



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, as amended by the Revenue System Amendment Act 2002.

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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 :

“associate” in relation to a *person* means any other *person* who acts or is likely to act in accordance with the wishes of the *person* as a result of a connection between the *persons* or common ownership or control;

“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;

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

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

“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;

"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 turnover 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 turnover 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 turnover 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;

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

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

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

"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;

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

“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]

“non-resident” in respect of a natural person means a natural 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*;

“person” means:

- (a) a natural person, including a sole trader;
- (b) a company, wherever incorporated, or other juridical person;
- (c) a partnership, wherever formed;
- (d) a trust, wherever established; or
- (e) any other unincorporated association or body of persons;

For purposes of the present Regulation, other than Chapter VII, *person* also includes any body incorporated, formed, organized or established in *East Timor* or elsewhere as a limited company, limited or other partnership, any *enterprise* owned by or a political or administrative subdivision of a government (including the East Timor Transitional Administration (ETTA) or its successor as may be provided in UNTAET regulations), any public international organization, non-governmental organization, cooperative, association, affiliation, foundation, trust or similar organization and other forms of business.

From a date to be determined by a Directive, and for purposes of Chapter VII of the present Regulation, *persons* also includes the East Timor Transitional Administration (ETTA) or its successor as may be provided in UNTAET regulations.

Note: ‘From a date to be determined by a Directive’ is prescribed to be ‘with effect from and after 1 January 2001’ by section 2.1 of Directive No. 2001/1

“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” in respect of a natural person means 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*;

“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*;

“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;
- (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;

“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.

II. East Timor Revenue Service

Section 4

Creation of the East Timor Revenue Service

4.1 There shall be established as a separate office within the Ministry of Planning and Finance an East Timor Revenue Service (hereafter referred to as “*ETRS*”).

History: The words ‘Ministry of Planning and Finance’ replaces the words ‘Central Fiscal Authority’ by the Revenue System Amendment Act 2002 [Article 4-5] to come into force on 1 July 2002 [Article 20-2]

4.2 The *ETRS* shall be headed by a *Commissioner* who shall be appointed by the *Minister*, after consultation with the Council of Ministers, for a period of one year.

History: The word ‘*Minister*’ replaces the words ‘Transitional Administrator’ by the Revenue System Amendment Act 2002 [Article 4-1] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]
The words ‘ Council of Ministers’ replaces the words ‘National Council’ by Revenue System Amendment Act 2002 [Article 4-2] to come into force on 1 July 2002 [Article 20-1] and applies from 20 May 2002 [Article 20-4]

Former section 4.2 read: The *ETRS* shall be headed by a *Commissioner* who shall be appointed by the Transitional Administrator, after consultation with the National Council, and on advice of the Head of the Central Fiscal Authority, for a period of one year.

4.3 Pending appointment of a *Commissioner* for the period set out in Section 4.2, the *Minister* may appoint an Interim Commissioner for a shorter period.

4.4 The *Commissioner* or Interim Commissioner may be dismissed prior to expiry of the term of appointment only by the *Minister* after consultation with the Council of Ministers.

4.5 The *Commissioner* shall be assisted by Deputy Commissioners who shall be appointed by the *Minister*.

4.6 No *person* shall seek to interfere in any aspect of the operation of the revenue collection process or influence the *Commissioner* or an officer of the *ETRS* in carrying out responsibilities under the present Regulation, and the *Commissioner* shall report such cases directly to the *Minister*.

History: The word '*Minister*' replaces the words 'Transitional Administrator' by the Revenue System Amendment Act 2002 [Article 4-1] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

Section 5 Powers and Duties of the Commissioner

In addition to those specifically granted elsewhere in the present Regulation, or any other UNTAET Regulation, the *Commissioner* shall have:

- (a) the duty to enforce provisions of the present Regulation apart from those which the *Customs Controller* has a duty to enforce;
- (b) the duty to collect all taxes, duties and fees levied:
 - (i) by the present Regulation; and
 - (ii) under the authority of Regulation No. 1999/1;apart from those which the *Customs Controller* has a duty to collect;
- (c) the duty to prepare advertisements, notices, and other communications to ensure all *persons* understand their obligations and rights under the present Regulation;
- (d) the power to appoint such *persons* as may be required to carry out the provisions of the present Regulation in conformity with the Public Service Commission rules and regulations; and
- (e) the power to establish an organizational structure within the *ETRS* appropriate for its functions.

Section 6 Delegation power

6.1 The *Commissioner* may:

- (a) delegate to any officer of the *ETRS* any power or duty conferred or imposed on the *Commissioner* by the present Regulation other than this power of delegation; and
- (b) direct that any information, form, or document required to be given to the *Commissioner* shall be given to another *person* nominated by the *Commissioner*.

6.2 The *Commissioner* may revoke any of the powers delegated under Section 6.1 at any time.

Section 7
Rules governing Revenue Service

7.1 The *Commissioner* shall select and promote officers through the Public Service Commission and according to its rules.

7.2 All officers of the *ETRS* shall wear an official *ETRS* identification card while conducting business.

Section 8
Reporting

8.1 The *Commissioner* shall produce an annual report of the operations of the *ETRS* and deliver the report to the Minister of Planning and Finance as soon as practicable after the end of each *tax year*.

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

8.2 The *Commissioner's* annual report shall be provided to the *Minister* and made available to the public.

8.3 The *Commissioner's* annual report shall include:

- (a) details of the budget of the *ETRS*;
- (b) details of the number and level of staff of the *ETRS*;
- (c) details of the revenues collected by the *ETRS* showing details of the amount of revenue from each type of tax and each district and such other details that may be requested by the Minister of Planning and Finance;
- (d) estimates of the cost of collection for each type of tax revenue collected;
- (e) details of all tax liabilities cancelled under section 61, including the names of the *persons* whose liability has been cancelled and the amount cancelled;
- (f) details of all prosecutions for offences described under Chapter XI, including the names of the *persons* who were convicted and the amounts of tax involved; and
- (g) information on the use of the powers authorized by Section 63, including the number and nature of any complaints about the use of those powers, but not including the names of the *persons* involved.

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

8.4 The Minister of Planning and Finance shall present to the Council of Ministers a copy of the annual report within one month of receiving the report.

History: The word 'Council of Ministers' replaces the words 'Transitional Administrator' by the Revenue System Amendment Act 2002 [Article 4-7] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]
The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

Section 8.4 formerly read:

The Head of the Central Fiscal Authority shall present to the Transitional Administrator a copy of the annual report within one month of receiving the report.

III. Services Tax

Section 9 Imposition of tax

Services tax at the rates set out in Part A of Section 1 of Schedule 1 is imposed on the gross consideration received by a *person* for the provision of *designated services* in *East Timor* on or after 1 July 2000.

Section 10 Monthly turnover

A *person's* monthly turnover from the provision of *designated services* includes the monthly turnover of any *associate* of the *person* in respect of the same *designated services*.

Section 11 Gross Consideration

The gross consideration received by a *person* for the provision of *designated services* includes:

- (a) all amounts received by that *person* in respect of the provision of *designated services*;
- (b) all amounts received by that *person* in respect of any other service or *good* where the cost to the user of a *designated service* of that *designated service* is reduced or eliminated by the amount paid in respect of the other service or *good*.

Section 12 Designated services

Each of the following is a *designated service*:

- (a) *hotel services*;
- (b) *restaurant and bar services*;
- (c) *telecommunications services*; and
- (d) rental services of:
 - (i) cars, trucks, omnibuses, motorcycles and similar motorized land vehicles;
 - (ii) helicopters and airplanes; and
 - (iii) seagoing vessels.

Section 13 When telecommunications services are provided in East Timor

13.1 A telecommunications service is provided in *East Timor* if the telecommunication originates in *East Timor*.

13.2 A *person* providing a telecommunications service in *East Timor* is the *person* who operates and maintains the system for transmitting the telephonic signals.

Section 14
When rental services are provided in East Timor

A rental service is provided in *East Timor* if the vehicle, aircraft or vessel is made available for use in *East Timor*.

Section 15
Payment of tax and services tax form

15.1 A *person* providing *designated services* in *East Timor* who is liable to pay services tax 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 services tax form as prescribed by the *Commissioner*; and
- (b) any services tax payable on gross consideration received by the *person* for the provision of *designated services* in that month.

