Corporate taxation in in Timor-Leste

Overview:

Foreign exchange control – No

Accounting principles/financial statements – International Financial Reporting Standards (IFRS) must be used for recording and measurement of net profit after tax (NPAT). However, there is no legal requirement to prepare and compile financial statements using IFRS, unless the statements must be filed with the Timor-Leste Ministry of Finance (MOF).

The Taxes and Duties Act 2008 outlines the taxes for non-petroleum operations in the country: Income Tax, Services Tax, Petroleum Tax, Import Duty and Sales Tax, and ExciseTax.

Corporate tax:

Residence – A legal person is considered resident in Timor-Leste where it is incorporated, formed, organized, or established in Timor-Leste.

Basis – Timor-Leste resident companies are taxed on worldwide income. Nonresident entities generally are taxable only on Timor-Leste-source income.

Taxable income – Taxable income generally corresponds to accounting income. The major exceptions relate to the income tax treatment of:

- Depreciable assets
- Intangibles
- Inventory
- Interest expense
- Provisions and reserves
- Payments in respect of which withholding tax was not properly withheld
- Dividends
- Donations and gifts
- Fines and penalties
- Expenses charged or incurred for the personal benefit of shareholders, partners or members
- Excessive payments/compensation payments between associates, as consideration for work performed
- Expenditure/losses to the extent recoverable under a policy of insurance or contract of indemnity
- Assets (including cash) received by a legal person in exchange for shares or capital contributions
- Income derived by an approved pension fund.

In addition, certain income items that are subject to final withholding tax are excluded from taxable income. Petroleum operations are subject to different tax rules under one of four distinct petroleum tax regimes.

Taxation of dividends – Dividends from Timor-Leste companies are exempt income for Timor-Leste residents and are not tax-deductible for the payer.

Capital gains – Gains arising from the alienation of assets are subject to the 10% corporate income tax rate. No distinction is made between revenue gains or capital gains.

Losses – Tax losses may be carried forward indefinitely to offset against future assessable income provided that a "continuity of ownership" (more than 50%) or a "same business test" is satisfied. The carry back of tax losses is not permitted.

Rate – The corporate income tax rate is 10% (excluding amounts that have been subject to final withholding tax).

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Timor-Leste resident companies are entitled to a credit for any foreign income tax paid to the extent of the Timor-Leste income tax otherwise payable on the income.

Participation exemption – No

Holding company regime – No

Withholding tax:

Withholding tax is imposed on the following payments by residents to a resident:

Type of payment	Tax rate (%)
Dividends (Timor-Leste sources dividends paid to residents / non-residents)	0 / 10
Interest	0
Royalties (paid to both residents and non-residents)	10
Rent (land and building)	10
Prize and winnings	10
Construction/building activities	2
Construction consulting services	4
Air and sea transportation	2.64

Type of payment	Tax rate (%)
Mining and mining support services	4.5

All other payments to non-residents with no permanent establishment in Timor-Leste are subject to a 10% withholding tax where the payment is not for services identified above. Where withholding tax is applied as a final tax, the taxed income is not included in the recipients' taxable income for income tax purposes. Accordingly, expenses incurred in deriving income that is subject to final tax are not deductible for income tax purposes.

A withholding tax certificate must be issued to the recipient by the last business day in February following the tax year-end detailing the tax withheld from payments during the year.

Other taxes on corporations:

Capital duty – No
Payroll tax – No
Real property tax – No

Social security – Employers are required to pay a monthly contribution towards an employee's social security at a rate of 6% of the "contributory incidence basis." The employer must submit a monthly social security declaration for each individual employee together with a summary declaration for all employees by the 10th day of the following month.

Stamp duty – No
Transfer tax – No

Other – Sales tax at a rate of 2.5% is imposed on the value of taxable goods imported into Timor-Leste.

Services tax at 5% applies where monthly turnover from certain designated hotel services, restaurant and bar services, and telecommunication services exceeds USD 500.

Import duty applies at 2.5% on the custom value of goods imported into Timor-Leste, subject to certain exemptions.

Excise tax applies at varying rates to goods manufactured in Timor-Leste and to imported goods.

Anti-avoidance rules:

Transfer pricing – No
Thin capitalization – No
Controlled foreign companies – No
Disclosure requirements – No

Compliance for corporations:

Tax year – The tax year is the calendar year; however, a taxpayer may apply to use an alternative tax year.

Consolidated returns – Companies are assessed to income tax on a stand-alone entity basis and there are no provisions to aggregate income or offset losses of associated companies.

Filing requirements – Taxpayers are required to file an annual income tax return and pay any income tax due by the last day of the third month after the end of the tax year.

Taxpayers with annual turnover of at least USD 1 million must make monthly instalment payments of income tax of 0.5% of the total monthly turnover. The instalments are payable by the 15th day after the end of the month to which they relate. Taxpayers with annual turnover of less than USD 1 million are required to make quarterly payments of tax.

Any withholding tax or wage income tax withheld, and service tax payable must be remitted on a monthly basis by the 15th of the following month and the relevant monthly remittance forms must be submitted to the Directorate General of Revenue and Customs (DGRC) by the same date.

Penalties – Penalties and interest apply for late filing, failure to file, underpayment of tax, failure to exercise due care and tax evasion.

Rulings – A public ruling issued by the DGRC on his interpretation of the legislation is binding on the Commissioner/Directorate General and the DGRC. The Commissioner may issue a private ruling to a particular taxpayer that is binding on the Commissioner/Directorate and the DGRC.

Value added tax:

There is no VAT or similar tax in Timor-Leste.

Source of tax law: Taxes and Duties Act, Decree Law No. 8 of 2008.

Tax treaties: Timor-Leste has signed an income tax treaty with Portugal and the Timor Sea treaty with Australia.

Tax authorities: Ministry of Finance, DGRC (www.mof.gov.tl/taxation)

Please contact TradeInvest for further information and we can help you work through corporate taxation processes in Timor-Leste.

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