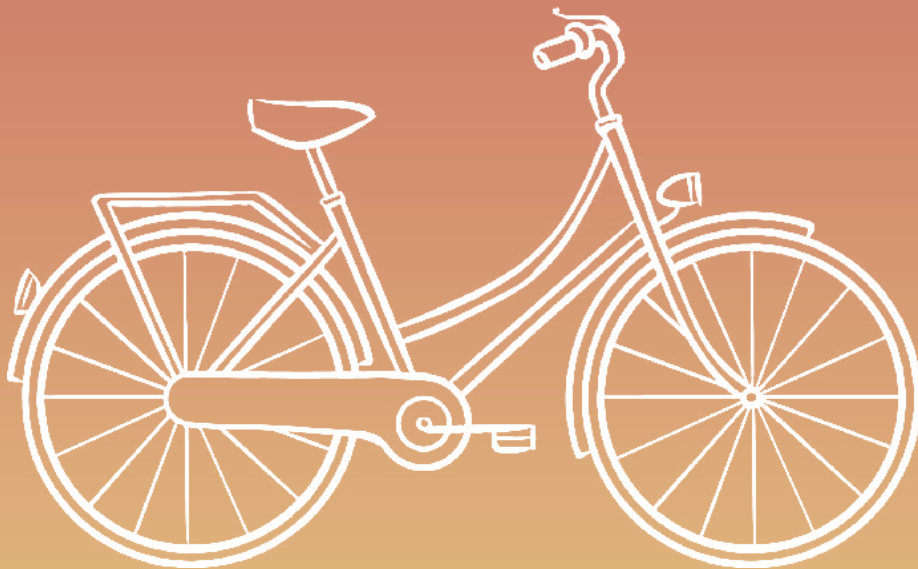


Year in Review **2023**



List of Acronyms

BPT - Business Profit Tax

GST - Goods & Services Tax

MIRA - Maldives Inland Revenue Authority

MoEDT - Ministry of Economic Development and Trade

MoT - Ministry of Tourism

PGO - Prosecutor General's Office

SEZ - Special Economic Zone

TAA - Tax Administration Act

TAT - Tax Appeal Tribunal

9th

1st Amendment to the Administrative Regulation on Construction

The Amendment introduced new requirements on obtaining approvals and permits for the construction of buildings and structures. The Amendment also introduced new fees regarding the approval process.

12th

1st Amendment to Regulation on Registration of Bandaara and Private Lands and Buildings

This Amendment transferred the oversight of land registration of *bandaara* land allotted for residential purposes from the Ministry of Housing and Infrastructure to city councils. It provided that the submission period to obtain the permanent registry of the land was one month from the date of allocation of land and established fines for late submission.

16th

Regulation on Licences to Drive Local Vessels within Maldivian Territory

The Regulation highlighted the conditions for sea vessel operators to obtain permanent and temporary licences as well as the penalties for operating a sea vessel without a licence.

12th

6th Amendment to the Grant of Rights Regulation

The Amendment abolished the requirement to obtain approval from the MoT for the transfer of shares in companies that have leased islands and lands for tourism purposes. Before the Amendment, a no-objection letter from the MoT for the share transfer was required for the MoEDT to record it.

20th

Regulation on Loading and Unloading Goods Off of Sea Vessels

The Regulation was gazetted on 20 February 2023 and became effective 3 months later. The policies and standards applicable for the transportation of goods in sea vessels were provided in the Regulation. Specific standards were provided for dangerous goods and transportation of petroleum.

21st

Regulation on Registration and Operation of Spas

The Regulation mandates obtaining a business activity registration from the MoEDT prior to spas starting its operations. Furthermore, the Regulation outlines the standards that must be adhered to in the operation of spas and stipulates the conditions that must be met for the issuance of the business activity registration. Notably, the Regulation also introduced the standards for advertising spas in the Maldives, as well as prescribing enforcement measures which can be taken by local councils.

22nd **Regulation on Collecting Plastic Bag Fee by Persons Registered for GST**

The Regulation details the procedures to be followed in the collection and payment of the plastic bag fee to the MIRA by businesses registered for GST. It is made clear that the fee is to be declared in the GST Return in MVR by the person who is registered for GST with MIRA as the operator of the business. Our [Tax Alert](#) provides you with an overview of the fee on plastic bags.

22nd **1st Amendment to the Regulation on Carriage of Goods on Land Vehicles**

This Amendment revised the specifications regarding the permissible height of goods within a container stored on a vessel. It specifically provides that such goods must not exceed the height of the operator's cabin with an exception provided to carriage of containers.

27th **1st Amendment to Regulation on Registration and Operation of Spas**

The Amendment introduced a provision to include spas located in integrated tourism development zones, tourist resorts, tourist vessels, airports and uninhabited islands under the purview of the Regulation.

1st

Regulation on Licensing of Activities Related to Fisheries

The Regulation outlined the licensing requirements and procedure for activities related to the fisheries industry, and the policies for planning, managing, and overseeing such activities. The Regulation allows authorities to send observers to licensed vessels, and detailed penalties for violations of the regulations.

9th

7th Amendment to Tax Administration Regulation

The notable changes brought under this Amendment include the determination of civil penalties by the Commissioner General of Taxation for several offences stated in Section 65 of the TAA. This includes non-compliance with Document Request Notices, failure to maintain proper financial records and lack of cooperation with MIRA during audits and investigations. The Amendment also introduced obligations to be fulfilled by heirs following the death of a taxpayer and provides clarity on the format and requirements for the exchange of correspondence and documentation between MIRA and taxpayers.

14th

Regulation on Tourism Boundary Regulation

The Tourism Boundary Regulation introduced significant new changes to the provisions relating to the determination of boundaries of islands leased for tourism purposes. Previously up to 2,000m from the vegetation line may be demarcated as the boundary of a tourist island, whereas the current Regulation specifies the boundary to be 500m from the mean tideline of the island. This is extendable up to 1,000m upon payment of an extension fee.

15th

3rd Amendment to the Regulation on Registration of Land Vehicles

This Amendment altered the documentation requirement for processing land vehicle registrations. Changes were also introduced for temporary vehicle registrations where the Ministry requires details of the project and the site in which the temporary vehicle will be utilised.

5th

Maldives Bay Pvt Ltd v MIRA [2023] SC 12

In this case, the Supreme Court determined whether goods and services supplied to any recipient by a 'tourist establishment' are subject to the Tourism Sector GST rate. The question arose when Maldives Bay supplied certain capital assets to the head lessor of the resort, and MIRA assessed GST at the Tourism Sector GST rate. The Supreme Court concluded that the tourism sector GST should be levied only on goods and services supplied to the customers of the tourist establishment.

16th

5th Amendment to the Regulation on Non-Residential Leases

The Amendment altered the lease extension process for non-residential leases, and mandated the initial bid announcement to state the applicable lease period.

17th

Plastic Bag Fee Record Keeping Regulation

The Regulation details the records required to be maintained by businesses not registered for GST. Commencement of record keeping is made mandatory from the effective date of collection of plastic bag fee which is 18 April 2023.

20th

Coastline Investment Pvt Ltd v MIRA [2023] SC 16

The dispute revolved around the procedure that needs to be followed when a taxpayer files for a refund adjustment. In this case, when Coastline Investment applied for a refund adjustment, MIRA accrued fines and interest until the refund application was approved. The Court analysed the facts surrounding the refund application and decided that Coastline had a legitimate expectation that the benefit of the overpaid tax should be given on the date the Adjustment/Refund Form was filed. Additionally, the Supreme Court determined that fines charged under Section 33 of the BPT Act constitute a civil penalty within the scope of Section 34 of the BPT Act and as such concluded that MIRA's decision to impose such a penalty did not meet the statutory requirements set in the BPT Act.

3rd

AIS LLP v Ministry of Economic Development (State) **[2023] SC 17**

In this case, the Supreme Court explained various methods by which a company can be dissolved in accordance with the Companies Act. The Court also elucidated how the fiduciary duties of directors broaden to encompass the interests of both creditors and shareholders when a company becomes insolvent.

9th

4th Amendment to the Regulation on Construction Industry Employees

This is an amendment to Schedule 4 of the Regulation on Construction Industry Employees which stipulates the categories of building inspectors and conditions concerning the registration of building inspectors. Pursuant to the Amendment, building inspectors falling under Category 1 will be able to oversee the structural works, and issue a certificate of structural compliance in accordance with the Regulation. Additionally, building inspectors falling under Category 2 will be able to issue a certificate of compliance for occupancy in accordance with the Regulation.

