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MALDIVES INLAND REVENUE AUTHORITY

Malé, Republic of Maldives

TAX RULING

Business Profit Tax: Realized and unrealized gains and losses

Reference No.: TR-2012/B15

Date of issue: Sunday, 15 July 2012

This ruling is issued pursuant to the authority granted under Section 84 of the Tax Administration Act (Law Number 3/2010) as amended by Law Number 14/2011. Unless otherwise stated, all legislative references are to the Business Profit Tax Act (Law Number 5/2011) and the Business Profit Tax Regulation (Regulation Number 2011/R-35 as amended by Regulation Number 2011/R-47 and Tax Ruling number TR-2012/B6 and TR-2012/B11). This ruling is legally binding.

Introduction

1. This ruling sets out how realized and unrealized gains and losses are to be treated for the purpose of calculating taxable profits.
2. Sections 2(c), 3(b), 4(b)(2) and 5(a)(1) of the Act require that a person's taxable profits for a tax year are the "full amount" of the person's profits for the tax year.
3. Section 79 of the Regulation states that:
"The term "full amount" in relation to profits refers to all profits that a Person earns in an accounting period whether they are earned regularly from on-going trading operations or from irregular gains from the disposal of assets, or profits otherwise derived."
4. Section 4 of the Regulation states that:
"All Persons within the charge to tax shall prepare accounts in accordance with this Regulation."
5. Section 8 of the Regulation specifies that:
"(c) Accounts required to be prepared under Section 4 of this Regulation shall be prepared in accordance with IFRS or any other international accounting standards acceptable to the MIRA, using the accrual basis of financial accounting.



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- (d) Notwithstanding subsection (c), if the annual total turnover of any business or businesses carried on by an individual does not exceed MVR 3,650,000 (Three Million Six Hundred and Fifty Thousand Rufiyaa), that individual may elect to prepare accounts on the cash basis.”

Ruling

Realized gains and losses

6. Realized gains derived in relation to assets and liabilities held on revenue account and realized gains in relation to assets and liabilities held on capital account shall be included in the calculation of taxable profits for the accounting period in which the gain is realized.
7. Realized losses in relation to assets and liabilities held on revenue account and realized losses in relation to assets and liabilities held on capital account may be deducted in the calculation of taxable profits for the accounting period in which the loss is incurred.
8. Paragraphs 6 and 7 of this Ruling are subject to Section 52 of the Regulation.
9. The total amount of deductions for realized losses for a tax year in relation to assets and liabilities held on capital account shall not exceed the total amount of realized gains for that year in relation to assets and liabilities held on capital account.
10. The excess of the total amount of realized losses for a tax year in relation to assets and liabilities held on capital account over the total amount of realized gains for that year in relation to assets and liabilities held on capital account may be carried forward to subsequent tax years and offset against the total amount of realized gains for each consecutive year in relation to assets and liabilities held on capital account, in accordance with paragraph 9 of this Ruling.
11. MIRA may apply Sections 29 and 30 of the Act to determine the amount of realized and unrealized profits and losses that a taxpayer may take into account in determining taxable profits for any tax year.

Unrealized gains and losses

12. Where a Person adopts the accrual basis of financial accounting:
 - (a) an unrealized gain, including an unrealized foreign exchange gain, shall be included in the calculation of the person’s taxable profits for an accounting period to the extent that the gain arises in connection with assets and liabilities held on revenue account at the end of an accounting period;



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- (b) an unrealized loss, including an unrealized foreign exchange loss, may be deducted in the calculation of the person's taxable profits for an accounting period in accordance with Section 10 of the Act to the extent that the loss is incurred in connection with assets and liabilities held on revenue account at the end of an accounting period;
- (c) an unrealized gain, including an unrealized foreign exchange gain, shall not be included in the calculation of the person's taxable profits for an accounting period to the extent that the gain arises in connection with assets and liabilities held on capital account at the end of an accounting period;
- (d) an unrealized loss, including an unrealized foreign exchange loss, shall not be deductible in the calculation of the person's taxable profits for an accounting period to the extent that the loss was incurred in connection with assets and liabilities held on capital account at the end of an accounting period.

13. Paragraph 12(b) of this Ruling is subject to Section 21 of the Regulation.

Hedging transactions

- 14. Paragraph 12 of this Ruling shall not apply to unrealized gains and losses on hedging transactions, including foreign exchange hedging transactions.
- 15. Where a person adopts the accrual basis of financial accounting and enters into a hedging transaction in relation to a transaction that involves expenditure that is deductible under Section 10 of the Act, the amount of the deductible expenditure shall be the amount of cash that the person is liable to pay in terms of the hedging contract.
- 16. Where a person adopts the accrual basis of financial accounting and enters into a hedging transaction in relation to a transaction that involves the receipt of any amount that is included in the calculation of the person's taxable profits, the person's taxable profits shall include the net amount receivable by the person in terms of the hedging contract.
- 17. For the purposes of paragraphs 15 and 16 of this Ruling, the calculation of the person's taxable profits shall not include unrealized gains and losses arising from a valuation of the hedging contract at the end of the person's accounting period.
- 18. Notwithstanding paragraph 14 of this Ruling, where a person carries on the business of entering into hedging transactions or dealing in foreign exchange, interest swap, derivative or similar contracts, the calculation of the person's taxable profits for an accounting period shall include all realized and unrealized gains and losses arising from those transactions and dealings in that period.



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Cash basis taxpayers

19. Where a person adopts the cash basis of accounting, unrealized gains and losses shall not be taken into account in calculating the person's taxable profits.

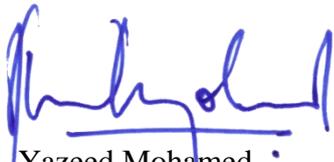
Definitions

20. For the purpose of this Ruling:

- (a) "assets and liabilities held on capital account" means:
 - (i) assets that the person does not trade, or assets that are eligible for a capital allowance, or assets treated in accordance with international accounting standards as property, plant and equipment, investment property, intangible assets, or other non-current assets; and
 - (ii) liabilities, the incurring of which does not give rise to expenses that qualify as deductions under Section 10 of the Act, or liabilities treated in accordance with international accounting standards as non-current liabilities;
- (b) "assets and liabilities held on revenue account" means assets and liabilities that are not held on capital account;
- (c) "hedging transaction" means a hedge of the exposure to variability in cash flows that is attributable to a particular risk associated with an asset or liability and could affect the person's profit or loss for an accounting period.

Date of Effect

21. This ruling shall have effect for the tax year 2011 and thereafter.



Yazeed Mohamed
Commissioner General of Taxation

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