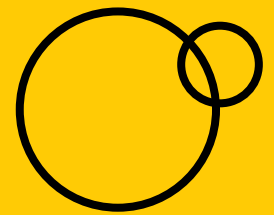


Pay As You Earn (PAYE)

A Guide to Getting Started



PART 1

Overview

1.1 Employee Withholding Tax and The PAYE System

Withholding Tax is not a tax on its own but a mechanism by which the payer, on behalf of the recipient, retains/withholds tax and pays it to the tax authority. In the context of Maldivian Employee Withholding Tax, the employer, on behalf of the employee withholds tax from the remuneration and pays to the MIRA. The tax withheld on remuneration by the employer is required to be paid to the MIRA on a monthly basis. This system is referred to as the Pay As You Earn (PAYE) system.

The primary obligations with respect to PAYE lies with the employer (that is, the employer withholds tax on remuneration paid to employees on a monthly basis). However, in order to ensure that the correct amount is accounted for as PAYE, certain obligations are imposed on the employee as well.

**“
the employer,
on behalf of the employee,
withholds tax from the remuneration
and pays to the MIRA
”**

1.2 Who is an Employer for the purposes of PAYE?

Under the Income Tax Act (“ITA”), an employer is generally a person that pays remuneration to employees¹. These include individuals, business entities and state institutions as well.



1.3 Who is an Employee for the purposes of PAYE?

The term “Employee” is defined in the ITA as “a person who is engaged to provide labour services to another person under a contract of service...”². Additionally, according to the said Section, directors of companies and partners of partnership are also considered as employees. No further guidance is given in the ITA on what constitutes a “contract of service”.

A contract of service generally exists where one person contracts to perform work for another and is substantially subject to

the control and direction of that person in the manner in which the work is done. This is the basis of the employer/employee relationship at common law, as distinct from a principal/independent contractor relationship involving a contract for services.

Employees will be subject to PAYE, while independent contractors will be considered as doing “business” and therefore have to file an Income Tax Return after the year end to declare his tax liability.

¹ Law Number 25/2019, Section 79(w)

² Section 79(bb), ITA

1.4 What is Remuneration?

The term remuneration (or income from employment) includes salary, wages, allowances and benefits, compensation for loss of employment or service, restrictive covenant payment, entry or exit inducement payment, etc received by an employee³. This also includes statutory benefits, such as leave encashment, return airfare of expatriate employees. Hence, all gains received by an employee, including all benefits, whether in money or otherwise, paid or granted to the employee in respect of employment are taxable, unless such a gain or benefit is specifically exempt from tax. Benefits which are exempt from tax are provided in the Income Tax Regulation ("ITR")⁴.

Salary, wages and allowances

In most cases, these terms are self-explanatory. The basic salary and allowances (such as accommodation allowance, phone allowance, non-practising allowance, technical allowance, attendance allowance, meal allowance, etc) which are given to employees are considered as remuneration.

Service Charge and Commission

Service charge and commission payable in respect of employment is considered as remuneration to the employee. These may include service charges given at service industries (such as tourist establishments), sales commission given to employees for securing sales, etc.

³ Section 79(u), ITA

⁴ Regulation Number 2020/R-21, Chapter 3

Bonus

Bonus paid to employees, whether or not under a contract of service or a bonus policy is considered as remuneration to employees.

In some cases, “abnormal payments” such as bonuses may lead to employees being “pushed” to the monthly tax-paying brackets, while the annual income may not actually be within the tax paying bracket in which case the employer is allowed not to withhold tax from that employee’s remuneration. However, this leeway is no longer applicable if an employee’s remuneration exceeds MVR 60,000 in two consecutive months, and any other month during the same tax year⁵.

Further, special rules are provided in ITR⁶, with respect to a bonus which is accrued but not paid during a period.

Pension contribution

Pension contribution to Maldives Pension Retirement Scheme by the employer which is payable under the Maldives Pensions Act⁷ is exempt⁸. Pension payable to other funds by the employer needs to be considered as part of the remuneration of the employees.

Benefits in kind

Benefits in kind are generally considered as remuneration. However, the MIRA treats certain benefits in kind as exempt from income tax. These are provided in the ITR, and can be summarised as follows.

⁵ Section 42, ITR

⁶ Section 36, ITR

⁷ Law Number 8/2009

⁸ Section 31, ITR



Security and protection

Section 13(b), ITR

Provided by the State through the State Security Services.