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

15.3 The *Commissioner* may waive the requirement set out in Section 15.2 upon written application by a *person* required to deliver a services 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 16
Timor Gap

This Chapter is not applicable to matters covered by the *Timor Sea Treaty*.

History: Section 16 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 16 formerly read:

‘This Chapter is not applicable to matters 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.’

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.

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 The *goods* set out in the following Table, other than *goods* listed in Section 20.2 and in Part B of Section 2 of Schedule 1, are subject to excise tax:

<i>Harmonized Classification System Item</i>	<i>General Description of Goods</i>
1704, 1806	sugar confectionery and chocolate confectionery
2009	fruit juices
2105	ice cream and other edible ices
2106	other food preparations (including soft drink concentrates)
2202	soft drinks and other flavored waters
2203	beer
2204-2206	wine, vermouth and other fermented beverages (for example, cider, perry)
2207, 2208	ethyl alcohol (other than denatured) and other alcoholic beverages
2401-2403	tobacco and tobacco products
2710	gasoline, diesel fuel and other petroleum products
3303	perfumes
3304	beauty or make-up preparations (including sunscreens)
3305	hair preparations (i.e., shampoos)
3307	shaving preparations, deodorants, other toilet preparations, etc.
3604	fireworks, signal flares, rain rockets, etc.
3701-3707	photographic films, paper and chemicals, cinema films
4203	leather apparel
4301-4304	raw and treated furs, fur apparel and artificial furs
7101-7112	pearls, precious stones and precious metals
7113-7118	jewellery, articles of gold and silver, and coins
8412	razors and blades
8415	air conditioners
8418	refrigerators
8422	dishwashers
8519-8524	audio electronic <i>goods</i>
8525 20 100	mobile phones
8528	televisions and video monitors
8529 10	satellite dishes
8529 90	
8703	motor cars principally designed for the transport of <i>persons</i>
8707	bodies of cars
8711	motorcycles
9005	binoculars
9006	cameras
9101-9114	clocks, watches and their cases, straps and parts
9301-9307	arms and ammunition
9501-9508	toys, games and sports accessories and parts
9601	worked ivory, bone, shell, horn, coral, etc
9613	cigarette lighters
9614	smoking pipes
9616	scent sprays, powder puffs and pads
9701-9706	works of art, collectors' pieces and antiques
	<i>private yachts and private aircraft</i>

20.2 The following *goods* imported into or produced in *East Timor* 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; and
- (b) *goods* covered by the *Timor Sea Treaty*.

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 turnover 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 turnover

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

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

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.

Section 31

Delivering tax and wage income tax withholding form

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 this Section 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.

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 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 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* or refund any overpayment 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.

VIII. Income Tax

Section 34
Modifications to the Law on Income Tax

~~34.1~~34.1 Subject to Section 34.2, the provisions of the *Law on Income Tax* operate subject to modifications set out in the present Regulation.

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~~34.2~~34.2 This Chapter does not apply to the territory covered by the *Timor Sea Treaty*.

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History: Section 34.2 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 34.2 formerly read:

~~34.2~~This Chapter does not apply to the territory 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.

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Section 35
Substituted tax year

35.1 With the prior permission of the *Commissioner*, a *person* may substitute a 12 month period (known as a “substituted tax year”) for the *tax year* that would otherwise apply for the purpose of calculating the liability of the *person* to pay tax under the *Law on Income Tax*.

35.2 The *Commissioner* may only give a *person* permission to use a substituted tax year where the *Commissioner* believes it is necessary to the efficient operation of this Regulation and the *Law on Income Tax*.

35.3 Where the *Commissioner* has permitted a *person* to use a substituted tax year, all references in the present Regulation or in the *Law on Income Tax* to a particular *tax year* shall be read as references to the 12 month period ending in the *tax year* in which the substituted tax year ends.

35.4 The *Commissioner* may specify by means of a *designation notice* transitional rules that are appropriate for the application of the present Regulation and the *Law on Income Tax* to a part of a *tax year* when a *person* commences to use a substituted tax year or ceases to use a substituted tax year.

Section 36 Tax on Coffee Exports

36.1 Subject to Section 36.2, every exporter of coffee beans, whether processed or unprocessed, shall pay at the time of export on or after 20 March 2000 a tax on the export value of those coffee beans at the rate set out in Part A of Section 6 of Schedule 1.

36.2 Exports of coffee beans described in Part B of Section 6 of Schedule 1 are exempt from the tax imposed under Section 36.1.

36.3 The export value of coffee beans is the arm's length free on board value of the beans.

36.4 Using the *harmonized classification system*, the owner, exporter or licensed customs broker shall present all relevant documentation on all exported coffee beans to an *officer of the Customs Service*.

Section 36A Minimum Income Tax

36A.1 Every taxpayer conducting business activities shall be liable for a minimum income tax for each tax year. The amount of minimum income tax payable for a tax year is one percent (1%) of the taxpayer's total turnover for the year.

36A.2 The income tax payable by 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 payable exceeds the minimum income tax payable, no amount shall be payable under Section 36A.1 for that year.

36A.3 Minimum income tax shall be treated for all purposes of the present Regulation as income tax.

36A.4 For the purposes of this section, "total turnover" does not include any amount that is subject to a final withholding tax under Section 38.3.

History: Section 36A inserted by Revenue System Amendment Act 2002 [Article 6] and comes into force from 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]

Section 37
Wages only subject to tax under Chapter VII

Article 4(1)(a) of the *Law on Income Tax* does not apply to *wages* received or accrued in the 2001 *tax year* and subsequent *tax years*.

Section 38
Withholding tax and direct tax liability

- 38.1 Withholding tax rates under the *Law on Income Tax* shall be reduced to zero –
(a) for the period 1 January 2000 to 31 December 2000, for all income subject to withholding tax; and
(b) for the period commencing 1 January 2001, for all income listed in paragraph (a)(ii) of Part A of Section 6 of Schedule 1.
- 38.2 Income that has been subject to a zero withholding tax rate as a result of Section 38.1 shall be subject to income tax at the rates set out in paragraph (b) of Part A of Section 6 of Schedule 1.
- 38.3 A *person* who receives amounts, other than amounts referred to in Section 38.1, that have been correctly subject to withholding tax under the *Law on Income Tax* as modified by paragraphs (a)(i) and (a)(iii) of Part A of Section 6 of Schedule 1 has no further liability with respect to income tax imposed on those amounts. In the case of an amount of dividends, interest, royalties, or rent on land and buildings referred to in paragraph (a)(i) of Part A of Section 6 of Schedule 1, this subsection applies only where the amount is received by a natural person.
- History:* Section 38.3 amended by Revenue System Amendment Act 2002 [Article 7(a)] and comes into force from 1 July 2002 [Article 20-1] and applies from 1 July 2002 [Article 20-3]
Section 38.3 formerly read:
A *person* who receives amounts, other than amounts referred to in Section 38.1, that have been correctly subject to withholding tax under the *Law on Income Tax* as modified by paragraphs (a)(i) and (a)(iii) of Part A of Section 6 of Schedule 1 has no further liability with respect to income tax imposed on those amounts.
- 38.4 Income tax otherwise payable on income derived by a *person* in a *tax year* shall be reduced by tax on coffee exports imposed under Section 36 after 1 January 2001 and if the reduction exceeds the income tax otherwise payable, the *Commissioner* shall refund the excess to the *person*.
- 38.5 The *Commissioner* may make an assessment of any additional income tax owed by a *person* or refund any overpayment in accordance with Section 51.7 where that *person* receives amounts that have not been correctly subject to withholding tax.
- 38.6 Payment of tax assessed under Section 38.5 is due and payable one month after the date on which the *person* assessed receives notice of the assessment.
- 38.7 Payments of tax under the *Law on Income Tax* are required on the fifteenth day or, if the fifteenth day is not a business day, on the next business day of the relevant calendar month. Payments of tax required under Articles 21 and 25 of the *Law on Income Tax* may be deferred until 15 March 2001.

38.8 The instalments of income tax payable by a taxpayer are determined under Section 38 of UNTAET Directive No. 2001/2.

History: Section 38.8 amended by Revenue System Amendment Act 2002 [Article 7(b)] and comes into force from 1 July 2002 [Article 20-1] and applies from 1 July 2002 [Article 20-3]

Section 38.8 formerly read:-

Article 25(1) of the *Law on Income Tax* shall be read as requiring four payments of tax on 15 February, 15 May, 15 August and 15 November for persons with a turnover of \$1 million or less in the preceding *tax year*.

38.9 All payments of tax required under this Section shall be made to the Central Payments Office or its nominated agent.

Section 38A Exempt Remuneration

38A.1 The remuneration received for services provided by natural persons shall be exempt from wages income tax and income tax where the remuneration is financed out of the Trust Fund for East Timor.

38A.2 In this Section, “Trust Fund for East Timor” means the Trust Fund for East Timor established under the Trust Fund for East Timor Agreement dated 9 December 1999 between East Timor, as administered by the United Nations Transitional Administration in East Timor and the International Development Association.

History: Section 38A inserted by Revenue Systems Amendment Act 2002 [Article 19] and comes into force on 1 July 2002 and applies from 1 January 2000.

Section 39 Transitional exempt income

Article 4(3) of the *Law on Income Tax* shall be read with the following additional paragraphs:

- (k) any other income derived between 25 October 1999 and 31 December 1999;
- (l) in respect of the 2000 *tax year*, the lesser of:
 - (i) the taxable income of the taxpayer for that *tax year*; or
 - (ii) \$20,000;provided no *associate* of the taxpayer excludes income from Income Tax Objects under this paragraph.

Section 40 Modifications of the *Law on Income Tax*

40.1 Article 14 of the *Law on Income Tax*:

- (a) Does not apply to the 2000 *tax year*;
- (b) Applies in the 2001 *tax year* as if the time period referred to in Article 14(2) was extended from three months to six months.

40.2 Paragraph 8 of Article 25 of the *Law on Income Tax* ceases to apply after 24 October 1999.

Section 41
Restrictions on deductions and carried-forward losses

41.1 No deduction shall be allowed under Article 6(1) of the *Law on Income Tax* in respect of *non-wage benefits* exceeding \$20 provided in a calendar month by an *employer* to an *employee*.

41.2 Any credits for taxes paid or entitlements to refunds of tax for any reason that existed on 25 October 1999 shall be treated as nil on that date.

41.3 Losses calculated under Article 6(2) of the *Law on Income Tax* shall be treated as nil on 31 December 1999.

41.4 Any provisions in regulations or other instruments subsidiary to the *Law on Income Tax* that have the effect of providing concessional treatment for tax purposes of income derived in *East Timor*, including but not limited to regional investment allowances, remote area concessions, and other administratively approved allowances, shall be treated as expiring immediately prior to 1 January 2001.

Section 42
Delivery of returns

42.1 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*.

42.2 No provision other than Section 42.1 shall require a *person* to deliver an income tax form.

Section 43
Administrative discretion

Where records needed by taxpayers to comply with the provisions of the present Regulation or the *Law on Income Tax* are unavailable because of damage or destruction, the *Commissioner* may determine on a reasonable basis any amounts that would have been calculated by reference to any other available information.

IX. Taxes and Tax Provisions in Other Regulations

Section 44
Tax provisions in other legislation not of effect

No taxes or duties have effect in *East Timor* unless they are contained in or authorized by the present Regulation.

Section 45

Modification of taxation laws to which Regulation No. 1999/1 applies

- 45.1 In all taxation laws to which Section 3.1 of Regulation No. 1999/1 applies:
- (a) references to government authorities shall be read as references to appropriate *East Timor* authorities;
 - (b) references to government institutions and bodies shall be read as references to appropriate *East Timor* institutions and bodies;
 - (c) references to forms shall be read as references to forms designated by the *Commissioner* as forms for the purposes of the forms referred to;
 - (d) references to Indonesian rupiah shall be read as references to the closest equivalent U.S. dollar amount calculated using the rate of US \$1 = Rp 7,422;
 - (e) references to Indonesia shall be read as references to *East Timor*; and
 - (f) references to Indonesian citizens shall be read as references to natural persons who are *residents* of *East Timor*.

45.2 Section 45.1, other than paragraph (d), has effect from 25 October 1999.

45.3 Section 45.1(d) has effect from 1 January 2000.

45.4 Subject to Section 45.5, all laws which have effect under Regulation No. 1999/1 and which:

- (a) impose:
 - (i) duties; or
 - (ii) taxes other than income tax; or
- (b) establish procedures for the collection of such duties or taxes;

cease to be of effect in *East Timor* after 25 October 1999, but only in so far as they apply to duties or taxes other than income tax.

45.5 Section 45.4 does not apply to the territory covered by the *Timor Sea Treaty*.

History: Section 45.5 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 45.5 formerly read: Section 45.4 does not apply to the territory 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.

45.6 Subject to Section 45.7, where a provision of a law which has effect under Regulation No. 1999/1 and a provision of the present Regulation apply to the same matter, the provision of the law which has effect under Regulation No. 1999/1 will not apply.

45.7 Section 45.6 does not apply to the territory covered by the *Timor Sea Treaty* in respect of the application of the *Law on Income Tax*.

History: Section 45.7 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 45.7 formerly read: Section 45.6 does not apply to the territory 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 in respect of the application of the *Law on Income Tax*.

45.8 Any law, that under Regulation No. 1999/1 would incorporate into *East Timor* law an international agreement on the prevention of double taxation of income, is of no effect in *East Timor* from 1 July 2001.

Section 46

Application of the present Regulation to Regulation No. 2000/12

Cross-references in the present Regulation to other sections in this Regulation shall be read as references to predecessor sections in Regulation No. 2000/12 where appropriate.

Section 47

Conflict of laws

Where the provisions of any previous Regulation conflict with the provisions of the present Regulation, the provisions of the present Regulation shall prevail.

X. Taxation Procedure

Part A Tax identification numbers

Section 48

Who must obtain a tax identification number

48.1 All *enterprises* are required to obtain a tax identification number.

48.2 A *person* not required to obtain a tax identification number under Section 48.1 may request the *Commissioner* to provide that *person* with a tax identification number.

Section 49

Issuance of tax identification numbers

49.1 The *Commissioner* shall prepare a register of all *persons* who request a tax identification number under the present Regulation and assign a tax identification number to each *person* on the register with required proof of identity.

49.2 The *Commissioner* may designate by way of a *designation notice* what documentation or other proof is required to obtain a tax identification number.

49.3 The *Commissioner* shall notify every *person* on the register in writing of the tax identification number assigned to that *person*.

49.4 The *Commissioner* may require a *person* to include the tax identification number issued by the *Commissioner* to that *person* in any form, notice, or other document used for the purposes of the present Regulation.

49.5 The *Commissioner* shall designate by way of a *designation notice* procedures to be followed for application for a tax identification number.

Section 50
Requirement for a tax identification number

The *Commissioner* may designate by way of a *designation notice* documents or registrations including but not limited to a licence, permit, passport, registration certificate as documents or registrations requiring presentation of a tax identification number prior to its issue.

Part B Assessments

Section 51
Commissioner's assessments of tax due

51.1 Where a *person* has delivered a *tax form* required under the present Regulation, the tax due if any according to the *tax form* shall be treated as an assessment of tax payable under the present Regulation.

51.2 Where the *Commissioner* believes that the information provided on a *tax form* does not correctly disclose the tax due, the *Commissioner* 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.

51.3 Where a *person* has not delivered a *tax form* required under the present Regulation, the *Commissioner* 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.

51.4 Tax specified in an assessment notice issued under Section 51.3 is treated as due and payable on the date a *tax form* correctly disclosing the tax due was to be delivered to the Central Payments Office.

51.5 The *Commissioner* may amend an assessment notice issued under this Section.

51.6 Where a *person* has delivered a *tax form* required under the present Regulation, or has received an assessment notice under this Section, and that *person* believes that the *tax form* or assessment is now incorrect, they can either deliver an amended *tax form*, or request the *Commissioner* to amend the assessment.

51.7 Where as a result of the *Commissioner* agreeing to amend an assessment or where an overpayment of tax has arisen, the *Commissioner* 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.

51.8 Where tax that has been overpaid by a *person* is dealt with under Section 51.7, the *Commissioner* shall pay to the *person* interest at the rate prescribed by the Minister of Planning and Finance 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 *Commissioner* 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.

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

51.9 Notwithstanding any other provision in this Section or in this Regulation, where the amount of tax payable under an assessment, or the amount of tax to be refunded arising from an overpayment, is \$5 or less, then the *Commissioner* shall treat the tax payable, or as the case may be, the amount to be refunded as NIL.

Section 52 Time limits for assessments

52.1 Subject to Section 52.2, the *Commissioner* shall issue an assessment notice or amend an assessment notice only within five years of the date on which the *tax form* to which the notice relates was due.

