



**THE
PORTUGUESE
TAX SYSTEM**

THE PORTUGUESE TAX SYSTEM

SUMMARY

I.	Tax Administration: structure and functions	3
II.	Corporate Income Tax (IRC).....	8
III.	Personal Income Tax (IRS)	40
IV.	Value Added Tax (IVA).....	73
V.	Municipal Tax on Real Estate Transfer (IMT)	97
VI.	Municipal Tax on Real Property (IMI).....	105
VII.	Stamp Duty (IS).....	117
VIII.	Tax Benefits.....	129
IX.	Taxpayer's Guarantees	142
X.	Double Taxation Conventions concluded by Portugal	147

PREVIOUS NOTE

«The Portuguese Tax System» is intended to be a descriptive and synthetic information about some major aspects of tax legislation concerning Portuguese main taxes.

The present text is in reference to 31st January 2009.

The latest legal texts taken into consideration are Law nr. 64/2008 of 5th December and Law nr. 64-A/2008 of 31st December approving the 2009 State Budget.

I

TAX ADMINISTRATION: STRUCTURE AND FUNCTIONS

The Tax Administration

The State Tax Administration is organized as a vertical structure of its different organs and services, being integrated into the Ministry of Finance and Public Administration (MFAP), and within this Ministry in the State Department for Fiscal Affairs. The main services of the Tax Administration are as follows:

- The Directorate General for Taxation;
- The Directorate General for Customs and Excise Taxes;
- The Directorate General for Informatics and Assistance to Taxation and Customs Services.

The *Directorate General for Taxation* (DGCI) is the service in the MFAP responsible for the management of taxes on income, on wealth, and general excise taxes in conformity with the tax policies determined by the Government. The DGCI is under the supervision of a Director General who is assisted by eight sub-directors general.

The *Directorate General for Customs and Excise Taxes* (DGAIEC) is the service in the MFAP that, in conformity with the tax policies determined by the Government and the EU legislation, has the power:

- a) To control the Community external border and the domestic customs territory for tax and economic purposes and for social protection, namely in the cultural and safety and public health sphere;
- b) To administrate excise taxes.

The DGAIEC is under the supervision of a Director General, who is assisted by four sub-directors general.

The *Directorate General for Informatics and Assistance to Taxation and Customs Services* (DGITA) is the service in the MFAP responsible for supporting the DGCI and the DGAIEC in the area of information systems and technology. The DGITA is under the supervision of a Director General, who is assisted by two sub-directors general.

Structure and Functions of the Directorate General for Taxation

It is incumbent upon the Directorate General for Taxation (DGCI), in relation to taxes administered by it:

- a) To ensure tax assessment and collection;
- b) To promote the correct application of legislation and administrative decisions;
- c) To inform individual persons on their tax liabilities and provide assistance in connection thereto;

- d) To carry out tax audit actions in order to prevent and to fight against tax avoidance and evasion;
- e) To carry out tax justice procedures and to ensure the representation of the Treasury before the judicial bodies;
- f) To ensure the implementation of international agreements and conventions in tax matters, in particular those aimed at avoiding double taxation;
- g) To contribute to the increased efficiency of the tax system by proposing any appropriate normative, technical and organisational measures;
- h) To co-operate with the tax administrations of other States and to participate in the work developed by international entities specialized in the taxation area;
- i) To promote and ensure the relations with domestic entities carrying out studies in the fiscal area;
- j) To contribute to scientific research in the field of taxation and to the improvement of taxation practice.

The DGCI carries out together with the DGAIEC and DGITA its competencies. The DGCI co-operates with domestic and other foreigner public entities in the tax area.

Thus, the DGCI develops its activities in the following areas:

- i) Tax assessment and collection;
- ii) Tax inspection and auditing;
- iii) Tax litigation;
- iv) Tax studies

The DGCI superior body is the Director General who is responsible for the enforcement and control of the public policies as defined by the Government in the taxation area. The DGCI has the following organic units:

- Central Services – Departments;
- Decentralized Services:
 - Services with regional scope – District Services;
 - Services with local scope – Local Services

The *Central Services* are operated in direct liaison with the Director General and are competent to prepare the decisions concerning the applicability of tax policies and laws, to perform at the domestic level directing, co-ordinating and controlling actions on the tax administration and their own services.

The DGCI Decentralized Services, at the regional and local levels are designed to ensure the prosecution of their tasks in the respective jurisdiction area. There shall be considered as Decentralized Services the *District Services* and the *Local Services*.

The *DGCI Decentralized Services at the regional scope* (District Services) are intermediate units responsible for the decision, direction and support to Local Services situated in their taxation area, being equally incumbent upon them to perform executive functions which, owing to hierarchical reasons, fall outside the scope of their own competencies.

The *DGCI Decentralized Services at the local scope* (Local Services) are territorial basic units situated in all municipalities. They are, by their own nature, the operating bodies of the tax administration responsible for the implementation of those operations necessary to ascertain the tax situation of the taxpayers and the establishment of taxes payable; complementary services of tax administration are also incumbent upon them.

The DGCI also embodies a *Tax Administration Board (CAF)*, chaired by the Director General, the Sub-directors general, Lisbon and Oporto District Services Directors as well as the Director of the Center for Fiscal Studies. The CAF operates at the decisive level, namely, to approve: DGCI internal regulations; draft operating plan and report; appropriation bill; annual professional training project; social statement project.

The CAF operates at the consultation level, namely, by issuing expert advices on different issues concerning the tax administration and the management of the competent services as may be submitted to it, in relation to human resources, service organisation and general instructions designed to make the compliance with law and tax procedures uniform.

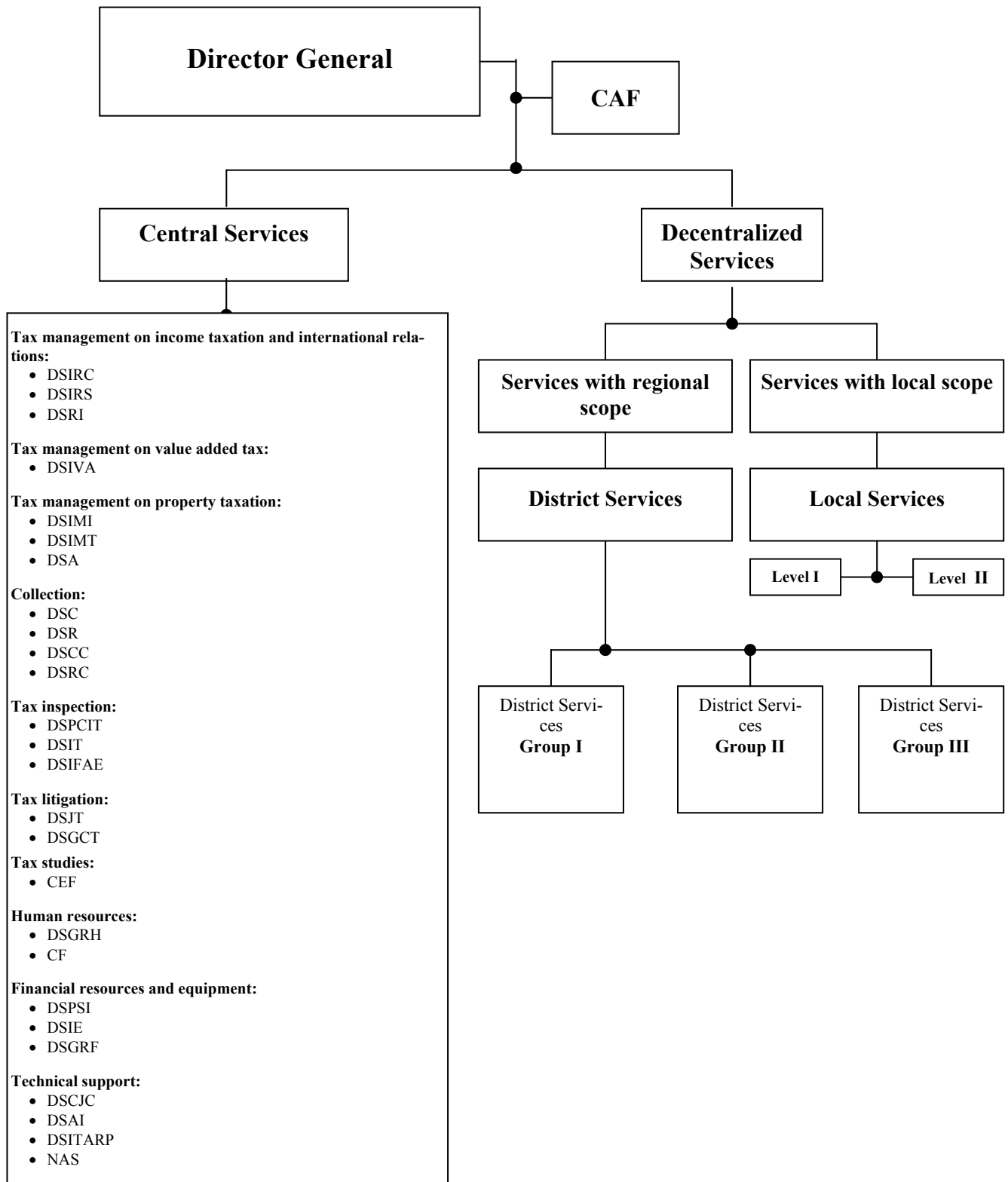
The DGCI Central Services comprise the following main organic units:

- Department of Personal Income Tax Services (DSIRS)
- Department of Corporate Income Tax Services (DSIRC)
- Department of Value Added Tax Services (DSIVA)
- Department of Municipal Tax on Immovable Property Services (DSIMI)
- Department of Municipal Tax on Real Estate Transfer Stamp Duty, Tax on Motor Vehicles and Excise Duties Services (DSIMT)
- Department of Evaluation Services (DSA)
- Department of Tax Collection Services (DSC)
- Department of Tax Refund Services (DSR)
- Department of Accounting and Control Services (DSCC)
- Department of Taxpayers' Register Services (DSRC)
- Department of Planning and Co-ordination of Tax Inspection Services (DSPCIT)

- Department of Tax Inspection Services (DSIT)
- Department of Tax Fraud Inquiry and Special Actions (DSIFAE)
- Department of Tax Litigation Services (DSJT)
- Department of Tax Claim Management Services (DSGCT)
- Center for Fiscal Studies (CEF)
- Department of Juridical Consulting and Contentious Services (DSCJC)
- Department of Internal Audit Services (DSAI)
- Department of Human Resources Management Services (DSGRH)
- Training Center (CF)
- Department of Planning and Information Systems Services (DSPSI)
- Department of Financial Resources Management Services (DSGRF)
- Department of Installation and Equipment Services (DSIE)
- Department of International Relations Services (DSRI)
- Department of Tax Information, Assistance to the Taxpayer and Public Relations Services (DSITARP)

The *Center for Fiscal Studies* (CEF) operates at the central level as a technical assistance service, and its functions fall within the scope of scientific research in the taxation area and in connection with the improvement of tax practice. Among its broad functions, CEF is also responsible for the technical negotiation of international agreements on fiscal matters, a steady participation in the works of specialised international bodies in the fiscal area and the Portuguese representation in international meetings for the study of tax issues. It is also in charge of the quarterly publication of “*Ciência e Técnica Fiscal*” and “*Cadernos de Ciência e Técnica Fiscal*”. In close connection with the CEF there is a Documentation Division, responsible for the scientific and technical information to be provided to the DGCI and the management of its Library.

DGCI Institutional Diagram



II CORPORATE INCOME TAX (IRC)

Scope

Taxable Persons

Subject to IRC are:

- a) Corporate persons (trading companies, civil companies under commercial form, co-operative companies, public enterprises and other corporate entities of public or private law) having their head-office or effective management in the Portuguese territory, which are considered to be resident;
- b) Unincorporated entities having their head-office or effective management in the Portuguese territory (deemed to be resident) deriving income not liable to personal income tax or corporate income tax in the hands of both individuals and corporate persons forming part thereof, namely, inheritance in abeyance (*hereditas jacens*), corporate persons in relation to which there is a declaration of invalidity, unincorporated civil companies and associations as well as commercial companies or civil companies in commercial form previously to their final registration;
- c) Incorporated or unincorporated entities without their head-office or effective management in the Portuguese territory (deemed to be non-resident) deriving income therein not liable to personal income tax (IRS).

Taxable Base

A distinction must be made between resident and non-resident entities for the purposes of the taxable base. Thus:

- a) In relation to resident entities:
 - 1) If they exercise as their main activity a commercial, industrial or agricultural activity (this being always the case of commercial companies or civil companies in commercial form, co-operatives and public enterprises), the tax base is the profit, this being defined as the difference in net equity at the beginning and at the end of the tax period, after the adjustments provided for by the law;
 - 2) If they do not exercise as their main activity a commercial, industrial or agricultural activity, the tax base is formed by the overall income corresponding to the algebraic sum of incomes of different categories considered for IRS purposes as well as the positive variations in equity obtained free of charge;
- b) In relation to non-resident entities:

- 1) If they have a permanent establishment in the Portuguese territory, the taxable base is the profit attributable to that permanent establishment;
- 2) If they have no permanent establishment in the Portuguese territory, or if they have a permanent establishment but such income is not attributable thereto, the taxable base is made up of incomes of the different categories separately considered for IRS purposes.

There shall be attributable to a permanent establishment incomes of whatever nature obtained through it, as well as any other income from Portuguese source from an activity identical or similar to those carried on through that permanent establishment.

Extension of Tax Liability

Resident entities are liable to IRC on the worldwide income from both domestic and foreign sources.

Non-resident entities are liable to tax only on incomes of Portuguese source.

For the purposes of taxation of non-resident entities, there shall be deemed to be obtained within the Portuguese territory incomes attributable to a permanent establishment situated therein and income not attributable thereto as mentioned below:

- a) Incomes in respect of immovable property situated in the Portuguese territory, including gains from the transfer against payment of such property;
- b) Gains from the transfer for consideration of a participation in the capital of an entity having its head-office or effective management within the Portuguese territory, including its redemption and amortization through capital decrease, as well as the amount attributable to the associates as a result from a partition considered to be a capital gain, or other marketable securities issued by an entity having its head-office or effective management therein, and other corporate rights or securities where the payment of respective income, in the absence of such conditions, is attributable to a permanent establishment situated in such territory¹;
- c) Incomes as below referred to where the payer has his domicile, head-office or effective management in the Portuguese territory, or the payment of which is attributable to a permanent establishment situated therein:
 - (i) Income from intellectual or industrial property as well as income from information supplied in connection with an industrial, commercial or scientific experience;
 - (ii) Income from the use or the right to use an agricultural, industrial, commercial or scientific equipment;

¹ However, according to the provisions of Article 26 of the Tax Incentives Statute (EBF), such gains are exempt from IRC if derived by an entity having neither its head-office nor the effective management in the Portuguese territory, nor a permanent establishment there to which such gains are attributable.

CORPORATE INCOME TAX (IRC)

- (iii) Other income from capital investment;
 - (iv) Remuneration received as a member of a statutory body of a corporate person or other entities;
 - (v) Winnings from gambling, lotteries, raffles and betting as well as the amounts or prizes attributed in drawings or contests;
 - (vi) Income from agency in concluding any kind of contracts;
 - (vii) Income from other services supplied or used in the Portuguese territory other than those concerning transports, communications and financing activities;
 - (viii) Income from operations concerning derivative financial instruments;
- d) Income from the exercise within the Portuguese territory of an activity of an artist or sportsperson;
- e) Positive variations in equity from acquisitions free of charge referring to:
- (i) Rights *in rem* on immovable property situated within the Portuguese territory;
 - (ii) Immovable property registered or subject to register in Portugal;
 - (iii) Participation in the capital of an entity and marketable securities issued by an entity having its head-office or effective management in Portugal;
 - (iv) Industrial property rights, copyrights and other related rights, registered or subject to register, in Portugal;
 - (v) Credit rights on entities having their head-office or effective management in Portugal;
 - (vi) Participation in the capital of companies not having their head-office or effective management within the Portuguese territory whose assets are mainly formed by rights *in rem* on immovable property situated therein.

Income referred to in sub-paragraph c) shall not be considered to be obtained in the Portuguese territory if:

- (i) Chargeable to a permanent establishment situated outside the Portuguese territory in connection with an activity carried on through such permanent establishment; or
- (ii) In case of income derived from the supply of services, such income is wholly realized outside the Portuguese territory and is not related with property situated therein, nor in connection with a study, project, technical assistance, or management, accounting, auditing and consultancy services, organization, research and development in any area.

Permanent Establishment

The concept of permanent establishment keeps in line with the definition contained in Article 5 of the OECD Model Convention; in this sense, there shall be considered as such, as a general rule, any fixed place of business through which a commercial, industrial or agricultural activity is carried on.

A certain precision is given by way of a positive list of examples susceptible of being considered *prima facie* as a permanent establishment. Such list includes:

- (i) A place of management (where current decisions are taken);
- (ii) A branch (an establishment without juridical autonomy and carrying out the same operations as the parent company);
- (iii) An office;
- (iv) A factory;
- (iv) A workshop;
- (v) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources situated within the Portuguese territory.

Reference is also made to a number of activities of a merely preparatory or auxiliary nature, which are not a permanent establishment even if the activity is exercised through a fixed place of business.

As far as it concerns a building site or construction, installation or assemblage project, including any coordination, fiscalization and supervision activity connected thereto, as well as any drilling plant, platform or ship used for the exploration and exploitation of natural resources in the Portuguese territory, it shall be deemed to constitute a permanent establishment only if it last more than six months.

Where a non-resident entity has not a fixed place of business in the Portuguese territory, it may be deemed to have a permanent establishment therein if it carries on its activity by the intermediary of a person acting on its behalf, who has, and habitually exercises, agency powers and an authority to conclude contracts binding such enterprise, within the scope of its activities, provided such person is not considered as an agent of an independent status or a commission agent.

Fiscal Transparency Regime

For IRC purposes, partnerships are subject to the same treatment as corporations, although a *fiscal transparency regime is applicable to certain resident companies*: civil-law companies not incorporated under a commercial form, incorporated firms of professionals and holding companies the equity capital of which is controlled, directly or indirectly, during more than 183 days by a family group or a limited number of members, under certain conditions. For IRC purposes, a fiscal transparency regime also applies to ACEs (Complementary Business Groupings) constituted and operating in accordance with the applicable law and to AEIEs (European Economic Interest Groupings), treated as resident.

The transparency regime is essentially characterized by attributing to the shareholders or members of the transparent entity its taxable amount (or, in case of ACE or AEIE, respective profits or losses), even in case of undistributed profits. Thus, the transparent entity is not liable to IRC, and the amounts attributed to the taxable income of its shareholders or members being therefore embodied for IRC or IRS purposes, as the case may be. In relation to IRS, such amounts are taken into account as net incomes in *category B*.

Where the shareholders or members of companies covered by the fiscal transparency regime are non-resident, there shall be considered derived income attributed to them through a permanent establishment situated within the Portuguese territory.

The Taxable Period

The IRC falls due for *each taxable period* corresponding, in principle, to a calendar year.

Legal entities having their head-office or effective management in the Portuguese territory and required to have a consolidated accounting, as well as legal persons or other entities liable to IRC without their head-office or effective management within the domestic territory but having a permanent establishment in that territory may adopt a yearly tax period other than the calendar year. However, such tax period must be kept for at least the next five fiscal years.

This option may also be extended to other entities, upon request and in the same conditions, by decision from the *Minister of Finance*, on the ground of special economic reasons.

Exemptions

Exempt from IRC, excluding income from capital, are the State²; the autonomous regions; local authorities as well as their services, establishments and bodies, including public institutes; municipal associations and federations, which do not exercise a commercial, industrial or agricultural activity; social security and welfare institutions. Capitalization funds and income from capital shall benefit from a full exemption from IRC if under the management of social security institutions.

Exempt from IRC, excluding income from self-employment derived from the exercise of activities outside the scope of statutory purposes are also:

- a) private social solidarity institutions and related entities as well as any persons assimilated thereto under the law;
- b) mere public interest entities having as their main object scientific, cultural, charitable, assistance, beneficent, social solidarity or environment protection

² The State benefits from an exemption on income from capital derived from swap and fixed-term foreign currency operations, if acting through the *Instituto de Gestão do Crédito Público* (Public Credit Management Institute).

purposes, subject to an Official Decision by the Minister of Finance defining the extent of the exemption.

Cultural, entertaining and sport associations are exempt from IRC in respect of income directly derived from the exercise of a cultural, entertaining and sport activity, being not considered as such income from a commercial, industrial or agricultural activity exercised, even as an ancillary one, in connection with such activities and, in particular, income from advertising, rights relating to any kind of transfer, immovable property, financial investment and bingo. However, even with regard to such income, an exemption shall always apply where its yearly amount does not exceed € 7,481.97³.

Subject to a reciprocity rule, an IRC exemption shall also apply to profits derived from the exploitation of ships and aircraft by *non-resident corporate persons and other entities engaged in waterways and airways transport*.

Exempt from IRC are profits that a resident entity, under the terms laid down by Art. 2 of Directive 90/435/EEC, of 23rd July, makes available to an entity resident in other EU Member State in the same conditions and holding directly any participation in the capital of the first-mentioned one of no less than 10 per cent or with an acquisition value not lower than € 20 000 000,00 provided that such participation has been held, uninterruptedly, for a period of one year.

This exemption shall also apply to profits that an entity resident in the Portuguese territory makes available to a permanent establishment situated in another Member State, belonging to an entity resident in a EU Member State being in the same conditions and holding, in the whole or in part, through a permanent establishment a participation, provided that both entities comply with the requirements established in Article 2 of Directive 90/435/EEC, of 23rd July, and the conditions regarding the participations mentioned on the preceding paragraph are met.

Determination of Taxable Income

Legal Persons and Other Resident Entities Exercising as Their Main Business a Commercial, Industrial or Agricultural Activity

The taxable income - the assessment of which is in accordance with the distinctions resulting from the different taxable bases for IRC taxable persons - is determined, as a general rule, on the basis of a taxpayer's tax return, without prejudice to its auditing by the Tax Administration. If there is no tax return, it is incumbent upon the Directorate General for Taxation to assess the taxable income, as the case may be.

The use of *indirect methods* for assessing taxable profits shall only be accepted in the following circumstances:

- a) Simplified taxation regime;
- b) Impossibility of certifying and obtaining a direct accurate quantification of those elements absolutely necessary to an accurate determination of taxable income;

³ See Article 54 (1) of EBF.

- c) A significant deviation of taxable amount⁴ with no justifiable reason in relation to objective indicators relating to such activity on a technical-scientific base;
- d) Taxpayer producing without a justified reason null taxable income or tax losses during three consecutive years.

Taxable profit

Simplified Tax Regime

The simplified tax regime covers IRC taxable persons having a turnover not exceeding € 149 639.37 not subject to legal accounting audit and to the general regime for the determination of IRC taxable income.

The assessment of taxable income is the result of the application of techno-scientific indicators as defined for the different business sectors. These indicators shall be established by a ministerial order from the Minister of Finance⁵. In the absence of such indicators, the law states down that the taxable income shall be assessed by applying a coefficient of 0.20 to the amount of sales of goods and merchandise, as well as to income from hotel and similar activities, catering and beverages and to the amount of subsidies for exploitation purposes and by applying a coefficient of 0.45 to the amount of all other proceeds, excluding the variation of production and work for the enterprise itself with a minimum amount equal to yearly value of the highest domestic minimum wage.

The option for the general regime shall be valid for three accounting periods, after which it shall expire if the taxable person does not express his intention to renew it. However, if the threshold of the annual proceeds (one of the conditions for such integration) is exceeded in two consecutive accounting periods, or if it reaches an amount higher than 25 per cent of such limit in a single period, the simplified tax regime shall cease to apply, and the taxable person becomes subject to the general regime as from the accounting period next following that in which such requirement ceased to be complied with.

Law n. 64-A/2008, of 31st of December has suspended the IRC simplified taxation regime. IRC taxable persons are therefore not permitted to opt for the determination of the taxable income based on the simplified regime under Article 53 of IRC Code from 1st January 2009. Any taxable persons covered by the simplified tax regime for the determination of taxable income, which did not expire in the 1st day of the taxation period are faced with the following two alternatives:

- a) To waive the regime under which they were covered by, and the taxable persons become subject to the general regime for the determination of the taxable income as from the tax period starting on 2009;
- b) To keep the simplified tax regime for the determination of taxable income until the end of three accounting periods, unless the preconditions are no longer satisfied or

⁴ In accordance with Articles 87 (c) and 89 of LGT (General Taxation Law), such deviation occurs where the taxable amount in question is lower than 30 per cent for one year, or 15 per cent for three years, if compared to the taxable amount which would result from the application of the objective indicators of the activity concerned on a technical-scientific base.

⁵ So far such indicators have not been established.

CORPORATE INCOME TAX (IRC)

if any of the situations mentioned in Article 53 (10) of IRC Code arises, in which case the application of that regime within the terms therein defined shall cease definitively.

General Regime for the Determination of the Taxable Income

In relation to taxable persons not covered by the simplified tax regime, the determination of the taxable income is based on the amounts shown by the accounting records, representing the algebraic sum of the net income for that period (the difference between profits or gains and costs or losses) as well as positive or negative variations in net equity during the same period which are not reflected in the taxable income and fiscal corrections deriving, as a general rule, from non deductible accounting costs or non taxable accounting profits.

IRC Assessment Scheme

Net income	
+	
Positive changes in net equity non reflected on the income	
-	
Negative changes in net equity non reflected on the income	
±	
Fiscal corrections (e.g., non deductible costs or non taxable proceeds)	
=	
Taxable profit	
-	
Tax losses from previous accounting periods	
-	
Tax incentives	
=	
Taxable income	
x	
Tax rate	
=	
IRC assessed income	
-	
Tax Credit	
=	
Assessed IRC	
-	
Withholding at Source	
-	
Advance Payments	
=	
Payable or receivable IRC	

Changes in Net Equity Not Reflected on the Accounting Period Net Income

Although the determination of the taxable income is based on a balance theory, some components shall be excluded therefrom. Thus, as far as it concerns positive changes in equity, there shall not be taken into account to estimate the taxable profit: any potential or underlying capital gains even if shown in the accounting; capital contributions, in particular if designed to cover losses, made by capital owners; contributions made by an associated member to the association within the scope of any kind of arrangement for participation in profits (*associação em participação* and *associação à quota*). The positive changes in equity relevant for determining the taxable profit include, in particular, positive variations in equity obtained free of charge, to be taken into account for their market value.

From negative changes in equity there shall be excluded: wealth decreases unrelated to the taxpayer's activity; any potential or underlying capital losses even if shown in the accounting; payments in cash or in kind in behalf of capital holders as a remuneration or as a capital decrease, or as a distribution of property; and also the contributions made by the association to the associated member within the scope of any kind of arrangement for participation in profits (*associação em participação* and *associação à quota*).

Negative changes in net equity in respect of bonuses and other work remuneration granted to the members of the company boards and to the employees of an enterprise as a profit sharing shall be considered as forming part of the taxable profit for the accounting period to which the profits relate, provided that such amounts are paid or made available to the beneficial owners until the end of the next accounting period. Nevertheless, there shall not be considered as forming part of the taxable profit the negative changes in net equity in respect of bonuses and other work remuneration granted to the members of the board of directors of a company as a profit sharing, where the beneficial owners hold, directly or indirectly, one per cent of the capital stock of the company, and such amounts exceed twice the amount of their monthly remuneration in the accounting period to which the profits relate; the part in excess shall be assimilated to distributed profits for tax purposes. Thus, the recipient beneficial owner shall be considered to hold indirectly the corporate rights in the company when they are owned by the other spouse, ascendants or descendants to 2nd degree.

Profits and Costs

Profits and costs as well as other positive or negative components of the taxable income are attributable to the accounting period to which they relate according to the accrual basis principle (cash basis method).

There shall be considered as profits or gains those derived from an operation of whatever nature as a result of a normal or occasional action, basic or merely accessory, resulting from: selling or supply of services, discounts, bonus and reductions, commissions and brokerages; income from immovable property, financial and industrial property income; supply of scientific or technical services; realized capital gains; indemnities and operating subsidies or subventions.

With regard to subsidies or subventions granted to finance the acquisition of fixed assets if in connection with the reintegration or amortization of fixed assets elements, there

shall be comprised in the taxable profit a part of the subsidy or subvention, at the pro rata of the reintegration or amortization estimated on the acquisition or production cost. However, the yearly taxable part shall not be lower than the reintegration minimum quota corresponding to such fixed asset. If the subsidies are not in connection with fixed assets elements, they shall be included in the taxable profit, in equal parts, in the accounting periods during which such elements may not be alienated, according to the law or to the concession agreement or, in all other cases, for 10 years as from the year in which such subsidy or subvention is received.

There shall be considered as costs or losses those deemed to be absolutely necessary for the realisation of profits or gains liable to tax, or to the maintenance of the productive source, in particular, costs related to:

- Production or acquisition of any goods or services such as used materials, labour, energy and other manufacturing, conservation and repair costs;
- Distribution and sale;
- Financial costs;
- Administrative costs, such as remunerations, allowances, etc.;
- Research, analysis, rationalisation;
- Tax planning;
- Provisions;
- Depreciation and amortization;
- Realised capital losses;
- Indemnities paid on non-insurable risks.

There shall not be accepted as costs for the determination of taxable profit, in particular, costs related to:

- illicit expenses;
- that part of rents under a leasing agreement designed for financial depreciation;
- non-substantiated charges;
- losses borne in relation to the transfer for consideration of corporate rights, regardless of how such transfer occurs, where:
 - Corporate rights held by the transferor for less than three years and having been acquired or, regardless for how long they are held, having been transferred to any entity with which there is a special relationship, or to an entity with its domicile in a country or territory with a more privileged taxation system, or also to an entity resident in the Portuguese territory subject to a special taxation regime;
 - The alienator entity results from the transformation, including the modification of the social object, of a company to which a different tax regime would apply in respect of such costs, and the period of time between the moment that fact occurs and the date of transfer is less than 3 years;

- 50 per cent of the negative difference between the realized capital gains and capital losses by way of a transfer for consideration of corporate rights, including its redemption and depreciation with capital decrease, as well as other losses or negative changes in equity in connection with corporate rights or other elements belonging to the equity capital, namely supplementary payments not covered by the preceding paragraph;
- IRC or any other taxes levied, directly or indirectly, on profits;
- Amounts shown on documents issued by taxable persons with null or void tax identification number, or by taxable persons whose notice of termination of business is officiously produced;
- Taxes or any other charges levied on third persons, which the enterprise is not entitled to bear;
- Fines and penalties of a non contractual nature resulting from any kind of infringement;
- Indemnities for any event with insurable risks;
- Allowances for expenses and compensation in respect of the use by the employee of his own vehicle in the service of the employer, which are not attributable to clients, regardless of how they are registered into the accounting records, where the employer does not keep for each payment a control chart of such displacements, except for that part subject to IRS in the hands of the beneficial owner⁶;
- Amounts due on renting of light or mixed passenger vehicles (without a driver) for that part corresponding to the depreciation value of such vehicles not allowed as costs;
- Fuel costs for that part in relation to which the taxable person has no supporting document that they are related to goods belonging to his assets or used by him under a leasing arrangement, provided that the average consumption is not exceeded;
- Interest and any other kind of remuneration of supplies and loans granted to the company by its members for that part in excess of an amount corresponding to Euribor 12-month reference rate on the day in which the debt was incurred plus 1.5 per cent spread.

Stock Valuation Rules

In relation to *stock valuation rules*, there shall be taken in consideration for the determination of profit and loss account for a given tax period the following criteria, which must be uniformly adopted in the subsequent financial periods:

- a) Effective acquisition or production costs;
- b) Standard costs estimated in accordance with the appropriate technical and accounting principles;
- c) Selling prices after deduction of the usual profit margin (only accepted in those business branches in which the estimated acquisition or production

⁶ Except or that part subject to IRS in the hands of the beneficial owner.

costs are too burdensome or can not be estimated with reasonable accuracy, in which case the profit margin, if not determinable, may be replaced by a deduction not exceeding 20 per cent of the sales price);

- d) Special valuation methods for basic or common inventory.

Depreciation and Amortization Regime

Depreciation and amortization are estimated, as a general rule, on the acquisition or production costs of the relevant fixed assets that they may refer to. There may also be accepted as costs any allowances higher than those resulting from the application of such methods by reason of an extraordinary devaluation as a result of duly justified abnormal circumstances.

Depreciation and amortization are, as a general rule, allowed by way of the straight-line method according to the rates as set down by a legal text (*Decreto Regulamentar* nr. 2/90, of 12th January). The most common are as follows⁷ (in percentage):

FIXED ASSETS	DEPRECIATION RATE DR n° 2/90
Dwelling houses, commercial and administrative buildings	2%
Industrial buildings	5%
Machinery and equipment (tools) (provided there is no different rate)	12.5% - 20%
Computers	33.33%
Light motor vehicles	25%
Heavy motor vehicles (trucks)	20%
Furniture	12.5%

Taxable persons may opt for the declining balance method in respect of tangible fixed assets elements that have not been purchased as second-hand goods except with regard to buildings, light vehicles for the transport of passengers or mixed vehicles, provided that such vehicles are used in public transport services or are for rental in the exercise of the usual activity of the owning enterprise.

The declining balance allowances result from the application to the value not added back for each accounting period, of the depreciation rates used under the straight-line method after adjustment in accordance with the following coefficients:

- a) 1.5 if the useful life of the item is less than 5 years;
- b) 2 if the useful life of the item is 5 or 6 years;
- c) 2.5 if the useful life of the item is more than 6 years.

⁷ These are general rates, that is to say, they are applicable to all business sectors in relation to which no specific rates are provided for in the same legal text.

Research and development expenses may be fully accepted as costs for the financial year in which they are incurred.

Costs in respect of elements belonging to fixed assets subject to obsolescence, the unit value of which does not exceed € 199.52 may be fully deducted in a single fiscal period.

Depreciation of real estate shall not be accepted as costs for that part corresponding to the value of land or assets not subject to obsolescence, as well as depreciation of light vehicles for the transport of passengers or mixed vehicles for that part corresponding to the acquisition value in excess of € 29,927.87, except when such vehicles are not used in public transport services or are not for rental in the exercise of the usual activity of the owning enterprise.

Regime Governing Provisions and Other Expenses

The *provisions* allowed as deductions for tax purposes are as follows:

- a) Provision for bad debts resulting from the normal activity of the enterprise, being considered as such those receivables in relation to which the debtor has a case pending for execution, bankruptcy or insolvency; receivables in dispute and overdue payments for more than 6 months, in which case the yearly cumulated amount of the provision may not exceed 25 per cent for overdue payments between 6 and 12 months, 50 per cent between 12 and 18 months, 75 per cent between 18 and 24 months and 100 per cent over 24 months;
- b) Provision for devaluation of stock, which may not exceed the difference between the acquisition or production cost of inventory as shown on the balance sheet at the end of the financial period and the market value in reference to the same date;
- c) Provision for liabilities and charges arising in connection with pending court proceedings;
- d) Provisions set up in accordance with the rules applying to insurance companies and banking institutions designed to cover specific credit risks, country risk due to capital losses realized on securities and other investments as well as technical provisions and provisions for unchargeable premiums;
- e) Provisions set up by companies engaged in the exploration for, or exploitation of, petroleum, for the replacement of petroleum deposits;
- f) Provisions set up by companies belonging to extractive industry sector or to treatment and disposal of waste designed to support charges incurred with landscape and environment recuperation of places affected to exploration, where it is compulsory and after its termination according to the applicable legislation.

Social Welfare Actions and Gifts

There shall also be accepted for tax purposes, subject to the limits and conditions laid down by law, the expenses (including any reintegration or depreciation amount and rent on buildings) in connection with *social welfare arrangements* in behalf of the company employees or retired persons and their families, concerning the maintenance of nurseries, children dispensaries, kindergarten, canteens, libraries and schools, provided that such expenses are of a general nature and do not constitute income from dependent employment⁸.

There shall also be accepted for tax purposes, up to the limit of 15 per cent of expenses registered in accounting records as remuneration, wage or salary⁹, charges incurred with illness and personal injury insurance contracts, life insurance contracts, contributions to pension funds and other schemes assimilated thereto, or to any supplementary social security schemes, guarantying exclusively the benefit of retirement, pre-retirement, retirement, disability or survival complement in behalf of the enterprise employees.

There shall be accepted as current costs or losses gifts made to certain entities, according to the provisions of the Patronage Statute granted to public or private entities whose activity consists mainly in initiatives undertaken in the social, cultural, environmental, scientific, sport, educational and information fields within certain limits defined on the basis of turnover where the increase of such amounts according to percentages varying in conformity with the nature of the beneficiary entities.

Regime of Realised Capital Gains and Losses

Realised capital gains or capital losses are gains derived or losses suffered in respect of elements belonging to fixed assets. The law adopts a broad concept of realisation for this purpose in order to cover both voluntary capital gains (e.g. from a sale or exchange) and involuntary capital gains (e.g. from expropriation or indemnity for destruction or theft). Nevertheless, in order to assure the continuity of the exploitation by companies there shall be excluded from taxation by 50 per cent of the positive difference between realised capital gains and losses through the transfer for consideration or casualties, involving tangible fixed assets elements, whenever the realisation value, corresponding to the whole sum of the elements referred to, is reinvested in the acquisition, production or construction of tangible assets elements in connection with the exploitation, other than second-hand goods purchased to a IRS or IRC taxpayer with whom there are special relations. The reinvestment has to be carried out between the immediately preceding accounting period and the end of the second accounting period next following that in which the realisation takes place. Furthermore, the elements belonging to tangible assets must be held for a minimum period of one year.

This partly exemption is also applicable to the positive difference between realised capital gains and realised capital losses from the transfer for consideration of corporate rights. However, the realisation value must be reinvested, in the whole or in part, in the acquisition of corporate rights in trading companies or civil companies under commer-

⁸ In determining the taxable income the amounts effectively disbursed with the maintenance of nurseries, children dispensaries and kindergarten shall be increased by 140 per cent.

⁹ This limit may be raised by 25 per cent if the employees are not given the right to receive a social security pension.

cial form with their head-office or effective management in the Portuguese territory, in Government bonds issued by the Portuguese State or in tangible assets elements in connection with the exploitation and that such alienated corporate rights must have been held for a minimum period of one year and correspond, at least, to 10 per cent of the equity capital of the controlled company.

In any case, if the reinvestment is made only in part, the corresponding fraction shall be excluded from the exemption.

If such total or partial reinvestment is not concluded in the above-mentioned period of time, the difference (or the corresponding fraction) not included in the taxable profit of the realisation period shall be considered as a profit or gain, increased by 15 per cent.

Capital gains and capital losses are determined by the difference between the realisation value after deduction of any charges connected thereto and the acquisition value after deduction of any reintegration or depreciation amount. The adjusted acquisition amount is updated by applying the currency devaluation coefficients where, on the realisation date, at least two years have elapsed since the acquisition date. This adjustment shall not apply to financing investments, except for investment in immovable property and corporate rights.

$$\text{FiscalCapitalGain} = \text{RealisationAmount} - (\text{AcquisitionAmount} - \text{Reintegration/Depreciation}) \times \text{Coeff.}$$

There shall be considered as realisation amount:

- the market value of goods or rights received, in the case of exchange;
- the market value of goods permanently allocated to non-business purposes, and in case of a merger or demerger;
- indemnity payment in case of expropriation;
- the value of the transaction after deduction of interest due since the last maturity date, or from issuance, first placement or endorsement, if no maturity occurred until the transfer date, as well as the difference for that part corresponding to such periods of time between the reimbursement value and the issuance price, in the case of securities whose remuneration is, wholly or partly, composed by that difference in case of securities;
- the consideration value in any other cases.

Elimination of Economic Double Taxation

With a view to the *elimination of the economic double taxation of distributed profits*, trading companies or civil companies under a commercial form, co-operatives and public enterprises having their head-office or effective management in the Portuguese territory are allowed to fully deduct income comprised in the taxable base corresponding to profits distributed, provided the entity distributing the profits has its head-office or effective management in the same territory, is liable to and not exempt from IRC, or is subject to gambling tax. Further requirements must also be complied with for the com-

plete elimination of double taxation: e.g. the beneficial entity may not be covered by the tax transparency regime and must hold directly a participation in the capital of the controlled company of at least 10 per cent or with an acquisition value not lower than € 20 000 000,00, provided that such participation is held, uninterruptedly, by such company in the year prior to the date on which the realized profits were made available. If such participation is held for less than the above-mentioned period of time, the benefit shall not cease insofar as such participation is held during the period of time necessary to complete one year.

This regime may apply regardless of the participation value percentage and the duration of holding in relation to income from corporate rights in which technical reserves from insurance and mutual insurance companies have been applied as well as in relation to income from regional development companies, investment companies and brokers companies and to foreign insurers agencies.

In the particular case of Domestic Holding Companies (SGPS) and Venture Capital Companies (SCR), the percentage requirements or the participation value shall not expected for the purposes of applying the regime of elimination of economical double taxation.

Any entity having its domicile in the Portuguese territory and holding a participation in entities resident in another EU Member State shall also benefit from this regime the, provided that both the resident and the non-resident entities comply with the conditions set up under Art. 2 of Directive 90/435/EEC, of 23rd July. The same applies to incomes comprised in the taxable base that correspond to distributed profits attributable to a permanent establishment situated in the Portuguese territory, belonging to an entity having its domicile in other EU Member State and holding a participation in the capital of an entity resident in an UE Member State, provided that both entities comply with the requirements and conditions provided for in the above-mentioned Directive.

In those cases where the conditions mentioned above are not met and the deduction is reduced to 50 per cent for profits distributed by resident entities, liable to and not exempt from IRC, or that comply with the conditions set up under Art. 2 of Directive 90/435/EEC, of 23rd July.

Fiscal Losses

Losses carry-over is allowed for tax purposes according to the carry-forward method up to a maximum of the six subsequent financial years. Any loss carry-over shall cease to have effect if at the end of the fiscal period during which the deduction takes place there is a change in the social object of the enterprise concerned, or a substantial modification is introduced in the nature of the previously exercised activity or the ownership is modified by, at least, 50 per cent of the corporate capital or of the major part of the voting rights. However, in some specific cases of generally recognized economical interest, the Minister of Finance may authorise, upon request by the entity concerned, the non-application of the above-mentioned limitation.

Resident Entities Not Exercising as Their Main Business a Commercial, Industrial or Agricultural Activity

As already referred to, since the taxable base is formed in these cases by the overall income corresponding to the algebraic sum of net incomes from different categories taken into consideration for IRS purposes (including the positive variations in equity obtained free of charge), the taxable income shall be determined by applying the provisions of the IRS Code, except with regard to taxable profit from a commercial, industrial or agricultural activity exercised as an accessory activity, by applying the general rules of the IRC general regime (see 3.1.2.).

Nevertheless, in determining such overall income both the tax losses corresponding to the exercise of commercial, industrial or agricultural activities and capital losses shall only be deductible from the income of the respective categories in one or more of the six next following financial years.

The economical double taxation on profit distributions shall be mitigated by applying a deduction equal to 50 per cent of that income provided that they have been distributed by an entity resident in the Portuguese territory, liable to, and not exempt from IRC.

Any costs considered as absolutely necessary for the obtention of incomes by such entities and not deducted in determining income from each category comprised in the overall income, shall be, wholly or partly, deducted from the overall income for the purposes of determining the taxable income in accordance with the rules laid down in the Code.

Non-Resident Entities

In relation to a *permanent establishment* of a non-resident entity, the taxable profit attributable to such permanent establishment shall be determined by applying, subject to any appropriate adjustment, the general rules for the determination of the taxable profit of resident entities exercising as their main business a commercial, industrial or agricultural activity. To be noted, however, that general management expenses which, in accordance with accepted criteria and within the limits deemed reasonable by Tax Administration, are attributable to a permanent establishment, such criteria being duly justified in the income tax return and uniformly used in the different financial periods, may also be deducted as costs in determining the taxable profit. Where the allocation of such expenses is not feasible on the basis of the use by the permanent establishment of the goods and services to which they relate, apportionment criteria shall be accepted on the basis of gross income (turnover), direct costs or tangible fixed assets.

In relation to *income* derived by non-resident entities *not attributable* to a *permanent establishment* situated in the Portuguese territory, such income shall be determined according to the rules concerning the corresponding categories for IRS purposes, in respect of each one.

However, with regard to unleased urban property or property affected to a business activity, which are owned by an entity with its domicile in a country, territory or region subject to a clearly more favourable regime (in accordance with the list approved by a

Ministerial Order from the Minister of Finance), 1/15 of its net worth shall be deemed to be part of the taxable income (net worth value)¹⁰.

Measures Designed to Fight Against Tax Avoidance

Transfer Pricing

The IRC Code contains some rules applicable to transfer pricing, based on OECD recommendations on this subject together with the adoption of the *arm's length principle*, according to which any commercial transactions including, in particular, transactions or a set of transactions on goods, rights or services, as well as financial operations between a taxable person and some other person, liable for IRC or not, with whom he has a special relationship, must be agreed upon, accepted and operated according to terms or conditions substantially identical to those which would have been agreed upon, accepted and operated between independent entities in comparable transactions.

Special relations are deemed to exist between two entities where one of them has the power to exercise, directly or indirectly, a significant influence on management decisions of the other entity. There are some situations typified by law where special relations are deemed to exist: either on the grounds of juridical links (e.g., between a company and capital holders, or between two or more companies and such capital owners, holding in both cases a participation higher than 10 per cent of the capital or voting power) or on the basis of an economic or financial control (e.g., the exercise of an activity by an enterprise depends considerably on the cession of rights on industrial or intellectual property or know-how held by the other).

The transfer pricing rules are applicable to operations carried out between resident entities and non residents as well.

However, where there is some deviation in the application of such principle in relation to transactions carried out with non-resident entities, it shall be incumbent upon the taxable person to make a primary adjustment to his periodical tax return through a positive correction to the taxable income.

As a reflex of this first adjustment there may be a corresponding adjustment of an obligatory nature where the Tax Administration carries out a primary adjustment in relation to controlled transactions between IRS or IRC taxable persons; in such case, the Tax Administration must promote any necessary adjustments to the taxable income of the taxpayer who is a counterpart to the transaction.

The regulation concerning methods, issues related to documentation and corresponding adjustment is duly developed in Ministerial Order n° 1446-C/2001, of 21st December.

In order to decide the terms and conditions, which would be normally agreed upon, accepted and applied between independent entities, the methods to be adopted should be:

¹⁰ Such presumed income is deemed to be gross income from real estate, in conformity with paragraph 2 of Article 51 of CIRC.

- a) The comparable uncontrolled price method (CUP), the resale price method or the cost plus method;
- b) The profit split method, the transactional profit method or any other where the methods mentioned in the last paragraph cannot be applied or, even if applicable, are not the most reliable in the situation concerned.

