INSTITUTE OF
CHARTERED
ACCOUNTANTS
OF THE MALDIVES

COMMENTS AND RECOMMENDATIONS

TO THE BILL ON THE

2ND AMENDMENT TO THE INCOME TAX ACT

by the

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1. Executive Summary

The second amendment to the Maldives Income Tax Act (Law No. 25/2019) (the "Bill") was submitted by the Government of the Maldives to the People's Majlis on 17th August 2026 and has been enacted by the Majlis on 23rd August 2026. The stated objective of the Bill, which is to ensure that non-resident contractors do not receive an unwarranted tax advantage over resident contractors, is plausible. However, the Bill, as currently enacted by the majlis and awaiting ratification, may go beyond that objective in three different respects: it raises the non-resident withholding tax ("NWT") rate applicable to non-resident contractors ("NRC") from 5% to 10%; it expands the scope of NRC contract definition to bring goods and materials supplied under an NRC arrangement within the withholding basel; and removes the net basis return filing previously available to NRCs with a Permanent Establishment ("PE") in the Maldives.

A 10% final tax on gross NRC income is not economically equivalent to a 15% tax on net taxable profit. At typical construction and EPC margins, the proposed gross-basis treatment could result in a significantly higher effective tax burden for NRCs than for comparable resident businesses, particularly where goods and materials form a substantial part of the contract value. By way of illustration, a contractor earning a 15% net margin would, under the proposed gross basis, bear tax equal to approximately 66.7% of its profit, compared with an income tax charge of 15% of profit for a comparable resident business. Where the margin falls below 10%, the tax charged would exceed the entire profit earned on the contract.

The extension of NWT to goods and materials should be treated as a separate policy measure requiring its own sourcing rules and impact assessment. Without clear rules for mixed contracts, offshore procurement, delivery, installation, and apportionment, the Bill may increase disputes and encourage contract restructuring.

The Bill does not include appropriate transitional provisions and sufficient lead time. Existing multi-year EPC and infrastructure contracts may have been priced under the current framework, and applying the new rules immediately to payments under those contracts could shift unanticipated costs to contractors, project owners, or the government where net-of-tax clauses apply.

2. Introduction

The Institute of Chartered Accountants of the Maldives ("CA Maldives") is the national professional accountancy body of the Maldives, established under the Maldives Chartered Accountants Act (Law No.: 13/2020). The Taxation Committee of CA Maldives is a technical committee of the Institute, comprising members with specialist expertise in taxation drawn from public practice, industry, and the public sector. Its mandate includes reviewing tax policies, legislation and regulations; providing technical input to policymakers and regulators; and promoting tax policy that is sound, administrable and equitable in the public interest.

The Income Tax Act (Law No. 25/2019) ("ITA") currently imposes non-resident withholding tax on payments made to non-residents deriving Maldives-sourced income, at rates of 5% or 10% depending on the category of income specified under Section 55 of the Act. Payments to non-resident contractors for services performed in the Maldives were, at the Act's commencement, subject to NWT at the standard rate of 10%. This was reduced to the concessional rate of 5% by the First Amendment to the Income Tax Act (Law No. 15/2021), effective 20 July 2021, and has remained at 5% since – a settled position for over four years, on which cross-border contracts currently in execution have been priced. It is understood that the rate reduction (from 10% to 5%) was made to ease a cash-flow burden (NRCs with a PE could already credit NWT paid against their final income tax liability but had to wait until the year-end return (due 30 June the following year) to recover any excess – the rate cut reduced that upfront burden). Most other categories of non-resident income (dividends, interest, royalties, and others) have remained subject to NWT at 10% throughout.

The proposed amendment raises the NRC rate to 10%, extends the withholding base to include goods and materials supplied under NRC contracts (excluding value attributable to activity performed outside the Maldives), and removes the option previously available to NRCs with a PE in the Maldives to file a final income tax return and be taxed on a net-profit basis. The stated policy rationale is to remove the tax advantage that "foreign contractors" held over "local contractors", who are taxed at 15% on net taxable profit, and to address significant overdue payments and enforcement concerns in the infrastructure and resort-development sectors.

It is also noted that the Bill is designed as an attempt to create parity between locals and foreigners, but the actual mechanism targets non-resident contractors specifically. The proposed revisions are not necessarily consistent with the stated objective of equalising the commercial environment, as a foreign investor could become a tax resident by incorporating locally and thereby gain access to net-basis assessment. Hence, the residence-based distinction in the amendment could be different from the objective of addressing competition imbalances between domestic and international market participants.

