

2020

Year in Review

Tax & Legal Developments



Year in Review

2020 will be remembered for the many challenges faced globally. This Year in Review provides brief summaries of the key legal and tax developments through the year 2020, as the Maldives navigated its way through the pandemic.

January

LEGAL First Amendment to the Business Registration Act

The First Amendment to the Business Registration Act came into force on 4 January 2020. As per the Amendment, upon registration, sole proprietorship, companies, partnerships and co-operative societies, can commence business without acquiring additional permits from the Ministry of Economic Development. However, the shops or activities they operate will have to be registered with the Ministry within the deadlines prescribed in the Amendment.

February

LEGAL Foreign Direct Investment Policy

On 11 February 2020, the Ministry of Economic Development published the Foreign Direct Investment (FDI) Policy. The Policy governs the

approval guidelines in relation to foreign investments made in the Maldives. The Policy also introduces two main routes for FDI approval. Amongst notable changes introduced by the Policy is allowing, foreign investors to hold 49% shares of companies and partnerships conducting guesthouse business.

TAX 25th Amendment to the Goods and Services Tax Regulation

On 12 February 2020, the 25th Amendment to the GST Regulation was gazetted by the MIRA. The Amendment repealed sections requiring taxpayers to register for GST within 30 (thirty) days from the date they are issued with an 'import licence'. The Amendment also repealed the requirement obliging registered persons with an annual turnover of less than MVR 5 million to submit Input Tax Statements and Output Tax Statements to the MIRA through the MIRACONNECT Portal. Such persons can now choose to file their tax returns over the counter.

March

TAX Income Tax Regulation

Income Tax Regulation was introduced on 10 March 2020. Key changes brought by the Regulation related to the employment income component. This included changes to the employee registration threshold for employee withholding tax purposes, supplemental rules on benefits in kind impacting the computation of employee remuneration and special rules for persons under multiple employment.

April

LEGAL Online hearings commenced by the courts

The Greater Male' region was placed under restrictions throughout April and a full lockdown was initiated on 14th April 2020 due to COVID-19. Several courts switched online to provide administrative services and conducted hearings online. Notably on 8 April 2020, the Supreme Court published their SOP to be followed during the public health emergency. The Civil Court published its procedure on 8 April 2020.

June

TAX Transfer Pricing Regulation

Transfer Pricing Regulation was published in the government Gazette on 10 June 2020. The Regulation implements the requirement imposed under Section 68 of the Income Tax Act ("ITA") regarding the preparation and maintenance of transfer pricing documentation in relation to transactions and arrangements entered into between related parties. The Regulation introduces instruments that will allow the MIRA to assess the nature of the transactions between associates and reclassify or derecognise such transactions where the economic nature of the transaction does not reflect 'arm's length terms' or in other words, terms which would not be agreed upon by unrelated parties. The requirement does not apply to micro, small or medium-size businesses and exempt incomes.

TAX Supreme Court decides on the limits of MIRA's powers

The Supreme Court in the case of Moosa Naseer v MIRA [2014/SC-A/41], on 22 June 2020, held that collection of non-tax amounts and recovery of non-tax amounts payable to the state was outside the scope of the MIRA's responsibilities under the Tax Administration Act.

TAX 26th Amendment to the Goods and Services Tax Regulation

MIRA on 26 June 2020, issued the Twenty Sixth Amendment to the Goods and Services Tax Regulation. The Regulation amended the definition of goods and services exported from the Maldives and removed the requirement for businesses that deregister from GST to return their GST Registration Certificate to the MIRA. A definition for the term 'charter' of a vessel and special rules for determining charter arrangements were also introduced by the Amendment. Amendment also repealed Tax Ruling TR-2016/G36 (Transfer of Imported Goods) and introduced special rules on the use and transfer of imported goods.

LEGAL Tourism industry resumes operations after the lockdown

The Ministry of Tourism, on 27 June 2020, published the Guideline for Restarting Tourism in the Maldives. The Guideline introduced the procedures to be followed with reopening of tourism establishments after the suspension of the tourism services due to the COVID-19 pandemic.

