



Unofficial translation of the

FIRST AMENDMENT TO THE BUSINESS PROFIT TAX REGULATION

2011/R-47

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), and was published in the Government Gazette on Monday the 14th of November 2011 (18 Zul-Hijjah 1432).

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.

FIRST AMENDMENT TO THE BUSINESS PROFIT TAX REGULATION

The Business Profit Tax Regulation (Regulation Number 2011/R-35) shall be amended as follows:

1. Insert the following subsection to Section 16 of the aforementioned Regulation:
 16. (h) Notwithstanding subsection (f), the Commissioner General has the discretion to 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.

2. Amend Section 37(a) of the aforementioned Regulation as follows:
 37. (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.

3. Insert the following subsection to Section 37 of the aforementioned Regulation:
 37. (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.

4. Renumber Section 51 of the aforementioned Regulation as subsection 51(a), and insert the following subsection:
 51. (b) For the purpose of subsection (a), goodwill shall not be considered as an intangible asset.

5. Insert a new subsection as follows after Section 53(a) of the aforementioned Regulation and rearrange the numbers:
 53. (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.

6. Repeal Section 65 of the aforementioned Regulation.

7. Amend Section 70 of the aforementioned Regulation as follows:

70. 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.

8. Amend Section 71 of the aforementioned Regulation as follows:

71. (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 organisational 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.

9. Renumber the Sections of the aforementioned Regulation after incorporating the insertions and deletions referred to in this Regulation.
10. Amend references to specific Sections or part of a Section in the aforementioned Regulation to reflect the amendments referred to in this Regulation.
11. This Regulation shall commence upon it being published in the Gazette of the Government of Maldives.