



Doing business in  
Portugal 2018



# Introduction

The Moore Stephens Europe *Doing Business In* series of guides have been prepared by Moore Stephens member firms in the relevant country in order to provide general information for persons contemplating doing business with or in the country concerned and/or individuals intending to live and work in that country temporarily or permanently.

Doing Business in Portugal 2018 has been written for Moore Stephens Europe Ltd by Moore Stephens & Associados. In addition to background facts about Portugal, it includes relevant information on business operations and taxation matters. This Guide is intended to assist organisations that are considering establishing a business in Portugal either as a separate entity or as a subsidiary of an existing foreign company. It will also be helpful to anyone planning to come to Portugal to work and live there either on secondment or as a permanent life choice.

Unless otherwise noted, the information contained in this Guide is believed to be accurate as of 31 January 2018. However, general publications of this nature cannot be used and are not intended to be used as a substitute for professional guidance specific to the reader's particular circumstances.

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Our member firms' objective is simple: to be viewed as the first point of contact for all our clients' financial, advisory and compliance needs. They achieve this by providing sensible advice and tailored solutions to help their clients' commercial and personal goals. Moore Stephens member firms across the globe share common values: integrity, personal service, quality, knowledge and a global view.

**Brussels, April 2018**



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# 1. Portugal at a glance

## Geography and population

Portugal is located on the Iberian Peninsula in Western Europe, bordered by the Atlantic Ocean to the west and Spain to the north and east. The territory of Portugal consists of mainland Portugal, the Azores and the Madeira Islands in the Atlantic Ocean. It has a population of 10.306 million (2017).

Mainland Portugal is divided into 18 administrative districts, reporting to the central government, and 2 autonomous regions: Madeira and the Azores.

Portugal's main cities are Lisbon (*Lisboa*) (estimated resident population: 2 817 014), (the capital), Porto, Braga and Aveiro.

## History

A republic since 1910, Portugal became an independent state in 1143 and established its continental frontiers in 1297. It is thus one of the oldest nation states in Europe.

Situated on the west of the Iberian Peninsula, its position on the Atlantic coast soon determined its maritime vocation. In 1415, an epic voyage commenced and made the Portuguese the first Europeans to discover the ocean routes to India, Brazil, China and Japan. At the same time, new settlements were founded on both east and west coasts of Africa.

The Portuguese monarchy came to an end after 800 years when the October 1910 revolution overthrew King Manuel II and was replaced by a republic. The instability this brought about led to a military coup d'état in 1926, which in turn led to the establishment of the right-wing corporatist *Estado Novo*, under António Salazar as dictator.

After the so-called 'Carnation Revolution' overthrew Salazar's successor, Marcello Caetano, in April 1974, the democratic 1976 Constitution established a mixed presidential and parliamentary system. Both the President of the Republic and the Assembly of the Republic are elected by direct universal suffrage. The head of state is the President, who is elected for a five-year term and may serve a maximum of two terms. The President's duty is to monitor and supervise the public institutions in accordance with the Constitution. The current holder of that office is Marcelo Rebelo de Sousa of the Social Democratic Party, who has been in office since March 2016.

The Parliament is currently composed of 230 members elected every four years by direct universal suffrage under the party-list system of proportional representation. The government, headed by the Prime Minister, is responsible for defining policy and conducting the economy. Portugal's Prime Minister since November 2015 is António Costa, of the centre-left Socialist Party, who heads a government of Socialist Party members and independents, and is supported in Parliament by a broad spectrum of left-wing parties.

Portugal became a member of the European Union in 1986 and was a founder member of NATO (the North Atlantic Treaty Organisation) in 1949.

## Climate

Mainland Portugal has a temperate oceanic climate with lots of sunshine days and blue skies. The average temperatures are 11°C in the winter and 23°C in summer.

The warmest month is August and the coldest is January.

Madeira also has a temperate climate but on the nine islands of the Azores, the climate is more variable due to their volcanic nature.

### Religion

The Portuguese population is mostly Roman Catholic, giving the Catholic Church a considerable influence on society. In addition to the Catholics, Portugal still has a relatively significant presence of Evangelicals (or Protestants) and Jehovah's Witnesses. The Jews, Anglicans, Muslims, Hindus, Orthodox Christians, Bahá'ís, Buddhists, Gnostics and Spiritualists are the remaining minority religious groups existing in Portugal.

### Language

The official language is Portuguese, which is a Romance language. Portuguese is one of the 10 most widely spoken languages in the world. With about 230 million speakers, it is the official language not only of Portugal but also of its former colonies Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique and São Tomé e Príncipe. It is also one of the official languages of Equatorial Guinea, Timor-Leste and Macau.

Constituting the community of Portuguese-language countries (CPLP), the eight Portuguese-speaking countries – Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, Portugal, S. Tomé e Príncipe and Timor-Leste-occupy a surface of about 10.8 million km<sup>2</sup> and, taken together, are approximately 250 million people.

The Portuguese language is an official language of the European Union, MERCOSUR, the African Union and the community of Portuguese language countries (CPLP), among other international organisations. The Portuguese language can be a strategic tool at the level of the European Union's external relations. In fact, it is the official EU language with the third greatest number of speakers in the world (after Spanish and English).

### Judicial system

The Portuguese judicial system consists of several categories of Court, independent of each other, with their own structure and rules.

Two of these categories are represented by a single Court (the Constitutional Court and the Court of Auditors).

The Judicial, Administrative and Fiscal Courts are numerous, hierarchically structured and are responsible to a Supreme Court.

In addition, there are Maritime Courts, Courts of Arbitration and Justices of the Peace.

### Currency, time zone

Portugal's currency is the euro (EUR). At the time of going to press (late January 2018), the euro was quoted against the US dollar at a rate of EUR 1 = USD 1.0839.

Portugal's time zone is: GMT+ 0h during Standard Time (Winter) or GMT + 1h during Daylight Saving Time (Summer).

### Why do business in Portugal?

#### Location advantage & climate

Portugal has a geographically strategic position, being the southernmost country in Europe; it offers a rapid access to the eastern coast of the American continent and to Africa.

With its geographical position with an extensive coastline, its singular beauty that gathers in the same space seaside, countryside and city landscapes, the country offers excellent conditions for tourism. Portugal has the highest number of sunshine hours per year in Europe (220 days of sunshine a year).

The geographical position of Portugal also offers excellent conditions to promote and develop maritime connections.

### Portuguese infrastructure

Gifted with a large aggregation of infrastructures, Portugal is a place with excellent living and working conditions.

#### *Road infrastructure*

Portugal has a developed road network, comprising motorways (AE), main roads (IP), secondary roads (IC), national roads (EN) and municipal routes. In 2016, the mainland road network reached 17 874 km, of which 3087 km was motorway, more than 17% of the total road network.

#### *Rail network*

The rail network comprises 2541 km, providing north-south connections down the coastline and east-west connections across the country and into Spain. Railway network density tends to be more significant in regions with a higher population concentration.

#### *Airports*

There are 15 airports. On the mainland the three major international airports are located in the coastal cities of Lisbon, Porto and Faro. Due to the isolation of the Autonomous Regions there are a larger number of airports. The Azores have nine and Madeira has two. Most international airlines serve the country's main airports.

#### *Maritime routes*

Mainland Portugal has nine major ports: Viana do Castelo and Leixões, in the north; Aveiro and Figueira da Foz, in the centre; Lisbon and Setúbal in the Lisbon region; Sines in the Alentejo; Faro and Portimão in the Algarve.

The Autonomous Region of the Azores has eight ports and the Autonomous Region of Madeira has three.

Only Lisbon and Leixões on the mainland offer passenger services, though the number of passengers embarking and disembarking at Leixões port is insignificant. The port infrastructure is thus primarily geared to handling goods. This is particularly so at Sines (52% of the total in 2016), Leixões (20.3%) and Lisbon (52%).

### Economic advantage

In the last decade, apart from a greater focus and diversification of services within the economy, there was, in the transformation industry in Portugal a significant change in its specialisation. It has come from a dependence on traditional industrial activities to a situation where new sectors, with a larger amount of technology, have gained importance, as have significant growth sectors such as the automotive and components sector, electronics, energy, pharmaceutical sector and industries related to the new technologies of information and telecommunications.

In recent years, there has been a strong focus on the development of the start-up ecosystem. Lisbon, in particular, is becoming one of Europe's largest start-up hubs, with some international media coverage comparing its start-up scene to San Francisco or Berlin. The Web Summit coming to Lisbon (since 2016) is a good example that the city is increasingly well positioned on the international level.

Portugal's geographic position also impacts on the growth of the services sector. The mild Mediterranean climate, regulated by the influence of the Atlantic, together with its extensive coastline, are significant factors driving the growth of the tourism industry.

## 2. Doing business

### Main forms of business organisation

The most frequently adopted company structures in Portugal are the joint-stock company (*Sociedade Anónima*, abbreviated to SA) and the limited-liability company (*Sociedade por Quotas*, abbreviated to Lda).

A branch structure is frequently used and other legal forms include joint ventures, sole traderships, and partnerships.

#### The joint-stock company (SA)

This is appropriate for larger companies. It is constituted by Notarial Deed of its respective Articles of Association signed by the founder members followed by commercial registration of the company.

To incorporate an SA under the Commercial Code requires the existence of at least five shareholders. The minimum share capital required is EUR 50 000, divided into shares with a value no less than EUR 0.01 each.

The share capital can be paid up in cash and in kind. The latter must be specified and evaluated by a qualified official auditor and its payment cannot be postponed. Payment of the share capital or part in cash can be postponed, up to a maximum 70% for a period of no more than five years, while the remaining 30% is paid up immediately.

#### Limited-liability company (Lda)

This is appropriate for small and medium-sized businesses.

The formation procedures are identical to those of a joint-stock company.

The Commercial Code requires at least two persons or legal entities to establish an Lda. However, a single person or legal entity may establish a single-person limited-liability company, in which case the company's name must include the designation *Unipessoal*.

An Lda has no minimum prescribed share capital, but characteristically the capital amounts to EUR 5000, divided into shares (*quotas*) with a value of no less than EUR 100 each, i.e no less than 2% of share equity.

The capital can be paid in cash only or partly in cash and partly in kind (the latter must be specified and evaluated by a qualified auditor). Cash payments may be partially postponed, up to a maximum of 50%.

Where the capital is paid partly in cash and partly in kind, the total sum of the cash payment made immediately and of the value of the assets cannot be lower than the statutory minimum share capital.

#### Branch

A foreign company may operate a branch in Portugal, without its own separate legal personality, although it has its own management and trading capabilities.

Liability for a branch's actions and contracts rests with the foreign company.

