



RMI Investment Policy Statement

2019

Introduction

The Government of the Republic of the Marshall Islands aims to strengthen the economic wealth of the Marshall Islands by revitalizing its private sector. The RMI’s economy has struggles to grow consistently as shown in the trend below:

FY	2010	2011	2012	2013	2014	2015	2016
GDP % Growth	6.5	1.2	3.5	2.9	-0.8	-0.4	1.9

“Between FY1999 and FY2016, real GDP per capita expanded by an average rate of 1.6 percent in each year”¹. With a few exceptions, much of this growth is primarily due to the Compact and other international assistance funded expansion of the public sector.

GRMI recognizes that private sector growth is critical to the future of the country. With the 2023 U.S Compact cessation date approaching, the GRMI aims to bring in meaningful investments and establish effective policies that can help the economy become less dependent on Compact Funding and able to stand on its own. The GRMI has been consistently focused on developing 3 specific sectors: Fisheries, Agriculture, and Tourism.

Investment Promotion and Facilitation

Investors, particularly non-citizen (i.e foreign) investors, frequently need assistance to meet the requirements specified in different elements of RMI legislation. It established the Office of Commerce, Investment, & Tourism for this purpose of investor facilitation services. The services of OCIT extend to promoting the RMI to potential visitors/tourists and investors, assisting both foreign and local business development, as well as providing policy advice to GRMI on investment and export initiatives.

Investors, non-citizen or citizen, can request assistance from OCIT for:

- Obtaining information on
 - Investment conditions and data on the cost of doing business in the RMI
 - Foreign Investment Business License application procedures
- Facilitation assistance in
 - Arranging meetings with government officials or local businesses
 - Identifying local businesses for consultation, accounting, or legal services
 - Follow-up with government agencies to ensure that investment related applications are processed efficiently

¹ Government of the Republic of the Marshall Islands and the Department of the Interior (2016)

Foreign Investment Registration

Foreign Investment Business License (FIBL)

GRMI requires all non-citizen investments to obtain a Foreign Investment Business License (FIBL). A non-citizen investment is defined as having any level of its equity held by a non-citizen (i.e. foreign citizen, corporation, joint venture, partnership or other legal entity). The FIBL can be obtained through the FIBL Unit at the Ministry of Finance, Banking Commission, and Postal Services or through OCIT. If the proposed investment is not a Reserved Activity (i.e. not in an economic sector or business activity reserved solely for citizen investors), every effort is made to issue the FIBL within 14 working days of application. Where it is not clear that the proposed non-citizen investment is a Reserved Activity, the FIBL Unit can request additional information from the applicant or the FIBL Unit shall clarify the position by seeking the written opinion of the Secretary of Finance, Banking Commission, and Postal Services, who shall have sought the views of the appropriate Ministries and Agencies. If the Secretary is unable to clarify the position or form an opinion, the matter shall be finally determined or clarified by a Foreign Investment Panel composed of the Secretary of MOFBCPS, the Attorney General, and a representative of the private sector appointed by the Cabinet. Decision as far as possible shall be taken within 14 days from the date the matter is referred to said Panel. Once issued, the FIBL Unit can only modify, suspend or revoke an FIBL under certain, specific circumstances e.g. the application is found to contain false or fraudulent information or the applicant bribed the FIBL Unit or other government official. The FIBL provides a non-citizen investor the right to invest in the Marshall Islands as long as the investment does stays within the scope of the business activity (or activities) for which it is granted. Once obtained, the non-citizen investor must comply with all the laws and regulations of the country.

Registration of Business Enterprise

The Government requires non-citizen investments to either incorporate as a domestic limited company in the Republic of the Marshall Islands, or register as a foreign entity. Incorporating a domestic limited company can be completed at the same time as obtaining a FIBL. Instructions regarding the incorporation process are included in the FIBL application and are the same as those required of citizen investors. The application is submitted to the Registrar of Companies in the Office of the Attorney General. Investors that do not wish to incorporate domestically are required to apply to the FIBL Unit to register their enterprise as a foreign entity i.e. limited company, partnership, or sole-proprietorship. The application must be submitted using a prescribed form available from the FIBL Unit.

