بسم الله الرحمن الرحيم

MALDIVES
INLAND REVENUE
AUTHORITY

Unofficial translation of the

TRANSFER PPICING REGULATION 2020/R-43

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TRANSFER PRICING REGULATION

1. Introduction and citation

(a) This Regulation is made pursuant to the authority granted to the Board of the Maldives Inland Revenue Authority by Section 68(b)(4) and Section 76(b) of the Income Tax Act (Law Number 25/2019).

(b) This Regulation shall be cited as the "Transfer Pricing Regulation".

2. Objective

The objective of this Regulation is to facilitate the implementation of Section 68 of the Act, set out rules to be followed by persons who are subject to that Section and establish the policies and procedures with regard to the implementation of the provisions of that Section.

3. Preparation of transfer pricing documentation

The transfer pricing documentation required under Section 68(b) of the Act shall be prepared in the following manner.

(a) The transfer pricing documentation shall include the information specified in schedule 2 of this Regulation in respect of the following:

(1) The transaction or arrangement that is subject to Section 68 of the Act;

(2) The applicable entity that is subject to the transaction or arrangement specified in subsection (a)(1);

(3) The group to which the applicable entity that is subject to the transaction or arrangement specified in subsection (a)(1) belongs.

(b) The date on which the transfer pricing documentation is completed shall be stated therein.

(c) The transfer pricing documentation shall be prepared in English or Dhivehi

(d) The accounting period to which the transfer pricing documentation relates shall be specified therein.

4. Qualifying past transfer pricing documentation

(a) Notwithstanding Section 3 of this Regulation, where an applicable entity prepares a "qualifying past transfer pricing documentation", the transfer

pricing documentation prepared by that applicable entity in respect of a transaction or arrangement defined in this Regulation as a "subject transaction", shall:

(1) fulfill all the requirements specified in Section 3 of this Regulation; and

(2) include a declaration by the entity stating that the entity has prepared a qualifying past transfer pricing documentation, and a copy of the qualifying past transfer pricing documentation thus prepared.

(b) The declaration specified in subsection (a)(2) shall not be deemed to be a qualifying past transfer pricing documentation.

5. Defining qualifying past transfer pricing documentation

(a) In this Regulation, "qualifying past transfer pricing documentation", shall mean the transfer pricing documentation that was prepared for the previous accounting period in respect of a transaction or arrangement entered into with the same associated party with whom the transaction (the subject transaction) entered into, in respect of which the transfer pricing documentation is prepared.

(b) The qualifying past transfer pricing documentation specified in subsection (a) shall fulfill all the requirements specified in Section 6 of this Regulation.

(c) Where transfer pricing documentation was prepared for the previous accounting period in accordance with subsection (a), or, the transfer pricing documentation prepared for the previous accounting period did not fulfill any of the requirements specified in Section 6 of this Regulation, "qualifying past transfer pricing documentation" shall mean the transfer pricing documentation that was prepared for the accounting period immediately preceding the previous accounting period in respect of a transaction or arrangement entered into with the same associated party with whom the transaction (the subject transaction) entered into, in respect of which the transfer pricing documentation is prepared.

(d) The requirements specified in Section 6 of this Regulation shall be fulfilled even where subsection (c) applies.

6. Requirements of qualifying past transfer pricing documentation

The qualifying past transfer pricing documentation specified in Section 5(a) and (c) of this Regulation shall satisfy all of the following conditions:

(a) The transfer pricing documentation is prepared in accordance with Section 3(a), (b), (c) and (d) of this Regulation;

(b) The transaction for which the transfer pricing documentation was prepared is of the same type of transaction or arrangement as the subject transaction;

(c) The information in the transfer pricing documentation on all of the following matters accurately describes the same matters as regards the subject transaction:

(1) the commercial or financial relations between the parties;

(2) the terms and conditions made or imposed between the parties;

(3) the transfer pricing method that is used for the transaction or arrangement;

(4) the arm's length terms as defined in Section 79(r) of the Act, applied in the transaction or arrangement.

7. Exemptions

Transfer pricing documentation need not be prepared for a transaction or arrangement undertaken by an applicable entity with its associated party in the following circumstances:

(a) The transaction or arrangement satisfies all of the following conditions:

(1) the applicable entity can be categorized into either a micro, small or medium enterprise under the Law on Small and Medium Enterprises (Law number 6/2013) in each of the following periods;

(i) the accounting period to which the transaction relates;

(ii) the accounting period immediately preceding the period specified in subsection (a)(1)(i) (hereafter referred to as the "previous accounting period");

(iii) the accounting period immediately preceding the period specified in subsection (a)(1)(ii) (hereafter referred to as the "accounting period preceding the previous accounting period").

(2) Section 68 of the Act requires transfer pricing documentation to be prepared for each of the following periods:

(i) previous accounting period;

(ii) accounting period preceding the previous account period.

(b) The transaction satisfies all of the following conditions and is not a loan transaction;

(1) each party to the transaction is either incorporated or registered in Maldives or carries on a business in Maldives;

(2) the income derived by the first party to the transaction from the transaction is subject to tax under the Act;

(3) the amount paid or payable by the second party to the first party is deductible in the computation of taxable income of the second party only against income of that second party which is subject to tax at the same rate applicable to the income specified in subsection (b)(2) received by the first party.

(c) The transaction satisfies all of the following conditions and is not a loan transaction;

(1) each party to the transaction is either incorporated or registered in Maldives or carries on a business in Maldives;

(2) the income derived by the first party to the transaction from the transaction is exempted from tax under the Act;

(3) the amount paid or payable by the second party to the first party is not deductible in the computation of taxable income of the second party against any income of that second party, or is deductible only from income of the second party which is exempt from tax;

(d) The transaction is a loan issued to an associated party or obtained from an associated party, which satisfies all of the following conditions;

(1) each party to the transaction is either incorporated or registered in Maldives or carries on a business in Maldives;

(2) the party issuing the loan is not in the business of borrowing and lending money in the Maldives;

(e) The transaction is a loan which does not exceed MVR 15 million and the parties to the loan agree to apply the "indicative margin" for the year in which the loan is obtained or provided;

(f) The transaction is the provision of a routine support service, which satisfies all of the following conditions:

(1) a mark-up of 5% is applied to the cost of provision of the service;

(2) the service is only provided to entities in the group to which the applicable entity belongs;

(g) The value of all the transactions undertaken with associated parties during the tax year, except for those transactions specified in subsection (b), (c), (d), (e) and (f), does not exceed MVR 5 million;

8. Definitions

Unless otherwise specified in this Regulation:

(a) "Indicative margin" refers to the indicative margin published on MIRA's website for to be used in determining the interest rate for associated party loans.

(b) "Applicable entity" refers to persons required to prepare transfer pricing documentation under Section 68 of the Act.

(c) "Group to which the applicable entity belongs" refers to a group of entities all of which are associated with each other and that includes:

(1) the applicable entity;

(2) where the applicable entity is a partnership, the partners of the partnership;

(3) where the applicable entity is a trust, the trustees of the trust.

(d) "Routine support services" refers to services of "supportive nature" which satisfy the following conditions and are not part of the primary business of the applicable entity, and, are specified in the First Schedule of this Regulation;

(1) the provision of the service neither requires the utilization of a unique asset or a valuable intangible asset, nor gives rise to such intangible asset; and

(2) the provision of the service does not involve the assumption or control of significant risk by the applicable entity.

(e) "Transfer pricing methods" refers any of the following methods used to determine the arm's length price.

(1) "Comparable Uncontrolled Price (CUP) Method": A transfer price method that compares the price for property or services transferred in a controlled transaction to the price charged for property or services transferred in a comparable uncontrolled transaction in comparable circumstances;

(2) "Cost Plus Method": A transfer pricing method using the costs incurred by the supplier of property (or services) in a controlled transaction. An appropriate cost plus mark-up is added to this cost, to make an appropriate profit in light of the functions performed (taking into account assets used and risks assumed) and the market conditions. What is arrived at after adding the cost plus mark up to the above costs may be regarded as arm's length price of the original controlled transaction;

(3) "Resale Price Method": A transfer pricing method based on the price at which a product that has been purchased from a associated party is resold to an independent person. The resale price is reduced by the resale price margin. What is left after subtracting the resale price margin can be regarded, after adjustments for other costs associated with the purchase

of the product (e.g. custom duties), as an arm's length price of the original transfer of property between the associated parties;

(4) "Profit Split Method": A transactional profit method that identifies the combined profit to be split for the associated parties from a controlled transaction and then split those profits between the associated parties based upon an economically valid basis that approximates the division of profits that would have been anticipated and reflected in an agreement made at arm's length;

(5) "Transactional Net Margin Method": A transactional profit method that examines the net profit margin relative to an appropriate base (e.g. costs, sales, assets) that a taxpayer realizes from a controlled transaction;

(6) "Other such method": A method approved by MIRA that takes into account the price paid or payable in comparable circumstances to an independent party in comparable circumstances, considering all the relevant facts.

9. Commencement of the Regulation

This Regulation shall take effect from the date of its publication in the Government Gazette.

Schedule 1: Routine Support Services

Service	Description
Accounting and auditing	Maintaining accounting records, preparing financial statements based on accounting records, reconciling financial data, ensuring authenticity and reliability of accounting records, performing operational and financial internal audits, and performing other services of a similar nature.
Accounts receivable and accounts payable	Collating and verifying data on accounts receivable and accounts payable for the purposes of financial reporting, aging, billing, soliciting payments from customers, payment to vendors, procurement, and other purposes of a similar nature.
Budgeting	Compiling data for the purposes of preparing budget estimates and budget reports.
Computer support	Providing technical assistance services in relation to usage of computer hardware and software, maintenance of Information Technology infrastructure, troubleshooting support, and other services of a similar nature.
Database administration	Performing general maintenance of computer databases including data storage, but excluding analytic services performed on stored data.
Employee benefits administration	Administration of employee benefits in relation to healthcare, life insurance and dental, and planning and administration of employee remuneration (including employee incentive compensation).
General administration	Performing clerical and administrative functions such as general purchasing, data entry, photocopying or scanning of materials, scheduling appointments, word processing and maintenance of file registries.
Legal services	Providing general legal services by in-house legal counsel.
Payroll	Compiling and verifying the information needed to compute the remuneration, commissions and reimbursements due to employees,

	preparing pay cheques, and arranging the crediting of such payments into employees' bank accounts.
Corporate communications	Handling internal and external communications relating to corporate policies.
Staffing and recruiting	Managing staffing requirements, performance issues and staff welfare, and wok related to the implementation of recruitment plans such as advertising open positions, and screening of candidates.
Tax	Preparing tax returns and computations and reclaim forms, preparing responses to queries and submitting them to tax authorities, and processing tax payments.
Training and employee development	Managing and implementing training and development programs for employees

Schedule 2: Information to be included in the Transfer Pricing Documentation

Master File

1. For the accounting period and the previous accounting period, an overview of the business of the group to which the applicable entity belongs, the nature of its global business operations, its overall transfer pricing policies and, in the accounting period in which the transaction takes place, its global allocation of income and economic activities, including the following information:

Organization structure

(a) A chart illustrating the group's worldwide organizational structure that shows parties in the group with their geographic location, and ownership and legal linkages among all associated parties of the group;

Description of business

(b) A description of the group's businesses in the accounting period that are relevant to the business of the applicable entity, including:

(1) information of the group's businesses, products and services, geographic markets and key competitors;

(2) a description of the supply chains of those businesses, products and services;

(3) the group's business models and strategies;

(4) the "business drivers" of the group;

(5) the industry, market, regulatory and economic conditions in which the group operates;

(6) the business activities of each entity in the group and the functional analysis describing their value adding contributions, including functions performed, assets used and risks assumed;

(7) changes to the group's structure through restructuring, acquisition or divestiture.

Group's intangibles

(c) A description of the group's intangible assets that are used in or applied to the business of the applicable entity in Maldives, including:

(1) a description of the group's strategy for the development, ownership and exploitation of

intangible assets, including the location of research and development facilities and the location from which research and development is managed;

(2) a list of intangible assets that includes the names of the entities that have legal ownership of those assets;

(3) a list of agreements among associated parties concerning those intangible assets that includes cost sharing agreements, cost contribution arrangements, research service agreements and license agreements;

(4) a description of the group's transfer pricing policies relating to research and development and to intangible assets;

(5) a description of any transfer of interests in intangible assets among associated parties, including the names of those parties and the countries they carry on business in, and the amount of compensation involved.

