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**DIRECÇÃO NACIONAL DOS IMPOSTOS
TIMOR LESTE**

Guide

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Income Tax

DOMESTIC INCOME TAX

A guide for Income Taxpayers

For the 2008 income tax year

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Attachment: SUMMARY OF LEGISLATIVE CHANGES: INCOME TAX

1. INTRODUCTION

1.1. Income Tax – an overview

Generally, income tax applies to any realised increase in economic capacity, in whatever name or form, which can be used by the taxpayer for consumption or to increase the wealth of the taxpayer, other than exempt income and wages subject to wage income tax.

Gross receipts from some types of business and investment income are subject to a *final* withholding tax upon payment and are not declared in the annual income tax form. Also some receipts from some types of business and investment income are subject to **non-final** withholding tax and have to be declared in the annual income tax form. The withholding tax withheld is allowed as a income tax credit offset.

Income tax applies to both individuals and enterprises.

Tax rates for income earned by a resident natural person and not subject to a final withholding tax are progressive:

- 0% for any part of annual taxable income of up to US\$6,000;
- 10% for any part of annual taxable income above US\$ 6,000.

The tax rate for taxable income earned by legal and non-resident natural persons and not subject to a final withholding tax is a flat rate of 10% for all taxable income.

Payments of income tax are made through:

- instalments; and
- a self-assessed final payment (to be made with the lodging of the annual income tax form).

Income tax payable for the **2008** tax year is due with the lodgement of an annual income tax form on or before **31 March 2009**.

1.2. Structure of the Income Tax Law

The Government of the Democratic Republic of Timor Leste has recently introduced Tax Policy Reform. The first phase of this reform was finalised in June 2008 when the Taxes and Duties Act 2008 was promulgated and became effective from 1 July 2008 for monthly taxes and 1 January 2008 for income tax. The Timor Leste Domestic tax laws are contained in

- The Taxes and Duties Act 2008 (the Act), and
- UNTAET Regulation 2000/18 (as amended)

Those provisions of Regulation 2000/18 that deal with matters that are now contained within the provisions of the Act have been repealed. Generally, the Act provides for:

- the imposition of the various taxes in Timor Leste,
- the rates of taxes
- the calculation of taxable income of taxpayers, and
- some general matters such as the delivery of tax forms and the payment of taxes.

The Act also deals with and imposes petroleum taxes. This area of tax law is not covered in

this guide.

Provisions relating to the processes and procedures of tax administration and offences and sanctions are contained within Regulation 2000/18 and remain in effect. As a part of the continuing tax reform process draft laws are currently being developed to deal with these matters.

1.3. Rulings

1.3.1. Public Rulings

The Timor Leste Tax Administration issues public rulings, which give explanations of how the Timor Leste Tax Administration interprets specific aspects of the various taxation laws of Timor Leste.

The following public rulings were issued under Regulation 2000/18 and can be relied upon up to 31 August 2008. With the passing of the Taxes and Duties Act 2008 these rulings were withdrawn as of 1 September 2008 and can no longer be relied upon to represent the Tax Administration's interpretation of the law in respect of the issues they deal with. The Tax Administration is currently reviewing areas and issues in which it will issue new Public Rulings.

Number Title

- 2001/ 1 The Public and Private Rulings programs
- 2001/ 2 The Power of the Commissioner of the TLRS to Cancel Taxation Obligations
- 2001/ 3 When is there employment in Timor Leste?
- 2001/ 4 Services tax aspects of vehicle rental
- 2001/ 5 The meaning of "wages" and "reward for services"
- 2001/ 6 Construction income and subcontractors
- 2001/ 7 Depreciation
- 2001/ 8 Useful lives of depreciable assets
- 2001/ 9 Apportioning expenses when some income is not subject to withholding tax
- 2001/10 Auditing, Access and Information Collection
- 2001/11 Who is a resident of Timor Leste for tax purposes?
- 2001/12 Additional Tax
- 2001/13 The value of "non-wage benefits" for employees of income tax exempt employers
- 2002/ 1 Timor Sea taxpayers

1.3.2 Private Rulings

A taxpayer may request from the Tax Administration a "private ruling" as to how the Tax Administration will apply the tax rules to a particular transaction or arrangement. Such a ruling will only be binding on the Tax Administration where the person seeking such a ruling has provided full and true disclosure of the planned transaction or arrangement relevant to the tax ruling.

2. TAX SUBJECTS

2.1. Who is subject to income tax

The following persons and entities are subject to income tax (or are tax subjects) in Timor Leste:

- an individual (natural person);
- an undivided estate as a unit in lieu of the beneficiaries;
- a legal person that has been incorporated, formed, organised, or established in Timor-Leste or under a foreign law, including a trust.

An undivided estate (e.g. deceased estate) constitutes a substitute tax subject, replacing the beneficiaries. Designating an undivided estate as a substitute tax subject is intended to enable tax to continue to be imposed on income derived from the estate.

An individual or other body, as a tax subject, can either be resident or non-resident in Timor Leste for tax purposes.

2.1.1. Resident Taxpayer

A resident taxpayer is:

- a natural person who is present in Timor-Leste for a period of, or periods amounting in aggregate to, one hundred eighty-three days in any twelve month period that commences or ends during the year, unless the person's permanent place of abode is not in Timor-Leste;
- a legal person that has been incorporated, formed, organised, or established in Timor-Leste, including the undivided estate of a natural person who was a resident natural person immediately before death

2.1.2. Non-Resident Taxpayer

A non-resident taxpayer is:

- an individual who is not present in Timor Leste for more than 182 days in any twelve month period that commences or ends during the year;
- an individual whose permanent place of abode is outside of Timor Leste;
- a body which is not established or domiciled in Timor Leste.

2.1.3. Permanent Establishment

A permanent establishment is any establishment in Timor Leste used by a non-resident to conduct business in Timor Leste in the form of, amongst others:

- a place of management;
- a branch office;
- a representative office;
- an office;
- a factory;
- a workshop;
- a mine, an oil or gas well, a quarry, or any other place of extraction of natural resources, including any place of drilling for mineral exploration;
- a fishery, place of animal husbandry, farm, plantation or forest;
- a construction, installation or assembly project;

- the furnishing of services through employees or other personnel, if conducted for more than 60 days in any 12 month period;
- a natural or legal person acting as a dependent agent ;
- an agent or employee of a non-resident insurance company, if the agent or employee collects premiums, or insures risks in Timor Leste.

2.2. Who is not subject to income tax

The following are not subject to income tax in Timor Leste:

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

2.3. What is subject to income tax

2.3.1. Income

Generally, income subject to income tax in Timor Leste is described as any increase in economic capability received or accrued by a taxpayer, in whatever name or form and originating from within or outside Timor Leste, which can be used for consumption or to increase the wealth of the taxpayer concerned.

