

# DEMOCRATIC REPUBLIC OF TIMOR-LESTE

## TAXES AND DUTIES ACT

### Decree Law No.: 8/2008

The present Act seeks to relieve the fiscal burden that has been considered to be disproportionate and excessive in view of the reality of the country.

It is necessary to prioritize the neutrality of the tax system, so that it does not become the reason for economic options or investment, in substitution of market forces and competition.

The focus is on the components of tax justice and consensus between tax payers and the overall society. The latter principle is not rhetorical but rather essential, since without justice and consensus fraud and fiscal evasion would tend to grow, thereby frustrating the goals of the Tax Administration.

Thus,

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

## CHAPTER I – PRELIMINARY

### Section 1 Definitions

In this present Act:

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

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

“**amount**” includes any amount in kind;

“**approved pension fund**” means a pension fund that the Tax Administration has certified, by notice in writing, as satisfying the conditions for approval designated by the Tax Administration;

“**bank**” means any legal person in the business of accepting deposits from the public in Timor-Leste and using such funds, either in whole or in part, to make extensions of credit or investments for the account, and at the risk, of the person carrying on the business;

**“Banking and Payments Authority”** means the Banking and Payments Authority established under UNTAET Regulation No. 2001/3 or any successor entity taking over the role and responsibilities of the Banking and Payments Authority;

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

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

**“capital cost”** of a depreciable asset in a pool means:

- (a) in the case of an asset added to the pool in the preceding year, the fraction of the cost of acquisition not treated as capital cost in the previous year; and
- (b) for any asset in the pool, the cost of improvement, renewal, and reconstruction of the asset to the extent the cost is not otherwise deducted;

**“carry forward loss”** means a loss carried forward under Section 43, a foreign business loss carried forward under Section 51, or an interest deduction carried forward under Section 74;

**“construction consulting services”** means any consulting services relating to construction or building activities, including project management, engineering, design, architectural, surveying, or site supervision services;

**“construction or building activities”** means the construction, extension, alteration, improvement, or demolition of a building or other structure with a foundation on, above, or below land or water, including the clearing of land in preparation for the construction of a building or other structure, and the activity of dredging;

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

**“debt obligation”** means the obligation to make a repayment of money to another person, including accounts payable and the obligations arising under a promissory note, bill of exchange, security, bond, or similar financial instrument;

**“depreciable asset”** means any tangible movable property that:

- (a) has a useful life exceeding one year;
- (b) is likely to lose value as a result of wear and tear, exploitation, or obsolescence;
- (c) is used wholly or partly in the conduct of taxable business activities.

**“designated service”** means hotel, restaurant and bar, or telecommunications services;

**“dividend”** means any distribution of profits by a legal person to a member as a result of participation in the capital of the legal person, including:

- (a) any amount returned to a member in respect of a membership interest in a legal person on a partial reduction in capital to the extent that the amount returned exceeds the amount by which the nominal value of the membership interest was reduced; or

- (b) any amount distributed to a member on redemption or cancellation of a membership interest, including on liquidation, to the extent the amount distributed exceeds the nominal value of the membership interest;

**“employee”** means:

- (a) a natural person who is in employment; or
- (b) a natural person whose provision of services is substantially similar to the provision of services by a person who is in employment;

**“employer”** means a person who pays wages to an employee;

**“employment”** includes:

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

**“financial institution”** means any bank or other legal person that is engaged in the business of making extensions of credit or investments for the account, and at the risk, of the person carrying on the business;

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

**“harmonized classification system”** means the commodity classification system established by the World Customs Organization;

**“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;

**“hotel services”** means the provision of sleeping accommodation and related services, including the provision of meals, beverages, laundry and communications services, to persons who occupy such accommodation as transient guests;

**“intangible asset”** means any property, other than tangible movable property or immovable property, that:

- (a) has a useful life exceeding one year;
- (b) is used wholly or partly in the conduct of taxable business activities;

**“intangible expenditure”** means any expenditure incurred other than in the acquisition of any tangible movable or immovable property, or intangible asset.

**“interest”** means:

- (a) any amount (including a premium or discount) paid or accrued under a debt obligation that is not a repayment of capital;

- (b) any amount that is functionally equivalent to an amount referred to in paragraph (a), such as an amount paid or accrued under an interest rate swap agreement or as defaulted interest under a guarantee agreement;
- (c) any amount treated as interest under Section 41; or
- (d) any commitment, guarantee, service, or similar fee payable in respect of a debt obligation or other instrument or agreement giving rise to interest under paragraphs (a), (b), or (c);

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

**“legal person”** means:

- (a) any limited liability company, joint stock company, general partnership, limited partnership, or other unincorporated association or body of persons, whether incorporated, formed, organised, or established in Timor-Leste or elsewhere;
- (b) any trust, undivided estate of a deceased natural person, or foundation;
- (c) a government, a political or administrative subdivision of a government in whatever name or form, or public international organisation, or any entity, organisation, association, or business form owned by a government, political subdivision of a government, or public international organisation;

**“long-term contract”** is a contract for manufacture, installation, or construction, or services related thereto, that is not completed in the tax year in which work under the contract commenced, other than a contract estimated to be completed within six months of the date on which work under the contract commenced

**“member”**, in relation to a legal person, means a shareholder, partner in a partnership, or any other person with a membership interest in the legal person;

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

**“mining”** means every method or process by which any mineral is taken from the soil or from any substance or constituent of the soil;

**“mining support services”** means every service relating to mining other than technical, management, consulting, or architectural services;

**“natural person”** means any individual;

**“natural resource”** means any mineral, petroleum, or any other living or non-living resource that may be taken from the land or sea;

**“non-resident person”** means any person who is not a resident person;

**“non-wage benefit”** means any in-kind reward for services provided by an employer to an employee, including:

- (a) the value determined by the Tax Administration of the provision by the employer to an employee of the use of a motor vehicle wholly or partly for private purposes of the employee;
- (b) the value determined by the Tax Administration of the provision by the employer to an employee of accommodation or housing;
- (c) the value determined by the Tax Administration of the provision by an employer to an employee of a housekeeper, driver, guard, gardener, or other domestic assistant;
- (d) the cost to the employer of providing an employee with any meal, refreshment, or entertainment except in the course of providing a good or service for the employer where the Tax Administration considers that the cost of provision for the employer is reasonable; or
- (e) the market value of any other non-cash benefit provided by an employer to an employee;

**“permanent establishment”** means a fixed place of business through which the business of a person is wholly or partly carried on, including:

- (a) a place of management;
- (b) a branch;
- (c) a representative office;
- (d) an office;
- (e) a factory;
- (f) a workshop;
- (g) a mine, an oil or gas well, a quarry, or any other place of extraction of natural resources, including any place of drilling for mineral exploration;
- (h) a fishery, place where animal husbandry is conducted, farm, plantation, or forest;
- (i) a construction, installation, or assembly project;
- (j) the furnishing of services through employees or other personnel, if conducted for more than sixty days in any 12-month period;
- (k) a natural or legal person acting as dependent agent; or
- (l) an agent or employee of a non-resident insurance company, if the agent or employee collects premiums, or insures risks, in Timor-Leste;

**“person”** means a natural or legal person.

**“received”**, with respect to a person, includes:

- a) invested on behalf of such person, whether upon instructions from such person or pursuant to the law;

- b) reinvested, accrued or capitalized;
- c) deposited in an account or paid into a reserve, amortisation or insurance fund;
- d) made available to such person.

**“resident”** means a resident natural person, a resident legal person or the Government of the Democratic Republic of Timor-Leste.

**“resident legal person”** means a legal person incorporated, formed, organised, or established in Timor-Leste, including the undivided estate of a natural person who was a resident natural person immediately before death;

**“resident natural person”** means:

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

**“restaurant and bar services”** means the provision of food or beverages by an establishment that provides facilities for immediate consumption at that establishment, or catering services of prepared food, but not including the provision of food or beverages that is considered part of the provision of hotel services;

**“royalty”** means any amount, however described or computed, whether periodical or not, as consideration for:

- (a) the use of or right to use any copyright, patent, design or model, secret formula or process, trademark, or other like property or right;
- (b) the use of or right to use any motion picture films, films or video tapes for use in connection with television or internet broadcasting, or tapes for use in connection with radio or internet broadcasting;
- (c) the receipt of, or right to receive, any visual images or sounds, or both, transmitted by satellite, cable, optic fiber, or similar technology in connection with television, radio, or internet broadcasting;
- (d) the supply of any scientific, technical, industrial, or commercial knowledge or information;
- (e) the use of or right to use any tangible movable property;
- (f) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property, supply, or right as mentioned in paragraphs (a)-(e);
- (g) the partial or total forbearance in respect of any matter referred to in paragraphs (a)-(f); or

(h) the disposal of any property or right referred to in paragraphs (a)-(g);

**“structure”** means any structural improvement to immovable property including, without limiting the generality of the foregoing, any road, driveway, car park, railway line, pipeline, bridge, tunnel, airport runway, canal, dock, wharf, retaining wall, fence, power lines, water or sewerage pipes, drainage, landscaping, or dam;

**“Tax Administration”** means the central services and other public bodies upon which it is incumbent to carry out the liquidation and to collect taxes and duties, the Minister of Finance or another competent member of the Government, when exercising their administrative powers in relation to tax matters;

**“tax”** means tax or duty imposed under this act;

**“tax form”** means:

- (a) an annual income tax form;
- (b) an annual wage income tax withholding information form;
- (c) an excise tax form;
- (d) an income tax instalment form;
- (e) an income tax withholding form;
- (f) a sales tax form;
- (g) a services tax form;
- (h) a wage income tax withholding form;
- (i) any forms designated by the Tax Administration for the purposes of persons applying for tax identification numbers and being registered for tax purposes; or
- (j) any consolidated form designated by the Tax Administration that includes the information from 2 or more of the above forms and, if a consolidated form is designated for a person, any forms that the consolidated form replaces is no longer a tax form in relation to the person;

**“tax treaty”** means:

- (a) an agreement between the Government of the Democratic Republic of Timor-Leste and the government of a foreign country providing for the relief from double taxation and the prevention of fiscal evasion; or
- (b) an agreement between the Government of the Democratic Republic of Timor-Leste and the government of a foreign country providing for reciprocal assistance in the enforcement of income tax liabilities;

**“tax year”** means the 12 month period from 1 January to 31 December or, if a taxpayer has permission to use a substituted tax year, the substituted tax year;

**“taxable business activities”** means business activities carried on to derive business income included in gross income;

**“taxpayer”** means a person liable for tax or duty under this present law and, in the case of the income tax, includes a person who has a loss for a tax year;

**“telecommunications services”** means the provision of telephonic services by a telecommunications service provider, including digital or analogue telephone, facsimile or data transfer communications;

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

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

**“underlying ownership”** in relation to a legal person, means a membership interest in the person held, directly or indirectly through an interposed legal person or persons, by a natural person or by a person not ultimately owned by natural persons

**“wages”** means any reward for services provided by an employee to an employer, including:

- (a) any salary provided to the employee, including severance payments, , overtime payments, commissions, or bonuses;
- (b) director’s fees and other remuneration arising from the holding of an office;
- (c) the value of gifts provided by an employer to an employee;
- (d) any allowance (additional pay) provided by the employer for the benefit of an employee;
- (e) any payment provided by the employer in respect of loss or termination of employment;
- (f) any payments however described made on termination of employment in respect of entitlements outstanding at the time of termination;
- (g) the reimbursement or discharge by an employer of any expense of the employee, including utilities or medical expenses;
- (h) the amount of any waiver where any employer waives an obligation of the employee to pay an amount owing to the employer;
- (i) non-wage benefits greater than \$20 provided in a calendar month to an employee.

