

## Client Advisory

6 April 2022

Enforcement Policies of MIRA

### In Brief

This Advisory summarises the imperative aspects of the specific enforcement policies published by the Maldives Inland Revenue Authority (“MIRA”) on 16 March 2022. It is noteworthy that with the publication of these policies, for the first time, the MIRA has publicly revealed the conditions and particulars examined in granting fine relief to taxpayers.

The policies published includes the following:

- General Enforcement Policy 2022
- Fine Relief Policy
- Instalment Policy
- Policy on accessing bank account information and freezing bank account
- Name and Shame Policy



## Fine Relief Policy

The primary condition applicable in granting fine relief as per the Fine Relief Policy is the 'compliance score' which is determined based on the factors outlined below:

- Measure of fulfilment of registration obligations within the stipulated time frame.
- Measure of fulfilment of return filing obligations within the stipulated time frame.
- Measure of fulfilment of tax payment obligations within the stipulated time frame.
- Measure of number of audits conducted by the MIRA and additional tax assessed by the MIRA.
- Level of compliance with tax laws and regulations.

Additionally, it is notable that in granting relief, focus is always placed on the number of times a taxpayer files for fine relief pertaining to a certain tax account.

The policy also sets out different conditions considered in waiving off fines in relation to specific situations. We have summarised below, some common situations that maybe applicable to you:

### 1. Taxpayers receiving income exceeding MVR 5 million per annum

Where a taxpayer, who receives income exceeding MVR 5 million per annum, submits repeated fine relief applications with respect to the same tax account,



the amount of relief granted will be reduced by 25% with each application. Therefore, no further relief will be granted after the fourth application.



However, notwithstanding the above, the number of applications filed will be refreshed where the taxpayer maintains a compliance score of more than 75% from the date of the fourth application for a period not less than 12 months.

## 2. Fines related to additional tax assessed

In relieving fines related to additional tax assessed by the MIRA, the 'audit score' will also be considered together with the compliance score. The audit score is determined based on the level of corporation afforded by taxpayers during the audit.

## 3. Disputed matters

Where a taxpayer has filed a Notice of Objection or filed an appeal with respect to a certain matter, relief with respect to any fines accrued in relation to such matters can be granted once a decision has been made on the same.

## 4. Instalment Plans

If the taxpayer has entered into an instalment plan with the MIRA, fines may be relieved only when the commitment payment is settled by the taxpayer.



### **Other considerations**

It is noteworthy that irrespective of any of the considerations applicable to specific situations, the MIRA is to always to consider the taxpayers':

- financial position;
- compliance history; and
- surrounding circumstances at the time of application.

The policy also states that regardless of the satisfaction of specific considerations as per the provisions of the policy, in instances where a delinquent taxpayer repeatedly applies for fine relief, the commissioner general will have the discretion to deny granting fine relief to the taxpayer.

The fine relief policy is not applicable to fines arising from estimation of interim payments.

### **Instalment Policy**

Even where the MIRA has commenced enforcement action or issued the taxpayer with a notice for recovery of outstanding dues, where the taxpayer is facing difficulties in making a lump sum payment to meet the payment obligations, the taxpayer will have the opportunity to come into an instalment agreement with the MIRA.



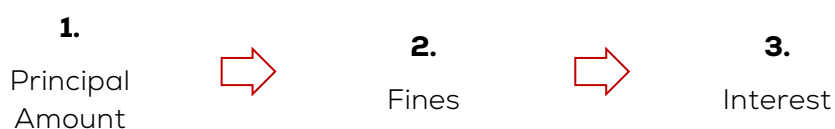
To enter into an instalment plan, the following conditions needs to be satisfied.

- Deadline to make the payment must have elapsed
- All filing obligations related to the tax type must be fulfilled
- The commitment payment must be paid
- The taxpayer must agree to the terms & conditions of the instalment agreement
- No instalment plan must have been made with respect to the same outstanding dues
- Where an instalment agreement is signed, the payment schedule must be followed accordingly.

Similar to that of granting fine relief, in permitting to settle the outstanding dues through an instalment plan, the MIRA will always consider the financial position, compliance history and the surrounding circumstances of the applicant at the time of application.

### **Order of settlement**

Where outstanding dues are being settled via an instalment plan, initially the principal amount will be settled, followed by fines and lastly the interest.





### **Other considerations**

- Instalment plan includes all outstanding dues in relation to the tax type, comprising fines and interests accrued up until the date.
- Furthermore, fines and interest will continue to accumulate until full settlement of the outstanding dues under the instalment plan.
- Generally, the commitment payment needs to be paid within 10 days of notification of payment.
- In cases of delinquent taxpayers:
  - Prior to taking any actions, a grace period of 30 days will initially be afforded to the taxpayer from the due date of payment under the instalment plan.
  - However, where 60 days has elapsed from the due date of payment and taxpayer does not have a valid reason for non-payment, the instalment agreement will be terminated.