Wages received are subject to wage income tax and are not subject to income tax.

The total income of an income taxpayer for a tax year is the total of the following amounts derived by the taxpayer during the tax year:

- business income;
 - business income means the gross revenue and gains from the conduct of all business activities including the alienation of assets or the discharge (cancellation) of indebtedness;
- property income;
 - property income includes dividends (refer exempt income), interest, royalties, annuities, rent, or other amounts arising from the provision, use, or exploitation of property; and
 - any gain arising on the disposal of an asset, other than an asset held on personal account, but does not include an amount that is business income .
- gains from fluctuations in foreign currencies;
- lottery prizes or awards;
- a refund of a tax payment previously deducted as an expense; and
- any other amount that is a realised increase in economic capacity, in whatever name or form, which can be used by the taxpayer for consumption or to increase the wealth of the taxpayer, other than wages subject to wages income tax.

2.3.2. Exempt Income

The following income is exempt from income tax:

- any aid or donations, provided the donor and donee do not have any business, ownership, or control relationship;
- gifts received by relatives within one degree of direct lineage, or by a religious, educational, or charitable organisation, or a co-operative, provided that the donor or donee does not have any business relation, ownership, or control;
- inheritances;
- assets (including cash) received by a legal person in exchange for shares or capital contribution;
- an amount paid by an insurance company to a natural person in connection with health, accident, life, or education insurance;
- dividends;
- any contribution paid by an employer or employee to an approved pension fund;
- income derived by an approved pension fund; and
- remuneration paid to natural persons out of the Trust Fund for East Timor.

2.3.3. Income excluded from Taxable Income (withholding tax)

Certain types of income is subject to withholding tax. In some instances this withholding tax is a final tax on that income and that income is excluded from taxable income.

Information regarding the types of income that is subject to withholding tax can be found in the section of this Guide titled Withholding Tax.

Withholding Tax - Final:

For *natural persons* (i.e. individuals) who received any of the types of income subject to withholding tax and the income in fact has been correctly subjected to withholding tax, no further liability with respect to income tax will apply and the income will not be included in Taxable Income in the annual income tax form. Withholding tax may also be final in the circumstances describe in Section 6.4 of this guide.

For *persons other than individuals* (i.e. legal persons such as partnerships, companies or any other form of legal entity) that received any of the types of income subject to withholding tax (**except interest, royalties and rent**) and the income has been correctly subjected to withholding tax, no further liability with respect to income tax will apply and that income will not be included in Taxable Income in the annual income tax form. Withholding tax may also be final in the circumstances describe in Section 6.4 of this guide.

Withholding – Not Final:

For *persons other than individuals* (i.e. partnerships, companies or any other form of legal entity) who received **interest, royalties or rent**, the amount is to be included in Taxable Income in the annual income tax form and an income tax credit offset will be allowed for withholding tax that has been paid.

2.3.4. General Deductions from Income

The amount of Taxable Income for residents and non-residents who have a permanent establishment in Timor Leste shall be determined on the basis of gross income reduced by:

- expenditures (excluding interest expense for all taxpayers other than financial institutions) and losses on the alienation of assets or the discharge of indebtedness to the extent incurred in the conduct of a taxable business activity;
- expenditures incurred in deriving any other amounts included in gross income;
- any loss on disposal of an asset, other than an asset held on personal account;
- depreciation of tangible business assets and business buildings and amortization of intangible assets and expenditure;
- contributions to an approved pension fund;
- bad debts determined in accordance with Section 39 of the Taxes and Duties Act 2008 and for financial institutions doubtful debts determined in accordance with Section 38 of the Taxes and Duties Act 2008.
- Tax (except for income tax)
- losses due to the difference of foreign exchange rate;
- the company's research and development expenses performed in Timor Leste; and
- scholarship, apprenticeship, and training costs

2.3.5. Deductions not allowed:

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

- the distribution of profit in whatever name or form, such as dividends, including dividends paid by an insurance company to a policyholder, or any distribution of surplus by a co-operative;
- expenses charged or incurred for the personal benefit of shareholders, partners, or members;
- reserves, other than as provided for under this Law;
- insurance premiums for health, accident, life, or education insurance paid by a natural person, except if the premiums are paid by an employer in respect of an employee and the premium is treated as income of the employee;
- excessive pay or compensation paid by a legal person to a member of the legal person, or paid between associates, as consideration for work performed;
- gifts, aid, donations, or inheritances if exempt from income tax in the hands of the recipient under the provisions of the Taxes and Duties Act 2008;
- Timor-Leste or foreign income tax; and
- costs incurred for the personal benefit of an income taxpayer or the taxpayer's dependents;
- salaries paid to a partner in a partnership;
- late payment interest, penalties and fines imposed for non-compliance with this law;

- interest expense unless the expense is incurred by a financial institution;
- a fine or other monetary penalty imposed for violation of any law, rule, or regulation;
- a bribe, or any similar amount; and
- an expenditure or loss incurred to the extent recoverable under a policy of insurance or contract of indemnity.

3. TAXABLE INCOME

3.1. Taxable income from business activity

The determination of the gross income and deductions of an income taxpayer from the conduct of business activities for a tax year shall be based on the taxpayer's net profit for financial accounting purposes for the year prepared in accordance with the International Financial Reporting Standards, and subject to the modifications in the Taxes and Duties Act 2008.

For this purpose, a taxpayer's net profit shall include the results of all business activities conducted by the taxpayer during the tax year, including the alienation or disposal of any asset or discharge of any indebtedness in the course of, or at the end of, those activities.

3.2. Income tax period

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

3.3. Cash or Accrual Basis

A income taxpayer whose annual gross turnover is \$100,000 or more shall account for income tax on an accrual basis.

An income taxpayer whose annual gross turnover is less than \$100,000 may account for income tax either on cash or accruals basis.

An income taxpayer accounting for income tax on a cash basis recognizes income when received or made available and incurs expenses when paid.

An income taxpayer accounting for income tax on an accrual basis recognizes income when it is receivable and incurs an expense when it is payable. For tax purposes an amount is receivable when the taxpayer becomes entitled to receive it even if the time for discharge of the entitlement is postponed or the entitlement is payable by instalments. An amount is payable 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 goods, services or capital assets, at the time the goods, services or capital assets are provided,
 - (b) in case of use of goods or capital assets, at the time the goods or capital assets are used;
- and

- (c) in any other case, at the time the taxpayer makes payment in full satisfaction of the liability.

3.4. Aspects of taxable income calculation

3.4.1. Inventory

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

3.4.2. Depreciation

An income taxpayer is allowed a deduction for depreciable assets and business buildings during the tax year.

