MIRA M805

Taxation of International Air Transportation Services
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The information in this guide is based on laws and regulations prevailing at the time of publication. It is not expected to be a substitute for a detailed research or exercise of professional judgment on taxation matters in the Maldives. 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.
I. Introduction

The rules governing taxation of businesses in the aviation industry are unique. Airlines operating in or flying to the Maldives need to be aware of the rules which apply to them in relation to the following taxes:

- Business profit tax (BPT) and withholding tax (WHT)
- Goods and services tax (GST)
- Airport service charge

This guide explains the application of Maldives tax laws to international air transportation service providers.
2. Business profit tax

Resident airlines

Airline companies that are residents of the Maldives, and provide international air transportation services, must register with MIRA and pay BPT on their worldwide profits, i.e. their profits are subject to BPT whether they are derived from the Maldives or from overseas.

For the purposes of BPT, a company is resident in the Maldives if it is incorporated in the Maldives. A company which is incorporated outside the Maldives will also be resident in the Maldives if its central management and control is situated in the Maldives.

Non-resident airlines

Airline companies that are not residents of the Maldives may be exempt from BPT. Section 16(a) of the Business Profit Tax Act (Law Number 5/2011) provides that the profits of any business carried on by an owner or charterer of an aircraft as such owner or charterer who is not resident in the Maldives and does not carry on any other business will be exempt from tax, if the Commissioner General of Taxation is satisfied that a similar exemption from business profit tax or any other similar tax is granted by the country in which such person is resident, to a person resident in the Maldives.

Section 16(b) of the Act goes on to say that for the purposes of section 16, a company will be deemed to be resident only in that country in which its central management and control is situated. Therefore, place of incorporation of an airline company is irrelevant when applying section 16.

The procedures to be followed by airlines in applying for the section 16 exemption are set out in Tax Ruling TR-2015/B43 (Application for exemption under section 16 of the Business Profit Tax Act).

Find out more

**Business carried on by an owner or charterer of an aircraft**

As explained above, section 16 of the BPT Act applies to a “business carried on by an owner or charterer of an aircraft”. This includes not only airlines that fly to the Maldives – as per Tax Ruling B43, it also includes the leasing of an aircraft, aircraft engines, or spare parts which are integral to the airworthiness of an aircraft in accordance with Maldives aviation law, to a Maldives-resident airline.

**Conditions for section 16 to apply to a non-resident entity**

All of the following conditions must be met for the section 16 exemption to apply to an airline or other non-resident entity:

- The entity must not be a resident of the Maldives.
- The entity must be an owner, charterer or lessor of an aircraft.
- The entity must carry on business as such owner, charterer or lessor of the aircraft.
- The entity must not carry on any other business in the Maldives.
- The Commissioner General must be satisfied that the country in which the entity’s central management and control is situated would offer a Maldives-resident aircraft owner, charterer or lessor a similar exemption from tax on its business profits.

**Procedure to apply for the section 16 exemption**

An airline or other non-resident entity applying for the exemption must submit the following information together with the application:

- Independent verification from the entity’s external auditors that no division of the entity carries on any business in the Maldives other than as the owner, charterer or lessor of an aircraft (such as aircraft maintenance, flight catering services or ground handling services for other airlines).
- Independent verification from the entity’s external auditors of the location of the entity’s central management and control.
- Where the entity is subject to WHT under the BPT Act (because, for example, it had leased an aircraft to a Maldives-resident airline), agreements and other documentation that evidence the transactions that give rise to the payment subject to WHT.

When we receive an application for exemption, we will communicate with the tax authority of the country in which the airline’s central management and control is situated, to determine whether the tax exemption reciprocity requirement in section 16 is satisfied.
We will communicate the Commissioner General’s decision to the entity in writing after we receive a response from the other tax authority.

Find out more

The list of countries that offer the reciprocal exemption required for section 16 is available at [http://bit.ly/1iAKQ1h](http://bit.ly/1iAKQ1h).

**Permanent establishment**

Where an airline is not resident in the Maldives and section 16 of the BPT Act does not apply to that airline, the airline is taxable on the full amount of profits that are attributable to any business carried on through its permanent establishment (PE) in the Maldives, provided that the profit exceeds MVR 500,000 in a tax year. In that case, BPT at the rate of 15% applies to the amount of the profit derived by the PE in excess of MVR 500,000.

“Full amount of profits” includes not only regular trading profits but also irregular gains from the disposal of assets and profits derived by other means.

For the purposes of the BPT Act, a PE of a non-resident means a fixed place where a business is wholly or partly carried on, including, in relation to an airline:

- a place of management of business
- a branch
- an office
- a workshop
- a building
- a person who acts in the Maldives on behalf of the airline by:
  - habitually exercising an authority to conclude contracts, or
  - habitually securing orders wholly for the airline or an enterprise controlled by the airline.
**Tax computation and return filing requirements**

Airlines that are residents of the Maldives must file annual BPT returns and calculate their taxable profits in the same manner as other resident taxpayers.