#### Holding companies (SGPS)

The SGPS (*Sociedade Gestora de Participações Sociais*) is a holding company created under a specific law (Decree –Law No 495/88, of 30 December 1988) and may adopt either the SA or Lda company form.

An SGPS is formed to own and manage share investments and must not undertake commercial or industrial activities directly.

An SGPS may acquire real property but only for its own use and for the use of companies in which it holds more than 10% of the share capital. An SGPS may provide management and treasurer functions to group companies and may not provide credit to non-group companies.

### Civil partnership

A civil partnership (*sociedade civil*) consists of two or more persons who agree to contribute assets or carry on a common business with the aim of sharing profits. A civil partnership has no legal personality, unless it adopts a commercial form.

### Commercial partnerships

These take one of three forms:

- A general partnership (*sociedade em nome colectivo*)
- A limited partnership (*sociedade em comandita simples*) or
- A partnership limited by shares (*sociedade em comandita por acções*)



In a general partnership, each partner is liable in respect of his own contribution to capital and has a secondary liability with respect to the partnership and joint liability with the other partners.

In a limited partnership, there must be at least one general partner (*sócio comanditado*) with unlimited liability and at least one limited partner (*sócio comanditário*) with limited liability. The general partners may be companies (SAs or Ldas).

In a partnership limited by shares, the general partners have unlimited personal liability and the exclusive right to manage the partnership, whereas the limited partners, whose contribution is divided into shares, may not take part in the management of the partnership but have their liability limited to the nominal value of their shares.

All three types of commercial partnership have a legal personality distinct from that of their partners. Only a partnership limited by shares has a statutory minimum capital, which is that required of an SA.

### Financial entities

The incorporation of financial entities is authorised under the Credit Institutions and Financial Companies General Régime (*Regime Geral das Instituições de Crédito e Sociedades Financeiras (RGICSF)*). Banks and financial institutions are subject to the supervision of the Bank of Portugal.

The financial activity may be exercised by banks, leasing companies, factoring companies, stockbrokers, investment funds management companies, credit card issuers and currency-exchange agencies.

### Insurance companies

The conditions of access to and pursuit of the business of insurance and reinsurance (within the European Union and in Portuguese territory by insurance or reinsurance companies established in other EU Member States) are governed by Decree-Law No 94-B/98, of 17 April 1998, as substantially amended by Decree-Law No 2/2009, of 5 January 1999, transposing Directive 2005/68/EC of 16 November 2005.

Within Portugal, insurance activities may only be exercised by:

- Authorised companies limited by shares and incorporated in Portugal
- Authorised mutual insurance or reinsurance undertakings
- Branches of insurance or reinsurance companies based in another EU Member State, provided that they meet the requirements for insurers based in Portugal
- Authorised branches of insurance or reinsurance companies with headquarters outside the European Union or
- Authorised insurance or reinsurance companies incorporated as a European Company (SE)

Authorisation is carried out by the Insurance Institute of Portugal, which is the supervisory body for this sector.

### Joint ventures

A joint venture involves cooperation on a project between two or more parties (unincorporated form), where they may agree to share expenses or income, or both, related to the project. Different forms of joint venture may operate in Portugal, such as participating associations or consortia formed to carry out specific purposes.

Portuguese law also foresees the constitution of domestic joint ventures (*ACE – Agrupamento Complementar de Empresas*) and joint ventures between companies based in different EU Member States (*EEIG – European Economic Interest Grouping*).

### Companies setting up in the International Business Centre of Madeira (IBCM)

The International Business Centre of Madeira (IBCM) was created formally in the 1980s as a tool of regional economic policy. It consists of a set of incentives, mainly of a fiscal nature, granted with the objective of attracting inward investment into Madeira and to modernise, diversify and internationalise the regional economy. Any business activities may be carried out within the legal framework of the IBCM, with full integration in the Portuguese legal system, with the exception of financial activities.

Companies licensed to operate within the IBCM before 1 January 2021 may enjoy a number of fiscal benefits guaranteed until the end of 2027. This favourable tax régime has been formally approved by the European Commission as a State Aid until the end of 2020, as a consequence of Madeira's status as an 'Outermost Region' and in compliance with all EU guidelines, including those in the Business Code of Conduct.

The IBCM is thus comprised of three main areas of investment.

#### *International Services*

'International Services' is a broad definition given to all international service activities established in the IBCM, such as international trading, e-business and telecommunications, management services, consulting services, as well as the ownership of intellectual property, the development of real-property investments or shareholding.

#### *The Industrial Free Trade Zone*

The Industrial Free Trade Zone (IFTZ) offers attractive tax and customs-duty régimes which, combined with competitive operational costs and high-quality support services and infrastructure, make the IFTZ a very attractive location for the setting up of local, national and international activities.

The IFTZ, with a total area of 140 hectares, is strategically located 8 km from the island's international airport and next to the main commercial port, where all loading and unloading of cargo takes place.

Production, assembly and warehousing operations may set up either on plots that have been carefully prepared and equipped with infrastructure for the construction of industrial premises, or in modules of small areas for companies that do not require a large space to carry out their activity.

The industrial park has an immediate connection to the island's main motorway, allowing fast and easy access to Madeira's international airport as well as to the distribution of products through Madeira.

#### *The International Shipping Register of Madeira*

The International Shipping Register of Madeira (MAR) is Portugal's second and international shipping register, created to reduce the country's 'flagging out' process as well as to attract new shipowners and vessels.

MAR, as a Portuguese register, is among the international registers of the highest quality, having guaranteed adequate measures to ensure an efficient surveillance of all vessels registered. All international conventions ratified by Portugal are fully applicable to and respected by MAR.

With the exception of fishing vessels, MAR accepts the registration of all types of commercial vessels, including oilrig platforms, as well as commercial and pleasure yachts that will have full access to EU waters and to European cabotage. Amendments approved on 17 September 2015, especially with regard to guarantee mortgage lenders, removed some of the obstacles preventing the registration of a considerable number of vessels. They also simplify formalities relating to the creation, modification and termination of mortgages and their registration. Several tax and social security benefits, as well as operational advantages, are applicable for both vessels and shipowning companies licensed in Madeira's IBC.

#### Labour relations and working conditions

Portugal is a modern country with an attractive labour market and a peaceful work environment, presenting a combination of competitive advantages for foreign investors.

In recent years, Portuguese employment law has undergone many changes and adjustments. Thus, after more than 30 years of legislative reforms, the Portuguese labour system is now more flexible, particularly in terms of organising working time.

In terms of regulations, the main law is the Employment Code, which was revised in 2009 (Law No 7/2009 of 12 February 2009), 2011 (Law No 53/2011 of 13 October 2011), 2012 (Law No 23/2012 of 25 June 2012) and 2013 (Law No 69/2013 of 30 August 2013), mainly further to the requirements that were undertaken by the Portuguese government within the context of the Memorandum of Economic and Financial Policies (MOU) signed in May 2011 with representatives of the International Monetary Fund, the European Union and the European Central Bank ('the Troika'). In June 2017, as a result of the reduction of the public sector deficit below the target of 3%, the EU Council decided to terminate the Excessive Deficit Procedure (EDP), which had existed in Portugal since 2009.

As a member of the European Union, Portugal has a similar employment law system to that of its partners, especially those in Southern Europe, as regards both architecture and solutions.

In addition, the country's membership of the European Union has led to the incorporation into its laws of a set of European directives on labour relations that apply throughout the European area.

Portuguese law provides for a national minimum wage, which is currently EUR 580 per month.

Portugal has a social security system, which provides free public health care. Private health care is also available.

EU Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, comes into force in Portugal on 25 May 2018.

### Work permits, visas etc

Law N° 23/2007, of 4 July 2007, as last amended by Law 102/2017, contains the legal rules governing the entry, presence for an extended period, departure and removal of foreign nationals into, in and from Portuguese territory. This law transposes several directives of the European Union into domestic law.

For the purpose of better regulation of migratory flows, encouraging legal immigration, this Law contains a set of provisions concerning admission and residence that directly apply to foreign citizens, simplifying and accelerating procedures and, in particular, facilitating access and circulation for technical persons, researchers, teachers, scientists and students: alterations particularly relevant to boosting the job-opportunities market. It also helps to attract investment, which creates wealth and jobs, by granting residence permits to foreign nationals who wish to invest or carry on a business activity in Portugal.

The entry into Portugal of foreign nationals who are nationals of third countries is defined by reason of stay and length of stay. For short-stays, foreign nationals must comply with the Schengen rules. For long-term stays exceeding three months, they must comply with the national legislation in force.

All nationals of EU Member States and states party to the European Economic Area (EEA), of a state with which the European Community has an agreement on free movement or third-country nationals related to Portuguese citizens are excluded from long-term visa requirements. All these applicants need only, at the time of entry into Portugal, be in possession of a Schengen visa, if applicable, and register with the aliens registration service in their locality.

All foreign nationals who wish to remain in Portugal for a period up to one year, or establish their residence for more than a year, must apply for the respective long-stay visa or temporary visa at the Portuguese Embassy in their country of residence.

Visas may be required for the following purposes:

- Investment
- Employment or self-employment
- Study, vocational training, research, work or highly qualified teaching
- Religious training
- Retirement and
- Medical treatment

A temporary visa is valid for three months and can be used for multiple entries into Portuguese territory. However, a temporary visa issued for temporary employment may be granted for the duration of the employment contract.

With temporary visas, an extension of stay may be granted for up to one year, renewable for an equal period (except in cases of temporary work or self-employment for no more than six months, in which case the extension is only allowed for a maximum of 90 days).

A residence visa is intended to enable the holder to enter Portuguese territory in order to apply for a residence permit and is valid for two entries into Portuguese territory, allowing the holder to stay for a period of four months.

With residence visas, an extension of stay may be granted for up to 90 days.

Residence visas may be granted for several purposes, namely to work as an employee; to work as an independent professional or business person or to carry out research or other highly qualified activities.

Residence permits may be temporary or permanent. A temporary residence permit issued to foreign citizens is valid for a period of one year from the date of its issue, renewable for successive periods of two years. A permanent-residence permit does not define a validity period, but must be renewed every five years, or whenever there is any change in the identification details recorded in it.