For this purpose, “business building” is a building used wholly or partly in the conduct of taxable business activities and a “depreciable asset” is any tangible movable property of a taxpayer that has a useful life exceeding one year, that is likely to lose value as a result of wear and tear, or obsolescence and is used wholly or partly in the conduct of taxable business activities.

Expenditure on fixed assets with a useful life of one year or more must be capitalized for accounting and tax purposes. For accounting purposes, depreciation should reflect exhaustion, wear and tear. For tax purposes, depreciation deductions are allowed only in respect of some class of property used during the income year for the purpose of conducting taxable business activities or ready for use for that purpose and held in reserve.

The acquisition or construction costs, and the cost of improvement, renewal, and reconstruction, of business buildings are to be depreciated individually on a straight-line basis.

The cost of a business building does not include the cost of the land on which the building is situated.

Depreciation methods

Depreciable assets may be depreciated:

1. Individually on a straight-line basis or
2. Under a pooling system on a declining balance basis.

The same method of depreciation shall apply to all depreciable assets of a taxpayer.

Business Buildings must be depreciated using the straight-line methodology of depreciation.

An income taxpayer may change its method of depreciation with the written permission of the Tax Administration and subject to any conditions that the Tax Administration may impose with respect to the change.

No depreciation deductions are allowed for a depreciable asset or business building until the asset or building is placed in service. Depreciable property held in reserve is considered as placed in service when it is ready to use in conducting taxable business activities.

Where a depreciable asset is used only partly in the conduct of taxable business activities, the depreciation deduction shall be reduced by the proportion of non-business use.

If an income taxpayer revalue's a business building or depreciable asset, no depreciation deduction shall be allowed for the amount of the revaluation.

Pooling system of Depreciation

The depreciation deduction for each depreciation pool for a tax year shall be calculated by applying the depreciation rate for the pool to the written down value of the pool at the end of the tax year. The written down value of a depreciation pool at the end of a tax year shall be the written down value at the end of the previous tax year less the depreciation deduction allowed for that year:

- (a) increased by the cost of depreciable assets added to the depreciation pool, and the cost of improvement, renewal, and reconstruction of assets in 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.

The written down value at the opening of a tax year is the written down value at the close of the previous year less the depreciation deduction allowed for that tax year.

Where the written down value of a depreciation pool at the end of a tax year is a negative amount, that amount shall be included in the income of the taxpayer for the year, and the written down value of the pool shall be zero.

If all the depreciable assets in a depreciation pool are alienated before the end of the tax year, a deduction is allowed for the amount of the written down value (if any) of the pool at the end of the year. The written down value of the pool at the end of the tax year shall be zero.

Individual Basis of Depreciation

The following rules apply to a depreciable asset and business buildings depreciated on a straight-line basis:

- (a) 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;
- (b) the cost of an improvement, renewal, or reconstruction of a depreciable asset or business building shall be treated as the cost of a new asset with a useful life equal to the original useful life of the asset or building;
- (c) where the depreciable asset or business building is used only partly in the conduct of taxable business activities and partly for another purpose, the amount of depreciation allowed as a deduction shall be reduced by the proportion of the non-business use; and
- (d) where the depreciable asset or business building is alienated by a taxpayer, the cost of the asset or building shall be reduced by the depreciation deductions allowed under this section.

3.4.3. Amortization of Intangibles

An income taxpayer is also allowed a deduction for the amortization of intangible assets and expenditure.

“Intangible asset” is any property (other than tangible movable property or immovable property) that:

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

“Intangible expenditure” is any expenditure incurred other than in the acquisition of any tangible, movable or immovable property or intangible property.

The acquisition or creation cost, and the cost of improvement or renewal, of intangible assets for use by an income taxpayer shall be amortized individually on a straight-line basis at the relevant rate.

The amount of any intangible expenditure with a useful life exceeding one year incurred by an income taxpayer in the conduct of taxable business activities shall be amortized individually on a straight-line basis.

Where an intangible asset is used or intangible expenditure is incurred only partly in the conduct of taxable business activities, the amount allowed as a deduction shall be reduced by the proportion of the non-business use.

Where an intangible asset has been alienated by a taxpayer during a tax year, the cost of the asset shall be reduced by any amortisation deductions allowed in respect of the asset.

Expenditures with a useful life of more than one year incurred before the commencement of taxable business activities shall be capitalized and amortized individually on a straight-line basis. Examples of such expenditures include the cost of feasibility studies, construction of prototypes, and trial production activities and exclude the cost of acquiring land, or expenditures depreciated or amortized under another provision.

3.4.4. Depreciation and amortization rates

Part A Business Buildings

The rates of depreciation of business buildings are:

Type of Building	Useful Life	Straight-line Depreciation Rate
Permanent	20 years	100%
Non-permanent	10 years	100%

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

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

**Part B
Depreciable Assets**

1. Where pooling applies, depreciable assets shall be divided into the following depreciation pools:

Pool 1	All depreciable assets
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2. Depreciation rates for depreciation pools:

<i>Pool</i>	<i>Depreciation rate</i>
1	100%

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

<i>Useful Life</i>	<i>Depreciation Rate</i>
Assets with a useful life of 1- 4 years	100%
Assets with a useful life of 5 - 8 years	100%
Assets with a useful life of more than 8 years	100%

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

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

Useful Life	Straight-line Amortization Rate
1- 4 years	100%
5 - 8 years	100%
9 -16 years	100%
16 -20 years	100%

2. Useful life of intangibles

Types of Intangible Property	Useful Life	Straight-line Amortization Rate
1. Research and development	4 years	100%
2. Installation costs	4 years	100%
3. Copyrights, patent, design or model, plan, secret formula or process, trademark, or other like property or right,	(a)	(100%)

- (a) The useful life of this type of property shall be determined in accordance with the period of time for which the intangible property exists.

3.4.5. Reserves

Even though accounting practice may require that the potential liability be reflected in the taxpayer's accounts, no deduction is allowed for any amount retained by an income taxpayer from profits to create a reserve or provision for expected or anticipated expenses or losses.

However, banks are allowed a deduction for a provision for doubtful debts (impaired loans) provided the amount of the provision has been determined in accordance with the prudential requirements defined by the Minister of Finance in consultation with the Banking and Payments Authority under Section 38 of the Taxes and Duties Act 2008.

3.4.6. Bad Debts

A taxpayer is allowed a deduction in a tax year for a bad debt if the amount of the debt:

- was previously included in taxable business income,
- the debt is written off in the accounts of the income taxpayer during the tax year, and
- the income taxpayer has reasonable grounds for believing that the debt will not be recovered.

3.4.7. Long-term Contracts

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

The annual profit arising from a long-term contract shall be determined by applying the percentage-of-completion method.

3.4.8. Finance Leases

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.

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.

3.4.9. Interest Expense

Interest expense is not an allowable deduction unless incurred by a financial institution.

3.4.10. Deduction Denial

Where an income taxpayer is required to withhold tax from a payment that is a deductible expense of the taxpayer, the deduction is not allowed until the taxpayer pays the withheld tax to the Tax Administration.

An income taxpayer is not allowed a deduction for any commission, rebate, discount, spotter's fee, or similar payment that is Timor Leste-source income of the recipient unless:

- (a) the taxpayer discloses the name and address of the recipient by notice in writing to the Tax Administration; and
- (b) the Tax Administration is satisfied that tax has been or will be paid in respect of the payment.

3.4.11. Recouped Deductions

Where an income taxpayer recovers a previously deducted expense, loss, or bad debt, the amount recovered shall be included as income in the calculation of the taxable income of the taxpayer for the tax year in which the amount was recovered.

3.4.12. Assets

For the purposes of calculating taxable income, any gain arising on the alienation of an asset is the excess of the gross consideration received over the cost of the asset, and any loss arising from the alienation of an asset is the excess of the cost of the asset over the gross consideration received.

The cost of an asset is the total amount paid or incurred by a taxpayer in the acquisition, creation, or construction of the asset. It includes any non-deductible incidental expenditures incurred in acquiring 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.

For the purposes of calculating any gain or loss on the alienation of an asset, the cost is reduced by the amount of any deductions, including depreciation or amortization, allowed in respect of that asset.

The consideration received on alienation of an asset is the total amount received or receivable for the asset. It includes the market value of any in-kind consideration received for the asset.

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.

Where an asset is transferred between associates in a non arm's length transaction, the transferor is treated as having received, and the transferee is treated as having given, the market value of the asset as consideration for the transfer.

3.4.13. Currency Translation

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

Where an amount is in a currency other than United States dollars, the amount shall be converted at the Banking and Payments Authority's mid-exchange rate applying between the currency and United States dollars on the date the amount is taken into account for tax purposes.

However, with the prior written permission of the Tax Administration, a taxpayer may use the average rate of exchange for the tax year or a part of the tax year.

3.4.14. 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 disposal or alienation.

3.4.15. Foreign Currency Exchange Gains and Losses

An income 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.

3.5. Income and Deductions for Permanent Establishments

A person neither residing in Timor Leste or established or domiciled in Timor Leste, yet conducting business or engaged in activities through a permanent establishment in Timor Leste, is subject to Income Tax in Timor Leste.

The taxable income of a non-resident carrying on business activities in Timor-Leste through a permanent establishment is calculated by reference to the income attributable to:

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

Head office income arising from business activities or sales which are similar to the ones performed by the permanent establishment is considered income of the permanent establishment, since such business or activities are included in the scope of business or activities that may be performed by the permanent establishment.

Business activities similar to those of a permanent establishment occur, for example, where a non-resident bank having a permanent establishment in Timor Leste provides a loan directly to a company in Timor Leste and not through its permanent establishment or where a head office of a

consultancy services firm outside Timor Leste directly provides the same kind of consultancy services as those offered by the permanent establishment to clients in Timor Leste.

Sale of goods similar to those sold by a permanent establishment occur, for example, where a overseas head office having a permanent establishment in Timor Leste sells directly in Timor Leste, products of the same kind as those sold by its permanent establishment.

The profit 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 dealt with wholly independently from the non-resident person of whom it is a permanent establishment.

Expenses incurred for the purposes of the business activities of the permanent establishment including executive and administrative expenses so incurred, whether in Timor Leste or elsewhere are allowed as deductions.

However, no deduction is allowed for amounts paid or payable by the permanent establishment to its head office or to another permanent establishment of the non-resident person (other than towards reimbursement of actual expenses incurred by the non-resident person to third parties) by way of:

- (a) royalties, fees, or other similar payments for the use of any tangible or intangible asset by the permanent establishment;
- (b) compensation for any services (including management services) performed for the permanent establishment; or
- (c) interest on moneys lent to the permanent establishment, except in connection with a banking business.

No account shall be taken in the determination of the income of a permanent establishment of amounts charged by the permanent establishment to the head office or to another permanent establishment of the non-resident person (other than towards reimbursement of actual expenses incurred by the permanent establishment to third parties) by way of:

- (a) royalties, fees, or other similar payments for the use of any tangible or intangible asset;
- (b) compensation for any services (including management services) performed by the permanent establishment; or
- (c) interest on moneys lent by the permanent establishment, except in connection with a banking business.

3.6. International taxation

Resident taxpayers are subject to tax on their income from all sources. This includes income received or earned from abroad. To alleviate double taxation, a resident income taxpayer is entitled to a credit for any foreign income tax paid by the taxpayer in respect of foreign-source income included in the gross income of the taxpayer for a tax year. The credit is referred to as a “foreign tax credit”.

The foreign tax credit shall be calculated separately for each foreign country from which income is derived by a taxpayer. The amount of the credit in respect of income from sources in a foreign country is limited to the Timor Leste income tax payable on that income. There is no deduction or carry forward of any excess foreign tax credit.

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

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

Where an income taxpayer has a loss for the 2007 tax year or an early year, that loss may only be carried forward for a period of 5 years from the year in which the loss arose.

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.

3.7. Losses

If the determination of the taxable income of an income taxpayer results in a loss for a tax year, that loss may be deducted as an expense in calculating the taxable income of the taxpayer in the next tax year, and so on, until the loss is expired.

Where an income taxpayer has a loss for the 2007 tax year or an early year, that loss may only be carried forward for a period of 5 years from the year in which the loss arose.

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

4. TAX RATES

Income tax, at the specified rate, applies –

- (1) at the time of payment of certain types of payments (as a withholding tax),
- (2) at the time of lodgement of annual income tax, (as an annual income tax), or
- (3) both 1 and 2 (with a credit allowed for withheld tax).

4.1. Withholding tax rates

The rates of tax applicable to amounts payable to **residents** or **non-residents who have a permanent establishment** in Timor Leste are as follows:

TYPE OF INCOME	RATE
royalties	10 %
rent from land and buildings	10 %

income from prizes and lotteries	10 %
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 mining and mining support services	4.5 %

The rate of tax applicable to amounts payable to **non-residents without a permanent establishment** in Timor Leste is as follows:

TYPE OF INCOME	RATE
all income	10 %

4.2. Annual Income Tax rates

For resident *natural persons* i.e. individual sole traders -

AMOUNT OF INCOME	RATE
0 –\$6,000	0%
in excess of \$6,000	10%

For example, an individual sole trader with a taxable income of \$5,000 would pay no income tax.

*If taxable income was \$8,000, tax payable would be \$200, i.e. \$8,000 - \$6,000 = \$2,000 * 10% = \$200.*

For *any other person*, i.e. non-resident natural persons or legal persons such as a partnership, company or any other entity the rate of income tax is 10% on all taxable income:

For example, a company with a taxable income of \$5,000 would pay income tax of \$500 .i.e. \$5,000 x 10%

5. ASSESSMENT

5.1. Self-assessment

As a general rule, taxpayers are required to deliver an annual income tax form. The tax due (if any) according to this tax form shall be treated as an assessment.

5.2. Tax Administration's assessment

The Tax Administration may determine the amount of the tax due and issue to the person liable for payment of the tax an assessment notice for the amount due if the information provided on a tax form does not correctly disclose the tax due or the required tax form has not been delivered.

Tax specified in a Tax Administration's assessment notice, in the case of a required tax form not being delivered, is treated as due and payable on the date a tax form correctly disclosing the tax due was to be delivered to the Banking and Payments Authority or its nominated agent.

The Tax Administration may also amend an assessment notice issued.

Where an income taxpayer has delivered a tax form, or has received an assessment notice, and believes that the tax form or assessment is incorrect, they can either deliver an amended tax form, or request the Tax Administration to amend the assessment.

Where the Tax Administration agrees to amend an assessment or where an overpayment of tax has arisen, the Tax Administration shall, to the extent there has been an overpayment:

- (a) apply that overpayment against any other taxes then due; and
- (b) refund the remainder to the person who paid it

and shall pay to the person interest in respect of each whole calendar month between:

- (a) the later of:
 - (i) the date of payment by the person; and
 - (ii) the date the Tax Administration first became aware that an overpayment has arisen; and
- (b) the date of the application of the overpayment to other taxes due, or its refund.

5.3. Time limits for assessments

The Tax Administration can only issue assessment notices, or amend assessment notices, within five years of the date on which the tax form to which the notice relates was due.

The Tax Administration may make or amend an assessment at any time where:

- (a) a person with the intent of evading tax has failed to deliver a tax form;
- (b) a person with the intent of evading tax has delivered a tax form which the Tax Administration considers to be incorrect; or
- (c) fraud has been committed by or on behalf of a person in relation to tax due.

5.4. Jeopardy assessments

Where the Tax Administration believes that the collection of tax that will become due is in jeopardy because a person is about to depart from Timor Leste, to cease business, or to transfer property, or is in jeopardy for other reasons, the Tax Administration may at any time issue an assessment notice for any tax period in the current or preceding tax year.

6. WITHHOLDING TAX

For certain types of income, there is an obligation (either on the payer or the recipient) to withhold tax at the prescribed rate and pay that amount to the TLRs.

The following types of income are subject to withholding tax:

TYPE OF INCOME	RATE
royalties	10 %
rent from land and buildings	10 %
income from prizes and lotteries	10 %
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 mining and mining support services	4.5 %
Income payments to a non-resident without a permanent establishment in Timor-Leste	10%

6.1. Withholding Obligations

6.1.1. Payments for Services

A person (other than a natural person) making a payment to which withholding tax applies shall withhold tax from the gross payment at the rate prescribed. If the person making the payment is a natural person, the recipient of the payment shall withhold tax from the gross payment received at the prescribed rate.

6.1.2. Non-resident Withholding Tax

All persons making a payment of Timor Leste-source income to a non-resident shall withhold tax from the gross amount of the payment at the rate of 10%.

6.1.3. Obligations of a Person Withholding Tax from a Payment made

A person who has withheld a tax shall remit it to the Tax Administration by the 15th (or next business day if the 15th is not a business day) of the month following the month in which the tax was withheld.

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.

A person who fails to withhold a tax from a payment is personally liable to pay the amount of tax that has not been withheld and becomes entitled to recover this amount from the recipient of the payment.

A person who has withheld tax from a payment and remitted the amount withheld to the Tax Administration 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.

Any tax withheld by a person is held as agent for the Tax Administration. In the event of the liquidation or bankruptcy, any amount of tax withheld does not form a part of the estate of the payer in liquidation or bankruptcy, and the Tax Administration shall have a first claim to the tax

withheld before any distribution of property is made.

6.1.4. Self-withholding

Every recipient of a payment who is required to withhold tax from the payment in accordance with the Taxes and Duties Act 2008 shall remit the tax withheld to the Tax Administration by the 15th (or next business day if the 15th is not a business day) of the month following the month in which the payment was received.

6.2. Withholding Tax – final

Withholding tax is a **final or non-final tax** in the circumstances summarized in the following table:

<i>Type of Payment</i>	<i>Received by Natural Person</i>	<i>Received by Non-natural persons</i>
Royalties	Final	Not Final
rent from land and buildings	Final	Not Final
income from prizes and lotteries	Final	Final
income from construction and building activities	Final*	Final*
income from construction consulting services including project management, engineering design and site supervision services	Final*	Final*
income from the provision of air or sea transportation services	Final*	Final*
income from mining and mining support services	Final*	Final*

*Withholding tax will not be final in the circumstances described in Section 6.4 of this guide.

Where the tax withheld is a **final tax** on the income of the recipient of the payment:

- (a) no further income tax liability is imposed upon the recipient in respect of the income to which the tax relates;
- (b) that income is not aggregated with the other income of the recipient for the purposes of ascertaining taxable income;
- (c) no deduction (including a depreciation or amortization deduction) may be claimed for any expenditure or losses incurred in earning the income; and
- (d) no refund of tax shall be made in respect of the income.

6.3. Withholding Tax –non-final

Where the tax withheld is a **non-final tax** on the income of the recipient of the payment:

- (a) a further income tax liability is imposed upon the recipient in respect of the income

to which the tax relates;

- (b) that income is aggregated with the other income of the recipient for the purposes of ascertaining taxable income;
- (c) deductions (including a depreciation or amortization deduction) may be made for any expenditure or losses incurred in earning the income; and
- (d) a credit will be allowed for amounts withheld from the payment and paid to the National Tax Directorate.

Withholding tax is a non-final tax where:

- 1. the income of the recipient is interest, royalties or rent from land and/or buildings and the recipient is a legal person; and
- 2. the income of the recipient is from the provision of the following services;
 - a. construction and building activities;
 - b. construction and building consulting services;
 - c. air or sea transportation services;
 - d. mining and mining support services; and

the recipient has made an election in writing to the Tax Administration that the withheld tax not be final.

6.4. Withholding Tax: non-final election

Section 61.2 of the Taxes and Duties Act 2008 provides that recipients of income from the provision of the following services:

- (a) building and construction activities;
- (b) building and construction consulting services;
- (c) air or sea transportation services;
- (d) mining or mining support services.

may elect, in writing to the Tax Administration, that the withholding tax “**not be final**”. Where such an election is made the service provider will then be subject to the conventional income tax regime. They will be required to lodge an annual income tax form declaring all their income and allowable deductions and calculate income tax payable. The withholding tax withheld from income will be allowed as a tax credit.

