



DEMOCRATIC REPUBLIC OF TIMOR LESTE

MINISTRY OF FINANCE

NATIONAL DIRECTORATE of DOMESTIC REVENUE

Withholding Tax

A guide for payers and recipients of certain prescribed income payments.

Guide

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(English)
Withholding
Tax

1. What is Withholding Tax

In Timor Leste certain income payments and income relating to certain activities or services is taxed at the time the income is paid or received. When a payment is made or received a certain amount is withheld from the income payment and remitted to the National Directorate of Domestic Revenue (NDDR). In some instances the payer of the income payment is required to withhold the Withholding Tax at the time of making the payment. However, in other instances the recipient is required to “self-withhold” the Withholding Tax at the time the payment is received.

2. What Income Payments are subject to Withholding Tax?

The type of income payments and income from services that are subject to withholding tax and the rate at which it is withheld are listed in the table below. There then follows a brief comment on each of the types of income payments.

TYPE OF INCOME	RATE
royalties	10 %
rent from land and buildings	10 %
income from prizes and lotteries	10 %
income from construction and building activities	2 %
income from construction consulting services including project management, engineering design and site supervision services	4 %
income from the provision of air or sea transportation services	2.64 %
income from mining and mining support services	4.5 %
income paid to non-residents without a permanent establishment in Timor Leste	10%

From the 1st July 2008 interest and dividends are no longer subject to withholding tax.

Royalties

Where a **legal person** (i.e. companies, partnerships, non-incorporated associations, etc.) pays royalties to a resident person or a Timor Leste permanent establishment of a non-resident person they are required to withhold tax from the gross amount of the royalties paid at the rate of 10%.

Where the person paying royalties is a **natural person** (i.e. an individual or an individual business enterprise), the **recipient** of the payment is required to withhold tax from the gross payment received at the rate of 10%.

Rent from land and buildings

Legal persons (i.e. companies, partnerships, non-incorporated associations, etc.) making a payment to a resident person or a Timor Leste permanent establishment of a non-resident person for the rent or lease of land and/or buildings are required to withhold tax from the gross amount of the rent or lease paid at the rate of 10%.

Where the person paying rent for the lease of land and/or buildings is a **natural person** (i.e. an individual or an individual business enterprise) or where the payer is the United Nations or one of its specialized agencies, the **recipient** of the payment is required to withhold tax from the gross payment received at the rate of 10%.

Income from prizes and lotteries

Every person paying a prize (including a gambling winning or lottery winning) to a resident or a Timor Leste permanent establishment of a non-resident shall withhold tax from the gross amount of the payment at the rate of 10%.

Income from construction and building activities

“Construction or building activities” means the construction, extension, alteration, improvement, or demolition of a building or other structure with a foundation on, above, or below land or water, including the clearing of land in preparation for the construction of a building or other structure, and the activity of dredging.

Legal persons (i.e. companies, partnerships, non-incorporated associations, etc.) making a payment to a resident person or a Timor Leste permanent establishment of a non-resident person in respect of construction or building activities are required to withhold tax from the gross payment at the rate of 2%

Where the person making a payment in respect of construction or building activities is a **natural person** (i.e. individual or an individual business enterprise) or where the payer is the United Nations or one of its specialized agencies, the **recipient** of the payment is required to withhold tax from the gross payment received at the rate of 2%.

Income from construction consulting services including project management,

engineering design and site supervision services

Construction consulting services means any consulting services relating to construction or building activities, including project management, engineering, design, architectural, surveying, and site supervision services;

Legal persons (i.e. companies, partnerships, non-incorporated associations, etc.) making a payment to a resident person or a Timor Leste permanent establishment of a non-resident person in respect of construction consulting services are required to withhold tax from the gross payment at the rate of 4%

Where the person making a payment in respect of construction consulting services is a **natural person** (i.e. an individual or an individual business enterprise) or where the payer is the United Nations or one of its specialized agencies, the **recipient** of the payment is required to withhold tax from the gross payment received at the rate of 4%.

Income from the provision of air or sea transportation services

Air and sea transportation services means any transportation of passengers or goods by sea or air:

- (a) between two places in Timor Leste;
- (b) from a place in Timor Leste to a place outside Timor Leste; or
- (c) from a place outside Timor Leste to a place in Timor Leste.

