

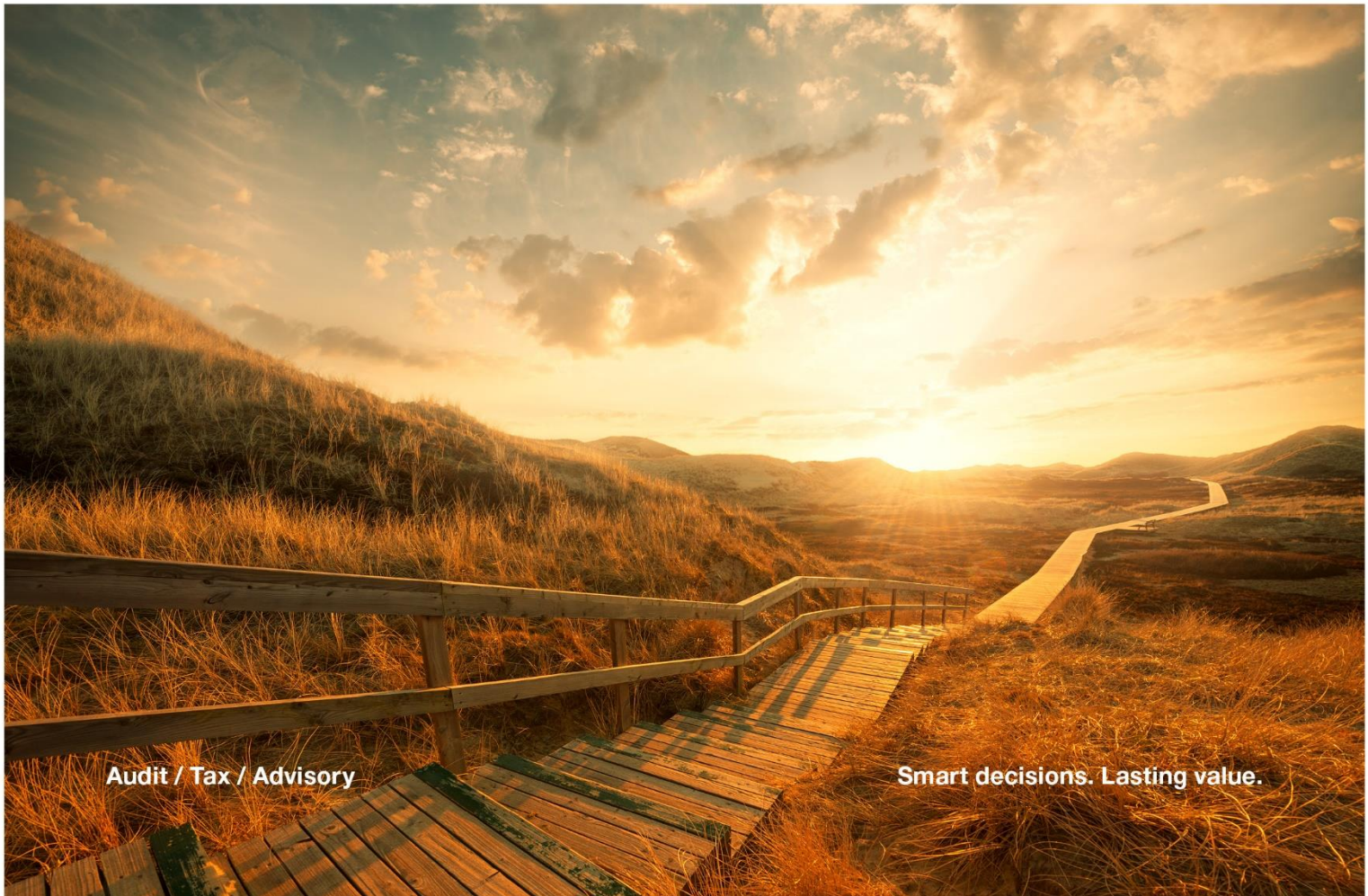


Foreign individuals moving or investing in Portugal

Relevant tax and legal aspects

2022

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18/03/2022

Subject: Moving / investing in Portugal – relevant tax and legal aspects

Dear Sirs,

As requested, we hereby share the present document which aim is to share those tax aspects that may be of interest for individuals potentially interested in moving or investing in Portugal.

Kind regards,

José Carlos Velez
Managing Tax Partner

Welcome

The present document has been prepared by Crowe Portugal in order to provide general information for persons contemplating investing and / or moving to Portugal.

In addition to background facts about Portugal, it includes relevant information about business operations and taxation matters.