In conformity with the above-mentioned Ministerial Order, a taxable person who has in the previous fiscal period a yearly net sale amount and other profits not lower than € 3 000 000,00 is required to keep duly organized information according to the terms defined for the tax documentation procedure in respect of: policy followed in relation to transfer pricing, including guidelines or instructions concerning the application thereof; the characterization of special relations and the activity of related entities; functional and financial surveys; selection and application of the chosen methods; information on comparable data used; analysis of the degree of transactions comparability and any adjustments made; business strategy and policy as well as any other information relevant for the question under consideration.

Payments to Resident Entities in Countries with a Privileged Taxation System

In determining the taxable profit, there shall not be allowed as a deduction the amounts paid or payable, regardless of the reason why they are paid, by an IRC taxable person to an individual or legal person resident outside the Portuguese territory and subject therein to a clearly more favourable regime, except if the taxpayer is able to produce evidence that the amounts concerned are in connection with expenses resulting from transactions effectively carried out, and are not of an unusual nature or of an excessive amount¹¹.

The definition of a clearly more favourable tax regime is based on a mixed criterion, that is to say, either the territory where the beneficial owner of payments is a resident is included in a list approved by a ministerial order from the Minister of Finance¹², or, if not, such entity has not been subject in the territory of its residence to a tax on income identical or similar to IRS or IRC, or if the above-mentioned amounts paid or payable is

¹¹ Moreover, if no such proof is given, these amounts paid or payable shall be taxed autonomously at 35 per cent. The rate shall be increased to 55 per cent for taxable persons (wholly or partially) exempted or who do not exercise as their main business a commercial, industrial or agricultural activity.

¹² Ministerial Order n°150/2004, of 13th February, contains a list of 83 countries, territories or regions qualified as «tax heavens» or subject to privileged taxation regimes, as follows:
Andorra, Anguilla, Antigua and Barbuda, Antilles (the Netherlands), Aruba, Ascension Island, Bahamas, Bahrain, Barbados, Belize, Bermuda Islands, Bolivia, Brunei, Cayman Islands, Channel Islands (Alderney, Guernsey, Jersey, Great Sark, Herm, Little Sark, Brecqhou, Jethou and Lihou), Christmas Island, Cocos(Keeling) Islands, Cook Islands, Costa Rica, Cyprus, Djibouti, Dominica, Falkland Islands (Malvinas), Fiji Islands, Gambia, Gibraltar, Grenada, Guam, Guyana, Honduras, Hong Kong, Isle of Man, Jamaica, Jordan, Kiribati Island, Kuwait, Labuan, Lebanon, Liberia, Liechtenstein, Luxembourg (only in relation to holding companies in the sense of the Luxembourg law as governed by Law of 31st July 1929 and by the Grand-Duc Decision of 17th December 1938), Maldiv Islands, Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, Niue, Norfolk Island, Northern Mariana Islands, Oman, Pacific Islands not referred to, Palau, Panama, Pitcairn Islands, Polynesia (French), Puerto Rico, Qatar, Qishm Islands, Samoa (American), Samoa (Western), San Marino, Seychelles, Solomon Islands, St Christopher (Kitts) and Nevis, St Helena, St Lucia, St Pierre et Miquelon, St Vincent and the Grenadines, Svalbard Islands (Archipelago of Spitzbergen and Bjornova Island), Swaziland, Tokelau, Tonga, Trinidad and Tobago, Tristan da Cunha Island, Turks and Caicos Islands, Tuvalu, United Arab Emirates, Uruguay, Vanuatu, Virgin Islands (British), Virgin Islands (US), Yemen.

lower than 60 per cent of the tax that would be due if such entity would be considered as a resident in the Portuguese territory.

Allocation of Profits of Companies Resident in Countries with a Privileged Taxation System

A CFC (Controlled Foreign Company) measure provides for the allocation to members of a company who are resident within the Portuguese territory, at the pro rata of the participation held in the capital of the company and regardless of its distribution or not, of profits derived (after deduction of tax on profits already charged) by companies resident outside such territory and subject therein to a clearly more favourable taxation regime.

The company members covered by this rule are those owning a participation in the company of at least 25 per cent, which is reduced to 10 per cent if the non-resident company is held by more than 50 per cent by resident members.

The concept of a clearly more favourable taxation regime is similar to that referred to in the preceding number; it therefore means that we are dealing with any such regime where it is included in a list approved by a ministerial order from the Minister of Finance, or where the company resident therein is not subject to an income tax identical or similar to IRC, or still where the tax effectively paid is equal or lower than 60 per cent of IRC that would be payable if the company were a resident within the Portuguese territory.

Excluded from the scope of this provision is any company resident outside the Portuguese territory deriving more than 75 per cent of its profits from the exercise of an agricultural, industrial or commercial activity, provided that in the last-mentioned case it has no intermediary who is a resident of the Portuguese territory or, if so, it is mainly designed to the market of the territory in which it is situated. Equally excluded from the scope of this provision are those non-resident companies whose main business does not consist, in particular, in banking operations, insurance of goods or persons situated outside the Portuguese territory, operations concerning corporate rights and other marketable securities and rental of property, except immovable property situated in the territory in which they are resident.

Where an effective distribution of profits previously allocated takes place in a given financial period, such profits shall be deducted from the taxable base giving rise to a tax credit for international double taxation, if any.

Thin-Capitalization

In determining the taxable profit, there shall not be allowed as a deduction that part of interest in respect of any indebtedness considered to be in excess, granted by an entity having no residence within the Portuguese territory or in any other EU Member State with which there is a special relationship.

The relevant notion concerning special relations is that defined within the scope of the rules governing transfer prices¹³. For this purpose, there shall be assimilated to the exist-

¹³ Such definition is included in paragraph 4 of Article 58 of the IRC Code.

tence of special relations the situation of indebtedness of the taxpayer in relation to a third person having no residence in the territory of the country or in any other EU Member State, where there is a guarantee or an endorsement by an entity with which there is a special relationship in the terms already referred to.

Any indebtedness shall be deemed to be excessive if the amount due to each of the above mentioned entities, with regard to any date in the fiscal year, is higher than twice the value of the corresponding participation in the taxpayer's own equity.

These rules shall not apply (except in cases of indebtedness in relation to an entity resident in a country, territory or region subject to a clearly more favourable taxation regime included in a list approved by a ministerial order from the Minister of Finance) if the taxpayer produces evidence that, due regard being had to the kind of activity, the business sector, the size of the enterprise and other relevant criteria, and taking into account an operation risk profile not implying the engagement of those entities with which it has a special relationship, he would have obtained the same indebtedness, under similar conditions, from an independent entity.

Special Tax Regime Applicable to Groups of Enterprises

The controlling company of a *group of companies* may opt for the application of a special regime in determining the taxable amount in relation to all the companies belonging to such group.

For the purposes of the special regime, it is deemed to exist a group of companies where a company (controlling company) holds, directly or indirectly, at least 90 per cent of the capital of the other companies (controlled companies), granting to it more than 50 per cent of the voting power.

The option for the special regime may be formulated in compliance with the following requirements, considered in a cumulative way:

- a) The companies belonging to the group have their head-office or effective management in the Portuguese territory;
- b) The overall income of the group companies is subject to the general IRC regime taxation at the highest standard tax rate;
- c) The controlling company holds its participation in the controlled company for more than one year; and
- d) The controlling company is not considered as controlled by any other company resident in the Portuguese territory that may comply with the necessary requirements to be considered as a controlling company.

Within the scope of this special regime, the taxable income of the group shall be determined by the controlling company by way of the algebraic sum of taxable profits and tax losses as assessed on the basis of the individual periodical tax returns of each company belonging to the group.

The amount thus obtained shall be adjusted for that part of profits distributed among the group companies, as may be included in the individual taxable amounts.

Losses carry-over is subject to a specific regime. If such losses are determined before, they shall be deducted from the taxable income of the group only up to the limit of the taxable profit of the company to which such losses are related. The tax losses incurred by the group if determined during the application of the regime shall be deducted from the taxable income of the group¹⁴ until the special regime ceases to be applied. After the special regime ceases to be applied, there shall only be deducted those losses as may be individually determined by the competent company, before the application of the regime for each company provided that they have not been fully deducted while such regime was in force.

Special Regime Applicable to Mergers and Demergers, Capital Contribution and Exchange of Corporate Rights

The special regime applicable to merger and demerger operations by resident companies, to capital contribution and exchange of corporate rights shall ensure tax neutrality for these transactions provided that certain conditions are met.

Upon the transfer of net worth items as a result from a merger or demerger, no assessment of income or capital gains shall take place. This regime is based on the deferred taxation of such income or capital gains upon the alienation of the transferred net worth items by the recipient or acquiring company.

With regard to taxation of members of merged or demerged companies, it is accepted not to assess capital losses or gains realized as a result of a merger or demerger, if in relation to the new corporate rights the value by which the former were inscribed is maintained. However, this does not preclude such company members to be taxed on the amounts in cash, which may be attributed to them by reason of such merger or demerger.

This regime is also applicable with the necessary adjustments to merger and demerger of companies, capital contribution and exchange of shares in which participate equally a company or companies of other EU Member States. Nevertheless, where the company into which the items belonging to the assets and liabilities of a company resident in the Portuguese territory are transferred as a result from a merger or demerger is not a resident of this territory, such application depends on whether such elements are effectively connected with a permanent establishment of that company situated within the Portuguese territory and are taken into consideration in determining the taxable income attributable to such permanent establishment (Directive 90/434/EEC, of 23rd July 1990).

Tax Rates

The IRC tax rates, except those situations provided for under Article 80 (4 and following) are as shown in the following table:

¹⁴ If one or more companies leave the group and even in that case the special regime is still applicable, the right to deduction that part of the tax losses concerning such companies shall cease to apply.

CORPORATE INCOME TAX (IRC)

Taxable income (€)	Tax Rates (%)
Up to 12 500	12.5
Over 12 500	25

The amount of taxable income if higher than € 12 500 is divided into two parts: one equal to the limit of the first bracket to which the rate corresponding to such bracket applies, and the other equal to the excess amount, to which the rate corresponding to the higher bracket applies.

The rate applying to taxable persons covered by the simplified tax regime under Article 53 of IRC Code is 20 per cent.

In case of income of entities without their head-office or effective management in the Portuguese territory and no permanent establishment therein to which such income is attributable are subject to IRC at a 25 per cent rate, except for incomes as indicated below subject to the following rates:

INCOME	Tax rate
Income from intellectual or industrial property, from information concerning an industrial, commercial or scientific experience as well as technical assistance	15%
Income from the use or the right to use agricultural, industrial, commercial or scientific equipment	15%
Income from debt claims and other income from capital investment not expressly taxed at a different rate	20%
Winnings from raffles, lotto, as well as the amounts or prizes attributed in raffles or contests	35%
Agency commissions in concluding contracts of any kind, and income from supply of services	15%
Income from immovable property (real estate)	15%

CORPORATE INCOME TAX (IRC)

<p>Interests and royalties the beneficial owner of which is a company or a permanent establishment of a company from other EU Member State, payable or paid by a commercial or civil company under a commercial form, a co-operative and a public enterprise resident in the Portuguese territory or by a permanent establishment of a company from another EU Member State situated therein, provided that the terms, the requirements and the conditions set down by Directive 2003/49/EC are met, without prejudice to the provisions of bilateral conventions in force.</p>	<p>10 % during the first four years counting from the date of the application of Directive 2003/49/EC</p>
<p>The above mentioned tax rates shall not apply to:</p>	<p>5 % during the four subsequent years</p>
<p>Interests and royalties obtained within the Portuguese territory by a company from other EU Member State or by a permanent establishment of a company from other EU Member State where the major part of the corporate capital or of the voting rights of that enterprise are held, directly or indirectly, by one or more third country residents unless there is given evidence that the chain of participation has not as its primary objective or as one of its primary objective to be entitled to a reduction of withholding tax rate;</p> <p>Where by reason of the special relationship between the payer or the debtor and the beneficial owner of interest and royalties or between both of them and some other person according to the provisions of Article 58 (4), the amount of interest or royalties exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such a relationship.</p>	

With regard to overall income of an entity having its head-office or effective management within the Portuguese territory not exercising as their main business a commercial, industrial or agricultural activity, the rate is 20 per cent.

