



**Consolidated Version**  
**31 January 2013**

*Unofficial translation of the*

## **BUSINESS PROFIT TAX REGULATION 2011/R-35**

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*This document consolidates the following:*

- 1. Business Profit Tax Regulation (Regulation Number 2011/R-35), formulated under the Business Profit Tax Act (Law Number 5/2011) and published in the Government Gazette on Thursday the 18<sup>th</sup> of August 2011 (18 Ramadan 1432).*
- 2. First Amendment to the Business Profit Tax Regulation (Regulation Number 2011/R-47), published in the Government Gazette on Monday the 14<sup>th</sup> of November 2011 (18 Zul-Hijjah 1432).*
- 3. Tax ruling number TR-2012/B6 (Business Profit Tax: Valuation of assets at commencement date), issued on Sunday the 22<sup>nd</sup> of April 2012.*
- 4. Tax ruling number TR-2012/B11 (Business Profit Tax: Third amendment to the Business Profit Tax Regulation), issued on Thursday the 7<sup>th</sup> of June 2012.*
- 5. Tax ruling number TR-2013/B27 (Business Profit Tax: Fourth amendment to the Business Profit Tax Regulation), issued on Thursday the 31<sup>st</sup> of January 2013.*

### **DISCLAIMER OF LIABILITY**

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

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# BUSINESS PROFIT TAX REGULATION

## 1. Introduction and citation

- (a) This Regulation was made pursuant to the authority granted to the Maldives Inland Revenue Authority by the Business Profit Tax Act (Law Number 5/2011).
- (b) This Regulation shall be cited as the “Business Profit Tax Regulation”.

## 2. Objective

The objective of this Regulation is to establish policies and procedures with regard to the imposition of Business Profit Tax in the Maldives.

## CHAPTER 1: ACCOUNTING REQUIREMENTS

### 3. Definitions

- (a) For the purpose of this Chapter, “accounting records” include:
  - (1) records of daily income and expenditure, purchase and sale of goods and services, capital assets, liabilities and other obligations;
  - (2) vouchers, invoices, receipts, bank statements, all written communication, and other documents that are necessary for the verification of the entries in the books of accounts;
  - (3) in the case of an agent, records of transactions carried out on behalf of his principal;
  - (4) documents held in manual, mechanical or electronic form.
- (b) For the purpose of this Chapter, “agent” in relation to a principal includes any Person in the Maldives:
  - (1) who is employed by or otherwise engaged on behalf of the principal;
  - (2) who is the attorney, factor, receiver, trustee or manager of the principal;
  - (3) through whom the principal is in receipt of any profits or income.

### 4. Preparation of accounts

All Persons within the charge to tax shall prepare accounts in accordance with this Regulation.

## **5. Beginning of accounting period**

- (a) Unless otherwise authorized by the MIRA, a Person's accounting period shall begin when his previous accounting period ends while he continues to be within the charge to tax.
- (b) The accounting period of an individual is the period from 1 January until 31 December in any year.

## **6. End of accounting period**

- (a) A Person's accounting period shall end on the occurrence of the earlier of the following:
  - (1) the expiration of 12 (twelve) months from the beginning of the accounting period; or
  - (2) when the Person ceases to be within the charge to tax under the Act.
- (b) Notwithstanding subsection (a), for the purpose of the Act and this Regulation, a Person other than an individual shall end his first accounting period on either of the following dates:
  - (1) 31<sup>st</sup> December of the year of commencement of business;
  - (2) the last day of the month preceding the month in which the first anniversary of commencement of business falls.

## **7. Change of accounting period**

A Person's accounting period shall not be changed without written consent of the MIRA, except on cessation of business.

## **8. Accounting standards**

- (a) Any Person who is resident in the Maldives carrying on more than one business shall prepare one set of accounts for all those businesses.
- (b) Any Person required to prepare accounts in respect of any permanent establishment shall prepare accounts relating only to the business carried on by or through that establishment. And if that Person carries on business through more than one permanent establishment situated in the Maldives, he shall prepare accounts relating to all those establishments taken together, and such accounts shall be drawn up as if the businesses were a single entity.

- (c) Accounts required to be prepared under Section 4 of this Regulation shall be prepared in accordance with IFRS or any other international accounting standards acceptable to the MIRA, using the accrual basis of financial accounting.
- (d) Notwithstanding subsection (c), if the annual total turnover of a Person does not exceed MVR 5,000,000 (Five Million Rufiyaa), that Person may elect to prepare accounts on the cash basis.

## **9. Cash basis**

- (a) Where a Person elects to prepare accounts on cash basis under Section 8(d) of this Regulation in the computation of his taxable profits, income shall be cash received in that year and expenditure shall be cash paid in that year.
- (b) Notwithstanding subsection (a), capital expenditure shall be treated in accordance with Chapter Four of this Regulation, subject to the following:
  - (1) Where expenditure on the acquisition of an asset, together with like assets acquired at the same time as the asset, does not exceed MVR 50,000 (Fifty Thousand) a Person may deduct the expenditure in full in the accounting period in which it is incurred.
  - (2) Section 43(b) of this Regulation shall not apply to a Person within this Section.
- (c) The MIRA may by notice require any Person preparing accounts on cash basis to submit accounts prepared in accordance with IFRS or any other international accounting standards acceptable to the MIRA.

## **10. Change of accounting standards**

Unless otherwise authorized by the MIRA, the accounting standards adopted under Section 8(c) of this Regulation in preparing accounts shall not be changed from year to year.

## **11. Winding up of company**

- (a) Notwithstanding Sections 5 and 6 of this Regulation, where a company is being wound up, an accounting period shall end and a new one shall begin with the commencement of the winding up and the latter accounting period shall end on the earlier of the completion of the winding up or the expiration of 12 (twelve) months from its beginning.
- (b) For the purpose of subsection (a), a winding up is to be taken to commence on:
  - (1) the passing by the Board of Directors of a resolution for the winding up of the company; or

- (2) the issue of an order from a court to wind up a company; or
- (3) the making of the decision to wind up a company under the Companies Act (Law Number 10/96) or any other law.

## **12. Requirements to submit consolidated accounts**

- (a) A Person that is a holding company shall, together with that Person's tax return, submit consolidated accounts for an accounting period to the MIRA for all companies in the group of companies of which it is the holding company, and those consolidated accounts shall be prepared in accordance with the accounting standards adopted under Section 8(c) of this Regulation.
- (b) For the purpose of Section 7(e) of the Act and subsection (a):
  - (1) A company shall be considered a subsidiary, where the accounting standards adopted under Section 8(c) of this Regulation determine that such company is a subsidiary of a holding company.
  - (2) A group of companies comprises a holding company and all of its subsidiary companies.
- (c) Each company in a group of companies shall submit separate financial statements and a separate tax return even if consolidated accounts are prepared under this Section.

## **13. Submission of financial statements**

- (a) The financial statements of a Person shall be submitted together with his tax return, unless the MIRA has exempted that Person from this requirement.
- (b) An exemption under subsection (a) may be granted to one or more Persons.

## **14. Appointment of auditors**

A Person shall, if required to do so by the MIRA for any tax year, appoint an auditor registered with the MIRA, and such Person shall submit the auditor's report together with the financial statements submitted in accordance with Section 13 of this Regulation.

## **15. *[Repealed.]***



## 16. Maintaining accounting records

- (a) Persons required by this Regulation to prepare accounts shall maintain clear and sufficient accounting records that enable the Person's taxable profits to be readily ascertained by the MIRA. Such records shall be maintained in Rufiyaa or United States Dollar or the functional currency of that Person.
- (b) A Person's functional currency shall be determined by applying the principles in International Accounting Standard 21 (The Effects of Changes in Foreign Exchange Rates).
- (c) Transactions in currencies other than the functional currency of the Person shall be recorded by applying the principles in International Accounting Standard 21 (The Effects of Changes in Foreign Exchange Rates), using a rate within  $\pm 2\%$  (plus or minus two per cent) of the rate published by the Maldives Monetary Authority, pertaining to the relevant date.
- (d) The source of the foreign exchange rates adopted by a registered person must be used throughout.
- (e) For the purpose of this Regulation, if the Maldives Monetary Authority has not published a rate for a given date, the reference rate for that date shall be the last published rate prior to that date.
- (f) The accounting records shall be maintained either in Dhivehi or English language.
- (g) Accounting records may be maintained in electronic form only if:
  - (1) the records can be readily printed on paper if required by the MIRA; and
  - (2) the records can be readily retrieved and viewed to allow the MIRA to ascertain the amount of tax payable by that Person; and
  - (3) where the records are transferred from one format to another, the duplicate of the records can be confirmed to be identical to the original records; and
  - (4) it is secure from alteration by unauthorized parties; and
  - (5) an audit log report of all such records can be generated.
- (h) A Person who conducts business via the internet shall maintain records of all internet transactions.
- (i) A Person's accounting system and program documentation shall be produced to the MIRA if the Person is requested to do so.
- (j) The accounting records required to be maintained under this Regulation shall be kept at the principal place of business in the Maldives of that Person, readily accessible upon request from the MIRA, and shall be retained for a period of 5 (five) years from the end of the accounting period to which the record relates.

- (k) A Person may dispose of his accounting records before the end of the period referred to in subsection (j) only on written consent of the MIRA.
- (l) Notwithstanding subsection (j), the Commissioner General may at his discretion notify any Person to retain records for a period of more than 5 (five) years for the purpose of an on-going or pending audit or investigation.

## **CHAPTER 2: TAX RETURNS AND PAYMENTS**

### **17. Exemption from filing tax return**

- (a) Any Person who is required to register under the Tax Administration Act (Law Number 3/2010), excluding companies, partnerships and other Persons required to prepare financial accounts under any law, shall be exempted from submitting a tax return for an accounting period if the gross income of that Person for that period does not exceed MVR 750,000 (Seven Hundred and Fifty Thousand Rufiyaa).
- (b) Notwithstanding subsection (a), where the taxable profit of that Person for that year exceeds MVR 500,000 (Five Hundred Thousand Rufiyaa), that Person shall submit a tax return for that year.

### **18. Amending tax returns**

Where a Person submits an “amended tax return” to the MIRA in relation to a tax return filed by that Person, such return shall be considered as the “notice” specified in Section 19(a) of the Act.

### **19. Estimating the amount of tax**

- (a) An interim payment of tax required to be made for the first tax year shall be computed in accordance with Chapter 9 of this Regulation.
- (b) Where a Person fails to comply with Section 23 of the Act and subsection (a), Sections 23(h) and 33 of the Act shall apply to such Person.

### **20. Preparation of tax return and payment of tax**

- (a) The tax return of a Person shall be prepared in the presentation currency of that Person.
- (b) Tax payable by a Person whose presentation currency is Rufiyaa, shall be paid in Rufiyaa.

- (c) Tax payable by a Person whose presentation currency is United States Dollar, may be paid in Rufiyaa or United States Dollar. Where such Person elects to pay tax in Rufiyaa, the amount of tax shall be converted to Rufiyaa by using the weekly average rate published by the MIRA on the date of payment.

