



REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE
MINISTÉRIO DO PLANO E DAS FINANÇAS
SERVIÇOS DE IMPOSTOS DE TIMOR-LESTE

UNOFFICIAL CONSOLIDATION OF

UNTAET **REGULATION NO. 2000/18** AS AMENDED
ON A REVENUE SYSTEM FOR EAST TIMOR

For the purpose of consolidating UNTAET Regulation No. 2000/18 of 30 June 2000 on a Revenue System for East Timor and its amendments by UNTAET Regulation No. 2000/32 of 29 September 2000, UNTAET Regulation No. 2000/35 of 20 December 2000, UNTAET Regulation No. 2001/16 of 21 July 2001, UNTAET Regulation No. 2001/17 of 21 July 2001 and UNTAET Regulation No. 2001/20 of 21 July 2001, Revenue System Amendment Act 2002 and Revenue System Amendment Act 2003.

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I. Interpretation

Section 1

Purposive interpretation

Where Sections in the present Regulation are capable of alternative interpretations, the interpretation that best achieves the intended purpose of the legislation shall be adopted and any interpretation that frustrates the intended purpose of the legislation shall be rejected.

Section 2

Definitions extend to other forms of words

2.1 Definitions in the present Regulation in the singular form shall be read as applying to the plural form and definitions in the plural form shall be read as applying to the singular form as appropriate.

2.2 Definitions in the present Regulation in the masculine form shall be read as applying to the feminine form and definitions in this section in the feminine form shall be read as applying to the masculine form.

Section 3

Definitions

In the present Regulation :

“bank” means any *legal person* in the business of accepting deposits from the public in *East Timor* 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;

“Board” means the Board of Tax and Customs Appeals established under the present Regulation;

“Commissioner” means the Commissioner of the East Timor Revenue Service;

“Customs Controller” means the Controller of the *Customs Service*;

“Customs Service” means the East Timor Customs Service;

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

“*depreciable assets*” means any assets of a taxpayer other than inventory that:

- (a) have a useful life exceeding one year;

- (b) are likely to lose value as a result of wear and tear, exploitation, the passage of time, or obsolescence; and
- (c) are used wholly or partly to derive *gross income*;

“designated service” means a service that is designated under Section 12;

“designation notice” is a notice described in Section 68;

“dividend” means any distribution of profits by a *legal person* to another *person* as a result of participation in the capital of the *legal person*;

“East Timor”, when referring to a geographic area, means the territory of East Timor and its territorial waters, the economic zone off the coast of East Timor recognized under the law of the sea and, to the extent allowed by treaty;

History: The definition of “East Timor” amended by Revenue System Amendment Act 2002 [Article 3-1] and comes into force on the date the *Timor Sea Treaty* is ratified and applies from 20 May 2002 [Article 20-2]

Definition of “East Timor” formerly read:-

“East Timor”, when referring to a geographic area, means the territory of East Timor and its territorial waters, the economic zone off the coast of East Timor recognized under the law of the sea and, to the extent allowed by treaty or the Memorandum of Understanding dated 10 February 2000 between UNTAET, acting on behalf of East Timor, and the Government of Australia on arrangements relating to the Timor Gap, in the area covered by that Memorandum;

“East Timor-source gross income” is *gross income* described as East-Timor-source gross income in Section 43-4;

“employee” means:

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

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

“employment in East Timor” means the provision of personal services in *East Timor*:

- (a) in the course of an *employer* and *employee* relationship;
- (b) as director of a company;
- (c) as the holder of a public office; or
- (d) as an official of the government of East Timor posted overseas;

“enterprise” means:

- (a) a *person* liable to pay tax under the present Regulation, other than an *employee*;
- (b) a *person* who carries on a business with a *gross income* of more than \$200 per month;
- (c) a *person* liable to withhold tax under the present Regulation;
- (d) a religious institution or organization with a *gross income* of more than \$200 per month as designated by the *Commissioner* in a *designation notice*;

- (e) a charitable or non-profit institution or organization with a *gross income* of more than \$200 per month as designated by the *Commissioner* in a *designation notice*; or
- (f) an importer or exporter who in the opinion of an *officer of the Customs Service* seeks to bring into, or take out of, *East Timor*, goods in commercial quantities;

“ETRS” means the East Timor Revenue Service;

“excise value” of *goods* means the total of the *customs value* of *goods* and any import duty imposed on the *goods* under Section 27 of the present Regulation;

“exempt wages” means *wages* that are specified in Part B of Section 5 of Schedule 1 as exempt from wage income tax;

“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;

“foreign-source gross income” is *gross income* which it is not *East Timor-source* income;

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

“gross income” has the meaning given in Section 43-8;

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

“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;

“interest” means:

- (a) any amount (including a premium or discount) paid or accrued under a an obligation to make a repayment of money to another *person*, including accounts payable and the obligations arising under promissory notes, bills of exchange, and bonds, that is not a repayment of capital; or
- (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;

"Law on Income Tax" means the Law on Income Tax applicable in *East Timor* under Regulation No. 1999/1;

"legal person" means:

- (a) any legal *person* under public or private law;
- (b) any body incorporated, formed, organized, or established in *East Timor* or elsewhere as a limited company, limited partnership, other partnership, affiliation, association, firma, kongsi, cooperative, foundation, trust or similar organization, body, arrangement or relationship, institute, any other forms of business or non-governmental organization, any other unincorporated association or body of *persons*; and
- (c) a government, a public international organization, or a political or administrative subdivision of a government or public international organization in whatever name or form, and any entity, organization, association or business form owned by any of these entities;

"Minister" means the Minister of Planning and Finance;

The definition of "Minister" inserted by Revenue System Amendment Act 2002 [Article 3(2)(a)] and comes into force from 1 July 2002 [Article 20-1] and applies from 20 May 2002 [Article 20-4]

"natural person" means any individual;

"non-resident" means any *person* who is not a *resident* of *East Timor*;

"non-wage benefits" means any reward for services provided by an *employer* to an *employee*, including:

- (a) the market value of any non-cash benefit provided by an *employer* to an *employee*;
- (b) the value determined by the *Commissioner* 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*;
- (c) the value determined by the *Commissioner* of the provision by the *employer* of accommodation or housing;
- (d) the value determined by the *Commissioner* of the provision by an *employer* to an *employee* of a housekeeper, driver, guard, gardener, or other domestic assistant; and
- (e) 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 *Commissioner* considers that the cost of provision for the *employer* is reasonable;

"officer of the Customs Service" means the *Customs Controller* or a *person* employed by the *Customs Service* and acting under the authority of the *Customs Controller*;

“permanent establishment” means:

- (a) a fixed place of business through which the business of a *person* is wholly or partly carried on including:
 - (i) a place of management;
 - (ii) a branch;
 - (iii) an office;
 - (iv) a factory;
 - (v) a workshop; and
 - (vi) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (b) a building site, a construction, assembly or installation project or supervisory activities in connection with one of these where the site, project or activities continue for a period of more than six months;
- (c) the provision of services by a *person*, including consultancy services, by the *person* or through employees or other personnel engaged by the enterprise for the purpose of providing services where the services are provided in *East Timor* (for one or more projects) for a period or periods totaling more than six months within any 12 month period;
- (d) any of the places or activities described in paragraphs (a) to (c) if carried on by an agent for a *non-resident person* unless the agent is independent of the *non-resident person* and the activities of the agent are not devoted wholly or almost wholly on behalf of the *non-resident person*;
- (e) the activities of a *person* acting as an agent for a *non-resident person* if the agent:
 - (i) has and habitually exercises in East Timor an authority to conclude contracts in the name of the *non-resident person*;
 - (ii) habitually secures orders in East Timor wholly or almost wholly for the *non-resident person* or for the *non-resident person* and other *persons* which are controlled by the *non-resident person* or which have a controlling interest in it; or
 - (iii) habitually maintains in East Timor a stock of goods or merchandise that are regularly delivered on behalf of the *non-resident person*;
- (f) an insurance enterprise that collects premiums in East Timor or that insures risks in East Timor;
- (g) a floating vessel moored in the territory of East Timor for a period of more than three months; and
- (h) a mobile vehicle or premises of any sort that is located in East Timor and used as a place from which sales of goods are made or services are provided;

“person” means:

- (a) a *natural person*, including a sole trader; or
- (b) a *legal person*;

“private aircraft” means an aircraft imported by or for a *natural person* who will use aircraft mainly for private or recreational purposes;

“private yacht” means a yacht of any type imported by or for a *natural person* who will use it mainly for private or recreational purposes;

“resident” means:

- (a) a *natural person* who is present in *East Timor* for more than 182 days in a *tax year*, unless the *person’s* permanent place of abode is not in *East Timor*;
- (b) an undivided estate of a *natural person* who was a resident immediately before death; or
- (c) a *legal person* incorporated, formed, created, organised, or established in *East Timor*.