It should be noted that since the new Portuguese Government will only take office in April 2022, it is expected that the State Budget for 2022 will only be approved in the third quarter of 2022.

Unless noted otherwise, the information contained in this Guide, is believed to be accurate as of 1 January 2022. However, general publications of this nature cannot be used and are not intended to be used as a substitute for professional guidance specific to the reader's particular circumstances.

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1. Starting business in Portugal

Portuguese law offers various legal forms for conducting business activities in Portugal. Therefore, the investment may be carried out through the incorporation of a company or through the establishment of a branch.

Portuguese corporate law provides a flexible and liberal framework for the organization of companies or branches. There are no special restrictions for a foreign investor doing business in Portugal.

The Portuguese legal system allows setting-up a company through simpler and faster procedures than the traditional incorporation process. Therefore, companies may be incorporated through the “On the spot firm” and “Online set-up” processes.

In the same way, a branch may be established through a similar process (On the spot branch).

1.1. Public Limited Liability companies (Sociedades Anónimas)

1.1.1. Legal requirements

Shareholders and liability

- ✓ The minimum number of shareholders legally demanded by the portuguese law is five. However, a Public Limited Liability Company may have one shareholder if incorporated by a corporate entity.
- ✓ The shareholders are limited liable to the capital subscribed. Therefore, they are not personally responsible for the company's debts.
- ✓ Regarding the Public Limited Liability Company that is fully controlled by another corporate entity, the latter shall be held liable for the debts of the fully controlled company.

Share Capital

- ✓ The minimum registered share capital is EUR 50.000. Concerning the contributions in cash, 70% of them may be postponed for a 5 years' period.

Formal requirements of incorporation

- ✓ As required for the Public Limited Liability Company, the conclusion of an article of incorporation must be done, and it is legally demanded that the signatures be certified by a notary or a lawyer. Furthermore, this article of incorporation needs to be registered in the Commercial Register.

1.1.2. Management and Auditing

There are three alternative structures that may be chosen:

- ✓ Board of Directors (or Sole Director, if share capital does not exceed EUR 200.000) + an Audit Board (or Sole Auditor).

Companies incorporated according to this structure must have an Audit Board and appoint an Auditor if two of the following limits are exceeded (for two consecutive years):

- a. Total balance sheet: EUR 20.000.000
 - b. Net turnover: EUR 40.000.000
 - c. Average number of employees: 250
- ✓ Board of Directors (including an Audit Commission) + Auditor
 - ✓ Executive Board of Directors (or Sole Director if share capital does not exceed EUR 200.000) + General and Supervisory + Auditor.

1.2. Private Limited Liability Companies (Sociedades por quotas)

1.2.1. Legal requirements

Shareholders and liability

- ✓ The Private Limited Liability Company is the majority of companies that are incorporated in Portugal.
- ✓ The quota holders, that are at least two, have a limited liability for the value of the capital subscribed. In practical terms, the quota holders may not be held liable for the company's debts.
- ✓ However, they are jointly responsible for all capital contributions foreseen in by-laws.
- ✓ Moreover, the Portuguese legal system allows the incorporation of a sole quota holder Private Limited Liability Company ("Sociedade Unipessoal por quotas"), which is responsible in the same terms as those referred to above.

Capital share

- ✓ The Portuguese legal system allows that the capital share may be freely chosen by the quota holders, which have a minimum of two euros or one euro, either if a Private Limited Liability Company or a Sole Shareholder Private Limited Liability Company are incorporated.
- ✓ The contributions may be in cash or in kind. Regarding the contributions in cash, they may be postponed for a 5 years' period.

Formal requirements of incorporation

- ✓ Firstly, a conclusion of an article of incorporation must be done, and it is legally demanded that the signatures be certified by a notary or a lawyer. Furthermore, this article of incorporation needs to be registered in the Commercial Register.

1.2.2. Management and Auditing

The management board may be formed by one or more directors. On other hand, although in this type of companies an Auditor is not mandatory, its existence may be established in by-laws. It is

mandatory to appoint an Auditor if two of the following limits are exceeded (for two consecutive years):

- ✓ Total balance sheet: EUR 1.500.000.
- ✓ Net turnover: EUR 3.000.000.
- ✓ Average number of employees: 50.

1.3. Branch

There are no minimum capital requirements for a branch.

