



Unofficial translation of the

TAX ADMINISTRATION ACT

3/2010

In accordance with Article 92 of the Constitution, the “Tax Administration Bill” passed in the 4th sitting of the 1st session of the People’s Majlis held on Monday the 8th of March 2010, has become law and has been published in the Government Gazette upon its ratification by the President on Thursday the 18th of March 2010 (2 Rabi al-Akhir 1431).

DISCLAIMER OF LIABILITY

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

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TAX ADMINISTRATION ACT

1. Introduction

- (a) This Act contains the provisions for the establishment and implementation of an administrative framework for the purpose of tax administration in the Republic of Maldives.
- (b) This Act shall be cited as the “Tax Administration Act”.

CHAPTER 1: ADMINISTRATION OF TAX

2. Establishment and perpetuation of the Maldives Inland Revenue Authority

A separate and independent legal entity named the “Maldives Inland Revenue Authority (MIRA)” is hereby established under this Act. The administration of such entity shall perpetuate indefinitely without any interruptions. And such entity shall have the right to sue and be sued; acquire, receive and own moveable and immovable property in such manner as prescribed by law; engage in transactions under its own name; and have a distinct seal of its own.

3. Main aims of the MIRA

The main aims of the MIRA are as follows:

- (a) Enforce the tax laws and implement tax policies.
- (b) Carry out all work in respect of collecting all taxes imposed by the State pursuant to the law.
- (c) Ascertain whether the amount of tax payable has been calculated in accordance with the laws and regulations by all taxpayers and that any tax, fees or other monies payable are paid in full as and when they fall due.
- (d) Have regard for the rights of taxpayers whilst exercising the authority of the MIRA.
- (e) Give full information to taxpayers on the tax laws and regulations, and make efforts to minimize the costs involved for taxpayers in paying taxes.
- (f) Plan a system, whereby the costs of administering tax will be minimized.
- (g) Prescribe the content and prepare tax returns, claims, statements, notices and other such forms required under the tax laws and make any amendments, if required.

- (h) Establish a convenient mechanism for the administration of tax by means of modern technology.
- (i) Give technical advice in determining tax policies if required by the Government.

4. Functions of the Board, establishment of the Board and other matters of the Board

- (a) A Board of Directors shall be established in accordance with this Act in order to determine the administrative policies of the MIRA.
- (b) The purpose and functions of the Board shall be to:
 - (1) Formulate regulations required to be made pursuant to the tax laws and determine procedures to be adhered to by taxpayers in order to assist them comply with the law.
 - (2) Review the assets of the Commissioner General of Taxation and employees of the MIRA and make regulations required for such review.
 - (3) Ensure that the MIRA makes efforts to implement the tax policies determined by the Minister, and advise the Minister on the changes required to achieve the objectives of the MIRA.
 - (4) Advise the Commissioner General of Taxation on the administration of the MIRA, where required.
- (c) The Board of Directors shall be established within 60 days of the establishment of the MIRA.
- (d) The Board of Directors shall consist of a total of 7 members including the Commissioner General of Taxation and the Deputy Commissioner General of Taxation who shall be appointed in accordance with Section 8 of this Act.
- (e) The members of the Board shall be appointed by the President of the Republic of Maldives with the approval of the People's Majlis. In this regard, the President shall review the applications made by persons for membership of the Board upon public announcement, order the names based on the results of such review, submit the names in that order to the People's Majlis, and then appoint those persons approved by the People's Majlis. In submitting names in the aforementioned manner, more than the required number of names for Board membership shall be sent. If the number of applicants is less than that required for the Board, then the names of all the applicants shall be sent to the People's Majlis.
- (f) A person appointed to membership of the Board shall have the following characteristics:
 - (1) be a Muslim;
 - (2) be a citizen of the Maldives;

- (3) be of sound mind;
 - (4) have attained the age of 18 years;
 - (5) shall not be a person who has been convicted of an offence for which a *hadd* is prescribed in Islam in a Court of Law;
 - (6) shall not be a person who has been declared bankrupt;
 - (7) shall not be a person who has been convicted of an offence relating to bribery;
 - (8) shall not be a person who holds an elected post, pursuant to elections held under the Constitution of the Republic of Maldives or under a law;
 - (9) shall not be a person who holds a key position in a state-owned company or a private company, or any position on the Board of Directors of such a company;
 - (10) shall be a person who has experience in the financial, taxation, business, economic or legal field and has the capability to engage in technical discussions and decision-making related to tax policies;
 - (11) shall not be a person who is a member of any political party.
- (g) Appointees to the Board shall hold their membership for a term of 5 years. All members, with the exception of those members who are removed in accordance with Section 5 of this Act, may be re-appointed for another term.
- (h) The Board shall appoint a Chairperson and a Deputy Chairperson from amongst the members of the Board.
- (i) The Deputy Chairperson shall discharge the duties of the Chairperson under the circumstances where the Chairperson is unable to attend to the work of the Board. Under such circumstances, the Deputy Chairperson shall have all the powers which have been granted to the Chairperson under this Act.

5. Removal and resignation of members of the Board

- (a) A member of the Board shall be removed from office by the President upon the occurrence of any of the following circumstances:
- (1) is declared bankrupt by a judgment of the court;
 - (2) is convicted on indictment for a criminal offence;
 - (3) no longer meets the criteria for membership prescribed in this Act;
 - (4) being found negligent in the performance of the responsibilities of a member of the Board or where the Board is of the opinion that there has been a lack of care and the relevant committee of the People's Majlis is of the same opinion.

