

# YOUR BRIDGE

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## TO PORTUGAL

**BR FOREIGN INVESTMENT BOOK**  
BOUTIQUE LAW FIRM  
SPECIALIZED LEGAL SERVICES



BERNARDINO, RESENDE E ASSOCIADOS  
SOCIEDADE DE ADVOGADOS RL | LAW FIRM



Photography: Antonio Sacchetti



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# BR FOREIGN INVESTMENT BOOK

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Photography: José Manuel



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**Bernardino, Resende E Associados, Sociedade de Advogados RL (BR)**, provides specialized legal services on inheritance and tax planning, assets management, acquisition of Portuguese nationality, and immigration law, assisting our clients legally, who for economic reasons, family or other relevant reasons plan to settle in the country; Our Team is specialized in monitoring Private Clients needs and have expertise in the areas of Immigration law, Foreign Investment, Tax, Real Estate, Corporate and Labour Law.

With this present guideline, we propose to highlight the main legal aspects concerning **foreign investment in Portugal and the several types of investment that lead to obtaining a residence permit for investment (“Golden Visa”)**, including applying for the Portuguese nationality.

We also outline the potential implications of **being a tax resident in Portugal**, and the benefits attributed to **foreign high net worth individuals (“HNWI”)** who settle in Portugal, after an extended period of living abroad, with the **non habitual residents tax regime**.



# Residence permit for investment – GOLDEN VISA

The Golden Visa is a temporary residence permit obtained through investment in Portugal. The residence permit enables foreign investors to travel freely (exemption of visa) in the Schengen area.<sup>1 2</sup>

The investor may obtain a permanent residence permit in Portugal after a period of 5 years.





According to the legal provisions of the **Golden Visa legal programme**, third country nationals, holding a valid Schengen visa, may apply for a residence permit by **pursuing an investment in Portugal, which can be made through the purchase of real estate, transfer of capital, creation of jobs, or investment in relevant sectors of the economy in Portugal.**

The investment may be **carried out directly or through a single shareholder limited liability company with its head-office in Portugal** or established in another EU country with permanent establishment in Portugal.

According to new legal provisions that regulate the Golden Visa legal programme (Decreto Regulamentar n.º 15-A/2015, published in the official journal on 2 September 2015), in order to promote the decentralization of investment in large urban areas, it allows for **the minimum amount required for investment activity to be reduced in 20%, where the investment is made in territory of “low population density”**.<sup>3</sup>

.....  
<sup>1</sup> **The Schengen Area** is a group of 26 European states which have abolished passport and immigration controls at their common borders. It functions as a single country for international travel purposes, with a common visa policy.

<sup>2</sup> **The holder of a golden residence permit may travel freely in the Schengen Area** (Germany, Austria, Belgium, Denmark, Slovakia, Slovenia, Estonia, Spain, Finland, France, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Norway, the Czech Republic, the Netherlands, Poland, Portugal, Sweden and Switzerland).

<sup>3</sup> The legal definition of **“Territories of low population density”** are those of **“Level III of Territorial Units for Statistics (NUTS III)”**, with less than 100 inhabitants per km<sup>2</sup> or a gross domestic product (GDP) per capita inferior to 75% of the national average.

## Currently, the following types of investment in the country are eligible to apply for a residence permit for investment in Portugal – “Golden Visa”.

I. Purchase of Property in the amount equal or greater than 500 000 € (five hundred thousand euros):

- The investment can be made in co-ownership, as long as each co-owner invests the minimum amount required of **500 000 €**.
- The amount for payment of the price or payment of the deposit must result from an international bank transfer to the bank account in Portugal, held by the Golden Visa applicant.
- The concession of **a residence permit for Investment Activity (“ARI”) or “Golden Visa”** may be based on a promissory contract of purchase and sale (prior to the conclusion of the final purchase and sale deed of the property) - provided that the deposit paid in the promissory contract, is the minimum amount of 500 000 €.

II. Purchase of Property of which its construction has been completed for at least 30 years or located in urban regenerated areas, with rehabilitation works on the properties in the amount equal or superior to 350 000 € (three hundred and fifty thousand euros):

- **Investors who opt for this type of investment, may benefit from relevant tax exemptions**, such as exemption from payment of the property transfer tax (“IMT”) paid at the acquisition of the property, as well as the annual municipal property tax (“IMI”), for a period up to 3 (three) years after the purchase of the property.

