

[translation of draft as of 27 July 2016]

Value Added Tax Law

Chapter I

## PRELIMINARY PROVISIONS

### Article 1: Definitions

1. For purposes of this law, the following terms have the meaning indicated:

“Tangible good”: any tangible thing, whether movable or immovable, including electric energy, gas, heating, air conditioning, and similar items, but not including money;

“Provisions”: provisions taken on board vessels and aircraft, exclusively intended for consumption by crew and passengers; combustibles, fuel, lubricants, and other products intended for the operation of propulsion engines and other technical apparatus installed on board; and accessory products intended for the preparation, treatment, and conservation of merchandise transported on board;

“Consignment”, a contractual relationship as defined for purposes of the Civil Code of the Democratic Republic of Timor-Leste;

“Government entity”: a political or administrative subdivision of the central, regional, or local government of Timor-Leste;

“Taxable event”: the time when tax is owed and due to the tax administration.

“Tax”: the tax that is collected under this law;

“Import of goods”: the entry of tangible goods onto the national territory, within the meaning of article 7;

“Deductible tax”, the tax described in paragraph 2 of article 20, subject to the conditions resulting from paragraphss 3 and 4 of such article, as well as from article 21;

“Exemption ”: a taxable transaction where tax is not charged, but where input tax is not deductible;

“Taxable transaction”: a transaction that is subject to tax under article 4;

“Tax period”, a period corresponding to a calendar month;

“Supply of services”: any transaction described in article 6;

“Educational services”, the education of students, when rendered by the following entities:

- (a) pre-primary, primary, and secondary schools;
- (b) universities and institutes of higher education;
- (c) institutes whose purpose is the education or vocational training of adults, or persons with motor or mental deficiencies.

“Medical services”, medical and health treatment, when rendered by health professionals, hospital establishments and clinics.

“Taxable person”: any individual, entity, or governmental entity who meets the specifications of article 3;

“Supply of goods”: transfers described in article 5.

“Gratuitous supply of goods”, a supply not subject to any consideration, whether it be immediately owed or to be owed, in money or in kind.

“Market value”: the total amount which the acquirer or recipient at the same stage of commercialization in which the delivery of goods or the rendering of services takes place would have to pay to an independent supplier or provider, with an equivalent position in the market, under conditions of free competition, to obtain the goods or services in question, at the time and place in which the transaction is carried out or at the closest time and place.

“Turnover”: the value, not including the tax, of the production, commercial, or service activities carried out by the taxable person.

2. For purposes of this law, terms not defined in paragraph 1 have the meaning given in article 1 of the Law on Taxes.

## Article 2: Scope of Territorial Application

Subject to article 3(1)(b), this law applies to the territory of the Democratic Republic of Timor-Leste, including the Special Administrative Regions, its territorial sea, exclusive economic zone, and continental shelf, according to the terms of international law.

## Chapter II.

### INCIDENCE

#### Art. 3: Taxable person

1. A taxable person is one of the following:

a) any individual or entity who, being a resident or having a permanent establishment on national territory, independently carries out production, commercial, or service activities, including extractive, agricultural, forestry, animal husbandry, and fishing activities;

b) any individual or entity who, not being a resident and not having a permanent establishment on the national territory, carries out any taxable transaction within the meaning of article 4;

c) any governmental entity.

2. Employees and other persons, to the extent they are connected with an employer by a labor contract, are not considered taxable persons.

#### Art. 4: Taxable Transactions

1. The following are subject to value-added tax:

a) supplies of goods and services carried out for consideration on the national territory, within the meaning of articles 5 and 6, by taxable persons acting as such;

b) imports of goods according to article 7.

2. Supplies of goods and services and imports of goods carried out in the exclusive economic zone and the continental shelf, within the terms of international law, when the exclusive activity of the acquirer consists of exploration and extraction of petroleum, are excluded from the application of paragraph 1.

3. Are not excluded from the scope of application of paragraph 1, supplies of goods, rendering of services, and imports of goods, made in the Special Administrative Regions, including the regions of Oe-cusse and Atauro, which are subject to tax under the same terms applicable to the rest of the national territory.

4. The fact that a transaction is subject to tax within the terms of paragraph 1 does not rule out the characterization of the transaction as exempt, within the terms of art. 15 and art. 17(1). All transactions that are not exempt within the terms of such articles are taxable for purposes of the tax.

#### Article 5: Supplies of goods

1. In general, the supply of goods is a transfer for consideration of the right to ownership of tangible goods.

2. The following are also considered supplies of goods for purposes of paragraph 1:

a) the delivery of goods in the execution of a lease contract with a provision for transfer of the property right which is binding on both the parties;

b) the delivery of movable goods in execution of a sale and purchase agreement, which contemplates the retention of ownership until the time of total or partial payment of the price.

c) the transfer or creation, for consideration, of rights which confer on their holder a right to use immovable property;

d) the failure to return merchandise sent on consignment within the period of one year from the date of delivery to the recipient;

e) the permanent assignment of goods of an entity to the own use of its owner, its staff or, in general, for unrelated purposes to those of the entity, as well as their gratuitous transfer, when in relation to these goods or their components, there was a total or partial deduction of the tax.

3. The permanent assignment of goods of the entity in case it ceases its activity, within the meaning of article 29, as well as in case of an election of the special exemption regime within the meaning of article 41, is considered to be included in subparagraph e) of paragraph 2.

#### Art. 6: Supplies of Services

1. In general, a supply of services is any transaction for consideration which is not a supply or import of goods.

2. The following are also supplies within the meaning of paragraph 1:

a) Rendering services on a gratuitous basis by the entity itself in light of the specific needs of its owner, or its staff, or in general for purposes unrelated to it;

b) the supply of goods which is incidental to a supply of services.

#### Article 7. Import of goods

1. In general, the import of goods is the entry of goods on the national territory, when released for domestic consumption, except where the goods are placed in one of the situations contemplated in article 19 from their entry on the national territory.

2. The entry of goods coming from the exclusive economic zone and the continental shelf, including the joint petroleum development area are also considered imports of goods within the meaning of paragraph 1, when its entry into this zone has not been subject to taxation for purposes of the tax within the meaning of paragraph 2 of article 4.

#### Article 7a. Intermediaries

Supplies of goods and rendering of services made by intermediaries, acting in the name of and for the account of another, are treated as having been carried out by the intermediary, when the person in the name of and for the account of which the intermediary acts is a non-resident

taxable person who does not have a permanent establishment on national territory from which the goods are transferred or the services rendered.

## Chapter III

### PLACE OF TRANSACTION

#### Art. 8: Supplies of goods

1. When goods are not shipped or transported, the place of the transaction is the place where they are located at the time of delivery.
2. When goods are shipped or transported by the supplier, by the recipient, or by a third party, the place of the transaction is the place where the goods are located when the shipment or transportation to the recipient begins.
3. In the case of the supply of gas, through the natural gas distribution network, or electricity, the place of the transaction is the place where the recipient effectively uses and consumes the goods.

#### Art. 9. Supplies of Services

1. If the recipient is not a taxable person, the place of supply of services is the place where the supplier has the seat of its economic activity or has a permanent establishment from which the supply of services is made or, in the absence of such a seat or permanent establishment, the place where the supplier has its domicile or habitual residence.
2. If the recipient is a taxable person, the place of supply of services is the place where the recipient has the seat of its economic activity or a permanent establishment from which the services are acquired or in the absence of such a seat or permanent establishment, the place where it has its domicile or habitual residence.
3. Notwithstanding the provisions of the above paragraphs, the following are always treated as carried out on the national territory:
  - a) supplies of services connected with immovable property located on the national territory, including those whose purpose is to prepare or coordinate the carrying out of real property works and services of surveyors and real estate agents;
  - b) works carried out on tangible movable property and valuations relating to them, all or essentially all carried out on the national territory;

c) the supply of artistic, scientific, sporting, recreational, educational, or similar services, including those of the organizers of these activities and the supply of accessory services, which take place on the national territory;

d) the supply of lodging in hotel and similar establishments, and of restaurant services, which take place on the national territory;

e) the supply of passenger and freight transportation services, when the transportation begins on the national territory;

f) the leasing of automobiles, ships, helicopters, aircraft, or other means of transport, when they are placed at the disposition of the recipient on the national territory.

4. Notwithstanding the provisions of the preceding paragraphs, where the supplier of the services is a non-resident taxable person who does not have a permanent establishment on national territory, the place of supply of the following services is the place where the recipient has the seat of its activity or a permanent establishment from which the service is acquired or, in the absence of such a seat or permanent establishment, the place where it is domiciled or has its habitual residence:

a) telecommunications services;

b) radio broadcasting and television services;

c) services supplied electronically, specifically those described in appendix I;

d) insurance and financial services which are exempt under paragraphs e), f) and g) of paragraph 1 of article 15;

e) rendering of services where the acquirer is a government entity..

## CHAPTER IV

### TAXABLE EVENT AND ACCRUAL OF TAX

#### Article 10: Taxable event

1. Subject to article 11, tax liability accrues:

a) for supplies of goods, at the times when the goods are placed at the disposition of the acquirer;

b) for supplies of services, at the time they are performed;

c) for imports, at the time established by the applicable provisions for customs duties, regardless of whether these are payable.

2. If a supply of goods:

a) involves transportation by the supplier or a third person, the goods are treated as placed at the disposition of the acquirer when the transportation begins;

b) involves an obligation of installation or assembly by the supplier, the goods are treated as placed at the disposition of the acquirer at the time when the installation or assembly is completed.

3. For supplies of goods and services on a continuous basis, according to contracts that give rise to successive payments, the goods are treated as placed at the disposition of the acquirer or supplies of services are treated as performed at the end of the period for which each payment applies, and the tax accrues and is owing in the respective amount.

4. For supplies of goods and services referred to respectively in subparagraph e) of paragraph 2 of article 5 and paragraph 2 of article 6, the tax is due and owing at the time when the assignment of the goods or the supply of services described therein take place.

5. In the situation referred to in article 5(2)(d), the tax is due and owing at the expiration of the period referred to therein.

#### Art. 11: Arising of tax liability

1. Where the supply of goods or services gives rise to an obligation to issue an invoice or equivalent document according to article 25(1)(b) , the tax liability arises at the time of its issuance.

2. In cases described in paragraph 1, if an invoice or equivalent document is not issued by the deadline for its issuance, according to article 25(1)(b) and articles 31-33, the tax accrues at the time of this deadline.

### CHAPTER V.

#### TAXABLE VALUE

#### Art. 12: Internal transactions

1. Subject to paragraph 2, the taxable value of supplies of goods and services is the value of the consideration obtained or to be obtained from the acquirer, the recipient, or a third party.

2. In the case of the following supplies of goods or services, the taxable value is:

a) for transactions referred to in article 5(2)(d), the value shown in the invoice to be issued under article 30;

b) for transactions referred to in article 5(2)(e), the acquisition price or, in its absence, the cost, reported at the time the transactions take place;

c) for transactions described in article 6(2), the market value of the service;

d) for supplies of second-hand goods, fine art, collector's items, and antiques, made by taxable persons who have acquired these goods for resale from a person who is not a taxable person, the difference, verified as required, between the sales price and the purchase price, unless there is an explicit election to apply paragraph 1.

3. In cases where the consideration is not fixed in money, in whole or in part, the taxable amount is the amount received or to be received in money, increased by the market value of goods or services given in exchange.