The rate provided for in Art. 80 (1) of IRC Code in the first bracket (12.5 per cent) shall not apply, being the overall taxable income subject to a 25 per cent rate where:

- a) One or more companies due to an involvement in a division operation or in any other company reorganisation or restructuring operations carried out after 31st December 2008, their taxable income is not higher than € 12 500;
- b) The capital of an entity is, wholly or partly, paid-in capital by way of a transfer of net worth items, including intangible assets affected to the exercise of a professional or business activity of an individual person and the activity exercised by such individual person is substantially identical to that exercised on an individual basis.

The IRC tax rates in force in the Autonomous Region of Madeira as laid down in Article 80 (1) of IRC Code Madeira are as follows:

CORPORATE INCOME TAX (IRC)

Taxable income (€)	Tax Rates (%)
Up to 12 500	10
Over 12 500	20

The above-mentioned rates shall apply to IRC taxable persons who:

- a) have their head-office, effective management or permanent establishment in the Autonomous Region of Madeira;
- b) have their head-office or effective management in another district and hold a branch, a delegation, an agency, an office, a fixed place of business or any other form of unincorporated permanent representation in the Autonomous Region of Madeira;
- c) have their head-office or effective management outside the territory of the country or have a permanent establishment in the Autonomous Region of Madeira.

There shall be excluded from the applying regime, companies exercising financing activities as well as those of "intra-group service" nature which are subject to taxation at the standard tax rate that are in force in the fiscal district of the Mainland territory.

A *local tax* ("derrama") may be levied on IRC at a maximum rate of 1.5 per cent of taxable profit. If the taxable income is higher than € 49,879.79, this tax may be shared by different municipalities at the pro rata of the payroll of each establishment if situated in more than one municipality.

Law nr. 64-A/2008, of 31st of December established an optional regime for taxable persons covered by IRC special tax rates. IRC taxable persons having their head-office, effective management or permanent establishment in the territory of the country who benefit from special lower rates are therefore entitled to opt for the applicable rates as set down by Article 80 (1).

Autonomous Tax Rates

Certain expenses incurred by IRC taxable persons are subject to an autonomous taxation to be added to IRC.

Expenditures which are the object of an autonomous tax liability are as follows:

CORPORATE INCOME TAX (IRC)

AUTONOMOUS TAXATION	
EXPENSES OR CHARGES	TAX RATE
<ul style="list-style-type: none"> • unsubstantiated expenses 	50 per cent without prejudice to the non-acceptance of those expenses as costs in accordance with Art. 23 of IRC Code.
	70% for (wholly or partially) exempt taxable persons or who do not exercise as their main business a commercial, industrial or agricultural activity.
<ul style="list-style-type: none"> • deductible charges¹⁵ concerning: <ul style="list-style-type: none"> - representation fees and charges connected with passenger light or mixed vehicles, motorbikes and motorcycles, incurred or borne by taxable persons subjectively non exempted and exercising as their main business a commercial, industrial or agricultural activity; - light or mixed passenger vehicles whose acceptable levels of CO2 emissions are under 120g/km for motor vehicles using petrol and under 90g/km for motor vehicles using diesel, provided that in both cases a certificate of conformity has been issued. • deductible charges concerning travelling and registered allowances for expenses concerning the use of one's own vehicle for the purposes of the employer, not invoiced to clients, except for that part on which the beneficial owner is subject to IRS, as well as expenses being not allowed as a deduction under the provisions of Article 42 (1) (f) of IRC Code borne by taxable persons reporting fiscal losses in the tax period to which they relate. 	<p>10%</p> <p>5%</p> <p>5%</p>

¹⁵ Motor vehicles powered only by electric energy, shall be excluded. There shall be excluded charges concerning light passenger vehicles and motorcycles designed for public transport services and for rental in the normal course of business of the taxpayer, as well as any depreciation in connection with vehicles object of an agreement according to the provisions laid down in Article 2 (8) b) and (3) of IRS Code. Taxable persons using the simplified tax regime in determining their taxable profits shall not be subject to the autonomous taxation of these expenses. The same does not apply to all other expenses, on which the autonomous taxation is levied.

CORPORATE INCOME TAX (IRC)

<ul style="list-style-type: none"> deductible charges borne by taxable persons referred to in the preceding dash in relation to light or mixed passenger vehicles whose purchasing cost is higher than € 40 000, if the taxpayer shows fiscal losses in the two previous fiscal years to which such charges relate. 	20%
<ul style="list-style-type: none"> Amounts paid or payable, regardless of the reason why they are paid, to (individual or legal) persons resident outside the Portuguese territory and subject therein to a clearly more favourable tax regime, unless the taxable person is able to produce evidence that such charges correspond to transactions effectively carried out and are not of an unusual nature or of an excessive amount 	35%
	55 per cent for (wholly or partially) exempt taxable persons or not exercising as their main business a commercial, industrial or agricultural activity
<ul style="list-style-type: none"> Profits payable by an entity subject to IRC to taxable persons, wholly or partially exempt from IRC, including income from capital where the corporate rights to which such profits relate are not owned uninterruptedly by that taxable person during the year immediately preceding the date on which they are put at his disposal and are not kept for the period of time necessary to conclude the required period of time. 	20%

Tax Assessment

The IRC assessment shall be made by the taxpayer on his periodical income tax return to be lodged with each year no later than the last working day of May or until the last working day until of the fifth month subsequent to the closing date of that taxation period, in case of entities adopting a tax period other than the calendar year.

Entities having not their head-office or effective management in the Portuguese territory and deriving income not attributable to a permanent establishment situated therein are equally required to fill an income tax return, provided that there is no final withholding tax on such income.

Tax Credit

There shall be allowed as *deductions* from the amount resulting from the application of the tax rate to the taxable income (assessment base) the following amounts:

- (a) Deduction for international double taxation¹⁶;
- (b) Deduction concerning tax incentives;
- (c) Special advance payment.

¹⁶ This deduction shall not apply in respect of the simplified tax regime.

After these deductions – a negative value being not accepted – the IRC withheld at source shall also be deducted.

In relation to those entities exercising as their main business a commercial, industrial or agricultural activity not covered by the simplified tax regime, as well as non-resident entities with a permanent establishment in Portugal, tax assessed by way of a periodical income tax return, after deduction for international double taxation and tax incentives, may not be lower than 60 per cent of the amount which would be assessed if the taxpayer would not benefit from tax incentives.

Deduction for International Double Taxation

The deduction for international double taxation occurs where income derived from abroad is included in the taxable income. The tax credit is equal to the lesser of the following amounts: the income tax paid abroad or the IRC fraction calculated before the deduction is given corresponding to incomes that may be taxed in the country concerned, net from any costs or losses, directly or indirectly incurred, for the purposes of its realisation.

Where there is a convention concluded by Portugal to eliminate double taxation, the deduction may not exceed the tax paid abroad, according to the terms provided for under the convention.

Deduction of Special Advance Payment

The deduction of any special advance payment is made from the amount assessed on the periodical income tax return for the financial period to which it relates or, in case of deficiency, until the fourth subsequent financial period after any further deductions, due regard being had to the fact that after such deductions are made no negative value shall be accepted.

Withholding at Source

As a general rule, the *withholding of IRC at source* has the nature of an advance payment, except in the following circumstances in which it is a final withholding:

- income derived by non-resident entities and not attributable to a permanent establishment situated within the Portuguese territory, that is not income from immovable property; or
- income from capital not wholly or partly exempt, obtained by resident entities that benefit, as a rule, from an IRC exemption.

The withholding at source of tax levied on income derived by non-resident entities, if it has a final character, shall take place according to the rates mentioned in paragraph 7.

There shall be subject to withholding as a payment on account of payable IRC any income obtained within the Portuguese territory, as below:

CORPORATE INCOME TAX (IRC)

INCOME
<ul style="list-style-type: none"> • Income from intellectual or industrial property and income from information in connection with an industrial, commercial or scientific experience and technical assistance
<ul style="list-style-type: none"> • Income from the use or the right to use an agricultural, industrial, commercial or scientific equipment
<ul style="list-style-type: none"> • Income from immovable property defined as such for IRS purposes, where the debtor thereof is liable for IRC or if such income is considered to be a charge in connection with a business or professional activity of IRS taxable persons keeping or required to keep an accounting
<ul style="list-style-type: none"> • Remuneration derived as a member of a statutory board of corporate persons and other entities
<ul style="list-style-type: none"> • Winnings from raffles, <i>totoloto</i>, lotto as well as amounts or prizes attributed in drawings or contests
<ul style="list-style-type: none"> • Prizes attributed in lotteries, betting and bingo
<ul style="list-style-type: none"> • Profits distributed by companies
<ul style="list-style-type: none"> • Interest on demand and time deposits
<ul style="list-style-type: none"> • Income from debt claims
<ul style="list-style-type: none"> • Other income from capital

The provisions laid down in Article 71 (8) (9) (10) and (11) of IRS Code shall apply under certain terms and conditions.

Equally subject to final withholding at source, at the standard rate provided for in Art. 80 (2) (25 per cent) are profits made available by a resident entity, according to the conditions set down by paragraph 2 of Directive 90/435/EEC, of 23rd July, to an entity resident in another EU Member State or to a permanent establishment situated in another Member State, belonging to an entity resident in a EU Member State being in the same conditions and holding directly, or through a permanent establishment situated in the territory of a Member State, a participation in the capital of the first-mentioned company of at least 20 per cent, and if such participation has not been held, uninterruptedly, for a period of two years prior to the date on which they are made available. If the period of two years is completed after the date the profits are made available, the reimbursement of the tax withheld at source during such period of time may occur upon request by the recipient entity, addressed to the DGCI competent services, within two years counting from the date on which such preconditions are met, provided evidence is given that the conditions established in Art. 2 of the above-mentioned Directive and Art. 46 (1) of IRC Code are complied with.

The amounts withheld at source shall be lodged with the Treasury no later than the 20th day of the month next following that in which they were deducted.

The law specifies those situations exempted from withholding at source. In particular, there is no obligation to make a withholding at source where the resident taxable persons benefit from full or partial exemption in relation to income that would be subject to withholding at source, if the taxable persons gives evidence of such exemption to the paying entity until the end of the period set forth for the production of the tax return that should have been withheld.

With regard to income derived by non resident entities, there is no obligation to make a withholding at source of IRC in respect of income referred to in Article 88 (1) of IRC Code, where under an international agreement or domestic legislation, the right to tax income earned by a non-resident entity and provided that such income is not attributable to a permanent establishment situated within the Portuguese territory, is not attributed to the source country or, if so, only in a limited way.

In such case, and also in case of interest and royalties provided that the requirements and the conditions set down by Directive 2003/49/EC, of 3rd June, are met, (see point 7), the beneficial owners of such income must give evidence to the withholding entity that the different requirements required by law are fully met.

Payment

An entity exercising as its main business a commercial, industrial or agricultural activity, as well as a non-resident entity having a permanent establishment within the Portuguese territory is required to make a tax payment as follows:

- a) Three advance payments payable in July, September and 15th December of the year to which the taxable income relates or, in those cases provided for under Article 8 (2) and (3), in the 7th, 9th and on the 15th day of 12th month of the respective taxation period.
- b) Until the last working day of the fixed term for sending or producing the periodical income tax return, according to the difference between the whole assessed tax and the amounts paid on account;
- c) Until the day the notice of change of an activity is lodged with, according to the difference between the whole assessed tax and the amounts already paid.

Where the amount of withholding at source and advance payments exceeds the amount of the assessed IRC¹⁷, a tax refund shall be made no later than the end of the third month next following that in which the income tax return is produced.