Group's intercompany financial activities

(d) A description of the group's financial activities in the accounting period that are connected to the business of the applicable entity in Maldives, including:

(1) the group's financial activities, including the group's inter-company financial activities and financing arrangements with independent parties;

(2) identification of any entity or entities of the group that provides a central financing function for the group, including the country of incorporation of the entities concerned and their place of effective management;

(3) a description of the group's transfer pricing policies relating to financing arrangements between associated parties;

Group's financial and tax positions

(e) Consolidated financial statement for the accounting period concerned if otherwise prepared for financial reporting, regulatory, internal management, tax or other purposes;

Local File

2. Information of the applicable entity's business and its transactions with its associated parties in the accounting period in which the transaction takes place, including:

Description of the applicable entity

(a) (1) The management structure showing the reporting lines between the associated parties and the management staff of the applicable entity;

(2) The organizational structure of the applicable entity, showing the number of employees in each department, as at the end of that accounting period;

(3) A description of the applicable entity's business in the accounting period, including:

(i) the business, products and services, geographic markets, intangible assets and key competitors in that accounting period;

(ii) the industry, market, regulatory and economic conditions in which the applicable entity operates in;

(iii) Business models and strategies of the applicable entity, and any changes to its structure through restructuring, acquisition or divestiture;

Controlled transactions

(b) A description of transactions between the applicable entity and its associated parties in the accounting period, including:

(1) Details of each transaction, including the identity of the associated party, country in which the associated party is incorporated, registered or established, the relationship between the applicable entity and the associated party, and information of each transaction including the value of the transaction;

(2) The contract or agreement showing the terms of each transaction;

(3) Intra-group payments and receipts for each category of transactions involving the applicable entity broken down by the tax jurisdiction of the foreign payer or recipient;

(4) A functional analysis describing the functions performed, the assets (including intangible assets) used or contributed, and the risks assumed by each party to each transaction;

(5) A copy each of the group's advance pricing arrangements, including unilateral, bilateral/multilateral advance pricing arrangements, and, other tax rulings:

(i) to which MIRA is not a party; and

(ii) that are relevant to each transaction; and

(iii) that are in force.

(6) A transfer pricing analysis to ascertain whether the conditions made or imposed between the applicable entity and its associated party, with respect to the transaction, are in line with the definition of "arm's length terms" in Section 79(r) of the Act, including:

(i) a multi-year comparability analysis that compares the conditions made or imposed between the applicable entity and the associated party with respect to the transaction, with those made or imposed between parties dealing independently with one another in comparable circumstances;

(ii) the tested party or tested transaction and the transfer pricing method used, and the basis for their selection;

(iii) a description of the application of that transfer pricing method, including:

(aa) a list and description of selected comparable companies or transactions;

(bb) the basis for selecting the comparable companies or transactions;

(cc) financial data of the comparable companies or transactions;

(dd) assumptions made;

(ee) information and documents to support any adjustments made to achieve comparability between the tested party

or tested transaction and the comparable companies or transactions.

(iv) the arm's length price and the computations made in arriving at that price;

(v) financial information used in applying the transfer pricing method and the basis for deriving such financial information;

(vi) a description of the cost sharing arrangements, including:

(aa) a copy of the cost-sharing agreement;

(bb) other agreements reached between the related parties to implement the cost sharing agreement;

(cc) a list of participants and the scope of activities;

(dd) the manner in which participants' proportionate shares of expected benefits are measured, and any projections used in such a determination;

(ee) value of each participant's contributions made during the cost sharing agreement's term, and a detailed description of how the value of contributions is determined;

(ff) the change or termination of the cost-sharing agreement, if any, including the reasons for the change or termination;

Definitions

3. Unless otherwise specified in this Schedule:

(a) "Arm's length price" refers to the price determined as according to the arm's length terms defined in Section 79(r) of the Act.

(b) "Comparability analysis" means the process of identifying economically relevant characteristics in an associated party transaction and comparing such characteristics with those in

independent party transactions. This involves an examination of the factors affecting the associated party transaction that are non-existent in transactions between independent parties and vice-versa.

(c) "Tested party" means the most suitable party to whom a transfer pricing method can be applied in the most reliable manner and most reliable comparable can be found.

(d) "Controlled Transaction" means transactions between associated parties.

(e) "Advance pricing arrangement" refers to an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time.

(f) "Cost sharing arrangement" refers to a contractual arrangement among business enterprises to share the contributions and risks involved in the joint development, production or the obtaining of intangibles, tangible assets or services with the understanding that such intangibles, tangible assets or services are expected to create benefits for the individual businesses of each of the participants.

(g) For the purpose of this Schedule, the business of a group of an applicable entity is "relevant" to the business of the group in Maldives, or of the applicable entity, if the latter business is identical or similar in nature to, or is part of, or is otherwise connected to, the former business.