

TOURISM GOODS AND SERVICES TAX ACT
Regulations made pursuant to the Tourism Goods and Services Tax Act

1. Short title

These regulations may be cited as the Tourism Goods and Services Tax Regulations 2010.

2. Interpretation

In these regulations –

“Act” refers to the Tourism Goods and Services Tax Act;

“TIN” refers to the Taxpayer Identification numbers issued pursuant to the Tax Administration Act or the Tourism Goods and Services Tax Act.

“Travel Agency Service Providers” refers to travel agents, tour operators and other parties engaged in arranging travel on a commercial basis to persons travelling to or from the Maldives with the exception of those organizing *Hajj* and *Umra* pilgrimage for Maldivian nationals.

“Legally obliged person” refers to the person nominated by the registered person, being an individual, for the purpose of Section 15 of the Act.

“Complimentary services” refers to any good or service given free of charge, as a gift or courtesy.

“Exempt services” refers to goods and services provided to persons exempted under the Act and to any other persons that do not fall within the definition of a “tourist” as per the Act.

“Input tax” refers to the tax charged when a registered person buys goods or services from another registered person.

3. Registration

(1) A person who applies for registration under Section 37 and 38 of the Act shall produce such documents, and furnish such information in support of his application, as the Commissioner General may require.

(2) A registered person shall declare, electronically or otherwise, the TIN allocated to him on every tax invoice issued under Section 30 of the Act or on any tax returns, notices or any documents submitted to the MIRA under the Act.

(3) Every registered person shall display in a conspicuous place at his business premises a certificate provided by the MIRA to indicate that the person is registered for T-GST.

(4) Any tourist resorts, tourist hotels, guest houses, picnic islands, and tourist vessels registered in the Maldives including any other facility established therein for the supply of goods and services and other service providers mentioned in the Act supplying goods and services to tourists in the Maldives, shall not carry out any taxable activity without having themselves registered with the MIRA in accordance with the Act.

4. Value of goods and services

(1) The value stated on the invoice referred to in Section 6(a) of the Act shall be considered as the average value calculated in accordance with paragraph (3) below, if the value stated on the invoice is outside the normal range of values of similar supplies from other businesses in the same criteria the value of goods and services.

- (2) Under the circumstances referred to in paragraph (1) above, the registered person shall be given an opportunity to produce such documents as may be necessary to support the validity of his invoice value.
- (3) Under the circumstances where the registered person is unable to produce documents, referred to in paragraph 2, to the satisfaction of the Commissioner General then, the average value for those goods and services shall be determined in accordance with the following principles and formulae –
 - a. average rate may be based on a rolling average of values of 5 years for the same season, or any other appropriate calculation,
 - b. Upgrades, developments and changes to scale of operation may be taken into account in calculating the average rate,
 - c. any exceptional circumstances affecting sales may be taken into account in calculating the average rate.
 - d. Economic/market variables including, but not limited to, inflation, target market and seasonal variation.

(5) Taxable periods

- (1) Where a person has made an application to change the taxable period under Section 8 of the Act, the Commissioner General shall take into consideration the following matters in reaching a decision in respect of the application.
 - a. The person's history in filing tax returns and paying tax liabilities, which would include, without limitation, the following:
 - i. Late filing or non-filing of tax returns;
 - ii. Late payment, non-payment or short payment of tax;
 - iii. Outstanding payments, fines or interests, if any;
 - iv. Submitting false or incorrect tax returns or any other false or incorrect information to the MIRA.
 - b. The person's history in submitting financial reports, if any.
 - c. The scale of the person's taxable supply.
- (2) For the purposes of determining whether or not a person's taxable supplies exceeds US\$10,000 (Ten Thousand United States Dollars) per month, a monthly average calculated on the value of the previous 12 months' actual annual taxable supplies and, on the value a forecast of the taxable supplies for the following 12 months shall be submitted to MIRA by the registered person.
- (3) Provided that the monthly average values calculated in accordance with paragraph (2) above does not exceed US\$10,000 (Ten Thousand United States Dollars), the Commissioner General may grant approval to change the taxable period as follows –
 - a. If the monthly averages fall within the range of US\$5000 and US\$10,000, then once every 2 (two) months; or
 - b. If the monthly averages fall below US\$5000, then once every 6 (six) months.