## **Section 2 Associates**

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

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

- 2.3 Without limiting the generality of Section 2.1, the following persons are associates for the purposes of the present law:
- (a) a natural person and a relative of the natural person;
  - (b) a legal person and any person who owns directly or indirectly 50% or more, by value or number, of the capital or voting rights in the legal person; or
  - (c) two or more legal persons if a third person owns directly or indirectly 50% or more, by value or number, of the capital or voting rights in each legal person.
- 2.4 In this Section, “relative” means, in relation to a natural person:
- (a) an ancestor, a descendant of any of the grandparents, or an adopted child of the person or of the spouse of the person; or
  - (b) a spouse of the person or a spouse of any person referred to in paragraph (a).

### **Section 3 Ambit of the Act**

Subject to Section 94, this Act applies to the territory of Timor-Leste, including its territorial sea, and to its exclusive economic zone and continental shelf, and applies to the Joint Petroleum Development Area, except that -

- (a) Chapter II does not apply to matters covered by the Timor Sea Treaty;
- (b) Chapters III and IV do not apply to goods covered by the Timor Sea Treaty;
- (c) Chapter V does not apply to imports covered by the Timor Sea Treaty;
- (d) Chapter VI does not apply to wages received in the territory covered by the Timor Sea Treaty; and
- (e) Chapter VII does not apply to the territory covered by the Timor Sea Treaty.

### **Section 4 Scope of the Act**

This Act provides for the consolidation of the tax regimes applicable in Timor-Leste, other than the Law on the Taxation of Bayu-Undan Contractors.

## **CHAPTER II – SERVICES TAX**

### **Section 5 Imposition of Services Tax**

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

### **Section 6 Gross Consideration**

- 6.1 The gross consideration received by a person for the provision of designated services includes all amounts received by that person in respect of the provision of designated services.
- 6.2 If a lump sum amount is received as consideration for the provision of designated services and the provision of other services or goods, the amount shall be treated as consideration for the designated services to the extent that the Tax Administration considers reasonable having regard to all the circumstances.

## **Section 7 Designated Services**

- 7.1 The following services are designated services:
- (a) hotel services;
  - (b) restaurant and bar services; and
  - (c) telecommunications services.
- 7.2 The person providing telecommunications services is the person who operates and maintains the system for transmitting the telephonic signals.

## **Section 8 Place of Supply of Designated Services**

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

## **Section 9 Payment of Tax and Services Tax Form**

- 9.1 A person providing designated services in Timor-Leste who is liable to pay services tax shall deliver to the Banking and Payments Authority or another entity nominated by the Tax Administration by the fifteenth day after the end of a calendar month:
- (a) a completed services tax form as prescribed by the Tax Administration; and
  - (b) any services tax payable on the gross consideration received in the month by the person for the provision of designated services.
- 9.2 A person who has had a liability to pay services tax in respect of any month shall deliver to the Banking and Payments Authority or another entity nominated by the Tax Administration a completed services tax form for subsequent months whether or not services tax is payable in subsequent months.
- 9.3 The Tax Administration may waive the requirement set out in Section 9.2 upon written application by a person required to deliver a services tax form under that Section if the

Tax Administration is satisfied that the person will not have a liability to pay services tax in the relevant months.

## **CHAPTER III - EXCISE TAX**

### **Section 10 Imposition of Excise Tax**

10.1 Excise tax is imposed on:

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

10.2 Subject to this Chapter:

- (a) a registered manufacturer removing excisable goods from a warehouse for consumption in Timor-Leste; or
- (b) a person importing excisable goods into Timor-Leste,

is liable to pay excise tax of the amount set out in column 3 of the Table in Schedule II on the removal or importation of the goods.

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

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

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

### **Section 11 Excisable Goods**

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

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

11.2 The Tax Administration may extend the 28-day period provided for in Section 11.1(b), upon written request by the exporter, when the Tax Administration is satisfied that:

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

11.3 For the purposes of Section 11.1(b) only such documentary proof of export will be accepted that:

- a) was certified as correct by the Customs Service;
- b) is submitted to the Banking and Payments Authority within 28 days from the date of the production or import of goods for which an exemption was requested regarding the excise tax.

## **Section 12 Registration and Approval of Warehouses**

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

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

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

- a) the date on which any change in the name, address, location of activities, constitution or nature of the main activity or activities undertaken by the manufacturer has occurred, including any relevant change in the nature or quantity of the excisable goods produced;
- b) any discrepancy between the registered and the effective inventory;
- c) the date on which the manufacturer ceased to carry out his or her activity on a provisional basis under circumstances not provided for in Section 12.4.

12.4 The notice in writing referred to in Section 12.3 should be submitted to the Tax Administration:

- a) not later than 21 days after the facts referred to have occurred, in the case of a written notice under Section 12.3(a) or (c);
- b) as soon as the manufacturer becomes aware of the discrepancy referred to above, in the case of a written notice under Section 12.3(b).

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

- a) the date on which the manufacturer ceased production of the excisable goods;

- b) the date on which the manufacturer expects the customs bonded warehouse to be void of excisable goods;
  - c) whether or not the manufacturer intends to re-start the production of excisable goods within twelve months from the date provided in Section 12.5(b).
- 12.6 If the Tax Administration receives a notice under Section 12.5, the Tax Administration shall cancel the registration of the manufacturer by means of a written notice. Such cancellation shall come into force from the first day when there are no excisable goods in the manufacturer's warehouse, except if the Tax Administration has reasonable grounds to believe that the manufacturer will re-start the production of excisable goods at any time within the 12-month period from the date provided for under Section 12.5(b).
- 12.7 Any obligation or duty imposed on a manufacturer while on the register, including the obligation to pay the excise tax and to submit the corresponding forms, is not affected by the cancellation of the manufacturer's registration.
- 12.8 A registered manufacturer who sells his or her business of manufacturing excisable goods as a going concern shall inform the Tax Administration in writing about the fact at least three days before the date when:
- a) the sale is concluded;
  - b) the purchaser acquires a legal right to the assets to be purchased;
  - c) the assets of the company that is producing the goods are transferred;
- 12.9 The registered manufacturer shall request from the Tax Administration the approval of a warehouse as a customs bonded warehouse, following a given procedure and fulfilling certain requirements.
- 12.10 The Tax Administration shall approve the warehouse of the registered manufacturer as a customs bonded warehouse for the purpose of the production and sale of excisable goods as long as the Tax Administration is satisfied that the warehouse meets the necessary requirements.
- 12.11 A registered manufacturer shall only produce and sell excisable goods from the moment when the warehouse is approved as a customs bonded warehouse pursuant to the provisions set out in this Section and the applicable customs laws and regulations.

### **Section 13**

#### **Excise Tax Form and Payment**

- 13.1 A registered manufacturer shall submit to the Banking and Payments Authority or another entity nominated by the Tax Administration by the fifteenth day after the end of a calendar month:
- a) a completed excise tax form as prescribed by the Tax Administration;
  - b) any excise tax payable on excisable goods that have been removed from the manufacturer's warehouse during that calendar month.
- 13.2 A registered manufacturer will not be able to justify any quantities of excisable goods manufactured or stored that have been removed from the warehouse in a calendar month where a discrepancy is acknowledged between effective and recorded inventory, in which

case the manufacturer shall inform the Customs Service in writing about the discrepancy as soon as the manufacturer becomes aware of it.

- 13.3 The Tax Administration shall determine the procedure for the payment of excise tax on imported goods.
- 13.4 Any person required to pay excise tax under Section 13.1 with respect to a given month shall submit to the Banking and Payments Authority or another entity nominated by the Tax Administration a completed excise tax form for subsequent months, whether or not excise tax is payable in subsequent months
- 13.5 The Tax Administration may waive the requirement set out in Section 13.4 upon written application by a person required to deliver an excise tax form if the Tax Administration is satisfied that the person will not have a liability to pay excise tax in subsequent months.

#### **Section 14 Relief for Raw Materials**

- 14.1 If the Tax Administration is satisfied, on the basis of a certificate issued by a registered manufacturer in the prescribed form, that excisable goods, whether imported into, or manufactured in, Timor-Leste, are intended to be used by the registered manufacturer as raw materials for the manufacture of other excisable goods, the Tax Administration may, in respect of such goods, instead of requiring payment of excise tax in full, require that the manufacturer deposit such security as the Tax Administration thinks fit.
- 14.2 If the Tax Administration is satisfied that goods to which Section 14.1 applied were used as raw materials for the manufacture, in Timor-Leste, of other excisable goods, the Tax Administration may apply any security deposit given under Section 14.1 against any excise tax that becomes payable on the removal of those other excisable goods from the manufacturer's warehouse.
- 14.3 If the Tax Administration is satisfied that goods to which Section 14.1 applied were applied to a purpose other than as raw materials for the manufacture of other excisable goods, the Tax Administration may apply any security deposit given under Section 14.1 as payment of the excise tax liability that would have arisen were it not for the Tax Administration's decision under Section 14.1.

### **CHAPTER IV - SALES TAX**

#### **Section 15 Imposition of Sales Tax**

- 15.1 Sales tax at the rates set out in Schedule III is imposed on the sales tax value of:
- (a) taxable goods imported into Timor-Leste;
  - (b) taxable goods sold in Timor-Leste on or after the date to be specified by Parliament; or
  - (c) taxable services provided in Timor-Leste on or after the date to be specified by Parliament.
- 15.2 The sales tax value of –

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

15.3 Subject to Section 15.4, the following persons are liable for sales tax imposed under Section 15.1:

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

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

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

## **Section 16 Taxable and Exempt Goods and Services**

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

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

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

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

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

**Section 17**  
**Sales Tax Exemption Form**

- 17.1 The Tax Administration shall provide a sales tax exemption number to a person who requests the number if the Tax Administration is satisfied that the person will be liable to pay sales tax in respect of sales of taxable goods or the provision of taxable services by that person.
- 17.2 A person who imports goods into Timor-Leste or who acquires goods or services in Timor-Leste may provide the Customs Service or person supplying the goods or services with a completed sales tax exemption form.
- 17.3 A completed sales tax exemption form shall be provided in a format approved by the Tax Administration and must contain the following information:
- (a) an affirmation that the goods imported or the goods or services acquired for which the form is submitted will be applied by the importer or person acquiring the goods or services only:
    - (i) to make sales of taxable goods or to provide taxable services;
    - (ii) to make sales of goods that would be taxable or to provide services that would be taxable if the person acquiring the goods or services had not provided the person supplying the goods or services with a completed sales tax exemption form;
  - (b) the sales tax exemption number of the person providing the form.
- 17.4 A person who receives completed sales tax exemption forms for sales made by the person shall keep and maintain those forms for five years after the calendar month in which the sale was made.