2. Residence permit for investment activity (“Golden Visa”)

2.1. What is required:

- ✓ The rules governing the granting of Residence Permit for Investment (ARI / Golden Visa), in force from 8 October 2012, enable third country nationals to obtain a temporary residence permit to conduct business activities with visa waiver to enter national territory. The beneficiaries of ARI / Golden Visa are entitled to:
- ✓ Residence visa waiver for entering Portugal.
- ✓ Living and working in Portugal, on condition that they stay in Portugal for a period of 7 or more days, in the first year, and 14 or more days, in the subsequent years.
- ✓ Visa exemption for travelling within the Schengen Area.
- ✓ Family reunification.
- ✓ Applying for permanent residence (pursuant to the Aliens Act – Act number 23/2007 of 4 July with the current wording). To the citizens holding a residence permit for investment purposes and their family members, complying with the requirements provided in article 80 of the Aliens Act and wish to be granted with a permanent residence permit, a permanent residence permit for investment purposes shall be issued, exempt of the provided in article 85, n.ºs 2, 3 and 4, subparagraph b) of the same diploma (cancellation of the right due to absences from the national territory, see article 65-k of the Regulatory Decree 84/07 of 5/11, as amended). The Permanent Residence Permit for investment purposes may be subject to specific fees of analysis and issuance, to be regulated by amendments to Ordinance 1334-E/2010, of December 31.
- ✓ Applying for Portuguese citizenship, by naturalization, provided all other requirements set out by the Nationality Act are fulfilled (Act number 37/81 of 3 October, with the current wording).

2.2. Eligibility – Who may apply?

All third country citizens who conduct an investment activity, as an individual businessperson or through a company set up in Portugal or in another EU Member State and who, in addition, are stably settled in Portugal, provided these citizens fulfil the quantitative requirements and the time requirements set out by the relevant legislation, may apply for a Residence Permit for Investment, by one of the following routes:

- ✓ Capital transfer with a value equal to or above EUR 1.500.000.
- ✓ The creation of, at least, 10 job positions.
- ✓ The purchase of real estate property with a value equal to or above EUR 500.000 (but only in the interior of the country and on the islands).

- ✓ The purchase of real estate property (but only in the interior of the country and on the islands), with construction dating back more than 30 years or located in urban regeneration areas, for refurbishing, for a total value equal to or above EUR 350.000.
- ✓ Capital transfer with a value equal to or above EUR 500.000 for investing in research activities conducted by public or private scientific research institutions involved in the national scientific or technologic system.
- ✓ Capital transfer with a value equal to or above EUR 250.000 for investing in artistic output or supporting the arts, for reconstruction or refurbishment of the national heritage, through the local and central authorities, public institutions, public corporate sector, public foundations, private foundations of public interest, networked local authorities, local corporate sector organizations, local associations and public cultural associations, pursuing activities of artistic output, and reconstruction or maintenance of the national heritage.
- ✓ Capital transfer of the amount of EUR 500.000 or higher, for the acquisition of units of investment funds or venture capital fund of funds dedicated to the capitalization of companies, capital injected under the Portuguese legislation, whose maturity, at the moment of the investment, is, at least, of five years and, at least, 60% of the investments is realized in commercial companies with head office in national territory.
- ✓ Capital transfer of the amount of EUR 500.000 or higher, for constitution of a commercial society with head office in the national territory, combined with the creation of five permanent working jobs, or for the reinforcement of the share capital of a commercial society with head office in national territory, already existing, with the creation or keeping of working jobs, with a minimum of five permanent jobs, and for a minimum period of three years.

3. Income tax

3.1. Individuals (“IRS”)

3.1.1. General aspects

Tax residency definition

An individual is considered tax resident in Portugal when:

- ✓ They have spent more than 183 days, consecutive or not, in Portugal in any 12-month period starting or ending the fiscal year concerned; or
- ✓ If they have stayed in Portugal less than the 183 days, they are also deemed to be resident if an abode is maintained at any time of a certain 12-month period, indicating the existence of habitual residence in Portugal.

Income subject to taxation in Portugal

Individuals who are considered **tax resident in Portugal** are subject to income tax on their **worldwide income**.

Non-resident individuals are subject to taxation **solely on their Portuguese source income** such as:

- ✓ Investment income, namely dividends, interest, and royalties, whenever the debtor entities have their residency, head-office, effective management or permanent establishment in Portugal.
- ✓ Capital gains derived from the sale of shares/quotas in Portuguese companies and also in foreign companies whenever the value of the corresponding share capital results, directly or indirectly, in more than 50%, from real estate located in Portugal.
- ✓ Income and gains derived from real estate located in Portuguese territory, namely rents and selling capital gains.
- ✓ Income derived from commercial business activities carried through a permanent establishment in Portugal.
- ✓ Employment income derived from activities carried through in Portugal or whenever the income is due by Portuguese entities.