3. Detailed observations and recommendations.

3.1. Gross-basis taxation of NRC income creates a new, and potentially more severe, disparity

The Bill aims to correct the previous rate disparity of 5% for NRCs compared to an effective 15% on the taxable profit of Maldives resident businesses operating in the construction industry. However, it does so by changing the tax base rather than aligning it. The Bill extends the definition to include goods (in addition to the existing service component). NWT is levied on the gross amount of NRC income under the contract, as a final tax, with no deduction for expenses[1].

Resident businesses, by contrast, are taxed at 15% on taxable profit after deductible expenses. These two bases are equivalent only where the NRC's net margin is exactly 66.7% of revenue, because a 10% tax on gross revenue equals 15% of taxable profit only when taxable profit is 66.7% of revenue. Below that margin, the effective tax rate on the NRC's actual profit rises sharply and can exceed 100% of profit where the margin is below 10%.

The table below illustrates this relationship at representative margin levels.

Net margin	Resident business (15% of Taxable Profit)	NRC (10% of gross revenue)	Effective tax on NRC's profit
30%	4.5% of revenue	10% of revenue	33.3% of profit
15%	2.25% of revenue	10% of revenue	66.7% of profit
10%	1.5% of revenue	10% of revenue	100% of profit
5%	0.75% of revenue	10% of revenue	200% of profit (tax exceeds profit)

At typical contracting margins, the proposed amendment does not equalise the tax paid by resident and foreign contractors, as intended by the stated policy objective. Instead, it may invert the disparity by placing NRCs at a substantially greater disadvantage than any advantage they held under the existing 5% NRC framework.

To put this in practical terms, on an MVR 100 million contract earning a 10% net margin (MVR 10 million profit), a resident contractor would pay income tax of MVR 1,425,000 – being 15% of taxable profit after applying the first MVR 500,000 tax-free threshold under the ITA, whereas the proposed 10% NWT would require MVR 10 million, the contractor's entire profit, to be paid as tax.

[1] Clause 27(c) of Proposed Amendment Bill

It is also worth noting that the distinction the ITA draws is between tax residence and non-residence, not between Maldivian and foreign ownership. A company is a resident of the Maldives for tax purposes if it is incorporated or has its head office or central management and control in the Maldives, irrespective of the nationality of its shareholders. A Maldives-incorporated company that is wholly owned by foreign investors is therefore a resident business for ITA purposes, taxed at 15% on net taxable profit in the same way as a Maldivian-owned company and would benefit from the more favourable net-basis treatment that the Bill denies to NRCs. Conversely, an NRC's tax treatment under the Bill does not turn on whether its work in the Maldives is substantially performed using Maldivian labour, subcontractors, or suppliers. The residence-based distinction that the Bill relies on is accordingly a proxy for where a business is incorporated and managed, not for whether the ultimate economic benefit accrues to Maldivian owners, and the two may diverge in either direction. This distinction does not undermine the case for aligning the tax treatment of NRCs and resident businesses undertaking comparable work; it does suggest that the policy objective may be more precisely stated as removing an advantage tied to non-residence, rather than one tied to foreign ownership as such.

3.2. Removal of the return-filing option for NRCs with a PE

Under the current ITA, an NRC with a PE in the Maldives may file a final income tax return whereby expenses incurred in generating the income can be considered. The amendment removes this option, meaning that even NRCs with an established presence in the Maldives, which are in substance operating much like resident businesses, would be taxed on gross income with no mechanism to adjust for actual profitability.

It is recommended that this option be retained specifically for PE-holding NRCs, with the withholding tax suffered treated as a creditable advance tax rather than as a final tax. This preserves administrative simplicity for NRCs without a PE (where net-basis assessment is genuinely impractical for MIRA to verify) while avoiding a punitive outcome for NRCs with a substantive, auditable presence in the Maldives. If the concern motivating this change is compliance risk or the verifiability of claimed expenses, the recommended approach is to address that through documentation requirements and MIRA’s audit and enforcement powers rather than a blanket denial of the deduction.

3.3. Extension of NWT to goods and materials requires its own sourcing rules and impact assessment

Under the current framework, NRC NWT applies only to the service component of a contract at 5%. The proposed amendment would also bring goods and materials into scope at 10%, excluding only the value attributable to activities performed outside the Maldives. This is a substantial expansion of the tax base, distinct from the rate change, and warrants separate consideration for the following reasons.

3.3.1. Materials typically carry thinner margins than services

In construction and EPC contracts, materials and equipment procurements typically represent a substantial share of total contract value in construction industry-related contracts, and margins on that component are generally thinner in comparison to those on services. A 10% final withholding tax on the gross value of goods can easily exceed the entire margin earned on that portion of the contract.

3.3.2. The sourcing/apportionment test needs to be defined in the primary legislation

It is recommended that the amendment specify, rather than defer to administrative guidance, how sourcing is determined. For instance, by reference to the point at which title or risk in the goods passes, the place of delivery, or a prescribed apportionment methodology for contracts that bundle offshore-manufactured goods with in-Maldives installation or supervision services.

