



Portugal as a relocation jurisdiction – Still Europe’s best kept secret

**KEY QUESTIONS AND ANSWERS FOR ANY POTENTIAL
NEW PORTUGUESE RESIDENT**

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Why is Portugal still "Europe's Best Kept Secret"?

Portugal is a privileged jurisdiction for multinational companies, entrepreneurs, professionals, and families. The Portuguese high potential includes:

- a) Investments in the European Union, in the Portuguese Speaking Countries and other developing areas;
- b) Nearshoring and other high value services;
- c) Relocation for entrepreneurs and families.

Apart from an excellent network of international treaties, a friendly continental European law background and a welcoming tax package, Portugal also offers the most relevant: an excellent lifestyle in a safe and vibrant multicultural environment.

That being the reason why professionals, entrepreneurs, digital nomads, family businesses and MNCs still consider Portugal as a preferred location in Europe, notably for residence, venture capital, innovation and as a hub for the European Union, Africa and the South Atlantic area.

In fact, Portugal still offers an extremely favorable investment climate, continuing its clear strategy of remaining a hotspot location for services, R&D and digital disruption, premium tourism and real estate investment.

OK, legal wise, what are Portugal's main characteristics?

Portugal is part of the European Union, the Euro Zone and the Schengen area. Its legal and tax regime for individuals and companies is very attractive, surpassing by far other comparable regimes.

The country enjoys an outstanding quality of life in a safe multicultural environment, with a stable political system and easily available highly skilled and English fluent professionals.

Furthermore, Portugal offers a very low and competitive effective tax burden, either for individuals (non-habitual resident regime) and corporations (e.g. holding and IP companies, investment funds, Madeira International Business Center), a number of extremely relevant tax incentives and grants and an effective network of double tax treaties other very relevant international agreements (such as investment protection and social security).

Also, due to its traditional liberalism and multicultural approach, Portugal offers a very pragmatic residence by investment program, granting access to Schengen and possibly to citizenship, and is a very effective hub to Portuguese Speaking Countries and the economic integration regions of which such countries are members (such as SADC). Thus non-European Union individuals and their families can access an effective residence by investment program (the so-called Golden Visa regime), combining the same with a favorable tax regime.

I am considering a relocation. Is Portugal a tax effective option?

Of course. Due to the so called non-habitual resident regime, Portugal is a European Union whitelisted friendly tax environment.

In fact, Portugal has a long established optional Personal Income Tax (PIT) regime for the so-called non-habitual residents, offering very special PIT incentives, thus attracting to Portugal talent in high value-added activities, as well as entrepreneurs, independent professionals, owners of family businesses, pensioners as well as the Ultra and High Net Worth Individuals (UHNWIs) and their families.

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All individuals (Portuguese citizens or not, provided they were not Portuguese tax residents in the previous 5 years.) when becoming tax residents in Portugal, can opt for the non-habitual resident regime. In such case, the optional tax regime is granted for a period of 10 consecutive years. This means the new tax resident enjoys the guarantee of being taxed under the regime for such 10 years period, irrespectively of any changes in the tax law.



What are the tax benefits non-habitual tax residents enjoy in Portugal?

To understand the regime, one should consider several blocks of income: salaries and fees; pensions; capital income such as interest and dividends; capital gains such as disposal of equities; and real estate income, either rents or capital gains.

Salaries and fees

Non-habitual residents are subject to a reduced flat PIT rate of 20%, both on salaries and business and professional income of Portuguese source arising from the listed high added value activities. The list of such activities was modified in 2020, and despite residents prior to such date can enjoy both lists, individuals becoming tax residents after the introduction of the second list can only take advantage of reduced tax rates for salaries and fees if the underlying activity falls within the scope of such second list (you can find both lists at the end of this newsletter).

Non-habitual residents are also PIT exempt on any salaries of a non-Portuguese source, provided they are subject to tax in the source country following an existing Double Tax Treaty or, in the absence of a Tax Treaty, if income is effectively subject to tax in the source jurisdiction and is not considered as having a Portuguese source under our domestic rules.