#### Residence permits for new investment activity (Golden Residence Permit)

Legal provisions open the possibility to foreign investors who have regular entry into Portuguese territory (with valid Schengen visas or visa-waiver recipients) to apply for a residence permit for investment activity, through capital transfers, job creation or purchase of real property. Holders of residence permits for investment activity have a right to family reunification, access to permanent-residence permits, as well as Portuguese citizenship, in accordance with the provisions of the legislation in force. Nationals of third countries may qualify where they carry out an investment, personally or through a company, leading, as a rule, to at least one of the following consequences on Portuguese territory for a minimum period of five years:

- The acquisition of immovable property at a value of no less than EUR 500 000
- Capital transfers of no less than EUR 1 million (including investment in shares)
- The creation of at least 10 new jobs
- A capital transfer of at least EUR 350 000 in approved programmes of scientific research
- A capital transfer of at least EUR 250 000 to fund artistic, cultural or heritage activities
- A capital transfer of at least EUR 350 000 to fund urban regeneration
- A capital transfer of at least EUR 500 000 to subscribe to new equity capital in SMEs

#### Start-up Visa Programme

The start-up visa is a residence permit for international business people, which aims to attract investment, talent and ability to innovate. Individuals wishing to apply for the Start-up Visa and obtain a residence permit should demonstrate that:

- They will develop business activities involving the production of goods or the provision of services, with the potential to achieve a defined amount of turnover within three years of commencement;
- They will create or relocate companies and/or projects related to technology and knowledge, with a view to developing innovative products.

The evaluation of the economic potential and innovative content of the project will be made according to conditions based on the degree of innovation, the business and potential market, the ability of the management team, the quality of the jobs created in Portugal and the relevance of the entrepreneur to the team.

This process takes place in two phases:

- Certification of incubators (which is ongoing and is expected to be finished during February 2018)
- Applications from the entrepreneurs (from the certification of incubators, business people from all over the world can apply via the online platform that will become available for this purpose).

## 3. Finance and investment

### Business regulation

Economic activities must comply with the relevant licensing rules.

All types of businesses, independent of their legal form must comply with the Consumers Act ( Law No 24/96 of 31 July 1996), which provides various rights to consumers, namely the right to protection of health and safety; quality of goods or services; protection of economic interests; prevention and redress of damage; training and education, information, representation and consultancy, legal protection and accessible and ready justice.

Portugal is a part of the European Consumer Centres Network (ECC-Net), in order to promote confidence in the European single market by providing free services to consumer information about their rights in the European Union and assistance in resolving problems related to the purchases of goods and services across borders.

The implementation of competition policy in Portugal is ensured by the Competition Authority. Mergers and acquisitions activity is regulated by the Competition Authority (*Autoridade da Concorrência*) and subject to Portuguese and EU law.

### Intellectual property

Portugal's legal intellectual property framework is largely dictated by European Union legislation and the many treaties and conventions to which Portugal is a party, primarily administered by the World Intellectual Property Organization (WIPO), based in Geneva.

The following entities are responsible for registering intellectual property rights in Portugal:

- The Portuguese Institute of Industrial Property (*Instituto Nacional da Propriedade Industrial – INPI*), as regards the registration of trademarks, patents and designs and
- The Inspectorate-General of Cultural Activities (*Inspeção Geral das Atividades Culturais – IGAC*), as regards the registration of works protected by copyright

Since Portugal is a member of the European Union, community trademarks and designs registered at the Office for Harmonisation in the Internal Market (OHIM) are also valid in this jurisdiction. Portugal can also be designated under the international trademark system administered by the WIPO.

The two most relevant legal instruments related to intellectual property in Portugal are the Industrial Property Code (CPI) and the Copyright and Related Rights Code (CDADC).

### Trademarks

Trademarks can be filed at the respective Institution (INPI) by mail or online.

After the trademark has been granted, it will remain valid for 10 years, subject to consecutive renewal with the payment of a renewal fee.

A trademark must be used for at least five years after the registration date; otherwise, it will be subject to cancellation based on lack of use. Such cancellation requests can be made by any third party by simply filing a petition with the INPI, and will be granted if no evidence of use is submitted.

### Patents

Patent registrations are valid for 20 years from the application date, subject to annual fees.

Since Portugal is a party to the European Patent Convention Treaty, any European patent can be designated and validated in Portugal.

## Copyrights

Copyrights are generally acquired regardless of registration, filing or other formalities.

Registrations may be made with the respective Institution (IGAC) in person or via the IGAC's website.

## Banking and local finance

In Portugal, the performance of the banking sector is regulated by the Bank of Portugal; that institution's mission is to ensure the stability, efficiency and soundness of the financial system. Its relations with national financial institutions are thus always safeguarded, since the Bank of Portugal also intervenes in the field of provision of financial products and services, establishing rules of conduct for financial institutions to ensure the transparency of pre-contractual and contractual phase information to the level of demand for products and services.

To support citizens in making appropriate decisions in the light of their available resources, present and future, the Bank of Portugal has launched the Banking Customer Portal, where citizens find useful information so that they can acquire financial products and services in a more enlightened way. This portal has several thematic areas with relevant information on key banking products and means of payment, interest rates and services provided by the Bank of Portugal and it systematises the main legislation that falls under the provision of banking products and services, a glossary of financial terms and a set of answers to frequently asked questions.

## Measures against money laundering and terrorism financing

Law No 83 of 18 August 2017 brought into effect new measures against money laundering and terrorism financing, transposing Directive 2015/849/EU of 20 May 2015, on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as well as Directive 2016/2258/EU of 6 December 2016, amending Directive 2011/16/EU on the access to anti-money laundering information by the tax authorities.

## Prohibition of cash payments

There is a prohibition on the payment or receipt of cash in transactions of any kind involving amounts equal or higher than EUR 3000 or the equivalent in foreign currency.

## Exchange controls

Portugal does not have exchange controls. However, any transfer of EUR 10 000 or more outside Portugal in foreign banknotes, gold or travellers' cheques must be declared to the Portuguese customs authorities.

## Investment incentives

Aicep Global Portugal E.P.E., the Portuguese Agency for Investment and Foreign Trade (*Agência para o Investimento e o Comércio Externo de Portugal*), is a public body corporate dedicated to the development of a competitive business environment that contributes to the globalisation of the Portuguese economy.

Through its Key Account Managers, export shops and foreign trade network, which, in conjunction with the diplomatic and consular service ensures presence in about 80 markets, aicep Portugal Global provides support and advice on the best way of addressing external markets and identifying international business opportunities and promotes the internationalisation of Portuguese companies.

Aicep Portugal Global is also the agency responsible for receiving all foreign investment projects in Portugal, referring, if necessary, the investor to other agencies.

The aicep Portugal Global Group also includes aicep Global Parques, which manages business parks and advises on the best location for investment projects.

Financial incentives for business investment are public-support mechanisms in the form of grants or repayable subsidies.

For the 2014-2020 period, through the joint action of the European Structural Funds and investment (FEDER, FSE, FEADER and FEAMP), Portugal has an essential instrument for achieving the public policy of promoting growth, employment and social inclusion; boosting productive investment and promoting competitiveness and the internationalisation of Portuguese companies, with a focus on the goods and services sectors.

In addition to financial incentives, certain tax incentives may also be granted to companies that invest in Portugal. These incentives typically involve lower taxes or tax exemptions.

A new Investment Tax Code has been prepared in order to adapt tax and financial incentives in line with the new European rules applicable to state aid for the period 2014-2020.

## 4. The accounting & audit environment

### Accounting regulations

Financial statements must be prepared under Portuguese Generally Accepted Accounting Standards and IAS/IFRS, as adapted by EU legislation.

All companies must generally prepare financial statements for each calendar year, although it is possible to use a different accounting period.

Financial statements must be prepared by a registered accountant and submitted, by internet, to the Commercial Companies Registry and to the tax authorities.

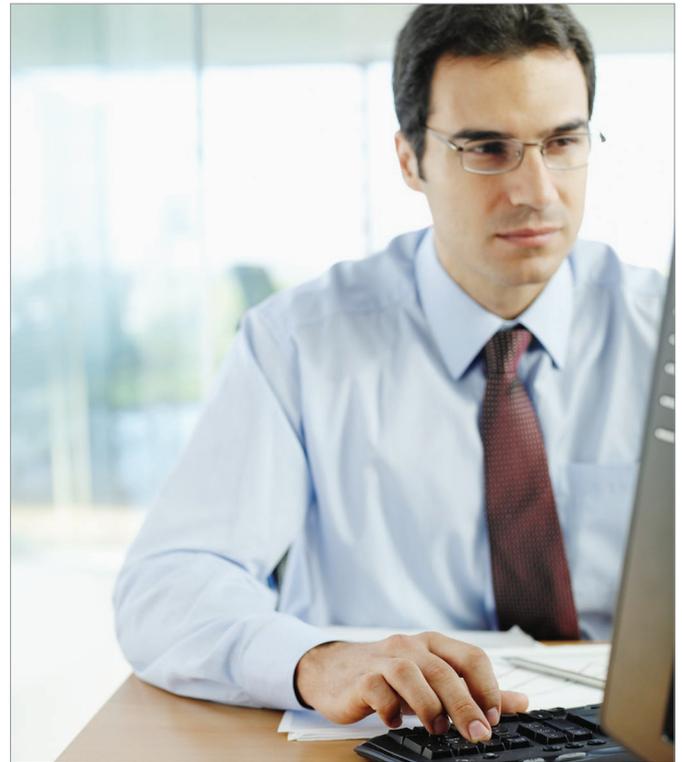
### Audit requirements

The financial statements of joint-stock companies (SAs) must be audited by a registered Statutory Auditor.

There is generally no requirement to have the financial statements of limited-liability companies (Ldas) audited, unless two of the following three limits are exceeded during two consecutive years:

- Net assets per balance sheet: EUR 1.5 million
- Turnover: EUR 3 million
- Employees: 50

During 2018 the above limits may be updated, and new rules will be introduced, in order to exempt small companies that are not joint-stock companies (SAs) from certified financial audits.



## 5. Overview of the tax system

### The tax authorities

The authority with responsibility for the collection and administration of taxes and duties in Portugal is the *Autoridade Tributária e Aduaneira* (AT).

AT's online services allow resident taxpayers fully to comply with all their tax obligations electronically.

### Principal taxes

The principal taxes in Portugal are:

- Corporate income tax (IRC)
- Personal income tax (IRS)
- Local property tax (IMI)
- Local property transfer tax (IMT)
- Value added tax (IVA)
- Stamp Duty
- Excise Duties
- Social security contributions

### Appeals

If taxpayers disagree with an assessment (*notificação*) issued by the tax authorities, they may either:

- File an administrative claim, to be submitted within 120 days of the date of the assessment
- Lodge a legal challenge, to be made within three months of the same date
- Require arbitration by the Arbitration Tribunal, within 90 days

Where the taxpayer opts for an administrative claim and that claim is rejected, he may then:

- File a further administrative appeal to a higher administrative instance, to be submitted within 30 days of the rejection
- Lodge a legal challenge, within 15 days of the notification of the rejection;
- Require arbitration by the Arbitration Tribunal, within 90 days

An appeal against the rejection of a second administrative claim may be made to the courts.

