

Pérez-Llorca

Portuguese tax guide for new tax residents

Private clients

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Introduction

In recent years, Portugal has solidified its reputation as a highly ranked jurisdiction for foreign individuals, in particular high-net-worth individuals (“**HNWI**”).

In addition to the high-quality lifestyle, the favourable climate, the safety of the country and the existing visa / residence permit solutions, Portugal has also been offering attractive tax incentives to individuals.

The tax appeal has lied essentially in the favourable tax regime applicable to new Portuguese tax residents, called non-habitual tax residents tax regime (“**NHR**”), which terminated in 2023 (with a transitory regime for 2024).

Despite of the end of the NHR in 2023, a new special tax regime – so-called, Tax Incentive for Scientific Research and Innovation (“**IFICI**”), also know as NHR 2.0 – has been introduced. This new regime establishes an attractive tax framework – i.e., specific tax benefits – for new tax residents in Portugal who engage in certain qualified activities in Portugal, with the aim of fostering the growth of Portuguese companies and attracting talent to the national economy.

Moreover, the favourable Unit Linked tax regime, the absence of wealth taxes (other than on real estate assets), as well as non-taxation inheritances within direct family members, have further bolster Portugal’s appeal.

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1.

Tax residency in Portugal

Criteria

To become a tax resident in Portugal an individual should meet, namely, one of the following criteria:



Remain in Portuguese territory for more than 183 days (whether or not continuously) during a 12-month period; or



Have a residential dwelling available in Portugal on any day during that 12-month period, which is used as the individual's habitual domicile.



NOTES



- As a rule, an individual is considered to be tax resident since day one of the permanence period in Portugal, *i.e.*, the first day of the year where a tax residence criterion is met (split tax year treatment will be applicable).
- For practical reasons, the Portuguese Tax Authorities (“**PTA**”) usually consider the date on which the individual registers himself as Portuguese tax resident.



2.

IFICI (NHR 2.0)

New Inpatriate Tax Regime as from 2024

With the end of the NHR tax regime, it was created a **new tax incentive for scientific research and innovation (IFICI or NHR 2.0)**, applicable to **new residents** who:

A Become tax resident in Portugal from 2024 onwards

B Have not been resident in Portugal in the previous five years

C Have not benefited from the NHR regime nor the *Regressar* Program

D Obtain employment or business and professional income from one of the **Qualifying Professions, Activities and Relevant Entities**





TAX BENEFITS

Individuals may benefit, for a period of 10 consecutive years, of the following:

<p>Employment or business and professional income</p>	<p>Reduced flat rate of 20% to taxpayers who obtain income from one of the Qualifying Professions, Activities and Relevant Entities.</p>
<p>Foreign Sourced Income</p>	<p>Full exemption on the following income categories (except if derived from tax haven):</p> <ul style="list-style-type: none"> ○ Category A Employment Income; ○ Category B Business and professional Income (self-employment income); ○ Category E Investment Income (e.g. dividends and interest); ○ Category F Rental Income; ○ Category G Capital gains.

No tax benefits are foreseen for foreign Pension Income (Category H) or Portuguese sourced income other than employment or business and professional deriving from one of the **Qualifying Professions, Activities and Relevant Entities**.

NOTES

- The application of the Tax Benefits in each year depends on the the taxpayer being considered tax resident in Portuguese territory at any time during that year and continue to obtain active income from one of the **Qualifying Professions, Activities and Relevant Entities** with a maximum interim period of 6 months between eligible activities / employment.

— QUALIFYING PROFESSIONS, ACTIVITIES AND RELEVANT ENTITIES

Highly Qualified Professions developed in:



- Companies with relevant investments, either at the commencement of duties by the Individual or within the previous 5 years, that benefit or have benefited from *Regime Fiscal de Apoio ao Investimento (RFAI)*¹; or
- **Industrial and Service Companies**, whose main activity corresponds to a specific CAE code and export at least 50% of their turnover.

