



DEMOCRATIC REPUBLIC OF EAST TIMOR
MINISTRY OF PLANNING AND FINANCE

Guide

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(English)
Construction
activities and
services

EAST TIMOR REVENUE SERVICE

**A GUIDE FOR CONSTRUCTION SERVICE PROVIDERS
AND SERVICE RECIPIENTS**

**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 services?

It is a tax that is withheld from payments for construction activities and services. The service recipient in most cases makes the withholding of tax from the payment although in some cases it is made by the service provider (see item 5). The service recipient is the party who pays and the service provider is the party who receives payment for the construction activities and services. The status of the service recipient determines who is responsible for withholding the tax.

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

There is no further income tax payable on income from construction activities and services apart from this final withholding tax provided the tax has been correctly withheld.

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.

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

4. When did this tax start?

This withholding tax on construction activities and services commenced from 1 January 2001. It applies to gross payments for construction activities and services made from this date, even if the activities or services were provided before the date.

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

If the service recipient is not an individual or a sole trader, then the service recipient has to withhold tax from the payment. However if the service recipient is an individual or a sole trader, then the service provider has to withhold tax from the payment. If you have any questions on who should withhold tax from the payment, please ring the numbers provided at the end of this document.

6. How much is the withholding tax on construction activities and 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 construction and building 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 item 3 and further discussed in ETRS/SRTL Public Ruling 2001/6.

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

No. As long as the payment is for construction activities and services that are covered by this provision, tax must be withheld 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 US\$2,000. Malae Developers is a permanent establishment of a company incorporated in Australia.

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

Since the service recipient is neither an individual nor a sole trader, they (Malae Developers) have to withhold tax from the payment (see item 5). The tax rate is 4% for construction consulting services (see item 6). Therefore Malae Developers must deduct tax of US\$80 (4% of US\$2,000) from its payment to Virgilio and pay this tax by 15th day of the following month.

- (b) Foho Ki'it Constructions is building Susan's home for US\$3,000. Susan is an individual.

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

Since the service recipient is an individual, the service provider (Foho Ki'it Constructions) must withhold tax from the payment (see item 5). The tax rate is 2% for income from building and construction activities (item 6). Therefore Foho Ki'it has to withhold tax of US\$60 (2% of US\$3,000) from the payment that it receives from Susan and pay this tax by 15th day of the following month.

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

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

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

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

11. How do you pay the withholding tax?

The party who makes the withholding is required to complete two copies of the *Monthly Taxes Form* and to deliver these forms to and pay the amount withheld at Banco Nacional Ultramarino in Dili.

If the party who withholds is outside of Dili, then the local ETPA District Finance Officer can accept the tax form and payment.

The amount must be paid in the official currency of East Timor, which is the US dollar.

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?

The ETRS, which is the tax administration agency of ETPA, provides pre-printed monthly taxes forms to registered businesses. The forms are also available at Banco Nacional Ultramarino or the ETRS Office.

The ETRS Dili District office is located in the Justice Building on the corner of Don Fernando and Jacinto de Candido Streets, immediately south of the former LGR building and west of the Lyceum.

You can also obtain monthly taxes forms from the local ETPA District Finance Officers outside of Dili.

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 liable to pay the tax that they failed to withhold. They can also be prosecuted in court.

If a party has withheld tax but does not pay it to the ETRS, 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 is not allowed until the person pays the tax withheld to the Commissioner.

14. What should I do if I made payments after 1 January 2001 and was ignorant of the withholding requirement at the time?

It is acknowledged that some taxpayers may not have been aware of the information required to correctly withhold amounts of tax. Nevertheless tax is still payable in relation to this income. In such cases the parties are to commence the withholding of tax from payments made on or after 1 January 2002. The service provider will be required to pay any amounts that were not withheld during the 2001 year and to provide details of those amounts when lodging their 2001 annual income tax return.

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

The tax law says that the party who is liable to withhold tax must 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 calendar year in which the tax was withheld and paid to ETRS.

16. Where can I get more information?

The ETRS Dili District office is located in the Justice Building on the corner of Don Fernando and Jacinto de Candido Streets, immediately south of the former LGR building and west of the Lyceum. Enquiries can also be made by telephoning +(670)(390) 32 22 91, by facsimile on +(670)(390) 32 22 96 or by e-mail to etrs-dili@un.org.

In addition, full copies of rulings, guides and other information may be down loaded from the ETRS Website at <http://www.gov.east-timor.org/fbea/>.

**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
US\$.....	2%/4%*	US\$.....

* delete rate that is not applicable

Date:

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

Service recipient's signature: