

PORTUGAL

Vieira de Almeida



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The Portuguese patronage tax regime: a cross-border opportunity for the non-profit sector

Filipe de Vasconcelos Fernandes of Vieira de Almeida explains how Portugal has become one of the most competitive in Europe for patrons and non-profit sector entities.

I. General framework

In recent years, the non-profit sector (in some cases also designated as the ‘third sector’) has experienced significant growth. With increasing projection, entities such as foundations or associations are created to develop activities of recognised interest to society and, at the same time, to express the social or institutional responsibility of their founders, which may be companies or individuals.

This phenomenon increases the importance of tax systems, particularly where there are tax benefits applicable to the activity of patrons (who make donations to non-profit entities). It is in this context that, using tax terminology, reference is made to patronage tax regimes.

II. The patronage in the Portuguese tax system

The Portuguese patronage tax regime is currently provided for in the tax benefits statute (Decree-Law No. 215/89 of 7 July) and is divided into the following categories:

- i) State patronage: donations granted to the state, autonomous regions, municipalities and private foundations of a social nature (only for initial allocation).
- ii) Social patronage: donations granted to private institutions of social solidarity, entities with public utility statute (and for charitable or assistance purposes), NGOs that promote values of citizenship, defense of human rights, gender equality, among others.
- iii) Environmental, sports and educational patronage: donations granted to a wide range of entities (NGOs, museums, libraries, artistic schools, etc.) engaged in activities to defend and promote cultural and environmental heritage or

Table 1: Patronage tax regime – tax benefits

Patrons	Beneficiaries
<ul style="list-style-type: none"> • If the patron is a company, donations are considered as a deductible expense (100%) for corporate income tax purposes. • Depending on the nature of the beneficiary or the purpose pursued, donations may be increased from 120% to 150% as a deductible expense. • If the patron is an individual, the donation will be considered an eligible expense (in the form of a deduction) at the personal income tax level, up to a maximum of 25%. 	<ul style="list-style-type: none"> • Donations are fully exempt from corporate income tax if they are intended to meet statutory purposes of the beneficiaries.

education.

- iv) Associative patronage: donations granted by associates to the organisations of which they are members, for the promotion of their statutes.
- v) Scientific patronage: donations granted to a wide range of entities (foundations, associations, public institutes, universities, research centres (public or private), companies) that carry out significant research activity and present results in technological development.
- vi) Cultural patronage: donations granted to a wide range of entities (state, autonomous regions, municipalities, public or private foundations, cultural cooperatives, cultural centres and other non-profit organisations that develop cultural actions (ballet, theater, opera, music, etc.)).
- vii) Human resources patronage: applicable in the context of scientific or cultural patronage and achieved through the transfer of researchers or specialists to develop a research or project with the beneficiary entity. In these cases, the amount associated with the assignment of the researcher or specialist (value corresponding to the expenses of the sponsor with the salary, including social security) could be considered as a donation by the patron.

In any of the above cases, the application of the patronage tax regime has consequences for both parties involved, the patron and the beneficiary (see Table 1).

III. The cross-border expression of the Portuguese patronage tax regime

Like in other tax systems, the Portuguese patronage tax regime applies to the following type of patrons:

- i) Tax residents in Portugal;
- ii) Non-residents with permanent establishment;

As for the beneficiaries, as a rule they should be tax residents in Portugal. In some cases, donations granted to foreign permanent representations of Portuguese non-governmental development organisa-

tions (NGDO) may be considered as deductible expense, as per Article 62(3)(e) of the Tax Benefits Statute.

Example 1 (Resident/Resident)

A resident company donated €5,000 to a Portuguese NGO dedicated to defending women’s rights and gender equality.

For the purposes of the corporate income tax of the Portuguese company, the donation will be considered as a deductible expense of €6,500 (130% deduction). At NGDO level, the donation is exempt from corporate income tax.

Example 2 (Non-resident with permanent establishment / Resident)

The Portuguese permanent establishment of a Dutch resident tax company donated €1000 to a Portuguese Private Institutions of Social Solidarity (PISS) dedicated to supporting teenage mothers.

For the purposes of the corporate income tax relating to the income of the Portuguese permanent establishment, the donation will be deductible at €1,500 (150% deduction). At PISS level, the donation is exempt from corporate income tax.

IV. Final remarks

The scope of the Portuguese patronage tax regime (resident / non-resident patrons) and the applicable set of tax benefits places the Portuguese tax system as one of the most competitive in Europe for both patrons and non-profit sector entities.

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