

MIRA POST



Understanding Mixed Contracts for Non-Resident Withholding Tax

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Understanding Mixed Contracts for Non-Resident Withholding Tax (NWT)

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When a business in the Maldives engages with a non-resident contractor, the resulting agreement may take the form of a mixed contract. In the context of Non-Resident Withholding Tax (NWT), mixed contracts refer to contracts, agreements, or arrangements made with non-residents, that involve multiple components such as services and materials, or different types of services, which may be subject to NWT at different rates—or not subject to NWT at all.

For example, a company in the Maldives hires a non-resident firm to design and install a solar energy system. The contract includes:

- Design services (consulting and engineering)
- Supply of solar panels and equipment
- Installation services



Since this contract involves both services and

materials, it is considered a mixed contract. It also includes services that fall under different categories of payments for NWT deduction. Each part of this contract may be subject to different tax treatments under NWT, so it is important to break down the components in order to apply the correct withholding tax.

A mixed contract, as shown in the example above, may involve a non-resident contractor providing both a service and materials under one contract. If the payment attributable to the material component can be separately identified, NWT would not apply on this portion. However, payments for services such as construction or installation carried out in the Maldives by a non-resident contractor is subject to NWT at 5%, in accordance with section 55 of Income Tax Act.

Contracts that involve a broader scope of services—such as design and build contracts, or design and installation agreements—are also treated as mixed contracts. While payments for design, construction or installation services are all subject to NWT, they fall under different categories. Payments for design services are classified as “fees for technical services” and are subject to NWT at 10%, while construction and installation services fall under “payments to non-resident contractors” and are subject to

NWT at 5%,.

Another common scenario involves contracts that include services performed both within and outside the Maldives. For services such as construction or installation (i.e., “payments to non-resident contractor”), NWT applies only to the portion of service supplied in the Maldives. However, it is important to note that most other categories of payment subject to NWT do not limit the location of service provision to Maldives. For instance, NWT is applicable from fees for technical services

regardless of where the service is provided. When making payments to a non-resident under a mixed contract, the payer must identify the contract components, determine which category those payments fall under as per Section 55 of the Income Tax Act, and withhold NWT at the applicable rate. Payers must also maintain proper documentation to support the payments under mixed contracts. This may include detailed invoices, Bill of Quantities (BOQ), correspondence with the non-resident, any valuation or expert reports used to determine the split etc.



Construction Permanent Establishments

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Construction, assembly, or installation projects carried out in the Maldives by non-residents can lead to the creation of a Permanent Establishment (PE). Hence, it is crucial for such businesses and contractors to understand when these activities may trigger a Construction (PE)—and what that means for their tax obligations.

What is a Construction PE?

Under Income Tax Act, persons or entities that meet the following conditions will have a Construction PE in the Maldives:

- Person or entity carrying out the work is a non-resident of Maldives for tax purpose
- Carry out works involving before building site, a construction, assembly or installation project or related supervisory activities “ in the Maldives
- The site, project or activities lasts more than 90 days (this 90 day-period will be counted inclusively, including days for which similar or connected projects or activities are carried out by the same person or their associates)

The term “building site or construction, assembly, or installation project” includes but is not limited to:

- Construction of buildings
- Construction of roads, bridges, harbors etc.
- Renovation (involving more than mere maintenance or redecoration) of buildings, roads, bridges, harbors etc.
- The laying of pipelines and excavating and dredging

- Installation related to a construction project

How is the 90-Day Period Calculated?

Generally, a construction site or project is considered to exist from the date work begins (including preparatory work), until the date the work is either fully completed or permanently abandoned. Even after physical construction is completed, the site may still be considered active if the building or its facilities are being tested by the contractor or subcontractor. The site ceases to exist when the building or facilities are handed over to the client and no further work is carried out. Temporary breaks—such as those due to bad weather or material shortages— do not interrupt the continuity of the site.

The 90-day period is counted separately for each individual project or site of the contractor. Time spent on unrelated sites or projects is not aggregated. However, multiple contracts that are commercially and geographically connected can still be treated as a single project for the purpose of this threshold.

Additionally, projects involving activities that require to be relocated—such as road construction, dredging, or pipeline installation—are treated as a single site, even if work is carried out across multiple locations. In such cases, the workforce does not need to be present at one location for 90 days for a PE to be established.

When a general contractor subcontracts part or all of a project, the time spent by the subcontractor is

counted as time spent by the general contractor, provided the general contractor clearly has the construction site at its disposal. Moreover, if the subcontractor is a non-resident, a construction PE of the subcontractor will also be established if the time spent by the subcontractor exceeds 90 days.

In practice, construction projects—particularly in sectors such as hotels, resorts, infrastructure, real estate etc—often exceed the 90-day threshold. These projects are therefore likely to meet the conditions for a Construction PE, and non-residents carrying out such activities should assess each project carefully to determine whether a PE is triggered.

