



Unofficial translation of the

FOURTH AMENDMENT TO THE TAX ADMINISTRATION REGULATION

2021/R-40

This Regulation was made pursuant to the authority granted to the Board of the Maldives Inland Revenue Authority by the Tax Administration Act (Law Number 3/2010) as amended, and was published in the Government Gazette on Monday the 15th of March 2021.

DISCLAIMER OF LIABILITY

This is the unofficial translation of the original Regulation in Dhivehi. In the event of conflict between this translation and the Dhivehi version of this Regulation, the latter shall prevail. Therefore, it is advised that both the Dhivehi version of this Regulation and this translation be read concurrently.

FOURTH AMENDMENT TO THE TAX ADMINISTRATION REGULATION

The Tax Administration Regulation (Regulation Number 2013/R-45) shall be amended as follows:

1. Amend Section 14(a)(9) of the aforementioned Regulation as follows:

14. (a) (9) Bills of Lading, Airway Bills, Customs Export Declarations, Customs Import Declarations and all documents relating to imports and exports;

2. Insert the following subsections after Section 14(a)(12) of the aforementioned Regulation:

14. (a) (12-1) Details of remuneration paid in monetary form;
- (12-2) Details of remuneration paid in non-monetary form;
- (12-3) Details of income derived as remuneration in monetary form;
- (12-4) Details of income derived as remuneration in non-monetary form;
- (12-5) Details of income derived from disposal of movable, immovable, intellectual or intangible property;

3. Insert the following Section as the first Section of Chapter 4 of the aforementioned Regulation:

Auditing

17-1. (a) Auditing of taxpayers' accounts and documents under Chapter 3 of the Act shall be carried out pursuant to the following rules, in accordance with the principles of risk-based tax auditing.

- (1) All audits shall be carried out in accordance with an audit plan containing the audit procedures, which is formulated after setting the audit procedures based on the scope of, and the risks identified for the audit.
- (2) Audits may be concluded based on the results arrived at based on selected samples as opposed to taking into account all transactions carried out by the taxpayer.
- (3) Where the result of all issues identified or number of issues identified, relating to one particular transaction or transactions of the same or similar nature, selected as samples pursuant to subsection (a)(2), is not material, and, the total number of issues identified or result of all issues identified, relating to all transactions taken into account is not material, the audit may be concluded without determining an amount of tax required to be paid for that particular period of audit.
- (4) Notwithstanding subsection (a)(3), where the net adjustment made in the audit to the amount declared by the taxpayer for the particular period is equal to or less than the amount of the "materiality threshold" set by MIRA, the audit may be concluded without determining an

amount of tax required to be paid for that particular period of audit.

- (b) This section shall not apply where a taxpayer has failed to submit a tax return for the period being audited.

4. Insert the following subsections after Section 23(a)(7) of the aforementioned Regulation:

- 23. (a) (8) Information contained in the bank statements, or other documents of the person, which show transactions made through banks;
- (9) Expenses paid for in cash by the person;
- (10) Expenses paid for in a form other than cash by the person;
- (11) Information with respect to all properties and monies owned by the person, and, information with respect to the business interests and all assets and liabilities of the person;
- (12) Cost of purchases of goods or cost of provision of services, and, the mark-up applied on the sale of those goods or provision of the services;
- (13) Income of other taxpayers of similar size and operating business in the same industry as that of the taxpayer;
- (14) Proportion of the cost of purchases and the cost of provision of services and profit margins of

taxpayers operating business in the same industry as that of the taxpayer;

- (15) Income statements and books of accounts of payer of remuneration.

5. Insert the following subsections after Section 23(b) of the aforementioned Regulation:

23. (b-1) The following information may be used for the purposes of subsections (a)(13) and (a)(14).

- (1) Information included in tax returns and other documents submitted to MIRA;

- (2) Information made available to the general public by State institutions;

- (3) Information provided to MIRA by State institutions;

- (4) Information made available to the general public by official bodies representing the respective industry.

(b-2) MIRA may use, for the purpose of determining the amount of tax payable under Section 39(a) of the Act, the following indirect income measurement methods or any other method, in order to indirectly determine or deduce the amount of income.

- (1) Source and application of funds method;

- (2) Bank deposits and cash expenditure method;
- (3) Mark-up method;
- (4) Unit and volume method;
- (5) Net worth method.

6. Amend Section 23(d) of the aforementioned Regulation as follows:

23. (d) Where MIRA makes a decision in respect of a period for which the taxpayer has filed a tax return, the return shall not be amended in such a way that it amends a decision of MIRA. The taxpayer may, however, in such cases, object to the decision of MIRA under Section 42 of the Act.

