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# MIRAPOST



The Thirtieth amendment to the Goods and Services Tax Regulation has been published



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# The thirtieth amendment to the Goods and Services Tax Regulation has been published

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Goods and Services Tax (GST) Regulation was made pursuant to the authority granted to the Maldives Inland Revenue Authority by the Goods and Services Tax Act (Law Number 10/2011), with the objective of establishing policies and procedures regarding the imposition of tax on the value of goods and services. The thirtieth amendment to this regulation came into effect on 25 September 2023.

With this amendment, a new subsection has been added as subsection 5(e) that states that a charter license issued by the Ministry of Tourism to a foreign tourist vessel, in the name of the agent appointed to handle all matters relating to such vessel, shall be deemed to be an operating permit issued to such agent by the Ministry of Tourism. Therefore, foreign tourist vessels should be registered for GST in the name of the agent who holds this operating license.

According to section 15(c) of the GST Act, if a tourist vessel is chartered for a specific period, tax on that transaction shall be calculated based on the value of the charter. For the purpose of this section, even though a validation period is specified in the charter license issued by the Ministry of Tourism, the charter and the value of charter, as regards foreign tourist vessels entering the Maldives shall be defined and determined as per the provisions of Section 17 of the GST Regulation.

Prior to the thirtieth amendment to the GST Regulation, if GST is charged by a person who is not authorized to do so under the GST Act and Regulation, or if GST is charged by a registered person on a non-taxable good or service, or if GST is overcharged, unless such amount is refunded to the recipient of the supply, the amount shall be paid to MIRA as tax. According to the amended, any such amounts that have not been refunded to the recipient of the good or service before the end of the taxable period in which the amount was charged, the amount shall be accounted for in the GST return for that respective period and paid to MIRA. In case where an amount that has been reported and paid to MIRA within the prescribed period is refunded to the recipient of the good or service, such amount may be recovered from MIRA by issuing a credit note in accordance with the GST Act and Regulation.

It is prescribed in the GST Regulation that, for the purpose of time of supply, a tax invoice or receipt must be issued in relation to a good or service supplied by a registered person within the period specified in

section 23(a) or 23(b). However, with this amendment, it had been added that even if a tax invoice or receipt is not issued within the specified period, for the purpose of determining the time of supply of specific transactions, it would be deemed that a tax invoice or receipt is issued on the date of expiration of the 3-day period. This means that the time of supply of such transactions will be the last day of the period.

Prior to the amendment, for the purpose of section 41 of the Regulation (Goods and services exported from the Maldives), the residency of a person is determined according to the definition prescribed in section 46 of the Business Profit Tax Act. However, instead of defining a person who is resident in the Maldives, the amendment has referred to the definition of a non-resident, whereby a non-resident person is determined according to the definition in Section 79(II) of the Income Tax Act. In addition, prior to the amendment, a company that is not a resident of the Maldives, is deemed to be in the Maldives, if an employee or other representative of the company is in the Maldives in connection with the performance of the service. However, after the 30th amendment to the Regulation, this definition does not only refer to companies, but to all persons who is resident in the Maldives.

According to Section 104 of the GST Regulation, goods and services are deemed to be supplied in the Maldives if the supplier and the recipient is in the Maldives at the time the goods are sold, and if the supplier is in the Maldives at the time the services are performed. Further, goods and services are also deemed to be supplied in the Maldives if the goods are in the Maldives at the time the goods are sold or, if the services or part thereof are physically performed by or through a person who is in the Maldives at the time the services are performed. With the amendment, goods and services are also deemed to be supplied in the Maldives, if the goods or services or part thereof are supplied by or through the taxable activity carried on in the Maldives by the person or, if an employee or any other representative of the supplier of goods or services is in the Maldives in connection with the performance of the service.

According to section 105 of the GST Regulation, a taxable activity includes anything done in connection with the beginning or ending, including

the disposition, or a premature ending, of a business. Via the latest amendment, a new section 105-1 has been added to the GST Regulation which prescribes what constitutes a business conducted continuously or permanently. It includes the supply of goods or services by a company, partnership, or cooperative society that is registered under the Companies Act, Partnership Act, or Cooperative Society Act. Goods or services supplied by a person who is registered or required to be registered under the Business Registration Act or business carried through a permanent establishment as defined in Section 79 (gg) of the Income Tax Act, and by a partnership as defined in Section 79(yy)(2) of the Income Tax Act is also considered as a business conducted continuously or permanently for the purpose of GST. In addition, supply of a good or service by, a place or vessel operating under an operating permit issued by the Ministry of Tourism, or a place or vessel that is required to hold an operating permit issued by the Ministry of Tourism for its operation, or a vessel cruising and berthing in Maldivian waters under a charter license issued by the Ministry of Tourism, or a vessel that is required to hold a charter license issued by Ministry of Tourism for cruising and berthing in Maldivian waters is also included in this definition. Other activities deemed as businesses conducted continuously or permanently include supply of a good or service in the Maldives for a period of 90 days or more during a 12-month period, and supply of goods or services that is estimated to last for a period of 90 days or more during a 12-month period.

Activities that are not deemed as businesses conducted continuously or permanently has also been included in this newly added section. It includes foreign tourist vessels that hold the permit issued by the Ministry of Tourism for the foreign tourist vessel to cruise and berth in Maldivian waters, vessels that neither holds nor is required to hold a charter license from the Ministry of Tourism, vessels that do not allow embarkation or accommodation of new passengers during the period specified in the permit, and foreign tourist vessels that has not spent more than 180 days in the Maldives Exclusive Economic Zone (EEZ) in the 12-month period following the issuance of the permit issued by Ministry of Tourism.

