LISBOA PORTO FUNCHAL SÃO PAULO LUANDA MAPUTO PRAIA MACAU DILI SÃO TOMÉ PEQUIM SHANGAI

SOCIEDADE DE ADVOGADOS, RL
ROGÉRIO FERNANDES FERREIRA
& ASSOCIADOS

Portugal as a platform of investment for Europe, Africa and America

2015

1 - Contextualization

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Environment and economic business contextualization

Attractive schemes at the level of individuals

Attractive schemes at the level of companies

International relations and strategic positioning

2 - The Portuguese Golden Visa Regime

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Investment activity performed directly by an individual or through a company for a minimum period of 5 years:

Capital transfer in an amount equal or above € 1 Million	Creation of 10 jobs	Purchase of real estate in an amount equal or above € 500.000

2 - The Portuguese Golden Visa Regime

LEGISLATIVE AMENDMENTS - BROADENING

Investment activity performed directly by an individual or through a company for a minimum period of 5 years:

Investments regarding scientific investigation min. € 350.000	Investments in supporting artistic production min. € 250.000	Investments in recovering or maintening national cultural patromony min. € 250.000	Investments in urban rehabilitation work min. € 350.000	Capital transfer for strengthening the capitalisation of small and medium-sized enterprises min. € 500.000

2 - The Portuguese Golden Visa Regime

20% reduction of the minimum amount of investment, when such investment is applied in a low density territory

- Conditions
  - ✓ Investment activities where the average is less than 100 local inhabitants per km2, or
  - ✓ Where the local average gross domestic product (GDP) per capita is below 75% of the national average GDP per capita.

- Exceptions

  -Are not concerned:
  - ✓ The simple capital transfer in an amount equal or above €1,000,000,00, and
  - ✓ The capital transfer in an amount equal or above €500,000,00, for investment in the acquisition of participation units.

2 - The Portuguese Golden Visa Regime

Resident permit for third country citizens to invest in Portugal

Condition of the investment in
Portuguese territory :
Kept for 5 years (from the obtention
of the residence permit) + Remain in
Portugal 7 days per year

2 - The Portuguese Golden Visa Regime

The filling for the granting or renewal of the Golden Visa must be made personally by the applicant

The applicant must present:

- ✓ Statement which declares that the investments conditions are fulfilled
- ✓ Declaration of non debt issued by the Portuguese Tax Authorities and by the Portuguese Social Security
- ✓ The forms of proof, according to the type of investment activity

2 - The Portuguese Golden Visa Regime

The right to family reunification is granted to the citizen with a valid residency permit

- It concerns:
  - ✓ The familly members living outside the Portuguese territory and that have lived with that citizen in another country;
  - ✓ The familly members that depend or cohabitate with the citizen
  - ✓ Those who have legally entered in the Portuguese territory and are dependent or live together with that citizen.

- The concept of family members includes underage descendants, and those who are:
  - ✓ Legal of age;
  - ✓ Dependent of the couple or of one of the spouses;
  - ✓ Single; and
  - ✓ Studying in an educational establishment in Portugal, or abroad.

3 - The Non-Habitual Resident Tax Regime

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What are the qualifying requirements ?

Tax residence in Portugal: Stays in Portugal superior than 183 days per year; or, Have her/his habitual abode in Portugal	Not taxed as Portuguese resident in any of the previous five years

3 - The Non-Habitual Resident Tax Regime

What is the procedure?

Steps	Locations	Deadlines	Documents	Responses
1.º: Obtaining the NIF and registration as a tax resident in Portugal	Tax Office (*Serviço de Finanças*)	Until the 31th of December of the year in which the individuals become tax resident	Copy of a rental or purchase contract of a property	Instant
2.º: Application for registration as non-habitual tax resident	*Direcção de Serviços de Registo de Contribuintes*	Until the 31th of March of the following year	All documents certifying the change of residence and declaration from the individual that, during the last 5 years, the conditions required to be considered as tax resident in Portugal were not met	Approximately 4 to 6 months

3 - The Non-Habitual Resident Tax Regime

Benefit extension	• 10 years (suspendable)
Ancillary Obligations	• Complete the IRS tax return (Annex L)