Given the scale of the fiscal and commercial impact, it is recommended that the extension of NWT to goods be treated as a distinct measure, subject to its own dedicated consultation and economic impact assessment, rather than proceeding on the same timeline as the NRC rate harmonisation.

3.4. Priority of NRC treatment over other Section 55(a) categories

The proposed Clause 55 (1-b) clarifies that where a payment falls within the NRC definition, it is treated as an NRC payment even if it could also fall within another category of NWT under Section 55(a). For instance, an NRC doing business in the Maldives who engages a non-resident surveying firm to perform a site survey would ordinarily be regarded as paying fees for technical services. However, because the arrangement falls within the NRC definition, the payment would be treated as an NRC payment.

Taken together with the broadened NRC definition and the mandatory gross-basis treatment under proposed Clause 27(c), this priority rule means that a wide range of cross-border payments would default into 10% final withholding on a gross basis, with no deductions, irrespective of how those payments might otherwise have been characterised and taxed under Clause 55(a).

It is recommended the priority rule be reconsidered, or, at minimum, that any net-basis election be reinstated under comment 3.2 above.

3.5. Absence of transitional provisions and insufficient lead time

The Bill contains no transitional clauses and no defined lead time before the effective date. This is a significant gap given the scale of the change: it doubles the NRC withholding rate, expands the tax base, removes an assessment mechanism, and affects contracts that were negotiated and priced under the existing framework.

EPC and infrastructure-related contracts spanning over multiple years and already in execution were priced on the assumption that goods fell entirely outside the proposed tax scopes and that NRC services were taxed at 5%. Applying the revisions to payments made under these contracts after the effective date, rather than to contracts entered into after the enactment date, imposes a materially different tax outcome on arrangements the parties had no opportunity to price around.

3.6. A longer lead time is required for tax changes

The Maldives has, on more than one occasion, given tax changes limited or no lead time. The ITA itself was passed on 17 December 2019 and took effect just over two weeks later, on 1 January 2020, and the original 10% non-resident contractor withholding tax was applied immediately to payments due under contracts that were already being performed, without any grandfathering for existing agreements. This is the same category of measure as the present Bill - a change to non-resident contractor taxation - having previously been applied to contracts already in execution, with no transition period.

By contrast, the most recent comparable change, the increase in Tourism Goods and Services Tax from 16% to 17%, was ratified in November 2024 with an effective date of 1 July 2025. This gave the businesses a lead time of approximately eight months for the rate change. The current Bill is structurally more complex, changing the rate, the tax base, and the assessment mechanism at once, and in our view warrants at least a comparable, and preferably longer, lead time.

International practice reinforces this conclusion. Jurisdictions with more formalised tax policy-making processes generally treat multi-stage consultation, and a meaningful lead time between enactment and effect, as a structural feature of sound tax law-making, not a discretionary courtesy. The IMF's own guidance to governments on tax legislative design identifies non-retroactivity as a general principle of sound tax law-making, on the basis that taxpayers should be able to make economic decisions with knowledge of their tax consequences in advance.

The transitional arrangements set out below reflect best practice for a change of this nature and remain directly relevant to the design of any future amendment.

1. Include a grandfathering clause to ensure the amendments apply to contracts executed on or after the effective date.
2. If full grandfathering is not adopted, provide a sufficient transitional period, such as 24 months, during which payments under existing contracts remain subject to the historical 5% rate.

3. Allow a minimum lead time of 9 to 12 months[2] between the date of enactment and the effective date to provide necessary time for contract renegotiations.

4. Conduct targeted stakeholder consultations and execute detailed fiscal impact assessment on active state-awarded contracts to assess how many government-funded projects contain Net-of-Tax clauses that would inadvertently shift the new tax burden back onto the Maldivian Government budget.

4. Conclusion

While we support the government's objective of ensuring that foreign contractors do not enjoy an unwarranted tax advantage over local contractors and recognise the fiscal pressures underlying the amendment, the provisions, as currently drafted, risk going beyond that objective by taxing NRC income on a gross, final basis across both services and goods without providing a net-basis taxation option for contractors with a permanent establishment in the Maldives, and the absence of clearly defined sourcing rules for mixed supplies or transitional arrangements for existing contracts.

More fundamentally, the proposed framework does not fully address the stated objective of achieving tax parity between local and foreign businesses, as the distinction drawn by the operative provisions is based on tax residence rather than whether a contractor is local-owned or foreign-owned.

[2] Under the GST Act, relief from charging GST was provided on contracts entered under normal commercial practices for a 12-month period from the GST enactment date.