- (b) A member of the Board may resign from the Board by submitting a letter to the President to such effect. The resignation shall be deemed final, upon receipt of the letter by the President.
- (c) In the event that a member has, for any reason, resigned from the Board or is removed prior to the expiry of the term for which he has been appointed, a person shall be appointed for the remainder of term within no more than 60 days.

6. Salaries and other benefits of members of the Board

The People's Majlis shall determine the salaries and other benefits of the members of the Board.

7. Board meetings

- (a) A meeting of the Board shall be held at least once every Gregorian month.
- (b) Board meetings may be held under circumstances where the Chairperson sees it fit to hold such meetings necessary to discharge the duties of the Board.
- (c) It shall be deemed that the quorum to hold a meeting of the Board of Directors has been met if 4 members of the Board are present.
- (d) The Chairperson shall not participate in a vote taken to resolve any matter by the Board of Directors. The Chairperson may give a casting vote in the event that an issue receives equal votes.
- (e) A person appointed by the Chairperson shall act as Secretary at meetings of the Board.

8. Appointing, removing and determining the salaries of the Commissioner General of Taxation and the Deputy Commissioner General of Taxation

- (a) The Commissioner General of Taxation and the Deputy Commissioner General of Taxation of the MIRA shall be appointed by the President with the approval of the People's Majlis. In this regard, the President shall review the applications made by persons for the two posts upon public announcement, order the names based on the results of such review, submit the names in that order to the People's Majlis, and then appoint those persons approved by the People's Majlis. In submitting names in the aforementioned manner, more than the required number of names for the two posts shall be sent.
- (b) With the consent of the People's Majlis, the President, if he sees fit, may relieve the Commissioner General of Taxation or the Deputy Commissioner General of Taxation of their official duties by sending a letter to such effect.

- (c) The Deputy Commissioner General of Taxation shall discharge the duties of the Commissioner General of Taxation under the circumstances where the Commissioner General of Taxation is unable to attend to the work of the MIRA.
- (d) The People's Majlis shall determine the salaries and benefits of the Commissioner General of Taxation and the Deputy Commissioner General of Taxation.
- (e) The Commissioner General of Taxation and the Deputy Commissioner General of Taxation may resign from office by submitting a letter to the President to such effect. The resignation shall be deemed final, upon receipt of the letter by the President.
- (f) In the event that the office of the Commissioner General of Taxation has been vacated for any reason, a person shall be appointed to the same office within 45 days.

9. Qualifications of the Commissioner General of Taxation and the Deputy Commissioner General of Taxation

Persons appointed to the office of Commissioner General of Taxation and the Deputy Commissioner General of Taxation shall satisfy the following criteria:

- (a) be a person who has obtained a Masters degree in economics, finance, business or any other field related to taxation or, has obtained a qualification of the same level from an institution recognized by the Government or, has a minimum of 10 years of experience in a finance related field in the Government;
- (b) shall not be engaged in any other employment;
- (c) shall not be a person who holds a key position in a state-owned company or a private company, or any position on the Board of Directors of such a company;
- (d) shall not be a person who holds an elected post, pursuant to elections held under a law;
- (e) shall not be a person who has been convicted on indictment for an offence of theft, extortion, robbery, deception, criminal breach of trust, bribery or negligence;
- (f) shall not be a person who has been convicted on indictment in a narcotics related case;
- (g) shall not be a person who is a member of any political party.

10. Duties of the Commissioner General of Taxation and the Deputy Commissioner General of Taxation

- (a) The Commissioner General of Taxation shall carry out the functions of the Commissioner General of Taxation as prescribed in this Act and in any other tax law, and oversee the day-to-day administration of the MIRA.

- (b) The functions of the Deputy Commissioner General of Taxation shall include discharging the duties of the Commissioner General of Taxation in the event that the Commissioner General is unable to attend to the work of the MIRA, and carrying out any other work determined by the Commissioner General.

11. Budget of the MIRA

An annual budget shall be prepared in accordance with the Public Finance Regulation, which shall include the expected revenue, recurrent expenses and capital expenditure of the MIRA, and shall be submitted to the Ministry of Finance and Treasury on or before the date specified in the Public Finance Regulation.

12. Administration of the MIRA, appointing, removing and determining salaries of employees

- (a) The Commissioner General of Taxation may, in consultation with the Board, establish and dissolve any number of offices in various regions of the Maldives as required, for the strengthening of the administration of the MIRA. An office established in this manner shall be responsible for carrying out the functions relating to the work of the MIRA, which are assigned to it by the Commissioner General of Taxation in consultation with the Board.
- (b) The Commissioner General of Taxation shall, in consultation with the Board and in accordance with the laws and regulations of the Republic of Maldives, appoint officers and employees and give promotions, based on competency; appoint and remove agents and advisors; and determine salaries and terms of employment.
- (c) The Commissioner General of Taxation shall consult with the Ministry of Finance and Treasury in determining the salaries and benefits of the positions referred to in subsection (b).
- (d) The decisions of the Commissioner General of Taxation made pursuant to this Section shall be in writing.

13. Legal immunity provided to the employees of the MIRA

All employees of the MIRA shall be entitled to legal immunity as provided below:

- (a) No employee shall be held responsible in their individual capacity for any loss or legal action resulting from fulfilling their obligations in accordance with this Act or any regulations made pursuant to this Act. The MIRA shall bear the responsibility under such circumstances.

- (b) The employee shall be held responsible for any offence which is proven in court to have been committed by that employee in contravention of subsection (a). The MIRA shall not bear any responsibility under such circumstances.

