

2018

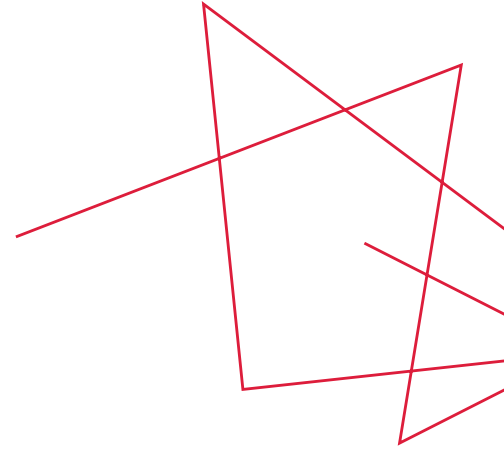
Year in Review

Tax & Legal Developments





Year in Review



A number of regulatory changes that impacted businesses were introduced in the Maldives during the year 2018. This Review summarises these developments, several of which appeared in our various publications.

January

TAX WHT on Commission Paid to Online Travel Agencies

Although issued in November 2017, Tax Ruling B62 has a significant impact in 2018 on the applicability of WHT on commissions and fees paid or payable to non-resident Online Travel Agents or Agencies (OTAs) by tourist establishments.

As per Ruling B62, effective from 1 December 2017, WHT is required to be paid on booking commissions only in cases where there is an actual flow of commission from the tourist establishment to the non-resident OTA (known as the agency model). Under the merchant model, where the OTAs collect payment and remit the net amount to the tourist establishment, there is no actual flow of commission to the OTA and thus no WHT is imposed. For further information on this ruling, see our Tax Alert published on 18 February 2018.

February

LEGAL Construction of Social Housing Projects an Exempt Supply

Tax Ruling G46 on 8 February 2018 made the construction of housing projects under a social housing scheme, an exempt supply. Enterprises undertaking these types of projects would have to

apply to the MIRA, and submit the documentation from the relevant government authority showing that project falls within the scope of Section 20(o) of the GST Act. The party carrying out the project must submit the required form to the MIRA in accordance with the Ruling, and upon MIRA's approval, the person will not be liable to charge GST on that project.

March

LEGAL Second Amendment to Regulation on the Submission of Proposals for Leasing Islands, Plots of Land and Lagoons for Tourism Purposes

The second amendment to the Regulation, published on 4 March 2018, allows a person who is required to pay the acquisition fee for an island, land or lagoon leased for tourism purposes, to extend the period to pay the acquisition fee. The amendment requires the person to make a written request to the tourism ministry, and pay a USD 1,000 fee for each instance that an extension is requested for. Each extension that is granted will be for a maximum of 45 days.

LEGAL New Guidelines Allow for Cargo to be Offloaded onto Resorts under Development

Maldives Customs Service published new Guidelines on 29 March 2018 which are in effect from 1 April 2018 to 31 December 2020. The guidelines allow new resorts which are under construction, resorts

currently undergoing construction, and resorts which are being renovated, to offload bulk cargo and other goods directly on to the resort. The guidelines also contain details of the fees charged for types of cargo and the procedure for applying for a permit to offload cargo on the developing site.

April

TAX New Rules and Requirements for MIRA Registered Auditors

The Ruling published on 5 April 2018 brings some major changes to the requirements of Category A, B, and C Auditors, and Individuals who are MIRA registered auditors. In addition to this, registered auditors are, effective from the date of the ruling, required to report any suspected non-compliance of the tax laws, to the MIRA, and they must also check how electronic records are maintained, and whether records pertaining to internet transactions are kept.

Auditors are also required to attend a Continuing Professional Development program conducted by the MIRA for which attendance is mandatory. Furthermore, the MIRA licensing committee now has the power to call for the audit working papers maintained by a MIRA registered auditor and any other documentation held by an auditor in relation to an audit.

TAX Thin Capitalization Rules

The Ruling published on 26 April 2018 introduces thin capitalisation rules concerning interest payments on loans and other debt instruments and financing arrangements. This Ruling imposes additional restrictions on interest on loans. The Ruling puts a cap on the interest at 25% of the tax EBITDA. The EBITDA is based on the taxable profit for the period and is calculated before the deduction of loss relief, interest expense and capital allowances. However, interest payments to banks and financial institutions approved by the MIRA can still be deducted in full.

The Ruling also elaborates on the definition of interest for the purpose of the Ruling and

encompasses interest on all forms of debt, payments economically equivalent to interest, and other fees paid in connection with raising of finance such as arrangement fees and guarantee fees. For further information on this ruling, see our Tax Alert published on 20 June 2018.

May

TAX Employment under Contract of Service

The Ruling published on 24 May 2018 explains the seven attributes which will be considered when determining whether a person is an employee, under a contract of service, for BPT purposes. If any of the attributes are not met, that person shall be considered to be conducting a “business” under the BPT Act and required to fulfil any obligations under the Act. For further information regarding the matter addressed in this ruling, see our Tax Alert published on 20 June 2018.

TAX Repeal of Group Loss Sharing Rules

This Ruling published on 31 May 2018 repeals Section 37 of the BPT Regulation under which loss sharing within group companies were allowed. The rules on loss sharing within the group allowed holding companies and subsidiaries to share the loss within the group provided that certain other criteria were met. The Ruling applies to tax year 2018 onwards. For further information regarding the breakdown of this ruling, see our Tax Alert published on 20 June 2018.

LEGAL Regulation on Record Retention for Commercial Banks Licensed by the MMA

The Regulation published, on 15 May 2018, requires commercial banks licensed under the Maldives Banking Act (Law Number 24/2010) to maintain all current and future records, in either an electronic or hard copy format, and in compliance with the Regulation. Schedule 1 of the Regulation denotes the periods that specific types of records need to be maintained and Banks are also required to adopt a written record retention policy which is in compliance with the Regulation. There are exceptions to the limits

on record retention in schedule 1 with respect to any records or information which may be the subject of ongoing litigation, criminal investigation or reasonably foreseeable litigation action. Non-compliant banks will be subject to remedial measures and sanctions specified in the regulation.

August

LEGAL Third Amendment to Regulation on the Submission of Proposals for Leasing Islands, Plots of Land and Lagoons for Tourism Purposes

The third amendment to the Regulation, published on 13 August 2018, amends Section 2 of the Regulation, which specifies conditions to be fulfilled by a lessee of an island, land or lagoon to be used for tourism purposes. The amended section 2(e) is divided into two subsections; the first subsection which applies to CSR projects to be carried out by a party interested on leasing out an island, land, or lagoon for tourism purposes for the development of a tourist resort, tourist hotel or guesthouse, must carry out a CSR project which would cost between USD 500,000 and USD 1,000,000. The second subsection applies to CSR projects to be carried out by a party interested in developing a tourist hotel or guesthouse on an inhabited island for which details of such CSR project must be provided to the Ministry.

November

TAX Interest Paid to Finance Lease Companies Fully Deductible

The Ruling published on 8 November 2018 now considers Housing Finance Companies and Lease Finance Companies licensed by the regulatory body of their respective country of operation, as part of the banks and financial institutions approved by the MIRA. As a result, taxpayers can now deduct interest payments made to those types of companies in full, provided that such deductions are made in accordance with Ruling B64 - rules pertaining to thin capitalization.

December

TAX Fifth Amendment to the Goods and Services Tax Act

The amendment published on 3 December 2018 classifies all Sanitary napkins, tampons, menstrual cups and other such products as essential goods specified under schedule 1 of the GST Act. Any businesses that supply feminine products will be required to charge tax at zero-percent – effectively making the products GST free.

TAX Tax Ruling Explains Types of Feminine Hygiene Products

The Ruling published on 10 December 2018 explains the term “other such products” related to the feminine sanitary products indicated in the fifth amendment to the Goods and Services Tax Act. As per the Ruling, the term “other such products” refers to sanitary towels, sanitary pads, panty liners, sanitary belts for use with looped towels or pads, internal devices for the collection of menstrual flow (keepers) and maternity pads produced as sanitary protection products for the absorption or collection of menstrual flow or lochia (discharge from the womb following childbirth). Supply of any of the aforementioned goods by a GST registered person are zero-rated – effectively making them GST free.

LEGAL Ninth Amendment to the Tourism Act

The amendment published on 20 December 2018 amends Section 15 of the Tourism Act. The amended section stipulates that any work that may result in permanent changes to the environment of an island, plot of land, or lagoon leased for the development of a tourist resort must be approved by the ministry responsible for formulating, and enforcing policies related to the environment. The approval and subsequent permit to carry on with that type of developmental work must be issued pursuant to the Regulation on Environmental Impact Assessment Reports.

LEGAL **Fourth Amendment to the Companies Act**

The amendment published on 20 December 2018 expands the powers of the Registrar of Companies under the Companies Act. The amendment grants the Registrar of Companies, the power to take action against “non-compliant companies”. The Act categorises those companies who, among others, do not pay the annual fees, or have not commenced business within a year of incorporation, or are not actively engaged in any business for a period of more than two years as “non-compliant

companies”. Under Section 7 of the Act, the Registrar can now formulate regulations which set out rules granting the Registrar the power to liquidate such non-compliant companies. Furthermore, where a Managing Director of a company is fined pursuant to Section 69(a) (failure to submit annual report and related documents), the Registrar may proceed with the process of the liquidation of the non-compliant company if the Managing Director fails to submit the required documents even if the fine amount has been settled.

About us

CTL Strategies LLP is a multi-disciplinary law firm that provides comprehensive legal solutions to both local businesses operating globally and foreign businesses with interests in the Maldives. Our team is comprised of corporate and tax lawyers, tax advisors and chartered accountants.

We are ranked by Asia Law Profiles as a highly recommended firm in the areas of litigation and disputes.

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