



MALDIVES  
INLAND REVENUE  
AUTHORITY

# **Income Tax Guide: Permanent Establishments**

## **MIRA I857**

## Contents

|       |  |    |
|-------|--|----|
| 1     | Introduction .....   | 4  |
| 2     | Permanent Establishment (PE) .....   | 5  |
| 2.1   | Fixed Place PE .....   | 5  |
| 2.1.1 | The “place of business” test .....   | 5  |
| 2.1.2 | The location test (“fixed”) .....  | 6  |
| 2.1.3 | Installation or substantial use of mechanical or scientific equipment or machinery...9 |    |
| 2.2   | Construction PE .....  | 10 |
| 2.2.1 | Splitting up of contracts .....  | 13 |
| 2.3   | Service PE .....   | 15 |
| 2.4   | PEs related to natural resources .....   | 17 |
| 2.5   | Agency PE .....  | 19 |
| 2.6   | Insurance PE .....   | 22 |
| 3     | Registration under the ITA .....   | 23 |
| 4     | Accounting & Tax Returns .....   | 24 |
| 4.1   | Combining PEs .....  | 24 |
| 4.2   | Force of Attraction Rule .....   | 25 |
| 4.3   | Interim Returns & Payments .....   | 26 |
| 4.3.1 | Income tax return & final payment .....  | 26 |
| 4.3.2 | Documents to be submitted along with the income tax return. ....                       | 27 |
| 4.4   | Head office expenses .....   | 28 |
| 4.4.1 | Head office of a PE .....  | 28 |

|       |   |    |
|-------|---|----|
| 4.4.2 | PE and head office being associates of each other ..... | 28 |
| 4.4.3 | Definition of “head office expenses” .....              | 28 |
| 4.4.4 | 3% cap on head office expenses deduction.....           | 29 |
| 4.4.5 | Non-deductible head office expenses .....               | 30 |
| 4.5   | Non-resident withholding tax (NWT) .....                | 31 |
| 4.5.1 | Payments made by PE .....                               | 31 |
| 4.5.2 | Receipts to PE that have been subject to NWT.....       | 31 |
| 4.6   | Employee withholding tax (EWT).....                     | 32 |

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Taxpayers can rely on this guide as to the MIRA’s interpretation of the relevant tax laws and regulations. If you do not understand anything in this guide or have queries related to your particular circumstances, call 1415 or send an email to [1415@mira.gov.mv](mailto:1415@mira.gov.mv).

## Abbreviations and acronyms

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|             |   |
|-------------|---|
| <b>DTAA</b> | Double Tax Avoidance Agreement                      |
| <b>ITA</b>  | Income Tax Act (Law Number 25/2019)                 |
| <b>ITR</b>  | Income Tax Regulation (Regulation Number 2020/R-21) |
| <b>MEDT</b> | Ministry of Economic Development and Trade          |
| <b>MIRA</b> | Maldives Inland Revenue Authority                   |
| <b>PE</b>   | Permanent Establishment                             |

## I Introduction

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This guide provides an overview of the concept of Permanent Establishment (PE) under the Income Tax Act (ITA). It is intended to help taxpayers, particularly non-residents and foreign businesses, understand when they may be considered to have a taxable presence in the Maldives.

A substantial number of foreigners and foreign companies do conduct business in the Maldives as non-residents. Therefore, it is important for such people to be well-versed in the income tax rules specifically applicable to non-residents.

Unlike residents, non-residents fall within the scope of the ITA only if they derive income from the Maldives. The ITA sets out various source rules to determine whether income is considered to have been derived from the Maldives, which are listed in section 11 of the ITA.

For non-residents conducting business in the Maldives, the most relevant source rule is likely to be the one under which income derived from a business carried on through a permanent establishment in the Maldives is deemed to be income derived from the Maldives. Accordingly, the concept of a “permanent establishment” is central to the taxation of non-residents.

This guide is based on the rules provided for by the ITA and Income Tax Regulation (ITR). Where a tax treaty applies, the treaty provision overrides the domestic law.

## 2 Permanent Establishment (PE)

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### 2.1 Fixed Place PE

The basic definition of term “permanent establishment” is that it is a fixed place of business through which the business of an enterprise is wholly or partly carried on. To qualify as a PE under this rule, the enterprise must have at **its disposal a place of business** that is “**fixed**”, and **the enterprise must carry on business through it**.

#### 2.1.1 The “place of business” test

##### Physical presence

In general, a “place of business” refers to the physical presence of the non-resident taxpayer in the Maldives and is a tangible asset of substantial nature. Securities and bank accounts do not meet the place of business test. Likewise, a website, a letterbox, a mailing address, or a registration alone does not constitute a place of business.

##### Open-air places

The concept of place of business extends to open-air locations. For example, the wharf of a shipping enterprise or even a vessel itself may qualify as a place of business.

##### Home office

A home office may constitute a place of business, provided that the space is used for business purposes. This may include, for instance, a desk and filing cabinet located within a private residence.

##### Substantial machinery

Substantial machinery and equipment such as computer hardware or other significant installations are regarded as a place of business.

##### Places without staff or any other personnel

The existence of a place of business does not require the presence of personnel. Facilities such as vending machines, gaming machines, antennas, satellite receivers, pipelines, electrical cables, servers, transformer stations, and underground telecommunication cables constitute a place of business even in the absence of staff.

## Business facilities of another enterprise

The place of business may be situated in the business facilities of another enterprise. This may be the case for instance where the foreign enterprise has at its constant disposal certain premises or a part thereof owned by the other enterprise.

### 2.1.2 The location test (“fixed”)

The place of business must be “fixed”, i.e. it must be established at a distinct place with a certain degree of permanence.

A place of business may constitute a PE even though it exists, in practice, only for a short period of time because the nature of the business is such that it will only be carried on for that short period of time.