## CHAPTER 3: DEDUCTIONS

### 21. Irrecoverable debts

For the purpose of Section 10(d)(7) of the Act, a Person is allowed a deduction for the whole or part of any debt that has become irrecoverable in respect of a particular transaction when:

- (a) a court issues a judgment that the whole or part of the debt is irrecoverable;
- (b) the debtor's business has been liquidated or adjudged bankrupt;
- (c) the debt is written off as irrecoverable in accordance with the accounting standards adopted by that Person under Section 8(c) of this Regulation.

### 22. Leased assets

- (a) Subject to Section 11(a)(4) of the Act and Section 66 of this Regulation, a Person is entitled to a deduction for lease rent payments with respect to premises used for business purposes.
- (b) Notwithstanding Section 8 of this Regulation, for the purpose of the Act and this Regulation, where a lessor is not resident in the Maldives, any payment made by a lessee to the lessor in accordance with any lease agreement shall be deemed to be rent paid under an operating lease.

### 23. Zakat al-mal

Payments made as *zakat al-mal* may be deducted in calculating a Person's taxable profits provided that the Person possesses a receipt that states that the *zakat* was paid to the relevant government authority.

### 24. Head office

In relation to a permanent establishment situated in the Maldives, or in relation to any other Person, "head office" means:

- (a) the head office of the Person that owns the permanent establishment; or

- (b) any other permanent establishment of the Person that is situated outside the Maldives; or
- (c) any other Person associated with the Person.

## **25. Head office expenses**

- (a) For the purpose of Section 10(d)(3) of the Act, “head office expenses” includes expenditure on consultants, research and development, data processing, the right to use intangible or intellectual property, general administration costs and other such expenditure incurred by the permanent establishment’s head office which relates to the permanent establishment in the Maldives, whether directly or indirectly.
- (b) The amount of head office expenses within subsection (a) is the amount determined in accordance with Section 29 of the Act.

## **26. Restrictions on deductions of head office expenses**

No amount may be deducted under Section 10(d)(3) of the Act in computing the taxable profits of a permanent establishment in respect of head office expenses where the only functions exercised by the head office in relation to the permanent establishment were supervisory in nature, and Sections 28 and 29 of this Regulation shall have effect subject to this Section.

## **27. Direct head office expenses**

An amount of expenditure that can be separately identified as having been incurred by the head office of a permanent establishment wholly and exclusively for the purpose of production of gross income of the permanent establishment may be allowed as a deduction in computing the taxable profits of the permanent establishment.

## **28. Indirect head office expenses**

An amount of expenditure that cannot be separately identified as having been incurred by the head office of a permanent establishment wholly and exclusively for the purpose of production of gross income of the permanent establishment may be allowed as a deduction in computing the taxable profits of the permanent establishment if the portion of the total amount of that expenditure which is allocated to the permanent establishment is calculated on a fair and reasonable basis which is commensurate with the benefits of the expenditure received by the permanent establishment, and is acceptable to the MIRA.

### **29. Maximum deduction allowed as head office expenses**

The maximum aggregate amount deductible under both Section 27 and Section 28 of this Regulation in the calculation of the taxable profits of a permanent establishment shall be the lesser of:

- (a) the amount determined in accordance with the accounting standards adopted by that Person; or
- (b) 3 per cent of the gross income from trading operations of the permanent establishment for that accounting period.

### **30. Employee welfare expenses**

(a) For the purpose of Section 10(d)(4) of the Act, the following expenditure incurred by a Person on the welfare of employees may be deducted in computing his taxable profits:

- (1) Expenditure towards an employee who is incapacitated on medical grounds; or
- (2) Expenditure towards the surviving spouse or minors below 18 years of age of a deceased employee; or
- (3) Expenditure towards a fund established for the benefit of the Person's employees, which fully secures the rights of the employees to receive medical and other welfare support; or
- (4) Expenditure towards the promotion of general employee welfare, without discrimination amongst the employees.

(b) Deductions in respect of expenditure specified under subsection (3) shall only be allowed if the expenditure is towards a fund approved by the MIRA.

### **31. Donations**

(a) For the purpose of Section 10(e) of the Act, subject to subsection (b), a deduction shall be allowed for cash donations made to a Person approved by the MIRA and for the cost of assets donated within 12 (twelve) months of acquisition of the asset.

(b) A deductions under subsection (a) shall be allowed only in respect of donations for which a receipt or a document of the recipient exist.

### **32. Pension expenses**

For the purpose of Section 10(d)(5) of the Act, a deduction in respect of pension expenses shall be allowed:

- (a) for the contribution made under the Maldives Pension Act (Law Number 8/2009);  
and
- (b) if the Person possesses a receipt from the relevant government authority that states the amount of the pension contribution that has been made.

### **33. Valuation of non-monetary benefits**

For the purpose of Sections 11(c), 11(d) and 43(a) of the Act, non-monetary benefits provided as non-cash remuneration shall be valued at the open market value of such benefits.

### **34. Reimbursed expenses**

The amount of any deduction for expenditure incurred by a Person shall be reduced by the amount of any reimbursement of the whole or part of that expenditure.

### **35. Maximum deduction**

The total of all deductions allowed for any amount of expenditure shall not exceed the total amount of such expenditure incurred by a Person.

### **36. Meaning of “fine”**

For the purpose of Section 11(a)(6) of the Act, “fine” refers to any fine imposed by a government institution, regulatory authority, court, tribunal, or any other body with statutory authority in the Maldives or any other country to levy a fine.

