



Council of the
European Union

Brussels, 30 April 2020
(OR. en)

7428/20
ADD 1

FISC 94

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Code of Conduct Group (Business Taxation)
Subject: Maldives's Reduced Tax Rate regime (MV001)
– Final description and assessment
= Law 25/2019 (Part 1)



Unofficial translation of the
INCOME TAX ACT

25/2019

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.

TABLE OF CONTENTS

| | |
|---|----|
| CHAPTER 1: PRELIMINARY | 6 |
| 1. Introduction and citation | 6 |
| 2. Persons affected by this Act..... | 6 |
| CHAPTER 2: OBLIGATION TO PAY TAX..... | 6 |
| 3. Income Tax..... | 6 |
| 4. Withholding Tax | 7 |
| 5. Obligation to pay income tax | 7 |
| 6. Obligation to pay withholding tax | 8 |
| CHAPTER 3: TAXATION OF INCOME..... | 8 |
| 7. Individual tax rates | 8 |
| 8. Bank tax rate | 9 |
| 9. Tax rates for persons other than individuals and banks | 9 |
| 10. Determination of income | 10 |
| 11. Income derived from the Maldives | 10 |
| 12. Exempt income..... | 12 |
| 13. Accounting basis | 15 |
| 14. Bad debts recovered..... | 16 |
| 15. Recovery of an expense deducted | 16 |
| CHAPTER 4: DEDUCTIONS | 17 |
| 16. Deduction of expenses..... | 17 |
| 17. General rule..... | 17 |
| 18. Zakat | 17 |
| 19. Pension contributions | 18 |
| 20. Welfare expenses..... | 18 |
| 21. Donations | 18 |
| 22. Interest | 19 |
| 23. Bad debts and provision for doubtful debts | 19 |

| | |
|--|----|
| 24. Head office expenses | 19 |
| 25. Capital allowance..... | 20 |
| 26. Expenses incurred before commencement of business | 21 |
| 27. Deduction from withholding tax of non-residents | 21 |
| 28. Special deduction against rent from immovable property | 21 |
| 29. Calculation of balancing allowance and balancing charge | 22 |
| 30. Calculation of capital gain or loss..... | 22 |
| 31. Deduction allowed only once..... | 24 |
| 32. Non-deductible expenses..... | 24 |
| CHAPTER 5: LOSSES | 26 |
| 33. Loss relief in future accounting periods | 26 |
| 34. Deduction of capital loss | 27 |
| 35. Rules on loss relief | 27 |
| CHAPTER 6: SPECIAL PROVISIONS FOR CERTAIN ENTITIES | 28 |
| 36. Bank | 28 |
| 37. Partnership..... | 28 |
| 38. Trust..... | 29 |
| 39. Insurance business | 29 |
| 40. International transportation business | 30 |
| CHAPTER 7: SUBMISSION OF TAX RETURN AND PAYMENT OF TAX | 31 |
| 41. Filing tax return..... | 31 |
| 42. Deadline for submission of tax return and payment of tax | 31 |
| 43. Calculation of interim payments | 32 |
| 44. Final payment..... | 33 |
| 45. Self-assessment..... | 33 |
| 46. Amending tax return | 33 |
| 47. Payment of tax whether or not a tax return is filed | 34 |
| 48. Commissioner General may require tax returns in certain cases..... | 34 |
| 49. Circumstances where an interim payment and interim return are not required | 35 |

