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The government has introduced measures to protect businesses and individuals in Portugal. Above: the empty Praça do Comércio, Lisbon
Photographer: Jose Sarmiento Matos/Bloomberg

INSIGHT: Covid-19 Tax Measures in Portugal

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Rogério M. Fernandes Ferreira and lawyers from RFF & Associados provide an overview of the tax measures introduced by the Portuguese government to address the Covid-19 crisis.



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Since the start of the Covid-19 pandemic, the Portuguese parliament and government have adopted a wide range of measures aimed at easing and mitigating the direct and indirect effects of the pandemic, including measures to support companies, businesses, families and private individuals.

Considering that legislative output is at an unprecedented level, this Insight reviews the various exceptional and provisional tax measures, but does not replace consultation of existing legislation or the possible need for legal consultation aimed at specific situations.

General Tax Measures

The government has approved several measures aimed at protecting citizens and businesses by making the payment of taxes and social contributions more flexible.

Payment of VAT, PIT and CIT Withholding

In the second quarter of 2020, the obligations under the personal income tax (PIT) code, corporate income tax (CIT) code and value-added tax (VAT) code for taxpayers with a turnover of up to 10 million euros (\$10.8 million) can be complied with in three- or six-monthly installments, without interest.

If this installment plan is chosen, the first installment is due on the date of fulfillment of the payment obligation in question, with the remaining monthly installments due on the same date of the following months.

Taxpayers who do not meet these criteria may also request an installment payment plan if they show a reduction in invoicing (on the *E-Fatura* site) of at least 20% in the average of the three months preceding the month in which this obligation arose, in relation to the same period of the previous year, with certification by a chartered accountant.

Through a Circular Letter, the Subdirector General of Collection also determined that during this year taxpayers will pay withholding taxes through the multi-tax guide pay slips. The time to fulfill obligations to assess and pay the taxes due in the months of January, February and March of 2020 has been extended to April 20, 2020, with the remaining obligations regarding the same year to be fulfilled by the 20th day of the month following that in which the tax obligation arose.

Benefit Plans, Suspension of Executive Procedures and Extraordinary Extension of Social Benefits

Current installment plans in tax executions are suspended (without prejudice to the possibility of their being punctually fulfilled) as part of the judicial vacation regime. Should this regime cease before June 30, 2020, the tax executive procedures must remain suspended until this date, and the installment plans in progress for debts to social security outside the scope of the executive proceedings are also suspended for the same period.

Unemployment benefits and all social security benefits which guarantee minimum subsistence and whose concession or renewal period ends at an earlier date have also been extended until June 30, 2020.

Credit Protection Measures

A moratorium was approved until September 30, 2020, providing for the prohibition of the revocation of contracted credit lines, as well as the extension or suspension of credit until the end of this period, thus guaranteeing the continuity of financing for families and companies as well as preventing possible defaults resulting from reduction in economic activity.

Under the provisions of item 17 of the Stamp Duty General Table (SDGT), the extension of the term of a credit agreement is considered as a new credit grant for the purposes of this tax, as such determining the creation of a new taxable event.

Thus, and in the context of the extraordinary measures approved, the Director General of Taxes clarified through Circular Letter No. 6/2020 that there will only be an extension (generating a new taxable event) when the new deadline constitutes an addition to the previously established deadline, with effect only after its expiration (*ex nunc* effects).

On the other hand, if the original deadline is replaced by a different deadline, i.e., with a retroactive effect (*ex tunc*), stamp duty will only be due if the new deadline corresponds to a higher rate and the tax will be assessed by the rate differential (if any).

In this context, regarding credits with a determined or determinable period of use, the capitalization of interest accrued during the extension period shall not constitute a new stamp duty obligation provided for in items 17.1.1 to 17.1.3, or 17.2.1 to 17.2.3, of the SDGT.

Supporting Documentation for Periodic VAT Declaration

Executive Order No. 129/2020-XXII introduces simplification procedures aimed at adapting compliance with reporting obligations to the circumstances brought about by the pandemic.

In this context, periodic VAT returns for the February 2020 period may be calculated based on the data on the *E-Fatura* site and do not require supporting documentation. The same will not be valid for the months of April, May and June, but invoices in pdf format must be accepted, which will be considered electronic invoices for all purposes provided for in tax legislation.

These rules will be applicable to taxable persons with a turnover of up to 10 million euros in 2019 who started business on or after January 1, 2020, or who recommenced business on or after that date and did not have any turnover in 2019.

In addition, it should also be noted that, in compliance with any tax obligations, situations where a "sanitary barrier" is set up to prevent taxpayers from traveling to and from areas covered by the barrier, are now considered a fair impediment, provided that taxpayers have their tax or professional domicile in such areas.

Customs Duty Relief and Exemption from VAT on Imports of Goods

European Commission [Decision](#) (EU) 2020/491, of April 3, 2020, provides for the granting of duty-free treatment and exemption from VAT on the importation of goods (from third-party countries) to combat the effects of the Covid-19 outbreak.

The Commission Decision is adopted within the legal framework of the EU which provides for the possibility of granting relief from customs duties to the victims of disasters, which is subject to a Commission Decision acting at the request of the member states concerned.

Similarly, the EU VAT legislation (Council [Directive](#) 2009/132/EC) has equivalent provisions concerning exemption from VAT on the final importation of certain goods.

According to the statements made by the President of the European Commission, this measure makes it financially easier to purchase medical equipment, including items such as masks, protective equipment, test kits, ventilators and other medical equipment.

This Commission Decision emerged in response to several requests from member states, including Germany, France, Spain, Portugal and Italy.

The U.K. is also covered by the Commission Decision and has made a request for similar assistance from other member states in order to ensure duty-free and VAT-free importation of goods necessary to combat the Covid-19 outbreak: to this end, the Commission invoked the article of the Exit Agreement which allows the application of EU measures to the U.K. during the transitional phase.

Through this Decision, the European Commission provides for the possibility for public organizations in member states and/or other organizations authorized by them, to import, free of charge and free of VAT, goods which qualify as necessary for the fight against the pandemic and which are intended for free distribution to individuals affected by Covid-19 as well as to individuals participating in the fight against this disease.

To this end, member states shall communicate the following information to the European Commission by November 30, 2020:

- a list of organizations approved by the competent authorities of the member states to carry out import operations of goods intended for combating Covid-19;
- nature and quantity of goods imported under this regime;
- the measures implemented to ensure that imported goods are not transferred free of charge or against payment after they have been allocated for their intended purpose (in order to avoid possible attempts to abuse this exception regime, which are provided for in the Directives and Regulations governing customs duties and the harmonized VAT system).

The legal framework provided for in this Decision is applicable from January 30, 2020 to July 31, 2020, with a possible extension, subject to a reassessment of the situation.

Social Security and Contributions

Employers in the private and social sectors with less than 50 employees or up to 249 employees, with a loss of at least 20% of turnover (on the *E-Fatura* site) in March, April and May 2020 compared to the same period of the previous year, are entitled to deferment of payment of contributions.

The deferment may also be granted to private charitable institutions or similar, employers in the closed sectors, aviation or tourism, even if they have 250 or more employees, provided they demonstrate a loss in invoicing in terms similar to those above. Self-employed workers will also be covered by this measure.

Regarding employer's contributions, one-third of the contributions is due in March, April and May 2020, the remainder being paid in equal and successive installments in July and September 2020 or in July to December 2020, without interest.

The deferment of contributions due by self-employed persons applies to the months of April, May and June 2020, which may be paid on terms similar to those described above. Failure to meet the requirements for access to deferment of payment of contributions gives rise to the immediate payment of all the installments due and the cessation of the exemption from interest.

There is also the additional possibility of deferring contributions due by self-employed persons if they receive social benefits, a regime provided for in cases of:

- total cessation of the activity or sector, proven by means of a declaration by the self-employed; or
- an abrupt and sharp drop of at least 40% in invoicing (in the 30-day period preceding the application to the competent social security services, with reference to the monthly average of the two months preceding that period, or in relation to the same period of the previous year, or, for those who started business less than 12 months ago, the average for that period), by means of a declaration by the person, with certification by a certified public accountant or certified accountant.