Once made, this election is **irrevocable**.

7. PAYMENTS

7.1. Instalments of Tax (income tax instalments)

An income taxpayer is required to pay income tax instalments periodically during the tax year. The income tax instalments are applied as a tax credit against income tax assessed after lodgement of the annual income tax form for the tax year.

7.1.1 Instalments of Tax for the 2008 and subsequent years

Income tax instalments are paid either monthly or quarterly depending on the total turnover of the business enterprise in the previous tax year. If the total turnover in the previous tax year was greater than \$1,000,000 instalments must be paid monthly. Where it was \$1,000,000 or less, instalments may be paid quarterly.

Monthly

If a business enterprise pays Income Tax Instalments monthly they are due by the 15th of the month following the month for which the obligation arose. That is:

- The Income Tax Instalment for January 2009 is paid on the January Consolidated Monthly Taxes Form that is due to be lodged by 15th of February 2009.
- The Income Tax Instalment for February 2009 is paid on the February Consolidated Monthly Taxes Form that is due to be lodged by 15th of March 2009.
- The Income Tax Instalment for December 2009 is paid on the December Consolidated Monthly Taxes Form that is due to be lodged by 15th of January 2010.

Quarterly

If a business enterprise pays Income Tax Instalments quarterly they are due by the 15th of the month following the quarter for which the obligation arose. That is:

- The Income Tax Instalment for January, February & March 2009 is paid on the March Consolidated Monthly Taxes Form, which is due to be lodged by the 15th of April 2009.
- The Income Tax Instalment for April, May & June 2009 is paid on the June Consolidated Monthly Taxes Form, which is due to be lodged by the 15th of July 2009.
- The Income Tax Instalment for July, August & September 2009 is paid on the September Consolidated Monthly Taxes Form, which is due to be lodged by the 15th of October 2009.
- The Income Tax Instalment for October, November & December 2009 is paid on the December Consolidated Monthly Taxes Form, which is due to be lodged by the 15th of January 2010.

The amount of each instalment is 0.5% of the taxpayer's total turnover for the period. "Turnover" has its ordinary meaning, namely the taxpayer's total revenue from business activities without deduction for any expenses (including the cost of inventory sold). Where a taxpayer has disposed of a non-inventory asset in the tax year, total revenue includes any net gain from disposal of the asset. Total turnover does not include any amount derived by the taxpayer that has been correctly subject to withholding tax.

Example:

An income taxpayer conducts a business as a new car retailer and pays instalments monthly. For the month of January 2009 total income from this activity is \$100,000. During the month, the taxpayer sold some office equipment for a net gain of \$2,000. Total turnover for the month is therefore \$102,000. The instalment payable for January is \$510 being 0.5% of the turnover for the month.

7.2. Final payment

7.2.1. Due Date

Generally, lodgement of the annual income tax form and payment of any income tax payable is due on or before **31st March** of the year following the tax year.

Those income taxpayers whose total income has been subject to final withholding tax are also required to lodge an annual income tax form. They are required to lodge a “nil” income tax form. Refer section 9 below.

For companies with a substituted tax year, income tax is due on the last day of the third month after the end of the substituted tax year.

A late lodgement penalty may be imposed for failure to lodge tax forms by the due date.

7.2.2. Allowable credits

For a resident income taxpayer and a permanent establishment of a non-resident, the tax due for the year concerned shall be reduced by any tax credits in the form of:

- a) amounts withheld from payments subject to withholding tax where the withholding tax is not a final tax;
- b) instalments paid by the taxpayer;
- c) tax paid or due on income from abroad that may be credited as foreign tax credits.

7.2.3. Underpayment or Overpayment

If the tax due for a tax year is greater than the tax credit, the underpaid tax must be paid, along with the lodgement of an annual income tax form, on or before the 31st day of the third month after the end of the tax year (or the last day of the third month after the end of the substituted tax year).

Late payment penalties may be imposed for failure to pay all outstanding tax by the due date.

If the tax due for a tax year is less than the amount of tax credit, the overpayment will, after verification, be applied against any other taxes then due (if any) or refunded.

8. ANNUAL INCOME TAX FORM

Tax forms for the year ended 31 December 2008, together with any payments must be lodged on or before **31st March 2009**.

If a taxpayer **is required** to make a tax payment, three copies of the form should be completed. The completed income tax forms and payment are to be presented to a branch of the Banco Nacional Ultramarino (BNU). The BNU will receive your payment, stamp the forms and return one copy to you for your records.

If a tax payment **is not required**, two copies of the form should be completed. The completed income tax forms are to be delivered to a TLRS District Office. The TLRS officer will stamp the forms and return one copy to you for your records. The TLRS Dili District Office is located in Building 5, Palácio Do Governo, Dili. The office is open between the hours of 9am and 5 pm Monday to Friday (holidays excepted).

For taxpayers based outside of Dili, the income tax forms can be delivered to the:

- TLRS Baucau District Office located in Vilanova Street, Kota Baru, Baucau.
- TLRS Maliana District Office located in Holsa Street, Maliana.

An income taxpayer may apply in writing to the Tax Administration 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 Tax Administration may, by notice in writing, grant the taxpayer's application for an extension of time for delivering an income tax form. The granting of an extension of time to lodge an income tax form does not alter the due date for payment of tax.

9. TAXPAYER OBLIGATIONS

Enterprises, permanent establishments and other persons liable to pay or withhold taxes are required to obtain a Tax Identification Number in Timor Leste.

The Tax Administration may require the inclusion of the tax identification number in any form, notice, or other document used for tax purposes. The Tax Administration may also designate other documents or registrations including but not limited to a licence, permit, passport or registration certificate as documents or registrations to be presented for identification purposes prior to the issue of a tax identification number.

Anyone liable to pay or withhold tax shall create and maintain records of account suitable to determine their liability to pay or withhold tax, in Tetum, Portuguese, English or Indonesian, for a period of at least five years after the end of the tax year to which they relate.

Where records needed by income taxpayers are unavailable, mainly because of damage and/or destruction, the Tax Administration may determine on a reasonable basis any amounts that would have been calculated by reference to any other available information.

10. POWERS OF INVESTIGATION

Any officer authorized by the Tax Administration in writing for this purpose:

- (a) shall have at all times and without any prior notice full and free access to any premises, place, book, record, or computer where there are reasonable grounds for concluding that access may provide the Tax Administration with materials relevant to an understatement of tax due;
- (b) may make an extract or copy from any book, record, or computer-stored information to which access is obtained under paragraph (a);
- (c) may seize any book or record that, in the opinion of the Tax Administration or authorized officer, affords evidence which may be material in determining the liability of a person to tax, additional tax, or to a penalty under the present tax laws;
- (d) may retain any such book or record for as long as it may be required for determining a person's liability or for any proceeding under the present Regulation; and
- (e) may, where a hard copy or computer disk of information stored on a computer is not provided, seize and retain the computer for as long as is necessary to copy the information required.