“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 *hotel services*;

“royalty” means any amount paid or payable, 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 industrial, commercial, or scientific equipment;
- (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 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);

“sales tax exemption form” means the form described in Section 26;

“sales tax value” means:

- (a) for imported taxable *goods*, the *customs value* of *goods* increased by any import duty and excise tax payable on the importation of the *goods*;
- (b) for taxable goods sold in *East Timor*, the price of the *goods* not including any sales tax; and
- (c) for taxable services provided in *East Timor*, the price of the service not including any sales tax;

“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;
- (h.1) an employee’s wage income tax form;
- (i) any forms designated by the *Commissioner* for the purposes of *persons* applying for tax identification numbers and being registered for tax purposes;
- (j) any forms designated by the *Commissioner* under Section 45.1(c); or
- (k) any consolidated form designated by the *Commissioner* which includes the information from 2 or more of the above forms;

provided that where, in relation to any *person*, any consolidated form has been designated by the *Commissioner*, then the forms which that consolidated form has replaced shall no longer be “tax forms”;

“tax year” means the 12 month period from 1 January to 31 December;

“taxable wages” means *wages* less *exempt wages* and any allowances set out in Part A of Section 5 of Schedule 1;

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

“termination payment” means a payment received by an *employee* upon termination of employment other than *wages* for employment services provided prior to the receipt;

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

History: Definition of “Timor Sea Treaty” inserted by Revenue System Amendment Act 2002 [Article 3(2)(b)] and comes into force on the date the Timor Sea Treaty is ratified and applies from 20 May 2002 [Article 20-2]

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

- (a) any salary provided to the *employee*, including leave pay, overtime payments, commissions, and bonuses;
- (b) director’s fees;
- (c) the value of gifts provided by an *employer* to an *employee*;
- (d) any allowance 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 expenses;
- (h) the amount of any reimbursement or discharge by an *employer* of an *employee*’s medical expenses;
- (i) the amount of any waiver where any *employer* waives an obligation of the *employee* to pay an amount owing to the *employer*; and
- (j) *non-wage benefits* greater than \$20 provided in a calendar month to *employees* of an *employer* that is exempt from income tax.

IV. Excise Tax

Section 17

Imposition of excise tax

17.1 Excise tax is imposed on the importation into *East Timor* or the production in *East Timor* of *goods* subject to excise tax on or after 20 March 2000.

17.2 Subject to Section 20 and Section 21, a *person* who:

- (a) produces in *East Timor*; or
- (b) imports into *East Timor*

goods subject to excise tax is liable to pay excise tax of the amount set out in Part A of Section 2 of Schedule 1 on the production or importation of the *goods*.

Section 18

Payment of tax

18.1 A *person* producing *goods* on which excise tax is payable shall deliver to the Central Payments Office or its nominated agent by the fifteenth day after the end of a calendar month:

- (a) a completed excise tax form as prescribed by the *Customs Controller*; and
- (b) any excise tax payable on *goods* produced during that calendar month.

18.2 The *Customs Controller* may prescribe in a *designation notice* procedures for the payment of excise tax payable on imported *goods*.

18.3 A *person* who has had a liability to deliver excise tax under Section 18.1 in respect of any month shall deliver to the Central Payments Office or its nominated agent a completed excise tax form for subsequent months whether or not excise tax is payable in subsequent months.

18.4 The *Customs Controller* may waive the requirement set out in Section 18.3 upon written application by a *person* required to deliver an excise tax form under that Section if the *Commissioner* is satisfied the *person* will not have a liability to pay services tax in the relevant months.

Section 19 Time of importation or production

19.1 For all purposes of the present Regulation, goods are imported at the time the goods are entered into East Timor and a completed Customs Control Form 1 or other report in respect of the goods required under the present Regulation or a customs procedure Directive has been delivered to an officer of the Customs Service.

19.2 For all purposes of the present Regulation:

- (a) Where goods are supplied to another *person*, the goods are produced at the earliest of the time:
 - (i) The invoice for the supply is issued;
 - (ii) The goods are delivered or made available to the recipient of the supply; or
 - (iii) The payment for the supply is received; or
- (b) Where goods are consumed by the producer, the goods are produced at the time of consumption.

History: New section 19 inserted by Revenue System Amendment Act 2002 [Article 5] and comes into force from 1 July 2002 [Article 20-1] and applies from 1 July 2002 [Article 20-3]
Section 19 formerly read:-

Time of production

For the purpose of Section 18.1(b), a *good* is produced at the earliest of the time it: (a) is available for sale or consumption; or
(b) is sold.

Section 20
Goods subject to excise tax

20.1 Subject to Section 20.2, the *goods* listed in Part A of Section 2 of Schedule 1, other than *goods* listed in Part B of Section 2 of Schedule 1, are subject to excise tax at the rates set out in Part A of Section 2 of Schedule 1.

20.2 The following *goods* are exempt from excise tax:

- (a) *goods* exported from *East Timor* within 28 days of production or importation, provided the *person* liable to pay excise tax delivers to the Central Payments Office or its nominated agent proof that the *goods* have been exported;
- (b) *goods* covered by the *Timor Sea Treaty*; and
- (b) *goods* described in Part B of Section 2 of Schedule 1.

History: Section 20.2(b) amended by the Revenue System Amendment Act 2002 [Article 4-3] and comes into force on the date the *Timor Sea Treaty* is ratified and applies from 20 May 2002 [Article 20-2].

Section 20.2(b) formerly read:

goods covered by the Memorandum of Understanding dated 10 February 2000 between UNTAET, acting on behalf of East Timor, and the Government of Australia on arrangements relating to the Timor Gap.

20.3 The *Customs Controller* may extend the 28 day period provided in Section 20.2(a) upon written application by an exporter where the *Customs Controller* has determined that:

- (a) circumstances beyond the control of the exporter have prevented or will prevent the exportation within 28 days of production or importation of *goods* to which the section applies; or
- (b) due to some nature of the *goods* or the arrangements under which the export is to take place, it is not practicable to export *goods* to which the section applies within 28 days of production or importation of the *goods*.

20.4 Evidence will only be accepted as proof of export for the purpose of Section 20.2(a) where it is:

- (a) certified as correct by an *officer of the Customs Service*; and
- (b) delivered to the Central Payments Office or its nominated agent within 28 days of production or importation of *goods* for which exemption from excise tax is claimed.

Section 21
No double taxation

21.1 No excise tax is payable on tobacco products, alcoholic products, soft drinks or flavored water produced for consumption in *East Timor* to the extent that excise tax

has previously been paid on the ingredients used to produce these goods by the producer or another *person*.

21.2 A *person* claiming exemption from liability to pay excise tax under Section 21.1 shall deliver to the Central Payments Office or its nominated agent a completed excise tax exemption form by the fifteenth day after the end of a calendar month.

21.3 A form delivered under Section 21.2 must be accompanied by copies of receipts showing excise tax has been paid on the ingredients used to produce the tobacco, alcohol, soft drinks or flavored water product for which exemption has been claimed.

V. Sales Tax

Section 22 Imposition of sales tax

22.1 Sales tax at the rates set out in Part A of Section 3 of Schedule 1 is imposed on the *sales tax value* of:

- (a) taxable *goods* that are imported into *East Timor* on or after 20 March 2000;
- (b) taxable *goods* sold in *East Timor* on or after the date specified in Part C of Section 3 of Schedule 1; and
- (c) taxable services that are provided in *East Timor* on or after the date specified in Part C of Section 3 of Schedule 1.

22.2 Subject to Section 22.3, the following *persons* are liable for sales tax imposed under Section 22.1:

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

22.3 A *person* is liable to pay sales tax on taxable *goods* sold and taxable services provided in a month if the *person's* monthly *gross income* from the sales and provision of services in that month exceeds the monthly sales tax threshold described in paragraph (b)(ii) of Part B of Section 3 of Schedule 1.

Section 23 Monthly Gross Income

A *person's* monthly *gross income* from the sale of taxable *goods* or the provision of taxable services includes the monthly *gross income* of any *associate* of the *person* from the sale of taxable *goods* or the provision of taxable services.

Section 24
Payment of tax

24.1 A *person* who is liable to pay sales tax on *goods* sold in *East Timor* or services provided in *East Timor* shall deliver to the Central Payments Office or its nominated agent by the fifteenth day after the end of a calendar month:

- (a) a completed sales tax form as prescribed by the *Customs Controller*;
- (b) any completed *sales tax exemption forms* received by the *person* during that calendar month; and
- (c) any sales tax payable on *goods* sold or services provided during that calendar month.

24.2 The *Customs Controller* may prescribe in a *designation notice* procedures for the payment of sales tax payable on imported *goods*.

24.3 A *person* who has had a liability to deliver sales tax under Section 24.1 in respect of any month shall deliver to the Central Payments Office or its nominated agent a completed sales tax form for subsequent months whether or not sales tax is payable in subsequent months.

24.4 The *Customs Controller* may waive the requirement set out in Section 24.3 upon written application by a *person* required to deliver a sales tax form under that Section if the *Commissioner* is satisfied the *person* will not have a liability to pay services tax in the relevant months.

Section 25
Taxable and exempt goods and services

25.1 Subject to this Section, the following *goods* and services are subject to sales tax:

- (a) all *goods* imported into *East Timor*, other than *goods* exempt from sales tax under paragraph (a) of Part B of Section 3 of Schedule 1;
- (b) all *goods* sold in *East Timor*, other than *goods* exempt under paragraph (b) of Part B of Section 3 of Schedule 1; and
- (c) all services provided in *East Timor*, other than services exempt under paragraph (b) of Part B of Section 3 of Schedule 1.

25.2 *Goods* imported into *East Timor* are exempt from sales tax if the *person* importing the *goods* provides the *Customs Service* with a completed *sales tax exemption form*.

25.3 *Goods* sold in *East Timor* are exempt from sales tax if the *person* acquiring the *goods* provides the *person* selling the *goods* with a completed *sales tax exemption form*.

25.4 Services provided in *East Timor* are exempt from sales tax if the *person* acquiring the services provides the *person* providing the services with a completed *sales tax exemption form*.

