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PORTUGAL: An Introduction to Tax

Chambers Europe 2022: Practice Area Overview

Portugal: Tax

The containment measures associated with the pandemic crisis caused by SARS-CoV-2 and its multiple variants have caused a very severe impact on economic and social structures around the world. The post-pandemic reality is so unfamiliar to everyone that key players are turning to history to try to anticipate what to expect from the upcoming years.

While the world is facing one of the most atypical and uncertain times of the past decades, Portugal missed having its State Budget Proposal for 2022 approved for the first time in the history of its democracy. For that reason, the President of the Republic of Portugal decided to dissolve the Parliament and called early elections for the end of January. In these elections, Portuguese voters decided to give the former government minority party a clear majority in the Parliament that will make room for political stability and for the approval of the State Budget for 2022 previously refused in the Parliament.

Despite the heightened uncertainty of these times, some signs remain positive and there are fields where no changes are expected. An example of this is the continued interest of international investors in the Portuguese real estate market, also taking advantage of the benefits offered by some attractive immigration and tax regimes, such as the Golden Visa or the Non-Habitual Residency regimes.

In this sense, Portugal continues to project itself externally as a synonym for stability in terms of its tax policies, as well as in other important areas, such as safety (for local and foreign citizens), its mild climate and its privileged geographical position (being the southernmost country in Europe and offering a rapid access to the eastern coast of the American continent and to Africa, with a special focus on Portuguese-speaking countries, such as Brazil, Angola, Mozambique, Cape Verde, Guinea-Bissau or São Tomé and Príncipe).

It is also in this context that Portugal will start implementing its Recovery and Resilience Plan (RRP). The RRP consists of 83 investments and 32 reforms. They will be supported by €13.9 billion in grants and €2.7 billion in loans. 38% of the plan will support climate objectives and 22% of the plan will foster the digital transition. It will lift Portugal's gross domestic product by 1.5% to 2.4% by 2026.

The Portuguese tax system broadly follows the OECD general standards, aligned with several other European countries.

The Personal Income Tax (PIT) and Corporate Income Tax (CIT) Codes provide the specific domestic rules regarding income taxation, such legislation being complemented by other legislation that deals with specific regimes (e.g. special tax regime for debt securities), as well as by an extensive network of Double Tax Treaties (DTT) signed by Portugal (80 signed DTT, 78 of which are currently in force).

Overall, there has been a considerable stability on income taxation as the last and most significant amendments to PIT and CIT Codes date back to 2014.

Since 2014 a flat CIT tax rate of 21% applies to the global amount of taxable income derived by tax resident companies in Portugal mainland (the standard CIT rate is 14.7% in the Autonomous Region of Madeira and in the Autonomous Region of the Azores, including permanent establishments of foreign entities registered therein). A reduced 17% rate applies to the first EUR 25,000 of taxable income for small-medium sized companies (11.9% in the Autonomous Region of Madeira and in the Autonomous Region of the Azores).

The standard VAT rates in Portugal are 23% (for the mainland), 22% (for the Autonomous Region of Madeira) and 16% (for the Autonomous Region of Azores). Intermediate and reduced VAT rates also apply, for instance, on listed foodstuffs, pharmaceutical products, passenger transport, hotel accommodation, among others.

At the same time, Portugal is witnessing an increasing trend for general and special consumption taxation, at the same time as sectoral contributions (in sectors such as banking, energy, pharmaceuticals or medical devices) are being adopted as an alternative and effective source of revenue.

The Portuguese tax system has also been consolidating an attractive sustainable investment model, with the already well-known Golden Visa and Non-Habitual Residency regimes. The Golden Visa programme allows non-EU citizens making certain investments in Portugal to apply for a residency permit herein. On a different path, the Non-Habitual Residency regime creates for beneficiaries the opportunity to receive qualifying income (such as dividends, interest or royalties) from foreign sources tax-free in Portugal, while also covering professional income sourced in Portugal from value-added activities to benefit from a special PIT rate of 20%. These special regimes have been helping to create perfect value-for-money investment opportunities.

The high levels of investors' confidence in the Portuguese market for creating new value chains and business opportunities were also unveiled as, despite the severe containment measures imposed by the pandemic (including closed borders and quarantines), the real estate market has not shown any signs of slowdown.

Portugal has also been appointed as one of the most crypto-friendly tax regimes for individuals in the world. Although there is not a clear tax regime specifically regarding the taxation of cryptocurrency transactions, the Portuguese Tax Authorities have issued some guidance on the matter, stating that cryptocurrencies in Portugal are only taxable if you do it as a professional trading activity, otherwise they are considered non-taxable in Portugal due to being unable to fit in any category.

The pandemic has also accelerated the changes in the way we work and collaborate (in particular, around the well-known ESG factors). Teleworking became widespread and Portugal is among the most popular destinations between digital nomads. Some factors such as the good weather, relatively low cost of living, safe environment, friendly time zone and the very attractive tax regimes applicable to foreign individuals relocating to Portugal are just some of the key factors that should continue to push Portugal to the top of the list.

In the current context of decarbonization and energy transition, Portugal has demonstrated a rapid and interesting positioning around renewable gases, with emphasis on green hydrogen. For its strategic position in the renewable energies market –given the competitive advantages in the wind and solar photovoltaic sectors – Portugal has been selected by the European Commission to develop a green hydrogen production at 100MW scale in Sines. The Portuguese "Hydrogen Valley" is just another confirmation of the privileged position of the country already revealed, given its abundant renewable electricity potential.

As with any strategic option, the Portuguese tax system already reveals a clear tendency to progressively widen tax benefits applicable to renewable energies. The State Budget Proposal for 2022 foresaw a full exemption from tax on petroleum and energy products for advanced biofuels while it also excluded biofuels, biomethane, green hydrogen and other renewable gases from the addition on CO_2 emissions envisaged in the proposal.

In view of current data, and despite the margins of uncertainty raised by the pandemic crisis, with a new majority government elected, there are strong reasons to believe that the Portuguese tax system will continue to be a key factor in attracting investors and boosting economic activity. Therefore, the year 2022 will surely be a pondered balance between successful regimes in the Portuguese tax system – such as Golden Visa and Non-Habitual Residency regimes – and the focus on special regimes for strategic sectors, such as Green Hydrogen or others with a strong connection to the energy transition.