

a brief on

Tax Exemptions in the Maldives



The guide briefly looks at tax and import duty exemptions currently in place in the Maldives. It outlines the regulatory requirements for such exemptions, including application processes, prerequisites, compliance requirements, and circumstances for exemption termination.

Introduction

It is common practice for countries to grant tax exemptions or tax incentives targeted at new or specific industries with the purpose of correcting market inefficiencies, promoting certain economic activities and increasing foreign investment.

In Maldives, until the First Amendment to the Income Tax Act, which came into effect on 20 July 2021, there were limited provisions in the income tax laws with respect to granting tax exemptions. However, the said Amendment handed the President of the Maldives a discretionary power to grant income tax exemption on income received from specific business projects and industries.

As such, this guide will primarily summarise the key components of the special exemption from payment of income tax eligible for specific business projects and industries.

The guide will also briefly look at some other tax exemptions currently in place, including GST exemption specific to social housing schemes, reimbursement arrangements and exemption from custom duties.

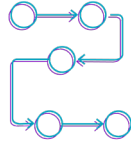
1. Income Tax Exemption

While the Income Tax Act (“ITA”)¹ concisely outlines the conditions and procedures pertinent to the special exemption, it provides that the Ministry of Finance publish a Regulation on the procedures to be followed in granting the exemption.

In this regard, on 7 April 2022, the Ministry of Finance published the Regulation on Granting Special Exemption from Payment of Income Tax to Business Projects and Industries (“Regulation”).² The Regulation outlines the conditions considered in granting the exemption, the procedure to be followed in the application for exemption and other administrative and compliance requirements which are explained below.

¹ Act Number 25/2019.

² Regulation Number R-59/2022.



1.1. Application for Exemption

a. Business Projects

- * For persons conducting business projects, to obtain the special exemption from income tax, initially a request must be made to the relevant ministry to which the project relates to (the “Relevant Ministry”).
- * The Relevant Ministry is then required to submit an application to the Ministry of Finance requesting for exemption via the designated form published by the Ministry of Finance. Where the Ministry of Finance requires additional information for review, the same can be requested from the Relevant Ministry.
- * Within 10 days³ from the application to the Ministry of Finance, the same must be forwarded to the President’s Office.
- * With the counsel of the Cabinet’s subcommittee and deliberation of the Cabinet, a decision will be made with respect to the application by the President.
- * The President is to decide on the duration of the exemption.

³ Applications for exemptions received during the 3-month transitional period, must be forwarded to the President’s Office within 30 days from the date of receipt of the application.

b. Industries

- * To exempt a specific industry, the process is initiated by the Relevant Ministry by lodging an application to the Ministry of Finance and the same process follows.
- * The details of the exempted industries are to be annexed to the Regulation. Any additions to or removals from the list is subject to the President's decision, made in deliberation with the Cabinet.