52.2 The *Commissioner* 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 *Commissioner* considers to be incorrect; or
- (c) fraud has been committed by or on behalf of a *person* in relation to tax due.

Section 53 Jeopardy assessments

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

Part C Tax collection

Section 54 Tax that is due and payable

54.1 Tax that is due and payable is a debt owed to the Transitional Administration.

54.2 Officers of the *ETRS* are prohibited from receiving amounts under Section 54.1 unless designated to do so by the *Commissioner*.

54.3 Tax that has not been paid when it is due and payable, may be sued for and recovered in a court of competent jurisdiction by the *Commissioner* in his official name on behalf of the *Minister*.

54.4 In any suit under this section, production of a certificate signed by the *Commissioner* giving the name and address of the defendant and the amount of tax, and additional tax, if any, due shall be sufficient evidence of the amount of tax, and additional tax for the court to give judgement for that amount.

Section 55 Tax lien

55.1 If a *person* liable to pay tax fails to pay tax by the due date, the amount owing and interest creates a lien in favour of the *Commissioner* on all property belonging to the *person*, and has priority as against all other rights, except as otherwise provided in this Section and in any other UNTAET Regulation.

55.2 The lien described in Section 55.1 arises at 5 p.m. on the due date and continues until the liability is satisfied or becomes unenforceable by reason of lapse of time.

55.3 The lien imposed by this Section is not valid against the interest of:

- (a) a *person* who is a purchaser from the *person* who has failed to pay tax;
- (b) the holder of a security interest granted by the *person* who has failed to pay tax; or
- (c) other lien holder specified in a Directive;

where the interest:

- (d) arose in an arm's length transaction between the *person* who has failed to pay tax and the other *person* referred to in this subsection;
- (e) arose before such other *person* had actual knowledge of the lien; and
- (f) arose before notice of the lien has been filed in the manner specified in a Directive.

55.4 The *Commissioner* may designate by way of a *designation notice* circumstances in which the lien created by this Section is not valid as against certain *persons* even though notice of the lien has been filed.

55.5 The *Commissioner* may file a civil action in a court of competent jurisdiction to enforce the lien imposed by this Section.

Section 56 Recovery from agent of non-resident

56.1 The *Commissioner* may, by notice in writing, require a *person* who is in possession or control of assets belonging to a *non-resident person* to pay tax or additional tax on behalf of the *non-resident*, up to the amount of tax due.

56.2 The master of any ship or the captain of any aircraft or the manager of any property owned, chartered or leased by a *non-resident person* shall be treated as the *person* in possession of the property for the purposes of this Section.

56.3 A *person* making a payment of tax or additional tax under this Section shall be treated as having made the payment on behalf of the *person* liable to pay the tax and the *person* liable to pay the tax may not seek to recover that amount from the *person* making payment.

Section 57

Partnerships, associations and other organizations

57.1 The *Commissioner* may recover from any of the partners of a partnership any tax or additional tax due from the partnership.

57.2 The *Commissioner* may recover from any member, manager or director of an unincorporated association or organization any tax or additional tax due from the association or organization.

57.3 A member of an unincorporated association or organization shall be liable to pay tax due under Section 57.2 only to the extent the member knew or reasonably should have known of the tax liability of the association or organization.

57.4 Where the director or manager of a company or juridical person has caused the company or juridical person to be unable to pay any tax or additional tax due from the company under the present Regulation, the *Commissioner* may recover these amounts from the director or manager.

Section 58

Recovery of tax from a person owing money to the person owing tax

58.1 Where tax or additional tax due under the present Regulation has not been paid by the due date, the *Commissioner* may by notice in writing require a *person*:

- (a) owing money to the *person* liable to pay tax or additional tax;
- (b) holding money for the *person* liable to pay tax or additional tax; or
- (c) having authority from some other *person* to pay money to the *person* liable to pay tax or additional tax;

to pay the money to the Central Payments Office or its nominated agent on the dates set out in the notice, up to the amount of tax or additional tax due.

58.2 A copy of a notice issued under Section 58.1 shall be forwarded to the *person* liable to pay tax or additional tax.

58.3 A *person* making a payment under a notice under Section 58.1 shall be treated as having made the payment on behalf of the *person* liable to pay the tax or additional tax and the *person* liable to pay the tax or additional tax shall not bring an action against the *person* making payment for recovery of that amount.

58.4 The *Commissioner* shall reduce the amount of tax or additional tax owing by the *person* liable to pay them, by the amount of any payment made on that *person's* behalf under Section 58.3.

Section 59
Jeopardy orders

Where the *Commissioner* believes payment of tax that will become due is at risk because a *person* is about to depart from *East Timor*, to cease business, or to transfer property, or is in jeopardy for other reasons, the *Commissioner* may notify any *person*:

- (a) owing money to the *person* who will be liable to pay tax;
- (b) holding money for the *person* who will be liable to pay tax; or
- (c) having authority from some other *person* to pay money to the *person* who will be liable to pay tax;

to set aside the money until such time as the *Commissioner* issues a notice under Section 53 or withdraws the notice issued under this Section.

Section 60
Departure prohibitions

60.1 If the *Commissioner* informs the Border Service Controller by letter that a *person* liable for tax due under the present Regulation has failed to pay the tax, the Border Service Controller shall prevent that *person* from leaving *East Timor* for a period of 72 hours from issuance of the letter, unless the *person*:

- (a) makes payment in full; or
- (b) makes an arrangement satisfactory to the *Commissioner* for the payment of the tax.

60.2 Upon application by the *Commissioner*, a court of competent jurisdiction may extend the 72-hour period referred to in Section 60.1.

Section 61
Cancellation of tax that cannot be collected

61.1 Where the *Commissioner* believes that it will be impossible to collect tax due under the present Regulation and that the liability of the *person* owing the tax should be cancelled, he may recommend to the Minister of Planning and Finance that the tax liability be cancelled.

61.2 If the Minister of Planning and Finance accepts in writing a recommendation of the *Commissioner* made under Section 61.1, the *Commissioner* shall treat the tax liability as cancelled and the tax shall no longer be due or payable.

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

61.3 The *Commissioner* may reinstate a tax liability cancelled under Section 61.2 where the *Commissioner* believes it is possible to collect the tax.

Part D Records and investigation powers

Section 62

Creating and retaining records

62.1 A *person* who is liable to pay or withhold tax under the present Regulation shall create records of account suitable to determine their liability to pay or withhold tax.

62.2 Unless otherwise authorized by the *Commissioner*, a *person* required to create records under the present Regulation shall maintain those records in an official language of *East Timor* for a period of at least five years after the *tax year* in which the tax liability to which they relate arose.

Section 63

Access to books, records, and computers

63.1 Subject to Section 63.2 and Section 63.3, in order to enforce the provisions of the present Regulation, the *Commissioner*, or any officer authorized by the *Commissioner* 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 *Commissioner* 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 *Commissioner* 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 Regulation;
- (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.

63.2 The powers authorized by Section 63.1 shall be exercised only during ordinary business hours, unless the *Commissioner* 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.

63.3 An officer who attempts to exercise a power under Section 63.1 shall not be entitled to enter or remain on any premises or place if, upon being requested by the occupier of the premises or place, the officer does not produce an authorization in writing from the *Commissioner* showing that the officer is authorized to exercise that power under this Section.

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

63.5 A *person* whose books, records, or computer have been removed and retained under Section 63.1 may examine them and make copies or extracts from them during regular office hours under such supervision as the *Commissioner* may determine.

63.6 The *Commissioner* shall designate by way of a *designation notice* procedures to be followed in exercising the powers authorized by Section 63.1.

63.7 Where the *Commissioner* has obtained access under Section 63.1 and there were no reasonable grounds for concluding that access could provide the *Commissioner* with materials relevant to an understatement of tax due, the owner of any materials collected may seek an order in a court of competent jurisdiction for return of the original and all copies of those materials.

Section 64

Commissioner may obtain information or evidence

64.1 Subject to Section 64.3, where necessary for the collection of information for the purpose of determining the liability of a specific *person* for a tax or the collection of information required for the collection of tax from a specific *person*, the *Commissioner* may, by notice in writing, require a *person*, whether that *person* is liable to pay tax or not,

- (a) to provide to the *Commissioner* such information as may be required by the notice; or
- (b) to attend at the time and place designated in the notice for the purpose of being examined on oath before the *Commissioner* or any officer authorized by the *Commissioner* 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*.