7. Amend Section 24 of the aforementioned Regulation as follows:

- Notice of Tax Assessment** 24. (a) Notice of a determination made by MIRA under Section 39(a) of the Act, issued in writing, in accordance with Section 39(b) of the Act to the assessee, shall be referred to in this Regulation as the "Notice of Tax Assessment".
- (b) For the purpose of Section 39(b)(3) of the Act, in disclosing the basis and details of MIRA's assessment, disclosing the information of a third party shall be subject to the confidentiality requirements set out in Section 15 of the Act.

8. Amend Section 35(a) of the aforementioned Regulation as follows:

35. (a) Where a taxpayer objects to a decision of the Commissioner General of Taxation or MIRA under Section 42 of the Act, the taxpayer shall submit to MIRA a “Notice of Objection” (MIRA 903) form, together with the information and documents specified therein, within 30 (thirty) days from the date of notification of the Commissioner General’s or MIRA’s decision.

9. Insert the following subsections after Section 35(b) of the aforementioned Regulation:

35. (b-1) Documents and evidence requested for in writing by MIRA and not submitted to MIRA by the date of issuance of Notice of Tax Assessment shall not be allowed to be presented in support of a notice of objection submitted by the taxpayer.
- (b-2) A tax return and other documents submitted by the taxpayer, and, the information declared and assessments made by the taxpayer in such return or documents shall not be deemed to be a decision of the Commissioner General of Taxation or MIRA.

10. Repeal Section 37 of the aforementioned Regulation:

- Matters that
cannot be
objected** 37. *(Repealed).*

11. Amend Chapter 8 of the aforementioned Regulation as follows:

CHAPTER 8: RECOVERY OF DUES

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| Undertaking actions for recovery of tax and tax related monies | 41. | Unless stipulated otherwise in any law, the Commissioner General of Taxation shall have the discretion to pursue an action or a combination of actions stated in the Act, separately or together, for the recovery of monies due to be paid under a tax law. |
| Request for payment of tax related monies on instalment basis | 42. | Notwithstanding the pursuit of actions under Section 41 of this Regulation, a person in default may request an arrangement with MIRA to pay the outstanding dues by way of instalments in a manner determined by MIRA. |
| Accumulation of fines and interest related to taxes | 43. | Notwithstanding the pursuit of actions in accordance with Section 41 of this Regulation or instalment arrangements made under Section 42 of this Regulation, the fines and interest charges applicable shall accrue up until full settlement of the outstanding dues. |
| Formulating policies for taking action against persons with tax and other tax related monies in default | 44. | Relevant policies formulated and published by MIRA shall be followed by MIRA in collecting outstanding dues under a tax law or in taking action against persons with tax and other tax related monies in default and in the disclosure of the identity of such persons or in the disclosure of information relating to skip tracing persons with outstanding dues under a tax law. |
| Undertaking actions for recovery of non-tax monies | 44-1. | MIRA shall have the discretion to pursue an action or a combination of actions specified in Section 50(g) of the Act, separately or together, for the recovery of non-tax monies due to be paid to MIRA. |

Disclosure of identity of persons with non-tax monies in default	44-2.	In disclosing the identities of persons with non-tax monies in default, MIRA shall apply the policies formulated and published under Section 44 of this Regulation.
Suspension of provision of services by State offices	44-3.	Where MIRA has notified a State office to suspend the provision of a service sought by a person with non-tax monies in default under Section 50(g)(3) of the Act, such office shall suspend the provision of all services related to such monies until notified otherwise by MIRA.
Request for payment of non-tax monies on instalment basis	44-4.	<p>(a) Notwithstanding the pursuit of actions under Section 50 of the Act, a person with non-tax monies in default may request an arrangement with MIRA to pay the outstanding dues by way of instalments in a manner determined by the respective office on whose behalf the monies are collected.</p> <p>(b) Subsection (a) shall be subject to Section 11.07-1 of the Public Finance Regulation (Regulation number 2017/R-20).</p>
Sharing of information of persons with non-tax monies in default with State offices	44-5.	<p>(a) MIRA may share the information of persons with non-tax monies in default with the following institutions;</p> <p>(1) Ministry of Finance;</p> <p>(2) The office on whose behalf monies are collected;</p> <p>(3) The Attorney General's Office.</p>

- (b) Information shall be shared with the offices specified in subsections (a)(2) and (a)(3) in accordance with a procedure mutually agreed by both MIRA and such respective office.

12. Insert the following subsection after Section 60(c) of the aforementioned Regulation:

- 60. (d) Notwithstanding anything to the contrary in this Section, the Commissioner General of Taxation may at his discretion determine not to accept cheques written for an amount less than a specified amount.