10th

Updated Guidance on Non-resident Contractor Payments

The Guidance reflects the change in MIRA's interpretation of the scope of non-resident contractor payments. Under MIRA's new interpretation, non-resident withholding tax under the non-resident contractor payment category applies only on payments made to contractors for the services rendered and to the extent that those services are performed in the Maldives.

Our [blog post](#) covers the intricacies of non-resident contractor payments and the tax consequences resulting from this change.

17th

Regulation on the Leasing of Industrial Islands

This Regulation outlines lease periods, fees, procedures for the sale of investments on the island, subleasing, mortgaging, and the monitoring and inspection protocols of islands leased for industrial purposes. The MoEDT is vested with the authority to impose fines on the lessees for contraventions of this Regulation and the Regulation mandates the Ministry to maintain a register of industrial islands.

22nd

Regulation on Sole Proprietorships

The Regulation formulated pursuant to the Sole Proprietorship Act details the registration requirements of sole proprietorships. The Regulation also mandates sole proprietorships to file annual compliance statements with the MoEDT.

23rd

12th Amendment to the Customs General Regulation

The Amendment introduced new provisions regarding the periods applicable to Maldives Customs Services in connection with the conduct of post-clearance audits. The Amendment also introduced changes to the existing provisions regarding the procedures applicable to post-clearance audits.

23rd

2nd Amendment to Regulation on Registration and Operation of Spas

The Amendment repealed earlier provisions conferring authorisations to local councils to carry out inspections, certifications and revocation of certifications required under the Regulation in connection with the operation of spas. Under the Amendment, the MoEDT is required to consult with local councils prior to granting business activity registrations for spas. Additionally, the Ministry is required to conduct inspections of spas to ensure their compliance.

24th

Regulation on the Employment of Foreign Individuals

The Regulation repealed the previous regulation under the reference number 2021/R-16 and introduced new regulatory requirements. The Regulation also outlines procedures for the Xpat System, issuance of permits to employ foreign individuals, and the reregulation of foreign individuals.

31st

***Safoora Naafiu Moosa v Mohamed Shareef* [2023] SC 23**

The court determined that where a person is granted land based on acquiring points for being married, their spouse will acquire an interest in the land. The court also ruled that a spouse may seek to recover expenses incurred prior to the formation of a legally binding contract if such expenditures are substantiated and have resulted in the enrichment of the other party. Regarding property obtained during the marriage, the Supreme Court clarified that any property obtained by a spouse in their own name is generally considered to be solely theirs. If a spouse claims to have a right or interest in property obtained by the other spouse, the burden of proving the existence of such a right or an interest rests with the claiming spouse. Furthermore, with reference to the Family Act the Court held that it is not mandatory for a prenuptial agreement to exist for the courts to compel a spouse to repay the expenditures made by the other during the course of the marriage.

1st

Ooredoo Maldives Plc v MIRA [2023] SC 25

In this judgment, the Supreme Court ruled that objections regarding procedural adherence, such as those contesting the acceptance of a case, should be raised at the preliminary stage of the proceedings. The Court expressed concern that the High Court's decision to strike down the longstanding practice of calculating the limitation period in Section 44 of the TAA, which had excluded government holidays, caused financial losses to the taxpayer and hindered their access to justice. It emphasised that inconsistent interpretations of laws resulting in financial losses to innocent parties are unacceptable. Moreover, the Supreme Court held that judicial decisions should not obstruct access to justice or result in gross injustice. It noted that the taxpayer had acted based on a long-established practice and that applying a changed interpretation retrospectively to a past action was improper. See our [blog post](#) on the judgment for more details.

8th

Marine Coral Maldives Pvt Ltd v Housing Development Corporation Ltd [2023] SC 27

In this judgment the Supreme Court clarified the Court's position on a third party bringing a claim against a company based on a decision of the Board of Directors of that company that was decided in favour of that third party. It was held that the third party may bring a claim against the company to benefit from such favourable decision of the Board of Directors only if that decision was communicated with the third party.