The following are typical examples of fixed places of business that would constitute a PE provided the other conditions of the basic definition are satisfied:

- a place of management
- a branch
- an office
- a factory
- a workshop
- a mine, an oil or gas well, a quarry or any other place of exploration or extraction of natural resources, including vessels and ships and platforms used for the exploration or extraction of natural resources.

The list above is by no means exhaustive.

#### Example 1: International airline flying to Maldives

##### **Scenario:**

Fly Romania is a non-resident airline operating flights to and from the Maldives. Fly Romania has a permanent office in Male’, where 5 of its employees, including the Station Manager, work.

##### **Analysis:**

The non-resident airline, Fly Romania, has an office in the Maldives through which it conducts business and therefore has a fixed place PE in the Maldives.

### Example 2: Resort operated by a hotel management company

**Scenario:**

ABC Hotels, a non-resident company, manages a resort in the Maldives (Dhondheeni Resorts), owned by a local company. The resort is fully at the disposal of ABC Hotels, and its employees are actively managing the resort's operations.

**Analysis:**

The resort constitutes a fixed place of business of ABC Hotels at their disposal, through which its business (hotel management) is wholly or partly carried on. ABC Hotels has a fixed place PE in the Maldives.

### Example 3: Hotel management company exercising strategic oversight.

**Scenario:**

A non-resident hotel management company enters into a hotel management agreement with a Maldivian company to operate a resort in the Maldives. While the non-resident company does not own or lease any physical office in the Maldives, it sends senior personnel to the resort regularly. These personnel:

- exercise strategic oversight,
- supervise day-to-day operations,
- make key managerial decisions from the resort premises, and
- stay for extended periods throughout the year.

**Analysis:**

Although there is no formal office or branch of the non-resident company in the Maldives, the repeated and sustained use of the resort premises by senior management shows that the company's business is conducted through the resort. As the premises are effectively at the disposal of the non-resident company and core business functions are performed there, this results in the creation of a fixed place PE in the Maldives.

### Example 4: IT company

**Scenario:**

A non-resident software company opens a representative office in Malé to market its software and provide technical support to local clients. The office is rented under the company's name and staffed with employees.

**Analysis:**

The software company has an office in the Maldives through which it carries on business in the Maldives constituting a fixed place PE in the Maldives.

#### Example 5: Warehouse used for storage and distribution

**Scenario:**

A non-resident company maintains a warehouse in Hulhumalé for storing and distributing imported electronics to local retailers.

**Analysis:**

Because the warehouse is used for more than just storage — it plays an essential or significant role in the company’s distribution operations — it is considered a fixed place of business through which the company’s business is partly carried on. As such, the warehouse constitutes a fixed place PE in the Maldives

#### Example 6: Non-resident travel company

**Scenario:**

A non-resident travel company has a permanent desk in a Maldivian partner’s office, with a dedicated staff member promoting tour packages and handling bookings.

**Analysis:**

The travel company has a fixed place a business at its disposal in the Maldives through which its business is carried on, constituting a fixed place PE in the Maldives.

#### Example 7: Construction project

**Scenario:**

A non-resident contractor firm is contracted to build villas on a resort island. The company sets up a temporary project office and site camp on the island for the duration of a 9-month project.

**Analysis:**

Although the company has a place of business in the Maldives through which it conducts business in the Maldives, construction projects do not come under the basic PE rule (i.e. Fixed Place PE test). Section 2.2 covers the rules applicable to construction projects.

### 2.1.3 Installation or substantial use of mechanical or scientific equipment or machinery

The ITA specifically provides that the installation or substantial use of mechanical or scientific equipment or machinery, for the purposes of or under a contract or agreement, for a period aggregating more than 90 days will constitute a PE in the Maldives. Consequently, the fixed place of business test does not apply in such circumstances. In other words, the installation or substantial use of such equipment or machinery gives rise to a PE if the duration threshold of more than 90 days is met.

#### Example 8: Dredger

**Scenario:**

A Singaporean company, MarineDredge Ltd, a non-resident, brings a dredger to Maldivian waters to carry out seabed excavation for a port development project. The dredger is used continuously for 120 days.

**Analysis:**

The installation or substantial use of machinery or equipment for more than 90 days constitutes a PE. The dredger is a piece of industrial machinery used for a contract in the Maldives. Consequently, MarineDredge Ltd has a PE in the Maldives. The fixed place of business test is irrelevant in this case.

#### Example 9: Telecom satellite dish installation

**Scenario:**

A Japanese company, a non-resident, SkyConnect Ltd, installs a large satellite dish on a Maldivian island to provide temporary communication services. The dish is used for 95 days to support a major event.

**Analysis:**

The satellite dish is classified as substantial scientific equipment. Its installation and use exceed the 90-day threshold. Therefore, SkyConnect Ltd has a PE in the Maldives, regardless of whether it maintains an office or personnel on-site.

## 2.2 Construction PE

If a non-resident has a building site, or carries on a construction, assembly, or installation project or related supervisory activities in the Maldives that last more than 90 days, the non-resident will have a Construction PE in the Maldives. Building sites or construction, assembly or installation projects or related activities will not create a PE under any other rule. That means, any of those items which do not meet the duration threshold does not in itself constitute a PE, even if there is an installation within it, for instance an office or a workshop falling within the basic PE rule, associated with construction activity.

The term “building site or construction, assembly, or installation project” includes not only the construction of buildings but also the construction of roads, bridges, the renovation (involving more than mere maintenance or redecoration) of buildings, roads, bridges, the laying of pipelines and excavating and dredging. Additionally, the term “installation project” is not restricted to an installation related to a construction project; it also includes the installation of new equipment, such as a complex machine, in an existing building or outdoors.

The 90 days test applies to each individual site or project. In determining how long the site or project has existed, no account should be taken of the time previously spent by the contractor concerned on other sites or projects which are totally unconnected with it. A building site should be regarded as a single unit, even if it is based on several contracts, provided that it forms a coherent whole commercially and geographically. A building site forms a single unit even if the orders have been placed by several persons (e.g. for a row of houses).

A site exists from the date on which the contractor begins their work, including any preparatory work in the Maldives where the construction is to be established. If an enterprise (general contractor) which has undertaken the performance of a comprehensive project subcontracts all or parts of such a project to other enterprises (subcontractors), the period spent by a subcontractor working on the building site must be considered as being time spent by the general contractor on the building project for purposes of determining whether a permanent establishment exists for the general contractor. In that case, the site should be considered to be at the disposal of the general contractor during the time spent on that site by any subcontractor where circumstances indicate that, during that time, the general contractor clearly has the construction site at its disposal by reason of factors such as the fact that he has legal possession of the site, controls access to and use of the site and has overall responsibility for what happens at that location during that period.

Where the general contractor and subcontractors work concurrently, the time is not double-counted; instead, the duration of the project is assessed based on the total period the site is active—from the start date to the end date of the overall project.

In general, a construction site continues to exist until the work is completed or permanently abandoned. The period during which the building or its facilities are being tested by the contractor or subcontractor should therefore generally be included in the period during which the construction site exists. In practice, the delivery of the building or facilities to the client will usually represent the end of the period of work, provided that the contractor and subcontractors no longer work on the site after its delivery for the purposes of completing its construction. A site should not be regarded as ceasing to exist when work is temporarily discontinued. Seasonal or other temporary interruptions should be included in determining the life of a site. Seasonal interruptions include interruptions due to bad weather. Temporary interruption could be caused, for example, by shortage of material or labor difficulties.

The very nature of a construction or installation project may be such that the contractor's activity has to be relocated continuously or at least from time to time, as the project progresses. This would be the case for instance where roads or canals were being constructed, waterways dredged, or pipelines laid. Similarly, where parts of a substantial structure such as an offshore platform are assembled at various locations within a country and moved to another location within the country for final assembly, this is part of a single project. In such cases, the fact that the workforce is not present for 90 days in one particular location is immaterial.

#### Example 10: Project exceeding 90 days

**Scenario:**

A non-resident construction company undertakes a jetty construction project in Hulhumalé, including 10 days of preparatory work to set up a planning office. The total duration of the project is 120 days, and subcontractors are engaged for certain tasks.

**Analysis:**

Because the project lasts more than 90 days and the site is at the disposal of the company (including subcontractor time), it is considered a building site through which the company's business is carried on. As such, the company has a Construction PE in the Maldives.

#### Example 11: Project under 90 days

**Scenario:**

A non-resident engineering firm installs air-conditioning systems at a hotel in the Maldives over a period of 75 days, with no related or connected projects elsewhere in the Maldives.

**Analysis:**

Because the project does not exceed the 90-day threshold, the installation project does not give rise to a Construction PE in the Maldives.

#### Example 12: Multiple unconnected projects

**Scenario:**

A non-resident dredging company performs two separate projects: beach reclamation in Baa Atoll lasting 50 days, and harbor deepening in Addu City lasting 60 days, months later.

**Analysis:**

Because the projects are commercially and geographically unconnected, each is considered separately. Neither project exceeds the 90-day threshold, and therefore the two projects do not give rise to a Construction PE of the company in the Maldives.

#### Example 13: Multiple contracts forming one project

**Scenario:**

A non-resident contractor signs two contracts with the same client for a resort development project on an island in Baa Atoll: the first contract is to construct a restaurant building, lasting 60 days, and the second contract, starting immediately after the completion of the first, is to install plumbing and electrical systems, lasting 45 days. Both contracts are carried out at the same site.

**Analysis:**

Because the two contracts form a single coherent project commercially and geographically, their durations are combined. The total period exceeds 90 days, so the company has a Construction PE in the Maldives.

#### Example 14: Supervisory services added to the duration count

**Scenario:**

A German-based engineering company, a non-resident in the Maldives, supervises the installation of solar panels in Laamu Atoll, undertaken by a local subcontractor. Its supervisory staff are present in Maldives for 95 days in total.

**Analysis:**

Because supervisory activities related to installation project exceeded the 90-day threshold, the non-resident has a Construction PE in the Maldives.

#### Example 15: Subcontractor time added to duration count

**Scenario:**

A non-resident main contractor oversees a pipeline project in Kaafu Atoll. The company retains overall control and legal possession of the site throughout the project. Two subcontractors are engaged in succession: the first performs work for 50 days, followed by the second who works for 60 days.

**Analysis:**

Because subcontractor time counts toward the 90-day test and the main contractor has the site at its disposal, the non-resident contractor has a PE in the Maldives.

### 2.2.1 *Splitting up of contracts*

“Splitting up of contracts” refers to the artificial division of contracts up into several parts, each covering a period of less than 90 days and attributed to different entities which are, however, owned by the same group. If the Commissioner General has reasonable grounds to believe that one of the purposes for the division of contract was to avoid the tax, the general anti-avoidance rule under section 66 of the ITA will apply, and the Commissioner General may void any such arrangements. That means the Commissioner General may treat the split contracts as a single contract for tax purposes.

#### Example 16: Consecutive contracts

**Scenario:**

A resort construction work in the Maldives is awarded to three subsidiaries of the Ocean Builders Pvt. Ltd.— Ocean Builders A, Ocean Builders B, and Ocean Builders C, splitting the work into three consecutive contracts of 80 days each.

**Analysis:**

Although each contract is with a different legal entity, all are controlled by the same parent group and relate to the same project at the same site. The consecutive scheduling indicates an artificial arrangement to avoid crossing the 90-day threshold.

