

# **BANK PROFIT TAX REGULATION**

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## **Bank Profit Tax Regulation**

In pursuance of the powers conferred by Law No. 9/85 (the Law on Taxing Profits of Commercial Banks operating in Maldives), the Ministry of Finance and Treasury, for the purpose of implementing the said Law, hereby makes the following regulation.

### Short title and commencement.

1. This regulation shall be called the Bank Profit Tax Regulation and shall come into force with immediate effect and be applicable for the year of assessment, 2000 and thereafter.

### Definitions.

2. In this regulation:-

“authorised representative“ means a person authorised in writing to represent a bank.

“bank” means a commercial bank liable to tax on its profit under the Law No.9/85.

“Head of the Department of Inland Revenue”(Head, DIR for short) means the person appointed to be overall responsible for the administration of the Department of Inland Revenue and includes a person authorised by him to perform the functions of the Head, DIR.

“Law” means Law No. 9/85 (the Law on Taxing Profits of Commercial Banks operating in Maldives).

“Ministry” means the Ministry of Finance and Treasury and includes the, Department of Inland Revenue."

“Maldives Monetary Authority” means the Authority constituted under the Maldives Monetary Authority Act, 1981 (No. 6/81).

“provisional tax” means the tax due on the basis of the computation of taxable profit made by a bank

"tax” means the tax payable on the profits of a bank.

“taxable profit” means the profit computed in the manner prescribed in this regulation on which tax is payable.

“year of assessment” means a calendar year from January to December for which the taxable profit is calculated.

3. All other words and expressions used herein but not defined herein and defined in the Maldives Monetary Authority Act, 1981(NO.6/81) shall have the meanings respectively assigned to them in the said Act.

#### Submission of accounts and statement of taxable profit.

4. Every bank operating in Maldives shall furnish to the Department of Inland Revenue a copy of its duly audited as per Law No. 9/85 profit and loss account and balance sheet together with explanatory notes, a statement of operations, annual report, a statement of taxable profit and such other information as may be required in writing to be furnished for a year of assessment. The accounts and other information shall be furnished by the 30<sup>th</sup> June following the end of the year of assessment.
5. The Head, DIR is authorised to require a bank or any other person in writing to furnish within a reasonable time the accounts and other information as may be necessary to make an accurate assessment of taxable profit of that bank.

#### Payment of provisional tax.

6. Every bank shall pay the provisional tax due on the basis of its computation of taxable profit by 31<sup>st</sup> July following the end of a year of assessment without any request being made by the Head, DIR.

#### Maintenance and audit of accounts.

7. (1) Every bank shall keep and maintain such books of account and other documents as may enable the Head, DIR to compute the profit in accordance with the provisions of the Law and this regulation.  
  
(2) The balance sheet, profit and loss account and other financial statements shall be prepared in accordance with the generally accepted accounting principles applied consistently on a historical cost basis. Where appropriate, the policies shall be explained in the form of notes.
8. Accrual basis of accounting shall be followed in accounting for all transactions of the bank.

#### Computation of taxable profits.

9. The profits of a bank shall be liable to tax on accrual basis. An amount included in the profits on accrual basis shall not be included again when it is received. The computation of taxable profit from the year of assessment, 1998 and thereafter shall be in accordance with sub-clause (1) to (15) below. A statement of taxable profit shall be prepared for this purpose by a bank containing, inter alia, the adjustments required to be made to the profit as shown in the profit and loss account.

- (1) Interest on a credit facility or part thereof may not be recognised as income if the recovery of interest or the principal amount is in doubt provided that it is computed in accordance with the guidelines issued by the Maldives Monetary Authority or on any other reasonable basis followed consistently. The interest not recognised as income shall be transferred to the "Interest income in suspense account". It will be liable to tax in the year in which it is transferred to the credit of an income account or in which it is actually received whichever is earlier.
- (2) A bank incorporated outside the Republic of Maldives or its subsidiary shall not be allowed any deduction for any expenditure attributable to the management, control, supervision or a similar service provided by its controlling or head office.
- (3) A deduction on account of a specific provision for loan losses shall not exceed 5 percent of the loans and advances outstanding at the end of the year of assessment less the total amount of all deductions previously allowed on this account and which have not been deemed to be trading receipts under sub-clause (6).
- (4) A deduction shall be allowed for an amount representing a debt which has become bad and irrecoverable if it has been written off in the books of account and particulars thereof including the steps taken for its realisation, are furnished.
- (5) All sums recovered out of the amounts previously written off as bad debts and allowed as deduction shall be treated as the trading receipts of the year of assessment in which they are recovered.
- (6) If in a year of assessment, any amount of specific provision for loan losses is written back, that amount shall be treated as having been allowed as deduction and shall be deemed to be a trading receipt of the bank for that year of assessment.
- (7) If a bank permanently ceases to carry on business in Maldives, any provisions for loan losses outstanding as at the date of the cessation shall be deemed to be the trading receipts of the bank for that year of assessment. Provided that the amount deemed as trading receipts shall not exceed the total amount of all the deductions previously allowed on account of such provisions.
- (8) No deduction for an amount representing provision for possible losses on investments other than loans and advances shall be allowed. A bank may, however, value all such investments at the end of the year on the basis of their aggregate cost or market value, whichever is lower, and adjust the resultant deficiency or excess over their book value in the computation of taxable profit.
- (9) The assets and liabilities of a bank in foreign currencies shall be translated at the middle rate of exchange ruling on the date of the balance sheet. The

translation gains or losses shall be dealt with through the profit and loss account. Foreign exchange contracts shall, however, be valued at the forward market rates ruling on the date of the balance sheet. Unrealised losses may be dealt with through the profit and loss account whereas unrealised gains may be deferred and recognised as profit when realised provided that the computation of such unrealised losses and gains is furnished and the method of accounting is followed consistently.

