



**UNITED NATIONS**  
United Nations Transitional Administration  
in East Timor

**NATIONS UNIES**  
Transitoire des Nations Unies  
au Timor Oriental

**UNTAET**

UNTAET/REG/2000/32  
29 September 2000

**REGULATION NO. 2000/32**

**TO AMEND REGULATION NOs 2000/12 AND 2000/18**

The Special Representative of the Secretary-General (hereinafter: Transitional Administrator),

Pursuant to the authority given to him under United Nations Security Council resolution 1272 (1999) of 25 October 1999,

Taking into account United Nations Transitional Administration in East Timor (UNTAET) Regulation No. 1999/1 of 27 November 1999 on the Authority of the Transitional Administration in East Timor,

For the purpose of amending (UNTAET) Regulation No. 2000/12 on a Provisional Tax and Customs Regime for East Timor and Regulation No. 2000/18 on a Taxation System for East Timor,

Promulgates the following:

Section 1  
Amendment of Regulation No. 2000/18

Regulation No. 2000/18 is amended so it reads as set out in the Schedule to the present Regulation.

Section 2  
Repeal of Regulation No. 2000/12

Regulation No. 2000/12 ceases to have effect when the amendments set out in Section 1 enter into force.

Section 3  
Entry into force

The present Regulation shall enter into force on 29 September 2000.

Sergio Vieira de Mello  
Transitional Administrator

**SCHEDULE**

**UNITED NATIONS**



**NATIONS UNIES**

United Nations Transitional Administration  
Unies  
in East Timor

Administration Transitoire des Nations  
au Timor Oriental

**UNTAET**

UNTAET/REG/2000/18  
30 June 2000

**REGULATION NO. 2000/18**

**ON A REVENUE SYSTEM FOR EAST TIMOR**

The Special Representative of the Secretary-General (hereinafter: Transitional Administrator),

Pursuant to the authority given to him under United Nations Security Council resolution 1272 (1999) of 25 October 1999,

Taking into account United Nations Transitional Administration in East Timor (UNTAET) Regulation No. 1999/1 of 27 November 1999 on the Authority of the Transitional Administration in East Timor,

After consultation in the National Consultative Council,

For the purpose of establishing a taxation and import duty regime for East Timor,

Promulgates the following:

Chapter I	Interpretation
Chapter II	East Timor Revenue Service
Chapter III	Services Tax
Chapter IV	Excise Tax
Chapter V	Sales Tax
Chapter VI	Import Duty
Chapter VII	Wages Tax
Chapter VIII	Income Tax
Chapter IX	Taxes and Tax Provisions in Other Regulations
Chapter X	Taxation Procedure
Chapter XI	Additional Tax, Offences and Penalties
Chapter XII	Board of Tax and Customs Appeals

Chapter XIII	Anti-avoidance
Chapter XIV	Entry into Force
Schedule 1	Rates of Tax and Import Duty, Exemptions and Dates of Effect

## **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 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 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*:

- (i) in the course of an *employer* and *employee* relationship;
- (ii) as director of a company;
- (iii) as the holder of a public office; or
- (iv) 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 as designated by the *Commissioner* in a *designation notice* with a turnover of more than \$200 per month; or
- (e) a charitable or non-profit institution or organization as designated by the *Commissioner* in a *designation notice* with a turnover of more than \$200 per month;

“ETRS” means the East Timor Revenue Service;

“exempt wages” means amounts specified in paragraph (a) of Part B of Section 5 of Schedule 1;

“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;

“officer of the Border Service” means the Border Service Controller or a *person* employed by the Border Service and acting under the authority of the 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;

“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 wage income tax withholding information form;
- (b) an excise tax form;
- (c) a sales tax form;
- (e) a services tax form;
- (f) a wage income tax withholding form; or
- (g) any forms prescribed by the *Commissioner* under Section 45.1(c);

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

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

“wages” means any reward for services provided by an *employee* to an *employer*, 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) the market value of any benefit provided by an *employer* to an *employee*;
- (e) any allowance provided by the *employer* for the benefit of an *employee*;
- (f) any payment provided by the *employer* in respect of loss or termination of employment;
- (g) any payments however described made on termination of employment in respect of entitlements outstanding at the time of termination;
- (h) 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*;
- (i) the value determined by the *Commissioner* of the provision by the *employer* of accommodation or housing;
- (j) the reimbursement or discharge by an *employer* of any expense of the *employee* including utilities expenses;
- (k) 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;
- (l) 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 *employee* is reasonable;
- (m) the amount of any reimbursement or discharge by an *employer* of an *employee*’s medical expenses; and
- (n) the amount of any waiver where any *employer* waives an obligation of the *employee* to pay an amount owing to the *employer*.

