

prescribed systems of accounting including uniform formats for financial reports, specified codes of accounts and guidelines for bookkeeping entries.

### Phase III

The third phase of the current Macao Taxation System started on 20 December 1999 after the handover of Macao to China.

Under the *Basic Law*, which is the constitutional document for the Macao SAR, Macao was given a high degree of autonomy and now enjoys executive, legislative and independent judicial powers, including that of final adjudication. The Legislative Council of the SAR is the legislature of the SAR. The Chief Executive signs bills passed by the Legislative Assembly as well as sets government policies and issues Executive Orders which cover all taxation areas.

In recent years, with the objective of stimulating the economy and promoting investment, some categories of tax, such as inheritance and gift taxes, were abolished. Other taxes were reduced, for example, the complementary tax rate from 15% to 12%, the professional tax rate from 15% to 12% with an additional allowance of 25%, and stamp duty on property transfers to 3%. Also, temporary exemptions on industrial tax were given to all enterprises and more incentives were given to foreign investors to set up Macao offshore companies. With respect to incentives given to foreign investors, full exemption on major taxes was granted to such companies provided they carried out their approved business activities under the Macao offshore company laws.

## ¶3-200 Tax law in Macao

The *Basic Law* is the constitutional document for the Macao SAR whereby the previous capitalist system and way of life will be maintained for 50 years. Under the *Basic Law*, the laws, decrees, administrative regulations and other acts previously in force in Macao are maintained, except for those that conflict with the *Basic Law* or are amended by legislature or other relevant government authorities in accordance with legal procedures.

The following Articles from the *Basic Law* are highlighted as relating to taxation areas:

- Article 71 The Legislative Council of the Macao SAR shall exercise the powers and functions to enact, amend, suspend or repeal laws in accordance with the provisions of the *Basic Law* and legal procedures, and to decide on taxation according to government motions.
- Article 86 An administrative court shall be established in the Macao SAR which shall have jurisdiction over administrative and tax cases. If a party refuses to accept a judgment by the administrative court, he/she shall have the right to file an appeal with an intermediate court.
- Article 104 The Macao SAR shall have independent finances. All the financial revenues of the Region shall be managed and controlled by the Region itself and shall not be handed over to the Central People's Government. The Central People's Government shall not levy taxes in the Macao SAR.
- Article 106 The Macao SAR shall practise an independent taxation system. The Region shall, taking the low tax policy previously pursued in Macao as reference, enact laws on its own concerning types of taxes, tax rates, tax reductions, allowances and expenditures, and other matters of taxation. The taxation system for franchised businesses shall be otherwise prescribed by law.
- Article 110 The Macao SAR shall maintain the status of a free port and shall not impose any tariffs unless otherwise prescribed by law.

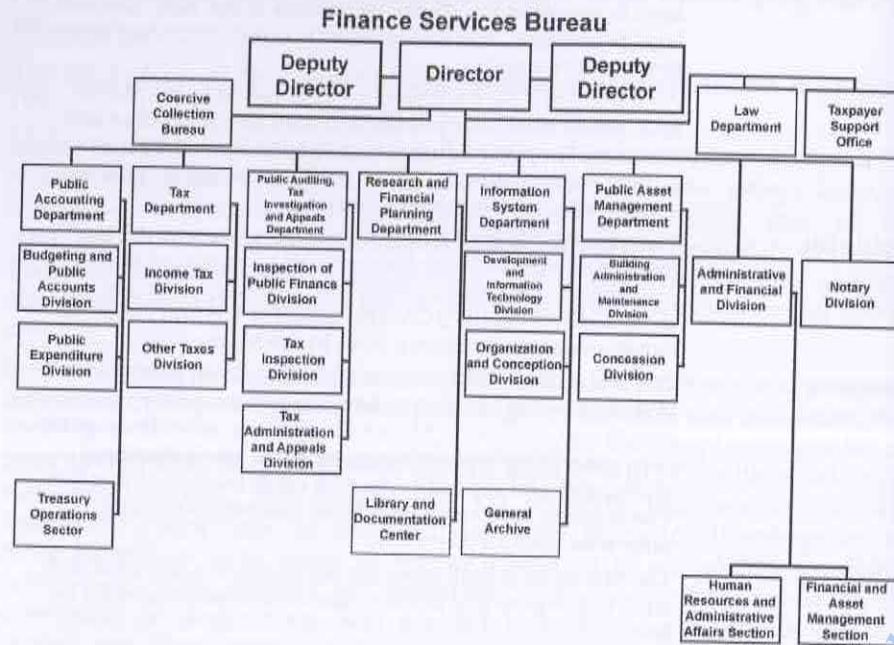
## ¶3-250 Tax policy and administration

The Finance Services Bureau of Macao, under the Secretariat for Economy and Finance which acts as the Ministry of Finance of the SAR, is also the tax authority for the Region. The Bureau manages the tax administration including collection, implementation of tax policies and inspection activities, and assists in the negotiation of international treaties concerning tax affairs.

In practice, the Finance Services Bureau handles all taxation related activities imposed by legislation, including registration procedures. Under the Bureau, there are several departments and divisions, each responsible for certain tax matters or operational duties. Taxpayers who disagree with assessments of tax may initially appeal to the Finance Services Bureau.

The following is the organisational chart of the Finance Services Bureau.

Table 3.1 Organisational chart of the Finance Services Bureau



### The Administrative Court

According to the Macao SAR Judicial Organisation Framework Law, the Administrative Court has the following powers concerning taxation and customs disputes:

- Hearing disputes concerning taxation or customs
- Hearing types of legal actions relating to taxation, including appeals against administrative actions related to actual and potential taxation
- Hearing appeals against actions committed by the taxation and administrative authorities during the implementation of taxation procedures
- Handling petitions during taxation related disputes for confirmation of rights or for access to information or proof, and
- Hearing any other appeals, lawsuits and other procedural matters related to administrative, taxation or customs disputes that are within the jurisdiction of the Administrative Court or beyond that of the higher courts.

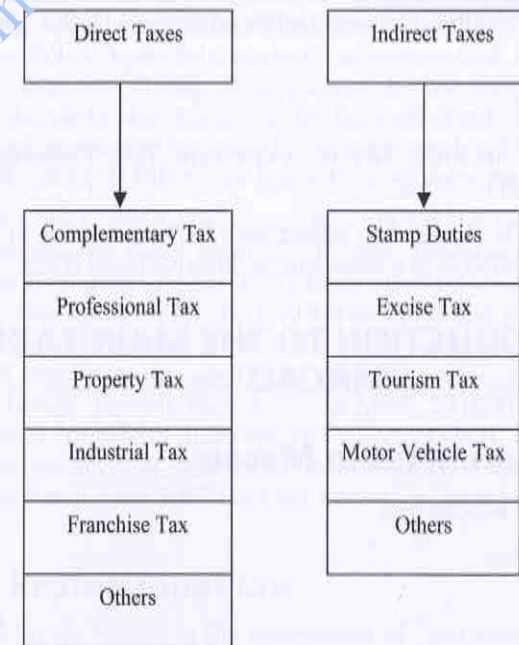
Taxpayers who are not satisfied with decisions on their appeals to the Finance Services Bureau may further appeal to the Administrative Court.

## ¶3-300 Macao tax regime

Macao's tax system originated from that of Portugal and has been reformed over the years to cope with the changing business environment in the region. Low tax rates and a simple tax structure are the general characteristics of the Macao taxation system in comparison with those of many other jurisdictions. After the handover to China, Macao has maintained its original tax system and framework and only made a few amendments thereto.

The main taxes in Macao are shown in Table 3.2.

Table 3.2 Main taxes in Macao



According to the Macao Government, taxes are classified into two main categories, namely, direct taxes and indirect taxes. Direct taxes are levied on taxpayers' income and assets, and mainly include complementary tax, professional tax, property tax, industrial tax and franchise tax. Indirect taxes are levied on consumption of goods and services and generally include motor vehicle tax, excise tax, tourism tax as well as stamp duties. All these primary taxes are monitored by the Finance Services Bureau, except for excise tax which is regulated and collected by the Economic Services Bureau.

the end of February each year, employers are also obliged to lodge the professional tax returns with the tax authorities in respect of the preceding year for all of their employees.

Group 2 taxpayers are primarily self-employed professionals. Those with appropriate accounting books and records are required to submit their personal tax returns not later than 15 April each year. Taxpayers without appropriate accounting books and records are required to submit their personal tax returns annually by the end of February each year for tax estimation by the authorities.

Up until 2007, professional tax liability was calculated at progressive rates from 7% to a maximum of 12% on annual income over MOP 95,000, after an allowance of 25% on gross income. Since then, temporary changes have been announced annually. In 2012, the annual personal tax allowance was temporarily increased to MOP 144,000. An extra temporary tax incentive of 25% and 30% on tax payable for all taxpayers is also applicable for the tax years 2012 and 2013 respectively.