64.2 Where the notice requires the production of documents or other records, it is sufficient if such documents or other records are described with reasonable certainty.

64.3 This Section shall not apply to information contained in communications that may be privileged under applicable law, including but not limited to Sections 35.2 to 35.5 of Regulation No. 2000/30.

Part E Tax forms and other documentation

Section 65

Tax forms

The *Commissioner* shall develop *tax forms* and other documentation along with clear instructions on how the forms should be completed.

Part F Rulings and designation notices

Section 66
Public rulings

66.1 To achieve consistency in the administration of the present Regulation and to provide guidance to *persons* required to pay tax or to withhold tax and to officers of the *ETRS*, the *Commissioner* may issue public rulings that explain how the *ETRS* shall interpret and apply the provisions of the present Regulation.

66.2 Public rulings shall be made available to the public and brought to the attention of *persons* affected by the rulings.

66.3 A public ruling issued under this Section is binding on the *Commissioner* in respect of any tax liability arising in respect of the period prior to withdrawal of the ruling.

66.4 A public ruling is not binding on a *person* liable to pay tax under the present Regulation.

Section 67
Private rulings

67.1 The *Commissioner* may issue a private ruling to a particular *person* explaining how the *ETRS* shall interpret and apply the provisions of the present Regulation as it applies to a particular transaction or arrangement planned by the *person* seeking the ruling.

67.2 A private ruling issued under this Section is binding on the *Commissioner* in respect of any tax liability arising in respect of the period prior to withdrawal of the ruling, but only if the *person* seeking the ruling has provided full and true disclosure of all aspects of the planned transaction or arrangement relevant to the tax ruling.

Section 68
Designation notice

The *Commissioner* may issue a *designation notice* explaining any matter that the *Commissioner* has a power to designate under the present Regulation.

Part G Appeals

Section 69
Appeals to the ETRS

69.1 The *Commissioner* shall establish within the *ETRS* an Appeals Office responsible for considering appeals by *persons* who dispute a tax or additional tax liability set out in an assessment or amended assessment or who consider that a decision or assessment by the *Commissioner* is incorrect.

69.2 A *person* who wishes to make an appeal to the Appeals Office shall do so within 60 days from the date of receiving notice of the assessment, amended assessment or decision from the *Commissioner* which they wish to appeal.

69.3 The *Commissioner* may establish procedures and forms for appeals to the Appeals Office and may designate by way of a *designation notice* the circumstances under which the 60 day period in Section 69.2 may be extended.

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

69.5 A decision of the Appeals Office shall be the final decision of the *Commissioner* and shall be binding on the *Commissioner*.

69.6 A *person* may appeal a decision of the Appeals Office to the *Board* of Tax and Customs Appeals within 60 days of receiving notification of the decision.

69.7 Where the Appeals Office has not delivered a decision within 42 days of the day on which an appeal was duly lodged with the Appeals Office, the *person* lodging the appeal may appeal the *Commissioner's* decision directly to the *Board* of Tax and Customs Appeals.

Section 70 Payment of tax on appeal

70.1 Whether or not a *person* has lodged an appeal to the Appeals Office or to the *Board* of Tax and Customs Appeals, tax due under the present Regulation shall remain due and payable, and may be recovered notwithstanding that appeal.

70.2 Where a *person* becomes entitled to a refund of tax following an appeal to the Appeals Office or *Board* of Tax and Customs Appeals, the *Commissioner* shall refund the tax and interest calculated at the rate prescribed by the Minister of Planning and Finance in respect of each whole calendar month between the date of payment by the *person* to the date of refund.

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

XI. Additional Tax, Offences and Penalties

PART A Additional tax

Section 71 Additional tax

71.1 Additional tax imposed under this Chapter shall be a debt due to the Minister.

History: The word 'Minister' replaces the words 'Transitional Administrator' by the Revenue System Amendment Act 2002 [Article 4-1] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4].

71.2 The *Commissioner* shall give notice to a *person* liable to pay additional tax under this Part, of the amount to be paid.

71.3 All sections in the present Regulation that apply to the collection of tax due shall also apply to additional tax imposed on a *person*.

71.4 The *Commissioner* may exercise discretion to forgive some or all additional tax imposed under this Chapter where an additional tax liability is imposed on a *person* and that *person* shows good reason for the *person's* failure to comply with a section of the present Regulation to which the additional tax liability relates.

Section 72
Failure to deliver tax form

72.1 Subject to Sections 72.2 and 72.3, where a *person* who is required under the present Regulation to deliver a *tax form* fails to do so by the due date, that *person* shall be liable to additional tax of \$100.

72.2 Where the due date that any *tax form* required to be delivered by under the present Regulation does not fall on a business day, the due date shall be the next business day following the due date.

72.3 In order for any *tax form* that is required to be delivered under the present Regulation to the Central Payments Office, its nominated agent, or the *ETRS* to be treated as having been delivered by the due date, the Central Payments Office, its nominated agent, or the *ETRS* must have received that *tax form* by that due date.

Section 73
Failure to deliver tax payment

73.1 Subject to Sections 73.2 and 73.3, where a *person* who is required to deliver tax under the present Regulation fails to deliver all or part of such tax by the due date, that *person* shall be liable to additional tax of 5% of the tax not paid by the due date plus an additional 1% of the tax that remains unpaid on the 15th day of each month following the due date; and:

- (a) if failure was due to gross carelessness on the part of the *person*, further additional tax of twenty-five percent (25%) of the tax that remains unpaid; or
- (b) if failure was due to a deliberate attempt to avoid payment of tax, further additional tax of one hundred percent (100%) of the tax that remains unpaid.

73.2 Where the due date that any tax required to be delivered by under the present Regulation does not fall on a business day, the due date shall be the next business day following the due date.

73.3 In order for any tax that is required to be delivered under the present Regulation to the Central Payments Office or its nominated agent to be treated as having been delivered by the due date, the Central Payments Office or its nominated agent must have received that tax by that due date.

Section 74
Understatement of tax

Where a *person* who is required to complete a *tax form* under the present Regulation has understated the amount of tax required to be shown on that *tax form*, that *person* shall be liable to additional tax of fifteen percent (15%) of the understatement and:

- (a) if the understatement was due to gross carelessness on the part of the *person*, further additional tax of twenty-five percent (25%) of the tax understated; or
- (b) if the understatement was due to a deliberate attempt to avoid payment of tax, further additional tax of one hundred percent (100%) of the tax understated.

Section 75
Failure to create and retain records

A *person* who is required to create or retain records under the present Regulation and who fails to do so shall be liable to additional tax of \$100.

Part B Offences and Penalties

Section 76
Penalties

A *person* who commits an offence described in this Chapter may be prosecuted in respect of that offence and if found guilty shall be liable for any penalty imposed for the offence.

Section 77
Reduction of penalties for voluntary disclosure

Where a *person* who could be liable to penalties in respect of offences described in this Chapter voluntarily informs the *Commissioner* of their having committed such offences before their discovery by the *Commissioner*, the maximum financial penalty imposed in respect of an offence shall be 50% of the penalty that would otherwise apply.

Section 78
Failure to create and retain records

A *person* who is required to create or retain records under the present Regulation and who fails to do so shall be liable on conviction to a penalty of:

- (a) if failure to do so was due to gross carelessness on the part of the *person*, twenty-five percent (25%) of the tax assessed to which the records relate; or
- (b) if failure to do so was due to a deliberate attempt to avoid payment of tax, one hundred percent (100%) of the tax assessed to which the records relate.

Section 79
Obstructing or hindering access

A *person* who unlawfully obstructs or hinders the *Commissioner* or an authorized officer from access to any place or information shall be liable on conviction to:

- (a) a penalty of up to \$1,000; and
- (b) imprisonment for a period up to three years.

Section 80
Failure to provide information or provision of false information

A *person* who:

- (a) fails to deliver a *tax form* or any other information required to be delivered under the present Regulation;
- (b) fails to provide such information in the manner required by the present Regulation; or
- (c) provides false information when information is required to be delivered under the present Regulation;

shall be liable on conviction to:

- (d) a penalty of up to \$1,000; and
- (e) imprisonment for a period up to three years.

Section 81
Evasion of tax

A *person* who has wilfully, in any manner, evaded or defeated, or attempted to evade or defeat, tax imposed by the present Regulation, or the payment or collection of such tax, shall be liable on conviction to:

- (a) a penalty of up to the higher of \$1,000 and two hundred percent (200%) of the tax evaded; and
- (b) imprisonment for a period up to five years.

