



PORTUGAL – REAL ESTATE TAX GUIDE

INTRODUCTION

This document is a general overview on the tax implications arising out of operations which involve real estate properties.

The Portuguese tax system concerning real estate operations is, in general terms, similar to other tax regimes set forth in different jurisdictions.

Carrying out real estate operations will be, in principle, different, and will generate different tax impacts, depending on whether the operation is conducted by a private individual or via a real estate company or a vehicle set up specifically to carry out said operation.

Besides the tax impact generated by these operations, several and distinct tax benefits, are available for individuals and for companies, which are, generally, spread throughout many disperse legislation.

This Guide is a general guidance and is not, and does not replace, legal advice which should be granted on a case-by-case basis.

1. REAL ESTATE TRANSFERS

| Municipal Property Transfer Tax (IMT) | |
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| Taxable Operations | <ul style="list-style-type: none"> - Onerous transfers of ownership or parts thereof; - Leases and subleases of long term (longer than 30 years); - Acquisition of shares (excluding shares in public limited companies) in companies owning property, provided that such acquisition results in one shareholder holding, at least, 75% of the share capital, or the number of members is reduced to 2 married shareholders; - Contributions in kind in the share capital of companies, composed of real estate properties, or its distribution to shareholders in case of liquidation of such companies. - Onerous assignments in Promissory Agreements; (Amongst others) |
| Taxable Persons | - Individuals or legal entities to whom the immovable property is transferred, irrespective of their tax residency. |
| Taxable Amount | - The contractual value or the taxable value, whichever is higher. |
| Rates | <ul style="list-style-type: none"> - Urban properties used exclusively for habitation: <ul style="list-style-type: none"> • Up until € 574.323 – progressive rate of 0% to 8%; • Value higher than € 550.836 and below € 1.000.000 – fix rate of 6%; e • Value higher than € 1.000.000 – fix rate of 7,5%. - Rural properties - 5%; - Other acquisitions – 6,5%; - Property purchased by residents in a "tax haven" - 10%. |
| Exemptions | <ul style="list-style-type: none"> - Acquisition of properties for resale by Real Estate companies; - Acquisition of real estate by Open-end Real Estate Investment Funds or by closed-end of public subscription; - Acquisition of real estate by Real Estate Investment Funds for Residential Letting; - Operations of concentration or cooperation (such as mergers and demergers); - Acquisition of an urban property, object of urban rehabilitation; and - Acquisition of buildings classified as of national / public / municipal interest. |
| Investment Promotion Tax Regime | - Companies making relevant investments, may benefit from IMT exemption on the acquisition of real estate property deemed as eligible investment. |

| Stamp Duty (IS) | |
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| Taxable Operations | - Onerous or free transfers of ownership or parts thereof; - Leasing or sub-leasing of real estate properties; - Liquid assets of Real Estate Investment Funds. |
| Taxable Persons | - Individuals or legal entities to whom the immovable property is transferred or, in the case of leasing, the landlord, irrespective of their tax residency. |
| Taxable Amount | - The contractual value or the taxable value, whichever is higher. |
| Rates | - Onerous or free transfers of ownership or parts thereof: 0,8%; and - Free transfers of ownership or parts thereof: 10% (in addition to the 0,8 % rate). |
| Exemptions /Exclusions | - Transfers between spouses and between parents and sons, regarding free transfers only. |

2. REAL ESTATE OWNERSHIP

| Municipal Property Tax (IMI) | |
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| Taxable Operations | - Ownership, usufruct or surface rights on urban or rural properties. |
| Taxable Persons | - Individuals or legal entities who are owners, surface owners or beneficial owners of property, on 31 December of each year, irrespective of their tax residency. |
| Taxable Amount | - Taxable value determined by evaluation conducted by the tax authorities. |
| Rates | - Rural property: 0.8%; - Urban property*: 0.3% to 0.45%, depending on the municipality where the property is located; - Property owned by an individual or a legal entity resident in a tax haven: 7.5%. * This rates will be three times higher if the property is on ruins or inhabited for more than one year. |
| Exemptions | - Property part of touristic complexes; - Property integrated in property investment funds from public subscription, in pension funds and retirement savings funds; - Urban properties considered as a permanent place of residence for three years up to € 125,000. |

| Additional to the Municipal Property Tax (IMI) | |
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| Tax Object | - The sum of all properties held in Portuguese territory, except properties with “commercial, industrial or services” or “others” classification. |
| Taxable Persons | - Individuals or legal entities who are owners, surface owners or beneficial owners of property, on 31 December of each year, irrespective of their tax residency. |
| Taxable Amount | - Sum of the taxable value determined by evaluation conducted by the tax authorities. |
| Rates | - Private individuals and inheritances: 0,7%; - Private individuals and inheritances, when the sum of all properties is higher than € 1.000.000: 1%; - Companies: 0,4%; - Companies holding properties used as residency of members of their corporate bodies: 0,7% or 1%, when the sum of properties held by the company is higher than € 1.000.000; - Property owned by companies with registered office in tax havens: 7.5%. |
| Exemptions | - The first € 600.000 are deducted in the case of private individuals or inheritances; - Municipal companies. |

3. RENTS AND SALE OF REAL ESTATE PROPERTIES

| Personal Income Tax (IRS) | |
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| Taxable Income | - Income derived from real estate properties or capital gains from the sale of these properties. |
| Taxable Persons | - Individuals who are tax residents in Portugal: worldwide real estate income; - Non-resident individuals: real estate income deemed as obtained in Portugal. |
| Taxable Amount | - Real Estate income (rents): the gross amount of rents, deducted from the documented expenditures incurred with the maintenance and conservation, as well as the IMI, if the rental income is taxed together with the remaining taxable income, as well as IS; - Capital gains: difference between acquisition value and sale value, deducted of sale expenses (brokers' commissions) and expenses incurred with the valorization of property in the 12 years preceding the sale. For residents in Portugal, the capital gain is only considered in 50% of its global value. |
| Rates | - Income (rents or capital gains) earned by non-residents: 28%; |

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| | <ul style="list-style-type: none"> - Capital gains earned by residents: aggregated to the remaining taxable income and subject to progressive tax rates varying between 14,5% and 48%; - Rental income earned by residents: 28%. However, if said income is taxed together with the remaining taxable income, a maximum 48% tax rate applies to taxable income exceeding € 80,000; In this case, a surtax of 2.5% or 5% is applied to the quantitative portion of taxable income that exceeds € 80,000 or € 250,000, respectively. |
| Exclusions | <ul style="list-style-type: none"> - Exclusion of taxation of capital gains realized on the transfer of property for the permanent abode of the taxable person (tax resident in Portugal), if such capital gains are reinvested within 3 years, in the acquisition of another property with the same purpose in Portugal or in an European Union or an European Economic Area Member State (provided that in the latter case, there is exchange of information in tax matters). |

Corporate Income Tax

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| Taxable Operations | <ul style="list-style-type: none"> - Commercial, industrial or agriculture activities, including property income (rents) or capital gains arising from the sale of property (if the property is treated for accounting purposes as inventory, the income derived from its sale is treated as profit from ordinary activities). |
| Taxable Persons | <ul style="list-style-type: none"> - Legal entities, residents or non-residents who receive income from its activity, including property income (rents), or capital gains arising from the sale of property. |
| Taxable Amount | <ul style="list-style-type: none"> - The taxable profit for corporate income tax purposes is composed of the earnings deducted from costs incurred, adjusted by impairment losses and other deductions allowed; |
| Rates | <ul style="list-style-type: none"> - In the case of capital gains, if they are reinvested in tangible fixed assets, until the end of the second year following their realization, only 50% of its value is regarded for tax purposes. |
| Taxable Operations | <ul style="list-style-type: none"> - Non-residents without a permanent establishment: 25%; |

4. URBAN REHABILITATION

Urban Rehabilitation

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| Tax Benefits | <ul style="list-style-type: none"> - IMI exemption for a period of 3 years, renewable for 5 additional years (if given for non-commercial leasing), for buildings subject to urban rehabilitation works; - IMT exemption for acquisition of properties in urban rehabilitation areas, provided the rehabilitation works are initiated in the 3 years following the acquisition; - Tax deduction of 30% of the costs incurred by the owner related to rehabilitation up to € 500; - The capital gains obtained by residents in Portuguese territory, regarding the first sale of properties after a rehabilitation intervention, are taxed at a flat rate of 5%; - Rents received by residents in Portuguese territory, and concerning rents of properties recovered and located in rehabilitation areas, are taxed at a flat rate of 5%; - The properties of refurbishment contracts are, in certain situations, subject to a reduced rate of 6%. |
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5. INHERITANCE AND GIFT TAX

| Stamp Duty | |
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| | <p>Portugal does not have inheritance or gift tax per se. Free transfers of real estate properties are subject to a Stamp Duty flat rate of 10%. However, transmissions from and between spouses, parents and sons are fully exempt of the 10% flat rate, which means that inheritances received by the spouse, parents or sons are exempt of taxation, except for donations and inheritances consisting of real estate, in which case a flat rate of 0,8% on the VPT is applicable</p> |

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Rogério M. Fernandes Ferreira

Tomás Calejo Abecasis

Frederico Ferreira da Silva



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Legal 500 – Band 1 Tax “Portuguese Law Firm” and Band 1 Tax “RFF Leading Individual” 2013/2014/2015/2016
Chambers & Partners – Band 1 “RFF Leading Individual” 2013/2014/2015/2016
International Tax Review – “Best European Newcomer” (shortlisted) 2013 / “Tax Firm of the Year” (shortlisted) 2014/ “Tax Controversy Leaders” 2014/2015 / “Indirect Tax Leaders 2015” / “Women in Tax Leaders Guide 2015” / “European Best Newcomer” 2016/ “Portugal Tax Firm of the Year” (shortlisted) 2017/“European tax Disputes of the Year” (shortlisted) 2017/ “European Indirect Tax Firm of the Year” (shortlisted) 2017
Best Lawyers – “RFF Tax Lawyer of the Year” 2014 / “Recommended Lawyers” 2015/2016
Who’s Who Legal – “RFF Corporate Tax Adviser of the Year” 2013/2015 / “Corporate Tax – Controversy” 2016 / “Corporate Tax section of WWL - Thought Leaders” 2017
IBFD – Tax Correspondent Angola, Mozambique and East-Timor 2013/2014/2015/2016/2017