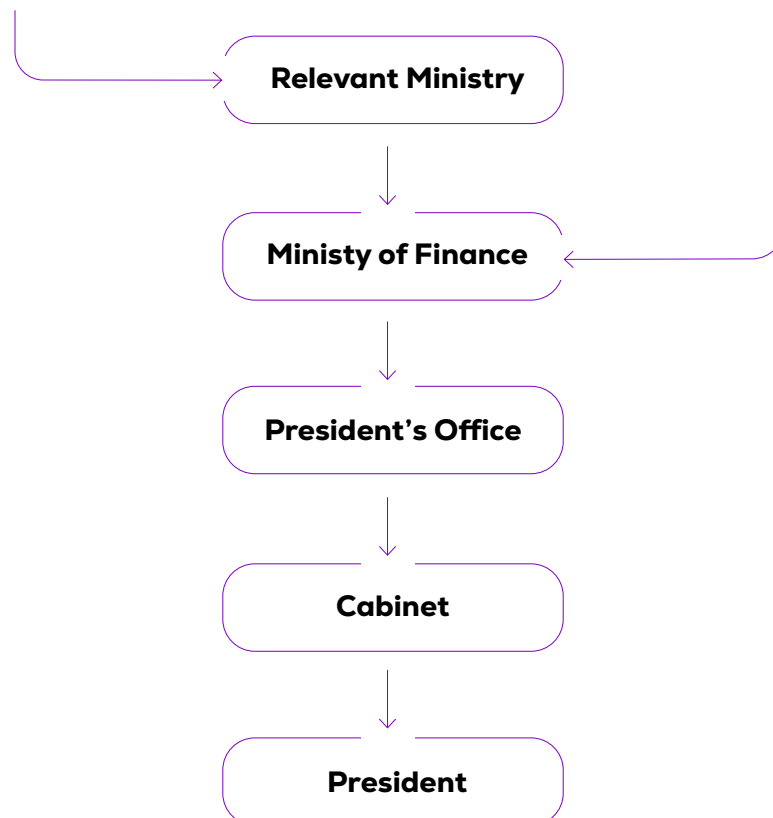
The Process Summarised

For Business Projects

Application
by taxpayer

For Industries

Application by the
Relevant Ministry





1.2. Prerequisites

a. Factors Considered

The below factors are considered in granting the special exemption from income tax:

1

Impact it has on the government revenue.

2

Socio-economic gains and losses.

3

Measure of accomplishing the purpose of granting the exemption.

b. Conditions for Business Projects

In order for a specific business project to be eligible for the special exemption, the following conditions are to be satisfied:

1. The person conducting the business project agrees with no objection, that the Maldives Inland Revenue Authority (“MIRA”) may share all information that the person has submitted to the MIRA with the Ministry of Finance.
2. The legal entity under which the business project is conducted must not be involved with any other business activities other than the exempted project.
3. The business project must either be:
 - › A project conducted through state aid or loan; or
 - › A project conducted in agreement with a majority government owned enterprise; or
 - › An investment project in agreement with the government; or
 - › A project conducted by 100% government owned enterprise.



1.3. Compliance Requirements

a. Registration

The below factors are considered in granting the special exemption from income tax:

1

Where a business project has been granted with the special exemption, the project must be registered under the Business Registration Act,⁴ as a separate legal entity.

2

Upon registration of the separate legal entity, the person conducting the exempted project must register with the MIRA. A Taxpayer Identification Number (TIN) will then be assigned.

⁴ Act Number 18/2014.

b. Computation and Filing Requirements

Record Maintenance

Records must be separately maintained for the exempted income and expenses incurred to generate such income.

Computation

The exempted income and expenses incurred to generate such income must be computed in accordance with the provisions of the Income Tax Act.

Return Submission

The following return submission obligations must be fulfilled:

1. First and Second Interim Return
2. Income Tax Return
3. Non-resident Withholding Tax Return (where applicable).

Auditing

An independent auditor's report is required to be submitted along with the Income Tax Return.

The MIRA may conduct an audit pursuant to the Tax Administration Act.⁵ The audit determination is to be shared with the exempted person and the Ministry of Finance.

⁵ Act Number 3/2010.



1.4. Maintenance of a Registry

The Ministry of Finance is required to publish and update the details of persons to whom the special exemption is granted. It is to be published on the Government Gazette.

Where a person is added to the list of exempted parties after the initial publication of the registry, the Ministry is to update the details within 14 days from the date of granting the exemption.

Particulars

The following details in relation to the exempted person will be made public:

- * Name
- * Business Registration Number
- * Duration of exemption
- * Reason for granting the exemption
- * Investment amount attributable to the exempt income

Further, where the President of the Maldives decides to terminate the exemption for any reason, the registry must be updated by the Ministry of Finance accordingly and the date of termination of the exemption must be published.



1.5. Termination of Exemption

Under the following circumstances, the President may terminate the special exemption granted from income tax:

1. Inclusion of disinformation in the application.
2. Cessation of the exempted project or commencement of a different business activity under the same name.
3. The exempted business is charged with a criminal offence by the Court of Law.
4. Upon accomplishment of the purpose of exemption.
5. With reasonable evidence, for any reason, it is considered that the purpose of exemption cannot be achieved.
6. With reasonable evidence it is considered that the state will endure financial or any other losses other than loss of direct or indirect tax revenue if the exemption continues.

