



Unofficial translation of the

**FIRST AMENDMENT TO THE
INCOME TAX ACT**

15/2021

DISCLAIMER OF LIABILITY

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

FIRST AMENDMENT TO THE INCOME TAX ACT

The Income Tax Act (Law Number 25/2019) shall be amended as follows:

1. Insert a subsection after Section 2(b) of the aforementioned Act as follows:
 2. (c) Any person who derives income from the Maldives where that person is a temporary resident of the Maldives.

2. Amend Section 3(m) of the aforementioned Act as follows:
 3. (m) Income or gains of any other kind, including monies and assets received for no consideration and as proceeds of any criminal or illegal activity, unexplained monies (whether or not recorded in the books of accounts), unexplained investments and expenditures, and unexplained assets.

3. Amend Section 9(c) of the aforementioned Act as follows:
 9. (c) Where an entity is a member of a group of entities, the amount of MVR 500,000/- (Five Hundred Thousand Maldivian Rufiyaa) specified in this Section shall be divided between the entities in the group which are liable to tax under this Act, and the result shall replace MVR 500,000/- (Five Hundred Thousand Maldivian Rufiyaa).

4. Insert a subsection after Section 9(c) of the aforementioned Act as follows:
 9. (d) For the purposes of this Section, the term “entity” refers to all types of entities including partnerships but excluding individuals and banks.

5. Amend Section 11(f) of the aforementioned Act as follows:

11. (f) Money received by the partners of a partnership which is resident in the Maldives, from that partnership.

6. Amend Section 11(n)(2) of the aforementioned Act as follows:

11. (n) (2) the profit is derived from the disposal of a share or any interest in a company, partnership or trust, where at the time of disposal of such share or interest, at any time during the past 365 (three hundred and sixty five) days, more than 50% (fifty percent) of the value of company, partnership or trust is directly or indirectly related to an immovable property situated in the Maldives; or

7. Amend Section 11(r) of the aforementioned Act as follows:

11. (r) Income derived by a non-resident shipping or aircraft operator in international transportation that has a permanent establishment in the Maldives, from carrying passengers or livestock or mail or parcels or merchandise or goods on an aircraft or a ship which departs from a place located in the Maldives;

8. Insert four subsections after Section 11(r) of the aforementioned Act as follows:

11. (s) Commissions derived in respect of services supplied in the Maldives;
- (t) Income derived in respect of performances in the Maldives by public entertainers;
- (u) Income derived from carrying out research and development activities in the Maldives;
- (v) Income derived by a non-resident contractor;

9. Amend Section 12(b) of the aforementioned Act as follows:

12. (b) Profits distributed, and interest paid on partner's capital by a partnership which is resident in the Maldives to its partners who are resident in the Maldives;

10. Amend Section 12(l) of the aforementioned Act as follows:

12. (l) Money received as basic pension, retirement pension and annuity under the Maldives Pension Act (Law number 8/2009);

11. Amend Section 12(m) of the aforementioned Act as follows:

12. (m) Payments received under a life insurance policy, not including payments received under a "key person insurance" policy;

12. Insert a subsection after Section 12(o)(2) of the aforementioned Act as follows:

12. (o) (3) For the purpose of subsection (o)(2), wedding gifts shall be gifts received by either of the persons getting married, not more than 30 (thirty) days before the date of marriage, or on the day of marriage, or not more than 30 (thirty) days after the date of marriage.

13. Amend Section 12(s) of the aforementioned Act as follows:

12. (s) (1) Income derived from the disposal of a person's principal private residence where it is the sole property owned by the person.
- (2) For the purpose of subsection (s)(1), a person's principal private residence shall be a place which the person has occupied as the person's main home for living for a period of not less than 2 (two) years, without any periods of

absence, starting from or after the date the person acquires the ownership of that place.

