



MALDIVES
INLAND REVENUE
AUTHORITY

Guide to Non-resident Withholding Tax (NWT)

MIRA 1838

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The information in this guide is based on laws and regulations prevailing at the time of publication. Taxpayers and payers 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.

List of abbreviations and acronyms used in this guide

CG	The Commissioner General of Taxation
DTAA	Double Tax Avoidance Agreement
FTS	Fees for Technical Service
ITA	Income Tax Act (Law Number 25/2019)
ITR	Income Tax Regulation (Regulation Number R-21/2020)
MIRA	Maldives Inland Revenue Authority
MMA	Maldives Monetary Authority
NWT	Non-resident withholding tax
PE	Permanent establishment

I. Introduction

This guide is applicable to you if you are:

- a non-resident of the Maldives deriving income from the Maldives
- a non-resident of the Maldives receiving payments from a person carrying on business in the Maldives
- a person carrying on business in the Maldives who makes a payment to a non-resident

If a payment specified in Section 55 of the Income Tax Act (ITA) is made by a person carrying on business in the Maldives, to a non-resident of the Maldives, the payment is subject to a withholding tax called non-resident withholding tax (NWT). This is primarily the mechanism by which the non-residents are taxed if they derive income specified in Section 55 of the ITA.

For the purpose of NWT, “a payment by a person carrying on business in the Maldives”, in the context of the person being an individual means a payment made in relation to the business of the person.

If it is stated in this guide that a person is a resident of a country other than the Maldives, it means the person is not a resident of the Maldives.

2. Payments subject to NWT

Following types of payments made to a non-resident by a person carrying on business in the Maldives are subject to NWT at the applicable rate on the gross amount, if the income is received from a person carrying on business in the Maldives.

In cases where the payer is unable to determine the residency status of the payee, for the purpose of NWT the payee must be considered as a non-resident. It may also happen that the payer may not know who payee is. Since it would not be possible to determine the residency of person without first having identified the person, in such cases it should be treated that the payee is a non-resident.

	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%

Interest, royalty, fees for technical services (FTS) derived from the Maldives do not include payments by:

- (1) a resident of the Maldives that constitutes an expense of their PE outside the Maldives.
- (2) a non-resident, other than those paid in respect of an expense of their PE in the Maldives.

2.1 Rent in relation to immovable property situated in the Maldives

If you are person conducting business in the Maldives and pays rent in relation to an immovable property situated in the Maldives then you must withhold, as NWT, 10% of the gross amount you pay to the non-resident.

2.1.1 Immovable property

The term “immovable property” is defined as:

- (a) Buildings, warehouses, plants, factories, land, uninhabited islands, lagoons, reefs, reef knolls, permanent structures and any other such property.
- (b) Any structural improvement to a property specified in (a) or an interest in such property or structural improvement.
- (c) Including sublease, a lease of a property specified in (a) or lease of a structural improvement specified in (b).
- (d) Livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources, a license or a permit to supply a good or service to the Maldives or any part therein.
- (e) any property accessory to a property specified in (a)-(d)

Ships and aircraft are not regarded as immovable property.

Example 1: rent in relation to an immovable property [situated in the Maldives]

An office building in Malé, which is owned by Company A, a resident of Singapore, is leased to Company B, a person carrying on business in the Maldives, for a monthly rental of USD 1,500.

Since the property is situated in the Maldives, the rental payments are subject to NWT.

Example 2: rent in relation to an immovable property [situated outside the Maldives]

Company A, a resident of Sri Lanka owns a tea plantation in Sri Lanka. The tea plantation is leased to Company B, a person carrying on business in the Maldives, for a monthly rental of LKR 1 million.

The payments made to Company A for the lease of tea plantation is not subject to NWT, as the immovable property is not situated in the Maldives.

Example 3: rent in relation to an immovable property [residency status of the property owner not known]

Company A, which carries on business in the Maldives, enters into a rental agreement with a Maldivian property owner who lives permanently in Australia, for staff accommodation, to be provided in a building located in the Maldives. Company A pays the person a monthly rental of USD 2,500. Company A is not sure if the Maldivian person to whom they are making the payment is a resident of the Maldives.

The monthly rent of USD 2,500 is rent paid in relation to an immovable property situated in the Maldives. Company A must deduct NWT from the rental payments made to the person not known to the company A as a resident of the Maldives.

Example 4: rent in relation to an immovable property [paid by a person not doing business]

Company A, a resident of Singapore, owns a condominium in the Maldives. The condominium is leased to several tenants for residential purposes.

The rental payments made to company A is rent from an immovable property situated in the Maldives. However, since payments are not made by a person doing business in the Maldives, NWT does not apply in this scenario. Nonetheless, Company A will be required to register and pay income tax on income that is derived from the Maldives [Income derived from an immovable property situated in the Maldives is considered as an income derived from the Maldives].

2.1.2 “Rent in relation to immovable property” versus “income from a business conducted through an immovable property”

There is a distinction between rent in relation to immovable property situated in the Maldives (income from letting) and income from carrying on any other business through the immovable property. An operator of a hotel or guesthouse or a serviced apartment is an example, where the income from operation does not constitute rental income from immovable property. Such carrying on of business would normally constitute a permanent establishment of the non-resident, and the income from the business carried on through the immovable property is attributable to that permanent establishment. This distinction is important because rent in relation to immovable property is subject to NWT, and any income derived from conducting a business

through an immovable property does not come under rental income derived from the immovable property.

Example 5: rent in relation to immovable property vs. income from business conducted through an immovable property

John is an Australian resident for tax purpose who operates a hotel in Malé. The hotel also has conference room facilities, which are regularly leased to other businesses for conducting short meetings and seminars.

Income earned by John from the operation of the hotel, including the lease of conference room facilities does not constitute John's income from letting of immovable property, and therefore is not subject to NWT. However, since John has a fixed place of business in the Maldives, through which his business is wholly or partly carried on, John is required to pay tax on taxable income of the permanent establishment (PE).

2.2 Royalty

The definition of royalties applies to payments of any kind paid as a consideration for the use of, or the entitlement to use, rights of the kinds mentioned below, whether or not they have been, or are required to be, registered in a public register. The definition covers both the consideration received under a license, and compensation which a person would receive as an obligatory payment for fraudulently copying or infringing the right.

Inter-carrier charges paid by one telecommunication service provider to another telecommunication service provider are excluded from the scope of royalty. Inter-carrier charges include:

- Inter-connection charges
- Inter-operator tariff
- Indefeasible Right to Use (IRU)
- Peering charge
- Termination charge
- Other charges paid by a Maldivian telecom operator to a non-resident operator for the purpose of international telecommunication for:
 - connecting an international call
 - international roaming service
 - internet exchange service co-location
 - hubbing
 - transit capacity charge or fee

2.2.1 Use of, or the right to use, a copyright, patent, plant variety right, trademark, design or model, plan, secret formula or process, or other similar property or right

The concept "for the use of, or the right to use" covers all forms of exploitation of a right or property short of outright sale of the right or property. As to copyright, a consideration paid for the right to produce, reproduce or exploit a work or other subject matter in which copyright subsists will be a payment for the use or right to use of the copyright, whether or not the right is actually used by the person paying the royalty. For example, payments for the right to reproduce magnetic tapes, laser or compact discs or other media in which the copyright subsists will come within the definition of use of, or the right to use a copyright. Other examples of payments for the use of, or the right to use, copyright would include, for example, payments to the owner of a famous painting to produce prints, or payments to the owner to produce books of original literary works.