**Section 18**  
**Payment of Tax and Sales Tax Form**

- 18.1 A person who is liable to pay sales tax on goods sold in Timor-Leste or services provided in Timor-Leste shall deliver to the Banking and Payments Authority or another entity nominated by the Tax Administration by the fifteenth day after the end of a calendar month:
- (a) a completed sales tax form as prescribed by the Tax Administration; and
  - (b) any sales tax payable on goods sold or services provided by the person during that calendar month.
- 18.2 The Tax Administration shall prescribe procedures for the payment of sales tax payable on imported goods.
- 18.3 A person who has had a liability to deliver a sales tax form under Section 18.1 in respect of any month shall deliver to the Banking and Payments Authority or another entity nominated by the Tax Administration a completed sales tax form for subsequent months whether or not sales tax is payable in subsequent months.
- 18.4 The Tax Administration may waive the requirement set out in Section 18.3 upon written application by a person required to deliver a sales tax form under that Section if the Tax

Administration is satisfied that the person will not have a liability to pay tax on services in subsequent months.

## **CHAPTER V - IMPORT DUTY**

### **Section 19 Imposition of Import Duty**

- 19.1 A person who imports goods into Timor-Leste other than goods exempt from import duty under Schedule IV is liable to pay import duty on the imported goods at the rate set out in Schedule IV.
- 19.2 If a person who imports goods into Timor-Leste that are exempt from import duty transfers ownership or possession of the goods to another person and import duty is payable by the other person, the transfer of ownership or possession of the goods to the other person will be treated as an import of the goods by the other person.
- 19.3 Liability to pay import duty as a result of the operation of Section 19.2 is imposed jointly on the person transferring ownership or possession of the goods and the person to whom ownership or possession is transferred.

## **CHAPTER VI - WAGE INCOME TAX**

### **Section 20 Imposition of Wage Income Tax**

Wage income tax, at the rates set out in Schedule V, is imposed on taxable wages received by an employee in respect of employment in Timor-Leste, where employment in Timor-Leste means services performed in Timor-Leste or services performed by an employee of the Government of Timor-Leste whether performed in Timor-Leste or elsewhere.

### **Section 21 Taxable and Exempt Wages**

- 21.1 The taxable wages of an employee are the wages of the employee, other than exempt wages.
- 21.2 The following wages are exempt wages:
- (a) wages received for official duties that are exempt from taxation under the Law;
  - (b) wages of an employee who is a citizen of a foreign country received in the employee's capacity as a public servant of the government of a foreign country provided the wages are subject to income tax in that country;
  - (c) wages of an employee who is an employee of the United Nations or its specialized agencies; and
  - (d) wages exempt under Section 67.

**Section 22**  
**Withholding Obligation**

An employer paying taxable wages in respect of employment in Timor-Leste shall withhold wage income tax from those wages, using tables provided by the Tax Administration for that purpose that take into account the rates specified in Schedule V.

**Section 23**  
**Payment of Tax and Wage Income Tax Withholding Form**

- 23.1 An employer withholding wage income tax under Section 22 shall deliver to the Banking and Payments Authority or another entity nominated by the Tax Administration by the fifteenth day after the end of a calendar month:
- (a) a completed wage income tax withholding form as prescribed by the Tax Administration; and
  - (b) any wage income tax withheld in that month.
- 23.2 A person who has had a liability to deliver wage income tax withheld under Section 23.1 in respect of any month shall deliver to the Banking and Payments Authority or another entity nominated by the Tax Administration a completed wage income tax withholding form for subsequent months whether or not wage income tax has been withheld in subsequent months.
- 23.3 The Tax Administration may waive the requirement set out in Section 23.2 upon written application by an employer required to deliver a wage income tax form under that Section if the Tax Administration is satisfied that the person will not have a liability to withhold wage income tax in the relevant months.
- 23.4 An employer who has withheld wage income tax under Section 22 shall deliver to the Banking and Payments Authority or another entity nominated by the Tax Administration a completed annual wage income tax withholding information form as prescribed by the Tax Administration by the last day of March following the end of the tax year to which it relates.

**Section 24**  
**Providing Information to Employees**

An employer withholding wage income tax under Section 22 shall provide all employees whose wages have been subject to wage income tax who so request with a completed wage income tax withheld form as prescribed by the Tax Administration 21 days after the end of the tax year or after termination of employment in the course of a tax year.

**Section 25**  
**Withholding Extinguishes an Employee's Tax Liability**

- 25.1 An employee who receives wages that have been correctly subject to wage income tax has no further liability with respect to wage income tax imposed on those wages.
- 25.2 If an employee receives wages that have not been correctly subject to wage income tax withholding, the Tax Administration may make an assessment of any additional wage income tax owed by the employee or refund any overpayment to the employee in accordance with the legal regime for tax assessment.

- 25.3 Any assessment of additional wage income tax by the Tax Administration under Section 25.2 may be recovered from, or any refund of any overpayment of wage income tax under Section 25.2 may be paid to, the employer of the employee if the Tax Administration is satisfied that the reason that wages were not correctly subject to wage income tax was due to the actions of, or the lack of action by, the employer.
- 25.4 Wage income tax assessed by the Tax Administration under Section 25.2 is due and payable one month after the date on which the person assessed receives notice of the assessment.
- 25.5 A person assessed under Section 25.2 shall deliver payment of the tax assessed to the Banking and Payments Authority or another entity nominated by the Tax Administration.

## **CHAPTER VII - INCOME TAX**

### **PART I Imposition of Income Tax**

#### **Section 26 Income Tax on Taxable Income**

- 26.1 Income tax, at the rate or rates specified in Schedule VI, is imposed on an income taxpayer who has taxable income for the year.
- 26.2 Subject to this Law, the taxable income of an income taxpayer for a tax year is the gross income of the taxpayer for the year reduced by the total amount of deductions allowed to the taxpayer for the year.
- 26.3 The income tax imposed under Section 26.1 on an income taxpayer for a tax year is computed by applying the rate or rates of tax applicable to the taxpayer under Schedule VI to the taxable income of the taxpayer for the year, and any tax credits allowed to the taxpayer for the year are subtracted from the resulting amount.
- 26.4 If an income taxpayer is allowed more than one tax credit for a tax year, the credits are applied in the following order –
- (a) the foreign tax credit allowed under Section 50; then
  - (b) the tax credit allowed under Section 64.4 or 82.10; then
  - (c) the tax credit allowed under Section 60.3 .

#### **Section 27 Income Taxpayer**

- 27.1 Subject to Section 27.2, the following are taxpayers for the purposes of the income tax:
- (a) a natural person;
  - (b) an undivided estate as a unit in lieu of the beneficiaries; or
  - (c) a legal person that has been incorporated, formed, organised, or established in Timor-Leste or under a foreign law, including a trust.
- 27.2 The following persons are not taxpayers for the purposes of the income tax:
- (a) a diplomatic mission;

- (b) an international organisation as determined by the Minister of Finance provided that:
  - (i) Timor-Leste is a member of the organisation; and
  - (ii) the organisation does not carry on business or engage in other activities to derive Timor-Leste source income, other than providing loans to the Government from a fund comprising member contributions.

## **Section 28 Gross Income**

- 28.1 The gross income of an income taxpayer for a tax year is the total of the following amounts derived by the taxpayer during the year:
- (a) business income;
  - (b) property income;
  - (c) lottery prizes or awards;
  - (d) a refund of a tax payment previously deducted as an expense; and
  - (e) any other amount that is a realised increase in economic capacity, in whatever name or form, which can be used by the taxpayer for consumption or to increase the wealth of the taxpayer, other than wages subject to wages income tax.
- 28.2 Business income means the gross revenue and gains on the alienation of assets or the discharge of indebtedness derived in the conduct of a business as determined in accordance with Section 33.
- 28.3 Property income means:
- (a) dividends, interest, royalties, annuities, rent, or other amounts arising from the provision, use, or exploitation of property; and
  - (b) any gain arising on the disposal of an asset, other than an asset held on personal account, but does not include an amount that is business income .
- 28.4 For the purposes of Section 28.1:
- (a) the gross income of a resident person includes income derived from all sources within and outside Timor-Leste; and
  - (b) the gross income of a non-resident person includes only Timor-Leste source income.

## **Section 29 Exempt Income**

The following income is exempt income:

- (a) any aid or donations, provided the donor and donee do not have any business, ownership, or control relationship;

- (b) gifts received by relatives within one degree of direct lineage, or by a religious, educational, or charitable organisation, or a co-operative, provided that the donor or donee does not have any business relation, ownership, or control;
- (c) inheritances;
- (d) assets (including cash) received by a legal person in exchange for shares or capital contribution;
- (e) an amount paid by an insurance company to a natural person in connection with health, accident, life, or education insurance;
- (f) dividends;
- (g) any contribution paid by an employer or employee to an approved pension fund;
- (h) income derived by an approved pension fund; and
- (i) remuneration exempt under Section 67.

### **Section 30 Deductions**

Subject to this present Law, an income taxpayer is allowed a deduction for:

- (a) expenditures to the extent incurred, and losses on the alienation of assets or the discharge of indebtedness incurred in the conduct of a taxable business activity as determined in accordance with Section 33;
- (b) expenditures incurred in deriving any other amounts included in gross income;
- (c) any loss on disposal of an asset, other than an asset covered by paragraph (a) or held on personal account;
- (d) contributions to an approved pension fund; and
- (e) doubtful debts in accordance with Section 38 and bad debts in accordance with Section 39.

### **Section 31 Deduction Not Allowed**

The following are not deductible in determining the taxable income of an income taxpayer:

- (a) the distribution of profit in whatever name or form, such as dividends, including dividends paid by an insurance company to a policy holder, or any distribution of surplus by a co-operative;
- (b) expenses charged or incurred for the personal benefit of shareholders, partners, or members;
- (c) reserves, other than as provided for under this Law;

- (d) insurance premiums for health, accident, life, or education insurance paid by a natural person, except if the premiums are paid by an employer in respect of an employee and the premium is treated as income of the employee;
- (e) excessive pay or compensation paid by a legal person to a member of the legal person, or paid between associates, as consideration for work performed;
- (f) gifts, aid, donations, or inheritances if exempt from income tax in the hands of the recipient under Section 29(a), (b) or (c);
- (g) Timor-Leste or foreign income tax;
- (h) costs incurred for the personal benefit of an income taxpayer or the taxpayer's dependents;
- (i) salaries paid to a partner in a partnership;
- (j) late payment interest, penalties and fines imposed for non-compliance with this Law;
- (k) interest expense unless the expense is incurred by a financial institution;
- (l) a fine or other monetary penalty imposed for violation of any law, rule, or regulation;
- (m) a bribe or any similar amount; and
- (n) an expenditure or loss incurred to the extent recoverable under a policy of insurance or contract of indemnity.

