



SOCIEDADE DE ADVOGADOS, RL  
ROGÉRIO FERNANDES FERREIRA  
& ASSOCIADOS

# PORTUGAL - REAL ESTATE TAX GUIDE



## TAX & BUSINESS



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## INTRODUCTION

The aim of this document is to highlight the main features of the tax regime applicable to real estate located in Portugal.

This documents looks at the taxation from a dynamic perspective, covering all the moments with tax relevance to potential investors in property located in Portugal.

In addition to the tax regime applicable to the real estate, are also presented some regimes that may be of particular relevance, particularly from the perspective of foreign investors.

However, the information provided relates only to the general features of the regime, without considering, as such, specific structures intended to particular investments.

This document shall be taken as information and should not replace specific legal advice, targeted to specific issues.

## 1. REAL ESTATE ACQUISITION

Property Transfer Tax (IMT)	
Taxable Operations	<ul style="list-style-type: none"> <li>- Onerous transfers of ownership or parts thereof;</li> <li>- Leases and subleases of long term (longer than 30 years);</li> <li>- Acquisition of shares (excluding shares in Joint stock companies) in companies owning property, provided that such acquisition result in the detention by some of the shareholder of at least 75% of the share capital, or the number of members is reduced to 2, being them married in a joint-property regime; and</li> <li>- Contribution-in-kind (property) to the capital of companies or its attribution to shareholders in case of liquidation of such companies.</li> </ul>
Taxable Persons	- Individuals or legal persons to whom the immovable property is transferred, either resident or not in Portuguese territory.
Taxable Amount	- The highest between the declared acquisition value and the taxable value.
Rates	<ul style="list-style-type: none"> <li>- Urban property used exclusively for habitation - 6% (maximum progressive rate);</li> <li>- Rural property - 5%;</li> <li>- Urban property not intended exclusively for habitation purposes - 6.5%; and</li> <li>- Property purchased by residents in a "tax haven" - 10%</li> </ul>
Exemptions	<ul style="list-style-type: none"> <li>- Acquisition of properties for resale by Real Estate companies;</li> <li>- Acquisition of real estate by Open-end Real Estate Investment Funds or by closed-end of public subscription;</li> <li>- Acquisition of real estate by Real Estate Investment Funds for Residential Letting;</li> <li>- Operations of concentration or cooperation (such as mergers and demergers);</li> <li>- Acquisition of an urban property, object of urban rehabilitation; and</li> <li>- Acquisition of buildings classified as of national / public / municipal interest</li> </ul>
Investment Promotion Tax Regime	- Companies that make relevant investment from 2013 to 2017, may benefit from IMT exemption on the acquisition of real estate property regarded as eligible investment.

Stamp Duty (IS)	
Taxable Operations	- Onerous or free transfers of ownership or parts thereof.
Taxable Operations	- Individuals or legal persons to whom the immovable property is transferred, either resident or not in Portuguese territory.
Taxable Amount	- The highest between the declared acquisition value and the taxable value.
Rates	- Onerous or free transfers of ownership or parts thereof: 0,8%; and - Free transfers of ownership or parts thereof: 10% (in addition to the 0,8 % rate).
Exemptions /Exclusions	- Onerous or free transfers of ownership or parts thereof: 0,8%; and - Free transfers of ownership or parts thereof: 10% (in addition to the 0,8 % rate).

## 2. REAL ESTATE OWNERSHIP

Municipal Property Tax (IMI)	
Tax Operations	- Ownership, usufruct or surface rights on urban or rural property.
Taxable Persons	- Individuals or legal persons who are, on 31 December of each year, owners, surface owners or beneficial owners of property, whether or not resident in Portuguese territory.
Taxable Amount	- Taxable asset value determined by evaluation conducted by the tax authorities.
Rates	- Rural property: 0.8% - Urban property: 0.3% to 0.5% - Property owned by an entity resident in a "tax haven": 7.5%
Exemptions	- Property part of touristic complexes; - Property integrated in property investment funds from public subscription, in pension funds and retirement savings funds; - Urban properties considered as a permanent place of residence up to € 125,000.
Investment Promotion Tax Regime	- Companies realizing relevant investment in from 2013 to 2017, benefit from IMI exemption for a period up to five years, regarding real estate acquired that constitute eligible investment.