### ¶3-430 Property tax

Property tax is levied on revenues from urban properties through leasing or self-accommodation. Taxpayers may be the registered owners or tenants physically occupying the properties. Taxes are generally levied on two categories. The first category refers to leased properties from which the owner receives rental income and the tax rate is 10%. The second category covers those properties not rented to a third party, ie where the owner occupies the property for self usage. The tax rate for this category is 6% on the deemed rental value of the property.

A deduction of 10%, to cover certain costs, is allowable to the owner who uses his/her property for self accommodation. For the owner who leases his/her property to earn rental income, the 10% deduction is allowable provided a property tax return is filed at the beginning of the year to the Finance Services Bureau. Claims for deductions should be made in January each year listing the details of expenses incurred. The government has introduced a temporary tax incentive since 2007 and allowed MOP 3,500 to be deducted as a tax allowance from the property tax payable for each property unit. Any property unit with property tax payable up to or below MOP 3,500 will be fully exempt from property tax.

In December 2012, the government announced that effective from 2013, the tax incentive of MOP 3,500 will only be applicable to Macau individual residents. Body corporates or non-Macao residents will not be entitled to the tax incentive. However, if the property is jointly owned and one of the owners is a Macau resident, the tax incentive will be applicable.

### ¶3-440 Industrial tax

Industrial tax is similar in nature to a business registration fee. All commercial enterprises are required to register with the Finance Services Bureau before commencement of operations and the tax is charged on enterprises based on the number and type of activities they are carrying out in Macao. The tax is levied according to a fixed rate scale specified in the activities schedule annexed to the Regulations. The amount of tax varies from MOP 150 to MOP 80,000 with most activities being taxed at MOP 300 per annum. Since 2007, the government has announced a temporary exemption from industrial tax for all enterprises. This exemption is still applicable for the tax years 2012 and 2013.

### ¶3-450 Franchise tax

Franchise tax is imposed on franchised or regulated businesses, generally including gaming, telecommunications and public transportation. Taxes are levied on a contractual basis with the amount of levy imposed determined by the government according to the nature of operations of the respective businesses. For many years, the levies on various gaming operations have provided the majority of Macao's fiscal income.

### ¶3-460 Stamp duty

Currently there are 43 items subject to stamp duty including transfers of property ownership, advertisements, private contracts, capital registration of companies and amusement entrance tickets. The rates of such duties vary from 0.1% to 10%. Since 2009, a temporary exemption has been granted to Macao citizens who have not owned any property in the past three years on their acquisition of a residential property unit up to a value of MOP 3,000,000. For any value beyond the exempted amount, stamp duty will be payable based on the progressive rates applicable. According to Law No 27/2012 issued in December 2012, in the year 2013, no tax exemption will be granted if the taxpayer had previously obtained the same tax exemption under this incentive scheme.

### ¶3-470 Excise tax

Excise tax is a form of consumption tax which is levied and collected differently from what is known as value-added tax in other jurisdictions. In Macao, it is charged on certain imported items such as tobacco, spirits, fuel and lubricants, with some items being charged on a quantitative basis and others on a value basis. The tax is levied on importation and up to 95% of the related taxed amounts can be refunded when the products are exported to other destinations.

Table 6.1

### Property tax rates

Tax is chargeable on properties located in Macao and is usually payable by the owner on:

- Leased properties — 10% (16% prior to 2010) of rental income
- Non-leased properties — 6% (10% prior to 2010) of rental value that is determined by the authorities.

### Example 6.1

An individual owns two property units and leases out unit A to a tenant for a monthly rental of MOP 10,000. Unit B is maintained for self-use.

In 2009, property tax was calculated as follows:

Unit A — Leased	MOP	Unit B — Non-leased (self-use)	MOP
16% of rental income (MOP 10,000 × 12 months × 16%)	19,200	10% on deemed rental value determined by the tax authorities (say MOP 10,000 × 12 months × 10%)	12,000
5% surcharge for stamp duty (MOP 19,200 × 5%)	960	5% surcharge for stamp duty (MOP 12,000 × 5%)	600
Property tax payable	20,160	Property tax payable	12,600

Total tax payable: MOP 32,760

As a result of the reduction in tax rate and the exemption on the surcharge for stamp duty since 2010, as well as the temporary exemption of MOP 3,500 per unit, property tax payable for 2011 will be calculated as follows:

Unit A — Leased	MOP	Unit B — Non-leased (self-use)	MOP
10% of rental income (MOP 10,000 × 12 months × 10%)	12,000	6% on deemed rental value determined by the tax authorities (say MOP 10,000 × 12 months × 6%)	7,200
Special tax incentive for 2011	(3,500)	Special tax incentive for 2011	(3,500)
Property tax payable	8,500	Property tax payable	3,700

Aggregate tax payable: MOP 12,200

## ¶6-300 Property taxpayer considerations

### Lease contracts

Where a property is rented by a lessor to a lessee, the lessor should submit a declaration (Form M/4) to the tax authorities within 15 days from the date of signing the lease contract. The following income are also subject to property tax:

- Income from renting out machines and/or furniture placed in a leased property,
- Income from renting out a property wall for advertising signboard purposes.

### Rental income below property market values

The taxable value of leased properties is usually calculated according to the rental charges declared by the property owner. However, where rental charges on leased properties are deemed to be below the property market values, the authorities may deem the property to be a non-leased property and levy property tax on the assessable taxable value to be determined by them.

For example, a property owner is allowing a relative to stay in her property unit. Even though the owner has not received any rental income from the unit, she is liable to pay property tax annually. The tax authorities will deem it as a non-leased property and an assessable value will be estimated by the authorities. The property will be taxed at 6%.

### Example 6.2

A resort owner had entered into a non-cancellable rental contract with a boutique owner for a term of three years commencing on 1 October 2012. In order to promote the mall section of the resort, a three month rent-free period was granted to the boutique owner.

The details as stipulated in the contract were as follows:

Rental period:	1 October 2012 to 30 September 2015
Monthly rental charge:	MOP 30,000/month
Free rental:	1 October 2012 to 31 December 2012
Total contract value:	MOP 990,000

The rental income to be received by the resort owner would thus be as follows:

	MOP
1 October 2012–31 December 2012	Nil
1 January 2013–31 December 2013	360,000
1 January 2014–31 December 2014	360,000
1 January 2015–31 September 2015	270,000
Total contract rental	990,000

For 2012, although the resort owner had nil income for the period from 1 October 2012 to 31 December 2012, according to the Property Tax Regulations, the tax authorities will exercise their rights in assessing property tax payable at 6% of the deemed market value.

In 2013 and 2014, the resort owner will be required to pay property tax on the rental income of MOP 360,000 at 10%.

For 2015, even if the rental contract is not to be extended, the resort owner will need to pay property tax on MOP 270,000 at 10%.

### Example 6.3

The resort owner in Example 6.2 rents out a similar shop in the mall to a related party for MOP 1,000 per month in 2012. As there is a significant variance in the rental charges of the two similar shops, the tax authorities may exercise their rights to apply the deemed value policy for the property tax assessment. If the rental value is deemed to be MOP 30,000/month, the resort owner will need to pay property tax of 6% on MOP 360,000 (ie MOP 30,000 × 12 months) for the similar shop in 2012.

### Deductions from property revenue income

According to Articles 13 and 25 of the Regulations, the costs incurred on repairs and maintenance to properties are allowed as deductions from assessable revenue. The total amount deductible is set at a maximum of 10% of the rental or assessable taxable value both for leased properties and non-leased properties. Under Article 15 of the Regulations, allowable deductions for leased properties also include the following:

- Remuneration of watchmen
- Electricity for elevators
- Lighting for halls and stairs
- Central heating and air conditioning
- Administrative fees for building management.

### Claims for deductions

According to Article 25, taxpayers of non-leased properties are eligible for a deduction on repair and maintenance expenses, which is equal to 10% of the rental value, and no separate application is required to be submitted for the deduction since year 2010. However, for leased properties to qualify for deductions of expenses, according to Article 16, taxpayers should submit a declaration (Form M/7) in January after each fiscal year end with supporting documents. Failure to submit such declaration could mean no allowances are permitted. The expenses should be claimed within 5 years from when they are incurred.

### Vacant property

If a property is wholly or partially vacant, the owner may apply for an exemption from property tax by submitting a declaration (Form M/10) within 15 days after the start of the vacancy period. Vacancies will not be exempt from taxation if it is due to the property owner demanding a rental charge higher than the last rental charge by 30% or above. The rental charge will be compared with the current market rate if the last rental charge is not applicable. Vacancies will also not be exempt from taxation if it is due to refusal by the property owner to lease out the property without any proper reasons.

### Properties held for investment purposes

To avoid the same leased property income being double taxed under property tax and complementary tax, corporations registered with the Finance Services Bureau with properties leased out for income purposes are subject only to property tax. Income assessed to property tax and the related expenses are then non-taxable and non-deductible in the annual return for complementary tax.