4. The taxable amount referred to in the above paragraphs shall include the consumption taxes, duties, fees and other imposts, except for the tax itself. Discounts, rebates, and price reductions are excluded from the taxable amount.

5. In order to eliminate abuse and tax evasion, when the value of the consideration is either more or less than market value, the market value applies, and the tax administration may proceed to its correction, according to the rules provided in the Law on Tax Procedure. This presumption is rebuttable by the taxable person, by presenting proof that the value of the consideration is not an abusive practice or tax evasion.

6. Where the elements needed to determine the taxable value are expressed in a currency other than the national currency, the conversion into U.S. dollars is made by applying the rate of exchange at the Central Bank of Timor-Leste sell rate, on the date in which the tax becomes owing.

#### Art. 13: Imports

1. The taxable value of imported goods is the customs value, determined according to the customs laws and regulations, increased by the following elements, to the extent not already included therein:

a) import duties and any other taxes or fees effectively due on the import, except for the tax itself;

b) ancillary expenses, such as packaging, transport, insurance and other charges, including port or airport expenses which are verified up to the first destination of the goods in the interior of the country.

2. For purposes of paragraph 1, the first destination is the place appearing in the transport document under which the goods are introduced on the national territory or, in the absence thereof, the place in which the cargo is first broken up in the interior of the country.



3. Discounts, reductions, and rebates granted are excluded from the taxable value described in paragraph 1.

## CHAPTER VI

### RATES

#### Article 14. Rates.

1. The tax rate is 10%.
2. Notwithstanding the provisions of paragraph 1, a zero % rate of tax applies to taxable transactions within the meaning of article 14a.
3. In case of a change in rates, the applicable rate is that in effect at the time when the tax becomes owing.

Art. 14a: Exports, transactions treated like exports, and international transport subject to zero rate

1. The following are subject to tax at a zero rate:

a) supplies of goods shipped or transported abroad by the seller or by a third party for the account of the seller;

b) supplies of goods shipped or transported to the exclusive economic zone and the continental shelf, including the Joint Area of Petroleum Development, when the acquirer carries out its principal activity within the scope of the exploration and extraction of petroleum;

c) supplies of provisions placed on board vessels which sail principally on the high seas and which ensure the paid transport of passengers or the exercise of a commercial, industrial or fishing activity;

d) the supply of provisions placed on board aircraft used by airlines which devote themselves principally to international traffic and which ensure the paid transport of passengers or the exercise of a commercial or industrial activity;

e) the supply, transformation, repair, maintenance, leasing, including financial leasing, of vessels and aircraft used in activities described in subparagraphs c) and d), as well as the supply, leasing, repair and maintenance of objects incorporated into such vessels and aircraft, or which are used for their exploitation;

f) supplies of services not mentioned in subparagraph e), made for the purpose of the direct needs of the vessels and aircraft referred to therein and of the respective cargo;

g) the transport of persons coming from or travelling abroad.

## CHAPTER VII

### EXEMPTIONS

#### Art. 15: Exemptions for internal transactions

1. The following are exempt from tax:

- a) the supply of foods listed in appendix II.
- b) the rendering of educational services, as defined in article 1, made by governmental or other public entities;
- c) the rendering of medical services, as defined in article 1, made by governmental and other public entities;
- d) the supply of services exclusively for religious or social and charitable purposes, as well as the supply of goods connected with them, made by religious organizations, as well as by non-profit entities duly recognized by the relevant government entity;
- e) the supply of life insurance and reinsurance;
- f) financial intermediation transactions, specifically those listed in appendix III, except for those in which a specific fee or consideration is charged for the service;
- g) the supply of gold for investment by duly registered financial and investment institutions;
- h) the leasing of immovable property, specifically urban real estate, portions thereof, and land for construction;
- i) the supply, other than the first supply, of a property right in immovable property, specifically urban real estate, portions thereof, and land for construction.

2. Taxable persons entitled to the exemption under paragraph 1(b) and (c) may opt out of it, by electing to apply the tax to the supply of services and directly connected supplies of goods described therein.

#### Art. 16: Opting out of exemption

1. The right to opt out of an exemption, as stipulated in paragraph 2 of article 15, shall be exercised by filing a return in proper form with the Tax Administration, and comes into effect starting on January 1 of the following year, unless the taxable person begins its activity in the

course of the year, in which case the election, as specified in the respective return, comes into effect as of the beginning of its activity.

2. A taxable person that made an election under the previous paragraph must remain in the regime for which it elected for a period of at least five years. At the end of this period, it will continue to be subject to tax, unless it wishes to change to an exemption regime, in which case it must inform the Tax Administration by filing a return in proper form.

#### Art. 17: Exempt imports

1. The following are exempt from tax:

- a) final imports of goods whose supply on the national territory is exempt from tax;
- b) imports of gold by the Central Bank of Timor-Leste.

2. The following are exempt from tax:

a) imports of goods made within the scope of treaties and international agreements to which the Democratic Republic of Timor-Leste is a party, in the terms contemplated by those treaties and agreements;

b) imports of goods made within the scope of diplomatic and consular relations, when the exemption results from treaties and international agreements to which the Democratic Republic of Timor-Leste is a party.

#### Art. 19: Special customs regimes

1. The following are exempt from tax, as long as the goods in question are not released for final consumption:

a) the import of goods which, under customs control and subject to specifically applicable provisions, are intended for public or private storage or industrial warehouses, or to be brought into duty-free shops, while they remain under such regimes;

b) the import of goods shipped or transported to zones or storage deposits referred to in subparagraph a), as well as the supply of services directly connected with such imports;

c) the supply of goods which are made in zones or storage deposits referred to in subparagraph a), as well as the supply of services directly connected with such supplies, as long as the goods remain in such situations;

d) the import of goods under transit, inward processing, or temporary importation regimes, and the supply of services directly connected to such transactions.

2. The situations referred to in paragraph 1 are defined by the customs legislation in force.

## CHAPTER VIII. RIGHT TO DEDUCTION

### Art. 20: The arising and scope of the right to deduction

1. The right to deduction arises when the deductible tax becomes owing, within the meaning of articles 10 and 11.

2. The taxable person has the right to deduct, according to articles 21-23:

a) the tax that was invoiced to them by other taxable persons on the acquisition of goods and services;

b) the tax owing on the import of goods;

c) the tax paid as a recipient of taxable transactions made by taxable persons established abroad, within the terms of the rules relating to the place of supply in articles 8 and 9.

3. Notwithstanding paragraph 2, tax is deductible only if it has been imposed on goods or services acquired, imported, or used by the taxable person for carrying out the following activities and transactions:

a) production, commercial, or service activities, even if not subject to tax;

b) taxable transactions that are not exempt;

c) transactions carried out abroad which would be taxable if they had been carried out on national territory;

d) transactions covered by special customs regimes, according to article 19.

4. Notwithstanding paragraph 2, no deduction is allowed for tax that results from a sham transaction, or in which the price shown on the invoice or equivalent document is a sham.

### Art. 21: Exceptions to the right of deduction

1. No deduction is allowed for tax paid on the acquisition, import, leasing, including financial leasing, use, transformation and repair of recreational vessels, helicopters, and aircraft. This deduction denial does not apply when these transactions relate to goods whose sale or exploitation is the object of the taxable person's activity.

2. Fifty percent of the tax paid in the case of the following transactions is deductible:

a) the acquisition, import, leasing, including financial leasing, use, transformation and repair of automobiles for transporting fewer than nine passengers, scooters, and motorcycles;

- b) the acquisition of gasoline;
- c) transport and travel of the taxable person and its personnel;
- d) lodging, meals, drinks, tobacco, and other transactions relating to the reception and hospitality of the taxable person, its personnel, clients, or other persons.

#### Art. 22: Exercising the Right to Deduction

1. The amount of deductible tax is subtracted from the amount of tax owed on taxable transactions taking place in each tax period.
2. Tax is deductible only if noted on invoices, equivalent documents, or receipts of import declarations for consumption, passed in legal form, in the possession of the taxable person.
3. The deduction must be made on the return for the period in which the receipt of the invoices, equivalent documents, or receipts of import declarations for consumption described in paragraph 2 is confirmed.
4. If the tax deduction exceeds the amount owing for taxable transactions for the respective period, the excess shall be deducted in the following tax periods.
5. Upon the expiration of six months from the period in which the excess arose, if a credit in favor of the taxable person remains, and the taxable person does not wish to continue with the procedure described in the preceding paragraph, in whole or in part, the taxable person may ask for the corresponding refund.
6. Regardless of the term referred to in the preceding paragraph, the taxable person has the right to ask for an immediate refund when:
  - a) there has been a cessation of activity;
  - b) the tax credit position results from the carrying out of zero-rated transactions , according to paragraph 1 of article 14a, when these constitute more than 50% of the total turnover realized by the taxable person in the course of the 12 preceding months.
7. Refunds, when they are due, must be made by the tax administration before the end of the third month following the filing of the respective request, and interest is added to the amount to be refunded, calculated according to the Law on Taxation for each month from the expiration of the date for payment of the refund to the date of issuance of the respective means of payment.
8. The Tax Administration must present to Parliament an annual report concerning the refunds made, in which it shall include the total amount of refunds made, as well as other relevant information, such as a comparative analysis of the same in respect of earlier years.

#### Art. 22a

## Special Refund Regime

1. The Tax Administration shall proceed to the refund of the tax paid in respect of supplies of goods and rendering of services made:
  - a) within the scope of treaties and international agreements to which the Democratic Republic of Timor-Leste is a party, when the right to a refund results from such treaties and agreements and in the terms contemplated by them;
  - b) within the scope of diplomatic and consular relations, when the right to a refund results from treaties and international agreements to which the Democratic Republic of Timor-Leste is a party, in the terms contemplated by them.
2. The right to a refund contemplated in the preceding paragraph, shall be exercised by sending to the Tax Administration, through electronic data transmission, within a deadline determined by the Administration, a refund request, accompanied by documents proving the tax paid.
3. The refund, when it is due, shall be made by the Tax Administration by the end of the third month following the filing of the respective request, and thereafter the amount to be refunded is increased by interest calculated in terms of the Law on Taxes and Duties, for each month following the deadline for payment of the refund up to the data of issuance of the respective means of payment.

## Art. 23: Partial deduction

1. When in the course of carrying out an activity, there are undertaken both transactions that give rise to a right to deduction and transactions that do not give such a right, according to article 20, the tax incurred on acquisitions is deductible only in the percentage corresponding to the annual amount of transactions undertaken which grant the right to deduction.
2. The deduction percentage mentioned in paragraph 1 results from a fraction composed of the following amounts:
  - a) in the numerator, the annual turnover, excluding the tax, of the activities which give rise to the right to deduction according to article 20;
  - b) in the denominator, the annual turnover, excluding tax, of all the activities undertaken by the taxable person.

3. The deduction percentage, calculated provisionally on the basis of the turnover of the previous year, shall be corrected in accordance with the amounts relating to the current year, giving rise to the corresponding correction of the deductions made, which must be done on the return for the last period of the year in question.

4. Taxable persons which initiate their activity or have changed it substantially may carry out the deduction of the tax on the basis of a provisional estimated percentage, to be entered on the returns referred to in articles 27-29, which must be corrected as specified in paragraph 3.