- (3) Notwithstanding subsection (s)(2), a person shall be deemed to have occupied the place without any periods of absence even if the person is temporarily absent from living in that place for any of the reasons below and if the person does not derive any income from the place by means of lease or otherwise.
 - (i) the person moves out of the place for development or renovation of the place and moves back in upon completion of development or renovation;
 - (ii) The person is required to live away from the place for the purpose of employment;
 - (iii) The person is temporarily absent from the place as a result of living in another place for an extended period of time for the purpose of pursuing education or seeking medical care, and during that period of absence, the place is either unoccupied or a relative of that person occupies the place for the purpose of looking after it.
- (4) Notwithstanding subsection (s)(3), under the circumstances specified in subsection (s)(3), the exemption under this Section shall be applicable to a person if the place is the person's principal private residence before and after the period of his temporary absence, and, during that period of temporary absence that person has not claimed a relief under this Section.
- (5) Where a part of the place specified in this subsection is used for a purpose other than living, such part shall not be included in the definition of principal private residence.

- (6) The use of a part of the principal private residence for a purpose other than living referred to in subsection (s)(5) shall not include the use of a part of the place without having designated area for that other purpose.
- (7) The amount qualifying for relief from the disposal of a place specified in subsection (s)(5) shall be calculated:
 - (i) using the formula below if the disposed place can be split into different units and if each such unit can be utilized separately for living or any other purpose;

$$\frac{A}{B} \times C$$

Where,

A = the number of units that are within the definition of principal private residence

B = total number of units in the disposed place

C = profit arising from the disposal of the place

- (ii) using a just and reasonable basis if the disposed place cannot be split as pursuant to subsection (s)(7)(i);
- (iii) based on the floor area of the disposed place where the place cannot be split as pursuant to both subsections (s)(7)(i) and (s)(7)(ii).
- (8) Where the disposed place is built on land which is owned by same person, the value of the disposal shall be inclusive of the value of the land.
- (9) Where a part of the land on which the place specified in subsection (s)(8) is built is disposed of not including the building itself, the part disposed of as such shall not qualify for the exemption specified in this Section.

- (10) (i) Where the ownership of the place specified in subsection (s)(2) is shared by 2 (two) or more persons, such persons shall qualify for the relief specified in this Section if those persons satisfy the requirements of this Section individually.
- (ii) Where a person does not qualify for the exemption as specified in subsection (s)(10)(i), the exemption shall not apply to the portion of the income which is attributable to that person from the disposal of the place.

14. Amend the Section 12(t) of the aforementioned Act as follows:

- 12. (t) Tax imposed under any law;

15. Insert three subsections after Section 12(v) of the aforementioned Act as follows:

- 12. (w) The following allowances and benefits derived as remuneration in any non-monetary form:
 - (1) Allowances and benefits specified in Sections 4, 9 and 11 of the Act on Salaries, and Other Allowances and Benefits of the President and Vice President (Law number 11/2009), allowances and benefits specified in Section 27-1 of the Parliamentary Privileges and Powers Act (Law number 5/2013) and allowances and benefits specified in Section 13-1 of the Judges Act of the Maldives (Law number 13/2010);
 - (2) Security protection provided by the State to any person via any of the State security services;
 - (3) Medical expenses incurred by the payer of remuneration in respect of injuries that result from work-related incidents;

- (4) Medical check-ups required for the purpose of obtaining or extending work visa, under the Maldives Immigration Act (Law Number 1/2007);
- (5) The following allowances and benefits provided by the payer of remuneration in a non-discriminatory manner between employees, in a place of work provided by the payer of remuneration;
 - (i) Food and beverages;
 - (ii) Entertainment and sports.
- (6) Food and beverages provided to employees on special occasions in the employee's place of work, or not, in a manner that is non-discriminatory among employees and provided on a basis that is not regular;
- (7) Accommodation provided by the payer of remuneration for the purpose of the payer, to a person for the performance of the person's duties of employment, in a place that is setup explicitly for employee accommodation, and the setup is such that a person other than an employee can neither be accommodated nor has the right of accommodation in that place.
- (8) Accommodation provided in the respective establishment, office or post of a State security service, to persons employed in that security service;
- (9) Accommodation provided by the State to a person carrying out an employment in a place outside of the Maldives, under a contract of service made with an office of the State;
- (10) Transportation provided by the payer of remuneration for the purpose of the payer, to employees to commute to their primary place of work, where such primary place of work is

located on an uninhabited island and the person is not residing in that island;

- (11) Transportation, food, and accommodation provided to a person to work in a place other than the person's primary place of work for a period of not more than 1 (one) year, specifically for the purpose of performance of duties of employment;
- (12) Recreational activities organized by the payer of remuneration in the Maldives in order to build and strengthen employee relations, which are open for participation of employees in a non-discriminatory manner, and the incurred cost of which cannot be allocated distinctly to each individual employee;
- (13) Interest on a loan or advance issued by the payer of remuneration, as interest free or at a rate that is lower than the ordinary open market rate of interest, which meets the following conditions, (this shall apply to not more than 1 (one) loan or advance at any given time);
 - (i) repayment period of the loan or advance does not exceed 12 (twelve) months; and
 - (ii) the principal amount of the loan or advance does not exceed MVR 50,000 (Fifty Thousand Rufiyaa).
- (14) Garments to be worn at work provided by the payer of remuneration to employees, that are specifically designed to be worn at work and are not suitable to be worn outside of work on a regular basis;
- (15) Awards granted by the payer of remuneration, the cumulative value of which does not exceed

MVR 5,000/- (Five Thousand Rufiyaa) annually;

- (16) Allowances and benefits provided by the payer of remuneration in a nonmonetary form where the cumulative value does not exceed a total of MVR 1,000 (One Thousand Rufiyaa) per month;
- (17) Medical insurance required to be provided under the Maldives Immigration Act (Law Number 1/2007).
- (x) The contribution made in respect of an employee by a payer of remuneration to the Retirement Pension Scheme under the Maldives Pension Act (Law number 8/2009);
- (y) Allowances received by diplomats working in a diplomatic mission of the Maldives in a foreign country for the performance of the duties of that employment.

16. Insert a Section after Section 12 of the aforementioned Act as follows:

Special exemption from payment of tax

- 12-1.**
- (a) Notwithstanding anything to the contrary in this Act, the President may, at his discretion, under the circumstances specified in this Section, exempt income derived from specific business projects or industries from being liable to tax.
 - (b) The projects and industries eligible for exemption under subsection (a) shall be determined by the President, under the advice of the Cabinet of Ministers.
 - (c) The names of the projects or industries, upon being determined eligible for exemption in conformity with subsection (b), shall be published in the Government Gazette.

- (d) An exemption granted under this Section for a project shall only be granted for the period determined by the President under subsection (b).
- (e) The following shall be taken into account in granting an exemption under this Section.
 - (1) The revenue impact on the State resulting from such exemption;
 - (2) The economic and social impact (positive and negative) of such exemption;
 - (3) A measure of attainability of intended objectives as regards such exemption.
- (f) To request the exemption under this Section, respective Ministry mandated to regulate the project or industry shall make a request to the Ministry with the mandate of the finance function of the State, in accordance with the procedures formulated by the latter Ministry.
- (g) In granting an exemption from payment of tax under this Act, the Ministry with the mandate of the finance function of the State may include in the Regulation formulated under this Act by that Ministry, the conditions to be satisfied or procedures to be followed in order to seek such exemption or keep the exemption valid.
- (h) Where the entity being made exempt under this Section is a business, a separate legal entity, exclusively as regards the exempt project, shall be formed under the Business Registration Act (Law number 18/2014).
- (i) Where a person is made exempt under subsection (a), such person shall be audited by MIRA in conformity with the rules set out in the Tax Administration Act (Law number 3/2010), and, the findings of such audit shall be presented to the Minister with the mandate of

the finance function of the State and the exempt person.