Accommodation

Section 13(e), (f) & (g), ITR

Where employees are not allowed to or do not have the right to share the accommodation with third parties such as their family. Meaning, the exemption only applies to “staff-only” accommodation. The accommodation could either be in a property owned or leased by the employer.

In addition, the following types of accommodation are also exempt.

1. Accommodation of security services personnel provided at the respective base, office or post;
2. Accommodation provided to an employee of a state institution posted overseas.



Meals, entertainment and sports activities

Section 13(c) & (d), ITR

Provided at the workplace.

These benefits should generally be available to employees in an equitable manner, to be treated as an exempt benefit. Fixed monthly payments (such as meal allowance) will be taxable.

Meals provided outside the workplace will also be exempt if it's occasional and in relation to a special event (E.g. anniversary corporate dinner) provided that the benefit is generally available to all employees.



Transport to/from workplace

Section 13(h), ITR

Where:

1. the principal place of work is in a place other than an inhabited island (such as resort or an industrial island), and;
2. the employee is not based in that place.



Travel, food, and accommodation

Section 13(i), ITR

In relation to employees posted to work outside the principal place of work in the course of their duties (temporary work locations), provided that the duration of such posting is less than 1 year.



Benefits that foster goodwill or promote camaraderie amongst staff

Section 13(k), ITR

This includes:

1. picnics;
2. parties;
3. other recreational activities.

These activities should be organised in the Maldives and should generally be available to all staff in order to achieve the objective of fostering good relationships among employees and it cannot be allocated distinctly to each employee.



Interest benefit

Section 13(l), ITR

Arising from (interest free/subsidised) loans and advances provided:

1. Repayment period is less than 6 months; and
2. Principal amount of loan is less than MVR 50,000.

This exemption does not apply if there is more than one loan or advances at any given time.



Uniforms and other clothing

Section 13(m), ITR

Provided by the employer for work purposes, where they are not suitable for general or personal wear (eg; the clothing have to be worn as a job requirement and for corporate identity).



Awards

Section 13(n), ITR

If the value of the benefit does not exceed MVR 5,000 per year.



Medical check-up

Section 13(o), ITR

Required to obtain/ renew work permit under the Maldives Immigration Act⁹.



Medical insurance

Section 13(p), ITR

Required to be provided under the Maldives Immigration Act.



Medical benefits

Section 13(q), ITR

Provided due to a damage/ loss suffered while at work.



Low-value benefits

Section 13(r), ITR

Where the monthly value of the benefits do not exceed MVR 1,000.

⁹ Law Number 1/2007

1.5 Valuation of benefits

Benefits in kind provided by the employer that are not exempt must be valued and considered as part of the remuneration of employees. Examples of such benefits include:

1. Accommodation provided by the employer, where the employee is allowed to or has the right to accommodate another person(s) (such as his family).
2. Right to use assets/services of the employer for:
 - (a) personal use of employee; and
 - (b) for business purposes and personal use of the employee.
3. Vehicles provided by the employer for personal use of the employee.
4. Hajj and Umrah trips funded by the employer.
5. Certain types of insurance premium.
6. Interest-free or subsidised component of loans (subject to certain conditions).
7. Subsidised holiday.
8. Certain entertainment, meals or recreational activities.

Generally, where benefits in kind are directly provided by the employer, the Ordinary Open Market Value of the benefits are considered as the value of the benefits. If the benefits are obtained from a third party and the employer bears the cost, the cost of such benefits are considered as the value of the benefit.

Following is an explanation of some special provisions provided in the ITR determining the rules on valuing benefits in kind.





Accommodation

Section 17, ITR

1. If the property is owned by the employer or a related party of the employer, the Ordinary Open Market Value of the property;
2. If the property is leased from a third party, the value of lease paid by the employer.

Furniture

Where the employer has provided for the furniture of the property, the valuation of taxable benefit in the form of furniture and fittings is calculated as follows:



$$\text{Taxable value} = \text{Value of accommodation (excluding furniture)} \times 20\%$$

The MIRA has further clarified in the ITR that for the purpose of determining whether the property is furnished, fittings will not be considered (if any furniture is provided by the employer apart from fittings, the property will be considered as furnished by the employer).

Other facilities

The taxable amounts of the related services provided by the employer mentioned below should be valued at their Ordinary Open Market Value.

1. Utilities such as electricity, water and waste disposal;
2. Cable TV, telephone, internet
3. Maintenance and decoration
4. Cleaning



Where the above services are provided by third parties who are not an associate of the employer, the value of the benefit is the actual cost incurred on those services by the employer.