## **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 Central Fiscal Authority an East Timor Revenue Service (hereafter referred to as “*ETRS*”).

4.2 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 Transitional Administrator 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 Transitional Administrator after consultation with the National Council.

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

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 Transitional Administrator.

## **Section 5** **Powers 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 and to collect all taxes, duties and fees levied:
  - (i) by the present Regulation; and
  - (ii) under the authority of Regulation No. 1999/1;
- (b) the duty to prepare advertisements, notices, and other communications to ensure all *persons* understand their obligations and rights under the present Regulation;
- (c) 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
- (d) 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;
- (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*; and
- (c) delegate to the Border Service Controller all duties and rights appropriate for the collection of:
  - (i) import duty;
  - (ii) excise tax;
  - (iii) sales tax on imported *goods*; and
  - (iv) tax on coffee exports.

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 Head of the Central Fiscal Authority as soon as practicable after the end of each *tax year*.

8.2 The *Commissioner's* annual report shall be provided to the Transitional Administrator 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 Head of the Central Fiscal Authority;
- (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.

8.4 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 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 *Commissioner*; and
- (b) any excise tax payable on *goods* produced during that calendar month.

18.2 The *Commissioner* 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 *Commissioner* 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 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:

<u>Harmonized Classification System Item</u>	<u>General Description of Goods</u>
<u>2202</u>	<u>soft drinks and other flavored waters</u>
<u>2203</u>	<u>beer</u>
<u>2204-2206</u>	<u>wine, vermouth and other fermented beverages (for example, cider, perry)</u>
<u>2207, 2208</u>	<u>ethyl alcohol (other than denatured) and other alcoholic beverages</u>
<u>2401-2403</u>	<u>tobacco and tobacco products</u>
<u>2710</u>	<u>gasoline, diesel fuel and other petroleum products</u>
<u>3303</u>	<u>perfumes</u>
<u>8519-8524</u>	<u>audio electronic goods</u>
<u>8525 20 100</u>	<u>mobile phones</u>
<u>8528</u>	<u>televisions and video monitors</u>
<u>8528 12 90</u>	<u>satellite dishes</u>
<u>8703</u>	<u>motor cars principally designed for the transport of persons</u>
<u>8711</u>	<u>motorcycles</u>

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 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 *Commissioner* may extend the 28 day period provided in Section 20.2(a) upon written application by an exporter where the *Commissioner* 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 Border 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 *Commissioner*;
- (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 *Commissioner* 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 *Commissioner* 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 import duty under paragraph (a) of Part B of Section 4 of Schedule 1;
  - (b) all *goods* sold in *East Timor*, other than *goods* exempt under paragraph (b)(i) of Part B of Section 3 of Schedule 1; and

- (c) all services provided in *East Timor*, other than services exempt under paragraph (b)(i) 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 Border 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 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 *Commissioner* shall provide a sales tax exemption number to a *person* who requests the number if the *Commissioner* 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 Border 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 *Commissioner* 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 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. Wages Tax**

### **Section 28**

#### **Imposition of a wages income tax**

A wage income tax is imposed on *persons* who have received *wages* in respect of *employment in East Timor* on or after the date specified in Part C of Section 5 of Schedule 1, other than from:

- (a) *exempt wages*; and
- (b) *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.

### **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 amounts specified in paragraph (b) of Part B 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 thirtieth day after the end of the *tax year*.

**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 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.

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

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.

**Section 35**  
**Tax year**

For the purposes of this Chapter, the words “tax year” wherever they appear in the *Law on Income Tax* shall be read as referring to the 12 month period from 1 January to 31 December.

**Section 36**  
**Tax on Coffee Exports**

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

36.3 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 Border Service*.

36.4 Any income tax imposed under the *Law on Income Tax* shall be reduced by tax imposed under this Section for the *tax year* commencing 1 January 2001 and for all subsequent *tax years*.