Calculation of the IRS taxable basis and applicable IRS rates

The IRS taxable income results from the aggregation of each one of the “IRS categories” net income:

- ✓ Employment income (Category A)
- ✓ Business and professional income (Category B)
- ✓ Investment income (Category E)
- ✓ Rental income (Category F)
- ✓ Capital gains (Category G)

✓ Pensions (Category H)

The value resulting from the above-mentioned aggregation is subject to the following IRS progressive tax rates:

| Taxable Income (EUR) | Rate |
|----------------------|-------|
| Up to 7.112 | 14,5% |
| From 7.112 – 10.732 | 23% |
| From 10.732 – 20.322 | 28,5% |
| From 20.322 – 25.075 | 35% |
| From 25.075 – 36.967 | 37% |
| From 36.967 – 80.882 | 45% |
| Over 80.882 | 48% |

An additional tax rate of 2.5% will be applied on the share of the taxable income above EUR 80,000 and of 5% on the share of the taxable income above EUR 250.000.

As an exception, the following income / gains are not aggregated for the above-mentioned purposes once they are individually taxed at special flat rates:

- ✓ Income and gains obtained by non-resident individuals (28%);
- ✓ Investment income obtained by resident individuals (28%);
- ✓ Capital gains derived from the disposal of shares, quotas and other financial assets (28%);
- ✓ Employment and self-employment income derived from the development of “high added value” activities by the so called “**non-regular residents**” (20%).

Tax reliefs

In order to determine the taxable income, the following expenses of the taxpayer may be deducted (some limitations) from aggregated income:

- ✓ Personal tax credits
- ✓ General household expenses
- ✓ Health expenses
- ✓ Education expenses
- ✓ Housing interest or rent
- ✓ Alimony payments
- ✓ Contributions to individual retirement saving plans (PPR)
- ✓ Fees and expenses paid to retirement homes
- ✓ International double taxation
- ✓ Individuals with disabilities
- ✓ Public capitalization regime

3.1.2. “Non-Habitual Residents” regime (“NHR” regime)

This regime was implemented with the purpose of attracting to Portugal non-resident professionals

qualified for “high added value” activities with intellectual or industrial property or know-how, as well as beneficiaries of pensions schemes granted abroad.

Who may apply

The “NHR Regime” is available for citizens who meet the following conditions:

- ✓ Are considered Portuguese Tax Residents for “Portuguese Personal Income Tax” (hereinafter IRS) purposes according to any of the criteria defined under the IRS Code.
- ✓ Have not been considered tax resident in Portugal during the prior five years.

How and when to apply

The “NHR” regime is not automatically assigned, being necessary to address the corresponding requirement to the Portuguese Tax Authorities, on one of the following moments:

- ✓ Immediately at the moment the registration as tax resident in Portugal is carried through; or
- ✓ Later, until March 31st of the year following the year in which they became resident on Portuguese territory.

General rules of taxation

As it happens with regular Portuguese tax residents, NHR are taxed on its worldwide income.

However, **progressive IRS exemptions on foreign source income and gains (given by the Portuguese Government in order to eliminate international double taxation) are given to NHR during their first 10 years of tax residency in Portugal.**

Attractive IRS regime is also granted to the so called “**high added value activities**” developed by **NHR in Portugal, being the IRS assessed on the income derived from those activities subject to a flat 20% IRS** (instead of the progressive IRS rates, that may reach a maximum of about 50% applicable to regular tax residents).

It is important to underline that bank accounts opened in foreign countries must be declared in an annual basis by “NHR” (when the annual IRS return is submitted).

Regarding Portuguese source income from Employment or Self-employment

Employment net income and Self-employment net income derived from the so called “high added value activities, of scientific, artistic or technical nature” obtained by NHR are **subject to a special IRS flat rate of 20%, instead of the “traditional” progressive IRS rates that may reach a maximum of about 50%.**

For the above-mentioned purposes, are deemed as “high added value activities” those developed by:

- 1) Creative and performing arts artists
- 2) Authors, journalists and linguists
- 3) Doctors and dentists

- 4) Professor at university and higher education
- 5) Specialists in information and communication technologies
- 6) Specialists in the physical and technical sciences, mathematics, related engineering
- 7) Intermediate level science and engineering technicians and professions
- 8) Information and communication technology technicians
- 9) Farmers and skilled workers of the agricultural and animal production
- 10) Skilled workers of forestry, fishing and hunting
- 11) Skilled workers in industry, construction and craftsmanship
- 12) Operators of installations and machines and assembly workers, namely operators of fixed installations and machines
- 13) Managers and Directors

Other net income from Employment or Self-employment - not derived from “high added value” activities shall be aggregated and taxed according to the general rules of the IRS Code, being subject to the progressive IRS rates which maximum can reach about 50%.

Regarding foreign source income (“exemption method” to avoid international juridical double taxation)

Regarding employment Income

The exemption method is applied to “Category A – Employment” income obtained abroad by NHR if one of the below described conditions is satisfied:

- ✓ NHR is taxed on the source territory in accordance with the provisions of “Double Tax Treaty” signed between Portugal and the source territory; **or**
- ✓ If no DTT was signed, NHR is taxed in the source territory and the employment income is not considered as obtained in Portuguese territory in accordance with Portuguese domestic tax rules.

Regarding self-Employment Income, Investment Income, Real Estate Income and Increase in Wealth

“Category B” Income (Self Employment) obtained through the rendering of “high added value” services of scientific, artistic or technical nature and those as also “Category E – Investment” Income, “Category F - Real Estate” Income and “Category G - Increase in Wealth”, obtained abroad by non-regular residents, are exempt if:

- ✓ They can be taxed in the source territory, accordingly to double tax treaty signed between Portugal and the source territory; **or**
- ✓ In case no double tax treaty was signed, the income / gain can be taxed in the source territory similarly with the provisions of the OECD Model Tax Convention on Income and Capital, as long as the said territory is not included on the tax-haven “blacklist”.

Pensions

Portuguese NHRs who receive pensions from foreign source are subject to a special IRS flat rate of 10%.

3.2. Companies and other legal persons (“IRC”)

3.2.1. General aspects

Determining the taxable basis

Depending on the entity, the taxable basis corresponds to:

- ✓ *Portuguese companies*: Yearly net profit adequately adjusted in accordance with the provisions foreseen on the “Portuguese Corporate Income Tax” (IRC) legislation.
- ✓ *Portuguese non-profit organizations*: Global income corresponding to the sum of each one of the IRS income / gains categories.
- ✓ *Portuguese Permanent Establishments (PEs) of non-resident entities*: Yearly net profit attributable to the PE adequately adjusted in accordance with the provisions foreseen on the “Portuguese Corporate Income Tax” (IRC) legislation.
- ✓ *Non-resident entities*: Income and gains belonging to all IRS categories as also all the patrimonial increases obtained free of charge.

IRC liability amplitude

Entities which are considered **tax resident in Portugal** are subject to income tax on their **worldwide income**.

Non-resident entities are subject to taxation **solely on their Portuguese source income** such as:

- ✓ Income and gains derived from real estate located in Portuguese territory, namely rents and selling capital gains.
- ✓ Capital gains derived from the sale of shares/quotas in Portuguese companies and also in foreign companies whenever the value of the corresponding share capital results, directly or indirectly, in more than 50%, from real estate located in Portugal.
- ✓ Investment income, namely dividends, interest and royalties, whenever the debtor entities have their residency, head-office, effective management or permanent establishment in Portugal.
- ✓ Income derived from commercial business activities carried through a permanent establishment in Portugal.

Carrying forward tax losses

Tax loss calculated in a certain tax year may be deducted against the taxable profits to be calculated in the next 5 years.

Companies classified as SMEs (small and medium-sized entities) benefit from a longer “losses carrying forward” period of 12 years.

The reporting period for tax losses generated in 2020 is 12 years, applicable to both large companies and small and medium-sized entities.

The same period of 12 years is applicable to tax losses generated in 2021.

Despite the above mentioned, tax losses' deduction cannot surpass 70% of the calculated annual taxable profit.

This limit is increased to 80% in relation to tax losses calculated in the 2020 and 2021 tax periods.

IRC rates

The general IRC rate is of 21%. SMEs benefit from a reduced 17% rate for the first EUR 25.000 of the taxable basis.

An IRC surcharge, called “Derrama Estadual”, is levied 3% on the share of the taxable basis between EUR 1.500.000 and EUR 7.500.000 and an additional 5% levied on the share of taxable basis between EUR 7.500.000 and EUR 35.000.000 and 9% levied on the share of taxable basis above EUR 35.000.000.

Additionally, a municipal tax called “Derrama Municipal”, which maximum may reach 1,5%, may also be levied depending on the company's location.

Non-resident entities without PE in Portugal are, in general, subject to a 25% flat rate.