Right to use assets of the employer

Section 19 & 21, ITR

Where the employee uses the assets of the employer for non-business purposes, free of charge or at a price which is below the Ordinary Open Market Value, it is a taxable benefit to the employee. Such benefits are valued as follows:

	Vessels	Vehicles	Other assets
If owned by the employer	Purchase Value $\times 10\% \times 1/12$	Purchase Value $\times 20\% \times 1/12$	Ordinary Open Market Value $\times 20\% \times 1/12$
If leased to the employer by a non-related party		Monthly Lease Value	
If provided free of charge or leased to the employer by a related party		Ordinary Open Market Value of the Monthly Lease Value	

Where the employee uses the asset for both business purposes and personal use, free of charge or at a price which is below the Ordinary Open Market Value, it is a taxable benefit to the employee. The value of such benefits are calculated as follows:

	Vessels	Vehicles	Other assets
If owned by the employer	Purchase Value $\times 10\% \times 1/12 \times 2/7$	Purchase Value $\times 20\% \times 1/12 \times 2/7$	Ordinary Open Market Value $\times 20\% \times 1/12$
If leased to the employer by a non-related party		Monthly Lease Value $\times 2/7$	
If provided free of charge or leased to the employer by a related party		Ordinary Open Market Value of the Monthly Lease Value $\times 2/7$	



Right to use services of the employer

Section 20, ITR

Where the employee uses a service extended by the employer for non-business purposes, free of charge or at a price which is below the Ordinary Open Market Value, it is a taxable benefit to the employee. The value of such benefits is calculated as follows:

Service is directly provided by the employer or a related party	Monthly Ordinary Open Market Value
---	------------------------------------

Where the services are obtained from a non-related party	Monthly cost incurred by the employer
--	---------------------------------------

Where the employee uses the service for both business purposes and personal use, free of charge or at a price which is below the Ordinary Open Market Value, it is a taxable benefit to the employee. The value of such benefits is calculated as follows:

Service is directly provided by the employer or a related party	Monthly Ordinary Open Market Value x 2/7
---	--

Where the services are obtained from a non-related party	Monthly cost incurred by the employer x 2/7
--	---



Loan

Section 22, ITR

Interest-free or subsidised loans to employees which are taxable have to be valued based on ordinary open market interest rate. The interest-subsidy element is the difference between the ordinary open market interest rate and the actual interest paid by the employee.



Subsidised holiday

Section 23, ITR

Where the employee is provided with a holiday trip at the cost of the employer, the benefit will be taxable.

Where the holiday is provided at a facility of the employer or a related party of the employer (such as a tourist resort), the value of the benefit is the Ordinary Open Market Value of the trip.

Where the holiday trip is at the premise of a third party, the cost incurred by the employer in providing the trip is the value of the benefit.



Hajj & Umra trips

Section 24, ITR

Where the holiday is provided at a facility of the employer or a related party of the employer (such as a tourist resort), the value of the benefit is the Ordinary Open Market Value of the trip.

Where the holiday trip is at the premise of a third party, the cost incurred by the employer in providing the trip is the value of the benefit.



Insurance

Section 27, ITR

The taxable insurance benefits (where the beneficiary of the policy is the employee) have to be based on the Ordinary Open Market Value (where the employer is the insurance policy provider) or the actual premium made (where the insurance policy is obtained from a third party).

PART 2

Obligations of the Employer

2.1 Registering for PAYE

The ITA requires employers to register for PAYE if they have one or more employees who are within the tax paying bracket.

Registering for PAYE means registering employees with the MIRA. The requirements are as follows:

1. Register any employee who will be paid an average monthly remuneration of MVR 60,000 or more; or
2. Register any employee who is paid a monthly remuneration of MVR 60,000 or more in two consecutive months

The monthly remuneration should be determined based on the gross remuneration including taxable benefits in kind as well.

If an employer has to register even a single employee under condition (1) or (2) above, the employer is required to register all the other employees who are paid an average monthly remuneration of MVR 30,000 or more.

Once the employer registers the employees for income tax, the employees will be given a Taxpayer Identification Number (TIN) and an online user account. The employees will not be required to register separately in this case (unless

they have other sources of income such as business income). The online user account can be used by the employee to submit forms he is required to file with MIRA, view his registration and payment status with MIRA.



How to register?

The registration should be made online, via MIRACONnect portal, by uploading MIRA118 (Registration of Employees). MIRA 118 is an Excel sheet which contains the necessary information in relation to employees.