### Notification of chargeability

All property owners receive assessment notices from the Finance Services Bureau every year between June and August with specified periods for payment printed on the assessment notices. Owners who do not receive assessment notices after the exemption period should inform the relevant government department.

### ¶6-400 Exemptions and incentives

According to Article 8, the following organisations are exempt from property tax:

- the institute of the Central People's Government stationed in Macao
- government sub-departments, autonomous public entities, etc

### ¶13-100 Introduction

Tax returns filed under the Group A category are based on the actual profits of taxpayers reported in financial statements. In this regard, the Depreciation and Amortisation Regulations in Decree Law No 4/90/M introduced in March 1990 set out guidelines for depreciation to be allowed as a tax deductible item. The same concept also applies to professional tax Group II taxpayers, ie self-employed professionals.

Fixed assets used in an entity's operations will inevitably depreciate through wear and tear, ageing, and obsolescence. The diminution in value of fixed assets through usage is reflected in accounting records through depreciation charges or amortisation.

According to the Regulations, there are 10 groups of fixed assets, including tangible and intangible items, that are allowable for depreciation deductions. The 10 groups are:

- (i) Buildings and other structures
- (ii) Installations
- (iii) Vehicles
- (iv) Furniture, fittings and decorations
- (v) Office equipment
- (vi) Machinery and equipment
- (vii) Tools and utensils
- (viii) Miscellaneous fixed assets
- (ix) Intangible assets and deferred expenses
- (x) Other fixed assets not specified.

### ¶13-200 Valuation of depreciable fixed assets

The original value of a depreciable fixed asset is determined by applying one of the following alternatives:

- purchase price based on invoiced value
- purchase price plus incidental expenses (excluding interest) incurred to bring the asset into a useable state, or
- self-manufactured or self-constructed fixed asset values represented by the costs of production or construction which include all direct and indirect costs (excluding interest).

Acquired assets with unit values of less than MOP 2,000 can be fully depreciated in the year of acquisition or in the year that the acquired assets are put into use. Notwithstanding the aforesaid, when such assets form part of other fixed assets, they should be depreciated together with those fixed assets over the useful life.

**Example 13.1**

A manufacturing company ordered a special new machine from Europe at a price of MOP 3,300,000. Settlement was arranged by letter of credit with a bank and the company incurred bank interest expenses of MOP 8,900.

Other expenses incurred were as follows:

	MOP
Transportation charges	10,000
Installation and adjustment	32,000
Testing expenses	3,000
Yearly maintenance charges	5,000

If the costs of the machine are capitalised, the amount to be capitalised is as follows:

Amount to be capitalised

= Consideration paid + transportation charges + installation and adjustment + testing expenses + bank interest expenses

= MOP 3,300,000 + MOP 10,000 + MOP 32,000 + MOP 3,000 + MOP 8,900

= MOP 3,353,900

It should be noted that bank interest expenses of MOP 8,900 should be excluded when calculating the tax depreciation allowance.

**¶13-300 Depreciation method and rates**

The Depreciation and Amortisation Regulations stipulate that depreciation be computed using the straight-line method over the period of the useful lives of assets. The recognised useful lives for each of the 10 identified groups of fixed assets together with specified annual depreciation rates are listed in a table annexed to the Regulations as set out in ¶13-950.

In the year of acquisition of an asset, depreciation can be charged on a monthly pro-rata basis commencing in the month the asset was put into use or on a full year basis.

When acquiring a fixed asset which has been used, ie second hand, the taxpayer should take into consideration the remaining useful life of the asset when recording depreciation.

When an asset is fully depreciated, no further depreciation may be claimed even though the asset may continue to be used by the taxpayer. Book records on such assets should be maintained at nil value and written off only on disposal.

For taxation purposes, according to Article 3 of the Regulations, all fixed assets can be depreciated at not more than the specified number of years (ie maximum rate) for depreciation charges to be allowable as a tax deduction. The specified number of years set out in the Regulations is the minimum allowable years or highest rate at which depreciation is allowed as a deduction in any one tax year. The Regulations, however, allow taxpayers to opt for up to double the minimum allowable years, ie the maximum allowable rate.

Taxpayers may choose either the higher rate with a shorter useful life or the lower rate with a longer useful life. However, any depreciation charges for an asset beyond its maximum allowable years will be disallowed as a tax deduction. Therefore, following the specified allowable depreciation rates table for each asset item can ensure that full tax benefit is claimed for depreciation charges.

