



Council of the
European Union

Brussels, 30 April 2020
(OR. en)

7428/20
ADD 2

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 2)

accounting period shall not be deducted in the computation of the person's taxable income for that accounting period.

- (f) The assets and liabilities that can be held on revenue and capital account and the manner in which this provision shall apply to hedging and other transactions shall be determined in the Regulation made pursuant to this Act.
- (g) Notwithstanding subsection (b), interest received on a bank debt shall not be deemed as income where the principal amount of such debt or any interest payment thereof is estimated to be irrecoverable, and, such amount is computed based on an accounting standard approved by the Maldives Monetary Authority. An amount not deemed as income as such shall be included in the Interest Income on Suspense Account and shall be subject to tax in the taxable period in which such amount is treated as income in accordance with the accounting standards or in the taxable period during which it was received, whichever is the earlier.
- (h) Notwithstanding the accounting standard based on which the financial statements are prepared, all financial statements shall be prepared and presented in accordance with the Regulation made pursuant to this Act, in Maldivian Rufiyaa or United States Dollar.

14. Bad debts recovered

Any amount derived by a person in full or partial satisfaction of a debt in respect of which a deduction has been made in accordance with Section 23 of this Act shall be treated as income of the person in the accounting period in which it is received.

15. Recovery of an expense deducted

Where a person has claimed a deduction for an amount of expenditure in an accounting period and the person is reimbursed, indemnified or compensated, or, if it is established that such person will be reimbursed, indemnified or compensated, for part or all of that amount in that accounting period or in a later accounting period, the amount of the reimbursement, indemnity or compensation shall be included in the person's total income in the accounting

period in which the reimbursement, indemnity or compensation is received or established to be received.

CHAPTER 4: DEDUCTIONS

16. Deduction of expenses

- (a) If this chapter provides for the deduction of any expense, such expense may be deducted from the taxpayer's total income in the computation of that person's taxable income.
- (b) If any section of this Act refers to any expense authorised to be deducted in accordance with this Act, such reference shall be to the expenses specified in this Chapter, permitted to be deducted under subsection (a) of this Section in the computation of taxable income.

17. General rule

- (a) In the computation of the taxable income of a person, an expense shall be deducted only if such expense was incurred by that person in that accounting period, and was incurred wholly and exclusively for the purpose of production of that person's total income.
- (b) Where an expense incurred by a person during an accounting period was not incurred for the sole purpose of deriving total income, the proportion of that expenditure which was incurred for the purpose of deriving total income shall be allowed as a deduction under subsection (a).
- (c) The proportion of expenditure incurred for the purpose of deriving total income referred to in subsection (b) shall be determined in the Regulation made pursuant to this Act.
- (d) This section is subject to Section 32 of this Act.

18. Zakat

Notwithstanding Sections 17 and 32 of this Act, a payment of *zakat al-mal* by a person to the relevant Government institution shall be deductible in the computation of the person's taxable income in accordance with the Regulation made pursuant to this Act.

19. Pension contributions

Notwithstanding Sections 17 and 32 of this Act, a payment made by a person to the Maldives Retirement Pension Scheme established under the Maldives Pension Act (Law Number 8/2009) shall be deductible in the computation of that person's taxable income.

20. Welfare expenses

A person who derives income from a business may deduct an amount in respect of expenditure incurred on the welfare of employees if any one of the following conditions is satisfied:

- (a) The expenditure is incurred for the benefit of an employee who is incapacitated on medical grounds; or
- (b) The expenditure is incurred for the benefit of the surviving spouse or child, below the age of 18 (eighteen) years, of a deceased employee; or
- (c) The expenditure is a contribution to a fund established for the benefit of the person's employees, and the fund fully secures the rights of all employees to receive medical or other welfare support; or
- (d) The expenditure is incurred for the promotion of general employee welfare without discrimination between employees.

21. Donations

- (a) Notwithstanding Sections 17 and 32 of this Act, donations made by a taxpayer to a Government institution or a charitable organization approved by the Commissioner General may be deducted in the computation of the taxpayer's taxable income for the accounting period in which such donation was made.
- (b) The maximum amount which may be deducted under this Section shall be 5% (Five per cent) of the taxable income derived before the deduction of donation specified in subsection (a) and loss relief granted under Chapter 5 of this Act.
- (c) The procedure on approving charitable organizations under this Act shall be determined in the Regulation made pursuant to this Act.

