

# 2019

## Year in Review

Tax & Legal Developments







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A number of regulatory changes that impacted businesses were introduced in the Maldives during the year 2019. This Review summarises legal and tax developments, some of which appeared in our Tax Alerts.

## January

### **TAX** MIRA Amends Thin Cap Rules

MIRA issued [Ruling B68](#) on 27 December 2018, which amends [Ruling B64](#) -Thin Capitalization.

Ruling B64 concerns thin capitalisation rules with respect to the deduction of interest payments on loans and other debt instruments and financing arrangements. Among other things, Ruling B68, raises the cap on the interest from 25% to 30% of the tax-EBITDA, and permits interest payments made to banks, housing finance companies and leasing finance companies registered with the Maldives Monetary Authority and operated in the Maldives, to be deducted in full despite the Thin Cap rules.

For further information, see our [Tax Alert](#) published on 27 January 2019.

### **LEGAL** Cash Declaration Limit Changed

The Maldives Monetary Authority, on 17 January 2019 published the [first amendment to the Regulation](#) on Cross Border Currency Declaration Amount which now requires passengers travelling with USD 20,000 (Twenty Thousand United States Dollars) (Prior to the Amendment, this value was USD 30,000 (Thirty Thousand United States Dollars) or more, and are travelling to or from the Maldives, to declare that amount with the Maldives Customs Service. This rule also applies to any foreign currency, or Maldivian Rufiyaa which is equivalent to, or exceeds the dollar value stipulated in the Regulation.

### **LEGAL** Unsolicited Proposals Policy Introduced

The President's Office, on 28 January 2019 introduced the Unsolicited Proposals Policy that allows domestic and foreign private parties to submit proposals for development projects funded by foreign grants or

concessional loan assistance or projects pursued by the government, provided they align with public-policy objectives set by the government. The Policy sets procedures for the submission of these proposals while also setting safeguards to ensure transparency and accountability.

## March

### **LEGAL** Construction Administration Regulation Published

The [Construction Administration Regulation](#) published on 11 March 2019, largely deals with procedural matters concerning developing and maintaining stringent safety standards at construction sites, standards concerning architectural drawings, amending architectural drawings, construction work related standards, safety standards to be met prior to using a building, issuance of permits under the Construction Act, and imposition of a fine regime for non-compliance.

### **TAX** MIRA Changes Rules on Imposing BPT on Directors' Remuneration

MIRA issued [Ruling B69](#) on 21 March 2019, which amends [Ruling B65](#) (Employment under a contract of service). The Ruling now classifies remuneration paid by a company to its director, partnership to its partner, a trust or body of persons to its member, as income from employment under a contract of service. Another important change introduced by the Ruling was that consideration for 'services rendered' by a director, partner or member of a trust or body of persons, will no longer be required to be capped under section 11(d) of the BPT Act.

## April

### **LEGAL** Ministry of Economic Development Amends Import Regulations

The [Third Amendment to the Import, Export and Re-export Goods Regulation](#) published on 28 March 2019 no longer requires enterprises that import, export and re-export goods to hold the

corresponding license to carry on with that activity. If an enterprise is registered under the Business Registration Act, they can register with the Maldives Customs Service and import, export and re-export in accordance with the Maldives Customs Services rules and regulations.

### **LEGAL** Constitution Amended Prohibiting Ownership of Land by Foreigners

The [Fourth Amendment to the Constitution](#) of the Republic of Maldives published on 23 April 2019 changes Article 251(a) and 251(b) and repeals Chapter 15 of the Constitution. The amendment now prohibits transfer of ownership of land in the Maldives to a foreign party and permits a long term leasehold of up to ninety-nine years.

## May

### **TAX** Tribunal Declares MIRA's Decision Invalid - Orders Re-audit

On 15 May 2019, in the case filed by [Maldives Passions Pvt Ltd](#) against the Maldives Inland Revenue Authority, the Tax Appeal Tribunal, with a majority of two to one, deciding on two issues determined, firstly that, output tax must be declared at the rate GST was charged, and the MIRA has the power to order the payment of that tax pursuant to Section 13(d) of the GST Regulation, and secondly, that there are major discrepancies in the MIRAs tax computation for the audited taxable periods. The tribunal hence annulled the decision of the MIRA ordering a re-audit of the taxable periods under dispute.