### **37. Loss sharing**

- (a) Where, in calculating the taxable profits for any year, a loss has been incurred by a company in a group of companies, an amount equal to the amount of such loss may be deducted in the computation of taxable profits of other companies in that group of companies.
- (b) A loss may be deducted under subsection (a) only by a holding company that owns 99 per cent of the company which incurred the loss, or by another subsidiary company 99 per cent of which is held by that holding company.
- (c) The total amount deducted as loss from the profit of companies in that group of companies under subsection (a) shall not exceed the total amount of loss incurred by the loss-making company.
- (d) The provisions of this section shall apply only if:

- (1) both companies are Maldives incorporated companies belonging to the same group of companies; and
- (2) both companies have the same accounting period; and
- (3) in the case of a holding company sharing the loss incurred by a subsidiary company and vice versa, the holding company held 99 per cent of the subsidiary company for more than half of the accounting period or, in the case of a subsidiary company sharing the loss incurred by another subsidiary company, the holding company held 99 per cent of both the subsidiary companies for more than half of the accounting period.

## **CHAPTER 4: CAPITAL ALLOWANCES**

### **38. In relation to capital allowance**

For the purpose of this Chapter:

- (a) “capital allowance” means an allowance allowed in relation to a capital expenditure stated in Section 11(a)(2) of the Act;
- (b) “balancing allowance” means a deduction allowed in the computation of taxable profits in accordance with Section 52(b) of this Regulation;
- (c) “balancing charge” means an amount included in the computation of a Person’s taxable profits in accordance with Section 52(c) of this Regulation;
- (d) “written-down value” means the lesser of the amount of expenditure incurred on the acquisition of a capital asset or the value of an asset at the commencement date of the Act (calculated in accordance with Section 46 of this Regulation), reduced by the aggregate amount of all capital allowances claimed as deductions in the calculation of a Person’s taxable profits in previous accounting periods;
- (e) “disposal value” means the amount calculated in accordance with Section 53 of this Regulation upon the occurrence of a relevant event specified in subsection (h);
- (f) “building” refers to buildings, jetties, slipways, roads and other such permanent structures;
- (g) “aircraft” refers to airplanes, helicopters, sea planes, and other means of transportation that use aerodynamics as the primary means of propulsion;
- (h) “relevant event” refers to any of the following events:
  - (1) disposal of a capital asset;
  - (2) the owner of a capital asset permanently loses possession of it;
  - (3) a capital asset ceases to exist as a result of destruction or otherwise;

- (4) the Person ceases to use the capital asset, or the business in which the asset is used is permanently discontinued or wound up;
- (5) the Person that owns the asset ceases to be within the charge to tax with respect to the business in which the asset is used;
- (6) sale of, or the granting of the right to use, whole or part of an intangible asset, to another Person.

### **39. Valuation of capital expenditure**

Where an amount of capital expenditure which qualifies for capital allowance under this Chapter exceeds the amount it would have been if it had been incurred in the open market, the amount of such expenditure shall be deemed to be its open market value.

### **40. Open market value of capital assets**

For the purpose of this Chapter, subject to the provisions of this Regulation, the open market value of a capital asset at the time it was first used shall be taken to be the expenditure on the acquisition of the asset, where:

- (a) a Person carrying on a business claims a capital allowance in relation to the expenditure on the acquisition of an asset which was incurred before the beginning of his accounting period;
- (b) the open market value of the asset at the time it was first used is less than the expenditure incurred on its acquisition by that Person.

### **41. Use of a capital asset for part of an accounting period**

A capital allowance shall be allowed for a capital asset in the period of its acquisition only if the asset is used for more than half of that accounting period, that is if it is used for at least 183 days in a full accounting period.

### **42. Use of a capital asset for purposes other than business**

Where a Person carrying on a business claims a capital allowance in respect of a capital asset which is used partly for purposes other than business, the amount of allowance shall be apportioned based on the extent to which the asset is used for a business purpose.

### **43. Deduction for cost of low-value assets**

- (a) Notwithstanding anything to the contrary in this Chapter, where expenditure on the acquisition of a capital asset, together with like assets acquired at the same time as



the asset, does not exceed MVR 5,000 (Five Thousand Rufiyaa) a Person may deduct the expenditure in full in the accounting period in which it is incurred.

- (b) The aggregate of the expenditure in any accounting period which is deducted under this Section shall not exceed MVR 100,000 (One Hundred Thousand Rufiyaa).

#### **44. Capital allowance allowed to a Person other than the owner**

A capital allowance shall be allowed in respect of an asset to a Person other than the owner of the asset if the accounting standards adopted by the Person allow depreciation to be claimed by that Person.

#### **45. Expenditure accounted for only once**

For the purpose of this Chapter, the same expenditure shall not be taken into account in relation to more than one business nor under more than one category of allowance.

#### **46. Valuation of capital assets held at commencement date**

- (a) The value of a capital asset held by a Person at the commencement date of the Act shall be determined by writing down the cost price of the asset for each year of use (or part thereof) from the date of acquisition of the asset until the commencement date, by applying the relevant rate of capital allowance specified in Section 50 of this Regulation to the cost price of the asset.
- (b) An amount by which the cost price is written down in accordance with subsection (a) shall not constitute a capital allowance for the purposes of the Act.
- (c) For the purpose of subsection (a), where the cost price of the asset is unknown, a reasonable estimate of the cost price shall be made.
- (d) For the purpose of subsection (a), where the duration of use of the asset is unknown, a reasonable estimate of the duration of use shall be made.
- (e) A Person's estimation of the cost price or useful life of an asset, referred to in subsections (c) and (d), shall be subject to review at the discretion of the MIRA.