- (4) Registered persons shall not be allowed to change their taxable period more than once a year by request.
- (5) Notwithstanding paragraph (4) above, the Commissioner General may change the taxable period of the registered person under the circumstances –
 - a. where the taxable supplies of a registered person, who has been granted with approval to change the taxable period under Section 8 of the Act, exceeds US\$5,000 (Ten Thousand United States Dollars), the Commissioner General may notify such persons to file returns and pay tax liabilities on a 2 monthly basis from the subsequent taxable period starting from the end of the taxable period on which the notice was served.
 - b. where the taxable supplies of a registered person, who has been granted with approval to change the taxable period under Section 8 of the Act, exceeds US\$10,000 (Ten Thousand United States Dollars), the Commissioner General may notify such persons to file returns and pay tax liabilities on a monthly basis from the subsequent taxable period starting from the end of the taxable period on which the notice was served.

(6) Receipt and Invoice

- (1) Registered persons shall raise a tax invoice, to the extent applicable, if the basis used for calculation of tax is invoice basis or hybrid basis.
- (2) A registered person, being a retailer of service, who issues a receipt or invoice under Section 30 of the Act shall specify in the receipt or invoice –
 - a. "Tax Invoice" written in a prominent manner
 - b. the name, address and TIN of the supplier;
 - c. the name and address of recipient of service or person to whom the goods or services are supplied;
 - d. invoice number
 - e. date of issue;
 - f. date of payment received or falls due;
 - g. the quantity and description of the goods or the description of the services;
 - h. the value of the supply, total value of the supply, exclusive and inclusive of tax, and the amount of tax.
 - i. An indication on how bed tax under Section 24(c) has been included in the value of supply.
- (3) A registered person providing a tax invoice to another registered person shall state thereon the following particulars in addition to those particulars mentioned in paragraph (2) –
 - a. Name, address and TIN of the recipient;
 - b. a description sufficient to identify the goods or services supplied;
 - c. for each description, the quantity of the goods or the extent of the services, and the rate of tax and the amount payable, excluding tax;
 - d. the gross total amount payable, excluding tax;
 - e. any discount offered;
 - f. the total amount of tax chargeable.

- (4) Where a registered person provides an invoice containing the particulars specified in paragraphs (2) or (3) above, and specifies thereon any goods or services which are the subject of a complimentary or exempt service, he shall distinguish on the invoice between the goods or services which are the subject of a complimentary or exempt service and state separately the gross total amount payable in respect of each supply.

(7) Complimentary Services

- (1) Registered persons shall raise a tax invoice, to the extent applicable, for complimentary services if the basis used for calculation of tax is invoice basis or hybrid basis.
- (2) If the complimentary services provided in any given taxable period exceed 1.5% of the monthly taxable sales, then tax shall be applicable on the part which is in excess and such tax shall be paid along with tax payable for that taxable period.
- (3) Subject to Section 29 of the Act, any excess tax paid under paragraph (2) shall be credited to the registered person in the last taxable period for the year.
- (4) Under the circumstance where a supplier ceases to carry out all taxable activities, for the purpose of calculating whether or not complimentary services exceeds 1.5%, the applicable period shall be the period up to the time of cessation of taxable activities.
- (5) Complimentary service may include any of the following –
- a. Gifts, meals, nights, room upgrades or any other good or service provided free of charge.
 - b. Any other service as specified by the Commissioner General.

(8) Service Charges on goods and services supplied to tourists

Tax shall be applicable to any service charge, at the same rate, as prescribed in the Act, for the corresponding good or service, and irrespective of whether such service charges have been included in the total value for the good or service or has been included as a separate component on the tax invoice.

(9) Supplies between registered persons

- (1) Registered persons, purchasing goods and services for supply to tourists, from other registered persons, shall pay tax to MIRA after having deducted input tax. And any tax returns filed in this regard shall contain the particulars as follows –
- a. Name, address and TIN of the registered person
 - b. The value at which goods and services was purchased by the registered person.
 - c. The total value of service supplied to tourist,
 - d. Tax paid by the tourist
 - e. The amount received by the registered person excluding tax.
 - f. Input tax.
 - g. tax payable by the registered person after deducting input tax.
- (2) Where the registered person supplies the good or service to person who has been granted exemption from tax under any laws, then input tax paid on such goods and services may be claimed as set forth in Regulation

Example of calculating input tax payable for explanation purposes [*part of the Annex*] –

