



Unofficial translation of the

SECOND AMENDMENT TO THE INCOME TAX REGULATION

2021/R-55

This Regulation was made pursuant to the authority granted to the Board of the Maldives Inland Revenue Authority by the Tax Administration Act (Law Number 3/2010) as amended, and was published in the Government Gazette on Monday the 19th of April 2021.

DISCLAIMER OF LIABILITY

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

SECOND AMENDMENT TO THE INCOME TAX REGULATION

The Income Tax Regulation (Regulation Number 2020/R-21) shall be amended as follows:

1. Amend Section 42(a) of the aforementioned Regulation as follows:

42. (a) This Section shall apply in the deduction of employee withholding tax by the payer of remuneration elected under Section 41 of this Regulation for the purpose of utilizing the tax free threshold.

2. Insert the following subsections after Section 42(b) of the aforementioned Regulation:

42. (b-1) Notwithstanding subsection (b), where subsection (b) applies to a person and the cumulative amount of remuneration subject to withholding tax for a year up to and including a particular month exceeds MVR 720,000/- (Seven Hundred and Twenty Thousand) Rufiyaa, employee withholding tax shall be computed and deducted for that month and subsequent months of that year in accordance with the following. The amount of employee withholding tax computed as according to the following shall not include the amount of employee withholding tax required to be deducted for the months prior to that month.

Total remuneration subject to employee withholding tax paid for that year, up to and including a month	Rate at which employee withholding tax is to be deducted
More than MVR 720,000/- (Seven Hundred and Twenty Thousand Rufiyaa) but not	5.5% (Five point five percent)

exceeding MVR 1,200,000/- (One Million and Two Hundred Thousand Rufiyaa)	
More than MVR 1,200,000/- (One Million and Two Hundred Thousand Rufiyaa) but not exceeding MVR 1,800,000/- (One Million and Eight Hundred Thousand Rufiyaa)	8% (Eight percent)
More than MVR 1,800,000/- (One Million and Eight Hundred Thousand Rufiyaa) but not exceeding MVR 2,400,000/- (Two Million and Four Hundred Thousand Rufiyaa)	12% (Twelve percent)
More than MVR 2,400,000/- (Two Million and Four Hundred Thousand Rufiyaa)	15% (Fifteen percent)

(b-2) Where the accounting period of the recipient of remuneration, who is subject to the provisions of this section, is shorter than 365 (three hundred and sixty five) days, the threshold of MVR 720,000/- (Seven Hundred and Twenty Thousand Rufiyaa) brackets specified in subsections (b) and (b-1) and employee withholding tax shall be reduced proportionately.

3. Amend Section 52(b) of the aforementioned Regulation as follows:

52. (b) Non-banking financial institutions licensed by the central bank of the country of operation or the respective regulatory body to conduct housing finance businesses or leasing finance businesses;

4. Insert the following subsections after Section 52(b) of the aforementioned Regulation:

52. (b-1) Non-banking financial institutions licensed by the Maldives Monetary Authority to conduct development finance business;

(b-2) Non-banking financial institutions licensed by the Maldives Monetary Authority to conduct insurance business;

5. Amend Section 57(a) of the aforementioned Regulation as follows:

57. (a) All persons deriving business income shall prepare financial statements.

6. Insert the following subsection after Section 59(f) of the aforementioned Regulation:

59. (g) Subsections (e) and (f) shall not apply in the computation of capital gains and capital losses.

7. Insert the following Section after Section 72 of the aforementioned Regulation:

Lease payments under an operating lease 72-1. (a) In the computation of taxable income, the amount deductible in respect of a lease payment under an operating lease shall be the amount recognised as an

expense in the respective accounting period pursuant to the accounting standard adopted by the person under Section 59(d) of this Regulation.

(b) Notwithstanding subsection (a), where as a result of application of paragraph 11 of Tax Ruling Number TR-2018/64 (Thin capitalization) as regards an operating lease in a tax year prior to the commencement of taxation under the Act, the aggregate amount that would be deductible in respect of the lease over the lease term proves to be less than the aggregate of lease payments over the lease term, the shortfall may be deducted in the computation of taxable income for the tax year 2020.