22. Interest

- (a) Interest paid on a loan obtained from any person, except a bank or a non-banking financial institution approved by the Commissioner General, by any person for the purpose of deriving the person's total income, shall be deductible up to a maximum amount of 6% (six percent) per annum, in the computation of that person's taxable income.
- (b) This Section is subject to Section 71 of this Act.

23. Bad debts and provision for doubtful debts

- (a) A person who derives income from a business is allowed a deduction for the amount of a bad debt only if,
 - (1) the amount of the debt has been included in the person's total income in the accounting period in which the debt is written off or in an earlier accounting period, or the money was lent in the ordinary course of business conducted by a bank or a non-banking financial institution; and
 - (2) the person has exhausted all reasonable steps to pursue payment of the debt; and
 - (3) the person reasonably believes at the time that the deduction is claimed that the debt is irrecoverable; and
 - (4) the debt is written off as a bad debt in the person's financial statements for the accounting period in which the deduction is claimed.
- (b) No deduction is allowed under this section in respect of any debt:
 - (1) in respect of which a collateral or guarantee has been determined (to the extent of the value of such collateral or guarantees); or
 - (2) in respect of which the person has initiated recovery proceedings in any Court and the decision of the Court is pending at the end of the accounting period; or
 - (3) that arose before the date of commencement of taxation under this Act.

24. Head office expenses

- (a) Where a non-resident person derives income through a permanent establishment in the Maldives, an amount in respect of head office expenses charged to the permanent

establishment by that person may be deducted in the computation of the taxable income of the permanent establishment to the extent specified in the Regulation made pursuant to this Act.

- (b) Notwithstanding subsection (a), the maximum amount allowed as a deduction for head office expenses charged to the permanent establishment by the person in any accounting period shall not exceed 3% (three percent) of the total income generated from the general course of business of that permanent establishment.
- (c) For the purposes of this section, "head office expenses charged to the permanent establishment by the person" includes head office and other expenses charged to the permanent establishment by any person that is an associate of the person that owns the permanent establishment.

25. Capital allowance

- (a) If a person has incurred capital expenditure on an asset that the person has acquired for the purpose of deriving total income, the person may deduct capital allowance in respect of that asset in accordance with the Regulation made pursuant to this Act.
- (b) The Regulation made pursuant to this Act shall determine:
 - (1) the types of assets that fall within subsection (a);
 - (2) the types of assets that fall outside subsection (a), including land, goodwill, and intangible assets which are not capable of definitive valuation;
 - (3) the methods for valuation of assets for the computation of capital allowance;
 - (4) the rate of capital allowance applicable to an asset or class of assets;
 - (5) the method for calculation of any balancing charge or balancing allowance resulting from the disposal of an asset;
 - (6) any other matter required for the purpose of deducting capital allowance as specified in subsection (a).
- (c) In determining the rate of capital allowance under subsection (b)(4) for a building developed using funds from a housing loan issued by a bank licensed under the Maldives Banking Act (Law number 24/2010) or non-banking financial institution licensed under

the Maldives Monetary Authority Act (Law number 6/81), the terms of the repayment period set for such loan shall be taken into consideration, and the Regulation made pursuant to this Act shall prescribe additional measures as regards to such determination.

26. Expenses incurred before commencement of business

- (a) Expenditure incurred by a person prior to the commencement of business for the purpose of deriving total income, shall be deemed as capital expenditure incurred on the date of commencement of business.
- (b) The extent to which expenditure referred to in subsection (a) is deductible and the method to be used for such deduction shall be determined in the Regulation made pursuant to this Act.
- (c) Any income derived by the person in connection with the business before the date of commencement of the business shall first be offset from any deductions allowed under this Section in the accounting period in which the business is commenced. Where such income exceeds the amount of expenditure that is deductible under this section, the amount of excess shall be treated as income derived during that accounting period.

27. Deduction from withholding tax of non-residents

- (a) Where non-resident withholding tax has been paid under Section 57 of this Act from income derived by a non-resident through a permanent establishment in the Maldives, such income for which non-resident withholding tax was accounted for shall be deductible in the computation of the taxable income of that permanent establishment.
- (b) Where the taxpayer has elected to apply subsection (a), no other amount shall be deducted in respect of such income in the computation of that person's taxable income.