The reference in the definition to "other similar property or right" is a reference to property or a right that is alike to any of the previously named items. A payment for a license or franchise to use a trade name or distinctive shape or appearance is one example.

Example 6: royalty for the use of a patent

A company resident in the United States owns a patent for a specific kind of energy efficient fuel that can be used as a replacement of general fossil fuel. The company has a PE through which its business is carried on in the Maldives. The PE pays USD 1 million to its head office annually for the use of the patented technology.

The payments made by PE to the head office for the use of the patent is a royalty and therefore subject to NWT. [PE and its head office are considered two distinct persons for the purpose of NWT]

Example 7: royalty for the use, or right to use a trademark

A company carrying on business in the Maldives runs a tailor shop selling under a global brand. The brand name is owned by a Hong Kong company. The license allows the Maldivian company to use the brand name on clothing items sold by the shop.

The payment to the Hong Kong company is a royalty, and therefore subject to NWT, because it is a payment that the Maldivian company makes for the use of, or the right to use, a trademark.

Example 8: royalty for a secret formula or process

Company A manufactures in the Maldives an internationally popular unique beverage under license from an Australian resident company, which is not a resident of the Maldives. The license allows Company A to use the beverage formulation to exactly replicate the taste and features of the drink. In return, Company A is required to pay the Australian company an amount every quarter equal to 1% of its total sales in the quarter.

The payment to the Australian company is a royalty, and therefore subject to NWT, because it is a payment that the Company A makes for the use of, or the right to use, a secret formula or process.

Example 9: royalty for a copyright

A cable TV operator in the Maldives has a licensing agreement with a non-resident television channel operator. The license allows the Maldives cable TV operator to distribute signals to its subscribers in the Maldives. The Maldives cable TV operator pays the non-resident television channel operator for the right to distribute channel operator's television content in the Maldives.

The payment made by the cable TV operator to the non-resident television channel is a payment for the use of a copyright, and thus constitute a royalty and therefore subject to NWT.

2.2.2 Use, or the right to use of a copyright of software

Software may be described as a program, or series of programs, containing instructions for a computer that are required for the operational processes of the computer itself (operational software) or for the accomplishment of other tasks (application software).

Royalty paid for the use of, or the right to use of a copyright of software is royalty paid for the use of, or right to use of the following types of copyright:

- a copyright in bespoke software, or
- a copyright that the payer has the right to exploit, or
- a copyright in software that the payer has the right to copy, modify, reverse engineer or decompile.

Below table will assist in identifying whether or not payments made for a software comes under royalty that are subject to NWT.

Payment	Royalty?
Payment for rights granted to exploit the copyright of information or to copy, modify or adapt a digitized product	Yes
License fee paid by a Maldivian computer distributor to a non-resident for a master copy of a software for duplication and installation into the computers assembled in the Maldives	Yes
Payment for rights to exploit the copyright of the software, duplicate copies of the software, modify, reverse engineer or decompile the software	Yes
Payment for rights to manufacture software in the Maldives	Yes
Payment for rights to develop add-on applications by building onto the existing software	Yes
Payment solely for the right to import and/or distribute software, without any license to use the copyright.	No
Payment by customer to a software developer or supplier in the course of carrying on a business, for all the rights in the copyright (i.e., full ownership of the rights in the copyright is transferred) in a program. [The receipts from the transfer of copyright are ordinary business profits of the transferor].	No
Payment for any license (shrink-wrap license), for simple use of computer software (i.e., where the end-user acquires only the right to run the program, whether on a single computer only, or on the licensee's computer network, and does not acquire any rights to use the copyright in the program).	No
Payment to obtain rights to make multiple copies of the program for operation only within its own business. [Such arrangements are commonly referred to as “site licenses”, “enterprise licenses”, or “network licenses”. Although these arrangements permit the making of multiple copies of the program, such rights are generally limited to those necessary for the purpose of enabling the operation of the program on the licensee’s computers or network, and reproduction for any other purpose is not permitted under the license.]	No

Example 10: sale of software under a distribution agreement

Company A, a tax resident of Australia owns the copyright of a software. Company D, which carries on business in the Maldives is given the exclusive distribution rights in the Maldives under a distribution agreement. Under the distribution agreement, Company A provides copies of the software to Company D, which then sells the software with a profit margin to clients in the Maldives. Company D does not have rights to reproduce the software or make copies of it.

Transaction between A and D would be treated as an ordinary sale and purchase of software and hence would not constitute a royalty.

Example 11: royalty for the use of a software

Company A, a resident of Singapore, owns copyright of a software. Company B, which carries on business in the Maldives, develops a hardware product and obtains the right to install the software to the developed hardware in order to operate the hardware. The final product is then sold to consumers.

Income received by company A is a payment made for the use of the software's copyright and thus a royalty.

Example 12: software annual subscriptions

Ibrahim is a sole trader carrying on business in the Maldives. To use in his retail store, he purchases an anti-virus software and a Point of Sale (POS) system software from a non-resident vendor. These applications require yearly subscriptions which do not involve any maintenance service or technical support.

Payments made to the non-resident are not subject to NWT, as Ibrahim only gets to use the software without being given any right to use copyright of the software.

Example 13: software modification

Zakariyya is a sole trader carrying on business in the Maldives. To use in his retail store, he purchases a Point of Sale (POS) system software from a non-resident vendor. The application requires yearly subscriptions. To use the application, he has to enter in the software certain information of his business such as name of his business, tax rate and reporting requirements.

Since these are operational instructions given to the software, Zakariyya has not modified the POS system software in this case. Hence, in the absence of any

technical service component, Zakariyya is not required to deduct NWT from the subscription payments.

2.2.3 Extraction of Natural Resources

A payment of any kind for extraction, removal or exploitation of, or the right to extract, remove, or otherwise exploit, any naturally formed mineral, oil, gas or any other resource of similar nature falls within the definition of a royalty.

Natural resources can be any naturally formed mineral, oil, gas, or any other resource of similar nature. Other resources of similar nature can be sand, quarries, fish, timber etc.

Any payment for the use of, or right to enter land or sea and remove such natural resources comes under royalty definition.

Example 14: royalty paid for the right to extract diamond

A jewelry company conducting its business in the Maldives enters into an arrangement with a South African resident company to mine diamonds from South Africa. The jewelry company pays a royalty payment to the South African company for the right to extract diamond from a certain land area.

The payment made to the South African company for the right to extract diamonds is royalty payment subject to NWT.

2.2.4 Cinematograph film, video tape or other electronic recording

A payment for the use of, or the right to use, any of the following falls under royalty:

- cinematograph film
- film, videotape or other electronic recording used for television broadcasting
- tape or other electronic recording used for radio broadcasting
- film, video or other electronic recording used for internet broadcasting

This includes consideration for distribution or exhibition of cinematograph films, whether such films are exhibited in cinemas or on television. It can be in various formats such as film, videotape or other electronic recordings used for television, radio or internet broadcasting.

Example 15: royalty for cinematograph film

A company that operates a cinema in the Maldives has a licensing agreement with a non-resident company for the right to exhibit their films in the Maldives.

The fee paid to the non-resident company for the exhibition of their film is a royalty subject to NWT.

Example 16: royalty for radio broadcasting

A company is in the business of operating a radio channel in the Maldives. The company purchases music songs from a non-resident musician under a license, which allows the company to use the songs for broadcasting on its channel.

The payments made to the non-resident musician for the broadcasting is a royalty subject to NWT.

2.2.5 Supply of scientific, industrial, or commercial knowledge or information

The words "supply of scientific, industrial, or commercial knowledge or information" have their ordinary meanings and imply the communication or imparting of knowledge or information in any way - whether by purchase, learning, research, or otherwise. The definition does not require that any special means of communication be employed.

Examples include subscriptions to Bloomberg, Reuters, Lexis-Nexis and information service providers.

Examples of a supply of knowledge include trainings, seminars etc. that are conducted for a particular customer.

Example 17: royalty for supply of industrial or commercial information

A company carrying on business in the Maldives pays an Australian resident commercial database entity for detailed information of its competitors' financial statements, market position and pricing strategy, which are not publicly available.

The payments made to the Australian entity is a payment for the supply of scientific, industrial, or commercial knowledge or information and therefore constitutes a royalty.

Example 18: royalty income for supply of scientific knowledge

Telecom Maldives Pvt. Ltd., a Maldives telecom operator pays a German resident telecom engineering company for a special training on Voice over LTE (VoLTE) technology supplied by the German company. The training is not open for others and is limited to LTE technology being supplied by the German company.

The payment made to the German company is a payment for the supply of knowledge, and thus constitutes a royalty payment.

2.2.6 The use of, or the right to use, industrial, commercial or scientific equipment or information concerning industrial, commercial or scientific experience

Any payment for the use of, or the right to use, industrial, commercial or scientific equipment or information concerning industrial, commercial or scientific experience constitutes a royalty and is subject to NWT. Again, as in previous situations, where there is a right to use the equipment or information, even if there is no actual use of that right, the transaction would still be considered a royalty.

2.2.7 Payments for the use of, or the right to use, industrial, commercial or scientific equipment

Industrial, commercial or scientific equipment is a subset of equipment and may include (but not limited to) ships, aircraft, cars and other vehicles, cranes, containers, satellites, pipelines and cables etc. Equipment does not include intellectual property and immovable property.

Example 19: royalty for the use of a commercial equipment

A company carrying on business in the Maldives leases an aircraft from a non-resident airline operator under an operating lease. Maldivian company is required to pay monthly lease payments to the airline operator.

The monthly lease payments made to the non-resident airline operator are subject NWT as they are payments for the use of a commercial equipment.

A clear distinction must be made between royalties paid for the use of equipment and payments constituting consideration for the sale of equipment. In the case of credit sale agreements and hire purchase or finance lease agreements it is clear that the sale element is paramount because the parties from the outset agree that the ownership

of the property in question will be transferred from one to the other, although they have made this dependent upon the payment of the last installment. Hence, in such cases installment payments do not constitute royalties.

Example 20: lease payments of a finance lease-not a royalty

Company A operates a container ship between Singapore and China. The company's head office is in Malé and therefore is a resident of the Maldives for tax purpose. The ship has been leased from a container ship leasing company resident in the UK, for a period of 35 years, which is the estimated remaining useful life of the ship.

The principal amount of lease payments made to the leasing company is not subject to NWT since the arrangement constitutes a finance lease [credit sale or hire purchase agreement]. However, interest on lease liability will be subject to NWT. [The ship leasing company is not an approved bank or non-bank financial institution].

With regard to satellite, cable or fibre optic operators and their customers, the characterization of a payment by the customer to the operator as a payment for the use of, or the right to use industrial, commercial or scientific equipment will, to a considerable extent, depend on the specific contractual arrangements. If the owner leases it to another person and that person operates it, the payment for the lease would be a royalty payment for the use of industrial, commercial or scientific equipment.

Example 21: royalty for the right to use an equipment [satellite]

A resident TV channel operator pays a non-resident satellite company for the lease of satellite transponder capacity. The TV channel operator acquires the right to operate it.

Since in this example, the TV channel operator has acquired the right to use the equipment, the payment made to the satellite company for the use of satellite is subject to NWT, as it is for the use of scientific equipment.

However, in many cases, the customer does not acquire the possession or control of the equipment, but makes use of a part or all of its transmission capacity. The equipment would continue to be operated by the lessor. In such cases, the payments would fall within the definition of "transmission via satellite, cable, optic fiber or any other similar technology" and therefore constitutes a royalty under that provision.

Example 22: royalty for transmission

Following the scenario in example 21, if the Maldivian TV channel operator does not acquire the use or the right to use the satellite, but merely uses the satellite's capacity for transmitting its signals to its subscribers, then the payment made to the non-resident satellite company will be subject to NWT as a royalty for transmission via satellite.

2.2.8 Payments for the use of, or the right to use, information concerning industrial, commercial or scientific experience

In this context, "experience" refers to the concept of "know-how". The words "[payments] for the use of, or the right to use information concerning industrial, commercial or scientific experience" are used in the context of the transfer of certain information that has not been patented and does not generally fall within other categories of intellectual property rights. It generally corresponds to undivulged information of an industrial, commercial or scientific nature arising from previous experience, which has practical application in the operation of an enterprise and from the disclosure of which an economic benefit can be derived.

In the know-how contract, one of the parties agrees to impart the know-how to the other, so that the party can use them for its own account, its special knowledge and experience which remain unrevealed to the public.

Examples of these may include supply of technical data, manuals, samples or patterns, or details of processing or production methods.

Example 23: royalty for the use of information

A company carrying on business in the Maldives makes a payment to a non-resident company for a confidential list of customers to which the latter company has provided a particular product or service.

The payment made to the non-resident company is subject to NWT as it is a payment made for the use of a commercial experience that only the non-resident company has (from its dealings with the customers).

In certain cases, contracts the supplier undertakes to perform services may require the use, by that supplier, of special knowledge, skill and expertise, but not the transfer of such special knowledge, skill or expertise to the other party. Such supply of service

may fall within the definition of “Fees for Technical Service [FTS]”. One such example is a payment for an opinion given by an engineer, an advocate or an accountant.

In this case, the opinion provided does not constitute a transfer of expertise, and therefore the consideration would not constitute a royalty. However, it would constitute a fee for technical service [FTS].

2.2.9 Transmission via satellite, cable, optic fibre or any other similar technology

The term “transmission” refers to the process of broadcasting something or the process of sending out electrical signals using a satellite, cable, fibre optic, internet or otherwise.

Example 24: royalty for transmission

A non-resident television channel operator, which conducts its business through a PE in the Maldives, leases a satellite’s transponder capacity to beam signals to a cable TV operator in the Maldives. The Maldives cable TV operator receives the signals and then distributes to its subscribers in the Maldives. The non-resident channel operator pays the satellite owner, which also is a non-resident, to transmit its signals through the satellite. The payment is accounted as an expense in the books of the PE in the Maldives of the non-resident television operator, and has neither the control of the satellite or the right to operate it.

The payment made to the non-resident satellite owner is a payment for transmission, and thus constitutes a royalty.