Examples of allowable depreciation rate options are as follows:

Group	Regulation Specified		Allowable Option	
	High Rate %	Minimum Years	Low Rate %	Maximum Years
3.1 Aircraft	12.5	8	6.25	16
3.2 Vessels	10	10	5	20
8.4 Computer software	33.33	3	16.67	6

**¶13-400 Sample calculations**

Examples of depreciation charges in the books/financial statements of a taxpayer and the effects for taxation purposes are set out in Examples 13.2, 13.3 and 13.4 based on the following assumptions:

Acquisition cost of asset	MOP 900,000
Maximum allowable tax depreciation rate	33.33%
Minimum number of years of useful life	3 years
Maximum number of years of useful life (twice the minimum)	6 years

### ¶13-600 Depreciation of assets acquired from non-registered entities in Macao

According to Article 9 of the Industrial Tax Regulations, taxpayers in Macao who acquire certain services, including construction and related work from non-Macao entities, must ensure that such entities have tax registrations in Macao. Taxpayers who fail to comply with this Article will not be able to claim tax deductions for such payments.

#### Example 13.5

A famous international fashion company established a store in Macao in 2009. The fashion company hired both a designer from Hong Kong and a local contractor for the renovation work of the Macao store. The total costs of the renovation work was MOP 3,600,000, of which MOP 2,400,000 was paid to the local contractor and MOP 1,200,000 was paid to the Hong Kong designer.

Depreciation claimed by the fashion company for the renovation work was as follows:

Year	
2009	MOP 3,600,000 × 33.3% = MOP 1,198,800
2010	MOP 3,600,000 × 33.3% = MOP 1,198,800
2011	MOP 3,600,000 × 33.3% = MOP 1,198,800

If the Hong Kong designer is not tax registered in Macao, depreciation on the renovation work of MOP 399,600 (ie MOP 1,200,000 × 33.3%) would not be allowed as deductible expenses for tax purposes for each of the three years.

### ¶13-700 Disposals of fixed assets

When a taxpayer or an entity disposes of an asset to a third party before the asset has been fully depreciated, the income received on disposal should be accounted for in the books of account. If the net result after deduction of the depreciated value of the asset and disposal expenses is a gain, this amount is a taxable item. By the same token, if the net result is a loss, the amount is tax deductible in most cases.

If a taxpayer declares write-off losses on assets through wear and tear before they have been fully depreciated, and without disposing of the underlying assets to a third party, such losses are usually treated as accelerated depreciation expense in the books but will not be accepted as being tax deductible.

#### Example 13.6

A famous international chain-store company started its business in Macao in 2009. The company signed a three-year lease agreement in a resort hotel facility with the condition that the lease can be terminated with two months' prior notice.

The chain-store company started the business after expending MOP 3,000,000 in electronic machinery. Depreciation claims were made as follows:

Year	
2009	MOP 3,000,000 × 20% = MOP 600,000
2010	MOP 3,000,000 × 20% = MOP 600,000

At the end of year 2010, the company decided to close the store and start another store in another resort hotel. Accordingly, the electronic machinery costs net of depreciation of MOP 1,800,000 (MOP 3,000,000 – MOP 600,000 – MOP 600,000) are to be written off.

The loss of MOP 1,800,000, according to the Depreciation Regulations, will not be tax-deductible since it did not arise through usual wear and tear.

### ¶13-800 Depreciable property

Properties, such as factories or commercial buildings, are classified under Group I fixed assets in the Depreciation and Amortisation Rate Tables. For taxation purposes, purchasing property with land will not be accepted as being fully depreciable and it is the responsibility of the taxpayer to clarify what portion of the consideration represents the cost of land which is deemed to be non-depreciable. According to Article 6 of the Regulations, in the absence of details provided regarding the cost of land, a deduction of 20% of the total price of the purchased property will be considered as non-depreciable, ie depreciation charges are only calculated on the remaining 80% plus any direct costs of the purchase.

The first year of depreciation (after stamp duty has been paid) is deemed to be exceptional and could be deductible at 20% of the depreciable value. No depreciation is allowable on unstamped property.

Although there are no capital gains taxes in Macao, profits on disposals of properties by a Macao entity are taxable for complementary tax purposes.

### ¶13-900 Renovations and deferred maintenance expenses

Costs incurred on technical transformation, renovation, repairs and maintenance of fixed assets exceeding 10% of their original cost are considered to be depreciated over the useful lives of the assets for taxation purposes.