- (j) The Ministry with the mandate of the finance function of the State shall publish in the Government Gazette a list of all persons made exempt under this Section, with the period of validity of, and reason for, the exemption.
- (k) Where an exemption is granted to a person who is not in the list specified in subsection (j), such business activity shall be added to the list and the revised list shall be published in the Government Gazette within 14 (fourteen) days from the date of effect of such exemption.
- (l) Where any of the following circumstances arises, the President may, at his discretion, revoke an exemption granted under subsection (a).
 - (1) Submission of incorrect information in the request for exemption under this Section; or
 - (2) Ceasing the project which has been exempted under this Section, or, commencement of an additional business activity under the name of project which has been exempted under this Section; or
 - (3) The business exempted under this Section is convicted on indictment for a criminal offence by a court of law; or
 - (4) Fulfilment of the objective of granting the exemption, or, for any reason, with appropriate evidence, it is expected that intended objectives of granting the exemption will not be fulfilled; or
 - (5) There is a financial loss or any other loss to the State, or such loss is expected, not including the tax revenue foregone directly or indirectly as a result of the continuation of the exemption.

- (m) Where the President decides under subsection (l) to revoke an exemption granted, such revocation shall take effect on the date as determined by the President for revocation to take effect.
- (n) The Ministry with the mandate of the finance function of the State shall formulate and publish in the Government Gazette a Regulation which sets out the procedures for granting an exemption under this Section to business projects, within a period of not more than 3 (three) months from the date of effect of the first amendment to the Income Tax Act (Law number 25/2019).
- (o) The Regulation formulated under subsection (n) shall specify the projects or industries which are eligible for exemption under this Section.

17. Amend Section 13(e)(3) of the aforementioned Act as follows:

- 13.** (e) (3) an unrealized loss, including an unrealized foreign exchange loss, may be deducted in the computation of the person's taxable income for an accounting period in accordance with Section 17 of this 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.

18. Amend Section 13(g) of the aforementioned Act as follows:

- 13.** (g) Notwithstanding subsection (b), interest received on a bank debt shall not be deemed as income where the principal amount of such debt or any interest payment thereof is estimated to be irrecoverable, and, such amount is computed based on an accounting standard approved by the Maldives Monetary Authority. An amount not deemed as income as such shall be included in the Interest Income on Suspense Account and shall be subject to tax in the accounting

period in which such amount is treated as income in accordance with the accounting standards or in the accounting period during which it was received, whichever is the earlier.

19. Insert a subsection after Section 24(b) of the aforementioned Act as follows:

- 24.** (c) Notwithstanding subsection (b), the following head office expenses charged to the permanent establishment, in respect of amounts, if any, paid to the owner of the permanent establishment, or, to any other permanent establishment of the owner of the permanent establishment, that is situated outside the Maldives or, to any other person associated with the owner of the permanent establishment, shall not be deductible in the computation of taxable income.
- (1) Fee or money paid as a royalty in respect of a patent or right;
 - (2) Commission paid for specific services performed for, or for management services provided to, the permanent establishment.

20. Renumber Section 24(c) of the aforementioned Act as Section 24(d) and amend that subsection as follows:

- 24.** (d) For the purposes of this Section, the meaning of “head office expenses” shall include the amounts charged to the permanent establishment in respect of the amounts paid to, or paid in respect of, any person that is an associate of the owner of the permanent establishment.

21. Amend the opening phrase of Section 30(e) of the aforementioned Act as follows:

- 30.** (e) Notwithstanding subsections (a), (b) and (d) of this Section, gain or loss arising in any of the following manners shall not be taken into account in determining an individual's taxable income, except for in the computation of business income:

22. Amend subsection 30(e)(2) of the aforementioned Act as follows:

- 30.** (e) (2) (i) from the disposal of the sole immovable property owned by an individual which also constitutes the individual's principal private residence;
- (ii) For the purpose of subsection 30(e)(2)(i), the disposal of the sole immovable property owned by an individual which also constitutes the individual's principal private residence shall have the same meaning as assigned to it under Section 12(s) of this Act.

23. Amend subsection 32(b)(3) of the aforementioned Act as follows:

- 32.** (b) (3) The cost of clothing worn to work, except where that clothing is specifically designed to be worn at work and not generally suitable to be worn outside of work;

24. Amend subsection 32(b)(5) of the aforementioned Act as follows:

- 32.** (b) (5) Where the person derives remuneration, the cost of education of the person whether or not it is directly relevant to the person's employment, except cost of trainings directly related to the person's employment;

25. Repeal subsection 32(b)(6) of the aforementioned Act:

32. (b) (6) Where the person derives remuneration, expenditure that is not necessary for the performance of the person's duties in the performance of his employment.

26. Amend Section 34 of the aforementioned Act as follows:

- Capital loss** 34. (a) Any amount of a loss calculated in accordance with Section 30(b) of this Act shall only be deducted from gains calculated in accordance with that section in the same accounting period as that in which the loss was incurred, or, to the extent that the loss exceeds those gains, such excess may be set off against the gains calculated in accordance with Section 30 of this Act in subsequent accounting periods.
- (b) Capital loss may be carried forward under subsection (a) to be deducted from capital gains in the computation of taxable income of subsequent years for a period of not more than 5 (five) years from the end of the accounting period in which it was incurred.
- (c) Capital loss shall be deducted as pursuant to subsection (a) in the order in which the capital loss was incurred, that is, an earlier loss shall be set off before a later loss.

27. Insert a subsection after Section 36(b) of the aforementioned Act as follows:

36. (c) Where an amount deducted under subsection (a) is recovered in an accounting period, such amount shall be deemed to be income derived in that accounting period.

28. Amend Section 39(b)(2)(iii) of the aforementioned Act as follows:

39. (b) (2) (iii) the amount of claims incurred but not reported at the end of the accounting period where that amount has been reasonably estimated using a generally accepted actuarial method approved by the Commissioner General.

29. Amend Section 40(a) of the aforementioned Act as follows:

40. (a) Notwithstanding anything to the contrary in this Act, income specified in Section 11(r) of this Act shall be subject to income tax at the rate of 2% (two percent) of the gross income of that accounting period.

30. Insert a subsection after Section 41(d) of the aforementioned Act as follows:

41. (e) Where a person is required to submit a tax return under this Act, the Commissioner General may, at his discretion, require the submission of information pertaining to income specified in Section 12 of this Act derived by such person, to MIRA, together with the return specified in subsection (a).

31. Amend Section 43(f) of the aforementioned Act as follows:

43. (f) The amount of withholding tax deducted, pursuant to Section 54 or 55 of this Act, from the income of a person for an accounting period ending in a tax year may be deducted from an interim payment payable for that period, in accordance with the Regulation made pursuant to this Act. However, where the person elects Section 27(a) of this Act, the amount of withholding tax deducted under Section 55 of this Act shall not be deducted from the interim payments payable by that person for that period.

32. Amend Section 44(b) of the aforementioned Act as follows:

44. (b) In accordance with the Regulation made pursuant to this Act, the amount remaining after withholding tax deducted from the person's income pursuant to Section 54 and Section 55 is deducted in accordance with Section 43 of this Act.

33. Amend Section 46 of the aforementioned Act as follows:

- Amending tax return** 46. (a) Where a person believes that there are omissions or the amounts declared are not correct in a tax return filed under Sections 41(a) and 57 of this Act, the person may correct the return by submitting an amended tax return before the expiry of 12 (twelve) months from the dates specified in Sections 42(c) and 58 of this Act.
- (b) Where the Commissioner General believes that the self-assessed amount of tax payable calculated in a person's tax return or amended tax return contains an "arithmetic error" or a "typographical error", the Commissioner General may decide to correct such error.
- (c) Where the Commissioner General decides to correct an error pursuant to subsection (b), the taxpayer shall be notified of such that in writing providing with the reasons.

34. Amend Section 49 of the aforementioned Act as follows:

- Circumstances where an interim payment and interim return are not required** 49. Notwithstanding Section 42 of this Act, there is no obligation under Section 41(b) of this Act where the total amount of the interim payment payable under Section 43 of this Act is not more than MVR 20,000/- (twenty thousand Rufiyaa), and the amount of tax payable for the previous tax year was not more than MVR 20,000/-, or the person is subject to Section 50(a) of this Act.

35. Amend Section 50(a)(3) of the aforementioned Act as follows:

50. (a) (3) the person is not a resident of the Maldives and does not have a permanent establishment in the Maldives and derives from the Maldives income described in Section 50-1 or Section 55 of this Act.

36. Insert a section after Section 50 of the Act follows:

**Taxation of
offshore
indirect
transfers**

50-1. (a) Where a person enters into any of the following transactions, and, an amount pertaining to such transaction is paid either to a non-resident (payee) or to a person the residency status of whom cannot be determined (payee), the payer (withholding agent) shall withhold as tax 10% (ten percent) of the gross amount of the payment.

- (1) Entering into any of the transactions specified in Section 11(n)(1) to Section 11(n)(4) of this Act with a non-resident;
- (2) Entering into a transaction which falls within Section 11(o) of this Act with a non-resident.

(b) The deadline for the payment by the withholding agent of tax withheld under subsection (a) to MIRA shall be earlier of the following dates.

- (1) The date on which the withholding agent becomes the owner of any asset as a result of any of the transactions specified in subsection (a)(1) or (a)(2);
- (2) The date on which the payment pertaining to the transaction is paid to the payee.

(c) The amount of tax withheld under subsection (a) shall be paid to MIRA by the deadline specified in subsection (b), using the form prescribed by MIRA for that purpose.

- (d) Tax as specified in this Section shall be paid to MIRA in the manner specified in this Section by the withholding agent even if the withholding agent fails to withhold, at the time of making the payment to the payee, the amount of tax pursuant to this Section.
- (e) The following shall apply where an amount is paid to a payee by the withholding agent after having failed to withhold the applicable tax amount.
 - (1) The withholding agent and the payee shall be jointly and severally liable to pay the amount of tax applicable under this Section;
 - (2) Where the result of any of the transactions specified in subsections (a)(1) and (a)(2) is the transfer of ownership of an asset to the withholding agent, the obligation of payment of tax shall be transferred to the payee from the time of transfer of ownership of the asset.
- (f) Where the withholding agent withholds the amount of tax as according to this Section and pays such amount to MIRA, it shall be deemed that the amount withheld has been paid to the payee by the withholding agent.
- (g) Where the withholding agent pays the amount of tax to MIRA pursuant to subsection (d) after having failed to withhold the tax from the payment, the withholding agent is entitled to recover an equal amount from the payee.
- (h) The payee shall be deemed to have paid tax in the following circumstances.
 - (1) The withholding agent has withheld the amount of tax pursuant to this Section from the payment made to the payee;
 - (2) Tax has been paid pursuant to subsections (d) or (e).

- (i) The payee is entitled to a tax credit in that accounting period in an amount equal to the amount of tax deemed as paid under subsection (h).
- (j) Notwithstanding anything to the contrary in this Section, where Section 11(n) of this Act applies and the withholding agent or payee fails to pay the tax payable under this Section for a tax year by the deadline for filing the tax return for that tax year, the owner of the immovable property from which the company, partnership or trust, of which shares or interested were alienated, derived their value, shall pay the tax at the rate specified in subsection (a).
- (k) For the purposes of subsection (j), the person who holds the lease of an immovable property under a finance lease shall be deemed to be owner of that immovable property.

37. Amend Section 51 of the aforementioned Act as follows:

Some circumstances where no interim or final tax is required

- 51. Notwithstanding anything to the contrary in this Act, no interim or final tax payments shall be payable by persons specified in Section 50(a)(2) of this Act or in respect of income subject to tax under Section 55 of this Act or income derived from transactions subject to tax under 50-1 of the Act.

38. Repeal Section 54(e)(1) of the aforementioned Act:

- 54. (e) (1) the manner of calculation of employee withholding tax;

39. Repeal Section 55(a)(9) of the aforementioned Act:

- 55. (a) (9) Payments made to a non-resident contractor;

40. Amend Section 55(b) of the aforementioned Act as follows:

55. (b) Where a person conducting business in the Maldives makes a payment to a contractor that is not a resident of the Maldives, a total of 5% (five percent) of the gross amount of the payment shall be deducted as non-resident withholding tax.