13th

1st Amendment to the General Regulation on Fisheries

The Amendment regulated the usage of fishing nets and updated the prohibited fisheries activities. The Regulation also revised the list of fish prohibited from being fished. Additionally, under the Amendment, any fisheries activities involving scuba diving should be carried out by individuals with internationally accredited diving certifications.

25th

Regulation on the Lease of Uninhabited Islands for Purposes Other Than Fisheries, Agriculture, and Economic Purposes

The Regulation enables the leasing of uninhabited islands for purposes excluding fisheries, agriculture and economic purposes. Prospective lessees are required to provide details of the projects to be conducted on the island prior to the government approving such leasing of islands.

7th

Policy on Recovery of Tax from Third Parties

This Policy outlines the procedures through which the MIRA can recover unpaid taxes, fines or other outstanding payments from third parties as specified in Section 47 of the TAA. Our [Client Advisory](#) covers the significant aspects of the Policy on Recovery of Tax from Third Parties.

7th

2nd Amendment to the Name and Shame Policy

Some of the significant changes introduced by this Policy include the removal of the 15-day waiting period from the expiration of the notice period to disclose delinquent taxpayers' names and providing leeway via removal of names disclosed on MIRA website where an instalment arrangement is made. However, the Amendment also removes the previous exemption applicable to delinquent taxpayers under audit and gives the Commissioner General a discretionary power to disclose names at any time during the year, regardless of the Policy's specified periods.

9th

1st Amendment to the Instalment Policy

Notable changes by this Amendment include the strict requirement to meet the commitment payment within 10 days of entering the instalment agreement. Additionally, the Amendment shortened the grace period for non-compliance from 60 to 30 days. Consequently, failure to meet payment obligations within 30 days, without a valid reason, grants the Commissioner General discretion to terminate the instalment agreement.

10th

Regulation on Leasing of Uninhabited Islands on Varuvaa and for Agricultural and Fisheries purposes

The Regulation provides procedures to be followed on leasing of islands on *varuvaa* with a maximum period of 10 years granted for such leasing. The Regulation also covers the leasing of islands for economic purposes relating to agriculture and fisheries. The Regulation includes the applicable process for the sale of the investment, entering into management agreements and subleasing of such islands granted for agricultural and fisheries purposes.

20th

***Ahmet Aydeniz Maldives Pvt Ltd v G X Associates Pvt Ltd* [2023] SC 35**

It was held in this judgment that a subsidiary company may be liable for the debt of its parent company where it is established that the subsidiary had apparent authority in the dealings concerning such liability, and the creditor relied on such authority. The Court also clarified that the subsidiary being liable to the debt in the particular case does not contravene the principle of privity of contract nor the principle of separate legal entity.

25th

2nd Amendment to the Regulation on the Registration of Bandaara and Private Lands and Buildings

The Amendment introduced the framework for registering lands released by the government within targeted developmental zones, outlining the procedure for the same.

27th

1st Amendment to the Supreme Court Civil Procedure Regulation

The Amendment expounded the procedure to follow in the event of the death of a party to a proceeding, and elaborated the procedures concerning additional appeals. Further, the Amendment also included provisions on how deadlines are to be calculated for Supreme Court submissions.

5th

Tourism Strata Regulation

The Tourism Strata Regulation details the standards and procedures applicable for the leasing of strata properties in tourist resorts and integrated tourist resorts. The Regulation also specifies the requirements to be met in the Strata Lease Agreements and the Management Agreements.

14th

Regulation on Cruising and Docking of Foreign Tourist Vessels in the Maldives

This Regulation repealed the earlier regulation under the reference number 2010/R-2. The Regulation requires foreign tourist vessels to appoint a licensed agent in the Maldives before entering the Maldives and obtain a cruising permit from the MoT to cruise and dock in Maldivian waters. Further, the Regulation stipulates the conditions by which a charter licence is required to be taken by the foreign tourist vessel and the procedures for obtaining the charter licence.

25th

30th Amendment to the GST Regulation

This Amendment introduced some noteworthy changes in the area of agents of foreign tourist vessels, place of supply rules, taxable activities and treatment of wrongfully or incorrectly collected GST. Our [Client Advisory](#) outlines the implications that the above changes may have on your business.