These powers may be exercised only during ordinary business hours, unless the Tax Administration determines that the collection of tax is in jeopardy and that their exercise outside ordinary business hours is necessary to protect the collection of the tax.

The owner, manager, or any other person on the premises or place proposed to be entered may deny access to an officer to exercise this power if upon request the officer does not produce an authorization in writing from the Tax Administration showing that the officer is authorized to exercise such power.

The owner, manager, or any other person on the premises or place entered or proposed to be entered shall provide all reasonable facilities and assistance for the effective exercise of this power.

A taxpayer whose books, records, or computer have been removed and retained may examine them and make copies or extracts from them during regular office hours under such supervision as the Tax Administration may determine.

To collect information about the liability of a specific taxpayer the Tax Administration may, by notice in writing, require anyone, even if not liable to pay the tax to:

- (a) provide to the Tax Administration such information as may be required by the notice; or
- (b) attend at the time and place designated in the notice for the purpose of being examined on oath before the Tax Administration or any officer authorized by the Tax Administration for this purpose, concerning the tax liability of that person or any other person, and for that purpose require such person to produce any book, record, or computer-stored information in the control of that person.

11. RIGHTS AND GUARANTEES

A taxpayer who disputes a tax or additional tax liability set out in an assessment or amended assessment or who considers that a decision or assessment by the Tax Administration is incorrect, may appeal to the TLRs Appeals Office within 60 days from the date of receiving, from the Tax Administration, a notice of the assessment, amended assessment or a decision which they wish to appeal.

Decisions of the Appeals Office shall be delivered in writing to the person making an appeal.

Whether or not a person has lodged an appeal to the Appeals Office, tax due shall remain due and payable, and may be recovered notwithstanding that appeal.

Where a person becomes entitled to a refund of tax following an appeal to the Appeals Office, the Tax Administration shall refund the tax and interest calculated from the day of payment by the person to the day of refund.

Where a person is dissatisfied with a decision of the Appeals Office they may appeal that decision to the Board of Tax and Customs Appeals within 60 days of receiving notification of the decision.

Where a person has not received a decision from the Appeals Office within 42 days of the day on which the appeal was lodged with the Appeals Office they may then appeal the Tax Administration decision directly to the Board of Tax and Customs Appeals.

Where can I get more information?

More information may be obtained from the TLRS Dili District Office that is located in Building 5, Palácio Do Governo, Dili. Enquiries may also be made by telephoning + (670) 331 0059.

If you are outside Dili you may also obtain more information from the:

- TLRS Baucau District Office located in Vilanova Street, Kota baru, Baucau.
- TLRS Maliana District Office located in Holsa Street, Maliana.

In addition, full copies of rulings, guides and other information may be down loaded from the Ministry of Finance website at: - www.mof.gov.tl/en/TLRS/DomesticTax/

Tax Reform – A Summary of Legislative Changes: Income Tax (Taxes and Duties Act 2008)

The Taxes and Duties Act 2008 was passed by Parliament in June 2008. The changes in respect of income tax take effect from 1 January 2008. The changes in respect of withholding tax take effect from 1 July 2008.

Item	Old Law	New Law																										
<p>Income Tax (Change effective from 1st January 2008)</p>	<p>The previous rates of income tax for all business enterprises in Timor Leste were as follows:</p> <p>(a) For resident natural persons or a permanent establishment of a non-resident natural person; i.e. an individual enterprise:</p> <table border="0"> <tr> <td colspan="2">Amount of Taxable Income</td> </tr> <tr> <td>\$0 - \$3,368</td> <td>10%</td> </tr> <tr> <td>\$3,369 to \$6,737</td> <td>15%</td> </tr> <tr> <td>\$6,738 and over</td> <td>30%</td> </tr> </table> <p>(b) For resident legal persons or a permanent establishment of a non-resident legal person; i.e. a non-individual business enterprise:</p> <table border="0"> <tr> <td colspan="2">Amount of Taxable Income</td> </tr> <tr> <td>All taxable income</td> <td>30%</td> </tr> </table>	Amount of Taxable Income		\$0 - \$3,368	10%	\$3,369 to \$6,737	15%	\$6,738 and over	30%	Amount of Taxable Income		All taxable income	30%	<p>The new rates of income tax for all business enterprises in Timor Leste are as follows:</p> <p>(a) For resident natural persons; i.e. an individual:</p> <table border="0"> <tr> <td colspan="2">Amount of Taxable Income</td> </tr> <tr> <td>\$0 - \$6,000</td> <td>0%</td> </tr> <tr> <td>\$6,001 and over</td> <td>10%</td> </tr> </table> <p>(b) For non-resident natural persons:</p> <table border="0"> <tr> <td colspan="2">Amount of Taxable Income</td> </tr> <tr> <td>All taxable income</td> <td>10%</td> </tr> </table> <p>(c) For resident legal persons or a permanent establishment of a non-resident legal person; i.e. a non-individual business enterprise:</p> <table border="0"> <tr> <td colspan="2">Amount of Taxable Income</td> </tr> <tr> <td>All taxable income</td> <td>10%</td> </tr> </table>	Amount of Taxable Income		\$0 - \$6,000	0%	\$6,001 and over	10%	Amount of Taxable Income		All taxable income	10%	Amount of Taxable Income		All taxable income	10%
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<p>Minimum Income Tax (Change effective from 1st January 2008)</p>	<p>Taxpayers had to pay a minimum amount of income tax being 1% of total turnover where the conventional income tax assessed was less than the minimum income tax amount.</p>	<p>The minimum income tax has been repealed and is no longer a requirement.</p>																										

