

# PORTUGAL\*

## INDIVIDUAL INCOME TAXES

### *Individual Income Tax System*

In Portugal individuals are taxed on their income—Personal Income Tax, a national income tax—derived from the following six major categories, according to its source:<sup>1</sup>

- (i) Employment income;
- (ii) Business and professional income;
- (iii) Investment income;
- (iv) Real estate income;
- (v) Net worth increases;
- (vi) Pension income.

Individuals resident in Portugal are subject to PIT on their world-wide income. The following individuals are considered resident in the Portuguese territory with respect to the year in which the taxable income was obtained:<sup>2</sup>

- (i) Individuals who have spent more than 183 days, consecutive or not, in any given calendar year in Portuguese territory;
- (ii) Individuals who have remained in Portugal for a lesser period but keep a residential accommodation in Portugal on December 31 of the same year which suggests intention to maintain and occupy it as an habitual residence;
- (iii) Individuals who, on December 31, are crew members of vessels or aircraft, provided that they are in the service of entities with residence, head office or (place of) effective management in Portuguese territory;
- (iv) Individuals who are abroad performing public duties on behalf of the Portuguese State;
- (v) Individuals who constitute the household are always regarded as resident in Portuguese territory when the head of household resides there. However if the spouse provides proof that he/she has not spent more than 183 days in Portuguese territory, he/she will only be taxed on

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<sup>1</sup> PIT Code, 1.

<sup>2</sup> PIT Code, 15 and 16.

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income arising in this territory;

- (vi) Individuals of Portuguese nationality that have changed their tax residence to a territory or region subject to a more privileged tax system.

Total taxable income is determined by aggregating income from the above sources after any allowable deductions have been made.<sup>3</sup> Certain types of income are taxed at source (e.g. most investment income) and are not required to be included in the tax return (Form number 3). This means that the rate of withholding will be the final rate of tax, which may be in certain cases substantially lower than the taxpayer's marginal rate.<sup>4</sup>

The legislation also provides special treatment of windfall gains, allocation of income to years other than those in which income was received.<sup>5</sup>

### ***Gross Income Inclusions<sup>6</sup>***

The following categories of income are generally considered to have been obtained in Portugal:

- (i) Employment income;
- (ii) Business and professional (independent employees) income;
- (iii) Interest;
- (iv) Dividends;
- (v) Derivatives financial instruments income;
- (vi) Income arising from:
  - a) Intellectual or industrial property rights;
  - b) The supply of know-how in the commercial, industrial or scientific fields
- (vii) Capital gains resulting from:
  - a) The transfer of shares and securities of resident companies;
  - b) Transfer of immovable property;
  - c) The transfer of industrial or intellectual property rights if the vendor is not the original owner of such rights;
  - d) Derivative financial instruments, if such gains are paid by a resident entity;
  - e) Gambling, lotteries or raffle prizes if paid by a resident entity;
  - f) Income arising from pensions paid by a resident entity.

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<sup>3</sup> PIT Code, 22(1).

<sup>4</sup> PIT Code, 71.

<sup>5</sup> PIT Code, 55.

<sup>6</sup> PIT Code, 2, 3, 5, 8, 9, 11 and 18.

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### *Gross Income Exclusions and Deductions*

#### *Gross Income Exclusions*

Personal Income Tax is not applicable to compensation payable in consequence of injury, illness or death granted:<sup>7</sup>

- (i) By the State, autonomous regions or municipalities, and any of their departments, institutions or bodies, even if they have legal personality, including public institutes and public funds, or
- (ii) Under an insurance contract or arising from a judicial dispute

Also literary, artistic or scientific prizes, not involving the transfer of the respective copyrights, are excluded from Personal Income Tax, provided that they are awarded through a contest in respect of which a public announcement setting out the conditions for their attribution is made.<sup>8</sup>

In what concerns specifically to employment income, we underline that are not considered income:<sup>9</sup>

- (i) Employer contributions to compulsory social security schemes, that assure protection in cases of retirement, disability or survivorship;
- (ii) Benefits attributable to the use and enjoyment of social utility and leisure facilities maintained by the employer, provided certain requirements are met;
- (iii) Benefits associated exclusively with professional training courses for employees, organized or administrated by the employer, by an organization set up under public law, or by an entity recognized by the competent authorities as having expertise on professional training;
- (iv) Amounts spent by employers on the acquisition of public transportation season tickets for their employees, provided they are generally granted to the employees.

#### *Deductions (income deductions)*

#### *Employment income*<sup>10</sup>

The taxable persons who receive this type of income are granted with the following deductions:

- (i) 72% of €5,030.64 (“*Indexante de Apoios Sociais*” x 12);
- (ii) Amount correspondent to the compensation paid by the employee to the employer in respect of the unilateral termination of his contract of employment without the legal pre notice as a result of a court decision;
- (iii) Trade union contributions.

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<sup>7</sup> PIT Code, 12 (1).

<sup>8</sup> PIT Code, 12 (2).

<sup>9</sup> PIT Code, 2 (8).

<sup>10</sup> PIT Code, 25.

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### *Real Estate income*<sup>11</sup>

It may be deducted from the gross amount of rental income repair and maintenance expenses borne by the tax payers and supported by documentation as well as the annual municipal property tax.

### *Capital gains on transfer of immovable property*<sup>12</sup>

When determining the capital gains subject to taxation (which results from the difference between the selling value and the acquisition value) to the acquisition value shall be added (i) improvement expenses on the property incurred in the last five years and (ii) expenses necessarily and actually incurred in the acquisition and disposal (e.g. real estate agency fees).

### *Investment income*<sup>13</sup>

The taxable persons are entitled to a deduction correspondent to 50% of the amount of profits distributed by entities resident in Portugal or in another EU Member State provided certain requirements are met.

### *Pensions*<sup>14</sup>

The taxable persons who benefit from pensions up to €30,240 are entitled to a gross deduction of €6,000.

For the pensions which amount exceeds €30,240 the deduction amount depends on the pension amount and will be as smaller as the pension amount is higher.

### *Itemized Deductions*

Resident tax payers may deduct, notably, the following expenses:

#### *Personal deduction related to taxpayers, dependents and ascendants*<sup>15</sup>

- (i) €230.57 per tax payers or €335.38 per tax payer on single parent family (this deduction may be doubled in case of dependents aged under 3 years);
- (ii) €167.69 per dependent not deemed as a tax payer;
- (iii) €230.57 per each ascendant living in the same household that the taxpayer who does not receive income, which exceeds the minimum pension payable under the general regime or 85% of this amount in case only one ascendant meets the referred requirements.

### *International Double taxation Credit*<sup>16</sup>

Resident taxpayers who obtain foreign-sourced income are entitled to a tax

<sup>11</sup> PIT Code, 41.

<sup>12</sup> PIT Code, 51.

<sup>13</sup> PIT Code, 40-A.

<sup>14</sup> PIT Code, 53.

<sup>15</sup> PIT Code, 79.

<sup>16</sup> PIT Code, 81.

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deduction correspondent to the lowest of the following amounts:

- (i) Income tax paid abroad;
- (ii) Portuguese Personal Income Tax applicable on such income, net from the above referred gross exclusions;
- (iii) Tax due in accordance with the Double Tax Treaty which may be applicable.

***Health Expenses (30% of the following amounts)<sup>17</sup>***

- (i) Acquisition cost of goods and services directly related to health expenses regarding the taxpayer and the respective household, provided that those goods or services are exempted from VAT or subject to the reduced VAT rate of 6%;
- (ii) Acquisition cost of goods and services directly related to health expenses regarding ascendants and other relatives (until the third degree) of the taxpayer provided that those goods or services are exempted from VAT or subject to the reduced VAT rate of 6 and the said ascendants and other relatives do not receive incomes above the highest national minimum wage and that they live in the same household of the taxpayer;
- (iii) Interest incurred on loans obtained for payment of the abovementioned expenses;
- (iv) Acquisition cost of other goods and services directly related to health costs of the taxpayer and his household, his ancestors and other relatives (until the third degree) duly justified with a medical prescription, up to a limit of €65 or 2.5% of the amounts mentioned in the above referred paragraphs, whichever is higher.

***Education and Training expenses (30% of the following amounts, up to a €670.75 limit)<sup>18</sup>***

Educational and professional training expenses (including amounts spent on day-care centers, kindergartens, artistic training, sports, computer education and private tutoring) of the taxpayers and its dependants.

***Alimony Expenses (20% of the following amounts, up to a €1,048.05 limit per each beneficiary of the alimony)<sup>19</sup>***

Expenses incurred and not reimbursed to taxpayer related to alimonies as a result of a court decision or of an agreement endorsed by court.

***Elderly home expenses (25% of the following amount up to a €356.34 limit)<sup>20</sup>***

Expenses incurred with retirement and elderly homes and institutions to support

<sup>17</sup> PIT Code, 82.

<sup>18</sup> PIT Code, 83.

<sup>19</sup> PIT Code, 83-A.

<sup>20</sup> PIT Code, 84.

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handicapped persons, regarding the taxpayer as well as the respective dependents, ascendants or other relatives (until the third degree) provided that their income does not exceed the highest national minimum wage.

### ***Real Estate Expenses (30% of the following amounts<sup>21</sup> up to a €591 limit)<sup>22</sup>***

- (i) Interest and repayment of loans obtained for the acquisition, construction or improvement of the taxpayers' habitual resident or dully supported rental payments regarding taxpayers' permanent residence, excluding repayments made through the use of the amounts allocated to residence savings accounts;
- (ii) Installments payable as a result of contracts entered into with housing cooperatives with the purpose of acquisition of the taxpayers' habitual resident or to support rental payments regarding taxpayers' permanent residence, dully supported.

### ***Tax benefits***

The taxpayers may deduct the amounts correspondent to tax benefit granted under the Portuguese Tax Benefits Statute and other legislation. The amount of the deduction depends on the Taxable income of the taxpayers, as follows:<sup>23</sup>

Taxable Income (€)	Limit of the deduction (€)
Up to 4,898	No limit
Between 4,898 and 7,410	
Between 7,410 and 18,375	100
Between 18,375 and 42,259	80
Between 42,259 and 61,244	60
Between 61,244 and 66,045	50
Between 66,045 and 153,300	50
Higher than 153,300	0

The deductions correspondent to: health expenses, education and training expenses, elderly home expenses and real estate expenses are also subject to a global limit, which depends on the taxable income as well, on the following terms:<sup>24</sup>

<sup>21</sup> Provided that these amounts are related to immovable property located in Portuguese territory or in another Member State of the European Union or of the European Economic Area.

<sup>22</sup> PIT Code, 85.

<sup>23</sup> PIT Code, 88.

<sup>24</sup> PIT Code, 78 (7).

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Taxable Income (€)	Limit of the deduction
Up to 4,898	No limit
Between 4 898 and 7,410	
Between 7,410 and 18,375	
Between 18,375 and 42,259	
Between 42,259 and 61,244	
Between 61,244 and 66,045	
Between 66,045 and 153,300	1.666% of the taxable amount up to €1,100
Higher than 153,300	€1,100

### *Individual Income Tax Rates<sup>25</sup>*

For the tax year 2011, the general rates of PIT may vary from 11.5% in respect of income of up to €4,898 to 46.50% in respect of income of higher than €153,300.

Taxable Income (€)	Rates (%)	
	Marginal (A)	Average (B)
Up to 4,898	11.50	11.500
Between 4,898 and 7,410	14.00	12.3480
Between 7,410 and 18,375	24.50	19.5990
Between 18,375 and 42,259	35.50	28.5860
Between 42,259 and 61,244	38.00	31.5040
Between 61,244 and 66,045	41.50	32.2310
Between 66,045 and 153,300	43.50	38.6450
Higher than 153,300	46.50	-

The amount of taxable income, when higher than €4,898, is divided into two parts:

- (i) One, equal to the limit of the highest bracket that it exceeds, to which is applied the rate of column (B) corresponding to that bracket;
- (ii) The other, equal to the excess, to which is applied the marginal rate of column (A) relating to the next higher bracket.

The “income-splitting” system is applied, whereby the income of a married couple is divided by two for the purposes of applying the tax rates, and the resulting tax liability is doubled.<sup>26</sup>

### *Non-Resident Aliens*

Non-resident individuals are subject to tax only on their Portuguese-source income,<sup>27</sup> usually through withholding taxation.<sup>28</sup>

<sup>25</sup> PIT Code, 68.

<sup>26</sup> PIT Code, 69.

<sup>27</sup> PIT Code, 15.

