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# MIRAPost

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## TRANSFER PRICING REGULATION

# GST regulation has been amended

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Twenty sixth amendment to the Goods and Services Tax Regulation (Regulation No. R/2011-43) has been published on gazette on 26 June 2020. Most significant amendment brought with this regulation is amendment brought for the purpose of Section 15(c) of the Act, on establishing value of a charter. With the recent changes, charter refers to the leasing of a tourist vessel for a particular voyage or voyages not exceeding a period of 15 days or for the lessee's own consumption. For the purpose of determining whether the 15-day period referred has been exceeded, the number of days in all leases entered into within any 60-day period, with the lessee or persons related to the lessee shall be aggregated together. If aforementioned conditions are not met, it cannot be deemed as a charter. As a result, the holder of the operating license of that vessel shall account

for GST on goods and services supplied by that vessel.

Another amendment brought with this regulation is not requiring to seek prior approval in deducting input tax in relation to bad debts. Previously, input tax in relation to irrecoverable debts can be deducted with a prior approval from Commissioner General and can only be deducted once it is approved.

Other changes includes, redefining 'goods and services exported from Maldives' in section 41 of the regulation, inclusion of additional clause (113-2) on use, transfer and sale of goods imported to Maldives and nullifying the requirement of having to return GST registration certificates after deregistering from GST.

Income Tax Act

## Charitable organisations

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Income derived by charitable organization approved by commissioner general is exempt from income tax. In addition, donation paid by a taxpayer to a charitable organization is deductible in the computation of the taxpayer's taxable income for the accounting period in which such donation was made.

For purpose of Income Tax, "Charitable organization" means any body, association or public institution which satisfies the following conditions:

- the body, association or public institution is established for the promotion of Islam, relief of the poor, medical relief or education or any other object of similar general public utility prescribed in the Regulation made pursuant to this Act; and
- the body, association or public institution is not run for the financial benefit of a specific person

"Body" and "association" refers to persons which are registered with the relevant Government authority under the Associations Act (Law Number 1/2003); or such persons

established in the Maldives pursuant to an Act of Parliament.

Charitable organizations that wish to be approved by the Commissioner General must submit a completed "Registration of Charitable Organizations" (MIRA 103) form together with the information and documents specified to MIRA. However, charitable organizations that are already in the list of charitable organizations approved by MIRA for the purposes of the Business Profit Tax Act (Law number 5/2011), is be deemed to be charitable organizations approved by the Commissioner General. Hence, they are not required to submit MIRA 103 form again.

List of charitable organisations approved by Commissioner General of Taxation can be accessed from MIRA website. Charitable organisations must submit an annual report and a statement of comprehensive income which shows the details of donations received during that year to MIRA in relation to every calendar year. This must be submitted by 30th June of the following year, in a format prescribed by MIRA.

# Transfer Pricing Regulation

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Transfer Pricing Regulation was gazetted on 10 June 2020 and became effective on the same date. The objective of this Regulation is to specify the rules to be followed with regard to documentation of related party transactions under Income Tax Act and establish the implementation policies and procedures.

## Transfer pricing

Transfer price is the price set between related parties for transactions involving a movable property, an immovable property, a loan or a service.<sup>1</sup> Under the section 67 of Income Tax Act (Law No. 25/2019) prices set for such transactions must be set at arm's length prices. Further, pursuant to section 68 of the Income Tax Act documentation should be maintained with regard to such arrangements and transactions. This is to ensure that taxpayers abide by arm's length terms in setting prices for transactions and arrangements and to collect data by tax administrations for risk assessment and auditing purpose.<sup>2</sup>

## Transfer Pricing Documentation

### 1. Master file

Master file include an overview of the business of the applicable entity's (entity who prepares transfer pricing documentations) group, the nature of its global business activities, overall transfer pricing policies and a summary of global allocation of income and economic activities in the accounting period in which the transaction takes place. This summary includes , organizational structure, essential information related to the business, description of the group's intangible assets, group's intercompany financial activities and group's financial and tax positions.

### 2. Local file

Local file contains detailed information on separate related party transactions. This includes, financial details of transactions, transaction specific advance pricing arrangements, tax rulings, multi-year comparability analysis, opted transfer pricing method and its basis, functional analysis, and reasons why applicable entity concluded that the transfer price is at arm's length.

The transfer pricing documentation required to be maintained under the regulation shall be prepared and finalized by the due

date for the submission of tax return for the accounting period to which the transaction or arrangement relates. However, these documents are not required to submit with tax return. These documents must be prepared either in Dhivehi or English and prepared date must be stated along with tax year to which it relates.

## Qualifying past transfer pricing documentation

Another important aspect of this regulation is relief granted to person who have prepared 'qualifying past transfer pricing documentation' with regard to transactions or arrangement subject to transfer pricing documentation requirements. If a previously prepared transfer pricing document meet conditions provided under section 3 and section 6 of the Regulation, the person would meet the documentation requirement under the Regulation by submitting a copy of 'qualifying past transfer pricing documentation along with the specified declaration.

## Exempt persons and transactions

A micro, small or medium enterprise categorized under the Law on Small and Medium Enterprises Act (Law number 6/2013), during the accounting period to which the transaction relates and past two preceding tax years, such enterprises are exempt from preparing transfer pricing documentations.

Loan transaction with a related party or parties will be exempt if all of the associated parties of the transaction is either incorporated, registered or carrying out a business in Maldives and the lender is not in the business of 'borrowing and lending' in the Maldives. In addition, loans transactions would be exempt if the loan amount does not exceed MVR 15 million by applying 'indicative margin' for the year which loan was issued and obtained. Exempt persons and transactions are specified in section 7 of the Regulation.

With introduction of master file and local file required under Transfer Pricing Regulation, and Country-by-Country Report required under Tax Administration Act, the transfer pricing documentation regime of the Maldives meets the 'three-tiered' standard formulated by OECD. This is an important step which will further enhance and strengthen Maldives tax system and would instill confidence in the system.

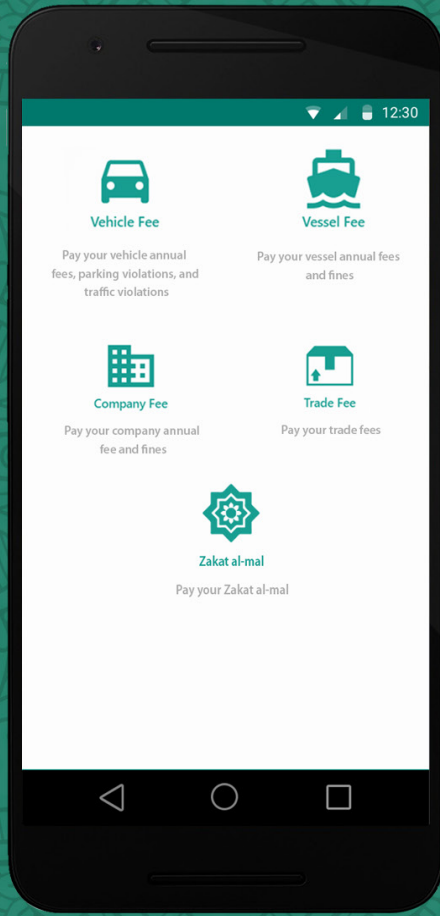
<sup>1</sup> OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations

<sup>2</sup> *ibid*



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