In this case, the split will be disregarded and the three contracts will be treated as one continuous 240-day contract. This would establish that each of the three contractors— Ocean Builders A, Ocean Builders B, and Ocean Builders C will have a construction PE in the Maldives.

#### Example 17: Parallel contracts covering different phases

**Scenario:**

Two of the wholly owned subsidiaries belonging to the Island Infra Group are hired for a 150-day harbor expansion project. The dredging phase (70 days) is contracted to Island Infra Dredging Pvt. Ltd., while the quay wall construction phase (80 days) is contracted to Island Infra Construction Pvt. Ltd. Island Infra Construction Pvt. Ltd is a resident of the Maldives while other companies in the group are non-residents.

**Analysis:**

While the work is described as separate phases, both phases form part of the same integrated project at the same location and both parties are members of the same group. The split appears intended to keep each contract under the 90-day PE threshold.

The two contracts will be combined treating the total duration as 150 days, thereby creating a construction PE for Island Infra Dredging Pvt. Ltd as a The question of PE is irrelevant for Island Infra Construction Pvt. Ltd, as it is a resident.

#### Example 18: Contract splitting between related non-resident and local entities scenario

**Scenario:**

Global Energy Group Ltd, a non-resident, wins a 120-day power plant installation contract. It subcontracts the first 60 days of installation to its non-resident subsidiary Global Energy Installations Ltd, and the remaining 60 days to their Maldivian subsidiary Global Energy Maldives Pvt Ltd.

**Analysis:**

Both entities are controlled by the same entity and perform work under the same overall agreement with the project owner. The split has no genuine commercial rationale other than avoiding PE for the non-resident entity.

The two periods will be combined, concluding that the foreign entities' activities exceeded the 90-day threshold, and thus a construction PE exists for both Global Energy Group Ltd, and Global Energy Installations Ltd.

## 2.3 Service PE

If a non-resident provides a service in the Maldives through employees or other personnel engaged by that non-resident for that purpose, aggregating more than 183 days in a 12-month period, it will constitute a service PE of the non-resident in the Maldives. The ITA specifically mentions that the service here includes consultancy services. 183 days should be counted inclusive of days for which similar or connected projects or activities are carried on or services supplied by associates.

### Example 19: IT consultancy services

**Scenario:**

A non-resident IT consultancy firm provides software implementation services to several banks in the Maldives. The firm sends a team of employees who stay in the Maldives for 200 days in a 12-month period.

**Analysis:**

Because the consultancy services are furnished in the Maldives for more than 183 days in a 12-month period, the firm is regarded as having a Service PE in the Maldives.

### Example 20: Architectural design project

**Scenario:**

A Singaporean architecture company, a non-resident, is hired to design and supervise the construction of a government building in Malé. Its engineers and architects spend 120 days in the Maldives in one tax year, and another 100 days in the following tax year, totaling 220 days within a 12-month period.

**Analysis:**

Although the services span across two tax years, the 183-day test is applied to any 12-month period commencing or ending in the fiscal year concerned. Since the aggregate exceeds 183 days, the company has a Service PE in the Maldives.

### Example 21: Short-term training program

**Scenario:**

An Indian HR consultancy firm, a non-resident provides employee training services to resorts in the Maldives. Its trainers spend 150 days in the Maldives during one tax year and return for another 20 days the following tax year, making a total of 170 days in a 12-month period.

**Analysis:**

Since the aggregate service days do not exceed 183 days in the 12-month period, the consultancy firm does not have a Service PE in the Maldives.

### Example 22: Elevator maintenance services

**Scenario:**

A UK company, a non-resident of the Maldives, provides elevator (lift) maintenance services to several high-rise buildings in Malé. It subcontracts part of the work to a Sri Lankan firm, also a non-resident, whose technicians are present in the Maldives for 190 days within a 12-month period.

**Analysis:**

Although the maintenance work is carried out by the subcontractor, the services are rendered on behalf of the UK company. Since the services continue for more than 183 days in a 12-month period, the UK company is regarded as having a Service PE in the Maldives. At the same time, the Sri Lankan subcontractor is also directly furnishing services in the Maldives for over 183 days, which independently gives rise to its own Service PE. Thus, both the UK company and the Sri Lankan firm have Service PEs in the Maldives.

### Example 23: Travel agency representative in Maldives

**Scenario:**

A non-resident travel agency, James Travels Ltd, has a representative based in the Maldives to assist their clients upon arrival and departure. The representative works at the airport during peak tourist season for a total period of 7 months in a 12-month period.

**Analysis:**

James Travels Ltd is providing services in the Maldives through a representative. Since these services are furnished for more than 183 days within a 12-month period, the company is regarded as having a Service PE in the Maldives.

#### Example 24: Counting days for which an associate provided similar consultancy services

##### **Scenario:**

GlobalConsult Ltd, a non-resident company, is contracted to provide management consultancy services to a company in Malé. It sends two consultants to the Maldives, one replacing the other immediately:

- Consultant 1 works 100 days.
- Consultant 2 works 60 days.

AdvisorsPlus Ltd, also a non-resident and an associate of GlobalConsult Ltd, sends a consultant to provide similar consultancy services to another client in Malé for 40 days.

##### **Analysis:**

As the total aggregated days exceed 183 days in a 12-month period, both GlobalConsult Ltd and AdvisorsPlus Ltd will each be deemed to have a service PE in the Maldives. This is because the days worked by one are counted together with the days worked by the other, as they are associates providing similar consultancy services.

## 2.4 PEs related to natural resources

The ITA provides that a mine, oil or gas well or any other place of exploration or extraction of natural resources, including vessels and ships and platforms used for the exploration or extraction of natural resources to be fixed place PEs. It has to be noted that vessels are considered place of extraction and fish are considered natural resources. There is no time requirement for such places of exploration or extraction for it to be a fixed place PE.