28. Special deduction against rent from immovable property

- (a) A person who derives rent from immovable property situated in the Maldives and prepares financial statements on cash basis under Section 13(c) of this Act may elect to

claim a deduction against the person's total rental income from immovable property for that tax year pursuant to this Section, in the computation of the person's taxable income.

- (b) In the computation of taxable income, a person who elects to claim a deduction under this Section may deduct an amount equal to 20% (twenty percent) of the amount of total rental income received in that accounting period as expenditure incurred in deriving the person's rental income.
- (c) Where a taxpayer makes the election under subsection (a), he shall not be allowed any other deduction in the computation of his taxable income in respect of expenditure incurred to derive that person's rental income.
- (d) Where a taxpayer has made the election under subsection (a), such election shall not be changed without the approval of the Commissioner General until the expiry of 5 (five) years from the accounting period in which such election was made.
- (e) The manner in which an election made under subsection (a) may be changed shall be prescribed in the Regulation made pursuant to this Act.

29. Calculation of balancing allowance and balancing charge

- (a) The tax written down value of an asset may be deducted from the income specified in Section 3(k) of this Act in a manner prescribed in the Regulation made pursuant to this Act.
- (b) Insurance compensation or any other form of consideration derived from the disposal of an asset shall constitute part of the total income and in such cases subsection (a) shall apply.

30. Calculation of capital gain or loss

- (a) The amount of gain specified in Section 3(l) of this Act shall be the amount by which the consideration received on disposal of the property referred to in that Section exceeds the cost base of the property at the time of its disposal.

- (b) Where the cost base of a property specified in Section 3(l) is greater than the consideration received on disposal of that property, the excess amount may be deducted in the computation of taxable profit in accordance with Section 34 of this Act.
- (c) For the purposes of this section, "cost base" on disposal of a property refers to the aggregate total of:
- (1) the amount of expenditure incurred by the person in acquiring or improving the property; and
 - (2) expenditure incurred directly in connection with the disposal of the property.
- (d) The Regulation made pursuant to this Act shall prescribe:
- (1) the method of calculation of the cost base for any of the following property being disposed:
 - (i) property acquired before the date of commencement of taxation under this Act;
 - (ii) property acquired or sold between related parties;
 - (2) any other matter for the purpose of implementing this section.
- (e) Notwithstanding subsections (a), (b) and (d), no gain or loss shall be taken into account in determining an individual's taxable income in relation to any amount derived:
- (1) Where the total consideration received from the disposal of a property or similar properties at any given time is not more than MVR 40,000/- (forty thousand), and, the total consideration received from all such transactions does not exceed MVR 100,000/- (one hundred thousand) in an accounting period;
 - (2) from the disposal of a sole immovable property owned by an individual which also constitutes the individual's principal private residence, in a manner prescribed in the Regulation made pursuant to this Act;
 - (3) from the transfer of movable, immovable, intellectual or intangible property to the individual's spouse or child or mother or father;
 - (4) from the disposal of the individual's personal clothes, home furniture, household appliances and loose tools;
 - (5) from the transmission of movable, immovable, intellectual or intangible property on the death of the individual to another person.

31. Deduction allowed only once

Notwithstanding that an amount of expenditure may be deductible under more than one section of this Act, the expenditure shall be deducted only once, and the total amount of the deduction shall not exceed the total amount of expenditure incurred.

32. Non-deductible expenses

(a) No deduction shall be allowed for the following expenditure in computing a person's taxable income:

- (1) Domestic or private expenditure;
- (2) capital expenditure except capital expenditure referred to in Section 26(a) of this Act and capital expenditure included in the calculation referred to in Section 30 of this Act (not including capital allowance deductible in accordance with Section 25 of this Act);
- (3) Expenditure incurred to derive income to which Section 12 applies;
- (4) Income tax payable in the Maldives or outside the Maldives;
- (5) Input tax deductible by a person registered under the Goods and Services Tax Act (Law No. 10/2011);
- (6) Subject to Sections 23, 36 and 39(b)(2) of this Act, provisions for expenditure or loss;
- (7) Fines or other amounts payable in respect of any failure to comply with any law or regulation made pursuant to a law;
- (8) Any bribe given to another person;
- (9) A premium payable to an issuer under a life insurance policy, other than a premium payable:
 - (i) by a person who is carrying on a business; and
 - (ii) under a key person insurance policy that covers the life of a key employee in that business; and
 - (iii) the proceeds of such policy are payable to the person who carries on the business and constitute part or the whole of the total income of that person;
- (10) Where the person is a partnership;