## June

### **TAX** Management Services Subject to WHT Only if Rendered After Commencement of the BPT Act

The High Court of Maldives, on 26 April 2019, in the case appealed by [Jetan Travel Services Pvt Ltd](#) against the Maldives Inland Revenue Authority struck down the Tax Appeal Tribunal's decision regarding the interpretation of section 6 of the Business Profit

Tax Act. Following the judgment Withholding Tax may be applied only on payments for services that are rendered after the Act came into force.

### **TAX** Tribunal Passes a Landmark Decision on WHT on Interconnection Charges and Computer Software Payments

On 26 April 2019, in the case filed by [Ooreedoo Maldives Pvt Ltd](#) against Maldives Inland Revenue Authority the Tax Appeal Tribunal has set a landmark precedent on the application of Section 6 on Interconnection Charges and similar types of payments, and payments made for the use of certain types of Computer Software utilized in the Telecommunications Industry. The Tribunal held that interconnection charges were payments made towards the use of intangible property and thus would not be subject to WHT under Section 6(a)(1) as the scope of that Section is limited to payments made for the use of tangible property only. Further, another important decision made was with respect to Section 6(a)(3) – payments for the use of computer software – with the Tribunal members asserting that simply having access to adaptation features, or configurations for proper and convenient use of the software cannot be considered as customizing or modifying the software.

### **LEGAL** MED Publishes Regulation on Dissolution Procedures for Non-Compliant Companies

The “[Regulation on Dissolution Procedures for Companies to be Dissolved by Decision of the Registrar of Companies](#)” published on 18 June 2019 specifies procedures to be followed by the Registrar with respect to the dissolution of Companies which fall within the ambit of Section 75(b)(1) of the Companies Act.

## July

### **LEGAL** Regulation on Construction Period Extension and Rent Deferment Published

The “[Regulation on Construction Period Extension and Deferment of Rent and Fines for Places Leased for Tourism Purposes](#)” was published on 2 July

2019. The Regulation sets out the conditions, and procedures for extension of construction period, and the deferment of lease rent and fines for Islands, lands and lagoons leased for the purposes of tourism development.

### **TAX** Changes to the Requirements to Qualify as a MIRA Registered Auditor

MIRA published [Tax Ruling B70](#) on 11 July 2019, which amends [Tax Ruling 2018/B63](#) (Submission of Financial Statements and Appointment of Auditors). This amendment brought about some changes to specified criteria under the requirements to be fulfilled to become a MIRA registered Auditor, and also repealed Paragraph 45 of the Tax Ruling B63.

### **LEGAL** Supreme Court Makes Landmark Decision on Medical Negligence

The Supreme Court of Maldives, on 25 July 2019, ruled against the State (Ministry of Health) and held that medical negligence was manifest in the treatment administered to [Aishath Iyan Ihsan](#) which consequently left her deaf. The Landmark case highlighted the importance of duty of care of doctors towards their patients, and three conditions that need to be satisfied in order to ascertain whether malpractice took place.

## August

### **LEGAL** Maldives Signs Singapore Convention

The Republic of Maldives, on 7 August 2019, was one of forty-six countries that signed the [United Nations Convention on International Settlement Agreements Resulting from Mediation](#) which establishes, international commercial dispute settlement mechanisms, and cross border enforcement mechanisms for settlement agreements arising from Mediation.

### **LEGAL** Upper Limit on Compensation for Business to be Proposed in Guidelines

A decree introduced to Parliament on 26 August 2019, by Thulhaadhoo Constituency Member Uza. Hisaan Hussain, urged the Government to formulate

a [policy on managing financial obligations](#) towards parties that the Government has entered into agreements with. In particular the decree called for the formulation of guidelines to deal with agreements entered into by the previous administration and other parties which were terminated by the state owing to various political, and baseless reasons.