Foreign Investment Restrictions

In general, non-citizen investment from all countries is equally welcome and unrestricted in the Republic of the Marshall Islands. Certain sectors, however, have been reserved for citizen investment. These sectors are specified in the Reserved List below:

The following list of economic sectors, subsectors or business activities indicates areas in which new investment are reserved solely for citizen investors, pursuant to Section 504.5 of the ACT.

1. Small scale Agriculture for local markets
2. Small scale Mariculture for local markets
3. Bakeries and pasty shops
4. Motor garages and fuel filling stations
5. Land Taxi operations, not including airport taxis used by hotels
6. Rental of all types of motor vehicles
7. Small retail shops with a quarterly turnover of less than US\$10,000.00 (including mobile retail shops and/or open-air vendors/take-outs)
8. Laundromat and dry cleaning, other than service provided by hotel/motels
9. Tailor/sewing Shop
10. Video rental
11. Delicatessen of Deli Shops or Food Take-outs

Investment in the domestic-based fisheries sector

The Government is committed to maintaining its marine resources primarily to ensure food security. Tuna is the only resource for which industrial-scale fisheries is promoted. Priority is given to increasing the returns accruing from this fishery by encouraging domestic –based production, processing and exports of tuna products. In coastal and lagoon areas, small-scale commercial opportunities may be supported as long as they do not jeopardize local food security. Because of the complex management issues facing both sectors the Government has introduced a range of specific strategies to regulate fisheries investment. The Government manages its tuna fisheries in line with international, regional and sub-regional fishery management arrangements. Domestic-based fishing investments, both non-citizen and citizen owned, intending to fish for tuna in the Republic of the Marshall Islands’ exclusive economic zone must negotiate a fishing license agreement with the Marshall Islands Marine Resources Authority (MIMRA). The Government similarly requires any investor interested in exploiting or culturing marine resources in its coastal waters to obtain a license from MIMRA.

Employment of Non-Residents

Non-resident work permit

Work permits are required for non-resident workers regardless of the term of their employment contract. The Government requires investors to follow a three-step process in obtaining work permits for non-resident workers:

- First, they must notify the Chief of Labor in the Ministry of Foreign Affairs by letter of their desire to employ a non-resident worker for a particular position.
- Second, they must make an effort to hire a local citizen for the position, including advertising the position in a local newspaper and on the radio.
- Third, if their efforts to hire a citizen worker are unsuccessful, they can apply, using a prescribed form, to the Chief of Labor requesting a specific non-resident worker to fill the position.

Submission of the application must wait at least 30 days following the initial advertisement for the position. In their application, the investor must show evidence of their efforts to hire a citizen worker. They also must demonstrate that the proposed non-resident worker has the skills and experience to effectively fill the position, does not possess any communicable diseases and does not have a police record. Every effort is made to provide the applicant with a decision regarding their application within 14 days of its submission. A work permit is issued for a specific non-resident worker for a period of one year. The permit must be renewed at the end of the calendar year and can be renewed for a total of two years. An employer must ensure that every non-resident worker in his or her employment is repatriated to the point of hire at the end of two years from the date of hire, or upon earlier termination or resignation of the non-resident worker.

(1) Every employer, non-resident worker or agent must register with the Labor Division in the following manner:

(a) An employer of a non-resident worker must register with the Labor Division with the information set out below:

- (i) Name of entity as an employer;
- (ii) Employment identification number (“EIN”);
- (iii) names of non-resident workers and information details, to include, point of hire, occupation, physical address and any other details as may be required by the Division of Labor;

(b) Every non-resident worker, irrespective of any exemptions under this Chapter, must register with the Labor Division with the information set out below:

- (i) Name, and name of principle, if applicable;
- (ii) Name of employer, address and physical location of place of employment, and if applicable, name of principle’s employer, address and physical location of place of employment;
- (iii) Name of dependent, if any, and age;
- (iv) Occupation and duration of current employment;
- (v) Previous occupation and employer(s) in the last 5 years;
- (vi) Any other details as may be required by the Division of Labor.