<sup>28</sup> The Personal Income Tax withholding tax rate for non residents, as general rule is 21,5%. However, when it comes to capital gains and other income to which the general withholding tax rate is not applicable, a special 25% rate (not withholding) will be applicable, except for real estate income to which will be applicable a 15% special rate. Moreover, we also underline that nonresident

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The following categories of income are generally considered to have been obtained in Portugal:<sup>29</sup>

- (i) Employment income arising from activities carried out in Portugal or paid by a resident entity;
- (ii) Income arising from director's remuneration paid by a resident company;
- (iii) Income arising from employment aboard an aircraft or vessel, if the employer is a resident entity;
- (iv) Income arising from isolated acts performed therein;
- (v) Income arising from payments made by an entity resident or with head office, place of management or a permanent establishment in Portuguese territory in respect of:
  - a) Intellectual or industrial property rights;
  - b) The supply of know-how in the commercial, industrial or scientific fields;
  - c) Commercial activities or supply of services arising from a permanent establishment located in Portugal or carried out within this territory, except for services related to transportation, communications or financial activities;
  - d) Intermediation activities;
  - e) Any other investment income.
- (vi) Income arising from immovable property located in Portuguese territory, including capital gains arising from its transfer;
- (vii) Capital gains resulting from:
  - a) The transfer of shares and securities of resident companies;
  - b) The transfer of industrial or intellectual property rights if the vendor is not the original owner of such rights;
  - c) Derivative financial instruments, if such gains are paid by a resident entity;
  - d) Gambling, lotteries or raffle prizes if paid by a resident entity;
  - e) Income arising from pensions paid by a resident entity.

The Portuguese jurisdiction encloses a tax regime for non-habitual resident individuals who are likely to establish a permanent or a temporary residence in Portugal, which is applicable for ten years.<sup>30</sup>

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individuals who obtain Portuguese source income through a permanent establishment will also be subject to a 25% special rate.

<sup>29</sup> PIT Code, 18.

<sup>30</sup> PIT Code, 16 (10).



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This regime foresees a flat income tax rate of 20% for some Portuguese source employment income and a tax exemption for almost all foreign source income. Nonresident individuals are eligible to benefit from this regime if:<sup>31</sup>

- (i) Became resident, for tax purposes in the Portuguese territory;
- (ii) Were not taxed under the rules of the PIT Code as residents for tax purposes in Portugal for the previous five years; and
- (iii) Develop high added value activities of a scientific, artistic or technical nature.

The definition of high added value activity contains activities and professions such as architects, engineers, artists, actors, musicians, auditors, medical doctors, dentists, college professors, psychologists, computer technology and data processing activities, news service activities, scientific investigation activities and company's top executive employees, as well as investors, directors and managers of companies benefiting from tax benefits contracts entered into with the Portuguese Government. In order to benefit from this regime the nonresidents should (i) proceed to registration before the Portuguese Tax Authorities as non habitual residents for tax purposes in Portugal and (ii) prove when proceeding to registration that they were resident for tax purposes in a foreign country, through a residency certificate that also demonstrates that they were subject to effective taxation.<sup>32</sup>

## CORPORATION TAXES

### *Corporate Tax System (Describe if there is a corporate taxes, or company taxes and how it work)*

The corporate income tax (CIT) rate is applied at a graduated rate, based on the taxable income of the corporation per year:

- (i) 12.5% tax rate applies to income generated up to €12,500;
- (ii) 25% tax rate applies to income higher than €12,500.<sup>33</sup>

The above mentioned rates are lower if the corporate entity has its head-office and place of effective management in Madeira (outside the International Business Centre) or Azores Islands.

Taxable profit is based on the accounting income, adjusted according to specific rules foreseen in the tax legislation.<sup>34</sup>

A Municipal surcharge (*derrama municipal*) is added to the CIT in most municipalities with a rate which may be up to 1.5% of the taxable income.<sup>35</sup>

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<sup>31</sup> PIT Code, 72 (6).

<sup>32</sup> Administrative Order number 12/2010.

<sup>33</sup> CIT Code, 87 (1).

<sup>34</sup> CIT Code, 17 (1).

<sup>35</sup> Law 2/2007, 14 (1).

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Corporate taxpayers with a taxable income of more than €2,000,000 are also subject to a new State surcharge (*derrama estadual*) of 2.5% on the part of its taxable profits that exceeds €2,000,000.<sup>36</sup>

Losses may be carried forward for up to four years after which the right to use them against profits will expire.<sup>37</sup>

CIT returns must be submitted by May 31st following the year-end (or five months after the authorised year-end if the company's tax year is not the calendar year).<sup>38</sup>

Three payments on account for the final CIT assessment are due by the end of July, September and December, for calendar-year taxpayers (or in the 7th, 9th and 12th month, for non calendar-year taxpayers). These three payments correspond to 90% of the previous year's CIT assessment for taxpayers with a turnover above €498,797.90, and to 70%, if the turn-over is below that amount.<sup>39</sup> The difference between the amount paid on account and the amount actually due is paid when the CIT return is submitted. The amount paid on account is reimbursed if in excess of the final CIT due.<sup>40</sup>

As a general rule, a special payment on account for the final CIT assessment shall also be due, equal to 1% of the previous year business volume with a minimum limit of €1,000 and, when superior, to this limit the special payment on account shall be equal to this minimum limit plus 20% of the exceeding part, with a maximum limit of €70,000. From the amount of this special payment may be deducted the amounts corresponding to the payments on account mentioned in the previous paragraph. This special payment on account is made in March, or divided in two installments, in March and October (third or third and tenth month of the tax year, if it ends on a date other than December 31st).<sup>41</sup> This special payment is deducted to the final CIT due. However, there is generally no reimbursement if the final CIT due is lower than this payment, but the deduction of these amounts can be made against the final CIT due on the following four years.<sup>42</sup>

### *Corporate Tax Credits*

#### *Foreign tax credit*

The credit deduction for international double taxation occurs when income derived from abroad is included in the taxable income. The tax credit will correspond to the lowest of the following amounts:

- (i) The income tax paid abroad, or

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<sup>36</sup> CIT Code, 87-A (1).

<sup>37</sup> CIT Code, 52 (1).

<sup>38</sup> CIT Code, 120 (1) and (2).

<sup>39</sup> CIT Code, 105 (1), (2) and (3).

<sup>40</sup> CIT Code, 104 (1) and (2).

<sup>41</sup> CIT Code, 106 (1), (2) and (3).

<sup>42</sup> CIT Code, 94 (1).

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- (ii) CIT fraction assessed before the deduction, corresponding to the net income that may be taxed in the respective country.

Whenever a double tax treaty (DTT) is applicable, the tax credit may not exceed the tax paid abroad, according to the terms foreseen under the treaty.<sup>43</sup>

### *Tax credit for Research & Development (R&D) investments<sup>44</sup>*

A tax credit for qualifying R&D expenses is available from January 1st, 2011 until December 31st, 2015.

The creditable amount is the sum of:

- (i) A tax credit, correspondent to 32.5% of the qualifying expenses for the relevant year;
- (ii) An additional credit, equal to 50%<sup>45</sup> of the expenses incurred during that period of time in relation to the single arithmetic average of the previous two exercises up to a limit of €1,500,000.<sup>46</sup>

Expenses not deducted in a given accounting period for lack or insufficiency of assessment basis may be deducted in the subsequent six accounting periods.

In order to make use of the credit, the qualifying investor must include in the documentation file:

- (i) A compliance statement, issued by a verification body to be appointed by the Minister of Science, Technology and Higher Education, concerning the qualifying R&D expenditure effectively incurred;
- (ii) A statement evidencing the amount of the tax benefit, and
- (iii) An annual statement confirming the appropriate payment of taxes and social security contributions.

This R&D investment tax credit may not be used at the same time as with any other similar tax incentive.

### *Notional deduction for small and medium-sized corporations<sup>47</sup>*

Small and medium-sized corporations may qualify for a notional CIT deduction, which is assessed by multiplying/applying a rate of 3% on the capital contributed by the shareholders in cash upon incorporation or in a subsequent capital increase.

Only contributions made by shareholders qualified as individuals, venture capital companies (SCRs) or qualified venture capital investors (ICRs) can benefit from this deduction.

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<sup>43</sup> CIT Code, 91 (1) and (2).

<sup>44</sup> 2011 Budget State Law, 133.

<sup>45</sup> Increased by 20% for hiring professionals with doctoral level to perform R&D activities.

<sup>46</sup> Increased to €1,800,000 for hiring professionals with doctoral level to perform R&D activities.

<sup>47</sup> 2011 Budget State Law, 136.

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This regime is applicable to capital contributions taking place in from January 1st, 2011 until December 31st, 2013.

### *Tax Regime Aimed at Fostering Investment<sup>48</sup>*

The tax regime aimed at fostering investment is applicable during 2011 and establishes several tax incentives to investment realized within specific business sectors.

Among other incentives, companies will benefit from a CIT deduction, up to 25% of the CIT due, of:

- (i) 20% of the qualified investment, for investments below €5,000,000, or
- (ii) 10% of the qualified investment, for investments above €5,000,000.

Expenses not deducted in a given accounting period for lack or insufficiency of assessment basis may be deducted in the subsequent four accounting periods.

### *Job creation incentive<sup>49</sup>*

When determining the taxable profit for CIT purposes, costs regarding eligible expenses related to the net creation of permanent jobs for young people (aged over 16 and under 30) and for long-term unemployed (i.e. registered unemployed for more than 9 months) will be increased by 50%.

The eligible expenses include the fixed remuneration and social security contributions.

The maximum amount of the annual cost per employee is €6,790 (14 times the highest minimum monthly guaranteed wage—€485 in 2011).

This 50% increase is only applicable during a five years period, counting from the beginning of the individual employment agreement and is available once per employee hired by a corporation or by its related entities.

### *Patronage<sup>50</sup>*

Donations to authorized charitable institutions are allowable up to 0.8% of turnover, with the possibility of the cost being grossed up to 150%.

Donations to authorized cultural institutions are allowable up to 0.6% of turnover, with the possibility of the cost being grossed up to 130%.

Donations to the state, municipalities, foundations in which the state or municipalities participate in the initial capital are fully deductible, with the possibility of the cost being grossed up to 140%.

Special applications may be made by certain entities in order to be included under this regime.

Donations of computers, software equipment, training and consultancy in the area of computers granted to the state, municipalities, foundations, museums as well as

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<sup>48</sup> 2011 Budget State Law, 134, and Law 10/2009, 13.

<sup>49</sup> Tax Benefits Code, 19.

<sup>50</sup> Tax Benefits Code, 62.

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to authorized charitable and cultural institutions are allowable up to 0.8% of turnover, with the possibility of the cost being grossed up to 140%.

The above tax benefits are capped at certain levels.

### *Interest Income*

Interest income obtained by a domestic company is included in the assessment of the taxable profit for CIT purposes.<sup>51</sup>

Interest paid by a Portuguese resident corporation to a non-resident entity is tax deductible<sup>52</sup> (but capped by thin capitalization rules if the recipient is a non-EU entity)<sup>53</sup> and is subject to withholding tax at a rate of 21.5%.<sup>54</sup> The tax must be withheld at the maturity date of the interest.<sup>55</sup>

This withholding tax is not applicable if interest is paid between two financial institutions.<sup>56</sup>

This withholding tax can also be reduced through the application of the EU Interest and Royalties Directive. Under the transitional regime foreseen in the EU Interest and Royalties Directive, a Portuguese company can apply a 5% withholding tax rate on interest payments made until 30 June 2013 (zero % from that date onwards).<sup>57</sup>

This reduced withholding tax rate shall only be applicable if the following conditions are met:<sup>58</sup>

- (i) The paying and beneficiary entities should be subject to corporate tax and included in the list established in the Annex of this Directive;
- (ii) Both entities have to be considered as residents for DTT purposes; and
- (iii) A direct 25% shareholding must be held by one of the companies in the other's capital, or both are sister companies (i.e., both held, in at least 25%, by the same direct shareholder), and in either case the shareholding must be held for at least a two-year period.

In other cases, and as a consequence of over 50 DTTs signed between Portugal and other countries (including EU countries, Brazil, Canada, China, India, Russia and the US), the domestic withholding tax rates foreseen for interest and dividend payments can also be reduced to rates of 5, 10, 12 or 15%.

The reduced withholding tax rate on interest payments under the EU Interest and

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<sup>51</sup> CIT Code, 4 (1).

<sup>52</sup> CIT Code, 23 1 (c).

<sup>53</sup> CIT Code, 67 (1).

<sup>54</sup> CIT Code, 87 (1) (c).

<sup>55</sup> CIT Code, 94 (6), and PIT Code, 98 (1).

<sup>56</sup> CIT Code, 97 (1) (a).

<sup>57</sup> CIT Code, 87 (4) (g).