## CHAPTER IX. OBLIGATIONS OF TAXABLE PERSONS

### Art. 23a. Person liable for tax

1. The tax is owed by the taxable persons who carry out the supplies of goods or services.

2. Notwithstanding paragraph 1, the tax is owed by the acquirer in the case of the following services:

a) services where the place of supply is the national territory according to paragraph 2 of article 9, when the services provider is a non-resident who does not have a permanent establishment on the national territory.

b) services where the place of supply is on the national territory, within the meaning of paragraph 4 of article 9, if the acquirer is a taxable person.

3. The tax owed on imports of goods shall be paid by the importer of the goods.

### Art. 24: Payment of tax

1. Taxable persons are required to deliver to the competent entities, together with the return referred to in article 33, the amount of tax due, determined according to paragraph 3, using the legally permitted means of payment.

2. Nonresident taxable persons, without a permanent establishment on the national territory within the meaning of article 3(1)(b), are required to deliver to the competent entities, together with the return referred to in article 26(1), the amount of tax due, using the legally permitted means of payment.

3. For purposes of the preceding paragraphs, the amount of tax due is determined by subtracting the amount of deductible tax, calculated according to articles 20-23, from the total amount of taxable transactions, multiplied by the rate of tax that is applicable in light of article 14.

4. In case of a reassessment of tax within the meaning of articles 45-47, the taxable person must be immediately notified to make the payment to the competent entity within 30 days from the notification.

5. Notwithstanding the preceding paragraphs, the tax owed on imports of goods shall be paid to the competent customs services in the act of customs clearance.

#### Art. 25: Obligations of resident taxable persons

1. Taxable persons described in article 3(1)(a) must:

a) submit a declaration of the commencement, change in, or cessation of activity, according to articles 27 – 29;

b) issue an invoice or equivalent document for each supply of goods or services according to articles 30-32;

c) file on a monthly basis a return relating to the transactions undertaken in the course of its activity in the preceding month, with a notation of the tax owing or the credit outstanding and of the elements which serve as the basis for its calculation, according to article 33;

d) maintain accounts which are sufficient for the determination and audit of the tax, according to the applicable accounting rules and the directives of the Tax Administration.

2. The obligation to issue an invoice or equivalent document described in paragraph 1(b), also applies where the taxable value of a transaction or the corresponding tax are changed for any reason, including inaccuracy.

3. The return filing obligation contemplated in paragraph 1(c) remains even where there were no taxable transactions in the corresponding period.

4. Zero rated transactions under paragraph 1 of article 14a and those exempt under article 19(1) must be substantiated, depending on the case, with the appropriate customs documents or, when the customs authorities have not been involved, by means of declarations issued by the acquirer of the goods or user of the services, indicating the destination given to them.

5. Taxable persons exclusively carrying out exempt transactions are relieved of the obligations referred to in paragraph 1(b), (c), and (d).

#### Art. 26: Obligations of nonresident taxable persons

1. Nonresident taxable persons, without a permanent establishment on the national territory within the meanings of article 3(1)(b), must file an electronic return corresponding to the taxable transactions carried out within the meaning of article 4.

2. The obligations resulting from paragraph 1, as well as those arising from article 24(2), should be fulfilled by a representative who is resident on national territory, furnished with an authorization of sufficient powers.



3. The representative appointed under paragraph 2 is jointly liable with the represented person for the fulfillment of the obligations referred to therein.

#### Art. 27. Declaration of commencement of activity

1. Individuals or entities which carry out taxable transactions within the meaning of article 4, or other production, commercial, or service activities, must send a corresponding electronic declaration to the Tax Administration before commencing such activities.

2. Individuals or entities which are taxable persons within the meaning of article 3(1)(b) are not required to file the declaration referred to in the preceding paragraph.

3. The tax administration must respond concerning the elements declared within a deadline of 30 days. The absence of a response by this deadline results in the tacit acceptance of the declaration.

#### Art. 28. Declaration of change in activity

1. If there is a change in any of the elements of the declaration of commencement of activity contemplated in article 27, other than a change in the turnover, the taxable person must file a corresponding declaration of change.

2. Taxpayers which, being included in the normal regime for application of the tax, come to satisfy the requirements contemplated in article 40(1) and wish to opt for the exemption regime, should send the corresponding declaration of change in activity, according to article 41(1).

3. A taxpayer which being able to benefit from the exemption from tax according to article 40(1) wishes to renounce the same and opt for application of the normal tax regime to its taxable transactions, shall send the corresponding declaration of change according to article 42(2).

4. The declaration contemplated in paragraph 1 must be sent to the tax administration electronically within 15 days of the date that the change took place, and the tax administration must respond within a deadline of 30 days concerning the elements declared. The absence of a response by this deadline results in the tacit acceptance of the declaration.

#### Art. 29. Declaration of cessation of activity

1. In case of cessation of activity, the taxable person must file the corresponding electronic declaration with the Tax Administration within 30 days of the date of the cessation, and the latter must respond concerning the elements declared within 30 days. The absence of a response by this deadline results in the tacit acceptance of the declaration.

2. For purposes of the preceding paragraph, the cessation of the activity carried on by the taxable person is considered to be verified at the time when one of the following events takes place:

a) ceasing to carry out actions relating to activities giving rise to tax for a period of two consecutive years;

b) the assets of the taxable person are exhausted by the sale of the goods which constitute them, by their gratuitous transfer, or by their use for unrelated purposes;

c) the transfer of the property of the establishment to any other holder.

3. Independently of the facts contemplated in the preceding paragraph, the Tax Administration may also declare on its own, the cessation of activity when it becomes evident that it no longer is exercised nor does the taxable person have any intention to continue to exercise it.

#### Art. 30. Issuance of invoices or equivalent documents

1. The invoice or equivalent document referred to in article 25(1)(b) must be issued within 8 days of the date in which the tax is owing according to article 10.