25.5 This Chapter does not apply to *goods* covered by the *Timor Sea Treaty*.

History: Section 25.5 amended by the Revenue System Amendment Act 2002 [Article 4-3] and comes into force on the date the *Timor Sea Treaty* is ratified and applies from 20 May 2002 [Article 20-2].

Section 25.5 formerly read: This Chapter does not apply to *goods* covered by the Memorandum of Understanding dated 10 February 2000 between UNTAET, acting on behalf of East Timor, and the Government of Australia on arrangements relating to the Timor Gap.

Section 26 Sales tax exemption forms

26.1 The *Customs Controller* shall provide a sales tax exemption number to a *person* who requests the number if the *Customs Controller* is satisfied the *person* will be liable to pay sales tax in respect of sales of taxable *goods* or the provision of taxable services made by that *person*.

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

26.3 A completed *sales tax exemption form* shall be provided in a format approved by the *Customs Controller* 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;
or
 - (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*; and
- (b) the sales tax exemption number of the *person* providing the form.

VI. Import Duty

Section 27 Imposition of import duty

27.1 Subject to Section 27.2, a *person* who imports *goods* into *East Timor* on or after 20 March 2000 other than *goods* exempt from import duty under Part B of Section 4 of Schedule 1 is liable to pay import duty on the imported *goods* at the rate set out in Part A of Section 4 of Schedule 1.

27.2 Where a *person* who imports *goods* into *East Timor* that are exempt from import duty transfers ownership or possession of the *goods* to another *person* and import duty would have been payable by the other *person* had the other *person*

imported the *goods*, 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*.

27.3 Liability to pay import duty as a result of the operation of Section 27.2 is imposed jointly on the *person* transferring ownership or possession of the *goods* and the *person* to whom ownership or possession is transferred.

27.4 This Chapter does not apply to imports covered by the *Timor Sea Treaty*.

History: Section 27.4 amended by the Revenue System Amendment Act 2002 [Article 4-3] and comes into force on the date the *Timor Sea Treaty* is ratified and applies from 20 May 2002 [Article 20-2].

Section 27.4 formerly read:

This Chapter does not apply to imports covered by the Memorandum of Understanding dated 10 February 2000 between UNTAET, acting on behalf of East Timor, and the Government of Australia on arrangements relating to the Timor Gap.

VII. Wage Income Tax

Section 28

Imposition of a wage income tax

A wage income tax at the rates set out in Part A of Section 5 of Schedule 1 is imposed on *taxable wages* in respect of *employment in East Timor* received on or after the date specified in Part C of Section 5 of Schedule 1.

Section 29

When employees treated as having provided tax identification numbers

The *Commissioner* may designate by way of *designation notice* those *employees* that will be treated as having provided their *employers* with the tax identification numbers of the *employees*.

Section 30

Withholding obligation

30.1 A *person* providing *wages*, other than *exempt wages*, in respect of *employment in East Timor* shall withhold from those *wages* wage income tax, using tables provided by the *Commissioner* for that purpose which take into account the rates specified in Part A of Section 5 of Schedule 1 and any allowances specified in Part A of Section 5 of Schedule 1.

30.2 An *employee* deriving *wages* from more than one *employer* in a calendar month shall pay wage income tax on the *wages* at the rates specified in Part A of Section 5 of Schedule 1 to the extent the tax calculated exceeds tax withheld under Section 30.1

Section 31
Delivering tax and wage income tax forms

31.1 A *person* withholding wage income tax under Section 30 shall deliver to the Central Payments Office or its nominated agent by the fifteenth day after the end of a calendar month:

- (a) a completed wage income tax withholding form as prescribed by the *Commissioner*; and
- (b) any wage income tax withheld in that month.

31.2 A *person* who has had a liability to deliver wage income tax withheld under Section 30.1 in respect of any month shall deliver to the Central Payments Office or its nominated agent a completed wage income tax withholding form for subsequent months whether or not wage income tax has been withheld in subsequent months.

31.3 The *Commissioner* may waive the requirement set out in Section 31.2 upon written application by a *person* required to deliver under that Section.

31.4 A *person* who has withheld wage income tax under Section 30 shall deliver to the Central Payments Office or its nominated agent a completed annual wage income tax withholding information form as prescribed by the *Commissioner* by the last day of February following the end of the *tax year* to which it relates.

31.5 An *employee* liable to pay wage income tax under Section 30.2 shall deliver to the Central Payments Office or its nominated agent by the fifteenth day after the end of a calendar month:

- (a) a completed employee's wage income tax form as prescribed by the *Commissioner*; and
- (b) any wage income tax liability for the month as determined under Section 30.2.

Section 32
Providing information to employees

A *person* withholding wage income tax under Section 30 shall provide all *persons* whose *wages* have been subject to wage income tax under Section 31.2 who so request with a completed wage income tax withheld form as prescribed by the *Commissioner* 21 days after the end of the *tax year* or after termination of employment in the course of a *tax year*.

Section 33
Withholding extinguishes an employee's tax liability

33.1 Subject to Section 33.6, 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*.

33.2 Subject to Section 33.3, where an *employee* receives *wages* that have not been correctly subject to wage income tax withholding the *Commissioner* may make an assessment of any additional wage income tax owed by the *employee* and require the *employee* to pay the tax assessed or refund any overpayment to the *employee* in accordance with Section 51.7.

33.3 Any assessment of additional wage income tax by the *Commissioner* under Section 33.2 may be recovered from, or any refund of any overpayment of wage income tax under Section 33.2 may be paid to, the *employer* of the *employee* where the *Commissioner* 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*.

33.4 Wage income tax assessed by the *Commissioner* under Section 33.2 is due and payable one month after the date on which the *person* assessed receives notice of the assessment.

33.5 A *person* assessed under Section 33.2 shall deliver payment of the tax assessed to the Central Payments Office or its nominated agent.

33.6 An *employee* will not be considered to have received *wages* that have been correctly subject to wage income tax where the *employee* is liable to pay wage income tax under Section 30.2.

VIIIA. Income Tax for Tax Years Commencing on or after 1 January 2003

Subchapter VIIIA.1 Imposition of Income Tax

Section 43-1
Imposition of an income tax

Subject to Section 43.6, an income tax at the rates set out in Section 6 of Schedule 1 to the present Regulation is imposed under the present Chapter on the taxable income of a taxpayer for each *tax year* commencing on or after 1 January 2004.

Section 43-2
Taxable income

The taxable income of a taxpayer for each *tax year* is calculated as the assessable *gross income* derived by the taxpayer in the *tax year* less deductions allowed under the present Regulation for expenses incurred to derive *gross income*.

Section 43-3
Jurisdiction to tax

43-3.1 The assessable *gross income* of a *resident* taxpayer is all *gross income* of any type wherever arising derived by the taxpayer other than *wages* from employment in *East Timor*.

43-3.2 The assessable *gross income* of a *non-resident* taxpayer is *East Timor-source gross income* of any type derived by the taxpayer other than *wages* from employment in *East Timor*.

Section 43-4
Source of income

43-4.1 *Gross income* is *East Timor-source gross income* to the extent to which the income is:

- (a) income from activities carried on:
 - (i) by a *resident* in *East Timor*; or
 - (ii) by a *non-resident* through a *permanent establishment* in *East Timor* as determined under Section 43-31;
- (b) gains from the alienation of any movable property used in deriving *East Timor-source gross income* referred to in paragraph (a);
- (c) income from the lease of immovable property in *East Timor* whether improved or not, or from any other *interest* in or over immovable property in *East Timor*;
- (d) income from the lease of movable property used in *East Timor*;
- (e) income from exploitation of any interest in a right to explore for, or exploit, any mineral, petroleum, or any living or non-living resource that may be taken from the land or sea in *East Timor*;
- (f) gains from the alienation of any property or right referred to in paragraphs (c) or (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 (c) or (d);
- (g) a *dividend* paid by a *resident legal person*; or
- (h) *interest*, royalties, a management fee, an annuity, or a commission or finder's fee paid by a *resident* or incurred for the purposes of a

permanent establishment in East Timor of a non-resident and deductible by the non-resident for the purpose of calculating the taxable income of the permanent establishment.

43-4.2 Notwithstanding Section 43-4.1, any amount which may be taxed in *East Timor* under a double taxation convention having force of law in *East Timor* is an *East Timor-source* amount.

Section 43-5 Minimum income tax

43-5.1 Every taxpayer deriving gross income shall be liable for a minimum income tax for each *tax year*. For taxpayers other than *financial institutions*, the amount of minimum income tax payable for a *tax year* is one percent (1%) of the taxpayer's *gross income* for the year as modified by Section 43-5.4. However, where services tax has been imposed on the taxpayer's *gross income* under Section 9 of the present Regulation, minimum income tax shall apply to the taxpayer's *gross income* less that part of the *gross income* that was paid by the recipient as services tax.

43-5.2 The income tax liability of a taxpayer for a *tax year* under the present Regulation shall be credited against the minimum income tax payable by the taxpayer for that year. Where the income tax liability exceeds the minimum income tax payable, no amount shall be payable under Section 43-5.1 for that year.

43-5.3 Minimum income tax shall be treated for all purposes of the present Regulation other than the present Section as income tax.

43-5.4 For the purposes of this Section, "*gross income*" does not include:

- (a) wages; or
- (b) any amount received by a *natural person* who is a resident of *East Timor* that is subject to withholding tax under Subchapter VIIIA.6.

Section 43-6 Taxation of Bayu-Undan Contractors and others

43-6.1 In this section, "contractor" and "petroleum project" have the meaning in the Taxation of Bayu-Undan Contractors Act.

43-6.2 The income tax liability of a contractor in relation to a petroleum project shall be determined on the basis of the income tax law of *East Timor* in effect immediately prior to 1 January 2004, as modified by the Taxation of Bayu-Undan Contractors Act.

43-6.3 The income tax liability of a *person* that supplies goods or services to a contractor in relation to a petroleum project shall be determined on the basis of the

income tax law of *East Timor* in effect immediately prior to 1 January 2004, as modified by the Taxation of Bayu-Undan Contractors Act.

Section 43-7
International transport

Notwithstanding any other provisions of the present Regulation, the taxable income of a non-resident taxpayer from the international transport to or from East Timor of *goods*, livestock, mail, or natural persons shall be 10% of the amount paid or payable to the taxpayer for the transport and the income shall be East Timor-source income for the purpose of the present Regulation.

Subchapter VIIIA.2 Gross income and deductions

Section 43-8
Gross income

43-8.1 Subject to Section 43-8.2 the *gross income* of a taxpayer includes all gross receipts derived by a taxpayer other than exempt income.

43-8.2 *Gross income* from the alienation of property other than inventory and *depreciable assets* means gains from the alienation calculated in accordance with Section 43-9.

43-8.3 The following types of receipts are exempt income:

- (a) donations; and
- (b) legacies.

Section 43-9
Gains and losses from the alienation of assets

43-9.1 For the purposes of calculating gains and losses from the alienation of assets other than inventory and *depreciable assets*:

- (a) any gain arising on the alienation of an asset is the excess of the gross consideration received over the cost of the asset; and
- (b) any loss arising from the alienation of an asset is the excess of the cost of the asset over the gross consideration received.

43-9.2 Subject to this Section, the cost of an asset is the total amount paid or incurred by a taxpayer in the acquisition, creation, or construction of the asset for which no deduction has previously been allowed for income tax purposes. It includes any non-deductible incidental expenditures incurred in acquiring the asset and the market value of any in-kind consideration given for the asset. Non-deductible expenditures incurred to alter or improve an asset shall be added to the cost of the asset.

43-9.3 Subject to this Section, the consideration received on alienation of an asset is the total amount received or receivable for the asset including the market value of any in-kind consideration received for the asset.

43-9.4 Where a part of an asset is alienated, the cost of the asset shall be apportioned reasonably between the part of the asset retained and the part alienated.

43-9.5 Where an asset is transferred between *associates* in a non arm's length transaction (including by way of donation), 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.

Section 43-10 Deductions

43-10.1 Subject to the provisions of this Chapter, a deduction is allowed for all expenses recognized in the *tax year* to the extent the expenses were incurred to derive *gross income* of a taxpayer. Section 43-19 provides the general rules for when expenses are recognized.

43-10.2 For the purpose of Section 43-10.1, services tax incurred by a taxpayer providing *designated services* is incurred to derive *gross income* of the taxpayer.

43-10.3 Expenses for the acquisition of *depreciable assets* are only deductible as allowed under Section 43-12.

Section 43-11 Restrictions on deductions for non-wage benefits

No deduction shall be allowed under Section 43-10.1 in respect of *non-wage benefits* exceeding \$20 provided in a calendar month by an *employer* to an *employee*.

Section 43-12 Depreciation general rules

43-12.1 A taxpayer shall be allowed a deduction for the depreciation of the taxpayer's *depreciable assets* during the *tax year* in accordance Sections 43-13 and 43-14.

43-12.2 A taxpayer's *depreciable assets* are *depreciable assets*:

- (a) owned by the taxpayer; or
- (b) used and controlled by the taxpayer if the owner is not allowed a deduction in the *tax year* for depreciation of the assets.

43-12.3 *Depreciable assets* other than buildings or intangible assets may be depreciated either individually on a straight-line basis or under a pooling system on a declining balance basis. Buildings and intangible assets shall be depreciated on a straight-line basis.

43-12.4 The useful life of depreciable assets shall be determined by the *Commissioner*.

43-12.5 Costs such as the cost of feasibility studies, construction of prototypes, and trial production activities incurred paid or payable before the commencement of a business shall be treated as the cost of acquisition of intangible assets.

43-12.6 The same method of depreciation shall apply to all *depreciable assets* of a taxpayer other than buildings and intangible assets.

43-12.7 A taxpayer may change its method of depreciation only with the written permission of the *Commissioner* and subject to any conditions that the *Commissioner* may impose with respect to the change.

43-12.8 The classification of *depreciable assets* into pools and the specification of the straight-line and declining balance depreciation rates are specified in Part D in Section 6 of Schedule 1.

43-12.9 The cost of an improvement, renewal, or reconstruction of a *depreciable asset* shall be treated as the cost of a new *depreciable asset* with a useful life equal to the original useful life of the asset.

43-12.10 Where a *depreciable asset* is used partly to derive *gross income* and partly for another purpose:

- (a) if the taxpayer depreciates the asset on a straight-line basis, the amount of depreciation allowed as a deduction shall be reduced by the proportion of the non-business use; and
- (b) if the taxpayer depreciates the asset using the pooling system, the amount of the cost added to the pool shall be reduced by the proportion of the non-business use.

43-12.11 A taxpayer may only deduct an amount for depreciation under Section 43-12.1 or increase the value of a pool by the cost of a *depreciable asset* under Section 43-14.2 in the *tax year* in which the taxpayer commences to use the asset to derive *gross income*.

43-12.12 In the *tax year* in which a taxpayer first uses a *depreciable asset* to derive *gross income*:

- (a) if the taxpayer depreciates the asset on a straight-line basis, the depreciation deduction for that *tax year* is reduced by a fraction equal to the fraction of the year prior to the time the asset or building was first used and the amount reduced shall be allowed as a depreciation

deduction in the *tax year* after the asset or building has been depreciated; and

- (b) if the taxpayer depreciates the asset using the pooling system, a fraction of the cost of acquisition equal to the fraction of the year from the time the asset is first used is added to the pool and the remaining part of the cost is added to the pool in the next *tax year*.

43-12.13 If a taxpayer revalues a depreciable asset, no depreciation deduction shall be allowed for the amount of the revaluation.

43-12.14 Where a taxpayer acquires immovable property with a building, the building is treated as a separate asset for the purpose of this Chapter.

Section 43-13 Straight-line depreciation rules

43-13.1 In this Section, the “depreciated value” of an asset at the commencement of a *tax year* is calculated as the cost of the asset less all depreciation deductions that were allowed in respect of the asset in previous *tax years*.

42-13.2 The depreciation deduction for a *tax year* for each asset depreciated on a straight-line basis is the lesser of:

- (a) the amount determined by multiplying the depreciation rate for the asset set out in Part D of Section 6 of Schedule 1 to the cost of the asset; and
- (b) the *depreciable value* of the asset.

43-13.3 Where 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.

43-13.4 Where a *depreciable asset* is alienated by a taxpayer and the proceeds for the alienation are less than the *depreciated value* of the asset at the commencement of the *tax year*, the taxpayer is allowed a depreciation deduction for the excess of the *depreciated value* over the proceeds for the alienation.

43-13.5 Where a *depreciable asset* is alienated by a taxpayer and the proceeds for the alienation are more than the *depreciated value* of the asset at the commencement of the *tax year*, the *gross income* of the taxpayer for the *tax year* in which the asset is alienated includes the excess of the proceeds for the alienation over the depreciated value.

Section 43-14
Pooling system depreciation rules

43-14.1 The depreciation deduction for each depreciation pool for a *tax year* shall be calculated by applying the depreciation rate for the pool to the value of the pool at the end of the *tax year*.

43-14.2 The value of a depreciation pool at the end of a *tax year* shall equal the value of the pool at the commencement of the *tax year* :

- (a) increased by the 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.

43-14.3 Subject to the following Sections, the value of a depreciation pool at the commencement of a *tax year* shall equal the value of the pool at the close of the previous *tax year* less the deduction allowed in the previous *tax year* for that pool under Section 12.1.

43-14.4 Where the value of a depreciation pool at the end of a *tax year* as calculated under Section 43-14.2 is a negative amount, that amount shall be included in the *gross income* of the taxpayer for the year, and the value of the pool at the commencement of the following *tax year* shall be zero.

43-14.5 Where the value of a depreciation pool at the end of a *tax year* as calculated under Section 43-14.2 is less than \$US100, a further deduction for the *tax year* shall be allowed equal to the amount of that value. The value of the pool at the commencement of the following *tax year* shall be zero.

43-14.6 If all the *depreciable assets* in a depreciation pool are alienated before the end of the *tax year*, a deduction shall be allowed for the amount of the value of the pool at the end of the year. The value of the pool at the commencement of the following *tax year* shall be zero.

Section 43-15
Reserves and certain doubt debts

43-15.1 Subject to this Section, no deduction shall be allowed for any amount retained by a taxpayer from profits to create a reserve or provision for expected expenses or losses.

43-15.2 A *bank* shall be allowed a deduction for its provision for doubtful debts provided the amount of the provision has been determined in accordance with the prudential requirements prescribed by instruction of the Central Payments Office under Section 26 of UNTAET Regulation No. 2000/8. The amount of the deduction

allowed under this Section shall be defined by the Commissioner in consultation with the Banking and Payments Authority.