| | |
|--|----|
| 50. Circumstances where a tax return is not required to be filed..... | 35 |
| 51. Some circumstances where no interim or final tax is required | 35 |
| 52. Death of a taxpayer..... | 36 |
| CHAPTER 8: WITHHOLDING TAX | 36 |
| 53. Types of withholding tax | 36 |
| 54. Employee withholding tax..... | 37 |
| 55. Non-resident withholding tax..... | 38 |
| 56. Payment deemed to be after withholding tax deduction..... | 40 |
| 57. Obligation to file withholding tax return and pay withholding tax..... | 40 |
| 58. Due date for the submission of withholding tax return and payment of withholding tax | 41 |
| 59. Employee withholding tax return | 41 |
| 60. Non-resident withholding tax return..... | 41 |
| 61. Non-resident withholding tax is a final tax..... | 42 |
| 62. Withholding tax certificate | 42 |
| 63. Deduction of withholding tax from subsequent payments | 43 |
| CHAPTER 9: REGISTRATION | 43 |
| 64. Obligation to register | 43 |
| 65. Application for registration | 43 |
| CHAPTER 10: TAX AVOIDANCE..... | 45 |
| 66. General anti-avoidance rule | 45 |
| 67. Arrangements or transactions between associates..... | 45 |
| 68. Exempt arrangements and transactions [Transfer Pricing Documentation]..... | 46 |
| 69. Disposition in favour of minor to be disregarded..... | 47 |
| 70. Controlled foreign entities | 47 |
| 71. Thin capitalisation..... | 49 |
| CHAPTER 11: TAX CREDIT | 50 |
| 72. Credit for foreign tax paid | 50 |
| CHAPTER 12: GENERAL PROVISIONS | 51 |
| 73. Non-monetary consideration | 51 |

| | |
|---|----|
| 74. Proration..... | 52 |
| 75. Act to be read together with Tax Administration Act..... | 53 |
| 76. Administration of this Act and formulating Regulations..... | 53 |
| 77. Delegation of powers of the Commissioner General..... | 53 |
| 78. Commencement of Act and imposition of tax..... | 53 |
| 79. Definitions..... | 54 |
| 80. Payment..... | 65 |
| 81. Timing of residence..... | 66 |
| 82. Series of transactions..... | 67 |
| 83. Appointed person..... | 67 |
| 84. Use of singular and plural..... | 67 |
| 85. Repealed Acts..... | 67 |
| CHAPTER 13: TRANSITIONAL PROVISIONS..... | 68 |
| 86. Persons to whom the transitional provisions apply..... | 68 |
| 87. Relief from registration..... | 68 |
| 88. Continuation of obligations..... | 68 |
| 89. Deadline for payment of tax under repealed acts..... | 69 |
| 90. Settlement of interim payment..... | 69 |
| 91. Tax paid in excess..... | 69 |
| 92. Set off of loss..... | 70 |
| 93. Capital loss..... | 70 |
| 94. Capital allowance..... | 70 |
| 95. Lease of immovable property..... | 70 |
| 96. Provision for bad debts and other liabilities..... | 71 |
| 97. Account balance..... | 71 |
| 98. First interim payment of banks under this Act..... | 71 |
| 99. Formulation of the Regulation on transitional provisions..... | 72 |

INCOME TAX ACT

CHAPTER 1: PRELIMINARY

1. Introduction and citation

- (a) This Act contains the provisions for the imposition of "Income Tax" in the Maldives, and sets out the relevant rules.
- (b) This Act shall be cited as the "Income Tax Act".

2. Persons affected by this Act

The provisions in this Act shall apply to the following persons.

- (a) Any person who is a resident of the Maldives where that person derives income from the Maldives or elsewhere; and
- (b) Any person who derives income from the Maldives, whether or not that person is a resident of the Maldives.

CHAPTER 2: OBLIGATION TO PAY TAX

3. Income Tax

Subject to Section 12 of this Act, tax, referred to as "income tax", shall be charged in accordance with Section 7, Section 8 and Section 9 of this Act on a person's income of the following types:

- (a) Remuneration;
- (b) Income derived from any business;
- (c) Income derived from the rental of movable or immovable property;
- (d) Dividends;
- (e) Interest;
- (f) Annuities, pensions, and retirement benefits;
- (g) Beneficiary income;
- (h) Fees for technical services;
- (i) Commissions;
- (j) Royalty;
- (k) Amounts derived from the disposal of movable, immovable, intellectual or intangible property in respect of which a deduction for capital allowance may be claimed under Section 25 of this Act;
- (l) Amounts derived from the disposal of movable, immovable, intellectual or intangible property in respect of which a deduction for capital allowance is not allowed under Section 25 of this Act;
- (m) Income or gains of any other kind, including amounts received for no consideration and proceeds of any criminal or other illegal activity.

4. Withholding Tax

Tax, referred to as "withholding tax" shall be tax chargeable on a person's income that is subject to withholding tax in accordance with Sections 54 and 55 of this Act, except for income specified in Section 12 of this Act.

