to that person;
  - (3) if neither subsection (1)(1) nor subsection (1)(2) applies, such copy shall be left in a prominent place on the premises.
- (m) Where entry to premises has been made with a warrant under this Section, and the Officer in Charge has seized any items under the authority of the warrant, he shall attach to the warrant a list of the items seized.

### **37. Procedure for removing items such as documents**

- (a) An Officer in Charge who removes any item in the exercise of powers conferred by Section 36 shall, if so requested by a person showing himself:
- (1) to be the occupier of premises from which it was removed; or
  - (2) to have had custody or control of it immediately before the removal;
- provide that person with a record of what the Officer removed.
- (b) In this Section, "Officer in Charge" means the officer named as such in the warrant authorizing the exercise of the powers under Section 36.
- (c) Where any item which has been removed by the Officer in Charge as mentioned in subsection (a) is of such a nature that a photograph or copy of it would be sufficient:
- (1) for use as evidence at a trial for an offence; or
  - (2) for forensic examination or for investigation in connection with an offence,

it shall not be retained longer than is necessary to establish that fact and to obtain the photograph or copy.

(d) Subject to subsection (f), if a request for permission to be granted access to any item which:

(1) has been removed by the Officer in Charge; and

(2) is retained by the MIRA for the purpose of investigating an offence,

is made to the Officer in Charge of the investigation by a person who had custody or control of the item immediately before it was so removed or by someone acting on behalf of any such person, that officer shall allow the person who made the request access to it under the supervision of an officer of the MIRA.

(e) Subject to subsection (f), if a request for a photograph or copy of any item is made to the Officer in Charge by a person who had custody or control of the item immediately before it was so removed, or by someone acting on behalf of any such person, that officer shall:

(1) allow the person who made the request access to it under the supervision of an officer of the MIRA for the purpose of photographing it or copying it; or

(2) photograph or copy it, or cause it to be photographed or copied, and complete the request within a reasonable time.

(f) There is no obligation under this Section to grant access to, or authorize the photographing or copying of any item if the Officer in Charge, for the purpose of which it was removed, has reasonable grounds for believing that to do so would prejudice:

(1) that investigation;

(2) an investigation other than the investigation for which the items were removed;

(3) any criminal proceedings which may be brought as a result of:

(i) the investigation of which he is in charge; or

(ii) any investigation that is mentioned in subsection (f)(2).

### **38. Information relating to leases**

- (a) The MIRA has the discretion to require the following information with respect to the use of immovable property:
  - (1) A lessee, occupier or former lessee or occupier of land, including any person having, or having had, the use of land shall give such information as may be prescribed by the MIRA concerning oral and written agreements applying to the lease, occupation or use of the land;
  - (2) A lessee or former lessee of land shall give information concerning any consideration given for the lease and any rights pursuant to the lease;
  - (3) A person who as agent manages land or is in receipt of rent or other payments arising from the occupation of land shall furnish the MIRA with such particulars relating to such payments.
- (b) In this Section, “lease” includes an agreement for a lease and any rights received pursuant to it, but does not include a mortgage, and “lessee” shall be construed accordingly and shall include the successor in title of a lessee.

### **39. Determining the amount of tax by MIRA**

- (a) MIRA may determine the amount of tax required to be paid for a period by a taxpayer, based on the conclusions made after an audit or investigation of the taxpayer’s accounts and documents. The determination made accordingly shall be referred to in this Act as the “amount assessed by MIRA”.
- (b) Where the amount assessed by MIRA is determined under subsection (a), it shall be notified to the person assessed, and such notice shall include the following:
  - (1) The name, address and Taxpayer Identification Number (TIN) of the taxpayer;
  - (2) The taxable period to which the determination relates;
  - (3) The amount assessed by MIRA as the amount of tax payable, and the basis and details of MIRA’s assessment;

- (4) The due date for payment.
- (c) Where a determination made by MIRA under subsection (a) is greater than the amount of tax declared by the taxpayer for that period, such determination shall be made by MIRA before the expiry of 2 years from the date on which a notification under Section 30(a) of this Act was made.
- (d) Where there is reasonable cause to believe that an amount under subsection (a) cannot be determined within the period specified in subsection (c), MIRA may request the Tax Appeal Tribunal for an extension of the period for not more than 3 years.
- (e) Notwithstanding subsection (c), where MIRA has issued a notice under Section 30 of this Act to a taxpayer before the commencement of the 2<sup>nd</sup> amendment to the Tax Administration Act, MIRA may determine an amount under subsection (a) as the amount of tax payable by such taxpayer, before:
  - (1) the expiry of 2 years from the date of issuance of a notice under Section 30 of this Act; or
  - (2) the expiry of 120 days from the date of commencement of this Act [the 2<sup>nd</sup> amendment to Tax Administration Act],

whichever is the later.

#### **40. Consequence of assessment by the MIRA**

Where the MIRA determines an amount under this Section, it shall have the following consequences:

- (a) If the tax return for the taxable period to which the assessment relates has been filed, that return shall be considered to have been amended in accordance with the assessment;
- (b) If the tax return for the taxable period to which the assessment relates has not been filed, the amount determined by the MIRA shall be considered as the amount required to be paid by the taxpayer for that period.

#### **41. Procedure relating to more than one year**

Where a notice of investigation under a tax law refers to more than one taxable period, the determination made by the MIRA shall apply to all periods stipulated in that notice.