## **Policy on Accessing Bank Account Information and Freezing Bank Account**

### **Freezing Bank Accounts**

The MIRA may freeze the bank account of a taxpayer where 60 days has elapsed from the due date of payment and the MIRA has issued the taxpayer with both the First and Final Notice for recovery of outstanding dues. In addition, the conditions listed below must also be satisfied:

- Outstanding dues must exceed the threshold<sup>1</sup> determined by the MIRA (excluding fines and interest)
- The taxpayer has not entered into an instalment plan with the MIRA to settle the outstanding dues
- Outstanding dues are not consequent to failure of payment from a State Institution or a 100% State Owned Entity or a majority State Owned Entity
- No excess taxes remain in the records of MIRA which can be adjusted from the outstanding dues.

Irrespective of the above, the MIRA has the discretion to freeze the bank account of a taxpayer under the following circumstances:

- The MIRA has reasonable grounds to believe that the outstanding dues are not being paid or being delayed deliberately.
- The MIRA believes that due to the actions of the taxpayer the MIRA will face delays or difficulties in the recovery of the outstanding dues.

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<sup>1</sup> The MIRA has not publicised the threshold.



- The MIRA believes that due to the following reasons, the process for recovery of the outstanding dues may be hindered:
  - Intention to flee the country; or in case of a Company the intention to cease being a resident.
  - Assets and money being transferred outside of the Maldives

## **Procedure**

### **1. Notification to Maldives Monetary Authority (“MMA”)**

The initial step to freeze the bank account of the delinquent taxpayer, is for the MIRA to inform MMA of the details of the taxpayer via a designated form. This includes the reason for freezing the bank account.

### **2. MMA informs Bank**

Upon receipt of the above notification by the MIRA, within 2 working days, MMA is to notify the banks in writing to freeze the bank accounts.

### **3. Bank informs MIRA of the details**

On receipt of the notice from the MMA, within 3 working days, the bank is required to notify MIRA in writing, the details of the accounts frozen; the existence of an account of the taxpayer at the bank; or if the account of the taxpayer has been frozen under a Court Order or in any other manner.

### **4. MIRA must provide written notification to taxpayer**

Upon receipt of notification from the bank, the MIRA is required to inform the taxpayer that their bank account has been froze





The policy further outlines the procedure on how to deal with the frozen bank accounts and withdrawal of funds. It is notable that the taxpayer is given the opportunity to consult and come to an agreement with MIRA in relation to the options available for settling the outstanding dues, within 3 working days of being notified of the frozen bank accounts.

### **Accessing Details of Bank Accounts**

Section 48 of the Tax Administration Act<sup>1</sup> grants the MIRA the discretion to obtain bank account details of a taxpayer for the purpose of an audit or an investigation. In this regard, upon request the banks are required to disclose the following details:

1. Money deposited
2. Withdrawals
3. Transfers (to and from the account)
4. Any other transactions undertaken

The procedure on accessing the detail of bank account is similar to that of the procedure on freezing bank accounts. The process is initiated by the MIRA via a designated form submitted to the MMA, followed by the MMA notifying the bank and then the bank providing the MIRA with requested information on the bank account.

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<sup>1</sup> Act Number 3/2010



## Name and Shame Policy

The MIRA can initiate the procedure on disclosure of information with respect to delinquent taxpayers only after the taxpayer has been issued with the the first and final notice. Further, 15 days must have elapsed since the expiration of the period stipulated in the final notice.

The following factors are considered in disclosure of information with respect to non-filers and non-payers:

Type	Factors
Non-payment	Outstanding dues exceeds threshold* set by MIRA
Non-filing (other than income tax)	Tax returns not filed for past <u>6 months</u> <ul style="list-style-type: none"><li>▪ Tax return for the preceding year has not been filed</li></ul>
Income tax	<ul style="list-style-type: none"><li>▪ The declared income exceeds the threshold* set by MIRA</li></ul>

Additionally, the compliance risk associated with taxpayer is to be considered and the taxpayer must be determined as a delinquent taxpayer through the process of risk profiling for the purpose of the Name and Shame Policy.

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\* The MIRA has not publicised the threshold



The following particulars are disclosed:

- Name
- Address
- Registration Number
- TIN
- Where the delinquent taxpayer is a company, the company logo and name of the business activities must be disclosed.

### **Stages of disclosure of information**

**Stage 1:** Information announced in Taxpayer Service Centre

**Stage 2:** Published in MIRA website

**Stage 3:** Published on the Government Gazette

**Stage 4:** Broadcasted on Mass Media

At least 15 days should elapse in each of the above stipulated stages prior to moving to the next stage. Where a delinquent taxpayer fulfils the filing and/or payment obligation, the person will be removed from the MIRA's list. However, at stage 4, where the name has been gazetted, it cannot be removed.

### **Effective date**

The date of effect of the policies outlined above is 1 April 2022.



## Contact us

If you have any questions or need our assistance, please contact your principal advisor or any one of the following members of our team.



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Zaina specialises in advising clients on a broad range of tax matters with a particular focus on international taxation, transfer pricing, withholding tax and effective tax management. During her time with us, Zaina has also delivered income tax training sessions to large corporations.

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Madeeh is a chartered accountant and leads the firm's tax advisory practice. During his tenure at the Maldives Inland Authority as the Director of Audits, he has gained an expansive insight into the critical issues that arises in tax audits in the Maldives. His current practice involves providing tax advisory services on multi-million dollar investments and cross-border transactions of multinational corporations and advising on effective structuring of tax responsibilities.

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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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