14. Obstruction of the work of employees of the MIRA

- (a) The work of the employees of the MIRA is carried out under the powers conferred by this Act and in accordance with the directions of the Commissioner General of Taxation.
- (b) It shall be an offence to obstruct or influence the work of the Commissioner General of Taxation or any other person acting under the direction of the Commissioner General of Taxation, by using force, bribery, written or oral threats, or by aiding or abetting the commission of such acts. The penalty for such offences shall be:
- (1) the imposition of a fine not exceeding MVR 200,000; or
 - (2) imprisonment or house arrest for a period between 3 and 36 months; or
 - (3) both the imposition of a fine not exceeding MVR 200,000 and imprisonment or house arrest for a period between 3 and 36 months.

15. Confidentiality

- (a) An employee of the MIRA shall not disclose the content of any document prepared pursuant to a tax law or any information relating to taxpayers, which has come into their possession by virtue of their office.
- (b) Disclosure of the following information by an employee of the MIRA shall not be considered as a contravention of subsection (a):
- (1) information which is already in the public domain;
 - (2) information relating to a person who has consented in writing to its disclosure;
 - (3) information revealed during civil proceedings under a tax law;
 - (4) information revealed during criminal proceedings under a tax law or any other law;
 - (5) information given to another employee acting in the course of their employment for the purpose of administration of the tax laws;
 - (6) information revealed for the purpose of obtaining advice on the interpretation of tax laws;
 - (7) information revealed in accordance with or for the purpose of any double tax agreement specified in Section 35 of this Act;

- (8) providing information, not included in subsection (b)(7) about a person required to pay tax in the Maldives to officers authorized to administer taxation laws of a government or administration in relation to tax imposed under any taxation laws of a country or administration outside the territory of Maldives;
 - (9) information revealed under any agreement made between the Government of Maldives and a foreign government for the purpose of preventing or investigating any criminal offence;
 - (10) information disclosed for inclusion in Government statistics, without disclosing the identity of taxpayers to whom the information belongs.
- (c) Every employee of the MIRA shall sign a confidentiality agreement in relation to their employment prior to commencing their duties under the tax laws.
- (d) Where the Board is of the opinion that an employee has breached the confidentiality agreement specified in subsection (c), the Board has the power to suspend such employee until the court passes a judgment in relation to the said matter.
- (e) The penalty for any person convicted of breach of the confidentiality agreement specified in subsection (c) shall be:
- (1) termination of employment and a fine of an amount not exceeding MVR 100,000; or
 - (2) termination of employment and imprisonment or house arrest for a period between 3 and 24 months; or
 - (3) termination of employment and a fine of an amount not exceeding MVR 100,000 and imprisonment or house arrest for a period between 3 and 24 months.
- (f) Any employee whose employment has been terminated in accordance with subsection (e) shall not be employed at the MIRA for a period of 5 years from the date of removal.

16. Signing documents

- (a) Any document issued by the Commissioner General of Taxation or in the name of the MIRA shall be signed by the Commissioner General of Taxation or a person authorized by the Commissioner General of Taxation. All documents signed by the Commissioner General of Taxation or an authorized person shall be considered an authentic document, unless proven to the contrary as provided below:
- (1) it is proven that the document was signed by a person other than the signatory named on the document; and
 - (2) it is proven by a copy of the document that the signature is not valid.

- (b) A signature shall be deemed valid for the purposes of this Section whether it is printed, stamped or in manuscript.

17. Service of documents

- (a) Any document required under a tax law to be served by the Commissioner General of Taxation or by an authorized person shall be served in accordance with this Section.
- (b) Service of documents on a person may be effectuated by the MIRA by serving the documents on any service agent in the Maldives notified to the MIRA as being authorized to accept service of documents on such person's behalf.
- (c) A document required to be served on a company or on a partnership resident in the Maldives shall be served in accordance with the following guidelines:
 - (1) by delivery to the company's or partnership's last known address in the Maldives notified to the MIRA in accordance with this Act; or
 - (2) by serving it personally on the responsible person of a company, or on the representative partner of a partnership; or
 - (3) by delivery to the last known residential address of the responsible person of the company, or the representative partner of the partnership notified to the MIRA in accordance with this Act.
- (d) A document required to be served on a person other than a company or partnership shall be served:
 - (1) by serving it personally on such person; or
 - (2) by delivery to the last known business address of such person notified to the MIRA in accordance with this Act; or
 - (3) by delivery to the last known residential address of the responsible person of such business notified to the MIRA in accordance with this Act.
- (e) Where a person has not notified an address to the MIRA in accordance with this Act, service of documents shall be made at the person's last address known to the MIRA.
- (f) Any document sent by post under this Section shall be sent by registered post. A document sent in this manner shall be deemed delivered upon delivery of the document to the person or to the address of that person.
- (g) Any tax return, notice or other document required to be delivered to the MIRA or to the Commissioner General of Taxation shall be delivered to the MIRA at its head office unless the MIRA has agreed to accept delivery at another address.
- (h) Documents delivered in accordance with regulations enacted to provide for the electronic delivery of documents to the Commissioner General of Taxation shall be deemed to be authentic for the purposes of this Act.

18. Errors in documents such as assessments and notices

- (a) An “assessment” or other document issued by the MIRA in accordance with the law shall not be quashed, or be declared void or voidable, for want of form, or be affected by reason of any mistake, defect or omission provided that it is in substance and effect in conformity with or in accordance with the intent and meaning of the law, and provided that the person assessed by the document is identified by name or by the name by which he is usually known.
- (b) A person’s tax assessment shall not be invalid because of a:
 - (1) mistake in the full name of the person assessed, or the calculation of profits, or the amount of tax assessed;
 - (2) variance between the amount assessed as tax and the amount specified in the notice.
- (c) Notwithstanding subsection (b), the assessment may be altered where it omitted the main particulars required to be specified in such an assessment, or was not duly served on the person intended to be served.