<sup>58</sup> CIT Code, 96 (1).

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Royalties Directive or DTT provisions may not be applicable to the part of the interest that is not compliant with the arm's-length principle or that exceeds the debt-to-equity ratio, under thin capitalization rules.<sup>59</sup>

### ***Banking Income***

Banking income obtained by a domestic bank or a permanent establishment situated in Portugal should be included in the assessment of the taxable profit for CIT purposes.<sup>60</sup>

### ***Swaps and loans granted by non-resident financing institutions***<sup>61</sup>

Interest and gains from swaps, earned by non-resident financing institutions and paid by resident credit institutions or the State, acting through the Public Debt Management Institute, are exempt from CIT.

For this purpose, such interest or gains cannot be attributable to an eventual permanent establishment of the beneficiary in the Portuguese territory.

### ***Deposits by non-resident credit institutions***<sup>62</sup>

Interests on term deposits made by non-resident credit institutions in legally authorized resident establishments are exempted from CIT.

### ***External loans***<sup>63</sup>

Interests related to foreign capital representing *Schuldscheindarlehen* loan contracts, entered into by the Public Debt Management Institute, are exempted from CIT, as long as the creditor is a non-resident without a permanent establishment in Portugal to which the loan may be attributed.

This benefit depends on a certification to be made by the Public Debt Management Institute.

### ***Repurchase agreements***<sup>64</sup>

Capital gains obtained by non-resident financial institutions as a result of repurchase agreements with resident financial institutions are exempted from CIT, as long as such gains are not attributable to a permanent establishment of those institutions located in Portugal.

### ***Insurance Income***

Insurance income obtained by an insurance company or a permanent establishment situated in Portugal should be included in the assessment of the taxable profit for CIT purposes.<sup>65</sup>

Any income or costs resulting from the evaluation at fair value of any assets

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<sup>59</sup> CIT Code, 87 (6) (a), and Double Tax Treaty provisions.

<sup>60</sup> CIT Code, 4 (1).

<sup>61</sup> Tax Benefits Code, 30 (1) and (2).

<sup>62</sup> Tax Benefits Code, 31.

<sup>63</sup> 2011 Budget State Law, 137.

<sup>64</sup> 2011 Budget State Law, 140.

<sup>65</sup> CIT Code, 4 (1).

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representing technical provisions of life insurance with a participation in the earnings will be included in the insurance company taxable profit. This is also applicable to the income or costs related to contracts in which the insurance risk remains with the policy-holder.<sup>66</sup>

### *Branch Level Taxes*

In general terms, domestic branch's profits are taxed on the same basis as corporate profits.<sup>67</sup>

Nevertheless, the following differences in the tax regime applicable to a domestic branch of a foreign entity should be considered:

- (i) Income remitted by a branch to its head office is exempt from tax withheld at source;
- (ii) General administrative expenses incurred by the head office may, as a general rule, be allocated to the branch (following certain criteria);<sup>68</sup>
- (iii) There may be certain restrictions concerning the deductibility of certain expenses charged by the head office to the branch (e.g. interests and royalties).<sup>69</sup>

### *Foreign Branch Taxes*

Portugal imposes tax on the worldwide income of business entities with a head office or effective management in Portugal.<sup>70</sup>

All income is included in the tax base, regardless of the geographical place it was derived, and all allowable items of expense, deduction and credit are taken into account, regardless of the place the income to which such items were related is derived.

In order to avoid double taxation, Portuguese companies are allowed a foreign tax credit as described above.<sup>71</sup>

### *Insurance Companies and Banks*

In general terms and besides our comments above concerning certain typed of income obtained by insurance companies and banks, these entities are taxed under the same rules applicable to regular corporations.

Nevertheless, special deductions are allowed for these sorts of entities, as explained below.

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<sup>66</sup> CIT Code, 50 (1).

<sup>67</sup> CIT Code, 55 (1).

<sup>68</sup> CIT Code, 55 (2).

<sup>69</sup> This is a very controversial issue. According to a Court decision (2161/07, of January 29, 2008), interest expenses charged by the head office to its branch should be deductible for tax purposes, at the branch's level, and should not be subject to withholding tax in Portugal. Nonetheless, this is not a unanimous understanding.

<sup>70</sup> CIT Code, 4 (1).

<sup>71</sup> CIT Code, 91 (1) and (2).



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### *Special deductions*

A domestic insurance company and a domestic branch of an insurance company resident in the EU are allowed to deduct to the taxable amount:

- (i) Any uncharged premium receipts recognized by the insurance company;<sup>72</sup>
- (ii) The technical provisions mandatorily constituted under National Insurance Institute's issued rulings (under certain terms).<sup>73</sup>

Banks under Bank of Portugal supervision and domestic branches of financial institutions resident in the EU are allowed to deduct, under certain terms, impairment losses and other value corrections mandatorily constituted, under Bank of Portugal's issued rulings, provided they refer to:<sup>74</sup>

- (i) Hedging against a credit risk or country risk;
- (ii) Capital losses concerning securities and other investments.

Impairment losses and value corrections are only tax deductible if they refer to the normal economic activity and do not involve any of the following situations:<sup>75</sup>

- (i) Credits excluded by the supervisory bodies;
- (ii) Credits guaranteed by the State, Autonomous Regions, Municipalities and other public bodies;
- (iii) Credits guaranteed by rights *in rem* in immovable property;
- (iv) Credits guaranteed by credit insurance or fidelity guarantee insurance (with the exception of the mandatory overdraft);
- (v) Credits over shareholders owning more than 10% of share capital of the bank and over its statutory board members (except if the debtor is insolvent or the credit has been claimed in courts);
- (vi) Credits over subsidiaries, if the shareholding exceeds 10% of the share capital (except if the debtor is insolvent or the credit has been claimed in courts).

The capital losses are assessed by the difference between the cost of the investment related to the credit recovery and the respective market value, if lower.<sup>76</sup>

Supplementary contributions made by insurance companies and banks to pension funds to cover the retirement benefits' liabilities, in accordance with the specific

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<sup>72</sup> CIT Code, 35 (1) (b).

<sup>73</sup> CIT Code, 39 (1) (c).

<sup>74</sup> CIT Code, 37.

<sup>75</sup> CIT Code, 37 (2).

<sup>76</sup> CIT Code, 37 (3).



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GAAP rules for these entities, may be unlimitedly deducted during a certain period of time.<sup>77</sup>

### *New contribution regime for the banking sector*<sup>78</sup>

A new contribution regime—non deductible for CIT purposes—is applicable to the following banking entities:

- (i) The credit institutions whose main and effective management is located in the Portuguese territory;
- (ii) Subsidiaries in Portugal of credit institutions whose main and effective management is not located in Portuguese territory, and
- (iii) Branches in Portugal of credit institutions whose main and effective activity is located outside the EU.

The contribution is calculated by reference to:

- (i) The liabilities computed and approved by the taxpayer, deducted by its Tier I and Tier II capital and deposits covered by the Deposit Guarantee Fund, at a rate between 0.01% and 0.05%, and
- (ii) The notional value of the derivatives not included in the balance sheet of the taxpayers, at a rate between 0.0001% and 0.0002%.

The assessment and payment of this contribution has to be made until the end of June.

### *Foreign Operations*<sup>79</sup>

Profits derived by an affiliate resident in a blacklisted offshore jurisdiction or in a jurisdiction where it is subject to an effective tax rate equal to or lower than 60% of the Portuguese corporate tax rate are, generally, imputed to the Portuguese shareholder (even if they are not distributed), provided that:

- (i) It holds, directly or indirectly, a minimum holding participation of 25%, or
- (ii) It holds, directly or indirectly, a minimum holding participation of 10%, if more than 50% of the capital is held by Portuguese shareholders.

Upon subsequent distribution of the profits, a deduction is available for previously imputed income.

### *Depreciation*

Depreciation is estimated, as a general rule, on the acquisition or production costs of the relevant fixed assets that they may refer to and, as a general rule, it is allowed by way of the straight-line method according to the rates as set down by the law.<sup>80</sup>

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<sup>77</sup> CIT Code, 43 (13) (a) and (b).

<sup>78</sup> 2011 Budget State Law, 141.

<sup>79</sup> CIT Code, 66.

<sup>80</sup> CIT Code, 31 (1), and Regulative Decree 25/2009, 4 (1).

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It is also possible to use the declining-balance method, but this is one cannot be applied to buildings, passenger vehicles, furniture, social welfare equipment and second-hand assets.<sup>81</sup>

Straight-line rates of depreciation are normally consistent with rates privately used by business and industry and are increased, for the purposes of applying the declining-balance method, by coefficients of:

- (i) 1.5, if the useful life of the item is less than 5 years;
- (ii) 2, if the useful life of the item is 5 or 6 years;
- (iii) 2.5, if the useful life of the item is more than 6 years.<sup>82</sup>

Depreciation of real estate shall not be accepted as costs for the part corresponding to the value of land nor the depreciation of yachts and motor vehicles that are not essential for business activity and depreciation on the excess of €40,000 each on passenger cars and certain other vehicles.<sup>83</sup>

The qualifying cost of an asset for tax purposes is the acquisition or production cost.<sup>84</sup>

Patents, trademarks, licenses, and similar rights may be depreciated for tax purposes, if acquired for a limited time-span.<sup>85</sup>

Rates can be reduced by 50% in any year at the taxpayer's option. If the reduction is more than 50%, the difference will not be allowed for tax at a later date.<sup>86</sup>

Any depreciation in excess of the maximum must be subsequently adjusted in the accounting records to be allowed for tax purposes in future years.<sup>87</sup>

Only sixty percent of additional depreciation on revaluation of fixed assets, as permitted from time to time, is allowed for tax purposes.<sup>88</sup>

Depreciation rates may be increased by 25% where more than one shift is worked (two shifts, 50%).<sup>89</sup>

### *Transportation Source Income*

Generally, income of a foreign entity is considered to be located in Portugal for source income tax purposes, whenever the payer has his domicile, head-office or effective management in the Portuguese territory, or the payment of which is

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<sup>81</sup> CIT Code, 30 (2), and Regulative Decree 25/2009, 4 (2).

<sup>82</sup> CIT Code, 31 (3) and Regulative Decree 25/2009, 6 (1).

<sup>83</sup> CIT Code, 34 (1) (e), and Regulative Decree 25/2009, 11 (1).

<sup>84</sup> CIT Code, 31, and Regulative Decree 25/2009, 2.

<sup>85</sup> Regulative Decree 25/2009, 16 (1).

<sup>86</sup> Regulative Decree 25/2009, 18 (1) and (2).

<sup>87</sup> Regulative Decree 25/2009, 20.

<sup>88</sup> Regulative Decree 25/2009, 15 (2) (a).

<sup>89</sup> Regulative Decree 25/2009, 9 (1) (a) and (b).

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attributable to a permanent establishment situated therein.<sup>90</sup>

This rule is not applicable, however, regarding transportation services. In this case, the income derived from such services will not be subject to taxation in Portugal, even if due by a Portuguese entity.<sup>91</sup>

Only 30% of the profits resulting exclusively from a shipping activity of ship-owner companies of the national merchant navy are liable to tax.<sup>92</sup>

Capital gains resulting from the transfer of passenger and goods transport vehicles remain tax exempt during 2011, if the sale proceeds are reinvested in new vehicles.<sup>93</sup>

### *Reporting Requirements*

Taxable persons liable to IRC and their representatives are subject to the following major reporting obligations:

- (i) Filing of a statement in respect of the registering, changes or cancellation of register of taxable persons, within the terms foreseen in the tax law,<sup>94-95</sup>
- (ii) Filing of a periodical income tax return to be filed each year no later than the last working day of May or of the fifth month subsequent to the closing date of the taxation period, by resident entities, non-resident entities having a permanent establishment within the Portuguese territory and by non-resident entities deriving income from immovable property and capital gains within the Portuguese territory not attributable to a permanent establishment situated therein;<sup>96</sup>
- (iii) Filing of a statement containing accounting and tax information no later than the July 15th or of the 15th day of the seventh month next following the closing date of the taxation period.<sup>97</sup>

There are other reporting obligations, such the declaration of payments to non-resident companies.<sup>98</sup>

CIT taxable persons are equally required to keep in good order for a 10-year

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<sup>90</sup> CIT Code, 4 (2) and (3).

<sup>91</sup> CIT Code, 4 (3) (c) (7).

<sup>92</sup> Tax Benefits Code, 51 (a).

<sup>93</sup> Tax Benefits Code, 70.

