

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

“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 obl

- (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

- (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;

(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;

“**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

- 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;

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

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

- (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

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

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
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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.

- (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.

36.12 If the written down value at the end of a tax year of a depreciation pool is less than

- 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

- (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

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- 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

- (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

- 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.

- (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

Section 55
Rent

61.2 The recipient of payments for services subject to withholding tax under Section 53 can

- 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 15th 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

“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

- 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

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

A is the cost of the asset or intangible reduced by the total depreciation or

Section 81
Withholding Tax

81.1 A Contractor or Subcontractor paying an amount of Timor-Leste source services 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 (1/12th) 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

Contractor's income

created against the Contractor's income

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;

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

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

;

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.

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 ac

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

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

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:

Monthly taxable wages	Rate
\$0-\$500	0%
Above \$500	10% of the amount of wages 2-6(r)6 gb

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:

Amount of Taxable Income	Rate
\$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

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:

Monthly taxable wages	Rate
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

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