Supplier	Intermediary	MIRA
Sells to intermediary and charges TGST		
e.g.		
Invoice shows:		
Services:	\$10,000	
TGST	\$350	
Total	\$10,350	
Supplier pays tax to MIRA	\$350	\$350
Intermediary sells to Customers and charges TGST e.g.		
Invoice shows:		
Services:	\$12,000	
TGST:	\$420	
Total	\$12,420	
Intermediary accounts to MIRA for		
	\$420	
Minus Input Tax		
	-\$350	
Net amount to MIRA		
	\$70	\$70
		Total \$420

(10) Death or bankruptcy of registered person

- (1) If a registered person dies, the legally obliged person shall submit a death certificate issued by the relevant authority when filing the Tax Returns for the current taxable period, applicable to the part up till the time of death, on or before the 28th day of the subsequent Gregorian month after the end of the taxable period in accordance with the Act.
- (2) If a registered person dies or becomes bankrupt, the Commissioner may, from the date on which he died or became bankrupt treat as a registered person any person carrying on that business until some other person is registered in respect of the taxable supplies; and the provisions of the Act and of any Regulations made thereunder shall apply to any person so treated as though he were a registered person. And the below shall apply to any such person –
 - a. Any person carrying on such business shall, within 21 days of commencing to do so, inform the Commissioner General in writing of that fact and of the date of the death.
 - b. In relation to a company which is a registered person, the references in paragraph (2) above to the registered person becoming bankrupt shall be construed as references to the company going into liquidation or adjudged bankrupt.

(11) Transfer of a taxable activity

- (1) Where –
 - a. a business or taxable activity is transferred as a going concern,
 - b. the T-GST registration of the transferor has not already been cancelled,

- c. on the transfer of the business, whole or part of the registration of the transferor is to be cancelled and either the transferee becomes liable to be registered or otherwise, and
- d. an application is made by or on behalf of both the transferor and the transferee of that business,

the Commissioner General may as from the date of the said transfer deactivate the registration of the transferor, to the extent applicable, and register the transferee with a new TIN and allocate the liabilities and rights of the transferor.

(2) Where the transferee of a business has under paragraph (1) above been registered–

- a. Any liability of the transferor existing at the date of the transfer to make a return or to account for or pay tax under the Act may become the liability of the transferee,
- b. Any right of the transferor, whether or not existing at the date of the transfer, may become the right of the transferee, and
- c. Any liability of the transferor, not existing at the date of the transfer owing to fraud, neglect or tax evasion, shall remain the liability of the transferor.

(3) In addition to the provisions set out in paragraph (2) above, where the business of a transferor has been transferred as set out in paragraph (1), with effect from the date of the transfer of the business, any –

- a. Return has been made,
- b. Tax has been accounted for and paid, or
- c. Right to any refund has been claimed,

either by or in the name of the transferee or the transferor, it shall be treated as having been done by the transferee.

(12) Tax Returns

(1) Registered persons shall file signed originals of tax returns to the MIRA.

Filing joint returns

(2) Registered persons may file joint tax returns provided –

- a. the registered persons is the same legal person or entity and,
- b. the registered persons carries out the taxable activities on the same establishment, where such establishment could be a resort, tourist hotel, guest house, picnic island or tourist vessel.

(3) Registered persons filing joint tax returns shall follow the procedure as below –

- c. Registered persons shall forward a request to the Commissioner General to file joint returns, if desired. Any changes so requested shall take effect from the subsequent taxable period following approval of the Commissioner General.
- d. If at any time, the registered persons who have informed the Commissioner General as referred to in paragraph (2a) require to file separate tax returns, then the registered person shall forward a request to the Commissioner General to file separate tax returns. Any changes so requested shall take effect from the subsequent taxable period following approval of the Commissioner General.

Postponement of filing of tax returns

- (4) The registered person or the legally obliged person may seek extension of the period for filing tax returns by virtue of –
- a. the registered person being out of the country for an extended period of time,
 - b. the registered person suffering from serious, incapacitating illness,
 - c. death of the registered person,
 - d. any other reasonable cause,
- and may be granted with such extension provided the Commissioner General is satisfied that the given situation warrants an extension.
- (5) Any registered person, granted with an extension for the period for filing tax returns, shall pay tax or an estimated amount of tax, as and when they fall due in accordance with the Act, based on the tax paid, in the corresponding taxable period of the previous year or, in the previous taxable period of the current accounting period, whichever amount of tax paid was greater.
- (6) Any registered person, granted with an extension for the period of filing tax returns, shall submit his returns for such period and pay any tax which falls short, during the subsequent period for filing returns following the end of the period for which extension was granted. And, any tax paid in excess shall be offset from tax payable.