13. Amend Chapter 13 to be Chapter 15 of the aforementioned Regulation and insert a new Chapter after Section 64 of the aforementioned Regulation as follows:

CHAPTER 13: MUTUAL AGREEMENT PROCEDURE

**Request for
Mutual
Agreement
Procedure**

- 64-1. (a) Where it results or will result for the person in taxation not in accordance with the relevant provisions of the agreement entered into under Section 51 or 51-1 of the Act, such person to whom the agreement applies may request the competent authority in the Maldives for assistance under a mutual agreement procedure.
- (b) Subsection (a) shall only apply if the agreement entered into under Section 51 or 51-1 of the Act contains a provision which provides that the countries which are parties to the agreement may resolve such matters by means of a mutual agreement procedure.

- (c) Persons applying for settlement under a mutual agreement procedure shall submit a completed “Request for Mutual Agreement Procedure” (MIRA 921) form together with the information and documents specified therein.

Situations where access to mutual agreement procedure is granted

64-2. A mutual agreement procedure under Section 64-1 of this Regulation may be accessed as regards the following issues and cases.

- (a) Transfer pricing issues;
- (b) Juridical or economic double taxation;
- (c) Determination of country of residence;
- (d) Issues relating to attribution of profits to a permanent establishment.

Stages of mutual agreement procedure process

64-3. (a) The first stage of establishing a mutual agreement procedure shall include the following;

- (1) Presenting the case to MIRA;
- (2) Assessment by MIRA as to whether the case presented appears to be justified and well-founded;
- (3) Where possible, resolution of the case unilaterally without consulting another competent authority.

- (b) The second stage of mutual agreement procedure shall include resolving the case by mutual agreement with the competent authority of the other Contracting State(s), where the case cannot be resolved through the first stage of mutual agreement procedure.
- Obligation under a tax law cannot be held in abeyance** 64-4. (a) The request for a mutual agreement procedure shall not exempt a person from adherence to obligations of the person under any tax law.
- (b) Where at the conclusion of mutual agreement procedure it is determined that a person has paid tax in excess to MIRA, such excess amount shall be refunded to that person pursuant to the relevant tax laws.
- Withdrawal of mutual agreement procedure request** 64-5. Where a person wishes to withdraw from the mutual agreement procedure process requested for under this Chapter, such that shall be notified to MIRA, in writing.
- Restriction of access to mutual agreement procedure** 64-6. A person shall not have access to a mutual agreement procedure where a final judgement has been issued by the Tax Appeal Tribunal or a court of law in the Maldives as regards the matter in dispute.

CHAPTER 14: AUTOMATIC EXCHANGE OF INFORMATION (AEOI)

- Definitions** 64-7. For the purpose of this Chapter and the Common Reporting Standard, the following terms and phrases shall have the following meanings:

- (a) The term “Reporting Financial Institution” means any Financial Institution of the Maldives that is not a Non- Reporting Financial Institution.

- (b) The term “Financial Institution of the Maldives” means,
 - (1) any Financial Institution that is resident in the Maldives, but excludes any branch of that Financial Institution that is located outside the Maldives; and

 - (2) any branch of a Financial Institution that is not resident in the Maldives, if that branch is located in the Maldives.

- (c) The term “Financial Institution” means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.

- (d) The term “Custodial Institution” means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity’s gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20% of the Entity’s gross income during the shorter of:
 - (1) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or

- (2) the period during which the Entity has been in existence.

- (e) The term “Depository Institution” means any Entity that accepts deposits in the ordinary course of a banking or similar business.

- (f) The term “Investment Entity” means any Entity:
 - (1) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - (i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - (ii) individual and collective portfolio management; or
 - (iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or
 - (2) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subsection f(1) of this section.

- (g) Subsections (f)(1) and (f)(2) shall apply if the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income during the shorter of:
- (1) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or
 - (2) the period during which the Entity has been in existence.
- (h) The term "Financial Asset" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property.
- (i) The term "Specified Insurance Company" means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.
- (j) The term "Non-Reporting Financial Institution" means any Financial Institution that is:

- (1) a Governmental Entity, International Organization or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
 - (2) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organization or Central Bank; or a Qualified Credit Card Issuer;
 - (3) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subsections (j)(1) and (j)(2), and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;
 - (4) an Exempt Collective Investment Vehicle; or
 - (5) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to this Regulation with respect to all Reportable Accounts of the trust.
- (k) The term “Pre-existing Account” means a Financial Account maintained by a Reporting Financial Institution as of 31 December 2020.