2. The documents referred to in paragraph 1 must be dated, sequentially numbered and processed through an information system, and contain the following elements separately:

a) the names, signatures, or company names and headquarters or domicile of the supplier of the goods or supplier of the services and the customer or purchaser, as well as the corresponding tax identification numbers of the taxable persons;

b) the quantity and usual designation of the goods supplied or services rendered;

c) the price exclusive of tax and the other elements included in the taxable amount;

d) the rate and the amount of tax due;

e) the grounds justifying the non-application of the tax, if applicable.

3. All the required information referred to in paragraph 2, must be included by the software or information equipment for invoices properly authorized by the Tax Administration.

4. On invoices for less than \$100, when the customer or purchaser is not a taxable person, the indication in the invoice of the identification and residence of the same is not required, unless the customer or purchaser requests that the invoice include these elements. The indication of the tax identification number remains obligatory in any event.

#### Art. 31. Incidence of tax

1. The amount of tax paid must be added to the value of the invoice or equivalent document for purposes of its being due from the acquirers of the goods or services.

2. For purposes of paragraph 1, for transactions for which the issuance of an invoice or equivalent document is not required under article 32, the tax shall be included in the price.

#### Art. 32. Invoice not required

1. An invoice is not required when the acquirer is not a taxable person, relating to the following transactions:

- a) supplies of goods made by peripatetic sellers;
- b) supplies of goods made through automatic vending machines;
- c) supplies of services where it is customary to issue a receipt, admission, or transport ticket, password, or other printed document as proof of payment.

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2. The Tax Administration may, in cases where there is an exemption from invoicing under paragraph 1, require the issuance of appropriate documentation to prove the transaction was carried out.

#### Art. 33. Periodic return

Taxable persons are required to file the periodic return contemplated by article 25(1)(c) electronically by the last day of the month following that to which the transactions covered in it relate.

#### Art. 34. Organization of accounts

1. The accounts must be organized in a way that makes possible the clear and unambiguous understanding of the information necessary for calculating the tax, and to enable its control, comprising all the information needed to fill out the periodic return of tax.

2. For purposes of paragraph 1, the following must be registered:

- a) taxable transactions described in article 4(1)(a) carried out by the taxable person;
- b) taxable transactions described in article 4(1)(b) carried out by the taxable person;
- c) taxable transactions described in article 4(1)(a) carried out for the taxable person.

3. The transactions described in paragraph 2(a) must be recorded in a way that shows:

- a) the value of taxable transactions, exclusive of tax;
- b) the value of exempt taxable transactions, according to article 20;

- c) the value of zero rated taxable transactions, according to article 14a;
  - d) the value of the tax paid.
4. The transactions described in paragraph 2(b) and (c) must be recorded in a way that shows:
- a) the value of transactions whose tax is totally or partially deductible, according to articles 20 to 23, exclusive of tax;
  - b) the value of transactions whose tax is totally excluded from the right to deduction, according to articles 20 to 23, exclusive of tax;
  - c) the value of deductible tax.

#### Article 35. Recording of active transactions

1. The recording of taxable transactions referred to in article 34(2)(a) should be done after the issuance of the corresponding invoices and no later than the end of the deadline for filing the declarations referred to in article 33.
2. For purposes of paragraph 1, the invoices or equivalent documents shall be sequentially numbered, in one or more conveniently references series, and their copies must be maintained in the respective order, as well as all the copies that have been voided or not used, where applicable.

#### Article 36. Recording of passive transactions

1. The recording of taxable transactions referred to in article 34(2)(b) and (c) must be done after the receipt of the corresponding invoices or equivalent documents, no later than the end of the deadline for filing the declarations referred to in article 33.
2. For purposes of paragraph 1, the invoices or equivalent document shall be conveniently referenced, and their originals must be maintained in their respective order and all the copies which have been voided or not used, where applicable.

#### Article 37. Recording of tax included in price

Where invoicing or its recording are processed according to values with tax included, in the terms of the preceding articles, the determination of the corresponding tax base shall be obtained by dividing these values by one plus the applicable rate of tax according to article 14 and rounding the result up or down to the nearest whole number.

#### Article 38. Storage of records and supporting documents

1. Taxable persons are required to store and maintain in good order for the subsequent five calendar years all the records and respective supporting documents including, when accounting

is conducted electronically, those relating to the analysis, programming, and execution of their management.

2. Electronic storage of invoices issued electronically, or other computer-processed supporting documents, is permitted, as long as complete and on-line access to the data is guaranteed and the integrity of the origin and of the contents and of its legibility is assured.

#### Art. 39. Corrections of tax

1. The provisions of articles 30 to 33 must be observed where the taxable value of a transaction or the respective tax are changed for whatever reason, after an invoice or equivalent document is issued.

2. If, after the recording referred to in article 34 is completed, the transaction is cancelled or its taxable value is reduced, the supplier of the good or service may take a deduction for the corresponding tax up to the end of the tax period following that in which the circumstances which determine the cancellation of the payment or the reduction of its taxable value are confirmed.

3. In the case of inaccurate invoices which have already been recorded according to article 35, correction is required when too little tax has been paid and may be done without any penalty up to the end of the tax period following that to which the invoice to be corrected corresponds. In case of tax paid in excess, the correction of the invoice is optional and can only be made within one year.

4. An acquirer of a good or recipient of a service who is a taxable person and who has already carried out the recording pursuant to article 36, of a transaction for which his supplier of goods or services proceeded to cancellation or reduction of its taxable value, in accordance with paragraph 2, shall correct the deduction taken by the end of the tax period following that in which the amending document was received.

5. The correction of material or arithmetic errors in the recording referred to in articles 34 to 37 and in the declarations referred to in article 33 is required when too little tax has been paid and may be made without any penalty up to the end of the following period. If too much tax has been paid, the correction is optional and may be made only within one year.

## CHAPTER X

### SPECIAL EXEMPTION REGIME

#### Art. 40. Scope of application

1. Taxable persons whose turnover for the preceding calendar year has not exceeded \$100,000 are exempt from tax.

2. In the case of taxable persons beginning their activity, the turnover to take into consideration is established in accordance with the forecast made for the current calendar year, after confirmation by the Tax Administration.
3. For purposes of calculating the amount of turnover contemplated in paragraph 1, the Tax Administration shall take into consideration the turnover of related persons, as defined in the Law on Taxation.
4. Taxable persons benefitting from tax exemption according to paragraph 1 are not entitled to the right to deduction contemplated in articles 20 to 23.

Art. 41. Transition from the normal regime to the special exemption regime

1. Taxable persons included in the normal regime of application of the tax who satisfy the requirements described in article 40(1) and wish to apply the exemption regime, must file a declaration of change in activity in accordance with article 28.
2. The declaration referred to in the preceding paragraph must be sent electronically to the Tax Administration during the month of January of the year following that in which the conditions referred to therein are satisfied. The Tax Administration shall respond concerning the elements declared within 30 days. . The absence of a response by this deadline results in the tacit acceptance of the declaration.
3. Taxable persons who were previously covered by the normal regime and who take advantage of the election contemplated in paragraph 1 must make a regularization of the tax deducted relating to inventory on hand at the end of the year, in accordance with article 39. This regularization must be included in the declaration relating to the final period of taxation.

Art. 42. Opting out of special exemption regime

1. Taxable persons that are eligible for the exemption from tax according to article 40(1) may renounce the exemption and elect to apply the normal application of tax to their taxable transactions.
2. The election shall be exercised by sending to the Tax Administration, by electronic data transmission, a declaration of beginning or changing activity, in accordance with articles 27 or 28 as applicable. The Tax Administration shall respond concerning the elements declared within 30 days.
3. The Tax Administration may reject the exercise of the election if there are clear indications of previous lack of compliance with filing obligations, obligations relating to the organization of accounts and keeping of records. Nevertheless, the absence of a response by the deadline set in the preceding paragraph results in the tacit acceptance of the declaration.

4. Having exercised the right of election in accordance with the preceding paragraphs, the taxable person must remain on the regime for which it elected for a period of at least five years. At the end of this period, if the taxable person wishes to return to the regime of exemption, it must inform the Tax Administration, by filing electronically a declaration of a change in activities in accordance with article 28, with effect from January 1 of the year following the conclusion of the period referred to.

5. In case of transition from the special exemption regime to the normal tax regime, the Tax Administration may authorize the taxable person to deduct the tax included in inventories on hand at the end of the year.

#### Art. 43. Return filing and invoicing obligations

1. Taxable persons that are exempt in accordance with article 40(1) are relieved of the obligations contemplated in this law, except for the following:

- a) the filing of declarations of beginning and ending activity contemplated by articles 27 and 28;
- b) the issuance of invoices or equivalent documents, within the meaning of articles 30 to 32;
- c) the organization of accounting, in accordance with articles 34 to 37;
- d) the archiving and preservation of registers and corresponding supporting documents, in accordance with article 38.

2. Notwithstanding the provisions of the preceding paragraph, taxable persons that have not attained, in the preceding calendar year, turnover in excess of \$30,000, are relieved of the obligations contemplated in this law, except for the filing of declarations of beginning and ending activity contemplated by articles 27 and 28.

3. When taxable persons who are exempt according to article 40(1) issue invoices for goods supplied or services rendered in the course of their commercial or industrial activity, they must note thereon: “VAT – special exemption regime”.

4. Exempt taxable persons are required to maintain in good order and produce on demand documents proving their acquisitions as well as other documents proving their turnover.

#### Art. 44. Exit from special exemption regime

1. When the conditions for application of the regime referred to in article 40(1) cease to apply, the taxable person must file a declaration of change in activities, in accordance with article 28.

2. If the Tax Administration has clear evidence to suppose that an exempt taxable person exceeded, in a given year, the turnover limit for the exemption regime, it shall proceed to notify

the taxable person to present the declaration of beginning or change in activity, as applicable, within 15 days, on the basis of the turnover which it considers already having been realized.

3. The tax on taxable transactions carried out by taxable persons shall be due at the beginning of the month following the filing of the declaration required in accordance with the preceding paragraphs.

## CHAPTER XI

### GENERAL PROVISIONS

#### Art. 45. Nonfiling of tax return

1. If a taxable person has failed to file the periodic return that is required under art. 33, within the legal deadline, the Tax Administration shall proceed to assess the tax, after notification of the taxable person.

2. The assessment shall be made on the basis of returns for prior periods or other elements of which the Tax Administration has knowledge, in particular those relating to the income tax.

3. The tax assessed according to paragraph 1 shall be made by legally permitted means of payment, within the deadline specified in article 24(4). Failure to pay within this deadline shall lead to commencement of the procedure contemplated in the law on tax procedure, and may lead to the suspension, on the initiative of the Tax Administration, of the registration of the taxable person, until such time as the payment is made.

4. Without prejudice to the penalty that may apply according to the law on tax procedure, the assessment referred to in paragraph 1 shall be void if the taxable person, within the deadline referred to in paragraph 3, files the return that is in default, and pays the tax due for the period in question and the corresponding interest.

#### Art. 46. Errors and omissions

1. The Tax Administration shall adjust the taxable person's periodic return when it considers that it reflects a tax that is less than, or a deduction that is greater than, what is required, assessing the difference. The taxable person shall be notified of this adjustment.