8th

Regulation on Integrated Tourist Resort Development and Operation

The Regulation repealed the earlier regulation under the reference number 2021/R-64. Under the Regulation, integrated tourist resort zones are to be determined by the President following an application by the MoT. The Regulation outlines the procedures by which areas allocated for integrated tourism development can be leased and how the leasehold rights can be transferred and subleased.

12th

Maldives Passions Pvt Ltd v MIRA [2023] SC 39

This appeal concerned the parameters of the powers of the TAT to decide cases and order for re-audits under Section 42(c)(2) of the TAT Regulation. The Supreme Court held that the TAT may order MIRA for re-audits as it is within the TAT's discretion to decide cases as it deems appropriate. The Court also noted the absence of any procedures in the applicable laws when carrying out re-audits but maintained that the established general procedure of filing objections and appeals as outlined in the TAA will persist even in instances where the TAT orders the MIRA to conduct a re-audit.

16th **Re PGO [2023] SC 41**

It was established in this case that offences of tax evasion under Section 64 of the TAA should be prosecuted under the TAA - not the Penal Code. The judgment followed from the PGO's argument that prosecution for tax evasion should be pursued under the Penal Code contending that there exists a conflict between the Penal Code and the TAA and hence the former takes precedence. The Supreme Court clarified that offences under Section 64 of the TAA and offences under Section 533 of the Penal Code are distinct. It was further clarified that time limitation for criminal charges for tax evasion will be calculated under Section 69 of the TAA.

26th **Minor International (Labuan) Ltd v MIRA [2023] SC 45**

In this judgment, the Supreme Court addressed two key issues: 1) requirements of an Audit Notice, 2) application of debt-equity test. The Court held that issuance of Audit Notice by MIRA is an administrative action for the purposes of Article 43 of the Constitution, and hence it must specify which section of the law under which it is issued. Consequently, any tax assessment made under a Notice that does not meet the requirement would be invalid. Debt-equity test was in question in the appeal because it was applied by the TAT. Supreme Court observed that the transaction's nature was not in question at the TAT and if the test was relevant, it should be applied by the TAT only after both parties are provided the opportunity to address it - which the TAT did not follow.

8th

1st Amendment to the Tourism Land Rent Regulation

The Amendment introduced a minor revision to the applicability of land rent fines. Further, the Amendment removes the requirement for tourist properties to have requested for land rent fine relief under the provisions of the Construction Period Extension Regulation.

8th

1st Amendment to the Tourism Construction Period Extension Regulation

The Amendment provided that a tourist establishment could be closed for the purpose of redevelopment up-to 2 years. MoT is further empowered by the Amendment to grant an extension for an additional year upon request. The Amendment also eased the requirements to extend the construction period of islands under development.

12th

Re Aishath Zaeema [2022/HC-A/484]

In this appeal that was heard at the High Court, the Court established the rule that courts must appoint a litigation friend with the obligation to protect the interests of children and persons lacking capacity, where the case involves the rights and interests of a child or a person that lacks capacity. Prior to the High Court's judgment, the Maldivian law did not address how children and protected persons are to be represented in court cases. Read our [blog post](#) on the judgment for further details.

16th **2nd Amendment to the Regulation on Statutory Audits and Assurance Services**

The Amendment eliminated the requirement for individuals holding licences under the previous Regulation on Statutory Audits published by the Auditor General's Office to pass an Audit and Assurance test.

16th **1st Amendment to the Tourism Boundary Regulation**

This Amendment permits lagoon boundary extensions for lagoons leased for tourism purposes and provides exemptions for the establishment of the no development zone, which were previously mandated under the Tourism Boundary Regulation. A fee of USD100,000 is applicable for the extension of the lagoon boundary and the new boundary area must be included in the Lease Agreement of the lagoon via an addendum.

16th **Regulation on the Development and Operation of Yacht Marinas**

This Regulation established the standards for the development and operation of yacht marinas including the required facilities. Yacht marinas must be named and registered under the MoT, and they can be searched and inspected by the Ministry. The Ministry holds the authority to levy fines for inadequate facilities, and other violations of the Regulation.