(2) Every employer, non-resident worker or agent, must inform the Director of Labor of any relevant fact, including any material change in circumstance that occurs after an application is made.

Conditions imposed on investors employing non-resident workers

The Government requires all investors employing non-resident workers to agree in writing to:

- cover the cost of repatriating non-resident workers to the place from which they were hired;
- hire, or have already hired, and train one or more citizen workers to perform the work for which the non-resident worker is employed;
- Notwithstanding any other enactment to the contrary, all employers must, unless exempted by order of the Cabinet maintain at the commencement of the first year of operations and each subsequent year, a workforce of which at least fifty (50%) is comprised of Marshallese citizens..

Work permit exemptions

Non-citizen investors issued with a foreign investment business license are exempted from having to obtain a work permit for themselves. Similarly, citizens of the United States, Federated States of Micronesia and Palau do not require work permits to be employed in the Marshall Islands. Non-citizen investors and nationals of the above-mentioned countries, however, are required to register with the Labor Office. The information is used solely for statistical reasons. The Government may also issue investors work permit exemptions if they can demonstrate their investments will provide substantial economic benefits to the country. Such exemptions are limited to export-oriented investments. Applications must be submitted to the Chief of Labor.

Non-Resident Income Tax Exemption

Notwithstanding section 117 above, the ten percent (10%) non-resident tax prescribed therein shall not apply to the salaries and wages and other revenue due to persons, organizations or businesses engaged by: (a) Foreign Missions and Embassies of the Republic of the Marshall Islands; (b) Offices of Ministry of Foreign Affairs located outside the Republic

Entry permit and alien registration

The Government requires all non-citizen investors and non-resident workers, along with their immediate families, to obtain entry permits and alien registration cards. Entry permits and alien registration cards are issued for a period up to one year and must be renewed at the end of each calendar year. Non-citizen investors are permitted to enter the Republic of the Marshall Islands under a 30-day visitor's entry permit. They can then convert to a non-resident work permit and obtain an alien registration card once in the country. Entry permits, non-resident work permits and alien registration cards are obtained by applying to the Chief of Immigration in the Office of the Attorney General using a prescribed form. The application must include identification pages of the applicant's passport, medical clearance, and police record. Every effort is made to provide the applicant with a decision regarding their application within 14 days of its submission. Non-resident workers must obtain entry permits and alien registration cards prior to their arrival in the country. Employers apply for this documentation on their behalf as part of the work permit authorization process.

Taxation

There are two levels of government within the Republic of the Marshall Islands with authority to impose taxes – the National Government and Local Governments. Taxes are used in both cases to raise revenues for government operations. For the purposes of taxation, both levels of government treat non-citizen investments and workers the same as their citizen counterparts.

National Government

The Government requires all investors to pay tax on the gross revenues they earn from their operations in the Republic of the Marshall Islands (Gross Revenue Tax). Investors are also required to make mandatory contributions on behalf of each worker they employ in order to support the country's social security and health insurance systems. The Government requires investors to make application, using a prescribed form, to the Social Security Administration to register their business and obtain an Employer Identification Number.

Tax on Gross Revenues

There shall be assessed, levied, collected and paid a tax of \$80 per year upon that portion of the amount of gross revenues earned by every business subject to the provisions of this Chapter which does not exceed \$10,000 per year; and there shall be assessed, levied, collected and paid a tax of three percent (3%) per year upon that portion of the amount of gross revenues earned by every business subject to the provisions of this Chapter which is in excess of \$10,000 per year.