<b>Stamp Duty</b>	
Taxable Operations	- Ownership of urban property used for habitation purposes, with taxable value for Municipal property tax purposes exceeds € 1,000,000
Taxable Persons	- Individuals or legal persons resident or not in Portuguese territory.
Taxable Amount	- The taxable amount for municipal property tax purposes
Rates	- Property for residential purposes: 1%; - Property owned by legal persons resident in a "tax haven": 7.5%.

### 3. ONEROUS TRANSFER

<b>Personal Income Tax (IRS)</b>	
Taxable Operations	- Earnings, including properties income (rents) and, or capital gains from the sale of these properties.
Taxable Persons	- Individuals, residents or non-residents who receive income, including income from property (rents) or capital gains from the sale of these properties.
Taxable Amount	- In the case of property income, the rents deducted from the expenditures incurred with the maintenance and conservation, as well as the Municipal property tax if the rental income is taxed together with the remaining taxable income, as well as stamp duty; in the case of capital gains the amount subject to tax is 50% of the difference between the sale amount (net realizable value) and the acquisition value, both adjusted for tax purposes. In the case of capital gains realized on the sale of property a deduction is granted for the necessary expenses incurred with the valorization of property in the 5 years preceding the sale and with the acquisition and sale of the property.
Rates	- Income earned by non-residents: 28%; - Income earned by residents: 28% for property income (rent). However, if said income is taxed together with the remaining taxable income, a maximum 48% tax rate applies to

	<p>taxable income exceeding € 80,000; In this case, a surtax of 2.5% or 5% is applied to the quantitative portion of taxable income that exceeds € 80,000 or € 250,000, respectively; This value is supplemented by a surcharge of 3.5% on the part of the taxable income resulting of the income aggregation plus the income subject to special tax rates which exceeds, per taxpayer, the annual value of the minimum wage; and</p> <p>- In what concerns capital gains arising from the sale of property these must be aggregated with the remaining taxable income and taxed according to the progressive rates mentioned above.</p>
Exclusions	<p>- Exclusion of taxation of capital gains realized on the transfer of property for the permanent abode of the taxable person (tax resident in Portugal), if such capital gains are reinvested within three years, in the acquisition of another property with the same purpose in Portugal or in an European Union or an European Economic Area Member State (provided that in the latter case, there is exchange of information in tax matters).</p>

Corporate Income Tax	
Taxable Operations	- Commercial, industrial or agriculture activities, including property income (rents) or capital gains arising from the sale of property (if the property is treated for accounting purposes as inventories, the income derived from its sale is treated as profit from ordinary activities).
Taxable Persons	- Legal persons, residents or non-residents who receive income from its activity, including property income (rents), or capital gains arising from the sale of property.
Taxable Amount	- The taxable profit for corporate income tax purposes is composed of the receipts deducted from costs incurred, adjusted by impairment losses and other deductions allowed; In the case of capital gains, if they are reinvested in tangible fixed assets or similar, until the end of the second year following their realization, only 50% of its value is regarded for tax purposes.
Rates	- Income earned by non-residents without a permanent establishment herein: 25%; - Income earned by residents or by non-residents with a permanent establishment herein: 23% for property income (rents) and capital gains from the sale of property or shares; in addition there is also the municipal surcharge at the maximum rate of 1,5% of taxable profits and the state surtax for entities with taxable profit exceeding € 1,500,000, with rates of 3% or 5% or 7%, depending if the taxable income is from € 1,500,000 to € 7,500,000,

	from € 7,500,000 to € 35,000,000 or over € 35,000,000, respectively.
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#### 4. “NON HABITUAL RESIDENTS REGIME”

The tax regime for non-habitual residents was created with the intention of attracting professionals involved in high added-value activities and individuals with significant capital, thereby seeking to rival some competing regimes in force in other jurisdictions.

Any taxpayer who wishes to have the benefit of this regime needs only to register as a tax resident in Portugal provided that he was not a tax resident in Portugal in any of the previous five year.

