

S.I. 74 of 2023

BUSINESS TAX ACT

(Cap 20)

Business Tax (Related Party Dealings) Regulations, 2023

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S.I. 74 of 2023**BUSINESS TAX ACT***(Cap 20)***Business Tax (Related Party Dealings) Regulations, 2023**

In exercise of the powers conferred by section 80 of the Business Tax Act, the Minister responsible for finance makes the following Regulations —

Citation and commencement

1.(1) These Regulations may be cited as the Business Tax (Related Party Dealings) Regulations, 2023.

(2) These Regulations shall come into operation on the 1st day of January, 2024.

Interpretation

2. In these Regulations unless the context otherwise requires —

“Act” means the Business Tax Act;

“associates” means associates as defined under section 2 of the Act;

“controlled arrangement” means —

(a) an arrangement between associates, including an arrangement attributed to a permanent establishment of one or both of the associates; and

(b) an arrangement between a person and a permanent establishment of that person, as though that arrangement was between associates.

“permanent establishment” means a permanent establishment as defined under section 2A of the Act;

“person” means a person as defined under section 2 of the Act;

“tax year” means the tax year as defined under section 2 of the Act;

Obligations in relation to related party dealings schedule

3.(1) A person that enters into a controlled arrangement under section 54 (1) of the Act shall complete and furnish to the Commissioner General the related party dealings schedule which shall include the disclosures under the Schedule.

(2) A person who is required to lodge a return for a tax year shall complete the related party dealings schedule of the return.

(3) Where a person fails to comply with subregulation (2), the Commissioner General shall serve a written notice on the taxpayer requiring the taxpayer to complete and lodge the related party dealings schedule within a specified period stipulated in the notice.

(4) The obligation of a person to furnish the related party dealings schedule is established without prejudice to the power of the Commissioner General to request additional information deemed necessary as part of the administration of the Act.

Keeping of records

4. A person shall keep records pertaining to the related party dealings schedule for seven years after the end of the period in which the controlled arrangements took place.

Additional tax for failure to furnish related party dealings schedule

5.(1) A person who, without reasonable cause fails to complete the related party dealings schedule of the tax return is liable for an amount of additional tax equal to —

(a) SR5,000 if the related party dealings schedule is not furnished in accordance with regulations 3(1) and 3(2); and

- (b) SR75,000 plus SR2,500 for each week or part of a week that the failure continues.

(2) Section 42 of the Revenue Administration Act, 2009, does not apply in relation to the related party dealings schedule.

Additional tax for providing false or misleading documentation or information

6. A person who, in purported compliance with regulations 3(1) and 3(2) knowingly provides to the Commissioner General any documentation or information that is false or misleading in a material particular shall be liable to an additional tax of 5 per cent of that person's annual turnover.

Additional tax for failure to keep, retain and maintain records

7. A person who knowingly or recklessly fails to keep, retain and maintain relevant documents, information or records as required under regulations 4 shall be liable to an additional tax of no less than SR10,000 for small businesses, SR 50,000 for a medium businesses and SR 100,000 for large businesses.

SCHEDULE

(Regulation 3(1))

DISCLOSURES INCLUDED IN THE RELATED PARTY DEALINGS SCHEDULE

1. (a) The Related Party Dealings Schedule shall include the following disclosures —

- (i) the TIN of the reporting entity;
- (ii) the total value of all related party dealings in SR;
- (iii) the name of the ultimate controlling entity;
- (iv) the country or jurisdiction of the ultimate controlling entity;

- (v) the tax residence of the ultimate controlling entity;
- (vi) the principal business activity of the ultimate controlling entity;
- (vii) the TIN of the ultimate controlling entity;
- (viii) for associates with which the taxpayer has entered into an arrangement during the period —
 - (A) name;
 - (B) country or jurisdiction;
 - (C) tax residence; and
 - (D) principal business activity.
- (ix) the details of all related party dealings including —
 - (A) income and receipt;
 - (B) expense and payment; and
 - (C) associate.
- (x) the details of loans and non-trade amounts including —
 - (A) opening balance;
 - (B) interest; and
 - (C) closing balance.
- (xi) the outstanding balances or commitments for controlled arrangements as at the end of the reporting period including —
 - (A) controlled arrangement; and
 - (B) amount.

- (xii) the details of financial guarantees or collateral provided or received including —
 - (A) the type of guarantee or collateral;
 - (B) amount provided;
 - (C) amount received; and
 - (D) interest charged.
- (xiii) the directors of the reporting entity including the —
 - (A) the name of the directors;
 - (B) shareholding;
 - (C) nationality; and
 - (D) TIN.
- (b) For all controlled arrangements during the reporting period, the related party dealing schedule shall provide details, including —
 - (i) the nature of the arrangement;
 - (ii) the counterparty to the arrangement;
 - (iii) the location of the counterparty, income and expenses; and
 - (iv) outstanding balances in relation to the arrangement during the reporting period.

MADE this 29th day of September, 2023.

**NAADIR HASSAN
MINISTER OF FINANCE
NATIONAL PLANNING AND TRADE**