Example 25: royalty for transmission

A TV channel operator in the Maldives pays a non-resident satellite company for the lease of satellite transponder capacity. The satellite owner continues to operate it and Maldivian TV channel operator gets the right to transmit its signals through the satellite to its subscribers.

The payment made to the satellite company for transmission through its satellite is subject to NWT, as the payment is for the transmission via satellite.

Example 26: royalty for transmission

Bank of Kaashidhoo, a local bank, provides international money transfer services, using the network (SWIFTNet) provided by the Society for Worldwide Interbank Financial Telecommunication (SWIFT). The bank pays the SWIFT an annual fee of \$25,000 for the use of SWIFTNet. The SWIFT is not a resident of the Maldives.

The payment made to the SWIFTNet is a royalty for transmission via the network of the SWIFT and therefore is subject to NWT.

Example 27: not a royalty for transmission

Bank of Bengaluru, a non-resident bank, which is located in the Maldives provides international money transfer services, using the network (SWIFTNet) provided by the Society for Worldwide Interbank Financial Telecommunication (SWIFT).

ABC Pvt. Ltd uses the service of Bank of Bengaluru to send money to a client in India for a flat fee of USD 15 per transaction. The ABC Pvt. Ltd is not required to deduct NWT from the money transfer fee, as the fee paid for money transfer by a bank does not fall within the scope of NWT.

2.2.10 Ancillary services associated with the above categories

A payment for the supply of assistance that enables the application or use of anything or any right specified in any of the aforementioned categories is also a royalty. As a general rule, a payment for services does not constitute the payment of a royalty. However, a payment for services that are ancillary to, or part and parcel of, assistance that enables the application or use of anything or any right specified below will constitute a royalty payment:

- the use of, or right to use, a copyright, patent, plant variety right, trademark, design or model, plan, secret formula or process, or other similar property or right
- extraction, removal or exploitation of, or the right to extract, remove, or otherwise exploit, any naturally formed mineral, oil, gas or any other recourse of similar nature
- the use of, or the right to use, any:
 - cinematograph film
 - film, videotape or other electronic recording used for television broadcasting
 - tape or other electronic recording used for radio broadcasting
 - film, video or other electronic recording used for internet broadcasting.
- the supply of scientific, industrial, or commercial knowledge or information

- the use of, or the right to use, industrial, commercial or scientific equipment or information concerning industrial, commercial or scientific experience
- transmission via satellite, cable, optic fibre or any other similar technology.

Whether the payment is a royalty payment or a payment for service depends on the nature and purpose of the arrangement having regard to all the circumstances of the particular case.

For example, in a contract for the supply of relevant property or know-how, payments under the contract covering ancillary assistance given as a means of enabling the application or enjoyment of the property or know-how are royalties irrespective of the extent of such payments in relation to the property alone or know-how payment. Ancillary and subsidiary services could be performed, for example, in promoting the transaction by demonstrating and explaining the use of the property, or by assisting in the effective implementation of the property transferred, or by performing services under a guarantee relating to such effective implementation.

2.2.11 Ancillary assistance for software

In the case of contracts for the acquisition of packaged software, where there is no transfer of know-how or a right to use a copyright, any assistance provided by the software house or distributor will not come within the definition of royalty. However, in those cases where there is a transfer of know-how or a right to use copyright in the software, it will be necessary to determine whether any payments for ancillary services are royalties.

Example 28: consideration for ancillary service not being a part of the royalty

A company carrying on business in the Maldives enters into an agreement with a non-resident software developer for the creation and supply of custom software along with the copyright of the software, and for the provision of documentation, bug-fixing, maintenance and after sales support services.

Part of the payment, which is attributable to the copyright of the software, is a royalty. However, the payment relating to the ancillary services does not relate to the copyright of the software, but relates to the operation of the software. The services are therefore not ancillary to the supply of the copyright of the software and hence do not fall within the definition of a royalty. However, such services would fall within the definition of FTS.

Example 29: consideration for ancillary service being a part of the royalty

A computer programmer pays the copyright owner of a software for the right to reproduce and modify a program. The copyright owner also agrees to provide such assistance as is necessary to enable the programmer to understand the logic of the program so as to enable him to modify it.

The assistance in this case relates to the right to use the copyright and therefore comes within the definition of a royalty. It is important to note that the payment in this case falls under royalty and not under technical service fee

2.2.12 Forbearance payments

Forbearance, in simple terms, refers to preventing someone from using something. Payments to prevent another person obtaining a dealer franchise is an example where the payment is paid for forbearance rather than for the use of the relevant property, and falls under the definition of royalty.

The consideration paid for total or partial forbearance of the use of, or the grant of a right to use, property or a right specified in any of the below are royalties:

- the use of, or right to use, a copyright, patent, plant variety right, trademark, design or model, plan, secret formula or process, or other similar property or right
- extraction, removal or exploitation of, or the right to extract, remove, or otherwise exploit, any naturally formed mineral, oil, gas or any other recourse of similar nature
- the use of, or the right to use, any:
 - cinematograph film
 - film, videotape or other electronic recording used for television broadcasting
 - tape or other electronic recording used for radio broadcasting
 - film, video or other electronic recording used for internet broadcasting

The consideration paid for total or partial forbearance of the supply of knowledge or information specified in any of the below are also royalties:

- the supply of scientific, industrial, or commercial knowledge or information
- the use of, or the right to use, industrial, commercial or scientific equipment or information concerning industrial, commercial or scientific experience
- transmission via satellite, cable, optic fibre or any other similar technology.

Example 30: royalty for forbearance

A company carrying on business in the Maldives runs a franchise fast food chain restaurant under a license from a company resident in Hong Kong. The license allows the Maldivian company to use the name of the international fast-food chain as the name of its restaurant and prevent other businesses from using the same name.

The payment made to the Hong Kong company is a royalty, and therefore subject to NWT.

Example 31: royalty for forbearance

A person who has acquired the right to use a secret formula or process or technology that is protected by a patent or copyright pays the owner of the process or technology not to make the process or technology available to any other person.

The payment to the owner of the secret formula or process or technology in this case is also a payment for forbearance and thus a royalty.

Example 32: inter-carrier charges

Telmal, a telecom service provider in the Maldives uses Bharti Tel, a telecom service provider in India to transmit telecom traffic, to connect its roaming customers in India. Bharti Tel charges Telmal for the use of its network.

In this case, the inter operator tariff charged by Bharti Tel is within the meaning of inter-carrier charge and hence not considered as a “royalty” for the purpose of NWT.

2.3 Interest

Interest other than interest paid or payable to a bank or non-banking financial institution approved by MIRA is subject to NWT. However, in general, interest income derived from residents of the Maldives by approved banks and financial institutions would also come under income derived from the Maldives and therefore is subject to income tax in the Maldives.

The term “interest” means any payment (excluding the principal amount), under a debt security or loan or swap or derivative arrangement, or a transaction in respect which

a payment that is economically equivalent to interest is payable, and any commitment, guarantee or service fee paid in respect of a loan or swap or derivative arrangement, including discounts, premiums, passive interest and profit received in respect of any Islamic financial instrument.

Interest on lease liability under a finance lease is also considered as interest for the purpose of the aforementioned definition.

