



Unofficial translation of the

THIRD AMENDMENT TO THE INCOME TAX REGULATION

2021/R-135

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 October 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.

THIRD AMENDMENT TO THE INCOME TAX REGULATION

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

1. Repeal Section 3(d) of the aforementioned Regulation:

3. (d) *(Repealed)*.

2. Repeal Section 13 of the aforementioned Regulation:

Allowances and benefits not included in the definition of remuneration 13. *(Repealed)*.

3. Amend Section 14 of the aforementioned Regulation as follows:

Allowances and benefits 14. Allowances and benefits other than those exempt pursuant to Section 12 of the Act, provided by a payer of remuneration to a recipient of remuneration, in monetary form or otherwise, shall be deemed to be allowances and benefits within the definition of remuneration, and, the allowances and benefits specified in this Chapter shall not be deemed to be the only forms of allowances or benefits within the definition of remuneration.

4. Amend Section 33 of the aforementioned Regulation as follows:

Withholding Tax 33. "Withholding Tax" in this Chapter refers to employee withholding tax specified in Section 54 of the Act, non-resident withholding tax specified in Section 55 of the Act and tax required to be withheld under Section 50-1(a) of the Act.

5. Insert a Section after Section 35 of the aforementioned Regulation as follows:

**Capital Gains
Withholding
Tax**

35-1. (a) Tax required to be withheld under Section 50-1(a) of the Act shall be referred to in this Regulation as “Capital Gains Withholding Tax”.

(b) Where the withholding agent fails to withhold the correct amount of capital gains withholding tax and makes the payment to the payee, the amount of capital gains withholding tax payable by the withholding agent to MIRA shall be computed using the following formula.

$$A \times 0.1$$

A = amount payable to the payee

6. Amend Section 40(a) of the aforementioned Regulation:

40. (a) Where a payment of an amount of remuneration specified in Section 54(a) of the Act or a payment of an amount specified in Section 55 (a) or (b) or Section 50-1 of the Act is made in a currency other than Rufiyaa, in making the payment of withholding tax to MIRA, such amount shall be converted to Rufiyaa using an exchange rate within $\pm 2\%$ (plus or minus two per cent) of the rate published by the Maldives Monetary Authority on the date that the tax was liable to be withheld. The source of the foreign exchange rates adopted by the taxpayer must be used consistently.

7. Repeal Section 41(b), 41(c) and 41(d) of the aforementioned Regulation:

41. (b) *(Repealed).*

(c) *(Repealed).*

(d) *(Repealed).*

8. Amend Section 41(e) of the aforementioned Regulation as follows:

- 41.** (e) Where a person derives remuneration from more than 1 (one) payer of remuneration, the person shall elect 1 (one) payer who would apply the tax-free threshold available to the person, and, in order to make such election, the person shall submit MIRA 916 (Election to Deduct Employee Withholding Tax) form to the payers of remuneration.

9. Insert a subsection after Section 41(e) of the aforementioned Regulation as follows:

- 41.** (e-1) Where a person, to whom subsection (e) applies, fails to elect a payer of remuneration who would apply the person's tax-free threshold, MIRA shall determine the payer of remuneration to that effect.

10. Amend Section 41(f) and 41(g) of the aforementioned Regulation as follows:

- 41.** (f) The payer of remuneration elected under subsection (e) or the payer determined by MIRA under subsection (e-1) shall deduct withholding tax of that recipient of remuneration after computing the tax amounts attributable to each respective tax bracket, including the tax-free threshold.
- (g) Payers of remuneration other than the payer elected under subsection (e) and the payer determined by MIRA under subsection (e-1), shall deduct withholding tax at the rate of 8% (Eight Percent) from the total monthly remuneration subject to withholding tax paid to the recipient of remuneration.

11. Amend Section 41(m) of the aforementioned Regulation:

- 41.** (m) Subsections (e) to (l) shall not apply to payers of remuneration who are not required to be registered under the Act.