LEGAL Government defers land rent

The Ministry of Finance issued a Circular on 28 June 2020 with details on the deferment of land rents of resorts and lands leased for non-tourism purposes. Resort land rent payments for the third and fourth quarter of 2020 were deferred until 1 June 2021. Land rent payments other than resort land rent, that fall within the period 1 June 2020 to 31 December 2020 was also deferred until 1 June 2021.

July

TAX MIRA resumes the collection of non-tax payments

With the publication of Third Amendment to the Public Finance Regulation on 4 July 2020, the MIRA resumed the collection of all non-tax amounts as per the standard procedures prior to the decision of the Supreme Court in *Moosa Naseer v MIRA* [2014/SC-A/41]. As a result of that decision, the MIRA temporarily suspended the collection of non-tax payments to the MIRA. The Amendment is intended to allow MIRA to resume the collection of such payments.

TAX Income Tax Regulation

On 20 July 2020, the MIRA issued the First Amendment to the Regulation. The key changes introduced via the Amendment include the introduction of a new tax return for insurance companies to file their income tax returns. The Amendment also requires parent entities to submit consolidated financial statements with their income tax returns for all entities in the group. Furthermore, persons who are required to file and pay their interim payments are allowed to make an estimated interim filing for the first interim as well as second interim separately, provided they have a reasonable basis to do so.

LEGAL Corporate governance measures introduced

The Regulation on Corporate Governance for Banks, Insurance Companies and Finance Companies was gazetted on 21 July 2020. The purpose of the Regulation was provided as promoting sound corporate governance measures in financial institutions. The Regulation contains guidelines for the board of directors, senior management, compliance and risk management, remuneration and transparency policies for such institutions.

LEGAL Import duty relief introduced

On 23 July 2020, the 17th Amendment to the Maldives Import-Export Act was published in the government Gazette. The key changes introduced by the Amendment includes 50% relief from import duty for

imported products arriving at any official harbour or official airport other than those in the Greater Male' Area. Additionally, import of certain single-use plastic products will be prohibited from 1 January 2021 onwards.

LEGAL High Court considers arbitration issue

In *Hilton International Manage (Maldives) Pvt Ltd v Sun Travel and Tours Pvt Ltd* [2017/HC-A/237], the High Court struck down the Civil Court's decision awarding damages to Sun Travel and Tours which was contrary to the earlier decision of the Singapore Arbitration Centre. The Court held that the Civil Court does not have jurisdiction to decide upon matters re-litigated after it has been decided upon earlier at arbitration.

August

LEGAL Changes to the tourism land rent

On 3 August 2020, the 4th Amendment to the Tourism Land Rent Regulation was published in the government Gazette. The Amendment significantly reduced the late payment fine charged with respect to tourism land rent.

TAX Supreme Court decides on tax appeal procedures

On 9 August 2020, the Supreme Court delivered its judgement in *Bunny Holdings (BVI) v MIRA* [2016/SC-A/25]. The Court held that re-appealing a procedural decision as part of the appeal of the substantial decision of the same case, at a court of the same level, will be barred under the doctrine of issue estoppel and therefore is *res judicata*, save for appeal to a higher court. The Supreme Court remanded the case back to the High Court to decide on substantive issues.

LEGAL Procedures for confiscated funds and property introduced

The Regulation on Management of Confiscated Assets related to Money Laundering and Financing of Terrorism was gazetted on 10 August 2020. The Regulation introduces procedures for the managing

and safeguarding confiscated funds and property, disposal of confiscated properties and procedures to protect bona fide third parties.

LEGAL New Regulations for expatriate employees accommodation

On 12 August 2020, the Regulation on Employing Expatriates in the Maldives was published in the government Gazette which provides for procedures to be followed by employers, representatives and persons providing accommodation to expatriate workers.

