

GOLDEN VISA IN PORTUGAL: RECENT DEVELOPMENTS



TAX & BUSINESS



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INTRODUCTION

Urged by the need to attract foreign investment to Portugal, the Government has created, in August 2012, a new regime for the granting and renewal of the so-called "golden visas" to citizens of foreign countries willing to invest in Portugal.

This regime, known in Portugal as "ARI – Autorização de Residência para Actividade de Investimento" (which means Residence Permit for Investment Activities) foreseen in Law n.º 23/2007, of July 4, was recently amended by Law n.º 63/2015, of June 30. The main goal of this amendment was, in one hand, to broaden the scope of eligible investment activities to obtain the "golden visa" and, on the other hand, to widen the range of situations covered by the right to family reunification, within the specific golden visa regime.

THE BROADENING OF THE ELIGIBLE ACTIVITIES

For the purposes of granting the "golden visas", an investment activity must be performed, directly by the individual or through a company, for a minimum period of five years.

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Due to the above mentioned recent amendments, the eligible investment activities, for the purpose of granting “golden visas”, must correspond to one of the following options:

- (i) capital transfer in an amount equal or above € 1.000.000,00, including the investment in the share capital of companies;
- (ii) Creation of, at least, 10 jobs;
- (iii) Purchase of real estate worth, at least, € 500.000,00;
- (iv) Purchase and rehabilitation works of real estate constructed, at least, 30 years ago or located in an urban rehabilitation area, for a minimum global amount of € 350.000,00;
- (v) Capital transfer in an amount equal or above € 350.000,00, to be applied in scientific research activities performed by public or private scientific research institutions integrated within the National Scientific and Technological System;
- (vi) Capital transfer in an amount equal or above € 250.000,00, to be applied in the support or investment in artistic production, the defence and restoration of the national cultural patrimony, through central and local administration, public institutes, entities within the business public sector, public foundations, private foundations with public utility, inter-municipal entities, entities that integrate the local business sector, municipal associative entities and

cultural public associations which purpose is to promote and achieve artistic production, defence and restoration of the national cultural patrimony; or

- (vii) Capital transfer in an amount equal or above € 500.000,00, for investment in the acquisition of participation units in venture capital funds or investment funds specialized in the capitalization of small or medium enterprises with a viable capitalization plan.

THE INCENTIVE TO INVESTMENT ACTIVITIES IN LOW DENSITY TERRITORIES

Another innovation in the “golden visa” eligible investment activities is the reduction of the minimum amount of investment, when such investment is applied in a low density territory.

Therefore, in case the investment activities – except for the simple capital transfer in an amount equal or above € 1.000.000 – are made in low density territories (which are specified as level III territories of the common classification of territorial units for statistics – NUTS), where there is less than 100 local habitants per km² or a local average gross domestic product (GDP) *per capita* below 75% of the national average GDP *per capita*, the minimum investment amounts mentioned before may be reduced in 20%.

In accordance with the last data provided by the National Statistics Institute (INE) regarding the population density (n.º/Km²) *per*

local residency (NUTS-2013), for the year 2014, the local habitants *per* level NUTS III territory averages are the following:

- (i) High Minho – 107,3;
- (ii) Cávado – 327;
- (iii) Ave – 289,3;
- (iv) Metropolitan Oporto Area – 848,2;
- (v) High Tâmega – 30,9;
- (vi) Tâmega and Sousa – 232,4;
- (vii) Douro – 48,9;
- (viii) Trás-os-Montes – 20,2;
- (ix) West – 161,4;
- (x) Aveiro Region – 215,3;
- (xi) Coimbra Region – 102,4;
- (xii) Leiria Region – 118,2;
- (xiii) Viseu Dão Lafões – 80,3;
- (xiv) Beira Baixa – 18,3;
- (xv) Médio Tejo – 71,5;
- (xvi) Beiras and Serra da Estrela – 35,5;
- (xvii) Metropolitan Lisbon Area – 931,7;
- (xviii) Alentejo Litoral – 18,1;
- (xix) Low Alentejo – 14,3;
- (xx) Tejo's Lezíria – 57;
- (xxi) High Alentejo – 18,4;
- (xxii) Central Alentejo – 21,6;
- (xxiii) Algarve – 88,4;
- (xxiv) Autonomous Region of Azores – 106,1;
- (xxv) Autonomous Region of Madeira – 322,7.

On the map below, and in accordance with the presented data, the areas with less than 100 local habitants *per* Km² are coloured in yellow (which benefit from the 20% reduction on the minimum investment amount), and the areas with more than 100 local habitants *per* Km² are

coloured in grey (where the reduction does not apply):



Regarding the local average GDP *per capita* below 75% of the national average GDP *per capita* criterium, the INE has not yet provided data concerning the GDP of each region, considering the most recent NUTS III delimitation.

THE AMPLIFICATION OF THE FAMILY REUNIFICATION ELIGIBLE SITUATIONS

The right to family reunification is granted to the citizen with a valid residency permit, regarding (i) the family members living outside the Portuguese territory and that have lived with that citizen in another country, (ii) the family members that depend or cohabit with the citizen, as well as (iii) those who have legally entered in the Portuguese territory and are dependant or live together with that citizen.

The law defines the concept of family members and the circumstances under which they may benefit from the right to family reunification. With the above mentioned legal amendment to the “golden visa” regime, a new particular situation is envisaged in the scope of the family reunification, specifically for the “golden visa” permit regime.

Thus, for the purposes of granting the family reunification right, the concept of family members of the golden visa holder includes their descendants who are:

- (i) legal of age;
- (ii) dependent of the couple or of one of the spouses;

- (iii) single; and,
- (iv) studying in an educational establishment in Portugal, or abroad.

NEXT STEPS: THE REGULATION OF THE ARI REGIME

Law n.º 63/2015, of June 30 has repealed the legal reference to the regulation of the ARI regime implementation, which was completed with the publication of the Foreign Affairs and Internal Administration Ministry Orders n.º 11820-A/2013 and n.º 1661-A/2013.

Thus, the regulation of the regime now depends on the publication of the new version of the Implementing Decree n.º 84/2007, of November 5, which will include the procedures and requirements needed to obtain the “golden visas”.

LAST MINUTE!

Order n.º 7942-C/2015 of the Cabinet of the Secretary of State of Internal Administration of the 17th of July was recently published, granting the continuation of the production of the effects of the previously mentioned Orders, as well as of the Order of the 27th of March, under which the Manual of Procedures of the Foreign and Boarder’s Service, until new regulation rules come into force.

As such, the Portuguese authorities have started to re-issue the Golden Visas (which had been suspended by the Director of the Foreign and Boarder’s Service, due to the provisional lack of regulation), except for the



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visas that refer to the new investment activities not foreseen under the previous legal regime.

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