(c) Notwithstanding subsection (a), where as a result of application of paragraph 11 of Tax Ruling Number TR-2018/64 (Thin capitalization) as regards an operating lease in a tax year prior to the commencement of taxation under the Act, the aggregate amount that would be deductible in respect of the lease over the lease term proves to exceed the aggregate of the lease payments over the lease term, the excess amount shall be treated as income for the purpose of computing taxable income for the tax year 2020.

8. Insert the following Sections after Section 91 of the aforementioned Regulation:

Borrowing costs 91-1. (a) For the purpose of this Chapter, the cost price of a capital asset shall be exclusive of the amount of borrowing cost capitalized.

(b) Borrowing cost shall be deductible pursuant to Sections 22 and 71 of the Act.

(c) Subsection (a) shall not apply to a capital asset where the borrowing cost of such asset was included in its cost price in a period prior to the tax year 2020.

Change of election made under Section 28(a) of the Act

91-2. (a) Where the election made under Section 28(a) of the Act is wished to be changed before the expiry of the period specified in Section 28(d) of the Act, the request shall be made in writing to the Commissioner General.

(b) Where an election under Section 28(a) of the Act has been made as regards income derived from rental of immovable property, the amount of capital allowance that would have been otherwise deductible under this Chapter had the election not been made shall be deducted in the computation of the tax written down value of that immovable property for the year in which such election is changed.

9. Amend Section 97(a) of the aforementioned Regulation as follows:

Withholding tax reconciliation return

97. (a) Where MIRA determines, persons who are required to submit an employee withholding tax return in the year to which a withholding tax reconciliation return relates shall submit a withholding tax return as specified in the Section 59(a) of the Act by a deadline as determined by MIRA.

10. Repeal Section 97(c) of the aforementioned Regulation:

97. (c) *(Repealed).*

11. Amend Section 98 of the aforementioned Regulation as follows:

- Non-resident withholding tax return**
98. (a) A Non-resident Withholding Tax Return (MIRA 602) shall be submitted only for the months in which a payment specified in Section 55(a) or 55(b) is made to a non-resident by a person carrying on business in the Maldives.
- (b) Even where subsection (a) applies to a payment which have been made exempt from non-resident withholding tax or deduction of non-resident withholding tax under a treaty or agreement entered into under Section 12(h) of the Act, subsection (a) shall be applied to such payments.

12. Insert the following subsections after Section 99(c) of the aforementioned Regulation:

99. (d) Notwithstanding subsection (b), banks shall use MIRA 606 (Income Tax Return – Banks) form to file the income tax return.
- (e) A person required to file interim returns for a tax year under the Act shall file such interim returns prior to the filing of the person's income tax return for that tax year.

13. Amend Section 101 of the aforementioned Regulation as follows:

- Exemption from filing the income tax return**
101. (a) An individual who satisfies all of the following conditions in a tax year shall not be required to file an income tax return for that tax year.
- (1) The taxable income for the accounting period ending in that tax year is less than or equal to

MVR 720,000/- (Seven Hundred and Twenty Thousand Rufiyaa); and

- (2) The taxable income for the accounting period ending in the previous tax year is less than or equal to MVR 720,000/- (Seven Hundred and Twenty Thousand Rufiyaa); and
- (3) The total income for the accounting period ending in that tax year is less than or equal to MVR 2,000,000/- (Two Million Rufiyaa); and
- (4) The total income for the accounting period ending in the previous tax year is less than or equal to MVR 2,000,000/- (Two Million Rufiyaa).

(b) Persons other than individuals and banks shall not be required to file an income tax return for a tax year where all of the following conditions are satisfied:

- (1) The taxable income for the accounting period ending in that tax year is less than or equal to MVR 500,000/- (Five Hundred Thousand Rufiyaa); and
- (2) The taxable income for the accounting period ending in the previous tax year is less than or equal to MVR 500,000/- (Five Hundred Thousand Rufiyaa); and
- (3) The total income for the accounting period ending in that tax year is less than or equal to MVR 2,000,000/- (Two Million Rufiyaa); and