TAX New requirements for filing interim tax returns

The MIRA published a circular on 17 August 2020 in relation to filing interim tax returns. The Circular requires certain taxpayers to file their interim returns, and make interim payments via MIRACONNECT or the Maldives Real Time Gross Settlement (MRTGS).

LEGAL Reforms to consumer protection laws

On 31 August 2020, the Consumer Protection Act was published in the government Gazette. The Act sets out the rights and protections granted to consumers and prescribes duties and responsibilities of suppliers of goods and services in the Maldives. The Act empowers the Ministry of Economic Development to set price controls and prohibit the supply of certain goods and services. The Act contains provisions for the prohibition on the use of unfair terms in a contract or similar type of document.

LEGAL Competition regime introduced

The Competition Act was gazetted on 31 August 2020. The Act aims to develop and maintain a competitive commercial environment for enterprises, and sets out restrictions, and prohibit business practices and arrangements which may have a negative impact on competition. The Act prohibits agreements preventing competition and prohibits the abuse of market-dominant positions. Furthermore, the Act contains rules on mergers and mechanisms to file complaints on breaches of the Act.

September

LEGAL Two new Justices appointed to the Supreme Court

Dr Mohamed Ibrahim and Uz Ali Rasheed Hussain were appointed as Justices of the Supreme Court on 8 September 2020. Together with the new appointees the Supreme Court bench currently consists of seven justices.

LEGAL Maldives Chartered Accountants Act

On 8 September 2020, the Maldives Chartered Accountants Act was published in the government Gazette. The Act created the Institute of Chartered Accountants of the Maldives with the mandate to regulate, and develop the field of chartered accountancy in the Maldives. The Act requires all auditors to be licensed by the Institute.

LEGAL Public Health Emergency Act

The Public Health Emergency Act was gazetted on 22 September 2020. The Act sets out special procedures to implement temporary measures in relation to the public health emergency declared due to the COVID-19 pandemic. The Act facilitates smooth functioning of the state authorities during the pandemic and contains provisions to assist individuals, families and businesses.

TAX CTL Strategies filed a case to strike down Section 30 of the GST Regulation

On 29 September 2020, CTL Strategies filed a constitutional case at the High Court of Maldives to strike down Section 30 of the Goods and Services Tax Regulation. The Section grants the MIRA the power to assess the amount of tax payable on transactions between two unrelated parties. The firm contended that the Section is ultra vires as the GST Act, does not give the MIRA any authority to determine the value of supplies made to unrelated parties.

October

TAX Supreme Court considers the routes to appeal tax cases

In *Medianet v Maldives Inland Revenue Authority* [2016/SC-A/23], the Supreme Court considered several issues related to tax laws. In a judgement delivered on 1 October 2020, the Court held that the Tax Appeal Tribunal does not have the power to interpret the Constitution but has the power to interpret laws to determine which acts are or are not permissible under laws. Additionally, the Court held that even though the appellant has not filed an appeal with the Tribunal, the appellant is allowed to raise defences at the Civil Court as provided under Section 49(b) of the TAA, and dispute the legal basis of the MIRA's decision. The Court also opined that the term 'other property' in Section 6(a)(1) of the BPT Act must be construed to refer to tangible property.

LEGAL Sixth Amendment to the Employment Act

The Sixth Amendment to the Employment Act was ratified by the President on 22 September 2020. Some key changes include laying out procedures on collection and distribution of service charge. However collection of service charge is only mandatory in the tourism sector. The Act also brought changes to the exemptions for senior management staff. Such staff were previously exempt from the entire Chapter 4 of the Employment Act but the Amendment now exempt them from a limited number of provisions. They are now allowed to file cases directly at the Employment Tribunal.

November

TAX 27th Amendment to the Goods and Services Tax Regulation

On 5 November 2020, the Twenty Seventh Amendment to the Goods and Services Tax Regulation was published in the government Gazette. The Amendment repealed the Section 30 which is related to the value of supplies to unrelated parties. The Amendment also provided exemptions for card processing services under Section 35 of the Regulation.

