



MALDIVES INLAND REVENUE AUTHORITY

Malé, Republic of Maldives

TAX RULING

Business Profit Tax: Scope of section 6(a)(4) of the Business Profit Tax Act

Reference No.: TR-2013/B25

Date of issue: Thursday, 10 January 2013

This ruling is issued pursuant to the authority granted under Section 84 of the Tax Administration Act (Law Number 3/2010) as amended by Law Number 14/2011. Unless otherwise stated, all legislative references are to the Business Profit Tax Act (Law Number 5/2011). This ruling is legally binding.

Introduction

1. This ruling explains the scope of section 6(a)(4) of the Act.
2. Section 6 states:
 - “(a) If the following payments are paid or payable in any tax year to a Person who is not resident in Maldives in that year, then the Person who makes the payment shall be chargeable to tax in respect to such payment, under this Section.
...
 - (4) Payment of fees for management, personal or technical services and any other commission or fee not constituting income from any employment;”

Ruling

3. Payment of fees for management, personal or technical services shall be subject to withholding tax under section 6(a)(4) of the Act irrespective of where the services are performed.
4. Commissions and fees not constituting income from employment, specified in section 6(a)(4) of the Act, shall be subject to withholding tax if:
 - (a) the service for which the commission or fee is paid is performed in the Maldives;
or
 - (b) the commission or fee is paid:
 - (1) for a service provided to the supplier, or a person associated with the supplier, of goods and services consumed in the Maldives; and



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- (2) the service is provided in connection with the supply of such goods or services.
- 5.
- (a) Notwithstanding paragraph 4(b) of this ruling, booking commission paid or payable to non-resident operators of online travel agencies (OTAs) by tourist establishments shall be subject to withholding tax where such payment is paid or becomes payable to the OTA by the tourist establishment.
 - (b) Notwithstanding subparagraph 5(a), where MIRA believes that one of the objectives of the payment arrangement between the tourist establishment and the OTA is to avoid or reduce the tax liability, MIRA shall have the authority to require the tourist establishment to pay to MIRA the tax avoided or reduced.
6. For the purposes of paragraph 4(a) of this ruling:
- (a) a service is performed in the Maldives if the supplier of the service, or any of the supplier's employees or agents, are present in the Maldives performing any activities in connection with the service for which the commission or fee is paid; and
 - (b) withholding tax is applicable only to the commission or fee attributable to work done in the Maldives calculated on a daily basis or by another method acceptable to the MIRA.
7. For the purposes of paragraph 4(b) of this ruling, a person associated with the supplier of goods and services means a person:
- (a) that has an interest in any shares of the supplier; or
 - (b) in which the supplier has an interest in any shares of the person; or
 - (c) that is an associate, as defined in section 45(g) of the Act; or
 - (d) that is an associate (determined in accordance with this ruling) of another person that is associated with the supplier of the goods and services.

Date of Effect

8. This ruling shall take effect from its date of issue.

This is the unofficial translation of the original ruling issued in Dhivehi. In the event of conflict between this translation and the Dhivehi version of this ruling, the latter shall prevail. Therefore, it is advised that both the Dhivehi version of this ruling and this translation be read concurrently.