Tax on Wages and Salaries

There shall be assessed, levied, collected and paid a tax of eight percent (8%) upon the first \$10,400, to be prorated at \$200 per week, or \$866.67 per month, and twelve percent (12%) upon the amount over \$10,400, as prorated by pay period, of all wages and salaries received by every employee, except as provided in subsections (2) and (3) of this Section. (2) There shall be assessed, levied, collected and paid a tax of five percent (5%) on all wages and salaries received by United States contractor personnel. Wages and salaries of United States citizens or nationals or permanent resident aliens who do not qualify for tax treatment as United States contractor personnel because they or their employer does not qualify as a United States contractor shall be taxed as provided in subsection (1) of this Section, provided that they are not otherwise entitled to tax benefits under the Status of Forces agreement between the Republic and the United States. (3) Every employee, except those whose gross annual wages and salaries are more than \$5, 200, shall be allowed an exemption of \$1560 per year as pro-rated by pay-period, from all wages and salaries subject to tax levied by subsection (1) of this section, and received by the employee in the year in which the exemption is claimed. The exemption shall be allowed by pro-rating the salary at \$100. per week or \$433.33 per month and the exemption at \$50. Per week or \$216.67 per month. Anyone who earns more than \$100 per week or \$433.33 per month shall not be entitled to the \$50 per week or the \$216.67 per month exemption. An employee who holds two (2) or more jobs shall be entitled to only one exemption.

Withholding by the employer

The tax imposed by Section 103 of this Chapter shall be collected by the employer by deducting and withholding the tax imposed on any wages and salaries as and when paid or credited to the employee. Every employer required to deduct and withhold the tax imposed shall be liable for the payment and shall pay such tax to the Secretary of Finance.

Local Government

Local governments have the authority to levy sales taxes. They also issue business licenses for businesses operating in their areas of jurisdiction. Each local government determines its own rates and administration procedures. Investors must contact the local government office to determine the sales tax and business licensing requirements in their area. Non-citizen investors are also required to obtain an FIBL before applying for a local government business license.

Investment Incentives

To help meet its private sector objectives, the Government offers investments in selected sectors exemptions from paying taxes and duties. The exemptions are equally available to both non-

citizen and citizen investors and can be applied for by submitting a letter to the Minister of Finance.

Gross revenue tax exemption

Investors intending to establish in the following export-oriented sectors can be exempted from paying gross revenue tax for a five-year period:

- manufacturing for export, or for both export and local use;
- agriculture
- hotel and resort facilities.
- a fish loining plant shall be exempt from a gross revenue tax for a period of twenty-five (25) years, effective from the date of commencement of such business.

In order to qualify for an exemption, the investor must make an investment of at least US\$ 1.0 million, or provide employment and wages in excess of US\$150,000 per annum to citizen workers.

Importation and Exportation

Imports

The Government applies duties on all imported goods as a mechanism for raising revenues. To minimize the burden of administering the import duty system, the Government maintains a tariff structure with a limited number of categories and relatively low rates. No duty exemptions are offered.

1. Foodstuffs: 5%
2. Gasoline: 0.25 cents per gallon
3. Jet A-1: 0.08 cents per gallon
4. Diesel: 0.08 cents per gallon
5. Tobacco, and cigarettes \$1.00 per pack of 20 rolls
6. Cigars: 151%
7. Other tobacco (Copenhagen) \$2.75 per 34.2 grams or 1.2 oz
8. Beer: \$0.35 cents per can or 12 oz. unit
9. Wine: \$2.75 per gallon
10. Spirits: \$15.00 per gallon
11. Mixed drink: 26%
12. Soft drinks: 10%

Export

The Government supports and encourages all export-oriented investments. It does not apply any tax on the export of any goods or services from the Republic of the Marshall Islands. All exporters, however, are required to complete an export declaration form identifying the contents and destination of their export.

Finance

Investment borrowing

The Government does not impose any restrictions on non-citizen investors borrowing domestically, or on citizen investors borrowing from abroad.

Foreign exchange availability

The Republic of the Marshall Islands uses the US dollar as its currency. The Government does not impose any restrictions on domestically based banks making foreign exchange available to their customers.