The ITA also provides that the activity of exploration or extraction of natural resources or reaping of benefits associated with natural resources will also constitute a PE if the activity lasts more than 90 days in a 12-month period.

In simple terms, if a non-resident has a place of extraction or exploration such as a mine, quarry, oil well, fishing ground they control/operate, a PE exists immediately, no matter how short the duration is. If a non-resident only provides extraction or exploration services such as seismic survey, exploratory drilling, offshore fishing operations, but without having their own “place” under control, a PE exists only if they cross 90 days in 12 months.

#### Example 25: Place of extraction

**Scenario:**

An Indonesian company, AquaHarvest PT operates a licensed sea cucumber farming project in a designated lagoon in the Maldives. The lagoon is maintained as a cultivation site throughout the year, although the company's personnel are physically present in the Maldives only for 45 days in a 12-month period to carry out feeding, monitoring, and harvesting activities.

**Analysis:**

Even though AquaHarvest PT personnel are present in the Maldives for only 45 days in a 12-month period, the designated lagoon used for cultivating and harvesting sea cucumbers constitutes a place of extraction of natural resources. Under the ITA such a place gives rise to a PE in the Maldives, irrespective of the duration of physical presence of personnel or number of days it's in use.

#### Example 26: Extraction activities

**Scenario:**

A Malaysian company, PetroSeis Sdn Bhd, undertakes offshore seismic surveys and exploratory drilling in Maldivian waters to identify potential oil reserves. The company does not control any fixed site but carries out these activities using mobile rigs and survey vessels. The project continues for 6 months (approximately 180 days).

**Analysis:**

Exploration and extraction activities create PE in the Maldives if conducted for more than 90 days in any 12-month period. In this case, since the project lasts 180 days, PetroSeis Sdn Bhd is regarded as having a PE in the Maldives, even without fixed place of business at the disposal.

#### Example 27: Exploration of natural resources

**Scenario:**

ArcticDrill AS, a non-resident company from Norway, is contracted to conduct exploratory fishing surveys in Maldivian waters to identify potential tuna migration patterns. The company's vessel and crew operate in the Maldives for a total of 210 days within a 12-month period.

**Analysis:**

Exploration of natural resources constitutes a permanent establishment (PE) in the Maldives if such activities are carried out for more than 90 days in a 12-month period. Since ArcticDrill AS conducted surveys for 210 days, the company is regarded as having a PE in the Maldives

## 2.5 Agency PE

A person [agent] acting in the Maldives on behalf of a non-resident [principal] would constitute a PE of the principal if, in doing so, the agent habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the principal, and these contracts are either:

- in the name of the principal; or
- for the transfer of the ownership of, or for the granting of the right to use, property owned by the principal or that the principal has the right to use; or
- for the provision of services by the principal.

However, it is important to note that an agency PE will not be constituted if the agent is an independent agent acting in the ordinary course of its business. Determining whether an agent qualifies as “independent” requires a careful, fact-specific analysis.

The ITA expressly excludes from the definition of independent agents those who act exclusively or almost exclusively on behalf of one or more principals to which they are closely related. In such cases, the agent will be regarded as dependent.

Moreover, an agent cannot be considered as acting in the ordinary course of its business if it engages in activities that fall outside the normal scope of an independent agent’s business. Therefore, whether an agent is independent or dependent depends on all the facts and circumstances, including the degree of legal and economic dependence, the scope of authority, and whether the agent bears entrepreneurial risk.

All the facts and circumstances must be considered in determining whether an agent is independent. To qualify as an independent agent, the agent must be both legally and economically independent, and the agent’s activities must amount to an autonomous business where the agent bears the entrepreneurial risk and earns rewards based on the use of its own skills and knowledge.

- *Legal independence* means that the principal has no control over, or power to interfere in, the agent’s day-to-day business. This independence is usually evidenced by a contract between the principal and the agent which clearly delineates their relationship.
- *Economic independence* means that the agent operates its own business and bears the entrepreneurial risk of that business, rather than having its commercial fate tied to that of the principal. If the agent’s business interests are merged with those of the principal, economic independence will not be established.

- Where the agent’s activities for the principal are carried out under detailed instructions or are subject to comprehensive control by the principal, the agent cannot be regarded as independent.

An independent agent will typically:

- be responsible to the principal only for the results of the work;
- not be subject to significant control by the principal with respect to how the work is carried out; and
- not be subject to detailed instructions from the principal as to the conduct of the work.

The fact that the principal relies on the special skill and knowledge of the agent is itself an indication of independence.

Another important factor in determining independent status is the number of principals represented by the agent. Independence is less likely where the agent performs activities wholly or almost wholly on behalf of a single principal over the lifetime of the business or for a long period of time.

#### Example 28: Independent agent

**Scenario:**

A Maldivian logistics company, Ocean Freight Pvt Ltd, handles cargo bookings for multiple international shipping lines. The company bears its own entrepreneurial risk, decides how to conduct the work, and is not subject to detailed instructions from any single principal.

**Analysis:**

Ocean Freight Pvt Ltd is legally and economically independent and acts in the ordinary course of its business. Therefore, none of the shipping lines have a PE in the Maldives through this agent.

#### Example 29: Dependent agent – lift maintenance services

**Scenario:**

A non-resident company, Elevate Solutions Ltd (Singapore), provides maintenance services for elevators in high-rise buildings in Malé. The company appoints a Maldivian agent to market the services and secure maintenance contracts with building owners. The agent habitually concludes contracts on behalf of Elevate Solutions and is subject to detailed instructions regarding pricing, service scope, and scheduling.