Expenses subject to “autonomous taxation”

The following expenses are subject to the following autonomous taxation:

| Description | Rate |
|--|--|
| Non documented expenses | 50% / 60% ¹ |
| Costs related with light passengers' vehicles | 10% / 20% ¹ if acq. value < EUR 27.500 |
| | 27,5% / 37,5% ¹ if acq. value ≥ EUR 27.500 and < EUR 35.000 |
| | 35% / 45% ¹ if acq. value ≥ EUR 35.000 |
| Costs related with “plug in hybrids” light passengers vehicles | 5% / 15% ¹ if acq. value < EUR 27.500 |
| | 10% / 20% ¹ if acq. value ≥ EUR 27.500 and < EUR 35.000 |
| | 17,5% / 27,5% ¹ if acq. value ≥ EUR 35.000 |
| Costs related with “LPG / natural gas” light passengers vehicles | 7,5% / 17,5% ¹ if acq. value < EUR 27.500 |
| | 15% / 25% ¹ if acq. value ≥ EUR 27.500 and < EUR 35.000 |
| | 27,5% / 37,5% ¹ if acq. value ≥ EUR 35.000 |
| <i>Per diems / car allowances</i> | 5% / 15% ¹ |
| Representation expenses | 10% / 20% ¹ |
| Compensations / indemnities paid when directors / managers end their functions in the company. | 35% / 45% ¹ |
| Bonus and other variable remunerations paid to directors / managers whenever the corresponding value exceeds EUR 27.500 and represents more than 25% of entire annual remuneration | 35% / 45% ¹ |

¹enhancement of 10 percentage points applicable when the company is on a “tax loss” situation

3.2.2. Opting for the “special tax group regime” (RETGS)

Economic groups may opt for this special regime which consists on the taxation of the **algebraic sum of the taxable profits and of the tax losses determined individually by each one of the companies belonging to the group.**

The **major advantage** of the present regime consists on the offered possibility of **immediate deduction of individual tax losses calculated by some of the “tax group” companies against the taxable profits calculated by the remaining “tax group” companies.** Therefore, those tax losses are immediately used instead of being carried forward to future deduction.

3.2.3. Participation exemption

This regime was created as a result of the Corporate Income Tax reform in 2014. The framework implemented has the purpose **of promoting the investment and internationalization of companies and creation of incentives to attract foreign investment.**

Therefore, this tax scheme provides the elimination of the economic double taxation in the distribution of profits and reserves and the exemption of taxation of capital gains on the disposal of shareholdings.

Distribution of profits and reserves

This regime allows the exemption of taxation on the distribution of dividends when the following conditions are met:

- Detention of, at least, 10% of the share capital or voting rights.
- A minimum 12 month uninterrupted detention period.
- The entity must not be established in a tax haven.

Capital gains

The capital gains derived from the disposal of shares/quotas are IRC exempt provided that the requirements described above are cumulatively met. In addition, in order to this exemption be applicable, the subsidiary company must not have real estate in Portugal valuing more than 50% of its assets.

3.2.4. Thin capitalization rules

The deductible annual financial costs cannot exceed the higher of the following values:

- ✓ EUR 1.000.000; or
- ✓ 30% of the EBITDA.

3.3. Avoiding international double taxation

Portuguese residents and companies that are domiciled in Portugal are also subject to tax on their income from foreign sources. This could result in a double taxation. To prevent a potential double taxation, Portugal has a broad tax treaty network with 79 countries. Most of the Portuguese tax

treaties follow the OECD Model Tax Convention for the prevention of double taxation.

Typically, the tax treaties provide relief from double taxation on all types of income and grant the right to taxation either to the country where the income has its source or to the country where the recipient is resident, while the other country exempts the income from taxation. Alternatively, tax treaties provide relief from double taxation by allowing a foreign tax credit. As a rule, Portuguese tax treaties provide a tax exemption for income from foreign real estate or for business profits derived through a permanent establishment. In the case of capital gains, the Portuguese tax treaties usually allocate the right to tax to the seller's country of residence. Furthermore, Portuguese tax treaties usually provide an exemption or a reduced rate or withholding tax on investment income.

In non-treaty situations or if the tax treaty provides a foreign tax credit, a Portuguese taxpayer may be credited the foreign income taxes paid on its income from foreign sources against Portuguese tax liability.

3.4. Transfer Pricing

The compliance with the arm's length principle must be assured in all transactions concluded between an entity and others that are understood to be "related parties".

Transfer pricing file must be annually prepared by CIT (IRC) taxpayers with total income equal or higher than EUR 10.000.000 and with transactions made with related parties amounting EUR 100.000 or higher per counterpart or that, in their total, they equal or exceed EUR 500.000, considering the respective market value of the controlled operations.

4. Taxation on Real Estate

4.1. Municipal Property Transfer Tax (“IMT”)

4.1.1. General aspects

IMT is levied on the onerous acquisition of rights regarding real estate located in Portugal and the respective taxpayers are the corresponding acquirers.