- (4) The total income for the accounting period ending in the previous tax year is less than or equal to MVR 2,000,000/- (Two Million Rufiyaa).
- (c) Where the accounting periods specified in subsections (a) and (b) are shorter than 365 (three hundred and sixty-five) days, the thresholds specified therein shall be reduced proportionately.
- (d) Notwithstanding subsection (a), an individual shall not be required to file an income tax return for a tax year where the individual's total income for the accounting period ending in that tax year consisted only of remuneration derived from 1 (one) payer.
- (e) A person who, in a tax year, is not a resident of the Maldives and does not have a permanent establishment in the Maldives shall not be required to file an income tax return for that tax year if the total income derived by that person from the Maldives in the accounting period ending in that tax year is income specified in Section 55 of the Act.
- (f) Notwithstanding anything to the contrary in this Section, the following persons shall be required to file an income tax return for that tax year.
- (1) Persons deriving income specified in Section 11(r) of the Act;
 - (2) Persons carrying on insurance business;
 - (3) An individual who satisfies all of the following conditions;

- (i) The individual derives remuneration from an employment exercised in the Maldives;
 - (ii) The remuneration derived by the individual is from a payer who is not a resident of the Maldives;
 - (iii) The payer of remuneration to the individual does not have a permanent establishment in the Maldives;
 - (iv) The individual has a tax liability under Section 7 of the Act.
- (g) Subsections (a) to (f) shall apply to the tax year 2021 and thereafter.

14. Amend the stem of Section 102(a) of the aforementioned Regulation as follows:

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| Financial statements to be submitted with the income tax return | 102. | (a) The income tax return of a person deriving business income shall accompany the following documents: |
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15. Amend Sections 102 (b) and 102 (c) of the aforementioned Regulation as follows:

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| 102. | (b) Notwithstanding subsection (a), a person to whom subsection (a) applies with an annual total income of less than MVR 10,000,000 (Ten Million Rufiyaa) shall not be required to submit the Auditor's Report specified in subsection (a)(7), and if such person has made an election under Section 59(e) of this Regulation, that person shall also be exempt from |
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submitting the documents specified in subsection (a)(2), (3) and (4) of this Section.

- (c) Notwithstanding subsection (a) and (b), a person to whom subsection (a) applies and whose only income during an accounting period is rental income from immovable property in the Maldives, shall be exempt from submitting the documents specified in subsections (a)(1) to (7) where the person has made an election under Section 28 of the Act for a tax year. This provision is subject to subsection (d) of this Section.

16. Insert the following Section after Section 102-1 of the aforementioned Regulation:

**Commissioner
General may
require tax
returns in
certain cases**

102-2. (a) For the purpose of Section (48)(a) of the Act, the occurrence of following events and circumstances shall constitute reasonable grounds to believe that there will be loss of tax revenue.

- (1) Leaving the Maldives to live abroad permanently;
- (2) Leaving the Maldives for employment, where the period of employment exceeds (five) years;
- (3) Transferring funds of or assets worth more than MVR 10,000,000 (Ten Million Rufiyaa) out of the Maldives, in any given tax year;
- (4) Where Section 11(n)(2) of the Act applies, a share or any interest in a company, partnership or trust is disposed of and at the time of such disposal of share or interest, more than 50% (fifty percent) of the value of the company, partnership or trust is directly or indirectly

related to an immovable property situated in the Maldives;

(b) For the purpose of the application of 48 of the Act, the following shall be the events stipulated under the Section 48(a)(5) of Act:

- (1) Transfer of asset(s) attributable to a permanent establishment of the person situated in the Maldives to the person's head office situated outside the Maldives or another permanent establishment situated outside the Maldives;
- (2) Transfer of asset(s) attributable to the person's head office in the Maldives to a permanent establishment of the person situated outside the Maldives;
- (3) Ceases to be a resident of the Maldives as a result of relocation of the head office or management and control;
- (4) Where Section 11(n)(2) of the Act applies, a share or any interest in a company, partnership or trust is disposed of and at the time of such disposal of share or interest, more than 50% (fifty percent) of the value of the company, partnership or trust is directly or indirectly related to an immovable property situated in the Maldives;
- (5) Where Section 11(n)(3) of the Act applies, the person not being a resident of the Maldives, disposes of a share or any interest the person holds in a company, partnership or trust which is a resident of the Maldives.