### **Section 32 Limitation on Deductions**

- 32.1 Expenditures incurred by an income taxpayer for earning, collecting, or securing of income having a useful life of more than one year shall not be deducted directly from income but shall be deducted through depreciation or amortisation under Sections 36 and 37.
- 32.2 If an income taxpayer is required to withhold tax from a payment that is a deductible expense of the taxpayer, including a payment of wages to which Section 22 applies, the deduction is not allowed until the taxpayer pays the withheld tax to the Tax Administration.
- 32.3 An income taxpayer is not allowed a deduction for any commission, rebate, discount, spotter's fee, or similar payment that is Timor-Leste source income of the recipient unless:
- (a) the taxpayer discloses the name and address of the recipient by notice in writing to the Tax Administration;
  - (b) the Tax Administration is satisfied that tax has been or will be paid in respect of the payment.

## **PART II Business Activities**

### **Section 33**

## **Gross Income and Deductions from the Conduct of Business Activities**

- 33.1 The determination of the gross income and deductions of an income taxpayer from the conduct of business activities for a tax year shall be based on the taxpayer's net profit for financial accounting purposes for the year prepared in accordance with the International Financial Reporting Standards, and subject to the modifications in this Law.
- 33.2 For this purpose, a taxpayer's net profit shall include the results of all business activities conducted by the taxpayer during the tax year, including the alienation of any asset or discharge of any indebtedness in the course of, or at the end of, those activities.

### **Section 34 Basis of Accounting**

- 34.1 Every income taxpayer shall account for income tax on an accrual basis.
- 34.2 An income taxpayer whose annual gross turnover is less than \$US100,000 may account for income tax on either a cash or accrual basis.
- 34.3 If an income taxpayer's basis of accounting has changed as a result of the operation of Section 34.2, the taxpayer shall make adjustments to items of income, deduction, or credit, or to any other items affected by the change so that no item is omitted and no item is taken into account more than once.
- 34.4 An income taxpayer accounting for income tax on a cash basis recognises income when it is received or made available to the taxpayer and incurs expenses when paid.
- 34.5 An income taxpayer accounting for tax on an accrual basis recognises income when it is receivable and incurs an expense when it is payable.
- 34.6 An amount is receivable by an income taxpayer when the taxpayer becomes entitled to receive it even if the time for discharge of the entitlement is postponed or the entitlement is payable by instalments.
- 34.7 An amount is payable by an income taxpayer when all the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance occurs.
- 34.8 Economic performance occurs:
- (a) in the case of the acquisition of services, goods or assets, at the time the services, goods or assets are provided;
  - (b) in the case of use of goods or assets, at the time the goods or assets are used;
- and
- (c) in any other case, at the time the taxpayer makes payment in full satisfaction of the liability.

### **Section 35 Inventory**

A deduction is allowed for the cost of inventory incurred during the tax year even if the inventory is on hand at the end of the year.

## **Section 36 Depreciation**

- 36.1 An income taxpayer is allowed a deduction for the depreciation of the taxpayer's depreciable assets and business buildings during the tax year.
- 36.2 An income taxpayer is allowed a deduction for depreciation of the taxpayer's depreciable assets and business buildings if the asset or building is:
- (a) owned by the taxpayer; or
  - (b) used and controlled by the taxpayer and the actual owner is not allowed a deduction under this Section in the tax year in respect of the asset or business building because of Section 41.
- 36.3 The cost of acquisition or construction, and the cost of improvement, renewal, and reconstruction, of a business building are depreciated individually on a straight-line basis at the rate specified in Schedule VII.
- 36.4 The cost of a business building does not include the cost of the land on which the building is situated.
- 36.5 Depreciable assets may be depreciated either individually on a straight-line basis or under a pooling system on a declining balance basis.
- 36.6 The same method of depreciation shall apply to all depreciable assets of an income taxpayer.
- 36.7 A taxpayer may change its method of depreciation only with the written permission of the Tax Administration and subject to any conditions that the Tax Administration may impose with respect to the change.
- 36.8 The classification of assets into pools and the specification of the straight-line and declining balance depreciation rates are set out in Schedule VII.
- 36.9 The depreciation deduction for each depreciation pool for a tax year is calculated by applying the depreciation rate for the pool to the written down value of the pool at the end of the tax year.
- 36.10 The written down value of a depreciation pool at the end of a tax year is the written down value at the end of the previous tax year:
- (a) increased by the capital cost of depreciable assets added to the pool during the tax year; and
  - (b) decreased by the consideration received or receivable for assets in the depreciation pool alienated during the tax year, including any compensation received for the loss of such assets due to natural calamities or other involuntary disposals.
- 36.11 If the written down value at the end of a tax year of a depreciation pool of an income taxpayer is a negative amount, that amount is included in the income of the taxpayer for the year, and the written down value of the pool is zero.

- 36.12 If the written down value at the end of a tax year of a depreciation pool is less than \$US100, a further deduction for the tax year is allowed equal to the amount of that written down value. The written down value of the pool at the end of the tax year is zero.
- 36.13 If all the depreciable assets in a depreciation pool are alienated before the end of the tax year, a deduction is allowed for the amount of the written down value, if any, of the pool at the end of the year. The written down value of the pool at the end of the tax year is zero.
- 36.14 If a depreciable asset is acquired to be used only partly in the conduct of taxable business activities and partly for another purpose, the capital cost of the asset to be included in a depreciation pool is reduced by the proportion of non-business use.
- 36.15 If an income taxpayer revalues a business building or depreciable asset, no depreciation deduction is allowed for the amount of the revaluation.
- 36.16 The following rules apply to a depreciable asset depreciated on a straight-line basis and to a business building:
- (a) if the cost of a depreciable asset is less than \$100, the depreciation deduction in the year that the asset is acquired is equal to the cost of the asset and no depreciation deduction is allowed for that asset in a subsequent year;
  - (b) the cost of an improvement, renewal, or reconstruction of a depreciable asset or business building is treated as the cost of a new asset or building with a useful life equal to the original useful life of the asset or building;
  - (c) if the depreciable asset or business building is used only partly in the conduct of taxable business activities and partly for another purpose, the amount of depreciation allowed as a deduction is reduced by the proportion of the non-business use;
  - (d) if the depreciable asset or business building is alienated by a taxpayer, the cost of the asset or building is reduced by the depreciation deductions allowed under this Section.
- 36.17 For a depreciable asset added to a pool in the last tax year of the repealed legislation, the amount of the cost of the asset not added to the pool in that year is added in the first tax year under this law.

### **Section 37** **Amortisation of Intangibles**

- 37.1 An income taxpayer is allowed a deduction for the amortisation of the taxpayer's intangibles during a tax year.
- 37.2 The acquisition or creation cost, and the cost of improvement or renewal, of an intangible asset for use by an income taxpayer is amortised individually on a straight-line basis at the rate specified in Schedule VII.
- 37.3 The amount of any intangible expenditure with a useful life exceeding one year incurred by an income taxpayer in the conduct of taxable business activities is amortised individually on a straight-line basis at the rate specified in Schedule VII.

- 37.4 If an intangible asset or expenditure is used only partly in the conduct of taxable business activities, the amount allowed as a deduction under this Section is reduced by the proportion of the non-business use.
- 37.5 If an intangible asset has been alienated by a taxpayer during a tax year, the cost of the asset is reduced by any deductions allowed under this Section in respect of the asset.
- 37.6 Expenditures with a useful life of more than one year incurred before the commencement of taxable business activities are capitalised and amortised individually on a straight-line basis at the rate specified in Schedule VII.
- 37.7 Subsection 37.6 does not apply to the cost of acquiring land, or to an expenditure depreciated under Section 36 or deductible under another provision of this Law.

### **Section 38 Reserves**

- 38.1 Subject to this Section, no deduction is allowed for any amount retained by an income taxpayer from profits to create a reserve or provision for expected expenses or losses.
- 38.2 A bank is allowed a deduction for its allowance for credit loss or debt impairment provided the allowance has been determined in accordance with the prudential requirements prescribed by instruction of the Banking and Payments Authority.
- 38.3 The amount of the deduction referred to in Section 38.2 shall be defined by the Minister of Finance in consultation with the Banking and Payments Authority.

### **Section 39 Bad Debts**

- 39.1 An income taxpayer is allowed a deduction in a tax year for a bad debt if the following conditions are satisfied:
- (a) the amount of the debt was previously included in the taxable business income of the taxpayer;
  - (b) the debt is written off in the accounts of the taxpayer during the tax year; and
  - (c) the taxpayer has reasonable grounds for believing that the debt will not be recovered.
- 39.2 This Section does not apply to a bank entitled to a deduction for its provision for doubtful debts under Section 38.2.

### **Section 40 Long-term Contracts**

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

### **Section 41 Finance Leases**

- 41.1 A finance lease is treated as a sale and purchase of the leased asset.
- 41.2 The lessor is treated as having made a loan to the lessee equal to the purchase price of the asset and the lessee is treated as the owner of the asset.
- 41.3 Each payment by the lessee to the lessor is treated as in part a repayment of principal and in part a payment of interest.
- 41.4 The interest part is calculated on the principal outstanding at the time each payment is made.
- 41.5 A lease is a finance lease if :
- (a) the lease term, including any period under an option to renew, is 75% of the useful life of the asset for depreciation puposes;
  - (b) the lesse has an option to purchase the asset for a fixed or determinable price at the expiration of the lease;
  - (c) the estimated residual value of the asset at the expiration of the lease is less than 20% of its market value at the start of the lease;
  - (d) in the case of a lease that commences before the last 25% of the useful life of the asset, the present value of the minimum lease payments equals or exceeds 90% of the market value of the asset at the commencement of the lease term; or
  - (e) the asset is custom-made for the lessee and, after the expiration of the lease, the asset will be of no practical use to any person other than the lessee.

## **Section 42 Substituted Tax Year**

- 42.1 An income taxpayer conducting business activities may apply, in writing, to the Tax Administration to use a twelve month period, referred to as a “substituted tax year“, other than the tax year as the taxpayer’s tax year for the purposes of this Chapter.
- 42.2 An income taxpayer granted permission under this Section to use a substituted tax year may apply, in writing, to the Tax Administration to change the taxpayer’s tax year to another twelve-month period, including the tax year.
- 42.3 An application under Section 42.1 or 42.2 shall set out the reasons for the use of a substituted tax year or the change of a substituted tax year, as the case may be.
- 42.4 The Tax Administration may grant an application under Section 42.1 or 42.2 if the Tax Administration believes it is necessary for the efficient operation of this present law.
- 42.5 The Tax Administration shall give notice in writing to an income taxpayer of the Tax Administration’s decision on the taxpayer’s application to use, or change, a substituted tax year.
- 42.6 The Tax Administration may, by notice in writing, withdraw an income taxpayer’s permission to use a substituted tax year.
- 42.7 The Tax Administration shall specify:

- (a) the date from which the Tax Administration's decision on the application under this Section takes effect and the period between the last day of the income taxpayer's old tax year and the taxpayer's new tax year is treated as a separate tax year; (b) any transitional rules appropriate for the application of this present Law to a part of a tax year when the taxpayer commences to use a substituted tax year or ceases to use a substituted tax year.