19th ***MIRA v Driftwood Maldives Pvt Ltd [2023] SC 50***

This appeal pertained to the calculation of GST on supplies whose consideration is paid through the redemption of points under a third-party loyalty scheme. The question before the Supreme Court was whether the MIRA must be allowed to collect GST under Section 13(d) of the GST Regulation as 'excess tax collection', where consideration paid by the loyalty scheme operator to the supplier is higher than the market value of the supply. For the transactions in dispute, Driftwood was paid by the loyalty scheme operator at a higher rate than the average daily rate of the tourist resort operated by

Driftwood, which the MIRA regarded as the market rate. Supreme Court held that Driftwood must be afforded the opportunity to refund any excess tax to the customers before the MIRA seeks such amounts under Section 13(b). Consequently, the case was remanded to the High Court to determine the amount to be refunded.

23rd

Focus Infocom Pvt Ltd v Ooredoo Maldives Plc
[2023] SC 52

This was the first case of the Supreme Court, where the Court decided on the enforceability of a domestic arbitration agreement with Maldives as the seat of arbitration. In its judgment, the Court decided that the arbitration agreement in question was unenforceable due to the non-existence of the Maldives Arbitration Centre even by the time the first instance court ruled on the case. The Court also went on further to elaborate on the application of the principle of separability and held that the unenforceability of the arbitration agreement in question does not extend to render the substantive contract unenforceable.

23rd

Save The Dream Private Limited Liability Company v Hussain Shihaam Ali and another [2023] SC 53

The judgment of the Supreme Court in this appeal marked a significant development in the jurisprudence surrounding the fiduciary duties of company directors. Prior to this judgment, the jurisprudence on the matter extended to asserting the fiduciary duties of company directors. In this groundbreaking judgment, the Supreme Court, for the first time held that courts have the authority to dismiss company directors from their directorship positions where they have breached their fiduciary duties.

29th

Van Oord Ship Management B.V v MIRA [2023] SC 57

In this case, the Supreme Court ruled on tax exemptions granted to shipping and aircraft businesses under Section 16 of the BPT Act. The central issue before the Court was whether the term 'vessels' in Section 16(a) could be construed to include dredgers and push boats. Primarily applying the translation of the term 'vessel' in the Dhivehi language, the Court concluded that dredgers and push boats do not fall within the scope of 'vessel' in Section 16(a). The rationale behind the decision of the Court rested on the understanding that the term 'vessel' in Section 16(a) refers to vessels used to transport passengers and goods from one place to another.

6th

Repealing Unsolicited Proposal Policy

The Unsolicited Proposal Policy which previously allowed for submission of business proposals to the Government without a bid, was repealed by the President's Office.

17th

Presidential Decree on Establishment of Economic Activities and Minimum Investment Thresholds in Special Economic Zones

The Presidential Decree issued pursuant to the Special Economic Zone Act revised the investment thresholds for SEZs. USD100 million was declared as the minimum investment threshold and the permitted economic activities were listed by the Decree. The previous minimum investment threshold established in 2018 was USD150 million.

21st

Tax Ruling G49: Rules on Claiming Input Tax

The ruling clarifies that unclaimed input taxes cannot be claimed even through amendments to tax returns or submission of new returns, if 12 months have elapsed from the taxable period in which such input taxes first became eligible to be claimed. Our [News Update](#) provides a short brief of the tax ruling with illustrative examples.

27th

Companies Act

The new Companies Act ratified on 27 December 2023, became effective on 1 January 2024. The new Act introduced substantial changes to the company law landscape in Maldives bringing major developments that impact companies in Maldives. New compliance and regulatory requirements were also introduced under the new Act.

28th

First Amendment to the Public Finance Regulation

The Amendment introduced changes to the provisions of the Public Finance Regulation pertaining to the awarding of projects without competitive bidding process. It allows for the direct awarding of projects by the Government in relation to private sector initiated proposals submitted without a bid. It also introduced a Schedule stipulating the procedure by which private sector initiated proposals are to be submitted to the Government and the procedure by which the Government will decide on such proposals.

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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 2023 edition of Chambers and Partners, and as a Highly Recommended Tax Disputes Firm by Asia Law Profiles.

This publication is intended for informative purposes only, and is designed to give a general overview of the regulatory changes mentioned. Any information presented or opinion expressed should not be taken as legal or tax advice. Readers are advised to seek professional advice prior to taking any action on issues dealt with in this publication.

Date of publication: 15 February 2024

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