

Portuguese Tax System

June 2012

Index

1.	Introduction	5
2.	Principal changes to the Portuguese tax system in 2012	6
3.	Income tax	8
	3.1.Corporate income tax (IRC)	8
	3.1.1. Characteristics	8
	3.1.2. Persons liable	8
	3.1.3. Tax base	8
	3.1.4. Income	9
	3.1.5. Expenses	9
	3.1.6. Taxation period	9
	3.1.7. Determination of tax base	10
	3.1.8. Capital depreciation and write-back	11
	3.1.9. Special tax regime for groups of companies(RETGS)	12
	3.1.10. Other special regimes	12
	3.1.11. Rates	13
	3.1.12. Tax assessment	15
	3.2. Personal income tax (IRS)	17
	3.2.1. Characteristics	17
	3.2.2. Persons liable	17
	3.2.3. Determination of tax base	17
	3.2.4. Brackets and rates	18
	3.2.5. Tax regime	19
	3.2.6. Deductions from tax payable	20
	3.2.7. Delivery of return and assessment	20
4.	Taxes on assets	21
	4.1. Municipal property tax (IMI)	21
	4.1.1. Property affected	21
	4.1.2. Persons liable	21

	4.1.3.Asset value for tax purposes	21
	4.1.4. Calculation method	21
	4.1.5 Exemptions	22
	4.1.6.Rates	23
	4.1.7.Assessment	23
	4.2. Municipal tax on transfers of property for valuable consideration (IMT)	23
	4.2.1. Instruments affected and persons liable	24
	4.2.2. Taxable value	24
	4.2.3. Rates	24
	4.2.4. Assessment	25
5.	. Taxes on expenditure	25
	5.1. Value added tax (VAT)	25
	5.1.1. Characteristics	25
	5.1.2. Transactions subject to VAT and persons liable	25
	5.1.3. Taxable value	26
	5.1.4. Rates	26
	5.1.5. Exemptions	27
	5.1.6. Assessment and payment	29
	5.2. VAT rules in relation to intra-Community transactions (RITI)	30
	5.2.1. Persons liable	30
	5.2.2. Taxable transactions	31
	5.2.3. Obligations of tax subjects	31
	5.2.4 Taxable value and rates	32
6	. Special taxes on consumption (IEC)	32
0.	6.1. Tax on alcohol and alcoholic drinks	32
	6.2. Tax on petroleum and energy products	32
	6.3. Tobacco tax(IT)	33
	O.J. IODACCO (AN(II)	33
7.	. Vehicle tax (ISV)	33
_		
8.	. Road fund licence (IUC)	34

9. Stamp duty	35
9.1. Instruments affected	35
9.2. Territorial limits	35
9.3. Exemptions	35
9.3.1. Exempt persons	35
9.3.2. Other exemptions	36
9.4. Rates	36
9.5. Assessment and payment	36
10. Tax benefits	37
10.1. Tax benefits for investment in production	37
10.1.1. Benefits for contractual investment in production units	37
10.1.2. Incentives for internationalisation of Portuguese undertakings	39
10.2. Tax benefits for research and development	40
10.3. Tax benefits for Free Zones	40
10.4. Tax benefits for social purposes – Job creation	42
10.5. Special investment support scheme (RFAI)	43
10.6. Other tax benefits	43
10.6.1. Tax benefits for business restructuring	43
10.6.2. Tax benefits for land and property in business location areas (ALE)	43
10.6.3. Tax benefits for the financial system and capital market	44
10.6.4. Tax benefits for intellectual property	45
Appendices	46
Tax Calendar (IRS, IRC, IMI, IVA)	46
Sources	48

1. Introduction

This booklet is intended to provide an overview of the most relevant aspects of the Portuguese tax system.

It presents the principal characteristics of State and local taxes, direct and indirect, with the major emphasis on those relating to business.

State Taxes comprise Income Tax: corporate income tax (IRC) and personal income tax (IRS) - and Taxes on Expenditure: Value Added Tax (VAT); Special Taxes on Consumption; Special Tax on Alcohol and Alcoholic Drinks (IABA); Tax on Petroleum and Energy Products (ISP); Tobacco Tax (IT); and Motor Vehicle Tax: Vehicle Tax (ISV) and Road fund licence (IUC). IRC and VAT are presented in greater detail in this chapter.

Local Taxes, which provide the Municipal Authorities with revenue, include Taxes on Assets: Municipal Tax on Real Property (IMI), which has replaced local authority rates, and Municipal Tax on Real Estate Transfer (IMT), which has replaced municipal conveyance tax.

The Municipal Authorities are also entitled to the proportion of road fund licence ascribed to them by the law. In certain circumstances they may also impose a Surcharge once a year.

In the chapter on Tax Relief, covering certain regimes designed to mitigate the impact of taxation by the reduction of tax and Customs duty and deductions from certain tax liabilities at the time of payment, the same principle has been adopted as for taxes, presenting those that affect business activities.

Thus, in general terms, we have opted to simplify the information relating to the Tax System and Tax Relief Regimes in Portugal, and therefore recommend that the reader consult the relevant laws and regulations and contact the competent authorities if any further clarification is required.

Finally, this document covers the amendments introduced by the Law of the State Budget for 2012 (Law n° 64-B/2011, of 39 December), and also by Law n° 14-A/2012, of 30 March, and Law n° 20/2012, of 14 May, concerning tax.



2. Principal changes to the Portuguese tax system in 2012

In accordance with the objectives outlined in the Strategic Budget Document published by the Ministry of Finance on 31 August 2011 and in concordance with the measures approved for the tax area of the Memorandum of Understanding with the European Union, the Central European Bank and the International Monetary Fund signed in May 2011, a number of changes to the tax system established by Law 64-B/2011 of 30 December - the State Budget for 2012 and the Rectifying Budget (Law n° 20/2012 of 14 May) - came into force on 01 January 2012. Certain changes were also made to the tax regime in force under Law n° 14-A/2012, of 30 March, under the Autonomous Region of Madeira Economic and Financial Adjustment Programme.

The following should be emphasised:

IRS – Personal Income Tax

- annual incomes exceeding 153,300 euros (top bracket) will now be taxed at 49%, an increase of 2.5%;
- tax subjects in the two highest brackets will no longer be able to deduct health and education costs and property charges from taxable income. In the other brackets the existing limits are reduced, although increases for each child in the family unit are retained;
- a reduction in meal allowances not subject to IRS, so that the proportion exceeding the legal limit by 20% (previously 50%) or 60% (previously 70%) will become employment income provided that the subsidy is paid by way of meal vouchers;
- increase in the withholding tax on capital gains levied on the difference between capital gains and losses, which is increased to 21.5% (additional "solidarity tax").

IRC – Corporate Income Tax

- possibility of adopting a tax year that differs from the calendar year without imposing the condition that it must be maintained for the next 5 years, provided that the tax subject is part of a group of companies in which the parent company adopts a different period from that previously adopted by the tax subject;

- elimination of the reduced 12.5% tax which used to apply to the first 12,500 euros of taxable income, so that there is now a single rate of 25%;
- introduction of a special 30% rate for income from capital paid or made available to non-residents without a fixed establishment in Portuguese territory and resident in tax havens;
- increase in the autonomous tax rate from 20% to 25%, applicable to profits distributed by undertakings liable to corporate income tax to taxpayers having the benefit of total or partial exemption;
- revocation of subjective exemptions;
- restrictions on tax benefits;
- temporary extension of the application base of the State Surtax to the proportion of taxable income exceeding 1.5 million euros and the rate, which is increased to 3% for annual taxable profits between 1.5 million euros and 10 million euros and 5% for annual taxable profits of over 10 million euros;
- the additional payment on account is increased to 2.5% for taxable profits relating to the previous tax period, of between 1.5 million euros and 10 million euros and 4.5% for profits of over 10 million euros;
- under the special tax regime for groups of companies, the controlling company will now be responsible for proving due compliance with the conditions of that special regime;
- non-consumable biological assets are now included under the "capital depreciation" head for depreciating assets.

IMI – Municipal Property Tax

- update of the asset value of fixed assets by a general valuation of urban property to be completed by the end of 2012;
- reduction of municipal property tax exemptions;
- reinforcements of tax benefits granted for properties with reduced asset value owned by low-income tax subjects.
- increase in the rates to be applied by municipal authorities.

IMT – Municipal Tax on Transfers of Property for Valuable Consideration

- for residents of tax havens the rate of IMT, is increased by 2 per cent and is now fixed at 10%, except where the purchaser is a natural person;
- where benefits lapse, the limitation period for IMT recovery begins to run from the date on which the benefits expired;
- the refund scheme for IMT wrongly paid in the last four years is revoked, unless the taxpayer has used the means provided in the Tax Procedure and Process Code (CPPT) within the time limit

IVA - Value Added Tax

- transfer of categories of goods and services between the various rates (e.g. increase from normal rate to intermediate and intermediate to higher);
- reduction of the range of goods subject to the intermediate rate, which is nevertheless maintained for a limited range of goods such as viticultural, agricultural and fishing equipment;.
- essential goods remain subject to tax at the reduced rate;

Intra-Community Transactions

- obligation to send a summarised tax return by the 20th day of the month following that in which the transaction took place for transactions with a limit in excess of 50,000 euros;
- obligation to include any services provided to tax subjects in other Member States, unless they are liable for tax in Portugal, in the summarised statement of intra-Community transactions submitted by tax subjects exempt for reasons of business volume (Art. 53 of the VAT Code).

Special Taxes on Consumption

- creation of a tax on electricity;
- significant increase in the rates of tax on drinks, tobacco, petroleum and heating fuel oil.

EBF - Law of Tax Benefits

- extension of the range of tax benefits not lapsing after the 5-year period provided in the EBF, such as those granted to SGPS - Share Management Companies (exemption from capital gains tax); reorganisation of companies resulting from concentration or cooperation agreements (exemption from IMT and legal fees and charges) and those granted to Cooperatives;

- exemption from personal and corporate income tax on capital gains realised by natural persons and non-resident undertakings with no fixed establishment in Portugal, resident in countries with which there is no existing Convention for the Avoidance of Double Taxation or agreement for the exchange of information on tax matters, provided that the country in question is not a "tax haven";
- exemption from IMT and IMI on acquisitions and holdings in designated business areas, acquired or agreed by 31 December 2012;
- revocation of tax benefits for relocation to inland areas;
- revocation of all the provisions relating to the tax regime for "non-habitual resident" investors provided in the Investment Tax Code;
- revocation of the Personal and Corporate Income Tax regimes for shareholders of undertakings licensed to operate in the Madeira and Azores Free Zones, applicable to dividends and interest;
- extension of the Special Investment Support Scheme [RFAI] until 31 December 2012;
- maintenance of tax benefits for research and development [SIFIDE II].

Legislative Permissions

- the Government may create deductions under the IRS, IMI or IUC rules of up to 5% of VAT payable and actually paid by tax subjects on acquisitions of goods and services, subject to a maximum limit.

3. Income tax

3.1. Corporate income tax (IRC)

The Corporate Income Tax (IRC) Code entered into force on 01 January 1989 and was approved by Decree-Law n° 442-B/88, of 30 November. This law has been subjected to multiple amendments since it was first published. Decree-Law n° 159/2009, of 13 July, adapted the IRC Code to the international accounting rules adopted by the European Union and the Accounting Standardisation System (SNC), approved by Decree-Law n° 158/2009, of 13 July.

3.1.1. Characteristics

IRC:

- Is **charged** on an undertaking's income and **not on its** assets;
- Is **direct** because it is charged on the basis of a direct statement of capacity to pay;
- Is **periodic**, because as a rule tax is payable annually, for successive tax periods, which may or may not coincide with the calendar year;
- It is **proportional**, because the rate is constant, irrespective of the value of the taxable income;
- It is **State-imposed**, because the State is the proactive party in the tax relationship and the autonomous regions are the creditor authorities in respect of tax generated in their regions;
- It is **real**, because it is charged on the income of corporate undertakings, without regard to their personal situation;
- It is **principal**, because it is autonomous at legislative level and at that of specific tax relations;
- It is **general**, because it affects all income obtained.

3.1.2. Persons liable

The following are liable to pay IRC:

- a) Corporate undertakings with registered offices or places of effective management on Portuguese soil:
- Commercial companies;

- Commercial civil-law partnerships;
- Cooperatives;
- Public or private corporations.
- b) Undertakings with no legal personality, having their registered offices or places of effective management on Portuguese soil (considered resident for tax purposes), whose income is not subject to IRS or IRC in the case of noncommercial civil-law partnerships, professional associations, simple asset management companies, ACEs Agrupamentos Complementares de Empresas ["complementary business groupings"] and investment funds.
- c) Undertakings with or without legal personality, which have no registered offices or places of effective management on Portuguese soil (considered non-resident for tax purposes), whose income within the territory of Portugal is not subject to IRS.

3.1.3. Tax base

The following income is subject to IRC:

Resident undertakings:

- a) Profits realised by commercial companies or commercial civil-law partnerships, cooperatives and nationalised corporations and those of any other corporate undertakings whose principal business is a commercial, industrial or agricultural activity;
- b) Income in the various categories taken into account for the purposes of IRS and also any increases in assets obtained for no valuable consideration, obtained by undertakings whose principal business is not a commercial, industrial or agricultural activity.

Non-resident undertakings:

- a) Profits attributable to a permanent establishment¹ situated on Portuguese soil (branch offices);
- b) Total income, meaning the arithmetical total of their income in the various categories taken into account for the

¹ A fixed installation where it carries on a commercial, industrial or agricultural activity, particularly a head office, branch office, local office, factory, workshop, mine, oil or gas well, quarry or any place of extraction of natural resources, or a construction, installation or assembly yard or site where the duration thereof exceeds 6 months.

purposes of IRS and also any increases in assets obtained for no valuable consideration, of undertakings not having a permanent establishment or, if they have one, not attributable to it.

Residents are taxed on the whole of their income, including any obtained outside the territory of Portugal. Non-residents are only taxed on income obtained within Portuguese territory.

3.1.4. Income

Income is defined in a wide sense in the Law, and is therefore considered to include income from operations of any kind and not only that derived from the taxpayer's normal activity.

For example:

- a) Sales or supplies of services, discounts, bonuses and abatements, commission and brokerage;
- b) Income from real property;
- c) Financial income such as interest, dividends, discounts, agios, transfers, exchange-rate differences, premiums on bond issues and any income derived from the application of the actual interest method to financial instruments valued at depreciated cost;
- d) Income from industrial property or similar assets;
- e) Supplies of scientific or technical services;
- f) Income derived from the application of a "fair value" to financial instruments;
- g) Income derived from the application of a "fair value" to consumable biological assets other than long-term forestry plantations;
- h) Capital gains;
- i) Compensation received for any reason;
- j) Operating subsidies.

3.1.5. Expenses

In this case also the term is defined in the law. "Expenses" are considered to be those costs proved indispensable to the earning of taxable income or the maintenance of the source of production, including in particular:

a) Those relating to the production or acquisition of any goods

- or services, such as materials used, labour, energy and other general costs of production, maintenance and repairs;
- b) Those relating to distribution and sales, including transport, advertising and placement of merchandise and products;
- c) Those of a financial nature, such as interest on capital obtained from elsewhere and used in exploitation, discount, agios, transfers, exchange-rate differences, loan transaction costs, debt recovery and the issue of bonds and other securities, repayment premiums and those relating from the application of the actual interest method to financial instruments valued at depreciated cost;
- d) Those of an administrative nature, such as remuneration, including any allocated under profit-sharing schemes, assistance with costs, day-to-day consumables, transport and communications, rent, litigation, insurance, including life assurance and transactions in the life assurance class, contributions to retirement savings funds, pension funds and any additional social security schemes, and costs of redundancy payments and other post-employment or long-term benefits for employees;
- e) Those relating to analyses, rationalisation, research and consultations;
- f) Those of a fiscal and quasi-fiscal nature;
- g) Capital depreciation;
- h) Adjustments to stock-lists, losses from imparity and provisions;
- i) Costs resulting from the attribution of a "fair value" to financial instruments;
- j) Costs resulting from the attribution of a "fair value" to consumable biological assets other than long-term forestry plantations;
- I) Capital losses;
- m) Compensation payable in respect of non-insurable risk events.

3.1.6. Taxation period

As a rule, the taxation period coincides with the calendar year. Resident undertakings and non-resident undertakings with a permanent establishment [in Portugal] must submit an Annual Return (Form 22).

The Law permits the adoption of an annual taxation period other than the calendar year in the case of corporate entities with registered offices or actual management on Portuguese soil which are obliged to draw up consolidated financial statements, and also corporate or other entities subject to IRC which do not have registered offices or actual management on Portuguese soil but have a fixed establishment there, which must be maintained for at least 5 consecutive taxation periods.

In the case of tax subjects belonging to a group of companies which is obliged to draw up consolidated financial statements, and in which the parent company adopts a different taxation period from the tax subject, however, there is no obligation to maintain a fixed establishment for 5 consecutive taxation periods.

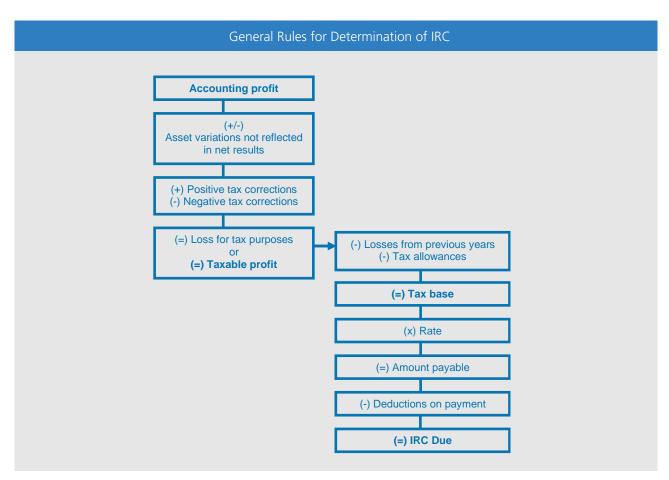
Other exceptions specified in the Law relate to certain specific situations, such as, for example, start-up and closedown of business.

3.1.7. Determination of tax base

In the cases listed below, the tax base is established as follows:

Resident undertakings:

- a) The following items are deducted from the taxable profits of resident undertakings whose principal business is of a commercial, industrial or agricultural nature:
 - 1) Tax losses;
 - 2) Tax allowances consisting of deductions from profits.
- b) The following items are deducted from the total income of resident undertakings whose principal business is not of a commercial, industrial or agricultural nature:
 - 1) General expenses and other costs attributable to nonexempt taxable income;
 - 2) Any existing tax allowances consisting of deductions from the said income.



Non-resident undertakings:

- a) The following items are deducted from the taxable profits of non-resident undertakings with permanent establishments in Portugal and not liable to IRS:
 - 1) Tax losses attributable to that establishment, mutatis mutandis, incurred before the cessation of activity as a result of the closure of the registered office and place of effective management in Portugal;
 - 2) Tax allowances consisting of deductions from profits.
- b) The following items are deducted from the total income of non-resident undertakings with no permanent establishments in Portugal, or with permanent establishments but whose income is not attributable thereto:
 - 1) Income in the various categories;
 - 2) Increases in assets acquired for no valuable consideration.

Law n° 55-A/2010, of 30 December, approved a set of exceptional measures to support business financing, notably including the provisions of Art.136., which establishes that for the purposes of determining taxable profits for IRC purposes, PMEs whose shares are exclusively held by natural persons, Risk Capital Companies (SCRs) or Risk Capital Investors (ICRs) and whose, taxable profits are not calculated by indirect methods, may deduct 3% of the agreed remuneration value of the share capital in transactions involving the creation or increase of their share capital occurring between 2011 and 2013.



3.1.8. Capital depreciation and write-back²

Only depreciation or the writing-off of assets liable to depreciation, that is to say, slow and continuous deterioration, can be considered as a cost:

- a) Tangible fixed assets³;
- b) Intangible fixed assets4;
- c) Non-consumable biological fixed assets;
- d) Investment properties (land or buildings held to obtain rent or exploit capital) entered in the accounts at their historical cost.

Calculation and statutory rates

For the purpose of calculation of maximum capital depreciation quotas, assets are to be valued as follows:

- a) Acquisition cost of items acquired from third parties for valuable consideration;
- b) Production cost of items produced by the undertaking itself;
- c) Revaluation value;
- d) Market value, where the acquisition or production cost of the item is unknown.

As a rule, the constant-quota calculation method should be used, applying the rates shown in Table 1 annexed to Regulatory Decree n° 25/2009, of 14 September (http://www.dre.pt/pdf1sdip/2009/09/17800/0627006285.pdf) to the sums calculated above, wherever there is a specific capital depreciation rate for the various types of business, or the general rates shown in Table II to the said Decree, where the rates are not fixed.

² For further details the reader should consult Regulatory Decree n° 25/2009, of 14 September adapting the regulatory capital depreciation rules to the new Standardised Accounting System (SNC), which came into effect on 01 January 2010

³ This means items held for the production or supply of goods or services, for rental to others, or for administrative purposes, and expected to be used for the whole of theur useful life..

⁴ This means identifiable non-monetary items with no physical substance, such as scientific or technical knowledge, licences, intellectual property, trade marks, patents, franchises, mortgage rights or copyrights.

The following are the most usual rates:

Designation	Rate
Residential and commercial buildings	2%
Industrial buildings	5%
Machine tools (light and heavy)	12,5% - 20%
Computers	33.33%
Light and mixed-use vehicles	25%
Heavy vehicles and goods trailers	20%
Fixtures and fittings (a)	12.5%

(a) Excluding furniture, objets d'art and antiques

Tax subjects may, however, opt to calculate write-backs for the year by the decreasing quota method as regards tangible fixed assets which:

- Have not been acquired in a usable state and condition;
- Are not buildings, light passenger or mixed-use vehicles, except where the same are assigned to public transport service corporations or intended for hire or rental in the course of the owner corporation's normal business activity, or company furniture or equipment.

Write-back and capital depreciation methods other than those indicated above may be used where the nature of the depreciation or the undertaking's economic activity so warrants, subject to the prior approval of the Department of Taxation.

Using the decreasing-quota calculation method, depreciation rates are corrected by the following maximum factors:

- a) 1.5, where the useful life of the item is less than five years;
- b) 2, where the useful life of the item is five or six years;
- c) 2.5, where the useful life of the item is more than six years.

Without prejudice to the specific situations referred to in the Law, for the purpose of calculating the maximum limit of the capital depreciation quotas that can be accepted for each taxation period, the same method must be applied to each asset from the date of commencement of operation or use until it is totally depreciated, transferred or taken out of use.

3.1.9. Special tax regime for groups of companies ("RETGS")

Resident undertakings belonging to an economic group may join this scheme, and are thus subject to overall taxation on the mathematical sum of their respective results, whether positive or negative.

Prerequisites:

- Existence of a controlling company which directly or indirectly holds at least 90% of the subsidiary companies' share capital and more than 50% of the voting rights;
- The companies in the group must be resident in Portugal and subject to the general rules of corporate income tax at the highest normal rate;
- The controlling company:
- a) must have held its share in the subsidiary company for more than 1 year;
- b) must not be controlled by another company resident in Portugal;
- c) must not have waived its right to apply the regime during the previous 3 years.

The option to join this special regime must be exercised in March (3rd month) of the relevant year, and must be notified to the Tax Authority, and the controlling company must be responsible for proving that it fulfils these conditions.

Companies in the situations defined in Article 69 of the IRC Code at the start of or during the application of the regime may not, however, be included in the group.

Where this regime is applied the Surtax must be calculated individually by each of the companies within the tax perimeter and not on the taxable profit as calculated by the group.

3.1.10. Other special regimes

The IRC Code also provides special schemes in relation to the following operations:

- a) Mergers, demergers, acquisitions of assets and exchanges of shares, in so far as they basically follow the rules laid down in Directive 90/434/EEC, of 23 July 1990 (Arts 73- 78 of the Code);
- b) Transfers of the place of residence of the company to a location abroad (including those of European companies and cooperative societies) and cessation of activity of non-resident undertakings (Arts 83-85);
- c) Creation of companies' share capital by contribution of assets belonging to a natural person special tax neutrality scheme (Art. 86 of the CIRC).

3.1.11. Rates

A) General rules

The general rate of corporate income tax is 25% for resident and non-resident tax subjects having a fixed establishment within Portuguese territory.

The rate applicable to undertakings whose registered offices are in the Autonomous Region of Madeira (not licensed to operate in the Free Zone) is harmonised with the national IRC rate and rises from 20% to 25%. In this case the 10% rate for taxable income up to 12,500 € is also abolished.

Type of undertaking	Mainland	Madeira	Azores
,,		2012	
Residents and fixed establishments of non- residents (1) and (2)	25%	25%	17.5%
Residents not carrying on commercial, industrial or agricultural business as their main activity	21.5%	21.5%	15.05%

⁽¹⁾ This rate may be subject to Municipal Surtax of up to 1,5% of taxable profits before deduction of losses (maximum rate in force on the Mainland 26,5%); in Madeira no Surcharge has been imposed.

The following inter alia are excepted from these general rules:

Residents – retention on account of final payment:

- remunerations paid by members of statutory bodies; the applicable tax is 21.5%;
- royalties, for which the rate is 16.5%;
- income from shares in risk capital funds, for which the rate is 10%;
- property income, for which the rate is 16.5% for tax subjects with an organised accounting system.

Non-residents – retention of withholding tax:

- remunerations paid by members of statutory bodies; the applicable tax is 25%;
- supplies of services on which the rate is 15%;
- income from industrial property, on which the rate is 15%
- income derived from the use or licences for the use of industrial equipment, on which the rate is 15%;
- income from capital for residents of tax havens, on which the rate is 30%.

Municipal surcharge

The municipal authorities may impose a local income tax of up to a maximum of 1.5% (general rate) on taxable income not exempt from IRC, as to the proportion of that income generated in their districts (Law of Local Finance - Law n° 2/2007, of 15 January – Art. 14), for tax subjects, resident within the territory of Portugal, whose principal activity is of a commercial, industrial or agricultural nature and non-resident undertakings with a permanent establishment in Portugal.

The Municipal Authorities may impose a reduced-rate local income tax on subjects whose business volume did not exceed 150,000€ in the previous year.

⁽²⁾ This rate may be subject to State Surcharge

Wherever the tax subject has a permanent establishment or local agency in a municipal district and a tax base that exceeds 50,000€, the profit attributable to that district is determined by the ratio between the wage bill for the establishments situated in that district and all the establishments operated by the tax subject within the national territory.

For payments made in 2012, relating to the 2011 year, Surtax rates are published on the Finance Portal, on the following link: http://info.portaldasfinancas.gov.pt/NR/rdonlyres/B49C9680-A262-434C-BFDA-CAF9A1AFB989/0/of%C3%ADcio_circulado_20158_2012.pdf

State surcharge

State surcharge is paid by undertakings (resident tax subjects and non-resident tax subjects with fixed establishments on Portuguese soil) which pay tax on profits:

Taxable profit (euros)	Rates
Over 1.5 million euros and up to 10 million euros	3%
Over 10 million euros	5%

Tax is paid on submission of the Income Tax Return (Form 22), for the difference between the total as calculated and the three additional payments on account made in July, September and December of the previous year (7th, 9th and 15th day of the 12th month of the taxation period, in the case of undertakings with a tax year that differs from the calendar year).

Wherever the additional payments on account exceed the amount of State surcharge due, the tax subject is entitled to a refund

N.B.: The new calculation rules for State Surcharge only apply to the two taxation periods beginning on or after 01 January 2012.

B) Autonomous taxation

The following costs are taxed in a different way:

The following costs are taxed in a different way:			
Costs	Rate		
Non-documented expenses Tax subjects whose principal activity is of a commercial, industrial or agricultural nature Tax subjects, totally or partially exempt from IRC,	50%		
or whose principal activity is not of a commercial, industrial or agricultural nature and also tax subjects whose income is directly derived from a business subject to special gaming tax	70%		
Agency costs (1) Tax subjects not personally exempt by law and whose principal activity is of a commercial, industrial or agricultural nature	10%		
Costs of light passenger or mixed-use vehicles (except vehicles whose sole motive power is electricity) with an acquisition value equal to or less than €25,000 /2012 Tax subjects not personally exempt by law and whose principal activity is of a commercial, industrial or agricultural nature	10%		
Tax-deductible costs of light or mixed-use vehicles with an acquisition value over €25,000/2012 Tax subjects not personally exempt by law and whose principal activity is of a commercial, industrial or agricultural nature	20%		
Sums paid or due to undertakings in countries			
with a privileged tax regime (2) - Tax subjects whose principal activity is of a commercial, industrial or agricultural nature	35%		
- Tax subjects, totally or partially exempt from IRC, or whose principal activity is not of a commercial, industrial or agricultural nature	55%		
Costs of assistance with cost and use of own vehicle, subject to the conditions laid down in the Law	5%		
Profits distributed to exempt undertakings (where participation does not fulfil the minimum applicable time requirements - shares must have been held for a minimum of 1 year)	25%		
Administration, managing agency or management costs (compensation or set-off payable in the event of premature termination of contract; variable bonuses or remuneration)	35%		

⁽¹⁾ Includes: receptions, restaurant, travel and entertainment expenses offered to clients or suppliers in Portugal or abroad.