42.8 If the Tax Administration has permitted an income taxpayer to use a substituted tax year, all references in this present Law to a particular tax year are read as references to the substituted tax year in which the particular tax year ends.

### **PART III**

#### **General Provisions Relating to the Computation of Taxable Income**

##### **Section 43**

##### **Losses**

- 43.1 If the determination of the taxable income of an income taxpayer results in a loss for a tax year, that loss may be deducted as an expense in calculating the taxable income of the taxpayer in the next tax year, and so on, until the loss is expired.
- 43.2 If a taxpayer has incurred a loss referred to in Section 30(c) in a tax year, the amount of the loss may be applied only against a gain referred to in Section 28.3(b) derived in the year.
- 43.3 Any excess of loss over gain for the year may be carried forward as a loss in calculating the taxable income of the taxpayer the next tax year, and so on, until the loss is expired.

##### **Section 44**

##### **Recouped Deductions**

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

##### **Section 45**

##### **Assets**

- 45.1 For the purposes of calculating taxable income:
  - (a) any gain arising on the alienation of an asset is the excess of the gross consideration received over the cost of the asset;
  - (b) any loss arising from the alienation of an asset is the excess of the cost of the asset over the gross consideration received.
- 45.2 Subject to this Section and Sections 36 and 37, the cost of an asset is the total amount paid or incurred by a taxpayer in the acquisition, creation, or construction of the asset. It includes any non-deductible incidental expenditures incurred in acquiring asset and the market value of any in-kind consideration given for the asset. Non-deductible expenditures incurred to alter or improve an asset are added to the cost of the asset.
- 45.3 Subject to this Section, the consideration received on alienation of an asset is the total amount received or receivable for the asset.

- 45.4 The amount referred to in Section 45.3 above includes any non deductible incidental expenditures incurred in alienating the asset and the market value of any in-kind consideration received for the asset.
- 45.5 If a part of an asset is alienated, the cost of the asset is apportioned reasonably between the part of the asset retained and the part alienated.
- 45.6 If an asset is transferred between associates in a non arm's length transaction, the transferor is treated as having received, and the transferee is treated as having given, the market value of the asset as consideration for the transfer.

## **PART IV Persons**

### **Section 46 Natural Persons**

The taxable income of each natural person is computed separately.

### **Section 47 Legal Persons**

A legal person is liable to tax separately from its members.

### **Section 48 Change in Ownership of a Legal Person**

If there is a change of 50% or more in the underlying ownership of a legal person, any carry forward loss incurred for a tax year before the change is not allowed as a deduction in a tax year after the change, unless the legal person:

- (a) carries on the same business after the change as it carried on before the change until the loss has been fully deducted; and
- (b) does not, until the loss has been fully deducted, engage in any new business or investment after the change if the principal purpose of the legal person or its members is to utilise the loss so as to reduce the income tax payable on the income arising from the new business or investment.

## **PART V International Aspects of Income Tax**

### **Section 49 Source of Income**

- 49.1 An amount is Timor-Leste source income to the extent to which the amount is:
- (a) subject to paragraph (b), income from business activities carried on:

- (i) by a resident in Timor-Leste; or
  - (ii) by a non-resident through a permanent establishment in Timor-Leste as determined under Section 52;
- (b) subject to paragraph (h), remuneration for services referred to in Section 53 if the remuneration is paid by a resident person or borne by a Timor-Leste permanent establishment of a non-resident person;
  - (c) income from the alienation of any movable property used in deriving Timor-Leste source income referred to in paragraph (a) or (b);
  - (d) income from the lease of immovable property in Timor-Leste whether improved or not, or from any other interest in or over immovable property, including a right to explore for, or exploit, natural resources, in Timor-Leste;
  - (e) income from the alienation of any property or right referred to in paragraph (d) or from the alienation of any ownership interest in a legal person the assets of which consist wholly or principally of property or rights referred to in paragraph (d);
  - (f) a dividend paid by a resident legal person;
  - (g) interest, royalties, a management fee, annuity, or any other income paid by a resident or borne by a permanent establishment in Timor-Leste of a non-resident; or
  - (h) income from providing air or sea transportation services:
    - (i) between two places in Timor-Leste;
    - (ii) from a place in Timor-Leste to a place outside Timor-Leste; or
    - (iii) from a place outside Timor-Leste to a place in Timor-Leste.

49.2 Notwithstanding Section 49.1, any amount taxable in Timor-Leste under a tax treaty is Timor-Leste source income.

49.3 Income is foreign-source income to the extent to which it is not Timor-Leste source income.

## **Section 50 Foreign Tax Credit**

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

50.2 The foreign tax credit is calculated separately for each foreign country from which income is derived by a taxpayer. The rules in Section 49 apply in determining the country in which income is derived on the basis that the reference in Section 49 to Timor-Leste is a reference to the relevant foreign country.

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

- 50.4 The amount of foreign tax paid shall be substantiated by appropriate evidence, such as payment under a tax assessment, a tax withholding certificate, or other similar document accepted by the Tax Administration for this purpose.

## **Section 51 Foreign Losses**

- 51.1 Deductible expenses incurred in deriving income from sources in a foreign country are deductible only against that income.
- 51.2 If the total deductible expenses exceed the gross income derived from sources in a foreign country for a tax year, the amount of the excess is a foreign country loss allowed as a deduction against income from sources in the foreign country in the next tax year, and so on, until the loss is expired.

## **Section 52 Permanent Establishments**

- 52.1 The taxable income of a non-resident carrying on business activities in Timor-Leste through a permanent establishment is calculated by reference to the income attributable to:
- (a) the permanent establishment;
  - (b) any sales in Timor-Leste of goods or merchandise of the same or similar kind as those sold through the permanent establishment; and
  - (c) any other business activities carried on in Timor-Leste of the same or similar kind as those effected through the permanent establishment.
- 52.2 The following principles apply in determining the taxable income of a Timor-Leste permanent establishment of a non-resident person:
- (a) the profit of the permanent establishment is calculated on the basis that it is a distinct and separate person engaged in the same or similar activities under the same or similar conditions and dealt with wholly independently from the non-resident person of which it is a permanent establishment;
  - (b) subject to this present law, deductions may be claimed for expenses incurred for the purposes of the business activities of the permanent establishment including head office expenditures so incurred, whether in Timor-Leste or elsewhere;
  - (c) no deduction may be claimed for amounts paid or payable by the permanent establishment to its head office or to another permanent establishment of the non-resident person, other than towards reimbursement of actual expenses incurred by the non-resident person to third parties, by way of:
    - (i) royalties, fees, or other similar payments for the use of any tangible or intangible asset by the permanent establishment;
    - (ii) compensation for any services, including management services, performed for the permanent establishment;

- (iii) interest on moneys lent to the permanent establishment, except in connection with a banking business;
- (d) no account is taken in the determination of the gross income of a permanent establishment of amounts charged by the permanent establishment to the head office or to another permanent establishment of the non-resident person, other than towards reimbursement of actual expenses incurred by the permanent establishment to third parties, by way of:
  - (i) royalties, fees, or other similar payments for the use of any tangible or intangible asset;
  - (ii) compensation for any services, including management services, performed by the permanent establishment;
  - (iii) interest on moneys lent by the permanent establishment, except in connection with a banking business.

## **PART VI Withholding Tax**

### **Section 53 Payments for Services**

- 53.1 This Section applies to any person paying an amount of Timor-Leste source services income to a person who is:
- (a) carrying on construction or building activities;
  - (b) providing construction consulting services;
  - (c) providing air or sea transportation services;
  - (d) carrying on mining or mining support services.
- 53.2 Except where Section 53.3 below applies, every person other than a natural person making a payment to which this Section applies shall withhold tax from the gross payment at the rate prescribed for the payment in Schedule VIII.
- 53.3 The recipient of a payment to which this Section applies shall withhold tax from the gross payment received at the rate prescribed for the payment in Schedule VIII if:
- (a) the payer is a natural person or the payer is the United Nations or its specialised agencies; (b) the recipient is a person providing air or sea transportation services.

### **Section 54 Royalties**

- 54.1 Every person (other than a natural person) paying royalties to a resident person or a Timor-Leste permanent establishment of a non-resident person shall withhold tax, at the rate of 10%, from the gross amount of the royalties paid.
- 54.2 If the person paying royalties is a natural person, the recipient of the payment shall withhold tax, at the rate of 10%, from the gross amount received.

## **Section 55**

### **Rent**

- 55.1 Every person (other than a natural person) making a payment to a resident person or a Timor-Leste permanent establishment of a non-resident person of rent for the lease of land or buildings in Timor-Leste shall withhold tax, at the rate of 10%, from the gross amount of the rent paid.
- 55.2 If the person paying rent for the lease of land or buildings is a natural person or where the payer is the United Nations or its specialized agencies, the recipient of the payment shall withhold tax, at the rate of 10%, from the gross amount received.

## **Section 56**

### **Prizes and Winnings**

Every person paying a prize (including a gambling winning) or lottery winning to a resident person or a Timor-Leste permanent establishment of a non-resident person shall withhold tax, at the rate of 10%, from the gross amount received.

## **Section 57**

### **Non-resident Withholding Tax**

Every person making a payment of Timor-Leste source income to a non-resident person, other than a payment to which Section 52 or 53 applies, shall withhold tax, at the rate of 10%, from the gross amount of the payment.

## **Section 58**

### **Obligations of a Person Withholding Tax from a Payment**

- 58.1 Every person who has withheld tax from a payment made by the person in accordance with this Part shall remit the tax withheld to the Banking and Payments Authority or another entity nominated by the Tax Administration within fifteen days after the end of the month in which the payment was made.
- 58.2 At the time of payment, the payer shall issue to the recipient of the payment a withholding tax notice setting out the amount of the payment made and the amount of tax withheld from the payment.
- 58.3 Any person who fails to withhold tax in accordance with this Part from a payment made by the person is personally liable to pay the amount of tax which has not been withheld to the Banking and Payments Authority or another entity nominated by the Tax Administration. Such person is entitled to recover this amount from the recipient of the payment.
- 58.4 Any person who has withheld tax under this Part from a payment made by the person and has remitted the amount withheld to the Banking and Payments Authority or another entity nominated by the Tax Administration is treated as having paid the withheld amount to the recipient of the payment for the purposes of any claim by that person for payment of the amount withheld.
- 58.5 Any tax withheld by a person under this Part from a payment made by the person is held by the person as agent for the Tax Administration.
- 58.6 In the event of the liquidation or bankruptcy of the person, any amount of tax withheld does not form a part of the estate of the payer in liquidation or bankruptcy, and the Tax

Administration shall have a first claim to the tax withheld before any distribution of property is made.

### **Section 59 Self-withholding**

Every recipient of a payment who is required to withhold tax from the payment in accordance with this Part shall remit the tax withheld to the Banking and Payments Authority or another entity nominated by the Tax Administration within fifteen days after the end of the month in which the payment was received.

