

## Real Estate - Portugal

### Urban rehabilitation: an investment opportunity

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#### Introduction

The Portuguese real estate market has shown signs of recovery since 2013, with both domestic and foreign investors now looking to invest in the renovation of properties, particularly those located in the downtown areas of Portugal's major cities (eg, Lisbon and Oporto). Renovated properties are being used for either investment purposes or short-term leases and tourism purposes. Other properties are being converted into small boutique hotels, mainly those located in the heart of historic districts.

Among other factors, this reconstruction revival is a result of:

- the urban rehabilitation regime enacted by Law 32/2012, which grants municipalities broad powers to establish urban renovation policies;
- an attractive tax regime; and
- Law 30/2012, which grants landlords willing to repair leased properties the right to terminate lease agreements with a mere six months' notice.

More recently, the government approved an exceptional and temporary regime – Decree-Law 53/2014 – that suspends for a seven-year period the application of a range of technical rules and requirements concerning the rehabilitation of buildings that are located in urban rehabilitation areas or are more than 30 years old and earmarked or intended to be earmarked for residential use, either in total or in part.

Law 31/2014, which sets out the general basis of the soil, land use planning and construction public policies, also identifies rehabilitation as the main means of development and regeneration of urban centres, encouraging it through the introduction of new and specifically focused planning instruments and measures.

#### Requirements

Properties that can benefit from the rehabilitation regime and related tax benefits are mainly those that:

- are located in areas specifically designated as urban rehabilitation areas by the relevant municipality; or
- were built more than 30 years ago and are primarily designed for residential use (ie, at least 50%) and are in need of rehabilitation work.

The municipality of Lisbon, for example, has designated almost all of the city's districts as urban rehabilitation areas eligible to benefit from the tax incentives.

The benefits are granted on the condition that the rehabilitation work results in a property preservation condition that is at least two levels above the pre-rehabilitation condition, which must be attested by the local municipality before and on conclusion of the rehabilitation work.

#### Licensing procedures

Rehabilitation works benefit from a simplified and quick planning permission procedure based on a system of prior communication. Under this system, the developer's technical expert (ie, an architect or engineer) assumes responsibility for the compliance of the planned works with existing regulations. On conclusion of the works, the property's use is also speedily licensed by the municipality on the basis of a communication by the expert who took responsibility for the works.

Author

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## Tenancy rights

Law 30/2012 introduced the following changes to the rights of long-term tenants:

- A landlord is entitled to evict a tenant after requesting a construction permit from the municipality to undertake rehabilitation works.
- A landlord may evict the tenant with six months' notice, without the need for a court order to this effect.
- The tenant's maximum compensation for eviction is capped at one year's rent or one-fifteenth of the tax value of the property.

## Tax benefits

The law provides tax incentives for the rehabilitation of properties where:

- rehabilitation works commenced on or after January 1 2008 and conclude by December 31 2020; and
- the property is located in an urban rehabilitation area.

This regime includes the following tax incentives:

- exemption from property transfer tax for the first purchase of property used as the purchaser's main residence;
- exemption from property transfer tax for the purchase of property to be rehabilitated, provided that the purchaser starts rehabilitation work within two years of purchase;
- exemption from municipal property tax for rehabilitated properties for five years, which may be renewed for a subsequent five years;
- a reduced value added tax (VAT) rate of 6% (instead of 23%) on rehabilitation works, which applies to all residential properties, irrespective of their location. However, materials that exceed 20% of the total contract value will not benefit from the reduced VAT rate;
- the possibility to deduct from taxable income 30% of rehabilitation expenses (up to €500); and
- autonomous taxation at a rate of 5% for the rental income and/or capital gains earned from rehabilitated property by taxpayers resident in Portugal. However, the taxpayer may choose to waive this special rate and include the income/gains in its overall taxable income.

Several particularities to this regime apply in the case of tax-exempt entities and non-residents.

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