Changes in particulars of registration

Any changes in particulars concerning registration must be informed to MIRA, online via MIRACONnect, within 15 days of such change¹⁰. The changes in the job particulars of an employee should also be informed to MIRA online, via MIRACONnect.

¹⁰ Section 11(a), ITR

2.2 Filing monthly PAYE returns

The employee Withholding Tax Returns (PAYE returns) have to be filed to MIRA on a monthly basis. The deadline for filing the return is 15th of the subsequent month (E.g. April 2020's PAYE return has to be filed by 15th May 2020).

The Employee Withholding Tax Return (MIRA 601) has to be filed online, via MIRACONnect. In this return, employers are required to include the details of the remuneration of all employees who are registered.

2.3 Filing annual Withholding Tax Reconciliation Statement

Any employer who is required to file PAYE return during a year must file Withholding Tax Reconciliation Statement (MIRA 650) to MIRA, by 28th February of the following year. The Withholding Tax

Reconciliation statement will include the annual remuneration details of employees. Any payment that is required to be made following the reconciliation must also be paid by this date.

PART 3

How to Calculate PAYE

3.1 Employees furnishing Withholding Tax Declaration Form

Employees who receive a remuneration of more than MVR 30,000 a month are required to furnish a Declaration Form (MIRA 916) to the employer via MIRACConnect.

In submitting the form, under Section 3 of the Form, the employee is given the option to elect an employer as the 'Primary Employer'. The elected primary employer will then utilise the tax-free threshold and deduct PAYE based on the below brackets.

Monthly Income (MVR)	Tax Rate
≤60,000	0%
>60,000 ≤100,000	5.5%
>100,000 ≤150,000	8%
>150,000 ≤200,000	12%
>200,000	15%

All employers other than the elected primary employer will deduct employee withholding tax at the rates stated below:

Monthly Income (MVR)	Tax Rate
≤150,000	8%
>150,000 ≤200,000	12%
>200,000	15%

If an employee is under multiple employment, an employee can only elect one among the employers as the primary employer.

Election of the primary employer is required to be done once and if an employee wishes to change the primary employer for any reason (i.e. starts a new job), the employee will have to re-submit the form.

3.2 Employees not furnishing Withholding Tax Declaration Form

Where an employee, who is paid a remuneration of more than MVR 30,000, has for any reason not furnished a Declaration Form (MIRA 916) to the employer, tax should be withheld from their remuneration at the flat rate of 8% (for remuneration up to MVR 150,000).

In such cases, it is deemed that the employee has other sources of income due to which the employee does not wish the employer to claim the tax-free threshold and the lower tax brackets. However, if that employee is paid a monthly remuneration of more than

MVR 150,000, the employer is required to deduct employee withholding tax from the amount which exceeds MVR 150,000, utilising the respective employee withholding tax brackets¹¹ (refer to rate schedule for PAYE on Page 17).

A leeway on this rule is given until 31 July 2020 for employees under single employment, whereby the employer is allowed to withhold tax based on the standard tax paying brackets. This leeway will be applicable regardless of whether the employee has made the declaration of the primary employer.