<sup>94</sup> The registering declaration as to be submitted, as a general rule, within 90 days counting from the date in which the registering was made with the Domestic Register for Legal Persons. The declaration of change must be submitted within 15 days as from the date of the changing event. The declaration of cancellation of activity must be submitted within 30 days counting from the date on which such cancellation takes place.

<sup>95</sup> CIT Code, 118.

<sup>96</sup> CIT Code, 120.

<sup>97</sup> CIT Code, 121.

<sup>98</sup> CIT Code, 129, and PIT Code, 119.

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period a tax documentation file in respect of each accounting period, containing the accounting and tax elements as may be defined by a ministerial order from the Minister of Finance.<sup>99</sup>

### *Treaty Filing Regulations*

Under the domestic tax law, in order to report the residence of an entity claiming for the provisions foreseen in the EU Directives or in the double tax treaties must obtain certain tax forms as explained below:

- (i) EU Interest & Royalties Directive—Model 01-DJR,<sup>100</sup>
- (ii) EU Parent-Subsidiary Directive—ad-hoc form stating that the beneficiary company meets with the EU Parent-Subsidiary Directive conditions, i.e.:
  - a) Takes one of the forms listed in the Annex of EU Parent-Subsidiary Directive;
  - b) Takes one of the forms listed in the Annex of EU Parent-Subsidiary Directive;
  - c) Is subject to, without the possibility of an option or of being exempt, to one of the income taxes foreseen in the Annex of EU Parent-Subsidiary Directive.<sup>101</sup>
- (iii) Double tax treaties—Model 21-RFI.

These certificates should be duly certified and signed by the recipient's tax authorities and should be received by the Portuguese paying company no later than the tax due date.<sup>102</sup>

To apply for the EU Parent-Subsidiary Directive, the ad hoc form should be received by the Portuguese paying company prior to the disposal of the dividends.

### *Tax benefits to inlandness<sup>103</sup>*

Those entities who exercise their main activity in eligible inland areas shall benefit certain tax incentives, as follows:

- (i) A reduced CIT rate of 15% (10% if new industries establish themselves in that inland areas during the first five accounting periods);
- (ii) Costs with depreciations concerning investment expenses (excluding lands and passengers vehicles) up to €500,000 may be increased by 30% for CIT purposes;
- (iii) Mandatory employer's social contributions incurred on job creation may be increased by 50% for CIT purposes;

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<sup>99</sup> CIT Code, 130.

<sup>100</sup> CIT Code, 98 (2) (b).

<sup>101</sup> CIT Code, 14 (4).

<sup>102</sup> CIT Code, 98 (2) (a).

<sup>103</sup> Tax Benefits Code, 43.

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- (iv) Net operating losses can be carried forward for seven years (against the normal four year period).

### ***Other Foreign Tax Provisions***

Any capital gains obtained by a non-resident shareholder from the sale of shares, autonomous warrants and other marketable securities are exempt from CIT provided the following requirements are met:<sup>104</sup>

- (i) The non-resident entity does not have a permanent establishment in the Portuguese territory and:
  - a) It is not directly or indirectly owned for more than 25% by resident entities;
  - b) It has not their domicile within a blacklisted territory, nor in a country without a DTT or an exchange of information agreement concluded with Portugal.
- (ii) The capital gains obtained by the non-resident do not result from the disposal of stock:
  - a) In a company resident in the Portuguese territory, which the assets are formed by more than 50% by real estate situated therein or,
  - b) In case of entities managing or holding corporate rights, if such companies have a controlling position in respect of controlled companies resident in the Portuguese territory whose assets are formed up to 50% by real estate situated therein.

### ***Transfer Pricing and other Miscellaneous Rules***

#### ***Transfer pricing***<sup>105</sup>

For tax years starting on or after January 1st, 2002, Portugal has implemented detailed transfer pricing legislation, which broadly follows the OECD guidelines.

Under the new transfer pricing rules, inter-company transactions<sup>106</sup> must be at arm's length and the Portuguese tax authorities have wide-ranging powers to adjust declared income, if they consider that market conditions were not respected.<sup>107</sup>

Special relations are deemed to exist between two entities where one of them has the power to exercise, directly or indirectly, a significant influence on management decisions of the other entity.<sup>108</sup>

There are some situations typified by law where special relations are deemed to exist: either on the grounds of:

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<sup>104</sup> Tax Benefits Code, 27.

<sup>105</sup> CIT Code, 63.

<sup>106</sup> Including, in particular, transactions or a set of transactions on goods, rights or services, as well as financial operations.

<sup>107</sup> CIT Code, 63 (8), (11) and (12).

<sup>108</sup> CIT Code, 63 (4).

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- (i) Juridical/Corporate links (e.g., between a company and capital holders, or between two or more companies and such capital owners, holding in both cases a direct or indirect participation equal or higher than 10% of the capital or voting power) or
- (ii) An economic or financial control (e.g., the exercise of an activity by an enterprise depends considerably on the cession of rights on industrial or intellectual property or know-how held by the other).

In order to decide the terms and conditions, which would be normally agreed upon, accepted and applied between independent entities, the methods to be adopted should be:<sup>109</sup>

- (i) Comparable Uncontrolled Price Method;
- (ii) Resale Price Method;
- (iii) Cost Plus Method;
- (iv) Profit Split Method (in a subsidiary basis);
- (v) Transactional Profit Method (in a subsidiary basis);
- (vi) Others duly applicable to the circumstances (in a subsidiary basis).

Companies whose turnover in the previous tax year has exceeded €3,000,000 have to prepare a transfer pricing file which should contain the analysis of all transactions between related parties, the selection of the best method to assess market conditions, benchmarking of comparable companies, among other information.<sup>110</sup>

Additionally, all companies having transactions with related entities, even if not obliged to prepare a transfer pricing file, have to fill out additional declarations as part of their annual tax reporting requirement for the Annual tax return.

### *Shareholders' loans*

Should the rate applicable to interest and other compensation regarding loans provided by the shareholders to the company be higher than the Euribor 12-month rate rounded with a spread of 1.5% (at the date of constitution of the loan),<sup>111</sup> the excess amount paid will not be tax deductible.

This rule, however, does not apply when the shareholder is a resident of a tax treaty country or when the company is subject to transfer pricing provisions (which are almost always the case).<sup>112</sup>

### *Thin capitalization*

Where loans from non-resident related parties exceed twice the parties' capital in

<sup>109</sup> Decree Order 1446-C/2001, 4.

<sup>110</sup> Decree Order 1446-C/2001, 13.

<sup>111</sup> The spread may be increased up to 6% concerning shareholders' loans granted to small and medium-sized corporations.

<sup>112</sup> CIT Code, 45 (1) (j), and Decree Order 184/2002.

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the borrowing Portuguese entity, the interest on the excess borrowing is not tax deductible.<sup>113</sup>

This rule may not apply if the company proves, under a safeguard clause, that taking into account its type of activity, the sector in which it operates, its dimensions and other relevant criteria, it would be possible to obtain the same loan on similar terms from an independent entity.<sup>114</sup>

From January 2006 onwards, these provisions do not apply to loans granted by EU entities, which are, however, subject to transfer pricing rules.

### *State (or provincial or municipal) Corporate (or Company) Taxes*

#### (i) State surcharge

Domestic companies and non-residents' permanent establishments are also subject to a State surcharge over the amount of taxable profit exceeding €2,000,000 at a 2,5% rate.<sup>115</sup>

#### (ii) Municipal surcharge

Domestic companies and non-residents' permanent establishments are also subject to a Municipal surcharge over its taxable profit, at a rate up to 1.5%.<sup>116</sup>

#### (iii) Flat rate taxation

Flat rate taxation, self assessed within the CIT, is levied on:<sup>117</sup>

- a) Representation and entertainment expenses, at 10%;
- b) Company car costs, at 10% or 20%;
- c) Confidential and undocumented expenses, at 50% or 70%;
- d) Per diem allowances, at 5%;
- e) Payments made to blacklisted territories without proper grounds, at 35% or 55%;
- f) Indemnities, as previously defined in the employment contract, paid to former managers or directors due to termination of employment, at 35%;
- g) Bonus paid to managers and directors exceeding 25% of the annual salary and with an amount higher than €27,500 (unless 50% or more the payment is differed for a 3-years period and pending on the positive performance of the corporation), at 35%;
- h) The above referred rates may be increased in 10%, if the corporation has net operating losses in that fiscal year;

<sup>113</sup> CIT Code, 67 (1).

<sup>114</sup> CIT Code, 67 (6).

<sup>115</sup> CIT Code, 87-A.

<sup>116</sup> Law 2/2007, 14 (1).

<sup>117</sup> CIT Code, 88.



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(iv) Madeira International Business Center.

### ***Entities licensed until 2000 in Madeira International Business Center<sup>118</sup>***

Entities licensed until 2000 to be in the Madeira International Business Center shall benefit from certain tax benefits, namely, an exemption from CIT, up to December 31st, 2011 on business income carried out with non-resident entities.

The following entities (provided certain requirements are met) can benefit from the above referred exemption:

- (i) Entities established in the demarcated industrial zone;
- (ii) Duly authorized entities carrying out a shipping activity;
- (iii) Credit institutions and financing companies;
- (iv) Entities whose activity is the management of investment funds;
- (v) Entities carrying out an insurance or re-insurance activity, in “non life” sector;
- (vi) Pension funds management companies, and insurance or re-insurance companies (“life sector”);
- (vii) Holding companies (SGPS);
- (viii) Other entities.

### ***Entities licensed from January 1st, 2003 up to December 31st, 2006<sup>119</sup>***

Qualified income of entities licensed to carry out an industrial, commercial or shipping activity and other services shall be liable to CIT at a 3% rate until December 31st, 2011. Entities who intend to benefit from this regime is required to create jobs (subject to certain plafonds) and to invest in fixed assets.

Licensed companies carrying out industrial activities shall also be allowed a deduction of 50% from the CIT taxable amount, provided that such activities are contributing to the modernization and diversification of the regional economy and to the settlement in the region of high qualified human resources in order to improve the environmental conditions, and the creation of at least 15 jobs maintained for a minimum period of 5 years.

The above referred regime is not applicable to the following activities:

- (i) Financial intermediation;
- (ii) Insurance;
- (iii) Activities auxiliary to financial intermediation and insurance;
- (iv) Intra-group services (e.g. coordination, treasury, distribution).

Profits obtained by holding companies (SGPS) may benefit from the reduced rates, with the exception of income obtained within the Portuguese territory,

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<sup>118</sup> Tax Benefits Code, 33.

<sup>119</sup> Tax Benefits Code, 35.



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excluding the Free Zones, or in other EU Member States which are liable to tax under the general rules.

### *Entities licensed from January 1st, 2007 up to December 31st, 2013<sup>120</sup>*

A similar regime as the one referred above on paragraph 2. is applicable to entities licensed from January 1st, 2007 until December 31st, 2013.

The main differences are:

- (i) The CIT rate, which will be 4% in 2011 and 2012 and 5% thereafter, until December 31st, 2020;
- (ii) The job creation plafonds have been significantly increased.  
Companies licensed until 2000 and companies licensed between 2003 and 2006 (mentioned above) can also apply for this paragraph 3 regime, to the extent that they meet the substance requirements.
- (iii) Elimination of Economic Double Taxation with Portuguese-speaking African countries and East Timor<sup>121</sup>

Portuguese resident entities receiving dividends from companies incorporated in Portuguese-speaking African countries or in East Timor may benefit from a CIT exemption on dividends received provided the following requirements are met:

- (i) The beneficiary and the paying company are both liable to and not exempted from CIT;
- (ii) The beneficiary must hold a shareholding of, at least, 25% for a minimum period of two years in the share capital of the paying company;
- (iii) The paid dividends must derive from profits that are:
  - a) Subject to effective taxation at a 10% rate (at least);
  - b) Not related to passive activities (e.g. royalties, capital gains, rents, etc.).

## PARTNERSHIP TAXES

### *General-Partnership Taxation*

The Portuguese law does not have a legal concept of a “partnership” as it is foreseen in the common law countries.

However, a fiscal transparency regime is applicable to certain resident entities:<sup>122</sup>

- (i) Companies incorporated under the form of Civil Companies with Commercial Capacity;
- (ii) Incorporated firms of professionals;

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<sup>120</sup> Tax Benefits Code, 36.

<sup>121</sup> Tax Benefits Code, 42.

<sup>122</sup> CIT Code, 6.

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- (iii) Asset-management civil companies, the equity capital of which is controlled, directly or indirectly, during more than 183 days by a family group or a limited number of members, under certain conditions;
- (iv) Complementary Business Groupings (“ACE”), constituted and operating in accordance with the applicable law, and
- (v) European Economic Interest Groupings (“AEIE”) treated as residents.