19. Electronic form

The Board shall have the authority and discretion to enact regulations allowing any tax return, notice, form or other document to be delivered to and by the MIRA using electronic means, and such regulations may contain different provisions for different circumstances.

20. Provision of information on company and entity taxpayers

- (a) The Registrar of Companies shall, within 3 months from the commencement of this Act, provide notice to the MIRA in respect of every company, which is either registered or resident in the Maldives.
- (b) The Registrar of Companies shall, after the commencement of this Act, provide notice to the MIRA in respect of every company incorporated in the Maldives within 2 months of incorporation.
- (c) The Registrar of Companies shall, after the commencement of this Act, provide notice to the MIRA of any company not registered in the Maldives, becoming resident in the Maldives within 2 months from the date it becomes resident.
- (d) Any person, not being a company, carrying on business in the Maldives on the date of commencement of this Act shall provide notice to the MIRA of that fact within 3 months from the commencement of this Act.

- (e) Any person (not being a company) commencing business in the Maldives after the commencement of this Act shall provide notice to the MIRA of that fact within 2 months from the date of commencement of such business by that person.

21. Responsible person

- (a) Regulations made pursuant to this Act shall contain provisions for the determination of responsible persons who shall discharge the obligations of companies or partnerships under this Act and notification of such persons to the MIRA.
- (b) An individual may appoint a person to act on his behalf for the purposes of the tax laws except with respect to the signing and delivery of tax returns and the payment of any tax or interest or imposition of any penalty for contravening the law.

22. Registration of taxpayers

- (a) The MIRA shall maintain a register of all persons liable to give notice to the MIRA pursuant to Section 20 of this Act (the "Taxpayers Register").
- (b) Regardless of any notice given or not to the MIRA pursuant to Section 20, the MIRA may for the purpose of completing the Taxpayers Register, require a person to provide such information on a prescribed form.
- (c) A notice under subsection (b) must be complied with before the end of the period stipulated in that notice (provided that such period is not less than 30 days from the date of the notice).
- (d) Any changes to the information provided in the Taxpayers Register must be notified to the MIRA by the responsible person within 15 days of the occurrence of the change.

23. Issuing the Taxpayer Identification Number

- (a) The MIRA shall issue a Taxpayer Identification Number (TIN), to every person registered under Section 22 of this Act. Registered persons must use their TIN in all communications with the MIRA.
- (b) Failure to include a person's TIN in any document or information required to be submitted to the MIRA pursuant to the tax laws shall be considered as a failure to comply with the tax laws.

CHAPTER 2: POWER TO INVESTIGATE

24. Power to call for documents from taxpayers

- (a) This Section shall apply where a notice of audit has been given to a taxpayer for any tax year.
- (b) For the purpose of obtaining the information specified in the notice referred to in subsection (a), the MIRA may by notice require the taxpayer, within such time as may be stipulated in the notice (which shall not be less than 30 days), to produce to the MIRA such documents as are in his possession or power for the purpose of achieving the following objectives:
 - (1) whether and, if so, the extent to which the taxpayer's tax return for that year is correct; or
 - (2) if the taxpayer has not filed a tax return for that year, the amount of his taxable profits for that year.
- (c) The MIRA may take photocopies of, or make extracts from, any document produced under subsection (b).
- (d) An appeal may be made to the Tax Appeal Tribunal objecting to any requirement in a notice under subsection (b) to produce any document within 30 days of the date of the notice.
- (e) Where, on an appeal under this Section, the Tribunal has confirmed the validity of any requirement in the notice, the notice shall have effect within 30 days from the determination of the appeal.
- (f) Regulations may provide for an extension of the time within which a notification by the MIRA in respect of tax liability under any tax law may be made where an appeal has been lodged against a notice issued under subsection (b).

25. Power to call for documents from others

- (a) Subject to this Section, where a notice of enquiry into the tax liability of any person (the taxpayer) has been served on that person, MIRA may, for the purpose of the enquiry, by notice require any other person to deliver the same information to the MIRA or, where the person to whom the notice is given objects to doing so, to make available for inspection by the MIRA, such documents as are in his possession or power. If, in the opinion of the MIRA, such documents contain, or may contain, information relevant to any tax liability to which the taxpayer is or may be, or may have been, subject, or to the amount of any such liability, the MIRA may order the submission of such documents.

- (b) A notice under this Section shall name the taxpayer with whose liability the MIRA is concerned, and shall require documents to be delivered or made available, or information to be furnished within such time as may be specified in the notice, which shall not be less than 30 days after the date of the notice.
- (c) The MIRA may take copies of, or make extracts from, any document made available to it under this Section.
- (d) A notice under this Section shall contain a summary of the reasons why the notice is given, and those reasons shall be sent to the taxpayer together with a copy of the notice.

26. Power to summon for oral examination

Where a notice of enquiry into the tax liability of any person has been served on that person, the MIRA may by notice require the taxpayer or any other person that the MIRA considers to be in possession of any information relating to the tax affairs of the taxpayer to attend at a time and place specified in the notice to answer questions relating to the tax affairs of the taxpayer.

27. Restrictions on powers under Sections 24, 25 and 26

- (a) A notice under Section 25 or 26 of this Act shall not be given unless the MIRA has reasonable grounds for believing:
 - (1) that the taxpayer has failed or may fail to comply with any provision of any tax law; and
 - (2) that any such failure is likely to seriously prejudice the proper assessment or collection of tax.
- (b) Before a notice is given to any person by the MIRA pursuant to Section 24, 25 or 26 of this Act, a reasonable period must be given to deliver or make available the documents in question, and that person or the taxpayer named in the notice need not produce documents relating to the conduct of any pending objection or appeal relating to tax due.
- (c) Copies of documents may be produced instead of originals. However:
 - (1) such copies must be photographic or facsimile; and
 - (2) if so required by a notice, in the case of any document specified in the notice, the original must be produced for investigation by the MIRA within such time (which shall not be less than 3 days) as may be stipulated in the notice.
- (d) A notice under Section 25 of this Act, naming a deceased taxpayer cannot be sent if more than 6 years have elapsed since his death.

- (e) A notice under Section 24 or 25 of this Act does not oblige a person to produce or make available any document:
- (1) the whole of which originates more than 6 years before the date of the notice unless the MIRA has reasonable grounds for believing that tax has, or may have been, lost owing to fraud by the taxpayer; or
 - (2) with respect to which a claim to legal professional privilege could be maintained without the consent of the lawyer's client; or
 - (3) which are the property of an auditor appointed in accordance with the Companies Act or were created by him or on his behalf for or in connection with the performance of his functions under that Act; and
 - (4) which are the property of a tax adviser and consist of relevant communications.
- (f) For the purposes of subsection (e)(4) "relevant communications" means communications between the tax adviser and:
- (1) a person in relation to whose tax affairs he has been appointed; or
 - (2) any other tax adviser of such a person, the purpose of which is the giving or obtaining of advice about any of those tax affairs, except any document which contains information explaining any information, tax return, accounts or other document which the person to whom the notice is given has (as tax accountant) assisted any client of his in preparing for, or delivering to, the MIRA.
- (g) In this section:
- "Tax adviser" means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another advisor advising him on tax).
- "Tax accountant", in relation to any person, means a person who assists or has assisted the other person in the preparation or delivery of any information, accounts or other document which he knows will be, or is or are likely to be, used for any tax related purpose; and his clients are all those whom he has so assisted.

28. Matters such as falsification of documents

- (a) Subject to subsection (b) and (c), a person shall commit an offence if he intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a document which he has been required by a notice under Section 24 or 25 of this Act to deliver or to make available for inspection.
- (b) A person does not commit an offence under subsection (a) if he acts:
- (1) with the written permission of the MIRA; or

- (2) after the document has been delivered or inspected; or
 - (3) after a copy has been delivered in accordance with Sections 24, 25 or 26 of this Act and the original has been inspected; or
 - (4) in the case of records which the Regulations require to be kept for any period, after the end of that period; or
 - (5) in any other case, at the end of the period of 2 years beginning with the date on which the notice is given, unless before the end of that period the MIRA has notified the person in writing that the notice has not been complied with to the satisfaction of the MIRA.
- (c) A person found guilty of an offence under subsection (a) shall be liable on conviction to a fine not exceeding MVR 250,000 or to imprisonment or house arrest for a period between 3 and 42 months, or to both such fine and imprisonment or house arrest.

29. Power to enter premises to obtain documents

- (a) If the Tax Appeal Tribunal is satisfied on information on oath given by employees of the MIRA that:
- (1) there are reasonable grounds for suspecting that an offence involving serious fraud in relation to tax is being, has been or is about to be committed; and
 - (2) evidence of it is to be found on premises specified in the information, the Tribunal may issue a warrant authorizing the MIRA to enter the premises in accordance with the warrant, if required, at any time within 14 days from the date of issue of the warrant, search them and exercise any of the powers conferred by this Section.
- (b) Without prejudice to the generality of subsection (a):
- (1) any offence which involves fraud is for the purposes of this Section an offence involving serious fraud if its commission had led, or is intended or is likely to lead, either to substantial financial gain to any person or to serious prejudice to the proper assessment or collection of tax.
 - (2) an offence which, if considered alone, would not be regarded as involving serious fraud may nevertheless be so regarded if there are reasonable grounds for believing that it forms part of a course of conduct which is, or but for its detection would be, likely to result in serious prejudice to the proper assessment or collection of tax.
- (c) The Tribunal shall specify in the warrant:
- (1) the officer of the MIRA in overall charge (the "Officer in Charge");
 - (2) the times of day during which the powers may be exercised;

- (3) if the Tribunal considers it necessary, that a police officer in uniform must be present when the powers are exercised.
- (d) The Officer in Charge entering the premises under the authority of a warrant under this Section may:
- (1) take with him such other persons as appear to him to be necessary;
 - (2) remove any things whatsoever found there which he has reasonable cause to believe may be required as evidence for the purpose of proceedings in respect of an offence that is mentioned in subsection (a); and
 - (3) search any person found on the premises whom he has reasonable cause to believe to be in possession of any such things; but no person shall be searched except by a person of the same sex.
- (e) Where information stored in any electronic form is information that:
- (1) the Officer in Charge who enters the premises as mentioned in subsection (d) has reasonable cause to believe may be required as evidence for the purpose mentioned in subsection (d)(2); and
 - (2) is accessible from the premises, the power of seizure under subsection (d) includes a power to require the information to be produced in a form in which it is visible and legible and in which it can be taken away or from which it can readily be produced in a visible and legible form.
- (f) Nothing in subsection (d) authorizes the seizure and removal of items subject to legal professional privilege.
- (g) In subsection (f), “items subject to legal professional privilege” means:
- (1) communications between a legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
 - (2) communications between a legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purpose of such proceedings; and
 - (3) items enclosed with or referred to in such communications and made in connection with the giving of legal advice; or in connection with or in contemplation of legal proceedings and for the purpose of such proceedings, when they are in the possession of a person who is entitled to possession of them.
- (h) Items held with the intention of furthering a criminal purpose are not subject to legal professional privilege.