## September

### **TAX** Second Amendment to the Tax Administration Act Ratified

The [Second Amendment to the Tax Administration Act](#), passed in the 45th sitting of the 19th People's Majlis was ratified and published on 12 September 2019 which introduced some key changes to the Tax Administration Act. Some of those changes being; enforcing a time limit of 2 years to conclude an audit and enforcing a statutory period of 120 days to make a decision on objections filed; to gain the right to appeal at the Tax Appeal Tribunal by settling 30% of the amount in dispute.

For further information regarding Second Amendment to the Tax Administration Act please see our [Tax Alert](#) published on 15 October 2019.

### **LEGAL** Dangerous Chemicals Regulation Published

The "[Dangerous Chemicals Regulation](#)" published on 23 September 2019 imposes stringent requirements on enterprises and parties that import, store and trade in dangerous chemicals. From the date of publication of the Regulation, enterprises have three months to comply with the requirements, and failure to do so will result in heavy penalties as prescribed in the Regulation.

## October

### **TAX** New Commissioner General Appointed to the MIRA

On 31 October, President Ibrahim Solih, appointed Fathuhulla Jameel as Commissioner General of

Taxation and Asma Shafeeu as Deputy Commissioner General of Taxation.

## December

### **LEGAL** Business Registration Act

On 4 December 2019, the [First Amendment to the Business Registration Act](#) was published in the Government Gazette. According to the First Amendment to the Business Registration Act, Foreign Business will only be required to register their business in accordance with Section 4 of the Act, and register as a foreign investment under the [Foreign Investment Act of the Maldives](#) (Law Number 25/79). The Amendment also requires all online businesses to register with the Ministry of Economic Development. All online businesses have 30 days, beginning 4 December 2019, to register their business with the [Ministry of Economic Development](#).

### **LEGAL** Fifth Amendment to the Maldives Constitution Ratified

On 8 December 2019, the [Fifth Amendment to the Constitution](#) of the Maldives was published in the Government Gazette. The Amendment amends subsections (a), (b) and (c) of Article 231 of the Constitution – Election of Councils. Subsection 231(a) deals with the composition of the Members of Councils in each administrative district. According to the Amendment, Island Council Members and City Council Members are to be elected by conducting elections in which constituents of the district will cast their vote. Under subsection 231(a)(3), the Council of an administrative district will be comprised of the Presidents of the Local Island Councils and President of the Atoll Council.

Further, subsection 231(b) has been amended so that Presidents of Island Councils and Mayors of City Councils will be elected by the constituents of their respective constituency. The Amendment also indicates, as per subsection 231(c), the term for all elected councils will be 5 (five) years.

## **LEGAL** New Chief Justice to the Supreme Court of the Maldives

On 8 December 2019, the President Ibrahim Mohamed Solih appointed the former Supreme Court Judge Uz Ahmed Muthasim Adnan as the Chief Justice of Maldives.

## **TAX** Income Tax Act Signed into Law

On 17 December 2019, President Ibrahim Mohamed Solih ratified the Income Tax Bill into law. The [Income Tax Act](#) which marks the introduction of tax on personal income and introduces several important changes to the tax regime of the Maldives.

The Act, which was passed by the People's Majlis on 4 December 2019, by a majority vote of 67 members, is set to commence on 1 January 2020, and the tax regime on Employee Income to be introduced under the Act will commence from 1 April 2020 onwards.

Under the Act, the existing Business Profit Tax (and

non-resident Withholding Tax) and Bank Profit Tax will be abolished and 'rolled over' to the income tax regime with certain changes. Further, an individual's salary income will be subject to income tax on a 'Pay As You Earn' (PAYE) mechanism. The Act also introduces a more comprehensive Capital Gains Tax regime compared to the BPT Act, and upon ratification of Act, the Land Sales Tax and Remittance Tax will be abolished, effective from 1 January 2020.

## **TAX** Income Tax Regulation Published

The [Income Tax Regulation](#), which was open for public consultation from 19th to 24th December, was finalised and published in the Government Gazette on 31 December 2019. The Regulation covers several aspects of registration, computation of taxable income and return filing, etc under the Income Tax Act which comes into effect on 1 January 2020. It also includes important rules in relation to claiming capital allowance on capital expenditure.

### **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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