



Smart in your world®
Arent Fox

CONFIDENTIAL

Draft Amended Taxes and Duties Law – Version 2 (English)

Prepared by Professor Robert Conrad, Professor Ana Paula Dourado, and Jennifer A. Fischer

31 December 2015

CHAPTER I	PRELIMINARY	1
Article 1	Definitions.....	1
Article 2	Associates	7
Article 3	Ambit of the Act	8
CHAPTER II	SERVICES TAX	8
Article 4	Imposition of Services Tax	8
Article 5	Gross Consideration.....	9
Article 6	Designated Services	9
Article 7	Place of Supply of Designated Services	10
Article 8	Payment of Tax and Services Tax Form.....	10
CHAPTER III	EXCISE TAX	11
Article 9	Imposition of Excise Tax	11
Article 10	Excisable Goods.....	12
Article 11	Registration and Approval of Warehouses	13
Article 12	Excise Tax Form and Payment	15
Article 13	Relief for Raw Materials.....	16
CHAPTER IV	SALES TAX	16
Article 14	Imposition of Sales Tax	16
Article 15	Taxable and Exempt Goods and Services.....	17
Article 16	Sales Tax Exemption Form.....	18
Article 17	Payment of Tax and Sales Tax Form.....	19
CHAPTER V	IMPORT DUTY	20
Article 18	Imposition of Import Duty	20
Article 18-A	Deferral of Payment.....	20
Article 18-B	De Minimis Waiver.....	20
CHAPTER VI	INCOME TAX.....	21
SECTION I	IMPOSITION OF INCOME TAX	21
Article 19	Income Tax on Taxable Income	21
Article 20	Income Taxpayer	22
Article 21	Gross Income	22
Article 22	Exempt Income	22

Article 22-A	Personal Exemptions.....	23
Article 23	Deductions	24
Article 24	Deductions Not Allowed.....	24
Article 25	Limitation on Deductions	27
Article 25-A	Head Office Expenses.....	28
SECTION II	Business Activities.....	28
Article 26	Business Activities Income.....	28
Article 27	Accounting Provisions	28
Article 28	Inventory Losses	29
Article 29	Depreciation.....	29
Article 30	Amortisation of Intangible Assets and Expenses.....	32
Article 30-A	Amortization of Forest Products.....	33
Article 30-B	Amortization of Exploration and Development Costs of Natural Resource Production	33
Article 31	Reserves or Provisions.....	34
Article 31-A	Decommissioning, Reclamation, and Restoration Expenses and Provision	35
Article 31-B	Transfer of Rights or Equity Interest in the Exploration and Exploitation of Natural Resources	36
Article 32	Bad Debts.....	36
Article 33	Long-term Contracts	37
Article 34	Finance Leases	37
Article 35	Deductibility of Net Financing Expenses	38
SECTION III	General Provisions Relating to the Computation of Taxable Income.....	38
Article 36	Losses.....	38
Article 37	Recouped Deductions	39
Article 38	Full Competition	39
Article 38-A	Transfer Prices	39
Article 38-B	Payments to Associates.....	40
SECTION III-A	CAPITAL GAINS AND LOSSES	40
Article 39	Capital Gains and Losses	40
Article 40	Determination of Capital Gains and Losses.....	41

Article 41	Tax Base.....	41
Article 42	Determination of the Net Realization Value.....	41
Article 43	Adjusted Acquisition Cost	42
Article 43-A	Acquisition Cost of Immovable Property	42
Article 43-B	Acquisition Cost of Assets Constructed by the Taxpayer	43
Article 43-C	Acquisition Cost for Transfer Between Private and Business Activity Use	43
Article 43-D	Acquisition Cost of Shares and Other Transferable Securities.....	44
Article 43-E	Acquisition Cost of Other Assets.....	44
Article 44	Discrepancy of Amounts.....	44
Article 45	Capital Gains from Rights of Exploration and Exploitation of Minerals or Petroleum	45
Article 45-A	Direct Transfers of Rights of Exploration and Exploitation of Minerals or Petroleum	45
Article 45-B	Indirect Transfers of Rights of Exploration and Exploitation of Minerals or Petroleum	45
Article 45-C	Capital Gains Taxpayer of Rights of Exploration and Exploitation of Minerals or Petroleum	46
Article 45-D	Maintaining an Economic Interest in Rights of Exploration and Exploitation of Minerals or Petroleum.....	47
Article 45-E	Taxable Event in the Transfer of Rights of Exploration and Exploitation of Minerals or Petroleum	47
Article 45-F	Tax Rate	47
SECTION III-B	TRANSFORMATION AND RESTRUCTURING OF COMPANIES	47
Article 46	Applicable Rules.....	47
Article 47	Special Rules Applicable to Mergers and De-mergers of Resident Companies.....	48
Article 48	Special Rules Applicable to Transfers of Assets	49
Article 49	Rules Applicable to Shareholders of the Merged or De- merged Companies.....	50
Article 50	Mergers, De-mergers, and Transfers of Assets Involving Entities that are Not Companies	50
Article 51	Exchange of Shares.....	51

SECTION III-C	LIQUIDATION OF ENTITIES.....	52
Article 52	Entities in Liquidation.....	52
Article 53	Capital Gains from Liquidation	53
Article 54	Capital Gains from Apportionment	53
Article 55	Liquidation of Entities Other than Companies	54
SECTION III-D	ESTABLISHMENT OF COMPANIES WITH THE BUSINESS ASSETS OF AN INDIVIDUAL.....	54
Article 56	Special Rules of Fiscal Neutrality.....	54
SECTION IV	PERSONS.....	55
Article 57	Individuals or Entities	55
Article 58	Entities	55
Article 58-A	Natural Resource Concessions.....	55
SECTION V	INTERNATIONAL ASPECTS OF INCOME TAX.....	56
Article 59	Territorial Taxation of Non-residents	56
Article 60	Timor-Leste Source Income of Permanent Establishments.....	56
Article 61	Timor-Leste Source Income of Non-residents.....	56
Article 62	Foreign Tax Credit.....	58
Article 63	Foreign Source Expenses and Losses	59
Article 64	Taxable Income of Permanent Establishments	59
SECTION VI	WITHHOLDING TAX.....	60
Article 65	Wages.....	60
Article 65-A	Provision of Services	61
Article 65-B	Payment for Construction or Building Services and Construction Consulting Services.....	61
Article 65-C	Self-Withholding on Wages and Payments for Services	62
Article 66	Interest, Royalties, and Other Capital Income	62
Article 67	Withholding on Income from Other Assets	62
Article 68	Rent.....	63
Article 69	Prizes and Winnings	64
Article 70	Non-resident Withholding Tax	64
Article 71	Obligations of a Person Withholding Tax from a Payment.....	64
Article 72	Self-Withholding and Payment of the Tax	65

Article 73	General Provisions on Withholding.....	65
Article 74	Intentionally Left Blank.....	66
Article 75	Withholding as a Final Tax.....	66
Article 76	Withholding Reporting Obligations.....	66
SECTION VII	FRINGE BENEFITS	67
Article 77	Fringe Benefits.....	67
SECTION VIII	INCOME TAX PROCEDURE.....	67
Article 78	Delivery of Income Tax Returns.....	67
Article 79	Due Date for Payment of Income Tax	68
Article 80	Payment of Income Tax on Dividends.....	68
Article 81	Income Tax Credit on the Distribution of Dividends	69
Article 82	Instalments of Income Tax.....	70
SECTION IX	INCOME TAX RATES	71
Article 83	Income Tax Rate Applicable to Entities	71
Article 84	Income Tax Rate Applicable to Individuals	71
CHAPTER VII	GENERAL RULES APPLICABLE TO TAXES IMPOSED BY THIS LAW	71
Article 85	Currency Translation	71
Article 85-A	Inflation Adjustments.....	72
Article 86	Market Value	72
Article 87	Exempt Remuneration	72
Article 88	Accounting Requirements Relating To Permanent Establishments	72
CHAPTER VIII	SPECIAL PROVISIONS FOR OIL AND GAS TAXATION.....	74
SECTION I	PRELIMINARY	74
Article 89	Chapter VIII Interpretation	74
SECTION II	INDIRECT TAXES	76
Article 90	Indirect Taxes.....	76
SECTION III	INCOME TAX.....	76
Article 91	Rate of Tax.....	76
Article 92	Limitation on Deductions	77
Article 93	Small Field Depreciation	77

Article 94	Value of Petroleum	78
Article 95	Instalments of Income Tax.....	79
SECTION IV	SUPPLEMENTAL PETROLEUM TAX	81
Article 96	Imposition of Supplemental Petroleum Tax	81
Article 97	Accumulated Net Receipts.....	82
Article 98	Net Receipts	83
Article 99	Gross Receipts	83
Article 100	Deductible Expenditure	84
Article 101	Transfer of Interest in Petroleum Operations.....	85
Article 102	Procedure Relating to Supplemental Petroleum Tax	86
Article 103	Instalments of Supplemental Petroleum Tax	87
CHAPTER IX	FINAL PROVISIONS	88
Article 104	Primacy of International Law	88
Article 104-A	Tax Provisions in Other Laws.....	88
Article 105	Regulation	88
Article 106	Repeal	89
Article 107	Application of the Revoked Laws.....	89
Article 108	Saving	89
Article 109	Transitional	90
Article 110	Entry into Force and Application.....	91
Article 111	Effects	91
SCHEDULE I	SERVICES TAX	93
SCHEDULE II	EXCISE TAX.....	94
SCHEDULE III	SALES TAX	96
SCHEDULE IV	IMPORT DUTY	97

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

AMENDED TAXES AND DUTIES ACT

Law No.:

Pursuant to section 95(2)(p) of the Constitution of the Republic, the Parliament enacts the following to have the force of law:

TITLE I

PRELIMINARY

Article 1

DEFINITIONS

In this present Act:

“**Air or sea transportation services**” means any transportation of passengers, mail, or goods by air or sea:

- (a) between two places in Timor-Leste;
- (b) from a place in Timor-Leste to a place outside Timor-Leste;
- (c) from a place outside Timor-Leste to a place in Timor-Leste;

“**Amount**” includes any amount in cash or in-kind;

“**Bank**” means the company “Bank” means the company, the activity of which consists in receiving deposits or other reimbursement funds in Timor-Leste, in applying those resources, in total or in part, to grant credit or do investments on behalf of the person exercising the activity.

“**Business activities**” means any commercial, industrial, or handicraft undertaking, the conduct of a profession, or any other independent services, or the leasing of movable or immovable goods, but does not include any employment;

“**Business building**” means any building used wholly or partly in the conduct of business activities;



“Construction consulting services”, any consulting service connected with the activities of construction or building including, management of a project engineering, design, architecture, inspection and supervision services in the construction or building site;

“**Contracting Entity**” means an entity that has a right of exploration and exploitation of minerals or petroleum in Timor-Leste.

“**Contractor**” means a person with whom the Ministry or Designated Authority has granted

- (a) A petroleum contract attributing to it the rights of exploration and exploitation of petroleum under the terms of the applicable legislation; or
- (b) Another contract of exploration and exploitation of natural resources, including the production of derived goods, ~~depending the situation.~~

“**Customs value**” means the fair market value of the goods including cost, insurance and freight as determined in accordance with article VII of GATT;

“**Development Expenditure**” means expenditure incurred, after Ministry or Designated Authority approval of a Development Plan, in preparing a site for Petroleum Operations, including drilling and completing production wells, and the construction of production facilities, but does not include any expenditure incurred in the acquisition or construction of a pipeline or in the acquisition of a depreciable asset;

“**Direct Family**” comprises the spouses or similar partners, parents, and children, and siblings.

“**Dividend**” means any distribution of profits by an entity to a shareholder resulting from undistributed retained earnings, except in the cases of distribution due to the liquidation of the entity. A distribution that exceeds retained earnings constitutes a reimbursement of capital and a reduction in the tax value of the shares of a shareholder.

“**Employee**” means:

- (a) an individual that has a contract of work; or
- (b) an individual whose provision of services is substantially similar to the provision of services by an individual who has a contract of work.



“**Employer**” means a person who pays wages to an employee.

“**Employment**” includes:

- (a) a directorship or other office in the management of an entity;
- (b) a position entitling the holder to a fixed or ascertainable remuneration; or
- (c) the holding of or acting in any public office.

“**Entity**” means any person who is not an individual, trust, recumbent inheritance or legacy of deceased individual or foundation, organization or body of persons and joint ventures, incorporated, organized, or established, even if improperly, in Timor-Leste or in a foreign territory.

“**Equity interest**” in relation to an entity, means a share, an interest in a partnership, or any other ownership interest in the legal person or other entity.

“**Exploration Expenditure**” means expenditure relating to geological, geophysical, and geochemical surveys, exploration or appraisal drilling, or feasibility and environmental impact studies incurred in conducting Petroleum Operations prior to Ministry or Designated Authority, as the case may be, approval of a Development Plan.

“**Fringe benefits**” means any compensation in cash or in-kind, given by the employer to the employee, that does not have other cause but the labour relationship including:

- (a) The use by a worker, for entirely or partially personal purposes, of a motorized vehicle provided by the employer;
- (b) The use by the worker of accommodation or housing furnished by the employer or any monetary or financial compensation to the employee for this purpose;
- (c) The provision to an employee, by the employer, of a housekeeper, driver, guard, gardener, or other household personnel for a worker;
- (d) The costs assumed by the employer for providing a worker with meals and beverages, except where they are incurred over the course of the provision of services or the supply of goods by the worker to the employer- in the limits defined by Regulation ~~and as long as the Tax Administration deems such costs reasonable;~~



- (e) Loans granted at below market interest;
- (f) Any other non-monetary benefit granted by an employer to a worker;
- (g) Discounts for sales;
- (h) Life insurance premiums;
- (i) Health insurance premiums;
- (j) Contributions to pension funds;
- (k) Any additional expenses which exceed cost;
- (l) Educational assistance;
- (m) Entertainment and recreation beyond de minimus amounts;
- (n) Paid trips of workers and their families.

“**Good**” means any substance, organism, article, or thing, whether manufactured or natural, which is not a human body, cadaver or human remains.

“**Harmonized classification system**” means the commodity classification system established by the World Customs Organization.

“Intangible assets” means any assets, excluding movable or immovable tangible assets that

a) are used for more than fiscal year;

b) are used totally or partially in the exercise of taxable business activities

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm

Formatted: Font: (Default) Times New Roman, 12 pt

“Interest” means

a) any amount (including a premium or discount) paid or accrued in the terms of a debt claim that does not constitute reimbursement of capital;

b) any amount the function of which is equivalent to one of the amounts referred to in a), as well as an amount paid or accrued in the terms of a -interest rate swap agreement or as interest for late payment in the terms of a guarantee agreement;

c) any amount that is treated as interest in the terms of Article 41

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm



d) any compromise, guarantee, service, fee or similar amounts required in connection to a debt claim or any other instrument or agreement generating interest in the terms of), b) or c);

Formatted: English (United Kingdom)

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani

“International Financial Reporting Standards” means the most recent International Financial Reporting Standards issued by the International Accounting Standards Board or any successor entity taking over the role of issuing International Financial Reporting Standards.

“Natural resources” means any mineral, petroleum, or any other living or non-living resource that may be taken from the land or sea.

“Non-resident person” means any person or entity who is not a resident.

“Not-for-profit entity” means any entity that does not have the objective of the systematic earning of profit, and as further defined by law or regulation, including clubs, political organizations, labour unions, and social, religious and culture organizations.

“Passive Investment” means any activity for which a taxpayer anticipates a material gain, in cash or in-kind, that is not related with business activity, or the non-profit mission of a not-for profit entity.

“Permanent Establishment” means

1. any fixed place of business through which the business activity of a non-resident person is wholly or partly carried on, especially:

- (a) a place of management;
- (b) a branch;
- (c) a representative office;
- (d) an office;
- (e) a factory;
- (f) a workshop;
- (g) a mine, an oil or gas well, a quarry, or any other place of extraction of natural resources, including any place of drilling for mineral exploration;



- (h) a fishery, place where animal husbandry is conducted, farm, plantation, or forest;
- (i) the furnishing of services through employees or other personnel, including consulting services, if they take place for more than sixty days in any ~~6+2~~-month period on Timorese territory;
- (j) an agent or employee of a non-resident insurance company, if the agent or employee collects premiums, or insures risks, in Timor-Leste.

2. The term permanent establishment also includes a construction, installation or assembly project or site, if the duration of the project or activity exceeds six months.

3. In the case of subcontracts, it is deemed that the subcontractor has a permanent establishment at the construction, installation or assembly project or site in the event that it exercises its activity there for the same period referred to in the preceding number.

4. The following also constitute permanent establishments:

- (a) Activities of coordination, inspection, and supervision in connection with the establishments indicated in No. 2 and 3 as well as drilling facilities, platforms, or ships used for prospecting or exploration of natural resources;
- (b) Any person acting on behalf of a business and habitually exercises in Timor-Leste an authority to conclude contracts that bind the entity, within the scope of the activities that person undertakes for the entity, provided that the person is not an independent agent pursuant to the terms of No. 6.

5. To determine the deadline referred to in paragraphs 2 and 3, in the case of construction, installation, or assembly sites and projects are concerned, the period applies to each and every site or project individually, starting from the date of initiation of the activity, including any preparatory work, - temporary interruptions being irrelevant - and regardless of whether the work was commissioned by different persons or through subcontracts.

6. A company shall not be deemed to have a permanent establishment in Timor-Leste based on the simple fact that it exercises its activity there via a broker, a commission agent, or any



other independent agent, provided that these persons act within the normal scope of their activity, and assuming the business risk of such activity.

7. Notwithstanding the previous paragraphs, non-resident entities that enter contracts with the State and that operate in Timor-Leste through a fixed place of business are considered as having a permanent establishment, provided they are registered with the competent authority for commercial registration and after informing the Tax Administration of such registration.

“Properly documented costs or expenses” means costs or expenses proven by means of producing receipts or invoices or other equivalent documents issued in accordance with the VAT Code or any other relevant regulation.

“Person” means an individual or entity.

“Resident” means a resident individual, a resident entity or the Government of the Democratic Republic of Timor-Leste.

“Resident entity” means an entity incorporated, created, organised, or established in Timor-Leste; joint ventures (business consortiums) are deemed as resident entities in Timor-Leste whenever they are formed by one or more resident entities that hold, in total, at least 50% of the equity interest of the consortium.

“Resident individual” means:

- (a) an individual who is present in Timor-Leste for a period of, or periods amounting in aggregate to, one hundred eighty-three days in any twelve month period that commences or ends during the year, unless the person’s permanent place of abode is not in Timor-Leste; or
- (b) an employee of the Government of the Democratic Republic of Timor-Leste posted abroad at any time during the year.

A resident individual becomes liable for tax in the tax year in which it becomes a resident.



“**Royalty**” means any amount, paid or owed available to a taxpayer relative to the use or concession of use of any intangible asset.

Shareholder” means any person that holds a capital equity interest in an entity.

“Tangible assets” means any movable asset that

a) are used for more than fiscal year;

b) are used totally or partially in the exercise of taxable business activities

“**Tax Administration**” means the central services and other public bodies responsible for the assessment and collection of taxes , the Minister of Finance or other competent member of the Government, when exercising their administrative powers in relation to tax matters.

“**Tax**” means tax or duty imposed under this act.

“**Tax haven**” is a country, territory, or region whose income tax rate is 5 percentage points less than the income tax rate in Timor-Leste.

“**Tax value**” means the adjusted acquisition cost as defined in article 43.

“**Tax year**” means the 12 month period from 1 January to 31 December.

