



# Client Advisory

## The Policy on Recovery of Tax from Third Parties

### In Brief

The Policy on Recovery of Tax from Third Parties (the “Policy”) was published on 7 August 2023. This Policy outlines the procedures through which the Maldives Inland Revenue Authority (“MIRA”) can recover unpaid taxes, fines or other outstanding payments from third-parties as specified in Section 47 of the Tax Administration Act.<sup>1</sup> The Policy was published pursuant to Section 44 of the Tax Administration Regulation.<sup>2</sup>

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

<sup>2</sup> Regulation Number 2013/R-45.



## **Applicability of the Policy**

Where MIRA has reason to believe that a third party is indebted to a delinquent taxpayer who has been served with a “Final Notice” pursuant to Section 2(b) of the General Enforcement Policy<sup>3</sup>, MIRA may notify the third party to remit the owed funds directly to MIRA. In such cases, MIRA cannot demand from the third party an amount greater than the amount owed to MIRA by the delinquent taxpayer.

The above mentioned notification to the third party will be issued based on the information available to MIRA at the time and will follow the order listed below:

1. Notify Government authorities, State institutions or state-owned enterprises that have any outstanding dues to the delinquent taxpayer to remit those amounts to MIRA.
2. Notify companies, partnerships or individuals or any other person that has any outstanding dues to the delinquent taxpayer to remit those amounts to MIRA.

Additionally, under the following circumstances, MIRA may also notify a third party to settle outstanding tax amounts owed by a delinquent taxpayer who has not yet been served with a Final Notice:

1. MIRA has reasonable grounds to believe that the taxpayer is intentionally delaying or avoiding the payment of the outstanding amounts.
2. MIRA believes that the taxpayer’s actions will hinder the recovery process.

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<sup>3</sup> Policy Number 22/G-11.



3. MIRA believes that the taxpayer intends to leave the country, cease residency or move their assets abroad and thereby obstructing the recovery process.

## **Third Parties from which MIRA can recover outstanding amounts**

MIRA can recover outstanding amounts from various sources including:

1. An individual's employer.
2. Parties that owe money as consideration for a goods or services supplied.
3. Any party that owes money to the taxpayer in any form including parties required to make a payment to the taxpayer, or has authority to make a payment to the taxpayer or intends to make a payment to the taxpayer or holds funds on behalf of the taxpayer.

## **Responsibilities and liabilities of the Third Party**

Upon receiving a notice from MIRA under the Policy, the third party must fulfill all obligations specified in the notice, within 45 days of the notice.

Further, MIRA may send a notice or letter demanding the details of any payments owed by a third party to a delinquent taxpayer, to which the third party must respond within 30 days. If the third party provides incorrect information or does not provide the required information within the stipulated period, they will be penalised under Section 64 of the Tax Administration Act.



## **Relief**

MIRA has the discretion to reduce the amount required to be paid by the third party if the delinquent taxpayer can substantiate, with sufficient evidence, that compliance with a notice issued under this Policy would negatively impact the taxpayer's basic needs.

## **Settling of taxes while a Notice has been served**

Taxpayers may enter into a settlement agreement with MIRA, or settle the entire outstanding dues while a Notice has been served to a third party. In this case, the Notice issued to the third party will be revoked by MIRA.

## **Prohibitions**

The third party will be under the obligation to make the payments requested for by MIRA once they are served with a notice.

Upon receiving a notice from MIRA, the third party is prohibited from taking any of the following actions with the requested funds without prior approval from MIRA:

1. Pay, give, or transfer the money to any other party except MIRA;
2. Recharacterise the funds;
3. Change the location or ownership of the funds;
4. Invest the funds;
5. Conceal any interest on the funds held by another party;
6. Undertake any action that obstructs MIRA's collection of funds within the prescribed period.



Failure to comply with these terms will result in the third party being treated as a defaulting taxpayer under Section 47(g) of the Tax Administration Act and becoming liable for settling the outstanding amounts owed to MIRA.

The third party receiving the notice from MIRA may challenge the notice at the Tax Appeal Tribunal within 30 days of the notice.

## **Other matters**

The Policy specifies that MIRA will not be held responsible for any financial or other damages suffered by the taxpayer or the third party.

The periods mentioned in the Policy will be counted including the public holidays and government holidays.

## **Effective date**

This Policy is effective from 7 August 2023.



## 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

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 Highly Recommended Firm by Asia Law Profiles in the area of General Business Law.

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