Section 43-16
Bad debts

43-16.1 A taxpayer shall be allowed a deduction in a *tax year* for a bad debt if the following conditions are satisfied:

- (a) the amount of the debt was previously included in the taxable income of the taxpayer;
- (b) the debt is outstanding for more than two years from the time it was due and has been written off in the accounts of the taxpayer during the *tax year*;
- (c) the taxpayer has taken all steps that a prudent businessperson would normally be expected to take in the circumstances to recover the debt; and
- (d) the taxpayer has reasonable grounds for believing that the debt will not be recovered.

43-16.2 This Section shall not apply to a *bank* entitled to a deduction for its provision for doubtful debts under Section 43-15.2.

Section 43-17
Deduction denial

43-17.1 Where a *person* is required to withhold tax from a payment that is a deductible expense of the *person* (including a payment of wages to which Section 30 of the present Regulation applies), the deduction is not allowed until the *person* pays the withheld tax to the *Commissioner*.

43-17.2 For the avoidance of doubt, no deduction is allowed for any income tax, withholding tax, additional tax, or fine or penalty paid by a *person* under the present Regulation.

43-17.3 A *person* is not allowed a deduction for any commission, rebate, discount, spotters fee, or similar payment that is *East Timor-source gross income* of the recipient unless:

- (a) the *person* discloses the name and address of the recipient by notice in writing to the *Commissioner*; and
- (b) the *Commissioner* is satisfied that tax payable on the income has been or will be paid in respect of the payment.

Section 43-18
Recouped deductions and other recoveries

The *gross income* of a taxpayer for a *tax year* shall include:

- (a) an amount recovered in the *tax year* by the taxpayer **by way of insurance or otherwise** in respect of a previously deducted expense;
- (b) an amount that is no longer treated as a doubtful debt where the amount was previously deducted under Section 43-15.2;
- (c) an amount that is no longer treated as a bad debt where the amount was previously deducted under Section 43-16.1; and
- (d) an amount owed to another *person* that is waived or forgiven by the other *person*.

Subchapter VIIIA.3: Accounting rules for the
recognition of income and deductions

Section 43-19
General rule

Subject to the provisions of this Chapter, the recognition of the *gross income* and deductions of a taxpayer 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 Accounting Standards (other than IAS 39) issued by the International Accounting Standards Committee as they stood at the beginning of the *tax year*.

Section 43-20
Basis of accounting

43-20.1 Subject to Section 43-20.2, every taxpayer shall:

- (a) determine taxable income by accounting for *gross income* and deductions on an accrual basis; and
- (b) shall determine *gross income* for the purpose of Section 43-5.1 (which deals with minimum income tax) and Section 43-46(1) and Section 43-46(2) (which deal with installments of income tax) on an accrual basis.

43-20.2 A taxpayer whose annual *gross income* is less than \$US100,000 may account for income and deductions on either a cash or accrual basis.

43-20.3 If a taxpayer's basis of accounting has changed as a result of the operation of Section 43-20.2, 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.

43-20.4 A taxpayer accounting for income and deductions on a cash basis recognizes income at the earlier of when it is received or when it is made available to the taxpayer and recognizes expenses when they are paid.

43-20.5 A taxpayer accounting for tax on an accrual basis recognizes income at the earlier of when it is received or receivable and recognizes an expense when it is payable.

43-20.6 An amount that is payable by installments is treated as received by a taxpayer entirely when part of it is received.

43-20.7 An amount is receivable by a taxpayer when the taxpayer becomes entitled to receive it even if the time for discharge of the entitlement is postponed.

43-20.8 Where an amount is paid by a taxpayer for the acquisition or use of services or assets to be provided in more than one *tax year*, the amount is treated as paid in the *tax years* proportionately to the acquisition or use in that *tax year* compared to the total acquisition or use.

43-20.9 Subject to this Chapter, an amount is payable by a 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. Economic performance occurs:

- (a) in the case of acquisition of services or assets, at the time the services or assets are provided;
- (b) in the case of use of assets, at the time the assets are used; and
- (c) in any other case, at the time the taxpayer makes payment in full satisfaction of the liability.

Section 43-21 Inventory

43-21.1 Inventories shall be measured at cost. Cost shall be determined according to the absorption-cost method.

43-21.2 Where particular items of inventory are not readily identifiable, a taxpayer may account for inventory under the first-in-first-out or weighted average cost method. A taxpayer may change its inventory recognition method only with the written permission of the *Commissioner* and subject to any conditions that the *Commissioner* may impose to ensure that no item is omitted and no item is taken into account more than once.

Section 43-22
Long-term contracts

The percentage-of-completion method shall apply in determining the annual profit arising from a long-term contract. A “long-term contract” is a contract for manufacture, installation, or construction, or services related to these activities 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.

Section 43-23
Finance leases

43-23.1 A finance lease shall be treated as a sale and purchase of the leased asset. 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. Each payment by the lessee to the lessor is treated as in part a repayment of principal and in part a payment of *interest*. The *interest* part shall be calculated on the principal outstanding at the time each payment is made.

43-23.2 A lease is a finance lease if:

- (a) the lease term (including any period under an option to renew) is 75% or more of the useful life of the asset for depreciation purposes;
- (b) the lessee has an option to purchase the asset for a fixed or determinable price at the expiration of the lease;
- (c) the estimated residual value of the asset at the expiration of the lease is less than 20% of its market value at the start of the lease;
- (d) in the case of a lease that commences before the last 25% of the useful life of the asset, the present value of the minimum lease payments equals or exceeds 90% of the market value of the asset at the commencement of the lease term; or
- (e) the asset is custom made for the lessee and, after the expiration of the lease, the asset will be of no practical use to any *person* other than the lessee.

Section 43-24
Interest expense

43-24.1 The total amount of *interest* expense allowed to a taxpayer as a deduction for a *tax year* shall not exceed an amount equal to the sum of the taxpayer’s *interest* income for the year and fifty percent (50%) of the taxpayer’s net non-*interest*

income for the year. A taxpayer's net non-*interest* income is the taxpayer's *gross income* for the year (other than *interest* income) less the total amount of deductions allowed to the taxpayer for the year, other than for *interest* expense.

43-24.2 The amount of any *interest* expense that is not deducted in a *tax year* as a result of Section 43-24.1 may be carried forward as *interest* expense incurred in the following *tax year*. An amount carried forward under this Section may be carried forward for a maximum of five *tax years*. Where 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* shall be deducted first.

43-24.3 Section 43-24.1 shall not apply to *financial institutions*.

Section 43-25

Losses

43-25.1 If the determination of the taxable income of a 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 future *tax years* until the earlier of:

- (a) five *tax years* following the *tax year* in which expenses exceeded the income; and
- (b) the *tax year* in which the remaining excess of the expenses over the income has been fully deducted under this Section.

43-25.2 Where a taxpayer has a loss carried forward for more than one *tax year*, the loss for the earliest year shall be deducted first.

Section 43-26

Tax year

43-26.1 Subject to Section 43-26.2, a taxpayer must calculate the taxpayer's taxable income on the basis of its *tax year*.

43-26.2 A taxpayer that has, prior to 1 January 2004, obtained permission of the *Commissioner* to substitute a 12 month period other than the calendar year for the *tax year* for the purpose of calculating the liability of the taxpayer to pay income tax may continue to use a substituted *tax year*.

Section 43-27

Currency translation

43-27.1 Any amount taken into account for income tax purposes shall be calculated in United States dollars.

43-27.2 Subject to Section 43-27.3, where an amount is in a currency other than United States dollars, the amount shall be converted at the Central Payment Office's mid-exchange rate applying between the currency and United States dollars on the date the amount is taken into account for tax purposes.

43-27.3 With the prior written permission of the *Commissioner*, a taxpayer may use the average rate of exchange for the *tax year* or a part of the *tax year*.

Section 43-28
Market value

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

Section 43-29
Foreign currency exchange gains and losses

A taxpayer shall account for transactions in foreign currency in accordance with International Accounting Standard IAS 21. No foreign currency exchange loss is recognized to the extent that the exposure to such loss is hedged.

Subchapter VIIIA.4 Legal persons

Section 43-30
Legal persons

43-30.1 A *legal person* shall be subject to tax separately from its owners.

43-30.2 Where a *legal person* has failed to pay tax due, the *Commissioner* may, by notice in writing, require a *person* who is a member or owner of the *legal person* to pay tax or additional tax on behalf of the *legal person*, up to the amount of tax due.

43-30.3 The maximum amount of tax that a member or owner of a *legal person* may be required to pay under the present Section shall be limited to the amount in money or in non-money benefits received by the member or owner or an *associate* of the member or owner from the *legal person* within three years of the date on which tax or additional tax was due.

43-30.4 The member or owner of a *legal person* has the onus of proving that the member or owner did not receive an amount equal to the tax or additional tax due from the *legal person*.

43-30.5 A *person* making a payment of tax or additional tax required by Section 43-30.2 shall be treated as having made the payment on behalf of the *legal person* liable to pay the tax and the *legal person* liable to pay the tax may not seek to recover that amount from the *person* making payment.

Section 43-31
Permanent establishments

43-31.1 The taxable income of a *non-resident* carrying on activities in *East Timor* through a *permanent establishment* shall be calculated by reference to the income attributable to:

- (a) the *permanent establishment*;
- (b) any sales in *East Timor* of *goods* of the same or similar kind as those sold through the *permanent establishment*; and
- (c) any other activities carried on in *East Timor* of the same or similar kind as those effected through the *permanent establishment*.