“**Timor Sea Treaty**” means the Timor Sea Treaty dated 20 May 2002 between the Government of the Democratic Republic of Timor-Leste and the Government of Australia.

“**Trust Fund for East Timor**” means the Trust Fund for East Timor established under the Trust Fund for East Timor Agreement dated 9 December 1999 between the United Nations Transitional Administration in East Timor and the International Development Association.

“**Wages**” means direct compensation in cash or in-kind for the provision of employment by an employee to an employer.

Comment [A1]: Question for TL: Does this still exist? If not, we can delete it.



Article 2

Associates

2.1 Persons are deemed associates if the relationship between them is such that one or more may reasonably be expected to act in accordance with the intentions of the other, or both persons may reasonably be expected to act in accordance with the intentions of a third person.

2.2 Persons are not associates solely by reason of the fact that one person is an employee of the other or both persons are employees of a third person.

2.3 Notwithstanding paragraph 1, and for the purposes of the present law, the following persons are associates:

- (a) in the case of individuals, a person and his or her direct family;
- (b) when entities and the holders of the capital stock of the entity or their spouses, ascendants, or descendants hold, together, whether directly or indirectly, equity interest of no less than 50% of the capital and voting rights in another entity;
- (c) Whenever the same holders of capital stock or one of their direct family holds, together, whether directly or indirectly, an equity interest of no less than 50% of the capital or voting rights in another entity.
- (d) an entity and any person who owns directly or indirectly 50% or more, by value or number, of the capital or voting rights in the entity; or
- (e) two or more entities if a third entity owns directly or indirectly 50% or more, by value or number, of the capital or voting rights in each entity.

Article 3

Ambit of the Act

Subject to Article 108, this Act applies to the territory of Timor-Leste, including its territorial sea, and to its exclusive economic zone and continental shelf, and applies to the Joint Petroleum Development Area.



TITLE II

SERVICES TAX

Article 4

Imposition of Services Tax

Services tax at the rates set out in Schedule I is imposed on the gross consideration received by a person for the provision of designated services in Timor-Leste.

Article 5

Gross Consideration

5.1 The gross consideration received by a person for the provision of designated services includes all amounts received by that person in respect of the provision of designated services.

5.2 If a lump sum amount is received as consideration for the provision of designated services and the provision of other services or goods, the amount shall be treated as consideration for the designated services to the extent that the Tax Administration considers reasonable having regard to all the circumstances.

Article 6

Designated Services

6.1 The following services are designated services:

- (a) hotel services;
- (b) restaurant and bar services; and
- (c) telecommunications services.

6.2 The person providing telecommunications services is the person who operates and maintains the system for transmitting the telephonic signals.

6.3 For the purposes of paragraph 1, the following definitions apply:



- (a) “**hotel services**” means the provision of sleeping accommodation and related services, including the provision of meals, beverages, laundry and communications services, to persons who occupy such accommodation as transient guests for a period that is not superior to 120 consecutive or alternate days in a tax year;
- (b) “**restaurant and bar services**” means the provision of food or beverages by an establishment that provides facilities for immediate consumption at that establishment, or catering services of prepared food, but not including the provision of food or beverages that is considered part of the provision of hotel services;
- (c) “**telecommunications services**” means the provision of telephonic services by a telecommunications service provider, including digital or analogue telephone, facsimile or data transfer communications.

Article 7

Place of Supply of Designated Services

Services are provided in Timor-Leste if such services originate in Timor-Leste.

Article 8

Payment of Tax and Services Tax Form

8.1 A person providing designated services in Timor-Leste who is liable to pay services tax shall deliver to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration by the fifteenth day after the end of a calendar month:

- (a) a completed services tax form as prescribed by the Tax Administration; and
- (b) any services tax payable on the gross consideration received in the month by the person for the provision of designated services.

8.2 A person who has had a liability to pay services tax in respect of any month shall deliver to the Banking and Payments Authority or another entity nominated by the Tax Administration a



completed services tax form for subsequent months whether or not services tax is payable in subsequent months.

8.3 The Tax Administration may waive the requirement set out in the previous article upon written application by a person required to deliver a services tax form under that Article if the Tax Administration is satisfied that the person will not have a liability to pay services tax in the relevant months.

8.3 4. The waiver granted under the previous paragraph ceases automatically, in case the person is again subject to payment of services tax.

Formatted: Body Text

Formatted: English (United States)

TITLE III EXCISE TAX

Article 9 Imposition of Excise Tax

9.1 Excise tax is imposed on:

- (a) excisable goods removed from a warehouse by a registered manufacturer for consumption in Timor-Leste; or
- (b) excisable goods imported into Timor-Leste.

9.2 Subject to this Chapter:

- (a) a registered manufacturer removing excisable goods from a warehouse for consumption in Timor-Leste; or
- (b) a person importing excisable goods into Timor-Leste, is liable to pay excise tax of the amount set out in column 3 of the Table in Schedule II on the removal or importation of the goods.

9.3 Excisable goods are imported at the time the goods are entered into Timor-Leste and the respective Customs Control Form or other report in respect of the goods required under the present law or customs procedure regime has been duly completed and delivered to the Customs Service.



9.4 No excise tax is payable by a registered manufacturer in respect of excisable goods:

- (a) destroyed by fire or other natural cause prior to removal from the manufacturer's warehouse; or
- (b) that have deteriorated or have been damaged in storage in the manufacturer's warehouse, and which are securely disposed of in a manner satisfactory to the Tax Administration.

Article 10

Excisable Goods

10.1 The goods set out in column 2 of the Table in paragraph 1 of Schedule II are excisable goods, other than:

- (a) goods imported into Timor-Leste that are exempt from import duty; or
- (b) goods exported from Timor-Leste within 28 days after their production or import, as long as the taxpayer liable to excise tax submits to the Banking and Payments Authority documentary proof of the export of said goods.

10.2 The Tax Administration may extend the 28-day period provided for in subparagraph (b) of the previous paragraph, upon written request by the exporter, when the Tax Administration is satisfied that:

- (a) circumstances beyond the control of the exporter have prevented or may prevent the export of the goods to which this Article applies within 28 days from the date of their production or import;
- (b) the nature of the goods referred to in this Article or the conditions under which their export is to take place are such that it will not be possible to export them within 28 days from the date of their production or import.

10.3 For the purposes of subparagraph (b) of the previous paragraph only such documentary proof of export will be accepted that:

- (a) was certified as correct by the Customs Service;



- (b) is submitted to the Central Bank of Timor-Leste within 28 days from the date of the production or import of goods for which an exemption was requested regarding the excise tax.

Article 11

Registration and Approval of Warehouses

11.1 Any person wishing to manufacture excisable goods in Timor-Leste will have to register as manufacturer of said goods by way of a request submitted to the Tax Administration, following a given procedure and fulfilling certain requirements.

11.2 The Tax Administration will register said person as long as the Tax Administration is satisfied that the person does produce excisable goods and meets the requirements provided for by the law regarding registered goods.

11.3 A registered manufacturer shall inform the Tax Administration, by way of a written notice, about:

- (a) the date on which any change in the name, address, location of activities, constitution or nature of the main activity or activities undertaken by the manufacturer has occurred, including any relevant change in the nature or quantity of the excisable goods produced;
- (b) any discrepancy between the registered and the effective inventory;
- (c) the date on which the manufacturer ceased to carry out his or her activity on a provisional basis under circumstances not provided for in the following paragraph.

11.4 The notice in writing referred to in the previous paragraph should be submitted to the Tax Administration:

- (a) not later than 21 days after the facts referred to have occurred, in the case of a written notice under subparagraphs (a) or (c) of the previous paragraph;
- (b) as soon as the manufacturer becomes aware of the discrepancy referred to above, in the case of a written notice under subparagraph (b) of the previous paragraph.



11.5 A registered manufacturer that ceases the production of excisable goods shall inform the Tax Administration in writing of the fact not later than seven days after said production has ceased, stating:

- (a) the date on which the manufacturer ceased production of the excisable goods;
- (b) the date on which the manufacturer expects the customs bonded warehouse to be void of excisable goods;
- (c) whether or not the manufacturer intends to re-start the production of excisable goods within twelve months from the date provided in the preceding subparagraph.

11.6 If the Tax Administration receives a notice under the previous paragraph, the Tax Administration shall cancel the registration of the manufacturer by means of a written notice.

11.7 Such cancellation shall come into force from the first day when there are no excisable goods in the manufacturer's warehouse, except if the Tax Administration has reasonable grounds to believe that the manufacturer will re-start the production of excisable goods at any time within the 12-month period from the date provided for under subparagraph (b) of paragraph 5.

11.8 Any obligation or duty imposed on a manufacturer while on the register, including the obligation to pay the excise tax and to submit the corresponding forms, is not affected by the cancellation of the manufacturer's registration.

11.9 A registered manufacturer who sells his or her business of manufacturing excisable goods as a going concern shall inform the Tax Administration in writing about the fact at least three days before the date when:

- (a) the sale is concluded;
- (b) the purchaser acquires a legal right to the assets to be purchased;
- (c) the assets of the company that is producing the goods are transferred.

11.10 The registered manufacturer shall request from the Tax Administration the approval of a warehouse as a customs bonded warehouse, following a given procedure and fulfilling certain requirements.



11.11 The Tax Administration shall approve the warehouse of the registered manufacturer as a customs bonded warehouse for the purpose of the production and sale of excisable goods as long as the Tax Administration is satisfied that the warehouse meets the necessary requirements.

11.12 A registered manufacturer shall only produce and sell excisable goods from the moment when the warehouse is approved as a customs bonded warehouse pursuant to the provisions set out in this Article and the applicable customs laws and regulations.

Article 12

Excise Tax Form and Payment

12.1 A registered manufacturer shall submit to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration before or on~~by~~ the fifteenth day after the end of a calendar month:

- (a) a completed excise tax form as prescribed by the Tax Administration;
- (b) any excise tax payable on excisable goods that have been removed from the manufacturer's warehouse during that calendar month.

12.2 A registered manufacturer will not be able to justify any quantities of excisable goods manufactured or stored that have been removed from the warehouse in a calendar month where a discrepancy is acknowledged between effective and recorded inventory, in which case the manufacturer shall inform the Customs Service in writing about the discrepancy as soon as the manufacturer becomes aware of it.

12.3 The Tax Administration shall determine the procedure for the payment of excise tax on imported goods.

12.4 Any person required to pay excise tax under paragraph 1 of the present article with respect to a given month shall submit to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration a completed excise tax form for subsequent months, whether or not excise tax is payable in subsequent months.



12.5 The Tax Administration may waive the requirement set out in paragraph 4 of the present article upon written application by a person required to deliver an excise tax form if the Tax Administration is satisfied that the person will not have a liability to pay excise tax in subsequent months.

Formatted: Article_L5

12.6 The waiver granted under the previous paragraph ceases automatically, in case the person is again subject to payment of services tax.

Formatted: English (United Kingdom)

~~12.5~~

Formatted: English (United States)

Article 13

Relief for Raw Materials

13.1 If the Tax Administration is satisfied, on the basis of a certificate issued by a registered manufacturer in the prescribed form, that excisable goods, whether imported into, or manufactured in, Timor-Leste, are intended to be used by the registered manufacturer as raw materials for the manufacture of other excisable goods, the Tax Administration may, in respect of such goods, instead of requiring payment of excise tax in full, require that the manufacturer deposit such security as the Tax Administration thinks fit.

13.2 If the Tax Administration is satisfied that goods to which paragraph 1 of the present article applied were used as raw materials for the manufacture, in Timor-Leste, of other excisable goods, the Tax Administration may apply any security deposit given under the previous paragraph against any excise tax that becomes payable on the removal of those other excisable goods from the manufacturer's warehouse.

13.3 If the Tax Administration is satisfied that goods to which paragraph 1 of the present article applied were applied to a purpose other than as raw materials for the manufacture of other excisable goods, the Tax Administration may apply any security deposit given under paragraph 1 of the present article as payment of the excise tax liability that would have arisen were it not for the Tax Administration's decision under paragraph 1 of the present article.



TITLE IV SALES TAX

Article 14 Imposition of Sales Tax

14.1 Sales tax at the rates set out in Schedule III is imposed on the sales tax value of:

- (a) taxable goods imported into Timor-Leste;
- (b) taxable goods sold in Timor-Leste on or after the date to be specified by Parliament; or
- (c) taxable services provided in Timor-Leste on or after the date to be specified by Parliament.

14.2 The sales tax value of –

- (a) taxable goods imported into Timor-Leste, is the customs value of the goods increased by any import duty and excise tax payable on the importation of the goods;
- (b) taxable goods sold in Timor-Leste, is the price of the goods not including sales tax; or
- (c) taxable services provided in Timor-Leste, is the price of the services not including sales tax.

14.3 Subject to the following paragraph, the following persons are liable for sales tax imposed under paragraph 1 of the present article:

- (a) a person who imports taxable goods into Timor-Leste;
- (b) a person who sells taxable goods in Timor-Leste; and
- (c) a person who provides taxable services in Timor-Leste.

14.4 A person is liable to pay sales tax on taxable goods sold or taxable services provided in a month only if the person's monthly turnover from the sale of such goods and provision of such services in that month exceeds the monthly sales tax threshold specified in the Schedule III.



14.5 A person's monthly turnover from the sale of taxable goods or the provision of taxable services includes the monthly turnover of any associate of the person from the sale of taxable goods or provision of taxable services if the supplies by the associate have not been taxed under this Chapter.

Article 15

Taxable and Exempt Goods and Services

15.1 The following goods and services are subject to sales tax:

- (a) all goods imported into Timor-Leste, other than goods imported into Timor-Leste that are exempt from import duty under the present law or that are subject to total or partial exemption under the Customs Code of Timor-Leste;
- (b) all goods sold in Timor-Leste; or
- (c) all services provided in Timor-Leste.

15.2 Goods imported into Timor-Leste are exempt from sales tax if the person importing the goods provides the Customs Service with a completed sales tax exemption form.

15.3 Goods sold in Timor-Leste are exempt from sales tax if the person acquiring the goods provides the person selling the goods with a completed sales tax exemption form.

15.4 Services provided in Timor-Leste are exempt from sales tax if the person acquiring the services provides the person providing the services with a completed sales tax exemption form.

Article 16

Sales Tax Exemption Form

16.1 The Tax Administration shall provide a sales tax exemption number to a person who requests the number if the Tax Administration is satisfied that the person will be liable to pay sales tax in respect of sales of taxable goods or the provision of taxable services by that person.

16.2 A person who imports goods into Timor-Leste or who acquires goods or services in Timor-Leste may provide the Customs Service or person supplying the goods or services with a completed sales tax exemption form.



16.3 A completed sales tax exemption form shall be provided in a format approved by the Tax Administration and must contain the following information:

- (a) an affirmation that the goods imported or the goods or services acquired for which the form is submitted will be applied by the importer or person acquiring the goods or services only:
 - (i) to make sales of taxable goods or to provide taxable services;
 - (ii) to make sales of goods that would be taxable or to provide services that would be taxable if the person acquiring the goods or services had not provided the person supplying the goods or services with a completed sales tax exemption form;
- (b) the sales tax exemption number of the person providing the form.

16.4 A person who receives completed sales tax exemption forms for sales made by the person shall keep and maintain those forms for five years after the calendar month in which the sale was made.

Article 17

Payment of Tax and Sales Tax Form

17.1 A person who is liable to pay sales tax on goods sold in Timor-Leste or services provided in Timor-Leste shall deliver to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration by the fifteenth day after the end of a calendar month:

- (a) a completed sales tax form as prescribed by the Tax Administration; and
- (b) any sales tax payable on goods sold or services provided by the person during that calendar month.

17.2 The Tax Administration shall prescribe procedures for the payment of sales tax payable on imported goods.

17.3 A person who has had a liability to deliver a sales tax form under paragraph 1 of the present article in respect of any month shall deliver to the Central Bank of Timor-Leste or



another entity nominated by the Tax Administration a completed sales tax form for subsequent months whether or not sales tax is payable in subsequent months.

17.4 The Tax Administration may waive the requirement set out in the previous paragraph upon written application by a person required to deliver a sales tax form under that paragraph if the Tax Administration is satisfied that the person will not have a liability to pay tax on services in subsequent months.

17.5. The waiver granted under the previous paragraph ceases automatically, in case the person is again subject to payment of services tax.

Formatted: Body Text

TITLE V

IMPORT DUTY

Article 18

Imposition of Import Duty

18.1 A person who imports goods into Timor-Leste other than goods exempt from import duty under Schedule IV is liable to pay import duty on the imported goods at the rate set out in Schedule IV.

18.2 If a person who imports goods into Timor-Leste that are exempt from import duty transfers ownership or possession of the goods to another person and import duty is payable by the other person, the transfer of ownership or possession of the goods to the other person will be treated as an import of the goods by the other person.

18.3 Liability to pay import duty as a result of the operation of the previous paragraph is imposed jointly on the person transferring ownership or possession of the goods and the person to whom ownership or possession is transferred.



Article 18-A

Deferral of Payment

18-A.1 The Minister may authorize a person, upon request and provision of a sufficient guarantee, to defer the payment of import duty and tax or export duty and tax payable with respect to goods released to the person, but not to exceed 14 days from date of such release.

18-A.2 Use of deferral of payment under this Article is subject to a demonstrated record of prompt compliance with payment obligations under the customs laws and tax laws of Timor-Leste.

Article 18-B

De Minimis Waiver

In order to avoid expense and inconvenience to the government disproportionate to the amount of revenue that would otherwise be collected, Customs is authorized, under such regulations as the Minister shall prescribe, to

- (a) disregard a difference of an amount specified by the Minister by regulation, between the total customs duties and taxes entered in the customs declaration and the total amount of customs duties and taxes and interest determined by Customs; and
- (b) waive the collection of customs duties and taxes due on goods when such customs duties and taxes are less than such amount as may be specified by the Minister by regulation.



CHAPTER H TITLE VI

INCOME TAX

SECTION I CHAPTER I

IMPOSITION OF INCOME TAX

Article 19

Income Tax on Taxable Income

19.1 Income tax is imposed on an income taxpayer who has taxable income for the year.

19.2 Subject to this Law In the case of business activities:

a); the taxable income of a an income-taxpayer in the accountingorganized accounting system, for a tax year, is the gross income of the taxpayer for the year excluding the exemptions provided for in this law, and reduced by the deductions allowed to the taxpayer for the year.

19.2 b) the taxable income of a taxpayer in the simplified regimesimplified accounting regime is the gross income that is paid or accrued, through the withholding mechanism,

19.3 The income tax imposed under paragraph 1 of the present article on a taxpayer for a tax year is computed by applying the rate or rates of tax applicable to the taxpayer to the taxable income of the taxpayer for the year, as defined in this Law.

19.4 In the event that an income taxpayer benefits from more than one tax credit in a tax year, such credits are deducted in the following order:

- (a) foreign tax credit granted pursuant to Article 62; followed by
- (b) credits granted for overpayments of instalment tax payments pursuant to Article 882.73.4 or Article 95.14 and 96.496.10; followed by
- (c) withholding tax credits granted pursuant to Article 73.274.2; followed by
- (d) a tax credit in the case of dividends distributed by resident entities that includes a tax payment under the terms of Article 8182.3.

Formatted: No bullets or numbering

Formatted: No bullets or numbering

Formatted: Body Text

Formatted: English (United States)



Article 20

Income Taxpayer

The following are taxpayers for the purposes of the income tax:

- (a) an individual;
- (b) a resident entity;
- (c) a permanent establishment of a non-resident person in Timor-Leste;
- (d) other non-residents with Timor-Leste source income.

Article 21

Gross Income

21.1 The gross income of an income taxpayer in a tax year is the increase in assets realized by the taxpayer, regardless of their source, designation or form, that do not constitute debt.

21.2 For the purposes of paragraph 1 of this article:

- (a) the gross income of a resident person includes income derived from all sources within and outside Timor-Leste; and
- (b) the gross income of a non-resident person includes only Timor-Leste source income.

Article 22

Exempt Income

The following income is exempt from taxation is not included in gross income:

- (a) any gifts or donation, as long as there is no commercial relationship, of property or control between the donor and the donee~~received by direct family~~;
- (b) inheritances, provided that the income has been previously taxed;
- (c) assets (including cash) received by an entity in exchange for shares or capital contribution;
- (d) an amount paid by an insurance company in connection with goods up to the tax value of the insured goods, provided the premiums are not deductible;



- (e) an amount paid by an insurance company to an individual in connection with health, accident, or life insurance provided that the premiums are not deductible;
- (f) any other item expressly excluded by this law.

Article 22-A

Personal Exemptions

The following are exempt from income tax and are not included in gross income:

- (a) the gross income of diplomatic missions, foreign diplomats and diplomatic personnel directly derived from the exercise of their functions and in accordance with the legal scope and the International Conventions which are binding for the State of Timor-Leste;
- (b) the gross income of International Organizations and their workers in which Timor-Leste is a member:
 - (i) to the extent provided by the Conventions regulating them; and
 - (ii) to the extent that the gross income of the organisation concerned is not the result of business activity or from the promotion of any other activities to obtain Timor-Leste source income, with the exception of providing loans to the Government from a fund comprising member contributions.
- (c) the gross income of non-resident entities and individuals as regards gross income earned under bilateral and multilateral donor agreements approved by the Timor-Leste Parliament.
- (d) gross income of any religious or worship associations or organizations whose legal personality is recognized, insofar as the gross income exclusively originates in the exercise of worship;
- (e) income of any not-for-profit entity directly related with the goals of the entity and which are not related with business activities or passive investment;
- (f) income that is not derived from business activities or from passive investment of the central, regional, or local government or an agency of such government;
- (g) any remuneration obtained for services rendered by individuals and financed by the Guaranty Fund for Timor-Leste.



Chapter II

Taxation of business activities

Section I

Regimes

Article 22-B

Taxable income Regime

Assessment of taxable income of business activities follows one of two regimes:

- a) the ~~accounting~~organized accounting regime;
- b) the ~~simplified regimes~~simplified accounting regime.

Article 22-C

Methods

1. In the case of the ~~accounting~~organized accounting and the ~~simplified regimes~~simplified accounting regimes, the taxable income is determined according to the taxpayer's form and in fulfilment of the other obligations required by this Code, and subject to the tax administration control.
2. Taxable income can also be determined by presumptive methods according to the terms and conditions under Section X.
3. If a form is missing, the tax administration is competent to officially determine the taxable income according to the terms and conditions defined in articles 58-H and 58-I.

Article 22-D

Taxpayers submitted to the organized accounting regime

1. Taxpayers submitted to the organized accounting regime are those who:
 - a) Are residents in Timor-Leste territory and
 - i) The turnover in the preceding tax year or expected in the running tax year, is equal or superior to 7500000\$ or

Formatted: Body Text, Centered

Formatted: Font: Bold

Formatted: Font: Not Bold

Formatted: Body Text, Justified

Formatted: Font: Not Bold

Formatted: Body Text, Justified, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Body Text, Centered

Formatted: Body Text, Justified, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Body Text, Centered

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.9 cm + Indent at: 2.54 cm

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Left + Aligned at: 2.54 cm + Indent at: 3.81 cm



ii) Have 5 or more employees;

iii) Have assets in the amount of...; or

iv) Has one or more subsidiaries or one or more permanent establishments;

b) Having been submitted to the ~~simplified regimes~~simplified accounting regime, reach the total annual turnover mentioned in a) i).

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.9 cm + Indent at: 2.54 cm

c) Independently of the annual turnover,

i) Are public companies or limited liability companies; or

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Left + Aligned at: 2.54 cm + Indent at: 3.81 cm

ii) Exercise their activity in Timor-Leste territory through a permanent establishment or

iii) Choose the organized accounting regime.

2. Taxpayers in the organized accounting regime are legally bound to organize their accounting in the defined terms, so that they are taxed on the income effectively accrued, determined on the basis of the accounting.

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Body Text, Indent: Left: 2.54 cm

Article 22-E

Formatted: Body Text, Centered, Indent: Left: 2.54 cm

Taxpayers submitted to the ~~simplified regimes~~simplified accounting regime

1. Taxpayers submitted to the ~~simplified regimes~~simplified accounting regime are those who:

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 2.54 cm + Indent at: 3.17 cm

a) Are not legally bound by the organized accounting regime and choose the ~~simplified regimes~~simplified accounting regime; or who

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 3.17 cm + Indent at: 3.81 cm

b) Have exercised on an occasional or temporary basis, a commercial, industrial, agricultural, fishing or services activity.

2. Taxpayers submitted to the ~~simplified regimes~~simplified accounting regime are legally bound to organize their bookkeeping in the terms defined in this law, so that they are taxed on the income that is effectively accrued, as determined on the basis of that bookkeeping.

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 2.54 cm + Indent at: 3.17 cm

Formatted: Body Text, Centered, Indent: Left: 3.17 cm

Article 23



Conditions

1. Notwithstanding the rules about the turnover, the conditions determining the inclusion in the organized accounting regime or in the ~~simplified~~ ~~regime~~simplified accounting regime must verify in the beginning of the tax year into which the income respects, or on the date when the activity begins, if it begun in that tax year.
2. The taxpayer fulfilling the conditions on the inclusion or exclusion in the organized accounting regime, will mention it in the first annual tax form that is to be delivered, after the aforementioned conditions verify.
3. Taxpayers in the simplified accounting regime moving to the organized accounting regime, due to a turnover equal or superior to 7500000\$, are submitted to the organized accounting regime in the tax year following to the verification of that fact.

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Article 23-A Accounting criteria

— to

Article 23-A

The organized accounting regime is determined according to the accrual basis method and the ~~simplified regime~~simplified accounting regime according to the cash basis method.

Formatted: Body Text, Indent: Left: 1.9 cm

Formatted: Body Text, Centered, Indent: Left: 1.9 cm

Formatted: Body Text, Indent: Left: 1.9 cm

Formatted: Body Text, Centered

Formatted: Body Text, Indent: Left: 1.9 cm

Formatted: Body Text, Centered, Indent: Left: 2.54 cm

Formatted: Body Text, Centered

SECTION~~Section~~ II

Rules defining the taxable income of the organized accounting regime

Article 23-B Business income

1. Taxable income of business activities submitted to the organized accounting regime, in a tax year, is based on the IFRS, subject to the amendments in this Law.
2. Gross income must include the result of all business activities, exercised by the taxpayer in a tax year, including the alienation of any asset or the extinction of

Formatted: Body Text, Justified, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm



any debt in the course or in the end of those activities.

Formatted: Body Text, Justified

Article 23-C
Deductions

Formatted: Body Text, Centered

The taxpayer submitted to the organized accounting regime is entitled to the following deductions, duly documented, in the tax year in which they occurred:
Costs related with the

Formatted: Body Text, Justified, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Body Text, Justified, Indent: Left: 3.17 cm

Formatted: Body Text, Justified, Indent: Left: 2.54 cm

Formatted: Body Text, Centered

Formatted: Font: Bold, English (United States)

(g)

Article 23-C
Deductions

23.1 Income taxpayers submitted bmitted to the organized accounting regime are entitled to the following properly documented deductions in the tax year in which they occur:

- (a) expenses related with the business activity which are proven to be necessary for the realization of the taxable gross income;
- (b) expenses and losses incurred on the alienation of assets or the discharge of indebtedness incurred in the conduct of a taxable business activity as determined in accordance with Article 26;
- (c) expenses incurred in deriving any other amounts that are proven to be necessary for the realization of taxable gross income and not reimbursed;
- ~~(d) any losses suffered in connection with the alienation of an asset, that is not an asset contemplated in paragraph b) or that constitutes passive investment;~~
- ~~(e)~~(d) the first \$10,000 spent on the acquisition of depreciable assets in a tax year.

23.2 Wages paid by a taxpayer to employees that are citizens of Timor-Leste are deductible by 200%.

23.23. Subsidies paid by a taxpayer in professional training courses to Timor-Leste citizens are deductible in the amount of 150%.

Formatted: Body Text, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: English (United States)



Article 24

Deductions Not Allowed

24.1 The following are not deductible in determining the taxable income of an income taxpayer submitted to the organized accounting regime:

- (a) the distribution of profit in whatever name or form, such as dividends, including dividends paid by an insurance company to a policy holder, or any distribution of surplus by a co-operative;
- (b) expenses charged or incurred for the personal benefit of shareholders, partners, or members;
- (c) expenses related with the realization of exempt income as provided by Articles 22 or 22-A;
- (d) provisions and impairment adjustments for inventory except as provided for under this Law;
- (e) premiums for health, accident, life, or education insurance paid by an entity, except if the premiums are paid by an employer in respect of an employee and the premium is treated as wages or a fringe benefit of the employee;
- (f) excessive compensation or remuneration paid by an entity to a shareholder, partner, or paid between associate persons, as remuneration for work performed;
- (g) gifts, aid, donations, or inheritances if exempt from income tax under Article 22 (a), or Article 22-A(c), (d), or (e);
- (h) costs incurred for the personal benefit of an income taxpayer or the direct family of the taxpayer;
- (i) late payment interest, penalties and fines imposed for non-compliance with this Law;
- (j) a fine or other monetary penalty, including compensatory interest, imposed for violation of any law, regulation or rule, that does not have a contractual origin;
- (k) a bribe or any similar amount;
- (l) expenses or losses incurred to the extent recoverable under a policy of insurance or contract of indemnity;



- (m) illegal expenses, especially those resulting from conduct that justifiably indicates breach of the Timor-Leste penal code, even when they occur beyond the territorial scope of its application;
- (n) payments between associated persons, unless there is a documented good or service, and provided that there are no losses as a result of sales between associated persons;
- (o) rent from financial leases, insofar as the lessee is concerned, for the part of the rent intended for financial amortization;
- (p) assets with a useful life of more than one year that are depreciated or amortised under Sections 29, 30, 30-A, and 30-B, subject to subparagraph (q).
- (q) depreciation and amortization not accounted for pursuant to the terms set forth in this code and in the regulation which establishes a table of depreciation and amortization rates;
- (r) income tax incurred within and beyond the territory of Timor-Leste and on fringe benefits, creditable V.A.T., and any taxes that are directly or indirectly levied on income, including payments due or withheld;
- (s) amounts paid or owed, on any basis, to persons domiciled in a tax haven that would otherwise be deductible.;
- (t) expenses not properly documented, including expenses of a confidential nature;
- (u) amounts owed for renting, without a driver, a light passenger or mixed vehicle, insofar as the part corresponding to the value of the depreciation of these vehicles is concerned pursuant to the terms of Article 29.4;
- (v) fuel expenses not related with the business activity;
- (w) recreational and entertainment expenses, such as trips and events;
- (x) expenses in connection with more than one vehicle for each and every partner in a partnerships;
- (y) income tax paid on a distribution of dividends under the terms of article 81; and
- (z) the cost of land.



24.2 Expenses in connection with the transfer for consideration of capital shares, regardless of the title of such transactions, to associated entities or to entities domiciled in a tax haven are also not deductible.

24.3 When an income taxpayer is obligated to withhold tax in respect of a payment that is a deductible expense of the taxpayer, the deduction is allowed only after the taxpayer has delivered the tax withheld to the Tax Administration.

24.3 24.4. Losses resulting from transactions between associated entities not observing the arm's length principle, are not deductible.

Formatted: Body Text

Formatted: English (United States)

Article 25

Limitation on Deductions

25.1 The deduction of investment expenses are limited to the amount of income from these investments during the tax year, and may be carried forward for a limit of five years, to the extent that they have not been previously deducted.

25.2 *Per diems* constituting allowances relating to business activities for employees or representative persons may only be deducted to the limits fixed by regulation.

25.3 A deduction for training expenses for employees that are Timorese citizens is limited to 50% of the gross wages of these workers in training and no other deductions for training expenses are allowed.

25.4 Individuals may deduct only up to 30% of expenses in connection with mixed-use goods.

25.5 Individuals may deduct only up to 50% of expenses related with light passenger vehicles, in particular depreciation, leasing or rental fees, insurance, repairs and fuel, except for vehicles assigned to the provision of a public transportation service or intended to be rented within the scope of the business activity of the respective taxpayer and notwithstanding the provisions set forth in article 29.4 of this present Article.

25.6 20% of costs related to representation expenses are deductible.



25.7 Expenses related with recreational ships and tourism aircraft are not deductible, except when assigned to the provision of a public transportation service or intended to be rented within the scope of the business activity of the respective taxpayer.

25.8 Losses incurred from light passenger vehicles are not deductible, except for the part that corresponds to the depreciable tax value pursuant to the terms of item article 29.4 and not yet deducted.

25.9 Goods of mixed use means goods, including depreciable tangible fixed assets, which can be used for both personal use and business activities.

25.10 Representation expenses means properly documented expenses incurred for the benefit of clients or vendors or other third persons related to the taxpayer's business activity, such as those expenses incurred through trips and accommodation provided in Timor-Leste or abroad, except for leisure and entertainment.

Article 25-A

Head Office Expenses

25-A.1 The amount of Head Office Expenses deductible by an associate or a permanent establishment in Timor-Leste in a fiscal year shall not exceed 2% of the total deductible expenses, excluding deductions of depreciation or of amortization of the associate or permanent establishment in this tax year, and excluding the Head Office Expenses.

25-A.2 For the purposes of paragraph 1 of this article, Head Office Expenses means any executive, management or administrative support expenses of a non-resident person outside of Timor-Leste in connection with the activity of an associate or permanent establishment that this person has in Timor-Leste.

25-A.2 3. Within the deadline to deliver the annual tax form, associates must present a consolidates report concerning all tax accounting obligations regarding each associate and transactions among associates.

Formatted: Body Text

Formatted: English (United States)



SECTION II

Business Activities

Article 26

Business Activities Income

26.1 The computation of taxable income of business activities in the tax year is based on the International Financial Reporting Standards, and subject to the modifications in this Law.

26.2 For this purpose, a taxpayer's gross income shall include the results of all business activities conducted by the taxpayer during the tax year, including the alienation of any asset or discharge of any indebtedness in the course of, or at the end of, those activities.

Article 27

~~Accounting~~ Organized accounting Provisions

27.1 Income tax is determined using accrual basis ~~accounting~~ organized accounting.

27.2 Notwithstanding the previous paragraph, in the event that the taxpayer has an annual gross turnover of less than USD 100,000, such taxpayer may account for income tax either using the cash basis method or the accrual method.

27.3 Any change in method requires authorization by the Tax Administration, which must be requested by the end of the tax year using an application which indicates the method to be adopted and the justification.

27.4 If an income taxpayer's accounting method changes as a result of the operation of the previous paragraph, the taxpayer shall make adjustments to items of income, deductions or credits, and to any other items affected by the change so that no item is omitted and no item is taken into account more than once.

27.5 The cash basis method of accounting and the determination of the annual gross turnover referred to in paragraph 2 will be regulated by the Minister of Finance.



Article 28

Inventory Losses

No deductions are allowed for inventory costs in relation to depreciation, obsolescence or loss of value.

Article 29

Depreciation

29.1 An income taxpayer is allowed a deduction for the depreciation of the taxpayer's depreciable tangible fixed assets and business buildings during the tax year if the depreciable tangible fixed asset or building is:

- (a) owned by the taxpayer; or
- (b) in the case of a finance lease as provided in Article 34, used and controlled by the taxpayer and the actual owner is not allowed a deduction under this Article in the tax year in respect of the depreciable tangible fixed asset or business building.

29.2 The combined costs of construction, acquisition, improvement, renovation, and reconstruction of business buildings are depreciated for each building on a straight-line basis at a rate of 2.5%.

29.3 The cost of a business building does not include the cost of the land on which the building is situated.

29.4 Depreciable tangible fixed assets, other than business buildings, are pooled and depreciated according to the double declining balance method.

29.5 The assets referred to in paragraph 4 are pooled as follows:

Pool 1	Assets with a useful life over one year not including business buildings.
--------	---

29.6 For the purposes of paragraphs 29.4 and 29.5, the pool is depreciated at the rate of 25%.



29.7 The depreciation deduction for a category in the tax year is calculated by means of the application of the rate of depreciation provided for a pool on the depreciated value of a pool at the end of the fiscal year.

29.8 The depreciated value of an asset pool at the end of a tax year is the depreciated value at the end of the previous tax year:

- (a) increased by the adjusted acquisition value of depreciable tangible fixed assets added to the pool during the tax year;
- (b) increased by the costs of improvements, renovations or reconstruction of the depreciable tangible fixed assets added to the pool during the tax year; and
- (c) reduced by the compensation received or receivable for depreciable tangible fixed assets in the pool alienated during the tax year, including any compensation received for the loss of such assets due to natural calamities or other involuntary disposals.

29.9 For the purposes of a) of the previous paragraph, in the event that a tangible fixed asset added to a category during the tax year is put into operation or is used for less than 6 months, only half the adjusted acquisition cost of the asset may be added to the pool in the respective fiscal year and the remaining adjusted acquisition cost may be added to the pool in the subsequent tax year.

29.10 If the depreciated value of a pool of assets of a taxpayer at the end of a tax year is a negative amount, that amount is multiplied by -1 and included in the income of the taxpayer for the tax year, and the depreciated value of the pool of assets becomes zero at the end of the tax year.

29.11 If the depreciated value of a pool of assets at the end of a tax year is less than \$US100, a further deduction for the tax year is allowed equal to the amount of that depreciated value; the depreciated value of the pool of assets at the end of the tax year becomes zero.



29.12 In the case of the occurrence of proven abnormal causes, such as disasters or natural phenomena, that cause the destruction of the tangible fixed asset before the end of the tax year, a deduction is permitted for the depreciated value.

29.13 If a depreciable tangible fixed asset added to a pool during the tax year is a mixed use good, the adjusted acquisition cost of the tangible fixed asset is reduced by the proportion of non-business use in accordance with Articles 25.4 and 25.9.

29.14 If a taxpayer revalues a business building or depreciable tangible fixed asset, no deduction is allowed for the amount of the revaluation.

29.15 The following rules apply to a depreciable tangible fixed asset depreciated in a pool and to a business building:

- (a) if the cost of a depreciable asset is less than \$100 or has a life up to one year, the depreciation deduction in the year that the depreciable asset is placed in service is equal to the cost of the depreciable asset and no depreciation deduction is allowed for that asset in a subsequent year;
- (b) the cost of an improvement, renovation, or reconstruction of a business building is deductible in the tax year in which the cost occurs, except when the total cost of the improvement, renovation or reconstruction of the business building corresponds to more than 10% of the adjusted acquisition cost of the business building, in which case, the cost of the improvement, renovation or reconstruction must be added to the adjusted acquisition cost of the business building;
- (c) the cost of improvement, renovation, or reconstruction of tangible fixed assets must be added to the depreciated value of the pool whenever the cost of this improvement, renovation, or reconstruction equals more than 10% of the depreciated value at the end of the preceding tax year;
- (d) if the cost of the renovation or reconstruction in the previous subparagraph does not exceed 10% of the depreciated value of the category at the end of the previous tax year, it is deducted in the tax year in which the cost occurred.