- (i) The Officer in Charge:
 - (1) if the person in charge of the premises concerned is present at the time the search is to begin, shall supply a copy of the warrant endorsed with his name to the occupier; and
 - (2) if at that time the person in charge of the premises is not present but a person who appears to the officer to be in charge of the premises is present, shall supply such a copy to that person;
 - (3) if neither subsection (i)(1) nor subsection (i)(2) applies, such copy shall be left in a prominent place on the premises.
- (j) Where entry to premises has been made with a warrant under this Section, and the Officer in Charge has seized any items under the authority of the warrant, he shall attach to the warrant a list of the items seized.

30. Procedure for removing items such as documents

- (a) An Officer in Charge who removes any item in the exercise of powers conferred by Section 29 shall, if so requested by a person showing himself:
 - (1) to be the occupier of premises from which it was removed; or
 - (2) to have had custody or control of it immediately before the removal;provide that person with a record of what the Officer removed.
- (b) In this Section, "Officer in Charge" means the officer named as such in the warrant authorizing the exercise of the powers under Section 29.
- (c) Where any item which has been removed by the Officer in Charge as mentioned in subsection (a) is of such a nature that a photograph or copy of it would be sufficient:
 - (1) for use as evidence at a trial for an offence; or
 - (2) for forensic examination or for investigation in connection with an offence,it shall not be retained longer than is necessary to establish that fact and to obtain the photograph or copy.
- (d) Subject to subsection (f), if a request for permission to be granted access to any item which:
 - (1) has been removed by the Officer in Charge; and
 - (2) is retained by the MIRA for the purpose of investigating an offence,is made to the Officer in Charge of the investigation by a person who had custody or control of the item immediately before it was so removed or by someone acting on behalf of any such person, that officer shall allow the person who made the request access to it under the supervision of an officer of the MIRA.

- (e) Subject to subsection (f), if a request for a photograph or copy of any item is made to the Officer in Charge by a person who had custody or control of the item immediately before it was so removed, or by someone acting on behalf of any such person, that officer shall:
 - (1) allow the person who made the request access to it under the supervision of an officer of the MIRA for the purpose of photographing it or copying it; or
 - (2) photograph or copy it, or cause it to be photographed or copied, and complete the request within a reasonable time.
- (f) There is no obligation under this Section to grant access to, or authorize the photographing or copying of any item if the Officer in Charge, for the purpose of which it was removed, has reasonable grounds for believing that to do so would prejudice:
 - (1) that investigation;
 - (2) an investigation other than the investigation for which the items were removed;
 - (3) any criminal proceedings which may be brought as a result of:
 - (i) the investigation of which he is in charge; or
 - (ii) any investigation that is mentioned in subsection (f)(2).

31. Information relating to leases

- (a) The MIRA has the discretion to require the following information with respect to the use of immovable property:
 - (1) A lessee, occupier or former lessee or occupier of land, including any person having, or having had, the use of land shall give such information as may be prescribed by the MIRA concerning oral and written agreements applying to the lease, occupation or use of the land;
 - (2) A lessee or former lessee of land shall give information concerning any consideration given for the lease and any rights pursuant to the lease;
 - (3) A person who as agent manages land or is in receipt of rent or other payments arising from the occupation of land shall furnish the MIRA with such particulars relating to such payments.
- (b) In this Section, "lease" includes an agreement for a lease and any rights received pursuant to it, but does not include a mortgage, and "lessee" shall be construed accordingly and shall include the successor in title of a lessee.

CHAPTER 3: RECOVERY OF TAX

32. Seizure of land and property where tax is unpaid

- (a) Where any tax is unpaid by any person by the due date, the MIRA shall, in any tax year, issue to any person whom it may employ as “bailiff” for this purpose a warrant directing and authorizing the bailiff to make a charge upon land or other such property of the taxpayer in default for the payment of the total amount remaining unpaid at the time that the warrant is issued.
- (b) A warrant may be issued under subsection (a) whether or not any other action is taken to recover the unpaid tax, fine or other amount from the taxpayer in default or from a third party.
- (c) The Board shall make regulations providing for the execution of warrants issued under subsection (a) and the disposal of property subject to levy.

33. Recovery of tax from a third party

- (a) Where:
 - (1) any tax, fine or any other amount is unpaid by any person after the due date; and
 - (2) the MIRA has reasonable grounds for believing that another person (the “Third Party”) owes or is about to pay a sum of money to the taxpayer in default or holds money for or on account of the taxpayer in default or of some other person for payment to the taxpayer in default or has the authority from some other person to pay money to the taxpayer in default;
 - (3) the MIRA may by notice require the Third Party to pay to the MIRA such amount as does not exceed either the tax, fine or other amount unpaid or the sum referred to in subsection (a)(2).
- (b) A notice may be served under subsection (a) whether or not action is taken to recover the unpaid tax, fine or other amount from the taxpayer in default.
- (c) A Third Party served with a notice under subsection (a) must comply with the notice within 45 days of the date of service of the notice.
- (d) Any person who has made a payment pursuant to a notice under subsection (a) shall be issued with a receipt by the MIRA and shall be fully discharged from his liability to the taxpayer in default to the extent of the amount paid.
- (e) The Third Party may appeal against a notice under subsection (a) to the Tax Appeal Tribunal, in accordance with regulations, within 30 days of the date of service of the notice.

- (f) Any person who fails to comply with a notice under subsection (a) shall be liable for any amount of tax, fine or other amount due which he did not pay and it may be recovered from him as if he was himself the taxpayer in default.

