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THE PORTUGUESE NON-HABITUALS RESIDENTS REGIME

LEGAL REQUIREMENTS AND TAX FRAMEWORK



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I. NON-HABITUAL RESIDENTS (NHR) REGIME

The NHR regime is a special taxation regime which provides for a very beneficial tax treatment for the first 10 years of residence in Portugal.

Designed to promote the transfer of residence to Portugal of entrepreneurs, investors and specialized professionals, it places the country as a prime tax solution jurisdiction for individuals in receipt of qualifying foreign source income, including employment income, pensions, dividends and interest income.

PORTUGUESE SOURCED INCOME

Employment and self-employment income:

- A reduced 20% flat rate is applicable in case the income is derived from high value-added activities of scientific, artistic or technical nature performed in Portugal, as listed in the following Ministerial Order - <https://dre.pt/application/file/a/123407983> - which is in applicable from 2020 onwards.
- The list includes, among other professionals: Chief Executive and Executive Directors of Portuguese companies, Directors of Administrative and Commercial services, Directors of Production and specialized services, Doctors, University Professors, IT and Engineering Technicians and Journalists.
- Income not falling under the NHR regime is liable to Personal Income Tax according to the general rules applicable to regular tax residents.
- Currently, in order to benefit from the 20% reduced tax rate, the taxpayer will only have to indicate the appropriate activity code on the Portuguese tax return to be submitted in a given tax year. No prior recognition procedure is needed. However, taxpayers still must be in possession of supporting evidence of the activity performed and corresponding income.

FOREIGN SOURCED INCOME

Employment income:

- Employment income obtained abroad may be exempt from taxation in Portugal, provided that, alternatively:
 - i) it is effectively taxed in the source State according to an applicable Tax Treaty;
 - ii) if no Tax Treaty is applicable, the income is effectively taxed in the country of source and it is not deemed as obtained in Portugal.

Pension income:

- From 2020 onwards, pension income that is not deemed as obtained in Portuguese territory is subject to a reduced tax rate of 10% (other than the previously established tax exemption), under the NHR regime.

FOREIGN SOURCED INCOME

Other income:

- **Investment income - such as dividends, royalties and interest -, capital gains, professional income and rental income** may be exempt from Personal Income Tax in Portugal, provided that certain conditions are met - namely the income may be subject to taxation in the country of source under an applicable Tax Treaty and the corresponding income cannot be considered as obtained in Portuguese territory.

However, this exemption is not applicable to income derived from jurisdictions subject to a more favorable tax regime ("tax havens").

Capital gains deserve careful attention as the Portuguese tax treatment will depend on whether these are originated from the disposal of immovable or movable property. Tax advice should therefore be taken in this regard.

II. QUALIFYING FOR THE NHR STATUS

- To qualify as an NHR, an individual must meet the following criteria:
 - Become a tax resident in Portugal according to its domestic legislation; and
 - Not have been a tax resident in Portuguese territory in the 5 preceding years.
- Documentation such as foreign tax residence certificate(s) may have to be presented to the tax authorities in order to demonstrate that the abovementioned conditions are met.
- An individual is tax resident in Portugal in any given year in which:
 - He stays in Portugal for more than 183 days (continuously or not) during a 12 month period; or
 - He has a residential accommodation available in Portugal in any day of that 12 month period, which is used as the individual's habitual domicile.
- Residency is established as of the first day of permanence in the country.
- The NHR status is not automatic and must be granted by the Portuguese tax authorities, upon request - until March 31st of the year following the one on which the individual becomes a tax resident in Portugal.

III. SUMMARY

- Portuguese NHR individuals such as entrepreneurs, professionals, pensioners or high net worth individuals may take advantage of the NHR regime which enables a very attractive tax regime in a white listed European jurisdiction.
- This, in addition to the non-existence of wealth taxes or of inheritance / donations tax for close relatives in Portugal, makes the NHR regime one of the most attractive in the European Union for individuals.

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