



Unofficial translation of the

THIRD AMENDMENT TO THE TAX ADMINISTRATION ACT

27/2020

In accordance with Article 92 of the Constitution, the “Third Amendment Bill to the Tax Administration Act (Law Number 3/2010)” passed in the 23rd sitting of the 3rd session of the People’s Majlis held on Sunday the 29th of November 2020, has become law and has been published in the Government Gazette upon its ratification by the President on Wednesday the 16th of December 2020 (1 Jumadal Ula 1442).

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.

THIRD AMENDMENT TO THE TAX ADMINISTRATION ACT

The Tax Administration Act (Law Number 3/2010) shall be amended as follows.

1. Amend subsections 15(b)(7) and 15(b)(8) of the aforementioned Act as follows:

- Confidentiality**
- 15.** (b) (7) Information disclosed in accordance with a double tax agreement specified in Section 51 of this Act or tax information exchange agreement specified in Section 51-1 of this Act.
- (8) Information, not falling within the scope of subsection (b)(7), that is required to be disclosed, about a person who is liable to pay tax in the Maldives, to the officers authorized to administer tax laws of a foreign country or territory in that respective country or territory.

2. Amend subsections 16(a) and 16(b) of the aforementioned Act as follows:

- Disclosure of information**
- 16.** (a) Notwithstanding anything to the contrary in this Act or any other Act, information received or exchanged under an agreement made pursuant to Section 51 or 51-1 of this Act may only be disclosed to another person in a manner prescribed in such agreement.
- (b) Subject to subsection (a), where a concession or relief from tax on income is available from a foreign country or territory, disclosing information as may be necessary for the purpose of obtaining such relief or concession does not contravene subsection 15(a) of this Act.

3. Repeal subsections 31(k) and 31(l) of the aforementioned Act.

4. Insert the following Section after Section 31 of the aforementioned Act:

Country-by-Country Report

- 31-1.** (a) Multinational entities which are resident in the Maldives shall prepare and submit to MIRA a Country-by-Country report, in accordance with the rules stipulated in the Regulation made pursuant to this Act, and, such report shall comprise of information on business operations and management of the group to which the entity belongs.
- (b) Notwithstanding that MIRA may obtain Country-by-Country reports specified in subsection (a), such reports shall only be shared with foreign countries or territories in accordance with an agreement made pursuant to Section 51-1 of this Act.

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

Appeal at the Tribunal

- 44.** (a) Where a taxpayer is not satisfied with a decision made by MIRA with regard to a notice of objection submitted by the taxpayer under Section 42(a) or Section 42(b) of this Act, the taxpayer may appeal such decision at the Tax Appeal Tribunal within 60 (sixty) days from the date on which a decision was made by MIRA on the notice of objection.
- (b) Notwithstanding subsection (a), where the taxpayer is appealing against a tax amount assessed by MIRA under Section 39 of this Act, such appeal shall only be made after paying to MIRA an amount of not less than 25% (twenty five percent) of the amount appealed against.
- (c) The 25% (twenty five percent) specified in subsection (b) shall be calculated exclusive of any fines or interests

payable in respect of the amount appealed against at the Tax Appeal Tribunal.

- (d) The appeals filed at the Tax Appeal Tribunal under subsection (a) shall be adjudicated and decided upon by the Tribunal within not more than 180 (One Hundred and Eighty) days from the date of filing.
- (e) In order to decide upon, within the period stipulated in subsection (d), the appeals filed at the Tax Appeal Tribunal, the Tribunal shall schedule the hearings relating to the appeals in advance.
- (f) Notwithstanding subsection (d), where the members of the Tax Appeal Tribunal hearing the case, after having considered all relevant matters pertaining to the case, are of the opinion that a decision that is fair cannot be reached within the stipulated time period, the members may extend the time period within which the appeal shall be decided upon by not more than 90 (ninety) days.
- (g) Where the time period within which an appeal shall be decided upon is extended under subsection (f), the reason for the extension shall be specified in the decision of the Tribunal.
- (h) Appeals that remain undecided as at the date of effect of the Third Amendment to the Tax Administration Act (Law number 3/2010) shall be adjudicated and decided upon within a period of not more than 180 (One Hundred and Eighty) days from the date of effect of the third amendment to the Tax Administration Act (Law number 3/2010).