Part C Officers and former officers of the ETRS

Section 82
Abuse of position

A *person* who is or has been an officer of the *ETRS* who knowingly:

- (a) demands from a *person* an amount in excess of the authorized assessment of the tax;
- (b) withholds for his own use or otherwise any portion of the amount of tax collected;

- (c) renders a false accounting, whether verbal or in writing, of the amounts of tax collected or received by him;
- (d) defrauds a *person*, embezzles any money, or otherwise uses his position so as to deal wrongfully either with the *Commissioner* or any other individual;
- (e) not being authorized under the present Regulation to do so, collects or attempts to collect tax under the present Regulation; or
- (f) not being authorized under the present Regulation to do so, reveals information obtained by them from their employment with the *ETRS*;

shall be liable on conviction to:

- (g) disciplinary action or dismissal;
- (h) a penalty of up to \$2,000; and
- (i) imprisonment for a period up to three years.

Section 83
Assisting the avoidance of tax

A *person* who is or has been an officer of the *ETRS* who knowingly assists any other *person* to avoid tax under the present Regulation, whether or not the officer or former officer personally benefits as a result of the assistance, shall be liable on conviction to:

- (a) disciplinary action or dismissal;
- (b) a penalty of up to \$2,000; and
- (c) imprisonment for a period up to two years.

Part D Confidentiality of tax information

Section 84
Unauthorized release of tax information

84.1 Subject to Section 101, a *person*, whether or not they are or have been employed by the *ETRS*, who participates in any capacity in a tax proceeding and who reveals any information acquired in the course of the proceeding to any other *person*, other than where:

- (a) the information is needed in a tax or enforcement proceeding;
- (b) the information is to be incorporated in official statistical reports; or
- (c) the *person* or *persons* to whom it relates, have waived their right to the confidentiality of that information;

shall be liable on conviction to:

- (d) in the case of officers of the *ETRS*, disciplinary action or dismissal;
- (e) a penalty of up to \$2,000; and
- (f) imprisonment for a period up to three years.

84.2 Tax proceeding in this Section means any procedure under the present Regulation that involves the collection of information by the *ETRS* or the determination of a *person's* liability to deliver or withhold tax.

XII. Board of Tax and Customs Appeals

Section 85 Establishment of the Board

85.1 There shall be established a *Board* of Tax and Customs Appeals to hear all proceedings arising under the present Regulation.

85.2 Members of the *Board* shall be appointed by the *Minister*, after consultation with the Council of Ministers, for a term of 2 years.

History: The words 'and on the advice of the Head of the Central Fiscal Authority' deleted by the Revenue System Amendment Act 2002 [Article 4-6] and comes into force on 1 July 2002 [Article 20-1] and applies from 20 May 2002 [Article 20-4]

History: This section formerly read:-

Members of the *Board* shall be appointed by the Transitional Administrator, after consultation with the National Council, and on advice of the Head of the Central Fiscal Authority, for a term of 2 years.

85.3 The Minister of Planning and Finance shall provide the *Board* with an operating budget.

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

85.4 The *Board* is authorized to hire competent staff, acquire equipment necessary to carry out its functions, and establish premises from which it will operate.

85.5 The *Board* shall consist of a Chief Member and no more than 2 deputy members, all of whom are independent of the *ETRS* and the *Customs Service*.

85.6 The Minister of Planning and Finance shall establish appropriate compensation levels for members of the *Board*.

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

85.7 The *Minister* may remove one or more members of the *Board* if he determines that the member is unfit to execute his functions or has sat on an appeal panel in a position of conflict of interest contrary to Section 87.6.

Section 86 Role of the Board

86.1 The *Board* shall have jurisdiction to receive appeals against a decision of:

- (a) the Appeals Office established under Section 69.1;
- (b) the *Commissioner* in respect of any tax administered by the *ETRS* where that decision has been appealed to the Appeals Office and the Appeals Office has not delivered a decision within 42 days under Section 69.7;
- (c) the *Customs Controller* in respect of any decision made by the *Customs Controller* under Section 98; and
- (d) an *officer of the Customs Service* where an adverse decision by that officer has not been reviewed by the *Customs Controller* and the applicant notified within 7 days of their application for review under Section 98.

86.2 The *person* appealing to the *Board* shall have the burden of proving that a decision against which he is appealing is incorrect.

86.3 In reviewing decisions under Section 86.1, the *Board* shall review the relevant testimony, documents and other evidence presented by the *person* appealing to the *Board* and by the *ETRS* or *Customs Service* and make its own findings of fact and conclusions of law.

86.4 The decision by the *Board* shall be binding on both the *person* appealing to the *Board* and the *Commissioner* or *Customs Controller*, as the case may be.

Section 87 Procedures of the Board

87.1 The *Board* shall prescribe rules of procedure appropriate for its operations.

87.2 The Minister of Planning and Finance may establish a user fee for *persons* bringing appeals before the *Board*.

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

87.3 The Chief Member shall nominate an appeal panel of up to three members to hear an appeal brought before it.

87.4 The times and places of the hearings of the *Board* shall be specified by the Chief Member with a view to securing a reasonable opportunity for *persons* to appear before the *Board* with as little inconvenience and expense as is practicable.

87.5 An appeal panel shall hear evidence under Section 86.3, discuss the case as a panel, and issue a written opinion, including the findings of fact or opinion of the *Board*, within 15 days of the conclusion of the hearing.

87.6 No member shall sit on an appeal panel where there is any likelihood of a conflict of interest by virtue of family relationships, business relationships or any other factors.

Section 88 Confidentiality

The *Board* and its members shall maintain the confidentiality of all information and data obtained while performing its official functions.

Section 89 Appeals

Decisions of the *Board* may be appealed to a court of competent jurisdiction.

Section 90
Dictionary and interpretation

References to the *Commissioner* and the *Customs Controller* in this Chapter shall include *persons* to whom the *Commissioner* and the *Customs Controller* have delegated authority under a delegation power contained in a Regulation.

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.

XIV. Customs Service of East Timor

Section 94
Creation of the Customs Service of East Timor

94.1 There shall be established as a separate office within the Ministry of Planning and Finance an East Timor Customs Service (hereafter referred to as "*Customs Service*").

History: The words 'Ministry of Planning and Finance' replaces the words 'Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-5] to come into force on 1 July 2002 [Article 20-2]

94.2 The *Customs Service* shall be headed by a *Customs Controller* who shall be appointed by the *Minister*, after consultation with the Council of Ministers, for a period of one year.

History: The words 'and on the advice of the Head of the Central Fiscal Authority' deleted by the Revenue System Amendment Act 2002 [Article 4-6] and comes into force on 1 July 2002 [Article 20-1] and applies from 20 May 2002 [Article 20-4]
Section 94.2 formerly read:-

The *Customs Service* shall be headed by a *Customs Controller* who shall be appointed by the Transitional Administrator, after consultation with the National Council, and on advice of the Head of the Central Fiscal Authority, for a period of one year.

94.3 Pending appointment of a *Customs Controller* for the period set out in Section 94.2, the *Minister* may appoint an interim *Customs Controller* for a shorter period.

94.4 The *Customs Controller* may be dismissed prior to expiry of the term of appointment only by the *Minister* after consultation with the Council of Ministers.

94.5 The *Customs Controller* shall be assisted by Deputy Controllers who shall be appointed by the *Minister*.

94.6 No *person* shall seek to interfere in any aspect of the operation of the revenue collection process or influence the *Customs Controller* or an *officer of the Customs Service* in carrying out responsibilities under the present Regulation, and the *Customs Controller* shall report such cases directly to the *Minister*.

Section 95 Powers and Duties of the Controller

In addition to those specifically granted elsewhere in the present Regulation, or any other UNTAET Regulation, the *Customs Controller* shall have:

- (a) the duty to enforce provisions of any Regulation for the collection of:
 - (i) import duty;
 - (ii) excise tax on imported *goods*;
 - (iii) sales tax on imported *goods* imposed at point of entry; and
 - (iv) taxes on exports;
- (b) the duty to control the import or export of *goods*, including those *goods* which are to be redirected to quarantine or health and sanitation authorities, as provided by a Regulation;
- (c) the duty to prepare advertisements, notices, forms, and other communications to ensure all *persons* understand their obligations and rights under the present Regulation;
- (d) the power to appoint such *persons* as may be required to carry out the provisions of the present Regulation in conformity with the Public Service Commission rules and regulations; and
- (e) the power to establish an organizational structure within the *Customs Service* appropriate for its functions.