Advance Payments

The amount of the advance payment shall be calculated on the basis of the IRC assessed in the immediately preceding fiscal period after deduction of withholding at source by applying a percentage of 70 or 90 per cent, depending on whether the turnover is lower

¹⁷ The assessed IRC is equal to the basis of assessment (the taxable amount times the applicable tax rate) after deduction of all deductions from the basis of assessment or tax credits, which shall not exceed in the whole the amount of such basis of assessment, in particular the deductions in respect of international double taxation, tax incentives and specific payment on account.

or higher than € 498,797.90, respectively. The resulting amount shall be divided into three equal amounts, adjusted upwards, payable in July, September and December, and the remaining part of tax due shall be paid until the day in which the income tax return is lodged with (that is to say, the 31st May of the next following year)¹⁸. If the taxable person comes to the conclusion that the amount of advance payments is equal to, or higher than, the tax payable on the basis of the taxable income for that fiscal period, he is allowed to suspend the new advance payment. However, the taxpayer must send by electronic data transmission (e-mail) a statement of limitation of advance payments on an officially approved form up to the deadline term.

Special Advance Payment

To be noted also that, excepting the taxable persons covered by the simplified tax regime, any entity exercising as its main business a commercial, industrial or agricultural activity, as well as a non-resident entity with a permanent establishment within the Portuguese territory are subject to a specific advance payment to be made in March, or by two instalments in March and October (in the 3rd and 10th month of the respective taxation period for entities adopting a taxation period other than the calendar year).

Such payment is equal to the difference between 1 per cent of the turnover (corresponding to the amount of sales and supply of services) in respect of the previous financial year with a minimum limit of € 1250, and, if higher, shall be equal to this limit increased by 20 per cent added of the exceeding part, up to a maximum limit of € 70 000. The advance payments made in the previous tax year, calculated in accordance with Article 97 of IRC Code, shall be deductible from the amount assessed in accordance with the above-mentioned terms.

Taxpayers' Ancillary Obligations

Taxable persons liable to IRC and their representatives are subject to the following *reporting obligations*:

- (a) The production of a declaration in respect of the registering, changes or cancellation of register of taxable persons, the registering declaration being produced, as a general rule, within 90 days counting from the date in which the registering was made with the Domestic Register for Legal Persons and the declaration of change within 15 days as from, inter alia, the date of change of the business name of the taxable person; the date of change of the location of its head-office, effective management or permanent establishment in which the accounting records are centralized. The declaration of cancellation of activity must be produced within 30 days counting from the date on which such cancellation takes place¹⁹;
- (b) The production of a periodical income tax return to be filed each year no later than the last working day of May or of the fifth month subsequent to the closing date of the taxation period, by resident entities, non-resident entities having a permanent es-

¹⁸ If the taxation period is not coincidental with the calendar year, the advance payments shall fall due during the seventh, ninth and twelfth months of the respective taxation year, the remaining part being payable up to the end of the fifth month subsequent to the end of such period of time (delay for delivery of the competent periodical income tax return).

¹⁹ This statement may be replaced by a verbal statement made by the taxable person, reporting all necessary elements.

establishment within the Portuguese territory and by non-resident entities deriving income from immovable property and capital gains within the Portuguese territory not attributable to a permanent establishment situated therein (in the case of cessation of business or gains resulting from the transfer against payment of immovable property, corporate rights and other marketable securities obtained within the Portuguese territory by a non-resident entity if not attributable to a permanent establishment, the tax return must be lodged with within 30 days counting from such cessation or transfer);

- (c) The production of a statement containing accounting and tax information no later than the last working day of June or of the sixth month next following the closing date of the taxation period.

Resident entities exercising as their main business a commercial, industrial or agricultural activity, as well as non-resident entities with a permanent establishment within the Portuguese territory are required to keep a duly organized accounting according to the provisions of both commercial and fiscal law, where any delay exceeding 90 days counting from the last day of the month to which the operations relate shall not be admitted and the accounting books, auxiliary records and respective supporting documents must be appropriately kept for a 10-year period.

Resident entities not exercising as their main business a commercial, industrial or agricultural activity may opt for a *simplified bookkeeping scheme* (instead of an accounting) consisting of an income recording, an expenditure recording and a closing inventory. Both the accounting and the above-mentioned bookkeeping must be centralized in an establishment or business office situated within the Portuguese territory.

IRC taxable persons are equally required to keep in good order for a 10-year period a tax documentation file in respect of each accounting period, containing the accounting and tax elements as may be defined by a ministerial order from the Minister of Finance²⁰.

²⁰ Taxable persons exempted according to the provisions of Article 9 of the IRC Code, in particular the State, the Autonomous Regions, local authorities, their public law associations, as well as social security federations and institutions shall be exempt from this requirement.

III PERSONAL INCOME TAX (IRS)

Effective Scope

The Personal Income Tax (IRS) is levied on the yearly amount of incomes comprised in the categories enumerated below after the appropriate deductions and allowances.

Category A – Earned income from dependent employment

The IRS Code (CIRS) adopts a very broad notion of income from dependent employment. Thus, there shall be comprised in this category any income paid or made available to the employee derived from:

- An employment on somebody else's account under an individual labour agreement or a similar one;
- Services supplied under a contract for the acquisition of services or any other of a similar nature, under the supervision or control of another person;
- Performance of a public job, service or duty;
- Attribution of any remuneration as the result of pre-retirement or reserve, regardless of services being supplied or not, or the attribution of payments, regardless of the grounds on which they are paid, prior to the fulfilment of the required conditions under the obligatory social security schemes for retirement purposes, or, even in the absence of a labour agreement, if any such remuneration is subject to the condition of falling due until such requirements are met, even though, in any case, such remuneration is payable by pension funds or other entities substitutive of the originally paying employer.

Remuneration paid to the members of a statutory body of any corporate person and assimilated entities, excepting Chartered Accountants, shall be assimilated to income from dependent employment as well as fringe benefits including therein any rights, advantages or benefits not covered by the main remuneration, in particular:

- Amounts paid by the employer concerning insurance and pension funds contributions, retirement-saving funds or any other complementary social security scheme where they are object of redemption, advance payment, or in any other form of anticipated payments of capital by the beneficial owner thereof;
- Loans granted or borne by the employer, interest-free or at an interest rate lower than the reference interest rate in relation to the operation concerned, other than those loans designed for the acquisition of a permanent owner-occupied housing, the value of which not exceeding €134 675,43, and whose rate is no higher than 65 per cent of the rate laid down under Art. 10 (2) of Decree-Law nr.138/98, of 16th May;

PERSONAL INCOME TAX (IRS)

- Amounts paid by the employer in connection with travelling or stays for tourism purposes and similar ones not connected with the services performed by the employee in such entity;
- Gains derived from option and subscription plans, attribution concerning securities created for the benefit of the employees, as well as those gains resulting from repurchase by the employer, but only on that part of such repurchase of a remuneration nature;
- Incomes, in cash or in kind, paid or made available as a right to income inherent in securities or any similar rights, as well as income received by reason of net-wealth increase and derived from subscription or attribution plans created for the benefit of employees;
- Personal usage by the employee of a motor vehicle, giving rise to a charge to the employer if there is a written agreement;
- Purchase by the employee, for a value lower than the market price, of any motor vehicle having given rise a charge to the employer (it is assumed that the motor vehicle was purchased by the employee if it is registered in the employee's name or in the name of any other person belonging to his household or in the name of another person indicated by him, within two years counting from the tax period in which the vehicle ceased to give rise to a charge to the employer);
- Family allowances and corresponding complementary payments for that part exceeding the limits settled by law;
- Meal allowance for that part exceeding by 50 per cent the yearly limit fixed by law, increased to 70 per cent where such allowance is attributed by way of meal vouchers;
- Housing allowances or similar ones, as well as the use of housing supplied by the employer;
- Allowances for occasional losses attributed to any person who has to make cash movements for that part exceeding 5 per cent of the fixed monthly remuneration;
- Travelling allowances in that part exceeding the limit fixed by law;
- Amounts derived from the use of one's own car being at the employer's service, for that part exceeding the limit fixed by law;
- Indemnities resulting from the constitution, extinction or modification of a juridical relationship giving rise to income from dependent employment, including those in respect of non-compliance with the contractual conditions or which are due to a change to the working place (the amounts received in case of termination of a labour agreement, of the exercise of public functions, or the performance of an activity as a manager, administrator or director of a corporate person for that part exceeding the amount corresponding to one and half time the average amount of an

ordinary remuneration liable to tax, derived during the last twelve months, multiplied by the number of years or seniority fraction or fraction of functions exercised in the paying entity, unless a new professional or business link is created with the same entity or any other entity having a controlling or group relation, in which case those amounts are fully taxed);

- The share, increased by social security discounts borne by the beneficial owner, that is payable on the participation in fishing campaigns to those fishermen who limit their activity to the supply of services;
- Bonuses received from, or by reason of, the supply of services if not attributed by the employer.

Category B – Business and professional income

Included in this category are:

- a) Incomes derived from the exercise of any commercial, industrial, agricultural, forestry or cattle breeding activity;

There shall be deemed to be commercial and industrial activities, in particular:

- Purchase and sale
- Manufacture
- Fishery
- Mining /other exploitation industries
- Transports
- Civil engineering
- Town planning/exploitation of land lots
- Hotel activities and assimilated, catering and beverages, as well as the sale or the exploitation of the right in rem to an occasional dwelling house
- Travel and tourism operating agencies
- Handicrafts
- Agricultural and cattle breeding activities non connected with land exploitation or if this is of a clearly ancillary nature (that is to say, if direct costs are lower than 25 per cent of the global direct costs of the overall activity)
- Agricultural, forestry and cattle breeding activities integrated in other business activities (that is, where the products therefrom are designed to be used or consumed by more than 60 per cent of their amount in such commercial and industrial activities)

There shall be deemed to be agricultural, forestry or cattle breeding activities, in particular:

- Commercial or industrial activities of a merely ancillary or complementary nature, using exclusively the products of their own agricultural, forestry and cattle breeding exploitations
- Hunting and exploitation of natural pasturage, water and other spontaneous produce, either directly exploited or exploited by third persons
- Exploitation of salt plants
- Apiculture
- Research and development of new animal and vegetable species in connection with such activities

- b) Income derived from the exercise on one's own account of any services including scientific, artistic or technical activities, of whatever nature, even if in connection with an industrial, commercial, agricultural, forestry or cattle breeding activity;
- c) Income derived from intellectual property (copyrights and related rights), industrial property, or from the supply of information concerning an industrial, commercial or scientific experience if derived by their original holder.

There shall be also covered by this category:

- Incomes from real estate and from capital attributable to activities giving rise to business and professional incomes;
- Capital gains realized within the scope of activities giving rise to business and professional incomes, namely those capital gains resulting from the transfer into the private assets of the businessmen of any goods affected to the business assets, as well as other gains or losses classified as capital gains if attributable to activities giving rise to business and professional incomes;
- The amounts received as a compensation in connection with an activity performed, in particular, its reduction, suspension and cessation, as well as in relation to a change to the place where such activity is performed;
- The amounts concerning the temporary cession of an establishment exploitation;
- Subsidies or allowances granted within the scope of a commercial, industrial, agricultural, forestry or cattle breeding activity, or in connection with services rendered on one's own account;
- Income derived from the exercise of a fortuitous act in relation to any commercial, industrial, agricultural, forestry or cattle breeding activity or in connection with services rendered (being considered as such those acts that, not exceeding 50 per cent of the other incomes of the taxable person, as the case may be, are not the result of a foreseeable or reiterated practice).

The above-mentioned incomes are liable to tax as from the moment upon which the issuance of an invoice or an equivalent document becomes obligatory for VAT purposes, or, if this is not the case, upon the payment of income assessed on the basis of accounting records or when it is made available to its owner.

Excluded from taxation are incomes derived from agricultural, forestry and cattle breeding activities where the amount of proceeds or receipts, either separately or jointly with the amount of taxable net incomes, even if exempted, under the terms of this or other categories, and which must be aggregated, does not exceed for each household five times the annual amount of the highest domestic minimum wage.