Non-resident international airlines with PE(s) in the Maldives and which are not granted the exemption under section 16 of the BPT Act, must submit a tax return each year, which shows the taxable profits attributable to their PE(s) for each accounting period. In computing its taxable profit, an airline may use:

- the “PE method”, i.e. the method prescribed in Tax Ruling TR-2012/B13 (Calculation of taxable profits of a permanent establishment in the Maldives), or
- the “formula method”, i.e. the method prescribed in Tax Ruling TR-2013/B29 (Calculation of taxable profits of non-resident airline and shipping operators).

Find out more


If the PE method is chosen, the general approach stated in Article 7(2) of the OECD Model Tax Convention on Income and on Capital (2010) must be adopted to determine the taxable profits of the PE, i.e. the arm’s length price must be applied to transactions with other parts of the airline. Further, where the airline opts for the PE method, the total amount of revenue derived through the PE must include all revenue from sales made through the PE, whether or not the transportation services relate to transportation to or from the Maldives.

If the airline chooses to compute its taxable profit using the formula method, it must use the formula below:

\[
\text{Maldives taxable profit} = \left( \frac{\text{Gross Maldives revenue}}{\text{Gross world revenue}} \right) \times \text{World net profit} + \frac{\text{Net Maldives non-air or non-shipping transport profit}}{\text{Net Maldives non-air or non-shipping transport profit}}
\]

In the formula above:

- “Gross Maldives revenue” means total revenue from activities involving the transportation of passengers, cargo or mail to the Maldives, *excluding non-air and non-shipping transport income*. Total revenue from multi-sector flights from a point of departure to the Maldives shall be included in Gross Maldives revenue if intermediate stops are transit stops; otherwise, revenue in respect of the sector or sectors from the last stopover point to the Maldives shall be included in Gross Maldives revenue.
“Gross world revenue” means all revenue from transportation activities regardless of the country of source, excluding non-air and non-shipping transport income.

“World net profit” means net profit from transportation activities before income tax and exceptional items, calculated in the company’s annual profit and loss statement, after making adjustments to the amount of net profit shown in that profit and loss statement for the creation or elimination of, or movement in, any reserve or provision, and any allowance for depreciation that is not based on the actual cost price or written-down value of an asset, to reflect the decline in its value.

“Net Maldives non-air or non-shipping transport profit” means non-air or non-shipping transport profits, calculated under the BPT Act, which are attributable to a PE in the Maldives of the non-resident international transport operator. Here, “non-air or non-shipping transport profits” means profits that are not directly related to air or shipping transport activities, and include interest, rent, dividends, and profits from duty free shops, restaurants and hotels.

The same method of calculating taxable profits adopted by the airline must be applied for a minimum of 5 years from the end of the first tax year in which the airline applied that method, unless we require or approve a change. An approval of change of method will not be granted if we determine that the purpose or one of the purposes of the change is to reduce any amount of tax payable in the Maldives.

Whichever the method of calculating taxable profits adopted by the airline, it must appoint a Category A auditor in accordance with Tax Ruling TR-2015/B39 (Submission of financial statements and appointment of auditors).

Find out more


If the airline chose the PE method, the Category A auditor must obtain a report from the auditor of the airline’s financial statements attesting to the reliability of accounting figures to which the appointed Category A auditor does not have access to audit and which are used for the purposes of that tax return.

If the airline chooses to use the formula method, its auditor must provide a report, attesting to the reliability of the accounting figures used in the calculation of “Net Maldives non-air and non-shipping transport profit”, and obtain a report from the auditor of the airline’s financial statements attesting to the reliability of the “Gross Maldives revenue”, “Gross world revenue” and “World net profit” figures.
Appointment of a Category A auditor to attest to the amount of the Net Maldives non-air and non-shipping transport profit derived by the PE of the non-resident airline is mandatory, even in the absence of any Net Maldives non-air or non-shipping transport profit. Further, if it wishes the airline may appoint an auditor of its PE in the Maldives that is different from the auditor of rest of the company.

If the formula method is used, audited financial statements of the airline itself and the financial statements of the PE must be submitted to MIRA together with the BPT return. Otherwise, only the audited financial statements of the PE are required.

If the non-resident international airline chooses the formula method to compute its tax liability, it must use MIRA 306 to file its BPT return. Otherwise, it must use MIRA 304.
3. Withholding tax

Certain payments specified under section 6(a) of the BPT Act that are made to non-residents are subject to WHT. This means that the person making the payment to a non-resident must deduct WHT at the rate of 10% from the gross amount of the payment at the time the payment is made.

Payments to non-residents that are subject to WHT, which are relevant to international air transportation, include:

- Rent, royalties or other such consideration for the use of plant, machinery, equipment or other property for the purpose of the business.
- Payments for the use of computer software.
- Payments of management fees.
- Payments of fees for technical services.
- Payments of fees for personal services.
- Payments of any other commissions or fees that do not constitute income from employment.