41. Amend the opening phrase of Section 55(c)(2) of the aforementioned Act as follows:

55. (c) (2) royalty paid for the use of, or the right to use of a copyright in a software shall be royalty paid for the use of, or right to use of the following types of copyright:

42. Insert a subsection after 55(c) of the aforementioned Act as follows and renumber subsection 55(d) as subsection (e) of that Section:

55. (d) For the purposes of this Section:
- (1) "Commissions paid in respect of services supplied in the Maldives" shall not include commission charged by a bank for money transfers and deposits via the bank and commission charged by a bank for use of a card issued by the bank.
 - (2) "Royalty" shall not include inter-carrier charges paid by one telecommunication service provider to another telecommunication service provider.
 - (3) "Insurance premium" shall not include re-insurance premium.

43. Amend the opening phrase of Section 62(a) of the aforementioned Act as follows:

- 62.** (a) Where a person who has deducted an amount as withholding tax under Sections 54 and 55 of this Act requests, a certificate which shows the following information shall be issued by MIRA within 7 (seven) days from the date of such request, and, such person shall be responsible for providing the withholding certificate to the taxpayer of withholding tax on request. However, if the person who has deducted withholding tax objects to such request by the taxpayer of withholding tax, MIRA shall issue the certificate to the taxpayer upon a request to MIRA with proof of an earlier request to the person who deducted withholding tax.

44. Repeal Section 62(a)(3) of the aforementioned Act:

- 62.** (a) (3) The total of the gross amount of the payments made to the recipient (before deducting the amount of withholding tax);

45. Amend Section 67(a)(3)(iii) of the aforementioned Act as follows:

- 67.** (a) (3) (iii) the amount of any loss of one of those persons for an accounting period would be less; or

46. Insert a subsection after Section 67(a)(3)(iii) of the aforementioned Act as follows:

- 67.** (a) (3) (iv) the amount of any tax credits of one of those persons for an accounting period would be less.

47. Insert a subsection after Section 67(c)(3) of the aforementioned Act as follows:

- 67.** (c) (4) reduce the amount of tax credit allowed for the person specified in subsection (a)(3)(iv).

48. Amend the side heading of Section 68 of the aforementioned Act as follows:

**Transfer 68.
pricing
documentation**

49. Insert a subsection after Section 68(a)(2) of the aforementioned Act as follows:

68. (a) (3) the arrangement or transaction is made exempt under the Regulation made pursuant to this Act.

50. Amend Section 68(b)(2) of the aforementioned Act as follows:

68. (b) (2) the terms and conditions made or imposed between the two parties involved as respects the transaction or arrangement; or

51. Amend Section 68(c) of the aforementioned Act as follows:

68. (c) The transfer pricing documentation required to be maintained under subsection (b) shall be prepared and finalized by the due date for the submission of tax return for the accounting period to which the transaction or arrangement relates, and submitted to MIRA by the prescribed deadline.

52. Amend Section 70(c) of the aforementioned Act as follows:

70. (c) Each person that is a resident of the Maldives and holds 10% (ten percent) or more in the share capital of the foreign entity shall include in its taxable income its share of the taxable income of the foreign entity, calculated using the following formula:

$$\frac{\text{resident shareholder's interest}}{\text{Total interest of all the shareholders}} \times \text{Taxable income}$$

(1) “Resident shareholder’s interest” shall mean:

- (i) where the foreign entity is a company, partnership or other legal entity, the greater of the average of share capital of the person who is a resident in the Maldives throughout the accounting period and the average of the voting rights of the person who is a resident of the Maldives, calculated on a daily basis.
 - (ii) where the foreign entity is neither a company, nor a partnership, nor another legal entity, the average of the interest of the person who is a resident of the Maldives, in the capital of the entity throughout the accounting period, calculated on a daily basis.
 - (iii) where the foreign entity is a fixed trust, the average of the interest of the beneficiary of the trust during the accounting period, who is a resident of the Maldives, and where the foreign entity is a discretionary trust, the average of the interest of the settlor of the trust throughout the accounting period, who is a resident of the Maldives.
- (2) “Total interest of all the shareholders” shall mean:
- (i) where the foreign entity is a company, partnership or other legal entity, the average of share capital of the entity during the accounting period, or, the average of the voting rights of the entity, calculated on a daily basis.