Termination Process

The following details in relation to the exempted person will be made public:

If any of the above circumstances is applicable, the Relevant Ministry is required to make a submission for termination of exemption to the Ministry of Finance.



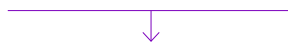
The Ministry of Finance is then required to forward it to the President's Office within 15 days from the date of receipt.



Even where no submission is made to the Ministry of Finance by the Relevant Ministry, where the Ministry of Finance believes that any of the circumstance outlined above is applicable, the Ministry of Finance may submit the details for termination to the President's Office at its own discretion.



With the counsel of the Cabinet's subcommittee and deliberation of the Cabinet, a decision on termination will be made by the President.



The effective date of termination will be the decision date of the President.

2. GST Exemption

a. Government Social Housing Schemes

Pursuant to the GST Act⁶ flats, land and buildings sold by the Government or by the Government through a third party under social housing schemes in which the Government has the discretion to control the price of the property being sold in accordance with procedures determined by the Government is considered an exempt supply.

Contractors carrying out a construction project that satisfies the above are also exempted from GST⁷

⁶ Act Number 10/2011, Section 20(o).

⁷ Tax Ruling Number TR-2018/G46.

b. Registration Requirements

The following GST registration process is applicable for contractors of social housing schemes:

- * The person carrying out the construction project must notify MIRA of such project prior to the commencement of the project.
- * An official document, confirming that the project satisfies section 20(o) of the GST Act, issued by the relevant Government Authority must be submitted to the MIRA.
- * The project must be registered with the MIRA as separate taxable activity within 30 days from the earlier of the following:
 1. Date of signing the contract
 2. Date of commencement of construction work
- * For registration purposes, MIRA 116 Form (GST Registration - Social Housing Project) must be completed and submitted to the MIRA.

c. Compliance Requirements

- * No input tax incurred in relation to the project can be claimed.
- * Regardless, the details of the invoices received from suppliers are to be submitted together with the periodic GST Returns in a format prescribed by the MIRA.

d. The ‘Reimbursement Arrangement’

Where a contractor is undertaking a social project in agreement with the Government of the Maldives, though no specific GST exemption is granted via the tax laws, it is common practice in the Maldives to come to a GST ‘reimbursement arrangement’.

Often in entering into the contract, it is agreed between the Government of the Maldives and person conducting the project, that where no exemption is granted from GST, the GST payable will be ‘reimbursed’ by the Government of the Maldives.

Under such arrangements, the contractor is still required to register for GST with the MIRA and submit the periodic GST Returns together with the details of any input taxes incurred in relation to the project. The outcome is that the contractor will not be required to settle the GST payable amount (that is, output tax – input tax), rather the Ministry of Finance will settle this amount with the MIRA.

3. Customs Duty Exemption

Customs Duty Exemption process is governed under the Export Import Act of Maldives and the Duty Exemption Policy. The President of Maldives has the discretion to exempt duty from materials imported for projects beneficial to the Maldives economically.

a. Procedure to Obtain Customs Duty

Exempted Status

- * The duty exemption status is to be confirmed by the relevant government authority, which will ultimately, in practice, submit to the President's Office for approval of the duty exemption.
- * At this stage, contractors will be required to liaise with the relevant government authority to obtain the confirmation documents required to proceed with the importation of materials under duty exempted status.
- * The relevant authority will furnish the contractor with the requisite documents required for the registration at Maldives Customs Service.

- * The Maldives Customs Service (Customs) requires registration of the duty exempted project separately at the Customs. Upon registration, Customs is to issue an Import/Export Registry Number for the duty exempted project.
- * In this regard, contractors will generally be required to furnish a master sheet indicating the materials being imported for the project and documentation from relevant authorities for the shipments. This process entails confirmation that the materials being imported are for the purposes of the duty exempted project.

b. Duty Exemptions for Tourism

Development Projects

- * The Ministry of Tourism (MOT) approves duty exemptions for tourism development projects under a duty exemption policy of the Ministry. Under the current published procedure,⁸ tourist establishments will be able to obtain duty exemptions to a duty value up to 5% of the capital investment value of the development project.
- * Persons seeking to obtain duty exemptions for tourism development projects will be required to request for approval of the import duty exemptions from the MOT.