12. Amend Section 42(b) of the aforementioned Regulation:

42. (b) Where the regular amount of remuneration subject to withholding tax derived by a person is not more than MVR 60,000/- (Sixty Thousand Rufiyaa) and the gross amount of remuneration subject to withholding tax to be derived by that person during that tax year is estimated to be not more than MVR 720,000/- (Seven Hundred and Twenty Thousand Rufiyaa), no deduction is required in respect of withholding tax for a month even if the amount of remuneration subject to withholding tax for that month exceeds MVR 60,000/- (Sixty Thousand Rufiyaa).

13. Amend the stem of Section 42(b-1) of the aforementioned Regulation as follows:

42. (b-1) Notwithstanding subsection (b), even if the regular amount of total monthly remuneration subject to withholding tax paid by the payee is not more than MVR 60,000/- (Sixty Thousand Rufiyaa), where 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.

14. Insert a Section after Section 52 of the aforementioned Regulation as follows:

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| <p>Banks and non-banking financial institutions approved by MIRA</p> | <p>52-1. For the purpose of Section 55(a)(3) of the Act, banks and non-banking financial institutions approved by MIRA shall be the banks and non-banking financial institutions approved by the Commissioner General under Section 52 of this Regulation.</p> |
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15. Insert a subsection after Section 58(c) of the aforementioned Regulation as follows:

58. (d) Notwithstanding anything to the contrary in this Section, the accounting period of a non-resident person who does not have a permanent establishment in the Maldives shall begin from the date the person starts to derive income from the Maldives and end on the earlier of the following dates.
- (1) The date on which the person ceases to derive income from the Maldives;
 - (2) 31 December of that tax year.

16. Repeal Section 64 of the aforementioned Regulation:

**Income from
immovable
property** 64. *(Repealed).*

17. Repeal Sections 95(b) and 95(c) of the aforementioned Regulation:

95. (b) *(Repealed).*
- (c) *(Repealed).*

18. Insert a subsection after Section 96(c) of the aforementioned Regulation as follows:

96. (c-1) Prior to the filing of employee withholding tax return for a particular month, employee withholding tax return required to be filed for preceding months shall be filed.

19. Insert a Section after Section 99 of the aforementioned Regulation as follows:

**Capital Gains
Withholding
Tax Return** 99-1. (a) The form prescribed by MIRA under Section 50-1(c) of the Act shall be referred to in this Regulation as “Capital Gains Withholding Tax Return”.

- (b) MIRA 608 (Capital Gains Withholding Tax Return) form shall be used to file the capital gains withholding tax return.

20. Amend Section 100-1(b) of the aforementioned Regulation as follows:

- 100-1.** (b) The amount of withholding tax deducted pursuant to Section 43(f) of the Act may be deducted as a tax credit in the computation of the person's interim payment payable for that period.

21. Insert a subsection after Section 101(g) of the aforementioned Regulation as follows:

- 101.** (h) Notwithstanding anything to the contrary in this Section, a State office shall not be required to file an income tax return, and, subsection (f) of this Section shall be subject to this subsection.

22. Insert subsections after Section 102(d) of the aforementioned Regulation as follows:

- 102.** (e) Notwithstanding anything to the contrary in this Section, where a non-resident shipping or aircraft operator in international transportation derived income specified in Section 11(r) of the Act in a tax year, such person shall submit together with the income tax return for that tax year, an auditor's report attesting to the reliability of the figure declared in the income tax return as the income specified in Section 11(r) of the Act.

