

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



MALDIVES INLAND REVENUE AUTHORITY

Malé, Republic of Maldives

TAX RULING

Employment under a contract of service

Reference No.: TR-2018/B65

Date of issue: Thursday, 24 May 2018

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 references to the Act are to the Business Profit Tax Act (Law Number 5/2011), and all references to the Regulation are to the Business Profit Tax Regulation (Regulation Number 2011/R-35) as amended. This ruling is legally binding.

Introduction

1. This ruling explains the meaning of “employment under a contract of service”, for the purpose of Business Profit Tax.

2. Section 6(a) of the Act states:

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;

...

3. Section 43 (a) of the Act states:

In this Act, unless the context otherwise requires:

“Business” includes

(1) any profession or vocation and every trade, commerce or manufacture or every adventure in the nature of trade, agriculture, horticulture, forestry and timber growing, aqua-culture, fishing, fish farming, poultry or cattle raising or any other activity carried on with a view to making profits,

(2) the granting of the right to occupy immovable property for valuable consideration; but does not include any employment;

...

“Employment” means employment under a contract of service;



...

4. Section 49 of the Act states:

Unless otherwise prescribed in this Act, the Maldives Inland Revenue Authority shall make regulations pursuant to this Act and shall administer the provisions of this Act.

Ruling

5. Employment under a contract of service shall mean an employment relationship between an employer and employee where that relationship includes all of the following attributes:

- (a) the employer has the right to control and direct the employee's work;
- (b) the employee works exclusively for the employer;
- (c) the employee does not have the authority to hire that employee's own helpers;
- (d) the employee does not have the authority to outsource the work assigned to that employee;
- (e) the employee does not have the authority to delegate the performance of that employee's job to another person, unless approved by the employer;
- (f) the employee is entitled to all the employment benefits as per the Maldives Employment Act (Law Number 2/2008);
- (g) the employee does not have the authority to control the resources and methods of that employee's work.

6. Notwithstanding paragraph 5 of this ruling, MIRA shall have the discretion to deem an arrangement between the employer and employee to be an employment under a contract of service as referred to in section 43(a) of the Act, where MIRA believes that the arrangement is bona fide and the circumstances are exceptional.

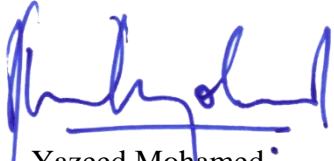
7. This ruling shall be subject to Tax Ruling TR-2017/A11 (Registration of individuals and "deemed partnerships" under the Tax Administration Act).

Date of Effect

8. This ruling shall have effect from the date of its publication in the Government Gazette, and shall apply to the tax year 2018 and thereafter.



- 3 -



Yazeed Mohamed
Commissioner General of Taxation

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.