(10) The effect of material events after the balance sheet date other than that permissible according to the accounting standards adopted for preparing the accounts and or acceptable to the Head DIR shall be disregarded.

(11) A deduction on account of donations shall be allowed only if the amount is paid to a registered body or an association or a public institution and is for the promotion of any object of general public utility such as sports, relief of the poor, medical relief or education. The permissible amount shall not exceed two percent of the taxable profit before deducting the amount of donations. The amount liable for deduction shall be;-

- (a) 100 percent if the donation is given to a body or association or public institution notified by the Head, DIR with the approval of the President of Maldives;
- (b) 50 percent in any other case.

(12) A bank shall be allowed deduction by way of depreciation on straight- line method on the capital expenditure incurred on an asset used for the purpose of its business at the following rates:-

<u>Name of the asset</u>	<u>Rate of depreciation</u>
1. Building or a structure (other than land)	5%
2. Furniture and fixtures	10%
3. Computers, and operating software	33 <sup>1</sup> / <sub>3</sub> %
4. Vessels	10%
5. Others	25%

For the purpose of computing depreciation on an asset, acquired on or before 31<sup>st</sup> December, 1997 its depreciated book value as at 31<sup>st</sup> December, 1997, shall ordinarily be accepted.

(13) If an asset is disposed of or discarded during a year for an amount which is less than the value of the asset to which it has been reduced by allowing depreciation earlier, such deficiency will be allowed as deduction in that year of assessment by way of a balancing allowance.

(14) If an asset is disposed of or discarded during a year for an amount which is more than the value of the asset to which it has been reduced by allowing depreciation earlier, such excess amount shall be brought to tax in that year

of assessment by way of balancing charge. In calculating the excess, the amount, if any, realised or determined to be over and above the original cost of the asset shall be ignored.

- (15) Any expenditure, other than that described in any of the sub- clauses of this clause, and not being in the nature of capital expenditure, which is incurred wholly and exclusively in earning the profit, shall be allowed as deduction in computing the taxable profit.

### Examination of accounts

10. If the final accounts and the statement of taxable profit for a year of assessment, duly audited, are found on examination to be complete and correct, the Head, DIR will accept them and the bank will be informed in writing.
11. If any more information is required, the Head, DIR or any other official authorised by him may call for the same. He may also require the bank to send its authorised representative to the Department of Inland Revenue at the specified date and time for a meeting to furnish the clarifications or to produce the accounting records that may be required.
12. Where the Head, DIR is of the opinion that in respect of any year of assessment, the taxable profit is reduced by any transaction or arrangement which in his opinion does not conform to the arm's length principle or is artificial or fictitious, he may disregard the same and compute the taxable profit in a reasonable and proper manner.
13. After examination of the information and other relevant material, the taxable profit shall be computed. They will be approved by the Head, DIR and, thereafter communicated to the bank with reasons for the variation. The bank shall pay, within 30 days of the date of the communication, the additional tax, after adjusting the provisional tax, if any, paid. If the provisional tax paid is more than the tax finally found due, the excess payment may be adjusted by the bank with the approval of the Head, DIR against any other liability under the Law.
14. If the desired information is not furnished or the accounting records are not produced or the final accounts are not audited, the Head, DIR may make the computation of taxable profits to the best of his judgement. Such computation together with reasons will be sent to the bank which will pay the additional tax within 30 days of the date of its communication.
15. The computation of taxable profit referred to in clause 12, 13 and 14 shall be sent not later than 2 years from the end of the year of assessment. For the year of assessment, 1997 and earlier years, it shall be sent not later than 31 December 1999.
16. The Head, DIR may make an additional computation of taxable profits within six years of the end of the relevant year of assessment, if the earlier computation has been below the proper amount due to any reason including the failure to furnish or

the furnishing of incorrect or incomplete accounts or other information by a bank.

Payment and recovery of tax.

17. If any tax, including the provisional tax, is not paid within the prescribed time, the bank shall pay interest of two percent for every month on the amount of such tax due subject to a maximum of fifty percent thereof.
18. The Head, DIR may accept the payment of tax in a maximum of six instalments under exceptional circumstances. The interest at the rate prescribed in clause 17 will be payable on the amount from the due date to the date of payment of each instalment.

Recovery of tax as civil debt.

19. Unpaid tax shall be recoverable as civil debt due to the Government through action taken in a court.

Authority to enforce.

20. This regulation shall be implemented and enforced, for and on behalf of the Ministry of Finance and Treasury by the Department of Inland Revenue.

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