III. Creation of at least 10 jobs:

- In the case of investment that leads to the creation of at least 10 jobs, **the applicant must prove to have employed 10 people, and registered the employees in the Social Security**, by presenting a Certificate issued by the Social Security authorities.





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#### IV. Transfer of capitals for different types of investments established under the law:

- The investor may obtain a residence permit for investment ("Golden Visa") by **transferring capital from abroad to a bank account held by the investor in Portugal.**
- The minimum amount of the investment legally required may be in the amount that varies between **250 000 €** (two hundred and fifty thousand euros) and **1 000 000 €** (one million euros), **which will depend necessarily on the purpose of the capital transferred by the investor, as described in the table on next page.**

#### V. Investment in scientific research and technological activities, artistic production and national cultural heritage:

- The new legal provisions that regulate the Golden Visa legal regime, allows for the applicant of the Golden Visa, to obtain a Residence Permit for Investment, through **transfer of capitals that support scientific and technological research activities in the country, as well as artistic and cultural activities, developed by Portuguese public or private entities.**
- Our Law Firm has established alliances with entities of recognized merit in Portugal, which specific purpose is to develop **scientific and technological research activities, as well as artistic and cultural activities in Portugal, relevant under the Golden Visa legal regime.**

Residence  
permit for  
investment  
- GOLDEN VISA  
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## INVESTMENT THROUGH TRANSFER OF CAPITALS\*

Transfer of capitals in the amount equal or superior to **€ 1 000 000 (one million euros)**

International bank transfer to a bank account held by the investor in Portugal, of capital in an amount not less than **€ 1 000 000 (one million euros)**, which may be made through:

1. **Bank Deposits**, resulting from an international bank transfer, or a share in the same amount, when the account is a joint bank account.
2. **Purchase of public state debt securities.**
3. **Acquisition of Securities and Shares in Companies.**

Transfer of capitals in the amount equal or superior to **€ 500 000 (five hundred thousand euros)**

International bank transfer to a bank account held by the investor in Portugal, of capital in an amount not less than **€ 500 000 (five hundred thousand euros)** for the purchase of participation units in investment funds or venture capital aimed to the capitalization of small and medium companies enterprises, which need to submit a capitalization plan. The company that holds the management of the fund must certify the feasibility of the capitalization plan.

## INVESTMENT IN SUPPORT OF SCIENTIFIC RESEARCH AND TECHNOLOGICAL ACTIVITIES IN PORTUGAL\*

Transfer of capitals in the amount equal or superior to **€ 350 000 (three hundred fifty thousand euros)**

International bank transfer to a bank account held by the investor in Portugal, of capital in an amount not less than **€ 350 000 (three hundred and fifty thousand euros)** used in **research activities undertaken by public or private institutions of scientific research**, integrated in the national scientific and technological systems.

## INVESTMENT IN SUPPORT OF ARTISTIC PRODUCTION AND RECOVERY OR MAINTENANCE OF NATIONAL CULTURAL HERITAGE\*

Transfer of capitals in the amount equal or superior to **€ 250 000 (two hundred fifty thousand euros)**

International bank transfer to a bank account held by the investor in Portugal, of capital in an amount not less than **€ 250 000 (two hundred and fifty thousand euros)**, applied in investment or support of artistic production, recovery or maintenance of national cultural heritage.

.....  
\*Minimum amounts required by Law



## FAMILY REUNIFICATION

The applicant investor and holder of a residence permit for investment ("Golden Visa") may **request an extension of his residence permit for investment to family members**, which include the spouse, ascendants, as well as descendants, minors under the legal age of 18, or adults who are financially dependent of the parents and studying in a school or university in Portugal or abroad.

## RENEWAL OF THE RESIDENCE PERMIT FOR INVESTMENT ("GOLDEN VISA")

The residence permit is valid for one year **from the date of it's concession, renewable for periods of two years**, provided that the investment is maintained for a minimum period of 5 years and the residence permit holder proves to have complied with the minimum legal period of stay in the country, which is 7 (seven) consecutive or non-consecutive days, during the first year, and 14 (fourteen) consecutive or non-consecutive days in the subsequent two years.

Residence  
permit for  
investment  
- GOLDEN VISA  
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# Residence permit for investment – “Golden Visa”.

