

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



MALDIVES INLAND REVENUE AUTHORITY

Malé, Republic of Maldives

TAX RULING

Business Profit Tax: Calculation of taxable profits of non-resident airline and shipping operators

Reference No.: TR-2013/B29

Date of issue: Sunday, 3 February 2013

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

Introduction

1. This ruling prescribes the manner in which a non-resident international airline or a non-resident international shipping operator (“non-resident international transport operator”) with a permanent establishment in the Maldives shall calculate its taxable profit in the Maldives.
2. This ruling does not apply to:
 - (a) a non-resident international transport operator that does not have a permanent establishment in the Maldives; or
 - (b) a non-resident international transport operator that has been granted an exemption from Business Profit Tax under section 16 of the Act.

Law

3. Section 3(c) of the Act states that:

“[w]here [a] company is not resident in Maldives its taxable profits of any tax year shall be based on ...

...

(2) The full amount of any ... profits of the company which are attributable to the whole or any part of a business carried on by the company through a permanent establishment in Maldives, computed in accordance with this Act and without any other deduction than is authorized by this Act ...”



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4. A permanent establishment is defined in section 43(e) as:
“a fixed place where a business is wholly or partly carried on, including:
(1) a place of management of business;
(2) a branch
(3) an office
...
(5) a warehouse
(6) a workshop
...
(10) the maintenance of plant and machinery for rental.”
5. Section 43(f) adds:
“Without prejudice to the generality of Section 43(e), a Person shall be deemed to have a permanent establishment in Maldives if that Person:
...
(2) has another Person acting on that Person’s behalf in Maldives who:
(2.1) has and habitually exercises an authority to conclude contracts; or
(2.2) maintains a stock of goods or merchandise for the purpose of delivery on behalf of that person; or
(2.3) habitually secures orders wholly for that Person or for any other enterprise controlled by that Person.”

Ruling

6. A non-resident international transport operator shall submit a tax return (and supporting financial statements) that shows the taxable profit for an accounting period attributable to the non-resident international transport operator’s permanent establishment or establishments in the Maldives, calculated in accordance with Tax Ruling Number TR-2012/B13 (Calculation of taxable profits of a permanent establishment in the Maldives), issued on 21 June 2012.
7. Where a non-resident international transport operator complies with paragraph 6 of this ruling, the total amount of revenue derived through the non-resident international transport operator’s permanent establishment or establishments in the Maldives shall include all revenue from sales made through the permanent establishment or establishments, whether or not the transportation services relate to transportation of passengers, cargo or mail to or from the Maldives.
8. Notwithstanding paragraph 6 of this ruling, a non-resident international transport operator may elect to submit a tax return (and supporting financial statements) that shows the calculation of the non-resident international transport operator’s taxable profit for an accounting period based on the formula in paragraph 9 of this ruling.



9. A non-resident international transport operator that elects the option under paragraph 8 of this ruling shall calculate its taxable profit for an accounting period in accordance with the following formula:

$$\begin{aligned} & \textit{Maldives taxable profit} \\ &= \left[\left(\frac{\textit{Gross Maldives revenue}}{\textit{Gross world revenue}} \right) \times \textit{World net profit} \right] \\ &+ \textit{Net Maldives non air or non shipping transport profit} \end{aligned}$$

where, in respect of the accounting period:

“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.

“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 Act, which are attributable to a permanent establishment in the Maldives of the non-resident international transport operator.

“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.

10. For the purpose of the formula in paragraph 9 of this ruling, 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”.

11. The method of calculating taxable profits under paragraph 6 or 8 of this ruling adopted by a non-resident international transport operator shall be applied for no less than five (5) years from the end of the first tax year in which the method applies, unless MIRA requires or approves a change in method within the five (5) year period.



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12. An approval of change of method shall not be granted under paragraph 11 of this ruling if MIRA determines that the purpose or one of the purposes of the change is to reduce any amount of tax payable in the Maldives.
13. Where a non-resident international transport operator submits a tax return and supporting financial statements pursuant to paragraph 6 of this ruling, that operator shall appoint a Category A auditor in accordance with Tax Ruling Number TR-2013/B28 (Submission of financial statements and appointment of auditors (Revised)), and that auditor shall obtain a report from the auditor of the non-resident international transport operator'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.
14. Where a non-resident international transport operator elects the option under paragraph 8 of this ruling, that operator shall:
 - (a) appoint a Category A auditor in accordance with Tax Ruling Number TR-2013/B28, and such auditor shall 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
 - (b) obtain a report from the auditor of its financial statements attesting to the reliability of the following accounting figures:
 - (i) Gross Maldives revenue;
 - (ii) Gross world revenue; and
 - (iii) World net profitas those terms are defined in paragraph 9 of this ruling.
15. Notwithstanding anything in Tax Ruling Number TR-2013/B28, only the Category A auditor referred to in paragraphs 13 and 14 of this ruling shall be required to register with MIRA.

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Submission of tax return and payment of tax for the tax year 2011 and 2012

16. The deadline for filing the tax return and making the final payment for the tax year 2011 and 2012 by non-resident international transport operators shall be 30 June 2013, irrespective of the end date of their accounting periods ending in those tax years.
17. Non-resident international transport operators shall not be required to pay the interim payments for the tax year 2011 and 2012 by the deadlines specified in the Act; the interim payments shall be paid together with the final payment.
18. Where a non-resident international transport operator fails to comply with paragraph 16 of this ruling, penalties specified in the Act shall apply in accordance with the Act.

Date of Effect

19. This ruling shall have effect from its date of issue.



Yazeed Mohamed
Commissioner General of Taxation

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