According to the CIT rules, taxable profits of these entities are directly attributable to the members or shareholders irrespective of dividend distribution and taxed according to the applicable rules of Personal Income Tax or CIT, depending on the shareholder’s nature.

Where the shareholders or members of companies covered by the fiscal transparency regime are non-resident, there shall be considered derived income attributed to them through a permanent establishment situated within the Portuguese territory.

### *Partnership Returns*

See above.

## EMPLOYMENT TAXES

### 1) Social Security Contributions

In Portugal every person who performs a professional activity must proceed to payments to social security.

In what concerns to employment relations, the social security contributions will be applied on the gross salary paid by the employer to the employee and concretely on the following amounts:

- (i) Cashier’s allowance;
- (ii) Predetermined amounts granted as representation expenses if accounts are not rendered until the end of the tax year;
- (iii) Amounts granted *as per diem* allowance, travelling or transportation expenses as long as the amounts exceed certain limits;
- (iv) Private use of company car provided some requirements are met;
- (v) Employee’s personal travelling expenses incurred by the company;
- (vi) Compensation paid within a termination agreement provided the employee is granted with unemployment allowance;
- (vii) Amounts granted to the employee in connection with the use of private car on the company’s benefit as long as certain limits are exceeded.

The social security rate applicable shall be 34.75%, being the employer liable for 24.75% and the employee for the remaining 11%.

Self-employed individuals are also liable for payments to social security contributions and subject to a 29.6% rate which will be applicable on a conventional

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chargeable basis which depends on the volume of services provided by the self-employed.

Furthermore, entities that benefit from at least 80% of the yearly services amount provided by a self-employed individual shall also be liable for a contribution which corresponds to 5% of the total amount of the services provided by the said self-employed individual.

The members of the board of directors of a company must also pay social security contributions. The social security contributions rate applicable is 29.6%, being the company liable for 20.3% and the director for 9.3%. Please note that this rate shall be applicable on the director's remuneration which consists of all the amounts granted by the company. A special provision regarding directors state that social security contributions will be applied to a monthly remuneration of €419.22 if the remuneration of the Director is below this limit. Social security contributions will be applied to a maximum monthly remuneration of €5,030.64, even if the Director receives more. In case the director's remuneration is higher than €5,030.64 and he intends to contribute by the full amount received, it may opt to pay contributions based on the real remuneration, as long as certain requirements are fulfilled.

## ESTATE TAXES

### *Estate Taxes*

There are no Estate Taxes in Portugal.

### *Inheritance Taxes*

In Portugal, inheritances are scoped by Stamp Duty and subject to a 10% rate.<sup>123</sup> The taxable value corresponds to the taxable value for Municipal Property Tax (see below) purposes, in case of property. In relation to other assets, the taxable value is assessed in accordance with specific rules foreseen in the code that aim to achieve a market value of the asset inherited. The tax is levied by the acquirer.<sup>124</sup>

However, the Stamp Duty Code sets out an exemption applicable to assets inherited by ascendants, descendants, spouses and *de facto* spouse.<sup>125</sup>

### *Gift Taxes*

General rule, gifts are subject to Stamp Duty, as explained in the sections on Taxation of Property and Miscellaneous Tax.

The donation of immovable property located in Portugal is subject to Stamp Duty at the rate of 0.8% applicable to tax patrimonial value used for IMI purposes and is levied by the acquirer of the immovable property.<sup>126</sup>

Donations of other assets are subject to a 10% rate, in the same terms as

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<sup>123</sup> Stamp Duty General Table 1.2.

<sup>124</sup> Stamp Duty Code, 3.

<sup>125</sup> Stamp Duty Code, 6.

<sup>126</sup> Stamp Duty Code, General Table 1.1.

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mentioned as per inheritances.<sup>127</sup> Likewise, the same tax exemption applies to donations made between ascendants, descendants, spouses and *de facto* spouse.<sup>128</sup>

### TAXATION OF TRUSTS

#### 1) Domestic Trusts

The Portuguese law does not have a legal concept of a trust.

#### 2) Foreign Trusts

With the exception of a single situation explained below, the Portuguese CIT Code does not rule specifically how a foreign trust should be taxed in Portugal.

Therefore, for CIT purposes, foreign trusts should be subject to the same treatment as foreign corporations.

Nevertheless, the only reference made by the Portuguese law to trusts concerns solely the Madeira International Business Center, in which off-shore trusts may establish branches, provided that the settlor and the beneficiaries are not Portuguese residents and none of the assets are located in Portugal.<sup>129</sup>

### TAXATION OF PROPERTY

#### *Capital Gains and Losses*

In Portugal, worldwide capital gains derived by Portuguese residents are scoped by Corporate Income Tax and Individual Income Tax, depending on the nature of the taxpayer (i.e. corporate entity or individual).

#### *Corporate Income Tax*

Capital gains or losses derived from the transmission of immovable property are considered for CIT purposes as profits or gains or costs and losses.<sup>130</sup>

The gain corresponds to the amount by which the proceeds from the disposal exceed the cost of acquisition. The gain on property acquired gratuitously is equal to its current market value. The net book value of immovable property alienated after an ownership period of 2 years may be adjusted in accordance with the indexation inflation coefficient for the year of acquisition.<sup>131</sup>

The positive difference between capital gains and capital losses incurred in the relevant fiscal year may be taxed in 50% providing that the sale proceeds are reinvested in the year prior to the disposal or before the end of the second following year, in the acquisition, manufacture or construction of property deemed as tangible fixed assets used for the activity, except for acquisitions of

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<sup>127</sup> Stamp Duty Code, General Table 1.2.

<sup>128</sup> Stamp Duty Code, 6.

<sup>129</sup> Tax Benefits Code, 33 (7).

<sup>130</sup> CIT Code, 46 (1).

<sup>131</sup> CIT Code, 47.

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second-hand assets from an IRS or an IRC taxpayer with whom special relations.<sup>132</sup>

The capital gains are subject to the applicable CIT rate, as explained in section on Corporation Taxes (which may be increased by a State and municipal surcharge).

### *Individual Income Tax*

The capital gains derived from the transfer of immovable property are considered as income subject to taxation.<sup>133</sup>

The general rates of individual taxation may vary from 11.5% in respect of income of up to €4,898 to 46.50% in respect of income higher than €153,300.<sup>134</sup>

The gain liable to taxation is arrived by the difference between the sales proceeds and the acquisition value adjusted in accordance with the indexation inflation coefficient for the year of acquisition.<sup>135</sup> The amount arising thereof is considered in 50% within the assessment of the taxable income.

However, gains from the disposal for valuable consideration of immovable property for permanent dwelling of the taxpayer or his family are excluded from tax, under the following conditions:<sup>136</sup>

- (i) If, within 36 months from the date of completion, the proceeds, less any amount applied in the repayment of any borrowing for the acquisition of the property, are reinvested in the acquisition of another property, or land for the construction of property, or the construction, expansion or improvement of other property exclusively for the same purpose located in Portuguese territory or the territory of another member of the European Union or the European Economic Area, provided that in the latter case, there is exchange of information in tax matters;
- (ii) If the net sales proceeds, less any amount applied in the repayment of any borrowing for the acquisition of the property abovementioned, are used at any time in the previous 24 months to acquire a property of the type referred above.

Notwithstanding, the benefit referred to in the preceding paragraphs shall not apply:<sup>137</sup>

- (i) In the case of reinvestment in the acquisition of another property, if the buyer or his family does not occupy it as housing within six months after the date on which the reinvestment is to be made;
- (ii) In the case of reinvestment in the acquisition of land for construction, if

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<sup>132</sup> CIT Code, 48 (1).

<sup>133</sup> PIT Code, 10 (1).

<sup>134</sup> PIT Code, 68 (1).

<sup>135</sup> PIT Code, 10 (4) and 50.

<sup>136</sup> PIT Code, 10 (5).

<sup>137</sup> PIT Code, 10 (6).

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the buyer does not start, except for reasons attributable to public entities, construction within six months after the date on which the reinvestment is to be made or does not request registration in the municipal land register of the property within 24 months following the date of commencement of works and, in any case, occupy the property as housing for him or his family by the end of the fifth year following the disposal;

- (iii) In the case of reinvestment in the construction, expansion or improvement of property, the works are not begun within six months after the date on which the reinvestment is to be made or the inclusion of the property or of changes in the municipal land register is not requested within 24 months after the date of commencement of works and, in any case, occupy the property as housing for him or his family until the end of the fifth year following the completion.

### *Nontaxable Exchanges*

There are no specific tax rules regarding this issue.

#### *Property Taxes*

#### *Property Transfer Tax (“Imposto Municipal sobre as Transmissões Onerosas de Imóveis—IMT”)*

IMT is levied on the onerous transfer of immovable property, as well as on the following situations:<sup>138</sup>

- (i) The signing of a rental contract that exceeds a period of 30 years;
- (i) The direct acquisition of at least 75% of the capital of a private limited liability company (Lda.) that owns immovable property;
- (iii) the enforceable option to purchase immovable property accompanied by the transfer of the property;
- (iv) Other specific situations such as surface rights’ transfer or rights of passage’ grant.

The tax is payable by the acquirer,<sup>139</sup> either individual or company, resident or non-resident. The taxable amount corresponds to the higher of the contracted value or the tax patrimonial value.<sup>140</sup>

The tax due is assessed as described above at the following tax rates:<sup>141</sup>

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<sup>138</sup> IMT Code, 2 (1) and 2.

<sup>139</sup> IMT Code, 4.

<sup>140</sup> IMT Code, 12.

<sup>141</sup> IMT Code, 17.

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Immovable Property classification	Rates
Rural Property	5%
Urban property and other charged acquisitions	6.5%
Rural and urban property if the purchase is a resident of a low-tax jurisdiction foreseen in Ministerial Order no. 150/2004	8%

For purchases by individuals of urban property intended exclusively for residential use, IMT is levied at progressive rates up to 6%, depending on the taxable value.

The payment of the IMT precedes the effective transfer of immovable property. Several IMT exemptions are available for specific cases, namely as follows:

- (i) The State and Municipal authorities;<sup>142</sup>
- (ii) Collective entities of public interest or administrative public interest;<sup>143</sup>
- (iii) Acquisitions of urban property exclusively destined for residential use, if the value for tax effects is lower than €92,407;<sup>144</sup>
- (iv) Acquisitions of real estate by real estate trading companies for resale;<sup>145</sup>
- (v) Acquisitions of property by financial institutions when the vendor entity is under a process of execution, liquidation or insolvency since in order to credit execution resulting from loans or sureties;<sup>146</sup>
- (vi) Acquisitions of immovable property by open-ended real estate investment funds, closed-ended real estate investment funds of public subscription and pension funds established under Portuguese law.<sup>147</sup>

### ***Municipal Property Tax (“Imposto Municipal sobre Imóveis—IMI”)***

IMI is levied annually on immovable property located within each municipality.<sup>148</sup> The tax is payable on the taxable value by the owner of the property as of December 31st of each year, to be paid in two installments in the following year.<sup>149</sup>

The taxable value of urban property corresponds to the tax patrimonial value inscribed in the Tax Registry<sup>150</sup> and is determined by reference to correcting

<sup>142</sup> IMT Code, 6 (a).  
<sup>143</sup> IMT Code, 6 (d).  
<sup>144</sup> IMT Code, 9.  
<sup>145</sup> IMT Code, 7.  
<sup>146</sup> IMT Code, 8.  
<sup>147</sup> Tax Benefits Code, 49.  
<sup>148</sup> IMI Code, 1.  
<sup>149</sup> IMI Code, 8.  
<sup>150</sup> IMI Code, 1.

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coefficients (e.g. average construction price, area and sort of construction and quality standard, age and location of the building and other features of the property), which aim to set the taxable value at 80% to 90% of the market value of the property.

The taxable value of rural property is determined at twenty times its yearly notional income.<sup>151</sup>

While all urban property isn't valued for the purposes of IMI, those which are registered in the cadastre by November 30th, 2003 and not alienated thereafter, the taxable value is calculated according to a transitional scheme of valuation, under which the registered value is increased by the indexation coefficient for the year of registration.<sup>152</sup>

The IMI rates are:<sup>153</sup>

Immovable property classification	Rates
Rural Property	0.8%
Urban property subject to the transitional scheme of valuation	0.4% to 0.7% <sup>154</sup>
Urban property registered in the cadastre and/or owned from December 1st 2003	0.2% to 0.4% <sup>155</sup>
Urban or rural property held by any resident of a listed low tax jurisdiction	5%

### (i) Exemptions

The State, the Autonomous Regions, Municipalities and other public entities benefit are exempt from IMI.<sup>156</sup>

In addition, "urban" properties that are built, acquired, improved or enlarged for habitual dwelling purposes exclusively is exempt from IMI. The duration of this exemption depends on the value of the property:<sup>157</sup>

Taxable Value of the Property (€)	Exemption Period (years)
Up to 157,500	8
More than 157,500 up to 236,250	4

The above referred exemption shall not be applicable when the property has been

<sup>151</sup> IMI Code, 17.

<sup>152</sup> Decree-Law 287/2003.

<sup>153</sup> IMI Code, 112.

<sup>154</sup> Depending on the municipality where the property is located.

<sup>155</sup> Depending on the municipality where the property is located.

<sup>156</sup> IMI Code, 11.

<sup>157</sup> Tax Benefits Code, 46.



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built, improved or acquired by entities domiciled in tax privileged regimes, unless the annual value of the rent is equal or superior to an amount corresponding to 1/15 of the rented property patrimonial value.<sup>158</sup>

This exemption shall only be granted to the same person or family for two times.<sup>159</sup>

Finally, other exemptions may apply, as follows:

- (i) buildings that qualify as historical property;<sup>160</sup>
- (ii) immovable property owned by open-ended real estate investment funds, closed-ended real estate investment funds of public subscription and pension funds established under Portuguese law;<sup>161</sup> and
- (iii) immovable property owned by real estate trading companies.<sup>162</sup>

### ***Stamp Duty***

Stamp Duty is generally charged on certain formal acts and documents, such as contracts, titles, books, papers and other facts, as outlined in the General Table of Stamp Duty, that take place in the Portuguese territory and are not subject to VAT.

The acquisition of *in rem* rights on immovable property located in Portugal also attracts Stamp Duty at the rate of 0.8% applicable to the higher of the sales value or the taxable patrimonial value and is paid by the acquirer of the immovable property.<sup>163</sup> Please note that general rule these facts will also be subject to IMT.

### ***Depreciation and Depletion***

No depreciation or depletion is available on value of the land (as opposed to the value of the building may be depreciated at rates between 2% and 5%).<sup>164</sup>

### ***Non-Resident Tax Treatment (if applicable)***

Capital gains obtained by non-resident individuals or companies regarding the selling of immovable property located in Portuguese territory are considered obtained in this territory and liable to taxation in the same terms referred in sections above.

However, instead of the 50% exclusion applicable to Portuguese resident individuals, the capital gains obtained are fully subject to tax and subject to a 25% PIT rate.<sup>165</sup> This regime is also applicable to capital gains arising from immovable property obtained non-resident companies.<sup>166</sup>

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<sup>158</sup> Tax Benefits Code, 46 (10).

<sup>159</sup> Tax Benefits Code, 46 (11).

<sup>160</sup> Tax Benefits Code, 44 (1).

<sup>161</sup> Tax Benefits Code, 49.

<sup>162</sup> IMI Code, 9.

<sup>163</sup> Stamp Duty Code, General Table 1.1.

<sup>164</sup> Regulamentary Decree 25/2009.

<sup>165</sup> PIT Code, 72 (1).

<sup>166</sup> CIT Code, 87 (4).

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### TRANSACTION TAXES

#### *Excise Taxes*

Excise Taxes are levied on tobacco, alcohol, other drinks and energy products.

Authorized warehouse keepers, registered traders and importers are liable to pay Excise Taxes.<sup>167</sup>

Rates and taxable basis vary from product to product as disclosed below.

Excise Taxes exemptions apply to products supplied under diplomatic relations, products intended for international organizations and the armed forces of any State party to the North Atlantic Treaty, products consumed on-board an aircraft or ship during the flight or sea-crossing to a third territory or a third country and to products dispatched to other EU Member States or exported.<sup>168</sup>

Specific exemptions apply within the different categories of products subject to Excise Taxes which depend on the nature and use of the products.

#### *Tobacco*

Rates applicable to manufactured tobacco vary from 13% on cigars and cigarillos to 60% on fine-cut tobacco, levied on the pre-duty retail price.<sup>169</sup>

Cigarettes are chargeable with a specific fee of €69.07 per 1,000 cigarettes plus a 23% *ad valorem* duty levied on the pre-duty retail price.<sup>170</sup>

Cigarettes consumed and manufactured in the Autonomous Regions of Madeira and Azores benefit from lower rates.<sup>171</sup>

#### *Alcohol and other drinks*

Beer is subject to a fee rate for hectoliter per degree Plato or the acquired alcoholic strength of the product which varies from €7.11/hl if over 0.5% volume and under 1.2% volume of acquired alcohol to €24.99/hl if over 1.2% volume of acquired alcohol and superior to 15° Plato.<sup>172</sup>

Wine and fermented beverages other than wine and beer are subject to a €0 rate.<sup>173</sup>

Spirits are subject to a rate of €1,031.57/hl and Ethyl alcohol to a rate of €60.07 hl. The duty is calculated per hectoliter of alcohol per 100% volume at a temperature of 20°C.<sup>174</sup>

In the Autonomous Regions of Madeira and Azores certain categories of products

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<sup>167</sup> Excise Taxes Code, 4(1), (2) (a).

<sup>168</sup> Excise Taxes Code, 6.

<sup>169</sup> Excise Taxes Code, 104.

<sup>170</sup> Excise Taxes Code, 103(4).

<sup>171</sup> Excise Taxes Code, 105.

<sup>172</sup> Excise Taxes Code, 71.

<sup>173</sup> Excise Taxes Code, 72.

<sup>174</sup> Excise Taxes Code, 76.

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benefit from lower tax duties.<sup>175</sup>

### *Energy products*

Leaded Petrol is subject to a rate of €650/1,000 liters (as measured at a reference temperature of 15° C). A wide range of rates apply to other energy products depending on their nature.<sup>176</sup>

### *Value Added Tax (or sales tax)*

The Portuguese VAT legislation basically follows the European Union common system of VAT.

### *Subject matter and scope*

VAT applies to the supply of goods, services, intra-Community acquisitions and imports for consideration within the Portuguese territory.<sup>177</sup>

### *Taxable persons*

For VAT purposes, a taxable person is any person or corporate entity who, independently, carries out an economic activity as manufacturing, trading, services, including exploitation of natural resources, agriculture and independent professionals or who carries out a single taxable transaction either in connection with the performance of the activities previously mentioned or subject to personal or corporate income tax.<sup>178</sup>

Taxable persons are liable to charge VAT in every supply they make in the scope of their activities and afterwards deliver the due amount to the tax authorities.<sup>179</sup>

### *Taxable amount*

Consideration received for the supply of goods or services, excluding the VAT itself but including other taxes, dues and charges as well as incidental expenses in respect of delivery, such as commissions, packaging, transport and insurance expenses, if not included in the price.<sup>180</sup>

The taxable value of imports is determined in accordance with customs legislation, excluding VAT itself but including import duties and any other taxes or charges levied on importation, as well as incidental expenses such as commissions, packaging, transport and insurance expenses incurred up to the first destination within Portugal.<sup>181</sup>

### *Exemptions*

A wide range of exemptions apply to certain activities in the public interest such as provisions of medical services, the supply and leasing of buildings, financial

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<sup>175</sup> Excise Taxes Code, 77.

<sup>176</sup> Excise Taxes Code, 91, 92.

<sup>177</sup> VAT Code, 1, 3, 4.

<sup>178</sup> VAT Code, 2.

<sup>179</sup> VAT Code, 27, 37.

<sup>180</sup> VAT Code, 16.

<sup>181</sup> VAT Code, 17.

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and insurance transactions, international transactions, among others.<sup>182</sup>

Accordingly, VAT does not need to be charged on such supplies, but no tax credit for related input tax is allowed.

### *VAT rates*

There are three VAT rates:<sup>183</sup>

Rate	Mainland	Madeira and Azores
Standard	23%	16%
Intermediate	13%	9%
Reduced	6%	4%

The intermediate rates (13% or 9%) apply to restaurant services and some types of processed food.<sup>184</sup>

The reduced rates (6% and 4%) apply mainly to unprocessed food, pharmaceutical products, wine, electricity, books and magazines.<sup>185</sup>

### *VAT Recovery*

Taxable persons who perform activities subject to or exempt from VAT but which grant the right to deduct input VAT (e.g. exports) may subtract from the amount of tax due on taxable operations the amount of tax paid on purchases.<sup>186</sup>

The right to deduct tax paid is subject to certain conditions laid down by the law.<sup>187</sup>

Deductions made regarding capital goods are subject to an adjustment period of 10 or 20 years, considering movable or immovable property respectively.<sup>188</sup>

Taxable persons not established in the Portuguese territory which have been charged for VAT herein in respect of the acquisition of goods and services used in their business activities may recover such VAT through a refund request filed to the Portuguese Tax Authorities under conditions laid down by the law.<sup>189</sup>

### *Oil Production Tax—Imposto sobre produção de petróleo*

Oil Production Tax is assessed on the annual oil production of holders of a concession for the exploration, research, development and production of oil in Portuguese territory.<sup>190</sup>

<sup>182</sup> VAT Code, 9.

<sup>183</sup> VAT Code, 18.

<sup>184</sup> VAT Code Annex II.

<sup>185</sup> VAT Code Annex I.

<sup>186</sup> VAT Code, 19.

<sup>187</sup> VAT Code, 21 to 26.

<sup>188</sup> VAT Code, 24 to 26.

<sup>189</sup> Decree-Law no 186/2009 of August 12.

<sup>190</sup> Decree-Law no 109/94 of April 26.

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Tax is assessed over the annual oil production at progressive rates which depend on the location of the oil fields exploited.

Rates vary from 6% to 10%. Exemptions apply to the first income brackets.

### INVESTMENT ACCOUNTS

#### *Retirement Accounts*

Interest deriving from retirement saving accounts are exempted in the part that corresponds to a balance up to €10,500.<sup>191</sup>

#### *Agreed Maturity Accounts*

Interest deriving from agreed maturity accounts when superior to five years and provided are not negotiable will only be taxed in: (i) 80% of its value, if the maturity date is superior to 5 and inferior to 8 years counting from the opening date, or (ii) 40% of its value, if the maturity date is superior to 8 years counting from the opening date.<sup>192</sup>

### DIVIDENDS

#### *Taxation of Dividends from Domestic Source*

##### *Individual Shareholders*

As a general rule, dividends distributed by resident entities to resident individuals are subject to a final withholding tax at a rate of 21.5%.<sup>193</sup> In case such payments are made to master accounts the withholding tax of 30% may be applicable except if the beneficiary is disclosed being the general rates are applicable.<sup>194</sup>

If the shareholder opts to include the dividends on his taxable amount, only 50% of such amount will be subject to a personal income progressive tax rate of up to 46.5%.<sup>195</sup> In this case, the withholding tax rate of 21.5% will be on account of the final tax bill.<sup>196</sup>

The dividends are subject to taxation at the time they are put to the disposal of the taxpayer.<sup>197</sup>

##### *Corporate Shareholders*

Dividends received by a corporate shareholder may be included in the taxable profit assessment and subject to CIT, at the rates explained above in section on Corporation Taxes.

Companies resident (which are not subject to the tax transparency regime) in

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<sup>191</sup> Tax Benefits Statute, 20.

<sup>192</sup> Tax Benefits Statute, 25.

<sup>193</sup> PIT Code, 71 (1) (c).

<sup>194</sup> PIT Code, 71 (12).

<sup>195</sup> PIT Code, 40-A (1).

<sup>196</sup> PIT Code, 71 (7).

<sup>197</sup> PIT Code, 7(3)(a)(2).

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Portugal for tax purposes may exclude from their taxable income the dividends received (that have already been subject to effective taxation) by companies subject to CIT with head office or effective management in Portugal provided the following conditions are met:<sup>198</sup>

- (i) The participation is held directly by the resident company through a share capital participation equivalent to not less than 10%; and
- (ii) The participation has been held, uninterruptedly, during the one year preceding the date of distribution of profits. In this scenario, distributions made before the expiry of the 1 year holding period may also qualify for the participation exemption, provided that the holding period is completed afterwards.

Companies resident in Portugal for tax purposes may also exclude from their taxable income the dividends paid by subsidiaries resident in the PALOPs (African Countries of Portuguese Language) and East Timor provided the following conditions are met:<sup>199</sup>

- (i) The beneficiary holds directly, at least, 25% of the subsidiary's share capital for an uninterrupted period of two years;
- (ii) The beneficiary is not exempt from Corporate Income Tax;
- (iii) The subsidiary resident in the PALOP and East Timor is not exempt from a tax similar to Corporate Income Tax;
- (iv) Dividends distributed by the subsidiary have been taxed at a rate of at least 10% and do not derive from passive income.

