

# Client Advisory

## 30<sup>th</sup> Amendment to the GST Regulation

### In Brief

The Maldives Inland Revenue Authority on 25 September 2023, published the Thirtieth Amendment to the Goods and Services Tax Regulation. The Amendment introduces some notable changes to the selected provisions of the Regulation.

The key changes introduced via the Amendment are as follows:

### Rules introduced relating to foreign tourist vessels

1. The Amendment clarified that charter licences issued by the Ministry of Tourism to the agents of foreign tourist vessels will now be deemed as an operating licence issued to the agent for GST registration purposes. Hence, the Amendment significantly impacts the agents of foreign tourist vessels, as they may now be required to collect and remit GST on the market value



- of the guest stays at foreign tourist vessels. The calculation basis and determination of this value remains unclear.
2. Moreover, the Amendment further clarified that goods and services supplied by a foreign tourist vessel that enters the Maldives will not give rise to a taxable activity if all of the following conditions are met.
    - a) The vessel has obtained a permit to operate and dock in the Maldives as a foreign tourist vessel.
    - b) The vessel is not required to obtain a charter licence from the Ministry of Tourism nor has obtained such a licence.
    - c) There is no change in the passengers of the vessel during the period allowed to operate and dock in the Maldives under the relevant permit.
    - d) The vessel is not present in the Maldives for more than 180 days in the 12 months following from the date of the permit issued by the Ministry of Tourism.
  3. Additionally, the amended Section 107 of the GST Regulation now stipulates that irrespective of the charter duration specified in the charter licence issued by the Ministry of Tourism, the charter definition in Section 107 of the GST Regulation would apply to foreign tourist vessels (that is, if the charter period exceeds 15 days, the holder of the licence shall account for GST on goods and services supplied by that vessel).



## **Rules introduced relating to place of supply**

4. The Amendment introduced changes to Section 104(c) of the Regulation by including additional factors based on which goods and services will be deemed to be supplied in the Maldives. Those are:
  - a) The supply or part thereof is supplied by or through a taxable activity that the supplier conducts in the Maldives; or
  - b) An employee or an agent of the supplier is present in the Maldives to provide the service.
5. Moreover, it was further clarified that notwithstanding the 183 day rule prescribed in Section 104-1(a)(3) of the GST Regulation, an individual physically present in the Maldives at the time of supply of good or service would be considered to be in the Maldives.

## **Wrongfully or incorrectly collected GST**

6. Prior to the Amendment under Section 13 of the GST Regulation, in cases where GST was collected by a person without due authorisation, or on a non-taxable good or service, or if it was overcharged, and not refunded to the recipient of the supply the Commissioner General of Taxation had the power to require the supplier to pay such amounts to MIRA.
7. The Amendment, however, now creates an obligation on taxpayers to include such wrongfully or incorrectly collected amounts in the tax return submitted for that period and pay such amounts to MIRA, provided that the amounts had not been refunded to the customer within that taxable period, irrespective of any action from the Commissioner General of Taxation.



8. Nevertheless, the Amendment also introduces a mechanism by which taxpayers may subsequently reclaim such amounts from MIRA, provided that:
- a) the wrongfully collected amounts are refunded to customers;
  - b) a valid credit note is issued to the customer; and
  - c) the transaction is included in the GST return submitted for the period in which such credit note is issued.

## **Business activities which would give rise to a 'Taxable Activity'**

9. The Amendment clarifies that all the business activities carried out by the following persons would give rise to a taxable activity.
- a) Persons who are required to register their business at the Ministry of Economic Development.
  - b) Permanent establishments of foreign entities and deemed partnerships recognised in the Income Tax Act.
  - c) Tourist establishments and vessels operating or required to operate under a licence/permit issued from the Ministry of Tourism. Note that certain exceptions apply to foreign tourist vessels as mentioned above under the first heading.



10. Irrespective of the above, the Amendment further explained that following situations will give rise to a taxable activity.

- a) If goods or services are supplied in the Maldives for 90 days or more in any 12 month period.
- b) If it is expected that goods or services will be supplied in the Maldives for 90 days or more in any 12 month period.

## **Effective Date**

11. The Amendment takes effect from 25 September 2023 onwards.



## 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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Muraadh specialises in all areas of taxation with a particular focus on advising clients on tax impacts of complex high-dollar transactions. He has extensive experience of advising on all tax aspects of various types of transactions for corporations including debt restructuring and other financing structures, property transactions inbound foreign investments and project acquisitions.

# About us

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

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