#### **47. Capital allowance for assets held at commencement date**

A capital allowance applicable to an asset held by a Person at the commencement date shall be calculated by applying the relevant percentage rate specified in Section 50 of this Regulation to the cost price of the asset.

#### 48. Commencement date where financial statements are prepared for a full year

Persons who follow the method prescribed in Section 78(c)(2) of this Regulation in calculating their final payments of tax, may apply Section 46 of this Regulation by assuming that the commencement date is the start date of their accounting period.

#### 49. General provisions on capital allowances

- (a) Any capital allowance in respect of a capital asset for any accounting period shall be treated as an expense of the business in that period.
- (b) An allowance claimed by any Person under this Chapter for an accounting period shall be made in that Person's tax return for the tax year in which that period ends.
- (c) Where the accounting period of a Person is less than 12 months, a capital allowance allowed under this Regulation shall be deducted in proportion to the duration of the accounting period.
- (d) A capital allowance or the aggregate amount of capital allowances claimed under this Chapter in respect of any capital expenditure shall not exceed the amount of that expenditure.
- (e) No further capital allowance in respect of an asset shall be allowed as a deduction in calculating a Person's taxable profits once the asset's written-down value reaches zero.

#### 50. Rates of capital allowance

A capital allowance under this Chapter shall be computed and deducted in calculating the taxable profits by applying to the cost price of the asset the percentage rate given in the table that corresponds to the class of asset in which the asset falls.

Class of Asset	Rate (%)
Buildings	4
Aircraft	7
Wooden marine vessels	7
Other marine vessels	5
Furniture and fittings	10
Motor vehicles	20
Earth moving vehicles	5
Plant and equipment (excluding office equipment)	10

Office equipment	20
Computer software	33 $\frac{1}{3}$
Crockery, cutlery, utensils, linen, loose tools	33 $\frac{1}{3}$
Other assets	10

### 51. Allowance for intangible assets

- (a) Where a Person carrying on a business incurs expenditure on the acquisition of an intangible asset in an accounting period, a capital allowance shall be deducted in computing that Person's taxable profits for that period equal to:

$E/A$

where E = the expenditure

A = the useful life of the asset, estimated by the Person, expressed in years.

- (b) The Person's estimation of the useful life of the asset, referred to in subsection (a) shall be subject to review at the discretion of the MIRA.
- (c) For the purpose of subsection (a), goodwill shall not be considered as an intangible asset.

### 52. Balancing allowance and balancing charge

- (a) This Section applies where, during an accounting period, a relevant event referred to in Section 38(h) of this Regulation occurs in relation to a capital asset in respect of which a capital allowance has been allowed under this Chapter.
- (b) Where subsection (a) applies, and the disposal value of the asset is zero or lower than the written down value of the asset, the excess of the written-down value over the disposal value may be deducted as a balancing allowance in the computation of taxable profit for the accounting period.

(c) Where subsection (a) applies in relation to any capital asset, and the disposal value exceeds the written-down value of the asset, the excess of the disposal value over the written-down value shall be included as a balancing charge in the computation of taxable profit of that Person for the accounting period.

(d) Where –

(i) Subsection (a) applies in relation to any asset and the disposal value exceeds the written-down value of the asset; and

(ii) Section 46 applied to the asset,

notwithstanding Section 52(c) of this Regulation, a balancing charge shall be included in computing a Person's taxable profits for the accounting period equal to the sum of –

(1) An amount equal to the lesser of –

(aa) The excess of the disposal value over the written-down value of the asset; or

(bb) The total amount of deductions allowed for capital allowances in respect of the asset; and

(2) An amount equal to the excess of the disposal value over the cost price of the asset.

### **53. Disposal value**

(a) If the relevant event is the sale of an asset, the disposal value is the sum of:

(1) the net proceeds of the sale after taking account of cost of the sale; and

(2) any insurance moneys received or receivable in respect of the asset by reason of any event affecting the price obtainable on the sale; and

(3) any other compensation of any description so received or receivable.

(b) Notwithstanding subsection (a), where an asset is sold at a price lower than that which it would have fetched if sold in the open market, the disposal value is the price which it would have fetched if sold in the open market.

(c) If the relevant event is the permanent loss, demolition, destruction or abandonment of an asset, the disposal value is the sum of:

(1) the amount received or receivable for the asset or any part of it; and

(2) any insurance moneys received or receivable in respect of the loss of the asset or other such cause; and

(3) any other compensation of any description so received or receivable.

- (d) If the relevant event is the sale of, or grant of a right to use, an intangible or part of such asset:
- (1) for a consideration not consisting of money, the disposal value equals the consideration in money which would have been given if the right had been granted in the open market for money.
  - (2) for a consideration in money lower than that which would have been given if the right had been granted in the open market, the disposal value equals the consideration in money which would have been given if the right had been granted in the open market.
  - (3) Where subsections (1) and (2) do not apply, the disposal value equals the sum of:
    - (aa) the net proceeds received or receivable after taking account of the cost of making the grant;
    - (bb) any insurance moneys received or receivable by reason of any event affecting the consideration obtainable on the grant;
    - (cc) any other compensation of any description so received or receivable.
- (e) In the case of any other relevant event, the disposal value equals the price which the asset would have fetched if sold in the open market at the time of the event.