#### **42. Objection**

- (a) Where a taxpayer objects to a decision made by MIRA or the Commissioner General of Taxation, such objection shall be notified in writing to MIRA within 30 (thirty) days from the date of notification of that decision, and such notice shall be referred to in this Act as the “notice of objection”.
- (b) Where a taxpayer is of the opinion that a decision made by MIRA under Section 39(a) of this Act or the procedures used by MIRA in arriving at such decision, violated any of the rights of the taxpayer, the taxpayer may submit a notice of objection to that effect.
- (c) A notice of objection submitted under subsection (a) shall include in detail the reason for the taxpayer’s objection against the Commissioner General’s or MIRA’s decision.

#### **43. MIRA’s decision in relation to an objection**

- (a) Where a taxpayer submits a notice of objection to MIRA under Section 42 of this Act, MIRA shall make a determination on such objection within 120 days from the date of submission of the notice of objection.
- (b) Notwithstanding subsection (a), where a taxpayer has submitted a notice of objection to MIRA under Section 42 of this Act before the commencement of this Act, MIRA shall make a determination on such objection, before:
  - (1) the date of expiry of 120 days from the date of submission of the notice of objection to MIRA;
  - (2) the date of expiry of 60 days from the date of commencement of this Act [the 2<sup>nd</sup> amendment to the Tax Administration Act],whichever is the later.

- (c) Where MIRA fails to make a determination concerning a notice of objection within the time frame specified in subsections (a) and (b), it shall be concluded that MIRA has determined that MIRA's decision in relation to which the notice of objection had been submitted was incorrect.

#### **44. Appeal at the Tribunal**

- (a) Where a taxpayer is not satisfied with a decision made by MIRA with regard to a notice of objection submitted by the taxpayer under Section 42(a) or Section 42(b) of this Act, the taxpayer may appeal such decision at the Tax Appeal Tribunal within 60 (sixty) days from the date on which a decision was made by MIRA on the notice of objection.
- (b) Notwithstanding subsection (a), where the taxpayer is appealing against a tax amount assessed by MIRA under Section 39 of this Act, such appeal shall only be made after paying to MIRA an amount of not less than 25% (twenty five percent) of the amount appealed against.
- (c) The 25% (twenty five percent) specified in subsection (b) shall be calculated exclusive of any fines or interests payable in respect of the amount appealed against at the Tax Appeal Tribunal.
- (d) The appeals filed at the Tax Appeal Tribunal under subsection (a) shall be adjudicated and decided upon by the Tribunal within not more than 180 (One Hundred and Eighty) days from the date of filing.
- (e) In order to decide upon, within the period stipulated in the subsection (d), the appeals filed at the Tax Appeal Tribunal, the Tribunal shall schedule the hearings relating to the appeals in advance.
- (f) Notwithstanding subsection (d), where the members of the Tax Appeal Tribunal hearing the case, after having considered all relevant matters pertaining to the case, are of the opinion that a decision that is fair cannot be reached within the stipulated time period, the members may extend the time period within which the appeal shall be decided upon by not more than 90 (ninety) days.



- (g) Where the time period within which an appeal shall be decided upon is extended under subsection (f), the reason for the extension shall be specified in the decision of the Tribunal.
- (h) Appeals that remain undecided as at the date of effect of the Third Amendment to the Tax Administration Act (Law number 3/2010) shall be adjudicated and decided upon within a period of not more than 180 (One Hundred and Eighty) days from the date of effect of the third amendment to the Tax Administration Act (Law number 3/2010).

#### **45. Refund or offset**

Where a judgment is made after reviewing the decision of the MIRA in accordance with the Regulation made pursuant to this Act concerning an objection or appeal, and it is decided that the amount of tax required to be paid by the taxpayer is lower than the amount assessed by the MIRA, that amount shall be given the same treatment stipulated in this Act as that for excess tax paid.

## **CHAPTER 4: RECOVERY OF TAX**

#### **46. Seizure of land and property where tax is unpaid**

- (a) Where any tax is unpaid by any person by the due date, the MIRA shall, in any tax year, issue to any person whom it may employ as “bailiff” for this purpose a warrant directing and authorizing the bailiff to make a charge upon land or other such property of the taxpayer in default for the payment of the total amount remaining unpaid at the time that the warrant is issued.
- (b) A warrant may be issued under subsection (a) whether or not any other action is taken to recover the unpaid tax, fine or other amount from the taxpayer in default or from a third party.
- (c) The Board shall make regulations providing for the execution of warrants issued under subsection (a) and the disposal of property subject to levy.