The deferment shall apply for each month in which the person receives the benefit.

Temporary Exemption from Social Security Contributions

Employers are granted temporary exemption from paying social security contributions regarding covered employees and members of statutory bodies for the duration of these measures.

The exemption also applies to self-employed workers who are themselves employers; they and their spouses may benefit from these measures.

This exemption covers contributions related to the compensation due in the months in which the company benefits from the measures. The waiver of payment of the contributions regarding self-employed workers determines the registration of remuneration by equivalence to the entry of contributions according to the applicable taxable basis.

Employers must submit autonomous remuneration statements for the employees covered by this measure and pay their contributions, i.e., the exemption covers only the employer's contributions.

Judicial Tax Measures—Limits and Steps

A general suspension of time limits for procedural deadlines and acts has been determined, with some exceptions provided for.

Non-Urgent Proceedings and Procedures

The time limits for the performance of acts in proceedings are suspended at:

- judicial courts;
- administrative and fiscal courts;
- constitutional courts;
- courts of auditors; and
- other jurisdictional bodies, arbitral courts, public prosecution service, courts of peace, alternative dispute resolution entities and fiscal execution bodies.

The suspension provided for is applicable to (i) the period of presentation of the debtor to the insolvency; and (ii) acts to be carried out in executive proceedings, namely sales, tender of creditors, judicial deliveries of real estate, seizure diligences and preparatory acts.

However, the legal provisions in force do not preclude the practice of acts in ongoing proceedings and procedures, if this is feasible through computer platforms and remote communication such as teleconferencing, video calling or equivalent.

Following the same logic, the law allows for the possibility of a final decision in cases in which the court and other entities do not consider it necessary to take new steps.

Procedural Deadlines

This suspension regime is also applicable, with necessary adaptations, to the deadlines for the following:

- administrative and tax procedures in relation to the practice of acts by individuals;
- misdemeanor, sanctioning and disciplinary proceedings, including acts of judicial challenge of final or interlocutory decisions, which run under the terms of direct, indirect, regional and autarchic administration services, and other administrative entities, namely independent administrative entities;

With regard to tax deadlines, the suspension regime only includes acts of judicial impugnation, free complaint, hierarchical appeal, or other procedures of the same nature, such as the request for unofficial review, as well as subsequent procedural acts.

Limitation Periods

In addition, the suspension of limitation periods for all types of proceedings and procedures is also introduced.

Urgent Procedures

As mentioned, the general rule of suspension provides for the existence of exceptions, thus leaving out of its scope deadlines for acts and steps to be taken in urgent proceedings, which must proceed without suspension or interruption.

For this purpose, the following rules to be observed during this exceptional period are established:

- proceedings that require the physical presence of the parties, their representatives or other intervening parties must be carried out by means of remote communication, such as teleconferencing, video calling or equivalent;
- where it is impossible to use remote communication and where the life, physical integrity, mental health, freedom or immediate subsistence of the parties concerned is at stake, the proceedings may be carried out in person, provided that this does not involve the presence of more persons than provided for in the recommendations of the health authorities and in accordance with the guidelines laid down by the competent Supreme Councils.

If it is neither possible nor appropriate to comply with the rules laid down for carrying out the acts and steps, the suspension regime shall apply to these procedures.

Extension of the Urgency Procedure

The rules established for urgent procedures, which determine an exception to the general rule of suspension of time limits for procedural acts and steps, are extended to the following:

- proceedings and procedures for the defense of rights, freedoms and guarantees injured or threatened with injury by any unconstitutional or illegal measures;
- urgent service provided under the law of international judicial cooperation in criminal matters, mental health law, law for the protection of children and young people in danger and the legal regime of entry, stay, exit and removal of foreigners from national territory;
- proceedings, procedures, acts and steps that prove necessary to avoid irreparable harm, those relating to minors at risk or to educational tutelary proceedings of an urgent nature and the proceedings and trials of imprisoned defendants.

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