43-31.2 The following principles shall apply in determining the taxable income of a *permanent establishment* of a *non-resident person*:

- (a) the *gross income* and deductible expenses of the *permanent establishment* shall be 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 dealing wholly independently with the *non-resident person* of which it is a *permanent establishment*;
- (b) subject to this Chapter, there shall be allowed as deductions expenses incurred by the *non-resident person* (either directly or through the *permanent establishment*) for the purposes of the activities of the *permanent establishment* including executive and administrative expenses so incurred, whether in *East Timor* or elsewhere; and
- (c) no deduction shall be allowed for amounts paid or payable by the *permanent establishment* to its head office or to another *permanent establishment* of the *non-resident person*.

Subchapter VIIIA.5 International aspects of income tax

Section 43-32
Foreign tax credit

43-32.1 Subject to the provisions of Section 43-32, a *resident* taxpayer shall be entitled to a credit for any foreign income tax paid by the taxpayer in respect of *foreign-source income* included in the taxable income of the taxpayer for a *tax year*. The credit shall be referred to as the “foreign tax credit”.

43-32.2 The foreign tax credit shall be calculated separately for each foreign country from which income is derived by a taxpayer. The rules in Section 43-4 shall

apply in determining the country in which income is derived on the basis that the reference in Section 43-4 to *East Timor* is a reference to the relevant foreign country.

43-32.3 The amount of the credit in respect of income from sources in a foreign country shall be limited to the *East Timor* tax payable on that income. There is no deduction or carry forward of any excess foreign tax credit.

43-32.4 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 *Commissioner* for this purpose.

43-32.5 Deductible expenses incurred in deriving income from sources in a foreign country shall be deducted only against that income. If deductible expenses exceed the income derived from sources in a foreign country for a *tax year*, the amount of the excess shall be a foreign country loss allowed as a deduction against income from sources in the foreign country derived in future *tax years* until the earlier of:

- (a) five *tax years* following the *tax year* in which expenses exceeded the income; and
- (b) the *tax year* in which the remaining excess of the expenses over the income has been fully deducted under this Section.

43-32.6 Where a taxpayer has a foreign country loss carried forward for more than one year, the loss for the earliest year shall be deducted first.

Subchapter VIIIA.6 Withholding tax

Section 43-33

Explanation of withholding of tax

43-33.1 This Subchapter explains the rules applying to the withholding of tax. It provides for two types of withholding: withholding of tax by the person paying an amount and withholding of tax by the person receiving an amount. In some cases the tax withheld satisfies the liability to tax of the recipient of a payment. In other cases the tax withheld is credited against the liability to tax of the recipient of a payment. The Subchapter does not apply to any amount which is not subject to tax.

43-33.2 The amount of tax withheld from a payment under this Subchapter is treated as income earned by the recipient of the payment at the time the tax was withheld.

43-33.3 The provisions of the present Regulation relating to the collection and recovery of tax apply to any amount withheld or required to be withheld in accordance with this Subchapter.

Section 43-34
Withholding tax as a non-final and a final tax

43-34.1 A *person* who is a *non-resident* who receives amounts described in paragraph (a)(ii) of Part A of Section 6 of Schedule 1, other than amounts payable in respect of a *permanent establishment* of the *person*, from which tax has been withheld at the rate set out in that paragraph has no further liability with respect to income tax imposed on those amounts. These amounts are not taken into account when calculating the taxable income of the *person* receiving them.

43-34.2 A natural *person* who is a *resident* and who receives amounts described in paragraph (a)(i) of Part A of Section 6 of Schedule 1 from which tax has been withheld at the rate set out in that paragraph has no further liability with respect to income tax imposed on those amounts. These amounts are not taken into account when calculating the taxable income of the *person* receiving them.

43-34.3 The *gross income* of a *legal person* who is a *resident* and who receives amounts described in paragraph (a)(i) of Part A of Section 6 of Schedule 1 other than dividends, *interest*, royalties or rent on land and buildings has no further liability with respect to income tax imposed on those amounts if tax has been withheld from the amounts at the rate set out in that paragraph. These amounts are not taken into account when calculating the taxable income of the *person* receiving them.

43-34.4 The *gross income* of a *legal person* who is a *non-resident* and who receives amounts described in paragraph (a)(i) of Part A of Section 6 of Schedule 1 that are payable in respect of a *permanent establishment* of the *person* other than dividends, *interest*, royalties, or rent on land and buildings has no further liability with respect to income tax imposed on those amounts if tax has been withheld from the amounts at the rate set out in that paragraph. These amounts are not taken into account when calculating the taxable income of the *person* receiving them.

43-34.5 The *gross income* of a *legal person* who is a *resident* includes dividends, *interest*, royalties, and rent on land and buildings. Income tax imposed under Section 43-1 shall be reduced by tax withheld under the present Subchapter on dividends, *interest*, royalties, or rent that is included in *gross income*.

43-34.6 The *gross income* of a *legal person* who is a *non-resident* includes dividends, *interest*, royalties, or rent on land and buildings that are payable in respect of a *permanent establishment* of the *person*. Income tax imposed under Section 43-1 shall be reduced by tax withheld under the present Subchapter on dividends, *interest*, royalties, or rent on land and buildings that is included in *gross income*.

Section 43-35
Payments for services

43-35.1 This Section applies to every *person* described in Section 43-41 who makes a payment to a *resident* or to a *permanent establishment* in *East Timor* of a *non-resident* where the *person* receiving the payment is:

- (a) carrying on construction or building activities;
- (b) providing construction consulting services;
- (c) providing air or sea transportation services;
- (d) carrying on petroleum and geothermal drilling activities, or drilling support services; or
- (e) carrying on mining activities or mining support services.

43-35.2 Every *person* described in Section 43-41 making a payment to which this Section applies shall withhold tax from the gross payment at the rate prescribed for the payment in paragraph (a)(i) of Part A of Section 6 of Schedule 1.

43-35.3 Where the *person* making a payment to which this Section applies is a *person* not described in Section 43-41, or where the payer is the United Nations or its specialized agencies the recipient of the payment shall withhold tax from the gross payment received at the rate prescribed for the payment in paragraph (a)(i) of Part A of Section 6 of Schedule 1.

43-35.4 In this Section:

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

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

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

“drilling support services” means every service relating to petroleum or geothermal drilling other than technical, management, consulting, or architectural services;

“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; and

“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.

Section 43-36 Dividends

Every *resident legal person* paying a *dividend* to a *resident* or a *permanent establishment* in *East Timor* of a *non-resident* shall withhold tax from the gross amount of the *dividend* at the rate prescribed in paragraph (a)(i) of Part A of Section 6 of Schedule 1.

Section 43-37 Interest and royalties

43-37.1 Every *person* described in Section 43-41 paying *interest* or royalties to a *resident* or to a *permanent establishment* in *East Timor* of a *non-resident* shall withhold tax from the gross amount of the *interest* or royalties paid at the rate prescribed in paragraph (a)(i) of Part A of Section 6 of Schedule 1.

43-37.2 Where the *person* paying *interest* or royalties is a *natural person* not described in Section 43-41, the recipient of the payment shall withhold tax from the gross payment received at the rate prescribed for the payment in paragraph (a)(i) of Part A of Section 6 of Schedule 1.

43-37.3 This Section does not apply to *interest* paid to a *financial institution*.

Section 43-38 Rent and lease payments

43-38.1 Every *person* described in Section 43-41 making a payment to a *resident* or to a *permanent establishment* in *East Timor* of a *non-resident* of rent or lease payments for the lease of land or buildings or for the lease of movable property shall withhold tax from the gross amount of the rent or lease payments paid at the rate prescribed in paragraph (a)(i) of Part A of Section 6 of Schedule 1.

43-38.2 Where the *person* making a rent payment described in Section 43-38.1 or a payment for hiring or lease described in Section 43-38.1 is:

- (a) a natural person; or
- (b) the United Nations or its specialized agencies;

the recipient of the payment shall withhold tax from the gross payment received at the rate prescribed for the payment in paragraph (a) of Part A of Section 6 of Schedule 1.

Section 43-39
Prizes and winnings

Every *person* described in Section 43-41 paying a prize (including a gambling winning) or lottery winning to a *resident* or to a *permanent establishment* in *East Timor* of a *non-resident* shall withhold tax from the gross amount of the payment at the rate prescribed in paragraph (a)(i) of Part A of Section 6 of Schedule 1.

Section 43-40
Non-resident withholding tax

43-40.1 Every *person* described in Section 43-41 making a payment of *East Timor-source gross income* to a *non-resident* shall withhold tax from the gross amount of the payment at the rate prescribed in paragraph (a)(ii) of Part A of Section 6 of Schedule 1, unless the payment is to or in relation to a *permanent establishment* of the non-resident.

43-40.2 Section 43-40.1 shall not apply to an amount referred to in Section 43-37.3.

Section 43-41
Persons required to withhold tax

The following persons are required to withhold tax from a payment under Section 43-35.1 (dealing with payments for services), Section 43-37.1 (dealing with interest and royalties), Section 43-38.1 (dealing with rent and lease payments), Section 43-39.1 (dealing with prizes and winnings) and Section 43-40.1 (dealing with payments to non-residents):

- (a) *legal persons*; and
- (b) *natural persons* who may deduct the payment under Section 43-10 to calculate their taxable income.

Section 43-42
Obligations of a person withholding tax from a payment

43-42.1 Every *person* who has withheld tax from a payment made by the *person* in accordance with this Part shall remit the tax withheld and a completed income tax withholding form as prescribed by the Commissioner to the Central Payments Office or its nominated agent within fifteen days after the end of the month

in which the payment was made. 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.

43-42.2 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 Central Payments Office or its nominated agent. Such *person* is entitled to recover this amount from the recipient of the payment.

