



LEGAL ALERT

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The end of the Non-Habitual Residents Tax regime

The Portuguese draft State Budget Law for 2024, presented on 10 October 2023, provides for the end of the special tax regime for non-habitual residents, as per 1 January 2024.

To whom does it remain applicable?

In summary, it is proposed to revoke the non-habitual residents tax regime for individuals who become tax residents, in Portugal, after 31 December 2023.

As such, it will remain applicable (for a period of 10 years) to taxpayers who:

- ✓ are registered as non-habitual residents at the time this law comes into force (which should be on 1 January 2024); or
- ✓ on 31 December 2023 meet the conditions to register as non-habitual residents or hold a valid residence visa on that date. In this case, the taxpayers must register as non-habitual residents by 31 March 2024.

New regime

In order to compensate for the revoke of the regime in question, and as an alternative, the Portuguese Government, in said draft law, proposed the creation of a new "tax incentives for scientific research and innovation" regime, applicable to individuals who:

- ✓ become tax residents in Portugal as of 1 January 2024;

- ✓ have not been resident in Portugal in any of the previous five years;
- ✓ earn income that falls within the following categories:
 - (i) teaching careers in higher education and scientific research, integrated into the national science and technology system;
 - (ii) qualified jobs within the scope of contractual benefits for productive investment, under the terms of specific legislation;
 - (iii) research and development jobs, with a minimum doctorate qualification, under certain conditions.

As per the regime for non-habitual residents, this new regime will apply for a period of 10 consecutive, non-renewable years, with the possibility of interrupting and resuming its use during this period.

This new proposed regime establishes:

- ✓ a special rate of 20% on net income from employed work (category A) and business and professional income (category B) arising from the above-mentioned activities categories;
- ✓ a progressive exemption for foreign source income of categories A, B, E, F and G, unless paid by foreign entities resident in

jurisdictions with a clearly more favorable tax regime, in which case they will be subject to an increased rate of 35%.

Taxpayers who benefit or have benefited from the regime for non-habitual residents or the regime for "former residents" are not eligible for this new regime.

Other options

In addition to the new regime and as a possible alternative to the non-habitual resident's tax regime (although more restrictive), it is noteworthy to mention that it was also proposed a change to the "former residents" regime, which establishes the non-taxation of 50% of income from employed work and business and professional income.

More specifically, it has been proposed to extend

the application of this regime to taxpayers who:

- ✓ become tax residents, in Portugal, between 2024 to 2026;
- ✓ have not been tax residents in national territory in any of the previous 5 years.

This exclusion from taxation is limited to an annual income of up to € 250,000.00. Any amount above that will, according to the Proposal, be taxed in full.

This regime applies for a period of 5 years.

Final remarks

It should be noted that the State Budget Law was only presented to Portuguese Parliament for discussion and voting.

As such, the final legislative changes will only be available at the end of November.

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