#### 47. Recovery of tax from a third party

- (a) Where:
  - (1) any tax, fine or any other amount is unpaid by any person after the due date; and
  - (2) the MIRA has reasonable grounds for believing that another person (the “Third Party”) owes or is about to pay a sum of money to the taxpayer in default or holds money for or on account of the taxpayer in default or of some other person for payment to the taxpayer in default or has the authority from some other person to pay money to the taxpayer in default;
  - (3) the MIRA may by notice require the Third Party to pay to the MIRA such amount as does not exceed either the tax, fine or other amount unpaid or the sum referred to in subsection (a)(2).
- (b) A notice may be served under subsection (a) whether or not action is taken to recover the unpaid tax, fine or other amount from the taxpayer in default.
- (c) A Third Party served with a notice under subsection (a) must comply with the notice within 45 days of the date of service of the notice.
- (d)
  - (1) In the circumstances specified in subsection (a)(1), the MIRA may, by notice of the Commissioner General of Taxation, notify the Maldives Monetary Authority to notify a bank within the scope of the Maldives Banking Act (Law Number 24/2010) to freeze the bank account of a taxpayer in default.
  - (2) Where a notice under subsection (d)(1) is served on a bank, the bank shall pay to the MIRA within 45 (forty-five) days from the date of notice, the amount specified in the notice in a manner determined by the MIRA.
  - (3) Where the taxpayer pays the full amount in the notice specified in subsection (d)(1) within the period referred to in subsection (d)(2) or comes to an agreement with the MIRA on a payment arrangement, the MIRA shall inform the Maldives Monetary Authority to cease the freeze under subsection (d)(1).

- (e) Any person who has made a payment pursuant to a notice under subsection (a) shall be issued with a receipt by the MIRA and shall be fully discharged from his liability to the taxpayer in default to the extent of the amount paid.
- (f) The Third Party may appeal against a notice under subsection (a) to the Tax Appeal Tribunal, in accordance with regulations, within 30 days of the date of service of the notice.
- (g) Any person who fails to comply with a notice under subsection (a) shall be liable for any amount of tax, fine or other amount due which he did not pay and it may be recovered from him as if he was himself the taxpayer in default.

#### **48. Access to bank accounts**

Where any person is suspected to have committed an offence under a tax law, that person's and his associates' bank accounts, and monies received and paid through a bank, and details of other transactions carried out through a bank, shall be obtained by the Commissioner General of Taxation where required, from all banks and other financial institutions within the scope of the Maldives Banking Act (Law Number 24/2010), through the Maldives Monetary Authority.

#### **49. Recovery of tax and tax related dues through court action**

- (a) MIRA may recover, by action in the court, any unpaid tax, fine or any other amount relating to the unpaid tax, as a civil debt due to the State.
- (b) Since recovery of tax by action in the court as under subsection (a) is a part of the enforcement of tax due to the State, the matter of the amount of tax due shall not be heard substantively at this stage of litigation. Disputes as to the amount of tax due may be heard substantively when such issues are presented in accordance with the procedure specified in Section 44 of this Act.
- (c) In the court proceedings for recovery of tax under subsection (a), a document signed by the Commissioner General of Taxation stating the name and address of the person in default and particulars of the amount due from such person shall be sufficient evidence of the amount due and sufficient authority for a court to pass judgement.

- (d) Notwithstanding subsection (a) and (b), MIRA may file an action in the court under subsection (a) to recover a tax amount or an amount related to tax where one of the following circumstances applies:
- (1) A person has exhausted options to object to an amount assessed by MIRA under Section 39 of this Act, by not having appealed against the assessment within the period specified in Section 44(a) of this Act; or
  - (2) A decision by the Tax Appeal Tribunal, on an appeal submitted under subsection 44(a) as regards the amount of tax to be paid to MIRA, has become the final judgment, or the judgment by a higher court in respect of a decision of the Tribunal appealed at a higher court has become the final judgment.
  - (3) Where subsections (d)(1) and (d)(2) do not apply and MIRA has the option to recover the amount of tax self-assessed by the taxpayer.
- (e) Subsection (d)(3) shall not in any way hinder the option available under the relevant tax laws for a taxpayer to amend the amount self-assessed by the taxpayer.
- (f) A lawsuit brought under subsection (a) to recover the amounts in unpaid tax and related fines due to the State shall be heard and decided upon by the court within a time period of not more than 180 (One Hundred and Eighty) days.
- (g) A judgement passed by a court pursuant to this Section shall be the enforceable final judgement, and, such judgement shall not be appealed at a higher court of law.

#### **49-1. Seeking assistance from other countries in the recovery of tax claims**

Any tax, fine or any other amount due to MIRA may be recovered with the assistance of a foreign country or territory under an agreement entered into pursuant to Section 51 or 51-1 of this Act. A foreign country or territory may also recover any tax, fine or any other amount due with the assistance of Maldives.

#### **50. Collection and recovery of non-tax money by MIRA**

- (a) Unless otherwise specified in any other law, non-tax money payable to the Government or State by an individual or legal entity under a law or regulation or agreement, maybe collected by MIRA for and on behalf of the State.

- (b) Collection of non-tax money under subsection (a) shall also include collection of fines in relation to such money applicable under relevant law or regulation or agreement.
- (c) For the purpose of this Section “non-tax money” refers to any consideration, fee, rent or fine, which is not a tax, payable to the Government or State by an individual or legal entity under a law or regulation or agreement.
- (d) Money collected by MIRA under this Section shall be deposited to the Consolidated Revenue Fund pursuant to Section 19 of the Public Finance Act (Law number 3/2006).
- (e) Notwithstanding anything to the contrary in any other law, the Attorney General of the Maldives may, by action in the court, at his discretion, recover un-paid non-tax money due to the State.
- (f) A suit brought under subsection (e) to recover non-tax money due to the State shall be adjudicated and decided upon by the court within a period of not more than 6 (six) months from the date the suit is filed.
- (g) Notwithstanding subsection (f), where a person is in default as respects non-tax money due to the State, MIRA may use the following recovery measures prior to filing of a suit under subsection (e).
  - (1) Issuing a notice demanding the payment of tax;
  - (2) Publishing the name of the person in default;
  - (3) Suspending a service being sought from a State Office.
- (h) Where subsection (g)(3) applies, the measure specified in that subsection shall only be executed against a person if the money in default from that person is related to a transaction connected to the service the person is seeking.
- (i) The regulation made pursuant to this Act shall stipulate the procedures as regards MIRA’s execution of the measures specified in subsection (g).
- (j) The regulation specified in subsection (i) shall be formulated under the advice of the Minister.

