



DEMOCRATIC REPUBLIC OF TIMOR
LESTE

MINISTRY OF FINANCE

NATIONAL DIRECTORATE of DOMESTIC TAX

Withholding Tax

A guide for providers and recipients of construction activities and consulting services

Guide

G 03
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(English)
Construction
activities and
services

**If you are a construction service provider or service recipient,
then you may have a tax obligation.**

1. What is the withholding tax on construction activities and consulting services?

It is a tax that is withheld from income payments for building and construction activities and consulting services. The person required to withhold may be the service recipient in some cases and in other cases it will be the service provider. The status of the service recipient determines who is responsible for withholding the tax. Who is required to withhold the tax is discussed in more detail at point 5 below. The service recipient is the party who pays and the service provider is the party who receives payment for the building and construction activities or consulting services.

2. Is there any more income tax which is payable on income from building and construction activities and consulting services apart from this withholding tax?

Where income from building and construction activities or consulting services has been correctly subject to withholding tax it is a “**final**” tax and there is no further income tax payable on that income.

However, the Taxes and Duties Act 2008 provides that a service provider **may elect**, in writing to the National Tax Director, that the withholding tax “**not be final**”. Where a service provider makes such an election they will then be subject to the normal income tax regime. They will be required to lodge an annual income tax return declaring all their income and allowable deductions and calculate income tax payable. The withholding tax withheld from income received will be allowed as a tax credit.

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

3. What construction activities and services are covered by this withholding tax?

Income from the following activities or services is subject to this withholding tax:

(a) *construction and building activities*, which 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; and

- (b) *construction consulting services*, which means any consulting services relating to the construction and building activities, including project management, engineering, design, architectural, surveying, and site supervision services.

NDDT Public Ruling 2001/6 discusses the difference in more depth.

4. How much is the withholding tax on building and construction activities and consulting services?

The amount of the withholding tax on construction activities and services is as follows:

- (a) 2% of the gross payment for services in the form of building and construction activities;
- (b) 4% of the gross payment for construction consulting services.

The definition of construction and building activities, and construction consulting services are given in point 3 above and further discussed in NDDT Public Ruling 2001/6.

5. When did this tax start?

The withholding tax on building and construction activities and consulting services commenced from 1 January 2001. It applies to gross payments for building and construction activities and consulting services made from this date.

6. Who is required to withhold tax from the payment for building and construction activities and consulting services?

If the service recipient is a legal person (i.e. a non-individual enterprise such as a company, partnership, joint venture, etc.) then the service recipient is required to withhold tax when making the payment for the service received.

However, if the service recipient is natural person (i.e. an individual or an individual business enterprise) then the service provider is required to self withhold when they receive payment for the services provided. That is, individuals and individual business enterprises are not required to withhold when making payment for these services.

If you have any questions on who should withhold tax from the payment, please contact the NDDT for assistance.

7. Is there a minimum amount of payment before tax is required to be withheld?

No. The total of all income payments received for the provision of building and construction

activities and consulting services that are covered by this provision are subject to withholding tax regardless of the amount of the payment.

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

Consider the following examples:

- (a) Virgilio provides project management services to Malae Developers for \$5,000. Malae Developers is a permanent establishment of a company incorporated in Australia.

In this case, Virgilio is a service provider who is covered by the withholding tax provisions because project management services is a construction consulting service which is subject to withholding tax (see point 3). Malae Developers is the service recipient.

Since the service recipient, i.e. Malae Developers, is a non-individual enterprise they are required to withhold tax from the payment (see point 6). The tax rate is 4% for construction consulting services (see point 4). Therefore, Malae Developers must deduct tax of \$200 ($\$5,000 * 4\%$) from the payment to Virgilio and pay this tax to the NDDT by 15th day of the following month.

- (b) Foho Ki'it Constructions is building Marcelina's home for \$12,000. Marcelina is an individual.

Foho Ki'it Constructions is a service provider who is covered by the withholding tax provisions because the service they provide is in the form of building and construction activities (see point 3). Marcelina is the service recipient.

Since the service recipient is an individual, the service provider (Foho Ki'it Constructions) must self withhold tax from the payment when they receive it from Marcelina (see point 6). The tax rate is 2% for income from building and construction activities (point 4). Therefore, Foho Ki'it has to withhold tax of \$240 ($\$12,000 * 2\%$) from the payment that it receives from Marcelina and pay this tax by 15th day of the following month to the NDDT.

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

The party who withholds tax from the payment for construction activities and consulting services is required to do the following:

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

Additionally, if the service recipient is required to withhold tax, then the service recipient has to:

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

10. When is the tax to be remitted?

The tax is to be remitted 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. For example, in point 8 above if Marcelina paid the \$12,000 to Foho Ki'it during the month of January then Foho Ki'it must self withhold and remit the tax withheld when lodging the January Monthly Taxes form no later than 15th February.

11. How do you pay the withholding tax?

The party who withholds the tax is required to complete three (3) copies of the *Monthly Taxes Form* and to deliver these forms and payment amount withheld 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.

12. How do I get monthly taxes forms?

Consolidated Monthly Taxes Forms may be obtained from the NDDT Dili District Office. The forms are also available at the Banco Nacional Ultramarino.

The NDDT Dili District Office is located in Rua Pres. Nicolao Lobato, (opposite the Ensul Building), Dili. Enquiries can also be made by telephoning + (670) 331 0059.

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

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

13. 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 NDDT, then they can be made 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 payment that is an income tax deductible expense, the deduction will not allowed until the person pays the tax withheld, or

required to be withheld, to the Commissioner.

14. What records 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 paid to NDDT.

15. Where can I get more information?

More information may be obtained from the NDDT Dili District Office that is located in Rua Pres. Nicolao Lobato, (opposite the Ensul Building), Dili. Enquiries can also be made by telephoning + (670) 331 0059.

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

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- NDDT Maliana District Office located in Holsa Street, Maliana.

In addition, full copies of rulings, guides and other information may be down loaded from the Ministry of Finance Website at: www.mof.gov.tl/en/rc/DDT/Default.htm

**WITHHOLDING TAX NOTICE FOR INCOME FROM
CONSTRUCTION ACTIVITIES AND SERVICES**

This Withholding Tax Notice is only to be completed if the service recipient withholds tax

*First copy: for the service provider
Second copy: for the service recipient*

Withholding tax has been withheld from payment for construction activities and services made to the following:

Name of service provider:
Tax Identification Number:
Address:
.....

	TOTAL GROSS PAYMENT	TAX RATE	TAX WITHHELD
Building Activities	\$.....	2%	\$.....
Construction Services	\$.....	4%	\$.....

Date:

Name of service recipient:
Tax Identification Number:
Address:
.....

Service recipient's signature: