

# PETROLEUM TAXATION ACT

## PREAMBLE

According to international law, Timor-Leste has sovereign rights for the purpose of exploring, exploiting and managing its natural resources, including its petroleum resources. The right to tax petroleum activities is, therefore, one of the manifestations of such sovereign rights.

The *Petroleum Taxation Act* sets out a specific taxation regime for petroleum activities. It applies to petroleum activities authorised and regulated under Timor-Leste's *Petroleum Act*. It also applies to 90 percent of the petroleum activities authorised and regulated under the *Timor Sea Treaty*, with the exception of those activities to which Annex F of the *Timor Sea Treaty* refers.

The purpose of this Act is to provide maximum social economic benefit to Timor-Leste and its people from its petroleum resources, including by encouraging exploration for, investment in and development of Timor-Leste's resources.

Thus, pursuant to Section 95.1, paragraph p) of Section 95.2, Section 139.2 and Article 144 of the Constitution of the Republic, the National Parliament enacts the following to have the force of law:

## CHAPTER I – GENERAL PROVISIONS

### Article 1 Short Title

This Act may be cited as the Petroleum Taxation Act.

### Article 2 Definitions

2.1 For the purpose of this Act:

“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;

“Commissioner” means the Commissioner of the Timor-Leste Revenue Service;

“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;

“Contractor” means a person with whom the Ministry or Designated Authority, as the case may be, has made a Petroleum Agreement;

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

“Decommissioning Plan” means the Decommissioning Plan approved by the Ministry or Designated Authority, as the case may be, under a Petroleum Agreement;

“Decommissioning Security Agreement” means the Decommissioning Security Agreement approved by the Ministry or Designated Authority, as the case may be, under a Petroleum Agreement;

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

“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;

“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;

“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;

“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;

“Head Office Expenditures” means any executive, management, or general administration expenditures incurred by a non-resident person outside Timor-Leste for the business of a permanent establishment of the person in Timor-Leste;

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

“Law on Income Tax” means the Law on Income Tax applicable in Timor-Leste under UNTAET Regulation No. 1999/1;

“Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods” means the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods applicable in Timor-Leste under UNTAET Regulation No. 1999/1;

“Law on General Provisions and Procedures” means the Law on General Provisions and Procedures applicable in Timor-Leste under UNTAET Regulation 1999/1;

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

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

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

“Petroleum Agreement” means:

- (a) A contract, licence, permit, or other authorisation made or given pursuant to the 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 Petroleum Act;

“Services” includes the hiring of equipment;

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

“Subcontractor” means any person supplying goods or services directly or indirectly to a Contractor in respect of Petroleum Operations;

“Supplemental Petroleum Tax” means the tax imposed under Article 17;

“Timor-Leste Taxation Law” means the Law on Income Tax, the Law on Value Added Tax on Goods and Services and the Sales tax on Luxury Cars, and the Law on General Tax Provisions and Procedures as these laws apply in Timor-Leste by virtue of UNTAET Regulation No. 1999/1, as modified by UNTAET Regulation No. 2000/18;

“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, as amended, varied, modified, or replaced from time to time;

“Total Approved Decommissioning Costs” means the total decommissioning costs approved by the Ministry or Designated Authority, as the case may be, in accordance with the Decommissioning Plan under the Petroleum Agreement, as revised from time to time;

“UNTAET Directive No. 2001/2” means UNTAET Directive No. 2001/2 as amended;

“UNTAET Regulation No. 2000/18” means UNTAET Regulation No. 2000/18, as amended, and includes any Directive or other subsidiary legislation made under the Regulation.

- 2.2 Unless the context indicates otherwise, terms used in this Act and not defined in Section 2.1 have the same meaning as in the Timor-Leste Taxation Law.
- 2.3 In the event of any inconsistency between this Act and the Timor-Leste Taxation Law, this Act prevails.

## **CHAPTER II – SCOPE OF ACT**

### **Article 3 Scope of Act**

This Act applies to the territory of Timor-Leste, including its territorial sea, and to its exclusive economic zone and continental shelf where, by international law, Timor-Leste has sovereign rights for the purposes of exploration for and exploitation of its natural resources and applies to the Joint Petroleum Development Area, other than the area covered by the Production Sharing Contracts described in Annex F to the Timor Sea Treaty.

## **CHAPTER III – PETROLEUM TAX REGIME**

### **Article 4 Taxation of Contractors**

A Contractor, a Subcontractor and any person receiving an amount for goods or services supplied to a Contractor or Subcontractor, are subject to tax in accordance with Timor-Leste Taxation Law, subject to the modifications in this Act.

## **CHAPTER IV – VALUE ADDED TAX**

### **Article 5 Value Added Tax**

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.