Article 30

Amortisation of Intangible Assets and Expenses

30.1 An income taxpayer is allowed a deduction for the amortisation of the taxpayer's depreciable intangible assets during a tax year.

30.2 The combined costs of creation, improvement or renovation of depreciable intangible assets must be amortised individually on a straight-line basis at the rate of 12%.

30.3 The amount of any intangible expenditure with a useful life exceeding one year incurred by an income taxpayer in the conduct of business activities must be amortised individually on a straight-line basis at the rate of 12%.

30.4 If an intangible asset or expenditure is a mixed-use good, the amount allowed as a deduction under this Article is reduced by the proportion of the non-business use in accordance with Articles 25.4 and 25.9.

30.5 Expenditures with a useful life of more than one year incurred before the commencement of business activities are capitalised and amortised individually on a straight-line basis at the rate of 12%.

30.6 The previous paragraph does not apply to the cost of acquiring land, or to depreciable expenses under Article 29 or deductible under another provision of this Law.

Article Organized accounting

1. Taxpayers belonging to the organized accounting regime, are bound to organized accounting, according to the terms of commercial and tax law, that besides the conditions indicated in Article ..., allow control of the taxable profit.

2. In the accomplishment of the accounting, the following must be observed:

a) all entries must be supported by justifying and dated documents, that may be presented to the tax administration authorities whenever required unless in the case of small value transactions, paid in cash, and in other similar cases according to a Regulation.

b) The operations must be registered chronologically, with no erasures or

Formatted: Font: Bold

Formatted: Body Text, Centered

Formatted: Body Text



alterations, and the errors must be settled as soon as discovered.

3. Delays in the accounting, within more than 90 days, from the last day of the month to which the operation concerns, are not allowed.

4. The accounting books, auxiliary records and supporting documents must be held in a good state for 5 years.

5. When the accounting is registered by informatics means, the obligation of conservancy mentioned in the previous paragraph extends to the documentation concerning the analysis programming and implementation of informatics treatment.

6. Documentation supporting accounting books and registers, that are not authentic or authenticated, may, after 3 taxing periods, after the one to which they report and after ~~one~~ the previous authorization by the tax administration is obtained, be replaced, for tax purposes, by microfilms or electronic archives that constitute a faithful reproduction and obey the conditions that are established. ~~amendments or~~

30.6

Formatted: English (United States)

Article 30-A

Amortization of Forest Products

30-A.1 The costs of afforestation, reforestation and maintenance of a forest or a stand of timber, are treated as an intangible asset.

30-A.2 For the purposes of paragraph 1, the amortization takes into account the relationship between the volume of extraction and the remaining volume on site as defined by Regulation.

Article 30-B

Amortization of Exploration and Development Costs of Natural Resource Production

30-B.1 Subject to the modifications made in the present article, a contractor must amortize all intangible assets in accordance with Article 30, starting from the year of the initiation of commercial production.

30-B.2 Exploration expenses incurred under a natural resource concession contract are treated as intangible assets, with a period of useful life equal to the expected life of the production of natural resources under the contract, or ten years, whichever period is shorter.



30-B.3 Development expenses incurred under a natural resource concession contract are considered to be intangible assets with a period of useful life equal to the expected life of the production of natural resources under the contract, or ten years, whichever period is shorter.

30-B.4 Amortization of exploration and development expenses is made according to the straight-line method.

30-B.5 In the tax year in which commercial production commences, the amount of the amortisation deduction in respect of a depreciable intangible asset acquired, created, constructed, or incurred by a Contractor before commercial production is calculated according to the following formula:

$$A \times B/C$$

where:

- A** is the amortisation deduction allowed if commercial production commenced on the first day of the tax year;
- B** is the number of days from the date of commencement of commercial production to the end of the tax year in which commercial production commences; and
- C** is the number of days in the tax year.

30-B.6 The initiation of commercial production of different natural resources is determined by regulation approved by the Minister of Finance.

Article 31

Reserves or Provisions

31.1 Subject to paragraphs 2 and 3 of this Article and Article 31-A, no deduction is allowed for any amount retained by a taxpayer from profits to create a reserve or provision for expected expenses or losses.



31.2 A bank institution is allowed a deduction for its provision for bad debts, under the terms of paragraph 31.3.

31.3 The amount of the deduction referred to in paragraph 31.2 shall be defined by the Minister of Finance in consultation with the Central Bank of Timor-Leste, and determined in accordance with the prudential requirements prescribed by this Bank or, in the absence of such prescribed requirements, in accordance with the experience of a diligent manager

Article 31-A

Decommissioning, Reclamation, and Restoration Expenses and Provision

31-A.1 Notwithstanding Article 31, contractors that anticipate significant decommissioning, reclamation and restoration expenses, may establish a provision in a tax year for the decommissioning, reclamation and restoration expenses that may occur, based on the costs estimated in paragraph 31-A.3 of this article.

31-A.2 The provision may be amortized starting in the tax year of initial commercial production as defined in Article 30-B.4 .

31-A.3 The amortization of the provision in paragraphs 1 and 2, depend upon the presentation of an estimate of costs, as measured by the current year's values, and approved by the Tax Administration according to the recommendation of the Ministry of Petroleum and Mineral Resources or the Designated Authority, depending on the case, as provided by regulation.

31-A.4 The annual amortization is based on the unit of production method as defined by regulation for different natural resources.

31-A.5 If the contractor is an investment grade entity, amortization may be based on the accrual method.

31-A.6 If the contractor is not an investment grade entity, amortization may be based on the accrual method if it has a guarantee from a third-party that is investment grade. If there is no such guarantee, the deduction for amortization is limited to cash contributions to a specified account.



31-A.7 If there is an escrow account for decommissioning, reclamation and restoration expenses required by contract or law, deductions for amortization are limited to cash contributions.

31-A.8 Interest accruing to the escrow account referred to in paragraph 7 are taxable under the general terms of this Law.

31-A.9 If the amount deducted as a result of amortization of the provision provided for in this article exceeds the actual costs of decommissioning, reclamation and restoration the excess deducted shall be treated as income.

Article 31-B

Transfer of Rights or Equity Interest in the Exploration and Exploitation of Natural Resources

If an entity transfers a right or an equity interest to explore and exploit natural resources:

- (a) the purchaser of the right or equity interest continues to amortize any exploration or development expenses and decommissioning, reclamation and restoration expenses according to the method adopted by the original entity; and
- (b) The procedures provided in Articles 29 and 30 apply to any other depreciable tangible fixed or intangible assets.

Article 32

Bad Debts

32.1 A taxpayer is allowed a deduction in a tax year for a bad debt if the following conditions are satisfied:

- (a) the amount of the debt was previously included in the taxable income of the taxpayer;
- (b) the debt is written off in the accounts of the taxpayer during the tax year; and
- (c) the taxpayer has reasonable grounds for believing that the debt will not be recovered.



32.2 This Article does not apply to a bank entitled to a deduction for its provision for doubtful debts under Article 31.2.

32.2 33.3. The Tax Administration may refuse deduction of unrecoverable debts under paragraph 1, if it considers that the debt will not be recovered.

Formatted: Body Text

Formatted: English (United States)

Article 33

Long-term Contracts

33.1 The percentage-of-completion method applies in determining the annual income arising from a long-term contract.

33.2 Long-term contracts referred to in paragraph 1 are contracts for the manufacture, installation, or construction, or services related thereto that are not completed in the tax year in which work under the contract commenced, but does not include contracts estimated to be completed within six months of the date on which work under the contract commenced.

Article 34

Finance Leases

34.1 A finance lease is treated as a sale and purchase of the rented or leased asset; it is not possible to deduct as a cost on the part of the lessor, as stated in article 24.1(o)

34.2 The lessor is treated as having made a loan to the lessee equal to the acquisition price of the asset and the lessee is treated as having title to the asset.

34.3 Each payment made by the lessee to the lessor is treated as in part a repayment of principal and in part a payment of interest.

34.4 The interest part is calculated on the principal outstanding at the time each payment is made.

34.5 A lease is a finance lease if :

- (a) the lease term, including any period under an option to renew, is 75% of the useful life of the asset for depreciation purposes;



- (b) the lessee has an option to purchase the asset for a fixed or determinable price at the expiration of the lease;
- (c) the estimated residual value of the asset at the expiration of the lease is less than 20% of its market value at the start of the lease;
- (d) in the case of a lease that commences before the last 25% of the useful life of the asset, the present value of the minimum lease payments equals or exceeds 90% of the market value of the asset at the commencement of the lease term; or
- (e) the asset is custom-made for the lessee and, after the expiration of the lease, the asset will be of no practical use to any person other than the lessee.

Article 35

Deductibility of Net Financing Expenses

35.1 Net financing expenses are deductible up to a limit of 50% of the taxable income calculated prior to deducting net financing expenses, depreciations, amortisations, and taxes but after deduction of joint expenses between associated persons.

35.2 In the event that the amount of net financing expenses is negative, this amount is multiplied by -1 and subtracted from income.

35.3 Net financing expenses that are not deductible pursuant to the preceding paragraph may still be deducted during subsequent years.

35.4 For the purposes of this Article, net financing expenses means the amount due or associated with the remuneration of borrowed capital.

SECTION III

General Provisions Relating to the Computation of Taxable Income

Article 36

Losses

36.1 If the determination of the taxable income of an income taxpayer results in a loss for a tax year, that loss may be deducted as an expense in calculating the taxable income of the taxpayer



in the next tax year, and in subsequent years subject to a limit of five years to the extent not deducted previously.

36.2 If a taxpayer has incurred a loss referred to in Article 23.1(d) in a tax year, the amount of the loss may be applied only against a gain derived in the same year.

36.3 Any excess of loss over gain in the same year may be carried forward as a loss in calculating the taxable income of the taxpayer the next tax year, and in subsequent years subject to a limit of five years to the extent not deducted previously.

Article 37

Recouped Deductions

If a previously deducted expense, loss, or bad debt is recovered by a taxpayer, the amount recovered shall be included as income in the calculation of the taxable income of the taxpayer in the tax year in which the amount was recovered.

Article 38

Full Competition

38.1 During transactions, including, in particular, transactions or a series of transactions regarding goods, rights, or services as well as during financial transactions carried out between a taxpayer and any other person, whether subject to tax or not, terms or conditions must be contracted, accepted, and practiced which are substantially identical to those which would normally be contracted, accepted, and practiced between independent persons within the scope of comparable transactions.

38.2 The Tax Administration shall proceed with the necessary corrections for the determination of the taxable income of taxpayers in the event that the terms or conditions contracted, accepted, or practiced by the taxpayer do not comply with the provisions set forth in the preceding number.



Article 38-A

Transfer Prices

38-A.1 Transactions between a taxpayer and an associate, whether subject to tax or not, must comply with the rule set forth in paragraph 1 of Article 38.

38-A.2 To determine the terms and conditions that would normally be contracted, accepted, or practiced between independent persons, the taxpayer must adopt the method or methods set forth in the Principles Applicable in Matters of Transfer Prices aimed at Multinational Companies and the Tax Administrations of the OECD that are susceptible to ensuring the highest degree of comparability between the transactions or series of transactions that are carried out and other substantially identical ones, under an arm's length transaction or in the absence of association.

38-A.3 The Tax Administration may proceed with the necessary corrections for the determination of the taxable income of taxpayers in terms of transactions carried out with associates, pursuant to the terms set forth in the preceding number, and proper adjustments shall be made to reflect the corrections made in the determination of the taxable income

38-A.4 The application of the methods for the determination of transfer prices, either to individualized transactions or a series of transactions, the concept of associates, the type, nature, and the content of the documentation which the taxpayer must keep, and the procedures applicable to correlative adjustments are regulated by way of a ministerial directive by the Minister of Finance.

Article 38-B

Payments to Associates

When calculating taxable income, deductions of expenses related to transactions with associate entities may not exceed 60% of the taxable income of the taxpayer for the tax year.



~~SECTION III-A~~ SECTION III
CAPITAL GAINS AND LOSSES

Formatted: No bullets or numbering

Article 39

Capital Gains and Losses

For the purposes of calculating taxable income, realized capital gains or losses are gains obtained or losses incurred due to the transfer of any asset for consideration.

Article 40

Determination of Capital Gains and Losses

40.1 Capital gains and losses are determined based on the difference between the realization value, net of inherent charges, and the adjusted acquisition cost as determined in article 43.

40.2 Gains and losses shall be included in the gross income in the tax year of their realization.

Article 41

Tax Base

41.1 Income tax is applied on the balance of the gain or loss resulting from the difference between the capital gains and capital losses in a tax year in respect of assets used in business activities.

41.2 If the balance is negative, the losses are carried forward to the following tax year for a maximum of five years.

Article 42

Determination of the Net Realization Value

42.1 The realization value is deemed to be:

- (a) In the case of any in-kind exchange, the market value of the assets received, increased or decreased, as appropriate, by the cash amount jointly received, paid or owed, on the date of the contract;



- (b) In the case of expropriation or damaged assets, the value of the respective indemnification, on the date of the expropriation or the date of damage;
- (c) In the case of assets permanently assigned for purposes other than the business activity of the entity, their market value on the date the assignment occurs;
- (d) In any other cases, the value of the respective consideration.

42.2 In the case of an in-kind exchange for future goods, the market value of the future assets shall be their value as of the date of conclusion of the contract.

42.3 In the case set forth in item c) of paragraph 42.1 of this article, the value resulting from a correction according to the principles of an arm's length transaction shall prevail if it exists.

42.4 A transfer for consideration shall also be deemed to exist in the case of a promise of purchase and sale or in-kind exchange at the verified time of the transfer of the possession of the assets.

42.5 When a part of an asset is alienated, the cost of the asset shall be allocated proportionally, between the part of the asset retained and the part alienated.

42.6 When an asset is transferred between associates in a non-arm's length transaction, the transferor is treated as having received, and the transferee is treated as having given, the market value of the asset as consideration for the transfer.

42.7 Capital gains or losses resulting from a transfer of assets between spouses is not recognized as gross income.

Article 43

Adjusted Acquisition Cost

43.1 The adjusted acquisition cost is determined by the effective acquisition cost, as described in articles 43-A to 43-E, increased by interest paid for this purchase, any non-deductible incidental expenses incurred in the acquisition of the asset and the market value of any in-kind compensation in relation to the asset, minus the amount of amortization of the assets which has been deducted subject to the rules under this law and regulations.



43.2 For the purposes of paragraph 1, interest may only be included if a deduction of it has not been allowed.

Article 43-A

Acquisition Cost of Immovable Property

43-A.1 The acquisition cost of real rights of immovable property is the real value of the goods that corresponds to the greater of the following values:

- (a) its market value or
- (b) the value of the property tax assessment..

43-A.2 If there has been no property tax assessment, the acquisition cost is determined in accordance with the rules of such tax.

Article 43-B

Acquisition Cost of Assets Constructed by the Taxpayer

43-B.1 The acquisition cost of immovable assets constructed by an income taxpayer corresponds to the property value registered at the headquarters, plus construction costs, if they are higher.

43-B.2 The acquisition cost of other tangible assets constructed by the income taxpayer corresponds to the construction costs properly proven or the costs to purchase a comparable asset.

43-B.3 The acquisition cost of intangible assets corresponds to the cost of their creation.

43-B.4 For the purposes of this article, the investment costs and consumables used in the creation of the asset are not deductible but depreciated or amortized.



Article 43-C**Acquisition Cost for Transfer Between Private and Business Activity Use**

43-C.1 The acquisition cost of an asset used for an individual's business or professional activity transferred to an individual's personal use is deemed to be the market value on the date of transfer.

43-C.2 The acquisition cost of a taxpayer individual's property for personal use to the individual's business or professional activity is deemed to be the market value on the date of transfer.

Article 43-D**Acquisition Cost of Shares and Other Transferable Securities**

The acquisition cost of shares and other transferable securities, is deemed to be:

- (a) In the case of securities listed on a Stock Exchange, the documentary proven cost or, failing that, the lowest price observed since the time they were acquired or are deemed to have been acquired if another lower price is not declared;
- (b) In the case of shares of limited liability companies or other transferable securities not listed on a Stock Exchange, the documentary proven cost or, failing that, the respective nominal value.

Article 43-E**Acquisition Cost of Other Assets**

43-E.1 The acquisition cost of other assets not referred to in the preceding articles, when it is a transfer for consideration, is deemed to be the book value of the goods or the price paid by the buyer, as proven by documentation, whichever is higher.

43-E.2 The acquisition cost of other assets acquired for free not referred to in the previous articles is the market value of the asset.



Article 44

Discrepancy of Amounts

44.1 When the Tax Authority justifiably considers that there may be a discrepancy between the declared values and the actual values of the transfer, it has the right to proceed with the respective determination.

44.2 If the discrepancy referred to in the preceding number concerns the realization value of shares or other securities, the following rules apply:

- (a) When listed on a stock exchange, the realization value is the respective price at the date of the transfer or, if it is unknown, the highest price in the year of the transfer;
- (b) When not listed on a stock exchange, the realization value is determined based on the book value according to the company.

44.3 If the discrepancy in paragraph 1 involves private limited liability companies, the realization value is determined based on the last balance sheet.

Article 45

Capital Gains from Rights of Exploration and Exploitation of Minerals or Petroleum

Capital gains resulting from the transfer, direct and indirect, total or partial, of a right of exploration and exploitation of minerals or petroleum in Timor-Leste are taxable under the general terms of this law in all matters not specifically addressed in this section.

Article 45-A

Direct Transfers of Rights of Exploration and Exploitation of Minerals or Petroleum

Direct Transfers are:

- (a) the transfers of rights or equity interests of a contracting entity resident in Timor-Leste;
- (b) the transfers of rights or equity interests of a contracting entity that is a non-resident of Timor-Leste with a Permanent Establishment in Timor-Leste.



Article 45-B

Indirect Transfers of Rights of Exploration and Exploitation of Minerals or Petroleum

45-B.1 Capital gains resulting from indirect transfers, total or partial, of rights of exploration and exploitation of minerals or petroleum in Timor-Leste are taxable when they result from a transfer for consideration on the second level of rights or equity interest.

45-B.2 Transfer for consideration on the second level means:

- (a) a transfer between non-resident entities of rights or equity interests in another non-resident entity, which in turn has rights or equity interests in the contracting entity;
- (b) transfers between non-resident entities of rights or interests in a non-resident contracting entity that has a permanent establishment in Timor-Leste.

45-B.3 Notwithstanding the provisions of paragraph 4, indirect capital gains referred to in paragraphs 1 and 2 of this article are not subject to taxation when the shares of the contracting entity or non-resident entities that hold an equity interest in the contracting entity are listed on an internationally recognized stock exchange except if 100% of the shares are acquired by an entity.

45-B.4 Indirect capital gains arising from the transfer for consideration of an equity interest in the contracting entity involving entities located in one or more tax havens are always subject to income tax.

45-B.5 The taxation of indirect transfers focuses on the difference between the realizable value of the transferred shares and the proportion of the shares held in the contracting entity in the total portfolio of the shares transferred.

45-B.6 Under this Article, the term “proportion of the shares held” means the percentage of the right or equity interest conveyed by the first-level non-resident entity which owns a right or equity interest in the contracting entity divided by the percentage of rights or interests of that non-resident entity prior to transfer.



Article 45-C**Capital Gains Taxpayer of Rights of Exploration and Exploitation of Minerals or Petroleum**

45-C.1 When the entity transferring the rights of exploration and exploitation of minerals or petroleum is a Timor-Leste resident, the taxation of the capital gains resulting from the transfer lies with this entity.