As a general rule, dividends distributed by resident entities to resident companies are subject to a withholding tax rate of 21.5% on account of the final tax bill.<sup>200</sup> In case such payments are made to master accounts the withholding tax of 30% may be applicable except if the beneficiary is disclosed being the general rates are applicable.<sup>201</sup>

No withholding tax will apply on dividends paid to entities in which the participation is held directly by the said resident company through a share capital participation equivalent to not less than 10% and the participation has been held, uninterruptedly, during the one year preceding the date of distribution of profits.<sup>202</sup>

Pension funds or equivalent, retirement savings fund, education savings fund, retirement/education savings, share savings fund, and venture capital savings funds, incorporated in accordance with domestic legislation, among others, will

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<sup>198</sup> CIT Code, 51.

<sup>199</sup> Tax Benefits Statute 42.

<sup>200</sup> CIT Code, 94 (4) and PIT Code, 71 (1) (c).

<sup>201</sup> CIT Code, 94 (5) and 87.

<sup>202</sup> CIT Code, 97 (1) (c).

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also benefit from the withholding tax whenever receive dividend payments.<sup>203</sup>

According to the principles of accrual-based accounting, revenue and costs, as well as other components of the positive or negative taxable income, are imputable to the accounting period to which they relate.<sup>204</sup>

### *Non-Resident Withholding Tax* *Individual Shareholders*

As a general rule, profits distributed by resident entities to non-resident individuals are subject to a final withholding tax at a rate of 21.5%.<sup>205</sup> In case such payments are made to master accounts the withholding tax of 30% may be applicable except if the beneficiary is disclosed being the general rates are applicable.<sup>206</sup>

### *Corporate Shareholders*

Profits distributed by resident entities to non-resident companies are, as rule, subject to a final withholding tax at a rate of 21.5%. In case such payments are made to master accounts the withholding tax of 30% may be applicable except if the beneficiary is disclosed, being applicable, under that circumstance, the general rates.<sup>207</sup>

However, it should be taken into account that Portugal has implemented the European Parent Subsidiary Directive 90/435/EEC of the Council, of 23 July 1990.

As a consequence, dividends paid by companies whose shares are held by companies resident in another EU Member State in the conditions set forth in the Directive shall be exempt from withholding tax provided the following conditions are met:<sup>208</sup>

- (i) The participation is held directly by said EU resident company through a share capital participation equivalent to not less than 10%; and
- (ii) The participation has been held, uninterruptedly, during the one year preceding the date of distribution of profits.

In order to benefit from exemption under the Parent Subsidiary Directive, evidence requirements (declaration issued and duly authenticated by the relevant tax authorities of the Member State of the beneficiary stating that the said is under article 2 of the Parent Subsidiary Directive) should be met prior to the date profits will be considered available for tax purposes.<sup>209</sup>

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<sup>203</sup> Tax Benefits Statute 16, 21 and 23.

<sup>204</sup> CIT Code, 18.

<sup>205</sup> PIT Code, 71 (1) (c).

<sup>206</sup> PIT Code, 71 (12).

<sup>207</sup> CIT Code, 87 (4) (h).

<sup>208</sup> CIT Code, 14 (3).

<sup>209</sup> CIT Code, 14 (4).



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There is additionally a similar rule in order to benefit from the withholding tax exemption applicable to residents in the remainder countries forming part of the European Economic Area (EU + EFTA) provided they are bound to the administrative cooperation in the Tax Area and comply with conditions set forth in article 2 of the Parent Subsidiary Directive and with the above evidence requirements.<sup>210</sup>

Profits distributed by a company resident in Portugal to another company resident in the Swiss Confederation are exempt of CIT, provided that:<sup>211</sup>

- (i) The beneficiary holds directly, at least, 25% of the Portuguese company's share capital for an uninterrupted period of two years;
- (ii) None of the companies is deemed to be resident of any third countries in which Portugal or Switzerland have entered into double tax treaties;
- (iii) All the companies are subject to CIT, without being exempt, and are incorporated as a limited liability company.

Despite the above, the domestic withholding tax applicable for non-resident individuals or for non-resident corporate entities may be reduced to a 15%, 10% or 5% rate under the applicable Double Tax Treaty (DTT) concluded between Portugal and other State. In order to be able to benefit from the DTT provisions, the Portuguese entity must be in possession of the official tax form 21-RFI duly certified by the recipient entities' tax authorities on due time.<sup>212</sup>

### *Abusive Tax Shelter Treatment (if applicable)*

Decree Law 29/2008, February 25, establishes relevant communication, information and clarification duties towards the tax authorities to prevent and combat the so called abusive tax planning.

These rules aim at establishing, upon entities providing services of support, consulting, advice or analogous on the tax domain (defined as promoters), certain communication, information and clarification duties to the tax authorities of proposed schemes, recommended strategies, advised acts or performances carried on of operations and transactions whose exclusive or main goal is the obtaining of tax advantages within the scope of income taxes, VAT, property taxes and Stamp Duty.

Lawyers, solicitors and their firms shall be excluded from the above mentioned duties in certain cases (where the tax planning was known within the context of the client's legal situation evaluation, the scope of the legal counseling, on the exercise of the mission of defense or representation of the client on a judicial process or in respect of a judicial process, including the advice regarding the way to start or avoid a process).

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<sup>210</sup> CIT Code, 14 (11).

<sup>211</sup> CIT Code, 14 (8).

<sup>212</sup> CIT Code, 98.



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Such exclusion shall also apply regarding the recommendations made by a statutory auditor or their firms about tax planning schemes or acts within the scope and for the purposes of the respective public interest performances.

One relevant aspect to consider is the fact that when the “tax planning scheme” was not prepared, proposed or disclosed by one of the above mentioned promoters, or when the promoter is a non-resident entity, the communication duties shall be passed on to the taxpayer benefiting from said scheme, therefore revealing its identity (unlike where these duties are performed by the promoters).

The non compliance of the above mentioned duties will be punished with penalties of a significant amount, a fact that may raise several difficulties in their application to concrete cases, which may vary between €1,000 and €50,000 or €5,000 and €100,000 for the lack of communication or late communication, depending if the entity obliged to said duty being an individual or a company promoter, and between €250 and €40,000 or €500 and €80,000 for the lack of communication or late communication by the client benefiting from the tax planning, depending if the client is an individual or a company.

### CAPITAL TAXES

#### *Capital Gains Taxes*

##### *Resident Individual*

The annual positive difference between capital gains and losses concerning the disposal of shares is subject to a special tax rate of 20%,<sup>213</sup> unless the shareholder opts to include the profits on his taxable income, subject to a personal income progressive tax rate of up to 46.5%.<sup>214</sup>

However, an income tax exemption applies on the disposal of shares, bonds and other debt securities if such annual positive difference does not exceed €500.<sup>215</sup>

Losses shall not be taken into account whenever the counterparty on the transaction is subject in his country, territory or a region to a tax regime clearly more favorable (*than the Portuguese*) included in the “low tax jurisdictions” list approved by Ministerial order no. 150/2004 of February 13th.<sup>216</sup>

##### *Resident Corporate Entities*

The positive balance between capital gains and capital losses incurred in connection with trades carried out in the relevant fiscal year is regarded for taxation purposes as income, being as such subject to progressive corporate tax rate according to which a 12.5% tax rate will be applicable on the first €12,500 of taxable income and a 25% tax rate will be applicable on taxable income exceeding €12,500, to which is added a municipal surcharge of up to 1.5% over

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<sup>213</sup> PIT Code, 72 (4).

<sup>214</sup> PIT Code, 72 (7).

<sup>215</sup> Tax Benefits Statute, 72.

<sup>216</sup> PIT Code, 43 (5).

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the Portuguese corporate shareholders' taxable profits, where applicable.<sup>217</sup> Corporate taxpayers with a taxable income of more than €2,000,000 are also subject to State surcharge (*derrama estadual*) of 2.5% on the part of its taxable profits that exceeds €2,000,000.<sup>218</sup>

The positive balance between capital gains and capital losses incurred in the relevant fiscal year in connection with trades of Portuguese shares may be taxed in 50% provided the requirements regarding the reinvestment regime are met.<sup>219</sup>

The negative balance between capital gains and capital losses realized on the onerous transfer of shares, including the redemption and cancelation with capital decrease, as well as other losses or negative variation in equity or other equity components, including supplementary provisions of capital, shall be taken into account in the taxable profit only on 50% of their amount.<sup>220</sup>

### *Non Resident Individual*

Capital gains arising from the disposal of shares will be exempt from taxation in Portugal except if:<sup>221</sup>

- (i) Shareholder is resident in a country, territory or region subject to a clearly more favourable tax regime included in the "low tax jurisdictions" list approved by Ministerial order no. 150/2004 of February 13th or resident in a country with which there is no Double Tax Convention or Tax Information Exchange Agreement in force with Portugal;
- (ii) The transferred shares refer to a Portuguese resident company whose assets are comprised, in more than 50%, by immovable property located in Portugal; or
- (iii) The transferred shares refer to an SGPS holding shares in subsidiary companies whose assets are comprised, in more than 50%, by immovable property located in Portugal.

If the exemption does not apply, the gains will be subject to special rate of 20% in Portugal.<sup>222</sup> Under the tax treaties entered into by Portugal, such gains are usually not subject to Portuguese tax, but the applicable rules should be confirmed on a case by case basis.

### *Non Resident Corporate Entities*

Capital gains arising from the disposal of shares will be exempt from taxation in Portugal except if:<sup>223</sup>

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<sup>217</sup> CIT Code, 87 (1) (2) and Law no 2, January 15, 2007.

<sup>218</sup> CIT Code, 87-A.

<sup>219</sup> CIT Code, 48.

<sup>220</sup> CIT Code, 45 (3).

<sup>221</sup> Tax Benefits Statute, 27 (1) and (3).

<sup>222</sup> PIT Code, 72 (4).

<sup>223</sup> Tax Benefits Statute, 27 (1) and (2).

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- (i) The shareholder is directly or indirectly held in more than 25% by resident entities;
- (ii) The shareholder is resident in a country included in the “low tax jurisdictions’ list approved by Ministerial order n. 150/2004 of 13 February or resident in a country with which there is no Double Tax Convention or Tax Information Exchange Agreement in force with Portugal;
- (iii) The transferred shares refer to a Portuguese resident company whose assets are comprised, in more than 50%, by immovable property located in Portugal; or
- (iv) The transferred shares refer to an SGPS holding shares in subsidiary companies whose assets are comprised, in more than 50%, by immovable property located in Portugal.

If the exemption does not apply, the gains will be subject to tax at 25%.<sup>224</sup> Under the Double Tax Treaties entered into by Portugal, such gains are usually not subject to Portuguese tax, but the applicable rules should be confirmed on a case by case basis.

### *Treatment of “SWAP” Contracts*

The income arising from derivatives is qualified as either “investment income” or “capital gains”.

Income arising from currency swaps, interest rate swaps and cross currency interest rate swaps, as well as from forward exchange agreements is generally qualified as “investment income”.<sup>225</sup>

Income arising from other derivatives is generally qualified to be “capital gains”.

### *Resident Individual—Investment Income*

Investment income made available to resident individual investors, that do not carry on any commercial, industrial or agriculture activity, is subject to a final withholding tax rate of 21.5%,<sup>226</sup> unless the individual elects to include it in his taxable income, subject to tax at progressive rates of up to 46.5%.<sup>227</sup>

In this case, the tax withheld is deemed to be a payment on account of the final tax due.<sup>228</sup>

In case such payments are made to master accounts the withholding tax of 30% may be applicable except if the beneficiary is disclosed being the general rates are applicable.<sup>229</sup>

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<sup>224</sup> CIT Code, 87 (4).

<sup>225</sup> PIT Code, 5 (2) (q).

<sup>226</sup> PIT Code, 71 (1) (c).

<sup>227</sup> PIT Code, 71 (6).

<sup>228</sup> PIT Code, 71 (7).

<sup>229</sup> PIT Code, 71 (12).

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### *Resident Corporate Entities—Investment Income*

Investment income deriving from derivatives and made available to resident corporate Investors are included in their tax income and such to the applicable corporate income tax rate (above described in section on Corporation Taxes). Such income is subject to a withholding tax rate of 21.5%, deemed to be a payment on account of final tax due.<sup>230</sup>

In case such payments are made to master accounts the withholding tax of 30% may be applicable except if the beneficiary is disclosed being the general rates are applicable.<sup>231</sup>

Under the tax treaties entered into by Portugal and provided that the relevant formalities (including certification of residence by the tax authorities of the beneficial owners of other investment income) are met no Portuguese withholding tax will be triggered on the investment income payments.