All providers of air and sea transportation services are required to self withhold at the rate of 2.64%. Accordingly, there is no requirement for persons making a payment to such providers (or their agents) for these services to withhold tax.

Income from mining and mining support services

Mining means every method or process by which any mineral is taken from the soil or from any substance or constituent of the soil and mining support services means every service relating to mining other than technical, management, consulting or architectural services.

Legal persons (i.e. companies, partnerships, non-incorporated associations, etc.) making a payment to a resident person or a Timor Leste permanent establishment of a non-resident person in respect mining and mining support services are required to withhold tax from the gross payment at the rate of 4.5%.

Where the person making a payment in respect of mining and mining support services is a **natural person** (i.e. an individual or an individual business enterprise) or where the payer is the United Nations or one of its specialized agencies, the **recipient** of the payment is required to withhold tax from the gross payment received at the rate of 4.5%.

Income paid to non-residents without a permanent establishment in Timor Leste

Every person making a payment of *Timor Leste-sourced income* to a *non-resident without a permanent establishment in Timor Leste* shall withhold tax from the gross amount of the payment at the rate of 10%.

3. When does Withholding Tax Have to be Paid

Every *person* who has an obligation to withhold tax from a payment is required to withhold that tax and to remit the tax withheld to the National Directorate of Domestic Revenue or its nominated agent within fifteen days after the end of the month in which the payment was made or received.

Any *person* who fails to withhold tax in accordance with the Withholding Tax provisions is personally liable to pay the amount of tax that has not been withheld to the National Directorate of Domestic Revenue or its nominated agent. Such *person* is entitled to recover this amount from the recipient of the payment.

Note: Section 59.7 of the Taxes and Duties Act 2008 provides that the Commissioner may make an assessment of any additional income tax owed by a person where that person receives amounts that have not been correctly subject to withholding tax.

4. Are Payments that have been subject to Withholding Tax subject to more Tax?

For **legal persons** (i.e. companies, partnerships, non-incorporated associations, etc.), the following rules apply:

The withholding tax withheld from **Rent** and **Royalties** received by legal persons is **not a “final”** tax and the total payment(s) have to be included in the gross income for Income Tax purposes. That is, the gross amount of these two types of income receipts is required to be included in gross income in the enterprises Annual Income Tax Form for the purposes of calculating taxable income and income tax payable. However, the enterprise will also be entitled to a “tax credit” for the withholding tax that has already been withheld from these two types of income payments received.

For all the other types of payments listed above, if they have been correctly subject to withholding tax it is a **“final”** tax and there are no further tax obligations in respect of that income. **Note**, however, that any expenses incurred in deriving this income are not an allowable expenditure deduction for calculating taxable income in the annual income tax form.

For **natural persons**, (i.e. individuals and individual business enterprises), where the withholding tax has been correctly withheld from all of the above described payments the withholding tax is a **“final”** tax and no further income tax liability is imposed upon the recipient in respect of the income to which the tax relates.

However, the Taxes and Duties Act 2008 provides that those service providers:

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

may elect, in writing to the National Director of Domestic Revenue, that the withholding tax **“not be final”**. Where such a service provider makes an election they will then be subject to the normal income tax regime. They will be required to lodge an annual income tax form declaring all their income and allowable deductions and calculate income tax payable. The withholding tax withheld from income will be allowed as a tax credit.

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

5. How is Withholding Tax Paid

Every person who has withheld tax is required to complete three (3) copies of the *Consolidated Monthly Taxes Form* and to deliver these forms and the withholding tax required to be paid (plus any other tax payment they have to pay) to a branch of the Banco Nacional Ultramarino (BNU).

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

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

6. How do I get consolidated monthly taxes forms?

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

The NDDR Dili District Office is located in Av. Pres. Nicolao Lobato - Receitas e Alfândegas Edeficio, (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.

7. What Records Should Be Kept?

The tax law requires that adequate records of account (such as income and expenditure journals and ledgers) be created and maintained and also supporting documents (such as receipts, invoices and books) be kept to accurately determine a person's liability to pay tax. These records are required to be kept for 5 years after the end of the tax year in which the tax liability to which they relate arose.

8. More information?

More information may be obtained from the NDDR Dili District office that is located in Av. Pres. Nicolao Lobato - Receitas e Alfândegas Edeficio, (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