## CHAPTER 5: TAX TREATIES

### 51. Double tax agreements

- (a) Where the Government of Maldives enters into an agreement with the Government(s) of a foreign country(ies) or territory(ies) for the avoidance or reduction of double taxation, or for the recovery of tax, or on other related issues, or for the prevention of reduced taxation, or for the prevention of tax avoidance, or to exchange information needed to audit or investigate situations where reduced taxation or tax avoidance has occurred, such agreement may provide for the following:
- (b) Such agreements may be referred to as double taxation agreements.

#### 51-1. Information Exchange Agreements and Mutual Administrative Assistance Agreements

Administrative assistance [Mutual Administrative Assistance] in tax matters may be exchanged between tax authorities under a bilateral or multilateral treaty entered into between the Government of the Maldives and a Government(s) of a foreign country(ies) or territory(ies). Furthermore, under such a treaty, information needed for administrative assistance in tax matters, and information needed to prevent tax avoidance or tax evasion, and information needed to audit or investigate tax avoidance and evasion, may be exchanged between tax authorities in accordance with the relevant agreements.

#### 51-2. Automatic Exchange of Information

MIRA, under an agreement entered into pursuant to Section 51 or Section 51-1 of this Act and in accordance with the Common Reporting Standard, may exchange information through an automatic exchange of information system in a manner prescribed in the Regulation made pursuant to this Act.

#### 51-3. Power to obtain information from financial institutions

- (a) For the purpose of an agreement specified in Section 51 or Section 51-1 of this Act, or, for the purpose of Section 51-2 of this Act, financial institutions, in accordance with the Regulation made pursuant to this Act, shall submit to MIRA information of taxpayers and that of associates of taxpayers.

For the purpose of subsection (a), financial institutions which are required to provide information shall include all institutions which are required to submit information under the Common Reporting Standard.

#### **51-4. Beneficial ownership**

MIRA has the authority to obtain and use the information of the beneficial owner of a legal entity or transaction or arrangement, and share the information of beneficial owner with other countries or territories, and, set forth in the Regulation made pursuant to this Act the circumstances where information of the beneficial owner may be obtained.

#### **51-5. Use of information**

Information obtained or exchanged under this Act may be used by MIRA in the implementation of tax laws.

#### **51-6. Force of treaty**

The international agreements entered into pursuant to Sections 51 or 51-1 of this Act shall be binding.

### **52. Limits on credit**

- (a) This Section shall have effect where, under a double taxation agreement, tax payable in respect of any income or profits in the territory of the government with which the agreement is made is allowed as a credit against tax payable in respect of that income or profit in the Maldives.
- (b) In this Section, "Foreign Tax" refers to tax charged by a country with which a double taxation agreement has been entered into, on the income or profit derived from that country.
- (c) A credit shall be allowed against tax chargeable for any tax year provided the person entitled to the income is resident in the Maldives in that period, in which case the amount of tax chargeable in respect of the income shall, on a claim being made, be reduced by the amount of the credit.
- (d) In computing the amount of taxable income:

- (1) no deduction shall be allowed in respect of Foreign Tax (whether in respect of the same or any other income);
  - (2) where the tax chargeable is based on the amount received in the Maldives, that amount shall be increased by the appropriate amount of the Foreign Tax in respect of the income;
  - (3) where the income includes a dividend and, under the agreement, Foreign Tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what amount of, credit is to be given against tax in respect of the dividend, the amount of the income shall be increased by the amount of the Foreign Tax not so chargeable which falls to be taken into account in computing the amount of credit.
- (e) Where:
- (1) a double taxation agreement provides, in relation to dividends of some classes, but not in relation to dividends of other classes, that Foreign Tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what amount of, credit is to be given against tax in respect of the dividends; and
  - (2) a dividend is paid which is not of a class in relation to which the arrangements so provide, then, if the dividend is paid to a company which controls directly or indirectly not less than one-half of the voting power of the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.
- (f) Any claim for an allowance by way of credit under this Section for any tax year shall be made not later than 2 years after the end of that year. In the event of any dispute as to the amount allowable, the claim shall be subject to objection and appeal.
- (g) Where the amount of any credit given under the agreement is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the Maldives or elsewhere, this Act does not prevent any changes from being made to the credit within 2 years from the time when such adjustments have been made whether in the Maldives or elsewhere.



- (h) The amount of the credit for Foreign Tax, which under any agreement is to be allowed against tax chargeable in respect of any income, shall not exceed the tax attributable to that income, determined in accordance with subsection (i).
- (i) The amount of tax attributable to a person shall be determined by applying the rate of tax payable by that person (before any credit under this Part) to his total income for the tax year.

#### **52-1. Mutual Agreement Procedure**

A Mutual Agreement Procedure or a dispute resolution under an agreement specified in Section 51 or Section 51-1 of this Act shall be conducted in accordance with the Regulation made pursuant to this Act.