### *Non Resident Individual and Corporate—Investment Income*

Investment income paid by resident entities to non-resident individuals or companies are, as rule, subject to a final withholding tax at a rate of 21.5%.<sup>232</sup> In case such payments are made to master accounts the withholding tax of 30% may be applicable except if the beneficiary is disclosed being the general rates are applicable.

Such investment income may not subject to Portuguese tax under the applicable Double Tax Treaty (DTT) concluded between Portugal and other State, but the applicable rules should be confirmed on a case by case basis. In order to be able to benefit from the DTT provisions, the Portuguese entity must be in possession of the official tax form 21-RFI duly certified by the recipient entities' tax authorities on due time.

Gains obtained by non-resident credit institutions from swap operations with resident credit institutions or with the State, acting through the Public Debt Management Institute are exempt from CIT.<sup>233</sup>

### *Resident Individual—Capital Gains*

The annual positive difference between capital gains and losses concerning the derivatives is subject to a special tax rate of 20%,<sup>234</sup> unless the beneficiary opts to include the profits on his taxable income, subject to a personal income progressive tax rate of up to 46.5%.<sup>235</sup>

Losses shall not be taken into account whenever the counterparty on the

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<sup>230</sup> CIT Code, 94 (4).

<sup>231</sup> CIT Code, 94 (5).

<sup>232</sup> CIT Code, 87 (4).

<sup>233</sup> Tax Benefits Statute, 30.

<sup>234</sup> PIT Code, 72 (4).

<sup>235</sup> PIT Code, 72 (7).

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transaction is subject in his country, territory or a region to a tax regime clearly more favorable (than the Portuguese) included in the “low tax jurisdictions” list approved by Ministerial order no. 150/2004 of February 13th.<sup>236</sup>

### ***Resident Corporate entities—Capital Gains***

The positive balance between capital gains and capital losses incurred in connection with trades carried out in the relevant fiscal year is regarded for taxation purposes as income, being as such subject to progressive corporate tax rate according to which a 12.5% tax rate will be applicable on the first €12,500 of taxable income and a 25% tax rate will be applicable on taxable income exceeding €12,500, to which is added a municipal surcharge of up to 1.5% over the Portuguese corporate beneficiary’s taxable profits, where applicable.<sup>237</sup> Corporate taxpayers with a taxable income of more than €2,000,000 are also subject to State surcharge (*derrama estadual*) of 2.5% on the part of its taxable profits that exceeds €2,000,000.<sup>238</sup>

### ***Non Resident Individual—Capital Gains***

Capital gains arising from derivatives undertaken in a stock exchange will be exempt from taxation in Portugal except if the beneficiary is resident in a country, territory or region subject to a clearly more favourable tax regime included in the “low tax jurisdictions” list approved by Ministerial order no. 150/2004 of February 13th or resident in a country with which there is no Double Tax Convention or Tax Information Exchange Agreement in force with Portugal.<sup>239</sup>

If the exemption does not apply, the gains will be subject to special rate of 20% in Portugal. Under the tax treaties entered into by Portugal, such gains are usually not subject to Portuguese tax, but the applicable rules should be confirmed on a case by case basis.<sup>240</sup>

### ***Non Resident Corporate Entities—Capital Gains***

Capital gains arising from derivatives undertaken in a stock exchange will be exempt from taxation in Portugal except if:<sup>241</sup>

- (i) The beneficiary is directly or indirectly held in more than 25% by resident entities;
- (ii) The beneficiary is resident in a country included in the “low tax jurisdictions” list approved by Ministerial order n. 150/2004 of 13 February or resident in a country with which there is no Double Tax Convention or Tax Information Exchange Agreement in force with Portugal.

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<sup>236</sup> PIT Code, 43 (5).

<sup>237</sup> CIT Code, 87 (1) and (2) and Law no. 2, January 15, 2007.

<sup>238</sup> CIT Code, 87-A.

<sup>239</sup> Tax Benefits Statute, 27 (1) and (3).

<sup>240</sup> PIT Code, 72 (4).

<sup>241</sup> Tax Benefits Statute, 27 (1) and (2).

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If the exemption does not apply, the gains will be subject to tax at 25%.<sup>242</sup> Under the Double Tax Treaties entered into by Portugal, such gains are usually not subject to Portuguese tax, but the applicable rules should be confirmed on a case by case basis.

## REMITTANCE TAX AND LIMIT TRANSFER

Remittance is tax free in Portugal and there is no limit transfer.

## MISCELLANEOUS TAX

### *Transportation Tax (if applicable)*

#### *Tax on motor vehicles—Imposto sobre os Veículos (“ISV”)*

Tax applies to manufacture, importation or admission from another EU Member State of light, heavy passenger vehicles and motorcycles.<sup>243</sup>

Tax is payable by registered traders and other traders who release taxable vehicles for consumption.<sup>244</sup>

Exemptions apply to vehicles acquired by public bodies and non-profit organizations and vehicles exclusively powered with electricity, among others.<sup>245</sup>

The tax is reduced by 50% for new light passenger and mixed vehicles intended for rent-a-car activity whose certified levels of CO2 emissions do not exceed 120 g/km, under the conditions established by the law.<sup>246</sup>

Tax reduction also applies to vehicles previously registered in another EU Member States and depends on the time of use of the vehicles.<sup>247</sup>

Tax is assessed according to two components: cylinder volume of the engine and the level of CO2 emissions and particulate emissions.<sup>248</sup>

#### *Motor vehicles circulation tax—Imposto Único de Circulação (“IUC”)*

Tax applies to a wide category of vehicles registered in Portugal and is paid by the owner of the vehicle at the month the vehicle was registered.<sup>249</sup>

Exemptions apply to vehicles acquired by public bodies and non-profit organizations and vehicles exclusively powered with electricity, among others.<sup>250</sup>

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<sup>242</sup> CIT Code, 87 (4).

<sup>243</sup> Tax on Motor Vehicles Code, 2.

<sup>244</sup> Tax on Motor Vehicles Code, 3.

<sup>245</sup> Tax on Motor Vehicles Code, Chapter VI.

<sup>246</sup> Tax on Motor Vehicles Code, 53(5).

<sup>247</sup> Tax on Motor Vehicles Code, 11.

<sup>248</sup> Tax on Motor Vehicles Code, 7 to 11.

<sup>249</sup> Motor Vehicles Circulation Tax Code, 1 to 3.

<sup>250</sup> Motor Vehicles Circulation Tax Code, 5.

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Tax is assessed based on a range of components that vary for each type of vehicle.<sup>251</sup>

### *Stamp Duties*

As explained above, Stamp Duty applies to any acts, deeds, agreements, documents, securities, books, papers and facts listed in the Stamp Duty Code general table of rates, not subject to or exempt from VAT, including gratuitous transfers of property.

Stamp Duty is payable by the persons who are involved in the acts, such as notaries, credit and other financial institutions, insurance companies, the lessor, among others.<sup>252</sup>

Exemptions apply to public bodies, non-profit organizations, specific financial transactions and gratuitous transfer of property in which transferees are spouse, descendants and ascendants.<sup>253</sup>

Stamp Duty is assessed at a proportional or fixed rate.

We highlight the following operations from the Stamp Duty Code general table of rates:

Type of transaction	Stamp Duty Rate
Acquisition of immovable property	0.8%
Acquisition by gift of immovable property	10.8%
Other gratuitous acquisition of movable or immovable property	10%
Lease of immovable property	10% on the value of the first rent
Issuance of guarantees, securities, pledges and mortgages	With a term of less than 1 year: 0.04% (per month) With a term from at least 1 year and up to 5 years: 0.5% With a term of at least 5 years: 0.6%
Use of any credit facilities, including from loans or other credit arrangements as well as the cession and factoring of debt claims	With a term of less than 1 year: 0.04% (per month) With a term from at least 1 year and up to 5 years: 0.5% With a term of at least 5 years: 0.6% In connection with the use of current account credit facilities or overdraft: 0.04% on the monthly average used credit

<sup>251</sup> Motor Vehicles Circulation Tax Code, 9 to 15.

<sup>252</sup> Stamp Tax Code 2, 23.

<sup>253</sup> Stamp Tax Code, 6,7.



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Use of consumer credit facilities	With a term of less than 1 year: 0.07% (per month) With a term from at least 1 year and up to 5 years: 0.9% With a term of at least 5 years: 1% In connection with the use of current account credit facilities or overdraft: 0.07% on the monthly average used credit
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### *Import Duties*

Import Duties are based on the Community Customs Code.<sup>254</sup>

Import Duties are payable when goods are imported, i.e. goods from out of the customs territory of the community are placed within the community for free circulation.

Import duties are payable by the importers and calculated on ad valorem basis, as a percentage of the value of the goods being declared for importation.

The level of that percentage depends on the kind of product imported and the country of origin.

A number of overseas countries have preferential customs treatment of certain products of those countries. In order to be able to benefit from these lower tariff rates the goods have to be accompanied by certificates of origin.

Import Duties are only payable on goods over a certain value and there is a beneficial regime for goods brought by travelers in their personal luggage.<sup>255</sup>

In addition to Import Duties, goods imported into Portugal are also subject to VAT and Excise duties when applicable.

### *Excise Duties*

Please refer to our comments in section on Transaction Taxes.

### *Gambling Tax*

It applies to concession holders for the operation of games of chance, slot machines or bingo, such as casinos, hotels and bingo rooms.<sup>256</sup>

For casino table games and slot machines tax is assessed based on a percentage of the capital plus a percentage of the gross profits.

For non-table games and bingo tax is assessed on a percentage of revenues.

Percentages vary according to the type of game and place where the gaming activity is developed.

## TAX TREATIES

### *Income Tax Treaties*

Portugal has an Income Tax Convention with Algeria (2006), Austria (1971),

<sup>254</sup> Council Regulation (EEC) no 2913/92 of 12 October 1992.

<sup>255</sup> Council Regulation (EC) no 1186/2009.

<sup>256</sup> Decree-Law no 10/95 of 1 January, Chapter 7.

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Barbados (pending of ratification), Belgium (1970), Brazil (2001), Bulgaria (1996), Cape Verde (2000), Canada (2000), Chile (2006), China (2000), Colombia (pending of ratification), Cuba (2001), Czech Republic (1997), Denmark (2002), Estonia (2004), Finland (1970), France (1971), Germany (1982), Greece (2002), Guinea-Bissau (pending of the exchange of the instruments of ratification), Hong Kong (pending of ratification), Hungary (1999), Iceland (2002), India (2000), Indonesia (2006), Ireland (1994), Israel (2008), Italy (1982), Kuwait (pending of ratification), Latvia (2003), Lithuania (2003), Luxembourg (2000), Macao (1999), Mexico (2000), Morocco (1998), Mozambique (1992), Netherlands (2000), Norway (1970), Panama (pending of ratification), Pakistan (2003), Poland (1997), Republic of Moldova (2010), Romania (1999), Russia (2002), San Marino (pending of ratification), Singapore (2000), Slovakia (2004), Slovenia (2004), South Africa (2008), South Korea (1997), Spain (1995), Sweden (2003), Switzerland (1974), Tunisia (2000), Turkey (2006), Ukraine (2002), United Arab Emirates (pending of ratification), United States of America (1995), United Kingdom (1968), Uruguay (pending of ratification) and Venezuela (1997).

Please note that tax treaties with Croatia, Oman, Saudi Arabia, Seychelles and a new treaty with Norway are expected to be signed during 2011.

Notice also that Portugal is currently in negotiations to conclude a tax treaty with Angola (which will become the first one signed by this country), Botswana, Cyprus, Egypt, Libya, Qatar and Malaysia.

### ***Tax Information Exchange Agreements***

Portugal has an Information Exchange Agreement with Andorra (2009), Antigua and Barbuda (2010), Belize (2010), Bermuda (2010), British Virgin Islands (2010), Cayman Islands (2010), Dominica (2010), Guernsey (2010), Gibraltar (2009), Isle of Man (2010), Jersey Island (2010), Liberia (2011), Saint Kitts and Nevis (2010), Saint Lucia (2010) and Turks and Caicos Islands (2010).

### ***Tax Mutual Assistance Agreements***

Portugal has a Mutual Assistance Agreement with Brazil (2010) and Cape Verde (2010).

## IMPORT LICENSE

Import licenses are needed for the importation of products such as goods and technologies of dual use, agricultural products, substances frequently used for the illicit manufacture of narcotic drugs or psychotropic substances, certain iron and steel products and certain textile products.

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<b>VER:</b> [SC_00304-Local:16 Mar 11 14:29][MX-SECNDARY: 07 Oct 11 20:57][TT-: 23 Sep 11 07:01 loc=usa unit=00290-chportugal] <b>0</b>		