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Francisco Cabral Matos
fcm@vda.pt

Exchange of Information – new rules already in force

It was recently published the Decree-Law nr. 61/2013, of May 10th (DL 61/2013), which reviews the **mechanism of exchange of information in the field of taxation**.

This mechanism of exchange of information is intended to tackle tax fraud and evasion thus the exchange of information applies to all taxes of any kind levied in Portugal except for VAT, customs duties, excise duties and mandatory contributions to the Social Security.

This regime lays down three different exchange of information procedures:

- > **Exchange of information on request;**
- > **Mandatory automatic exchange of information;**
- > **Spontaneous exchange of information.**

The **automatic exchange of information** requires that Portuguese Tax Authorities provided information regarding residents in other Member States concerning the following elements and situations, regardless of a specific request:

- > Income from employment;
- > Director's fees;
- > Life insurance products not covered by other legal instruments of the European Union concerning the exchange of information and other similar measures;
- > Pensions;
- > Ownership of and income from immovable property.

According to the DL 61/2013, the automatic exchange of information allows for the authorities of different Member States to collect information from records and databases of Portuguese Tax Authorities, in addition to the effective exchange of information, at least once per year, within six months following to the taxable period when the information was made available.

We draw your attention to the fact that this regime, namely the mandatory and automatic exchange of information, was enacted pursuant to the Directive on an Administrative Cooperation in the field of taxation (Directive no. 2011/16/EU, of 15 February 2011) and applies autonomously from Double Taxation Agreements.

Lastly, please note that although the automatic exchange of information will only be in force as of January 1st, 2015, it may cover information related to taxable periods starting January 1st, 2014.

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LISBON

Av. Duarte Pacheco, 26
1070-110 Lisboa Portugal
lisboa@vda.pt

OPORTO

Av. da Boavista, 3433 - 8º
4100-138 Porto Portugal
porto@vda.pt