Repatriation of funds

The Government encourages all investors to reinvest capital and profits in the country. It recognizes, however, that some investors may need to repatriate profits and capital to meet corporate goals. All investors, therefore, are free to repatriate profits, dividends and investment capital acquired through the operation or disposal of their investment. The Government requires all banks in the Republic of the Marshall Islands to report transfers of funds from the country over a 24-hour period that are in excess of US\$10,000. This requirement is a result of the Government's international money laundering commitments. The Banking Commission monitors this information and has the authority to investigate the financial records of individuals or businesses, as it considers necessary.

Land, Industrial Infrastructure and Transportation Services

Access to land

Land in the Republic of the Marshall Islands is limited in its extent and is almost entirely customarily owned. Non-citizen investors wishing to access land for development must negotiate lease agreements directly with customary groups, or in the case of alienated land, with Marshallese citizens that own the land. The Government does not impose any restrictions on the term of a lease. Annual lease rates are negotiated between the parties based on prevailing market conditions. In recognition of the complexities of customary land ownership in the country and the difficulties for investors to acquire land for investment purposes, the Government established a Land Registration Authority in March 2003. The Authority will:

- Create a voluntary register of customary land
- Establish an effective legal framework for recording all documents related to land, and registering ownership rights, leases, easements and mortgages;
- Create a standard land lease agreement that can be used by interested parties.

In addition, the Government has expanded the land interests that may be mortgaged to include the ownership interest in land, as well leaseholds. Opportunities to expand the amount of

available land in the country also exist. This can be achieved through land reclamation. The Government is interested in pursuing this course of action and is exploring ways this can be done.

Access to infrastructure services

The Government is committed to providing the business community in all parts of the country with reliable telecommunications, electricity, and water and sewage services at a reasonable price. Private companies, majority-owned by government, currently have exclusive rights to provide these services.

Access to transportation services

The Government is also committed to enhancing the business community's access to frequent, reliable and affordable transportation services both within the country, and with the rest of the world. Shipping lines extend from Asia-Pacific through to the U.S West-Coast, with the RMI being the mid-point.

The Government currently owns and operates some shipping and air services within the country. But privately-owned shipping services have been increasing over the years.

Environmental Protection

The Government recognizes the unique and fragile nature of the country's terrestrial and marine environments. It is committed to ensuring that investment activities do not negatively affect their continued health. Consequently, the Government requires environmental impact assessments (EIA) of all new development projects that may have a significant impact on the environment. This requirement applies equally to both citizen and non-citizen investors. All investors are required to notify the Environmental Protection Agency (EPA) prior to commencing any development to determine if an EIA is necessary. The EPA is currently developing a process for reviewing development plans to determine when an EIA is required. In addition, it is developing an efficient system for conducting EIAs. The work is scheduled for completion by the end of 2004. The EPA is also commencing work on coastal development plans that will provide a framework for environmental management within the country. These plans will organize coastal areas into zones. The zones will specify different types of development thresholds and management procedures.

Guarantees

The Government recognizes the investment risks taken by investors, particularly, non-citizen investors. It is for this reason that the Government guarantees that it will not expropriate non-citizen investments, or take measures that will have a similar effect, except for a public purpose and on a non-discriminatory basis and against the prompt payment of adequate and effective compensation. This guarantee for the protection of persons and their property is enshrined in the Constitution. It forms an integral part of the Government's assurance to all investors that their investments are protected within the limits of the laws of the country. The Foreign Investment Business License Act also provides a guarantee where the activity for which the FIBL was issued

is subsequently added to the Reserved List. Under these circumstances, the Registrar cannot revoke or cancel an existing FIBL if the non-citizen investment has already commenced. Furthermore, the Government is committed to an independent and transparent judiciary system. The judiciary system is equally accessible to both non-citizen and citizen investors for the purpose of settling disputes or protecting their interests without state interference. Legislation, entitled the Arbitration Act (1980), is in place to provide a system for settling disputes.