Other operations are, for the present purposes, assimilated to onerous acquisitions of real estate rights and, therefore, are also subject to IMT, namely:

- ✓ Acquisition of quotas in “private limited companies” owning real estate, whenever from those acquisitions results that:
 - I. One of the quota holders becomes owner of, at least, 75% of the share capital; **or**
 - II. The number of quota holders is reduced to only two, being them married or co-habiting partners.
- ✓ Long term (> 30 years) real estate leases and subleases;
- ✓ Share capital increase through contributions in kind (in the form of real estate);
- ✓ Attribution of company’s real estate to the shareholders in case of liquidation of such companies.

4.1.2. Rates

Urban property used exclusively for habitation:

- progressive rates which maximum ascents to 8%.
- unique rate of 6% for properties between EUR 574.323 and EUR 1.000.000
- unique rate of 7,5% for properties above EUR 1.000.000

Rural property – 5% flat rate.

Other urban property and other onerous acquisitions – 6,5% flat rate.

Property purchased by residents in a “tax haven” – 10% flat rate.

4.1.3. Exemptions

Some of the most relevant IMT exemption are granted on:

- ✓ Acquisition of properties by real estate companies with the purpose of being resold within a 3 years period;
- ✓ Acquisition of old buildings (> 30 years old) and real estate located in the “rehabilitation areas”, provided that the rehabilitation works begin within three years from the acquisition date.
- ✓ Acquisition of real estate previously object of urban rehabilitation, provided that the

rehabilitated buildings are allocated to inhabitation leasing purposes.

- ✓ Acquisition of buildings classified as of national/public/municipal interest.

4.2. Municipal Property Tax (“IMI”)

4.2.1. General aspects

IMI taxes, on an annual basis, the ownership, usufruct or surface rights, on urban or rural property, of individuals or legal persons.

4.2.2. Rates

- ✓ Rural property – 0, 8%.
- ✓ Urban property – 0,3% to 0,45%.
- ✓ Property owned by an entity resident in a “tax haven” – 7,5%.

4.2.3. Exemptions

Some of the most relevant IMI exemptions are granted to:

- ✓ Real estate subject to urban rehabilitation, located in urban rehabilitation areas or urban properties built more than 30 years ago.
- ✓ Urban property considered as permanent place of residence up to EUR 125.000, owned by taxpayers with a taxable income up to EUR 153.300.
- ✓ Historical stores.

IMI is only due since:

- ✓ The 4th year (inclusive) next to the one in which a building land was registered as an “inventory” in the accounting records of a company whose core business consists on the selling of self-constructed properties;
- ✓ The 3rd year (inclusive) next to the one in which a building has been registered in the accounting records of a company whose core business consists on the acquisition and selling of real estate.

4.3. Municipal Property Surcharge (“AIMI”)

4.3.1. General aspects

AIMI is a “wealth tax” as it is an additional tax on higher-value properties allocated to inhabitation purposes.

Therefore, urban buildings classified as “commercial, industrial, or for services” are excluded of the AIMI scope.

The taxable basis corresponds to the sum of the taxable value of all properties covered by AIMI's scope owned by each taxpayer.

Individuals benefit from the following deduction to the taxable basis:

- ✓ EUR 600.000 whenever the taxpayer is an individual or an undivided estate;
- ✓ EUR 1.200.000 whenever the taxpayers are married individuals or unmarried partners and opt for the joint taxation of their global real estate.

4.3.2. Rates

AIMI is a progressive tax. Therefore:

Real Estate owned by Individuals:

- ✓ If the taxable basis does not exceed € 1.000.000 (or € 2.000.000, for married individuals or unmarried partners who have opted for joint taxation), the applicable tax rate is 0,7%.
- ✓ The taxable basis that exceeds € 1.000.000 (or € 2.000.000, for married individuals or unmarried partners who have opted for joint taxation), is subject to a marginal tax rate of 1%.
- ✓ The taxable basis that exceeds € 2.000.000 (or € 4.000.000, for married individuals or unmarried partners who have opted for joint taxation), is subject to a marginal tax rate of 1,5%.

Real Estate owned by companies:

- ✓ The applicable tax rate is 0,4%;
- ✓ However, in case the property owned by a company is allocated to the personal use of its share capital owners, members of the management and auditing bodies, or their spouses, descendants or ascendants, the following aggravated tax rates are applicable: 1% to the part of the taxable basis above EUR 1.000.000 and below EUR 2.000.000 and 1,5% to the part of the taxable basis above EUR 2.000.000.

Additionally, when properties are owned by entities established in territories subject to a “clearly more favorable tax regime”, the applicable tax rate shall be of 7,5%.

