

## INVESTING AND LIVING IN PORTUGAL

**Portugal** is, admittedly, a country of *mild manners, welcoming people, wonderful climate and beautiful beaches*.

In addition, **Portugal** has one of the lowest rates of crime in Europe, a vast network of motorways that cross the entire country and an average cost of life rather lower than in other European countries.

Thanks to these circumstances, and also due to the great ease of the Portuguese individuals to communicate in foreign languages, **Portugal** is now at the top of the main tourist destinations in the world.

Presently the extensive Atlantic Coast of Portugal benefits from a specific taxation assembled with a view to providing unique benefits for foreigners (or nationals who reside abroad for a long time) who wish to invest in Portugal. There are interesting business opportunities and investment: the corporate and real estate assets are still strongly undervalued. There is no extraordinary tax on fortunes.

**Portugal** has then become, and in the last years, a preferred destination for Private Investors to **Settling, Investing and Living**.



### Income Tax Regime

#### NON REGULAR RESIDENTS TAX REGIME (RNH)

##### Qualification. Registration. Requirements.

All citizens (Portuguese or foreign ones) with fiscal domicile (in the last 5 years) outside Portuguese Territory, who wish to settle in Portugal, may – through the filling of an application form, which will be considered, on a case by case basis, by the Portuguese Fiscal Administration – benefit from the called **Non Regular Residents Regime (RNH)**, acquiring the right to be taxed according to said regime by a period of 10 consecutive years, at the end of which they will be taxed according to the rules applicable to regular residents – Code on the Income Tax (CIRS).

The tax residence in Portuguese territory with recourse to the Statute of the RNH, in situations - in any period of 12-month beginning or ending in the year from which one intends to benefit from the statute in question - in which the non-regular resident has remained in Portuguese territory more than 183 days, followed or with interruptions or, having remained less time, has a residence in Portuguese territory that might suppose the intention to maintain it and occupy it as habitual residence.

##### RNH. Tax. Types of Income.

**Passive income from foreign source** - interests, dividends and other income from capital, capital gains, income from pensions and income property.

**Active income from foreign and domestic source (Portuguese)** - deriving from employment and self-employment and royalties



##### Foreign Source Income. Active and Passive.

###### I. Income deriving from employment:

In case of income obtained abroad, as a rule, the same are exempted from taxation in Portugal, when, in alternative, any of the following conditions are met:

- i. Income is taxed in the source Country, in accordance with the convention to eliminate double taxation, signed by Portugal and that Country; or
- ii. In accordance with the criteria foreseen in Portuguese legislation, such income is not considered to have been obtained in Portuguese territory.

###### II. Business and professional income, capital income, real state income and income derived from capital gain:

In this case, income obtained abroad, as a rule, is exempted from taxation in Portugal, when, in alternative, any of the following conditions are met:

- i. The income may be taxed in the source Country, in accordance with the convention to eliminate double taxation signed between Portugal and that Country;
- ii. The income may be taxed in the source Country, in accordance with the OECD Model Tax Convention on Income and on Capital;
- iii. The income at issue is not considered as obtained in Portuguese territory, in accordance with applicable Portuguese legislation;



*\* In case the country of the income source is part of the list of tax havens, the non-regular residence regime will not apply for taxation purposes, the general rules on taxation of such income applying*

Contrary to the employment income, in the scope of which the application of tax exemption in Portugal is dependent on the effective taxation in the Country of the income source\*, in the case of **business and professional income, capital income, real state income and income derived from capital gain**, the application of tax exemption in Portugal is achieved with the mere possibility of taxation of this type of income by the respective Country of the income source, therefore the effective taxation is not necessary.

*\* Whenever the above-mentioned exemption is not applicable to IRS, the income obtained abroad deriving from employment and self-employment (provided that, in both cases, it results from the high added value rendering of services, with scientific, artistic or technical nature as defined in Ordinance no. 12/2010 of 7 January), will be subject to IRS tax, at a special rate of 20% plus surcharges (and not to the progressive rates of this tax – presently until 48% to which surcharges might also be added).*





### III. Income derived from Pensions:

Income deriving from pensions (private) is exempted from taxation in Portugal, provided that in alternative, any of the following conditions are met:

- i. Income is taxed in the State of income source, in accordance with the convention to eliminate double taxation, signed by Portugal and that State; or
- ii. The income at issue is not considered as obtained in Portuguese territory, in accordance with applicable Portuguese legislation.