## LEGAL FEES

I – LEGAL FEES	QUOTATION (EUR)
Residence Permit for Investment – “Golden Visa”	Please consult our Law Firm
Office Expenses	€ 750 + VAT
Family Reunification (Annual + Disbursements)	€ 1 500 + VAT (per person)

## PLEASE NOTE

- Our fees do not include notarial and registration fees, taxes, or any other expenses incurred on behalf of the Client, which shall be charged, including VAT in accordance with the applicable rules.
- It may be agreed an overall fixed amount for the provision of legal services within The Residence Permit for Investment Activity, and in this case, a contract with the Law Firm will be signed.
- The hourly rate of the services provided by the Law Firm in the process of the Residence Permit for Investment Activity varies from **€ 125 to € 150 + VAT** (at the legal rate in force).



Photography: José Manuel





## PUBLIC COSTS

II – PUBLIC COSTS FOREIGN IMMIGRATION AUTHORITIES (SEF)	QUOTATION (EUR)
Analysis of the application for concession or renewal	€ 514,80
Analysis of the Family Reunification	€ 80,20
Issuance of the Golden Visa Residence Permit card (for the investor and family members)	€ 5 147, 80 (per person; Children under age 18 born in Portugal — 50% discount)
Renewal of the Golden Visa Residence permit card (for the investor and family members)	€ 2 573, 90 (per person)

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# Acquisition of Portuguese nationality

Foreign legal residents in the country for at least 6 years, may apply for the right to acquire Portuguese nationality, in accordance with the Portuguese nationality law.



Photography: Região de Turismo do Alto Minho



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**Portuguese citizenship** can be acquired by foreign citizens, after having six years of legal residence in Portugal, by meeting the following necessary legal requirements:

- Being legally considered to be an adult, at least 18 years of age (The parents may apply for the Portuguese nationality of their children);
- The applicant has been a legal resident in Portugal for at least six years;
- The applicant has basic knowledge of Portuguese language, evaluated through an official examination;
- The applicant not having been convicted for a crime punishable with a penalty of imprisonment equal to or more than three years, according to Portuguese law.

Portuguese Nationality Law establishes also **special legal regimes for acquisition of Portuguese citizenship, in particular situations such as:**

I. Citizens born in the Old Portuguese State of India:

- Citizens born in the Old Portuguese State of India (Goa, Daman, Diu, Dadra and Nagar Haveli), until the year of 1961, before the territory was integrated to the Indian Union, are legally deemed to be Portuguese citizens;

II. Citizens born in former Portuguese colonies (Angola, Mozambique, Guinea Bissau, Timor and Macau):

- Citizens who were born in the former Portuguese colonies, are Portuguese nationals up until the independence of those territories.



Photography: Pedro Botelho





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### III. Portuguese citizenship for Sephardic Jews (special regime):

• An amendment to Portuguese Nationality Law (Decree-Law 30-A/2015, which came into force on March 1<sup>st</sup> 2015), **allows descendants of Jews** who were expelled from Portugal during the 15<sup>th</sup> and 16<sup>th</sup> centuries, **to become Portuguese citizens, provided that they belong to a Sephardic community of Portuguese origin with ties to Portugal.**

• Applicants must have their criminal record verified in order to apply for citizenship and must produce evidence of their Sephardic Jewish ancestry. It's not necessary either to speak Portuguese or to reside in Portugal, as required by the normal route into citizenship by naturalization.

• Evidence may include Sephardic Jewish traditions, family names, objects and documents that allow applicants to prove a Portuguese Sephardic ancestral origin.

“...for some Jews, the Portuguese passport will represent the return to the lost homeland, ... for others it is an opportunity to gain free access to the European Union! ”



### LEGAL FEES

#### LEGAL FEES

Acquisition of Portuguese nationality

#### QUOTATION (EUR)

Please consult our Law Firm

Acquisition of  
Portuguese  
nationality

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## Fiscal representation of non EU residents

**Non EU residents** who have assets or any type of business activity in Portugal, must appoint an individual or a company registered with the tax authorities, to act as their fiscal representative.





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The appointment is a formal legal act which is always required through a signed letter of appointment, which needs to be submitted to the tax authorities.

The fiscal representative **will act as your representative in Portugal in respect of your tax affairs with the Portuguese Revenue**, submitting all the necessary tax forms, and receiving and replying to all the official notifications from the Portuguese Tax Authorities.