4.4. Stamp Duty (“IS”)

4.4.1. General aspects

Acquisitions (onerous or free of charge) of real estate is subject to Stamp Duty (IS).

4.4.2. Rates

- ✓ Real Estate onerous transfers – 0,8%.
- ✓ Real Estate free transfers – 10,8%.

4.4.3. Exemptions

The free transfer of real estate agreed between married and unmarried partners, their descendants and ascendants, benefit from IS exemption.

5. Tax Reliefs on investment

5.1. De-taxation of retained and reinvested profits (“Dedução por lucros retidos e reinvestidos”)

The present tax benefit regime (hereinafter, DLRR) was created in favor of micro, small or medium companies in accordance with the definitions foreseen on Commission Recommendation 2003/361/EC of 6th May 2003.

The IRC taxpayers may deduct to the computed IRC an amount which maximum cannot surpass 10% of retained yearly profit, granted that same retained profit is reinvested on the acquisition of eligible assets during a three years term beginning at the ending of the tax year to which the profit regards to.

The maximum yearly retained profit cannot surpass EUR 12.000.000 and the above-mentioned IRC deduction may not surpass 25% (50% for micro and small entities) of the yearly due IRC value.

The present tax regime does not benefit from the possibility of carrying forward to future tax periods any non-deducted amounts.

5.2. System of tax incentives for research and business development (SIFIDE II)

SIFIDE aims to increase the competitiveness of companies by supporting their efforts in Research & Development by deducting a percentage of the respective R&D expenses from the IRC collection (in the part not reimbursed by the State or European Funds).

This is addressed to research and development activities, recognized as such by Agência Nacional de Inovação, S. A, whereas:

- ✓ Research expenditure corresponds to costs of taxable persons liable to Corporate Income Tax with the acquisition of new scientific or technical knowledge.
- ✓ Development expenditure corresponds to costs of taxable persons liable to Corporate Income Tax with the exploitation of results from research or other scientific or technical knowledge for the discovery or substantial improvement of raw materials, products, services or manufacturing processes.

The tax benefit is a deduction of the Corporate Income Tax assessed, up to its sum, of the amount corresponding to the share of research and development expenditure, which was not State financial contribution without return, carried out in the tax periods starting between 1 January 2014 and 31 December 2025, in a double percentage:

- ✓ Basic Rate: Over the amount of total expenditure in research and development in the current year 32,5%.
- ✓ Incremental Rate: 50% increase in expenditure compared with the average of the two preceding years (maximum of EUR 1.500.000,00).

For SMEs which have started business less than 2 years before and which have not benefited from the incremental rate, it is applied an increase of 15% to the basic rate (47.5%).

5.3. Contractual tax benefits for productive investment

Regime of tax benefits, on a contractual basis, with a period of validity of up to 10 years from the completion of the investment, for projects whose relevant investments (expenditure associated to investment projects and related to tangible fixed assets, with some exceptions) are equal to or higher than EUR 3.000.000.

Tax benefits

- Tax credit, determined through the application of a percentage, ranging from 10% to 25% of the relevant investments of the project effectively afforded, to be deducted from the amount of the Corporate Income Tax assessed.
- Exemption or reduction of Municipal Tax on Real-Estate Ownership (IMI), Municipal Tax on Real-Estate Transactions (IMT) and Stamp Duty for buildings, acts or contracts needed and/or used in connection with relevant investments.

6. Social security

Wages and salaries constitute only a part of the labor costs. Mandatory social insurance contributions for employers and employees are another part of labor costs. Generally, the wages and salaries are subject to social security contributions, 23,75% for the employer and 11% for the employee.

In Portugal, the public social insurance system consists of pension insurance, health care insurance, unemployment insurance and accident insurance; these are required for all employees unless they are otherwise exempt by EU regulations or a social security agreement.

7. Conclusions

“Foreign individuals moving / investing in Portugal – relevant tax and legal aspects” is a practical guide to selected important issues that you may face upon your arrival in Portugal. However, the information contained in this guide is not exhaustive. In many cases, only the main points are mentioned, and you may therefore still need to consult a specialist. For more detailed information, please do not hesitate to contact one of your tax experts in Crowe Portugal.

8. About Crowe Portugal

Crowe Portugal is represented in the central locations of the country, Lisbon and Porto.

Crowe Portugal offer services in the fields of Audit, Tax, Advisory, Risk and Accounting.

Backed by its global connections, Crowe Portugal is a reliable partner for international issues relating to tax and commercial law, audits and valuations or transactions.

All Crowe Global member firms are driven by a single purpose – helping their clients to succeed in whatever markets they operate.