LEGAL Constitutional case decided upon by the Supreme Court

In the case of *Mohamed Haleem and Asad Shareef v Yaugoob Abdulla* [2020/SC-C/78, 2020/SC-C/79], the Supreme Court considered several important constitutional law issues. The Supreme Court deliberated on the meaning of a 'government employee' and the disqualification of a parliament member under Article 73 of the Constitution. The Court also opined on the Court's powers as the guardians of the constitution.

LEGAL Second Amendment to the Immigration Act

The Second Amendment to the Immigration Act was ratified on 25 November 2020. The Amendment introduces a new type of visa – meeting visa and amends the requirements for issuing corporate resident visas. Additional changes were made to the resident visa for foreign spouses.

LEGAL Shipping Agency Regulation

On 26 November 2020, the Shipping Agency Regulation was gazetted. The Regulation contains the standards and procedures to be followed by shipping agencies providing services to cargo vessels arriving at a Maldivian port. The Regulation introduces licensing requirements for shipping agencies and contains price controls for services provided by such agencies. A Regulation was issued for the same purpose on 16 July 2020. The Regulation was repealed 2 months later leading to the current Regulation.

LEGAL Regulation on Freight Forwarding Services

On 26 November 2020, the Business Registration Regulation for Freight Forwarding Services was gazetted. The Regulation aimed to improve the quality of freight forwarding services and includes registration requirements for freight forwarding services. Price control for the services is also stipulated in the Regulation.

LEGAL New Chief Judge of the High Court appointed

The Judicial Service Commission appointed Uz Hathif Hilmy as the new Chief Judge of the High Court of Maldives on 26 November 2020.

LEGAL Interim injunction order issued in an arbitration case

The High Court of Maldives in Jumeirah Management Services (Maldives) Pvt Ltd v SPH Pvt Ltd [2020/HC-A/165] issued an interim injunction order related to an arbitral proceeding for the first time in the Maldives. The High Court held that the Court has the same powers as the arbitral tribunal to render interim orders in such cases related to arbitral proceedings. The enforcement of the injunction has since been stayed by the Supreme Court, pending the decision on the appeal at the Court.

December

TAX 28th Amendment to the Goods and Services Tax Regulation

Twenty-Eighth Amendment to the Goods and Services Tax Regulation, was introduced by Maldives Inland Revenue Authority on 15 December 2020. Notable changes include clarifications on time of supply where the consideration of a supply is non-monetary and details regarding the value of supplies made to related parties. The Amendment also provides further details on determining whether goods and services are supplied in the Maldives and determining whether a person is in the Maldives.

TAX Third Amendment to the Tax Administration Act

The Third Amendment to the Tax Administration Act was published in the government Gazette on 16 December 2020. It introduces a time limit of 180 days to decide upon appeals filed at each level i.e. the Tribunal, the High Court and the Supreme Court. Taxpayers are now allowed to file an appeal with the Tax Appeal Tribunal within 60 days from the date the MIRA made a decision on the Notice of Objection. The same period is provided for appeals to higher courts.

LEGAL Fourth Amendment to the Maldives Monetary Authority Act

On 24 December 2020, the Fourth Amendment to the Maldives Monetary Authority Act was ratified. The Amendment clarifies the responsibilities of the Authority's board and senior management and redefines the non-banking financial establishments. The Amendment also introduces a new credit information system and government securities market.

LEGAL 10th Amendment to the Tourism Act

Major changes were introduced to the Tourism Law introduced by the Tenth Amendment to the Tourism Act, which was ratified on 27 December 2020. Three new models of tourism business were introduced by the law; integrated tourist resorts, tourism real estate development projects, and leasing of private islands for tourism purposes. The Amendment also expressly provides for cross-subsidisation of islands leased for tourism purposes and contains provisions in relation to strata lease of rooms and villas of tourist resorts. The most significant changes introduced by the Amendment are the revisions made to tourism land rent rates, charging different rates based on the geographical location of the tourist establishment as well as the changes made to lease period extension fees.

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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