# PERSONAL INCOME TAX (PIT)

**Regime for Non Habitual Residents**

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# I. INTRODUCTION

In 2009 Portugal introduced a beneficial voluntary Personal Income Tax (PIT) regime for non habitual residents aiming to attract talent in high value added activities and High Net Worth Individuals (HNWI's) and their families to Portugal. More recently this regime has known a boost of interest after some specific aspects regarding its implementation were clarified by the Portuguese legislator as well as the Portuguese tax authorities.

This summary provides a brief overview and explains the main guidelines and potential implications of this new regime for foreigners settling in Portugal after an extended period of living abroad. Non-habitual resident individuals shall benefit from the special tax regime for a ten year period, whereupon taxation shall be levied according to the standard Portuguese PIT regime.

> ***Non-habitual resident individuals shall benefit from the special tax regime for a ten year period.***

# II. PIT REGIME

## A) PORTUGUESE SOURCE INCOME

Portuguese sourced employment and self-employment income shall be liable to a special 20% flat rate if derived from high value added activities of scientific, artistic or technical character performed in Portugal, as listed in a Ministerial Order. Examples: Architects, doctors, university teachers, designers, IT technicians, engineers, researchers, liberal professions, investors and managers under certain conditions.

> ***Portuguese sourced employment and self-employment income shall be liable to a special 20% flat rate if derived from high value added activities.***

## B) FOREIGN SOURCE INCOME

### EMPLOYMENT INCOME

High value added activity employment income received shall be tax exempt from PIT provided that it is either:

- Taxed in the source State according to the applicable Convention for the avoidance and elimination of international double taxation; or,
- If no Convention is applicable, the income is effectively taxed in the source State and is not deemed as derived in Portugal in accordance with Portuguese sourcing rules.

### OTHER INCOME:

Foreign source capital gains, investment and rental income, together with self-employment and professional income derived from high value added activities, shall be tax exempt from PIT if:

- The income can be liable to tax in the country of source, according to the applicable Convention for the avoidance and elimination of international double taxation; or,
- In the lack of existence of a Tax Convention between both countries, according to the OECD Model Tax Convention, as interpreted according to the Portuguese comments and reservations made to its articles and the income is not deemed derived in Portugal in accordance with Portuguese sourcing rules nor deemed obtained in a tax haven as set out in the Portuguese “black list” approved by Ministerial Order no. 150/2004, amended by Ministerial Order 292/2011.

Regarding income generated by the assets located abroad there will be an exemption (with progression) for foreign source income, capital gains, interest, dividends, as well as other investment income, provided certain conditions are met. Basically this type of income of a non Portuguese source, earned by non habitual residents abroad are exempt from Personal Income Tax in Portugal provided that they are liable to tax in the other Country, in accordance with the Convention for the elimination of double taxation entered into by Portugal and the other Country in question (please note that it is only required the possibility of being taxed and not the effective taxation of the income) or, if it is liable to tax in the other Country in accordance with the OECD tax Convention model on income and capital, in the lack of existence of a specific Convention between Portugal and the Country in question, provided that this Country is not included in the Portuguese "black list" as set out in Ministerial Order no. 150/2004, amended by Ministerial Order 292/2011 and that the income is deemed not to have been obtained in Portugal.

### PENSIONS INCOME

A foreign-source occupational pension may be fully exempt from tax for a ten-year period if its recipient qualifies for the special tax regime for "non-habitual residents in Portugal". Pensions enjoy a ten-year exemption under the non habitual resident regime provided they are subject to tax in the source country in accordance with the provisions of the applicable Convention for the avoidance and elimination of international double taxation; or, are deemed not to be derived in Portugal in accordance with Portuguese sourcing rules.

## C) QUALIFYING FOR THE REGIME

To qualify as a non-habitual resident, an individual must meet the following requirements:

- Be tax resident under Portuguese domestic legislation criteria; and
- Not have been taxed as a Portuguese resident in the five years prior to taking up residence in Portugal.

An individual is tax resident in Portugal for any year in which:

- He is physically present in Portugal for more than 183 days in a calendar year; or,
- On December 31 of the relevant tax year, he has available accommodation in Portugal as its habitual residence.

> ***A foreign-source occupational pension may be fully exempt from tax for a ten-year period.***

# D) OTHER ASPECTS TO BE CONSIDERED

## WEALTH TAXES

Portugal does not have wealth taxes.

## MUNICIPAL PROPERTY TRANSFER TAX

Portugal levies a municipal tax on the acquisition of Portuguese properties at rates between 0% and 6,5%.

## MUNICIPAL PROPERTY ANNUAL TAX

Portugal levies a municipal tax annually based on the registered value of Portuguese real estate at rates between 0.3% and 0.8% (depending on the municipality and the type of real estate –buildings or land).

## INHERITANCE TAX

Levied as Stamp Duty at a 10% rate except for spouses, descendants and ascendants, who are exempt.

## FRIENDLY TAX ENVIRONMENT

Furthermore, by becoming Portuguese non habitual residents, the HNWI's are able to accrue their wealth in a white listed friendly tax environment, to dispose of their assets benefiting from

tax exemptions, to pass on their wealth or estate without inheritance or gift taxes and/or to enjoy their retirement without tax leakage on their pensions.

# III. DISCLAIMER

The information provided in this document is but a brief summary of the complex tax rules and Portuguese tax legislation that should be considered before relocating to Portugal.

Please note that there may be tax implications in other countries as well as tax treaties concluded by Portugal which may also be relevant to some aspects of the above referred PIT regime.

We therefore advise that individual advice be obtained before acting on any of the matters covered herein.


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