### **Section 60 General Provisions Relating to Withholding Tax**

- 60.1 This Part does not apply to any amount that is exempt income.
- 60.2 The amount of tax withheld from a payment under this Part is treated as income derived by the recipient of the payment at the time the tax was withheld.
- 60.3 Except if Section 61 applies, if tax has been withheld from income derived by a person, the person is allowed a tax credit for that tax against the tax due by the person on the taxable income of the person for the tax year in which the tax was withheld.
- 60.4 A tax credit allowed under this Section is applied in accordance with Section 26.4.
- 60.5 A tax credit or part of a tax credit allowed for a tax year that is not able to be credited under Section 26.4 for the year is treated as overpaid tax and dealt with in accordance with the legal regime for tax assessment.
- 60.6 The legal regime relating to the collection and recovery of tax shall apply to any amount withheld or required to be withheld in accordance with this Part.
- 60.7 The Tax Administration may make an assessment of any additional income tax owed by a person or refund any overpayment if that person receives amounts that have not been correctly subject to withholding tax.
- 60.8 Payment of tax assessed under Section 60.7 is due and payable one month after the date the person assessed receives notice of the assessment.

### **Section 61 Withholding Tax as a Final Tax**

- 61.1 This Section applies to –
- (a) subject to Section 61.2, payments for services subject to withholding tax under Section 53;
  - (b) prizes and winnings subject to withholding tax under Section 56 or payments to non-residents subject to withholding tax under Section 57; or
  - (c) royalties subject to withholding tax under Section 54 or rent on land and buildings subject to withholding tax under Section 55, but only if the recipient of the royalties or rent is a natural person.

- 61.2 The recipient of payments for services subject to withholding tax under Section 53 can elect for Section 61 not to apply to the payments, by notice in writing to the Tax Administration. An election made under this Section is irrevocable.
- 61.3 A person who receives an amount to which this Section applies that has been correctly subject to withholding tax under this present law has no further liability with respect to income tax imposed on those amounts.
- 61.4 If the tax withheld is a final tax on the income of the recipient of the payment under Section 61.3:
- (a) no further income tax liability is imposed upon the recipient in respect of the income to which the tax relates;
  - (b) that income is not aggregated with the other income of the recipient for the purposes of ascertaining taxable income;
  - (c) no deduction (including a depreciation or amortization deduction) may be claimed for any expenditure or losses incurred in earning the income; and
  - (d) no refund of tax shall be made in respect of the income.

## **PART VII Income Tax Procedure**

### **Section 62 Delivery of Income Tax Returns**

- 62.1 The following persons are required to deliver to the Banking and Payments Authority or another entity nominated by the Tax Administration a completed income tax form as prescribed by the Tax Administration at the time designated by the Tax Administration:
- (a) a person who is required to pay income tax under the present Law, including a person who has a loss for a tax year; and
  - (b) other persons or classes of persons as designated by the Tax Administration.
- 62.2 An income taxpayer required to deliver a completed income tax form for a tax year to the Banking and Payments Authority or another entity nominated by the Tax Administration under Section 62.1 shall deliver the form not later than the last day of the third month after the end of the tax year.
- 62.3 The income tax form of an income taxpayer conducting business activities shall be accompanied by the taxpayer's income statement, balance sheet, and cash flow statement for the tax year.
- 62.4 An income taxpayer may apply in writing to the Tax Administration for an extension of time to deliver an income tax form.
- 62.5 An application under Section 62.4 must be accompanied by a statement estimating the amount of income tax due for the tax year and proof of settlement of the tax due.

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

**Section 63**  
**Due Date for Payment of Income Tax**

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

**Section 64**  
**Instalments of Income Tax**

- 64.1 Subject to Section 64.2, an income taxpayer shall pay monthly instalments of income tax for a tax year. The amount of each instalment is 0.5% of the taxpayer's total turnover for the month.
- 64.2 An income taxpayer whose total turnover for the previous tax year is \$1 million or less shall pay quarterly instalments of income tax for the year. Instalments shall be payable for the three-month period ending on the last day of the third, sixth, ninth, and twelfth months of the tax year. The amount of each instalment is 0.5% of the taxpayer's total turnover for the quarter.
- 64.3 Instalments of income tax are payable by the 15<sup>th</sup> day after the end of the period to which they relate.
- 64.4 Instalments of income tax paid by an income taxpayer in a tax year shall be credited against the taxpayer's income tax liability for that year.
- 64.5 If the amount of the instalments exceeds the taxpayer's income tax liability, the excess is treated as overpaid tax.
- 64.6 For the purposes of this section, an income taxpayer's total turnover for a month shall not include any amount derived in the month that is exempt income or subject to withholding tax.

**CHAPTER VIII - GENERAL RULES APPLICABLE TO TAXES IMPOSED BY THIS LAW**

**Section 65**  
**Currency Translation**

- 65.1 Any amount taken into account for the purposes of this present Law shall be calculated in United States dollars.
- 65.2 Subject to Section 65.3, if an amount is in a currency other than United States dollars, the amount shall be converted at the Banking and Payments Authority's mid-exchange rate applying between the currency and United States dollars on the date the amount is taken into account for tax purposes.
- 65.3 With the prior written permission of the Tax Administration, an income taxpayer carrying on business activities may use the average rate of exchange for the tax year or a part of the tax year.

**Section 66**  
**Market Value**

- 66.1 An amount-in-kind is accounted for at its fair market value on the date it is taken into account for tax purposes.
- 66.2 The fair market value of an asset shall be determined without regard to any restriction on alienation.

### **Section 67 Exempt Remuneration**

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

## **CHAPTER IX - SPECIAL PROVISIONS FOR OIL AND GAS TAXATION**

### **Part I Preliminary**

#### **Section 68 Chapter IX Interpretation**

- 68.1 In this Chapter:

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

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

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

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

**“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 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;

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

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

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

**“Petroleum Agreement”** means:

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

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

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

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

**“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;

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

**“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 provided under the Petroleum Agreement, as revised from time to time.

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

## **Section 69 Scope of Chapter**

This Chapter 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.

## **Part II Petroleum Tax Regime**

### **Section 70 Taxation of Contractors, Subcontractors, and Other Persons**

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

## **Part III Indirect Taxes**

### **Section 71 Indirect Taxes**

- 71.1 The value added tax that Timor-Leste is permitted to impose under the Timor Sea Treaty in the Joint Petroleum Development Area continues to apply in the Joint Petroleum Development Area.
- 71.2 The rate of service tax on the provision of designated services to a Contractor in relation to petroleum operations other than in the Joint Petroleum Development Area is 12%.
- 71.3 The rate of sales tax on an import of goods by a Contractor in relation to petroleum operations other than in the Joint Petroleum Development Area is 6%.
- 71.4 The rate of import duty on an import of goods by a Contractor in relation to petroleum operations other than in the Joint Petroleum Development Area is 6%.

## **Part IV Income Tax**

### **Section 72 Rate of Tax**

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

72.2 The rates of wage income tax for employees of a Contractor are as prescribed in Schedule IX.

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

### **Section 73 Limitation on Deductions**

73.1 Subject to Section 73.4, any amount that a Contractor may deduct under this present 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.

73.2 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.

73.3 Any amount not deducted under Section 73.2 is carried forward to the next following tax year and deductible in that year in accordance with Section 73.2, and so on until the excess is fully deducted or the Petroleum Operations in the Contract Area cease.

73.4 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 Law is terminated and a new Production Sharing Contract (referred to as the "successor PSC") is entered into with the same Contractor, any loss carry forward of the Contractor under this Section 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.

### **Section 74 Interest Deduction**

74.1 Notwithstanding Section 31(k) and subject to Section 74.2, a Contractor shall be allowed a deduction for interest expense incurred in relation to petroleum operations.

74.2 The total amount of interest expense allowed to a Contractor as a deduction in relation to petroleum operations for a tax year shall not exceed an amount equal to the sum of the Contractor's interest income for the year and twenty-five percent (25%) of the Contractor's net non-interest income for the year. A Contractor's net non-interest income is the Contractor's gross income for the year, other than interest income, less the total amount of deductions allowed to the Contractor for the year, other than for interest expense.

74.3 The amount of any interest expense that is not deducted in a tax year as a result of Section 74.2 may be carried forward as interest expense incurred by the Contractor in the following tax year.

- 74.4 An amount carried forward under Section 74.3 may be carried forward for a maximum of five tax years. If a taxpayer has an amount of interest expense carried forward for more than one tax year, the interest expense incurred in the earliest tax year is deducted first.

### **Section 75 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 52.2(b) for a tax year shall not exceed two percent (2%) of the total deductible expenditures (other than expenditures giving rise to depreciation or amortisation deductions) of the permanent establishment for the year excluding Head Office Expenditures.

### **Section 76 Decommissioning Costs Reserve and Decommissioning Expenditure**

- 76.1 Notwithstanding Section 38, 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 Section 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.
- 76.2 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.
- 76.3 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 76.1 in the current tax year and previous tax years;
- B** is the total amount deductible under this subsection in previous tax years; and
- C** is the total amount included in the Contractor's gross income under Section 76.4 in the current tax year and previous tax years.
- 76.4 If, at any time, the total amount deductible under this Section 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.

### **Section 77 Depreciation and Amortisation**

- 77.1 Subject to the modifications in this Section and in Section 78, a Contractor shall depreciate all depreciable assets in accordance with Section 36 and amortise all intangibles in accordance with Section 37 at the rates specified in the Schedule X.

- 77.2 Exploration Expenditure incurred under a Petroleum Agreement is treated as an intangible expenditure with a useful life equal to the expected life of the Petroleum Operations under the Agreement or five (5) years, whichever is the lesser.
- 77.3. Development Expenditure incurred under a Petroleum Agreement is treated as an intangible expenditure with a useful life equal to the expected life of the Petroleum Operations under the Agreement or ten (10) years, whichever is the lesser.
- 77.4. Exploration and Development Expenditure is amortised on a straight-line basis in accordance with Section 37.
- 77.5. Notwithstanding anything in Sections 36 and 37, a depreciable asset or intangible acquired, created, constructed, or incurred by a Contractor before commercial production is depreciated or amortised 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 Tax Administration, with the advice of the Ministry or Designated Authority, as the case may be.
- 77.6. In the tax year in which commercial production commences, the amount of the depreciation or amortisation deduction in respect of a depreciable asset or intangible acquired, created, constructed, or incurred by a Contractor before commercial production is calculated according to the following formula:

$$A \times B/C$$

where:

- A** is the depreciation or amortisation 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.

### **Section 78 Small Field Depreciation**

- 78.1 This Section 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 77.5. The estimate of Reserves must be approved by the Ministry or Designated Authority, as the case may be.
- 78.2 A contractor to whom this Section applies may elect for depreciable assets or intangibles (including Exploration and Development Expenditure) to be depreciated or amortised under the units of production method.
- 78.3 The depreciation of a depreciable asset or amortisation of an intangible for a tax year under the units of production method is calculated according to the following formula:

$$A \times B$$

where –

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

78.4 An election under Section 78.2 applies for all depreciable assets and intangibles used in the Petroleum Operations referred to in Section 78.1. The election must be made as part of the Development Plan and filed with the Tax Administration upon approval of the Development Plan.