Calculation of tax returns

- (7) Where a registered person is required under the Act to make a return to the MIRA, the amounts to be entered on that return shall be determined in accordance with these Regulations by using the form prescribed in Annex [].
- (8) Where any correction has been made and a return calculated in accordance with these Regulations has been filed, then any such return shall be regarded as correcting any earlier returns to which paragraph (8) to (13) below apply.

Correction of errors

- (9) This regulation applies where a registered person has made a return, or returns, to the MIRA which overstated or understated his liability to tax under Act.
- (10) Where, in relation to all such overstatements or understatements discovered by the registered person during a prescribed accounting period, the difference between –
- a. under-declarations of liability, and
 - b. over-declarations of liability,
- does not exceed US\$100, the registered person may correct his tax account by adjusting the amounts in a subsequent taxable period, subject to conditions in (10) below.
- (11) Every entry required by this regulation shall –
- a. be made in that part of the taxable period which relates to the prescribed accounting period in which the overstatements or understatements in any earlier returns were discovered,
 - b. make reference to the returns to which it applies, and
 - c. make reference to any documentation relating to the overstatements or understatements.
- (12) Where the conditions referred to in paragraph (10) above do not apply, the tax account may not be corrected by virtue of this regulation.

- (13) Where a taxable person has made an error—
- a. in accounting for tax payable, or
 - b. in any return made by him,

then, unless he corrects that error in accordance with paragraphs (8) to (12), he shall correct it in such manner and within such time as the Commissioner General may require. Under such circumstances, subject to Regulation 20 below, the Commissioner General may, at his discretion, partially or completely waive any interests or penalties incurred on any late payment of tax resulting from the error.

- (14) Any claim to offset tax paid in excess shall be made in writing to the Commissioner General and shall, by reference to such documentary evidence as is in the possession of the claimant, state the amount of the claim and the method by which that amount was calculated.

Payment of tax

- (15) The MIRA shall accept payment of any fine payable to MIRA on instalment basis, subject to the approval of the Commissioner General.

- (16) Registered persons shall file their returns and pay tax to the MIRA or, to any other place as specified by the MIRA.

- (17) Any registered person, who has not filed his tax return, may pay an amount of money to the MIRA be credited to his account and to be set against his tax liabilities once the tax return has been filed. As such, upon filing of the return, any monies paid in excess shall be setoff in the subsequent taxable period and any amount which falls short shall be paid along with interests incurred on such amount from the date it fell due till the outstanding was settled.

(13) Irrecoverable debt relief

- (1) This regulation shall apply for the purpose of ascertaining whether, and to what extent, the consideration is to be taken to have been written off as a bad debt.
- (2) Except otherwise allowed or directed by the Commissioner General, the whole or any part of the consideration for a supply shall only be written off as a bad debt from the accounts of the registered person pursuant to a judgement of the court that such debt is irrecoverable.
- (3) Registered persons may be allowed to write off debts from their accounts upon application to the Commissioner General and the subsequent approval of the Commissioner General, under circumstances where the debtor has been liquidated or adjudged bankrupt.
- (4) Registered persons may also be allowed to write off debts in accordance with IFRS standard provided such debts have been outstanding for a period of one year.
- (5) Under the circumstance where the registered person has received payment for a debt which has been written off in accordance with paragraph (4) above and where tax for such debt has either been offset or refunded, then the registered person shall pay tax in respect of such debt to the MIRA.
- (6) Except otherwise allowed by the Commissioner General, the registered person, before he makes a claim for a refund on irrecoverable debt, shall hold in respect of each relevant supply

- a. Either
 - i. A copy of any tax invoice
 - ii. Where there was no obligation to provide a tax invoice, a document which shows the time, nature and purchase of the relevant goods and services and the consideration thereof,
 - iii. Records of any other documents showing he has accounted for and paid tax thereon, and
 - iv. Records or any other documents showing that the consideration has been written off in his accounts as a bad debt.
 - v. Documentary evidence, of debt being declared irrecoverable or liquidation or bankruptcy of the debtor.

(14) The making of a claim for a refund of tax to the MIRA

If at any time a person becomes entitled to a refund when he is no longer required to make returns to the MIRA he shall make a claim to the MIRA in such form and manner as the Commissioner General may direct.