## **CHAPTER V – INCOME TAX**

### **Article 6 Rate of Tax and Exclusions**

- 6.1 The rate of corporate tax applicable to a Contractor for a tax year is thirty percent (30%).
- 6.2 The minimum income tax imposed under Section 36A of UNTAET Regulation No. 2000/18 does not apply to a Contractor.
- 6.3 Section 26(4) of the Law on Income Tax does not apply to a Contractor.
- 6.4 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 Petroleum Act to participate in Petroleum Operations through a State-Owned Contractor.

### **Article 7 Limitation on Deductions**

- 7.1 Subject to Section 7.4, any amount that a Contractor may deduct under Timor-Leste Taxation Law in relation to Petroleum Operations undertaken by the Contractor in a Contract Area in a tax year is deductible only against the gross income arising from such Petroleum Operations in the Contract Area in that year.
- 7.2 If, in any tax year, the total deductions of a Contractor in relation to Petroleum Operations undertaken in a Contract Area exceeds the total gross income arising from those Petroleum Operations in the Contract Area, the excess is carried forward to the next following tax year and deductible in that year against gross income arising from such Petroleum Operations in the Contract Area.

- 7.3 Any amount not deducted under Section 7.2 is carried forward to the next following tax year and deductible in that year in accordance with Section 7.2, and so on until the excess is fully deducted or the Petroleum Operations in the Contract Area cease.
- 7.4 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 Act 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.

#### **Article 8 Interest Deduction**

Section 16 of UNTAET Directive No. 2001/2 applies to a Contractor on the basis that the reference to “fifty percent (50%)” is a reference to “twenty five percent (25%)”.

#### **Article 9 Allocation of Expenditures**

If a Contractor is a non-resident person with a Timor-Leste permanent establishment, the amount of Head Office Expenditures deductible under Section 26.2(b) of UNTAET Directive No. 2001/2 for a tax year shall not exceed two percent (2%) of the total deductible expenditures (other than expenditures giving rise to depreciation and amortisation deductions) of the permanent establishment for the year excluding Head Office Expenditures.

#### **Article 10 Decommissioning Costs Reserve and Decommissioning Expenditure**

- 10.1 Notwithstanding Section 12 of UNTAET Directive No. 2001/2, the amount that a Contractor carries to the decommissioning costs reserve for a tax year in respect of Petroleum Operations is deductible in calculating the Contractor’s taxable income for that year. An amount is first deductible under this Article in the tax year in which estimates of the monies required for funding of a Decommissioning Plan are first charged as a recoverable cost under the Petroleum Agreement.
- 10.2 The decommissioning costs reserve is calculated by reference to the Total Approved Decommissioning Costs and the amount carried to the reserve for a tax year is the amount determined for that year under the Petroleum Agreement.

- 10.3 Decommissioning expenditure incurred by a Contractor in a tax year (referred to as the “current tax year”) is not deductible except to the extent that the total amount of decommissioning expenditure incurred by the Contractor in the current tax year and previous tax years exceeds the amount calculated according to the following formula:

$$(A + B) - C$$

where:

- A** is the total amount deductible under Section 10.1 in the current tax year and previous tax years;
- B** is the total amount deductible under this sub-Article in previous tax years; and
- C** is the total amount included in the Contractor’s gross income under Section 10.4 in the current tax year and previous tax years.
- 10.4 If, at any time, the total amount deductible under this Article exceeds the Total Approved Decommissioning Costs, the amount of the excess is included in the gross income of the Contractor for the tax year in which the excess occurs.

### **Article 11 Depreciation**

- 11.1 Subject to the modifications in this Article and in Article 12, a Contractor shall depreciate all depreciable assets in accordance with Section 10 of UNTAET Directive No. 2001/2 and all intangibles in accordance with Section 11 of UNTAET Directive No. 2001/2.
- 11.2 Exploration Expenditure incurred under a Petroleum Agreement is treated as an intangible with a useful life equal to the expected life of the Petroleum Operations under the Agreement or five (5) years, whichever is the lesser.
- 11.3. Development Expenditure incurred under a Petroleum Agreement is treated as an intangible with a useful life equal to the expected life of the Petroleum Operations under the Agreement or ten (10) years, whichever is the lesser.
- 11.4. Exploration Expenditure and Development Expenditure is depreciated on a straight-line basis in accordance with Section 11 of UNTAET Directive No. 2001/2.
- 11.5. Notwithstanding Sections 10 and 11 of UNTAET Directive No. 2001/2, a depreciable asset acquired, created, or constructed by a Contractor before commercial production is depreciated from the commencement of commercial production. Commercial production commences on the first day of the first period of thirty (30) consecutive days during which the average level of regular production delivered for sale on the twenty five (25) highest production days in the thirty-day period reaches

a level of regular production delivered for sale determined by the Commissioner, with the advice of the Ministry or Designated Authority, as the case may be.

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

$$A \times B/C$$

where:

- A** is the depreciation deduction 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.

#### **Article 12 Small Field Depreciation**

- 12.1 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 Section 11.5. The estimate of Reserves must be approved by the Ministry or Designated Authority, as the case may be.
- 12.2 A Contractor to whom this Article applies may elect for depreciable assets or intangibles (including Exploration Expenditure and Development Expenditure) to be depreciated or amortised under the units of production method.
- 12.3 The depreciation of depreciable assets and amortisation of intangibles for a tax year under the units of production method is calculated according to the following formula:

$$A \times B$$

where –

- A** is the cost of the asset 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.



- 12.4 An election under Section 12.2 applies for all depreciable assets and intangibles used in the Petroleum Operations referred to in Section 12.1. The election must be made as part of the Development Plan and filed with the Commissioner upon approval of the Development Plan.
- 12.5 If a Contractor has more than one Development Plan for a Contract Area, this Article applies separately to each Development Plan.

**Article 13**  
**Transfer of Interest in Petroleum Agreement**

If a Contractor transfers an interest in a Petroleum Agreement:

- (a) The transferee Contractor shall continue to amortise any Exploration Expenditure or Development Expenditure in the manner and on the same basis that the original Contractor amortised the expenditure; and
- (b) Sections 10 and 11 of UNTAET Directive No. 2001/2 apply to any other depreciable assets or intangibles.

**Article 14**  
**Value of Petroleum**

- 14.1 Petroleum is valued f.o.b (or equivalent) at the Field Export Point.
- 14.2 The value of Crude Oil:
- (a) Sold f.o.b. (or equivalent) at the Field Export Point in an arm's length transaction is the price payable for it;
  - (b) Sold other than f.o.b. (or equivalent) at the Field Export Point in an arm's length transaction 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 paragraphs 14.2(a) and 14.2(b) is the fair and reasonable market price thereof having regard to all relevant circumstances.
- 14.3 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 Section 14.1.
- 14.4 In this Article, the price payable is the price that is (or 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 15**  
**Withholding Tax**

- 15.1 A Contractor or Subcontractor paying an amount of Timor-Leste source services income to a person (other than as an employee) for services acquired for Petroleum Operations shall withhold tax from the payment at the rate of 6% of the gross amount paid.
- 15.2 Services income is Timor-Leste source services income if the income is paid by a resident person or a Timor-Leste permanent establishment of a non-resident person.
- 15.3 If a lump sum amount is paid for services and goods, the amount shall be treated as paid for services to the extent that the Commissioner considers reasonable having regard to all the circumstances.
- 15.4 If an amount described in Section 15.1 has been correctly subject to withholding tax under this Article, the tax withheld is a final tax on the income of the recipient represented by the payment and:
- (a) No further income tax liability is imposed upon the recipient in respect of the gross income to which the tax relates;
  - (b) That gross income is not aggregated with the other gross income of the recipient for the purposes of ascertaining the recipient's taxable income; and
  - (c) There is no deduction (including a depreciation or amortisation deduction) for any expenditure or loss incurred in earning the gross income.
- 15.5 Section 34 of UNTAET Directive No. 2001/2 applies to an amount withheld or required to be withheld under this Article.
- 15.6 Articles 28 and 30 of UNTAET Directive No. 2001/2, and Article 15 and Section 23(2) of the Law on Income Tax do not apply to any amounts to which this Article applies.
- 15.7 Article 29 of UNTAET Directive No. 2001/2 does not apply to dividends paid by a resident Contractor out of profits arising from Petroleum Operations and such dividends are exempt from income tax.

**Article 16**  
**Instalments of Tax**

- 16.1 Instalments of income tax payable by a Contractor are calculated under this Article and not Article 38 of UNTAET Directive No. 2001/2.

- 16.2 A Contractor is liable for monthly instalments of income tax for each tax year. Instalments of income tax are payable by the fifteenth (15<sup>th</sup>) day after the end of the month to which they relate.
- 16.3 Subject to Sections 16.4 and 16.5, the amount of each instalment for a tax year is one-twelfth (1/12<sup>th</sup>) of the Contractor's income tax liability for the preceding tax year. 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.
- 16.4 The Commissioner 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;
  - (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.
- 16.5 For a Contractor's first tax year, the amount of each instalment is one-twelfth (1/12<sup>th</sup>) of the amount of income tax estimated by the Contractor to be due for the year. The Contractor shall deliver to the Commissioner 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.
- 16.6 An estimate delivered under Section 16.5 remains in force for the whole of the Contractor's first tax year unless the Contractor delivers a revised estimate to the Commissioner. 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. 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.
- 16.7 If a Contractor fails to deliver an estimate of income tax as required under Section 16.5, the Contractor's estimated income tax liability for the Contractor's first tax year is such amount as estimated by the Commissioner. The Commissioner's estimate

remains in force for the whole of the Contractor's first tax year unless revised by the Contractor in accordance with Section 16.6.

- 16.8 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.
- 16.9 No penalty is imposed under paragraph 16.8(b) if the Commissioner 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.
- 16.10 Instalments of income tax paid by a Contractor for a tax year are credited against the Contractor's income tax liability for the year. 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.

## **CHAPTER VI – SUPPLEMENTAL PETROLEUM TAX**

### **Article 17**

#### **Imposition of Supplemental Petroleum Tax**

- 17.1 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.
- 17.2 The Supplemental Petroleum Tax payable by a Contractor for a tax year is calculated according to the following formula:

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

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 6.

- 17.3 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.
- 17.4 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 18**  
**Accumulated Net Receipts**

- 18.1 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 6.
- 18.2 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.
- 18.3 If component **(A x 116.5%)** of the formula in Section 18.1 is negative for a tax year, the subtraction of component **(I x (1-r))** for that year does not reduce the amount of **((A x 116.5%) - (I x (1-r)))** to an amount that is less than **A**. The amount of any excess is not carried forward or carried back to any tax year.

**Article 19**  
**Net Receipts**

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

**Article 20**  
**Gross Receipts**

- 20.1 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; and
  - (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.
- 20.2 Notwithstanding Section 20.1, and subject to Article 22, 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.
- 20.3 If an amount referred to in Section 20.1 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 21**  
**Deductible Expenditure**

- 21.1 Subject to Section 21.2, 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 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; and
  - (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 6 to the taxable income of the Contractor for the year before deduction of Supplemental Petroleum Tax.
- 21.2 Notwithstanding Section 21.1, and subject to Article 22, the deductible expenditure of a Contractor does not include any amount incurred as consideration for the acquisition of an interest in Petroleum Operations.
- 21.3 If an amount referred to in Section 21.1 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 22**  
**Transfer of Interest in Petroleum Operations**

- 22.1 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. 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.
- 22.2 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.

- 22.3 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 23**

#### **Procedure Relating to Supplemental Petroleum Tax**

- 23.1 A Contractor undertaking Petroleum Operations in a tax year shall deliver to the Commissioner a Supplemental Petroleum Tax return for the year.
- 23.2 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.
- 23.3 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.
- 23.4 Subject to Article 24, UNTAET Regulation No. 2000/18 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.
- 23.5 Chapter XI of UNTAET Regulation No. 2000/18 applies to the Supplemental Petroleum Tax on the basis that:
- (a) The reference to "tax" in that Chapter includes Supplemental Petroleum Tax; and
  - (b) The reference to "tax form" in that Chapter includes the Supplemental Petroleum Tax return required to be delivered under Section 23.1.

### **Article 24**

#### **Instalments of Supplemental Petroleum Tax**

- 24.1 A Contractor shall pay monthly instalments of Supplemental Petroleum Tax for each tax year. Instalments of Supplemental Petroleum Tax are payable by the fifteenth (15<sup>th</sup>) day after the end of the month to which they relate.



- 24.2 The amount of each instalment is one-twelfth (1/12<sup>th</sup>) of the amount of Supplemental Petroleum Tax estimated by the Contractor to be due for the tax year. Every Contractor shall deliver to the Commissioner an estimate of Supplemental Petroleum Tax for a tax year by the due date for payment of the first instalment for the year.
- 24.3 An estimate delivered under Section 24.2 remains in force for the whole of the tax year unless the Contractor delivers a revised estimate to the Commissioner. 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. 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 shall be applied against future Supplemental Petroleum Tax instalments due.
- 24.4 If a Contractor fails to deliver an estimate of Supplemental Petroleum Tax as required under Section 24.2, the estimated Supplemental Petroleum Tax of the Contractor for the year is such amount as estimated by the Commissioner. The Commissioner's estimate remains in force for the whole of the tax year unless revised by the Contractor in accordance with Section 24.3.
- 24.5 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.
- 24.6 No penalty is imposed under paragraph 24.5(b) if the Commissioner 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 VII – FINAL PROVISIONS**

### **Article 25 Regulations**

The Minister responsible for finance shall make regulations for the effective carrying out of the provisions of this Act including regulations of a saving or transitional nature consequent upon the making of this Act.

**Article 26**  
**Entry into Force and Application**

26.1 This Act applies for tax years commencing on or after January 1, 2005.

26.2 This Act enters into force on the day following its publication in the *Jornal da República*.

Approved on 5th July 2005

The President of the National Parliament

Francisco Guterres “Lu-Ólo”