LIST OF HIGHLY QUALIFIED PROFESSIONS

- General managers and executive managers of companies; ● ● ●
- Managers of administrative and commercial services;
- Managers of production and specialised services;
- Specialists in the physical sciences, mathematics, engineering and related fields (except architects, urban planners, surveyors and designers);
- Industrial product or equipment designers;
- Doctors;
- Lecturers working in higher education; and
- Information and communication technology (ICT) specialists.

Directors, administrators / managers and general managers in companies with relevant qualifying investments under RFAI are also considered Highly Qualified Professions.

- Taxpayers engaged in **Highly Qualified Professions** must have a minimum of:
 - » level 8 of the European Qualifications Framework or the International Standard Classification of Education (“ISCED”); or,
 - » level 6 of the European Qualifications Framework or ISCED, and have three years of duly proven professional experience.

LIST OF ECONOMIC ACTIVITY CODES (CAE) FOR INDUSTRIAL AND SERVICE COMPANIES THAT EXPORT AT LEAST 50% OF THEIR TURNOVER

- Extractive industries - divisions 05 to 09; ● ● ●
- Manufacturing industries - divisions 10 to 33;
- Information and communication activities - divisions 58 to 63;
- Research and development in the physical and natural sciences - group 721;
- Higher education - subclass 85420; and
- Human health activities - subclasses 86100 to 86904.

¹ RFAI is a tax benefit that allows Portuguese companies to deduct a percentage of the amounts invested in non-current assets from their assessed corporate income tax (“CIT”). The eligible investments include, *inter alia*, (i) acquisition of “new” tangible fixed assets, with certain exceptions (namely, land or construction, acquisition, repair and extension of buildings other than buildings allocated to industry or touristic activities), and (ii) acquisition of intangible assets, consisting of expenses related to technology transfer, namely through the acquisition of patent rights, licenses, know-how, or technical knowledge not protected by patents.

— QUALIFYING PROFESSIONS, ACTIVITIES AND RELEVANT ENTITIES



Other **Qualified Job Positions** and members of the governing bodies **of entities developing economic activities recognized by the AICEP, E.P.E. or IAPMEI** (public investment organizations) as relevant to the national economy

LIST OF QUALIFIED JOB POSITIONS OF ENTITIES DEVELOPING ECONOMIC ACTIVITIES RECOGNIZED BY THE AICEP, E.P.E. OR IAPMEI

- General managers and executive managers of companies;
- Managers of administrative and commercial services;
- Managers of production and specialized services;
- Managers of Hospitality, catering, trade and other services;
- Specialists in the physical sciences, mathematics, engineering and related fields;
- Doctors;
- Lecturers working in higher education; and
- Financing and accounting specialists (except accountants, auditors, statutory auditors, and similar professionals)
- Information and communication technology (ICT) specialists.
- Directors, stage managers, producers and other related managers in film, theatre, television and radio;
- Technicians and intermediate-level professionals in science and engineering.

Directors, administrators / managers and general managers are also considered Qualified Job Positions.

Taxpayers engaged in Qualified Job Positions must have a minimum level 5 of European Qualifications Framework or ISCED.

LIST OF ECONOMIC ACTIVITY CODES (CAE) RECOGNIZED AS RELEVANT TO THE PORTUGUESE ECONOMY:

- Extractive industries - divisions 05 to 09;
- Manufacturing industries - divisions 10 to 33;
- Electricity, gas, steam, hot and cold water, and chilled air (includes production, transport, distribution and sale) - division 35
- Construction - division 42;
- Hospitality, restaurants and similar activities - classes 5511 and 5512;
- Information and communication activities - divisions 58 to 63;
- Financial activities (i.e. Holding companies and licensed fund management) - classes 6420 and 6630;
- Consulting, scientific and technical activities - class 7010 and divisions 71 to 72;
- Administrative and support services - class 8211;
- Education - class 8542; and
- Human health activities - division 86 (except subclasses 86905 and 86906).

2.

— QUALIFYING PROFESSIONS, ACTIVITIES AND RELEVANT ENTITIES



Teaching in higher education and scientific research, integrated into the national system of science and technology,



Qualified jobs and members of the governing bodies of **entities benefiting from contractual tax incentives for productive investment**, in accordance with the Portuguese Investment Tax Code.



Research and development personnel, whose costs are eligible for R&D tax incentives established in the Portuguese Investment Tax Code – **SIFIDE**².



Job positions and members of the governing bodies of entities certified as **startups**.



Jobs or other activities carried out by **tax residents in the autonomous regions of Azores and Madeira**, in the terms to be defined by Regional Decree³.

REGISTRATION PROCEDURE

- **Application to IFICI** - until 15 January of the year following to which the tax residence in Portugal is obtained (except for 2024, extended to 15 March 2025).
 - » Application must be submitted before the competent authority who will verify the eligibility requirements.
- **Communication to the PTA of the taxpayer's application to the IFICI** - until 15 February of each year (for 2024 the deadline is extended until 15 April 2025).
- **PTA provide taxpayers with information about their IFICI application** - until 31 March of each year (except for 2024, extended to 31 April 2025).

² SIFIDE is a tax incentive designed to encourage investment in R&D by allowing companies to deduct a portion of eligible R&D expenses from their corporate income tax. For this activity, research and development personnel means personnel directly involved in R&D activities and with a minimum academic qualification of level 4 of the National Qualifications Framework.

³ Publication of Regional Decree still pending.

Tax regime applicable to former residents

REGRESSAR Program

This program aims to encourage emigrants to return to Portugal through a more favourable tax regime applicable to former Portuguese residents.



TAX BENEFIT





50%

- **50% tax exclusion** will apply to employment and business and professional (freelancer / contractor) income, capped at a maximum of EUR 250,000 per year, during a 5-year period.
- The regular progressive tax rates will be applicable to the remaining taxable income.
- Other foreign sourced income may be subject to taxation in Portugal.

CONDITIONS

● ● ●

To qualify for this special tax regime, the taxpayer must meet all the following requirements:

-  **Become tax resident in Portugal between 2024 and 2026;**
-  **Have not been a tax resident in Portugal in the previous 5 years;**
-  **Have been resident in Portugal prior to the 5-year period; and**
-  **Have their tax situation regularized.**

4.

Unit linked solutions

Insurance contracts linked to investment funds, commonly known as Unit-Linked life insurance policies, are long-term savings products that can also be used as succession planning instruments and are designed as versatile insurance products.

These products allow, *inter alia*, flexibility in the management of portfolios of financial assets (self-management and asset management services) and

in the definition of beneficiaries and insured events (with a clear distinction from the inheritance law).

As a rule, the beneficiaries of the relevant policy (who may be the policyholder, his heirs or even third parties) will be entitled to receive the proceeds of the policy in case a pre-defined event occurs (for example, the death of the insured person or the passing of a specified date).

— MAIN TAX ADVANTAGES



Tax deferral

Full deferral of taxation until redemption, advanced payment or maturity of a life insurance policy. Income deriving from the portfolio of assets underlying the life insurance is not taxed at the level of the policyholder at the time it is generated, but will only be taxed when distributed).



Taxable basis

The positive difference between the amounts paid by the insurer by way of redemption, advance payment or maturity and the respective premiums or amounts invested by the policyholder in the life insurance (allowing the offset of gains and losses throughout the whole term of the insurance).



Favourable tax rates (progressive reduction)

In principle, a final or special rate of 28% is applicable; however, if the payout occurs after more than 5 or 8 years have elapsed from Unit Linked subscription and the amounts invested represent at least 35% of the total contract period, the applicable tax rates will be reduced to 22,4% or 11,2%, respectively.



Stamp Tax exemption

Premiums and commissions related to Unit Linked policies are exempt from Stamp Tax in Portugal; the amounts paid in favor of third parties (beneficiaries) upon the insured event (e.g. death of the insured person) are not subject to Stamp Tax.



No exit tax

Portugal does not impose exit tax whenever a tax resident ceases to be resident in Portugal, even if there are undistributed income arising from the Unit Linked.