Examples of interest may include:

- Loan interest
- Finance lease interest
- Guarantee fee
- Loan arrangement fee
- Service fee
- Interest for swap or derivative arrangement
- Profit component for any Islamic financial instrument
- Interest earned on bank account [unless the amount of interest does not exceed MVR 5,000 per annum and interest income is not a business income]

Example 33: finance lease

ABC Company Pvt. Ltd carrying on business in the Maldives leased an aircraft from Aircraft Company BHD, which is a resident of Malaysia. The contractual arrangement between ABC Company and Aircraft Company constitutes a finance lease.

The finance lease interest payments to the Aircraft Company BHD are subject to NWT.

In this case, the repayments of lease liability received by the Aircraft Company BHD are not subject to NWT. [The payments are not for the use of, or the right to the equipment, and therefore not considered as royalty]

Example 34: finance lease

Seaplane Pvt. Ltd is a company carrying on business in the Maldives. Leasing Co Pvt. Ltd, a tax resident of British Virgin Islands, carries on its leasing business through a PE in the Maldives. Seaplanes Pvt. Ltd leases five seaplanes from Leasing Co. Pvt. Ltd to add to its fleet on 1st January 2021. It was determined that the terms of the lease constitute a finance lease.

Since the lease arrangement constitutes a finance lease, the Leasing Co. Pvt. Ltd should recognize the transaction as a sale of aircraft. Seaplane Pvt. Ltd should treat

the transaction as a purchase of aircraft and repayments of lease liability will not be subject to withholding tax. However, interest on lease liability will be subject to NWT.

Example 35: sublease

A non-resident person obtains leasehold rights of an island leased to develop as tourist resort from the Government of the Maldives. The person subsequently sub-leases the lease right to Company A, which operates many tourist resorts in the Maldives. As per the contractual terms, the sub-lease of the lease right falls within the definition of a finance lease.

The payments made by the Company A to the non-resident person would include an interest component, and hence Company A should deduct NWT from the interest payment made.

Example 36: interest earned on a bank account

A non-resident individual has a fixed deposit account in a bank operated in the Maldives on which she earns interest income. The interest income earned by the non-resident would be subject to NWT, and therefore the bank must deduct NWT from the interest payments it makes to the non-resident. Although each individual gets an annual exemption of MVR 5,000 on non-business interest earned, any one bank would not be able to verify the amounts of interest earned from other sources, and hence the interest paying bank must deduct NWT on all interest payments to non-residents notwithstanding the exemption.

Example 37: interest-free loan

Company S, which carries on business in the Maldives, belongs to a group of companies. Company S obtains an interest-free loan repayable over 20 years, from Company T, a non-resident of the Maldives, belonging to the same group.

In this case, S and T are associates, and transactions between associates must be made on arm's length terms. In other words, Company S must recognize interest payments to Company T on arm's length terms and deduct NWT on respective interest payments.

Example 38: reduced rate under DTAA

Company S carrying on business in the Maldives obtains a loan from Company R which is a resident of the Country R. Maldives has a double tax avoidance agreement (DTAA) with the Country R, which gives the taxing rights of interest exclusively to the country in which the recipient is resident. Company S do not have a PE in the Maldives.

Company S would not be required deduct NWT from the payments made to the Company R.

2.4 Dividends

The term “dividend” means any income derived from shares or otherwise in respect of share of profit that does not constitute return on debt.

Dividends paid to a non-resident person from a company resident in the Maldives are subject to non-resident withholding tax.

Example 39: dividends paid by a resident company to a non-resident

Malé Telecom Pvt. Ltd is a telecom service provider in the Maldives, and is a resident of the Maldives. Telstra Ltd., which is a resident of Australia, is a shareholder of Malé Telecom. Dividends paid to Telstra by Malé Telecom would be subject to NWT.

Example 40: profits paid by a resident partnership

Drew & Berry LLP is a partnership resident in the Maldives. Drew is a partner of the partnership, who is not a resident of the Maldives. The profits the partnership pays to Drew do not fall within scope of the section 55 of the ITA and therefore is not subject to NWT. Profits from a partnership do not come within the definition of dividend. However, the income derived from a resident partnership is considered as an income derived from the Maldives, and hence profits derived from the partnership is subject to the Maldives Income Tax.

2.5 Fees for technical services (FTS)

The term “fees for technical services” (FTS) means any payment in consideration for rendering managerial, technical or consultancy services or a service of similar nature, which does not constitute remuneration for employment.

A service may require the use of special knowledge, skill and expertise but not the transfer of such special knowledge, skill or expertise to the other party. One such example is an opinion given by an engineer, an advocate or an accountant. In this case, the opinion provided does not constitute a transfer of expertise, but is a service provided by the payee, and therefore is a technical service.

Example 41: FTS

A resort operator in the Maldives engages a non-resident environmental engineer to provide consultancy on protection of the resort's beaches. Under the agreement, the engineer would study the resort's beaches, ocean currents and recommend options available to the resort in order to protect its beaches and coral reefs surrounding the resort.

The recommendation provided by the environmental engineer is a technical service and the payment made to the engineer would be subject to NWT.

2.5.1 Managerial Service

Managerial services refer to management or assistance in the management of any trade, business or profession. The ordinary meaning of the term "management" involves the application of knowledge, skill or expertise in the control or administration of the conduct of a commercial enterprise or organization.

FTS falling within managerial services may include:

- Fees paid by a resort owner to a third party for resort management
- Fees paid by a Maldivian subsidiary company to its non-resident parent company as its share of central group costs (irrespective of how the fees are described)
- Fleet Management fees

2.5.2 Fees for technical or consultancy service

Fees for technical services are payments for any services of a technical nature, including the provision of services of technical and ancillary personnel. They require special skills or knowledge related to a particular technical discipline, such as techniques in the applied sciences. To be treated as a technical service, special skills and knowledge must be used in producing the service.

The ordinary meaning of the term technical involves application of specialized knowledge, skill or expertise with respect to a particular art, science, profession or occupation. Therefore, fees received for services provided by regulated professions such as law, accounting, architecture, medicine, engineering and dentistry come under

FTS. Technical services are not limited to the professional services referred here. Services performed by other professionals such as pharmacists, and other occupations, such as scientists, academics, etc., may also constitute technical services if those services involve the provision of specialized knowledge, skill and expertise. Industrial, commercial, or other advice by someone, such as a professional or consultant, who has special qualifications allowing him or her to do so, are considered as consultancy services.

The ordinary meaning of "consultancy" involves the provision of advice or services of a specialized nature. Professionals usually provide advice or services that fit within the general meaning of consultancy services.

Technical services may include:

- Computer hardware and software installation and after-sales services
- Software maintenance support services (e.g., annual maintenance, correction of bugs and troubleshooting)
- Website and email maintenance
- Engineering consultancy and technician services
- Architectural, drafting and technical design services
- Marine survey services
- Machinery inspection services
- Laboratory testing and evaluations
- Quality control services
- Other technical assistance, product support
- Dry Docking Services
- Marketing service or consultancy services
- Recruitment services

Consultancy services may include:

- Management consulting services
- Opinions and other services given by lawyers, accountants and other professional advisors
- Audit services
- Medical and other health-related services
- Interior design services
- Customized training and instruction

Example 42: FTS [Management fee]

Beach Pvt. Ltd. owns Sand Beach Resort in the Maldives. Beach Pvt. Ltd. enters into an agreement with Hoteling Ltd (a non-resident of the Maldives) to operate and manage the resort in the Maldives. As per the agreement, Beach Pvt. Ltd. is

required to pay Hoteling Ltd, a monthly management fee of 3% on gross revenue and an incentive fee of 2% on gross operating profit.