#### **54. Assets transferred on transfer of business**

- (a) In any case where the conditions below are met, the provisions of subsections (b), (c) and (d) shall apply to the transferor and transferee.
- (1) a business is transferred by an individual ("transferor") to a company ("transferee") on or after date of commencement of the Act; and
  - (2) in consideration for the transfer the transferor acquires shares in the transferee; and
  - (3) there is no other consideration for the transfer; and
  - (4) the transfer includes the transfer of an asset used in that business in respect of which an allowance under this Chapter has been made to the transferor.
- (b) Where more than one asset is transferred, only one election may be made under this Regulation with respect to all such assets, and such an election is irrevocable.
- (c) Where subsection (a) applies, the transfer of the asset shall not be a relevant event, and any capital allowance, balancing allowance or balancing charge which arises after the date of transfer of the asset shall be allowed to, or imposed on the transferee as would have been allowed or imposed if the transferor had continued to carry on the business.

- (d) An election under subsection (a) shall be made by notice signed by the transferee and transferor and submitted to the MIRA before the earlier of:
- (1) the expiry of the period of 6 (six) months beginning with end of the tax year in which the transfer takes place; or
  - (2) the time the transferor first disposes of any of the shares referred to in subsection (a).

## **55. Disposal of capital assets for which capital allowances have been deducted**

- (a) This Section applies in any case where:
- (1) a capital asset in respect of which a capital allowance under this Chapter has been allowed has been sold or destroyed separately or together with any other asset; and
  - (2) the consideration received on the sale relates to all of the assets sold or any insurance recovery is a sum which relates to all of the assets destroyed or the subject of a claim under the relevant insurance contract; and
  - (3) the parties have not apportioned the total consideration for the sale or the insurance recovery between the assets sold or destroyed.
- (b) The MIRA may apportion the sum referred to in subsection (2) between the various assets to which it relates in accordance with the MIRA's determination of the true value of such assets.
- (c) Where the total consideration received on the sale or the total amount of insurance recovery referred to in this Section has by agreement or arrangement between the parties been apportioned between the various assets sold, the MIRA may:
- (1) approve the parties' apportionment of the sale consideration or insurance recoveries between the various assets, or
  - (2) if the MIRA considers that the parties' apportionment affords an unjust tax advantage to either party, apportion the sale consideration or the insurance recovery amount between the various assets in accordance with the MIRA's determination of the true value of such assets.
- (d) The MIRA shall give notice to the Persons affected of any apportionment made under subsection (c)(2).
- (e) The values attributed to any assets in accordance with this Section shall apply to both parties.

## CHAPTER 5: INSURANCE COMPANIES

### 56. Insurance companies

- (a) For the purpose of Section 14(b) of the Act, the unexpired risk reserve of an insurance company other than a life insurance company for a particular class of business is the amount of the expected value of future claims attributable to the unexpired period of insurance policies in force at the end of the company's accounting period less the amount of the company's unearned premium reserve for the class of business at that date.
- (b) An insurance company to which subsection (a) applies shall calculate its unexpired risk reserve using a generally accepted actuarial method.
- (c) For the purpose of Section 14(b)(3) of the Act, unexpired risks outstanding at the beginning of the relevant accounting period include the balance of the company's unexpired risk reserves at the date of commencement of the Act.
- (d) Sections 24 to 29 of this Regulation shall apply in determining a fair proportion of head office expenses allowed as a deduction under Section 14 of the Act in the computation of taxable profits.
- (e) For the purpose of Section 14(c) of the Act:
  - (1) a life insurance company is a company whose sole business is life insurance or an insurance company whose business is general insurance and life insurance in which case Section 14(c) of the Act shall apply only to its life insurance business.
  - (2) Management expenses means management and general administration expenses directly and indirectly incurred in deriving investment income, and commissions.
  - (3) Commissions referred to in Section 14(c) of the Act shall apply only to those commissions related to investment income.
- (f) Where management expenses referred to in subsection (e)(2) are indirectly incurred in deriving investment income, they shall be apportioned between deriving investment income and deriving other income, on a fair and reasonable basis approved by the MIRA.
- (g) For the purpose of Section 14(b)(4) of the Act, actual losses for any accounting period:
  - (1) shall include a reasonable estimate of claims payable and reported in that period but unpaid at the end of the period;

- (2) shall include the amount of claims incurred but not reported (IBNR) at the end of the period where that amount has been reasonably estimated using a generally accepted actuarial method approved by the MIRA;
- (3) shall be reduced by the amount of expected net recoveries in respect of claims made;
- (4) shall be reduced by the amount of estimated claims payable and reported but unpaid at the beginning of the period;
- (5) shall be reduced by the amount of IBNR claims at the beginning of the accounting period.

## **CHAPTER 6: RENT FROM IMMOVABLE PROPERTY**

### **57. Immovable property**

For the purpose of this Chapter, immovable property refers to buildings, warehouses, plant, factories, land, uninhabited islands, lagoons, reefs, reef knolls, permanent structures and any other such property leased for any purpose.

### **58. Aggregate of rental income**

Rental income derived by a Person from immovable property shall be the aggregate of the following amounts:

- (a) all rental payments received in relation to the immovable property; and
- (b) security deposits, advance rental payments and any other payments received in relation to the immovable property, to the extent the lessor of the property has the right to consume part or full payment of it within a tax year; and
- (c) all payments received in relation to the rented property not resulting from the responsibilities of the lessee specified in the lease agreement; and
- (d) payments received in respect of anything affixed to the immovable property; and
- (e) payments received under an insurance policy obtained to compensate for the non-payment of rent; and
- (f) any payment received for breach of a lease agreement by the lessee.