43-42.3 Any *person* who has withheld tax under this Part from a payment made by the *person* and has remitted the amount withheld to the Central Payments Office or its nominated agent shall be 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.

43-42.4 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 *Commissioner*. 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 *Commissioner* shall have a first claim to the tax withheld before any distribution of property is made.

Section 43-43

Self-withholding where tax was not withheld

Every recipient of a payment from which tax should have been withheld under this Subchapter but from which tax was not withheld shall withhold tax from the gross payment received at the rate prescribed for the payment in paragraph (a) of Part A of Section 6 of Schedule 1.

Section 43-44

Remitting self-withholding

Every recipient of a payment who is required to withhold tax from the payment in accordance with this Subchapter shall remit the tax withheld and a self-withholding tax form to the Central Payments Office or its nominated agent within fifteen days after the end of the month in which the payment was received.

Subchapter VIIIA.7 Administrative aspects of income tax

Section 43-45

Delivery of returns

43-45.1 The following *persons* are required to deliver to the Central Payments Office or its designated agent a completed income tax form as prescribed by the *Commissioner* at the time designated by the *Commissioner* in a *designation notice*:

- (a) a *person* who is required to pay income tax under the present Regulation; and
- (b) other *persons* or classes of *persons* as designated by the *Commissioner* in a *designation notice*.

43-45.2 No provision other than Section 43-45.1 shall require a *person* to deliver an income tax form.

43-45.3 A taxpayer required to deliver a completed income tax form for a *tax year* to the Central Payments Office under Section 43-45.1 shall deliver the form not later than the fifteenth day of the third month after the end of the *tax year*.

43-45.4 The income tax form of the classes of taxpayers designated by the *Commissioner* in a *designation notice*, shall be accompanied by the taxpayer's income statement, balance sheet, and cash flow statement for the *tax year*.

43-45.5 A taxpayer may apply in writing to the *Commissioner* for an extension of time to deliver an income tax form. An application 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. The *Commissioner* 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 43-46 Installments of income tax

43-46.1 Subject to Section 43-46.2, a taxpayer shall pay monthly installments of income tax for a *tax year*. The amount of each installment is one percent (1%) of the taxpayer's total *gross income* for the month.

43-46.2 A taxpayer whose total *gross income* for the previous *tax year* is \$1 million or less shall pay quarterly installments of income tax for the year. Installments shall be payable for the three-month period ending on 31 March, 30 June, 30 September, and 31 December. The amount of each installment is one percent (1%) of the taxpayer's total *gross income* for the quarter.

43-46.3 Installments of income tax are payable by the 15th day after the end of the period to which they relate.

43-46.4 Installments of income tax paid by a taxpayer in a *tax year* shall be credited against the taxpayer's income tax liability for that year. Where the amount of the installments exceed the taxpayer's income tax liability, the excess shall not be refunded or carried forward to the next *tax year*, but may be credited against the taxpayer's minimum income tax liability for that year.

43-46.5 For the purposes of this Section, a taxpayer's total *gross income* for a month shall not include any amount derived in the month that is subject to withholding tax.

XIII. Anti-avoidance

Section 91

Transactions between associates

The *Commissioner* may adjust any amount in respect of a transaction between *associates* to the amount that could be expected had the *persons* been dealing with each other at arm's length.

History: Section 91 amended by Revenue System Amendment Act 2002 [Article 8] and comes into force from 1 July 2002 [Article 20-1] and applies from 1 July 2002 [Article 20-3]

Section 91 formerly read:-

The *Commissioner* may adjust any amount in respect of a transaction between *associates* to the amount that could be expected to be used had the *persons* not been *associates*.

Section 92

Diverted receipts

A *person* shall be treated as having received any amount that is:

- (a) reinvested or accumulated for the *person's* benefit; or
- (b) dealt with on the *person's* behalf or as the *person* directs.

Section 93

Commissioner may recharacterize arrangements

For the purposes of determining liability to tax under the present Regulation, the *Commissioner* may:

- (a) recharacterize an element of a transaction that was entered into as part of scheme to avoid a liability to taxation;
- (b) disregard a transaction that does not have substantial economic effect;
- or
- (c) recharacterize a transaction where the form of the transaction does not reflect its economic substance.

SCHEDULE 1
Rates of Tax and Import Duty, Exemptions and Dates of Effect

The rates of tax and import duty, exemptions and dates of effect set out in this Schedule may be amended in an annual Appropriations Regulation or a Supplement to an Annual Appropriations Regulation as appropriate to suit economic conditions and to meet revenue needs.

Section 1
Services Tax

Part A: Tax Rates

(a) The rates of services tax for the purposes of Section 9 for the period from 1 July 2000 to 31 December 2000 for *persons* who provide no *designated services* other than *restaurant and bar services* are as follows:

- | | |
|--|-----|
| (i) <i>persons</i> with a monthly <i>gross income</i> of <i>designated services</i> less than \$1,000: | 0% |
| (ii) <i>persons</i> with a monthly <i>gross income</i> of <i>designated services</i> of \$1,000 or more: | 12% |

History: Part A (a)(ii) amended to the rate of 12% by Revenue System Amendment Act 2002 [Article 9(a)] and comes into force from 1 July 2002 [Article 20-1] and applies to designated services provided on or after 1 July 2002 [Article 20-5]
The rate previously specified by Part A (a)(ii) was 10%.

(b) The rates of services tax for the purposes of Section 9 for all other *persons* providing *designated services* are as follows:

- | | |
|--|-----|
| (i) <i>persons</i> with a monthly <i>gross income</i> of <i>designated services</i> less than \$500: | 0% |
| (ii) <i>persons</i> with a monthly <i>gross income</i> of <i>designated services</i> of \$500 or more: | 12% |

History: Part A (b)(ii) amended to the rate of 12% by Revenue System Amendment Act 2002 [Article 9(b)] and comes into force from 1 July 2002 [Article 20-1] and applies to designated services provided on or after 1 July 2002 [Article 20-5]
The rate previously specified by Part A (b)(ii) was 10%.

(c) For the avoidance of doubt, the applicable rate of services tax applies to the entire *gross income* received by a *person* providing *designated services*.

Part B: Exemptions

None

Part C: Date of Effect

- (a) Services tax shall be imposed on the *gross income* received by a *person* for *designated services* provided by him on or after 1 July 2000.
- (b) A *person* who provides *designated services* after 1 July 2000 shall be treated as receiving on 1 July 2000 any *gross income* received prior to that date for services to be provided on or after that day.

Section 2
Excise Tax

Part A: Tax Rates

The rates of excise tax for the purposes of Section 17 are set out in the following Table:

Harmonized Classification System Item	General Description of Goods	
<i>1704, 1806</i>	<i>sugar confectionery and chocolate confectionery</i>	<i>12% of the excise value</i>
<i>2009</i>	<i>fruit juices</i>	<i>12% of the excise value</i>
<i>2105</i>	<i>ice cream and other edible ices</i>	<i>12% of the excise value</i>
<i>2106</i>	<i>other food preparations (including soft drink concentrates)</i>	<i>12% of the excise value</i>
<i>2202</i>	<i>soft drinks and other flavored waters</i>	<i>US\$ 0.65 per liter</i>
<i>2203</i>	<i>beer</i>	<i>US\$ 1.90 per liter</i>
<i>2204-2206</i>	<i>wine, vermouth and other fermented beverages (for example, cider, perry)</i>	<i>US\$ 2.50 per liter</i>
<i>2207, 2208</i>	<i>ethyl alcohol (other than denatured) and other alcoholic beverages</i>	<i>US\$ 8.90 per liter</i>
<i>2401-2403</i>	<i>tobacco and tobacco products</i>	<i>US\$ 19.00 per kg</i>
<i>2710</i>	<i>gasoline, diesel fuel and other petroleum products</i>	<i>US\$ 0.06 per liter</i>
<i>3303</i>	<i>perfumes</i>	<i>18% of the excise value</i>
<i>3304</i>	<i>beauty or make-up preparations (including sunscreens)</i>	<i>12% of the excise value</i>
<i>3305</i>	<i>hair preparations (i.e., shampoos)</i>	<i>12% of the excise value</i>
<i>3307</i>	<i>shaving preparations, deodorants, other toilet preparations, etc.</i>	<i>12% of the excise value</i>
<i>3604</i>	<i>fireworks, signal flares, rain rockets, etc.</i>	<i>120% of the excise value</i>