## 6. Taxes on business

### Corporate income tax (IRC)

#### Scope and extent

Resident companies are liable to IRC (*imposto sobre o rendimento das pessoas colectivas*) on their worldwide income. Income arising from a foreign source through a branch may be exempt, however.

Non-resident companies are liable to tax on Portuguese-source income only. Branches of non-resident companies are taxed on Portuguese-source profits.

#### Residence of companies

Companies having their legal head office or place of effective management in Portuguese territory are considered to be resident.

#### Basis

Corporate income tax is charged on taxable income, after the deduction of prior years' losses, if any.

#### Taxable income

A company's taxable income is based on its net income, calculated in accordance with Portuguese GAAP, adjusted for positive or negative variations in net equity during the period, and for non-deductible expenditure or non-taxable income.

#### Capital gains

Capital gains are generally included in taxable income.

#### Participation exemption

However, capital gains from the disposal of shares may be exempt from IRC under the participation-exemption régime.

Capital gains from the disposal of qualifying participations have been exempt under this régime since 1 January 2014 where they arise from shareholdings of at least 5% in the share capital of the company concerned and which have been held by the taxpayer for an uninterrupted period of at least two years before the date of the disposal. However, as from 31 March 2016, the participation threshold has been raised to 10% and the minimum holding period reduced to 12 months.

Capital gains from shareholdings in Portuguese companies more than 50% of whose assets consist of immovable property (except property used in an agricultural, commercial or industrial business) are excluded from the participation exemption.

From 1 January 2018, capital gains obtained by non-resident companies derived from the disposal of shares in a foreign company will nevertheless be regarded as having a Portuguese source (and therefore taxable in Portugal) if, at any time during the 365 days preceding the disposal, more than 50% by value of the shares is directly or indirectly derived from immovable property situated in Portuguese territory (except for immovable property related to an agricultural, industrial or commercial activity that does not consist in the purchase and sale of real estate).

#### Reinvestment relief

One-half of the capital gain from a disposal of fixed assets, biological assets and intangible assets may be excluded from taxation if the disposal proceeds are reinvested in the acquisition of similar assets within a prescribed period.

#### Deductions

Expenditure and costs incurred for the purpose of generating taxable income or deriving economic benefit are, in general considered as deductible for tax purposes.

Certain conditions and limits are imposed on the deductibility of some costs and expenses:

- Depreciation or amortisation of fixed assets, intangible assets and biological assets
- The cost of acquisition of intangible assets (trademarks, licences, manufacturing processes), purchased with unlimited temporal duration, as well as the goodwill acquired in a concentration of business activities
- Bad debts
- Interest subject to thin-capitalisation rules ( see under 'Thin capitalisation')
- Expenses for the benefit of employees (where the benefit is not considered as a fringe benefit subject to personal income tax).
- Business travel expenses and accommodation of employees and directors

### Depreciation

For tax depreciation purposes, depreciable assets are fixed tangible assets (e.g. plant and machinery), intangible assets, non-consumable biological assets and investment property susceptible to loss in value through time and/or usage. Land (as opposed to any buildings standing on it) is not depreciable. Goodwill acquired on the transfer of a business may be depreciated under special circumstances.

The default method of depreciation is straight-line, although taxpayers may opt for reducing-balance depreciation in respect of fixed tangible assets other than light passenger cars (unless used for the purposes of the taxpayer's business), buildings, office furniture and 'social' equipment. Assets with an acquisition or production cost below EUR 1000 may be written off in the year of acquisition or introduction.

Depreciation rates are shown in Table 1 below.

Table 1

Type of asset	Rate of depreciation (%)
Office buildings	2.00
Industrial buildings	5.00
Heavy machinery	12.50
Computers	33.33
Other electronic equipment	25.00
Tools and fittings	25.00
Motor vehicles <sup>1</sup>	14.28, 20.00, 25.00
Other office equipment	12.50

### Note

<sup>1</sup> For light passenger or mixed vehicles acquired in tax periods beginning after 31 December 2014, the maximum depreciable cost cannot exceed the following ceilings:

- EUR 62 500 in respect of vehicles powered exclusively by electricity
- EUR 50 000 in respect of hybrid vehicles
- EUR 37 500 for vehicles using liquefied petroleum gas or compressed natural gas
- EUR 25 000 in respect of any other vehicle.

Taxpayers who opt for reducing-balance depreciation may use the straight-line rate increased by a coefficient that varies according to the useful life of the asset in question.

## Dividends, interest and royalties

### Dividends

Dividends received by Portuguese companies from a domestic or foreign shareholding may benefit from the participation-exemption régime. Where they do not do so, they are taxable in full.

The participation exemption applies where the dividend is paid in respect of a shareholding of at least 10% (5% in the period from 1 January 2014 to 31 March 2016) in the share capital of the company concerned and which have been held by the taxpayer for an uninterrupted period of at least 12 months (two years, in the period from 1 January 2014 to 31 March 2016) before the date of the distribution.

Where the shareholding is in a foreign company, the participation exemption now applies to dividends and capital gains (see also under 'Capital gains') from shares in a company established in any jurisdiction worldwide, provided that:

- The company is not resident in a listed tax haven and
- It is subject in its home state to a corporate tax on income at a rate of no less than 60% of the standard Portuguese rate

The exemption for dividends received is not applicable if the payer entity may deduct the amount payable for tax purposes.

Where the participation exemption does not apply to foreign dividends, a foreign tax credit is available in respect of both foreign tax directly suffered on the dividend (i.e. withholding tax) and, since 1 January 2014, also in respect of the underlying tax on the profits out of which the dividend is paid.

### Interest

Interest received or accrued by a Portuguese-resident company is subject to corporate income tax.

Any foreign tax withheld may qualify, within certain limits, as a tax credit against corporate income tax.

### Royalties

Royalties received or accrued by a Portuguese-resident company are included in taxable income and are subject to corporate income tax. Certain royalty income may qualify for favourable tax treatment under the so-called 'patent box' (see under 'Tax incentives: patent box' below). Any foreign tax withheld may qualify, within certain limits, as a tax credit against corporate income tax.

## Withholding taxes

### Dividends

Dividends paid by Portuguese companies to another Portuguese company are generally subject to withholding tax of 25%, but dividends that qualify for the participation exemption (see under 'Dividends, interest and royalties' above) are exempt from withholding tax. Dividends paid to a non-resident company are also generally subject to 25% withholding tax. However, where the dividend is paid to a company:

- Resident in another EU Member State, other member state of the European Economic Area or in a jurisdiction with which Portugal has a double tax treaty providing for exchange of information
- Which holds at least 10% of the share capital of the Portuguese company and has done so for an uninterrupted period of at least one year (the holding-period requirement may also be satisfied *post facto*) and
- Is subject in its state of residence (without being exempt) to corporate income tax at a nominal rate of no less than 60% of the standard rate of Portuguese corporate income tax the dividend will be exempt from withholding tax.

The exemption from withholding tax is not available where (a) the paying entity is resident in Portugal and has not complied with reporting obligations vis a vis the Central Register of Beneficial Owners or (b) if any registered beneficial owner is resident or domiciled in a jurisdiction with a significantly more favourable tax regime. Dividends not qualifying for the exemption may nevertheless benefit from reduced rates of withholding tax under the relevant double tax treaty.

Note that dividends paid to a recipient resident in a listed tax haven are subject to withholding tax at the higher rate of 35%. For which jurisdictions are considered to be tax havens, see under 'Other anti-avoidance measures' below.

### **Interest**

Interest paid to resident persons is generally subject to withholding tax of 25%.

Interest paid to a non-resident company is subject to a final withholding tax at the rate of 25%, unless paid to a recipient resident in a listed tax haven, in which case the rate is 35%.

However, interest paid to an associated company within the meaning of the Interest and Royalties Directive (2003/49/EC) may be exempt from withholding tax. An EU-resident company is associated with a Portuguese company where:

- The EU company has a direct holding of at least 25% in the Portuguese company or
- The Portuguese company has a direct holding of at least 25% in the EU company or
- A third EU company has a direct holding of at least 25% in both the EU company and the Portuguese company

Exemption is granted where the qualifying holdings have been held for at least two years and both or all companies concerned have one of the legal forms specified in the Directive.

Other interest may also benefit from reduced rates under a double tax treaty.

### **Royalties**

The same rules apply to royalties, so that the general rate of withholding is 25% and 35% for tax-haven recipients.

Qualifying royalty payments under the Interest and Royalties Directive are exempt from withholding tax, and other royalties may benefit from reduced rates under a double tax treaty.

### **Other income**

A variety of other income payments to non-resident persons are also subject to withholding tax of 25% or 35%, as the case may be.

These include:

- Commissions and service fees
- Fees paid to non-resident corporate directors
- Rents for immovable property
- Performance and other fees paid to non-resident entities controlled by artists, sportspeople etc

### **Group taxation**

A group of resident companies may opt to be taxed together, i.e. on an aggregated basis by the consolidation of their respective tax returns. A tax group is composed of a resident parent company and its 75% (before 1 January 2014: 90%) or more directly or indirectly held resident subsidiaries ('qualifying subsidiaries'). It is an additional requirement that the parent company holds more than 50% of the voting rights in each qualifying subsidiary).

The following additional requirements must be satisfied for a tax group to be constituted:

- All companies in the group must be resident in Portugal and subject to regular corporate income tax ( a group company may be indirectly held by a company resident in another EU Member State or member state of the European Economic Area, provided that the latter is held directly or indirectly to the extent of at least 75% by the resident parent company)
- The parent company must have held its participation in each qualifying subsidiary for more than one year before the election for group taxation is made;
- The parent company must not itself be a qualifying subsidiary of another resident company; and
- The parent company must not have revoked a group election at any time in the previous three years

From 1 January 2015, however, the parent company may also be resident in another EEA state, provided that:

- Where that state is not in the European Union, it is party to an arrangement for exchange of information equivalent to that existing within the European Union
- The shares in the subsidiaries are held by that company's Portuguese permanent establishment and
- None of the companies has recorded tax losses in the previous three years (unless the shares in the subsidiaries have been held for more than two years)

Interest may be paid free of withholding tax between group companies.

### Losses

Tax losses incurred in 2017 and subsequent years may be carried forward for a maximum of five subsequent years. However, SMEs whose principal activity is of an agricultural, commercial or industrial nature may carry losses forward for 12 years, which was the case for all companies in respect of losses incurred in 2014, 2015 and 2016. It is no longer necessary to set off losses brought forward in chronological order of occurrence.

However, the maximum set-off of losses in any year is 70% of the taxable profit (75% before 2014).