5. Obligation to pay income tax

Subject to Section 61 of this Act, any person referred to in Section 2 of this Act shall pay tax in accordance with this Act on the person's taxable income derived during an accounting period ending in any tax year.

6. Obligation to pay withholding tax

The payer of any amount of income derived by a person from which withholding tax is required to be deducted under this Act must deduct withholding tax from the amount of the payment to the person and pay such amount to MIRA in accordance with this Act.

CHAPTER 3: TAXATION OF INCOME

7. Individual tax rates

(a) The taxable income of an individual shall be charged with income tax under Section 5 of this Act, at the following rates.

| Tax bracket for taxable income derived in an accounting period | Tax rate |
|--|--------------------------------|
| Not exceeding MVR 720,000/- (Seven Hundred and Twenty Thousand Maldivian Rufiyaa) | 0% (Zero percent) |
| More than MVR 720,000/- (Seven Hundred and Twenty Thousand Maldivian Rufiyaa) but not exceeding MVR 1,200,000/- (One Million Two Hundred Thousand Maldivian Rufiyaa) | 5.5% (Five point five percent) |
| More than MVR 1,200,000/- (One Million Two Hundred Thousand Maldivian Rufiyaa) but not exceeding MVR 1,800,000/- (One Million Eight Hundred Thousand Maldivian Rufiyaa) | 8% (Eight percent) |
| More than MVR 1,800,000/- (One Million Eight Hundred Thousand Maldivian Rufiyaa) but not exceeding MVR 2,400,000/- (Two Million Four Hundred Thousand Maldivian Rufiyaa) | 12% (Twelve percent) |
| More than MVR 2,400,000/- (Two Million Four Hundred Thousand Maldivian Rufiyaa) | 15% (Fifteen percent) |

(b) The aggregate of tax payable under subsection (a) shall be the aggregate of the amounts of tax payable under each tax bracket specified in subsection (a), computed separately.

8. Bank tax rate

(a) The taxable income of a bank shall be charged with income tax under Section 5 of this Act at the rate of 25% (Twenty-five percent) of its taxable income.

(b) For the purpose of this Section, the term “bank” refers to commercial banks licensed under the Maldives Banking Act (Law Number 24/2010).

9. Tax rates for persons other than individuals and banks

(a) The taxable income of any person, not being an individual or a bank, shall be charged with income tax under Section 5 of this Act, at the following rates.

| Tax bracket for taxable income derived in an accounting period | Tax Rate |
|---|-----------------------|
| Not exceeding MVR 500,000/- (Five Hundred Thousand Maldivian Rufiyaa) | 0% (Zero percent) |
| More than MVR 500,000/- (Five Hundred Thousand Maldivian Rufiyaa) | 15% (Fifteen percent) |

(b) The aggregate of tax payable under subsection (a) shall be the aggregate of the amounts of tax payable under each tax bracket specified in subsection (a), computed separately.

(c) Where a company is a member of a group of companies, the amount of MVR 500,000/- (Five Hundred Thousand Maldivian Rufiyaa) specified in this Section shall be divided between the companies in the group which are liable to tax under this Act, and the result shall replace MVR 500,000/- (Five Hundred Thousand Maldivian Rufiyaa).

10. Determination of income

- (a) The total income of a person resident in the Maldives shall consist of income derived from the Maldives and income derived outside the Maldives.
- (b) The total income of a person not resident in the Maldives shall consist of income derived from the Maldives.
- (c) Notwithstanding subsection (a), the total income of a person temporarily resident in the Maldives shall constitute income derived by the person from the Maldives only.

11. Income derived from the Maldives

The following income shall be deemed to be derived from the Maldives.