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

**Recovery of tax and
tax related dues
through court action**

49. (a) MIRA may recover, by action in the court, any unpaid tax, fine or any other amount relating to the unpaid tax, as a civil debt due to the State.
- (b) Since recovery of tax by action in the court as under subsection (a) is a part of the enforcement of tax due to the State, the matter of the amount of tax due shall not be heard substantively at this stage of litigation. Disputes as to the amount of tax due may be heard substantively when such issues are presented in accordance with the procedure specified in Section 44 of this Act.
- (c) In the court proceedings for recovery of tax under subsection (a), a document signed by the Commissioner General of Taxation stating the name and address of the person in default and particulars of the amount due from such person shall be sufficient evidence of the amount due and sufficient authority for a court to pass judgement.
- (d) Notwithstanding subsection (a) and (b), MIRA may file an action in the court under subsection (a) to recover a tax amount or an amount related to tax where one of the following circumstances applies:
- (1) A person has exhausted options to object to an amount assessed by MIRA under Section 39 of this Act, by not having appealed against the assessment within the period specified in Section 44(a) of this Act; or
 - (2) A decision by the Tax Appeal Tribunal, on an appeal submitted under subsection 44(a) as regards the amount of tax to be paid to MIRA, has become the final judgment, or the judgment by a higher court in respect of a decision of the

Tribunal appealed at a higher court has become the final judgment.

- (3) Where subsections (d)(1) and (d)(2) do not apply and MIRA has the option to recover the amount of tax self-assessed by the taxpayer.
- (e) Subsection (d)(3) shall not in any way hinder the option available under the relevant tax laws for a taxpayer to amend the amount self-assessed by the taxpayer.
- (f) A lawsuit brought under subsection (a) to recover the amounts in unpaid tax and related fines due to the State shall be heard and decided upon by the court within a time period of not more than 180 (One Hundred and Eighty) days.
- (g) A judgement passed by a court pursuant to this Section shall be the enforceable final judgement, and, such judgement shall not be appealed at a higher court of law.

7. Amend Section 49-1 of the aforementioned Act as follows:

Seeking assistance from other countries in the recovery of tax claims

49-1. Any tax, fine or any other amount due to MIRA may be recovered with the assistance of a foreign country or territory under an agreement entered into pursuant to Section 51 or 51-1 of this Act. A foreign country or territory may also recover any tax, fine or any other amount due with the assistance of Maldives.

8. Amend Section 50 of the aforementioned Act as follows:

Collection and recovery of non-tax money by MIRA

50. (a) Unless otherwise specified in any other law, non-tax money payable to the Government or State by an individual or legal entity under a law or regulation or

agreement, maybe collected by MIRA for and on behalf of the State.

- (b) Collection of non-tax money under subsection (a) shall also include collection of fines in relation to such money applicable under relevant law or regulation or agreement.
- (c) For the purpose of this Section “non-tax money” refers to any consideration, fee, rent or fine, which is not a tax, payable to the Government or State by an individual or a legal entity under a law or regulation or agreement.
- (d) Money collected by MIRA under this Section shall be deposited to the Consolidated Revenue Fund pursuant to Section 19 of the Public Finance Act (Law number 3/2006).
- (e) Notwithstanding anything to the contrary in any other law, the Attorney General of the Maldives may, by action in the court, at his discretion, recover un-paid non-tax money due to the State.
- (f) A suit brought under subsection (e) to recover non-tax money due to the State shall be adjudicated and decided upon by the court within a period of not more than 6 (six) months from the date the suit is filed.
- (g) Notwithstanding subsection (f), where a person is in default as respects non-tax money due to the State, MIRA may use the following recovery measures prior to filing of a suit under subsection (e).
 - (1) Issuing a notice demanding the payment of tax;
 - (2) Publishing the name of the person in default;
 - (3) Suspending a service being sought from a State Office.
- (h) Where subsection (g)(3) applies, the measure specified in that subsection shall only be executed against a

person if the money in default from that person is related to a transaction connected to the service the person is seeking.

- (i) The regulation made pursuant to this Act shall stipulate the procedures as regards MIRA's execution of the measures specified in subsection (g).
- (j) The regulation specified in subsection (i) shall be formulated under the advice of the Minister.

9. Amend Section 51(a) of the aforementioned Act as follows:

**Double Tax
Agreements**

51. (a) Where the Government of Maldives enters into an agreement with the Government(s) of a foreign country(ies) or territory(ies) for the avoidance or reduction of double taxation, or for the recovery of tax, or on other related issues, or for the prevention of reduced taxation, or for the prevention of tax avoidance, or to exchange information needed to audit or investigate situations where reduced taxation or tax avoidance has occurred, such agreement may provide for the following:

10. Amend Section 51-1 of the aforementioned Act as follows:

**Information
Exchange
Agreements and
Mutual
Administrative
Assistance
Agreements**

- 51-1. Administrative assistance [Mutual Administrative Assistance] in tax matters may be exchanged between tax authorities under a bilateral or multilateral treaty entered into between the Government of the Maldives and a Government(s) of a foreign country(ies) or territory(ies). Furthermore, under such a treaty, information needed for administrative assistance in tax matters, and information needed to prevent tax avoidance or tax evasion, and information needed to audit or investigate tax avoidance and evasion, may be exchanged between tax authorities in accordance with the relevant agreements.