- (ii) where the foreign entity is neither a company, nor a partnership, nor another legal entity, the average of the interests in the capital of the entity of all persons who held such interests during the accounting period, calculated on a daily basis.
 - (iii) where the foreign entity is a trust, the number of trustees that are residents of the Maldives;
- (3) "Taxable income" shall mean the full amount of income, after having deducted from the total income the deductions authorized under this Act and loss relief pursuant to Section 33 of this Act.

53. Insert a subsection after Section 70(e) of the aforementioned Act as follows:

- 70.** (f) For the purpose of subsection (c), the sum of the interests of all the associates who hold interest in the share capital of the entity shall be taken into account in determining whether or not 10% (ten percent) or more in the share capital of a foreign entity are held.

54. Amend the opening phrase of Section 71(f)(5) of the aforementioned Act as follows:

- 71.** (f) (5) "TAX-EBITDA" refers to the amount of profit or loss before the deduction of loss relief as pursuant to Section 33 of this Act, increased by the following amounts:

55. Amend Section 79(k) of the aforementioned Act as follows:

- 79.** (k) "Group of entities" refers to entities which are required under the Regulation made pursuant to this Act to submit consolidated financial statements to MIRA.

56. Amend Section 79(gg) of the aforementioned Act as follows:

79. (gg) (1) “Permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
- (2) The term “permanent establishment” includes especially:
- (i) a place of management;
 - (ii) a branch;
 - (iii) an office;
 - (iv) a factory;
 - (v) a workshop;
 - (vi) a mine, an oil or gas well, a quarry or any other place of exploration or extraction of natural resources, including vessels and ships and platforms used for the exploration or extraction of natural resources;
- (3) The term “permanent establishment” also encompasses:
- (i) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than 90 (ninety) days [90 (ninety) days shall be counted inclusive of the days for which the similar or connected projects or activities are being carried on by the person or associate(s)].
 - (ii) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue for a period or periods

aggregating more than 183 (one hundred and eighty three) days in any 12 (twelve) month period commencing or ending in the tax year concerned [183 (one hundred and eighty three) days shall be counted inclusive of the days for which the similar or connected projects or activities are carried on, or the days for which similar or connected services are supplied on by the associate(s)].

- (iii) The exploration or extraction of natural resources, or reaping of benefits associated with natural resources, including fishing, but only if such project or activities last a period or periods aggregating more than 90 (ninety) days in any 12 (twelve) month period commencing or ending in the tax year concerned.
- (4) Installation or substantial use of mechanical or scientific equipment or machinery for the purposes of or under a contract or agreement for a period aggregating more than 90 (ninety) days, shall be deemed to constitute a permanent establishment.
- (5) Notwithstanding subsections (gg)(1) and gg(2), but subject to subsection (gg)(7), where a person (herein referred to as the “agent”) is acting in the Maldives on behalf of an enterprise (herein referred to as the “first person”), and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the first person, and these contracts are:
 - (i) in the name of the first person; or

- (ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by the first person or the first person has the right to use; or
- (iii) for the provision of services by the first person,

the first person shall be deemed to have a permanent establishment in Maldives in respect of any activities which the agent undertakes for the first person.

- (6) Notwithstanding subsections (gg)(1) to (gg)(5), an insurance enterprise shall, except in regard to re-insurance, be deemed to have a permanent establishment in the Maldives if it collects premiums in the territory of Maldives or insures risks situated therein through a person other than an independent agent.
- (7) Where the agent acting in the Maldives on behalf of the first person carries on business in the Maldives as an independent agent and acts for the first person in the ordinary course of that business, the agent shall be deemed to have a permanent establishment in the Maldives. Where, however, the agent acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that agent shall not be considered to be an independent agent for the purposes of this subsection.

57. Amend Section 79(rr) of the aforementioned Act as follows:

- 79. (rr) “Loan” means an amount (whether or not in money) given at any time by a person (referred to as the “first person”) to another person (referred to as the “second person”) under the terms of which the second person has an obligation to pay an amount at a future time, and includes accounts payable and obligations arising

under finance leases, promissory notes, bills of exchange and bonds.

58. This Act shall commence from the date of its publication in the Government Gazette following its passing and ratification.