Non-habitual residents’ business and professional income, of a non-Portuguese source, derived from a listed high added value activity of a scientific, artistic or technical nature, or arising from intellectual or industrial property or even from the provision of information regarding to an experience acquired in the industrial, commercial or scientific sector, is also PIT exempt if it could have been taxed in the source country under an existing Double Tax Treaty or could have been taxed in another non-black listed jurisdiction in accordance with the OECD Guidelines (Model Treaty).

Pensions

Pensions paid abroad to non-habitual residents are also PIT exempt, provided they were subject to actual taxation at source. Up to April 1, 2020, all non-Portuguese pensions were exempted. However, other countries started to establish conditions not to tax the pensions at source, notably the pensions being actually taxed at the recipient's country of residency. To avoid this adverse impact, Portugal introduced a low flat tax rate on such pensions. However, non-habitual residents enjoying the benefit prior to that date can opt to retain the exemption or to tax the pensions at such new reduced rate.

In short, to enhance the regime stability and compliance to international standards, the Budget Act for 2020 introduced a new 10% flat tax rate to qualifying pensions not actually taxed at the source country. Although such new taxation is only applicable to new non-habitual residents, those already benefiting from an existing 10 year period may opt for such 10% tax (thus securing non-taxation at source).

Qualifying pensions should not be considered obtained in Portugal and should not derive from contributions allowing for a PIT deduction in herein.

Capital Income

Capital income such as interest and dividends of a non-Portuguese source obtained by non-habitual residents are also PIT exempt, provided such income could have been taxed under an existing Double Tax Treaty or could have been taxed in another non-black listed jurisdiction in accordance with the OECD Guidelines (Model Treaty).

Capital gains

Capital gains arising from non-real estate such as shares and other equity instruments are also PIT exempt, provided such income could have been taxed under an existing Double Tax Treaty or could have been taxed in another non-black listed jurisdiction in accordance with the OECD Guidelines (Model Treaty). Since usually such income would be exempted at the source country, special structuring may be required to maximize the tax benefits. In fact, non-taxation at source would lead to taxation in Portugal, this being the reason why prior to take upon residence in Portugal, some precaution measures could be advisable.

Real estate

Contrary to capital gains on equities, income related to real estate located outside of Portugal is usually always taxed at source. Accordingly, real estate related income, such as rents and capital gains, are also PIT exempt in Portugal if it could have been taxed in the source country under an existing Double Tax Treaty or in its absence if it could have been taxed in another non-black listed jurisdiction in accordance with the OECD Guidelines (Model Treaty)

Sounds fine but what about wealth taxation?

That is another major reason why Portugal is Europe's best kept secret for relocation purposes. There is no wealth tax in Portugal (apart from minor annual taxes on real estate located in Portugal and vehicles licensed in Portugal) and all gifts and inheritances to spouses, descendants and ascendants, irrespectively of its amount, are tax exempted.

Furthermore, any other gifts and inheritances (of Portuguese assets) are subject to tax at a reduced flat rate of 10%. The "Portuguese assets" condition is very relevant as any assets (e.g. real estate) or rights (e.g. loans and shares) deemed not to be placed in Portugal (e.g. asset location or debtor or issuer residence outside Portugal) fall outside the gift and inheritance tax. Thus, hardly the wealth will be subject to such taxation as with proper planning the same will fall outside the tax scope (or will be exempted).

In short, the non-habitual resident regime allows professionals, families, pensioners and UHNWI's to accrue their income and wealth in a white-listed friendly tax environment (meaning with no tax or very low tax leakage). And due to the main rules of the Portuguese general system they are also able to enjoy, sell, dispose and/or receive the family assets benefiting from generous tax exemptions or exclusions (namely income, wealth and inheritance or gift taxes).



I am a non-European Union citizen. Will it be difficult for me to obtain a residence permit?

That is also another fundamental reason to the Portuguese success as a relocation jurisdiction. If required, Portugal also offers a state-of-the-art residence by investment program. And both regimes (non-habitual resident and residence by investment, or golden visa) are fully optional, but can be combined together.