The fiscal representation in Portugal is **mandatory by Law to all non EU residents, as well as those who, although residing in the country, are absent from the country for more than six months.**

## LEGAL FEES FOR FISCAL REPRESENTATION

Fiscal Representation	Quotation (EUR)
Fiscal Representation Service (Annual)	€ 750 (per person)





## Non habitual residents tax regime



Photography: Antonio Sacchetti





The special tax regime for non-habitual tax residents is **applicable for a period of 10 (ten) consecutive years**, provided that, in each year, the individual meets the criteria to qualify as a tax resident in Portugal.

The regime will apply to individual taxpayers who become Portuguese tax residents under Portuguese domestic law, **provided they have not been taxed as tax residents in Portugal in any of the previous five years.**

Individuals, who meet these legal requirements, will be considered as non-habitual residents upon their registration as such with the tax authorities, or at the latest until 31<sup>st</sup> of March of the following year in which the latter registered as a tax resident in Portugal.

Portuguese sourced employment and self-employment income shall be liable to a special 20% flat rate, added of an extraordinary surtax between 1% to 3.5%, depending on the taxable income, and if derived from high value added activities

**of scientific, artistic or technical nature performed in Portugal**, as listed in a

governmental Ministerial Order.

Examples: Architects, doctors, university teachers, designers, IT technicians, engineers, researchers, liberal professions, investors and managers under certain conditions.

Additionally, the non-habitual tax resident regime also establishes a general **tax exemption for foreign-source employment income, self-employment income if deriving from high value added activities, rental income, interest, dividends as well as other investment income, provided certain conditions are met.**

For pensions, the exemption is granted provided one of the following conditions is met:

- (i) **the income** is taxed in the country of source based on the double tax treaty rules, or
- (ii) is not obtained in the Portuguese territory under Portuguese domestic rules.



# Being a tax resident in Portugal



Photography: Antonio Sacchetti



According to Portuguese tax law, **individuals who spend more than 183 days per year in Portugal, are generally deemed to be tax residents.** However, in some cases an individual who spends less than 183 days per year in Portugal, **may also be deemed as resident in Portugal, such as in the following situation:**

- A person who has permanent residence in Portugal on the 31<sup>st</sup> December of the tax year in reference.

## PERSONAL INCOME TAX

**All income received by a resident in Portugal,** including salaries, capital gains and real estate income, as well as income obtained abroad (worldwide income), is taxed in Portugal as **Personal Income Tax - Imposto sobre o Rendimento das Pessoas Singulares (“IRS”).**

## INCOME ABROAD

Regarding **income earned abroad,** several tax treaties may be applicable in order to avoid international double taxation.

## NON RESIDENTS

Regarding individuals non-residents, only income obtained in Portugal is subject to taxation, at general tax rates of 25% and 28%, depending on the nature of the income.

## INCOME FROM REAL ESTATE

The general tax rate on real estate income is 28%.

## INCOME FROM CAPITAL GAINS

The general tax rate on investment income and capital gains is 28%.

# TABLE OF INCOME AND RATES

The following table applies regarding personal income tax ("IRS") for 2015:

Taxable income (EUR)	Rates (%)
Until 7 000	14,5
+ 7 000 to 20 000	28,5
+ 20 000 to 40 000	37
+ 40 000 to 80 000	45
+ 80 000	48

A Personal income extraordinary surtax is levied from **1%** to **3.5%** rate over the annual income exceeding the annual amount of the minimum national wage (**€ 530**). Pension and employment income will be subject to an extraordinary monthly withholding tax. This withholding tax will be considered as a payment on account of the final surtax which is assessed only with the annual PIT return. Regarding other types of income, the surtax rate will be determined with the submission of the annual PIT return.



Photography: Pedro Aboim





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## Additional solidarity rate

The additional surcharge is progressive and it is applicable on the income subject to the marginal tax rates, exceeding € 80 000. A rate of **2.5%** is applicable to taxpayers with a taxable income exceeding € 80 000 up to € 250 000 and a rate of **5%** is applicable to the taxable income exceeding € 250 000.

## LEGAL FEES

LEGAL FEES	QUOTATION (EUR)
Non habitual residence tax regime	Please consult our Law Firm

Being a tax  
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# Purchase of property - tax implications



Photography: Região de Turismo do Algarve



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Our law firm provides legal services in real estate, which cover several operations such as the purchase and sale of property, distressed debt acquisition, commercial leasing, property management, licensing of various real estate projects in tourism, commercial, industrial and retail, structuring and joint ventures, loans arrangements, real estate investment fund, formation, planning, construction and urban rehabilitation.

When buying a property in Portugal the investor should consider the payment of the following costs and taxes related with the purchase of properties in Portugal:

I. Request for a fiscal number at the Portuguese tax authorities: € 10,20.

#### II. Municipal Transfer Tax (IMT):

- This is a property purchase tax that must be paid before the final deed. As the payment takes place, a document is issued by the Local Tax Office, which proves its payment. The tax to pay depends on the price of the property or, if higher, on the ratable value that is registered on the Property Tax document.
- Residential purposes real estate - A sliding scale applies, and a maximum of **6% to 6,5%** is applied to values over approximately **€ 500 000**;
- Commercial property or land for construction **6,5%**;
- Rural property (without building permission) will be charged at a flat rate of **5%**.

#### III. Stamp Duty (Imposto do Selo):

- When signing a deed, the purchaser must pay the stamp duty, which varies according to the type of deed or operation. For real estate property, a sale and purchase is assessed at **0,8%**.

#### IV. Annual Municipal Tax (IMI - Imposto Municipal sobre Imóveis):

- Tax payable by whoever owns the property on 31 December of the year and taking into consideration the official valuation of the property for tax purposes. The rate varies between **0,3% and 0,5%** for urban properties (the actual tax rate is fixed annually by the respective Municipality) and **0,8% for rural properties**.

#### V. Notary fees: final purchase and sale deed: € 500 + VAT (Approx.).

#### VI. Registration of property at Land Registry Office: € 350 + VAT (Approx.).



## OTHER COSTS

Other costs	Quotation (EUR)
Opening a bank account in Portugal	€ 250
International health insurance	Depends on personal conditions of the beneficiary

## LEGAL FEES FOR FISCAL REPRESENTATION

Fiscal Representation	Quotation (EUR)
Fiscal Representation Service (Annual)	€ 750 (per person)

Purchase of  
property -  
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## Contacts



FOR MORE INFORMATION PLEASE CONTACT:



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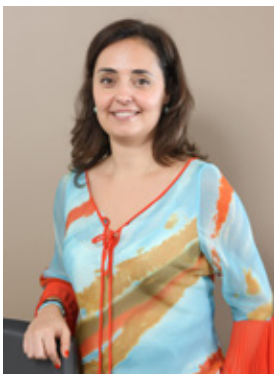
**Estêvão Augusto Bernardino**

Managing Partner  
Head of Foreign Investment, Real  
Estate and Sports

Contacts:

E-mail: [eab@bernardinoresende.com](mailto:eab@bernardinoresende.com)

Phone + 351 213 174 742



**Patrícia Baltazar Resende**

Partner  
Head of Employment, Labour and  
Foreign Nationals Law

Contacts:

E-mail: [pbr@bernardinoresende.com](mailto:pbr@bernardinoresende.com)

Phone + 351 213 174 742



**Charif Haissam Aoude**

Lawyer  
Private Clients, Foreign Investment,  
Foreign Nationals and Real Estate

Contacts:

E-mail: [cha@bernardinoresende.com](mailto:cha@bernardinoresende.com)

Phone + 351 213 174 742

## DISCLAIMER

The information provided in this document is but a brief summary of the complex residence permit for investment programme, Portuguese nationality law, and Portuguese tax legislation concerning tax residence in Portugal and the non habitual resident's tax regime. Please note that there may be tax implications in other countries as well as tax treaties concluded by Portugal which may also be relevant. We therefore advise that individual advice be obtained before acting on any of the matters covered herein.

All legal acts and paperwork regarding the process for application for residency permits, must be performed exclusively by lawyers or a law firm. Any other entities who perform such acts are prohibited and practicing a crime punishable by Law.

Our law firm is covered by Confidentiality regarding all operations of our Clients, thus benefiting the Client of this status that protects the Client and their identity.



Photography: José Manuel









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## PORTUGAL

Rua Carlos Testa, nº 1, 6º C  
1050-046 LISBOA • PORTUGAL

T. + 351 21 317 47 42

Fax + 351 21 317 47 43

[info@bernardinoresende.com](mailto:info@bernardinoresende.com)

<http://www.bernardinoresende.com>

BR ALLIANCE PORTUGAL | ANGOLA | BRASIL | CHINA | EAU | ESPANHA | GHANA | HOLANDA | LUXEMBURGO | QATAR | RÚSSIA | UK