



DEMOCRATIC REPUBLIC OF TIMOR LESTE

MINISTRY OF FINANCE

NATIONAL DIRECTORATE of DOMESTIC REVENUE

Withholding Tax
A guide for landlords and tenants

Guide

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(English)
Withholding
tax from rent
on land and
buildings

If you are a landlord or tenant, then you may have a tax obligation.

1. What is the withholding tax on rental payments for land and/or buildings?

It is a tax that is withheld from rental or lease payments for the rent or lease of land and/or buildings. The withholding is done by either the tenant or the landlord. Where the rent or lease payment is made to a resident or to a Timor Leste permanent establishment of a non-resident the status of the tenant determines who is responsible for withholding the tax (see points 6 & 7). Where the rent or lease payment is made to a non-resident who does not have a permanent establishment in Timor Leste the tenant is always responsible for the withholding.

2. Is there any more income tax payable on income from rent or lease of land and/or buildings apart from this withholding tax?

Where the recipient of the rent is a **natural person** (i.e. an individual or individual enterprise) and is also:

- a resident; or
- a Timor Leste permanent establishment of a non-resident,

there is no further income tax payable on income from the rent or lease of land and/or buildings apart from this final withholding tax.

From 1 July 2002, where the recipient of the rent is a **legal person** (i.e. a non-individual enterprise such as a partnership, company, unincorporated association, etc.); the amount of rent received must be declared in their gross income in their annual income tax form. A credit will be allowed for amounts of withholding tax previously withheld.

Where the recipient of the rent (whether a natural person or a legal person) is a non-resident who does not have a Permanent Establishment in Timor Leste, there is no further income tax payable on income from rent from land and buildings apart from withholding tax which is a final tax.

3. What rent or lease payments for land and/or buildings are covered by this withholding tax?

Rent or lease payments for land and/or buildings includes payments made for the rental or lease of land, houses, multi-story houses, apartments, condominiums, office buildings, office-cum-living space, shops, shops-cum-houses, warehouses and industrial space. The renting or leasing of any of these properties will give rise to a withholding tax obligation where rent is paid to a 'resident' as defined in the Taxes and Duties Act 2008 or to a 'non-resident'.

4. When did this tax start?

The withholding tax on rent or lease payments for land and buildings became effective on 1 January 2001.

5. How much is the withholding tax on rent or lease payments for land and/or buildings?

The amount of the withholding tax on rent or lease payments for land and/or buildings is 10% of the total rent or lease payment in all cases.

6. Who has to withhold tax from the payment for rent from land and buildings?

If the tenant is a **legal person** (i.e. a non-individual enterprise such as a partnership, company, unincorporated association, non-government organization etc.) then the tenant is required to withhold tax at the time of making the payment.

If the tenant is a **natural person** (i.e. an individual or individual enterprise) then the landlord has to self withhold tax from the payment when received. However, if the rent or lease payment is to a non-resident who does not have a permanent establishment in Timor Leste, **then the tenant in all cases** is required to withhold tax from the payment.

If you have any questions on who should withhold tax please refer to point 14 below, i.e. "Where can I get further information?"

7. Who has to withhold tax and how much tax is to be withheld?

Consider the following examples:

- (a) Joao, a resident of Timor Leste, leases a building to Timor Investments for \$1,500 per month. Timor Investments is a branch (permanent establishment) of an Australian company, Territory Investments Pty Ltd. As Territory Investments Pty Ltd is a non-individual enterprise they are required to withhold 10% of the gross lease payment each month and to remit this amount to the NDDR by the 15th day of the following month.

As Joao is an individual, the amount withheld is a final withholding and the lease payment is not declared in his tax form.

- (b) Augusto and Benvinda, are a partnership that is a resident of Timor Leste. The partnership rents a house to Bernardo for \$500 per month. As the tenant

is an individual, Augusto and Benvinda (i.e. the partnership) must self withhold the 10% withholding tax at the time they receive the rent payment each month and remit the tax to the NDDR by the 15th day of the following month.