3 - The Non-Habitual Resident Tax Regime

✓ The applicable tax regime

Source of income	Type of income	Regime applicable	Applicable Rate (2015)
Portugal	Employment income	Subject to IRS	20% («high added value» activities)*+3,5 %
	Entrepreneurial and professional income	Subject to IRS	20% («high added value» activities)*+3,5 %
	Capital income (interests, dividends)	Subject to IRS	28%*
	Movable capital gains	Subject to IRS	28%*
	Immovable capital gains	Suject to IRS	Up to a maximum effective rate of 56,5% (48% +3,5 %+ from 2,5% to 5%)
	Rental income	Subject to IRS	28%*
	Pensions	Subject to IRS	Up to a maximum effective rate of 56,5% (48% +3,5 %+ from 2,5% to 5%)

* Alternatively with the option for income aggregation

3 - The Non-Habitual Resident Tax Regime

✓ **The applicable tax regime**

Source of income	Type of income	Tax regime
Abroad	Employment income	Exempted*
	Entrepreneurial ans professional income («High added value» activities)	Exempted*
	Capital income (interests, dividends)	
	Immovable capital gains	
	Rental income	
	Pensions	Exempted (except public pensions) *

*Please note that the exemption is not automatic and it depends on certain conditions thant should be met in the particular case.

4 - The Portuguese Participation Exemption Regime, and Capital Gains Exemption for non-resident entities

4- The Portuguese Participation Exemption Regime

IRC – The new regime of «Participation-exemption»

- One of the most attractive regime in Europe
- Cumulative criteria:
  - ✓ Detention of 5% of the share capital or voting rights
  - ✓ A minimum 24 months uninterrupted detention period

↓

Exemption : dividends + capital gains

4 - The Portuguese Participation Exemption Regime

Aplication of the regime subject to the verification of the following cumulative conditions:

- The Portuguese company holds a shareholding not lower than 5% of the share capital or of the voting rights of the entity distributing the dividends or originating a capital gain or loss;
- Shareholding is kept for a minimum period of 24 months, uninterruptedly (as for dividends, the shareholding may be kept for a lower period and kept afterwards for the time required in order to complete the mentioned 24 months period);
- The entity that distributes the dividends, or whose shareholding is sold, must be subject and not exempt of IRC or other corporate tax, at a rate not lower than 60% of the applicable IRC rate (i.e., 12,6% in 2015) – this condition might not be fulfilled as long as certain conditions are met;
- The entity that distributes the dividends, or whose shareholding is sold must not be resident or domiciled in a country, territory or region subject to a more favourable tax regime included in the Portuguese "black list".

4 - The Portuguese Participation Exemption Regime

Restriction to the application of the regime:

- Not applicable when referring to capital gains or losses deriving from the sale of shareholdings and the value of the real estate owned by the participated company represents more than 50% of the respective assets, only considering for this purpose the real estate acquired in or after January 1, 2014 (except real estate affected to na agricultural, industrial or commercial activity that does not correspond to renting or buying and selling real estate).

4 - The Portuguese Participation Exemption Regime

Qualifying entities:

- Permanent establishments located in Portugal of entities resident in an European Union ("EU") Member State, European Economic Area ("EEA") or State with whom Portugal has signed a Double Tax Treaty foreseeing administrative cooperation, as long as, in this last case: (i) such State is not included in the Portuguese "black list", and (ii) the entity is, in its residency State, subject and not exempt from corporate tax.

4 - Capital Gains Exemption for non-resident entities

Capital gains exemption incidence:

- Personal income tax and corporate tax exemption on the capital gains obtained from the sale of (i) shareholdings, (ii) other securities, (iii) autonomous warrants issued by Portuguese resident entities and negotiated in regulated markets and (iv) derivatives negotiated in regulamented markets

4 - Capital Gains Exemption for non-resident entities

Capital gains exemption does not cover:

- Non resident entities and without a permanent establishment in Portuguese territory owned, directly or indirectly, in more than 25%, by resident entities;
- Non resident entities and without a permanent establishment and non resident individuals domiciled in a country, territory or region subject to a more favourable tax regime
- Capital gains deriving from the onerous transfer of shareholdings in Portuguese resident companies with assets corresponding, in more than 50%, to real estate located in Portuguese territory or that, being a Portuguese holding companies, are in a dominium relation, as dominant entities, with Portuguese resident dominated companies, with assets corresponding, in more than 50 %, to real estate located in Portuguese territory

5– Inheritance and donations

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Direct descendant or ascendant spouse	0%
Other	10%

6– The network of Conventions to avoid double taxation

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71 Conventions concluded (7 not yet into force)

8 Africa	11 America
18 Asia	34 Europe

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Thank you !

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