⁽²⁾ Unless the tax subject is able to prove that the costs relate to transactions actually effected and not having an abnormal nature or an exaggerated total amount.

3.1.12. Tax assessment

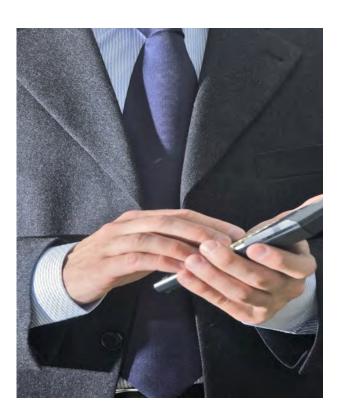
Assessment for IRC must be effected by the taxpayer in its annual income return, which must be submitted by the last working day in May by electronic data transmission.

Tax subjects adopting a taxation period other than the calendar year must submit their returns by the last working day of the month following the end of that period, save as to the exceptions specified in the Law.

The following items must be deducted from the total calculated in the assessment:

- a) International double taxation
- b) Tax allowances
- c) Special payments on account
- d) Retentions at source that cannot be offset or refunded

Where Portugal has entered into a Convention for the Avoidance of Double Taxation, the deduction to be made must not exceed the tax paid abroad pursuant to the terms of the convention.



Retention of tax at source

IRC must be retained at source on the following income obtained in Portuguese territory:

- Intellectual and industrial property
- The use or grant of use of agricultural, industrial, commercial or scientific equipment
- Property and investments of capital income
- Remunerations received by members of the Board (companies or other entities)
- Winnings form gambling awards, lotteries, raffles and betting, as well as prizes awarded in contests
- Income obtained by non-residents, which are professional entertainers or sportsman
- Income from brokering acts or other services rendered in Portuguese territory.

The obligation to retain IRC at source arises on the date when an identical obligation is established in respect of IRS. Sums so retained must be paid to the State, on the terms and conditions and within the time limit established in the IRS Code.

Payment on account

Payments on account are calculated on the basis of the tax assessment for the year preceding that in which the payments in question are to be made, net of any retentions at source. They are payable by undertakings whose principal business is commercial, industrial or agricultural and by non-resident undertakings with fixed establishments in Portugal.

Undertakings with a business volume of 498,797.90€ or less Payment on account = (tax paid for 2011 – 2011 retention at source) x 70%.

Undertakings with a business volume of over 498,797.90€

Payment on account = (tax paid for 2011 – 2011 retention at source) x 90%.

It is paid in the following way:

a) Taxation period coinciding with the calendar year - three payments on account, due in July, September and on 15 December of the year to which the taxable income relates;

b) Taxation period differing from the calendar year – seventh [month], ninth [month] and 15th day of the twelfth month of the relevant tax period;

c) End of the period fixed for submission of the periodic income return, for any difference between the total amount of tax and payments made on account;

d) By the date of submission of the declaration of substitution, for any difference between the total tax total calculated therein and sums already paid.

A refund will be payable by the end of the 3rd month immediately following that of submission of the income return, if the sum calculated as due is negative or less than the payments on account.

Undertakings⁵ whose principal business is agricultural, silvicultural or fishing may concentrate all their payments on account of tax for the taxation period beginning on or after 01 January 2012 in a single payment to be made by the 15th of December or the 12th month of the relevant taxation period, subject to the other rules laid down in Arts. 104, 105. and 107 of the IRC Code (alteration introduced by Law n° 20/2012 of 14 May).

Special payment on account

Undertakings whose principal business is of a commercial, industrial or agricultural nature are liable to a special payment on account to be made in March, or by two instalments in March and October. If a taxation period other than the calendar year is adopted, instalments are payable in the third and tenth month of the relevant tax period.

The total sum payable is equivalent to the difference between 1% of business volume (value of sales and services supplied) for the previous tax period, with a minimum limit of 1,000€ or, if higher, equivalent to that limit plus 20% of the excess, with a maximum limit of 70,000€. Any payments on account made during the previous year must be deducted from the

total amount as calculated. For the Autonomous Region of Madeira the minimum sum is 800€.

Special payment on account payable in year N

Business volume in year N-1: 450,000€

Application of 1% factor: 4,500€

Minimum limit: 1,000€

Maximum limit: 70,000€

Calculation: $1,000 + [20\% \times (4,500 - 1,000)] = 1,700€$

Payment on account for N-1: 500€

Amount payable is 1,200€ which may be paid in two

instalments of 600€

This payment is deductible from the tax due for the same year and the next 4 years. Any part that cannot be deducted because insufficient tax is payable will be refundable to the undertaking on request.

There is no need for a special payment on account in the year when business starts up or the following year.

In the event of cessation of activity during the first trading year and up to the third trading year after that to which the special payment on account relates, a refund is payable on request by the tax subject, to be applied for within 90 days after the date of cessation of activity.

Undertakings obliged to make payments on account and special payments on account must make an additional payment on account in cases where State surcharge was payable in the previous taxation period (Art. 87°-A of the IRC Code).

The amount of the additional payments is equivalent to the total obtained by applying the rates shown in the following table:

Taxable profit (euros)	Rates (%)
Over 1.5 million euros and up to 10 million euros	2.5%
Over 10 million euros	4.5%

⁵ This covers undertakings whose income from the said activities, paid during the previous year, represents at least half of their business volume.

The amount payable on taxable profits in excess of 1.5 million euros and also over 10 million euros is divided into 2 parts: one equivalent to 8.5 million, to which the 2,5% rate applies, and the other equivalent to the taxable profit over 10 million euros, to which the 4.5% rate applies.

If the RETGS⁶ applies, an additional payment on account is payable by each of the companies in the group, including the controlling company.

N.B.: The new calculation rules for additional payments on account only apply to tax periods beginning on or after 01 January 2012.

3.2. Personal income tax (IRS)

The Personal Income Tax (IRS) Code took effect on 01 January 1989 and was approved by Decree-Law n° 442-A/88, of 30 November. This law has been amended many times since it was first published.

3.2.1. Characteristics

The principal characteristics of IRS are derived from the constitutional principle that tax must be progressive (art 104 of the Constitution of the Republic of Portugal), with the object of reducing social inequality.

This is a system which treats income in a single overall way, arranged so as to make all income in the various categories subject to a technically uniform taxation regime.

By the use of this formula (which makes it possible to create a single progressive rate structure as the best possible instrument for the personalisation and secondary redistribution of income) the legislator has endeavoured to give effect to the principle enshrined in the above-mentioned Article of the Constitution.

3.2.2. Income affected

IRS is payable on the annual total value of all personal income, irrespective of source, form and place of realisation.

It is payable by resident and non-resident natural persons who obtain income within the territory of Portugal.

In the case of a family unit, the persons liable are those responsible for managing it, and the tax due is calculated according to all income obtained by that unit.

Individual tax subjects who carry on business or professional activities must separate assets and income relating to their business activity from those associated with their private activity.

3.2.3. Determination of tax base

Sources of income are subdivided into 6 categories:

- Category A Paid Employment Income
- Category B Business and Professional Income
- Category E Capital Income
- Category F Real Property Income
- Category G Asset Income, capital gains
- Category H Pensions

The tax base is calculated by adding together the gross income in each category, applying the proper rate to each of them according to the appropriate income scale. In the case of a family unit, irrespective of the regime to which each of the members is subject, the tax base corresponds to the total income of the members who make up the unit.

The Law provides specific deductions for each category, and also abatements that make allowance for the specific circumstances of the individual taxpayer, such as marital status, dependants, type of activity, etc.

With regard to income in category B, this may be taxed according to the rules of the simplified regime or those laid down for organised accounting systems and applicable to IRC subjects.

⁶ Special Tax Scheme for Groups of Companies

3.2.4. Brackets and rates

IRS is a progressive tax (rates increase in proportion to increases in taxable income), with taxable income scales, in accordance with the expected rate of inflation.

IRS Rates for 2012

	Mainland and Madeira	
Taxable Income (Euros)	Rate	Deductible Amount
Up to 4,898	11.5%	-
+ 4,898 up to 7,410	14.0%	122.45
+ 7,410 up to 18,375	24.5%	900.5
+ 18,375 up to 42,259	35.5%	2,921.75
+ 42,259 up to 61,244	38.0%	3,978.23
+ 61,244 up to 66,045	41.5%	6,121.77
+ 66,045 up to 153,300	43.5%	7,442.67
+ 153,300 (1)	46.5%	12,041.67

	Azores	
Taxable Income (Euros)	Rate	Deductible Amount
Up to 4,898	8.05%	-
+ 4,898 up to 7,410	10.5%	120.00
+ 7,410 up to 18,375	19.6%	794.31
+ 18,375 up to 42,259	28.4%	2,411.31
+ 42,259 up to 61,244	30.4%	3,256.49
+ 61,244 up to 66,045	33.2%	4,971.32
+ 66,045 up to 153,300	34.8%	6,028.04
+ 153,300 (1)	37.2%	9,707.24

N.B.: this information does not dispense with the need to consult the applicable legislation

(1) For the tax period between 2010 and 2013

N.B.: An additional 2.5% solidarity tax is applied to taxable income over 153,300 euros for the 2012 and 2013 years.

Tax subjects are exempted from submitting income tax returns for the 2012 year where they have received, separately or in total:

- Income of less than 4,104.00€ in category A (employment)
 (72% x 12 months x 475€);
- Income of less than 4.104,00€ from pensions paid by social security schemes (72% x 12 months x 475€);
- Income subject to withholding tax, where the beneficiaries do not propose to opt for agglomeration.

With regard to the "subsistence minimum" rule, the general rates indicated do not apply, and, therefore, the following tax subjects are not liable to tax:

- those receiving employment income income, net of tax, below the annual value of the minimum wage increased by 20% (which in 2012 is equal to 485€ x 14 months x 20% = 8,184€), or taxable income, after application of married person's quotient, of 1,911€ or less.
- family units with 3 or 4 dependants or 5 or more dependants taxable income not exceeding the highest national minimum wage, plus 60% in the first case, (which in 2012 is equal to $485 \le x$ 14 months x 60% = $10,864 \le x$ 14 months x 120% = $14,938 \le x$

In summary:

Deduction or limit	2012
Limit of amount excluded for pensions	4,104€
Limit for highest pensions, Rate	22,500 € 20%
Minimum limit of taxable income	1,911€
Fixed subsistence minimum for employees with a family unit of up to three dependants	8,148€
Fixed subsistence minimum for employees with a family unit of three or four dependants	10,864€
Fixed subsistence minimum for employees with a family unit of five or more dependants	14,938€

⁷ Until the amount of IAS reaches the minimum wage for the 2010 year, the latter is applicable for the purpose of index-linking as provided in Art. 53.° of the IRS Code relating to Pensions (Art 111 (1) of Lawi 64-B/2011 of 30 December)

3.2.5. Tax Regime

The following income is subject to the **permanent retention of 25%** withholding tax at source if obtained in Portugal:

- interest on bank deposits;
- income from debt instruments and other similar transactions;
- capital gains from company activities;
- income on capital, paid to non-residents;
- capital gains and other income paid to non-residents and not attributable to a fixed establishment in Portugal;
- income paid to non-residents and attributable to a fixed establishment in Portugal;
- income from transferable securities paid to residents, payable by non-residents to whom payment cannot be attributed.

The following income is subject to the **permanent retention of 21.5%** withholding tax at source if obtained in Portugal by non-residents:

- income from employment, income from business and professional activities, even if derived from isolated acts;
- income on capital;
- pensions;
- certain increases in assets.

The following income is subject to the **permanent retention of 30%** tax at source if obtained in Portugal:

- income paid to residents on behalf of unidentified third parties;
- income paid to residents, payable by non-residents legally resident in tax havens;
- income on capital, obtained by non-residents with no fixed establishment in Portugal, and resident in tax havens.

Income from real property paid to non-residents is now subject to tax at 16.5%.

Unjustified increases in assets of a value exceeding 100,000€ are taxed at a special rate of 60%.

The proportion of taxable income subject to IRS, paid to tax subjects resident in Portugal, which exceeds the annual value of the guaranteed minimum monthly salary⁸ per tax subject, is subject to an extraordinary tax rate of 3,5%.

The proportion of the meal subsidy which exceeds 5.12€ per month will now be subject to IRS. In the case of subsidies paid in vouchers the value is 6.83€

All severance payments made to representatives of fixed establishments of non-resident undertakings are taxed in full, placing them on the same footing as public service managers and directors or managers of corporate entities.

The limit above which severance or equivalent payments are taxed is also reduced to the average value of regular taxable pay received during the last year, multiplied by the number of years' service or exercise of functions in the debtor undertaking.

Non-usual Residents

Law n° 20/2012 of 14 May (1st amendment to the 2012 State Budget Law) revoked all the provisions relating to the tax regime for non-usual resident investors contained in Part III of the Investment Tax Code (Decree-Law n° 249/2009, of 23 September).

With the abolition of that regime, these taxpayers are now subject to the regime for non-usual residents provided in the IRS Code (Arts 16-72 CIRS).

Non-usual residents are considered to be those tax subjects who, although becoming resident for tax purposes, have not been taxed as residents in Portugal in any of the previous 5

⁸ The guaranteed monthly minimum (minimum salary) for 2012 is 485 \in

years. In these cases, and for 10 consecutive years inclusive from their registration as residents, they will now be taxed as non-usual residents.

Tax subjects who have not enjoyed the benefit of that right in 1 or more of the said 10 consecutive years may recover the benefit of that right in any of the remaining years of the period in question, from and including the year in which they are once again considered resident.

Tax subjects must apply for registration as non-usual residents when registering as resident in Portugal, or thereafter up to 31 March of the following year.

This period does not apply to tax subjects who have become residents by 31 December 2011 and have applied for registration as non-habitual residents by the date on which the above-mentioned Law comes into force, in accordance with the former wording of Art.16 (8) of the IRS Code.

Qualification for the regime allows the taxpayer to be taxed as a non-usual resident for 10 years, but that period ceases to be renewable.

Net income in categories A and B, obtained from high added-value scientific, artistic or technical activities, to be defined in a Government Order, by non-habitual residents is taxed at a rate of 20%.

3.2.6. Deductions from Tax Payable

In 2012 significant limits are imposed on deductions from tax payable. One of the relevant changes is the reduction from 30% to 10% of the amount deductible for health expenses, which are also now limited to 838.44€ (twice the IAS). For family units with three or more dependants there is provision for an increase of 125.77€ per dependant.

Apart from health, there are also retrospective overall limits on deductions from tax payable in respect of education or training costs, household charges, property and meal allowances.

These limits are applied to all except the two lowest levels of IRS. In addition, the two highest levels are not entitled to any deduction.

In the intermediate brackets, the limit varies between 1,250€ and 1,100€, and may be increased by 10% for every dependant not liable to IRS.

There is a 15% deduction for costs of property situated in Portugal or another Member State of the EU or the European Economic Area, relating to capital repayments under home purchase contracts, financial leasing agreements made up to 31 December 2011 and tenancy agreements, with a maximum limit of 591€

3.2.7. Delivery of Return and Assessment

IRS returns must be delivered on the following dates:

In paper:

- In the month of March, for income from dependent employment or pensions.
- In the month of April, for income of other nature.

Via Internet:

- In the month of April, for income from dependent employment or pensions.
- In the month of May, for income of other nature.

The assessment (refund) of IRS is the responsibility of the Tax and Customs Authority and must be completed during the year following that to which the income relates, by 31 July in the case of refunds and by 31 August where tax is payable, on the basis of a declaration submitted and irrespective of the time within which it is submitted.

These deadlines may be reduced to 20 days in cases where the declaration is filed online and there are no queries as to the reliability of the information supplied.

4. Taxes on assets

4.1. Municipal tax on real property (IMI)

As part of the reform of asset taxation, local authority rates were replaced by Municipal Tax on Real Property (IMI) with effect from 01 December 2003. The relevant statute is the IMI code, approved by Decree-Law n° 287/2003, of 12 November.

4.1.1. Property affected

IMI is payable on the asset value of land or property (rural, urban or mixed) situated on Portuguese soil to the Municipal Authorities in which it is located.

"Property" is considered to mean:

- a) Any parcel of land, including water, plantations, buildings or constructions of any kind incorporated therein or permanently established thereon, forming part of the assets of a natural person or corporate entity and having economic value in normal circumstances;
- b) Water, plantations, buildings or constructions, independently of the land on which they are located, even where they are situated on a parcel of land forming an integral part of a different asset, or not in the nature of an asset.

The Law classifies property as follows:

- a) **Rural Property** land situated outside an urban agglomeration, whether or not used for agricultural purposes, and not in a classified development area, and land situated within an urban agglomeration and used for agricultural purposes only.
- b) **Urban Property** any land not classified as rural, and used for residential or industrial purposes or for the provision of services, development land situated inside or outside urban agglomerations and having the benefit of planning permission for those purposes.
- c) **Mixed Property** those that are rural as to one part and urban as to another, neither of which can be classified as the principal part.



4.1.2. Persons liable

IMI is payable by any owner, life tenant or surface owner of land or property at 31 December of the year to which it relates.

In the case of undivided family land IMI is payable on the undivided family land represented by the Head of the Family.

4.1.3. Asset value for tax purposes

The asset value of property for tax purposes is determined by valuation, based on a declaration by the taxpayer. Wherever necessary the valuation is preceded by an inspection.

Rural property is valued on the basis of the Land Register, other documentary evidence or direct methods and urban property is always valued by direct methods.

4.1.4. Calculation method

Rural property

Scales are calculated by means of annual crop figures according to the following formula:

T = RB - EE

Where:

T = scale

RB (Gross income) = the value, at current market prices, in normal selling conditions, of the total production from one cycle, consisting of principal and secondary products, spontaneous or cultivated, of a commercial nature or at the first technological processing stage at which they become marketable in the region.

EE (Exploitation costs) = these comprise exploitation expenses (cultivation, conservation, transport, etc.).

Urban property

The asset value for tax purposes of urban property used for residential, commercial or industrial purposes or the supply of services may be obtained from the following expression:

Vt = Vc.A.Ca.Cl.Cq.Cv.

Where:

Vt = asset value for tax purposes9

Vc = base value of developed land, corresponding to the average construction cost¹⁰ per m² plus the value per m² of the building site, fixed at 25% of that cost.

A = gross built area plus area exceeding the implementation area

Ca = Planning allocation factor

CI = Location factor¹¹

Cq = Quality and comfort factor

Cv = Age factor

4.1.5. Exemptions

Urban property or part thereof developed for residential use, enlarged, improved or acquired for valuable consideration by the taxpayer for permanent occupation by him or his family unit or for residential letting, and actually used for that purpose within 6 months of any of the situations described,



are exempt from IMI¹². The onus is on the taxpayer to apply for exemption within 60 days following the end of that period.

Law n° 64-B/2011 of 31 December introduces a <u>new criterion</u> for exemption of residential property from IMI, related to the tax subject's actual income. Thus only tax subjects whose taxable income for IRS purposes in the previous year did not exceed 153,300 euros will be exempt and the Law fixes a <u>single exemption level for a period of 3 years</u>, applicable to properties with an asset value not exceeding 125,000€

Property or parts of property built as new, enlarged, improved or acquired for valuable consideration, in the case of the first transfer of title, as to the part intended for residential letting, are likewise exempt from IMI for a period of three years from the date of signature of the contract.

Properties included in projects with a tourism utility attribution are exempt from IMI for a period of 7 years.

Urban properties subject to a rehabilitation project are also exempt from IMI for a period of 2 years from the date of issue of the City Council permit.

⁹ The asset value for tax purposes of urban commercial, industrial and service property will now be updated every year on the basis of the currency devaluation rate. Other urban property is subject to three-yearly valuation on the basis of 75% of the currency devaluation rate.

¹⁰ Average construction value per m2 for 2012 is 482.40€, fixed by Ministerial Order no 307/2011, of 21 December

¹¹ The local rate (Cl) varies between 0.4 and 3.5, and in the case of isolated rural homes may be reduced 0.35.

¹² Articles 46 to 50 of the Tax Allowances Regulations (Decree-Law n° 215,89, of 1 July)

Exemption from IMI is also granted for rural and urban properties owned by tax subjects whose family unit has a total gross income, for IRS purposes, that does not exceed 2.2 times the annual value of the IAS¹³ ($475 \le x$ 14 months x 2,2 = 14,630 \in) and whose total taxable value does not exceed 10 times the annual value of the IAS ($475 \le x$ 14 months x 10 = 66,500 \in).

These exemptions are granted annually by the financial authorities of the area in which the properties are situated, if applied for by the tax subject within 60 days of the date of acquisition and in any case by no later than 31 December of the year for which exemption is sought.

Real property owned by undertakings resident in tax havens does not qualify for exemption.

4.1.6. Rates

The following rates apply to the taxable asset value of property:

- a) Rural property: 0.8%
- b) Urban property: 0.5% to 0.8%
- c) Urban property valued pursuant to the IMI Code 0.3% to 0.5%

Rates for urban properties that have been uninhabited for more than a year and in ruins are tripled.

For properties owned by corporate entities resident for tax purposes in a country, territory or region subject to a clearly favourable tax regime listed as approved by the Ministry of Finance, the tax rate is 7,5%.

This provision does not apply to properties owned by natural persons (alteration introduced by Law n° 20/2012, of 14 May).

The Municipal Authorities shall, by a decision of the Municipal Council, fix the rate to be applied each year, within the specified intervals. A rate may be fixed for each parish.

They may also:

- define territorial areas for urban renewal or prevention of desertification where the current rate for the year to which the tax relates shall be increased or reduced by up to 30%;
- define territorial areas corresponding to parishes and fix a reduction of up to 20% in the rate applicable to rented urban properties, which may be accumulated with the previous rate;
- increase the rate by up to 30% in the case of decayed urban properties;
- increase by up to double the rate applicable to rural properties with forested areas in a state of abandonment. The tax payable for each property included shall not be less than 20€;
- fix a reduction of up to 50% of the rate applicable to properties classified as of public interest, or of municipal or cultural asset value, unless they are covered by the provisions of Art. 44.° of the Tax Benefits Law (EBF).

4.1.7. Assessment

The Tax and Customs Authority sends the tax subject the payment document every year, in which property is assessed as to its taxable asset value and the payment allocated to each municipal authority.

Tax is paid in two instalments in April and September, provided that the total amount thereof is more than 250€ If it is 250€ or less it must be paid as a single payment in April.

4.2. Municipal tax on real estate transfer (IMT)

As part of the reform of asset tax, municipal conveyance tax was replaced by Tax on Real Estate Transfers (IMT), from 01 January 2004.

¹³ Until the value of the IAS reaches the minimum wage level current in 2010, the latter value will remain applicable for the purposes of index-linking as provided for in Art. 48.of the EBF (Art 122 of Law n° 55-A/2010, of 31 December)



The relevant statute is the IMT Code, approved by Decree-Law n° 287/2003, of 12 November.

4.2.1. Instruments affected and persons liable

IMT is payable on transfers for valuable consideration of property rights or part shares in property rights and the creation or extinction of various types of contractual relations connected with real property situated within the territory of Portugal, as the same are defined in the Law.

IMT is payable by natural persons or corporate entities to whom or to which real property is transferred, without prejudice to the existence of special rules for certain situations.

4.2.2. Taxable value

IMT is payable on the value shown in the deed or contract or on the asset tax value of the property (value recorded in the original deed on the date of payment of the consideration), whichever is the greater.

If no value is recorded in the original deed, or the transfer is recorded in the deed as being of no taxable value, the asset value will be determined according to the terms of the IMI Code.

The Law also provides a set of rules for special situations, such as exchanges, deeds of gift, long leases and underleases, reinforcement of companies' assets, merger or demerger of companies, surface rights and compulsory purchase for public utility purposes.

4.2.3. Rates

IMT rates are as follows:

a) Urban property for owner-occupation only

IMT taxable value	Percentage rates	
(in euros)	Marginal	Average (*)
Up to 92,407	0	0
Over 92,407 and up to 126,403	2	0.537 9
Over 126,403 and up to 172,348	5	1.727 4
Over 172,348 and up to 287,213	7	3.836 1
Over 287,213 and up to 574,323	8	
Over 574,323	6 (single rate)	

^(*) At the upper limit of the scale

b) Urban property for second homes and letting

IMT taxable value	Percentage rates	
(in euros)	Marginal	Average (*)
Up to 92,407	1	1,000 0
Over 92,407 and up to 126,403	2	1.268 9
Over 126,403 and up to 172,348	5	2.263 6
Over 172,348 and up to 287,213	7	4.157 8
Over 287,213 and up to 550,836	8	
Over 550,836	6 (single rate)	

(*)At the upper limit of the scale

Where the value for tax purposes exceeds 92,407€, it is divided into two parts, one of which is equal to the limit of the greater of the two brackets covered, and to which the average rate for that bracket is applied, and the other, equal to the excess above that figure, to which the marginal rate for the bracket immediately above it is applied.

- c) Rural property 5%
- d) Other urban property and other acquisitions 6,5%

e) Property acquired by undertakings situated in territories with clearly more favourable tax regimes¹⁴, without prejudice to the exemption provided in Art. 7 of Decree-Law n° 540/76, of 9 July (applicable to Portuguese emigrants) – 10%.

This rate does not apply to cases where the purchaser is a natural person (alteration introduced by Law n° 20/2012, of 14 May)

Acquisitions of urban properties or independent parts of urban properties for permanent owner-occupation only are exempt from IMT where the value thereof used as a tax base does not exceed €92,407.

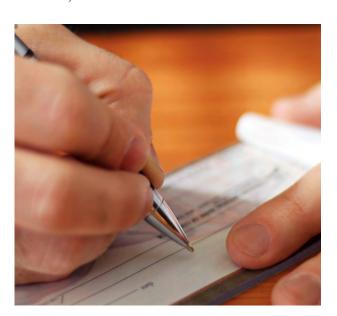
4.2.4. Assessment

Assessment for IMT, which takes place whenever a property changes hands, must be effected by the transferee of the property. To that end he must submit a tax declaration in the official form (Form 1) at any local tax office or by e-mail.

IMT is payable on the date of payment of the price or the first working day thereafter, failing which the instrument is void. If the transfer takes place abroad, the tax must be paid during the following month.

If IMT is assessed jointly with Stamp Duty, the deadline for payment is that fixed for the latter.

14 List of countries, territories and regions approved by Order no 150/2004, of 13 February.



5. Taxes on expenditure

5.1. Value added tax (VAT)

Value added tax (VAT) was approved by Decree-Law n° 394-B/84, of 26 December, and entered into force on 01 January 1986. That law has been amended many times since it was first published.

5.1.1. Characteristics

VAT is a general tax on consumption (becoming payable every time an article of merchandise or a service is supplied), in multi-phase form, because it is paid at all points on the economic circuit without cumulative effects.

Depending on the size of the production unit and VAT requirements, the Code specifies three tax regimes: a normal regime, a special exemption regime¹⁵ and a regime for small retailers¹⁶.

5.1.2. Transactions subject to VAT and persons liable

The following transactions are subject to VAT:

- a) Transfers of goods and supplies of services taking place within the national territory, with payment of valuable consideration, by a VAT subject acting in that capacity;
- b) Imports of goods;
- c) Intra-Community transactions taking place within the national territory, as the same are defined and regulated in the VAT Rules on Intra-Community Transactions.

¹⁵ This scheme is designed for natural persons who do not have organised accounts for IRS or IRC purposes and do not carry on any importing, exporting or associated business or any activity consisting of the transfer of goods or the supply of services, and whose business volume did not reach 10,000€ during the previous calendar year.

¹⁶ This scheme is designed for natural persons who do not have organised accounts for IRS purposes and whose volume of purchases did not exceed 50,000€ during the previous calendar year.

VAT is payable by natural persons and corporate entities who or which:

- a) Independently and habitually carry on business as producers, traders in goods or suppliers of services, including extractive, agricultural and professional activities, or a single taxable transaction connected with the exercise of the said activities, or which, irrespective of any such connection, fulfil the conditions that render IRS and IRC actually payable;
- b) Import goods in accordance with Customs legislation;
- c) Make undue mention of VAT in an invoice or equivalent
- d) Effect intra-Community transactions subject to the relevant regulations;
- e) Acquire certain goods and services from suppliers whose registered office, permanent establishment or place of residence is outside the Portuguese territory from which the service is supplied.

In certain cases, qualification as a VAT subject is a necessary condition of the exercise of the right to deduction of VAT charged and to the benefit of certain exemptions or special regimes.

5.1.3. Taxable value

The taxable value of transfers of goods and supplies of services subject to VAT is the value of the consideration obtained or to be obtained from the acquirer, the person to whom the goods or services are supplied or a third party. The taxable value is defined according to the nature of the transaction and, as a rule, coincides with the actual amount of expenditure. The rate for the calculation of tax is based on that figure.

Law n° 64-B/2011 of 30 December introduced an antiabuse measure pursuant to Council Directive 2006/112/ EC, whereby the taxable value of transfers of goods or services by tax subjects who have <u>special relationships</u>¹⁷ with

17 "Special relationships" is taken to mean those established between an employer and an amployee, the latter's family, or any person with whom he or she has a close association.

the acquirers or those to whom the goods or services are supplied, regardless of whether or not they are tax subjects, becomes the normal value (market value) as determined pursuant to Art, 16 (4) of the VAT Code, in the following situations:

- Where the consideration is less than the normal value and the acquirer is not entitled to deduct the whole of the tax;
- Where the consideration is less than the normal value and the transferor of the goods or the supplier of the services is not entitled to deduct the whole of the tax and the transaction is exempt under Art. 9.;
- Where the consideration is more than the normal value and the transferor of the goods or the supplier of the services is not entitled to deduct the whole of the VAT.

This rule is applicable whether or not the acquirers and persons for whom the goods or services are intended are tax subjects.

The application thereof may be set aside provided that it is proved that the difference between the consideration received or to be received by the transferor or service supplier and the normal value is not due to the existence of a special relationship between the latter and the acquirer of the goods or services.

In the case of imports the taxable value is the Customs value, determined according to current Community regulations.

5.1.4. Rates

There are three applicable rates of VAT: reduced, intermediate and general¹⁸. In 2012, the VAT tax rates are as follows:

Rates	Mainland Portugal	Autonomous Regions	
		Azores	Madeira
Reduced	6%	4%	5%
Intermediate	13%	9%	12%
General	23%	16%	22%

¹⁸ For further details the reader should consult Lists I and II relating to Goods and Services subject to the reduced rate and the intermediate rate respectively, annexed to Decree-Law n° 394-B/84 (VAT Code).

Alteration in VAT rate structure in 2012

Goods and Services moved from List I – Reduced Rate to List II – Intermediate Rate

Spring water and mineral waters, even if reinforced or with added carbon gas

Song, dance and musical shows, theatre, cinema, bullfights and circuses

Goods and Services removed from List I – Reduced Rate - and now taxed at the Normal Rate

Milk drinks and desserts

Soya desserts, including tofu

Fresh potatoes, peeled, whole or cut, pre-fried, refrigerated, frozen, dry or dehydrated, even if in purée or prepared by boiling or frying

Cold drinks, fruit squashes, concentrated juice drinks and concentrated juice products

Water with other substances added

Natural raffia

Sporting competitions and displays and other public entertainments

Goods and Services removed from List II – Intermediate Rate - and now taxed at the Normal Rate

Fruit conserves, fruit and horticultural product

Fresh and dried fruit

Food oils and margarine

Coffee, including substitutes and mixtures

Aperitifs based on horticultural products and seeds and aperitifs or snacks based on extruded maize or wheat , fried ground maize or potato flour

Products prepared from meat, fish, vegetables or horticultural products, pasta, pizzas, sandwiches, soups and ready meals (ready to eat or take away or for home delivery)

Food and drink services (including restaurant services)

Heating fuel oil

Apparatus and equipment for use in capturing and using renewable energy, prospecting for petroleum and natural gas and measuring and controlling pollution.

5.1.5. Exemptions

The VAT Code grants exemptions from VAT for certain domestic transactions, for imports, exports and operations treated as equivalent to exports and for international transport transactions, subject to the conditions laid down in the Law.

In cases where a transaction is exempt from IVA, the supplier of the merchandise or service does not collect the tax and is excluded from the right to deduction of VAT.

For further details, the reader is advised to consult Chapter II, I, II, III and IV - Articles 9 - 15. of the VAT Code.

Domestic operations exempt from VAT

There are innumerable exemptions for domestic transactions, including in particular the following:

- a) Health, medical and hospital care doctors and paramedics, clinics, dispensaries and similar establishments, transport of patients;
- b) Social assistance and social security;
- c) Education and teaching;
- d) Professional training;
- e) Supplies of services and transfers of goods by non-profitmaking organisations for social purposes, in the collective interest of their members;
- f) Supplies of services and transfers of goods connected therewith by the public postal services, except telecommunications;
- g) Transfers of current postage stamps at their face value or stamped securities and sales commission thereon;
- h) Assignments of copyright;
- i) Banking and financial transactions;
- j) Insurance and reinsurance transactions;
- k) Property lettings;
- I) Transactions subject to IMT
- m) Supplies of agricultural services, where effected as a secondary activity;

- n) Supplies of services by cooperatives to their farming members;
- o) Food and drink supplies by employer undertakings to their employees.

Exemptions for imports

The following exemptions from VAT should be emphasised in this chapter:

- a) Final imports of goods where the transfer thereof within the national territory is exempt:
 - 1) Fishing boats and equipment;
 - 2) Aircraft.
- b) Imported supplies for vessels and aircraft used for international transport;
- c) Non-processed imported fish products;
- d) Gas imported via the natural gas distribution system, and electricity;
- e) Imported vehicles for the disabled, of any kind, in accordance with the conditions laid down in the Vehicle Tax Code.

Exemptions for exports, operations equivalent to exports and international transport

Transfers of goods dispatched or transported within the European Area are exempt from VAT, provided that VAT is paid at the place of destination, and are subject to special rules. Exports to non-EU countries, or countries not within the Community tax area, are also exempt from VAT.

That exemption does not affect the neutrality of VAT, nor does it prevent the exporter from collecting VAT paid on purchases necessary to the production of the merchandise.

Special exemption scheme for Sales by Suppliers to National Exporters

The special exemption scheme for sales by suppliers to national exporters provides, subject to conditions, for the exemption from VAT of sales immediately preceding exportation, in

accordance with the provisions of Article 6 of Decree-Law n° 198/90, of 19 June, as amended by Law n° 30-C/2000 and Art. 125 of Law no 64-B/2011 of 31 December.

Sales, with invoices, of merchandise of a value exceeding 1,000€, by a supplier to a national exporter, exported in the same condition, are exempt from VAT, with a right to deduction of any tax on the total amount, pursuant to Art 20 of the VAT Code.

This exemption scheme presupposes the occurrence of two consecutive transactions involving the same goods:

- a sale within the national territory, in which the purchaser is an exporter; followed by:
- a sale to a purchaser situated in another country/territory exportation.

The application of the VAT exemption scheme to the exporter is based on the operation of a system whereby certificates are issued by Customs and delivered to the supplier proving that the merchandise has in fact left the territory of the Customs post/been exported – Certificates of Proof of Export – "CCE", certifying the exempt sale by the supplier to the exporter.

"CCEs" are issued on paper or in electronic form and must include certain information referred to in Art. 6 (3) and (4) of Decree-Law n° 198/90, of 19 June.



Time limits that must be observed to obtain the benefit of the scheme:

- The export declaration for the merchandise must be submitted by no later than 30 days from the date of the supplier's invoice.
- The merchandise must leave the country within sixty days of the date of acceptance of the export declaration by Customs.
- The supplier must receive a hard copy of the CCE, duly stamped by Customs, within a maximum period of 90 days from the date of submission of his invoice to the exporter.

Exemptions in Transactions associated with Suspension Regimes

Provided that the goods are not intended for final use or final consumption, the following transactions are exempt from VAT:

- the importation of goods destined for bonded warehouses;
- transfers of goods to be presented at a Customs post, in Free Zones, bonded warehouses or under the rules of inward processing
- placing of goods under the rules of non-Customs warehousing and related services;
- temporary importation.

This regime is likewise applicable to intra-Community purchases of goods pursuant to the RITI, where the goods are to be placed on Customs premises, in free zones or a bonded warehouse, or where they are for inward processing.

5.1.6. Assessment and payment of VAT

Obligations of tax subjects

In addition to paying tax, tax subjects are obliged to:

- deliver a declaration of commencement, change or cessation of business using the methods and forms prescribed by the law;
- issue an invoice or equivalent legal document for every transfer of goods or supply of services
- deliver monthly statements (periodic statements) relating to transactions effected during the trading year, in the

course of the 2nd month following¹⁹ the month to which the transactions relate;

- deliver a statement of accounting and tax information with the appropriate appendices;
- deliver a summary diagram identifying its customers and suppliers, and counting the total number of internal transactions effected with each of them during the previous year, if the value thereof exceeded 25,000€;
- have an organised accounting system;
- send the declaration, appendices and summary diagram by electronic means by 15 July, or if the tax year adopted differs from the calendar year, on the 15th day of the 7th month after the date on which that period ends, whether or not a working day.

Tax subjects to which the accounting standardisation scheme for micro-entities applies are exempt from the obligation to deliver a statement of accounting and tax information with appendices relating to the application of Decree-Law n° 347/85, of 23 August.

Deductions

To calculate the amount of tax due, tax subjects must deduct from the tax payable on their transactions:

- tax payable or paid on the acquisition of goods or services;
- import duty;
- tax paid as the receiver of the goods or services in taxable transactions effected by tax subjects established abroad, if they have no legal representative in Portugal and have not included the tax in their invoices;
- tax paid on the release of goods from a bonded warehouse. In the case of purchases of goods and services the tax must be mentioned in invoices or an equivalent document drawn in statutory form (the requirements are set out in Art. 36 (5) of the VAT Code) in the name and possession of the VAT subject.

¹⁹ By the 10th day of the 2nd month thereafter in the case of tax subjects with a business volume of 650.000€or more, in the previous calendar year or by the 15th day of the 2nd month following the calendar quarter in the case of tax subjects with a business volume of less than 650.000€ in the previous calendar year.

On the importation of goods the receipt for payment of VAT, which forms part of the import declarations, showing the number and date of movement of the container, must be produced.

The Law provides a group of exclusions from the right to deduction of VAT, set out in Art. 21 of the VAT Code.

VAT must be deducted at the time of submission of the return for the period in which, or for a subsequent period to that in which, the above-mentioned documents were received.

VAT refunds must be made by the Department of Taxation by the end of the 2nd month following that in which the application was submitted, or, in the case of VAT subjects registered for the monthly refund regime, within 30 days of the date of submission of the application, after which VAT subjects may demand payment of interest in accordance with the General Tax Law.

Where the sum repayable exceeds 30,000€, the Department of Taxation may demand a security deposit, a bank guarantee or some other suitable security, which will halt the running of time for the accrual of compensatory interest until the security is paid. The security must remain in force for 6 months.

Tax subjects who or which wrongly mention VAT on an invoice or equivalent document, or habitually carry out only one taxable transaction in the course of an independent production, trade or service activity, including mining, agricultural and liberal professional activities, must pay the appropriate tax at the collector's office within 15 days of the date of issue of the invoice and by the end of the month following that in which the transaction was completed, respectively.

Informal assessment

If the periodic declaration is not submitted, the Tax and Customs Authority shall, on the basis of the information in its possession, make an informal tax assessment, the minimum limit of which shall be an annual sum equivalent to 6 or 3 times the national minimum wage, for tax subjects with a business volume above or below 650,000€, respectively.

The tax as calculated must be paid within a period of not less than 90 days from the date of notification.

5.2. VAT rules on intra-Community transactions (ITI rules)

The VAT rules on intra-Community transactions (ITI rules) were approved by Art. 4 of Decree-Law n° 290/92, of 28 December, transposing Directive 91/680/EEC, of 16 December, into Portuguese law.

These Rules are intended for traders (natural persons and corporate entities, including the State) who or which trade in goods with partners in other EC countries, that relationship being treated as intra-Community acquisitions of goods. The generating "import" event is eliminated in exchanges of merchandise between Member States and is replaced by a new generating event - the "intra-Community acquisition of goods".

5.2.1. Persons liable

VAT is payable by natural persons or corporate entities who or which:

- a) Carry on business as producers of goods or suppliers of services, or a single taxable transaction associated with that business, or which fulfils the conditions that render IRS and IRC actually payable;
- b) Effect transfers of goods or supplies of services on which they are entitled to the deduction of VAT;
- c) Effect only transfers of goods or supplies of services that confer no right to deduction of VAT.

Private individuals who effect intra-Community acquisitions of new means of transport and natural persons or corporate entities who or which occasionally effect transfers of new means of transport, dispatched or transported from the national territory to a purchaser established or resident for tax purposes in another Member State.

5.2.2. Taxable transactions

VAT on intra-Community transactions is payable on:

- a) Acquisitions of goods by a VAT subject for valuable consideration within the national territory, where the seller is registered for VAT in another Member State and is not covered by any special exemption scheme for small undertakings and does not install or assemble the goods supplied within the national territory or transfer them subject to certain conditions laid down in the VAT Code;
- b) Acquisitions of new means of transport for valuable consideration within the national territory by a VAT subject or a private individual;
- c) Acquisitions of goods for valuable consideration subject to special taxes on consumption within the national territory, by a tax subject listed in Art. 5 (1) of the ITI Rules;
- d) Transfers of new means of transport for valuable consideration, by any person, dispatched or transported by the seller or the purchaser or on their behalf, from the national territory to a purchaser established or resident for tax purposes in another Member State.

Basically, the purpose of the transitional VAT rules for intra-Community transactions is to eliminate the merchandise controls associated with the crossing of internal borders within the Community, maintaining the principle that VAT on transactions between VAT subjects continues to flow to the country of destination and to be determined according to the current rate in that country.

Thus taxation in the country of destination is reconciled with the absence of ostensible tax frontiers and controls of merchandise at frontier posts.

VAT subjects selling to customers established in other Member States who are VAT subjects in those countries under the common system will not pay tax, because such transfers of goods are exempt from VAT, according to the VAT Rules for Intra-Community Transactions.

Wherever non-VAT subjects are involved, the applicable regime is that of taxation at source, that is to say tax is applied by the seller, at the rate of his own country of establishment.

5.2.3. Obligations of tax subjects

Tax subjects are obliged to:

- a) Pay the tax shown to be due on intra-Community purchases of goods;
- b) Issue an invoice or equivalent document for every transfer of goods effected and also for the occasional transfer of a new means of transport exempt under Article 14 of the RITI;
- c) Send a summarised statement of transfers of exempt goods, and of subsequent transfers of goods in that State.

The statement must be sent by electronic means within the following time limits:

- a) By the 20th day of the month following the month to which the transactions relate, in the case of tax subjects with a business volume of over 650.000€ in the previous calendar year;
- b) By the 20th day of the month following the end of the calendar quarter to which the transactions relate, in the case of tax subjects with a business volume of under 650.000€ in the previous calendar year.

Wherever the total value of all the transactions effected during the current calendar quarter or in any one of the 4 previous calendar quarters exceeds 50.000€, the summarised statement must be sent by the 20th of the month following the one to which the transactions relate.

In the intra-Community acquisition of goods the VAT becomes payable on the 15th day of the following month in which the tax is due, or on the date of the invoice or equivalent document, if these have been issued before the period referred to.

5.2.4. Taxable value and rates

The taxable value of intra-Community purchases shall be determined by applying the rules of the VAT Code and the applicable rates are likewise those of the VAT Code in force at the moment when the tax becomes payable.

6. Special taxes on consumption (IEC)

The operation of the single market from 01 January 1993 involved the free circulation within the territory of the European Union of mineral oils, alcohol and alcoholic drinks and manufactured tobacco products, which are subject to special taxes on consumption.

Council Directive 2008/118/EC, of 16 December, concerning the general arrangements for excise duty, and repealing Council Directive 92/12/EEC, of 25 February, was transposed into Portuguese law by Decree-Law n° 73/2010, of 21 June, approving the Special Tax on Consumption Code (IEC Code), which entered into force on 01 July 2010.

The IEC Code lays down the rules governing the following taxes:

6.1. Tax on alcohol and alcoholic drinks (IABA)

This is payable on beer, wine and other fermented drinks, intermediate products and spirit drinks, generically designated as alcoholic drinks, and on ethyl alcohol, generically designated as alcohol.

The special rules governing this tax may be found in Arts. 66-87 of the IEC Code.

The following are the principal alterations introduced by Law n° 64-B/2011 of 30 December:

- increase of tax on beer by 3.5%;
- increase of tax on intermediate products and spirit drinks by 7.5%.

In that respect, there is an adaptation of the tax brackets index-linked to the Plato scale for beer, so as to include a higher tax bracket for types of beer between 7 and 8 on the Plato scale (certain lighter beers, such as special summer beers), although most ordinary beer consumed on the national market is included in Plato scale 10 for tax purposes.

The following are the alterations introduced by Law n° 14-A/2012²⁰, of 30 March:

- the rate applicable for spirit drinks declared for consumption in the AR of Madeira is 1.184€/hl;
- the rates applicable for fortified wines obtained from purely regional grapes, if produced and declared for consumption in the AR of Madeira, are fixed at 50% of the rate in force in mainland Portugal;
- the rate applicable to "Madeira Rum" and liqueurs produced from regional fruit or plants, if produced and declared for consumption in the AR of Madeira, is 25% less than the rate for spirit drinks.

6.2. Tax on petroleum and energy products (ISP)

This is payable on petroleum and energy products in accordance with the law, on any other products intended for use, displayed for sale or to be consumed as a fuel, and on other hydrocarbons, except peat and natural gas, intended for use, displayed for sale or to be consumed as a fuel, and electricity covered by code NC2716.

The special rules governing this tax may be found in Arts. 88-100 of the IEC Code.

The main alteration introduced by Law n° 64-B/2011 of 30 December consists of the introduction of a special tax on electricity, payable at the moment of supply to the final consumer, consumption by the producer itself and acquisition by final consumers in organised markets.

²⁰ Autonomous Region of Madeira Economic and Financial Adjustment Programme

The persons liable to pay tax – companies responsible for calculation and payment of tax to the State – are sellers, producers which sell electricity directly to final consumers, producers of their own electricity and final consumers in organised markets.

The rate defined²¹ is 1€ per Mwh (maximum rate) and 0,50€ (minimum rate) applicable on the mainland, in Madeira and on the Island of São Miguel in the Azores (the other 8 islands have lower rates than that which applies on the Island of São Miguel).

The following are exempt:

- consumption of electricity intended to be used to produce or maintain the capacity to produce electricity;
- electricity produced aboard ships, or used to transport passengers and goods by trains, rapid transit systems or trams, or trolleybuses;
- that used by economically vulnerable final customers who have the benefit of "social" charging rates.

6.3. Tobacco tax (IT)

This is payable on manufactured tobacco products (cigars, small cigars, cigarettes and pipe tobacco) intended for consumption anywhere within the national territory.

The special rules governing this tax may be found in Arts. 101-114 of the IEC Code.

The principal alteration introduced by Law n° 64-B/2011 of 30 December consists of a significant increase in the maximum rates for cigars and small cigars (15%).

Law n° 14-A/2012, of 30 March, provides that cigarettes manufactured in the Autonomous Regions of Madeira and the Azores by small producers whose annual production does not individually exceed 500 tonnes, and consumed in the AR of Madeira, are taxed at the following rates:

- Specific component – 58€

- Ad valorem component – 10%

All cigarettes purchased in the AR of Madeira are additionally taxed at the rates mentioned above: - Specific component – 20,37€; Ad valorem component – 10%.

Products are exempt from these taxes if they are intended:

- a) To be supplied in the context of diplomatic or consular relations:
- b) For international institutions recognised as such by the Republic of Portugal;
- c) For the armed forces of Member States of NATO, to the exclusion of the national armed forces:
- d) To be consumed pursuant to agreements with non-EU countries or international institutions;
- e) To be consumed as ship's supplies while at sea in accordance with the terms and limits laid down by the law;
- f) To be dispatched, exported or declared for destinations treated as equivalent.

7. Vehicle tax (ISV)

Vehicle Tax was approved by Law n° 22/A/2007, of 29 June, replacing motor vehicle tax with effect from 01 July 2007.

It was approved as part of the general reform of motor vehicle taxation which, in addition to the Vehicle Tax Code (ISV Code), approved the Single Motor Traffic Tax Code and



²¹ Implementing Order n° 320-D/2011, of 30 December, and Law n° 20/2012, of 14 May

abolished municipal vehicle tax, motor traffic tax and road haulage tax.

The object of this measure is to tax drivers according to the costs they generate in terms of the environment, highway infrastructures and road accidents, embodying the general rule of equality of taxation.

Law n° 64-B/2011, of 30 December, provides that the cylinder capacity component and the environmental component of ISV rates applicable in 2012 to light passenger vehicles, light mixed-use vehicles and light goods vehicles are higher than in 2011, resulting in an average overall increase, including the effect of higher VAT, of around 8%.

Light petrol vehicles with CO2 emissions in excess of 0.003gr/km are subject to an increase of 500€ in the total tax payable, reduced to 250€ in the case of light goods vehicles.

ISV rates for light goods vehicles based on their cylinder capacity are increased by 5%, rising to 6.15% with the effect of VAT. Open-back, box-bodied or boxless light goods vehicles with a maximum of 3 seats are now taxed at a rate of 10%.

The Law permits the application of the rules governing the temporary admission to the national territory of light goods vehicles registered in another Member State, for use for professional purposes, on application by the interested party and the grant of permission by the Department of Customs and Excise.

The application of these rules suspends payment of ISV for a period of 6 months, consecutive or intermittent, in each 12-month period, provided that:

- a) They are vehicles admitted by a person established outside the national territory, or on his behalf. In the latter case there must be a contractual employment relationship and permission to drive the vehicle;
- b) They must be vehicles for professional use and not intended for permanent use within the national territory.



8. Road fund licence (IUC)

IUC is imposed according to the principle of equivalence, with the object of taxing drivers in proportion to the environmental and highway costs they generate, reflecting the general rule of equal taxation.

This is an annual tax (payable in full for each year to which it relates) on the ownership (and not the use) of vehicles in various categories, registered initially or on being imported into Portugal, and must be paid until the vehicle is scrapped.

This tax replaces the former "road tax disc" and is not to be confused with ISV, which is a tax payable only when the vehicle is registered for the first time (new, or as an imported used vehicle) and is already included in the sale price in the case of new vehicles.

The tax payable is updated every year according to the consumer price index and paid as the vehicle is registered. Whenever a new vehicle is purchased or a used vehicle is imported, IUC must be paid, for the 1st time, within 90 days of the date of registration.

Tax is assessed and paid by the tax subject himself via the Internet (this method is obligatory in the case of corporate entities).

9. Stamp duty

This is an indirect tax whose legal basis is the Stamp Duty Code, approved by Law n° 150/99, of 11 September. The General Stamp Duty Table is annexed to the Code (http://info.portaldasfinancas.gov.pt/pt/informacao fiscal/codigos tributarios/selo/ccod selo tabgiselo.htm).

9.1. Instruments affected

Stamp Duty is payable on all deeds, contracts, documents, securities, paper and other acts in the law specified in the General Table, including transfers of goods and property without valuable consideration.

In view of the nature of these facts, stamp duty is payable, in some cases, on business documents (document stamps) and, in other cases, on the transaction or operation itself (transaction stamps).

In the first case (document stamps), the value is fixed and depends on the physical existence of a written form, even though the tax value does not depend on the value of the transaction the document records, for example: cheques, private documents recording contracts not specifically provided for in the table, public deeds or texts and resolutions drawn up at local offices of public government authorities.

They include documents recording contracts of employment, water and electricity supply contracts, adjustment agreements and, in general, agreements for the supply of goods and services for which, as such, there is no provision in the table for taxation.

In the case of Employment Contracts, tax is payable by the employer. In the case of Service Supply Contracts it is payable by the tax subject to whom the service is supplied.

In the second case (transaction stamps), the tax varies according to the value of the transaction, irrespective of whether or not a written document exists

9.2. Territorial limits

In general, stamp duty is payable on transactions effected within the national territory. Nevertheless, the Law provides that the following are subject to stamp duty:

- a) Documents, deeds or contracts issued or entered into outside the national territory, and produced in Portugal for any statutory purpose;
- b) Loan transactions and guarantees provided by undertakings whose registered offices are abroad or within the national territory to any undertakings, whatever their nature, having a registered office, subsidiary, branch office or permanent establishment on Portuguese soil;
- c) Interest and commission paid to undertakings resident for tax purposes within the national territory or abroad to undertakings having a registered office, subsidiary, branch office or permanent establishment in Portugal;
- d) Insurances effected in other Member States and outside the European Union, where the risk insured occurs within the national territory.

9.3. Exemptions²²

9.3.1. Exempt Persons

The following are exempt from stamp duty, where the onus thereof would otherwise fall on them:

- a) The State, the Autonomous Regions, independent local authorities and their public-law associations and federations and any of their departments, establishments and institutions, even where personalised, including public institutes if not of a commercial nature;
- b) Social security institutions;
- c) Public utility corporations in public ownership;
- d) Private social welfare institutions and similar undertakings;

²² For more detailed information the reader should consult Articles 6 and 7 of the Stamp Duty Code

e) Spouses or de facto conjugal partners, descendents and ascendants, in the case of transfers for no valuable consideration.

9.3.2. Other Exemptions

The following are also exempt from Stamp Duty:

- a) Premiums received for reinsurances effected by undertakings legally operating in Portugal;
- b) Life assurance premiums and commission;
- c) Warranties inherent in operations effected, registered, paid or cleared through an undertaking carrying on the business of management of a regulated market, transferable securities, future contracts, interest rates or currency;
- d) Interest and commission received, guarantees provided and the use of credit granted to risk capital companies, credit institutions or finance companies whose addresses for tax purposes are in Member States of the European Union, or in any State, except those whose addresses for tax purposes are in territories with privileged tax regimes;
- e) Guarantees provided to the State in connection with the management of its direct public debt, with the sole purpose of covering its credit risk exposure;
- f) Financial operations effected by risk capital (RC) companies in favour of companies in which they hold shares, by share management companies (SGPS) in favour of companies controlled by them or companies in which they hold shares; g) Operations including interest paid by share capital holders to undertakings in whose capital they directly hold shares;
- h) Loans to partnerships by partners/to companies by shareholders;
- i) Mutual loans;
- j) Interest on loans for house purchase, construction, reconstruction or improvement;
- k) Swaps of transferable securities or similar rights on the Stock Exchange;
- I) Loans granted through payroll savings accounts, provided that that they do not exceed the total monthly salary credited to the account in any given month;

- m) Deeds, contracts and operations to which Community institutions or the European Investment Bank are parties or of which they are the recipients;
- n) Bingo and other gaming organised by social welfare institutions, where the receipts are used for purposes defined by the institution's regulations or revert to other undertakings, except forms of social gaming operated by the State.

9.4. Rates

Stamp Duty rates are as shown in the General Table in force at the moment when the duty is payable.

The Law makes no provision for the accumulation of duty rates in relation to the same deed or document, except where rates applied to acquisitions of real property for valuable consideration are added to those relating to acquisitions of goods and property for no valuable consideration, including acquisition by adverse possession.

9.5. Assessment and payment

The onus of assessment for stamp duty falls:

- a) As a rule, on the tax subject;
- b) On the Customs authorities;
- c) On the central offices of the Department of Taxation, in relation to transfers without valuable consideration. In the latter case, the transferee is obliged to notify any Ministry of Finance or other office specified in a special law, by the end of the 3rd month following the execution of the instrument or event giving rise to the transfer of property (e.g. death of the testator or intestate).

An annual itemised statement of stamp duty paid must be submitted, preferably by electronic means.

Taxpayers subject to the accounting standardisation scheme for micro-entities are exempt.