#### **53. Credit given without a double tax agreement**

- (a) Where any person resident or ordinarily resident in the Maldives proves that he has paid (by deduction or otherwise) overseas tax on any part of his income which arises from a source outside Maldives and which is also chargeable to Maldives tax, he shall be entitled to a credit against such Maldives tax equal to the Overseas Tax or Maldives tax on that part of his income whichever is lower.
- (b) For the purposes of this Section, "Overseas Tax" means a business profits tax or tax of a similar character imposed by the laws of any country with which no agreement has been made under Section 51.
- (c) For the purpose of calculating the amount of credit allowed under this Section, agreements made in accordance with Section 52 in respect of relief of double taxation shall apply. Overseas Tax shall apply in the same manner Foreign Tax is taken into consideration in that Section.

#### **53-1. Advance Pricing Arrangements**

- (a) To determine arm's length price of a transaction which a taxpayer intends to enter into with an associate, or to specify rules and criteria for the determination of arm's length price of a transaction which a taxpayer intends to enter into with an associate, MIRA may enter into an Advance Pricing Agreement with the taxpayer or with the taxpayer and a tax administration, or with the taxpayer and more than one tax administrations.

- (b) Where subsection (a) applies, subsection (a) shall prevail over any other Section in this Act or any other tax law which stipulates special rules as regards transactions between associates.
- (c) The agreement specified in subsection (a) shall have effect, as prescribed in such agreement, for a period of no longer than 5 (five) consecutive years.
- (d) The circumstances where an agreement under subsection (a) cannot be entered into with any person, and other matters relevant to this Section shall be set forth in the Regulation made pursuant to this Act.

## **CHAPTER 6: TAX APPEAL TRIBUNAL**

### **54. Establishment of a Tribunal**

- (a) A Tax Appeal Tribunal shall be established for the purpose of adjudicating matters related to this Act and other tax laws, within 90 days of ratification of this Act.
- (b) The Tribunal has the full power to review and deliberate, as it deems appropriate, on matters determined by this Act or any other law under which the Tribunal has jurisdiction.
- (c) The Tribunal has the power to summon persons, elicit witness statements, obtain proof and evidence or do anything necessary to verify and ascertain the truth of a matter submitted to it.
- (d) Where the Tribunal is of the opinion that a complaint filed with the Tribunal in regard to a matter submitted to the Tribunal is valid, the Tribunal has the power to issue either one of the following orders.
  - (1) An order requiring to carry out or not to carry out a specific action;
  - (2) An injunction order requiring to carry out or not to carry out a specific action in relation to an action specified in subsection (d)(1).

## 55. Appeal

- (a) Where a taxpayer or MIRA is of the opinion that a decision of the Tribunal is in ultra vires of its powers, or in contravention of a law or regulation, the taxpayer or MIRA may appeal such decision as of right to the High Court within 60 (sixty) days of such decision being made.
- (b) Notwithstanding an appeal is filed under subsection (a), unless a higher court amends or overturns such decision or issues an order to halt the carrying out of such decision, the decision of the Tribunal shall be final and binding.
- (c) An appeal filed before the High Court under subsection (a) shall be adjudicated and ruled upon within a period of not more than 180 (One Hundred and Eighty) days from the date filing of the appeal.
- (d) Where a taxpayer or MIRA is of the opinion that a judgment of the High Court is in contravention of a law or regulation, the taxpayer or MIRA may appeal such judgment as of right to the Supreme Court within 60 (sixty) days of such judgment being passed.
- (e) An appeal filed before the Supreme Court under subsection (d) shall be adjudicated and ruled upon within a period of not more than 180 (One Hundred and Eighty) days from the date of filing of the appeal.
- (f) Notwithstanding subsections (c) and (e), the judges hearing the appeal at the High Court or Supreme Court, after having considered all relevant matters pertaining to the appeal, are of the opinion that a fair judgement cannot be rendered within the stipulated time period, the time period may be extended by not more than 90 (ninety) days.
- (g) Where the time period within which an appeal shall be ruled upon is extended under subsection (f) by the High Court or Supreme Court, the reason for such extension shall be specified in the judgment of the court.

## 56. Composition of the Tribunal

- (a)
  - (1) The Tribunal shall be composed of 5 members. The members of the Tribunal shall be appointed by the President with the approval of the People's Majlis. The

President shall appoint members approved by the People's Majlis, after having sent the names of all of the applicants for membership of the Tribunal acquired by means of a public announcement, to the People's Majlis.

- (2) There shall be a Chairperson and a Deputy Chairperson of the Tribunal. The Chairperson and the Deputy Chairperson shall be elected by a secret ballot among the members of the Tribunal.
- (b) From the members appointed to the Tribunal:
- (1) At least one member shall have legal experience related to taxation or have practical experience in the field of tax accountancy, either in the Maldives or elsewhere.
  - (2) At least two members shall have at least 3 years of experience in the legal field or have obtained higher education in the legal field.
- (c) A member of the Tribunal shall satisfy the following criteria:
- (1) be a Muslim;
  - (2) be a citizen of the Maldives;
  - (3) be of sound mind;
  - (4) have attained the age of 18 years;
  - (5) be a person who has experience in the financial, taxation, business, economic or legal field and has the capability to engage in technical discussions and decision-making related to tax policies;
  - (6) not be a person who has been convicted in a Court of Law of an offence for which a hadd is prescribed in Islam;
  - (7) not be a person who has been declared bankrupt;
  - (8) not be a person who has been convicted of an offence relating to bribery;