- (a) Remuneration derived from any employment exercised in the Maldives;
- (b) Remuneration derived from any employment exercised under a contract of service with an office of the Government of the Maldives, wherever may be the place such employment is exercised;
- (c) Income (other than remuneration) derived from any service rendered under a contract with an office of the Government of the Maldives, wherever may be the place such service is rendered;
- (d) Remuneration derived from an employment under a contract of service made with a shipping or aircraft operator, charterer or lessor who is resident in the Maldives, wherever may be the place such employment is exercised;
- (e) Director's fee derived by directors of a company which is a resident in the Maldives;
- (f) Income derived by the partners of a partnership which is resident in the Maldives;
- (g) Income derived by a resident of the Maldives, except for income derived by such resident from its permanent establishment that is outside of the Maldives;
- (h) Business income derived by a non-resident that is of the following nature;
 - (1) income derived from a business carried out through the non-resident's permanent establishment in the Maldives; or

- (2) income derived from the sale of goods or merchandise through a permanent establishment of the non-resident in the Maldives, and sale of goods and merchandise of the same or similar kind as those sold through that permanent establishment; and
 - (3) income from business activities of the same or similar kind as those effected through the permanent establishment of the non-resident in the Maldives.
- (i) Income derived from the rental of any immovable property situated or registered in the Maldives;
 - (j) Annuity, pension or any other retirement benefit that is paid by the Government of the Maldives or by a resident of the Maldives, in respect of any employment exercised or services rendered in the Maldives;
 - (k) Dividend derived from a company resident in the Maldives;
 - (l) Interest, royalty or technical service fee derived in the following nature:
 - (1) money paid by a person resident in the Maldives, that does not constitute an expense of their permanent establishment outside of the Maldives; or
 - (2) money paid by a non-resident, in respect of an expense of their permanent establishment in the Maldives.
 - (m) Except where subsection (g) or (h) applies, income derived from the disposal of a movable property or any interest therein which is situated or registered in the Maldives, or income derived under an agreement made in the Maldives for the disposal of such property, wherever may be the place the property is delivered to its recipient;
 - (n) Except where subsection (g) or (h) applies, profit derived in the following manner from the disposal of an immovable property:
 - (1) the profit is derived from the disposal of an immovable property situated in the Maldives; or
 - (2) the profit is derived from the disposal of a share or any interest in a company, partnership or trust, where at the time of disposal of such share or interest, during the past 365 (three hundred and sixty five) days, more than 50% (fifty percent) of the value of company, partnership or trust is directly or indirectly related to an immovable property situated in the Maldives; or

- (3) the profit is derived from the disposal of a share or any interest in a company or partnership or trust which is resident in the Maldives; or
- (4) the profit is derived from the disposal of an option as respects a property specified in subsections 11(n)(1), 11(n)(2) and 11(n)(3), or from the disposal of a right to buy such property.
- (o) Except where subsection (g) or (h) applies, income derived from the disposal of an intellectual or intangible property used or registered in the Maldives or income derived under an agreement made in the Maldives for the disposal of such property;
- (p) Except where subsection (g) or (h) applies, insurance premium received in respect of a resident of the Maldives or property situated in the Maldives;
- (q) Income taxable in the Maldives under an agreement or a treaty made between the Maldives and a foreign jurisdiction or an international organization;
- (r) Income derived by a non-resident shipping or aircraft operator in international transportation, from carrying passengers or livestock or mail or parcels or merchandise or goods on an aircraft or a ship which departs from a place located in the Maldives.

12. Exempt income

Notwithstanding anything in this Act, the following types of income shall be exempt from tax under this Act:

- (a) Dividends received by a resident in the Maldives from a company which is resident in the Maldives;
- (b) Profits distributed by a partnership which is resident in the Maldives to its partners who are resident in the Maldives;
- (c) Distributions made by a trust which is resident in the Maldives to a beneficiary of the trust who is resident in the Maldives, where:
 - (1) such distribution is included in the taxable income of the trust; or
 - (2) the distribution is paid from the corpus of the trust;
- (d) Income derived by a charitable organization approved by the Commissioner General;
- (e) Income derived by an office of the Government of the Maldives;

- (f) Interest income received in the following manner:
- (1) interest derived in respect of a security issued by a company listed on the Maldives Stock Exchange;
 - (2) interest that does not constitute interest income specified in Section 3(b) of this Act (up to a maximum of MVR 5,000/- (five thousand Maldivian rufiyaa) in an accounting period).
- (g) Interest or profit derived in respect of a debt security or similar product which is listed or admitted for trading on a securities exchange licensed by the Maldives Capital Market Development Authority for operation in the Maldives;
- (h) Income exempt from tax under a treaty or an agreement made between the Maldives and a foreign jurisdiction or an international organization;
- (i) Remuneration paid by the Government of a foreign country or territory to a person employed by that Government, if:
- (1) that person is not a resident of the Maldives or is resident in Maldives for the sole purpose of such employment; and
 - (2) such remuneration is paid by the Government of that foreign country or territory; and
 - (3) such remuneration is subject to tax in that foreign country or territory;
- (j) Income derived by a person under a technical assistance agreement between the Government of the Maldives and a foreign government or international organization approved by the Commissioner General where the person is not a resident of the Maldives or is a resident of the Maldives solely for the purpose of performing duties under such agreement;
- (k) Income derived by a non-resident aircraft or shipping operator, charterer or lessor in international transportation, from the transportation of passengers, livestock, mail, parcels, merchandise or goods to or from the Maldives or from the lease of aircrafts, vessels or equipment which are integral to the seaworthiness of ships or airworthiness of aircrafts, and used in the Maldives, where the Commissioner General determines that an aircraft or shipping operator, charterer or lessor resident in the Maldives is, in

circumstances corresponding to the circumstances of the non-resident aircraft or shipping operator, charterer or lessor, exempt from, or not liable to, income tax (or tax similar to income tax) imposed by the laws of the country or territory in which the non-resident aircraft or shipping operator, charterer or lessor is resident;

- (l) Money received as basic pension and retirement pension under the Maldives Pension Act (Law number 8/2009);
- (m) Payments received under a life insurance policy;
- (n) Education grants and scholarships where the Commissioner General is satisfied that the grants and scholarships have been granted to enable or to assist the recipient to pursue education, or if education is undertaken at an educational or research institution approved by the Commissioner General;
- (o)
 - (1) Gifts received by an individual (up to a maximum of MVR 40,000/- (forty thousand) Rufiyaa per an accounting period); or
 - (2) Gifts received by an individual in the following manner:
 - (i) the gift is received from a person related to the individual; or
 - (ii) the gift is a wedding gift; or
 - (iii) the gift is a grant from the government or a charitable organization approved by the Commissioner General.
- (p) Money received as *hibah*, bequest or inheritance;
- (q) Money or property received as *Zakat* through a Government office;
- (r) Payments of *dowry*, *nafaka* or *halanaih*;
- (s) Income derived from the disposal of a person's sole or principal private residence;
- (t) Goods and Services Taxes received by a person who is a registered person under the Goods and Services Tax Act (Law No. 10/2011);
- (u) Grants received under the Social Protection Act (Law number 2/2014) and other grants from the Government received by individuals;
- (v) Money received under the "social health insurance scheme" established under the National Social Health Insurance Act (Law number 15/2011).

13. Accounting basis

- (a) A person subject to tax under this Act shall prepare financial statements where the person is required to do so under the Regulation made pursuant to this Act.
- (b) Except where subsection (a) applies, the person shall prepare financial statements in accordance with international accounting standards approved by the Commissioner General, using the accrual basis of financial accounting.
- (c) Notwithstanding subsection (b), a person may prepare financial statements using cash basis where the Regulation made pursuant to this Act permits.
- (d) Notwithstanding that a person has elected cash basis under subsection (c), the person shall apply the provisions prescribed in the Regulation made pursuant to this Act as respects capital expenditure in the computation of the person's taxable income.
- (e) Notwithstanding anything to the contrary in any accounting standard, where a person prepares financial statements on accrual basis as pursuant to subsection (b):
 - (1) an unrealized gain, including an unrealized foreign exchange gain, shall be included in the computation of the person's taxable income for an accounting period to the extent that the gain arises in connection with assets and liabilities held on revenue account at the end of that accounting period.
 - (2) an unrealized gain, including an unrealized foreign exchange gain, which arises in connection with assets and liabilities held on capital account at the end of an accounting period shall not be included in the computation of the person's taxable income for that accounting period.
 - (3) an unrealized loss, including an unrealized foreign exchange loss, may be deducted in the computation of the person's taxable income for an accounting period in accordance with Section 17 of this Act, to the extent that the loss is incurred in connection with assets and liabilities held on revenue account at the end of an accounting period.
 - (4) an unrealized loss, including an unrealized foreign exchange loss, incurred in connection with assets and liabilities held on capital account at the end of an