- (i) interest paid on any partner's capital; and
 - (ii) profit of the partnership distributed to the partners.
- (11) Any amount of excessive compensation determined under the Regulation made pursuant to this Act;
- (12) Employee withholding tax deductible under Section 54 of this Act and non-resident withholding tax deductible under Section 55 of this Act which have not been paid to MIRA as required under this Act;
- (13) any expenditure incurred before the date of commencement of taxation under this Act.
- (b) For the purposes of this Section, "domestic or private expenditure" of a person shall include:
- (1) Expenditure incurred in the maintenance of the person or any other person and any person's residence or other non-income producing asset;
 - (2) The cost of commuting to and from the person's residence and place of work;
 - (3) The cost of clothing worn to work, except where that clothing is a special clothing required for work not suitable to be worn outside of work;
 - (4) Where the person derives income from carrying on a business, the cost of education of the person that is not directly relevant to the business and the cost of education leading to a degree or other tertiary qualification, whether or not it is directly relevant to the business; and
 - (5) Where the person derives remuneration, the cost of education of the person whether or not it is directly relevant to the person's employment, except cost of trainings directly related to the person's employment and costs directly related to the performance of the person's employment or directly contributing to the person's employment promotion opportunities.
 - (6) Where the person derives remuneration, expenditure that is not necessary for the performance of the person's duties in the performance of his employment.

CHAPTER 5: LOSSES

33. Loss relief in future accounting periods

- (a) Where a person who derives business income has incurred a loss for any accounting period, that person may deduct such loss against the person's taxable income for future accounting periods.
- (b) Where under subsection (a) the person deducts such loss in the computation of the person's taxable income for future accounting periods:
 - (1) if the taxable income before loss relief under this Section for the accounting period in which such loss is being deducted is greater than 0 (zero), the amount of loss being deducted shall not exceed an amount equal to that amount greater than 0 (zero); and
 - (2) if the taxable income before loss relief for the accounting period in which such loss is being offset is less than or equal to 0 (zero), no amount shall be deducted in respect of such loss.
- (c) Where loss is carried forward to be set off against the taxable income of future accounting periods as pursuant to subsection (a)(a), such loss shall be carried forward for a period of not more than 5 (Five) years from the end of the accounting period in which the loss was incurred.
- (d) Losses shall be deducted as pursuant to subsection (a) in the order in which they are incurred, that is, an earlier loss shall be deducted before a later loss.
- (e) Subsection (a) to (d) shall apply where the following conditions are satisfied.
 - (1) in case of a company (other than a company listed on the Maldives Stock Exchange), only if, from the beginning of the accounting period in which the loss is incurred to the end of the accounting period in which the loss or part thereof is deducted from the taxable income of that period, the same shareholder or shareholders continuously own more than 50% (fifty percent) of the ordinary share capital of the company and the company conducts the same line of business during that period.

- (2) in case of a partnership, only if, from the beginning of the accounting period in which the loss is incurred to the end of the accounting period in which the loss or part thereof is deducted from the taxable income of that period, the same partners continuously own more than 50% (fifty percent) of the capital of the partnership and the partnership conducts the same line of business during that period.
- (3) in case of a trust, only if, from the beginning of the accounting period in which the loss is incurred to the end of the accounting period in which the loss or part thereof is deducted from the taxable income of that period, the same trustees own more than 50% (fifty percent) of the interest in capital or income of the trust and the trust conducts the same line of business during that period.

34. Deduction of capital loss

Any amount of a loss calculated in accordance with Section 30(b) of this Act shall only be deducted from gains calculated in accordance with that section in the same accounting period as that in which the loss was incurred, or to the extent that the loss exceeds those gains, such excess may be set off against the gains calculated in accordance with Section 30 of this Act in subsequent accounting periods, and the references to "loss" and "taxable income" in Section 33 of this Act shall be construed accordingly.