45-C.2 When the entity that transfers the rights of exploration and exploitation of minerals or petroleum is not a Timor-Leste resident, the taxation of the capital gains resulting from the transfer of the titles lies with the contracting entity, if a resident, or its permanent establishment in Timor-Leste.

Article 45-D**Maintaining an Economic Interest in Rights of Exploration and Exploitation of Minerals or Petroleum**

When the entity transferring the rights of exploration and exploitation of minerals or petroleum maintains an economic interest in the transmitted right, receiving recurrent remuneration because of this interest, the income tax is imposed on the capital gains and on the subsequent recurrent remuneration.

Article 45-E**Taxable Event in the Transfer of Rights of Exploration and Exploitation of Minerals or Petroleum**

The tax imposed on capital gains is realized in the moment of the transfer of the rights, and, in the case of maintenance of economic interest through recurrent remuneration, on each payment of remuneration.



Article 45-F**Tax Rate**

The rate applicable to capital gains resulting from the transfer of rights of exploration and exploitation of minerals or petroleum is 30%.

SECTION III-B**SECTION IV****TRANSFORMATION AND RESTRUCTURING OF COMPANIES****Article 46****Applicable Rules**

46.1 In the case of the transformation and restructuring of a company, even in the case of dissolution of the company, the tax regime applicable to the company does not affect determinations relating to income tax except as set forth in the following paragraphs.

46.2 In the tax period in which a transformation occurs, the taxable income corresponding to the period before and the period after the transformation must be determined separately.

46.3 Losses calculated pursuant to this code that occurred prior to the transformation may not be deducted from the taxable income of the company following the change in formation.

Article 47**Special Rules Applicable to Mergers and De-mergers of Resident Companies**

47.1 Mergers and de-mergers of resident companies are subject to the rules established in this article if all of the following conditions are met:

- (a) The beneficiary company of the merger or de-merger is a Timor-Leste resident;
- (b) The beneficiary company maintains for tax purposes the transferred assets and liabilities in the same amounts as in the merged or de-merged companies;
- (c) The amounts referred to in the preceding sub-paragraph are those resulting from the application of the provisions of this code or restatements within the scope of legislation with a tax character.

Formatted: No bullets or numbering



47.2 The determination of the taxable income of merged or de-merged companies shall not include any capital gain from the transfer of the assets resulting from the merger or de-merger, and does not include as income adjustments for impairment and the provisions recognized for tax purposes with respect to credits, inventories, and obligations and charges included in the transfer.

47.3 In determining the taxable income of the beneficiary company of the merger or de-merger:

- (a) the determinations of capital gains or losses of transferred assets are made as if there had been no merger or de-merger;
- (b) the depreciation and amortization of assets transferred is carried out in accordance with the rules applied by the merged or de-merged companies before the merger or de-merger;
- (c) the impairment adjustments and the provisions that were transferred from the merged or de-merged companies shall apply the rules that had been followed before the merger or de-merger.

47.4 When the beneficiary company holds an equity interest in the merged or de-merged companies, it does not include in its taxable income the capital gain or loss that may result from the annulment of that interest as a consequence of the merger or de-merger.

47.5 For the purposes of the provisions set forth in paragraph 2, the company that transfers the assets due to the merger or de-merger must include with its annual tax form:

- (a) a declaration by the beneficiary company that it shall comply with the provisions set forth in paragraph 47.1 subparagraphs b) and c) and paragraph 47.3;
- (b) a list of the transferred assets showing the tax values of these assets before the transfer.

Article 48

Special Rules Applicable to Transfers of Assets

48.1 Article 47 applies, with the necessary adaptations, to exchanges of assets, provided that



- (a) the requirements in Article 47 are met; and
- (b) in the subsequent determination of the realized capital gains or losses in respect of the capital shares received in return for the assets, these capital shares are deemed to have the tax value that the transferred assets and liabilities had in the company that made the transfer of assets.

48.2 For the purposes of the preceding paragraph, the following definitions apply:

- (a) transfer of assets - the transaction by which a company transfers, without being dissolved, the whole of one or more sectors of its activity to another company, in consideration for capital shares of the acquiring company;
- (b) sector of activity - the entirety of the assets and liabilities that constitute, from an organizational point of view, an independent economic unit, i.e. an entity capable of functioning by its own means, which may include debts incurred for its organization or functioning.

Article 49

Rules Applicable to Shareholders of the Merged or De-merged Companies

49.1 The shareholders of the merging companies subject to the special rules established in article 47, shall be subject to the following rules:

- (a) they may not recognize gains or losses for tax purposes as a result of the merger; and
- (b) the shares received by the shareholders of the merged companies are attributed the tax value of the capital shares that were delivered.

49.2 Paragraph 49.1 shall not prevent the taxation of shareholders of the merged companies in regards to cash amounts that may have been awarded to them as a result of the merger.

49.3 The provisions of the preceding paragraphs shall apply, with the necessary adaptations, to the shareholders of de-merged companies subject to the special rules in Article 47.



49.4 In the case referred to in paragraph 3, the value of the of the equity interest held, for tax purposes shall be apportioned among:

- (a) the shares received; and
- (b) any shares continued to be held in the de-merged company.

49.5 The apportionment referred to in paragraph 4 shall be made based on the proportion of the assets assigned to each of the recipient companies.

Article 50

Mergers, De-mergers, and Transfers of Assets Involving Entities that are Not Companies

50.1 The relevant rules of Article 47 and 49 with the necessary adaptations apply to mergers and de-mergers carried out in accordance with the law of resident entities that are not companies and their respective shareholders

50.2 The provisions of Article 48 also apply, with the necessary adaptations, to transfers of assets of entities that are not companies under the conditions mentioned in the preceding paragraph.

Article 51

Exchange of Shares

51.1 An exchange of shares means, for the purposes mentioned in this article, a transaction through which a company (acquiring company) acquires an equity interest in the capital shares of another company (acquired company), which has the effect of giving the acquiring company a majority of voting rights in the acquired company, by:

- (a) the attribution to the shareholders of the acquired company, shares of the acquiring company in exchange for their shares of the acquired company;
- (b) and possibly a cash payment not exceeding 10% of the nominal value of the shares of the acquiring entity, or, in the absence of nominal value, the equivalent book value.



51.2 The award of the capital shares of the acquiring company to the shareholders of the acquired company resulting from an exchange of shares does not give rise to any taxation of the shareholders of the acquired company provided that:

- (a) the shareholders of the acquired company continue to value for tax purposes the new shares of the acquiring company at the same tax value as the acquiring company, determined in accordance with the provisions of this Law;
- (b) the acquiring company and the acquired company are residents; and
- (c) the shareholders of the acquired company are resident persons when the received shares are representative of the capital shares of a resident entity.

51.3 The rule set forth in paragraph 2 shall not prevent the taxation of shareholders in respect of cash amounts that may be awarded pursuant to paragraph 51.1.

51.4 The rules of Article 47 shall apply, with the necessary adaptations, to this Article.

51.5 For the purposes of this article, the shareholders of the acquired company must include with their annual income tax form the following documentation:

- (a) a declaration containing
 - (i) a description of the exchange of shares;
 - (ii) the date when it took place;
 - (iii) the identification of the participating entities involved;
 - (iv) the number and nominal value of the shares delivered and the shares received by each shareholder;
 - (v) the value, on the date of transfer, of the delivered shares recorded in the accounts of the shareholder;
 - (vi) the amount of money that may have been received;
 - (vii) the amount of the taxable assets if the rules set forth in this Article were not applied and an explanation of its calculation;
- (b) a declaration from the acquiring company of how, as a result of the exchange of shares, it came to hold the majority of the voting rights of the acquired company.



SECTION III-C SECTION V**LIQUIDATION OF ENTITIES****Article 52****Entities in Liquidation**

Formatted: No bullets or numbering

52.1 With regard to entities in liquidation, the taxable income is determined based on the entire liquidation period under the following terms:

- (a) entities that dissolve must close their accounts with reference to the date of dissolution for the determination of taxable income covering the beginning of the tax period which saw the dissolution until the date on which the dissolution occurred;
- (b) during the liquidation period and until the end of the tax period immediately prior to the conclusion of the liquidation, liquidating entities must determine taxable income annually; the annual taxable income calculation shall be preliminary in nature and will be corrected when the taxable income is determined corresponding to the period of liquidation;
- (c) in the year in which the dissolution occurs, the taxable income referred to in item a) and the taxable income mentioned in the first part of item b) must be determined separately.

52.2 When the liquidation period exceeds three years, the taxable income that is determined annually, pursuant to the terms of item b) of the preceding paragraph, ceases to be preliminary by nature.

52.3 Losses that occurred prior to the dissolution and which, as of the date of the dissolution, are still deductible pursuant to the terms of Article 36 may be deducted from the taxable income of the entire liquidation period, if the liquidation period does not exceed three years.

52.4 The liquidation of a company as a result of a declaration of nullity or annulment of the respective articles of incorporation is subject, with the necessary adaptations, to the rules set forth in this article.



Article 53**Capital Gains from Liquidation**

For purposes of determining the capital gains from the liquidation, the realization value of assets apportioned to the shareholders, shall be deemed to be the respective market value.

Article 54**Capital Gains from Apportionment**

54.1 The realization value of the assets attributed to each shareholder, as a result of the apportionment referred to in article 53 is pooled, reduced by the acquisition cost of the corresponding capital shares, and taxed in the year they were put at their disposal.

54.2 For the purposes of the previous paragraph:

- (a) when the difference is positive,
 - (i) it is considered a return of capital up to the limit of the difference between the realized value that is attributed to each shareholder and that which, according to the liquidated company's accounts, corresponds to actual capital contributions;
 - (ii) the amount that exceeds the limit that is referred to in the previous item has the nature of a gain;
- (b) when the difference is negative it is considered as a loss that is only deductible when the taxpayer has held the shares for three years immediately prior to the date of dissolution.

Article 55**Liquidation of Entities Other than Companies**

The rules set forth in the preceding articles of this chapter apply, with the necessary adaptations, to the liquidation of entities other than companies.



~~SECTION III-D~~ SECTION VI

**ESTABLISHMENT OF COMPANIES WITH THE BUSINESS ASSETS OF AN
INDIVIDUAL**

Article 56

Special Rules of Fiscal Neutrality

56.1 When an individual transfers goods from her professional or business assets to establish the capital of a new company the goods that make up the assets and liabilities of the aforementioned assets covered by the transfer must be registered in the accounting of the company to which they are transferred with the values mentioned in the records of the individual person.

56.2 The determination of the taxable income of the company referred to in the preceding paragraph must comply with the following:

- (a) the determination of the capital gains in respect of the goods that make up the transferred assets is calculated as if this transfer had not taken place;
- (b) the depreciation and amortization of the assets are carried out in accordance with the rules that were followed for the purpose of determination of the taxable income of the individual person;
- (c) the impairment adjustments for the transferred goods and the provisions that have been transferred are subject, for tax purposes, to the rules that were applicable for the purpose of determining the taxable income of the individual person.

Formatted: No bullets or numbering

~~SECTION IV~~ SECTION VII

PERSONS

Article 57

Individuals or Entities

The taxable income of each individual or entity is computed separately.

Formatted: No bullets or numbering



Article 58

Entities

An entity is liable to tax separately from its shareholders.

Article 58-A

Natural Resource Concessions

The determination of taxable income and costs, as well as any tax liabilities, is made independently for each contractor in relation to each natural resource concession and in relation to other activities of the contractor.

Comment [A2]: Because there was a ring-fencing provision in the mineral mining law, we broadened the ring-fencing provision for petroleum to apply to all natural resources. However, we recommend that this is not the best place to ring-fence, but it would be better to create sole purpose entities for natural resource concessions which would obviate the need for ring-fencing for just tax purposes.

SECTION VIII

Rules defining the taxable income of the simplified accounting regime

Formatted: Font: Bold

Formatted: Centered

Formatted: Font: Bold

Formatted: Font: Bold

Article 58-B

Rules on the taxable income

Formatted: Font: Bold

Formatted: Centered, Space After: 0 pt, Line spacing: single

The taxable income of the taxpayers submitted to the simplified accounting regime results from:

Formatted: Font: Not Bold

a) determining the taxable profit, according to section 2 of this chapter if they do not choose the simplified accounting regime;

Formatted: Justified, Space After: 0 pt, Line spacing: single

b) applying the simplified regime.

Formatted: Font: (Default) Times New Roman, 12 pt

Article 58-C

Determining the taxable income

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Justified, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm

1. The taxable income of the taxpayers that do not fill out the conditions to be submitted to the organized accounting regime and that choose the simplified accounting regime, is implemented on the basis of bookkeeping as required in the following Article, which consist in the difference between the income obtained in the taxing period and the documented costs indispensable to obtaining the income concerning the same tax period.

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Centered, Space After: 0 pt, Line spacing: single

Formatted: Font: (Default) Times New Roman, 12 pt

2. Taxpayers opting for the simplified accounting regime are submitted to the rules on the deduction of costs applicable to the organized accounting regime, with the exception of costs concerning the acquisition of assets submitted to depreciation/amortization and

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Justified, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm



inventory, which must be deducted in the taxing period in which the acquisition occurred.

Article 58-D

Simplified accounting regime

1. Taxpayers submitted to the simplified accounting regime must possess the following registers, according to the type of activity:

- a) Register books on the purchase of merchandise and/or raw-materials and consumption register books;
- b) Sales register books and/or register books on manufactured goods;
- c) Register books on services provided;
- d) Register books on costs and operations related to investment goods;
- e) Register books on merchandise, raw-materials and consumption, manufactured goods and other inventories on 31 December of each year.

2. Taxpayers are also bound to show, separately, in the respective register book the amounts concerning reimbursement of costs made on behalf of the client, which, when duly documented, do not influence taxable income.

3. Bookkeeping as mentioned in paragraph 1 obeys to the following rules:

- a) Registration must be made by 60 days, maximum;
- b) Amounts received as provisions, advance payments or any other aimed at supporting costs that are under the clients' responsibility, must be registered in current account and in the corresponding book; they are considered income in the year subsequent to its reception, without however exceeding the presentation of the final account concerning the work provided;
- c) Bookkeeping must always be supported by documentation;
- d) Notwithstanding the regime in the previous letters, bookkeeping of costs may be registered globally, when supported in current individual accounts of the clients; the latter must be duly discriminated and documented.

Formatted: List Paragraph,List Paragraph - Dani,List Paragraph 1 - Dani, Justified, Space After: 0 pt, Line spacing: single

Formatted: Font: (Default) Times New Roman, 12 pt, Bold

Formatted: Font: Bold

Formatted: List Paragraph,List Paragraph - Dani,List Paragraph 1 - Dani, Centered, Space After: 0 pt, Line spacing: single

Formatted: Font: (Default) Times New Roman, 12 pt, Bold

Formatted: Font: Bold

Formatted: List Paragraph,List Paragraph - Dani,List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: List Paragraph,List Paragraph - Dani,List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.9 cm + Indent at: 2.54 cm

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: List Paragraph,List Paragraph - Dani,List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: List Paragraph,List Paragraph - Dani,List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.9 cm + Indent at: 2.54 cm

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt



4. Other obligatory registration may be approved by the Minister of Finance Regulation.

5. The registration books mentioned in this article must be presented, before being used, with the sheets duly enumerated, in the competent tax office, so that their opening and closing terms are signed, and the sheets initialled. A stamp may be used.

Article 58-E **Option for the simplified accounting regime**

1. The option for the simplified accounting regime must be formalized by the taxpayers:

a) In the form of commencement of activity;

b) In the form of alterations to which Article 115 refers to, by the end of the third month of the taxing period, from which the regime started to apply.

2. The option mentioned in the previous paragraph is valid from the beginning of the new taxing period, after presentation of one of the forms foreseen in the previous paragraph.

SECTION IX **Transition between groups**

Article 58-F **Minimum period of permanency**

1. Notwithstanding para. 2, the minimum period of permanency in the organized accounting regime is 5 years, automatically postponed for equal periods, except if the taxpayer communicates, after a period of five years, the option for the simplified accounting regime.

2. The taxpayer may move from the simplified accounting regime to the organized accounting regime, in the tax year subsequent to the fulfilment of the required conditions.

Article 58-G **Transition between groups**

1. Taxpayers moving from the simplified accounting regime to the organized accounting regime may not deduct as costs, depreciation and amortization of depreciable assets, acquired in previous tax years and submitted to the simplified accounting regime.

2. Taxpayers in the organized accounting regime moving to the simplified accounting regime and that have not deducted, totally or partially, depreciation and amortization of

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt, English (United Kingdom)

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: English (United Kingdom)

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Centered, Space After: 0 pt, Line spacing: single

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Justified, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Centered, Space After: 0 pt, Line spacing: single

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: Bold

Formatted: Centered, Space After: 0 pt, Line spacing: single

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted

Formatted: Font: (Default) Times New Roman, 12 pt



depreciable assets, acquired in previous years, under the organized accounting rules, may deduct the defaulted amounts.

Section X

Assessment Taxable profit by presumption methods

Article 58-H

Application of presumption methods

1. Assessment Taxable profit by presumption methods takes place whenever it is impossible to directly and precisely verify and quantify the taxable income of the taxpayers submitted to the organized accounting regime or the simplified accounting regime. The aforementioned impossibility can result from the following facts when they make it impossible to ascertain the taxable profit:

- a) Inexistent accounting or bookkeeping, delay or lack of registration of books and records and irregularities in their organization and compliance;
- b) Refusal to show the accounting or bookkeeping, and other documentation legally required, as well as the hiding, destruction, loss, counterfeiting or jeopardising of that accounting or bookkeeping;
2. Errors and inaccuracies in the accounting or bookkeeping, as well as the non-~~a~~ immediate display will imply application of the presumption methods, if the deadline for the correction of those errors and inaccuracies or for the display of the required documents is not fulfilled.
3. The deadline mentioned in the previous paragraph must neither be inferior to 5 days nor superior to 30 days and will not deter the application of the penalty corresponding to the offense committed.

Article 58-I

Presumption methods. Competence

Assessment Taxable income by presumption methods will be carried out by the competent tax office, according to the tax domicile of the taxpayer, and will be based in every element at the disposal of the competent tax office, such as:

- a) The average margin of gross or net profit on sales and provision of services or purchases and provision of external services;
- b) Average rates of profitability of the invested capital;

Formatted: Font: Bold

Formatted: Centered, Space After: 0 pt, Line spacing: single

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: Times New Roman, 12 pt

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: Times New Roman, 12 pt, English (United Kingdom)

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Indent at: 1.9 cm

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: Times New Roman, 12 pt

Formatted: Space After: 0 pt, Line spacing: single

Formatted: Font: Bold

Formatted: Centered, Space After: 0 pt, Line spacing: single

Formatted: Space After: 0 pt, Line spacing: single

Formatted: Font: Times New Roman, 12 pt

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm

Formatted: Font: Times New Roman, 12 pt



c) Technical coefficients of consumption or usage of raw materials and other direct costs;

Formatted: Font: Times New Roman, 12 pt

d) Elements and information provided to the tax administration, including the ones concerning other taxes and the ones obtained in companies or entities that have relations with the targeted taxpayer;

Formatted: Font: Times New Roman, 12 pt

e) Objective indicators of activity, such as the area of the place where the activity is carried forward, its location, or prices applied.

Formatted: Font: Times New Roman, 12 pt

Article 58-J
Notification of the taxpayer

Formatted: Font: Bold

Formatted: Centered, Space After: 0 pt, Line spacing: single

1. Taxpayers are notified of the assessment ~~taxable profit~~ as determined by presumption methods with the indication of the underlying facts as well as the underlying criteria and quantification.

