



Tax Alert

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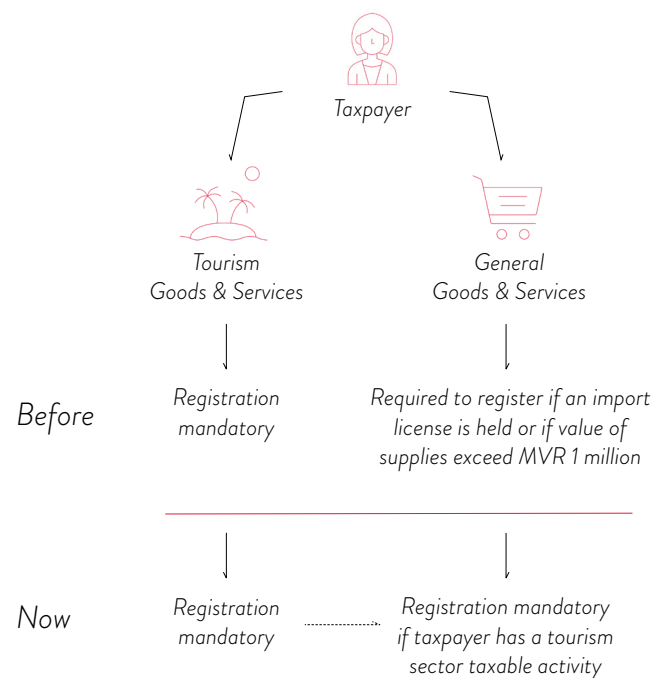
Input tax on capital expenditure disallowed if there is no output tax during the period

TAX RULING G42: TWENTY FIRST AMENDMENT TO THE GST REGULATION

This Ruling amends Section 11 of the GST Regulation which deals with how the registration threshold under Section 51 of the GST Act should be determined. This amendment to Section 11 now requires persons who are already registered for Tourism GST to register for General GST if they have a taxable activity in that sector regardless of whether they exceed the threshold of MVR 1,000,000.

Businesses that are currently operating in the Tourism Sector which also conduct a taxable activity in the General Sector are now required to register that activity with the MIRA by 30 September 2017, regardless of whether the value

of supply of such goods or services is less than MVR 1,000,000.



Note: GST registration requirements for taxpayers with taxable activities solely in the general sector remain the same. That is, they are required to register only if their value of supplies meet the MVR 1 million threshold, or if an import license is held by that person.

Our comments

This ruling is critical for all businesses operating in the Tourism Sector impacting businesses ranging from tourist resorts to tourist guesthouses. As the ruling removed the registration threshold, any business – regardless of their scale of operation or value of supply – run by a person with a tourism sector taxable activity will be required to register.

LIMITATIONS ON CLAIMING INPUT TAX RELATING TO CAPITAL EXPENDITURE

The method of deduction of input tax relating to capital expenditure is prescribed in Section 46 of the GST Regulation. As per this section, input tax relating to capital expenditure must be claimed over a period of 36 months, depending on the gross amount of the capital expenditure.

Further, Section 46(a)(4) states that the amount of input tax relating to a capital expenditure claimed in any taxable period must not be more than the amount of output tax declared in that period. The subsection specifically states that if the amount of input tax for the period exceeds the output tax payable during the period, such excess amount will “be carried forward to the subsequent taxable period”.

The MIRA’s approach to the deduction of input tax on capital expenditure has thus far been to allow taxpayers to claim such input tax when they file their GST Returns, and later set it off against output tax when the taxpayer has an amount of output tax. However, based on recent decisions made in audits by the MIRA, we now understand, that input tax on capital expenditure is disallowed if it exceeds output tax during that taxable period.

Our comments

The decision has serious ramifications for businesses, especially those making huge investments and take a longer period for commencement of business and thereby generate output tax. Typical examples are tourist resorts and guesthouses under construction.

In practice, this means that businesses will, most probably, not be able to claim any input tax incurred for the construction of the tourist resort or guesthouse as it usually takes more than 12 months (the period within which input tax may be claimed) for such businesses to start trade and charge output tax.

Hence, in the absence of any rulings to clarify this position of the MIRA, it is advisable that the matter be confirmed from the MIRA before making any decision pertaining to the above.



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