Wealth taxes

Taxes on Real Estate & Gratuitous Transfers

As a rule, **Portugal does not impose any kind of wealth tax** except on real estate assets located in Portugal and on gratuitous transfers (in the latter case, in very limited circumstances).

Notwithstanding, individuals are required to disclose the identification number of bank accounts held abroad in their annual tax return.

OWNERSHIP OF REAL ESTATE ASSETS

- The owners, usufructuaries or holders of the surface rights of real estate assets located in Portugal are subject to Municipal Property Tax (“**MPT**”) and, possibly, Additional to Municipal Property Tax (“**AMPT**”)⁴, as of the 31 December of the year concerned.

GRATUITOUS TRANSFERS / INHERITANCE AND DONATIONS

- **General Rule:** gratuitous transfers made to Portuguese individuals are subject to Portuguese Stamp Tax at a rate of 10%, if the transferred assets are deemed as located in Portugal⁵.
- **Exemption:** in case the beneficiaries of the donation or inheritance are the spouses, unmarried partners (*unidos de facto*) descendants or ascendants, such transfers are exempted from the 10% Stamp Tax.
- In any case, if the donation or inheritance consists of real estate located in Portugal, are still a 0.8% Stamp Tax may be imposed, regardless of the exemption above.

⁴ MPT rates vary from 0.3% to 0.45% (urban properties) and 0.8% (rural properties) and AMPT rates vary from 0.7% to 1.5% (for residential properties and plots of land with a value of more than EUR 600.000), both levied annually over the tax registered value of the property.

⁵ The Stamp Tax Code deems to be located in Portugal the following assets: (i) rights over real estate located in Portugal; (ii) movable property registered or subject to registration, license or number plate in Portugal; (iii) credit rights or economic rights with respect to a natural or legal person, if the debtor has its residence, head office, effective centre of management or permanent establishment in Portugal, provided that the acquirer also has its domicile in Portugal; (iv) shares of a corporation that has its head office, place of effective management or permanent establishment in Portugal, provided that the acquirer also has its domicile therein; (v) money amounts deposited in an institution that has its head office, place of effective management or permanent establishment in Portugal; (vi) money amounts not deposited, provided the transferor also has its domicile, head office, place of effective management or permanent establishment in Portugal; and (vii) industrial and intellectual property rights (and related rights) registered or subject to registration in Portugal.

6.

About Pérez-Llorca

A leading firm, unparalleled quality, service and commitment

Pérez-Llorca is a leading Iberian law firm. We provide high-end advice and are driven to deliver exceptional results for our clients.

We draw on the elite capacities of our more than 600 professionals. From our offices in Barcelona, Brussels, Lisbon, London, Madrid, Mexico City, Monterrey, New York and Singapore, we bring the expertise of the entire firm to deliver results that fuel our clients' success.

Our Lisbon office brings together a group of leading lawyers boasting **more than 25 years' experience in the Portuguese market**. Our highly motivated team works towards a common goal: to contribute to the business success of our clients, offering first-class legal services whilst always adhering to ethical and professional codes of practice.

COMPREHENSIVE ADVICE IN PORTUGAL

Our Lisbon office is involved in many of the most complex corporate transactions and disputes in Portugal. Working across all sectors and industries, our lawyers advise clients on securities offerings, complex financing transactions and mergers and acquisitions. Clients rely on our sophisticated, practical advice and innovative solutions for their most challenging business and legal needs. Some of our partners are qualified in Portugal, Brazil and Spain and offer extensive experience and in-depth knowledge of Portuguese-speaking markets.

The firm serves large companies, financial institutions, investment banks, private equity funds, sovereign wealth funds, public entities, individuals and family offices in Portugal and other Portuguese-speaking markets. Our partners are involved and participate at all times in the matters from the different practice areas the firm advises on: **Corporate/M&A, Banking and Finance, Insurance, Energy and Infrastructure, Real Estate, Employment, Private Equity, Tax, Regulatory and Competition.**

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