All payments that fall within section 6(a) of the BPT Act which are made by an air transportation service provider, passenger sales agents (PSAs) or general sales agents (GSAs) to a non-resident, are subject to WHT. WHT also applies to payments made by a non-resident to another non-resident, if the payment arose in connection with the payer’s PE in the Maldives. Payments are not confined to cash remittances – they include account set offs and transfers of assets other than money.

However, if the tax exemption under section 16 of the BPT Act is granted to an airline or other non-resident entity, WHT does not apply to the payments made to that entity.
4. Goods and services tax

International transportation service

Section 20(l) of the Goods and Services Tax Act (Law Number 10/2011) states that international transportation services are exempt from GST. As per section 37 of the Goods and Services Tax Regulation (Regulation Number 2011/R-43), international transportation service refers to the transport of passengers or goods:

- from a place in the Maldives to a place outside the Maldives, or
- from a place outside the Maldives to a place in the Maldives, or
- from a place outside the Maldives to another place outside the Maldives.

The following services are however not considered as international transportation services:

- Ancillary services (including, but not limited to, ground handling, facilitation of passengers, packing, loading, lashing, securing, unloading, handling, stevedoring, storage, inspection and document preparation).
- Domestic transportation services which are supplied in connection with international transportation.

Transportation services (being the transport of passengers and goods) that are supplied within the internal waters, archipelagic waters and territorial sea of the Maldives, and the airspace above them, as defined in the Maritime Zones of Maldives Act (Law Number 6/96), will be international transportation services where the transportation services supplied within those areas are necessary only for the purpose of entering or departing the Maldives. However, this rule does not apply to ancillary services and domestic transportation services supplied in connection with international transportation.

Find out more

Tax Ruling 220-PR/TR/2011/1 (GST Treatment of Excess Baggage Tickets) states that Excess Baggage Ticket (EBT) is part of the travel ticket issued by air transportation service providers, and hence, EBTs issued for international travel are also exempt from GST.

Find out more


Airlines

An international air transportation service provider is liable to register for GST:

- if its taxable supplies in the Maldives during the past 12 months exceed MVR 1 million, or
- if its taxable supplies in the Maldives in the next 12 months is expected to exceed MVR 1 million, or
- if it holds a permit to import goods into the Maldives.

When calculating the threshold, all taxable supplies made in the Maldives (excluding GST-exempt supply of international transportation services) must be considered. Engineering services supplied in the Maldives by international airlines are taxable supplies and must be taken into account when determining the turnover.

If an airline meets the registration requirement, it must register for GST and charge GST on taxable supplies made in the Maldives. A non-resident airline makes a supply of goods and services in the Maldives if:

- it has a presence in the Maldives at the time that it makes the supply, or
- it has no presence in the Maldives at that time, the goods are in the Maldives at the time that it supplies them, or
- services are physically performed in the Maldives by a person who is in the Maldives at the time that they are supplied.

Return filing requirements

If the value of an airline's average monthly taxable supplies is greater than MVR 1 million, the airline must file GST returns and pay GST on a monthly basis. If not, GST returns must be filed, and GST must be paid, on a quarterly basis.
Sales agents

Commission charged by agents of international airlines, in relation to international air transportation services provided by the airlines, is exempt from GST under Tax Ruling TR-2015/G28 (GST treatment of agency commission).

Where the agent’s annual turnover exceeds MVR 1 million, he is liable to register for GST. When determining whether the threshold has been exceeded, all activities carried out by the agent must be taken into consideration including any taxable commission charged by the agent. However, the amounts received by the agent on behalf of his principal in relation to international transportation services will not be included when determining the agent’s turnover.

Who is a “sales agent”?

For a PSA or GSA to qualify as an agent of an international airline under Tax Ruling TR-2012/G8 (GST treatment of agency relationships), the contractual arrangement for the supply of goods and services must be between the airline and the customer, and the agent merely facilitates that supply. The agent must not be entitled to claim in his own right the amount charged for the airline’s service. This is generally the case for the sale of airline passenger tickets, but not necessarily for cargo services. Therefore the agent must not include in his GST return amounts collected on behalf of his principal, but only declare the total value of the commissions and the value of other supplies that he makes.

If the airline bills an intermediary for an airline service, and the intermediary then separately bills the customer in the intermediary’s own name, there are two separate supply contracts, and the intermediary is not an agent of the airline. Also, in this case, the total consideration received from international ticket sales is ignored in determining the intermediary’s sales against the MVR 1 million threshold, as the intermediary is selling international transportation services, which are exempt from GST.

Find out more

5. Airport Service Charge (ASC) and Airport Development Fee (ADF)

Airport Service Charge (ASC) and Airport Development Fee (ADF) are charged under Airport Taxes and Fees Act (Law Number 29/2016).

Find out more
To learn more about Airport Service Charge (ASC) and Airport Development Fee (ADF), check out our Guide to Airport Service Charge and Airport Development Fee (MIRA R834), which is available at https://bit.ly/2Slor8G.