### **59. Deductions allowed from rent**

- (a) The following deductions may be allowed in computing the taxable profits of a Person that derives rental income from immovable property in an accounting year:



- (1) Expenses incurred in concluding a lease agreement;
  - (2) Insurance premiums paid in relation to the rented property;
  - (3) Fees or commissions paid to an agent appointed in relation to a leasing transaction;
  - (4) Expenses incurred on the repair and maintenance of the rented property, so long as it does not affect the value of the property;
  - (5) The cost of materials used for repairs if it is carried out by the lessor;
  - (6) Subject to Section 11(a)(5) of the Act, interest on a loan taken out to acquire, build, repair, or develop the rented property;
  - (7) Capital allowances so far as they are permitted by this Regulation;
  - (8) Other direct expenses incurred in relation to the rented property;
  - (9) Capital allowances so far as they are permitted by this Regulation for any furniture or other assets leased together with that property.
- (b) Where a Person makes an election under Section 9 of the Act, that election shall apply to all immovable property held by that Person in respect of which the Person derives rental income.
- (c) Where a Person makes an election under Section 9 of the Act, that election shall not be changed for 5 (five) years except with the approval of the Commissioner General.

#### **60. Deductions disallowed from rent**

- (a) In computing a Person's taxable profit from the rental of immovable property, a deduction shall not be allowed in respect of: capital expenditure incurred on the acquisition or construction of the property;
- (b) the principal amount of any loan taken out for the acquisition or construction of the property;
- (c) expenses incurred for the repair or development of the property that may affect the value of the property;
- (d) fees or commissions paid to an agent or any other Person for the acquisition or construction of the property;
- (e) lawyers' fees incurred in relation to the acquisition or construction of the property;
- (f) other capital expenditure incurred in bringing the property to a usable condition.

### **61. Renting part of the property by different Persons**

Any Person, who individually or jointly lease a part or parts of any immovable property, whether or not the Persons own the property, shall be considered a partnership in computing the taxable profits from the rental of the immovable property if the gross income or receipts from the leased property are shared by them.

### **62. Rental income earned by Persons other than the owner of the property**

Any Person who derives rental income from any immovable property, whether the income is derived from a transaction entered into with the legal owner of the property under an agreement or under any other arrangement, shall pay tax on that income.

### **63. Sublease of property leased under an agreement**

Any Person who derives rental income from the sublease of any immovable property under an agreement or any other arrangement entered into with a Person having the right to lease that property shall pay tax on that income.

## **CHAPTER 7: WITHHOLDING TAX**

### **64. Payments subject to withholding tax**

A payment stipulated in Section 6(a) of the Act made after the commencement of the Act to a non-resident shall be subject to withholding tax irrespective of the period to which it relates.

### **65. Conversion of foreign currency transactions into Rufiyaa**

Where a payment of an amount specified in Section 6(a) of the Act is made in a currency other than Rufiyaa, in making the payment of withholding tax to the MIRA pursuant to Section 25(a)(3) of the Act, such amount shall be converted to Rufiyaa at the reference rate published by the MIRA on the date that the tax is withheld.

## **CHAPTER 8: MISCELLANEOUS PROVISIONS**

### **66. Benefits accruing for more than one accounting period**

This Section shall apply to Persons to whom Section 22 of this Regulation applies.

(a) Where, in an accounting period, an amount paid or payable by a Person produces benefits over more than one accounting period, the amount of expenditure incurred

in an accounting period is the portion of the total amount paid or payable that is commensurate with the benefits of the expenditure attributable to that period.

- (b) A Person shall apply the accrual basis to determine the portion of the total amount paid or payable that is commensurate with the benefit of the expenditure attributable to an accounting period.

#### **67. Presentation currency**

- (a) The financial statements of a Person whose functional currency is Rufiyaa, shall be presented in Rufiyaa.
- (b) The financial statements of a Person whose functional currency is United States Dollar, shall be presented in United States Dollar.
- (c) The financial statements of a Person whose functional currency is a currency other than Rufiyaa or United States Dollar, shall be presented in Rufiyaa or United States Dollar.
- (d) Where the presentation currency of a Person differs from the Person's functional currency, the financial statements of the Person shall be translated into the presentation currency by applying the principles in International Accounting Standard 21 (The Effects of Changes in Foreign Exchange Rates), using a rate within  $\pm 2\%$  (plus or minus two per cent) of the rate published by the Maldives Monetary Authority, pertaining to the relevant date.

#### **68. Inventory**

- (a) This Section applies to a Person to whom Section 8(d) of this Regulation does not apply.
- (b) Subject to subsection (c), inventories held by a Person at the beginning of an accounting period, and at the date of commencement of the Act, shall be valued in accordance with the accounting standards adopted by that Person.
- (c) A Person shall not use the Last-in, First-out (LIFO) method of inventory valuation.

#### **69. Sale of inventory**

Where any inventory is sold to an associated person for less than its open market value or it is transferred for personal or non-business use, the inventory shall be valued at its open market value, and the transfer shall be treated as a sale of the inventory.

## **70. Tax avoidance**

- (a) For the purpose of Section 30(a) of the Act, the main purpose or one of the main purposes of a tax avoidance transaction includes entering into a transaction which:
- (1) lacks a bona fide commercial purpose; or
  - (2) lacks economic substance; or
  - (3) involves an abuse of organizational form.
- (b) For the purpose of subsection (a)(3), an abuse of organizational form in relation to a transaction includes:
- (1) in the case of a company resident in the Maldives or a permanent establishment situated in the Maldives, indirect ownership of that company or permanent establishment through one or more intermediary companies or permanent establishments, where that intermediary company is a resident of, or permanent establishment is situated in, a country where it faces an effective tax rate below the rate specified in Section 7(b)(2) of the Act; or
  - (2) the circumstance where a Person that is a resident of a country with which the Government of the Maldives has entered into an agreement for the avoidance of double taxation:
    - (aa) has an ownership interest, control, or is otherwise associated with, a company that is a resident of the Maldives or a permanent establishment situated in the Maldives; and
    - (bb) is directly or indirectly owned or controlled by another Person that is not a resident of such a country or of any other country with which the Government of the Maldives has entered into an agreement for the avoidance of double taxation.