- (9) not be a person who holds an elected post, pursuant to elections held under the Constitution of the Republic of Maldives or under a law;
- (10) not be a person who holds a key position in a state-owned company or a private company, or any position on the Board of Directors of such a company;
- (11) not be a person who holds a political post;
- (12) not be a person who is a member of any political party;
- (13) not be a person who is in the civil service;
- (14) not be a person who is an employee of an independent institution

#### **57. Term of membership**

Appointees to the Tribunal shall hold their membership for a term of 5 years. All members, with the exception of those members who are removed in accordance with Section 59 of this Act, may be re-appointed for another term.

#### **58. Salaries and benefits of members**

The People's Majlis, in consultation with the Ministry of Finance and Treasury, shall determine the salaries and benefits of the members of the Tribunal.

#### **59. Removal from membership**

- (a) A member of the Tribunal shall be removed from office by the President upon the occurrence of any of the following circumstances:
  - (1) is declared bankrupt by a judgment of the court;
  - (2) is convicted on indictment of a criminal offence;
  - (3) no longer meets the criteria for membership prescribed in this Act;
  - (4) is found negligent in the performance of the responsibilities of a member.

- (b) A member of the Tribunal may resign from membership by submitting a letter to the President to such effect. The resignation shall be deemed final, upon receipt of the letter by the President.

## **60. Vacancy in office**

In the event that a member has, for any reason, resigned from the Tribunal or is removed prior to the expiry of the term for which he has been appointed, a person shall be appointed for the remainder of term within no more than 60 days.

## **61. Administration and financial matters of the Tax Appeal Tribunal**

- (a) An annual budget shall be prepared in accordance with the Public Finance Regulation, which shall include the expected revenue, recurrent expenses and capital expenditure of the Tax Appeal Tribunal, and shall be submitted to the Ministry of Finance and Treasury on or before the date specified in the Public Finance Regulation.
- (b) Financial aid provided by any person, organisation or by a government of a foreign country to the Tax Appeal Tribunal shall only be utilised to carry out the responsibilities of the Tribunal.
- (c) The Tax Appeal Tribunal shall prepare, and have audited, its income statement and balance sheet in the manner determined by the Auditor General, and submit an annual report comprising the following information, before 31st May of each year to the People's Majlis and the President:
  - (1) Work undertaken during the year to achieve the objectives of the Tribunal, and their outcome;
  - (2) Cases filed with the Tribunal;
  - (3) Cases cleared by the Tribunal and their judgments;
  - (4) Cases being reviewed by the Tribunal;
  - (5) Cases pending with the Tribunal;

- (6) Details of administrative activities carried out during the year with respect to the management of the Tribunal and its employees.
- (d) The Tax Appeal Tribunal shall publish the report referred to in subsection (c) within 14 (fourteen) days following the submission of the report to the People’s Majlis and the President.

## **62. Regulations of the Tribunal**

A Regulation which incorporates the administration of the Tribunal, the procedures to be followed in reviewing cases before it, and other matters related to the Tribunal, shall be formulated by the Tribunal within 3 (three) months from the date of ratification of the First Amendment to the Tax Administration Act.

# **CHAPTER 7: OFFENCES AND PENALTIES**

## **63. Scope of this chapter**

- (a) Offences and penalties specified in this chapter shall apply in relation to all tax laws.
- (b) If an offence specified in this chapter has been committed in relation to the tax payable under a tax law, such an act shall be an offence, and a penalty for such offence shall be determined in accordance with this Act.

## **64. The offence of tax evasion**

- (a) It shall be an offence to commit any of the following acts, knowingly, intentionally, and with the intention to evade, or with the intention to facilitate a taxpayer to evade tax payable under a tax law:
  - (1) Failure to file a tax return required to be filed under a tax law, or failure to give any notice or provide information required under such Act;
  - (2) Failure to include in the tax return, the taxable income or taxable profit or any other information important for the determination of the amount of tax in relation to the income or profit;

- (3) Declaring false information or failure to include required information in the tax return;
  - (4) Providing an incorrect answer or incorrect information to a request made for an answer or specific information;
  - (5) Preparing and maintaining documents and financial accounts required to be maintained under a tax law incorrectly, or authorizing such documents and financial accounts to be prepared and maintained incorrectly;
  - (6) Failure to submit financial accounts required to be submitted to the MIRA or submitting financial accounts prepared improperly;
  - (7) Alteration of information that might affect a taxable amount;
  - (8) Failure to deduct, or deposit, or include in financial accounts, or pay withholding tax required to be deducted, deposited and paid to the MIRA;
  - (9) Contravene or hinder an investigation required to be conducted by the MIRA.
- (b) The civil penalty for an offence specified in subsection (a) shall be:
- (1) A fine of 0.5% (zero point five per cent) of the amount of tax payable for the taxable period; and
  - (2) A fine not exceeding MVR 100 (One Hundred Rufiyaa) for each day of delay from the date required to file a tax return or provide information or pay withholding tax.
- (c) The criminal penalty for an offence specified in subsection (a) shall be house arrest of the offender for a period between 3 (three) months and 1 (one) year.
- (d) Unless proven otherwise, for the purposes of this Section, it shall be deemed that a person has included incorrect information in a tax return, or failed to include information required in the return, or included incorrect information in documents and financial accounts required to be maintained, or failed to include such information in such documents, for the purpose of tax evasion.



## **65. The offence of failure to file tax returns and submit information**

- (a) It shall be an offence to commit any of the following acts not within Section 64 of this Act, without reasonable excuse:
  - (1) Failure to file the tax return;
  - (2) Failure to submit financial accounts;
  - (3) Failure to submit information as required by law;
  - (4) Failure to pay an amount deducted as withholding tax;
  - (5) Failure to maintain documents and financial accounts in accordance with this Act or the Regulation made pursuant to this Act;
  - (6) Filing a tax return with incorrect information;
  - (7) Submitting financial accounts or documents with incorrect information;
  - (8) Failure to register within the period required by a tax law.
- (b) The civil penalty for an offence specified in subsection (a)(1) to (a)(8) shall be:
  - (1) A fine of 0.5% (zero point five per cent) of the amount of tax payable for the taxable period; and
  - (2) A fine not exceeding MVR 50 (Fifty Rufiyaa) for each day of delay from the date required to file a tax return or provide information or pay withholding tax.
- (c) The criminal penalty for an offence specified in subsection (a) shall be house arrest of the offender for a period between 1 (one) and 6 (six) months.

## **66. The offence of non-payment of tax by deadline**

- (a) Failure by a taxpayer to pay tax by the required deadline under a tax law shall be an offence.

- (b) The penalty for the offence specified in subsection (a) shall be a fine of 0.05% (zero point zero five per cent) per day of the outstanding amount from the due date of payment.

#### **67. Performing an act determined as an offence**

- (a) A civil penalty under a tax law shall be determined by a decision made by the Commissioner General of Taxation in accordance with the law.
- (b) If a penalty has not been determined for an offence specified in this Act, the penalty for such offence shall be imposing a fine on the offender not exceeding MVR 5,000 (Five Thousand Rufiyaa).

#### **68. Non-prohibition of other criminal claims**

This Act does not prohibit any criminal claim made under any other Act. Nonetheless, no more than one criminal claim shall be made for the same offence.

#### **69. Period to take action**

- (a) An action authorized by this Act shall be taken against a person who committed an offence specified in this Act, within a maximum period of 2 (two) years from the date that offence was committed.
- (b) Where the MIRA is unaware of the commitment of an offence specified in this Act, or lacks sufficient evidence to take action in relation to such an offence, the 2 (two) year period stated in subsection (a) shall commence from the date the MIRA becomes aware of the offence or from the date when the MIRA believes that it has obtained sufficient evidence to take necessary action in relation to such offence, whichever date comes later.

#### **70. Appealing civil penalties**

Any civil penalty imposed under this Act shall be paid in full by its due date, notwithstanding that an appeal has been lodged in respect of that penalty. However, if the penalty is reduced or cancelled following such appeal, the MIRA shall refund such amounts paid.

### **71. Onus of proof**

Unless specified otherwise in another Act, where a criminal prosecution in relation to an offence specified in this Act arises, the onus is on the prosecutor to prove that the offence was committed by the defendant. Where a civil lawsuit in relation to an offence specified in this Act arises, the onus is on the defendant to prove that he did not commit the offence.

## **CHAPTER 8: SUPPLEMENTARY PROVISIONS**

### **72. This Act to be read together with other tax laws**

This Act shall be read together with other tax laws. Any word or expression not used in this Act, unless the context requires otherwise, shall have the same meaning such word or expression has in those Acts.

### **73. Due date falling on a holiday**

- (a) Where an obligation under a tax law is required to be performed on a certain date, if that date falls on a public holiday, the due date for the performance of that obligation shall be the first working day following that public holiday.
- (b) Where an obligation required to be performed under a tax law was not performed because its due date fell on a public holiday, the fine levied on the non-performance of such obligation shall commence from the first working day following that public holiday.

### **74. Additional tax payments**

- (a) Where the taxpayer makes a payment of more than the required amount, he may submit a request to the MIRA for a refund of such additional payment.
- (b) Where a request stated in subsection (a) is received by the MIRA, the MIRA may take one of the following actions:
  - (1) Where the taxpayer has no outstanding amounts payable to the MIRA, refund the overpaid amount;

- (2) Deduct the overpaid amount from the tax payable by that person for subsequent taxable periods.
- (c) Notwithstanding subsection (a), where the MIRA believes that any taxpayer under a tax law has been deceitful in the payment of tax, the MIRA has the discretion to not provide a refund for the additional tax paid by the taxpayer to the MIRA.

#### **75. Relief from penalty**

- (a) The Commissioner General of Taxation has the authority, at his discretion, to reduce penalties or postpone cases or combine two cases or grant full relief from penalties.
- (b) The Commissioner General of Taxation has the authority to not impose criminal penalties, in a manner consistent among all taxpayers, for offences relating to the first 6 (six) months from the date of commencement of a tax law.

#### **76. Tax to be treated as debt**

The amount payable to the MIRA under a tax law shall be a debt owed to the State by the person obliged to make the payment, from the time it is required to be paid until it is received, and the MIRA has the power to claim the outstanding payment due to the State in accordance with this Act.