34. Civil suit for recovery of unpaid tax

- (a) Any unpaid tax, fine or any other amount shall be recoverable as a civil debt due to the Government. The MIRA may recover the amount unpaid by action in the court. In the proceedings for the recovery of tax, a document signed by the Commissioner General of Taxation stating the name and address of the defaulter and particulars of the amount due from him shall be sufficient evidence of the amount due and sufficient authority for the court to pass judgment.
- (b) In the court proceedings under subsection (a) for the recovery of tax, if there is any objection that the amount of tax is incorrect or is subject to objection or appeal, then the person shall have the right to appeal within 90 days from the date of the judgment.

CHAPTER 4: RELIEF IN CASE OF DOUBLE TAXATION

35. Double tax agreements with foreign countries

- (a) Where the Government of Maldives enters into an agreement with the Government of any foreign country for the avoidance or relief of double taxation or for recovery of taxes or any other related matter, including the exchange of information for the prevention of evasion or avoidance of tax or the investigation of cases of such evasion or avoidance, the provisions of the agreement shall apply so far as they provide:
- (1) for relief from tax on income or profits;
 - (2) for imposing tax on income arising from sources in the Maldives to persons not resident in the Maldives; or
 - (3) for determining the income and profits to be attributable to persons not resident in the Maldives or their agencies, branches or establishments in the Maldives.
- (b) Such agreements may be referred to as double taxation agreements.

36. Limits on credit

- (a) This Section shall have effect where, under a double taxation agreement, tax payable in respect of any income or profits in the territory of the government with which the

agreement is made is allowed as a credit against tax payable in respect of that income or profit in the Maldives.

- (b) In this Section, “Foreign Tax” refers to tax payable in that territory which under the agreement is to be so allowed, and “Income” includes profits.
- (c) A credit shall be allowed against tax chargeable for any tax year provided the person entitled to the income is resident in the Maldives in that period, in which case the amount of tax chargeable in respect of the income shall, on a claim being made, be reduced by the amount of the credit.
- (d) In computing the amount of taxable income:
 - (1) no deduction shall be allowed in respect of Foreign Tax (whether in respect of the same or any other income);
 - (2) where the tax chargeable is based on the amount received in the Maldives, that amount shall be increased by the appropriate amount of the Foreign Tax in respect of the income;
 - (3) where the income includes a dividend and, under the agreement, Foreign Tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what amount of, credit is to be given against tax in respect of the dividend, the amount of the income shall be increased by the amount of the Foreign Tax not so chargeable which falls to be taken into account in computing the amount of credit.

But notwithstanding anything in subsections (d)(1) to (d)(3), a deduction shall be allowed of any amount by which the Foreign Tax in respect of the Income exceeds the credit in respect of the Income.

- (e) Where:
 - (1) a double taxation agreement provides, in relation to dividends of some classes, but not in relation to dividends of other classes, that Foreign Tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what amount of, credit is to be given against tax in respect of the dividends; and
 - (2) a dividend is paid which is not of a class in relation to which the arrangements so provide, then, if the dividend is paid to a company which controls directly or indirectly not less than one-half of the voting power of the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.
- (f) Any claim for an allowance by way of credit under this Section for any tax year shall be made not later than 2 years after the end of that year. In the event of any dispute as to the amount allowable, the claim shall be subject to objection and appeal.

- (g) Where the amount of any credit given under the agreement is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the Maldives or elsewhere, this Act does not prevent any changes from being made to the credit within 2 years from the time when such adjustments have been made whether in the Maldives or elsewhere.
- (h) The amount of the credit for Foreign Tax, which under any agreement is to be allowed against tax chargeable in respect of any income, shall not exceed the tax attributable to that income, determined in accordance with subsection (i).
- (i) The amount of tax attributable to a person shall be determined by applying the rate of tax payable by that person (before any credit under this Part) to his total income for the tax year.

37. Credit given without a double tax agreement

- (a) Where any person resident or ordinarily resident in the Maldives proves that he has paid (by deduction or otherwise) overseas tax on any part of his income which arises from a source outside Maldives and which is also chargeable to Maldives tax, he shall be entitled to a credit against such Maldives tax equal to the Overseas Tax or Maldives tax on that part of his income whichever is lower.
- (b) For the purposes of this Section, "Overseas Tax" means a business profits tax or tax of a similar character imposed by the laws of any country with which no agreement has been made under Section 35.
- (c) For the purpose of calculating the amount of credit allowed under this Section, agreements made in accordance with Section 36 in respect of relief of double taxation shall apply. Overseas Tax shall apply in the same manner Foreign Tax is taken into consideration in that Section.

38. Disclosure of information

- (a) Where any arrangements have effect by virtue of Section 35, the obligation as to secrecy imposed by Section 15 shall not prevent the disclosure to any authorized officer of the Government.
- (b) Without prejudice to subsection (a) above, where in any territory outside the Maldives, provision has been made for the allowance of relief from tax on Income, Section 15 of this Act shall not prevent disclosure to authorized officers of the Government in that territory of such facts as may be necessary to enable the relief of tax in that territory.

CHAPTER 5: TAX APPEAL TRIBUNAL

39. Establishment of a Tribunal

- (a) A Tax Appeal Tribunal shall be established for the purpose of adjudicating matters related to this Act and other tax laws, within 90 days of ratification of this Act.
- (b) The Tribunal has the full power to review and deliberate, as it deems appropriate, on matters determined by this Act or any other law under which the Tribunal has jurisdiction.
- (c) The Tribunal has the power to summon persons, elicit witness statements, obtain proof and evidence or do anything necessary to verify and ascertain the truth of a matter submitted to it.

40. Appeal

- (a) Except in the circumstances specified in subsection (b), decisions of the Tribunal shall be final and binding.
- (b) A decision of the Tribunal, if in *ultra vires* of its powers or in contravention of *Shariah* principles or law or regulation, may be appealed as of right to the High Court within 30 days of such decision being made.

