



SPOKESPERSON V CONSTITUTIONAL GOVERNMENT



MEDIA RELEASE

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Timor-Leste goes to court to protect tax revenue

This week is a milestone for Timor-Leste. The Díli District Court will be the scene for a legal case which will mark the first time in history Timor-Leste has defended its sovereign rights in the court to protect taxes collected from oil and gas contractors.

Over the last five years, the Minister of Finance, Her Excellency Emília Pires, has established a comprehensive team of Timorese, Internationals, legal and audit firms to begin tax audits on oil contractors. The purpose of the audits is to ensure that the People of Timor-Leste have received their fair share of tax revenue from oil and gas profits in Timor-Leste and that the contractors are diligent in following the applicable laws of Timor-Leste. The Ministry of Finance has exercised scrupulous diligence on a case-by-case basis in applying the existing laws of Timor-Leste. This diligence has resulted in the discovery of many tax return inconsistencies which will now be presented in the courts of Timor-Leste.

The spokesperson for the Fifth Constitutional Government, Ágio Pereira noted “This is not only about recovering funds but changing the way oil contractors do business in our State, in all developing States. We are only doing what any other developed Nation does or should do in reviewing and auditing companies that do business in their territory, to ensure they are complying with the existing laws and paying what is due. This is best practice and an integral part of Statebuilding. Today Timorese everywhere should feel great pride and our international partners should feel a renewed sense of confidence in the State as these actions demonstrate good governance, accountability and transparency.”

Timor-Leste remains strongly pro-investment with the Government having established tax benefits and other incentives to encourage participation. Investors are greatly appreciated but along with everyone must abide by the law.

The first case is simple. The Timor-Leste Revenue Services (TLRS) who manages petroleum taxes requested the substantiation of information that is required by law to support tax deductions by the contractor. To date the company has refused to provide this information. When the company refused to provide the information, the TLRS issued an assessment plus penalties according to the law, a total of \$5,090,681 USD.



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The more tax deductions claimed by a company, the lower their taxable income and the less tax revenue the Timor-Leste Government receives. The TLRs merely requested the justification, such as receipts, to ensure the expenditure the company claimed on its return were, in fact, paid for and that such expenses were spent exclusively on activities related to its interest in JDPa 03-13 and was not spent on any other thing.

While the company in question claims the money was spent on Head Office expenditures solely to manage its interest in the JDPa 03-13; without providing proof to justify the expenses, there is simply no way to know. The Timor-Leste Revenue Service cannot turn a blind eye to its duty to the people of Timor-Leste to properly enforce the tax law and therefore, had no choice but to impose the appropriate taxes and applicable penalties.

All contractors should be familiar with the laws of Timor-Leste as they have been in operation for some time, some as far back as UNTAET, and the law applicable to these contractors has not been changed since they came into force. The primary law at issue in this case is **LAW No. 3/2003 of 1 July ON THE TAXATION OF BAYU-UNDAN CONTRACTORS (TOBUCA)** *“The Timor Sea Treaty authorizes, with certain restrictions, each of the Governments to apply its tax regime to petroleum activities in the Joint Petroleum Development Area. In accordance with the Treaty, Timor-Leste may apply its tax regime to 90% of the petroleum activities; Australia may apply its own tax regime to 10% of those activities.*

The present Law establishes the tax regime for the development of the Bayu-Undan field. The objective of this act is to encourage the Bayu-Undan Contractors to carry on the gas phase of the project, in addition to its liquid phase. The development of the project in its gas phase shall enable Timor-Leste to increase its overall revenues deriving from the Bayu-Undan field.” ENDS