3701-3707		<i>photographic films, paper and chemicals, cinema films</i>	<i>12% of the excise value</i>
4203		<i>leather apparel</i>	<i>12% of the excise value</i>
4301-4304		<i>raw and treated furs, fur apparel and artificial furs</i>	<i>12% of the excise value</i>
7101-7112		<i>pearls, precious stones and precious metals</i>	<i>12% of the excise value</i>
7113-7118		<i>jewellery, articles of gold and silver, and coins</i>	<i>12% of the excise value</i>
8412		<i>razors and blades</i>	<i>12% of the excise value</i>
8415		<i>air conditioners</i>	<i>12% of the excise value</i>
8418		<i>refrigerators</i>	<i>12% of the excise value</i>
8422		<i>dishwashers</i>	<i>12% of the excise value</i>
8519-8524		<i>audio electronic goods</i>	<i>12% of the excise value</i>
8525 20 100		<i>mobile phones</i>	<i>12% of the excise value</i>
8528		<i>televisions and video monitors</i>	<i>12% of the excise value</i>
8529 10 8529 90		<i>satellite dishes</i>	<i>12% of the excise value</i>
8703		<i>motor cars principally designed for the transport of persons</i>	<i>the greater of:</i> <i>(a) 36% of the excise value; and</i> <i>(b) US\$ 500 per vehicle;</i> <i>plus 36% of the excise value in excess of US \$ 20,000</i>
8707		<i>bodies of cars</i>	<i>12% of the excise value</i>
8711		<i>motorcycles</i>	<i>12% of the excise value</i>
9005		<i>binoculars</i>	<i>12% of the excise value</i>
9006		<i>cameras</i>	<i>12% of the excise value</i>
9101-9114		<i>clocks, watches and their cases, straps and parts</i>	<i>12% of the excise value</i>
9301-9307		<i>arms and ammunition</i>	<i>120% of the excise</i>

		value
9501-9508	<i>toys, games and sports accessories and parts</i>	<i>12% of the excise value</i>
9601	<i>worked ivory, bone, shell, horn, coral, etc</i>	<i>12% of the excise value</i>
9613	<i>cigarette lighters</i>	<i>12% of the excise value</i>
9614	<i>smoking pipes</i>	<i>12% of the excise value</i>
9616	<i>scent sprays, powder puffs and pads</i>	<i>12% of the excise value</i>
9701-9706	<i>works of art, collectors' pieces and antiques</i>	<i>12% of the excise value</i>
	<i>private yachts and private aircraft</i>	<i>12% of the excise value up to an including US \$20,000 and 36% of the excise value in excess of US \$20,000</i>

History: The term 'customs value' replaced with the term 'excise value' by Revenue System Amendment Act 2002 [Article 10(a)(1)]. The various rates, amounts and calculations replaced by Revenue System Amendment Act 2002 [Article 10(a)(ii)-(xii)]. The definition of 'excise value' inserted by Revenue System Amendment Act 2002 [Article 10(b)]
All changes come into force from 1 July 2002 [Article 20-1] and apply to goods imported or produced on or after 1 July 2002 [Article 20-6]

Part B: Exemptions

The following *goods* shall be exempt from excise tax:

- (a) *Goods* that are exempt from import duty under Part B of Section 4 of Schedule 1 are exempt from excise tax on importation; and
- (b) *Goods* referred to in Section 20.2

Part C: Date of Effect

Excise tax is imposed on *goods* imported into *East Timor* and on *goods* produced in *East Timor* on or after 20 March 2000.

Section 3 Sales Tax

Part A: Tax Rates

The rates of sales tax for the purposes of Section 22 are as follows:

- (a) in respect of *goods* imported into *East Timor* 6%
- (b) in respect of sales of *goods* or the provision of services in *East Timor* **[to be decided later]**%

History: The percentage '5%' replaced with the percentage '6%' by Revenue System Amendment Act 2002 [Article 11] and comes into force from 1 July 2002 [Article 20-1] and applies to goods imported on or after 1 July 2002 [Article 20-7]

Part B: Exemptions

The following *goods* shall be exempt from sales tax:

- (a) in respect of *goods* imported into *East Timor*:
 - (i) *Goods* that are exempt from import duty under Part B of Section 4 of Schedule 1 are exempt from sales tax on importation.
 - (ii) *Goods* referred to in Section 25.2
- (b) in respect of sales of *goods* or the provision of services in *East Timor*:
 - (i) **[to be decided later]**
 - (ii) *Persons* whose monthly *gross income* from sales and provision of services does not exceed \$**[to be decided later]**
 - (iii) *Goods* and services referred to in Sections 25.3 and 25.4

Part C: Date of Effect

Sales tax is imposed on *goods* imported into *East Timor* on or after 20 March 2000.

Sales tax on sales of *goods* and the provision of services in *East Timor* has not come into effect. It applies to sales of *goods* and the provision of services on or after **[to be decided later]**.

Section 4 Import Duty

Part A: Tax Rate

The rate of import duty for the purposes of Section 27 is 6% of the *customs value* of the *goods*.

History: The percentage '5%' replaced with the percentage '6%' by Revenue System Amendment Act 2002 [Article 12] and comes into force from 1 July 2002 [Article 20-1] and applies to goods imported on or after 1 July 2002 [Article 20-7]

Part B: Exemptions

The following imported *goods* shall be exempt from import duty:

- (a) where the *goods* accompany a *person* arriving in *East Timor* 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, where 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 *East Timor* by travellers in accompanying luggage or carried on or about the travellers' bodies; and
 - (iv) household effects accompanying former *residents* of *East Timor* returning to reside in *East Timor* 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; and
 - (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 organizations, being charitable organizations that have registered under

- an UNTAET Directive or law of East Timor that has been promulgated for that purpose, where the *goods* are to be used for charitable purposes of humanitarian assistance and relief, education or health care;
- (e) *goods* for temporary admission, where the importer has provided security for import duty in the prescribed manner;
 - (f) *goods* for consumption by international staff of UNMISSET or members of the Peace Keeping Force from contingent countries, where 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; and
 - (i) *goods* not described in previous paragraphs where:
 - (i) the *goods* are imported into *East Timor* 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.

Part C: Date of Effect

Import duty is imposed on *goods* imported into *East Timor* on or after 20 March 2000.

Section 6
Income Tax

Part A: Tax Rates

(a) For the purposes of the application of the *Law on Income Tax*, the rates of income tax that must be withheld by a *person* making payments described in this Section are as follows:

- (i) amounts that are payable to *residents* or that are payable to *non-residents* who have a *permanent establishment* in *East Timor*:

TYPE OF INCOME
RATE

dividends	15 %
interest	15 %
royalties	15 %
rent from land and buildings	10 %
income from hiring or lease of movable property	10%
income from prizes and lotteries	15 %
income from construction and building activities	2 %
income from construction consulting services including project management, engineering design and site supervision services	4 %
income from the provision of air or sea transportation services	2.64 %
income from petroleum and geothermal drilling and drilling support services	4.5 %
income from mining and mining support services	4.5 %

- (ii) amounts payable to *non-residents* who do not have a *permanent establishment* in *East Timor*:

TYPE OF INCOME		RATE
all income		20 %

(b) For the purposes of the application of the *Law on Income Tax* and Chapter VIII of the present Regulation, the rates of income tax imposed on income other than income described in paragraph (a)(i) and (a)(ii) are as follows:

- (i) In the case of a *natural person*:

AMOUNT OF INCOME		RATE
0 –\$3,368		10%
in excess of \$3,368 - \$6,737		15%
in excess of \$6,737		30%

History: ‘(i) In the case of a natural person:’ inserted by Revenue System Amendment Act 2002 [Article 14(a)] and comes into force on 1 July 2002 [Article 20-1] and applies for the tax year ending 31 December 2002 and subsequent tax years. Where a taxpayer has permission to use a substituted tax year, this section applies for the purposes of the first such tax year ending after 31 December 2002 [Article 20-9]

- (ii) In the case of any other *person*, 30%.

History: ‘(ii) In the case of any other person:’ inserted by Revenue System Amendment Act 2002 [Article 14(b)] and comes into force on 1 July 2002 [Article 20-1] and applies for the tax year ending 31 December 2002 and subsequent tax years. Where a taxpayer has permission to use a substituted tax year, this section applies for the purposes of the first such tax year ending after 31 December 2002 [Article 20-9]

- (c) The rate of tax imposed on coffee exports under Section 36.1 is 5%.

Part B: Exemptions

The following amounts are exempt from income tax [imposed under Chapter VIII of the present Regulation](#):

- (a) amounts exempt under Article 4(3) of the *Law on Income Tax*, as modified by Section 39 of the present Regulation.

The following amounts are exempt from tax under Section 36.1:

- (a) up to five (5) kilograms of coffee beans exported in accompanied baggage by a *person* departing from *East Timor*; and
- (b) coffee beans exported after 31 May 2001.

Part C: Date of Effect

As a result of UNTAET Regulation No. 1999/1, an income tax has been imposed on taxable income determined for the period from 25 October 1999 and applies in the 2000 and subsequent *tax years*.

The tax on coffee exports applied from 20 March 2000.

Part D: Depreciation

**Sub-Part D.1
Buildings**

(a) The rates of depreciation of buildings are:

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

(b) In this Sub-Part,

“permanent building” means any building other than a non-permanent building; and

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

**Sub-Part D.2
Depreciable Assets other than Buildings and Intangible Assets**

(c) Where pooling applies, *depreciable assets* shall be divided into the following depreciation pools:

Pool 1	Assets with a useful life of 1 to 4 years
Pool 2	Assets with a useful life of more than 4 years to 8 years
Pool 3	Assets with a useful life of more than 8 years

(d) Depreciation rates for depreciation pools:

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

(e) Depreciation rates where assets are depreciated individually on a straight-line basis:

<u>Useful Life</u>	<u>Depreciation Rate</u>
Assets with a useful life of 1 year to 4 years	25%
Assets with a useful life of more than 4 years to 8 years	12.5%
Assets with a useful life of more than 8 years	6.25%

Subpart D.3
Intangible Assets and Pre-commencement Costs

(f) The rates of depreciation of intangible assets are:

<u>Useful Life</u>	<u>Straight-line Depreciation Rate</u>
1 year to 4 years	25%
more than 4 years to 8 years	12.5%
more than 8 years to 16 years	6.25%
more than 16 years	5%

(g) The useful life of an expenditure referred to in Section 11.6 shall be four years.

(h) An intangible asset or intangible expenditure that does not have a determinable useful life shall be treated as having a useful life of twenty years.