APPROVAL OF NON-HABITUAL TAX RESIDENT REGIME - CAIADO GUERREIRO & ASSOCIADOS

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Category: Tax

The approval of the non-habitual tax resident regime in 2009 is another reason why Portugal has become a premium destination for foreigners. This regime allows foreigners to benefit from zero per cent taxation on the majority of foreign-sourced passive income – capital gains from real estate assets, dividends, interests, immovable property income, royalties, and private retirement

pensions, as long as certain conditions are met.

Meanwhile, Portuguese-sourced employment and business income derived from high added value activities developed in Portugal, benefits from a special flat rate of only 20 per cent.

This regime applies for ten years and the conditions are following (i)tonot have been taxed as a tax resident in Portugal in any of the five preceding years, and (ii)fulfillment of legal criteria to be considered tax resident in the Portuguese territory.

The tax residency concept has been amended by the 2015 Portuguese Personal Income Tax Reform. The "partial residency" concept was introduced and changed the conditions for someone to be considered as a resident for tax purposes. This perception has a significant impact on taxpayers, since a resident in Portugal is taxed on their worldwide income, while a non-resident is only taxed on the income obtained in Portugal.

Even the income which is exempt must be reported to the tax authorities and each person must also report the IBAN account number of the bank accounts held abroad.

Having been introduced in 2009 with the main purpose of attracting foreign investment and to develop the Portuguese economy, the non-habitual tax regime lead many foreigners to invest and establish their residency in Portugal.

The effects on the real estate market are notorious – according to statistics, in combination with the Golden Visa Programme (which grants residence permits to investors), the non-habitual resident regime has enabled Portugal to generate foreign investment of several billion euros per year in real estate.

The nationalities most commonly attracted by the regime are the French, Brazilian, Polish, Swedish and Dutch. Regards the specific case of the French, it should be said that nowadays, not only retired people choose to move to Portugal, but also many entrepreneurs who intend to carry on their businesses as they see Portugal as the best option to relocate and to grow their investments.

The French example has been closely followed by several other nations that have especially high taxes in their home country and have chosen Portugal as an ideal country to which to relocate.

Even though the 2016 proposed state budget, although not yet approved, does not address any amendments to the current non-habitual residence tax regime, there is clearly still room for improvement. Most importantly, it should be made clear that there is the possibility of renewing this regime after the ten-year period, since this is an extremely important aspect of the regime with a direct impact on maintaining the wave of investment in Portugal and a crucial factor in investors' decisions.

To summarise, the results of the approval of the regime are very positive and we expect that the number of people choosing to re-locate their residence to Portugal will continue to increase.

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