

brief guide on
**Collection & Distribution
of Service Charge**





1. Introduction

This guide explains the rules regarding the collection, distribution and reporting of Service Charge as required by the Sixth Amendment to the Employment Act. The collection, distribution and reporting requirements of Service Charge were subsequently detailed in the Regulation on Collection of Service Charge issued by the Labour Relations Authority on 16 March 2021.

The guide will also provide you with clarification on some of the critical matters in relation to calculation of Service Charge and provide you with examples of application that will help simplify the rules.

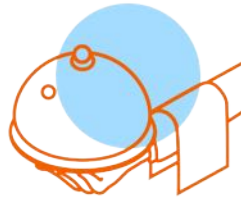
Overview

Collection



**Minimum 10% compulsory for
Tourism Sector**

Calculation



**Applicable only on services
and when income is recognised**

Distribution



**Must be distributed equally
amongst the staff**

Recordkeeping & Reporting



**Reports to be submitted to
LRA and MIRA**

1. Collection

Effective from 1 January 2021, a service charge of not less than 10% must be collected on chargeable income by the “Tourist Establishments” licensed and operating pursuant to the Maldives Tourism Act and facilities established on Tourist Establishments:

Tourist Establishments

Tourist resorts	Tourist hotels
Tourist guesthouses	Training resorts
Transit hotels	City hotels
Tourist vessels	Yacht marinas
Integrated tourist resorts	Private islands

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Facilities on Tourist Establishments*

Diving schools & centres	Spas
Water sports facilities	Excursion activities
Cafes, Restaurants & Canteens	Other such facilities

* This includes the services provided by facilities that are outsourced.

Charter Arrangements



Where a tourist vessel is chartered for a specific period of time, service charge is to be imposed on the total value of the charter.

Leased Establishments



Where a tourist establishment is leased for a specific period at a set rate, service charge must be calculated on the lease value.

It is not mandatory to collect service charges from:

- * The cafes, restaurants and canteens which specifically cater to the employees of the Tourist Establishment.
- * The sale of retail items (e.g. boutique shop sales) which are generally not categorized as services.
- * Rent of villas and rooms leased under long term strata arrangements pursuant to Maldives Tourism Act and consideration paid for transfer of rights of a tourism business pursuant to Regulations formulated under the Tourism Act.

2. Calculation

1. Should distribute service charge equally amongst all the employees in a facility who are engaged, whether directly or indirectly, in the provision of the service provided by the employer.
2. Service charge from the gross income of outsourced facilities or separate businesses in a Tourist Establishment must be computed and distributed separately.
3. Should not pool together the collected service charges for distribution purposes where the service is outsourced or a separate business collects the service charge.

Outsourced facility

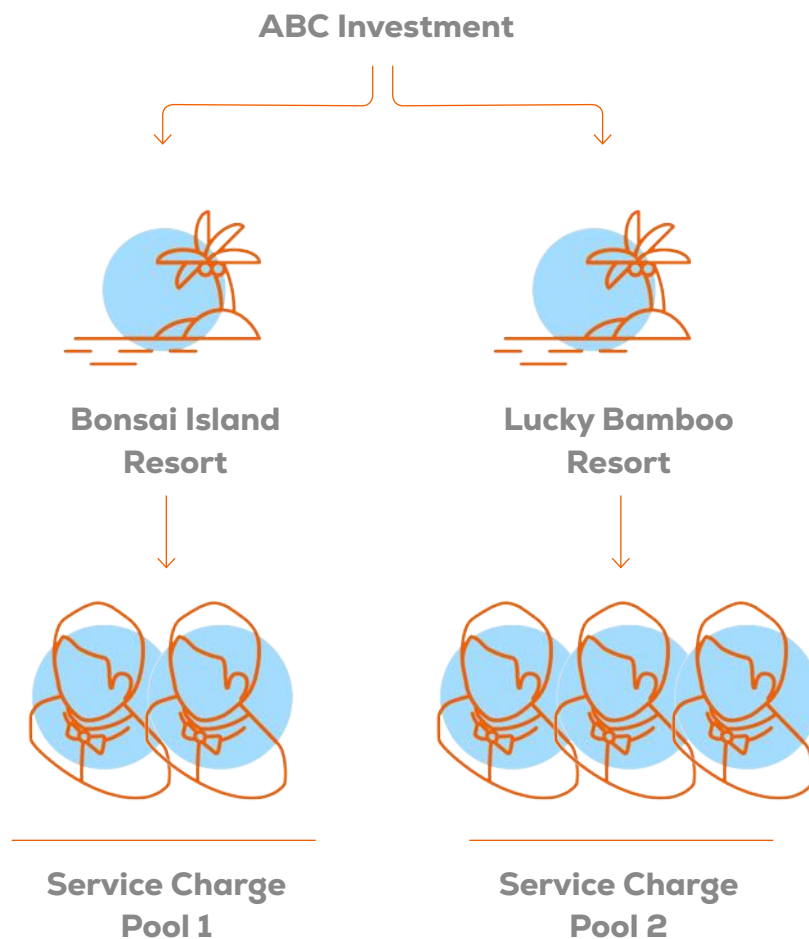
Amazing Resort has outsourced diving activities to ABC Dive Centre on a revenue sharing arrangement. The Resort has a central collection system where the revenue collection is done centrally by the resort.

At the end of every month the Resort would transfer the share of revenue of the Dive Centre to them. Although the Resort retains part of the revenue, the amounts collected as service charge related to the Dive Centre services should be transferred to the Dive Centre in full.

The Dive Centre should then distribute it equally amongst their employees.