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Space After: 0 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm

2. The notification mentioned in the previous paragraph, is made according to the Tax Procedural Code.

Formatted: English (United Kingdom)

Formatted: Centered, Space After: 0 pt, Line spacing: single

Formatted: English (United Kingdom)

Formatted: Space After: 0 pt, Line spacing: single

Formatted: English (United Kingdom)

Formatted: Font: Bold, English (United Kingdom)

Formatted: Centered, Space After: 0 pt, Line spacing: single

Formatted: Font: Bold

Formatted: Font: Bold, English (United Kingdom)

Formatted: Centered, Indent: Left: 1.27 cm, Space After: 0 pt, Line spacing: single

Formatted: Font: Bold

Formatted: Centered, Space After: 0 pt, Line spacing: single

~~SECTION V~~ **SECTION IV**

INTERNATIONAL ASPECTS OF INCOME TAX

Article 59

Territorial Taxation of Non-residents

Non-residents are subject to income tax when it is Timor-Leste source income as defined in the following articles.



Article 60

Timor-Leste Source Income of Permanent Establishments

Timor-Leste source income of a permanent establishment includes the gross income directly attributable to the permanent establishment and income of an associate non-resident indicated as follows:

- (a) income from sales in Timor-Leste of goods equal to or similar to the kind sold or produced by the permanent establishment;
- (b) any other business activities carried on in Timor-Leste equal or similar to those carried out by the permanent establishment;
- (c) gains resulting from the sale for consideration of equity interests or of other securities, when the gain is effectively attributable to the permanent establishment situated in Timor-Leste;
- (d) royalties related to goods used by the permanent establishment;
- (e) income arising out of the activity of entertainment professionals or athletes carried out on Timor-Leste territory, except when it is proven that they do not directly or indirectly control the entity which obtains the income.

Article 61

Timor-Leste Source Income of Non-residents

61.1 The following income is considered to be Timor-Leste source income when the debtor or payor is a resident of Timor-Leste, if the recipient of the income is a resident of Timor-Leste, or when the assets are used in Timor-Leste territory:

- (a) income resulting from the offering, by a producer of goods, goods that are produced on Timorese territory;
- (b) royalties;
- (c) investment income;
- (d) remuneration earned as a member of governing bodies of entities;
- (e) prizes from games of chance, for example, lotteries, raffles and betting, and the amounts or prizes awarded in any sweepstakes and other regulated gaming;



- (f) income from brokering for the signing of any contracts;
- (g) income relating to management expenses, overhead costs, and the costs of technical services, for example, studies, project development, technical support to management, construction services, accounting or auditing services, actuarial services, and consulting, organization, and research and development services in any field, destined to any projects to be developed in Timor-Leste;
- (h) income from insurance or reinsurance premiums for risks in Timor-Leste;
- (i) income resulting from the alienation of any movable property used to derive Timor-Leste source income;
- (j) income from the lease of immovable property in Timor-Leste whether improved or not;
- (k) income from any other interest or right in or over immovable goods, including a right to explore for, or exploit, natural resources, in Timor-Leste;
- (l) income from the alienation of any goods or right or from the alienation of any equity interest or right in an entity the assets of which consist wholly or partially of goods or rights referred to in paragraph (i);
- (m) income from providing air or sea transportation services:
 - (i) between two places in Timor-Leste;
 - (ii) from a place in Timor-Leste to a place outside Timor-Leste; or
 - (iii) from a place outside Timor-Leste to a place in Timor-Leste;
- (n) income derived from other provisions of services carried out in Timor-Leste;
- (o) income from other securities issued by entities holding a rights of exploration and exploitation of minerals or petroleum in Timor-Leste.

61.2 The following is also considered Timor-Leste source income:

- (a) income in connection with immovable property located in Timor-Leste or shares of an entity whose assets are made up of more than 50% of immovable goods located in Timor-Leste, including gains as a result of their transfer for consideration;



- (b) gains resulting from the transfer for consideration of an equity interest in resident entities or of other securities of resident entities;
- (c) gains resulting from the transfer for consideration, direct or indirect, between non-resident entities, of equity interests representing capital shares of entities holding mineral or petroleum rights in Timor-Leste, independent of the location where the alienation occurred.

Article 62

Foreign Tax Credit

62.1 A resident taxpayer is entitled to a credit for any foreign income tax paid by the taxpayer in respect of foreign-source income included in the gross income of the taxpayer for a tax year. The credit is referred to as the “foreign tax credit”.

62.2 The foreign tax credit is calculated separately for each foreign country from which income is derived by a taxpayer. The rules in the previous article apply in determining the country in which income is derived on the basis that the reference to Timor-Leste is a reference to the relevant foreign country.

62.3 The amount of the credit in respect of income from sources in a foreign country is limited to the Timor-Leste income tax payable on that income. There is no deduction or carry forward of any excess foreign tax credit.

62.4 The amount of foreign tax paid shall be substantiated by appropriate proof, such as a payment made under the terms of a tax assessment, a tax withholding certificate, or another similar document accepted by the Tax Administration for this purpose.

Article 63

Foreign Source Expenses and Losses

63.1 Deductible expenses incurred in deriving income from sources in a foreign country are deductible only against that income.



63.2 If the total deductible expenses exceed the gross income derived from sources in a foreign country for a tax year, the amount of the excess is a foreign country loss allowed as a deduction against income generated in the foreign country in the next tax year, and in subsequent tax years to the extent not previously deducted ~~for a maximum of five years.~~

Article 64

Taxable Income of Permanent Establishments

64.1 The taxable income of a non-resident carrying on business activities in Timor-Leste through a permanent establishment is the taxable income as calculated for a resident entity, with reference to the gross income attributable to a permanent establishment, as defined in Article 60.

64.2 The following principles apply in determining the taxable income of a Timor-Leste permanent establishment:

- (a) the taxable income of the permanent establishment shall be calculated on the basis that it is a distinct person carrying on identical or similar activities under identical or similar conditions and is treated as absolutely independent from the non-resident person of which it is a permanent establishment;
- (b) subject to this present law, deductions may be claimed for expenses incurred for the purposes of the business activities of the permanent establishment including head office expenditures incurred, whether in Timor-Leste or elsewhere, to a limit established in Article 25-A;
- (c) for purposes of the previous paragraph, no deduction may be claimed for amounts paid or payable by the permanent establishment to its head office or to another non-resident associate, other than towards reimbursement of actual expenses incurred by the non-resident person to third parties, by way of:
 - (i) royalties, fees, or other similar payments for the use of any tangible or intangible asset by the permanent establishment;
 - (ii) compensation for any services, including management services, performed for the permanent establishment;



(iii) interest on moneys lent to the permanent establishment, except in connection with a banking business.

Article 64-A

Income not attributable to a permanent establishment

Income not attributable to a permanent establishment located in the territory of Timor-Leste, obtained by non-resident companies and other non-resident entities are submitted to withholding tax in the terms defined in the following Section

~~(iii)~~ Chapter III

SECTION VI **WITHHOLDING TAX**

Article 65

Wages

65.1 Subject to paragraph 2, an entity that pays wages in the course of its business activity, for services provided by individuals in Timor-Leste, that represents taxable income within the scope of this law and does not constitute fringe benefits must withhold 15.20% from these payments.

65.2 In the case of an entity referred to in paragraph 1, if the paying entity is the sole or principal employer, the amount withheld is made at the rates defined in the table in article 84.

65.3 For the purposes of paragraph 2, in the case of multiple employers, the beneficiary of the income shall identify the principal employer.

65.4 The withholding in this article is final, except when article 84 applies and the taxpayer wants to be taxed at the rates in article 84, in which case the beneficiary must prepare an annual

Formatted: Indent: Left: 6 cm, No bullets or numbering

Formatted: Left, Indent: Left: 6.25 cm, No bullets or numbering

Formatted: No bullets or numbering

Formatted: Font: Not Bold

Formatted: Left, No bullets or numbering

Formatted: Body Text

Formatted: Font: Bold

Formatted: Body Text, Centered

Formatted: Font: Bold, English (United States)

Formatted: Font: Bold



tax form as defined by law or regulation to claim a refund of amounts withheld that exceed the amount owed.

Article 65-A

Provision of Services

65-A.1 An entity who pays for services in the course of its business activity, ~~provided by individuals~~, and which do not constitute wages or fringe benefits in Timor-Leste must withhold tax of 1520% on the gross amounts that are owed.

65-A.2. Withholding referred to in the previous paragraph is of 4% when the services are provided by entities held for at least 50% by Timor-Leste citizens.

65-A.1

~~65-A.2~~ 65-A.3 Withholding referred to in this article is final, except when article 84 applies and the individual taxpayer wants to be taxed at the rates in article 84 or when the services provided constitute business activities submitted to the organized accounting regime and the taxpayer wants to be taxed on net income.

~~65-A.3~~ 65-A.2 For the purposes of paragraph 65-A. 32, the beneficiary of the income must prepare an annual tax form as defined by law or regulation to claim a refund of amounts withheld that exceed the amount owed.

Article 65-B

Payment for Construction or Building Services and Construction Consulting Services

65-B.1 An entity that makes a payment relative to construction or building activities carried out in Timor-Leste by a resident, must withhold 15%2% from the gross amounts owed.

65-B.2 An entity that makes a payment for construction consulting services provided in Timor-Leste by a resident, must withhold 15%4% from the gross amounts owed.

65-B.3 For the purposes of paragraphs 65-B.1 and 65-B.2, residents are deemed to be resident individuals that are Timorese citizens and resident entities whose capital is owned directly, in at least 50%, by a Timorese citizen.

Formatted: Body Text

Formatted: Not Highlight

Formatted: English (United States)

Formatted: No bullets or numbering



65-B.4 An entity that makes a payment relative to construction or building activities or construction consulting services provided in Timor-Leste by anyone not covered by paragraph 65-B.3 must withhold 20% from the gross amounts owed.

65-B.5 The withholding referred to in this article is final except for withholding on permanent establishments on entities submitted to the organized accounting regime ~~and resident entities that are not covered by paragraph 3.~~

65-B.6 The beneficiary of the types of payments made under paragraphs 65-B.1, 65-B.2, and 65-B.4 must withhold the corresponding tax on the gross payments received, when the person that pays is:

- (a) an individual;
- (b) a diplomatic mission as defined by paragraph (a) of Article 22-A; or
- (c) an international organization as defined by paragraphs (b) or (c) of Article 22-A.

Article 65-C

Self-Withholding on Wages and Payments for Services

Notwithstanding articles 65 and 65-A, the recipient of wages or income for services rendered shall withhold tax from the gross payment received at the respective rates if the payer is an individual operating in Timor-Leste.

Article 66

Interest, Royalties, and Other Capital Income

66.1 A entity who pays interest, royalties, and any other payment for the use of personal or intangible property which has its source in Timor-Leste must withhold a final tax of 15~~20~~% of the gross amounts owed.

66.2 The rule set forth in the preceding number does not apply to interest paid to a resident bank which reports such interest as income.

66.3 If the payment referred to in paragraph 1 is paid by an individual, the recipient of the payment shall withhold the tax from the gross amount of income received.



Article 67

Withholding on Income from Other Assets

67.1 Buyers of the following enumerated assets located in Timor-Leste must withhold a final tax of 15% of gross amounts that are owed from the alienation of those assets:

- (a) real estate;
- (b) any asset that is not used to produce income from business activities with a fair market value of \$10,000 or more.

67.2 In the case of the sale or liquidation of a permanent establishment, the tax is owed and charged at the time of the sale or liquidation, regardless of the site where the sale or liquidation may occur.

67.3 In case of non-compliance with the rule set forth in the preceding paragraph, the tax obligation reverts to the permanent establishment who becomes liable for the tax owed.

67.4 The provisions set forth in the paragraphs 67.1 and 67.2 do not apply when the assets constitute an initial subscription of shares.

67.5 The withholding made under this article is final unless the asset sold was used in business activities by the seller and the buyer are submitted to the organized accounting regime.

Article 68

Rent

68.1 An entity making a payment of rent for the lease of land or buildings located in Timor-Lest shall withhold income tax, at the rate of 15%-20%, from the gross amount of the rent paid.

68.2 The recipient of the payment shall withhold tax, at the rate of 15%, 20%, from the gross amount received when the person paying the rent for land or buildings is:

- (a) an individual;
- (b) a diplomatic mission under the terms of article 22-A paragraph (a); or
- (c) an international organization under article 22-A (b) or (c).

Formatted: Not Highlight



68.3 The withholding referred to in this article is final unless the taxpayer is an individual or is submitted to the organized accounting regime~~wants to be taxed on the net income.~~

68.4 For the purposes of paragraph 3, the beneficiary of the income must submit an annual tax form as defined by law or regulation to request a refund of the amount withheld that exceeds the amount owed.

Article 69

Prizes and Winnings

69.1 A person paying a prize, including a gambling or lottery winning, to a resident, a permanent establishment in Timor-Leste, or a non-resident when the income constitutes Timor-Leste source income under Article 61, shall withhold tax from the gross amount paid at the rate of 15%~~20%~~.

69.2 The withholding in this article is final.

Article 70

Non-resident Withholding Tax

70.1 Any person making a payment to a non-resident person of Timor-Leste source income as defined in article 61, ~~other than a payment to which Article 64 applies~~ shall withhold tax from the gross amount of the payment at the rate of 15%~~20%~~.

70.2 The withholding in this article is final, unless the taxpayer is submitted to the organized accounting regime.

Article 71

Obligations of a Person Withholding Tax from a Payment

71.1 Every person who has withheld tax from a payment made by the person in accordance with this Section shall remit the tax withheld to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration within fifteen days after the end of the month in which the payment was made.



71.2 At the time of payment, the payer shall issue to the recipient of the payment a withholding tax notice setting out the amount of the payment made and the amount of tax withheld from the payment.

71.3 Any person who fails to withhold tax in accordance with this Section from a payment made by the person is personally liable to pay the amount of tax which has not been withheld to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration. Such person is entitled to recover this amount from the recipient of the payment.

71.4 Any person who has withheld tax under this Section from a payment made by the person and has remitted the amount withheld to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration is treated as having paid the withheld amount to the recipient of the payment for the purposes of any claim by that person for payment of the amount withheld.

71.5 Any tax withheld by a person under this Section from a payment made by the person is held by the person as agent for the Tax Administration.

71.6 In the event of the liquidation or bankruptcy of the person, any amount of tax withheld does not form a part of the estate of the payer in liquidation or bankruptcy, and the Tax Administration shall have a first claim to the tax withheld before any distribution of property is made.

Article 72

Self-Withholding and Payment of the Tax

Every recipient of a payment who is required to withhold tax from the payment in accordance with this Section shall remit the tax withheld to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration within fifteen days after the end of the month in which the payment was received.



Article 73

General Provisions on Withholding

73.1 In the cases of withholding that is not a final tax, taxpayers benefit from a tax credit for the amount withheld, deductible from the tax owed by the taxpayer concerned in respect of the taxable income in the tax year in which the tax was withheld.

73.2 A tax credit allowed under this section is applied in accordance with article 19.4.

73.3 A tax credit or part of a tax credit allowed for a tax year that is not able to be credited under Article 19.4 for the year is treated as overpaid tax and dealt with in accordance with the legal regime for tax assessment.

73.4 The legal regime relating to the collection and recovery of tax shall apply to any amount withheld or required to be withheld in accordance with this Part.

73.5 The Tax Administration may make an assessment of any additional income tax owed by a person or refund any overpayment if that person receives amounts that have not been correctly subject to withholding tax.

73.6 Payment of tax assessed under the previous paragraph is due and payable one month after the date the person assessed receives notice of the assessment.

Article 74

Intentionally Left Blank

Article 75

Withholding as a Final Tax

Whenever the tax withheld is a final tax on the income of the recipient of the payment:

- (a) the recipient no longer has any other tax obligation as regards the income on which the tax was levied, including the obligation to present an annual income tax form, although the taxpayer must still present the form and pay income tax on any remaining income;



- (b) the aforementioned income is not pooled with the other income of the recipient for the purpose of determining the taxable income of the beneficiary; and
- (c) no deduction is permitted, including any deduction of depreciation or amortization, in respect of any expense or loss incurred while obtaining such income.

Article 76

Withholding Reporting Obligations

76.1 Entities with withholding obligations shall issue a monthly statement to the Tax Administration stating gross amounts paid and the amounts withheld.

76.2 The provisions in the preceding paragraphs are subject to law or regulation approved by the Minister of Finance.

~~SECTION VII~~ SECTION V

FRINGE BENEFITS

Article 77

Fringe Benefits

77.1 Any fringe benefit that is provided to a worker that effectively increases his or her wages or remuneration for services provided and that does not constitute an allowance subject to the limit of article 25.2 is taxed under the terms of this article.

77.2 The value of the fringe benefit is determined by the market value or, in its absence, by other comparisons applied in a transparent and justified manner accepted by the Tax Administration.

77.3 The taxable base is determined by the application of the coefficient of 1.80 to the value of the fringe benefit.

77.4 Withholding tax at a rate of 20% is applied to the total value of the fringe benefit plus the amount determined in paragraph 3.



77.5 Taxation of the fringe benefit is not creditable from tax paid by an entity.

~~SECTION VII~~SECTION VI
INCOME TAX PROCEDURE

Article 78

Delivery of Income Tax Returns

78.1 The following persons are required to deliver to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration a completed income tax form as prescribed by the Tax Administration at the time designated by the Tax Administration:

- (a) a person who is required to pay income tax under the present Law, including a person who has a loss for a tax year; and
- (b) other persons or classes of persons as designated by the Tax Administration.

78.2 An income taxpayer required to deliver a completed income tax form for a tax year to the Central Bank of Timor-Leste or another entity nominated by the Tax Administration under the previous paragraph shall deliver the form not later than the last day of the third month after the end of the tax year.

78.3 The income tax form of an income taxpayer conducting business activities shall be accompanied by the taxpayer's income statement, balance sheet, and cash flow statement for the tax year.

78.4 An income taxpayer may apply in writing to the Tax Administration for an extension of time to deliver an income tax form.

78.5 An application under the previous paragraph must be accompanied by a statement estimating the amount of income tax due for the tax year and proof of settlement of the tax due.

78.6 The Tax Administration may, by notice in writing, grant the taxpayer's application for an extension of time for delivering an income tax form. The granting of an extension of time under this section does not alter the due date for payment of tax.



Article 79

Due Date for Payment of Income Tax

Subject to this Law, the income tax payable by a taxpayer for a tax year is due by the due date for delivery of the taxpayer's income tax form for the year.

Article 79-A

Official tax assessment or corrections

1. Tax assessment in case the tax form is not delivered, as well as any corrections to the tax assessment will be officiously carried out by the head of the tax office, in approved form and file, where all relevant documents will be included.
2. Official tax assessment is based on the presumption methods.
3. The head of the tax office may ask other tax departments as well as public and private entities the information concerning the assessment to be carried out. The aforementioned departments and entities are legally bound to provide the required information.

Article 79-B

Additional assessment

1. When it is verified that factual or legal errors, as well as any omissions have been committed in the tax assessment, the result of which are losses to the State, the tax administration must repair those losses by additional assessment, in respect of Article 79-A, paragraphs 2 and 3 and before the expiration date.
2. The preceding paragraph is applicable to those cases where a bigger amount of tax is due, by virtue of examining the accounting or bookkeeping, or assessment by presumption methods.