**Analysis:**

The agent habitually concludes contracts under the direction of the non-resident company and acts exclusively for it. Therefore, the agent is a dependent agent, and Elevate Solutions Ltd has a Agency PE in the Maldives.

**Example 30: Independent agent – airline and travel agent****Scenario:**

Azzurro Airlines, a non-resident airline, operates scheduled flights between Malé and Milan. ELCO Travels, a Maldivian company, acts as the general sales agent (GSA) for Azzurro Airlines, selling tickets in the Maldives. ELCO Travels is an independent business: it bears the entrepreneurial risk of its operations, is not subject to detailed instructions from Azzurro Airlines, and also represents several other non-resident airlines.

**Analysis:**

Although ELCO Travels markets and sells tickets for Azzurro Airlines, it is legally and economically independent and acts in the ordinary course of its business. As a result, ELCO Travels does not constitute a dependent agent, and this arrangement does not create an Agency PE of Azzurro Airlines in the Maldives.

**Example 31: Dependent agent – shipping operator and cargo agent****Scenario:**

Indian Ocean Express (IOE), a non-resident international shipping operator. Rapid Logistics (RL), a company resident in the Maldives, acts throughout the year as an agent for IOE, selling cargo space on its ships. RL acts exclusively for IOE and is subject to detailed instructions from IOE regarding the bookings.

**Analysis:**

The facts show that RL habitually concludes contracts on behalf of IOE and operates under IOE's control. Since RL acts exclusively for IOE and lacks legal and economic independence, it cannot be considered an independent agent. Therefore, RL constitutes a dependent agent, and the arrangement creates an Agency PE of IOE in the Maldives.

## 2.6 Insurance PE

Unless it relates to reinsurance, a non-resident will be deemed to have an insurance PE in the Maldives if either of the following conditions are met and does either of the following through a person other than an independent agent:

- The non-resident collects insurance premiums in the territory of the Maldives; or
- The non-resident insures risks situated in the territory of the Maldives through a person other than an independent agent.

### Example 32: Insurance premiums collected in the Maldives

**Scenario:**

A Sri Lankan insurance company, a non-resident of the Maldives, directly collects health insurance premiums from residents of Malé by sending one of its employees to Maldives.

**Analysis:**

Since the company is collecting insurance premiums in the Maldives through a person other than independent agent (i.e. employee), the company is deemed to have an insurance PE in the Maldives.

## 3 Registration under the ITA

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Non-residents conducting business in the Maldives through a PE are required to register under the ITA. This obligation applies irrespective of any registration requirements under other regulatory authorities.

In some cases, non-residents may also be required by the Ministry of Economic Development and Trade (MEDT) to register or re-register under the Business Registration Act. Where a non-resident is registered under the Business Registration Act, a separate application to the MIRA for registration under the ITA is not required, as MIRA will process the registration under the ITA based on information received from the MEDT.

It is important to note, however, that if a non-resident carries on business through a PE in the Maldives but it is not required to register, or is not registered, under the Business Registration Act, the requirement to register under the ITA still applies. In such cases, the application for registration under the ITA must be submitted directly to MIRA.

Find our more:

Registration and Change of Information ([MIRA I17](#)) form and a [guide](#) on how to complete MIRA I17 form are available on our website.

### 3.1 Deregistration of the PE

The owner of a permanent establishment conducting business in the Maldives must apply for deregistration upon the cessation of operations through that establishment and no longer deriving income from the Maldives.

Find our more:

Deregistration ([MIRA I06](#)) form are available on our website.

## 4 Accounting & Tax Returns

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Non-residents with a PE in the Maldives need to prepare accounts relating only to the business carried on by or through that PE. In other words, non-residents' income derived from places other than the Maldives need not be accounted for in the financial statements prepared for the purpose of Maldives income tax.

Unless a rule is found in the ITA and ITR to the contrary, in determining the taxable income of the PE, the general approach stated in Article 7(2) of the OECD Model Tax Convention on Income and on Capital (2017) must be adopted. Article 7(2) embodies the principle that the PE is treated as if it were a distinct and separate enterprise, independent from the non-resident's head office, and dealing wholly at arm's length with the rest of the enterprise. This principle ensures that only the profits properly attributable to the PE's functions, assets, and risks in the Maldives are taxed in the Maldives.”

To prepare PE's accounts, accrual basis of financial accounting should be used adopting one of the following international accounting standards, unless the annual income attributable to the PE does not exceed MVR 10 million and the PE does not opt to prepare accounts on cash basis.

1. International Financial Reporting Standards (IFRS) and International Accounting Standards (IAS)
2. International Financial Reporting Standards for Small and Medium sized Entities (IFRS for SMEs)
3. Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) Standards

### 4.1 Combining PEs

Non-residents are required to prepare accounts in respect of the PE relating to the business carried on by or through the PE. Where a non-resident operates through more than one PE in the Maldives, the accounts must be prepared on a consolidated basis, combining all PEs as a single entity.

The accounts of PEs of non-residents operated in Maldives are combined once the existence of each PE of the non-resident in the Maldives has been independently determined in accordance with applicable laws and guidance

### Example 33: Combining accounts of PEs

**Scenario:**

GlobalTech Ltd, a non-resident, conducts its business operations through two permanent establishments (PEs) in the Maldives:

- PE 1: A retail store in Malé selling electronic devices
- PE 2: A dredging project in Addu carrying out port and harbor dredging works

**Analysis:**

Where a non-resident operates through more than one PE, the accounts must be prepared on a consolidated basis, combining all PEs as a single entity. Therefore, GlobalTech must prepare one combined set of accounts for both PEs. The combined accounts form the basis for computing taxable income in the Maldives.