Management fee and incentive fee paid to the Hoteling Ltd come under FTS and are subject to NWT.

Example 43: FTS [Management fee paid to the parent company]

Hoteling Ltd, a non-resident of the Maldives, is a multinational company operating several subsidiary companies worldwide. Hoteling Ltd charges each of its subsidiary companies to cover a proportion of cost of executive management time, group-wide IT, HR and marketing services. Beach Pvt. Ltd, which is a subsidiary of Hoteling Ltd and carries on business in the Maldives, is required to pay its proportion of expenses to Hoteling Ltd under a management agreement.

The fees paid to Hoteling Ltd comes under FTS and are therefore subject to NWT.

Example 44: FTS [Management fee paid to the head office]

Hoteling Ltd, a non-resident of the Maldives, operates a tourist resort in the Maldives. By virtue of operating the resort, Hoteling Ltd. has a PE in the Maldives.

If PE's head office expenses include a component for management services, the amount attributable to the management service and deducted by the PE as head office expense would be subject to NWT irrespective of the applicability of 3% cap on head office expenses in the computation of PE's taxable income.

2.6 Commissions in respect of services supplied in the Maldives

Commissions are payments for services including fees, which are not specifically mentioned already in the section 55(a) of the Income Tax Act, excluding payments received as remuneration for employment. Commissions are subject to NWT only if the service for which commission is paid is supplied in the Maldives.

A service is supplied in the Maldives:

- if the supplier of the service is in the Maldives when the service or a part of the service is supplied; or
- the service was supplied through or by an agent of the supplier in the Maldives; or
- if the service was supplied through or by an employee of the supplier.

Examples may include:

- Travel wholesalers' commission
- Tour operators' commission
- Agency commissions
- Sales representative commission

The following payments are not considered as the “commissions in respect of services supplied in the Maldives”.

- Commission charged by a bank for money transfers and deposits
- Commission charged by a bank for use of a card issued by the bank

Example 45: commission for a service supplied in the Maldives

Company A operating a tourist guesthouse in the Maldives enters into an agreement with a non-resident travel agent who performs its services through an agent in the Maldives. As per the agreement, the travel agent sells the rooms at a specified rate in different market segments, and in return the company A is required to pay 2% as commission from the room revenue generated through the non-resident travel agent. The agent does not bear any inventory or market risk.

Commission paid to the non-resident travel agent is subject to NWT as it is a payment for a service provided in the Maldives by the non-resident travel agent since the travel agent's services were supplied in through a local agent operating in the Maldives.

Example 46: commission for a service NOT supplied in the Maldives

Company B operating a tourist guesthouse in the Maldives enters into an agreement with a non-resident travel agent who performs its agency services outside the Maldives. At the time of performance of the agency service, the agent is not in the Maldives and not even a part of the agency service is provided in the Maldives. Further, not even a part of the agency service is provided by or through an agent or employee of the travel agent who is in the Maldives. As per the agreement, the travel agent sells the rooms at a specified rate in different market segments, and in return Company B is required to pay 2% as commission from the room revenue generated through the non-resident travel agent. The agent does not bear any inventory or market risk.

The commission paid to the non-resident company is not subject NWT as the agency service is not supplied in the Maldives.

Example 47: commission for a service supplied in the Maldives

ABC India Bank, a resident of India, conducts its banking business in the Maldives through its Maldives branch ABC Maldives Bank [PE]. ABC Maldives Bank receives a fee for loan arrangement, from Company D which carries on business in the Maldives.

The fee for loan arrangement is a commission paid for a service supplied in the Maldives by ABC India Bank, as it is in the Maldives when the service was supplied.

Example 48: commission for a money transfer service

OPQ Bank, a non-resident bank, conducts its banking business in the Maldives through its Maldives branch [PE]. RST Ltd, a company operating in the Maldives, uses the service of Maldives branch of OPQ for money transfer service. OPQ charges a commission for the money transfer service.

Commission charged by non-resident banks for money transfer service is excluded from the scope of NWT notwithstanding the place of supply, hence RST Ltd would not be required to deduct NWT from the commission paid in this scenario.

2.7 Performances in the Maldives by public entertainers

The term “public entertainer” refers to a stage, radio, television or internet artiste, a musician, an athlete or an individual exercising any profession or vocation of a similar nature. Income derived from such services by a non-resident public entertainer is subject to NWT if the service is physically performed in the Maldives.

Example 49: public entertainer

A legendary cellist from Russia [a resident of Russia] arrived in the Maldives to perform at Dharubaaruge Hall for 2 nights in January 2020 and was paid a fee of MVR 1 million by the organizer in Maldives. A popular compere from the USA [a resident of USA] was also engaged for the 2 nights’ event and was paid MVR 300,000.

The Russian cellist would be considered a public entertainer as he uses his musical skills for a live public performance. The compere is also a public entertainer famous for his entertainment skills. The fees paid to the cellist and compere are subject to NWT.

Example 50: public entertainer

An international supermodel from the USA [a resident of USA] arrived in the Maldives on 1st March 2020 to participate in a fashion show, a commercial and a photo shoot for a fee of USD 100,000.

The supermodel is considered a public entertainer as he participated in a fashion show for the viewing of the public. As the supermodel had used his personal skills for the commercial and photo shoot, he would therefore be considered a public entertainer. The full fee is subject to NWT.

2.8 Research and development carried out in the Maldives

The payments made for carrying out research and development in the Maldives is subject to NWT.

“Research and development” means any systematic, investigative and experimental study that involves novelty or technical risk carried out in the field of science or technology with the objective of acquiring new knowledge or using the results of the study for the production or improvement of materials, devices, products, produce, or processes.

Example 51: research and development carried out in the Maldives

Company A, a well-established company operating in the Maldives, included a plan to build the first-ever adventure theme park in the Maldives in their strategic plan for the year. This investment would add to their already diversified business portfolio. The company approaches industry experts who are resident in the United Kingdom to prepare a feasibility study. They visited the Maldives to carry out this research and the Company A was billed based on the number of hours spent on researching the viability of this project.

Since the researchers carried out a part of their work in the Maldives, the payment made to the UK resident company in respect of the part carried out in the Maldives would be subject to NWT.

2.9 Insurance premium

Where a person who carries on any business in the Maldives makes a payment as insurance premium to a non-resident insurer, the person should deduct 10% as NWT from the gross amount of the insurance premium paid to the non-resident. Reinsurance premium is excluded from the scope of insurance premium, for the purpose of NWT.

Example 52: Insurance premium

A company carrying on business in the Maldives insured its warehouse against fire due to a recent fire accident. The insurance company operates, and resides, in Japan. The cost of insurance premium is USD 20,000 per annum. In case of such an incident, the insurance company will cover the cost up to USD 2 million.

Insurance premium paid to the non-resident is subject to NWT.

2.10 Payments to a non-resident contractor

The payments made to a non-resident contractor by a person doing business in the Maldives is subject to NWT at the rate of 5% of the gross amount of the payment.

