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& ASSOCIADOS

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NEWSLETTER

FAMILY OFFICE IN PORTUGAL HIGHLIGHTS AND CHALLENGES

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Legal 500 – Band 1 Tax "Portuguese Law Firm"/ Band 1 Tax "RFF Leading Individual" and highlighted in "Hall of Fame", 2013, 2014, 2015, 2016, 2017, 2018, 2019
Chambers & Partners – Band 1 Tax "RFF Ranked Lawyer", 2013, 2014, 2015, 2016, 2017, 2018, 2019 and Band 1 "Private Wealth Law" - HNW "RFF Ranked Lawyer", 2018
International Tax Review – "Best European Newcomer" (shortlisted) 2013 / "Tax Controversy Leaders", 2014, 2015, 2016, 2017, 2018, 2019 / "Indirect Tax Leaders", 2015, 2016, 2017, 2018, 2019 / "Women in Tax Leaders Guide", 2015, 2016,2017, 2018, 2019 / "European Best Newcomer", 2016 / "Tax Firm of the Year", "European Tax Disputes of the Year" and "European Indirect Tax Firm of the Year", (shortlisted) 2017
Best Lawyers – "RFF Tax Lawyer of the Year", 2014 / "Recommended Lawyers", 2015, 2016, 2017, 2018
Who´s Who Legal – "RFF Corporate Tax Adviser of the Year", 2013, 2015, 2016 / "RFF Corporate Tax Controversy Thought Leader", 2017 "Corporate Tax: Advisory and Controversy", 2017, 2018, 2019
Legal Week – RFF was the only Portuguese in the "250 Private Client Global Elite Lawyers" 2018
STEP Private Clients Awards - RFF "Advocate of the Year 2019" (shortlisted)
IBFD Tax Correspondent Angola, Mozambique and East-Timor, 2013, 2014, 2015, 2016, 2017, 2018, 2019

SUMMARY

Portugal's role as a base for international Family Offices is a growing trend, considering the country's characteristics, business and tax advantages.

In this newsletter we provide the main highlights and challenges that arise in establishing the Family Office in Portugal.

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HIGHLIGHTS OF PORTUGAL AS A GOOD LOCATION FOR A FAMILY OFFICE

A very safe country in EU Law with low cost qualified labour force

Portugal has constantly been marked as one of the safest countries in the European Union, especially as regards violent criminality. Social life is peaceful and the police forces are friendly and helpful, with English speaking officers.

Labour force is generally qualified, skilful and available across almost all areas. Labour cost is low within EU standards, bar certain limited exceptions.

The Non-Habitual Tax Regime

This regime provides several exemptions on foreign-sourced investment income, namely on interest and dividend income. This exemption, allied with the extensive Double Tax Treaty network, has proven highly relevant and beneficial for multinational family office structures.

Moreover, a special 10% flat tax rate on pension income exists, including third-pillar pension schemes (with capital or lump sum payments).

In addition, reduced tax rates for certain domestic income streams are also available, mainly employment and self-employment income derived from so-called high value added activities.

Inexistence of Wealth Tax plus Tax Exemption on Inheritance and Gifts/Donations

Inheritance planning may prove greatly advantageous in Portugal.

Portugal does not levy a wealth tax, only income is taxed, therefore, reduced tax burdens on accumulated wealth may be available, namely on assets with capitalized capital gains.

In addition, gratuitous transfers of property, in life or upon death, between spouses, descendants and ascendants is covered by an exemption from Stamp Tax (10% tax rate), regardless of amount and type of taxpayer. Such exemption applies to financial accounts, shares, bonds, cash and immovable property (although the latter is subject to a 0,8% in case of in-life offers).

This exemption is also added by specific territorial rules that exclude altogether certain foreign assets from even being covered by the tax.

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A Good Double Tax Treaty network

The extensive Double Tax Treaty network allows for withholding tax reductions from foreign-sourced dividends, as well as enabling the NHR exemptions to operate.

A Good Participation Exemption Tax Regime

The participation exemption regime, on the other hand, allows for withholding tax exemptions on dividends between related companies, with low thresholds (10%/1-year shareholding), enabling free equity flow between family-owned multinational structures.

As Very Quick Setting Up of Companies

Portuguese companies may be quickly incorporated, being even possible in one day in simple cases (with pre-formed companies).

In addition, setting up bank accounts (both corporate and individual) is simple and fast, mostly aided by efficient and non-bureaucratic banks.

Minor Language Barriers

Portuguese people adapt to foreign languages with ease, as English, French and Spanish are taught early in school and usually practiced. Therefore, adaptation to Portuguese, although somewhat advisable, is not necessary to comfortably live a regular day-to-day life anywhere in Portugal.

The Adaptation of Trust structures to the Portuguese Tax System

As Portugal does not have a domestic legal trust regime, trust structures held within the Family Office upon establishing in Portugal may require a specific analysis and/or restructuring.

More specifically, the location and nature of the trust, position of the settlor, trustee and beneficiary, revocability of the trust, powers of the settlor as regards the nomination of trustees or the liquidation of the trust must all be thoroughly analysed.

In addition, income arising from trusts must be accurately determined, especially as regards the relevant Double Tax Treaty, towards its qualification for Portuguese Personal Income Tax purposes and eventually benefiting from the NHR regime.

The Portuguese Authorities Approach

The Portuguese tax authorities have sometimes shown little room for approaches which differ from the standard, requiring high amount of

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documentation to prove certain taxpayer's elements.

The Diversity of Players

Certain service providers may claim being specialists in legal and/or transactional aspects, allied by a typically Portuguese practical "do-all" attitude. Special attention when recruiting service providers is advisable, namely only relying on certified professionals, such as lawyers, certified accountants and certified real estate brokers.

Municipal permits and licensing, concerning real estate investment and building, companies' operations and regulation also remains time-consuming and burdensome, needing sometimes special connections within the administration. Additionally, one should also count with slow administrative response concerning necessary licenses and permits, especially as regards real estate investment.

Finally, mandatory regulation, may delay certain types of Portuguese investments, especially if the wrong advisors are involved. Nevertheless, this aspect has seen improvements in recent years.

Lisbon, April 15th, 2020

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