Formatted: Font: Bold

Formatted: Centered

Formatted: Centered, Space After: 0 pt

Formatted: Font: Times New Roman, 12 pt

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Indent: Left: -0.63 cm, Space After: 0 pt, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63 cm + Indent at: 1.27 cm

Formatted: Font: Times New Roman, 12 pt

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Space After: 0 pt

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Centered, Space After: 0 pt

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Justified, Space After: 0 pt

Formatted: Font: Bold

Formatted: List Paragraph, List Paragraph - Dani, List Paragraph 1 - Dani, Centered, Space After: 0 pt

Formatted: Centered



Article 80

Payment of Income Tax on Dividends

80.1 Income taxpayer entities may not put at the disposition of shareholders any dividends without paying to the State the tax on the income owed under the terms of the present law.

80.2 The entities shall register the amount of income tax paid in a current account in which it states at the moment of distribution of dividends:

- (a) the credit: the credit balance of income tax recorded immediately preceding the distribution of dividends and the income tax paid in each tax year after the distribution of dividends.
- (b) the debit: the income tax as determined by the application of the formula $15 / (1 - .15)$ multiplied by the amount of dividends to be distributed.

80.3 After the distribution of dividends, if there is a credit balance of the current account referred to in the preceding paragraph, it should be maintained in the current account to be utilized in the subsequent distribution of dividends.

80.4 After the distribution of dividends, an outstanding balance of the current account referred to in paragraph 80.2 must be regularized by paying the state income tax due in the amount of that outstanding balance by the fifteenth day of the month following the one in which the shareholders decided to distribute the dividends.

80.5 Taxpayers distributing dividends must issue a statement to shareholders showing the income tax payment on the dividends distributed in accordance with this article at the time of distribution of dividends.

Article 81

Income Tax Credit on the Distribution of Dividends

81.1 Resident entities are required to include in taxable income the dividends obtained, including the gross amounts of income tax paid on the profits subject to distribution by the entity that distributes such dividends in accordance with Article 81.



81.2 The individuals who opt for deduction of the credit provided for in this Article are required to include in their taxable income dividends earned, including the gross amounts of income tax paid on the profits subject to distribution by the entity that distributes such dividends under Article 81.

81.3 The entities and individuals who include in their taxable income the dividends obtained, including the gross amounts of income tax paid on the profits subject to distribution by the entity that distributes such dividends under Article 81, may deduct from their tax due a tax credit for the tax paid by the entity that distributes such dividends, according to the statement issued by the entity for each shareholder, in accordance with Article 81.5.

81.4 Where it is not possible to deduct the tax credit referred to in the preceding paragraph, due to an insufficient amount of tax owed in the tax year in which the dividends were distributed and included in the taxable income of the entity or individual, the remainder can be credited from the tax owed in subsequent years or refunded under the conditions prescribed by regulation.

Article 82

Instalments of Income Tax

82.1 Subject to following paragraph, an income taxpayer shall pay monthly instalments of income tax for a tax year.

82.2 The amount of each instalment is 0.5% of the taxpayer's total turnover for the month.

82.3 Instalments of income tax are payable by the 15th day after the end of the period to which they relate.

82.4 An income taxpayer whose total turnover for the previous tax year is \$1 million or less shall pay quarterly instalments of income tax for the year.

82.5 Quarterly instalments shall be payable for the three-month period ending on the last day of the third, sixth, ninth, and twelfth months of the tax year. The amount of each instalment is 0.5% of the taxpayer's total turnover for the quarter.



82.6 Instalments of income tax paid by an income taxpayer in a tax year shall be credited against the taxpayer's income tax liability for that year.

82.7 If the aggregated amount of the instalments exceeds the taxpayer's annual income tax liability, the excess is treated as overpaid tax.

82.8 For the purposes of this section, an income taxpayer's total turnover for a month shall not include any amount derived in the month that is exempt income or subject to withholding tax.

~~SECTION IX~~ SECTION VII

INCOME TAX RATES

Article 83

Income Tax Rate Applicable to Entities

The rate of income tax applicable to entities is 15%~~20%~~.

Article 84

Income Tax Rate Applicable to Individuals

The rates of income tax on individuals is according to the following table:

Taxable income (U.S. Dollars \$)	Rates (percentage)
Up to 6,000	0%
From more than 6,000 to <u>40,000</u> {???	10%
<u>40,001 and above</u> Over {???	<u>15</u> 20 %



~~CHAPTER III~~CHAPTER II

GENERAL RULES APPLICABLE TO TAXES IMPOSED BY THIS LAW

Article 85

Currency Translation

85.1 Any amount taken into account for the purposes of this present Law shall be calculated in United States dollars.

85.2 Subject to paragraph 3, if an amount is in a currency other than United States dollars, the amount shall be converted at the Central Bank of Timor-Leste's mid-exchange rate applying between the currency and United States dollars on the date the amount is taken into account for tax purposes.

85.3 With the prior written permission of the Tax Administration, an income taxpayer carrying on business activities may use the average rate of exchange for the tax year or a part of the tax year.

Article 85-A

Inflation Adjustments

85-A.1 All values denominated in US Dollars will be adjusted annually for inflation.

85-A.2 The Ministry of Finance will publish inflation adjusted amounts on a timely basis.

Article 86

Market Value

86.1 A capital contribution-in-kind are accounted for at its fair market value on the date it is taken into account for tax purposes.

86.2 The fair market value of an asset shall be determined without regard to any restriction on alienation.



Article 87

Exempt Remuneration

The remuneration received for services provided by a natural person is exempt from income tax if the remuneration is financed out of the Trust Fund for East Timor.

Comment [A3]: Question for TL: Does this fund still exist? If not, can we delete this article?

Article 88

Accounting Requirements Relating To Permanent Establishments

1. Permanent establishments of non-resident entities must register in the Tax Administration services, within 30 days, after having initiated their activity in the territory of Timor-Leste.

2. For the purposes of determining the taxable income of permanent establishments of non-resident entities, their accounts:

(a) must be kept according to the rules applicable to resident entities in Timor-Leste;

(b) must be kept in Timor-Leste.

Article 88-A

Formatted: Body Text, Centered

Applicable regime

Taxation of petroleum and gas is ruled by the present Law in every aspect that is not specifically ruled in the present chapter.

Formatted: Font: Not Bold

Formatted: Body Text

Formatted: Font: Not Bold

Formatted: Font: Bold, English (United States)

(b)



~~CHAPTER IV~~ CHAPTER III

SPECIAL PROVISIONS FOR OIL AND GAS TAXATION

SECTION I

PRELIMINARY

Article 89

Chapter VIII Interpretation

89.1 In this Chapter:

“**Approved Contract**” means a contract made by the Contractor and approved by the Ministry or Designated Authority, as the case may be, as a part of a Development Plan;

“**Arm’s Length Transaction**” means a transaction between parties who are at arm’s length.

“**Code**” means the Petroleum Mining Code agreed and adopted by Timor-Leste and Australia under Article 7 of the Timor Sea Treaty, as amended, varied, modified, or replaced from time to time, and regulations made and directions given under it;

“**Contract Area**” means the area that is the subject of a Petroleum Agreement and, if any part of a Contract Area is relinquished pursuant to a Petroleum Agreement, the Contract Area is the Contract Area as originally granted;

“**Crude Oil**” means crude mineral oil and all liquid hydrocarbons in their natural state or obtained from Natural Gas by condensation or extraction;

“**Designated Authority**” means the Designated Authority established under Article 6 of the Timor Sea Treaty;

“**Development Plan**” means the plan for development and production of petroleum resources in the Contract Area approved by the Ministry or Designated Authority, as the case may be;



“**Field Export Point**” means the point at which petroleum from a Contract Area leaves the Contract Area, or such earlier point at which it is loaded onto or enters a vessel, pipeline, or other means of transportation to be transported from the Contract Area;

“**Joint Petroleum Development Area**” means the Joint Petroleum Development Area established in Article 3 of the Timor Sea Treaty;

“**Ministry**” means the Ministry, from time to time, responsible for the administration of the Timor-Leste Petroleum Act;

“**Natural Gas**” means all gaseous hydrocarbons, including wet mineral gas, dry mineral gas, casing head gas, and residue gas remaining after the extraction of liquid hydrocarbons for wet gas, but not Crude Oil;

“**Petroleum Agreement**” means:

- (a) A contract, licence, permit, or other authorisation in relation to rights of exploration and exploitation of the production of petroleum or given pursuant to the Timor-Leste Petroleum Act, except for a Seepage Use Authorisation; or
- (b) An authorisation or production sharing contract made under the Code;

“**Petroleum Operations**” means authorised activities under a Petroleum Agreement;

“**Reserves**” means the estimated quantity of petroleum that can be expected to be profitably extracted, processed, and sold under current and foreseeable economic conditions;

“**Seepage Usage Authorisation**” has the meaning in the Timor-Leste Petroleum Act;

“**State-Owned Contractor**” means the Contractor incorporated under the laws of Timor-Leste which is controlled, directly or indirectly, by Timor-Leste.

“**Timor-Leste Petroleum Act**” means the Timor-Leste Petroleum Act, 2004 as amended, varied, modified, or replaced from time to time, and includes any regulations made under the Act; and

89.2 In the event of any inconsistency between this Chapter and the other Chapters of this Law, this Chapter prevails.



SECTION II INDIRECT TAXES

Article 90

Indirect Taxes

Comment [A4]: Question for TL: Do you want to continue to have different rates for sales, services, and customs taxes for petroleum contractors?

90.1 The value added tax that Timor-Leste is permitted to impose under the Timor Sea Treaty in the Joint Petroleum Development Area continues to apply in the Joint Petroleum Development Area.

90.2 The rate of service tax on the provision of designated services to a Contractor in relation to petroleum operations other than in the Joint Petroleum Development Area is 12%.

90.3 The rate of sales tax on an import of goods by a Contractor in relation to petroleum operations other than in the Joint Petroleum Development Area is 6%.

90.4 The rate of import duty on an import of goods by a Contractor in relation to petroleum operations other than in the Joint Petroleum Development Area is 6%.

SECTION III INCOME TAX

Article 91

Rate of Tax

91.1 The rate of corporate tax applicable to a Contractor for a tax year is thirty percent (30%).

91.2 A Contractor shall not derive any income or capital gain or incur any loss for income tax purposes as a result of an election by Timor-Leste under Article 22 of the Timor-Leste Petroleum Act to participate in Petroleum Operations through a State-Owned Contractor.



Article 92

Limitation on Deductions

If a Production Sharing Contract (referred to as the “original PSC”) relating to the Joint Petroleum Development Area entered into with a Contractor prior to the coming into force of this Law is terminated and a new Production Sharing Contract (referred to as the “successor PSC”) is entered into with the same Contractor, any loss carry forward of the Contractor under this Article at the time of termination for the Contract Area covered by the original PSC is deductible in the first tax year of the Contractor for the Contract Area covered by the successor PSC provided:

- (a) The whole of the geographic area covered by the Contract Area of the successor PSC is within the Contract Area of the original PSC; and
- (b) The successor PSC entered into force immediately following the termination of the original PSC.

Comment [A5]: Question for TL: Do you want to keep this article and the following? It is not required under the TST Annex G so I do not know why there is this special tax provision for JPDA contractors. Or if you keep it, I would recommend applying it to all petroleum contractors, not just those in the JPDA.

Article 93

Small Field Depreciation

93.1 This Article applies to a Contractor if, under the Development Plan for Petroleum Operations, eighty percent (80%) or more of the Reserves is estimated to be produced within five (5) years of the date of commencement of commercial production as determined under Article 30-B.4.

93.2 The estimate of Reserves must be approved by the Ministry or Designated Authority, as the case may be.

93.3 A contractor to whom this Article applies may elect for depreciable assets or intangibles (including Exploration and Development Expenditure) to be depreciated or amortised under the units of production method.

93.4 The depreciation of a depreciable asset or amortisation of an intangible for a tax year under the units of production method is calculated according to the following formula:

$$A \times B$$

Comment [A6]: Question for TL: Do you want to keep this provision? I am not sure it is necessary under the new petroleum provisions in the general law; or, if it is, then you may consider applying the same method of depreciation and amortization for all contractors.



where:

- A** is the cost of the asset or intangible reduced by the total depreciation or amortisation deductions in respect of the asset or intangible in previous tax years; and
- B** is the proportion that the production of petroleum in that year bears to the estimated total of Reserves remaining at the commencement of the year.

93.5 An election under paragraph 2 of the present article applies for all depreciable assets and intangibles used in the Petroleum Operations referred to in paragraph 1 of the present article.

93.6 The election referred to in paragraph 2 of the present article must be made as part of the Development Plan and filed with the Tax Administration upon approval of the Development Plan.

93.7 If a Contractor has more than one Development Plan for a Contract Area, this Article applies separately to each Development Plan.

Article 94

Value of Petroleum

94.1 Petroleum is valued f.o.b (or equivalent) at the Field Export Point.

94.2 The value of Crude Oil:

- (a) Sold f.o.b. (or equivalent) at the Field Export Point in a transaction between parties that are at arm's length is the price payable for it;
- (b) Sold other than f.o.b. (or equivalent) at the Field Export Point in a transaction between parties that are at arm's length is the price payable for it, less such fair and reasonable proportion of such price that relates to the transportation and delivery of the petroleum downstream of the Field Export Point; or
- (c) Sold other than as mentioned in the previous subparagraphs is the price that would have been payable having regard to all relevant circumstances and similar arm's length transactions.

Comment [A7]: Question for TL: Do you know why this provision is in the tax law? It seems to me that petroleum should be valued for tax purposes, however it is valued in the PSC or under the petroleum mining code. I recommend deleting this, but did not want to remove it if there was a special reason it is here.



94.3 The value of Natural Gas is the price payable under the Approved Contract or as otherwise may be provided in the Development Plan or in a Petroleum Agreement, with such fair and reasonable adjustments as required to reflect the point of valuation in paragraph 1 of the present law.

94.4 In this Article, the price payable is its respective value, or the price that would be payable by the buyer if the petroleum were delivered by the Contractor and taken by the buyer, without set off, counterclaim or other withholding of any nature.

Article 95

Instalments of Income Tax

95.1 Instalments of income tax payable by a Contractor are calculated under this Article and not Article 82.

95.2 A Contractor is liable for monthly instalments of income tax for each tax year. Instalments of income tax are payable by the fifteenth (15th) day after the end of the month to which they relate.

95.3 Subject to paragraphs 4, 5, 6, 7, 8 and 9 of the present article, the amount of each instalment for a tax year is one-twelfth (1/12th) of the Contractor's income tax liability for the preceding tax year.

95.4 The amount of any instalment due prior to the due date for delivering the Contractor's income tax return for the preceding tax year is the higher of:

- (a) The amount of the instalment paid for the last month of the preceding tax year; or
- (b) The average monthly tax instalment payment for the preceding tax year.

95.5 The Tax Administration may determine the amount of a tax instalment if:

- (a) A Contractor has a loss carried forward for the preceding tax year;
- (b) A Contractor derives irregular income;

Comment [A8]: Question for TL: I also recommend deleting this provision and using the general instalment payment provisions. If you feel that there are specifics for petroleum that need to be kept, then they can be incorporated in the general section. Probably they would apply to all natural resource producers.



- (c) A Contractor delivers the Contractor's income tax return for the preceding tax year after the due date, including when a Contractor is granted an extension of time to deliver the return;
- (d) A Contractor's income tax return for the preceding tax year is amended, including a self-amendment; or
- (e) There is a change in the Contractor's circumstances.

95.6 For a Contractor's first tax year, the amount of each instalment is one-twelfth (1/12th) of the amount of income tax estimated by the Contractor to be due for the year.

95.7 The Contractor shall deliver to the Tax Administration an estimate of the Contractor's income tax liability for the Contractor's first tax year by the due date for payment of the first instalment for the year.

95.8 An estimate delivered under the previous paragraph remains in force for the whole of the Contractor's first tax year unless the Contractor delivers a revised estimate.

95.9 A revised estimate applies for a tax year to the calculation of instalments of income tax for that year due both before and after the date the revised estimate was delivered.

95.10 The amount of any underpayment of instalments made prior to the revised estimate shall be paid by the Contractor together with the first instalment due after the revised estimate is delivered. The amount of any overpaid instalments is applied against future income tax instalments due.

95.11 If a Contractor fails to deliver an estimate of income tax as required under paragraph 7 of the present article, the Contractor's estimated income tax liability for the Contractor's first tax year is such amount as estimated by the Tax Administration. The Tax Administration's estimate remains in force for the whole of the Contractor's first tax year unless revised by the Contractor in accordance with Article 96.6.

95.12 If a Contractor's estimate (including any revised estimate) of income tax for the Contractor's first tax year is less than ninety percent (90%) of the contractor's assessed income



tax liability for that year (the difference is referred to as the “tax shortfall”), the Contractor is liable for a penalty equal to:

- (a) If the under-estimate is due to fraud or wilful neglect, fifty percent (50%) of the tax shortfall; or
- (b) In any other case, ten (10%) percent of the tax shortfall.

95.13 No penalty is imposed under subparagraph (b) of the previous paragraph if the Tax Administration is satisfied that the reason for the tax shortfall was due to circumstances beyond the Contractor’s control, such as a significant price fluctuation, and the Contractor took all reasonable care in making the estimate.

95.14 Instalments of income tax paid by a Contractor for a tax year are credited against the Contractor’s income tax liability for the year.

95.15 Notwithstanding the following paragraph, if the total amount of instalments paid exceeds the Contractor’s income tax liability for the year, the excess is not refunded but is credited against the Contractor’s instalment of tax due for the next tax year.

95.15 95.16 If the Contractor ceases its activity and the total amount of instalments exceeds its tax obligations on income tax, concerning the last tax year in which the tax is due, the Ministry of Finance must reimburse the amount in excess, after its recognition by the tax administration.

Formatted: Body Text

Formatted: English (United States)

SECTION IV

SUPPLEMENTAL PETROLEUM TAX

Article 96

Imposition of Supplemental Petroleum Tax

96.1 A Contractor that has a positive amount of accumulated net receipts for Petroleum Operations for a tax year is liable to pay Supplemental Petroleum Tax for that year.

96.2 The Supplemental Petroleum Tax payable by a Contractor for a tax year is calculated according to the following formula:

$$A \times 22.5\% / (1-r)$$

Comment [A9]: Comment for TL: We have not made any revisions to the APT and it is anticipated that this would be moved to the petroleum mining code once it is revised. And then this provision would be revoked.



where:

A is the accumulated net receipts of the Contractor for Petroleum Operations for the year; and

r is the corporate rate of tax as specified in Article 91.1.

96.3 Supplemental Petroleum Tax imposed under this Article on a Contractor for a tax year is in addition to the income tax imposed on the taxable income of the Contractor for the year.

96.4 Supplemental Petroleum Tax paid by a Contractor is deductible in calculating the taxable income of the Contractor in the tax year in which the tax was paid.

Article 97

Accumulated Net Receipts

97.1 The accumulated net receipts of a Contractor for Petroleum Operations for a tax year is calculated according to the following formula:

$$((A \times 116.5\%) - (I \times (1-r))) + B$$

where:

A is the Contractor's accumulated net receipts for Petroleum Operations at the end of the previous tax year;

B is the Contractor's net receipts for Petroleum Operations for the current tax year;

I is the interest expense and other financial charges paid by the Contractor in respect of Petroleum Operations in the current tax year and is entered in the formula as a negative number; and

r is the corporate rate of tax as specified in Article 91.

97.2 If supplemental petroleum tax is payable by a Contractor for a tax year, the amount of the accumulated net receipts of the Contractor for Petroleum Operations at the end of that year is



zero for the purposes of calculating the accumulated net receipts of the Contractor for the Petroleum Operations for the next year.