⁸ Ministry of Tourism's Circular Number 88-DS/CIR/2021/20 (21 February 2021).

- * To qualify for duty exemption, the following eligibility criteria must be met by the tourist establishments:

New Tourist Establishments

Capital investment value of the new development project should be more than USD2 million

Existing Tourist Establishments

Redevelopment, upgrading or extension project value should be more than 25% of the registered capital investment value

- * Import duty exemptions in connection with tourism development projects are allowed for the following:
 1. Expensive Machinery
 2. Capital equipment
 3. Construction material
- * The capital investment value of the project will be determined by the MOT in accordance with the Bill of Quantities submitted to the MOT.
- * Where the MOT confirms the duty exemption status of the project, the MOT will notify Customs regarding the duty exemption status of the materials and equipment being imported for the project.
- * Once the duty exemption is approved and informed to Customs by the MOT, the importer will be required to submit all invoices and other requisite documents to Customs directly for clearance of the goods being imported.

c. Importation of Heavy Vehicles and Machineries

Importation

- * The Maldives Customs Service has published a Clearance Policy for the import of heavy vehicles and equipment to be used in duty exempted projects (collectively the “machineries”). Upon submission of the required documentation, Customs will allow the import of the machineries for the duration of the duty exempted Project.
- * Where the contract period has been extended for the Project, the contractor will be required to submit a confirmation document to the Customs from the relevant government authority informing the extension of the Project in order to extend the duty exempted status of the machineries.

Completion of the Project

- * Upon the expiry of the duty exempted period (i.e. the duration of the project), the contractor will be required to undertake any of the following in relation to the machineries:

- Re-export the machineries from Maldives
- Pay Customs duty for the machineries to further utilise them locally
- Transfer the machineries to a different duty-free project

- * A Declaration Form has to be submitted to Customs for the re-export of the machineries or when paying the Customs duty.
- * Where the contractor intends to transfer the machineries to another duty exempted project, the Clearance Policy allows the transfer of machineries to another contractor provided that agreements/ documents in relation to the transfer are submitted to Customs.
- * Upon the completion of the duty exempted project, the machineries imported under duty exempted status will be subject to import duties unless they are re-exported or transferred to another duty exempted project.
- * In such an instance, the duty would be calculated after considering the depreciated value of the machineries at the time when the machinery is being declared after the completion of the project.

Contact us

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

Madeeh Ahmed

Partner

madeeh@ctlstrategies.com



Madeeh is a chartered accountant and specializes in the tax aspects of the corporate undertakings and transactions that usually involve large and complex transactions that constitute the firm's major practice areas.

Zaina Zahir

Senior Associate

zaina@ctlstrategies.com



Zaina's practice covers a broad range of Maldives and cross-border tax matters, with a particular focus on the tax aspects of corporate acquisitions, transfer pricing, and resolution of disputes on related matters.

About us

CTL Strategies is a multi-disciplinary law firm registered in the Maldives. We advise Fortune 500, FTSE 100 and S&P 500 companies, the world's top hotel chains, some of the Big Four audit firms, the world's leading not-for-profit organisations, local and international banks, financial institutions, government bodies, and high-net-worth individuals investing in all sectors and industries in the Maldives.

We are ranked in the 2022 edition of Chambers Global Guide, and as a Recommended Firm by Asia Law Profiles in the area of General Business Law.

ctlstrategies.com

8th Floor, H. Thuniya
Boduthakurufaanu Magu
Male' 20066, Maldives

ask@ctlstrategies.com
+960 795 6996



This publication is intended as a general guide. It should not be taken as legal advice of any nature, nor should be regarded as offering detailed explanation of all the matters addressed in the publication. Readers are advised to seek professional advice specific to their particular circumstances.