2. The adjustment described in paragraph 1 may result directly from the content of the tax return, from comparison with returns for earlier periods, or from other elements at the disposal of the Tax Administration, specifically those relating to income tax.

3. The adjustment described in paragraph 1 may also result from audit visits to the premises of the taxable person, from examination of elements of its books, as well as from checking the inventory of the establishment.



#### Art. 47. Filing of return without payment.

1. When the periodic tax return has been filed, according to article 33, without the corresponding means of payment or when this is insufficient in relation to the amount determined in the return, the payment of the tax may be made within 15 days following the filing of the return, with the corresponding interest calculated according to the law on tax procedure being added to the amount due.
2. If the deadline described in paragraph 1 passes without the tax determined by the taxable person being paid, arising from the respective return that has been filed, the taxable person shall be immediately notified to pay the tax, through the legally permitted means of payment, and by the deadline specified in article 24(4), without prejudice to the applicable penalty and interest, within the terms of the law on tax procedure.
3. The taxable person's failure to pay the tax assessed, after notification according to paragraph 2, may lead to the suspension, on the initiative of the Tax Administration, of the registration of the taxable person, until such time as the payment is made.

#### Art. 48. Appeal

1. When the Tax Administration proceeds to correct the periodic return or office assessment, according to articles 45 and 46, the taxable person may appeal according to the provisions of the tax procedure law.
2. The appeal effects a suspension and must be filed with the Tax Administration within 15 days from the date of the notification referred to in paragraph 4 of article 24.
3. The appeal referred to in paragraph 1 shall be considered by the Tax Administration, which must respond within 30 days from the date the appeal was filed. The failure to respond within this deadline results in the tacit rejection of the appeal.
4. The decision made according to paragraph 3 is subject to judicial review, according to the law on tax procedure.

#### Art. 50. Joint liability of third parties

1. The right to deduction according to article 20, or the right to zero rating applicable to exports and assimilated transactions according to article 14a, are inapplicable where the Tax Administration presents proof that the taxable person knew that through the transaction giving rise to the right in question it was participating in a fraud or evasion of tax.
2. The taxable person acquiring a good or service is jointly liable with the supplier for the payment of the tax, when the invoice or equivalent document that is required to be issued

according to article 25 has not been issued, contains an erroneous indication of the name or address of the parties, the nature or the quantity of the goods or services supplied, the price or the amount of tax due.

3. A taxable person who is an acquirer or recipient and who proves having paid to its supplier, properly identified, all or part of the tax due shall be freed from the joint liability contemplated in paragraph 2, to the extent of the amount corresponding the payment made, unless the Tax Administration presents proof that the taxable person knew that the payment of tax had not been made to it or fraud was committed.

#### Art. 51. Legislative changes

The following legislative changes may be made by including the same in the Annual Budget of the State:

- a) The applicable rate of tax, within the meaning of article 14;
- b) The criteria for application of the special exemption regime according to paragraph 1 of article 40.

## CHAPTER XII

### TRANSITIONAL MEASURES

#### Article 52. Fixed Assets

1. The Selective Consumption Tax, the Sales Tax and the Services Tax, paid by the taxable person in relation to the acquisition or importation of movable fixed assets in its possession on the date of entry into force of this law, may be deducted in the first periodic tax declaration according to articles 20, 22, and 33.
2. The right to deduction contemplated in paragraph 1 extends only to goods:
  - a) acquired or imported in the six months preceding the entry into force of this law;
  - b) acquired or imported by the taxable person to carry out non-exempt activities and taxable transactions, within the meaning of article 20(3).
3. The exercise of the right to deduction described in paragraphs 1 and 2 is contingent on filing with the Tax Administration an exhaustive list of the goods in relation to which the right to deduction is to be exercised. The list must be filed together with the first periodic declaration according to paragraph 1.

#### Article 53. Repeal

1. The articles of the Law on Taxation relating to the Selective Consumption Tax and the Sales Tax are repealed.
2. References to the taxes referred to in paragraph 1, or to legal provisions referring to them, shall be considered as references to this tax and to this law, respectively.

Article 54. Entry into force

This law enters into force on January 1, 2018.

CHAPTER XIII

APPENDICES

Appendix I

Indicative List of Electronically Supplied Services

1.	Furnishing of information sites, hosting of Web pages, long-distance maintenance of programs and equipment.
2.	Furnishing of information programs and keeping them up to date.
3.	Licensing, for consideration, of the right to place a good or service for sale on an internet site which functions as an on-line market.
4.	Furnishing of images, texts and information and making available databases.
5.	Supply of music, films and games, including games of chance and money, and transmissions of a political, cultural, artistic, sporting, scientific or entertainment nature.
6.	Supply of distance learning services.

Appendix II

Exhaustive List of Exempt Foods

1.	Meat and edible offal or bovine animals, swine, sheep, goats, or poultry, fresh or frozen.
2.	Fresh or frozen fish.
3.	Milk and cream, not concentrated or containing added sugar or other sweetening agents.
4.	Eggs, in shell, fresh or preserved.
5.	Natural honey.
6.	Vegetables, legumes, and horticultural products, fresh or frozen, including potatoes and cassavas.
7.	Fresh, frozen, or dried fruit.

8.	Coffee beans and tea leaves.
9.	Unprocessed grains, including wheat, corn, and rice. .
10.	Processed rice.
11.	Unprocessed sugar cane.
12.	Unrefined fats and oil, such as olive oil, vegetable oil, or peanut oil.

### Anexo III

#### Indicative List of Exempt Financial Intermediation Transactions

1.	Granting of credit and management of credit guarantees.
2.	Foreign currency exchange and other transactions relating to foreign currency, except for the supply of numismatic coins and banknotes .
3.	Transactions relating to financial deposits and the management of accounts.
4.	The transfer of debt instruments.
5.	The management of investment funds.