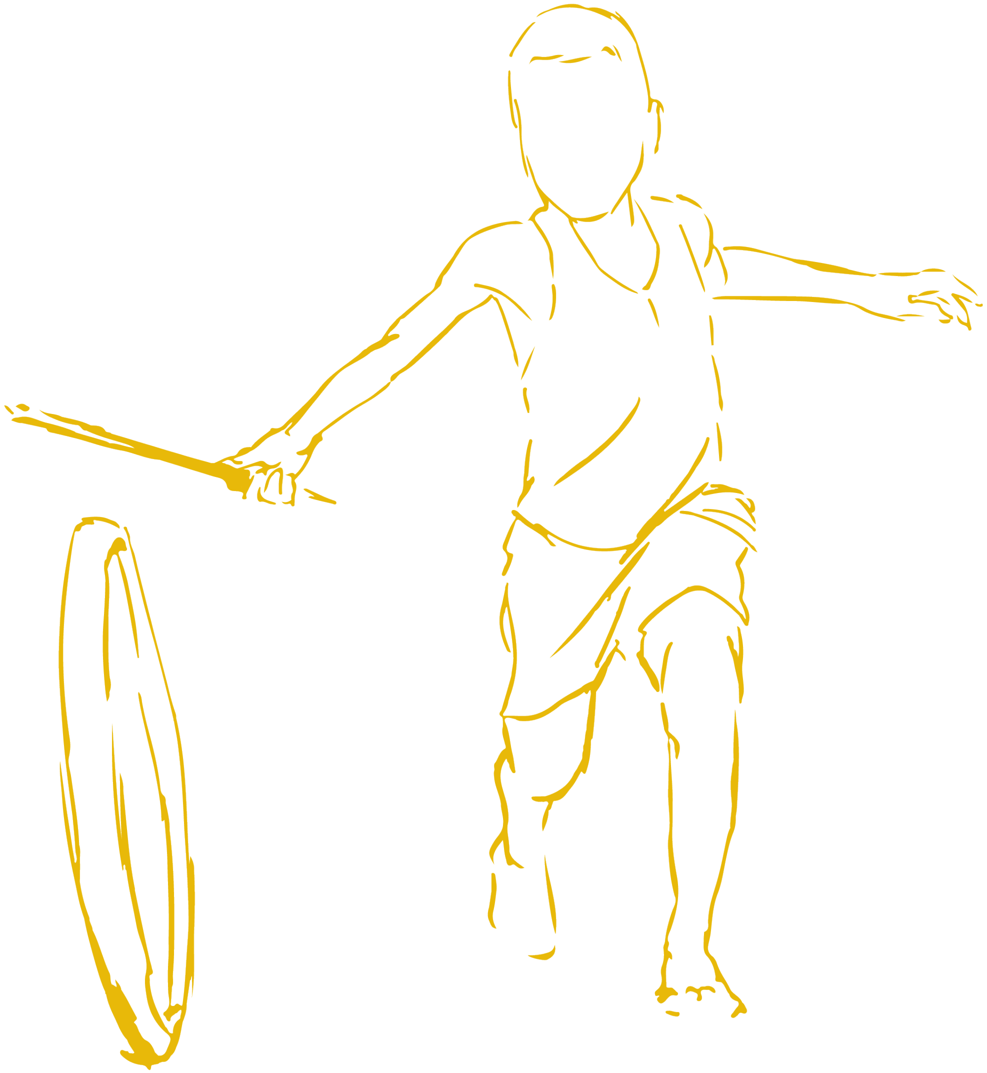

Income Tax Bill

an overview

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Introduction

The Government of Maldives has proposed an Income Tax Bill ("ITB") to the Parliament on 15 October 2019.

Some of the broader objectives that the Government seems to achieve through the ITB include the following:

1. Introduce a nationwide income tax on income from employment;
2. Replace the tax regime implemented under the Business Profit Tax Act and Bank Profit Tax Act with certain enhancements;
3. Enhance the Non-resident withholding tax regime.

Although the Business Profit Tax Act and Bank Profit Tax Act will be repealed with the ratification of the ITB, the taxes that were levied under those Acts will be continued under the new Income Tax regime. The tax rates will remain the same for corporates (that is 15% as business income and 10% as non-resident WHT) and banks (25%) although the individuals will have different tax rates.