Stamp Duty is always paid on completion of a payment form by the 20th day of the month following that in which the liability arose. Where the duty falls to be assessed by the tax authorities, the tax subject receives notice to pay within 30 days.

The period within which Stamp Duty on transfers without valuable consideration and purchases of rights of ownership of or shares in real property, subject to taxation in accordance with the General Table, is 8 years from the date of the transfer or the date in which the exemption expired.

10. Tax benefits

Tax benefits are included in the Codes relating to the various taxes, in the Tax Benefits Statute (EBF) approved by Decree-Law n° 215/89, of 01 July, and republished by Decree-Law n° 108/2008, of 26 June and in certain separate additional legislative instruments.

The EBF defines the legal framework and the fiscal principles to which the creation of benefit situations must be subject, the rules governing the grant of benefits and the administrative recognition and categories of the said benefit, with a dual purpose: to ensure the greater stability of the laws governing new types of taxation and to render all tax benefits systematic.

Tax benefits represent an exceptional measure, adopted for non-fiscal reasons of higher interest than the tax waived, and should therefore remain in force only as long as that interest continues to exist, thus preventing the over-burdening of undertakings liable to full taxation, to offset the associated loss of revenue.

Thus various types of tax benefits may exist, such as, for example, social concerns, economic stimulation for certain undertakings, regions or sectors of the economy.

Implementing the provisions of the Memorandum of Understanding, the Portuguese Government has frozen or even revoked a number the tax incentives or benefits in force at 31 December 2011

We set out below those which are in some way associated with business activity and remain in force:

10.1. Tax benefits on investment in production

10.1.1. Tax relief on contractual investments in production units

Projects for investment in production units effected up to 31 December 2020, amounting to 5,000,000€ or more, relevant to the development of sectors considered of strategic interest to the national economy and the reduction of regional inequalities, leading to the creation of jobs and helping to boost technological innovation and national scientific research, may be entitled to the benefit of tax incentives, on a contractual basis, for a period of up to 10 years, to be granted subject to the conditions laid down in the **Investment Tax Code** (http://info.portaldasfinancas. gov.pt/pt/informacao_fiscal/codigos_tributarios/bf_rep/Cod_Fiscal_do_Investimento.htme) and the principles established in Art. 41 (2) and (3) of the EBF.

Direct investment projects implemented by Portuguese undertakings abroad, representing total sums of 250,000.00€ or more, with relevant application, which are proved to be of strategic interest to the internationalisation of the Portuguese economy, may be granted tax benefits, on a contractual basis, for a period of up to five years, subject to terms, conditions and procedures defined in specific regulations, in accordance with the principles laid down in Art. 41 (5) to (7) of the EBF.

The Rules apply to the following investment projects:

- a) Extractive and processing industry;
- b) Tourism and activities declared to be of interest to tourism under the terms of the applicable legislation;
- c) Computer technology and activities and associated services;
- d) Agricultural, piscicultural, stock-rearing and forestry activities:

- e) Research and development and high-intensity technology activities:
- f) Information technology and audiovisual and multimedia production;
- g) The environment, energy and telecommunications.

The above-mentioned investment projects may be granted any or all of the following tax incentives:

- a) Tax credits determined on the basis of the application of a percentage between 10% and 20% of the relevant applications of the project actually effected, to be deducted from IRC payable;
- b) Exemption from or reduction of IMI relating to land and property used by the undertaking in connection with the investment project;
- c) Exemption from or reduction of IMT relating to real property acquired by the undertaking for use in the exercise of its activity pursuant to the project;
- d) Exemption from or reduction of any Stamp Duty payable on any deeds or contracts necessary to the realisation of the investment project.

The grant of benefits will be the subject of a contract specifically setting out the objectives and targets to be achieved by the developer and the tax benefits granted.

IRC is deducted when the IRC due for the year in which the relevant applications were made is paid, or, where this cannot be done in full, any sum not yet deducted may, subject to the same conditions, be deducted on payment for the years up to the expiry of the term of the contract.

Maximum annual deductions are subject to the following limits:

- a) In the case of formation of companies, they may correspond to the total tax payable for each year;
- b) In the case of projects in existing companies, they may not exceed 25% of the total tax benefit granted or 50% of the tax payable as assessed for each year, whichever is greater, unless a different limit is contractually agreed.

The total tax benefit that may be granted for investment projects corresponds to 10% of the relevant applications of the project actually realised, but that percentage may be cumulatively increased:

a) By 5%, if the project is located in a region which, at the date of submission of the application, does not have a per capita purchasing power index above the national average for the last two years (INE [National Statistical Institute] data); b) By up to 5%, if the project helps to maintain or create jobs, according to the following five grades:

i) 1% - 50 or more jobs;

ii) 2% - 100 or more jobs;

iii) 3% - 150 or more jobs;

iv) 4% - 200 or more jobs;

v) 5% - 250 or more jobs.

c) By up to 5%, if the project contributes significantly to technological innovation, the protection of the environment, enhancement of the value of production of national or Community origin, the development and revitalisation of national PMEs or interaction with important national scientific institutions.

Where a project is recognised as being of exceptional importance to the national economy, a 5% increase may be granted by a decision of the Council of Ministers, subject to the total limit of 20% of the relevant applications.

Incentives may not be accumulated with other benefits of the same type and capable of being allocated to the same investment project.

Contracts relating to investment projects effected on Portuguese soil must be made subject to regulations safeguarding the consideration for the tax relief in the event of cessation of activity by the beneficiary undertaking, particularly in the event of the transfer of its registered office and [place of] effective management to a location outside the territory of Portugal.

This regime was adapted to the specific regional circumstances of Madeira through Regional Legislative Decree no 18/99/M,

of 28 June, as amended by Regional Legislative Decree n° 17/2006/M, of 23 May, with implementing regulations introduced by Regional Regulatory Decree n° 6/2007/M, of 7 October.

In the case of the Autonomous Regions there is also a possibility of a deduction from tax payable on reinvested profits, provided with regard to Madeira, in Regional Legislative Decree n° 2/2009/M, of 22 January and, with regard to the Azores, in Regional Legislative Decree n° 2/99/A, of 20 January.

10.1.2. Incentives for internationalisation of Portuguese businesses

Direct investment projects worth 250,000€ or more, realised by Portuguese undertakings abroad by 31 December 2020, of relevant application which:

- a) are proved to be of strategic interest to the internationalisation of the Portuguese economy,
- b) are proved to be technically, economically and financially viable;
- c) are not located in "tax havens";
- d) do not involve a loss of jobs in Portugal,

may be entitled to the benefit of tax incentives, on a contractual basis, for a period of up to 5 years, in accordance with the provisions of Decree-Law n° 250/2009, of 23 September, and the principles laid down in Art. 41 (5) to (7) of the EBF and Art. 22 of the Investment Tax Code.

This regime applies to direct investment, effected abroad, which makes a positive contribution to the promoting company's results and relates to the following economic activities:

- a) Extractive and transforming industry;
- b) Tourism and activities declared to be of interest to tourism under the terms of the applicable legislation;
- c) Computer technology and activities and associated services:
- d) Agricultural, piscicultural, stock-rearing and forestry activities;

- e) Research and development and high-intensity technology activities;
- f) Information technology and audiovisual and multimedia production;
- g) The environment, energy and telecommunications.

And also:

- h) Activities associated with the fields of competitiveness and technology;
- i) Building construction, public works and architectural and engineering activities connected therewith;
- j) Transport and logistics.

Tax benefits consist of an (IRC) tax credit of between 10% and 20% of all relevant applications, relating to:

- a) Creation of branches or other permanent establishments abroad;
- b) Acquisition of shares in non-resident companies or formation of companies abroad, provided that the directly held share of the company's capital is at least 25% of the total;
- c) Ongoing promotion campaigns in external markets.

Promoters of such investment projects may be granted the following tax benefits:

- a) A tax credit usable to offset IRC, deductible on payment, which cannot exceed 25% thereof in any given year, up to a limit of 1.000.000€:
- b) Elimination of economic double taxation in accordance with the terms and conditions laid down in Art 46 of the IRC Code, during the contractual period, where the investment is effected in the form of incorporation or acquisition of foreign companies.

There are excluded from the said benefits any investments effected in free zones or in countries, territories and regions that are subject to a clearly favourable tax regime, as listed in Ministerial Order n° 150/2004, of 13 February.

Where investment projects are effected in a Member State of the European Union, this regime only applies to small and medium-sized businesses, as defined in Community law.

10.2. Tax benefits for research and development - SIFIDE II

Law n° 55-A/2010, of 31 December, created the "SIFIDE II", a system of tax incentives for entrepreneurial research and development in force until 2015. Law n° 64-B/2011 of 30 December introduces certain changes, although it maintains the period for which the system remains in force until 2015.

This system operates IRC by the deduction of research and development costs from IRC, in so far as the said costs have not been financially subsidised by the State in the form of non-repayable grants, at two percentage rates:

- a) Basic rate: 32.5% of costs incurred during the relevant period;
- b) Increased rate: 50% on increased costs incurred during the relevant period in relation to the simple arithmetical average for the two previous years, up to a deduction limit of 1,500,000€. This rate increases by 20% in the case of employees holding a doctorate, up to a deduction limit of 1,800,000€.

SMEs which have not yet completed two years' trading and have not had the benefit of the increased rate may apply a 10% increase to the basic rate.

Costs which cannot be deducted in the year in which they were incurred because the tax payable is not sufficient may be deducted up to the sixth year thereafter.

Tax benefits are available to residents in Portugal whose principal activity is of a commercial, industrial or agricultural nature and non-residents with a permanent establishment on Portuguese soil who or which fulfil all the following conditions:

- a) their taxable profits cannot be determined by indirect methods;
- b) they do not owe any sums to the State or the Social Security authority in respect of any taxes or contributions, or have their payments duly insured.

Eligible expenses:

- Acquisitions of tangible fixed assets, except land and buildings, provided that the same are acquired or created as new and used for R&D activities;
- Costs of personnel engaged in R&D work, in the case of micro-entities and SMEs. For large companies only 90% of total expenses are deductible;
- Costs of participation of managing personnel and executives in the management of R&D institutions;
- Operating costs (wages and salaries), up to a maximum of 55%, for personnel engaged in R&D work;
- Contractual negotiation costs of R&D activities;
- Capital shares in R&D institutions and contributions to public or private investment funds,;
- Patent registration and maintenance fees, patent purchase costs and audit costs incurred by micro-entities and SMEs;
- Demonstration costs arising from R&D projects supported, subject to prior notice to the authority responsible for the evaluation of SIFIDE II applications.

Costs which cannot be deducted in the year in which they were incurred because the tax payable is not sufficient may be deducted up to the sixth year thereafter.

This deduction may not be combined, in relation to the same investment, with other similar tax benefits provided in other legislation.

10.3. Tax benefits for "Free Zones"

There is at present only one zone with a privileged tax regime in Portugal - the Madeira Free Zone. The Free Zone of Santa Maria Island, in the Azores, created by Decree-Law n° 34/82, of 04 February, ceased to be operational²³ at 31 December 2011.

Special regime for the Madeira Free Zone

The Madeira Free Zone or Madeira International Business Centre (CINM) was created with the object of attracting

²³ Information obtained from the Azores Regional Office for the Economy

foreign investment, thus contributing to the diversification and modernisation of Madeira's economy and the internationalisation of Portuguese business undertakings. The CINM is a State Subsidy programme fully approved and supported by Portugal and the European Union, providing national and international investors with a unique package of benefits that apply to a wide range of activities.

Tax Benefits- Rates of Taxation

Decree-Law n° 13/2008, of 18 January, approved a special tax scheme for the Madeira Free Zone, provision for which is currently contained in Articles 33-36 of the Tax Benefits Law (EBF).

The present tax benefit scheme allows the implantation up to the end of 2013 of new undertakings which will have the benefit of reduced rates of tax on profits until 31 December 2020.

Thus, all undertakings licensed in the Madeira Free Zone to carry on industrial and commercial activities, maritime transport and other services, which begin trading within 6 months, in the case of international services, and within 1 year for industrial or maritime register activities, from the date of issue of the licence, have the benefit of an attractive range of tax advantages, as provided in Art. 33 (4) to (20) and Art. 36 of the EBF.

The benefits consist of a reduction in IRC applicable to the maximum taxable income limits defined in the law, according to the number of jobs created during the first 6 months of activity (varying between 2 million euros for the creation of up to 2 jobs and 150 million euros for the creation of more than 100 jobs), as follows:

- a) 2007 2009 years to a rate of 3%
- b) 2010-2012 years to a rate of 4%
- c) 2013-2020 years to a rate of 5%

Undertakings which carry on industrial activities are also entitled to a 50% deduction from IRC payable, provided that they fulfil at least two of the following conditions:

a) They must contribute to the modernisation of the regional economy;

- b) They must contribute to the diversification of the regional economy;
- c) They must promote the engagement of highly qualified human resources;
- d) They must contribute to the improvement of environmental conditions:
- e) They must create at least 15 jobs, which must be maintained for at least 5 years.

Other benefits

Under Art. 33 of the EBF,

The following are exempt from IRC,

- Interest on loans contracted by undertakings installed in Free Zones, provided that the said loans are obtained for purposes of investment and normal operation of the borrowers, and that the lenders are not resident within Portuguese territory;
- Undertakings licensed to operate in free zones, until 31 December 2017.

The following are exempt from IRS,

- Remuneration paid to crews of registered vessels, as long as their registration remains valid, without prejudice to the agglomeration of exempt income for the purposes or the provisions of Art. 22 (4) of the IRS Code.

The following are exempt from IRS or IRC,

- Income from temporary licences or assignments by nonresidents, except permanent establishments in Portugal outside the Free Zones, relating to industrial, commercial or scientific and activities and ancillary and complementary activities, carried on within the Free Zone;
- Income from services, paid to non-residents and not attributable to a permanent establishment in Portugal outside the Free Zones, if payable by entities installed in the Free Zone and relating to business carried on therein;
- Income paid by offshore trust companies and branch offices to users of their services, installed in free zones or non-resident in Portugal.

Law n.° 64-B/2011 of 30 December revoked tax benefits for shareholders of entities licensed in the Free Zone, as regards the exemption from IRS and IRC of dividends distributed and interest on subsidies received, providing that with effect from 1 January 2012, these are subject to the general regime applicable to entities resident in mainland Portugal, and to the retention of tax at source at a rate of 25% or 30%, without prejudice to the application of the exemption referred to in Directive 90/435/EEC, or any limitation of tax liability under a Convention for the Avoidance of Double Taxation.

The following are exempt from stamp duty,

- documents, books, commercial paper, contracts, transactions, deeds and products relating to entities licensed in the Free Zones and those holding licences to operate in those Zones.

Under Art. 44 of the EBF:

The following are exempt from IMI²⁴,

- entities now or in future licensed to operate in institutions in the Madeira Free Zone, as to property or parts of property directly intended for use in the achievement of their objects.

²⁴ This benefit is not applicable to finance and insurance brokers and "intra-group services" entities, particularly coordination , cash-flow and distribution centres (added by Law n° 20/2012, of 14 May).



For more detailed information on the activity of the Madeira International Business Centre, we suggest that the reader consult the following website: http://www.ibc-madeira.com/Default.aspx?ID=652

10.5. Tax benefits for social purposesJob creation

To determine the amount of taxable profit for IRC purposes, Art 19 of the EBF provides for an accounting entry of 150% of the costs²⁵ of net job creation²⁶ for young people and the long-term unemployed, taken on by companies under contracts for an indefinite period, and applied only once to each employee.

"Young people" is used to mean employees aged over 16 and under 35, inclusive, their age having been checked at the date of signature of their contracts of employment, except young people aged under 23 who have not completed their secondary education and are not on education/training courses.

"Long-term unemployed" is used to mean workers available for work and registered with job centres for more than 9 months, even if, during that period, they have held contracts of employment for periods of less than 6 months, the total duration of which does not exceed 12 months.

This increase²⁷ applies for a period of 5 years from the beginning of the employment contract, and may not be combined with other job support incentives provided by other laws and with other similar tax benefits, when applied to the same employee or job.

^{25 &}quot;Costs" is considered to mean sums paid out by the employer undertaking in respect of the employee by way of fixed remuneration and social security contributions.

²⁶ This consists of the positive difference between the number of employees taken on and the number released, excluding family members employed in a family firm.

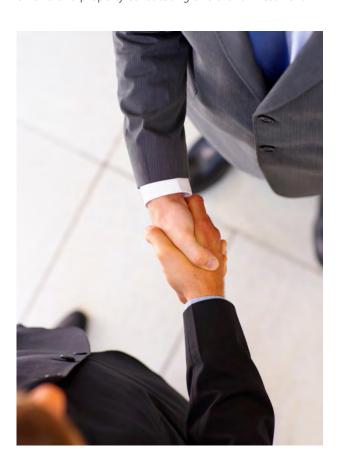
²⁷ The maximum annual increase is 14 times the guaranteed minimum monthly remuneration.

10.5. Special investment support regime (RFAI)

Law n° 10/2009, of 10 March (Art. 13) approved a special investment support scheme created in 2009, hereinafter abbreviated to "RFAI 2009". Law n° 64-B/2011 of 30 December extended that scheme until 31 December 2012, with no changes to the scheme in force since 2009.

Under that scheme, IRC subjects, resident within the territory of Portugal or having permanent establishments there, and whose principal activity is of a commercial, industrial or agricultural nature, are entitled to:

- a) The deduction from IRC payable of 20% of relevant investment up to the sum of 5,000,000€ and 10% where the value exceeds 5,000,000€;
- b) Exemption from IMI for a period of 5 years, in relation to land and property owned by them and constituting a relevant investment;
- c) Exemption from IMT and Stamp Duty on the acquisition of land and property constituting a relevant investment.



10.6. Other tax benefits

10.6.1. Tax benefits for business restructuring

Undertakings that directly carry on as their principal business an agricultural, commercial, industrial or service supply activity, and have their registered office, actual management centre or address for legal purposes on Portuguese soil, in another Member State or even in a State with which Portugal has entered into a convention for the avoidance of double taxation of income and capital, and which reorganise themselves by acts of concentration²⁸ or cooperation agreements²⁹ may be granted the following tax benefits relating to the said acts or agreements:

- a) Exemption from IMT on transfers of non-residential property;
- b) Exemption from Stamp Duty on transfers of property such as are mentioned above or the creation or increase of the share capital or assets of a capital company;
- c) Exemption from fees and other statutory charges payable on the execution of all deeds involved in the processes in question.

10.6.2. Tax benefits for land and property in business location areas (ALE)

Acquisitions of real property situated in business location areas by companies responsible for the management of those areas and companies that install themselves therein are entitled to the following exemptions:

- a) Exemption from IMT on property purchases;
- b) Exemption from IMI on the purchase or construction of property for a period of 10 years.

^{28 &}quot;Concentration" is taken to mean mergers of companies, assimilations by one company of another or branches of another company and demergers of companies.

^{29 &}quot;Cooperation" is taken to mean the creation of complementary groups of undertakings, the formation of private corporate entities, public companies or consortium and partnership agreements.

This regime applies to property purchased or completed by 31 December 2012 and also applies to business parks in the Autonomous Region of Madeira, created and governed by Regional Legislative Decree n° 28/2001/M, of 28 August, as amended by Regional Legislative Decree n° 12/2002/M, of 17 July.

10.6.3. Tax benefits for the financial system and capital markets

Security Investment Funds (FIMs)

Income from FIMs is subject to the following tax regime:

Income obtained within the national territory

 a) rate of retention at source out of total taxable income;
 b) 25% on the net value for each year, in the case of income not subject to retention at source. Tax must be paid by the end of April of the year following that to which the income relates.

IRS payers holding shares in funds outside the scope of a commercial, industrial or agricultural activity are exempt from IRS. They may nevertheless be agglomerated for the purposes of this tax, in which case any IRS, retained or owed, is regarded as tax on account (Art. 78 of the IRS Code).

IRS or IRC payers obtaining income from a commercial, industrial or agricultural activity, resident within the national territory or attributable to a permanent establishment in Portugal, are not subject to retention at source and such income is regarded as profits or gains (Arts. 83 of the IRC Code and 78 of the IRS).

2. Income obtained outside the national territory
Separate taxation at 20% of income from debt instruments,
profits distributed and investment funds In all other case the
25% rate applies to the net sum obtained in each year. Tax
must be paid by the end of April of the year following that to
which the income relates.

3. Capital gains

Capital gains realised within or outside the national territory are separately taxed at 21.5%, on any positive difference

between capital gains and losses realised in each year. Tax must be paid by the end of April of the year following that to which the income relates.

Property Investment Funds (FIIs)

Income from FIIs is subject to the following tax regime:

- 1. Income from property is separately taxed at 20% on the net amount of conservation and maintenance costs and IMI, payable by the end of April of the year following that to which the income relates. If any retention is appropriate, it is regarded as a payment on account.
- 2. Capital gains on property are separately taxed at 25% on 50% of any positive difference between capital gains and losses, made and calculated in accordance with the IRS Code, payable by the end of April of the year following that to which the income relates.

Risk Capital Funds

Income of any kind, obtained by risk capital funds created or operated in accordance with Portuguese law, is exempt from IRC.

Income relating to shares in risk capital funds are subject to retention at source of IRS and IRC at a rate of 10%, except where the holders are exempt entities as regards income from capital or non- residents with no permanent establishment in Portugal. This scheme is not available to:

- a) entities residents in tax havens;
- b) non-resident entities where over 25% of their share capital is owned by resident entitles.

Risk capital fund management companies are jointly and severally liable for the tax debts of the funds they manage.

Capital gains obtained by non-residents

Capital gains on transfers for valuable consideration of shares, other securities, autonomous warrants and derivative financial instruments, realised by entities whose legal addresses are in a country with which there is no convention for the avoidance of double taxation or agreement for the exchange

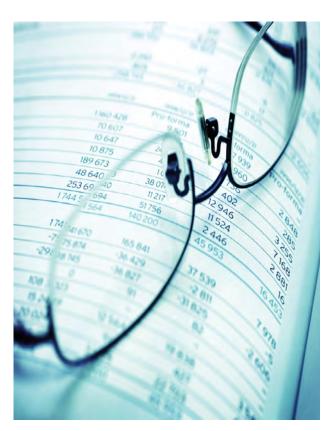
of information on tax matters, regain their exemption from taxation in Portugal (IRC or IRS), provided that the tax subjects are not resident in tax havens.

Venture Capital Companies ("SCRs - Sociedades de Capital de Risco") and Business Angels ("ICRs -Investidores de Capital de Risco")

Capital gains and losses realised by SCRs and ICRs, if held for a period of at least 1 year, and also financial costs incurred in connection with the acquisition thereof, are not counted as taxable profits.

SCRs may deduct from the total as calculated in accordance with Art. 90 (1) a) of the IRC Code³⁰ a sum up to a limit equivalent to the total IRC payable for the 5 years previous to that to which the benefit relates, provided that it is used for investment in companies with growth and development potential.

³⁰ Interest and any other income from capital, except profits distributed, owned by financial institutions subject to IRC in respect thereof, although exempt



Shareholders of unipersonal risk capital investment companies limited by shares, informal investors in companies used as vehicles for investment in undertakings with growth potential, certified under the COMPETE Programme, and individual informal risk capital investors certified by the IAPMEI, under the FINICIA Programme, may deduct a sum representing 20% of the <u>sum invested</u>³¹ by them or by the unipersonal companies in which they hold shares, up to a maximum 15% of their IRS liability for the relevant year.

This tax scheme remains subject to the lapse clause, and remains in force until 2016.

10.6.4. Tax benefits for intellectual property

Income from literary, artistic and scientific works, when realised by authors resident on Portuguese soil, in so far as they are the original owners, are liable to IRS on only 50% of the value thereof, with a limit of 20,000€, net of other benefits.

^{31 &}quot;Sum invested" means the acquisiion of shares or holdings, or ancillary or complementary capital services, in companies intended to be invested in for their development and growth potential

APPENDICES

Tax Calendar- 1st Semester 2012

Obligations -	- Corporate Entities	Jan	Feb	Mar	Apr	May	Jun
IRC	Payments on Account						
IRC	Payment on Account by entities whose principal business is agriculture, silviculture or stockbreeding						
IRC	Additional Payment on Account						
IRC	Special Payment on Account			31			
IRC	Dispatch of Form 22 Tax Return for 2011, payment of IRC, Surtax and State Surtax					31	
IRS/IRC	Notification of income paid and retentions at withholding tax rates, for the previous year	31					
IRS/IRC	Notification of income paid and retentions and deductions made, for the previous year	20					
IRS/IRC	Statement of income paid and retentions, deductions, social security and health contributions and assessments, relating to 2011		29				
IRS/IRC	Notification of exempt income, exemptions from retention at source or retention at a reduced paid in 2011						
IRS/IRC	Statement of income paid or made available to non-resident tax subjects in 2011						
IRS/IRC	Statement of income paid or made available to non-resident tax subjects in 2012			31	30	31	30
IRS/IRC/ Stamp Duty	Payment of retained IRC and IRS and Stamp Duty	20	20	20	20	21	20
IVA	Dispatch of monthly statement and appendices	10	10	12	10	10	11
IVA	Dispatch of quarterly statement and appendices	20	20	20	20	21	20
IVA	Dispatch of monthly summarised statement (intra- Community transfers and supplies of services)	20			20		
IMI	Payment of Municipal Property Tax				30		

Tax Calendar - 2nd Semester 2012 and January 2013

Obrigações -	Pessoas Colectivas	Jul	Ago	Set	Out	Nov	Dez	Jan 2013
IRC	Payments on Account	31		30			15	
IRC	Payment on Account by entities whose principal business is agriculture, silviculture or stockbreeding						15	
IRC	Additional Payment on Account	31		30			15	
IRC	Special Payment on Account				31			
IRC	Dispatch of Form 22 Tax Return for 2011, payment of IRC, Surtax and State Surtax							
IRS/IRC	Notification of income paid and retentions at withholding tax rates, for the previous year							31
IRS/IRC	Notification of income paid and retentions and deductions made, for the previous year							21
IRS/IRC	Statement of income paid and retentions, deductions, social security and health contributions and assessments, relating to 2011							
IRS/IRC	Notification of exempt income, exemptions from retention at source or retention at a reduced paid in 2011	31						
IRS/IRC	Statement of income paid or made available to non-resident tax subjects in 2011	31						
IRS/IRC	Statement of income paid or made available to non-resident tax subjects in 2012	31	31	30	31	30	31	31
IRS/IRC/ Stamp Duty	Payment of retained IRC and IRS and Stamp Duty	20	20	20	22	20	20	21
IVA	Dispatch of monthly statement and appendices	10	10	10	10	12	10	10
IVA	Dispatch of quarterly statement and appendices	20	20	20	22	20	20	21
IVA	Dispatch of monthly summarised statement (intra-Community transfers and supplies of services)	20			22			21
IMI	Payment of Municipal Property Tax			30				

Sources

```
√ Decree-Law n° 442-B/88, of 30 November - Corporate Income Tax (IRC) Code
√ Decree-Law n° 442-A/88, of 30 November - Personal Income Tax (IRS) Code
√ Decree-Law n° 287/2003, of 12 November – Municipal Tax on Real Property (IMI) and Municipal Tax on Real
Estate Transfer (IMT) Code
√ Decree-Law n° 394-B/84, of 26 December – Value Added Tax (VAT) Code
√ Decree-Law n° 290/92, of 28 December – VAT Rules for Intra-Community Transactions (ITI Rules)
√ Decree-Law n° 566/99, of 22 December – Special Taxes on Consumption (IEC) Code
√ Law n° 150/99, of 11 September – Stamp Duty (IS) Code
√ Decree-Law n° 215/89, of 1 July – Tax Relief Rules (EBF)
√ Law n° 3-B/2010 of 28 April – State Budget for 2010
√ 2010-2013 Stability and Growth Programme (PEC)
√ Law n° 11/2010, of 15 June – New rate of IRS
√ Law n° 12-A/2010, of 30 June – Additional Measures to the PEC
√ Law n° 55-A/2010, of 31 December – State Budget for 2011
√ Law n° 64-B/2011, of 30 December – State Budget for 2012
√ Law n° 14-A/2012, of 30 March – Alteration to VAT and IEC and amendment of Decree-Law n° 347/85, of 23
August, in connection with the Autonomous Region of Madeira Economic and Financial Adjustment Programme
\sqrt{\text{Law n}^{\circ} 20/2012}, of 14 May – 1st amendment to Law n° 64-B/2011, of 30 December
```