41. Composition of the Tribunal

- (a)
 - (1) The Tribunal shall be composed of 5 members. The members of the Tribunal shall be appointed by the President with the approval of the People's Majlis. The President shall appoint members approved by the People's Majlis, after having sent the names of all of the applicants for membership of the Tribunal acquired by means of a public announcement, to the People's Majlis.
 - (2) There shall be a Chairperson and a Deputy Chairperson of the Tribunal. The Chairperson and the Deputy Chairperson shall be elected by a secret ballot among the members of the Tribunal.
- (b) From the members appointed to the Tribunal:
 - (1) At least one member shall have legal experience related to taxation or have practical experience in the field of tax accountancy, either in the Maldives or elsewhere.
 - (2) At least two members shall have at least 3 years of experience in the legal field or have obtained higher education in the legal field.

(c) A member of the Tribunal shall satisfy the following criteria:

- (1) be a Muslim;
- (2) be a citizen of the Maldives;
- (3) be of sound mind;
- (4) have attained the age of 18 years;
- (5) be a person who has experience in the financial, taxation, business, economic or legal field and has the capability to engage in technical discussions and decision-making related to tax policies;
- (6) not be a person who has been convicted in a Court of Law of an offence for which a *hadd* is prescribed in Islam;
- (7) not be a person who has been declared bankrupt;
- (8) not be a person who has been convicted of an offence relating to bribery;
- (9) not be a person who holds an elected post, pursuant to elections held under the Constitution of the Republic of Maldives or under a law;
- (10) not be a person who holds a key position in a state-owned company or a private company, or any position on the Board of Directors of such a company;
- (11) not be a person who holds a political post;
- (12) not be a person who is a member of any political party;
- (13) not be a person who is in the civil service;
- (14) not be a person who is an employee of an independent institution.

42. Term of membership

Appointees to the Tribunal shall hold their membership for a term of 5 years. All members, with the exception of those members who are removed in accordance with Section 44 of this Act, may be re-appointed for another term.

43. Salaries and benefits of members

The People's Majlis, in consultation with the Ministry of Finance and Treasury, shall determine the salaries and benefits of the members of the Tribunal.

44. Removal from membership

(a) A member of the Tribunal shall be removed from office by the President upon the occurrence of any of the following circumstances:

- (1) is declared bankrupt by a judgment of the court;
 - (2) is convicted on indictment of a criminal offence;
 - (3) no longer meets the criteria for membership prescribed in this Act;
 - (4) is found negligent in the performance of the responsibilities of a member.
- (b) A member of the Tribunal may resign from membership by submitting a letter to the President to such effect. The resignation shall be deemed final, upon receipt of the letter by the President.

45. Vacancy in office

In the event that a member has, for any reason, resigned from the Tribunal or is removed prior to the expiry of the term for which he has been appointed, a person shall be appointed for the remainder of term within no more than 60 days.

46. Budget for the administration of the Tribunal and other matters

The Commissioner General of Taxation shall make arrangements for a budget required to administer the Tribunal, a place for the administration of the Tribunal, administrative staff and all other related matters, in accordance with the decisions of the Board of Directors of MIRA.

47. Regulations of the Tribunal

Regulations made pursuant to this Act shall include provisions for the administration of the Tribunal, rules to be adhered to in review and consideration of matters before it and other matters relating to the Tribunal.

CHAPTER 6: SUPPLEMENTARY PROVISIONS

48. Aiding and abetting offences

Any person who aids, abets, supports, counsels, incites or induces the commitment of an offence under any tax law shall be held liable under this Act.

49. Extension of period to fulfil an obligation

If a person, owing to absence from Maldives or disabling sickness, or owing to absence from Maldives with a reasonable excuse, is prevented from fulfilling an obligation within the time stipulated in this Act, the MIRA or, on an application made in

accordance with regulations, the Tax Appeal Tribunal may extend the period for fulfillment of such obligation or allow a delay as may be reasonable in the circumstances.

50. Documents required by the MIRA

Documents required to be submitted under this Act shall be submitted using the relevant forms issued by the MIRA. Documents submitted in any other manner except by using the issued forms of the MIRA shall not be considered as documents submitted in accordance with this Act.

51. Making regulations and the commencement of the Act

- (a) The provisions contained in this Act shall be administered and overseen by the MIRA.
- (b) This Act shall commence on the date of ratification of this Act.
- (c) Regulations required to be made pursuant to this Act shall be made within 6 months from the date of ratification of this Act.

52. Definitions

- (a) In this Act, unless the context otherwise requires:

“Authorized person” refers to a person authorized in writing by any other person to act on his behalf for the purposes of this Act;

“Documents” refers to anything in which information of any description is recorded;

“Commissioner General of Taxation” refers to the person appointed pursuant to Section 8 of this Act by the President to the post of the Commissioner General of Taxation of MIRA in accordance with this Act;

“Deputy Commissioner General of Taxation” refers to the person appointed pursuant to Section 8 of this Act by the President to the post of the Deputy Commissioner General of Taxation of MIRA in accordance with this Act;

“Notice of audit” refers to a notice advising the audit of the amount of tax payable under any tax law;

“Tax laws” refers to this Act and all other laws relating to the imposition of tax.

“Board” refers to the Board of Directors of MIRA established pursuant to Section 4 of this Act.

“Resident” means with the exception of individuals, all companies registered in the Maldives or any person issued with a business permit under any law of the Maldives.

“Resident” means an individual, who resides or generally resides in the Maldives with the intention of residing, or generally resides in the Maldives except for temporary travel outside of the Maldives, or individuals who have been given permission to carry on their business in the Maldives under any law.

- (b) Unless otherwise defined in any tax law, any word or expression shall have the definition stated in this Act.