MACEDO ▪ VITORINO

#WHY**PORTUGAL** 2021

TAXATION IN PORTUGAL MADE EASY

WHY YOU SHOULDN'T BE SCARED OF PORTUGUESE TAX LAWS

With a legal framework focused on investment and attracting new business, as well as incentives for new tax residents, it may be time to consider taking your taxes to Portugal.

While no one likes doing their taxes, the questions of 'how', 'where 'and 'how much' you're going to be taxed is surely at the top of priority lists. Portugal's Government has also given priority to its tax regime to make it an attractive and cost-effective place for potential investors and incoming workers, as well as companies doing business in or via Portugal. There are, of course, a whole host of different scenarios, conditions and exemptions to be looked at on a case-by-case basis.

The Tax and Customs Authority is responsible for the management of taxes in Portugal in accordance with the rates set out in the tax legislation approved by the Parliament. General tax rules apply nationwide, but Azores and Madeira enjoy fiscal autonomy, so some tax rates differ from mainland Portugal.

To note that any income obtained abroad by Portuguese residents, or in Portugal by non-residents, is subject to tax, but to avoid double taxation the country is party to agreements with over 85 countries including the US, Poland, Russia, China, Canada and Germany.

HOW DOES TAXATION OF COMPANIES WORK?

If your business is headquartered or managed in Portugal, your taxable income is subject to Corporate Income Tax (CIT). CIT also applies to the taxable profit of businesses with a permanent establishment here, even if HQ and management are abroad. You have a permanent establishment if your business activities in Portugal are carried out using an office or other place of business or via someone acting on behalf of the company who can conclude contracts in the company's name.

For mainland Portugal, CIT rate is 21%, 20% in Madeira and 16.8% in Azores. For residents, this is applied to the taxable income and for non-residents with a permanent establishment to the taxable profit on any activities in Portugal. SMEs benefit from a reduced rate applied to their first €15,000 – 17% on the mainland, 13% in Madeira and 13.6% in the Azores.

A Municipal Surcharge is applied on top of CIT to any taxable amount not exempt from CIT. Rates vary with a max limit of 1.5%, although in some municipalities you can get a reduced rate if your past year's turnover is less than €150,000.

State Surtax also applies on taxable profits over €1.5m at the rate of 3% from €1.5m to €7.5m, 5% from €7.5m to €35m and 9% for anything over €35m.

To note, you could be liable for Autonomous Tax on certain expenses including undocumented expenses (50% or 70%), charges with vehicles (10% to 35%), representation expenses (10%), and employees' daily allowances not charged to customers (5%).

HOW ARE NON-RESIDENT COMPANIES WITH ACTIVITIES IN PORTUGAL TAXED?

Even as a non-resident company without a permanent establishment in Portugal, you could still be liable for CIT if the income is considered obtained here and taxable under the applicable double taxation agreements (e.g., dividends, capital gains, interest and royalties).

In general, income (excluding capital gains) deemed to be obtained in Portugal will be subject to a withholding tax at a rate of 25%, although that rate might be reduced to 15% or 10% under double taxation agreements. There are, however, various reductions and exemptions available.

The payment of dividends to a company based in another EU Member State with a shareholding of at least 10% of the share capital of a company established in Portugal for an uninterrupted period of one year is exempt. The company must be deemed 'eligible' in accordance with the Parent Companies Directive.

Interest and royalties are exempt from withholding tax if you make a payment to an affiliated company resident in another EU Member State, provided the relevant holding requirements are fulfilled.

ARE NON-RESIDENT COMPANIES SUBJECT TO CAPITAL GAINS?

In relation to capital gains, any gain from the sale of real estate in Portugal will make you liable to CIT, even as a non-resident company without a permanent establishment in Portugal. However, gains from the sale of shares and other securities issued by a company resident in Portugal will be CIT exempt unless:

- The seller's HQ is in a jurisdiction with a more favourable tax framework;
- 25% of the company is, directly or indirectly, owned by resident companies or individuals. This doesn't apply if the shareholder is resident in an EU Member State, EEA country or a country with a double taxation agreement with Portugal and the stake fulfils some of the participation exemption requirements (e.g., a minimum stake of 10% and a minimum holding period of one year);
- Over 50% of the target company's assets are real estate in Portugal or, if the target is a holding company, over 50% of any controlled company's assets include real estate in Portugal.

ARE THERE ANY TAX BENEFITS FOR EXPATRIATES?

There are considerable benefits for expatriates that become a tax resident under the Non-Habitual Residents Regime (NPR).

The main benefits include a flat rate of 20% on all your employment / self-employment income in Portugal, and pensions from outside Portugal are PIT exempt. Also, any foreign-sourced income you have will be exempt, provided it can be taxed outside of Portugal under applicable tax conventions or the OECD model (if not a tax haven) or, in the case of employment income, it is effectively taxed in the source country.

To qualify you must have been non-tax resident for the previous five years, request NPR when you do register as tax resident or up to end of March of the following year, and if you have employment income it must come from a 'high added-value' activity, which includes architects, engineers, artists, auditors, doctors, dentists and teachers. Once you have NPR, the above-mentioned benefits will last for a full 10 years from when you become a tax resident as long as you continue fulfilling the above criteria. If you do not fulfil the criteria in any given year then you will lose your NPR status for that year, but your right can be renewed in any following year (within the 10-year period) if you ensure to fulfil all the criteria again.

This is of course only a snippet of the intricate tax regime in Portugal, so for more in-depth information do read our Guide 'Why Portugal?' or get in touch so we can offer you a more personalised approach.