The term “non-resident contractor” refers to a person not resident in the Maldives who undertakes, under a contract, agreement, or arrangement (other than as an employee):

- (i) to supply services of any kind in the Maldives; or
- (ii) to supply the use of, or right to use, in the Maldives any services of another person.

2.10.1 Mixed Contracts

The scope of payments to non-resident contractors which are subject to NWT is limited to payments for services supplied in the Maldives. It is possible for a contract to include a service component and material component. If the payment for the material component can be separately identified, NWT would apply only on the payment for the service component. It is also possible that a service contract may include a part which is not supplied in the Maldives. In such case, NWT applies only on the part supplied in the Maldives.

There may arise a situation where a wider service contract includes a part that falls within one of the other specific types of payments (i.e., subject to NWT under Section 55(a) of the ITA) from which NWT must be deducted. In all cases, such parts must be reported under that other specific type of payment and NWT must be deducted at the rate of 10%, and subject to those specific rules. It is especially important to note that when the other category applies, most of the other categories do not limit NWT to services provided in the Maldives.

Example 53: non-resident contractor

A company carrying on business in the Maldives contracts a United States resident company to undertake interior designing and construction of their new office building. The US company sends their employees to carry out the service contract in the Maldives.

NWT must be deducted from payments for both interior designing (FTS) construction works. The amount related to FTS has to be accounted as FTS and the applicable NWT rate would be 10%, while the amount related to the rest of the service contract can be accounted as “non-resident contractor payments” and applicable NWT rate would be 5%.

Example 54: non-resident contractor

Company A enters into a contract with a US resident company to construct a resort in the Maldives. The US Company entered into a subcontract with another party to perform the construction work on behalf of them and payments are made to the subcontractor by the Company A.

Even if the subcontractor does not have an agreement with the Company A, the payments made to the subcontractor are subject to NWT.

Example 55: non-resident contractor

Company A enters into a contract with a US resident company to construct a resort in the Maldives for USD 15 million, which includes the supply of materials and equipment of value USD 8 million.

The payment made for the services supplied (resort construction) in the Maldives is USD 7 million. Therefore, NWT, under the non-resident contractor category, applies to the USD 7 million attributable to the service portion.

3. General rules

3.1 Head office and the PE-separate entities

For the purpose of NWT, a non-resident and its permanent establishment (PE) in the Maldives must be viewed as two separate entities. If the PE in the Maldives makes a payment specified in the section 55 of the Income Tax Act to the head office, such payment would be subject to NWT.

3.2 Amount or applicable period is not certain

If the exact amount from which NWT must be deducted is not known, or the period to which payments relates is not known, the amount subject to NWT must be computed based on a provision made, if a provision is required to be made in accordance under the accounting standards adopted by the person. NWT computed based on the provision in this manner must be accounted for in the NWT return for month to which the provision relates.

Even though NWT is computed based on a provision as above, when the exact amount of the payments is known, if there is a shortfall in the amount of NWT, the amount must be deducted and accounted for in the month the exact amount becomes certain. Similarly, when the amount becomes certain it is found that NWT amount was additional, the additional amount can be claimed through the NWT return submitted for the month in which the amount becomes certain.

Example 56: provision

Company A, which carries on business in the Maldives, sells electronic devices to customers in Sri Lanka with an international warranty under which customers are covered for the cost of repairs of any manufacturing defects that become apparent within the first six months after purchase. Company A has a technical service agreement with Company B, a resident of Sri Lanka, where customers bring in their devices for repairs. Under the service agreement, Company B will receive consideration for their services from Company A at the rate of USD 100 per device repaired.

The company's past experience and future expectations indicate that, for the coming year, five hundred devices will require repairs and therefore USD 50,000 would be incurred for the repairs.

It was decided that Company A should record a provision for the estimated repair cost of devices under warranty. Company A should account for NWT on the amount of the provision made. Company A, however, will not be able to claim a deduction in the computation of income tax payable for the provision as an

expense since the incurrence of the expense is contingent on whether any devices are damaged and brought to Company B for repairs.

Example 57: provision

A seaplane operator in the Maldives leases several planes from a non-resident lessor under an operating lease arrangement. One of those seaplanes has been abandoned. The lease has five years to run at an annual rental of \$20,000 with no break-up clause. Sub-leasing of the equipment is not permitted. Based on past experience, and given the company's business relationship with the lessor, management expected that the lessor would agree to terminate the lease for compensation of USD 50,000. Based on this analysis it was decided to recognize a provision for USD 50,000, reflecting the expected outcome of a negotiated settlement.

The seaplane operator should account for NWT on the amount of provision.

Example 58: Reversal of a provision

A company which operates several tourist resorts in the Maldives enters into a management agreement with an international hotel managing company. As per the agreement, the company has to pay a base management fee of 3% of gross revenue at the year-end.

In the year 20X0, the company created monthly provisions based on the previous year's revenue. At the year end, the total of the provision created amounted to \$750,000. The management company will be paid in the month of June of 20X1 once the revenue is confirmed in that month with the finalization of the audit of financial statements of 20X0.

In this case, the company will be required to declare NWT for each month based the provision created in that month. When the amount gets confirmed in the month of June of 20X1, any shortfall or surplus can be adjusted in the NWT return submitted for the month of June 20X1.

3.3 Debit Notes and Credit Notes

If the amount subject to NWT is increased by a debit note, NWT must be deducted from the additional amount and accounted for in the NWT return submitted for the month in which the debit note is accounted for in the books of accounts. Similarly, if the amount subject to NWT is reduced by a credit note, the amount of NWT declared

in surplus can be adjusted in the NWT return submitted for the month in which the credit note is accounted for in the books of accounts.

3.4 NWT and Maldives-UAE DTAA

Currently there exists a Double Tax Avoidance Agreement (DTAA) in force between the Maldives and United Arab Emirates (UAE).

Under UAE-Maldives DTAA, below NWT rates apply to payments made to UAE residents, assuming the payment does not contribute to the profits attributable to a PE [business profits of the PE] situated in the Maldives of the non-resident. If the payment contributes to the profits of a PE in the Maldives, NWT applies at rates specified in Section 55 of ITA, unless the payment falls within the Article 9 (Shipping and Air Transport).

	Type of payment	Rate
1	Rent in relation to immovable property situated in the Maldives	10%
2	Royalty [Subject to the provisions of paragraphs 2, 3, 4, 5 and 6 of Article 13 of the DTAA]	7%
3	Interest [Subject to the provisions of paragraphs 2, 3, 4 and 5 of Article 12 of the DTAA]	0
4	Dividends [Subject to the provisions of paragraphs 2, 3 and 4 of Article 11 of the DTAA]	0
5	Fees for technical services [FTS]	0
6	Commissions paid in respect of services provided in the Maldives	0
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	0
9	Insurance premium	0
10	payments made to a contractor	0

3.5 Reimbursements

Even if there is a separately identifiable component for reimbursement of costs included in the payment made to a non-resident, NWT must be deducted from the full amount.

Example 59: reimbursements

A non-resident consultant bills a person carrying on business in the Maldives for the consultancy services he provided. Two separate invoices are sent: one invoice is for USD 2,000 citing consultancy services and the other invoice is of USD 1500 citing reimbursement of his travel costs and hotel stay in the Maldives.