Where there has been a transfer of 50% or more of the share capital of the company or of the voting rights, special permission is required from the Ministry of Finance to enable further carry-forward of losses. There is no forfeiture of losses if, broadly speaking, the change of ownership takes place within the same group of companies.

The carry-back of losses is not allowed.

### Thin capitalisation

Portugal abolished its thin-capitalisation rules in 2013, in favour of a more general interest limitation, under which the total deduction for the net interest expense in any year cannot exceed the greater of

- EUR 1 million (EUR 3 million before 2014) and
- 30% of EBITDA (earnings before interest (net financing expenses), tax and depreciation).

Any interest exceeding the limit may be carried forward for the subsequent five years.

### Transfer pricing

Portugal has transfer-pricing rules that are based on the OECD Transfer Pricing Guidelines. The rules apply to related-party transactions and for accounting periods commencing after 1 January 2001.

Companies must prepare documentation to support their transfer-pricing policies when have a turnover higher than EUR 3 million.

Parties are related where one has a significant influence over the other or is economically dependent on the other or both are under the significant influence of or are economically dependent on the same third person or persons . A holding of 20% is sufficient to constitute a significant influence.

It is possible for taxpayers to obtain advance pricing agreements with the tax authorities, fixing the appropriate transfer price for their transactions with the related parties specified in the agreement.

### Country-by-country reporting

The Portuguese ultimate parent company of a multinational group with a consolidated annual turnover of EUR 750 million or more is required to file a country-by-country (CbC) report in respect of the group. In circumstances where the ultimate parent company of such a group is resident outside Portugal and is not required in its state of residence to file a CbC report, that obligation may fall on a Portuguese member of the group.

The first financial year in respect of which a CbC report was required was that beginning on 1 January 2016. However, the necessary legislation was only enacted in August 2017, and the precise form of the report was not released until 11 December 2017. Consequently, the deadline for submission of the return for the year ending 31 December 2016 was extended to 28 February 2018. For subsequent years, the return will be due by 31 May of the following year (or no later than the last day of the fifth month after the end of the financial year, where this differs from the calendar year).

### Controlled foreign company (CFC) legislation

Portugal has CFC legislation, under which the profits of a non-resident company may be attributed to its Portuguese-resident shareholders (both legal and natural persons) who directly or indirectly hold a significant interest in the non-resident company.

The rules apply where:

- The resident shareholder has a direct or indirect ownership of at least 25% of the capital, voting rights or rights to income or assets (or 10% if at least 50% of the capital, voting rights or rights to income or assets are owned directly or indirectly by Portuguese participators) and
- The CFC is resident in a jurisdiction where there is no corporate income tax or where the effective rate of such a tax is no more than 60% of the tax that the company would pay if resident in Portugal

The CFC régime is not applicable where the non-resident company is resident in another EU Member State or in an EEA state with which Portugal has an agreement for administrative tax cooperation equivalent to that established within the European Union. Nor does it apply where at least 75% of the CFC's profits arise from manufacturing or farming activities in its own jurisdiction or from commercial transactions mainly with the local market and the CFC's main business is not in one of the proscribed fields (e.g. banking, insurance etc).

Where the rules do apply, the relevant proportion of the CFC's profits is attributed to the Portuguese shareholder. Any distributions that the shareholder subsequently receives may be set off against the attributed profit.

### Other anti-avoidance rules

#### *General anti-avoidance rule*

Portuguese law contains a general anti-avoidance provision (GAAR), under which a transaction carried out by artificial means the main purpose or one of the main purposes of which is to obtain a tax advantage may be considered void and the tax authorities may assess the taxpayer on the basis that the intended tax advantage has not been obtained. Strict conditions must be satisfied for the rule to be brought into play.

#### *Payments to low-tax jurisdictions*

A further anti-avoidance rule provides that payments made to recipients located in designated tax havens are not deductible against corporate income tax. Furthermore, these payments are then made liable to a separate, 'autonomous tax' (see under 'Autonomous taxation' overleaf).

The jurisdictions currently regarded as tax havens are listed in Table 2 below.

Table 2

American Samoa	Guam	Qatar
Andorra	Guernsey	Qeshm Island
Anguilla	Guyana	Saba <sup>1</sup>
Antigua and Barbuda	Hong Kong	St Helena
Aruba	Honduras	St Kitts and Nevis
Ascension Island	Isle of Man	St Lucia
Bahamas	Jamaica	Sint Eustatius <sup>1</sup>
Bahrain	Jersey	Sint Maarten <sup>1</sup>
Barbados	Jordan	St Pierre et Miquelon
Belize	Kiribati	St Vincent and the Grenadines
Bermuda	Kuwait	San Marino
Bolivia	Labuan	Seychelles
Bonaire <sup>1</sup>	Lebanon	Solomon Islands
British Virgin Islands	Liberia	Svalbard
Brunei	Liechtenstein	Swaziland
Cayman Islands	Maldives	Tokelau
Christmas Island	Marshall Islands	Tonga
Cocos Islands	Mauritius	Trinidad and Tobago
Cook Islands	Monaco	Tristan da Cunha
Curaçao <sup>1</sup>	Montserrat	Turks and Caicos Islands
Costa Rica	Nauru	Tuvalu
Dominica	Niue	United Arab Emirates
Djibouti	Norfolk Island	Uruguay
Falkland Islands	Northern Mariana Islands	US Virgin Islands
Fiji	Oman	Vanuatu
French Polynesia	Palau	Western Samoa
Gambia	Panama	Yemen
Gibraltar	Pitcairn Island	
Grenada	Puerto Rico	

**Note**

<sup>1</sup> Still listed as ‘the Netherlands Antilles’

Also listed are ‘other Pacific Islands’.

Although not included in the above list, other jurisdictions may also be considered as tax havens, if they do not levy a tax similar to Portuguese corporate income tax (IRC), or if the rate of such a tax is less than 60% of the rate of IRC .

### Rate of corporate income tax

The standard rate of corporate income tax is 21% in both mainland Portugal and on Madeira. In the Azores, the standard rate is 16.8%.

On Madeira, however, a reduced corporate tax rate of 5% is applicable to the net profits of all duly licensed companies in the International Business Centre of Madeira (IBCM), until the end of 2027.

A reduced rate of 17% is applicable to the first EUR 15 000 of the taxable income of small and medium-sized companies in mainland Portugal and on Madeira. In the Azores, the reduced corporate income tax rate is 13.6%.

In addition to the appropriate rate of corporate income tax, companies are subject to national surtax (*derrama estadual*), as follows:

- 3% on that part of taxable income between EUR 1.5 million and EUR 7.5 million
- 5% on that part of taxable income between EUR 7.5 million and EUR 35 million and
- 9% on that part of taxable income exceeding EUR 35 million

Furthermore, local authorities have the authority to levy a local surtax (*derrama*) at rates of up to 1.5%.

There is also a rule whereby the total corporate tax due after deduction of foreign tax credits and incentive tax credits may not be less than 90% of the tax that would be payable in the absence of tax incentives and special tax régimes.

### Autonomous taxation

Mention was made (under 'Other anti-avoidance rules' above) of the so-called autonomous tax (*tributação autónoma*) payable in respect of payments made to tax-haven residents. In fact, autonomous taxation extends beyond this to several other types of payment, at varying rates, as illustrated in Table 3 below.

Table 3

Expenses	Rates (%)
Expenses in connection with private motor vehicles, depending on acquisition cost of the vehicle <sup>1</sup>	Between 0% and 35%
Entertainment expenses	10%
Non-documented expenses <sup>2</sup>	50%; 70%
Payments to entities in a tax haven <sup>3,4</sup>	35%; 55%
Allowances and travelling costs of employees using their own vehicle (not invoiced to customers)	5%
Compensation paid to managers or directors for loss of office	35%
Bonuses and other variable remuneration paid to managers and directors( certain conditions)	35%
Distributions to entities exempt from corporate income tax	23%

### Notes

- <sup>1</sup> Lower rates apply to environmentally friendly cars and less expensive cars
- <sup>2</sup> The higher rate applies to exempt or partly exempt entities
- <sup>3</sup> For the list of tax havens, see under 'Other anti-avoidance rules' above)
- <sup>4</sup> The higher rate applies to exempt or partly exempt entities

## Tax incentives

A number of tax incentives for investment are available in the Investment Tax Code, within the parameters set by EU rules on state aid for the period 2014-2020. These include:

The main tax incentives to investment and to company capitalisation currently available are the following:

- Tax benefits for productive-investment projects and globalisation-oriented investment projects, subject to certain conditions, granted temporarily and exceptionally on a contractual basis, with limits that depend on the investment made and an emphasis placed on projects of particular interest to Portugal. These benefits are subject to a tax-incentive contract (that may be amended to an investment contract), with a duration of up to 10 years from the start date of an investment project, consisting, in particular, of tax reliefs and goals and objectives to be met by the investor. Reliefs usually consist of a capped investment tax credit of between 10% and 20%
- The Investment Assistance Tax Regime (RFAl), which applies to qualifying investments made no later than 31 December 2020 in eligible regions subject to certain conditions and applicable to certain eligible activities. The relief consists of a tax credit, capped at 50% of the tax due, of 25% of the investment (for investments of no more than EUR 10 million) or 10% of the amount of the investment (for investments exceeding EUR 10 million).
- Tax reliefs for the reinvestment of retained earnings (DLRR) by small and medium-sized companies engaged in agriculture, commerce and industry. The relief consists of a deduction equal to capped at 50% of the tax due, of up to than 10% of retained earnings are reinvested in eligible assets within three years of the end of the period to which the earnings belong. The maximum amount of qualifying retained earnings is EUR 7.5 million.
- Notional-interest deduction for company capitalisation: where a company increases its share capital (by cash subscription, conversion of shareholder loans or other debt capital, or by capitalising its own earnings, it will be entitled to claim a deduction against taxable income of 7% of the increase (capped at EUR 2 million)

### *Patent box*

Under the patent-box régime, income from certain qualifying intellectual property may benefit from a 50% exemption from corporate income tax.

The relief applies to income from both the licensing and sale of patents and industrial designs or models registered after 31 December 2013. The patents must derive from research and development carried out by or on behalf of the taxpayer. The licensee or transferee must use the patents in an agricultural, commercial or industrial business and must not be resident in a listed tax haven.

Amendments to the partial exemption for income from patents and other intellectual property rights will be introduced to ensure that the tax benefits allocated only cover income relating to research and development activities of the companies.

The partial exemption regime will be maintained until 30 June 2021 for patents and industrial designs registered until 30 June 2016.

### *Madeira*

Companies licensed no later than 31 December 2020 to operate within the International Business Centre of Madeira (IBCM) may enjoy a number of tax benefits guaranteed until 2027.