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

### **Section 79 Transfer of Interest in Petroleum Agreement**

If a Contractor transfers an interest in a Petroleum Agreement:

- (a) The transferee Contractor continues to amortise any Exploration or Development Expenditure in the manner and on the same basis that the original Contractor amortised the expenditure; and
- (b) Sections 36 and 37 apply to any other depreciable assets or intangibles at the rates specified in the Schedule X.

### **Section 80 Value of Petroleum**

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

80.2 The value of Crude Oil:

- (a) Sold f.o.b. (or equivalent) at the Field Export Point in a transaction between parties that are at arm's length is the price payable for it;
- (b) Sold other than f.o.b. (or equivalent) at the Field Export Point in a transaction between parties that are at arm's length is the price payable for it, less such fair and reasonable proportion of such price that relates to the transportation and delivery of the petroleum downstream of the Field Export Point; or
- (c) Sold other than as mentioned in Section 80.2(a) and (b) is the price that would have been payable having regard to all relevant circumstances and similar arm's length transactions.

80.3 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 80.1.

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

## **Section 81 Withholding Tax**

- 81.1 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.
- 81.2 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.
- 81.3 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 Tax Administration considers reasonable having regard to all the circumstances.
- 81.4 If an amount described in Section 81.1 has been correctly subject to withholding tax under this Section, 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; (c) There is no deduction, including a depreciation or amortisation deduction, for any expenditure or loss incurred in earning the gross income.
- 81.5 Section 58 applies to an amount withheld or required to be withheld under this Section.
- 81.6 Sections 53 and 54 do not apply to any amounts to which this Section applies.

## **Section 82 Instalments of Income Tax**

- 82.1 Instalments of income tax payable by a Contractor are calculated under this Section and not Section 64.
- 82.2 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.
- 82.3 Subject to Section 82.4, 82.5 and 82.7, 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.
- 82.4 The Tax Administration may determine the amount of a tax instalment if:
- (a) A Contractor has a loss carried forward for the preceding tax year;
  - (b) A Contractor derives irregular income;

- (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.

- 82.5 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 Tax Administration an estimate of the Contractor's income tax liability for the Contractor's first tax year by the due date for payment of the first instalment for the year.
- 82.6 An estimate delivered under Section 82.5 remains in force for the whole of the Contractor's first tax year unless the Contractor delivers a revised estimate. 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.
- 82.7 If a Contractor fails to deliver an estimate of income tax as required under Section 83.5, the Contractor's estimated income tax liability for the Contractor's first tax year is such amount as estimated by the Tax Administration. The Tax Administration's estimate remains in force for the whole of the Contractor's first tax year unless revised by the Contractor in accordance with Section 82.6.
- 82.8 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.
- 82.9 No penalty is imposed under Section 82.8(b) if the Tax Administration is satisfied that the reason for the tax shortfall was due to circumstances beyond the Contractor's control, such as a significant price fluctuation, and the Contractor took all reasonable care in making the estimate.
- 82.10 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.

**PART V**  
**Supplemental Petroleum Tax**

**Section 83**  
**Imposition of Supplemental Petroleum Tax**

- 83.1 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.
- 83.2 The Supplemental Petroleum Tax payable by a Contractor for a tax year is calculated according to the following formula:

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

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 Section 72.1.

- 83.3 Supplemental Petroleum Tax imposed under this Section 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.
- 83.4 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.

#### **Section 84 Accumulated Net Receipts**

- 84.1 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 Section 72.

- 84.2 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.
- 84.3 If component **(A x 116.5%)** of the formula in Section 84.1 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.

## **Section 85 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.

## **Section 86 Gross Receipts**

- 86.1 The gross receipts of a Contractor for Petroleum Operations for a tax year is the sum of the following amounts:
- (a) The gross income for income tax purposes accrued by the Contractor in the year from Petroleum Operations, including amounts received from the hiring or leasing out of, or the granting of rights to use property, but not including interest income;
  - (b) The consideration received by the Contractor in the year for the disposal, destruction, or loss of any property (including materials, equipment, plant, facilities, and intellectual property or rights) used in Petroleum Operations if the expenditure incurred in acquiring the property was deducted in computing the net receipts of the Contractor for any tax year;
  - (c) Any amount received by the Contractor in the year from the provision of information or data obtained from any survey, appraisal, or study relating to Petroleum Operations if the expenditure incurred in undertaking the survey, appraisal, or study was previously deducted in computing the net receipts of the Contractor for any tax year;
  - (d) Any other amount received by the Contractor in the year that is a reimbursement, refund, or other recoupment of an amount previously deducted in computing the net receipts of the Contractor for any tax year;
  - (e) If property used in Petroleum Operations has been destroyed or lost by a Contractor, any compensation, indemnity, or damages received by the Contractor in respect of the property under an insurance policy, indemnity agreement, settlement, or judicial decision.
- 86.2 Notwithstanding Section 86.1, and subject to Section 88, 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.
- 86.3 If an amount referred to in Section 86.1 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.

## **Section 87 Deductible Expenditure**

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

- (a) Any expenditure incurred by the Contractor in the year in respect of the Petroleum Operations and deductible (other than as a depreciation or amortisation deduction) in computing taxable income, including interest and financing charges;
- (b) Any capital expenditure incurred by the Contractor in the year in acquiring or constructing a tangible or intangible asset for use in Petroleum Operations;
- (c) Any exploration expenditure incurred by the Contractor in the year in respect of Petroleum Operations;
- (d) An amount of Timor-Leste corporate income tax of the Contractor for the year calculated by applying the corporate rate of tax as specified in Section 72 to the taxable income of the Contractor for the year before deduction of Supplemental Petroleum Tax.

87.2 Notwithstanding Section 87.1, and subject to Section 88, the deductible expenditure of a contractor does not include any amount incurred as consideration for the acquisition of an interest in Petroleum Operations.

87.3 If an amount referred to in Section 87.1 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.

### **Section 88**

#### **Transfer of Interest in Petroleum Operations**

88.1 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.

88.2 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.

88.3 In this Section, "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.

**Section 89**  
**Procedure Relating to Supplemental Petroleum Tax**

- 89.1 A Contractor undertaking Petroleum Operations in a tax year shall deliver to the Tax Administration a Supplemental Petroleum Tax return for the year.
- 89.2 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.
- 89.3 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.
- 89.4 Subject to Section 90, this law applies, with any necessary changes made:
- (a) To the assessment and collection of Supplemental Petroleum Tax and penalty imposed in respect of a Supplemental Petroleum Tax liability, including the keeping of records and investigations;
  - (b) To appeals relating to a liability for Supplemental Petroleum Tax or to penalty imposed in respect of a Supplemental Petroleum Tax liability; and
  - (c) To the application or refund of Supplemental Petroleum Tax overpaid.
- 89.5 The legal regime relating to the collection and recovery of tax applies to the Supplemental Petroleum Tax on the basis that:
- (a) The reference to “tax” includes Supplemental Petroleum Tax; and
  - (b) The reference to “tax form” includes the Supplemental Petroleum Tax return required to be delivered pursuant to Section 89.1

**Section 90**  
**Instalments of Supplemental Petroleum Tax**

- 90.1 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.
- 90.2 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 Tax Administration an estimate of Supplemental Petroleum Tax for a tax year by the due date for payment of the first instalment for the year.
- 90.3 An estimate delivered under Section 90.2 remains in force for the whole of the tax year unless the Contractor delivers a revised estimate to the Tax Administration. 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.
- 90.4 If a Contractor fails to deliver an estimate of Supplemental Petroleum Tax as required under Section 90.2, the estimated Supplemental Petroleum Tax of the Contractor for the year is such amount as estimated by the Tax Administration. The Tax Administration

estimate remains in force for the whole of the tax year unless revised by the Contractor in accordance with Section 90.3.

- 90.5 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.
- 90.6 No penalty is imposed under Section 90.5(b) if the Tax Administration is satisfied that the reason for the tax shortfall was due to circumstances beyond the Contractor's control (such as a significant price fluctuation) and the Contractor took all reasonable care in making the estimate.

## **CHAPTER X**

### **FINAL PROVISIONS**

#### **Section 91**

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#### **Tax Provisions in Other Laws**

No taxes or duties have effect in Timor-Leste unless they are included in, or authorised by, the present law.

#### **Section 92 Regulation**

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

#### **Section 93 Repeal**

- 93.1 Subject to Section 93.3, 93.4, 93.5 and 94, UNTAET Regulation No. 2000/18, as amended, UNTAET Directive No. 2001/2, as amended, and the Petroleum Taxation Act are hereby repealed.

- 93.2 Subject to Section 93.3, 93.4, 93.5 and 94, the Law on Income Tax applicable in Timor-Leste under UNTAET Regulation No. 1999/1 ceases to apply from the commencement of this law.
- 93.3 Notwithstanding Sections 93.1 and 93.2, UNTAET Regulation No. 2000/18, as amended, UNTAET Directive No. 2001/2, as amended, the Petroleum Taxation Act, and the Law on Income Tax applicable in Timor-Leste under UNTAET Regulation 1999/1 continue to apply to any period before the commencement of this Law.
- 93.4 The legal regime relating to the collection and recovery of tax shall remain in effect until such time as when the decree-law regulating tax procedure enters into effect.
- 93.5 The legal provisions relating to tax offences and sanctions shall remain in effect until such time as when a new legal regime is adopted.
- 93.6 Decree-Law no. 10/2003 of 24 July is hereby repealed.
- 93.7 Decree-Law no. 5/2002 of 24 September is hereby repealed.
- 93.8 Any other legislation that is contrary to the present law is hereby repealed.

#### **Section 94 Saving**

- 94.1 The tax liability of:
- (a) a person that is a contractor under the Law on the Taxation of Bayu-Undan Contractors; or
  - (b) a person that supplies goods and services to a person who is a contractor under the Law on the Taxation of Bayu-Undan Contractors,
- in relation to a petroleum project is determined on the basis of the tax law of Timor-Leste in effect immediately prior to this law coming into effect and applicable to such contractor.
- 94.2 The tax liability of a person who is a contractor under a Production Sharing Contract described in Annex F to the Timor Sea Treaty, other than a contractor to whom Section 94.1 applies, is determined on the basis of the tax law of Timor-Leste in effect immediately prior to this law coming into effect and applicable to such contractor.

#### **Section 95**

##### **Transitional**

- 95.1 All appointments made under the repealed legislation and subsisting at the date of commencement of this law are treated as appointments made under this law.
- 95.2 A business building, depreciable asset or intangible of a Contractor that has commenced to be depreciated or amortised under the repealed legislation continues to be depreciated or amortised under this law.
- 95.3 An income taxpayer, other than a Contractor, that has a business building, depreciable asset or intangible that has commenced to be depreciated or amortised under the

repealed legislation shall be allowed a depreciation or amortisation deduction in the taxpayer's first tax year under this law in respect of the written down value at the end of the previous tax year of the building, asset, or intangible on the basis that the depreciation rate to be applied is 100%.