3.3 Option to change the rate at which employee withholding tax is deducted

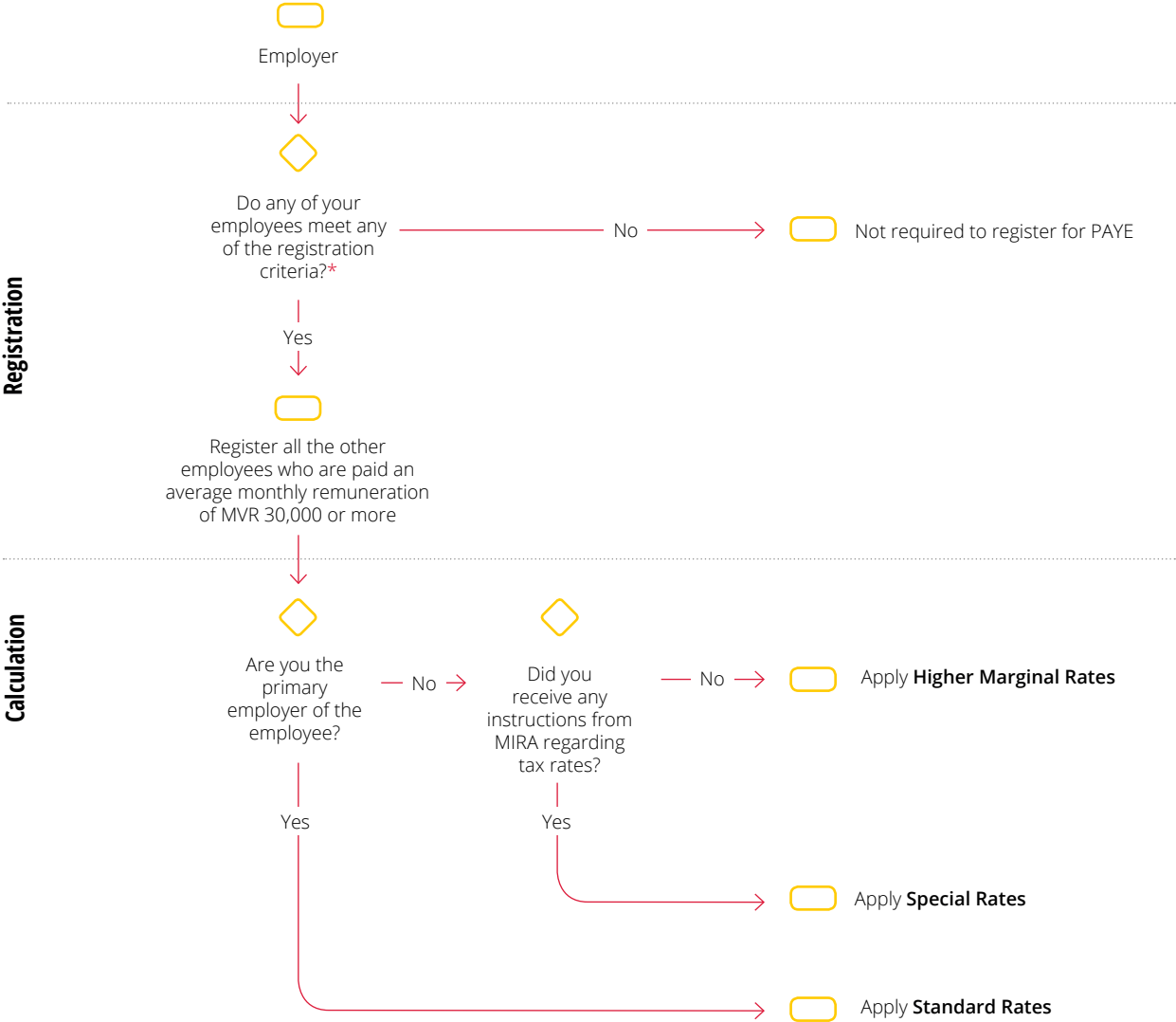
As under some circumstances, the rates at which the employer deducts withholding tax may not result in the final tax of the employee, the ITR allows an employee to submit MIRA 917 Form (Change of Rate of Employee Withholding Tax Form) if the employee wishes to change the rates and brackets at which the employee withholding tax is being deducted¹².

The form requires the employee to include details of remuneration received from all employers, irrespective of the amount. Upon submission, the MIRA will review the declared information and a change in the rate will be informed to the employer. The MIRA 917 Form can also be submitted via the MIRACONNECT portal.