## 4.2 Limited Force of Attraction Rule

If a non-resident with a PE in the Maldives conducts business operations that are separate from those of the PE but involve the sale of the same or similar goods or services, such income will be considered as income derived from the PE.

### Example 34: Force of attraction

**Scenario:**

TechGlobal Ltd has a PE in the Maldives selling water pumps. Separately, its head office in the Singapore also sells the same water pumps directly to customers based in the Maldives from abroad.

**Analysis:**

If a non-resident with a PE in the Maldives carries on business operations separate from the PE but involving the sale of the same or similar goods, such income is treated as income derived from the PE under the force of attraction rule.

Therefore, income from the head office's direct sales of water pumps to customers in the Maldives market is considered attributable to the PE in the Maldives.

## 4.3 Interim Returns & Payments

Non-residents with a PE in the Maldives must file interim returns and make interim payments, if one of the following conditions are met:

- If it is the first tax year and estimated income tax payable for the tax year is more than MVR 20,000; or
- Annualized income tax payable for the previous tax year was more than MVR 20,000.

### Deadline: Interim return and interim payments

- First interim return must be filed, and first interim payment must be made on or before 31 July of the tax year.
- Second interim return must be filed, and second interim payment must be made on or before 31 January of the following tax year.

### Find out more:

Interim Return ([MIRA 603](#)) and a [guide](#) on how to complete the Interim Return are available on our website

### 4.3.1 Income tax return & final payment

Non-residents with a PE in the Maldives must file an income tax return for each tax year, notwithstanding any other rule. Even if the non-resident transport operator deriving S.II(r) Income, an income tax return must be filed for each tax year.

### Find out more:

You can find the Guide to Non-resident International Airlines and Shipping Operators (MIRA 1848) available on our website [here](#).

### Deadline to file the income tax return & make the final payment

The income tax return must be filed and corresponding final (balancing) payment of income tax must be made on or before 30 June of the following tax year.

### Find out more:

Income Tax Return ([MIRA 604](#)) and a comprehensive [guide](#) on the income tax return are available on our website.

### 4.3.2 Documents to be submitted along with the income tax return.

The table below sets out the financial statements that PEs are required to submit with the income tax return, together with the circumstances under which each requirement applies.

| Scenario   | Statements required  |
|--|--|
| PE with annual gross income above MVR 10 million                                   | <ul style="list-style-type: none"> <li>✓ Statement of Profit or Loss and Other Comprehensive Income</li> <li>✓ Statement of Financial Position</li> <li>✓ Statement of Cash Flows</li> <li>✓ Statement of Changes in Equity</li> <li>✓ Notes to the financial statements</li> <li>✓ Directors' Report (if a company)</li> <li>✓ Auditor's Report</li> <li>✓ Auditor's Report confirming <i>S.11(r) Income</i> (If PE is a non-resident shipping or aircraft operator with <i>S.11(r) Income</i>) (<i>Two reports are not required to be two separate documents</i>)</li> </ul> |
| PE with annual gross income not exceeding MVR 10 million, opting for accrual basis | <ul style="list-style-type: none"> <li>✓ Statement of Profit or Loss and Other Comprehensive Income</li> <li>✓ Statement of Financial Position</li> <li>✓ Statement of Cash Flows</li> <li>✓ Statement of Changes in Equity</li> <li>✓ Notes to the financial statements</li> <li>✓ Directors' Report (if a company)</li> <li>✓ Auditor's Report confirming <i>S.11(r) Income</i> (If PE is a non-resident shipping or aircraft operator with <i>S.11(r) Income</i>)</li> </ul>  |
| PE with annual gross income not exceeding MVR 10 million, opting for cash basis    | <ul style="list-style-type: none"> <li>✓ Statement of Profit or Loss and Other Comprehensive Income</li> <li>✓ Notes to the financial statements.</li> <li>✓ Directors' Report (if a company)</li> <li>✓ Auditor's Report Confirming <i>S.11(r) Income</i> (If the PE derived <i>S.11(r) Income</i>)</li> </ul>  |

|  |   |
|--|---|
| PE with income solely from rental of immovable property situated in the Maldives and elects 20% deduction option | ✓ Directors' Report (if a company)                  |
| Non-resident shipping or aircraft operator with <i>S.II(r) Income</i> only                                       | ✓ Auditor's Report confirming <i>S.II(r) Income</i> |

## 4.4 Head office expenses

### 4.4.1 Head office of a PE

For the purpose of income tax, the following entities are considered the head office of the PE:

- The non-resident who owns the PE
- Any other PE of the non-resident who owns the PE, situated outside the Maldives
- Associate of the PE
- Associate of the owner of the PE
- Associate of any other PE of the owner, situated outside the Maldives

### 4.4.2 PE and head office being associates of each other

The ITR exclusively provides that the head office and PE are associates of each other. Consequently, arrangements and transactions between the PE and any of the head offices listed under section 4.4.1 must be on arm's length terms for the purpose of Income Tax.

### 4.4.3 Definition of "head office expenses"

Head office expenses generally mean expenditure incurred, whether directly or indirectly, on the permanent establishment in the Maldives by its head office. It also includes payments made by the PE to any of its head offices.

Where it cannot be established that the expenditure was incurred solely for the production of income of the PE, only the portion of the expenditure that is fairly attributable to the PE should be considered as head office expenses. Apportionment must

be made on a just and reasonable basis, reflecting the benefit derived by the PE from the expenditure.

#### Example 35: Head office expenses

**Scenario:**

The head office of a non-resident company incurs USD 100,000 for global IT support, which benefits all its operations, including its PE in the Maldives. The company allocates a portion of the cost to the PE in the Maldives based on the number of employees.

**Analysis:**

The cost attributable to the Maldives PE based on a fair just basis is part of the head office expenses and is deductible subject to 3% cap explained section 4.4.4

#### 4.4.4 3% cap on head office expenses deduction

In any given tax year, the deductible head office expenses of PE are capped at 3% of the income generated from its ordinary course of business.