This regime is also available for entities licensed on or before 31 December 2014 that have formally requested to change to the new regime.

The IBCM is fully integrated in the Portuguese and EU legal systems, providing the IBCM with full credibility, transparency and stability as well as providing companies with a Portuguese VAT number and full access to Portugal's double tax treaties and to all EU Directives and Regulations.

### Summary of the new IBCM tax regime

Companies licensed between 1 January 2015 and 31 December 2020 to operate in the IBCM enjoy a reduced rate of corporate income tax of 5%, guaranteed until 2027, provided that they create a minimum number of new permanent jobs (the precise number depends on the company's taxable income) and meet a number of other conditions.

Other tax benefits include:

- Exemption from withholding tax on dividends paid to non-resident corporate and single shareholders, to the extent distributed from earnings arising from transactions with non-residents
- Qualification for the Portuguese participation-exemption regime, hence exemption from withholding tax on dividends and capital gains to the holders of a qualifying participation of at least 10% in the IBCM company held for an uninterrupted period of at least 12 months etc (see above under Withholding taxes: dividends)
- Exemption from withholding tax on royalties, service fees and foreign shareholder loans
- Qualification for the patent box and special depreciation for certain intangibles
- 50% tax relief for licensed industrial companies under certain conditions

Interest and royalty payments may also be exempt from withholding tax where they qualify under the EU Interest and Royalties Directive (see above under 'Withholding taxes: interest').

Companies licensed in the 2007–2014 period continue to benefit from the exemptions/tax reductions previously available to them until the end of 2020.

In addition, Madeira offers a very attractive package of operational benefits to these companies, amongst which are state-of-the-art infrastructure, efficient local support services, low operational costs, safety and quality of life.

### Assessment

Portuguese corporate income tax is self-assessed. The corresponding tax return is based on the annual financial statements, which are, in general, coincident with the calendar year.

### Returns and payment

Corporate tax returns must be submitted electronically, no later than the end of May of the following year, or within five months of the end of the accounting period.

The tax due must be paid no later than the filing date for the return.

Advance payments of corporate income tax (together with the *derrama estadual*) must be made in three equal instalments during the course of the tax year. The total amount to be paid is 95% of the previous year's liability, except where the previous year's turnover did not exceed EUR 500 000, in which case the amount is reduced to 80%. Where the amount paid in the first two instalments equals or exceeds the total tax that will be due in respect of the current tax year, the company may apply to reduce the amount of the third instalment. The total amount of the advance payment of national surtax (*derrama estadual*) corresponds to a percentage of the income of the previous year (2.5%, if this was between EUR 1.5 million and EUR 7.5 million; 4.5% if this was between EUR 7.5 million and EUR 35 million; and 8.5%, if it exceeded EUR 35 million).

Penalties and interest are imposed for late filing or non-compliance with the tax law.

## Value added tax

As a Member State of the European Union, Portugal has a value-added tax régime similar to other VAT régimes throughout the European Union. In Portugal, VAT is known as *imposto sobre o valor acrescentado* or IVA.

### Taxable activities

In general, VAT is due on supplies of goods and services, the import of goods from outside the European Union and the 'intra-EU acquisitions' of goods from other EU Member States. If these transactions take place in Portugal, they are in principle subject to Portuguese VAT.

Businesses ('taxable persons') charging VAT to their customers are liable to report and pay this VAT to the tax authorities. Any VAT incurred in the course of the taxable person's taxable activity (e.g. charged by the taxable person's suppliers), can in principle be deducted or set off against the VAT due. Only the net amount must be paid to the tax authorities. If there is a balance of deductible VAT, the amount can be recovered from the tax authorities. Consequently, the real burden of VAT falls on the final consumer, with the intervening businesses effectively acting as collecting agents for the tax authorities.

From March 2018, taxable persons filing quarterly returns (with turnover exceeding EUR 650 000) may opt to pay VAT due on imports via their monthly VAT returns (instead of the payment at Customs).

### Registration thresholds

A taxable person is defined as any person who independently carries out any business in Portuguese territory. A taxable person must be registered for VAT purposes when his supplies exceed the thresholds shown in Table 4 below.

Table 4

Type of transaction	Threshold
Established traders	€10 000 (€12 500 for certain retailers)
Intra-EU acquisitions	€10 000
Distance sales into Portugal	€35 000
Non-established traders	No threshold. Immediate registration required

Non-established traders are generally required to register in Portugal for VAT purposes, on the transfer of stocks to Portugal for onward sale to consumers as well as in the case of distance sales into Portugal.

### Rates

Three different sets of rates apply, depending on whether the supply takes place or is deemed to take place in mainland Portugal, Madeira or the Azores, as can be seen from Table 5.

Table 5

Place of supply	Standard rate	Intermediate rate	Reduced rate
Mainland Portugal	23%	13%	6%
Madeira	22%	12%	5%
Azores	18%	9%	4%

The intermediate rate applies to supplies such as:

- Certain food and drink
- Fuel
- Musical, cinema and theatre performances
- From 1 July 2016, ready and takeaway meals and the supply of food and beverages (excluding alcoholic beverages, soft drinks, juices, nectars and aerated waters)

The reduced rate applies to such supplies as:

- Certain foodstuffs
- Passenger transport
- Newspapers
- Medical and dental care (where not exempt)
- Hotel accommodation
- Wine
- Certain urban renewal projects
- Services related to agricultural production

### Exemptions from VAT

Certain activities are exempt from VAT: examples include medical, dental and optical services; admissions to sporting events; insurance services; certain banking and stock exchange activities; passenger transport; educational services and certain childcare services. These are all transactions that are exempt without the right to deduct input VAT on the associated purchases.

Hospitals, clinics and similar entities may waive VAT exemption on medical and health services, provided that they are not public entities or do not provide those services under contract to the State under the national health system.

Exemption with the right to deduct ('zero-rating') include exports of goods; intra-EU supplies; the importation and supply of certain ships and aircraft.

Businesses making monthly VAT returns may opt to pay import VAT through the monthly VAT return. This option is subject to certain rules and deadlines.

# 7. Personal taxation

## Income tax

### Extent and scope

Income tax (*imposto sobre o rendimento das pessoas singulares*, abbreviated to IRS) is charged on the income of natural persons (individuals). Resident individuals are liable to income tax on their worldwide income. Non-residents are liable to income tax in respect of their Portuguese-source income only.

### Residence

An individual is deemed to be resident in Portugal whenever he or she spends more than 183 days in Portugal during a given calendar year. A person is also deemed to be resident in Portugal if that person maintains a place of abode in Portugal available to him or her at 31 December of that year, and it can be inferred that the place of abode betokens the person's intention to be habitually resident in Portugal. Where tax residence is acquired as a result of presence for over 183 days in Portugal, it is deemed to begin on the first day of presence.

### Tax year

The income tax year in Portugal is the calendar year.

### Partnerships

As explained in Chapter 2 above, commercial partnerships have legal personality in Portugal and their income is subject to corporate income tax. Some partnerships, however, do not have separate legal personality and are tax-transparent. These include:

- Civil-law partnerships
- Partnerships of individuals practising (*inter alia*) law, accountancy and auditing with no more than five members, where the individuals carrying out the professional activity for more than 183 days in the tax year own no less than 75% of the partnership capital

Individuals who are partners in such a partnership will be subject to personal income tax on their share of the partnership income.

### The family unit

Since 1 January 2015, separate taxation of individuals is now the default rule. Previously, personal income tax was assessed on a household basis (*agregado familiar*). A fiscal household consisted of couples living together with their dependent children. However, married and same-sex couples may opt for joint taxation.

Dependants of taxable persons who do not exercise the joint taxation option cannot simultaneously be part of more than one household.

Dependants in situations where parental responsibilities are carried out by two taxpayers may be included in the returns of both taxpayers for the purposes of imputation of income and deductions.

Individuals in civil partnerships may be jointly taxed and file a joint tax return, by option.

Under joint taxation, the couple's aggregated income is allocated equally between them for the purpose of calculating the tax payable, which is twice the liability so calculated.

### The structure of income tax

Taxable income is divided into six different categories, for which see Table 6 overleaf.

Table 6

Income category	Description
Category A	Employment income
Category B	Business and professional income
Category E	Investment income
Category F	Rental income
Category G	Capital gains
Category H	Pensions

### Non-resident's taxable income

The following types of income arising or deemed to arise in Portugal to a non-resident individual are taxable:

- Employment income
- Director's fees
- Commissions
- Income from services
- Royalties earned by the author/original owner
- Royalties not earned by the author/original owner / Technical assistance
- Equipment-lease rentals
- Dividends
- Interest from bank deposits
- Interest from shareholder loans
- Interest from debt securities
- Other investment income
- Rental income
- Capital gains (on the liquidation of a company, as the result of the settlement, withdrawal or revocation of a trust, or on shares or arising from the disposal of real property)
- Pensions

### Taxation of employment income

Employment income (Category A) includes all payments in connection with work carried out under a contract of employment, such as salary, bonuses, commissions, redundancy payments and benefits-in-kind (e.g. company cars, housing allowances).

Domestic and foreign travel allowances, as well as mileage and lunch allowances in excess of those permitted to employees of State departments are also taxable as employment income.

### Benefits-in-kind

The taxable value of benefits-in-kind is their officially fixed selling price, quotation price or market value in conditions of competition.

As regards the private use of a company car, the taxable income corresponds to 0.75% of the vehicle's acquisition cost multiplied by the number of months of use in a year. Where an employee purchases a car from the employer at a value below market value, this is considered to be a taxable benefit valued at the difference between the market value of the car and the aggregate of the price paid by the employee and the amount (if any) of the taxable benefits in respect of use of the car in previous years.

The value of free accommodation is the rent payable by the employer or, where the employer owns the property, a value based on a notional rent.

Mileage allowances are taxable to the extent that they exceed EUR 0.36 per kilometre. Work-related travel expenses are also taxable to the extent that they exceed EUR 69.19 per day (for senior employees) or EUR 50.20 (for other employees) for travel within Portugal or EUR 100.24 or EUR 89.35 respectively for travel abroad (2014 values).

The following specific deductions are available in respect of employment income:

- The higher of EUR 4104 and the total amount of the employee's social security contributions
- compensation payments due from the employee when he or she terminates his or her employment contract without giving due notice
- 150% of Trade Union subscriptions, up to 1% of gross income

#### **Salary withholding tax**

Employers are required to withhold tax and social security contributions on a monthly basis from the employee's earnings as an advance payment (i.e. creditable against the final IRS liability) in accordance with withholding tables. The deductions take account of the employee's personal circumstances and income. Different withholding tables apply in Madeira and the Azores.

Certain benefits-in-kind are not subject to tax withholding.

Director's fees are generally included in income from employment.