(15) Powers of Audit

- (1) Pursuant to Section 35 of the Act, registered persons are required to submit, to the MIRA, tax invoices supporting –
 - a. the amount of sales declared on the tax return, including sales subject to T-GST, deductions, complimentary supplies and exempt sales, and;
 - b. the amounts of input tax claimed on the tax return.
- (2) The Commissioner General may exempt registered persons from the obligation to submit tax invoices when submitting tax returns to the MIRA.
- (3) The exemption referred to in (2) above may be revoked by the Commissioner General at any time with a minimum of 14 days' notice before the due date for the tax return.
- (4) The Commissioner General shall also have the power and authority to request for the submission of any other documentation within 30 days from the date of notice.

(16) Keeping of records

- (1) Every registered person shall, for the purpose of accounting for tax, keep the following records—
 - a. his business and accounting records,
 - b. his tax account,
 - c. copies of all tax invoices issued by him,
 - d. all tax invoices received by him,
 - e. credit notes, debit notes, or other documents which evidence an increase or decrease in consideration that are received, and copies of all such documents that are issued by him.
- (2) The Commissioners may—
 - a. in relation to a trade or business of a description specified by them, or
 - b. for the purposes of any scheme established by, or under, Regulations made under the Act,

- c. supplement the list of records required in paragraph (1) above by a notice published by them for that purpose.

(17) Accounting Standards and qualifications of tax accountants

- (1) For the purposes of the Act, the applicable accounting standard shall be the International Financial Reporting Standard (IFRS).
- (2) Tax accountants licensed by MIRA may prepare accounts and file returns on behalf of registered persons or responsible persons.

(18) Deductions

For the purposes of Section 24, the following principles shall apply –

- a. bed tax collected pursuant to Section 39 of the Maldives Tourism Act (Act No. 2/99) may be deducted from the total value of the supply,
- b. the amount of tax corresponding to the value of services supplied to employees including directors, of the registered person or, of Group of Companies to which the company belongs or, of any other place operated by the company, may be deducted from the total value of the supply,
- c. Import duties and any other taxes, fees and charges payable to the Government shall be excluded in calculating deductions from the total value of the supply.

(19) Special rules applying to the period between the passing of the Act and its enactment

- (1) Registered persons shall not make advance bookings during the period between the passing of the Act and its enactment with an intent to evade tax, which would otherwise be payable when the Act comes into force.
- (2) Registered persons shall submit the following particulars to the MIRA prior to the expiry of deadline for submission of the first returns upon enactment of the Act –
 - a. details of any advance bookings which have been made in the period between the passing of the Act and its enactment for the supply of services, if such services would be supplied at a time after the enactment of the Act.
 - b. details of the previous year's monthly advance bookings for the period corresponding to the period between the passing of the Act and its enactment.
- (3) Under the circumstance where considerable discrepancies exist between the advance bookings made during the periods referred to in (2a) and (2b), the MIRA shall treat such instances as deliberate attempts to evade tax and shall impose a penalty, upon the registered person, not exceeding MVR250,000 (Two Hundred and Fifty Thousand Maldivian Rufiyaa).

(20) Unpaid tax, fines, penalties, etc

- (2) The Commissioner General shall have the authority to recover any unpaid tax, fines and penalties as a debt owed to the State, in accordance with the procedure set forth in the Tax Administration Act and regulations made therein. In doing so, the Commissioner General may serve a notice to the registered person, giving him a final opportunity to settle the outstanding amounts.

- (3) Any notice served on a person in respect of unpaid tax, fines and penalties shall contain the following particulars –
- a. The name, address and TIN of the registered person,
 - b. The amount of unpaid tax, fine or penalty
 - c. The taxable period which corresponds to the unpaid tax, fine or penalty,
 - d. The amount of interest charged on the unpaid tax, fine or penalty,
 - e. The date up to which the interest was calculated,
 - f. The applicable daily amount of interest.
 - g. Final date for payment.

(21) Relief from penalties

- (1) The Maldives Inland Revenue Authority may partially or completely waive penalties under the following circumstances –
- a. where the breach was the direct result of a death or serious, incapacitating illness that impacted the registered person's ability to file or pay tax, or
 - b. where the breach was caused by the destruction of property or records by natural disaster, fire or other casualty, or
 - c. where the registered person has, prior to the detection by MIRA, of any concealment of any particulars relating to his tax liability or of the inaccuracy of particulars furnished in respect of such tax liability, voluntarily and in good faith, made full and true disclosure of such particulars.

(22) Other penalties

Any person found to be in contravention of the Regulations herein shall be subject to a fine not exceeding MVR250,000 (Two Hundred and Fifty Thousand Maldivian Rufiyaa) pursuant to Section 51 of the Act.