Section 96 Delegation power

96.1 The *Customs Controller* may:

- (a) delegate to any *officer of the Customs Service* any power or duty conferred or imposed on the *Customs Controller* by the present Regulation other than this power of delegation; and
- (b) direct that any information, form, or document required to be given to the *Customs Controller* shall be given to another *person* nominated by the *Customs Controller*.

96.2 The *Customs Controller* may revoke any of the powers delegated under Section 96.1 at any time.

Section 97
Rules governing Customs Service

97.1 The *Customs Controller* shall select and promote officers through the Public Service Commission and according to its rules.

97.2 All *officers of the Customs Service* shall wear an official *Customs Service* identification card while conducting business.

Section 98
Review

98.1 A *person* against whom an adverse decision has been made by an *officer of the Customs Service* may apply in writing to the *Customs Controller* for a review of the decision.

98.2 The *Customs Controller* shall review the decision and notify the applicant of the decision of the *Customs Controller* within seven days of receipt of the application.

Section 99
Reporting

99.1 The *Customs Controller* shall produce an annual report of the operations of the *Customs Service* and deliver this report to the Minister of Planning and Finance as soon as practicable after the end of each *tax year*.

99.2 The annual report of the *Customs Controller* shall be provided to the *Minister* and made available to the public.

99.3 The annual report of the *Customs Controller* shall include:

- (a) details of the budget of the *Customs Service*;
- (b) details of the number and level of staff of the *Customs Service*;
- (c) details of the revenues collected by the *Customs Service* showing details of the amount of revenue from each type of tax and each district and such other details that may be requested by the Minister of Planning and Finance;
- (d) estimates of the cost of collection for each type of tax revenue collected;
- (e) details of all prosecutions initiated by the *Customs Service*, including the names of the *persons* who were convicted and the amounts of tax or duty involved; and

- (f) information on the use of powers to enter private premises, including the number and nature of any complaints about the use of those powers, but not including the names of the *persons* involved.

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

99.4 The Minister of Planning and Finance shall present to the Council of Ministers a copy of the annual report within one month of receiving the report.

History: The word 'Council of Ministers' replaces the words 'Transitional Administrator' by the Revenue System Amendment Act 2002 [Article 4-7] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

History: The word 'Minister of Planning and Finance' replaces the words 'Head of the Central Fiscal Authority' by the Revenue System Amendment Act 2002 [Article 4-4] to come into force on 1 July 2002 [Article 20-2] and applies from 20 May 2002 [Article 20-4]

Section 99.4 formerly read:

The Head of the Central Fiscal Authority shall present to the Transitional Administrator a copy of the annual report within one month of receiving the report.

Section 100 Delegated authority

100.1 Subject to Section 100.2, the *Customs Controller* may delegate authority to exercise any power of an *officer of the Customs Service* provided by the present Regulation or a Directive under the present Regulation to:

- (a) an officer of the *ETRS*;
- (b) an officer of the Civilian Police; or
- (c) an officer of the Border Service.

100.2 The *Customs Controller* may delegate power under Section 100.1 where:

- (a) such delegation is appropriate in the interest of effective administration of the responsibilities of the *Customs Service*; and
- (b) the delegation is in writing and sets out in detail the powers being delegated and the circumstances in which they can be exercised.

100.3 Where appropriate in the interest of effective administration of the responsibilities of the relevant service, an *officer of the Customs Service* may:

- (a) exercise powers of an officer of the *ETRS* where those powers have been delegated in writing to the officer by the *Commissioner*;
- (b) exercise powers of an officer of the Border Service where those powers have been delegated in writing to the officer by the Border Service Controller; and
- (c) exercise powers of an officer of the Civilian Police where those powers have been delegated in writing to the officer by the Commissioner of the Civilian Police.

Section 101 Information sharing

The *Customs Controller* and the *Commissioner* shall jointly establish, regularly review, and implement procedures for the routine mutual exchange of information between their offices as appropriate for efficient administration of the taxes and duties for which they are responsible.

Section 102
Powers that may be set out in Directives

The *Minister* may by means of Directives establish rules and procedures for the *Customs Service* to enforce the provisions of the present regulation, including, but not limited to:

- (a) rules on designated ports of entry and exit for *goods*;
- (b) rules on arrival and departure procedures;
- (c) rules on unloading processes;
- (d) rules on customs forms and procedures for the payment of duty and tax;
- (e) rules on the release of imported *goods*;
- (f) rules on bonded warehouses;
- (g) details of *goods* exempted from taxation or duties by the present Regulation;
- (h) rules on the valuation of imported *goods*;
- (i) rules on the arrival and departure of natural persons relevant to the collection of duty and tax;
- (j) rules on the disposal of abandoned and unclaimed *goods*;
- (k) rules on the confiscation of *goods* and the seizure of objects and documents;
- (l) rules on the surveillance, examination and sealing of *goods*; and
- (m) the establishment of offences and penalties appropriate for the effective administration of the present Regulation.

XV. Transitional and Entry into Force

Section 103
Transitional rule

For the purpose of ensuring continuity with respect to the transfer of responsibilities from the Border Service to the *Customs Service* upon the entering into force of the present Regulation:

- (a) all proceedings and actions of officers of the Border Service prior to 1 July 2001 that are relevant to the exercise of powers or duties of the *Customs Service* under the present Regulation will be treated as if they were proceedings and actions of powers of *officers of the Customs Service*; and
- (b) the provisions of the present Regulation relevant to the powers or duties of the *Customs Service* in respect of those proceedings and actions will be treated as being in effect at the time that the proceedings and actions took place.

Section 104
Entry into force and consequential amendments

104.1 Subject to this Section, the present Regulation shall enter into force upon signature.

104.2 [Details to come]

Sergio Vieira de Mello
Transitional Administrator

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 turnover of <i>designated services</i> less than \$1,000: | 0% |
| (ii) | <i>persons</i> with a monthly turnover 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 turnover of <i>designated services</i> less than \$500: | 0% |
| (ii) | <i>persons</i> with a monthly turnover 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 consideration 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 consideration 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 consideration 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:

<i>Harmonized Classification System Item</i>	<i>General Description of Goods</i>	
1704, 1806	sugar confectionery and chocolate confectionery	12% of the <i>excise value</i>
2009	fruit juices	12% of the <i>excise value</i>
2105	ice cream and other edible ices	12% of the <i>excise value</i>
2106	other food preparations (including soft drink concentrates)	12% of the <i>excise value</i>
2202	soft drinks and other flavored waters	US\$ 0.65 per liter
2203	beer	US\$ 1.90 per liter
2204-2206	wine, vermouth and other fermented beverages (for example, cider, perry)	US\$ 2.50 per liter
2207, 2208	ethyl alcohol (other than denatured) and other alcoholic beverages	US\$ 8.90 per liter
2401-2403	tobacco and tobacco products	US\$ 19.00 per kg
2710	gasoline, diesel fuel and other petroleum products	US\$ 0.06 per liter
3303	perfumes	18% of the <i>excise value</i>
3304	beauty or make-up preparations (including sunscreens)	12% of the <i>excise value</i>
3305	hair preparations (i.e., shampoos)	12% of the <i>excise value</i>
3307	shaving preparations, deodorants, other toilet preparations, etc.	12% of the <i>excise value</i>
3604	fireworks, signal flares, rain rockets, etc.	120% of the <i>excise value</i>
3701-3707	photographic films, paper and chemicals, cinema films	12% of the <i>excise value</i>
4203	leather apparel	12% of the <i>excise value</i>
4301-4304	raw and treated furs, fur apparel and artificial furs	12% of the <i>excise value</i>
7101-7112	pearls, precious stones and precious metals	12% of the <i>excise value</i>
7113-7118	jewellery, articles of gold and silver, and coins	12% of the <i>excise value</i>
8412	razors and blades	12% of the <i>excise value</i>
8415	air conditioners	12% of the <i>excise value</i>
8418	refrigerators	12% of the <i>excise value</i>
8422	dishwashers	12% of the <i>excise value</i>
8519-8524	audio electronic <i>goods</i>	12% of the <i>excise value</i>
8525 20 100	mobile phones	12% of the <i>excise value</i>
8528	televisions and video monitors	12% of the <i>excise value</i>
8529 10 8529 90	satellite dishes	12% of the <i>excise value</i>
8703	motor cars principally designed for the transport of <i>persons</i>	the greater of: (a) 36% of the <i>excise value</i> ; and (b) US\$ 500 per vehicle;