- 95.4 Any interest expense carried forward under Section 16.2 of UNTAET Directive No. 2001/2 continues to be carried forward in accordance with that Section for the period remaining as determined under Section 16.2 of UNTAET Directive No. 2001/2.
- 95.5 Any loss carried forward under Section 17 of UNTAET Directive No. 2001/2 continues to be carried forward under Section 43 of this Law for the period remaining as determined under Section 17 of UNTAET Directive No. 2001/2.
- 95.6 Any foreign country loss carried forward under Section 27.5 of UNTAET Directive No. 2001/2 continues to be carried forward under Section 51 of this Law for the period remaining as determined under Section 27.5 of UNTAET Directive No. 2001/2.
- 95.7 A reference in Section 44 to a previously deducted expense, loss, or bad debt includes an expense, loss, or bad debt deducted under the repealed legislation.

### **Section 96** **Entry into Force and Application**

- 96.1 This Law enters into force one day after its publication in the *Jornal da Republica*.
- 96.2 This Law enters into effect on the first day of the month following that of its publication and applies to tax obligations arising on or after this date.
- 96.3 Subject to the provisions in Section 96.2 above, the present law applies retroactively as from 1 January 2008 for annual taxes.

# SCHEDULE I

## Services Tax

1. The rates of services tax for the purposes of Section 5 are:
  - (a) persons with a monthly turnover of designated services of less than \$500: 0%
  - (b) persons with a monthly turnover of designated services of \$500 or more: 5%.
2. The monthly turnover of a person providing designated services is the total gross consideration received by the person from the provision of designated services during the month.
3. A person's total gross consideration from the provision of designated services for a month includes the total gross consideration received by an associate of the person from the provision of the same type of designated services during the month if the services provided by the associate have not been taxed under Chapter II.
4. The rate of services tax applies to the total gross consideration received by a person from the provision of designated services during a month.

## SCHEDULE II

### Excise Tax

1. The amount of excise tax payable for the purposes of Section 10 is specified in column 3 of the following Table:

<i>Harmonized Classification System Item</i>	<i>General Description of Goods</i>	
2203	beer	US\$ 1.90 per liter
2204-2206	wine, vermouth and other fermented beverages (for example, cider, perry)	US\$ 2.50 per liter
2207, 2208	ethyl alcohol (other than denatured) and other alcoholic beverages	US\$ 8.90 per liter
2401-2403	tobacco and tobacco products	US\$ 19.00 per kg
2710	gasoline, diesel fuel and other petroleum products	US\$ 0.06 per liter
8703	small passenger vehicles with an excise value exceeding US\$ 70,000	35% of the excise value above US\$ 70,000
9301-9307	arms and ammunition	200% of the excise value
9613	cigarette lighters	12% of the excise value
9614	smoking pipes	12% of the excise value
9706	Pleasure boats and private aircraft	20% of the excise value

2. The excise value of:

- (a) excisable goods imported into Timor-Leste, is the total of the following amounts:
- (i) the customs value of the goods; (ii) any import duty imposed on the goods under Chapter V;
- (b) excisable goods manufactured by a registered manufacturer in Timor-Leste, is the fair market value of the goods at the time of removal of the goods from manufacturer's warehouse.

3. If –

- (a) column 3 of the Table in paragraph 1 specifies a rate of excise tax payable for excisable goods by reference to a quantity measured by volume or weight;
- (b) the goods are imported or removed from a registered manufacturer's warehouse in a container intended for sale with, or of a kind usually sold with, the goods in a sale by retail; (c) the container is marked, labelled, or commonly sold as containing, or commonly reputed to contain, a specific quantity of such goods,

the container is deemed to contain not less than that specific quantity for the purpose of determining the excise tax payable in respect of the goods.

## SCHEDULE III

### Sales Tax

1. The rates of sales tax for the purposes of Section 15.1 are:
  - (a) in respect of taxable goods imported into Timor-Leste 2.5%
  - (b) in respect of the sale of taxable goods or the provision of taxable services in Timor-Leste 0%

## SCHEDULE IV

### Import Duty

1. The rate of import duty for the purposes of Section 19 is 2.5% of the customs value of the goods.
2. The following goods are exempt from import duty:
  - (a) If the goods accompany a person arriving in Timor-Leste from another territory:
    - (i) two hundred (200) cigarettes and two and one half (2.5) litres of excisable beverages per person;
    - (ii) goods up to a value of US \$300 of a non-commercial nature that are exclusively for the personal use or enjoyment of travellers or goods intended as gifts, when the nature and quantity of the goods indicate that they are not imported for, or intended to be imported for, commercial purposes;
    - (iii) goods of a non-commercial nature, other than jewellery, that are exclusively for the personal use or enjoyment of travellers and that are brought into Timor-Leste by travellers in accompanying luggage or carried on or about the travellers' bodies; (iv) household effects accompanying former residents of Timor-Leste returning to reside in Timor-Leste on a permanent basis.
  - (b) Imports of the type:
    - (i) exempted under the Vienna Conventions on Diplomatic Relations of 1961 and Consular Relations of 1963;
    - (ii) exempted under the Convention on the Privileges and Immunities of the United Nations;
    - (iii) exempted under the Convention on the Privileges and Immunities of the Specialized Agencies.
  - (c) Goods re-imported in the same condition in which they were exported.
  - (d) Goods, other than alcohol or tobacco imported by registered charitable organisations, being charitable organisations that have registered under any law of Timor-Leste that has been promulgated for that purpose, if the goods are to be used for charitable purposes of humanitarian assistance and relief, education or health care.
  - (e) Goods for temporary admission, if the importer has provided security for import duty in the prescribed manner.
  - (f) Goods for consumption by international staff of UNMIT or members of the Peace Keeping Force from contingent countries, if the goods are sold in conformity with prescribed rules of sale.
  - (g) Baby formulas that are specially designed for babies under one (1) year of age so that after preparation they are consumed in a liquid form and provide the

health benefits of human milk that would normally be provided to a baby that suckles from its mother.

- (h) Tampons and sanitary napkins.
- (i) Goods not described in previous paragraphs if:
  - (i) the goods are imported into Timor-Leste other than as personal goods accompanying a traveller; and
  - (ii) the import duty that would be imposed on the import if not for this paragraph would be U.S. \$10 or less.

## **SCHEDULE V**

### **Wage Income tax**

1. The rates of wage income tax for the purposes of Section 20 are:

(a) if the employee is a resident natural person:

<b>Monthly taxable wages</b>	<b>Rate</b>
\$0-\$500	0%
Above \$500	10% of the amount of wages above \$500

(b) if the employee is a non-resident natural person, 10% of the taxable wages received by the employee;

2. If an employee receives taxable wages for a period of less than one month, the rates of wage income tax set out in paragraph (a) are imposed on a pro-rata basis.

## Schedule VI

### Income Tax

The rates of income tax for the purposes of Section 26 are:

(a) in the case of a resident natural person:

<b>Amount of Taxable Income</b>	<b>Rate</b>
\$0 - \$6,000	0%
in excess of \$6,000	10%

(b) in the case of a non-resident natural person 10%

(c) in the case of a legal person 10%.

## **SCHEDULE VII**

### **Depreciation and Amortisation for Income Taxpayers Other Than Contractors**

The depreciation rate for the purposes of Section 36 and the amortisation rate for the purposes of Section 37 is 100%. If pooling applies under Section 36, all depreciable assets shall be included in a single pool.

**SCHEDULE VIII**

**Withholding Tax Rates Applicable to Services**

The rates of income tax that must be withheld by a person making payments described in Section 53 are as follows:

TYPE OF INCOME	RATE
income from construction or building activities	2 %
income from construction consulting services	4 %
income from the provision of air or sea transportation services	2.64 %
income from mining or mining support services	4.5 %

# SCHEDULE IX

## Wage Income Tax

1. The rates of wage income tax for the purposes of Section 72.2 are:
  - (a) if the employee is a resident natural person and has provided the employer with the employee's tax identification number or is treated by paragraph 4 as having provided the employer with the employee's tax identification number:

<b>Monthly taxable wages</b>	<b>Rate</b>
US\$0-US\$550	10%
Above US\$550	US\$55 + 30% of the amount of wages above US\$550
  - (b) if the employee is a non-resident natural person, 20% of the taxable wages received by the employee;
  - (c) in any other case, 30% of the taxable wages received by the employee.
2. If an employee receives taxable wages for a period of less than one month, the rates of wage income tax set out in paragraph (a) are imposed on a pro-rata basis.
3. Each employee who is a resident natural person is allowed a personal tax credit of \$10 per month against the wages income tax payable for the month. If the amount of the credit allowed to an employee for a calendar month exceeds the amount of wages income tax payable by the employee in respect of wages for that month, the excess is neither refunded to the employee nor carried forward to the next month.
4. The Tax Administration may designate those employees that will be treated as having provided their employers with the tax identification numbers of the employees.

## SCHEDULE X

### Depreciation and Amortisation for Contractors

#### SECTION A Business Buildings

1. The rates of depreciation for business buildings are:

Type of Building	Useful Life	Straight-line Depreciation Rate
Permanent	20 years	5%
Non-permanent	10 years	10%

2. In this Section:

“non-permanent building” means any business building constructed of materials of a temporary nature, or for temporary purposes, including any movable building; and

“permanent building” means any business building other than a non-permanent building.

#### SECTION B Depreciable Assets

1. If pooling applies, depreciable assets are divided into the following depreciation pools:

Pool 1	Assets with a useful life of 1-4 years
Pool 2	Assets with a useful life of 5-8 years
Pool 3	Assets with a useful life of more than 9 years

2. Depreciation rates for depreciation pools:

Pool	Depreciation rate
1	50%
2	25%
3	12.5%

3. Depreciation rates where assets are depreciated individually on a straight-line basis:

Useful Life	Depreciation Rate
Assets with a useful life of 1-4 years	25%
Assets with a useful life of 5-8 years	12.5%
Assets with a useful life of more than 9 years	6.25%

4. The classification of depreciable assets in accordance with their useful life shall be determined by the Tax Administration.

**SECTION C**  
**Intangible Assets and Expenditures, and Pre-commencement Costs**

1. The rates of depreciation of intangible assets and expenditures are:

Useful Life	Straight-line Depreciation Rate
1-4 years	25%
5-8 years	12.5%
9-16 years	6.25%
16-20 years	5%

2. An intangible asset or intangible expenditure with a useful life of more than twenty years shall be treated as if it has a useful life of twenty years.
3. The useful life of an expenditure referred to in Section 37.6 is four years.
4. An intangible asset or intangible expenditure that does not have a defined useful life is treated as having a useful life of twenty years.

Adopted on 4 June 2008.

The Acting President of the National Parliament

Vicente da Silva Guterres

Promulgated on 25 June 2008.

To be published.

The President of the Republic

Dr. José Ramos Horta