- (c) Where an asset transferred in an event specified in subsection (b)(1) or (b)(2) or (b)(3) is an asset of the type referred to in Section 3(k) of the Act, such transfer of asset shall be deemed to be a “relevant event” under Section 73(g)(1) of this Regulation.
- (d) Where an asset transferred in an event specified in subsection (b)(1) or (b)(2) or (b)(3) is an asset of the type referred to in Section 3(l) of the Act, such transfer of asset shall be deemed to be a “disposal” under Section 3(l) of the Act.
- (e) The disposal value of an asset for the purposes of subsections (b)(4) and (b)(5) and (c) and (d), shall be the open market value of the asset at the time of its disposal.
- (f) Notwithstanding anything to the contrary in this Regulation, an income tax return shall be prepared up to and including the estimated date of occurrence of an event specified in subsection (a) and such return shall be filed 15 (fifteen) days prior to the occurrence of such event.
- (g) The tax return filed under subsection (f) shall, in addition to the income derived from the disposal of an asset pursuant to subsection (a) or (b), consist of the total income derived during that tax year up to the end of the period required to be covered in that return.
- (h) Where the actual amount of income is greater than the amount included in the return filed under subsection (f), an amended tax return shall be submitted at a date not later than 15 (fifteen) days from the date of such change.

- (i) A person who fails to submit a tax return required under subsection (f) or (g) shall be subject to the penalties specified in Section 65 of Tax Administration Act (Law number 3/2010).

17. Amend Section 106(a) of the aforementioned Regulation as follows:

- 106. (a) The currency in which a person presents tax returns, financial statements and other documents specified in Section 102(a) of this Regulation to MIRA shall be the person's presentation currency.

18. Insert the following subsections after Section 123(b) of the aforementioned Regulation:

- 123. (c) Money paid as employee withholding tax by a payer of remuneration to MIRA shall be deemed to be tax paid by the employee from whom tax is deducted, that is to say, an amended employee withholding tax return filed under Section 46 of the Act shall not result in tax being paid in access by the payer of remuneration.
- (d) Money paid to MIRA by a person who is carrying on business in the Maldives, in respect of income derived by a non-resident of the Maldives carrying on business in the Maldives through a permanent establishment, shall be deemed to be tax paid by the non-resident person from whom tax is withheld, that is to say, the result of an amended non-resident withholding tax return filed under Section 46 of the Act shall not result in tax being paid in access by the person carrying on business the Maldives.

19. Insert the following section after Section 128 of the aforementioned Regulation:

Tax avoidance **128-1.** (a) For the purpose of Section 66(a) of the Act, committing of any one of the following acts shall suffice as reasonable grounds for the Commissioner General to believe that one of the purposes of the arrangement or transaction entered into was avoidance of tax or obtaining of a reduction in tax liability.

(1) Carrying out of a transaction which lacks a bona fide commercial purpose;

(2) Carrying out of a transaction which lacks economic substance;

(3) Abuse of organizational form;

(4) Recharacterization of an arrangement or transaction.

(b) For the purpose of subsection (a)(3), an abuse of organizational form in relation to a transaction includes:

(1) in the case of a person resident in the Maldives or a permanent establishment situated in the Maldives, indirect ownership of that person or permanent establishment through one or more intermediary persons or permanent establishments, where that intermediary person is a resident of, or permanent establishment is situated in, a country where it faces an effective tax rate below the rate specified in the Act; or

(2) the circumstance where a person who is a resident of a country with which the Government of the Maldives has entered into an agreement for the avoidance of double taxation:

(i) has an ownership interest, control, or is otherwise associated with a person who is a resident of the Maldives or a permanent establishment situated in the Maldives; and

(ii) is directly or indirectly owned or controlled by another person who is not a resident of such a country or of any other country with which the Government of the Maldives has entered into an agreement for the avoidance of double taxation.

20. Insert the following subsections after Section 129(a) of the aforementioned Regulation:

129. (a-1) The meaning of “interest” shall not include interest on an operating lease as defined in this Regulation.

(a-2) Operating lease shall mean any lease that is not within the definition of a finance lease.

21. This Regulation shall have effect from the date of its publication in the Government Gazette.