- (f) Notwithstanding subsection (a), where the sole income derived from the Maldives in a tax year by a non-resident shipping or aircraft operator in international transportation is income specified in Section 11(r) of the Act, such person shall not be required to submit an additional financial statement together with the income tax return for that tax year, other than the auditor's report specified in subsection (e).
- (g) Where a non-resident shipping or aircraft operator in international transportation derived in a tax year, in addition to the income specified in section 11(r) of the Act, any other income through the person's permanent establishment in the Maldives, such person shall submit, together with the income tax return, the auditor's report specified in subsection (e) and the financial statements prepared in respect of the permanent establishment as according to subsection (a) of this Section. This subsection shall be subject to Section 59(b) and 59(c) of this Regulation.
- (h) The auditor referred to in this Section shall be an independent auditor licensed by the relevant authority to conduct statutory audits in the Maldives.

23. Repeal Section 102-1(c) of the aforementioned Regulation:

102-1. (c) *(Repealed).*

24. Amend Section 102-2(f) of the aforementioned Regulation as follows:

102-2. (f) Notwithstanding anything to the contrary in this Regulation, an income tax return shall be prepared for the period up to and including the estimated date of occurrence of an event specified in subsections (a)(1) to (a)(3) and such return shall be filed 15 (fifteen) days prior to the occurrence of such event.

25. Amend Section 102-2(i) of the aforementioned Regulation as follows:

- 102-2.** (i) A person who fails to submit a tax return required under subsection (f) or (h) shall be subject to the penalties specified in Section 65 of Tax Administration Act (Law number 3/2010).

26. Amend Section 107 of the aforementioned Regulation as follows:

**Presentation
currency of the
return**

- 107.** (a) The income tax return and interim return shall be prepared in the person's presentation currency.
- (b) The following returns shall be prepared in Maldivian Rufiyaa.
- (1) Employee withholding tax return;
 - (2) Non-resident withholding tax return;
 - (3) Withholding tax reconciliation return;
 - (4) Capital gains withholding tax return.

27. Amend Section 108(d) of the aforementioned Regulation as follows:

- 108.** (d) Non-resident withholding tax and employee withholding tax and capital gains withholding tax shall be paid in Maldivian Rufiyaa.

28. Amend Section 109(b) of the aforementioned Regulation as follows:

- 109.** (b) The heirs of the deceased shall be responsible for making an application to a court of law for the purpose of determining a person or persons to be in charge of the deceased person's tax obligations as specified under Section 52(a) of the Act, within not more than 60 (sixty) days from the date of the death.

29. Repeal Sections 119 and 120 of the aforementioned Regulation:

**Gifts received
on the occasion
of marriage** **119.** *(Repealed).*

**Place of
residence or
principal
private
residence** **120.** *(Repealed).*

30. Amend Section 123(a) of the aforementioned Regulation as follows:

123. (a) Where the submission of a tax return or amendment of a tax return results in a payment of more than the requirement amount by a taxpayer, such overpaid amount shall be refunded to the taxpayer by MIRA in accordance with the Tax Administration Regulation (Law Number 2013/R-45), without contravention of subsections (c) and (d) of this Section.

31. Repeal Section 123(b) of the aforementioned Regulation:

123. (b) *(Repealed).*

32. Amend Section 127 of the aforementioned Regulation as follows:

**Immovable
property** **127.** For the purpose of the Act and this Regulation, “immovable property” shall mean the following property.

(a) Buildings, warehouses, plants, factories, land, uninhabited islands, lagoons, reefs, reef knolls, permanent structures and any other such property;

(b) Any structural improvement to a property specified in subsection (a) or an interest in such property or structural improvement;

- (c) Including sublease, a lease of a property specified in subsection (a) or lease of a structural improvement specified in subsection (b);
- (d) Livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources, a license or a permit to supply a good or service to the Maldives or any part therein;
- (e) any property accessory to a property specified in this Section.

33. Insert a Section after Section 128-1 of the aforementioned Regulation as follows:

Commission paid for specific services, or management services	128-2. For the purpose of Section 24(c)(2) of the Act, commission paid for specific services performed or management services provided, shall include payments made, in respect of such services, based on the amount of profit or income.
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34. This Regulation shall have effect from the date of its publication in the Government Gazette.