

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



**MALDIVES INLAND REVENUE AUTHORITY**

Malé, Republic of Maldives

# TAX RULING

## Goods and Services Tax: Tenth amendment to the Goods and Services Tax Regulation

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**Reference No.:** TR-2013/G16

**Date of issue:** Tuesday, 24 December 2013

*This ruling is issued pursuant to the authority granted under Section 84 of the Tax Administration Act (Law Number 3/2010) as amended by Law Number 14/2011. Unless otherwise stated, all legislative references are to the Goods and Services Tax Regulation (Regulation Number 2011/R-43) as amended by Tax Ruling Number 220-PR/TR/2011/8, TR-2012/G4, TR-2012/G5, TR-2012/G6, TR-2012/G7, TR-2012/G10, TR-2012/G11, TR-2013/G13 and TR-2013/G14. This ruling is legally binding.*

### Introduction

1. This ruling amends section 54 of the Regulation.

### Ruling

2. Amend section 54 of the Regulation as follows:

**Goods and services supplied free of charge**

- (a) Notwithstanding anything in Section 25(a) of this Regulation, where goods and services are supplied free of charge to a person (referred to in this section as the “recipient”), tax shall not be charged on the value of goods and services supplied:
  - (1) directly in connection with the promotion of the business of the supplier; or
  - (2) directly for the purpose of carrying on the business of the supplier; or
  - (3) as charitable donations to an institution which is financed wholly or primarily through the State budget.
- (b) Where goods and services are supplied free of charge to the recipient, tax shall be charged on goods and services other than those goods and services referred to in subsection (a), assuming that the applicable amount of tax has been included in the open market value of such good or service.
- (c) Subsection (a)(1) shall apply only if, at the time the goods and services are supplied, the recipient of the goods and services is:
  - (1) in the business of promoting the business of the supplier of the goods and services or promoting businesses similar to that of the supplier; or
  - (2) an employee of a person referred to in subsection (c)(1) where that employee is a recipient of the goods and services for the purpose of his employer’s



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- business of promoting the business of the supplier of the goods and services or promoting businesses similar to that of the supplier; or
- (3) a publisher, the business or part of the business of which is the dissemination of publications which include the promotion of the business of the supplier of the goods and services; or
- (4) an employee of, or a person independently contracted with, a publisher referred to in subsection (c)(3) where that employee or independent contractor is a recipient of the goods and services for the purpose of the publisher's dissemination of publications in which the business of the supplier of the goods and services is promoted.
- (d) Where the recipient of the goods and services is:
- (1) an employee of the supplier of the goods and services; or
- (2) a person related to an employee of the supplier of the goods and services; or
- (3) a director of the supplier of the goods and services; or
- (4) a person related to a director of the supplier of the goods and services; or
- (5) a person related to the supplier of the goods and services,
- subsection (a) shall apply only where the goods and services are supplied:
- (a) at the same time as the person referred to in subsections (d)(1) to (5) is actively conducting the business of the supplier of the goods and services; or
- (b) on the same day as the person referred to in subsections (d)(1) to (5) spends a reasonable amount of time during that day devoted wholly to activities directly connected with the business of the supplier of the goods and services.
- (e) For the purposes of subsection (d)(b):
- (1) the supplier of the goods and services shall keep a true and correct written record of the activities undertaken by the recipient on each day on which subsection (a) has been applied and the time or times during which those activities are undertaken.
- (2) where the Commissioner General considers that a person's determination of "a reasonable amount of time" is incorrect, the Commissioner General shall determine such amount of time.
- (f) Where subsection (d) applies, subsection (a) shall apply for a period not exceeding 72 (seventy two) hours.
- (g) Where goods and services are supplied partly directly in connection with the promotion of the business of the supplier or directly for the purpose of carrying on the business of the supplier and partly in connection with other activities or for other purposes, subsection (a) shall be applied on the basis of a reasonable apportionment.
- (h) For the purposes of subsection (g), where the Commissioner General considers that a person's basis of apportionment is incorrect, the Commissioner General shall determine such apportionment.
- (i) Subsections (d), (e), (f), (g) and (h) shall apply notwithstanding that the terms of a contract of employment or terms of directorship or engagement of any person related to the supplier specify that the remuneration of the employee or director



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or person related to the supplier includes or may include the provision of goods and services to any person free of charge.

- (j) Subsections (d), (e), (f), (g), (h) and (i) shall not apply to goods and services supplied on a resort island to a person employed at the resort on that island who continuously conducts his employment activities at that resort.
- (k) Where a good or service is supplied collectively to a recipient to which subsection (a) applies and to a person or persons related to that recipient, subsection (a) shall apply only to so much of the open market value of that good or service that is determined by multiplying that market value by the following fraction:

$$\frac{\text{Number of persons to whom subsection (a) applies}}{\text{Total number of persons who collectively receive the good or service}}$$

- (l) For the purpose of this section:
- (1) the term “promotion of the business of the supplier” requires that the recipient of the goods and services, or his or her employer or publisher, actively markets, advertises, publicizes or sells goods and services supplied by the supplier.
- (2) the term “the purpose of carrying on the business of the supplier” requires that the activities of the recipient of the goods and services are devoted wholly to directorship, managerial, operational, financial or administrative functions in relation to the undertaking carried on by the supplier of the goods and services.
- (3) a leaseholder (or a person related to that leaseholder) shall be a person related to the supplier of goods and services where:
- (a) the leaseholder (or person related to the leaseholder) is the recipient of the goods or services at the location of the leased property; or
- (b) the supply to the leaseholder (or person related to the leaseholder) is made directly or indirectly in connection with the leased property; or
- (c) the supply to the leaseholder (or person related to the leaseholder) arises directly or indirectly from the lease of the property.

### **Date of Effect**

3. This ruling shall take effect from 1 January 2014.



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.*