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THE LAWYER BRIEFINGS

PORTUGAL A COMPETITIVE TAX HUB FOR INVESTORS

Tax regime offers opportunities for individuals and corporations

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Portugal has a reputation for heavenly beaches, exquisite cuisine and sunshine, enhanced by its history and culture. Being one of the safest countries in the world is certainly a plus for investors, but the pack of tax incentives for expats, high net worth individuals and corporations makes Portugal one of the most competitive jurisdictions for investors. The host of the annual Web Summit has certainly become a safe hub for global investments.

Regarding expats and high net worth individuals, Portugal offers a special 10-year regime for non-habitual tax residents (NHR). Subject to the requirement of becoming tax resident in the country – and not being deemed resident therein over the past five years – the NHR regime offers a 20 per cent flat rate for entrepreneurs and employment income derived from high valued-added activities as listed under domestic legislation (e.g. architects, engineers or IT technicians to name a few), as well as a 10 per cent flat rate for pension income. As for capital income derived from foreign sources (dividends, royalties, interest and capital gains), it will be, as a rule, exempt from tax in Portugal provided it is taxable at source under a relevant double tax treaty (DTT). Foreign rents also benefit from same tax regime. It must be noted that Portugal has more than 78 DDTs in force. For other income derived from domestic sources, it will be subject to progressive rates ranging up to 48 per cent.

Unique advantage

Besides the NHR regime, it must be highlighted that spouses, ascendants and descendants are not subject to tax on donations and inheritances, a unique tax advantage within OECD countries. Additionally, there is no wealth tax and non-resident investors may also benefit from an exemption from personal income tax and/or corporate income tax on capital gains derived from the proceeds of the sale of equity participations held in Portuguese-based corporations, provided that said entities do not have more than 50 per cent of its assets comprised of real estate located in Portugal.

Regarding corporations, Portugal has a wide range of available tax incentives, such as a contractual regime for selective investments equal to or higher than €3m in key sectors such as tourism, R&D, telecoms, shared services centres, to name just a few. The set of benefits vary from tax credits to offset against the annual CIT due (10 per cent up to 25 per cent of the eligible investment), exemption or reduction of real estate and property transfer tax, as well as exemption from stamp duty on contracts – including financing – required for the execution of the project. For companies investing in technology and R&D, Portugal has implemented a patent box, allowing for a 50 per cent exemption on income deriving from contracts involving the temporary assignment of rights over patents and industrial models, provided that the assignee is not resident in a blacklisted jurisdiction and the results of the assignment of such rights do not originate deductible costs at the hands of the assignor resident in a Portuguese territory.

R&D boost

On the other hand, eligible investments/contributions through investment funds and companies dedicated to R&D may be fully deductible for CIT purposes. Additionally, Portugal also has an internal participation exemption regime, allowing for full exemption on dividends and capital gains (and capital losses) derived from the disposal of equity participations of at least 10 per cent of the issued share capital or voting rights and provided that, and among other requirements: (i) the participation is held for a minimum holding period of one year; (ii) the subsidiary is subject and not exempt from CIT and the nominal rate is not below 60 per cent of the CIT standard rate of 21 per cent; (iii) the subsidiary is not located or resident in a low tax jurisdiction.

The combination of these regimes, alongside the existing DDT network, means Portugal is a relevant and eligible gateway for global investments, notably in Africa and Asia, where we have treaties in force with Angola, Mozambique, Mauritius, Cape Verde, Algeria, UAE, China, Hong Kong and Singapore, to name just a few. For instance, when looking at Angola and Mozambique – both jurisdictions with significant reserves of oil and gas – Portugal appears to be the perfect spot for your business, allowing for a full exemption on services, or a reduction from 15 per cent to 5 per cent in the case of Angola.

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