NWT must be deducted from the total amount charged, which in this case is USD 3,500. The business expenses incurred in the provision of the service cannot be disaggregated to reduce the amount that is subject to NWT. NWT is always charged on the gross amounts.

NWT must also be deducted from payments made in respect of a recovery by a third party of such payment for which NWT would have been required to be deducted had the payment been made directly to the supplier of the service.

Example 60: recovery payments

Company A, a resident of India, allows the PE in the Maldives of Company B, a resident of Singapore, to exploit the copyright of a software. Company A bills the head office of Company B for the copyright, and the amount charged later is recovered by the head office from its PE in the Maldives. The payment made to head office by the PE is subject to NWT.

3.6 Failing to deduct NWT

If you make a payment without deducting NWT from an applicable payment, you must treat the amount of the payment as the net amount of the payment after deducting the NWT you were supposed to deduct. Hence, the formula to calculate NWT to be included in the return is:

$\frac{A \times t}{100 - t}$, where A = amount of payment, and t = applicable NWT rate

Example 61: Makes the payment without deducting NWT

A subsidiary company operating in the Maldives pays a management fee of USD 250,000 to its German parent company, and fails to deduct NWT. The amount of NWT to be included in the return and paid to MIRA in respect of this payment is calculated as follows:

$$[A = 250,000 \text{ and } t = 10\%]$$

Using the formula:

$$\frac{A \times t}{100 - t} = \frac{250000 \times 10}{100 - 10} = 27778$$

The amount to be included in the return would be MVR equivalent of USD 27,778.

3.7 Deduction of NWT from future payments, if failed to deduct in the appropriate period

If the payer fails to deduct the correct amount of NWT from a payment made to a non-resident, the payer may deduct such amount from any future payment to the non-resident.

Example 62: Deducting from future payments

Consider the example 62. The amount to be included in the return is MVR equivalent of USD 27,778. This amount must be considered as the amount the subsidiary company had failed to deduct, and can be deducted from any future payment to the German parent company by the Maldives subsidiary company.

3.8 NWT return and payment

[NWT Return \(MIRA 602\)](#) must be filed, and the corresponding payment must be made, by the 15th of the month following the month in which the payment subject to NWT was made to the non-resident. You are not required to submit any additional documents when filing the NWT return. However, you must keep all records.

Even if an income which have been made exempt from non-resident withholding tax or deduction of non-resident withholding tax under a treaty or agreement entered into under Section 12(h) of the ITA, an NWT return must be filed. However, in such cases there would be no corresponding NWT payment.

NWT returns can only be filed online using MIRAconnect. NWT payments can only be made online using MIRAconnect or MRTGS service provided by the banks operating in the Maldives.

Find out more

Instructions on completing MIRA 602 is available at <https://bit.ly/44ELenV>.

3.8.1 Currency and NWT

NWT returns must be prepared, and NWT must be paid to MIRA in Maldivian Rufiyaa. If you pay the non-resident in a currency other than Rufiyaa, when preparing the NWT return, the amount should be converted to Rufiyaa using an exchange rate within $\pm 2\%$ of the rate published by the Maldives Monetary Authority on the day on which you make the payment to the non-resident. In addition, the source of the foreign exchange rates that you adopt must be used consistently. However, if the payment is made through a commercial bank operating in the Maldives, you have the option of using the exchange rate quoted by that bank for the transaction.

Example 63: Exchange rate

Mr. A, a person carrying on business in the Maldives, accrued a payment, from which NWT must be deducted, as being payable to a non-resident on 20th June 20X0. The non-resident's invoice had been in USD, and the remittance of the payment to the non-resident was done in USD on 25th June 20X0 through the Bank of Malé.

The person can convert the amount to MVR to be included in the return, either:

- using an exchange rate within $\pm 2\%$ of the rate published by the MMA on 20th June, or
- using the exchange rate applied by the bank, if the remittance on 25th June involved an MVR-USD conversion by the bank

3.8.2 Non-filing penalty

If you do not file NWT return or file it late, the CG may impose a penalty fine of an amount not exceeding MVR 50 per day and 0.5% of your NWT liability for that period.

3.8.3 Non-payment penalty

If you do not pay your NWT or pay it late, the CG may impose a penalty fine of 0.05% of the outstanding amount per day.

3.8.4 Amending your NWT return

You may amend NWT returns within 12 months from the due date for filing that return. However, who gets the refund arising on amending an NWT return depends on the status of the non-resident to whom the payment is made. If the payment is made to a non-resident with a PE in the Maldives, and refunds arising on amending the NWT return will only be available to that non-resident. If not, the refund will be available to the payer.

3.8.5 Withholding tax certificate

On request MIRA issues withholding tax certificates to the payer (the person who files) of the NWT return, and the obligation to make the certificate available to the non-resident is on the payer. In cases where the payer refuses to provide the withholding tax certificate to the non-resident, MIRA would issue the withholding tax certificate to the non-resident, on submission of proof of earlier request to the payer.

3.8.6 Date of deduction of NWT

NWT must be deducted on the date at which the payment is actually made to the non-resident or the date at which the payment becomes payable, whichever is the earlier.

3.8.7 Payment date

- If the payment is made in cash, the date on which the payment is made to the payee or a person acting on behalf of the payee.
- If the payment is made by a check, the date on which the check is written.
- If the payment is made via telegraphic transfer, the date of application for the telegraphic transfer.
- If the payment is made by an offset in the payer's accounting records against an amount owing to the payer or by crediting the payee's account (including a current account), the date on which the adjusting journal entries are recorded in the books of accounting.

3.8.8 Payable date

Payable date will be earlier of the following dates:

- Date on which the payer accrues the payment as payable to another person in his books of accounts.
- The date on which a present obligation arises on the payer towards another person, as a result of a past event.

3.8.9 Income tax return filing requirements for non-residents that do not have a PE in the Maldives

If all of your income derived from the Maldives is subject to NWT and you do not have a Permanent Establishment (PE) in the Maldives as a non-resident, you are not required to file an income tax return in the Maldives.

However, if you are a non-resident and you derive from the Maldives:

- Rent from an immovable property in the Maldives; or
- Income from performing in the Maldives as a public entertainer; or
- Income from carrying out research and development in the Maldives

you have the option of filing an income tax return, even if you do not have a PE in the Maldives. In such cases, you will not be able to deduct the income derived from Maldives as a receipt which has suffered NWT.

3.8.10 Income tax return filing requirements for non-residents that have a PE in the Maldives

If you have a PE in the Maldives, you are required to file an income tax return. However, applicable income would still be subject to NWT. The non-resident person may opt to pay tax on gross basis, by deducting the total income that has suffered NWT in the computation of taxable income of the PE. If this method is opted for, no expense in relation to that income can be deducted. If the person opts to pay tax on a net basis, then the total income and expenses are included in the computation tax payable. NWT already paid is then deducted from the PE's total tax liability.

4. Relevant laws and regulations

The following laws and regulations and tax rulings provide the legal basis for the guidelines provided in this guide:

- Income Tax Act: <https://bit.ly/3VHYh3W>
- Income Tax Regulation: <https://bit.ly/3HQfVRf>
- Tax Administration Act: <https://bit.ly/3nl6mZS>
- Tax Administration Regulation: <https://bit.ly/3LIEBIB>



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