As an example: you are a European Union citizen willing to take residence in Portugal - you don't need to apply for the golden visa, as you don't need any prior authorization to live in Portugal. Another example: you are a non-European Union citizen willing to have a residence permit, namely, to freely travel around all Schengen area, but you do not want to take residence in Portugal – you don't need to register as a tax resident and thus you do not need to apply for the non-habitual resident regime (not jeopardizing your 10-year concession that will remain available for a future full relocation option). And, of course, if you want to live in Portugal you can follow the golden visa program and register as a tax resident in Portugal, opting for the non-habitual resident regime.

In practice, how does your residence by investment program, also known as golden visa, works?

Under the Portuguese residence by investment program, or Golden Visa, non-EU citizens can obtain a temporary residence permit for a total period of 5 years.

The permit requires a minimum permanence period in Portugal of just 7 days during the first year and 14 days in any two of the subsequent years.

A qualifying investment is also required (e.g. real estate acquisition, financial investments, transfer of funds or job creation). The same is freely done by the investor (contrarily to other

jurisdictions there is not a list of – potentially doubtful – pre-approved investments) and the minimum investment amount can be reduced by 20% whenever investments are located in defined low-density areas.

What are the qualifying investments?

Currently there are no pre-approved investments and no limitations whatsoever, and thus the investor is totally free to choose the actual investment to perform, and it includes a very broad range of assets.

Yet, the qualifying investments will be restricted from 1 January 2022 onwards. The 2020 State Budget contained a legislative authorization to review the Golden Visa regime, limiting it by restricting the eligible real estate investment to the countryside and to the autonomous regions of Madeira and the Azores, and to increase the threshold for eligible financial investments and transfer of funds as well as the number of new jobs to be created. These changes were approved in February 2021, taking effect as of January 2022.

Real Estate

Acquisition of real estate with a value of at least EUR 500,000, or EUR 350,000 for properties with more than 30 years or located in areas for urban regeneration.

As of 1 January 2022, eligible real estate has to be located in the countryside or in Madeira or Azores, thus excluding the metropolitan areas of Lisbon and Porto (except Arouca) and several municipalities of Algarve (including Albufeira, Faro, Lagoa, Lagos, Loulé, Olhão, Portimão, São Brás de Alportel, Silves, Tavira and Vila Real de Santo António).

As a result, to benefit from real estate investments in such areas the application needs to be filed during the current year. Of course, the financial investments remain available and as a

result indirect investments (through a corporate vehicle) in the new excluded locations shall remain available.

Transfer of funds

The investor should perform investment leading to the transfer of at least:

- EUR 1,000,000 (EUR 1,500,000 as of 1 January 2022);
- EUR 350,000 (EUR 500,000 as of 1 January 2022) if the funds relate to:
 - Research activities by scientific institutions (either public or private) that are members of the national scientific and technological system;
 - Acquisition of units of investment funds or venture capital funds aiming at the capitalization of Portuguese companies (at least 60%), provided the maturity is not lower than five years counting from the investment;
- EUR 250,000 if the funds are allocated to:
 - Qualifying artistic activities (production, recovery or maintenance of national cultural heritage) through predefined institutions.

Creation of new jobs

In case of investments leading to job creation (10 new jobs) there will be no minimum threshold, as the requirements will then be linked to the number of jobs created with the investment.

Under this option the minimum levels of job creation are as follows:

- 10 new jobs; or
- 5 new jobs for a minimum period of three years, together with a minimum investment of EUR 350,000 (EUR 500,000 as of January 2022) in the incorporation of a new Portuguese company or in the increase of the share capital of an already existing Portuguese company.

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In a nutshell what are the golden visa benefits?

The golden visa regime allows the investor to enter in Portugal and to freely travel in the Schengen area, to live and to work in Portugal, to request for family reunification (spouse, minors, descendants above 18 years-old who are still studying and financially dependent on the investor and parents who are financially dependent on them).

Can I obtain a Portuguese passport?

If some other requirements are met, after 5 years of residence, the investor can also apply for a permanent residence permit.

In this case the investor, as an European citizen will have access to all European Union fundamental freedoms (e.g. working and services, establishment and investment).

Just to make it clear, can a golden visa investor secure the non-habitual resident tax incentives?

As explained above the golden visa program does not require the investor to become a Portuguese resident.

Nevertheless, it is obviously possible to become a tax resident and to apply for the non-habitual resident regime, securing several very relevant personal income tax benefits (while benefiting from the international treaties and the absence of wealth, inheritance and gift tax leakage).

Sounds fine up to now. Is it complex to access the non-habitual resident regime and/or the golden visa?

Not at all. The non-habitual resident regime depends on a single option from the new resident taxpayer. So only the residence authorization, if required, may take more time. But the golden visa consists in a "red tape" aiming at shorting up the bureaucratic delays.

As such, the main steps consist in structuring the wealth, activities and related income prior to taking up the residence (solely for immigration purposes or also for tax purposes) so to

maximize the benefits the Portuguese regime has to offer. And of course, to enjoy the extraordinary and huge non-legal and non-tax benefits available in Portugal.

Entering and staying is OK, but is there a tax trap in remaining in Portugal after the 10-year period or exiting Portugal before such period elapses?

Tax issues are, of course, complex but as clarified above, the option is fully valid and secured for a 10-year period. This means the new resident knows the applicable tax rules and can securely and successfully prepare in advance the exit or the residence after the 10 years as non-habitual resident.

Each case is unique due to its particular facts and circumstances. However, provided potential capital gains on financial assets were properly dealt with, as explained above, the exit should not be an issue as any other gains should be excluded from taxation.

If you will want to retain your residence in Portugal after the 10-year concessional period, then all you have to do is to structure your operations, income and wealth to be in a favorable tax position. And you had 10 years to do so. As a result, it is very likely you will still face a reasonable number of years without taxation.

Although Portugal seems OK, I will prefer paying higher taxes but keep my wealth at a triple A financial jurisdiction!

No doubt you are right. But contrary to other similar regimes, you are free to keep all your funds and assets abroad or to remit them to Portugal without any adverse tax consequence.

Let's take an example: your non-Portuguese source dividends will be PIT exempt irrespectively if you keep the funds abroad or if you remit them to a Portuguese bank account. So, your funds

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are more than welcome by our financial system, but if you prefer to keep them in another jurisdiction (say Germany, Singapore, Switzerland, UK, USA) that will be fine as well.

And even the funds required for the golden visa investment can be structured as direct real estate investment, equity investment, deposits, or loans. Thus, giving you total flexibility and peace of mind.



All sounds fine, but is it secure on the long run?

That's another fantastic aspect. We know nothing is certain but death and taxes, and we also know Governments will not keep their word and will eventually raise taxes. But as the tax framework of the non-habitual resident status is accorded for ten years it follows that your tax position and tax rules (income wise) are defined for ten years. In a certain way one can say it is the safest regime in the world.

Of course, all the remaining tax aspects remain unknown. So, there is not much one could do. Except one thing: to obtain the maximum flexibility available to structure operations, income and wealth the best way possible to the ever changing and increasingly demanding tax environment.

And what best place than Portugal, with the virtual non-taxation of income, wealth, gifts, or inheritances? You could hardly expect more flexibility to adjust yours, your family and your business structure to the new challenges.

Does it mean I can tailor the special migration and tax programs and the general tax rules to my particular circumstances?

Precisely. As a summary you can combine the non-habitual resident regime with generous personal income tax exemptions, the practical absence of wealth or inheritance taxes, the free remittance of funds, the friendly residence permit regime (including a special residence permit by investment program known as Golden Visa) allowing for free movement within the Schengen area, combined with the possibility to apply for Portuguese nationality and, consequently, an EU passport. All this justifies why Portugal is a very attractive location, for families, entrepreneurs, ultra and high net worth individuals, professionals and business nomads. In short: Europe's best kept secret (still).

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Actually, the Portuguese tax system offers efficient opportunities for wealth accumulation and disposal, including by gift or inheritance, as well as efficient options for business and rental income, capital gains, dividends, interest and pensions, including exempt income under the non-habitual resident regime and reduced or deferred taxation.

Thus, the wealthy individuals, their families and also the international professionals, whether European nationals or not, should consider Portugal for income and wealth structuring and its successful transmission to the next generation as well as to work and perform their business and investment activities.

However, the real secret lies on the friendly, safe and multicultural environment, allowing for an outstanding quality of life.



Appendix I

List of High Value-Added Activities	
New List As of 1 January 2020 (Ministerial Order nr. 230/2019, of 23 July)	Old List From 1 January 2010 until 31 December 2019 (Ministerial Order nr. 12/2010, of 7 January)
<p>I - Professional activities (PCP codes):</p> <p>112 - General director and executive manager of a company;</p> <p>12 - Directors of administrative and commercial services;</p> <p>13 - Directors of production and specialized services;</p> <p>14 - Directors of hotel, restaurant, commercial and other services;</p> <p>21 - Specialists working in physical sciences, mathematics, engineering and similar technical fields;</p> <p>221 - Physicians;</p> <p>2261 - Dentists and stomatologists;</p> <p>231 - Teachers at universities and higher learning establishments;</p> <p>25 - Specialists in information and communication technologies (ICT);</p> <p>264 - Authors, journalists and linguists;</p> <p>265 - Creative artists and performing artists;</p> <p>31 - Intermediate level science and engineering technicians and professionals;</p> <p>35 - Information and communication technologies technicians;</p> <p>61 - Market oriented farmers and qualified agricultural and livestock workers;</p> <p>62 - Market oriented qualified forestry, fisheries and hunting workers;</p> <p>7 - Qualified industrial, construction workers and craftsmen, including qualified workers in the fields of metallurgy,</p>	<p>1 - Architects, engineers and similar technicians: 101 – Architects 102 – Engineers 103 – Geologists</p> <p>2 - Visual artists, actors and musicians: 201 – Theater, ballet, film, radio and television Artists 202 – Singers 203 – Sculptors 204 – Musicians 205 – Painters</p> <p>3 – Auditors: 301 – Auditors 302 – Tax Consultants</p> <p>4 - Doctors and dentists: 401 – Dentists 402 – Analyst Doctors 403 – Surgeons 404 – Board doctors in ships 405 – General Practitioners 406 – Dentists 407 – Dentist Doctors 408 – Psychiatrists 409 – Gastroenterologists 410 – Ophthalmologists 411 – Orthopedists 412 – Otorhinolaryngologists 413 – Paediatricians 404 – Radiologists 405 – Doctors in other specialties</p> <p>5 - Teachers: 501 – University professors</p> <p>6 - Psychologists: 601 – Psychologists</p> <p>7 - Professional services, technicians and similar: 701 – Archaeologists 702 – Biologists and experts in life sciences 703 – Computer Programmers</p>

<p>metalworking, food processing, wood manufacturing, clothing production, handicrafts, printing, manufacture of precision instruments, jewellers, artisans, electricity and electronics workers; 8 - Operators of installations and machines and assembly workers, namely fixed installations and machine operators.</p> <p>The workers included in the aforementioned professional activities shall possess at least a level 4 qualification on the European Qualifications Framework or a level 35 on the International Standard Classification of Education, or they must have five years of duly proven professional experience.</p> <p>II - Other professional activities:</p> <p>Administrators and managers of companies that promote production investment, provided they are allocated to eligible projects and have contracts granting tax benefits signed in accordance with the Investment Tax Code approved under Decree-Law no. 162/2014 of 31 October.</p>	<p>704 – Software consultancy and activities related to information technology and information technology 705 – Computer programming activities 706 – Computer consultancy activities 707 – Management and operation of computer equipment 708 – Activities of information services 709 – Activities of data processing, hosting information and related activities/Web portals 710 – Activities of data processing, hosting information and related activities 711 – Other information service activities 712 – Activities of news agencies 713 – Other information service activities 714 – Scientific research and development 715 – Research and development of science physical and natural 716 – Research and development in biotechnology 717 – Designers</p> <p>8 - Investors, administrators and managers: 801 – Investors, administrators and managers of companies promoting productive investment, if allocated to eligible projects under tax benefits contracts awarded under the Tax Code for Investment, approved by Decree-Law nr. 249/2009, of 23 September 802 – Senior employees of companies</p>
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