- (l) The term “New Account” means a Financial Account maintained by a Reporting Financial Institution opened on or after 1 January 2021.
- (m) The term “Pre-existing Individual Account” means a Pre-existing Account held by one or more individuals.
- (n) The term “Lower Value Account” means a Pre-existing Individual Account with an aggregate balance or value as of 31 December 2020 that does not exceed USD 1,000,000 (One Million United States Dollars).
- (o) The term “High Value Account” means a Pre-existing Individual Account with an aggregate balance or value that exceeds USD 1,000,000 (One Million United States Dollars) as of 31 December 2020 or 31 December of any subsequent year.
- (p) Unless otherwise defined under this Chapter, all the terms and phrases specified in this chapter shall be defined as accordance with the provisions of the Common Reporting Standard referred to in section 64-8 of this Regulation.

Common Reporting Standard

- 64-8. (a) The Common Reporting Standard, for the purposes of Section 51-2 of the Act, shall mean the Common Reporting Standard specified in Chapter B of the “Standard for Automatic Exchange of Financial Account Information in Tax Matters (Second Edition)” published by the OECD.
- (b) Financial Institutions which are subject to this Chapter shall be responsible for the submission of information and maintenance of records and carrying out of due diligence requirements, all in compliance

with the procedures set out in the Common Reporting Standard referred to in subsection (a) of this Section.

**Pre-existing
accounts**

64-9. (a) If a Pre-existing Individual Account is not a High Value Account as of 31 December 2020, but becomes a High Value Account as of the last day of a subsequent calendar year, the Reporting Financial Institution must complete the enhanced review procedures described in the Common Reporting Standard with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person.

(b) For the purpose of the Common Reporting Standard;

(1) Review of Pre-existing Individual Accounts must be completed by 31 December 2021.

(2) Review of Pre-existing Entity Accounts with an aggregate account balance or value that exceeds USD 250,000 (Two Hundred and Fifty Thousand United States Dollars) as of 31 December 2020 must be completed by 31 December 2021.

(3) Review of Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed USD 250,000 (Two Hundred and Fifty Thousand United States Dollars) as of 31 December 2020, but exceeds USD 250,000 (Two

Hundred and Fifty Thousand United States Dollars) as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250,000 (Two Hundred and Fifty Thousand United States Dollars).

- Application to register** 64-10. (a) Where any person is a “Reporting Financial Institution” at the date of effect of the Fourth amendment to the Tax Administration Regulation (Regulation no 2013/R-45), such person shall apply for registration with MIRA under this Section within a period of not more than 90 (Ninety) days from the date of effect of the Fourth amendment to the Tax Administration Regulation (Regulation no 2013/R-45).
- (b) Where any person becomes a “Reporting Financial Institution” after the date of effect of the Fourth amendment to the Tax Administration Regulation (Regulation no 2013/R-45), such person shall apply for registration with MIRA under this Section within a period of not more than 90 (Ninety) days from the date of such determination.
- (c) Persons applying for registration under this Section shall submit a completed “Registration of Financial Institutions” (MIRA 119) form together with the information and documents specified therein.
- Common Reporting Standard Report** 64-11. (a) Persons required to submit information for every calendar year under the Common Reporting Standard shall submit a completed Common Reporting Standard Report (MIRA 922) form consisting of the information specified therein before 31st July of the subsequent year.

- (b) The first reportable calendar year, for the purposes of this Chapter, shall be the year 2021.

Penalties for failure to submit information

64-12. Penalties as regards failure to submit information under Section 51-3 of the Act in compliance with the provisions of the Common Reporting Standard, shall be determined under Section 65 of the Act.

14. Insert the following section after Section 75 of the aforementioned Regulation:

Information on beneficial ownership

75-1. (a) MIRA may obtain the information of beneficial ownership in the following circumstances;

- (1) For the purposes of a request sought under an agreement entered into pursuant to Section 51 or 51-1 of the Act;
- (2) For the implementation of benefits and concessions granted under an agreement entered into under Section 51 of the Act;
- (3) For the purposes of an audit or investigation carried out by MIRA;
- (4) For the purpose of assessing international tax compliance risks.

(b) The information on beneficial ownership obtained under subsection (a)(1) shall only be shared or exchanged in accordance with the provisions of such agreement.

(c) Notwithstanding anything to the contrary in this Section, a person who is resident in the other

Contracting State, shall only be eligible for the benefits and concessions applicable under the agreement entered into under Section 51 of the Act, if the beneficial owners of such person are also resident in that other Contracting State.

Amending tax rulings 75-2. Tax Ruling Number TR-2015/A2 (Submission of documents during the process of an objection review) shall be repealed from the date of effect of the Fourth amendment to the Tax Administration Regulation (Regulation no 2013/R-45).

15. This Regulation shall have effect from the date of its publication in the Government Gazette.