



*Unofficial translation of the*

## **SECOND AMENDMENT TO THE TAX ADMINISTRATION ACT**

**13/2019**

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*In accordance with Article 92 of the Constitution, the “Second Amendment Bill to the Tax Administration Act (Law Number 3/2010)” passed in the 45th sitting of the 2<sup>nd</sup> session of the People’s Majlis held on Tuesday the 3<sup>rd</sup> of September 2019, has become law and has been published in the Government Gazette upon its ratification by the President on Thursday the 12<sup>th</sup> of September 2019 (13 Muharram 1441).*

### **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.*

## SECOND AMENDMENT TO THE TAX ADMINISTRATION ACT

1. Amend the subtitle of Section 4 and Section 4(a) of the aforementioned Act as follows:

**Board of MIRA** 4. (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.

2. Amend Section 4(b) of the aforementioned Act as follows:

4. (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.

3. Amend Section 4(d) of the aforementioned Act as follows:

4. (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.

4. Amend Section 4(e) of the aforementioned Act as follows:

4. (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.

5. Amend Section 4(f)(10) of the aforementioned Act as follows:

- 4. (f) (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;

6. Insert the following subsection after Section 4(f) of the aforementioned Act:

- 4. (f-1) The Commissioner General of Taxation shall sit on the Board as a non-voting member.

7. Amend Section 4(h) of the aforementioned Act as follows:

- 4. (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).

8. Amend Section 5 of the aforementioned Act as follows:

**Removal and  
resignation of  
members of the  
Board**

- 5. (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.

9. Amend Section 7(d) of the aforementioned Act as follows:

7. (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.

10. Amend Section 7(e) of the aforementioned Act as follows:

7. (e) The secretariat of the board shall be carried out by the Ministry with the mandate of the finance function of the State.

11. Amend the subtitle of Section 8 and amend Section 8(a) of the aforementioned Act as follows:

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

8. (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.

12. Amend Section 8(b) of the aforementioned Act as follows:

8. (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.

**13. Amend Section 8(e) of the aforementioned Act as follows:**

8. (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.

**14. Amend Section 8(f) of the aforementioned Act as follows:**

8. (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.

**15. Insert the following two subsections after Section 8(f) of the aforementioned Act:**

8. (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.

16. Insert the following Section after Section 10 of the aforementioned Act:

**Asset  
declaration**

- 10-1**
- (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 31st 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.

17. Amend Section 15(a) of the aforementioned Act as follows:

- Confidentiality**    15.    (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.

18. Amend Section 16(a) of the aforementioned Act as follows:

- Disclosure of information**    16.    (a)    Disclosure of information contained in an agreement made pursuant to Sections 51 and 51-1 of this Act to any authorized office of the Government or the exchange of such information through the exchange mechanism prescribed under such agreement shall not be considered as a breach of confidentiality for the purpose of Section 15 of this Act.

19. Insert the following subsection after Section 30(c) of the aforementioned Act:

30.    (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).

20. Repeal Sections 31(c) to 31(f) of the aforementioned Act:

- 31. (c) *(Repealed)*
- (d) *(Repealed)*
- (e) *(Repealed)*
- (f) *(Repealed)*

21. Insert the following subsections after Section 31(j) of the aforementioned Act:

- 31. (k) MIRA may require the parent entity of a multinational group, which is resident in the Maldives, to furnish and submit the information relating to the business operations and management of all the companies in the group, or a Country-by-Country report, in a manner prescribed in the regulation made pursuant to this Act.
- (l) Even if MIRA obtains the Country-by-Country reports as under subsection (k), MIRA shall only exchange such reports with other jurisdictions in accordance with an agreement made pursuant to Section 51-1 of this Act.

22. Insert the following subsection after Section 32(d) of the aforementioned Act:

- 32. (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.

23. Amend Section 39 of the aforementioned Act as follows:

**Determining the amount of tax by MIRA**

39. (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.

24. Amend Section 42 of the aforementioned Act as follows:

**Objection**

42. (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.

25. Amend Section 43 of the aforementioned Act as follows:

**MIRA's  
decision in  
relation to an  
objection**

43. (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 2nd 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.

26. Amend Section 44 of the aforementioned Act as follows:

**Appeal**

44. (a) Every decision made by MIRA with regard to a notice of objection submitted by a taxpayer may be appealed at the Tax Appeal Tribunal, and, such appeal shall be made within 30 days from the date on which a decision was made by MIRA on the notice of objection.

- (b) Where the taxpayer is appealing against a tax amount assessed by MIRA, such appeal shall only be made after paying an amount of not less than 30% of the amount of tax in dispute.
- (c) The 30% specified in subsection (b) shall not include any fines or interests relating to the amount of tax in dispute.

27. Insert the following section after Section 49 of the aforementioned Act:

**Seeking assistance from other jurisdictions in the recovery of tax**

**49-1** Any tax, fine or any other amount due to MIRA may be recovered through an agreement entered into in accordance with Section 51 or 51-1 of this Act.

28. Amend the title of chapter 5 of the aforementioned Act as follows:

## **CHAPTER 5: TAX TREATIES**

29. Insert the following two Sections after Section 51 of the aforementioned Act:

**Tax Information Exchange Agreement**

**51-1** Information that is required to tackle tax evasion or fraud in relation to tax, and information that is required to carry out investigations involving such tax fraud or tax evasion, may be exchanged between tax administrations under an agreement entered into between the Government of Maldives and a foreign jurisdiction or jurisdictions.

**Force of treaties**

**51-2** (a) The agreements entered into pursuant to Sections 51 and 51-1 of this Act shall be binding on the State.

- (b) The State shall be responsible for amending laws in effect in the Maldives, if and when required, to allow for the application of the agreements specified in subsection (a).

30. Insert the following subsection after Section 54(c) of the aforementioned Act:

- 54. (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).

31. Amend Section 55 of the aforementioned Act as follows:

**Appeal**

- 55. (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 Shariah principles or law or regulation, the taxpayer or MIRA may appeal such decision as of right to the High Court within 30 days of such decision being made.
- (b) Even if a decision is appealed 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.



35. The phrase “*tax-aa-behey qaanoon*” shall be replaced with “*tax qaanoon*<sup>1</sup>”, wherever it appears in the aforementioned Act.
36. The person to be appointed to the Board of MIRA under Section 4(d)(1) of the aforementioned Act shall be appointed within not more than 30 days from the date of commencement of this Act.
37. A person shall be appointed to the office of the Commissioner General of Taxation, and a person shall be appointed to the office of the Deputy Commissioner General of Taxation, under Section 8 of the aforementioned Act, within 30 days from the date of commencement of the Second Amendment to the Tax Administration Act (Law Number 3/2010).
38. This Act shall commence upon it being published in the Government Gazette following its passing and ratification.

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<sup>1</sup> The meaning of “*tax qaanoon*” and “*tax-aa-behey qaanoon*” is the same in Dhivehi language and translates to “tax law” in English.