The ITB also proposes to abolish the following taxes currently imposed:

1. Remittance Tax
2. Land Sales Tax
3. Petroleum Tax

The Income Tax regime is proposed to commence on 1 January 2020 onwards.

Basics

The ITB adopts a 'residence-based' tax system. A tax resident of Maldives is taxable on world-wide income, be it an individual or an entity (Section 10(a)). A non-resident is taxable only on Maldives-sourced income (Section 10(b)).

An individual is generally resident if the person's permanent place of abode is in Maldives or has been present for a period of 183 days or more in a 12-month period commencing or ending in a tax year. Further, an employee or official of the Government of the Maldives who is posted overseas during a tax year is also considered as a resident.

A company is resident if:

1. its incorporated in the Maldives, or
2. it has its head office in the Maldives, or
3. it has its central management and control in the Maldives.

Tax Year

A tax year is from January to December. A person is generally required to declare tax for an accounting period of 12 months ending in a tax year. Although not specifically mentioned in the ITB, it is expected that accounting period of a person would also be from January to December.

Taxable Income

Income that is taxable under Section 3 of the ITB includes:

1. Remuneration
2. Income derived from any business
3. Income derived from the rental of immovable property
4. Dividend
5. Interest
6. Technical Service Fee
7. Commission

Remuneration includes salary, allowances, bonuses and benefits in kind paid to employees by an employer for their services. Remuneration paid to directors or partners for their services are also charged to tax under the head 'remuneration'.

Exempt Income

Types of income exempt from ITB are included in Section 12. This includes passive interest income (up to MVR 5,000 per year) and donation income (subject to di minimis rule and certain other conditions).

Certain income included under Section 3 as 'taxable income' are exempt if certain conditions are met. For example, dividend received by a Maldivian resident from a company resident in the Maldives is an exempt income under Section 12(a).

Tax Rates

Individuals (Section 7):

Annual Taxable Income (MVR)	*Tax Rate*
480,000 or less	0%
480,001 - 720,000	8%
720,001 - 1,200,000	10%
1,200,000 and above	15%

Banks (Section 8):

Banks would pay income tax at the rate of 25%. No tax-free threshold is given to banks.

Others (everyone except individuals and banks) (Section 9):

Annual Taxable Income (MVR)	*Tax Rate*
500,000 or less	0%
500,000 and above	15%

Accounting basis (Section 13)

In relation to business income

Accounts must be prepared in accordance with IFRS or any other internationally accepted accounting standards approved by the MIRA.

In relation to employment income

Generally, the declaration has to be based on the accrual basis.

General rule for Deductions

In relation to business income

- Ø Expense must be wholly and exclusively incurred during that period, in the production of income, subject to the restrictions provided in the Bill (Section 17).
- Ø Certain special deductions are allowed (such as Zakat, Pension, Donation) despite the general rule.

In relation to employment income

- Ø Expense must be wholly, exclusively and necessarily incurred during the period in the production of employment income (that is, in the performance of employment duties) (Section 17(a), Section 32(b)(6).
- Ø Although the said conditions are not satisfied, the following specific deductions may be claimed in relation to employment income:
  1. Zakat-al mal paid to relevant Government institution;
  2. The amount that person contributes to Maldives Retirement Pension Scheme;
  3. Donation to MIRA approved charitable organizations (up to a maximum of 5% of taxable income before deducting donation expense).
- Ø Domestic or private nature expenses are not deductible.

Withholding Tax

Pay As You Eearn (PAYE) (Section 54)

Employers are required to withhold income tax on remuneration paid to employees and pay such amounts to MIRA on a monthly basis. The Withholding Tax brackets provided in the ITB are as follows:

Monthly Income (MVR)	*Tax Rate*
40,000 or less	0%
40,001 - 60,000	8%
60,001 - 100,000	10%
100,001 and above	15%

The above PAYE brackets are based on the annual tax brackets for individuals (pro-rated to arrive at monthly brackets).

The employers can only deduct the employee's contribution payable to the Maldives Retirement Pension Scheme for that month, in accounting for employee WHT. The employees can make an annual declaration of his income and claim any additional deductions (apart from pension contribution) that he may be eligible for. However, if that employee derives income solely from a single employer, he is not required to file an annual tax return (although he may choose to do so if he wishes to claim further deductions).