Operating two tourist establishments

ABC Investment Pvt Ltd operates two resorts named Bonsai Island Resort and Lucky Bamboo Resort.




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Whereas service charge will be collected centrally within each Resort, the collected amount would be distributed equally amongst the employees of that specific Resort.

Therefore, Lucky Bamboo Resort will have to collect service charge from the services provided at the resort and distribute it equally amongst the employees working in that resort. It should not be pooled with the service charge collected by Bonsai Island Resort.

3. Time of Supply

The time of supply of services (or the time of recognition of revenue), for the purpose of service charge calculation is the time that the customer receives the service regardless of whether payment has been received for such services. Similarly, even in cases where advance payments are received, the time of supply of service would be deemed the time that the customer receives the service. These rules seem to be in compliance with the revenue recognition principles under internationally accepted accounting standards.

 **Service Charge is payable when revenue is recognised for the service - not when payment is received by the employer.**

4. Distribution

1. Employers can only deduct a maximum 1% percent as an administrative charge (for collection and distribution) from the total service charge collected per month.
2. The daily service charge rate shall be calculated by dividing the total number of working days of employees in a month by the total amount to be distributed as service charge.

$$\text{Daily Service Charge Rate} = \frac{\text{Total Amount of Service Charge}}{\text{Aggregate Number of Working Days of All Employees}}$$

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3. The service charge to be distributed to each employee should be calculated at a daily service charge rate, based on the number of days in a month that the employee provided the service.

$$\text{Daily Service Charge Rate} \times \text{Total Number of Days Worked by the Employee}$$

4. Paid leaves afforded to the employee pursuant to the Employment Act should be included in counting the number of days that the employee is considered to have provided their services.
5. Service charges collected for the preceding month must be distributed before the end of the ensuing month.
6. Employers should disclose the total amount collected as service charge in the preceding month and the share due to the employee before the end of the ensuing month.

Calculating service charge

The ABC Dive Centre in Amazing Resort collected USD 5,000 as service charge in the month of January 2021.

Assuming 5 employees worked at the ABC Dive Centre for the month of January 2021:

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Employee	Number of Days Worked*
A	31
B	20
C	10
D	20
E	19
Aggregate number of days worked by all employees	100

* Number of days worked include holidays and paid leaves afforded to the employee pursuant to the Employment Act.

Service charge to be distributed after deduction of 1% administrative charge = USD 4,950.

$$\text{Daily Service Charge Rate} = \text{USD 4,950 / 100 days}$$

Therefore, the Service Charge computation for each employee for the month of January 2021 will be as follows:

$$\begin{aligned} \text{Daily Service Charge Rate} &= \frac{\text{USD 4,950}}{100 \text{ days}} \\ &= \text{USD 49.5} \end{aligned}$$

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Employee	Number of Days Worked*	Daily Service Charge Rate (USD)	Service Charge to be Distributed (USD)
A	31	49.5	31
B	20	49.5	20
C	10	49.5	10
D	20	49.5	20
E	19	49.5	19
Total			4,950

The service charge collected for the month of January 2021 should be paid to employees before end of February 2021.

5. Recordkeeping & Reporting

1. Monthly records of the collection and distribution of service charge are to be well kept and such information shall be readily available and provided to a Labour Relations Officer if so needed at a time of inspection.
2. For the purposes of reporting information as required in the Regulation, employers imposing service charges are required to register in a manner to be decided by the Labour Relations Authority.
3. The records to be kept in accordance with the Regulation are to be provided to the Labour Relations Authority and Maldives Inland Revenue Authority in the following manner:
 - * Monthly records of the first six months of the year are to be submitted before October 1st of the same year.
 - * Monthly records of the last six months of the year are to be submitted before April 1st of the subsequent year.

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Jan - Jun



1 October of same year

Jul - Dec



1 April of next year

4. The Regulation requires the Maldives Inland Revenue Authority to confirm the validity of the information provided to the Labour Relations Authority by the employers who are required to submit tax returns under the Income Tax Act.
5. If an employer fails to collect 10% service charge from all the services provided by the businesses operating in the tourism industry or fails to distribute service charge collected equally between all the employees, such an employer may be fined for an amount not more than MVR 100,000.

6. Penalties

The Regulation on Service Charge levies penalties in the following circumstances.

Offence	Penalty
Employer fails to collect 10% service charge from all services provided by the businesses operating in the tourism industry	≤ MVR 100,000
Employer fails to distribute the collected service charge equally between all the employees	≤ MVR 100,000
Employer fails to maintain adequate records as detailed in the Regulation	<ul style="list-style-type: none">* ≤ MVR 10,000 for the first offence* ≤ MVR 50,000 for each subsequent offence
Employer fails to provide such records to the LRA during an inspection	<ul style="list-style-type: none">* ≤ MVR 10,000 for the first offence* ≤ MVR 50,000 for each subsequent offence
Employer fails to submit the records to LRA/MIRA as required by the Regulation and upon receipt of a notification to submit the records within 7 days	<ul style="list-style-type: none">* ≤ MVR 25,000 for the first offence* ≤ MVR 50,000 for each subsequent offence

Contact us

If you have any specific questions relating to the guide, feel free to contact one of the following members of our team:



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ABOUT US

CTL Strategies is a multi-disciplinary law firm registered in the Maldives, specialised in tax advisory services. We advise international hotel chains, multinational companies, some of the big four audit firms, and a number of the world's largest companies as well as high net-worth individuals on commercial transactions, tax compliance, planning and tax disputes.

We are ranked in the 2021 edition of Chambers and Partners, and as a Highly Recommended Tax Disputes Firm by Asia Law Profiles.

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