35. Rules on loss relief

- (a) For the purposes of this Section, "loss" means the amount by which deductions allowed under this Act (except for deductions allowed under Sections 18 and 21 of this Act) exceed a person's total income.
- (b) The amount of loss deducted under Section 33 of this Act shall not exceed the amount of total loss for that period.
- (c) Subject to Chapter 13 of this Act, this Section shall only apply to losses arising after the date of commencement of taxation under this Act.

- (d) A person shall not set off a loss against another person's taxable income if the loss or a part thereof arose from any transaction or arrangement entered into by the person or any other person to reduce the person's liability to tax under this Act.

CHAPTER 6: SPECIAL PROVISIONS FOR CERTAIN ENTITIES

36. Bank

- (a) Notwithstanding Section 23 of this Act, in the calculation of taxable income of a bank, a deduction is allowed for specific provisions for doubtful debts in respect of loans or advances, of an amount not exceeding the amount calculated in accordance with the following formula:

$$(5\% \times a) - b$$

where:

"a" is the book value of loans and advances issued by the bank at the last day of the bank's accounting period; and

"b" is the amount of the provision for doubtful debts allowed as a deduction in the computation of taxable income of the preceding accounting period.

- (b) A deduction shall not be allowed for any provisions for doubtful debts in respect of any investments made by a bank, except an amount calculated under subsection (a).

37. Partnership

- (a) A partnership shall pay tax on its taxable income under this Act in its name and as if it were a separate legal entity.
- (b) Partners of a general partnership shall be jointly and severally liable to meet all of the obligations imposed on the partnership under this Act.

38. Trust

- (a) A trust shall pay tax under this Act on its taxable income as if it were a separate legal entity.
- (b) Notwithstanding anything to the contrary specified in the deed of trust, the taxable income of a trust shall be taxable in accordance with the provisions of this Act.
- (c) The trustees of a trust shall be jointly and severally liable to meet all of the obligations imposed on the trust under this Act.

39. Insurance business

- (a) This Section shall apply to any person that carries on the business of insurance.
- (b) The taxable income for an accounting period of a person that carries on the business of insurance other than life insurance business shall be ascertained in accordance with the provisions in this Act and adjusted by:
 - (1) adding to the person's total income:
 - (i) the balance of a reserve for unexpired risks at the beginning of the accounting period; and
 - (ii) the amount of estimated claims reported but not paid at the beginning of the accounting period; and
 - (iii) the amount of claims incurred but not reported at the beginning of the accounting period where that amount has been reasonably estimated using a generally accepted actuarial method approved by the Commissioner General.
 - (2) Deducting from the person's total income:
 - (i) the balance of a reserve for unexpired risks at the end of the accounting period;
 - (ii) a reasonable estimate of claims reported but not paid in that accounting period; and
 - (iii) the amount of claims incurred but not reported at the beginning of the accounting period [end of the accounting period] where that amount has been reasonably estimated using a generally accepted actuarial method approved by the Commissioner General.

- (c) Any amount of expected net recoveries in respect of claims made (whether under a reinsurance contract or otherwise) shall be included as income in the calculation of taxable income of a person carrying on insurance business.
- (d) For the purposes of this section, "reserve for unexpired risks" refers to the amount of the expected value of future claims attributable to the unexpired period of insurance policies in force at a particular time, estimated using an actuarial method approved by the Commissioner General, less the amount of the person's unearned premium reserve at that time, and, the reserve for unexpired risks at the beginning of the person's first accounting period after the date of commencement of taxation under this Act shall include the balance of the person's reserve for unexpired risks at the date of commencement of taxation under this Act.
- (e) The method of calculation of taxable income of a person that carries on the following types of businesses shall be determined in the Regulation made pursuant to this Act:
 - (1) life insurance, taking account of generally accepted actuarial methods; and
 - (2) life insurance and insurance other than life insurance.

40. International transportation business

- (a) Notwithstanding anything to the contrary in this Act, income specified in Section 11(r) of this Act shall be subject to income tax at the rate of 2% (two percent).
- (b) This Section shall not apply to any of the income specified below.
 - (1) Income exempted under Section 12 of this Act;
 - (2) The following income:
 - (i) income derived from a passenger who transits in the Maldives in the course of a journey between two places outside of the Maldives; or
 - (ii) income derived from a transshipment of livestock, mail, parcel, merchandise or goods.