#### Example 36: 3% cap on head office expense

**Scenario:**

A Singaporean company, which is a non-resident of the Maldives, conducts business in the Maldives through a PE in the Maldives that generates MVR 50 million from its ordinary course of business during the tax year. The head office charges PE MVR 2.5 million as head office expenses

**Analysis:**

The deductible head office expenses cannot exceed 3% of the PE's ordinary business income.

3% of MVR 50 million = MVR 1.5 million

Actual head office charges = MVR 2.5 million

Since the deduction is capped, the PE may only deduct MVR 1.5 million, and the excess MVR 1 million is not deductible in the computation of the taxable income of the PE.

#### 4.4.5 Non-deductible head office expenses

The following are non-deductible head office expenses in computing the taxable income of PE:

- Royalty in respect of a patent or right.
- Commission paid for specific services performed for the PE.
- Commission paid for management service provided to the PE.

In addition to its ordinary meaning, commission in this context includes payments made based on the amount of profit or income in relation to the above-mentioned services.

#### Example 37: Head office expense

##### Scenario:

A non-resident company conducts business through a PE in the Maldives with MVR 50 million income from its ordinary course of business. The head office charges the following to the PE:

| Expense Type                   | Amount (MVR) |
|--------------------------------|--------------|
| General administration         | 1,800,000    |
| Royalty for patent             | 500,000      |
| Management services commission | 200,000      |
| Logistics commission for PE    | 300,000      |

##### Analysis:

- Apply 3% cap on deductible head office expenses
- 3% of MVR 50,000,000 = MVR 1,500,000
- Only general administration expenses are potentially deductible.
- Deductible portion = Lesser of actual attributable expense (MVR 1,800,000) and 3% cap (MVR 1,500,000) = MVR 1,500,000
- Exclude non-deductible items
- Royalty (MVR 500,000), management commission (MVR 200,000), and logistics commission (MVR 300,000) are explicitly non-deductible.
- Deductible head office expenses = MVR 1,500,000
- Non-deductible expenses = MVR 1,000,000 (royalty + management commission + logistics commission)

The remaining excess of general administration above the cap (MVR 300,000) is also non-deductible.

This combined scenario demonstrates how the 3% cap and non-deductible items interact to limit the deductible head office expenses for a PE in the Maldives.

## 4.5 Non-resident withholding tax (NWT)

### 4.5.1 Payments made by PE

If a PE makes any of the following payments to its head office or to any other non-resident, NWT must be withheld from the payment and paid to MIRA. For the purposes of NWT, the PE and its head office must be treated as two distinct persons.

| #  | Type of payment  | rate |
|----|--|------|
| 1  | Rent in relation to immovable property situated in the Maldives  | 10%  |
| 2  | Royalty  | 10%  |
| 3  | Interest (except interest paid or payable to a bank or non-banking financial institution approved by MIRA) | 10%  |
| 4  | Dividends  | 10%  |
| 5  | Fees for technical services (FTS)  | 10%  |
| 6  | Commissions paid in respect of services provided in the Maldives   | 10%  |
| 7  | Payments made in respect of performances in the Maldives by public entertainers                            | 10%  |
| 8  | payments made for carrying out research and development in the Maldives                                    | 10%  |
| 9  | Insurance premium  | 10%  |
| 10 | payments made to a contractor  | 5%   |

Find out more:

For more information, please refer the Guide to Non-resident Withholding Tax (MIRA I838) available on our website [here](#).

### 4.5.2 Receipts to PE that have been subject to NWT

When other persons conducting business in Maldives make specific payments listed in the table above to a PE they would deduct NWT from the applicable payments at the prescribed rate. Where income derived by a PE has already been subject to NWT, two options for computing tax on such receipts are available:

### Option 1: Gross basis

- After recognizing the gross income that has suffered NWT, the PE deducts the same amount in the computation of the taxable income of the PE.
- No other deductions are allowed in respect of that income.
- The NWT withheld at source will be treated as the final tax on that income. That means, NWT deducted by the payer is not available as a tax credit to the PE.

### Option 2: Net basis

- After recognizing the gross income that has suffered NWT, the PE deducts expenses incurred in relation to that income in the computation of the taxable income.
- NWT already withheld is treated as a tax credit against the final tax payable by the PE.

## 4.6 Employee withholding tax (EWT)

Employee withholding tax (EWT) is an administrative mechanism through which all or part of the income tax due from individuals earning remuneration is collected. In this mechanism, if applicable, on a monthly basis, employers are required to deduct EWT from the remuneration paid to the employees, pursuant to section 54 of the ITA. EWT is paid to MIRA by the employer on behalf of the employee.

Non-residents with PE in the Maldives are required to withhold EWT from the remuneration paid to the following types of employees whether or not the employees are related to the operation of the PE:

- Employees of the non-resident who exercise his or her employment in the Maldives.
- Employees of the non-resident who are resident in the Maldives, irrespective of where the employment is exercised.

#### Find out more:

You can find the Guide to Employee Withholding Tax (MIRA I850) available on our website [here](#).

## Relevant laws, regulations and guides

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- [Income Tax Act \(Law Number 25/2019\)](#)
- [Income Tax Regulation \(Regulation Number 2020/R-21\)](#)
- [Guide to Employee Withholding Tax \(MIRA I850\)](#)
- [Guide to Non-resident Withholding Tax \(MIRA I838\)](#)
- [Guide to Non-resident International Airlines and Shipping Operators \(MIRA I848\)](#)
- [United Nations Model Double Taxation Convention Between Developed And Developing Countries 2021](#)
- [OECD Model Tax Convention on Income and on Capital \(2017\)](#)



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