97.3 If component ($A \times 116.5\%$) of the formula in paragraph 1 of the present article is negative for a tax year, the subtraction of component ($I \times (1-r)$) for that year does not reduce the amount of $((A \times 116.5\%) - (I \times (1-r)))$ to an amount that is less than A .

97.4 The amount of any excess is not carried forward or carried back to any tax year.

Article 98

Net Receipts

98.1 The net receipts of a Contractor for Petroleum Operations for a tax year is the gross receipts of the Contractor for the year less the total deductible expenditure of the Contractor for the Petroleum Operations for the year.

98.2 The net receipts of a Contractor for a tax year may be a negative amount.

Article 99

Gross Receipts

99.1 The gross receipts of a Contractor for Petroleum Operations for a tax year is the sum of the following amounts:

- (a) The gross income for income tax purposes accrued by the Contractor in the year from Petroleum Operations, including amounts received from the hiring or leasing out of, or the granting of rights to use property, but not including interest income;
- (b) The consideration received by the Contractor in the year for the disposal, destruction, or loss of any property (including materials, equipment, plant, facilities, and intellectual property or rights) used in Petroleum Operations if the expenditure incurred in acquiring the property was deducted in computing the net receipts of the Contractor for any tax year;
- (c) Any amount received by the Contractor in the year from the provision of information or data obtained from any survey, appraisal, or study relating to



Petroleum Operations if the expenditure incurred in undertaking the survey, appraisal, or study was previously deducted in computing the net receipts of the Contractor for any tax year;

- (d) Any other amount received by the Contractor in the year that is a reimbursement, refund, or other recoupment of an amount previously deducted in computing the net receipts of the Contractor for any tax year;
- (e) If property used in Petroleum Operations has been destroyed or lost by a Contractor, any compensation, indemnity, or damages received by the Contractor in respect of the property under an insurance policy, indemnity agreement, settlement, or judicial decision.

99.2 Notwithstanding the previous paragraph, and subject to Article 101, the gross receipts of a Contractor do not include any amount received or accrued as consideration for the transfer of an interest in Petroleum Operations.

99.3 If an amount referred to in paragraph 1 is attributable to Petroleum Operations and some other activity of the Contractor, only that portion that relates to the Petroleum Operations is included in the gross receipts of the Contractor in calculating the net receipts of the Petroleum Operations.

Article 100

Deductible Expenditure

100.1 The total deductible expenditure of a Contractor for Petroleum Operations for a tax year is the sum of the following amounts:

- (a) Any expenditure incurred by the Contractor in the year in respect of the Petroleum Operations and deductible (other than as a depreciation or amortisation deduction) in computing taxable income, including interest and financing charges;
- (b) Any capital expenditure incurred by the Contractor in the year in acquiring or constructing a tangible or intangible asset for use in Petroleum Operations;
- (c) Any exploration expenditure incurred by the Contractor in the year in respect of Petroleum Operations;



- (d) An amount of Timor-Leste corporate income tax of the Contractor for the year calculated by applying the corporate rate of tax as specified in Article 91 to the taxable income of the Contractor for the year before deduction of Supplemental Petroleum Tax.

100.2 Notwithstanding paragraph 1 of the present article, and subject to Article 101, the deductible expenditure of a contractor does not include any amount incurred as consideration for the acquisition of an interest in Petroleum Operations.

100.3 If an amount referred to in paragraph 1 of the present article is attributable to Petroleum Operations and to some other activity of the Contractor, only that portion that relates to the Petroleum Operations is deductible expenditure of the Contractor in computing the net receipts of the Petroleum Operations.

Article 101

Transfer of Interest in Petroleum Operations

101.1 If the whole of a Contractor's interest in Petroleum Operations is transferred to another Contractor, the transferee Contractor is treated as having the same gross receipts and deductible expenditures in respect of the interest as the transferor contractor had immediately before the transfer.

101.2 For the purposes of calculating the transferee Contractor's accumulated net receipts for the tax year in which the transfer occurred, the transferor Contractor's accumulated net receipts at the end of the previous tax year is treated as the transferee Contractor's accumulated net receipts for that previous year.

101.3 If part of a Contractor's interest in Petroleum Operations is transferred to another Contractor:

- (a) The transferee Contractor is treated as having the gross receipts and deductible expenditures in respect of that partial interest as the transferor Contractor had in relation to the whole interest immediately before the transfer multiplied by the transferred percentage factor; and



- (b) For the purposes of calculating the transferee Contractor's accumulated net receipts for the tax year in which the transfer occurred, the transferor Contractor's accumulated net receipts at the end of the previous tax year multiplied by the transferred percentage factor is treated as the transferee Contractor's accumulated net receipts for that previous tax year.

101.4 In this article, "transferred percentage factor" means the transferor Contractor's percentage ownership of the Petroleum Operations that is transferred divided by the transferor Contractor's total percentage ownership in the Petroleum Operations prior to the transfer.

Article 102

Procedure Relating to Supplemental Petroleum Tax

102.1 A Contractor undertaking Petroleum Operations in a tax year shall deliver to the Tax Administration a Supplemental Petroleum Tax return for the year.

102.2 The Supplemental Petroleum Tax return for a tax year shall be delivered in the same manner and by the same due date as the annual income tax return of the Contractor for that year.

102.3 Supplemental Petroleum Tax for a tax year is due and payable by a Contractor on the same date as the income tax of the Contractor for that year is due and payable.

102.4 Subject to the following article, this law applies, with any necessary changes made:

- (a) To the assessment and collection of Supplemental Petroleum Tax and penalty imposed in respect of a Supplemental Petroleum Tax liability, including the keeping of records and investigations;
- (b) To appeals relating to a liability for Supplemental Petroleum Tax or to penalty imposed in respect of a Supplemental Petroleum Tax liability; and
- (c) To the application or refund of Supplemental Petroleum Tax overpaid.

102.5 The legal regime relating to the collection and recovery of tax applies to the Supplemental Petroleum Tax on the basis that:

- (a) The reference to "tax" includes Supplemental Petroleum Tax; and



- (b) The reference to “tax form” includes the Supplemental Petroleum Tax return required to be delivered pursuant to paragraph 1 of the present article.

Article 103

Instalments of Supplemental Petroleum Tax

103.1 A Contractor shall pay monthly instalments of Supplemental Petroleum Tax for each tax year.

103.2 Instalments of Supplemental Petroleum Tax are payable by the fifteenth (15th) day after the end of the month to which they relate.

103.3 The amount of each instalment is one-twelfth (1/12th) of the amount of Supplemental Petroleum Tax estimated by the Contractor to be due for the tax year.

103.4 Every Contractor shall deliver to the Tax Administration an estimate of Supplemental Petroleum Tax for a tax year by the due date for payment of the first instalment for the year.

103.5 An estimate delivered under paragraph 4 of the present article remains in force for the whole of the tax year unless the Contractor delivers a revised estimate to the Tax Administration.

103.6 A revised estimate applies for a tax year to the calculation of instalments of Supplemental Petroleum Tax for that year due both before and after the date the revised estimate was delivered.

103.7 The amount of any underpayment of instalments made prior to the revised estimate shall be paid by the Contractor together with the first instalment due after the revised estimate is delivered.

103.8 The amount of any overpaid instalments shall be applied against future Supplemental Petroleum Tax instalments due.

103.9 If a Contractor fails to deliver an estimate of Supplemental Petroleum Tax as required under paragraph 4, the estimated Supplemental Petroleum Tax of the Contractor for the year is such amount as estimated by the Tax Administration.



103.10 The Tax Administration estimate remains in force for the whole of the tax year unless revised by the Contractor in accordance with paragraphs 5 and 6 of the present article.

103.11 If a Contractor's estimate (including any revised estimate) of Supplemental Petroleum Tax for a tax year is less than ninety percent (90%) of the contractor's assessed Supplemental Petroleum Tax liability for that year (the difference is referred to as the "tax shortfall"), the Contractor is liable for a penalty equal to:

- (a) If the under-estimate is due to fraud or wilful neglect, fifty percent (50%) of the tax shortfall; or
- (b) In any other case, ten percent (10%) of the tax shortfall.

103.12 No penalty is imposed under subparagraph (b) of the previous paragraph if the Tax Administration is satisfied that the reason for the tax shortfall was due to circumstances beyond the Contractor's control (such as a significant price fluctuation) and the Contractor took all reasonable care in making the estimate.

~~CHAPTER V~~ CHAPTER IV

FINAL PROVISIONS

Article 104

Primacy of International Law

Tax provisions contrary to the provisions of conventions, treaties, and international agreements properly ratified into Timorese law, under the terms of Article 9 of the Constitution of the Democratic Republic of Timor-Leste are invalid.

Article 104-A

Tax Provisions in Other Laws

With the exception of a Value Added Tax, no taxes or duties have effect in Timor-Leste unless they are included in, or authorised by, the present law.



Article 105

Regulation

105.1 The Minister of Finance or the entity responsible for finances approves the regulations necessary to carry out the proper application of the rules provided in this law.

105.2 The legal regime relating to the collection and recovery of tax shall be set out in a Decree-Law to be adopted by the Government.

Article 106

Repeal

106.1 Subject to the following article, Law 8/2008 of 30 June is revoked by the present law.

106.2 The Private Investment Law, approved by Law 14/2011, of 28 September is revoked by the present law.

106.3 Any other legislation that is contrary to the present law is revoked by the present law.

Article 107

Application of the Revoked Laws

107.1 UNTAET Regulation No. 2000/18, as amended, UNTAET Directive No. 2001/2, as amended, the Petroleum Taxation Act, and the Law on Income Tax applicable in Timor-Leste under UNTAET Regulation 1999/1 continue to apply to any period before the commencement of Law 8/2008, of 30 June.

107.2 Law 8/2008 of 30 June continues to apply to any period from the time of its commencement to the effective date of this Law.

107.3 The legal regime relating to the collection and recovery of tax, as it results from UNTAET Regulation n. 18/2000 , as amended, and for the Timor-Leste Exclusive Area in Annex F, and other future operations in the Joint Petroleum Development Area, -shall remain in effect until such time as when the decree-law regulating tax procedure enters into effect.



107.4 The legal provisions relating to tax offences and sanctions shall remain in effect until such time as when a new legal regime is adopted.

Article 108

Saving

108.1 The tax liability of:

- (a) a person that is a contractor under the Law on the Taxation of Bayu-Undan Contractors; or
- (b) a person that supplies goods and services to a person who is a contractor under the Law on the Taxation of Bayu-Undan Contractors,

in relation to a petroleum project is determined on the basis of the tax law of Timor-Leste in effect immediately prior to Law 8/2008 of 30 June coming into effect and applicable to such contractor or person that supplies goods and services to such contractor.

108.2 The tax liability of a person who is a contractor under a Production Sharing Contract described in Annex F to the Timor Sea Treaty, other than a contractor to whom paragraph 1 of the present article applies, is determined on the basis of the tax law of Timor-Leste in effect immediately prior to Law 8/2008 of 30 June coming into effect and applicable to such contractor.

Article 109

Transitional

109.1 All appointments made under the repealed legislation and subsisting at the date of commencement of this law are treated as appointments made under this law.

109.2 A business building, depreciable or intangible asset of a Contractor that has commenced to be depreciated or amortised under the repealed legislation continues to be depreciated or amortised under this law.

109.3 In the case of a taxpayer authorized to use an substituted tax year, it shall adopt the tax year, as defined, from the second twelve-month period commencing on January 1 of the year in which this Law enters into force.



109.4 The reference in article 37 to an expense, loss, or bad debt previously deducted includes an expense, loss, or bad debt deducted under the revoked legislation.

109.5 The tax base of assets is the book value according to the accounts on 31 December of the year immediately prior to the year in which this Law enters into force.

109.6 The depreciation value of a pool, at the beginning of the tax year in which the present law is effective, corresponds to the sum of the depreciation value of the tangible fixed assets that compose the pool at the end of the previous tax year.

109.7 For a depreciable tangible fixed asset added to a pool in the last tax year of the repealed legislation, the amount of the cost of the depreciable asset not added to the pool in that year is added in the first tax year under this law.

109.8 Tax losses that occurred on a date prior to the entry into force and effect of this Law are deductible pursuant to the terms of this Law.

109.9 Tax losses that occurred within the scope of validity of the prior Law and that have not yet been entirely deducted within the scope of those Rules are carried forward under this law subject to a limit of five years.

109.10 The credits referred to in articles 60.3 and 64.4 of Law 8/2008, of 30 June, may be carried forward for any remaining period, as determined by those articles.

109.11 The tax credit referred to in article 82.10 of Law 8/2008 of 30 June, may be carried forward for the remaining period as provided in that law.

109.12 The rules in Articles 19.4(d), 24(y), 80, and 81 of the Income Tax Code only apply to the profits made and to the distribution of dividends of profits obtained in tax years starting on or after January 1 [2017].

Article 110

Entry into Force and Application

This Law enters into force one day after its publication in the Jornal da Republica.



Article 111

Effects

111.1 This Law enters into effect on the first day of the month following that of its publication and applies to tax obligations arising on or after this date.

111.2 Notwithstanding the previous paragraph, the present law as to income tax applies starting from 1 January 2017.



SCHEDULE I**Services Tax**

1. The rates of services tax for the purposes of Article 4 are:
 - (a) persons with a monthly turnover of designated services of less than \$500: 0%
 - (b) persons with a monthly turnover of designated services of \$500 or more and who are citizens of Timor-Leste or the services are held in at least 50% by Timorese citizens: 45%;
 - (c) persons with a monthly turnover of specified services equal or superior to \$500, and who are neither citizens in Timor-Leste, nor hold more than 50% of the provided services 10%.
2. The monthly turnover of a person providing designated services is the total gross consideration received by the person from the provision of designated services during the month.
3. A person's total gross consideration from the provision of designated services for a month includes the total gross consideration received by an associate of the person from the provision of the same type of designated services during the month if the services provided by the associate have not been taxed under Chapter II.
4. The rate of services tax applies to the total gross consideration received by a person from the provision of designated services during a month.



SCHEDULE II**Excise Tax**

1. The amount of excise tax payable for the purposes of Article 9 is specified in column 3 of the following Table:

Harmonized Classification System Item	General Description of Goods	
2203	beer	US\$ 21.04 0 per liter
2204-2206	wine, vermouth and other fermented beverages (for example, cider, perry)	US\$ 62.05 0 per liter
2207, 2208	ethyl alcohol (other than denatured) and other alcoholic beverages	US\$ 208.09 0 per liter
2401-2403	tobacco and tobacco products	US\$ 32.00 per kg
2710	gasoline, diesel fuel and other petroleum products	US\$ 0. 42 0 per liter
8703	small passenger vehicles <u>below 2,000 cc</u> <u>from 2,000 cc until 2,999 cc</u> <u>From 3,000 cc until 69,000 cc</u> <u>From 70,000 cc</u>	10% of the excise value <u>25% of the excise value</u> <u>35% of the excise value</u> <u>45% of the excise value</u> <u>???</u>
9301-9307	arms and ammunition	200% of the excise value
9613	cigarette lighters	12% of the excise value
9614	smoking pipes	12% of the excise value
9706	Pleasure boats and private aircraft	20% of the excise value
	Carbonated beverages	20% of the value with a minimum of \$1.90 per liter

2. The excise value of:

- (a) excisable goods imported into Timor-Leste, is the total of the following amounts:
- (i) the customs value of the goods;
 - (ii) any import duty imposed on the goods under Chapter V;



- (b) excisable goods manufactured by a registered manufacturer in Timor-Leste, is the fair market value of the goods at the time of removal of the goods from manufacturer's warehouse.

3. If –

- (a) column 3 of the Table in paragraph 1 specifies a rate of excise tax payable for excisable goods by reference to a quantity measured by volume or weight;
- (b) the goods are imported or removed from a registered manufacturer's warehouse in a container intended for sale with, or of a kind usually sold with, the goods in a sale by retail;
- (c) the container is marked, labelled, or commonly sold as containing, or commonly reputed to contain, a specific quantity of such goods,

the container is deemed to contain not less than that specific quantity for the purpose of determining the excise tax payable in respect of the goods.



SCHEDULE III

Sales Tax

1. The rates of sales tax for the purposes of Article 14.1 are:
 - (a) in respect of taxable goods imported
into Timor-Leste 2.5%
 - (b) in respect of the sale of
taxable goods or the provision of
taxable services
in Timor-Leste 0%



SCHEDULE IV

Import Duty

1. The rate of import duty for the purposes of Article 18 is 5% of the customs value of the goods.
2. The following goods are exempt from import duty:
 - (a) If the goods accompany a person arriving in Timor-Leste from another territory:
 - (i) two hundred (200) cigarettes and two and one half (2.5) litres of excisable beverages per person;
 - (ii) goods up to a value of US \$300 of a non-commercial nature that are exclusively for the personal use or enjoyment of travellers or goods intended as gifts, when the nature and quantity of the goods indicate that they are not imported for, or intended to be imported for, commercial purposes;
 - (iii) goods of a non-commercial nature, other than jewellery, that are exclusively for the personal use or enjoyment of travellers and that are brought into Timor-Leste by travellers in accompanying luggage or carried on or about the travellers' bodies;
 - (iv) household effects accompanying former residents of Timor-Leste returning to reside in Timor-Leste on a permanent basis;
 - (v) gifts received in the course of international relations, provided such gifts have been imported by people who have carried out an official visit to a foreign country or by persons visiting Timor-Leste who are bringing presents to the host authorities, or that such gifts are sent as a sign of friendship to a public authority, a community, an body or groups that develop activities of public interest, provided such gifts have no commercial character.
 - (b) Imports of the type:
 - (i) exempted under the Vienna Conventions on Diplomatic Relations of 1961 and Consular Relations of 1963;



- (ii) exempted under the Convention on the Privileges and Immunities of the United Nations;
 - (iii) exempted under the Convention on the Privileges and Immunities of the Specialized Agencies.
- (c) Goods re-imported in the same condition in which they were exported.
- (d) Goods, other than alcohol or tobacco imported by registered charitable organisations, being charitable organisations that have registered under any law of Timor-Leste that has been promulgated for that purpose, if the goods are to be used for charitable purposes of humanitarian assistance and relief, education or health care.
- (e) Goods for temporary admission, if the importer has provided security for import duty in the prescribed manner.
- ~~(f) Goods for consumption by international staff of UNMIT or members of the Peace Keeping Force from contingent countries, if the goods are sold in conformity with prescribed rules of sale.~~
- (g) Baby formulas that are specially designed for babies under one (1) year of age so that after preparation they are consumed in a liquid form and provide the health benefits of human milk that would normally be provided to a baby that suckles from its mother.
- (h) Tampons and sanitary napkins.
- (i) Goods not described in previous paragraphs if:
 - (i) the goods are imported into Timor-Leste other than as personal goods accompanying a traveller; and
 - (ii) the import duty that would be imposed on the import if not for this paragraph would be U.S. \$10 or less.

Comment [A10]: Can we delete this?



Adopted on 4 June 2008.

The Acting President of the National Parliament

Vicente da Silva Guterres

Promulgated on 25 June 2008.

To be published.

The President of the Republic

Dr. José Ramos Horta



Smart in your world®
Arent Fox

555 West Fifth Street, 48th Floor
Los Angeles, CA 90013-1065
T 213.629.7400 F 213.629.7401

1675 Broadway
New York, NY 10019-5820
T 212.484.3900 F 212.484.3990

55 Second Street, 21st Floor
San Francisco, CA 94105-3470
T 415.757.5500 F 415.757.5501

1717 K Street, NW
Washington, DC 20006
T 202.857.6000 F 202.857.6395

www.arentfox.com