**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 changes**

38.1 Withholding tax rates under the *Law on Income Tax* shall be reduced to zero for the period 1 January 2000 to 31 December 2000.

38.2 Taxes withheld under the *Law on Income Tax* shall not be final taxes but shall be deducted from tax payable by the recipient of the payments described in that law.

38.3 Income that, but for this section, would have been subject to withholding tax under the *Law on Income Tax*, shall be subject to income tax at the rates set out in Part A of Section 6 of Schedule 1.

**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**

#### **Suspension of calculation norms and special calculation norms**

Articles 14 and 15 of the *Law on Income Tax* do not apply to the 2000 *tax year* and subsequent *tax years*.

#### **Section 41**

#### **Restriction on carried-forward amounts**

- 41.1 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.
- 41.2 Losses calculated under Article 6(2) of the *Law on Income Tax* shall be treated as nil on 31 December 1999.

#### **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; and
  - (e) references to a country other than *East Timor* shall be read as references to *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 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 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*.

## **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 Head of the Central Fiscal Authority from the day of payment by the *person* to the day of refund.

## **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 Transitional Administrator.

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 Head of the Central Fiscal Authority that the tax liability be cancelled.

61.2 If the Head of the Central Fiscal Authority 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.

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.

**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 Head of the Central Fiscal Authority from the day of payment by the *person* to the day of refund.

**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 Transitional Administrator.

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 fifteen percent (15%) of the amount of the tax that remains unpaid per annum, calculated on a daily basis, for the period from the due date until the date on which payment is made 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 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 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 Head of the Central Fiscal Authority shall provide the *Board* with an operating budget.

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 Border Service for East Timor.

85.6 The Head of the Central Fiscal Authority shall establish appropriate compensation levels for members of the *Board*.

85.7 The Transitional Administrator 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 Border Service Controller under Section 19.1 of Regulation No. 2000/9 in respect of a decision on a matter delegated to the Controller under Section 6.1(c); and
- (d) an *officer of the Border Service* where an adverse decision by that officer in relation to a matter delegated to the Controller under Section 6.1(c) has not been reviewed by the Border Service Controller and the applicant notified within 7 days of their application for review under Section 19.1 of Regulation No. 2000/9.

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 Border 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 Border Service 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 Head of the Central Fiscal Authority may establish a user fee for *persons* bringing appeals before the *Board*.

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 Border Service Controller in this Chapter shall include *persons* to whom the *Commissioner* and the Border Service 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 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. Entry into Force**

**Section 94**  
**Entry into force**

The present Regulation shall enter into force on 1 July 2000.

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 11 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: | 10% |

(b) The rates of services tax for the purposes of Section 11 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: | 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:

<u>Harmonized Classification System Item</u>	<u>General Description of Goods</u>	
<u>2202</u>	<u>soft drinks and other flavored waters</u>	<u>US\$ 0.50 per liter</u>
<u>2203</u>	<u>beer</u>	<u>US\$ 1.50 per liter</u>
<u>2204-2206</u>	<u>wine, vermouth and other fermented beverages (for example, cider, perry)</u>	<u>US\$ 1.50 per liter</u>
<u>2207, 2208</u>	<u>ethyl alcohol (other than denatured) and other alcoholic beverages</u>	<u>US\$ 1.50 per liter</u>
<u>2401-2403</u>	<u>tobacco and tobacco products</u>	<u>US\$ 15.00 per kg</u>
<u>2710</u>	<u>gasoline, diesel fuel and other petroleum products</u>	<u>US\$ 0.05 per liter</u>
<u>3303</u>	<u>perfumes</u>	<u>15% of the customs value</u>
<u>8519-8524</u>	<u>audio electronic goods</u>	<u>10% of the customs value</u>
<u>8525 20 100</u>	<u>mobile phones</u>	<u>10% of the customs value</u>
<u>8528</u>	<u>televisions and video monitors</u>	<u>10% of the customs value</u>
<u>8529 10</u> <u>8529.90</u>	<u>satellite dishes</u>	<u>10% of the customs value</u>
<u>8703</u>	<u>motor cars principally designed for the transport of persons</u>	<u>the greater of:</u> <u>(a) 15% of the customs value;</u> <u>and</u> <u>(b) US\$ 200 per vehicle</u>
<u>8711</u>	<u>motorcycles</u>	<u>10% of the customs value</u>

### Part B: Exemptions

*Goods* that are exempt from import duty under Part B of Section 4 of Schedule 1 are exempt from excise tax on importation.

