

## Special tax regime for Non-Habitual Portuguese Resident individuals

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Portuguese income tax law provides for a 20% (plus 3.5% for 2014) reduced rate and, in respect to income obtained abroad, a full tax exemption, for certain types of income earned by individuals having the status of Non-Habitual Portuguese Residents (NHPR).

Any individual who in a given year becomes a tax resident in Portugal will qualify for this NHPR regime, provided that, **during the previous 5 years, he/she was not a tax resident in the Portuguese territory.**

**An individual is considered a tax resident in the Portuguese territory** in a given calendar year if he/she meets one of the following conditions in that year:

- i. He/she remains in Portugal for more than 183 days, consecutively or not;
- ii. He/she has, by 31 December of that year, a house available in Portugal (whether owned or rented) in conditions which indicate his/her intention to use it as habitual residence;
- iii. He/she is, by 31 December of that year, a crew member of a ship or aircraft operated by a Portuguese resident company;
- iv. He/she renders public services abroad for the Portuguese State;
- v. In case of married individuals, if one of the members of the couple is considered resident in Portugal in accordance with the criteria mentioned above, the other member will also be considered a Portuguese resident (even

if he/she spends most of the time outside Portugal, unless he/she opts to be treated as a non-resident and, for that purpose, proves that most of his/her economic activities are not connected with the Portuguese territory).

Thus, in order to qualify for this NHPR regime, individuals **are not required to acquire real estate or to make any investment in Portugal.**

If an individual meets the conditions to be classified as a NHPR, he/she should register with the Portuguese tax authorities under such status. This registration as a NHPR must be requested in the year the individual becomes a tax resident in Portugal or until 31 March of the following year.

This NHPR regime **applies for a 10-year period**, provided that during such period the individual meets one of the above conditions.

Individuals who qualify and are registered with the Portuguese tax authorities as NHPR enjoy the following tax advantages:

- A **20% reduced rate** (plus 3.5% for 2014) applies to employment, professional and business income obtained within the scope of an activity that is considered a "high value-added activity of a scientific, artistic or technical nature" – one of the activities listed in the Ministerial Order ("Portaria") 12/2010, of 7/01/10, which includes, among others, architects, engineers, doctors, scientific research and development, data processing activities, software consultancy and activities related to information technology and computing, biologists, psychologists, designers, directors and senior managers with

powers to bind the companies for whom they work.

- A **full tax exemption** applies to the following income obtained abroad:

**Employment income**, provided that such income is taxed (effective taxation at source is required) in the State of source: (i) in accordance with the applicable Double Tax Treaty entered into by Portugal (PT Treaty), or (ii) if no PT Treaty applies, it is further required that such income does not derive from an activity carried out in Portugal and is not paid by a Portuguese-resident entity;

**Professional income** obtained within the scope of an activity that is considered a *"high value-added activity of a scientific, artistic or technical nature"* (please see above), provided that such income can be taxed (effective taxation at source is not required) in the State of source: (i) in accordance with the applicable PT Treaty, or (ii) if no PT Treaty applies, in accordance with the OECD Model Tax Convention on Income and on Capital, interpreted according to the observations and reserves made by Portugal. Where no PT Treaty applies, it is further required that income is not obtained in a tax haven as per the Portuguese blacklist, nor derives from services rendered in Portugal or to Portuguese-resident entities.

**Income from intellectual or industrial property, know-how, real estate rent, investment income and capital gains**, provided that such income/gains can be taxed (effective taxation at source is not required) in the State of source: (i) in accordance with the applicable PT Treaty, or (ii) if no PT Treaty applies, in accordance with the OECD Model Tax Convention on Income and on Capital, interpreted according to the observations and reserves made by Portugal. Where no PT Treaty applies, it is further required that such income/gains are not obtained in a tax haven as per the Portuguese blacklist, nor are considered Portuguese sourced income/gains under the Portuguese domestic tax rules.

**Pension income** paid by non-Portuguese resident entities, provided that such pension income does not derive from contributions that have been deducted for Portuguese individual income tax purposes (taxation at source is not required).

In respect of other aspects which are not specifically addressed by the NHPR regime (ex. tax deduction of personal expenses, such as health and educational expenses), the general tax rules set out for Portuguese-resident individuals apply. Individuals with the NHPR status are covered by the Treaties entered into by Portugal, as any other Portuguese residents.

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