The thirtieth amendment to the Goods and Services Tax Regulation came into effect on 25th September 2023 with its publication on the Government Gazette.

# The Foreign Tourist Vessels Regulation has been published



Maryam Waheed, Senior Tax Officer, Tax Academy

The Foreign Tourist Vessels Regulation has been published in the Gazette. This Regulation determines the rules that foreign tourist vessels must comply with when cruising and berthing in the territory of Maldives.

Under the Regulation, a foreign tourist vessel must enter the Maldives after appointing an agent in the Maldives to be responsible for the vessel's affairs. The appointed agent must be authorized by Maldives Custom Service for the period. To become an agent of a foreign tourist vessel, these agents must register with the Ministry of Tourism. They must fill the "Application for Foreign Tourist Vessels Agent" form available from the Ministry's website and pay the required fee. It is the agent's obligation to pay all vessel fees and taxes to MIRA before the vessel departs the Maldives. If a foreign tourist vessel's agent changes, the new agent must be registered as specified above within three days of the change.

Foreign tourist vessels must only cruise and berth in Maldivian territory with authorization from the Ministry of Tourism. This permission must be requested within 84 hours from the time the vessel receives inward clearance from the Maldives Customs Service. To obtain this permit, the "Application for Foreign Tourist Vessels to Cruise And Charter In The Maldives" form on the website of the Ministry of Tourism, together with the relevant documents, must be submitted to the Ministry.

If the vessel is larger than 20 meters, it can stay in the Maldives for more than 7 days from the date of inward clearance received by Maldives Custom Service, after paying a fee of USD 1,000 to MIRA for obtaining a cruising permit and after the agent is given the permit.

The permit for foreign tourist vessels is valid for 90 days from the date of inward clearance by the Maldives Customs Service. However, for the vessels registered with the International Maritime Organization, the duration could be extended to 365 days from the date the inward clearance is received.

Vessels with a cruising permit are required to pay a fee to the MIRA as mentioned below.

- USD 100 per day for vessels larger than 20 meters cruising and berthing in the territory of Maldives.
- Vessels of 20 meters or less can be cruise and berth in the territory of Maldives for up to 90 days. However, if the foreign vessel is registered with the International Maritime Organization, after 90 days, USD 50 must be paid for each day of extension.
- To extend the cruising and berthing period for a foreign tourist vessel after its initial 365-day period has passed, USD 3,500 in addition to the fees must be paid.

If foreign tourist vessels want to extend their permit, they must submit the "Form for Extension of Permit for Foreign Tourist Vessels" available on the Ministry's website, 7 days prior to the expiry of the permit, along with the agent's tax clearance report.

If a foreign tourist vessel wishes to accommodate persons other than its crew, owner and his/her family as passengers during the period of the permit, a charter license must be obtained in the name of the vessel's agent. To obtain this license, the "Application for Foreign Tourist Vessels to Cruise and Charter in The Maldives" and relevant documents must be submitted to the Ministry of Tourism. Furthermore, foreign tourist vessels arriving in Maldives must pay the required fees for obtaining a charter license as specified in Schedule 1 of The Foreign Tourist Vessels Regulation to MIRA.

Under this Regulation, the agent is required to maintain the records for the duration for each tourist vessel and report them to the Ministry of Tourism within 7 days from the date the vessel departs. The agent is also responsible for paying the vessel charter fee and Goods and Services Tax (GST) to MIRA.

This regulation is now available on MIRA's website.

# OECD pressed Australia to drop plan to reveal where multinationals pay tax

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Tax Justice Network, an advocacy group, estimated that multinationals shift more than \$1.1 trillion of profit into tax havens annually, which costs the world approximately \$312 billion per year in tax revenue. According to them, at least 1 of every 4 of this lost tax dollars could be saved if corporations were required to publish country-by-country reporting data.

The Australian Parliament was expected to pass a bill that would have compelled about 2500 highly profitable multinationals, including tech giant Meta, oil company BP, and insurance company AIA, to publicly disclose unprecedented details about their tax affairs such as how much of their revenues are reported in low-tax jurisdictions. However, the Australian government has announced that this planned country-by-country tax reporting regime, which speculatively could have been a significant step towards addressing the problem of corporate tax abuse, will be delayed for a year.

It has been alleged that heavy opposition from the OECD, an organization that has driven numerous efforts to combat tax avoidance by multinational enterprises, is one of the crucial reasons why the Australian government decided to pull back from the measure. The OECD has reportedly pressured Australia's ruling Labor government to water

down this law, resulting in genuine concerns and criticism towards the organization for lobbying its member country against a measure that may have significantly supported their own cause.

In response to the insinuations, the OECD stated that the bill would have undermined the organization's own efforts towards achieving greater transparency in reporting financial data by multinational companies.

The OECD brokered an international agreement in 2015, that obligates some multinationals to report country-by-country data to respective tax authorities. This agreement however, was signed by most countries on the basis that the information reported will not be shared to the public. Hence, if the country-by-country reporting regime planned by Australia were to come into effect, potential differences may be created between domestic policy and international reporting standards that are agreed by more than 140 countries and jurisdictions, including Australia.

In addition to the OECD, the bill was reportedly opposed by domestic and international businesses, trade groups, the Australian Financial Markets Association, and the Big Four accountancy firms.



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