Non-resident Withholding Tax (Section 55)

Non-resident Withholding Tax will be imposed on the following types of payments to non-residents (the Bill provides that Withholding Tax is payable on the earlier of payment date or accrual date of the payments).

1. Rent in relation to immovable property situated in the Maldives
2. Royalties
3. Interest (except interest payable to bank or financial institutions approved by MIRA)
4. Dividends
5. Technical Service Fee
6. Commissions paid in respect of services performed in the Maldives
7. Payments made in respect of performances by public entertainers
8. Payments made for carrying out research and development in the Maldives;
9. Payments made to a non-resident contractor;
10. Insurance premiums
11. Reinsurance premium

The Withholding tax rate is 10% on all the payments listed above except reinsurance premium (reinsurance premium attracts a 3% WHT).

Filing and Payment

Businesses and individuals are required to file their tax returns to MIRA not later than 30 June following the end of the tax year. The payments are generally made on 3 installments.

- Ø First Interim Payment - 31 July of the ongoing tax year
- Ø Second Interim Payment - 31 January of the following tax year
- Ø Final Payment - 30 June of the following tax year.

The first and second interim payments are generally based on half of the previous year's tax liability. Any excess/shortfall is adjusted during the final payment.

However, Section 43(d) of the ITB proposes to allow taxpayers to make an estimate of the current year's liability and make interim payments based on that estimate if they expect their current period's liability to be less than that of the previous year (subject to certain conditions).

Further Section 49 allows taxpayers not to pay any interim payment if their previous year's tax liability is less than MVR 20,000. In this case they will only pay a final payment of tax.

Tax avoidance

Transfer pricing (Section 67)

The ITB provides certain measures for tax avoidance schemes and arrangements. Transactions between related parties are required to be made at arm's length. Further transfer pricing documentation requirements are imposed on certain related party transactions.

Thin capitalization (Section 71)

The Bill provides Thin capitalisation rules which are in line with the Action 4 of the G20/OECD's Inclusive Framework on Base Erosion and Profit Shifting Project. Under the said rules the maximum amount a taxpayer can deduct as interest expense (except interest payable to local banks and financial institutions licensed by MMA) is 30% of the tax-EBITDA. Any excess interest not deductible in the current year can be carried forward for a period of 10 years to be deducted against the interest capacity (30% of tax EBITDA) of that year.

Tax EBITDA is taxable profit before deducting Interest, Capital allowances and loss relief.

Capital Gains Tax

The bill has also proposed to introduce a more comprehensive Capital Gains Tax regime. Gains on disposal of movable, immovable or intellectual property would generally attract capital gains tax. The capital gains will form part of the taxable income of that person and be subject to the tax brackets given in the ITB.

Certain types of transactions are exempt from Capital Gains Tax under Section 30(e) of the ITB (eg; disposal of household furniture and appliances).

Transitional Provisions

As Business Profit Tax and Bank Profit Tax will be rolled over to the Income tax regime, certain provisions required for a smooth transition in to income tax regime, are provided in Chapter 13 of the ITB. These include:

- Ø Those who were previously registered under the Tax Administration Act are not required to register their businesses under the Income Tax Act (Section 87).
- Ø Although the BPT Act and Bank Profit Tax Act are repealed, any rights, liabilities or enforcement provisions under those Acts may be imposed, relating to the periods on which those Acts were in force, as if those Acts were not repealed (Section 88).
- Ø Interim payment of the commencement year of Income Tax Act should generally be based on the tax liability under the BPT and Bank Profit Tax Act (whatever the case may be) of that person (subject to other provisions of the ITB) (Section 90).
- Ø Any losses incurred under the BPT Act may be carried forward under the Income Tax Act, subject to the provisions of the Income Tax Act (Section 92).

ABOUT US

CTL Strategies is a multi-disciplinary law firm registered in the Maldives, specialised in tax advisory services. Over the past 5 years, we have advised international hotel chains, multinational companies, big four audit firms, and some of the world's largest companies as well as high net-worth individuals on tax compliance, planning and tax disputes. Our advisors have in the past, been involved in drafting various tax legislations, regulations and Rulings relating to Business Profit Tax, Goods & Services Tax, and have hands-on experience with Bank Profit Tax regime that is currently in force.

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