From 1st July 2002 for Augusto and Benvinda (i.e. the partnership is a legal person), the total rent must be declared in the income tax return and a credit may be claimed for the amount withheld.

- (c) Amelia, is a resident of Singapore and a non-resident of Timor Leste, though she is Timorese. She owns a house that she rents to Andrew for \$800 per month. Even though Andrew is an individual, he must withhold 10% from the rent payment (as Amelia is a non-resident landlord without a permanent establishment in Timor Leste) and remit this amount to the NDDR by the 15th day of the following month.

NDDR Public Ruling 2001/11 covers the issue of ‘who is a resident of Timor Leste for tax purposes’.

8. What is required of the party withholding the tax?

The party who withholds tax from the payment for rent from land and buildings is required to do the following:

- (a) withhold tax at the rate of 10% from the payment; and
- (b) deliver three (3) copies *Monthly Taxes Form* and payment of the amount withheld to the Banco Nacional Ultramarino in Dili by the 15th of the month after the calendar month in which tax was withheld.

Additionally, if the tenant is required to withhold tax, then the tenant is required to:

- (c) provide a withholding tax notice to the landlord (in the format provided in attachment 1 to this document) at the time of withholding.

9. When is the tax to be remitted?

The tax is to be remitted to the NDDR by the 15th (or next business day if the 15th is not a business day) of the month following the month in which the tax was withheld.

10. How do you pay the withholding tax?

The party who withholds the withholding tax is required to complete three (3) copies of the *Monthly Taxes Form* and to deliver these forms and withholding tax payment to a branch of the Banco Nacional Ultramarino.

The BNU will stamp the forms and return one (1) copy to you for your records.

Payments may be made electronically and you may obtain advice on this method through the contact details below.

11. How do I get monthly taxes forms?

Consolidated Monthly Taxes Forms may be obtained from any NDDR District Offices. The forms are also available at Banco Nacional Ultramarino.

The NDDR Dili District Office is located in Av. Pres. Nicolao Lobato - Receitas e Alfândegas Edefício, (em frente ao edifício Ensul) - Dili. Enquiries can also be made by telephoning + (670) 331 0059.

If you are outside Dili you can obtain monthly taxes forms from the:

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

12. What happens if the party who is required to withhold and remit this tax does not do so?

If the party who is required to withhold tax does not do so, they are still liable to pay the tax that they failed to withhold. They may also be prosecuted in court.

If a party has withheld tax but does not pay it to the NDDR, then they may be required to pay additional tax and penalties. The additional tax and penalties can be very high depending on the reason for not paying the tax.

In addition, where a person is required to withhold tax from a rent or lease payment that is an income tax deductible expense, the deduction will not be allowed until the person pays the tax withheld, or required to be withheld, to the NDDR.

13. What record should be kept by the party who withholds the tax?

The tax laws require that the party who is liable to withhold tax must create and keep adequate records to prove that they have withheld and paid the correct amount of tax. These records need to be kept for 5 years after the tax year in which the tax was withheld and remitted to NDDR.

14. Where can I get more information?

More information may be obtained from the NDDR Dili District Office that is located in Av. Pres. Nicolao Lobato - Receitas e Alfândegas Edefício, (em frente ao edifício Ensul) - Dili. Enquiries can also be made by telephoning + (670) 331 0059.

If you are outside Dili you can obtain more information from the:

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

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

**WITHHOLDING TAX NOTICE FOR INCOME FROM
RENT OF LAND AND BUILDINGS**

This Withholding Tax Notice is only to be completed if the payer withholds tax.

First copy: for the landlord
Second copy: for the tenant

Withholding tax has been withheld from payment for rent of land and buildings made to the following:

Name of Landlord:

Tax Identification Number:
.....

Address:
.....

.....

...

TOTAL GROSS PAYMENT	TAX RATE	TAX WITHHELD
\$.....	10%	\$.....

Date:

Name of Tenant:

Tax Identification Number:

Address:

.....

Tenant's Signature:

Date: