

JULY 18TH, 2022

STATE BUDGET 2022

MAIN CHANGES

PERSONAL INCOME TAX (IRS)

Income obtained in Portuguese territory

Capital gains resulting from the onerous transfer of rights, of any nature, over a fiduciary structure, will now be considered income obtained in Portuguese territory, and expressly qualified as category G income, provided that during the 365 days prior to the transfer, the value of this structure results, directly or indirectly, in more than 50%, of real estate or rights *in rem* over real estate located in Portuguese territory.

Acquisition value of securities acquired by donation

The acquisition value to be considered in case of Stamp Duty exempt gifts of securities is now the value that would serve as the basis for liquidating stamp duty, if this was due, up to two years prior to the gift.

Capital gains and mandatory aggregation

The positive balance between capital gains and losses resulting from the sale of securities must be aggregated whenever these:

- i) result from assets held for less than 365 days; and
- ii) the taxpayer has a taxable income, including the balance of said capital gains and capital losses, equal to or higher than € 75,009.

This rule also applies to the balance between capital gains and losses that are subject to an aggravated rate of 35% (country, territory, or region subject to a clearly more favorable tax regime).

A fiduciary structure is now considered to be domiciled in a country, territory, or region subject to a clearly more favorable tax regime when the trustee has its head office or effective management there or, if the trustee is an individual, is considered resident there for tax purposes.

General Rates

The limits of the brackets of the IRS general rates table have been adjusted, and the respective rates have also been altered, as shown below.

Taxable income (€)	Rates (%)	
	Normal (A)	Average (B)
	Up to 7.116	14,50
Over 7.116 up to 10.736	23,00	17,366
Over 10.736 up to 15.216	26,50	20,055
Over 15.216 up to 19.696	28,50	21,976
Over 19.696 up to 25.076	35,00	24,770
Over 25.076 up to 36.757	37,00	28,657
Over 36.757 up to 48.033	43,50	32,141
Over 48.033 up to 75.009	45,00	36,766
Over 75.009	48,00	-

Tax regime applicable to former residents

The tax regime applicable to former residents will now apply to taxpayers who have become or will become tax resident in Portugal in the years 2021, 2022 or 2023.

In order to benefit from this regime, these taxpayers must have been considered resident in Portuguese territory before December 31, 2017, 2018 and 2019, respectively.

To apply the regime, taxpayers may not have been considered residents in Portuguese territory in any of the three previous years and must have their tax situation in order.

Youth IRS

The tax regime applicable to income earned by young workers between the ages of 18 and 26 was updated.

The new exemption rules apply to taxpayers whose first year of income after completing a cycle of study is 2022 or later. Taxpayers who have already opted for the regime in 2020 and 2021 may benefit from the new rules, with the necessary adaptations, for the remaining period.

Simplified Regime - Category B - Expenses

It is no longer possible to claim the value and deductions made available by the AT.

Holders of category B income, under the simplified regime, can still declare the value of expenses and charges incurred, which replace those reported by the Tax Authority, but do not release them from the obligation to provide proof of the amounts declared.

The same applies to the value of the deductions to be made.

CORPORATE INCOME TAX (IRC)

Non-deductible expenses

The costs incurred with documents issued by taxpayers who have not submitted their declaration of commencement of activity will not be deductible.

Patent Box Regime

The deduction of income from contracts for the assignment or temporary use of industrial property rights will now be 85% (currently 50%).

Special Payments on Account (PEC)

There is no longer any obligation to make special payments on account.

Autonomous taxation rates

In 2022, the aggravated autonomous taxation rate (plus 10%) is no longer applied when:

1. The taxpayer has obtained taxable profit in one of the previous three tax periods and has complied with the tax return obligations regarding the submission of the *Modelo 22* and IES for the two previous tax periods; or
2. It is the tax period of beginning of activity or one of the two following periods.

These rules apply to cooperatives and micro, small and medium sized companies.

TAX BENEFITS

IMT - Rehabilitated urban buildings

The IMT exemption in the first transmission, after the rehabilitation intervention, to be used for rental for permanent housing or, when located in an area of urban rehabilitation, for own and permanent housing, becomes ineffective in situations where

- The real estate is given a different destination from the one on which the benefit was based, within six months from the date of the transfer; or
- The real estate is not assigned to one's own permanent residence within six months as of the date of transfer; or
- The properties are not subject to a rental contract for permanent residence within one year from the date of transfer.

In case the exemption becomes ineffective, the taxpayer must request to the Tax Authority the liquidation of the respective tax, within 30 days, through an official model return.

IMI Exemption - Own Permanent Habitation - Urban Residential Buildings built, enlarged, improved or acquired onerously

Urban residential buildings that have been built, enlarged, improved, or purchased onerously, and intended for permanent dwelling purposes, are exempt from IMI for a period of three years when the taxpayer or his family has not had a total gross income of more than €153,300 in the previous year.

Investment Support Tax Regime (RFAI)

The contractual benefits and the RFAI are extended until December 31, 2027, following the update of the new regional aid map, which is applicable by reference to January 1, 2022.

VAT - Gratuitous Transmissions of Goods and Services

The transfer of goods and services provision by beneficiaries to whom donations covered by the EBF were granted are no longer subject to VAT when the value of the transfer does not exceed 25% of the total amount of the donation received.

Madeira Free Trade Zone

The regime applicable to entities licensed in the Madeira Free Trade Zone will now apply to entities registered until December 31, 2023.

VALUE ADDED TAX (IVA)

Change of deadlines

The deadlines for filing the periodic VAT return and paying the tax have been changed to, respectively, the 20th and 25th of the second month following the month to which the operations refer to (taxpayers under the normal monthly regime).

In relation to taxpayers subject to the quarterly normal regime, these deadlines are now, respectively, the 20th and 25th of the 2nd month following the quarter of the calendar year to which the operations refer to.

Individuals or companies who unduly mention VAT on an invoice, as well as those who perform a single taxable operation of a value equal to or greater than €650.000, will now have to pay the corresponding tax at the legally authorized collection points within 20 days from the issue of the invoice and until the end of the month following the month in which the operation was concluded.

STAMP DUTY (IS)

Exemptions

The exemption for loans exclusively to cover cash flow shortages and cash pooling loans

does not apply when any of the parties involved does not have their head office or effective management in Portugal, with the exception of situations where the creditor or debtor has its head office or effective management in another member state of the European Union or in a state with which a double taxation treaty with Portugal is in force, in which case the right to the exemption remains, unless the creditor has previously made such financing through transactions carried out with credit institutions or financial companies based abroad or with foreign subsidiaries or branches of credit institutions or financial companies based in Portugal.

Consumer Credit

The increase of 50% in the Stamp Duty rates on consumer credit is maintained. Additionally, the rates are increased to (i) 0,2115% in the case of credit with a term of less than one year, for each month or fraction thereof (currently 0,141%); (ii) 2,64% in the case of credit with a term of one year or more, as well as in the case of credit with a term of five years or more (currently 1,76% for both cases). In the case of open-end credit, the rate applicable on the average monthly debt will rise to 0,2115% (currently 0,141%).

PATRIMONY

Municipal Tax on Real Estate Transfers (IMT)

Objective Incidence

IMT is now specifically foreseen for

- The disposal of the right to moiety;
- The shareholders' contributions with real estate for the performance of supplementary payments;
- The adjudication of real estate to the shareholders in the reduction of capital and in the reimbursement of supplementary payments or other forms of fulfillment of obligations;
- The adjudication of real estate to the participants of privately subscribed closed-end investment funds as a result of the redemption of the participation units and the capital reduction of these funds.

In acts of division or partition, as well as in the alienation of the inheritance or hereditary

portion or in the right to the moiety of real estate, whenever the excess of the share results from an act of partition due to the dissolution of the marriage which was not signed under the regime of separation of property, the excess that belongs to the ex-spouse in the real estate is exempt from IMT.

Municipal Property Tax (IMI)

Buildings used for agricultural production

Buildings and constructions directly used for livestock production located on rural properties are not subject to cadastral valuation.

AMENDMENT TO THE INVESTMENT TAX CODE

Fiscal Incentive to Recovery (IFR)

A new recovery tax incentive scheme has been introduced.

The IFR is available to corporate taxpayers whose main activity is commercial, industrial or agricultural and who meet all of the following conditions:

- a) They have regularly organized accounting;
- b) Their taxable income is not determined by indirect methods;
- c) Their tax situation is regularized;
- d) They do not terminate employment contracts for three years, counted from the first day of the seventh month of the tax period in which the eligible investment expenses are incurred, under the modalities of collective dismissal or redundancy;
- e) Do not distribute profits for three years from the first day of the seventh month of the tax period in which the eligible investment expenditure is incurred.

IFR is a tax credit created for investment expenses in assets allocated to exploration¹ which are made between July 1st and December 31st 2022, which allows the deduction to the income tax collection up to the limit of eligible investment expenses of €5.000.000, per

¹ Investment expenses in assets allocated to operation are those related to tangible fixed assets and biological assets that are not consumable, acquired new and which start being used by the end of the tax period beginning on or after January 1, 2022.

taxpayer, being the deduction made under the following terms:

- **10% of the eligible expenses** incurred in the tax period up to the amount corresponding to the simple arithmetic average of the eligible investment expenses of the three previous tax periods;
- **25% of the eligible expenses** made during the tax period in the part exceeding the limit foreseen in the previous sub-paragraph.

Taxpayers starting activity on or after 1 January 2021 may only apply a 10% deduction to eligible expenses. This deduction is made in the corporate income tax assessment for the tax period starting in 2022 and is limited to 70% of the corporate income tax amount.

Under the Special Regime for Taxation of Groups of Companies, the deduction is made from the Group's taxable income, with the limit that would apply by reference to the taxable income determined in the individual tax return of the company that made the investments. In case of insufficient tax amount, the benefit may be deducted, in these terms, in the following five years.

IFR may not be combined, regarding the same eligible investment expenses, with any other tax benefits of the same nature.

AMENDMENT TO THE CODE OF TAX PROCEDURE AND PROCESS (CPPT)

Limits on the seizure of allowances, wages or salaries

Limits have been set on the seizure of income within the scope of the activities set forth in the Table of the Portuguese Classification of Economic Activities by Branches of Activity:

- The pledgeability of the net portion of total income was limited to two-thirds;
- The net portion of income was fixed by applying a coefficient of 0,75 to the amount paid or made available to the garnishee, excluding liquidated VAT;
- The seizure maximum limit was set at a monthly amount equivalent to three national minimum wages and the minimum limit, when the debtor has no other income, at an amount equivalent to one minimum wage;

- It was determined that the maximum and minimum limits must be assessed monthly, for each month, and by the entity that must pay them;
- The communication on the total amount to be paid, the amount which may not be seized and the amount to be seized must be made by the entity paying the income to the enforcement body;
- Within two working days after such communication, the enforcement body shall confirm or establish the amount to be seized and communicate it to the paying agent;
- Should the paying agency fail to do so, it must be considered an unfaithful depository of the amounts that should have been seized and/or delivered and were not.

AMENDMENT TO THE GENERAL TAX LAW (LGT)

Deferral of time limits for the practice of acts by the taxpayer

Deadlines for presenting written defense and requesting the reduction and advance payment of fines in administrative infraction will be deferred to the first working day of September.

PARES | Lawyers is available to provide information on this and other subjects in a more concrete and adequate manner to each client's reality; being able to provide all the necessary support in this matter.

Marta Gaudêncio
msg@paresadvogados.com

Maria Norton dos Reis
mnr@paresadvogados.com

Lourenço Gouveia Fernandes
lngf@paresadvogados.com

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