

Non-Habitual

Tax residents regime



TFRA®

Non-Habitual

Tax residents regime



SUMMARY

- I. Non-Habitual Tax Residents Regime
- II. Requirements and Duration
- III. Other features of the Regime
- IV. Taxation
 - A. Income obtained in Portugal
 - B. Income obtained outside Portugal
- V. Conclusion



May 2017

I. NON-HABITUAL TAX RESIDENTS REGIME

- A more favorable tax regime aiming to attract production inputs.
- Taxation scheme with specific characteristics.
- A regime independent of the gold visa.
- Approved by Decree-law no. 249/2009 of September 23rd.
- The taxation scheme is based on the taxation of individuals, Portuguese tax residents, enhanced with exemptions and reduced rates.
- It distinguishes between domestic and foreign source income.

II. REQUIREMENTS AND DURATION

- No tax residence in Portugal in the previous 5 years (a tax residence certificate may be requested)
 - Acquiring Portuguese tax residence:
 - ✓ Having lived for more than 183 days (consecutive or not) in Portugal in any period of 12 months starting or ending in the relevant year.
 - ✓ OR
 - ✓ Having a house, at any time throughout the 12-month period, in such conditions that allow to presume the intention to hold and occupy it as the habitual place of residence.
 - Apply for the registration as Non-Habitual Tax Resident until 31 March of the year following that of registration as resident (e.g. 2017 - registration until 31 March 2018).
 - Scheme applicable for a 10-year period.
-

III. OTHER FEATURES OF THE REGIME

- Taxation under the regime applicable to the tax residents (worldwide income taxation principle)
- Income Statement
- There is no obligation to declare assets and rights (exception: bank accounts held abroad)
- Tax residents for the purpose of the DTTs

IV. TAXATION

A. INCOME OBTAINED IN PORTUGAL

- Taxation at a 20% flat rate, on income deriving from the following activities:
 - ✓ Architecture, engineering or geology;
 - ✓ Theater, ballet, cinema, radio and television, singing, sculpture, music, painting;
 - ✓ Auditing and tax consultancy;
 - ✓ Medicine and Dentistry;
 - ✓ Teaching in Higher Education;
 - ✓ Psychology;
 - ✓ Archeology, biology, liberal professions, technical professions in general, and other similar professions in computer science, information services, news agency, scientific research and development;
 - ✓ Design;
 - ✓ Management and administration of companies promoting productive investment, if related to electable projects with agreements granting tax benefits under the Investments' taxation Code, and
 - ✓ Performance of senior roles in companies.
-

IV. TAXATION

A. INCOME OBTAINED IN PORTUGAL (*continues*)

- When none of the above activities corresponds to the activity undertaken, the Portuguese general scheme for residents applies:
 - ✓ Maximum general tax rate of 48% for higher income amounts;
- Withholding tax a 28% flat rate on the following income:
 - ✓ Interest
 - ✓ Dividends
 - ✓ Capital gains
 - ✓ Income from immovable property

B. INCOME OBTAINED OUTSIDE PORTUGAL

- ✓ Interest
- ✓ Dividends
- ✓ Capital gains
- ✓ Income from immovable property
- ✓ Business income
- ✓ Professional income

Tax exemption provided:

- a) Income may be taxed in the source state, in accordance with the Double Taxation Agreement entered between Portugal and the source state, or
 - b) Income may be taxed in the source state, in accordance with the OECD Model Tax Convention in the absence of Double Taxation Agreements with the source state (excluding blacklisted jurisdictions).
- ✓ Employment income

NOTE: In addition, interest, dividends, and royalties are taxed at a rate of 35% if paid by entities domiciled in blacklisted jurisdictions. The same applies to capital gains on the disposal of shares of entities therein domiciled).

IV. TAXATION

B. INCOME OBTAINED OUTSIDE PORTUGAL (*continues*)

Tax exemption provided:

- a) Income is taxed at the source state, according to the Double Taxation Agreement entered between Portugal and that state; or
 - b) Income is taxed at the source state, whenever this income may not be deemed to be obtained in Portugal, under article no. 18. of the Personal Income Tax Code, in the absence of a Double Taxation Agreement.
- ✓ Pension income

Exempt from taxation whenever:

- a) Income is taxed at the source state, according to the Double Taxation Agreement entered into between Portugal and that state; or
- b) Income may not be deemed to be obtained in Portugal, under article no. 18. of the Personal Income Tax Code.

V. CONCLUSION

- ✓ Tax rules for non-habitual tax residents are extremely attractive and have proven to be a success, especially in the French and Scandinavian markets.
 - ✓ It is not a “remittance” scheme as the English or the Sweden schemes, but it consists in several tax benefits for these residents.
 - ✓ Specialized monitoring and a case-by-case analysis are necessary to ensure these benefits are enhanced.
-

PORTUGAL

Lisboa

Av. da República, 32 - 4.º Esq.

1050-193 Lisboa

T +351 217 815 660

F +351 217 815 679

lawfirm@tfra.pt

Funchal

Av. do Infante 8

Edifício Executivo 2.º Andar, Sala K

9000-060 Funchal - Madeira

T +351 291 202 400

F +351 291 237 188



TFRA[®]