		plus 36% of the <i>excise value</i> in excess of US \$ 20,000
8707	bodies of cars	12% of the <i>excise value</i>
8711	motorcycles	12% of the <i>excise value</i>
9005	binoculars	12% of the <i>excise value</i>
9006	cameras	12% of the <i>excise value</i>
9101-9114	clocks, watches and their cases, straps and parts	12% of the <i>excise value</i>
9301-9307	arms and ammunition	120% of the <i>excise value</i>
9501-9508	toys, games and sports accessories and parts	12% of the <i>excise value</i>
9601	worked ivory, bone, shell, horn, coral, etc	12% of the <i>excise value</i>
9613	cigarette lighters	12% of the <i>excise value</i>
9614	smoking pipes	12% of the <i>excise value</i>
9616	scent sprays, powder puffs and pads	12% of the <i>excise value</i>
9701-9706	works of art, collectors' pieces and antiques	12% of the <i>excise value</i>
	<i>private yachts and private aircraft</i>	12% of the <i>excise value</i> up to an including US \$20,000 and 36% of the <i>excise value</i> in excess of US \$20,000

In the Table, "excise value" means the total of the customs value of goods and any import duty imposed on the goods under Section 27 of the present Regulation.

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]

The table formerly read:-

Harmonized Classification System Item	General Description of Goods	
1704, 1806	sugar confectionery and chocolate confectionery	10% of the <i>customs value</i>
2009	fruit juices	10% of the <i>customs value</i>
2105	ice cream and other edible ices	10% of the <i>customs value</i>
2106	other food preparations (including soft drink concentrates)	10% of the <i>customs value</i>
2202	soft drinks and other flavored waters	US\$ 0.50 per liter
2203	beer	US\$ 1.50 per liter
2204-2206	wine, vermouth and other fermented beverages (for example, cider, perry)	US\$ 2.00 per liter
2207, 2208	ethyl alcohol (other than denatured) and other alcoholic beverages	US\$ 7.00 per liter
2401-2403	tobacco and tobacco products	US\$ 15.00 per kg
2710	gasoline, diesel fuel and other petroleum products	US\$ 0.05 per liter
3303	perfumes	15% of the <i>customs value</i>
3304	beauty or make-up preparations (including sunscreens)	10% of the <i>customs value</i>
3305	hair preparations (i.e., shampoos)	10% of the <i>customs value</i>
3307	shaving preparations, deodorants, other toilet preparations, etc.	10% of the <i>customs value</i>
3604	fireworks, signal flares, rain rockets, etc.	100% of the <i>customs value</i>
3701-3707	photographic films, paper and chemicals, cinema films	10% of the <i>customs value</i>
4203	leather apparel	10% of the <i>customs value</i>
4301-4304	raw and treated furs, fur apparel and artificial furs	10% of the <i>customs value</i>
7101-7112	pearls, precious stones and precious metals	10% of the <i>customs value</i>
7113-7118	jewellery, articles of gold and silver, and coins	10% of the <i>customs value</i>
8412	razors and blades	10% of the <i>customs value</i>
8415	air conditioners	10% of the <i>customs value</i>
8418	refrigerators	10% of the <i>customs value</i>
8422	dishwashers	10% of the <i>customs value</i>
8519-8524	audio electronic goods	10% of the <i>customs value</i>
8525 20 100	mobile phones	10% of the <i>customs value</i>
8528	televisions and video monitors	10% of the <i>customs value</i>
8529 10 8529 90	satellite dishes	10% of the <i>customs value</i>
8703	motor cars principally designed for the transport of <i>persons</i>	the greater of: (a) 30% of the <i>customs value</i> ; and (b) US\$ 400 per vehicle; plus 30% of the <i>customs value</i> in excess of US \$ 20,000
8707	bodies of cars	10% of the <i>customs value</i>
8711	motorcycles	10% of the <i>customs value</i>
9005	binoculars	10% of the <i>customs value</i>
9006	cameras	10% of the <i>customs value</i>
9101-9114	clocks, watches and their cases, straps and parts	10% of the <i>customs value</i>
9301-9307	arms and ammunition	100% of the <i>customs value</i>
9501-9508	toys, games and sports accessories and parts	10% of the <i>customs value</i>
9601	worked ivory, bone, shell, horn, coral, etc	10% of the <i>customs value</i>
9613	cigarette lighters	10% of the <i>customs value</i>
9614	smoking pipes	10% of the <i>customs value</i>
9616	scent sprays, powder puffs and pads	10% of the <i>customs value</i>
9701-9706	works of art, collectors' pieces and antiques	10% of the <i>customs value</i>
	<i>private yachts and private aircraft</i>	30% of the <i>customs value</i> in excess of US \$ 20,000

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 turnover 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 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 UNTAET 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 5
Wage Income Tax

Part A: Tax Rates

(a) The rates of wage income tax imposed on *wages* for the purposes of Section 28 are as follows:

- (i) if the *employee* is a *resident* and has provided the *employer* with the *employee's* tax identification number or is treated as having provided the *employer* with the *employee's* tax identification number under Section 29:

MONTHLY TAXABLE WAGES	RATE
0 - \$550	10%
Above \$550	\$55 + 30% of the amount of wages above \$550

History: The table replaced by Revenue System Amendment Act 2002 [Article 13(a)] and comes into force on 1 July 2002 [Article 20-1] and applies to taxable wages received on or after 1 July 2002 [Article 20-8].

The table previously read:

MONTHLY TAXABLE WAGES	RATE
0 - \$100	0%
in excess of \$100 - \$650	10%
in excess of \$650	30%

- (ii) if the *employee* is a *non-resident*, 20% of the *wages* received by the *employee*;
- (iii) in all other cases, 30% of the *wages* received by an *employee*.

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

(c) Each *employee* is allowed a personal tax credit of \$10 per month against the *wages* income tax payable for the month. Where the amount of the credit allowed to an *employee* for

a month exceeds the amount of wages income tax payable by the employee in respect of wages for that month, the excess is neither refunded to the employee nor carried forward to the next month.

History: Paragraph (c) inserted by Revenue System Amendment Act 2002 [Article 13(b)] and comes into force on 1 July 2002 [Article 20-1] and applies to taxable wages received on or after 1 July 2002 [Article 20-8].

Part B: Exemptions

The following *wages* shall be exempt from wage income tax:

- (a) *wages* received for official duties that are exempt from taxation under Section 20 of Regulation No. 2000/31;
- (b) *wages* received in the territory covered by the *Timor Sea Treaty*;

History: Part B paragraph (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].

Part B paragraph (b) formerly read:

wages received in the territory 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;

- (c) *wages* of an *employee* who is a citizen of a foreign country received in the *employee's* capacity as a public servant of the government of a foreign country where the income is subject to income tax in that country;
- (d) *wages* of an *employee* who is an *employee* of the United Nations or its specialized agencies; provided, however, that from a date to be determined by a Directive, this exemption shall not be construed to include *wages* of an *employee* of the East Timor Transitional Administration (ETTA) or its successor as may be defined by UNTAET regulations; and

Note: 'from a date to be determined by a Directive' is prescribed to be 'with effect from and after 1 January 2001' by section 2.2 of Directive No. 2001/1

- (e) *wages* of an *employee* who is a *non-resident* of *East Timor* and who derives the *wages* in respect of services provided in *East Timor* under a contract of employment entered into prior to 30 September 2000 to provide services for a project approved by UNTAET and funded by a foreign government where the *wages* are received before the earlier of:
 - (i) the expiry of the contract of employment that existed at 30 September 2000; and
 - (ii) 1 July 2001.

Part C: Date of Effect

Wage income tax is imposed on *wages* received on or after 1 January 2001.

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

TYPE OF INCOME	RATE
income from hiring or lease of movable property	zero %
income from the provision of the following services:	zero %
technical management	
interior and landscape design	
accounting and book-keeping	
cleaning	
pest eradication	
forest clearing	
film dubbing	
appraisal	
actuarial	
architectural	
surveying	
legal	
automated data processing	
advertising	
marketing	
secretarial	
stevedoring	
shipping and customs agent	
travel agent	
storage and warehousing	

- (iii) 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)(iii) 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:

- (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.