Item	Old Law	New Law								
<p style="text-align: center;">Interest Expense (Change effective from 1st January 2008)</p>	<p>Taxpayer's were allowed a deduction for interest expense but limited to the following extent:</p> <p>The total amount of <i>interest</i> expense allowed to a taxpayer as a deduction for a <i>tax year</i> shall not exceed an amount equal to the sum of the taxpayer's <i>interest</i> income for the year and fifty percent (50%) of the taxpayer's net non-<i>interest</i> income for the year. A taxpayer's net non-<i>interest</i> expense is the taxpayer's gross income for the year (other than <i>interest</i> income) less the total amount of deductions allowed to the taxpayer for the year, other than for <i>interest</i> expense.</p> <p>This provision does not apply to financial institutions</p>	<p>Interest expense is no longer an allowable deduction unless the expense is incurred by a financial institution.</p>								
<p style="text-align: center;">Dividends (Change effective from 1st July 2008)</p>	<p>Dividends were subject to 15% withholding tax at the time the dividend payment was made. Also, for legal enterprises (i.e. companies, partnerships, etc.) dividends were also subject to the conventional income tax regime and the withholding tax withheld was an allowable income tax credit offset.</p>	<p>Dividends are no longer subject to withholding tax. Also, dividends are now exempt income.</p>								
<p style="text-align: center;">Instalment Tax (Income Tax Instalments) (Change effective from 1st July 2008)</p>	<p>Taxpayers were required to pay income tax instalments either monthly or quarterly. Income tax instalments were calculated as 1% of total turnover for the month or quarter.</p> <p>Monthly:</p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 40px;">Total Turnover</td> <td style="text-align: right;">1%</td> </tr> </table> <p>Quarterly:</p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 40px;">Total Turnover</td> <td style="text-align: right;">1%</td> </tr> </table>	Total Turnover	1%	Total Turnover	1%	<p>Taxpayers are required to pay income tax instalments either monthly or quarterly. Income tax instalments are calculated as 0.5% of total turnover for the month or quarter.</p> <p>Monthly:</p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 40px;">Total Turnover</td> <td style="text-align: right;">0.5%</td> </tr> </table> <p>Quarterly:</p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 40px;">Total Turnover</td> <td style="text-align: right;">0.5%</td> </tr> </table>	Total Turnover	0.5%	Total Turnover	0.5%
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Items	Old Law	New Law
<p>Depreciation (Change effective from 1st January 2008)</p>	<p>A taxpayer was allowed a deduction for the depreciation (amortisation) of depreciable business assets (including intangible assets) and business buildings.</p> <p>Business building - Straight line depreciation:</p> <ul style="list-style-type: none"> - 20 years useful life at 5%; - 10 years useful life at 10% <p>Depreciable assets - Individual straight line depreciation:</p> <ul style="list-style-type: none"> - 1-4 years useful life at 25%; - 5-8 years useful life at 12.5%; - 9+ years useful life at 6.25% <p>Pooling depreciation:</p> <ul style="list-style-type: none"> - 1-4 years useful life at 50%; - 5-8 years useful life at 25%; - 9+ years useful life at 12.5% <p>Amortisation (straight line) of intangibles:</p> <ul style="list-style-type: none"> - 1-4 years useful life at 25%; - 5-8 years useful life at 12.5%; - 9+ years useful life at 6.25% 	<p>A taxpayer is allowed a deduction for the depreciation (amortisation) of depreciable business assets (including intangible assets) and business buildings.</p> <p>Business building - Straight line depreciation:</p> <ul style="list-style-type: none"> - 20 years useful life at 100%; - 10 years useful life at 100% <p>Depreciable assets - Individual straight line depreciation:</p> <ul style="list-style-type: none"> - 1-4 years useful life at 100%; - 5-8 years useful life at 100%; - 9+ years useful life at 100% <p>Pooling depreciation:</p> <ul style="list-style-type: none"> - 1-4 years useful life at 100%; - 5-8 years useful life at 100%; - 9+ years useful life at 100% <p>Amortisation (straight line) of intangibles:</p> <ul style="list-style-type: none"> - 1-4 years useful life at 100%; - 5-8 years useful life at 100%; - 9+ years useful life at 100% <p>In effect, business taxpayers are entitled to a full and immediate depreciation (or amortisation) deduction for the full cost of acquisition of depreciable business assets (including intangibles) and business buildings but only to the extent that the asset or building is used in the carrying on of taxable business activities.</p>

Item	Old Law	New Law
<p>Losses (Change effective from 1st January 2008)</p>	<p>A loss incurred in a tax year was an allowable deduction and could be carried forward for a maximum of 5 years.</p>	<p>A loss incurred in a tax year is an allowable deduction and may be carried forward indefinitely. However, losses incurred in tax years prior to the operation of the new tax law are still limited to 5 years carry forward.</p>
<p>Trading stock/Inventory (Change effective from 1st January 2008)</p>	<p>Taxpayers were required to maintain a trading stock/inventory valuation for opening and closing stock. Closing stock was not an allowable deduction.</p>	<p>Under the new law a full and immediate deduction is allowed for all business inputs. A deduction is allowed for the cost of inventory incurred during the tax year even if the inventory is on hand at the end of the year.</p>

<p>Withholding Tax (Change effective from 1st July 2008)</p>	<p>Payments subject to Withholding tax and the withholding tax rates were as follows:</p> <p>Certain Payments:</p> <ul style="list-style-type: none"> • Dividends 15% • Interest 15% • Prizes and lottery winnings 15% • Royalties 15% • Rent or lease of land and/or buildings 10% <p>Non-residents:</p> <ul style="list-style-type: none"> • Payments to a non-resident without a permanent establishment in Timor Leste 20% <p>Payments for certain services:</p> <ul style="list-style-type: none"> • Income from building and construction activities 2% • Income from construction consulting services 4% 	<p>Payments subject to Withholding tax and the withholding tax rates are as follows:</p> <p>Certain Payments:</p> <ul style="list-style-type: none"> • Prizes and lottery winnings 10% • Royalties 10% • Rent or lease of land and/or buildings 10% <p>Non-residents:</p> <ul style="list-style-type: none"> • Payments to a non-resident without a permanent establishment in Timor Leste 10% <p>Payments for certain services:</p> <ul style="list-style-type: none"> • Income from building and construction activities 2% • Income from construction consulting services 4%
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	<ul style="list-style-type: none"> • Income from provision of air and sea transportation services 2.64% • Income from mining activities and/or mining support services 4.5% • Petroleum and geothermal drilling and/or drilling support services 4.5% 	<ul style="list-style-type: none"> • Income provision of air and sea transportation services 2.64% • Income from mining activities and/or mining support services 4.5% <p>Note: The recipients of payments for the provision of the “certain services” listed above may elect, by notice in writing to the Tax Administration, for withholding tax not to be a “final” tax. Such an election once made is irrevocable. Once an election has been made the taxpayer will be subject to the conventional income taxation regime. They will be required to complete and lodge an annual income tax form declaring all income and allowable deductions. The withholding tax withheld will be allowed as a “credit” against income tax assessed.</p>
<p>Information and Assistance</p>	<p>The TLRS Dili District Office that is located in Building 5, Palácio Do Governo, Dili. Enquiries may also be made by telephoning + (670) 331 0059.</p> <p>If you are outside Dili you may also obtain more information and assistance from the:</p> <ul style="list-style-type: none"> • TLRS Baucau District Office located in Vilanova Street, Kota baru, Baucau. • TLRS Maliana District Office located in Holsa Street, Maliana. <p>In addition, full copies of rulings, guides and other information may be down loaded from the Ministry of Finance website located at: - www.mof.gov.tl/en/TLRS/DomesticTax/</p>	