¹¹ Section 54(a), ITA

¹² Section 41(i), ITR

PAYE for Employers - Summarised



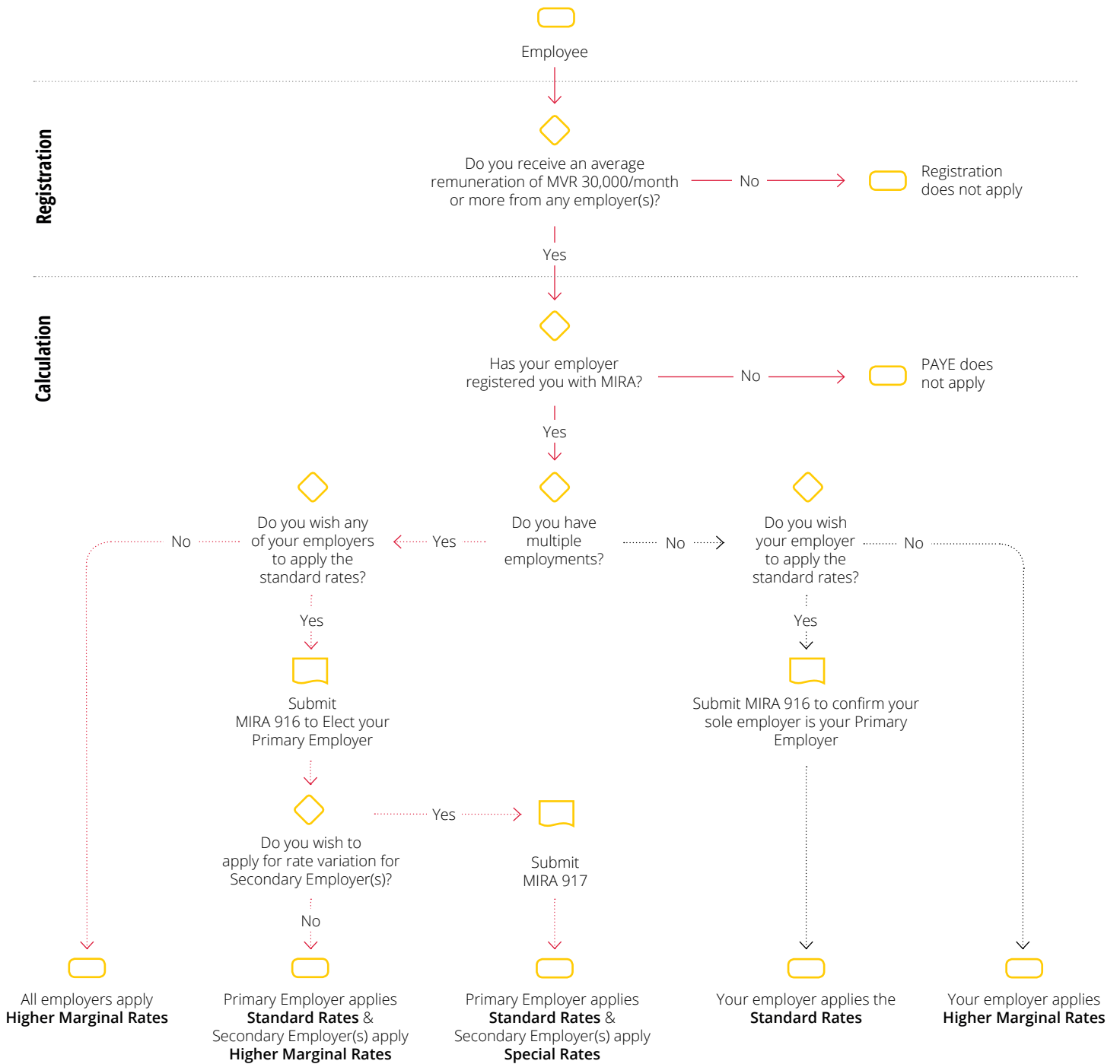
Standard Rates		Higher Marginal Rates		Special Rates
Monthly Income (MVR)	Tax Rate	Monthly Income (MVR)	Tax Rate	
≤60,000	0%	≤150,000	8%	These rates will be informed to the employer by the MIRA See Part 3.3
>60,000 ≤100,000	5.5%	>150,000 ≤200,000	12%	
>100,000 ≤150,000	8%	>200,000	15%	
>150,000 ≤200,000	12%	See Part 3.2		
>200,000	15%			

[See Part 3.1](#)

*** Registration criteria:**

1. Paid or estimated to be paid a monthly remuneration of MVR 60,000 or more; or
2. Paid a monthly remuneration of MVR 60,000 or more in two consecutive months

PAYE for Employees - Summarised



Standard Rates

Monthly Income (MVR)	Tax Rate
≤60,000	0%
>60,000 ≤100,000	5.5%
>100,000 ≤150,000	8%
>150,000 ≤200,000	12%
>200,000	15%

See Part 3.1

Higher Marginal Rates

Monthly Income (MVR)	Tax Rate
≤150,000	8%
>150,000 ≤200,000	12%
>200,000	15%

See Part 3.2

Special Rates

These rates will be informed to the employer by the MIRA

See Part 3.3

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ABOUT US

CTL Strategies is a multi-disciplinary law firm registered in the Maldives, specialised in tax advisory services. We advise international hotel chains, multinational companies, some of the big four audit firms, and a number of the world's largest companies as well as high net-worth individuals on commercial transactions, tax compliance, planning and tax disputes.

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This publication is intended to provide an overview of the PAYE system. It should not be taken as legal or tax advice of any nature, nor should be regarded as offering detailed explanation of all legal and taxation matters discussed. Readers are advised to seek professional advice specifically to their particular circumstances.

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