#### **77. Power to extend period**

Where a reasonable cause that may hinder the fulfillment of an obligation within the required time period under a tax law occurs, the MIRA has the discretion to extend the period provided for the fulfillment of such obligation in accordance with the Regulation made pursuant to this Act.

#### **78. Responsibilities in relation to minors required to pay tax**

Where the taxpayer under any tax law is a minor under the age of 18, the responsibility for payment of tax and other obligations under the tax law shall be undertaken by the person determined in the Regulation made pursuant to this Act.

#### **79. Death or bankruptcy of a taxpayer**

Where a person required to pay tax under a tax law passes away or is declared bankrupt, the responsibility for payment of tax and other obligations under the tax law shall be undertaken by the person determined in the Regulation made pursuant to this Act.

#### **80. Aiding and abetting offences**

Any person who aids, abets, supports, counsels, incites or induces the commitment of an offence under any tax law shall be held liable under this Act.

#### **81. Extension of period to fulfil an obligation**

If a person, owing to absence from Maldives or disabling sickness, or owing to absence from Maldives with a reasonable excuse, is prevented from fulfilling an obligation within the time stipulated in this Act, the MIRA or, on an application made in accordance with regulations, the Tax Appeal Tribunal may extend the period for fulfillment of such obligation or allow a delay as may be reasonable in the circumstances.

#### **82. Documents required by the MIRA**

Documents required to be submitted under this Act shall be submitted using the relevant forms issued by the MIRA. Documents submitted in any other manner except by using the issued forms of the MIRA shall not be considered as documents submitted in accordance with this Act.

#### **83. Making regulations and the commencement of the Act**

- (a) The provisions contained in this Act shall be administered and overseen by the MIRA.
- (b) This Act shall commence on the date of ratification of this Act.
- (c) Regulations required to be made pursuant to this Act shall be made within 6 months from the date of ratification of this Act.

#### **84. Tax ruling**

- (a) The Commissioner General of Taxation may issue tax rulings within the scope of this Section, and, such rulings shall be binding on MIRA.

- (b) The purpose of issuing a tax ruling shall be to inform the basis of interpretation of the tax laws and regulations, or to inform a procedure for the payment of tax in regard to specific transactions, or to inform administrative procedures in relation to the collection of tax. In no circumstance shall the content of such tax rulings go beyond the scope of the tax laws and the regulations made pursuant to those laws.
- (c) Every tax ruling issued under subsection (a) shall have effect after a period of not less than 30 days from its date of issuance.

## 85. Residence

- (a) In the case of an individual, "resident in the Maldives" in a tax law, refers to:
  - (1) a person who is in the Maldives for 183 (one hundred and eighty-three) days or more in a year; or
  - (2) a person who arrives in the Maldives in a year with the intention of establishing his residence in the Maldives; or
  - (3) a person who is ordinarily resident in the Maldives in a year, but leaves before the end of that year.
- (b) a person who arrives in the Maldives in a year with the intention of establishing his residence in the Maldives; or
- (c) For the purposes of a tax law, if a partnership or trust or any other association carries on any business in the Maldives, it shall be considered a resident of the Maldives.
- (d) For the purposes of a tax law, a company operated in the Maldives shall be considered a resident of the Maldives.
- (e) If the company was incorporated outside the Maldives, the residence of that company shall be determined with reference to the location of its central management and control. If that location cannot be ascertained, the residence of that company shall be deemed to be the place of incorporation or registration of that company.
- (f) For the purposes of a tax law, a company which:

- (1) is no longer carrying on any business; or
- (2) is being wound up outside the Maldives,
- (3) shall be regarded as continuing to be resident in the 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.

## 86. Definitions

- (a) In this Act, unless the context otherwise requires:

“Authorized person” refers to a person authorized in writing by any other person to act on his behalf for the purposes of this Act;

“Documents” refers to anything in which information of any description is recorded;

“Commissioner General of Taxation” refers to the person appointed pursuant to Section 8 of this Act by the President to the post of the Commissioner General of Taxation of MIRA in accordance with this Act;

“Deputy Commissioner General of Taxation” refers to the person appointed pursuant to Section 8 of this Act by the President to the post of the Deputy Commissioner General of Taxation of MIRA in accordance with this Act;

“Notice of audit” refers to a notice advising the audit of the amount of tax payable under any tax law;

“Beneficial owner” refers to the natural person who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.

“Board” refers to the Board of Directors of MIRA established pursuant to Section 4 of this Act.

“Foreign country or territory” refers to including foreign countries, and territories within the jurisdiction of foreign countries.

“Minister” refers to the Minister assigned with the responsibility for managing public finance.

“Taxpayer” refers to persons required to register under any tax law.

“Tax laws” refers to this Act and all other laws relating to the imposition of tax.

“Tax return” refers to the returns required to be submitted under any tax law and the documents to be submitted together with such return.

“Group of companies” refers to groups that include a holding company and subsidiary companies.

“Associates” in any tax law refers to:

- (1) any relative of that person;
- (2) a company within a group of companies;
- (3) a partner in a partnership with that person;
- (4) if that person has an interest in shares or obligations of a company, any other person having an interest in those shares or obligations.

“Relative” in any tax law refers to:

- (1) the spouse of that person; or
- (2) the grandmother, grandfather, mother, father, child, or sibling.

- (b) Unless otherwise defined in any tax law, any word or expression shall have the definition stated in this Act.