



# Tax Alert

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2 July 2020

## **TWENTY SIXTH AMENDMENT TO THE GST REGULATION**

### **Executive Summary**

This issue covers important changes introduced by the Twenty Sixth Amendment to the Goods and Services Tax Regulation<sup>1</sup> on 26 June 2020. The key changes include:

- ◇ specific rules on what constitutes a charter of a tourist vessel;
- ◇ no prior authorisation required to claim a deduction on irrecoverable debts;
- ◇ amendment of the definition of goods and services exported from the Maldives;
- ◇ specific rules on transfer, and personal consumption of imported goods;
- ◇ removal of requirement to return GST certificate upon de-registration.

<sup>1</sup> Regulation Number 2011/R-43

## Definition of 'charter' of tourist vessel

The Amendment introduces a crucial change on what constitutes a charter of a tourist vessel for the purposes of Section 15(c) of the GST Act<sup>2</sup>, which states that GST should be accounted for charter arrangements on the value of the charter of a tourist vessel. According to the new changes, a charter of a tourist vessel constitutes the lease of a tourist vessel for:

1. a voyage or voyages not exceeding a period of 15 days; or
2. the personal use of the lessee.

The Amendment further explains that the 15-day period will be calculated based on the total number of days that a tourist vessel is utilised by the lessee or related parties of the lessee within a 60-day period.

If the charter arrangement fails to satisfy the conditions mentioned above, the 'charter arrangement' is 'disregarded' for GST purposes. In such a case, the person that holds the operating license of the tourist vessel will be required to account for GST on goods and services supplied by the vessel during the charter period regardless of the terms of any prior existing commercial arrangement with the charterer.

### Illustrative example

Mr Moosa is the owner of a safari boat, Trueblue, which is registered with the Ministry of Tourism as a tourist vessel. Moosa enters into a time charter arrangement with AmazingCo, a tour operating company which purchases the bed capacity in bulk, and boat crew for a period of 2 years for USD 15,000 per month. AmazingCo then onells the rooms as a holiday package for tourists visiting the Maldives.

As Mr Moosa has entered into a charter arrangement with AmazingCo for a period of 2-years, it exceeds the 15-day rule stipulated in the Amended Regulation. The consequence of this would be that Mr Moosa is obligated to account for GST on all goods and services supplied by the vessel, Trueblue during the lease period (instead of the value of charter) since Mr Moosa holds the operating license of the tourist vessel. In practice, the value of supply in this case would probably be the value at which AmazingCo sells the rooms to tourists (of course an adjustment to the price may be required in some cases).

<sup>2</sup> Law Number 10/2011

## **Commissioner General's authorisation no longer required to claim a deduction on irrecoverable debts**

Enterprises that write off certain receivables as bad debts can now claim a deduction for tax paid on those bad debts without seeking authorisation from the MIRA. The Amendment to the GST Regulation removes the requirement to seek authorisation from the Commissioner General prior to claiming a deduction for GST paid on bad debts in subsequent taxable periods. The removal of this requirement lifts an administrative burden caused by the authorisation conditions whereby the taxpayer was required to demonstrate, inter alia, that the GST was in fact paid during a previous period and furnish documents to substantiate that the debts were written off in accordance with the GST Regulation.

## **Goods and services exported by Customs registered business qualify as goods and services exported from the Maldives**

The change introduced to Section 41(a) of the GST Regulation categorically defines goods and services exported from the Maldives to mean goods and services exported and re-exported by enterprises registered with the Maldives Customs Service ('MCS'). This change is an alignment of the GST Regulation with the prevailing practice in import and export.

Following an amendment to the Import, Export and Re-export Regulation on 28 March 2019, enterprises that carry on with the business of import, export, and re-export are no longer required to have a license issued by the Ministry of Economic Development to carry on with such activities but are now only required to be registered with the MCS. The amendment to Section 41(a) reflects this administrative and procedural change.

## **Rules on trading and personal consumption of imported goods by individuals**

Goods imported by registered individuals are now required to account for GST on:

1. goods imported for personal use which are subsequently transferred or traded; and
2. goods imported for reasons other than personal use, which are subsequently transferred, traded, or used for personal consumption.

Business entities which import goods and subsequently transfer or trade those goods will be required to account for GST on that transaction. The Amendment also repeals Tax Ruling G362<sup>3</sup> which contains rules regarding the GST treatment on the transfer of imported goods, and applied to registered individuals and business entities.

## **Enterprises no longer required to handover GST Registration Certificate upon deregistration**

Businesses that deregister from GST are no longer required to return their GST Registration Certificate to the MIRA. Prior to the Amendment, enterprises that were deregistered from GST were required to return their GST Registration Certificate within 15 days of notification from the MIRA.

In addition to the removal of this requirement, enterprises that carry on with an online business and subsequently deregister from GST will automatically have their online GST logo cancelled along with their GST Registration Certificate.

<sup>3</sup> TR-2016/G36 (Transfer of Imported Goods)

## Our Comments

The most crucial change brought about by the Amendment is the definition of charter of tourist vessels. The MIRA published a draft Tax Ruling on the same issue in September 2015 where it was proposed to limit the charter period to 10-days.

With limitations for foreign enterprises to obtain the operating license of tourist vessels with a bed capacity of less than 30 beds, it is quite common in the Maldives for foreign enterprises to enter into charter arrangements covering the whole season. Under such arrangements, the foreign enterprise on-sells bed capacity of the vessels to tourists but GST may not be accounted for on the prices that the tourists pay to that foreign enterprise. The definition of charter that the Amendment has put will address this matter to some extent.

However, in practice, there may be genuine arrangements where the operating license holder of the vessel has sold the rooms in bulk to a foreign tour operator. In this case, the foreign tour operator will usually add a mark-up for the functions he carries out and the risks borne. It is not clear from the Regulation whether the MIRA would also treat such arrangements to fall under the new rules on charter of tourist vessels, or if an adjustment to the price is required in this case for the functions performed by the foreign operator.

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### **About us**

CTL Strategies LLP is a multi-disciplinary law firm that provides comprehensive legal solutions to both local businesses operating globally and foreign businesses with interests in the Maldives. Our team is comprised of corporate and tax lawyers, tax advisors and chartered accountants.

We are ranked by Asia Law Profiles as a highly recommended firm in the areas of litigation and disputes.

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