#### Portuguese source income. Active.

#### Income derived from employment and self-employment obtained in Portugal

Income will be subject to IRS tax, to the special rate of 20% (plus eventual surcharges), in case of high added value activities, of scientific, artistic or technical nature, performed in Portugal (and not to the progressive rates of this tax – presently until 48% to which surcharges might also be added).

Remaining income is subject to general rules foreseen in Portuguese legislation, therefore capital income, capital gain income and real state income will be taxed at the rate of 28%.

#### Taxation of Real Estate Investment – IMT / IS / IMI

##### REAL ESTATE ACQUISITION

Anyone buying a property has to consider the costs associated to the acquisition and to the ownership of the real estate, in particular the ones related to the municipal property transfer tax (IMT), stamp duty (IS) and municipal property tax (IMI).

**IMT** – this tax is charged on any transfer for value of the right of ownership at a progressive rate up to the rate of 6,5%, charged on the price appearing in the contract or on the taxable value of the property (whichever is higher).

*\*In some circumstances a higher rate may apply if the buyer has their Office or tax domicile in a country, territory or region subject to a clearly more favourable tax regime ("Tax Haven").*

**IS** – Tax originated by the transaction and is charged on the value as used to pay IMT, at a rate of 0.8%.

*\*As from 1 January 2017, due to the new municipal property surcharge (AIMI), the taxation of stamp duty is no longer applicable – at the general rate of 1% on residential properties, usufruct of surface rights – of urban properties (urban or land for construction) the taxable value of which in the land tax register under the terms of the IMI Code were identical or above one million euros.*

**IMI** tax is payable by whoever is the registered owner of a property on 31 December of the year to which the tax relates, at a rate which varies between 0,3% e 0,45% for urban buildings (depending on their location and according to what has been determined by the respective municipality) and 0,8% for rural buildings, calculated on the respective taxable value, without prejudice of the indicated, tax might be higher annually in the case of urban buildings that have been empty for more than one year and derelict buildings.

For property owned by an entity domiciled in a tax haven appearing on the list approved by order of the Minister of Finance, a rate of 7.5% will apply.

Property with a taxable value (VPT) identical or above EUR 600,000 will be charged with a surcharge to IMI (AIMI), at the rate of 0,7% (natural persons and undivided estate), applicable on the difference of the VPT and the minimum limit to be considered by the taxable person (€ 600,000).

When the taxable value exceeds € 1.000,000, or the double of this amount for married or unmarried partners taxable persons, who have opted for joint taxation, a rate of 1% will apply, when the taxable person is a natural person, also applies on the difference between the VPT and the minimum limit to be considered by taxable person (€ 600,000).

#### NON-REGULAR RESIDENTS REGIME (RNH)

- i. We analyse the Investor's patrimonial structure
- ii. We register the Investor as a tax resident
- iii. We cancel earlier tax residence
- iv. We assist in the application for RNH status (until 31 March of the following year)
- v. We accompany all the process until the granting of RNH, by the Tax Authority (taking effect as from the date of the application for registration as tax resident).

#### ACQUISITION OF REAL ESTATE

- i. We have partnerships which assist us in the identification of the Actives; in the local trips and previous stays and intended to the Investment; in the management of asset actives acquired for exploration/income or for self-use (incidental), including rendering of services directed to the Investor's needs
- ii. We promote the Legal Audit to the Real Estate (we attest if the same is owned by whom is intending to sell it; we attest if there are contingencies (covenants or encumbrances) registered over the real estate, such as mortgages, liens, tax debts; we attest if the documentation legally necessary to sell the real estate is in order)
- iii. We assist in the opening of a bank account and on the relationship with the Bank, in particular in the obtaining of financing
- iv. We provide all the Legal Assistance intended to the conclusion of the promissory contract for sale and purchase
- v. We promote the legal communications for the rendering of the right of preference by the entities, which eventually benefit from it
- vi. We promote the payment of the IMT and IS due in the sequence of the transaction
- vii. We render all the Legal Assistance and accompanying intended to the completion of the public deed of sale and purchase
- viii. We ensure the definitive registration of the acquisition and the matricial inscription of the Real Estate in the name of the Investor
- ix. We ensure the compliance of tax liabilities, including the hiring and accompanying of the Accounting services



*Contents of this short information – intended to the Visitors of the Portuguese Real Estate and Tourism Hall (Salão do Imobiliário e do Turismo Português) (SITP), 12-14 May 2017, to be held in Paris – does not constitute legal counselling directed to specific cases, therefore it should not be cited in that sense.*

**Specific counselling shall be sought and rendered in the light of the specific circumstances of each case (Investor / Investment).**

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