#### **Taxation of personal business income**

Business and professional income (Category B) includes both profits from carrying on a commercial, industrial or agricultural activity and from providing independent professional services. Business income is calculated under two different methods – the simplified method and the direct method (based on an organised accounting system).

##### **Simplified method**

In the simplified system (applicable to individuals with a gross turnover not exceeding EUR 200 000), there is no deduction of expenses and taxable income is determined by applying the following coefficients to different categories of gross income (see Table 7).

Table 7

Income	Coefficient
Sales of goods and services in the hotel and restaurant sectors	0.15
Professional services (listed professional services in the IRS Code)	0.75
Other services (e.g. other professional services; hotel and catering services)	0.35
Royalties, know-how and other income obtained in connection with the self-employed activity	0.95
Non-business-related subsidies	0.30
Business-related subsidies	0.10
Services rendered by individual shareholders to their company where: 1) The company is subject to the fiscal transparency regime; or 2) The shareholder holds at least 5% of the company's share capital; or 3) The partner, spouse, forebears and descendants of the shareholder together hold directly or indirectly 25% of the company's share capital.	1

##### **Direct method**

In the direct method, taxable income is calculated on a similar basis to that used for corporate income tax (see Chapter 6).

### Taxation of investment income

Investment income (Category E) includes dividends, interest and royalties. It also includes distributions from unit trusts and compensation for losses in these categories.

#### *Dividends*

Dividends are subject to a withholding tax rate of 28%, for residents and non-residents. This withholding tax is a final tax, but a resident taxpayer may opt to treat the withholding as an advance payment of income tax, in which case 50% of the dividends are added to other taxable income subject to progressive rates and the tax withheld is credited against the final income tax liability.

#### *Interest*

Interest (from bank deposits, shareholder loans or debt securities) is subject to a withholding tax of 28%, for residents and non-residents. This withholding tax is a final tax, but a resident taxpayer may opt to add the interest income to other taxable income subject to progressive tax rates.

#### *Royalties*

Royalties are subject to a withholding tax rate of 16.5% for residents and 25% for non-residents. For resident taxpayers, the tax withheld is treated as an advance payment of income tax. For non-residents this withholding tax is a final tax.

#### *Foreign investment income*

A tax credit against the Portuguese tax liability is available in respect of foreign investment income for the lower of the tax paid in the foreign country and the amount of tax payable in Portugal on that income. Where the source of the income is a jurisdiction that has a double tax treaty with Portugal, the tax credit cannot exceed the percentage established in the treaty.

### Rental income

Rental income (Category F) includes the rents paid or made available to the owners of immovable property, including compensation designed to offset income losses in this category.

A tax credit may in certain circumstances be available against the income tax on rental income in respect of the additional property tax (AIMI, for which see Chapter 8).

Rental income is subject to withholding tax at the rate of 25% where the payer is an entity obliged to keep statutory accounts.

Maintenance, repair expenses and other duly documented expenses incurred in the fiscal year, together with the annual local property tax and stamp duty, may be deducted from gross rental income. Expenses incurred and paid in the 24 months prior to the beginning of a lease relating to conservation work and maintenance of the building may be deductible, provided that the property has not been used for another purpose in the interim.

Rental income is taxed autonomously at a rate of 28%, but the resident may opt to add the rents obtained to other taxable income and in consequence the income will be taxed at the progressive tax rates, and any tax withheld is credited against the final income tax liability.

There is no deemed income from owner-occupation.

Rental income obtained by non-resident individuals is subject to a final withholding tax of 28% and any tax withheld is credited against the final income tax liability.

### Capital gains

Capital gains (Category G) are normally computed by deducting the total acquisition cost from the disposal or alienation proceeds. Indexation factors, varying from 4631.11 (for acquisitions before 1903) to 1.00 (2017 acquisitions) are applicable to the acquisition cost to compensate for inflationary increases, but only in respect of business fixed assets and immovable property where disposal takes place more than 24 months after acquisition.

Furthermore, in the case of immovable property and intellectual property (where the disposal is made by a person other than the original author), 50% of the net gain is exempt.



Capital gains from shares, warrants and other securities realised by resident taxpayers are taxed at a flat rate of 28%, unless the taxpayer opts to include the gain in income subject to progressive rates.

Certain types of income previously in category E (investment income) have now since 2015 been transferred to category G, namely the gains resulting from:

- Repayment of bonds and other debt securities
- Redemption of units in investment funds and the liquidation of these funds
- Onerous assignment of credits

One half of the net capital gains arising on the sale of shares held in micro and small companies not listed on the stock exchange are exempt.

Capital gains (including capital gains derived from immovable property) obtained by non-residents without a permanent establishment in Portugal are taxed at a flat rate of 28%, except for capital gains on the disposal of shares, which are exempt in certain cases.

No withholding tax applies on capital gains.

A capital gain from the sale of real property may be exempt (total or partially) if the property sold is the taxpayer's primary residence and the sale proceeds (reduced where applicable by the value of any outstanding loans relating to the purchase of the property) are reinvested in the acquisition, improvement or construction of another primary residence in Portugal or within the European Union within 36 months of the sale or in the period of 24 months previous to the sale.

From 1 January 2018, capital gains obtained by a non-resident individual derived from the disposal of shares in a foreign company will nevertheless be regarded as having a Portuguese source (and therefore taxable in Portugal) if, at any time during the 365 days preceding the disposal, more than 50% by value of the shares is directly or indirectly derived from immovable property situated in Portuguese territory (except for immovable property related to an agricultural, industrial or commercial activity that does not consist in the purchase and sale of real estate).

### Withholding taxes

Table 8 shows what withholding taxes apply to various types of income of resident and non-resident individuals. For salary withholding tax, see under 'Taxation of employment income' above.

Table 8

Type of income	Rate of withholding tax (%)	
	Residents	Non-residents
Dividends	28.0 <sup>1</sup>	28.0
Interest	28.0 <sup>1</sup>	28.0
Royalties	16.5	25.0
Income of self-employed professionals, artistes, athletes etc	25.0	25.0
Rental income	25.0 <sup>2</sup>	25.0 <sup>2</sup>
Income paid or made available to accounts held on behalf of unidentified third parties	35.0	35.0

**Note**

- <sup>1</sup> This is a final tax, but taxpayers may opt to include dividends and interest in income subject to progressive rates; in that case, 50% of dividend income is exempt.
- <sup>2</sup> The withholding obligation applies only to taxpayers (businesses, professionals) keeping statutory books of account

**Allowances and deductions**

Deductions may be given against specific categories of income and tax credits are available against the amount of final tax liability. For deductions against employment income, see under 'Taxation of employment income' above.

The system of personal allowances and deductions has been replaced by tax credits. The most important tax credits are listed in Table 9 below.

Table 9

Type of credit	Amount of credit
Dependent child	EUR 600 (or EUR 725 for child under 3) per child
Per dependent forebear	EUR 525 per dependant (or EUR 635 in case of only one dependant)
Health expenses and health insurance	15% of health expenses (exempt from VAT or under reduced rate) up to a limit of EUR 1000 by any member of the household
Educational expenses	30% of educational expenses up to a limit of EUR 800 <sup>1</sup> by any member of the household
Alimony payments	20% of alimony payments under a court order, where the child does not live with the parent who is paying the alimony
Expenses on residential care for parents and grandparents whose income does not exceed the national minimum wage (EUR 525/month)	25%, with a limit of EUR 403.75
Mortgage interest or rent (residences in Portugal or a permanent residence in the EU/EEA)	15% of by the amount payable by any member of the household, subject to the following limits: 15% of mortgage interest (loans or leases granted before 1 January 2012, on loans made for the acquisition of a principal private residence, limited to EUR 296 (or EUR 502 in specific rentals). These limits can be high depending on income
Individuals with disabilities per dependent with disabilities	EUR 1900 for taxpayers with proven disabilities and EUR 1187.50 per dependent with proven disabilities
Contributions to capitalisation of public companies	20% of the amount invested, up to EUR 350 per taxpayer over 35 and EUR 400 for younger taxpayers
Contributions to capitalisation of private companies	20% of the amount invested, up to EUR 400 per taxpayer under 35 years old, EUR 350 per taxpayer between 35 and 50 and EUR 300 per taxpayer older than 50
Donations (state/public, charity, museum, school, library, or other recognised social welfare or cultural entity)	Without limit, in the case of donations to the State and 15% for donations to other entities

**Note**

<sup>1</sup> EUR 1000, in the case of a student's rental expenses up to EUR 300 where the university is situated more than 50 km from the student's home

**General household expenditure**

Taxpayers may claim a deduction for 35% of properly documented general family expenditure for which specific deductions are not available, up to a limit of EUR 250 per household member.

**Overall cap on deductions**

The total amount of deductions claimable in respect of medical expenses, educational expenses, alimony payments, residential care for parent or grandparents and mortgage interest or rental payments may not exceed an income-related maximum, as indicated in Table 10.

Table 10

Taxable income	Limit on total tax credit
Up to EUR 7091	Unlimited
Between EUR 7092 and EUR 80 640	EUR 1000 + (1500 × (80 640 – TI)/73 549)
More than EUR 80 640	EUR 1000

**Note:**

TI = taxable income

**Tax rates**

Income not subject to a flat-rate tax is charged at progressive rates, varying from 14.5% to 48% in mainland Portugal and Madeira, and from 11.6% to 38.4% in the Azores. See Table 11.

Table 11

Taxable income (EUR)	Rate of income tax (%)	
	Mainland Portugal & Madeira	Azores
First 7091	14.5	10.15
Next 3609	23.0	16.10
Next 9561	28.5	19.95
Next 4739	35.0	28.00
Next 11 856	37.0	29.60
Next 43 784	45.0	36.00
Above 80 640	48.0	38.40

### **Solidarity tax**

A surtax applies to taxable income above EUR 80 000 per year. The amount of the surtax is 2.5% on the excess of income over EUR 80 000 but not over EUR 250 000. Any excess of income over EUR 250 000 is subject to surtax of 5%.

### **Non-habitual residents regime**

With the purpose of attracting to Portugal non-resident professionals engaged in activities with high added value, intellectual or industrial property or know-how, as well as beneficiaries of foreign pension schemes, a special régime was implemented for these temporary residents.

The expatriate régime is available for individuals who:

- Are treated as resident in Portugal in the tax year concerned according to any of the criteria referred to above, and
- Have not been resident in Portugal at any time in the five years prior to the tax year concerned

An individual qualifying for the régime has the right to favourable tax treatment under it for a period of 10 consecutive years, from the year of registration as a Portuguese resident, as long as the individual continues to be resident in each of those 10 years.

Under this régime, employment and self-employment income derived by the individual from 'high value-added activities of a scientific, artistic or technical nature' (as prescribed) is taxed at a special flat rate of 20%.

Also available is a tax exemption (under certain conditions) for foreign-source income (employment income, self-employment income, rental income, interest, dividends and other investment income).

### **Returns and payments**

The year of assessment for personal income tax is the calendar year.

With the exception of individuals with low taxable incomes solely from employment or pensions, all taxpayers must file an annual return online. The due date is between 1 April and 31 May.

The authorities issue an assessment on the basis of the return, no later than July, and any final payment due must be made by the end of August.

### **Inheritance and gift tax**

Inheritance and gift taxes were abolished on 1 January 2004.

Inheritances and gifts are, however, subject to stamp duty (see Chapter 8).

### **Wealth tax**

Portugal does not have a wealth tax.

## 8. Other taxes

### Stamp Duty

Portugal imposes a stamp duty (*imposto do selo*) on acts, contracts, documents, titles, books, papers and other transfers of title, which occur in Portuguese territory, including the free acquisition of goods by an individual by gift or inheritance.

Stamp duty does not apply to transactions subject to and not exempt from VAT.

Table 12 is a summary of the transactions subject to stamp duty and the applicable rates.

Table 12

Type of transaction	Rate (%)	
Gifts of immovable property	10.80	
Free acquisition of goods other than immovable property by individuals (Inheritance and gifts)	10.00	
Leases of real property (taxable amount = 1 month's rent)	10.00	
Guarantees :	Period < one year (per month)	0.04
	Period ≥ one year	0.50
	Without limit or period ≥ five years	0.60
Financial operations (utilisation of credit)	Period < one year (per month)	0.04
	Period ≥ one year	0.50
	Period ≥ five years	0.60
	Period not determined – current account (monthly debt average)	0.04
Consumer credit <sup>1</sup>	Period < one year (per month)	0.12
	Period ≥ one year	0.135
	Period ≥ five years	1.5
	Period not determined – current account ( monthly debt average )	0.12
Financial operations (realised by financial institutions):	Interest	4.00
	Commission related to guarantees	3.00
	Other commission for financial services	4.00
Sale of business	5.00	

### Note

<sup>1</sup> The rates in respect of consumer credit were increased by 50% from 1 April 2016 with the objective of discouraging consumer credit. The increase applies to consumer credit issued until 1 January 2019.

Stamp duty is payable by the transferee of the property.

### Exemptions

Some exemptions are available on gratuitous transfers to spouses, civil partners, descendants and forebears as well as on financial operations (utilisation of credit) between companies. In respect of shareholder loans, the stamp duty exemption depends on the percentage of capital held directly (no less than 10%) and the retention period (for a consecutive period of at least one year or since the incorporation of the company (if less).



## Property taxes

### Property Transfer Tax (IMT)

Property transfer tax (*imposto municipal sobre as transmissões onerosas de imóveis*) is a local tax levied on the transfer for consideration of immovable property located in Portuguese territory. Such a transfer is also subject to stamp duty (see above).

The acquisition of more than 75% of the share capital of a limited-liability company (Lda) or of more than 75% of the interest in a general or limited partnership which holds immovable property is also subject to IMT.

The acquisition of units in immovable-property investment funds (closed funds /private subscription), regardless of where the respective managing entity is located is subject to IMT where the holder alone or with his or her spouse will thereby hold 75% or more of the units of the fund. Immovable property transferred by participants to subscribe for units in a closed-end immovable property investment fund (private subscription), as well as the immovable property transferred as consideration on the liquidation of such a fund are also subject to IMT.

The transfer of immovable property by way of a subscription in kind by a participant in a closed-end immovable-property investment fund is subject to IMT as is the transfer out of such a fund of immovable property by way of reimbursement in kind of units upon dissolution of the fund.

Table 13 shows the applicable rates of IMT.

Table 13

Property subject to transfer	Rate (%)
Rural property	5.0
Other urban properties and other acquisitions for consideration	6.5
Any immovable property acquired by a tax resident in an offshore jurisdiction	10.00

IMT is payable by the transferee.

### Property Tax (IMI)

IMI (*imposto municipal sobre imóveis*) is a local tax levied on immovable property located in Portugal.

The taxable amount of farm buildings corresponds to 20 times the notional annual rent of the property, as estimated by the tax authorities. The taxable person is the owner or usufructuary of the property as at 31 December of the tax year.

The taxable amount of urban property is determined by direct valuation and results from the interplay of several factors (cost of construction, plot area, use, location, internal facilities and age).

The tax is due either in a single payment in April of the following year; or, where the liability exceeds EUR 250, in two instalments, in April and September; or where the liability exceeds EUR 500, in three instalments, in April, July and November.

The rates of IMI are shown in Table 14.

Table 14

Type of property	Rates
Urban property	0.3% to 0.45 <sup>1</sup> %
Rural property	0.8%
Properties owned by residents of a tax haven or property that has been empty for over one year	7.5%

#### Note

<sup>1</sup> However, a maximum rate of 0.5% may still be applied by local authorities covered by a local economy support programme or a municipal adjustment programme if this is essential for achieving the goals set out in the programme.

#### Additional Property Tax (AIMI)

AIMI (*Adicional ao Imposto Municipal sobre Imóveis*) came into force in 2017, replacing the stamp duty on property, and the tax on land for construction with a property value above EUR 1 million.

The rates of AIMI are shown in Table 15.

Table 15

Type of property	Rates	
	Individuals <sup>2</sup>	Companies
First 600 000	0	0.4 <sup>1</sup>
Next 400 000	0.7	0.4 <sup>1</sup>
Balance over 1 000 000	1.0	0.4 <sup>1</sup>

#### Notes

<sup>1</sup> Where the property is an urban property and allocated to shareholders or directors, a rate of 0.7% is charged on the first EUR 1 000 000 and a rate of 1.0% on any remainder. Entities in zero or low-tax jurisdictions are charged at 7.5% on the entire taxable value of the property

<sup>2</sup> An unencumbered usufructuary is charged at a single rate of 0.7% on that part of the value of the property that exceeds EUR 600 000.

AIMI payable is deductible in computing the taxable income under both corporate and personal income tax, in the proportion that rental income from the property bears to total taxable income.

## 9. Social security contributions

### Employees and employers

Social security contributions (*taxa contributiva*) are payable by employers and employees, on the monthly remuneration obtained by employees (including directors). From 1 January 2014, contributions are based on the employee's gross remuneration, without a ceiling, whereas previously contributions were capped at 12 times the social security support level per month.

Employers are responsible for deducting employee contributions and accounting for those and their own contributions by the 20th day of the following month, together with a monthly return (*declaração de remunerações*).

### Rates

Employer and employee rates are shown in Table 16.

Table 16

	Employer contribution	Employee contribution	Total
Employees (in general) and directors	23.75%	11.00%	34.75%
Directors (certain circumstances)	20.30%	9.30%	29.60%
Employees with very short-term contracts	26.10%	0.00	26.10%
First-time employees or long term unemployed	0.00	11.00%	11.00%
Agricultural workers	22.30%	11.00%	33.30%
Local fishing and coastal vessel employees, owners of boats	21.00%	8.00%	29.00%

### Self-employed contributions

Self-employed professionals pay contributions of 29.6% (to be reduced to 21.4% in 2019). However, part of the burden will fall on the shoulders of the clients or customers of the self-employed person, who will be required to pay contributions of 7% or 10% on the self-employed person's fee on that person's behalf.

Self-employed business people and shareholders of single-person limited-liability companies pay contributions of 34.75%.

Self-employed farmers pay 28.3%.

# Appendix 1: Double tax treaties

## Comprehensive double taxation treaties

Portugal has comprehensive double taxation treaties with the following countries and jurisdictions:

Algeria	Hong Kong	Peru
Andorra	Hungary	Poland
Austria	Iceland	Qatar
Bahrain	India	Romania
Belgium	Indonesia	Russia
Brazil	Ireland	San Marino
Bulgaria	Israel	São Tomé e Príncipe
Canada	Italy	Saudi Arabia
Cape Verde	Japan	Senegal
Chile	Korea (South)	Singapore
China	Kuwait	Slovakia
Colombia	Latvia	Slovenia
Croatia	Lithuania	South Africa
Cuba	Luxembourg	Spain
Cyprus	Macao	Sweden
Czech Republic	Malta	Switzerland
Denmark	Mexico	Tunisia
Estonia	Moldova	Turkey
Ethiopia	Morocco	Ukraine
Finland	Mozambique	United Arab Emirates
France	Netherlands	United Kingdom
Georgia	Norway	United States
Germany	Oman	Uruguay
Greece	Pakistan	Venezuela
Guinea-Bissau	Panama	Vietnam

## Double tax treaties: air transport and shipping

Portugal has an air transport tax treaty with Namibia.

### Double taxation treaties: estates, gifts and inheritances

Portugal has no such treaties.

### Agreements for exchange of information

Portugal has agreements for cooperation in tax matters through exchange of information with the following jurisdictions.

Andorra	Gibraltar	Jersey
Bermuda	Isle of Man	St Lucia
Cayma Islands		

Agreements have also been signed with Belize, the British Virgin Islands, Guernsey, ST Kitts and Nevis and the Turks and Caicos Islands, but these have yet to enter into force.

### Social security agreements

The interaction of national social security systems within the European Economic Area is governed by EU Regulations which also extend, by agreement to Switzerland.

The following non-EEA countries have social security agreements with Portugal:

Alderney <sup>3</sup>	Ecuador <sup>1</sup>	Philippines
Andorra	Guernsey <sup>3</sup>	Québec
Argentina	Herm <sup>3</sup>	Tunisia
Australia	India	Ukraine
Bolivia <sup>1</sup>	Jersey <sup>3</sup>	United States
Brazil <sup>2</sup>	Jethou <sup>3</sup>	Uruguay <sup>1</sup>
Canada	Moldova	Venezuela
Cape Verde	Morocco	
Chile <sup>2</sup>	Paraguay <sup>1</sup>	

### Notes

<sup>1</sup> Under the Ibero-American Multilateral Social Security Convention

<sup>2</sup> Bilaterally and under the Ibero-American Multilateral Social Security Convention

<sup>3</sup> The bilateral convention with the United Kingdom also applies to the Channel Islands of Alderney, Guernsey, Herm, Jersey and Jethou

# Appendix 2: Moore Stephens around the world

Moore Stephens member firms may be found in 104 countries and territories around the world, with correspondent firms in another eight.

Albania	Dominican Republic	Liechtenstein*	Serbia
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Colombia	Jersey	Philippines	United States
DR Congo	Jordan	Poland	Uruguay
Costa Rica	Kazakhstan	Portugal	Venezuela
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