Tax Obligations for Construction PEs

Once a Construction PE is triggered, the non-resident must register for income tax in the Maldives. The taxable income earned by the PE will be taxed based on the applicable rates, which differ depending on whether the PE is operated by an individual or another type of entity. Expenses incurred wholly and

exclusively in generating the PE's income can be deducted in accordance to Income Tax Act and Regulation, when calculating taxable income.

A non-resident's PE in the Maldives and their other businesses (head office) will be treated as a separate entity for income tax purposes. Hence, the PE is only required to prepare and submit accounts in relation to the PE's business activities. Additionally, deductions for head office charges are capped at 3% of the PE's total income.

Payments made to non-resident contractors for construction services may be subject to Non-Resident Withholding Tax (NWT) at the rate of 5%. If the income of a contractor with a Construction PE has already been subject to NWT, the contractor 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. Alternatively, the person can also opt to pay tax on a net basis. Then the PE may include the total income and expenses in the computing tax payable and deduct the NWT already paid from the PE's total tax liability.

Additionally, construction services are not exempt from Goods and Services Tax (GST). Therefore, if a person carrying out such activities meets the conditions for mandatory GST registration, it must register and comply with GST obligations.

A [detailed guide](#) on the income tax implications of Permanent Establishments (PEs), including Construction PEs, is now available on the MIRA website. This guide provides further clarity on the tax rules and obligations relevant to PEs. Non-resident contractors and businesses may find it helpful in navigating their tax responsibilities when undertaking construction activities in the Maldives.





Highlights from MIRA's "Gulhigen Haveer" Children's Event



ZERO RATED ESSENTIAL GOODS

- **Rice, Sugar and Flour**

Imported by State Trading Organization plc for sale at the controlled price determined by the Ministry of Economic Development.

- **Salt**

Only salt that is manufactured specially for culinary purposes, and not labelled as manufactured for industrial purposes.

- **Milk**

Milk from cows, goats, camels, sheep or soya or rice milk prepared specially for consumption, which is not processed with products other than preservatives and which is marketed as milk.

- **Cooking oil**

Vegetable oil, palm oil, corn oil, sunflower oil and olive oil used commonly for cooking.

- **Eggs**

Only fresh chicken eggs.

- **Tea leaves**

Unflavored tea leaves and tea bags used for making black tea.

- **Deep sea fish, reef fish and fish packed in the Maldives**

Deep sea fish refers to skipjack tuna, yellow fin tuna, mackerel tuna, frigate tuna and parts of such fish. Reef fish refers to any fish (other than deep sea fish) with dorsal fin and tail fin and parts of such fish. Fish packed in the Maldives refers to all types of deep sea fish and reef fish packed in the Maldives. Fish includes fresh fish, dried fish, smoked fish, salted fish and fish especially processed for canning, but does not include fish used for aesthetic value

- **Potato and Onion**

All types of potato and onion.

- **Ingredients used to make curry paste**

Ingredients used in making curry paste includes cumin, fennel, coriander seeds, turmeric, garlic, ginger, chili, chili powder, cinnamon, cardamom, peppercorn, dried chili, curry leaves, pandan leaves and cloves. Chili refers to githeyo mirus, tholhi mirus, riha mirus and vifuku mirus.

- **Dhiyaa hakuru, coconuts, kurun'ba and kurolhi**

Dhiyaa hakuru includes karuhakuru and toddy. Coconuts, kurun'ba and kurolhi includes gobolhi, miri, kihaa, gabulhi, mudikaashi, and coconut milk, desiccated coconut and coconut oil produced in the Maldives.

- **Carrot, cabbage, beans and tomato**

Fresh produce supplied without being processed. It includes all types of carrots, cabbage and tomatoes and green beans and long beans.

- **All types of fruits**

Fruits refer to unprocessed fresh fruit grown on trees bearing flowers and are edible in the raw state.

- **Breads, buns and rusk**

Bread refers to ordinary bread ("white bread" and "brown bread") and buns refer to madu banas, butter buns, hotdog buns and burger buns and rusk refers to all types of rusk. These will be zero-rated only if supplied without altering their form.

- **Baby diapers**

Baby diapers including cloth diapers.

- **Baby food**

Baby food refers to all types of baby food produced for children under the age of three years, and labeled as such.

- **Cooking gas**

- **Diesel**

- **Petrol**

- **Adult diaper**

- **Sanitary napkins, tampons, menstrual cups and sanitary towels, sanitary pads, panty liners, sanitary belts for use with looped towels or pads, internal devices for the collection of menstrual flow (keepers) and maternity pads produced as sanitary protection products for the absorption or collection of menstrual flow or lochia (discharge from the womb following childbirth).**