Persons	- Individuals who have not been tax residents in Portugal in the last 5 years, and transfer their tax residence to Portugal, developing activities with high added value.
Income	- Income from employment, arising from the performance of business and professional activities (considered of high added value) and pensions.
Rates	-- 20% applicable to the net income derived from employment income and from business and professional activities (considered of high added value), plus an additional fee of solidarity of 3,5%;
Duration	- “Non-habitual resident regime” is applied for a period of 10 years.

#### 5. “GOLDEN VISA”

In addition to the non-habitual residents tax regime, Portugal has recently introduced a “gold visa” regime under which third States citizens can gain access to residence permits under the condition that they meet the qualified investment requirements.

Persons	- Natural or legal persons that are holders of valid Schengen visas or regularize their stay in Portugal within ninety days from the date of first entry into national territory, and intend to pursue an "investment activity".
Operations	- Investing activities can be any activity performed by a natural or legal person that lead to the achievement of at least one of the following situations, in Portugal for a

	minimum period of five years: transfer of capital in the amount of not less than € 1 million; creation of at least 30 jobs; acquisition of property with a value of at least € 500,000.
Recent Developments	The Government proposed to increase the scope of effective investments in Portugal, by expanding the eligible investment activities for the golden visa, which from now on also include: (i) capital transfer of an amount equal to or greater than € 350,000.00, for use in scientific research activities conducted by public or private institutions, integrated within the national scientific system, (ii) the transfer of capital of an amount equal or superior than € 350,000,00 , for use in investment or support to artistic production, or for the maintenance or recovery of cultural heritage; and (iii) transfer of capital of an amount equal to or greater than € 500,000.00 for the purchase of immovable property and urban regeneration work.

## 6. URBAN REGENERATION

With the purpose of stimulating urban generation work, the Government established a set of tax benefits to urban rehabilitation, among which stand out the following:

- IMI and IMT Exemption from buildings subject to urban rehabilitation for a period of two years;
- tax deduction of 30% of the costs incurred by the owner related to rehabilitation up to € 500;
- The gains and losses earned by IRS taxpayers resident in Portuguese territory are taxed at a reduced rate of 5% when these fully arise from the disposal of rehabilitated property;
- The rental income earned by IRS taxpayers resident in Portuguese territory are taxed at a rate of 5% when they fully arise from renting property located in a urban rehabilitated area;
- The properties of refurbishment contracts are, in certain situations, subject to a reduced rate of 6%.

## 7. FREE TRANSFER

In Portugal there is no specific taxation on transfers by death. Thus, the real estate assets transmitted by the death of the holder are not subject to taxation, if the transmission is for the spouse, descendants or ascendants.

In respect to transfers inter vivos these are, in a general rule, subject to stamp duty at a 10% rate, with the exception of transactions between spouses, descendants or ascendants, which are exempt from this tax.

### 8. THE "PARTICIPATION EXEMPTION"

The IRC was subject to a thorough reform in Portugal. Among the major changes, there is the introduction of a new participation exemption regime which provides that distributed profits and reserves, as well as realized gains and losses, do not compete for determining the taxable income of IRC taxpayers, since the following requirements are respected:

- A minimum participation of 5% in the share capital or voting rights;
- held for at least 24 months without interruptions. In the case of the dividends, the participation may be held for a shorter period when it is subsequently maintained in order to complete this period;
- The entity that distributes the dividends shall be subject to and not exempt from IRC or equivalent, at a legal rate of not less than 60% of the corporate income tax rate;
- The entity that distributes the dividends should have no residence or domicile in a country, territory or region subject to a more favorable tax according to the list approved by the Minister of Finance.

### 9. THE INVESTMENT TAX CODE

The new Investment Tax code reinforces many tax benefits for investment, in particular with regard to those providing the creation or maintenance of jobs and those that are located in underprivileged areas . Some of the contractual tax benefits for productive investment are the exemption or reduction of IMI or IMT during the term of the contract in respect of buildings used in the investment project and the exemption of stamp duty for all acts or contracts required to develop the investment project.

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Rogério M. Fernandes Ferreira  
Marta Machado de Almeida  
Filipa Belchior Coimbra