11. Insert the following sections after Section 51-1 of the aforementioned Act as follows:

**Automatic
Exchange of
Information**

51-2. MIRA, under an agreement entered into pursuant to Section 51 or Section 51-1 of this Act and in accordance with the Common Reporting Standard, may exchange information through an automatic exchange of information system in a manner prescribed in the Regulation made pursuant to this Act.

**Power to obtain
information from
financial
institutions**

51-3. (a) For the purpose of an agreement specified in Section 51 or Section 51-1 of this Act, or, for the purpose of Section 51-2 of this Act, financial institutions, in accordance with the Regulation made pursuant to this Act, shall submit to MIRA information of taxpayers and that of associates of taxpayers.

(b) For the purpose of subsection (a), financial institutions which are required to provide information shall include all institutions which are required to submit information under the Common Reporting Standard.

**Beneficial
ownership**

51-4. MIRA has the authority to obtain and use the information of the beneficial owner of a legal entity or transaction or arrangement, and share the information of beneficial owner with other countries or territories, and, set forth in the Regulation made pursuant to this Act the circumstances where information of the beneficial owner may be obtained.

Use of information

51-5. Information obtained or exchanged under this Act may be used by MIRA in the implementation of tax laws.

12. Section 51-2 of the aforementioned Act shall be renumbered as 51-6 and amended as follows:

Force of treaty

51-6. The international agreements entered into pursuant to Sections 51 or 51-1 of this Act shall be binding.

13. Insert the following section after Section 52 of the aforementioned Act:

Mutual Agreement Procedure **52-1.** A Mutual Agreement Procedure or a dispute resolution under an agreement specified in Section 51 or Section 51-1 of this Act shall be conducted in accordance with the Regulation made pursuant to this Act.

14. Insert the following section after Section 53 of the aforementioned Act:

Advance Pricing Arrangements **53-1.** (a) To determine arm's length price of a transaction which a taxpayer intends to enter into with an associate, or to specify rules and criteria for the determination of arm's length price of a transaction which a taxpayer intends to enter into with an associate, MIRA may enter into an Advance Pricing Agreement with the taxpayer or with the taxpayer and a tax administration, or with the taxpayer and more than one tax administrations.

(b) Where subsection (a) applies, subsection (a) shall prevail over any other Section in this Act or any other tax law which stipulates special rules as regards transactions between associates.

(c) The agreement specified in subsection (a) shall have effect, as prescribed in such agreement, for a period of no longer than 5 (five) consecutive years.

(d) The circumstances where an agreement under subsection (a) cannot be entered into with any person, and other matters relevant to this Section shall be set forth in the Regulation made pursuant to this Act.

15. 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 a law or regulation, the taxpayer or

MIRA may appeal such decision as of right to the High Court within 60 (sixty) days of such decision being made.

- (b) Notwithstanding an appeal is filed 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.
- (c) An appeal filed before the High Court under subsection (a) shall be adjudicated and ruled upon within a period of not more than 180 (One Hundred and Eighty) days from the date filing of the appeal.
- (d) Where a taxpayer or MIRA is of the opinion that a judgment of the High Court is in contravention of a law or regulation, the taxpayer or MIRA may appeal such judgment as of right to the Supreme Court within 60 (sixty) days of such judgment being passed.
- (e) An appeal filed before the Supreme Court under subsection (d) shall be adjudicated and ruled upon within a period of not more than 180 (One Hundred and Eighty) days from the date of filing of the appeal.
- (f) Notwithstanding subsections (c) and (e), the judges hearing the appeal at the High Court or Supreme Court, after having considered all relevant matters pertaining to the appeal, are of the opinion that a fair judgement cannot be rendered within the stipulated time period, the time period may be extended by not more than 90 (ninety) days.
- (g) Where the time period within which an appeal shall be ruled upon is extended under subsection (f) by the High Court or Supreme Court, the reason for such extension shall be specified in the judgment of the court.

16. Insert the definition for the following in Section 86(a) of the aforementioned Act:

Definitions

86. (a) “Beneficial owner” refers to the natural person who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.

“Foreign country or territory” refers to including foreign countries, and territories within the jurisdiction of foreign countries.

17. Regulations required to be formulated with respect to amendments to the aforementioned Act via this Act shall be formulated and published in the Government Gazette within 3 (three) months from the date of effect of this Act.

18. This Act shall commence upon it being published in the Government Gazette following its passing and ratification.