*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* 5%
- (b) in respect of sales of *goods* or the provision of services in *East Timor* **[to be decided later]**%

Part B: Exemptions

(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 5% of the *customs value* of the *goods*.

### Part B: Exemptions

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

- (a) humanitarian relief *goods* financed by international grants for the immediate relief of human pain and suffering, including food, medicine, clothing and shelter, that are sent without any consideration being received by the sender;
- (b) 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, 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;
- (c) imports of the type exempted under the Vienna Conventions on Diplomatic Relations of 1961 and Consular Relations of 1963 and imports exempted under the Convention on the Privileges and Immunities of the United Nations;
- (d) *goods* re-imported in the same condition in which they were exported;
- (e) *goods* imported by the United Nations, including the specialized agencies of the United Nations, other international organizations, not-for-profit organizations, or foreign governments, including agencies of foreign governments, to be used or distributed for the public benefit through any of the following objectives:
  - (i) humanitarian assistance and relief;
  - (ii) charity;
  - (iii) education;
  - (iv) health;
  - (v) social welfare;
  - (vi) economic reconstruction and development;

- (vii) assistance and protection of East Timorese displaced or otherwise affected by conflict;
  - (viii) environmental protection;
  - (ix) the protection and promotion of human rights;
  - (x) the preservation of traditional culture;
  - (xi) the promotion of indigenous processes of reconciliation;
  - (xii) the maintenance or promotion of peace and security;
  - (xiii) the promotion of good governance; or
  - (xiv) any other objective that is determined by UNTAET to be one that serves the public benefit;
- but excluding *goods* imported for sale or private benefit, tobacco and alcohol products and the personal effects of *employees*;
- (f) *goods* necessary to deliver any of the objectives described in paragraph (e) including necessary equipment and infrastructure;
  - (g) *goods* for temporary admission;
  - (h) 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; and
  - (i) tampons and sanitary napkins.

Part C: Date of Effect

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

**Section 5**  
**Wages Tax**

Part A: Tax Rates

The rates of wage income tax imposed on *wages* for the purposes of Section 28 for each day or part day of employment are as follows:

- (a) if the *employee* has provided the *employer* with the *employee's* tax identification number:

WAGES	RATE
\$0 - <b>[\$to be decided later]</b>	0%
<b>[\$to be decided later]-[\$to be decided later]</b>	<b>[to be decided later]</b>
<b>[\$to be decided later]-[\$to be decided later]</b>	<b>[to be decided later]</b>
“ “ “ “ “ “	“
(continued for as many rates as are desired)	
“ “ “ “ “ “	“ ]

wages in excess of \$[to be decided later] [to be decided later]  
%;

(b) in all other cases [to be decided later, the same as the highest rate in  
(a)] %.

Part B: Exemptions

(a) [To be decided later]

(b) [To be decided later]

Part C: Date of Effect

Wages tax has not come into effect. It applies to wages received on or after [to be  
decided later].

## Section 6 Income Tax

Part A: Tax Rates

For the purposes of the application of the *Law on Income Tax*, the rates of income tax imposed on taxable income in a *tax year* are as follows:

(a) for residents, and non-residents who have a permanent establishment in *East Timor*:

TAXABLE INCOME	RATE
\$0 – [\$US equiv of 25 mill Rupiah]	10%
[\$US equiv of 25 mill to 50 mill Rupiah]	15%
taxable income in excess of [\$US equiv of 50 mill]	30%

(b) for all other non-residents: 20%

The rate of tax imposed on coffee exports under Section 36.1 is 5%.

Part B: Exemptions

Those exemptions specified in Article 4(3) of the *Law on Income Tax* including the paragraphs added by Section 39 which provides for all income in the period from 25 October to 31 December 1999 to be exempt and for a taxable income exemption of up to \$20,000 for the 2000 *tax year*.

The *Law on Income Tax* also provides for limited personal allowances for resident individuals which in effect provide an exemption from tax in respect of the first part of an individual's taxable income.

#### 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.