## **71. Meaning of “transaction”**

For the purpose of Section 30 of the Act and Section 70 of this Regulation, “transaction” includes any action by a Person that does not involve any exchange or other Persons.

## **72. Additional tax paid**

Where the amount of tax that a Person pays for any tax year exceeds the amount of tax assessed for that year, the MIRA may deal with the excess in any of the following manners:

- (a) Refund the excess amount if there are no outstanding amounts payable by that Person under the Act.
- (b) Adjust the amount from the tax payable by that Person in the subsequent tax year.

### **73. Guardian of minor**

For the purpose of Section 28(a)(2) of the Act, where a minor's father is deceased, the guardian of that child shall be a person determined in accordance with *Islamic Shariah*.

### **74. Tax agents**

- (a) Tax agents licensed by the MIRA may prepare accounts and file tax returns on behalf of Persons who come within the charge to tax.
- (b) The MIRA has the discretion to specify requirements which shall be fulfilled prior to the grant of a license to tax agents.

### **75. Tax rulings**

- (a) Persons within the scope of the Act shall comply fully with any tax rulings issued by the MIRA in the course of administration of the Act and this Regulation. Such tax rulings shall constitute part of this Regulation.
- (b) Where this Regulation is amended, whether by a tax ruling or otherwise, the amendment shall be incorporated into the Regulation and, where necessary, section and subsection numbers and cross-references shall be renumbered accordingly. The Regulation shall then be read as a consolidated Regulation which incorporates the amendment.

### **76. Regulation to be read together with Acts**

This Regulation shall be read together with the Business Profit Tax Act (Law Number 5/2011) and the Tax Administration Act (Law Number 3/2010) and regulations made pursuant to those Acts, and any word or expression used in this Regulation, unless the context otherwise requires, shall have the same meaning that such word or expression has in those Acts.

### **77. Commencement of this Regulation**

The commencement date of this Regulation shall be the date of its publication in the Government Gazette.

## CHAPTER 9: TRANSITIONAL PROVISIONS

### 78. Interim and final payment for the first tax year

- (a) For the first tax year under the Act commencing on 18th July 2011, a Person must pay the first tax year's interim payment on or before 31st January 2012, based on a reasonable estimate of the taxable profits for the period from 18th July 2011 to the end of the Person's accounting period.
- (b) A Person that is required to make an interim tax payment by 31st January 2012 may elect any one of the following:
- (1) in the case of a Person preparing monthly accounts, apportion the taxable profit for the month of July 2011 for the period that the Person is chargeable to tax and prepare separate accounts for the subsequent months; or
  - (2) prepare special purpose financial accounts for the period from 18th July 2011 until the end of that Person's accounting period; or
  - (3) prepare accounts for the full accounting period and apportion the profit on a pro rata basis for days from 18th July 2011 until the end of that Person's accounting period.
- (c) Persons who are required to submit a tax return and make the final payment of tax for the first tax year shall prepare financial statements based on:
- (1) Special purpose financial statements for the period from 18<sup>th</sup> July 2011 until the end of their accounting period; or
  - (2) Financial statements for the full accounting period whose end date falls within the first tax year, and apportion the profit on a pro-rata basis of the number of days from and including 18<sup>th</sup> July 2011 to and including the last day of the accounting period.

## CHAPTER 10: DEFINITIONS

### 79. Definitions

- (a) In this Regulation, unless otherwise specified:

"The Act" refers to the Business Profit Tax Act (Law Number 5/2011).

"MIRA" refers to the Maldives Inland Revenue Authority established pursuant to the Tax Administration Act (Law Number 3/2010).

"Commissioner General" refers to the Commissioner General of Taxation of the MIRA appointed pursuant to the Tax Administration Act.

“Date of commencement of the Act” means 18<sup>th</sup> July 2011.

“Gross income” refers to the total amount derived by a Person which is taken into account in calculating the Person’s taxable profits, before the deduction of any expenses or allowances deductible under the Act and this Regulation.

“Financial statements” includes the income statement, balance sheet, statement of changes in equity, cash flow statement and the notes to these statements which the Person is required to prepare under the accounting standards adopted by that Person.

“IFRS” means International Financial Reporting Standards and International Accounting Standards issued by the International Accounting Standards Board.

“Partnership” means a partnership as defined in Section 2(b) of the Partnership Act (Law Number 9/96) and two or more Persons who share the gross receipts from a commercial activity, whether or not using a separate name and whether or not the Persons have joint or common rights in any property that produces the receipts.

For the purpose of the Act, the term “full amount” in relation to profits refers to all profits that a Person earns in an accounting period whether they are earned regularly from on-going trading operations or from irregular gains from the disposal of assets, or profits otherwise derived.

“Cash” refers to cash and cash equivalents.

“Functional currency” means the currency of the primary economic environment in which the taxpayer operates.

“Presentation currency” means the currency in which the financial statements are prepared.

- (b) For the purpose of this Regulation, in phrasing, the singular shall include the plural and the plural shall include the singular.