Category E – Income from capital

There shall be considered as income from capital the proceeds and other economic advantages, regardless of their nature or denomination, either pecuniary or in kind, derived, directly or indirectly, from elements of assets, goods, rights or juridical situations of a movable nature, as well as from their modification, transfer or cessation, excepting gains and other incomes taxed under other categories, namely, *interest* and *other forms of remuneration* derived from:

- a) Loan contracts, opening of credit, carry-over and others which make possible, for consideration, the temporary availability of money and other fungible goods;
(These incomes are liable to tax upon their actual maturity, excepting the refinancing contract which is liable to taxation upon the ascertainment of their respective amount.)
- b) Demand or time deposits in financial institutions as well as certificates of deposits;
(These incomes are liable to tax upon their actual maturity, excepting the advanced refund of such deposits or of certificates of deposits, which shall be taxable upon the ascertainment of their respective amount.)
- c) Government securities, bonds, equity securities, certificates of consignment, short term debt claims and similar ones, issued by public or private entities, and other financing investment instruments, namely, bills of exchange, notes, promissory notes and other marketable securities if used as such (including amortization or refund premiums);
(These incomes are liable to tax upon their actual maturity, excepting the certificates of consignment, which shall be taxable when the income is made available.)
- d) Contribution of capital, allowances or advance of capital made by the shareholders to the company, including those payable for non-withdrawal of profits made available to the company members.
(These incomes are liable to tax upon their actual maturity.)

There shall also be considered as income from capital:

- Balance of interests as determined by a current account contract;
(These incomes are liable to tax upon the ascertainment of respective amount.)

PERSONAL INCOME TAX (IRS)

- Interests or any pecuniary credit payment resulting from deferred maturity or default payment, whether they result from law or contract, other than interest payable to the State or to other public entities by reason of delay of assessment or default payment of any levies, taxes or duties granted for the purpose of an indemnity, not liable to tax, and payable as a result of body injury, disease or death;
(These incomes are liable to tax upon their actual maturity.)
- Profits and advanced payments on account of profits made available to the shareholders or members of entities liable to corporate income tax – IRC (excluding those entities covered by the fiscal transparency regime);
(These incomes are liable to tax upon the moment they are made available.)
- Amounts received by shareholders as a result from a partition, which in accordance with Article 75 of the IRC Code is considered to be income from capital investment, as well as the amount attributed to shareholders upon redemption of corporate rights without a capital reduction;
(These incomes are liable to tax upon the moment they are made available.)
- Income derived from investment funds participating units;
(These incomes are liable to tax upon the moment they are made available.)
- Income derived by a partner of any kind of arrangement for participation in profits (*associação em participação* or *associação à quota*);
(These incomes are liable to tax upon the moment they are made available.)
- Income in connection with a contract the object of which is the cession or the temporary use of rights on intellectual or industrial property or supply of information concerning an industrial, commercial or scientific experience, if not received by their original beneficial owner, as well as income from technical assistance;
(These incomes are liable to tax upon the ascertainment of respective amount.)
- Income from the use or the right to use an agricultural, commercial or scientific equipment, other than income from real estate, as well as income from the fortuitous or continuous cession of computer equipments and networks, including the transmission of data or availability of computing power installed in any possible forms;
(These incomes are liable to tax upon the ascertainment of respective amount.)
- Interests entered in any current account;
(These incomes are liable to tax upon the ascertainment of respective amount.)
- Any income from mere capital investments;
(These incomes are liable to tax upon the ascertainment of respective amount.)
- Gains from currency swap operations and from fixed term exchange operations (the positive difference between the arranged currency rate for sale or purchase in a future date and the demand currency rate as determined on the date of celebration of the contract for the same pair of currencies), interest rate swaps (positive difference between interest), interest rate swaps and foreign currencies (exchange gains in respect of exchanged capital);

(Interests falling due during the operation in course are liable to tax upon their actual maturity. In relation to income from swaps these are liable to tax upon settlement of the operation.

In case of a swap cession or annulment of a fixed term exchange operation, with payment and acceptance of regularization values, such gains are deemed to be income liable to tax upon the ascertainment of respective amount.)

- Remuneration from certificates warranting to the respective holder the right to receive a minimum amount higher than the subscription amount;
(These incomes are liable to tax upon the moment they are made available.)

- The positive difference between the amounts paid by way of redemption, advance payment or maturity of insurance and life insurance operations and the insurance premiums paid or invested amounts, as well as the positive difference between the amounts paid as a redemption or any other form of advance availability on account of pension funds, or within the scope of other complementary social security schemes and the contributions paid thereto, where the amount of premiums or contributions paid in the course of the first half of the period during which the contract is in force represents at least 35 per cent of the whole amount:
 - One fifth of the income shall be excluded from taxation if the redemption, advance payment or any other form of anticipated disposal, as well as the respective maturity would occur after five years and before eight years of the contract being into force;

 - Three fifth of the income shall be excluded from taxation if the redemption, advance payment or any other form of anticipated disposal, as well as the respective maturity would occur after the first eight years of the contract being into force.
(These incomes are liable to taxation on the moment they are made available to respective holders. Except if the owner of the right to such income would opt for receiving them by way of a rent, the taxation shall take place upon the ascertainment of respective amount).

Category F – Real estate income

Income from real estate comprises the rental amounts from rural, urban and mixed property paid or made available to the respective owners, including therein the following amounts:

- The right to use the immovable property or a part thereof, and any services connected thereto;

- The leasing of machinery and furniture in the leased immovable property;

- The difference received by the sub-lessor between the rent received from the sub-lessee and that paid to the landlord;

- The right to use, in the whole or in part, immovable property for any special purposes, namely advertising;

- The right to use common fractions under a regime of separate ownership in a building;
- The constitution, against remuneration, of temporary fruition rights in rem, even for the life time, on rural, urban or mixed property.

Category G - Increases in wealth

There shall be considered as net wealth accrual, provided they are not considered as incomes from other categories, the following incomes:

- Capital gains defined as gains and not qualified as business and professional income, capital or real estate income derived from:
 - a) Disposal for consideration of rights in rem on immovable property and appropriation of any elements belonging to private assets to a business or professional activity exercised on his own account by the owner thereof;
 - b) Disposal for consideration of corporate rights, including the remission and depreciation thereof through capital decrease, and other marketable securities, as well as the amount attributed to the associates as a result from the partition that, under the applicable provisions of the Article 75 of the IRC Code, is considered to be a capital gain;
 - c) Transfer for consideration of intellectual or industrial property, or of a commercial, industrial or scientific experience, where the transferor is not the beneficial owner thereof;
 - d) Transfer for consideration of contractual participation or other rights inherent in contracts concerning immovable property;
 - e) Operations concerning derivative financial instruments, other than gains concerning swaps;
 - f) Operations concerning autonomous warrants regardless of the fact that such warrant is the object of a disposal prior to the exercised one, or is effectively exercised; in this later case, independently of the liquidation form;
 - g) Operations concerning certificates giving the owner the right to get a certain amount of an underlying asset, other than remuneration from certificates warranting to the respective holder the right to receive a minimum amount higher than the subscription amount being considered as capital income.
- Any compensation aimed at the redressing of non pecuniary damages excepting those settled by judicial or arbitral decision or resulting from an agreement ratified in accordance with law, of non-confirmed actual damage and loss of profits, being considered as such in this later case only those designed to offset non received net benefits as a result of the damage;

- Amounts in relation to non-competitiveness commitments regardless of their source or nature;
- Unsubstantiated accrual of net wealth in accordance with the provisions of Articles 87, 88 and 89-A of the General Taxation Law;
- Winnings from lotteries, raffles, betting, *totoloto*, lotto and bingo, as well as any sums or prizes won in draws or contests, effectively paid or made available, other than prizes from an European lotto called «Euromilhões».

Excluded from taxation are capital gains derived from the alienation of:

- Debentures and other securities;
- Shares owned by the respective owner for more than 12 months and which are not shares in companies whose asset is composed, direct or indirectly, by more than 50 per cent, by immovable property or rights in rem on real estate located within the Portuguese territory.

Gains arising from the transfer for valuable consideration of immovable property intended for the taxable person's own and permanent residence or for that of a member of his family shall be exempt from tax subject to the following conditions:

a) that, within a period of 36 months counting from the date of completion of the transfer, the realisation value after deduction of the depreciation of a potential loan taken out for the acquisition of a building is reinvested, in the purchase of another property, or of a plot of land for the construction of a property, or in the construction, extension or conversion of another property intended exclusively for the same purpose, provided that it is situated in Portuguese territory or in the territory of other EU Member State or in the European Economic Area provided that in the last-mentioned case there is tax information exchange;

b) that, the realisation value after deduction of the depreciation of a potential loan taken out for the acquisition of a property is used for the purposes of the purchase referred to in subparagraph (a), provided that the transfer was effected within the previous 24 months.

Category H - Pensions

There shall be included in this category retirement, old-age, disability pensions or survivor's annuity, as well as any similar pension, including the income received after an individual labour agreement extinction, whenever the beneficial owner of such income is in a situation similar to retirement. There shall also be included the alimonies, temporary or life annuities, remuneration paid by insurance companies or pension funds, payable under complementary social security regimes or by reason of employers' contributions, and which are not considered as income from dependent services, as well as any other pension or subsidy not expressly mentioned. Incomes covered by this category are subject to tax provided that they are paid or made available to the respective owners.

Personal scope

Liable to IRS is any individual person who is a resident of the Portuguese territory, and any non resident individual who derives income therein.

In the case of a resident and his household, if any, tax is due on the whole amount of incomes derived by the persons who are part thereof, being considered as taxable persons those in charge of its direction.

The family unit is composed of:

- Both spouses not judicially separated from bed and board and their dependants;
- Each spouse or ex-spouse, respectively, in case of a judicial separation from bed and board or of statement of nullity, annulment or dissolution of marriage, and any dependant in charge;
- Unmarried father or mother and dependants in charge;
- Unmarried adopting parents and dependants in charge.

Any individual living in common law marriage fulfilling the requirements provided by law may opt for the regime applying to married taxable persons not judicially separated from bed and board whose application depends on the identity of fiscal domicile of both taxpayers for a period required by law and during the taxation period, as well as both signatures on the income tax return.

There shall be deemed to be “dependants”:

- Adopted children and stepchildren, minor of age and not emancipated, as well as minors under guardianship;
- Adopted children, stepchildren and minors under guardianship, who are major of age up to 25 years old, not deriving an yearly income higher than the domestic minimum wage and having attended in the year to which the tax relates the 11th or 12th year of schooling in a middle or higher educational establishment, or having concluded their obligatory military or civil service;
- Adopted children, stepchildren or minors under guardianship, major of age, with an incapacity to work and to provide for their own maintenance insofar as they do not derive income higher than the highest domestic minimum wage.

However, dependants may be taxed separately unless, as in the case of minor non emancipated adopted children or stepchildren, as well as a minor child under guardianship, the administration of incomes derived by them is not fully carried out by them.

Residence

In the case of a resident in the Portuguese territory, IRS is levied on the overall income, including income from outside that territory.

There shall be considered as resident in the Portuguese territory any person who, in the year to which the income relates:

- Stays there more than 183 days, with or without interruption;
- Having stayed there for less than 183 days, has at his own disposal on 31st December of that year a dwelling place in such conditions that it may be inferred that there is the intention to keep and occupy it as an habitual abode;
- On the 31st December, is a crew member of a ship or aircraft provided that such person is employed by entities having their domicile, head-office or effective management in such territory;
- Is exercising abroad a public function or commission in the service of the Portuguese State.

There shall always be considered as resident in the Portuguese territory those persons who are members of the family unit, provided that any of the persons to whom its direction belongs is a resident therein. This condition may not be applied in case one of the spouses has not been present in the Portuguese territory for more than 183 days, with or without interruption, provided that such spouse proves that there is no relation between the most part of his business activities and the Portuguese territory. In that case, such spouse is liable to tax as a non resident, in respect of income deemed to be obtained by him within the Portuguese territory.

If evidence is given under the above terms, the spouse who is a resident in the territory of the country is required to produce just one tax return of his/her own income, of his/her part on joint income and of income derived by any dependants in charge under the scheme applicable to persons living in separation of spouses.

There shall also be deemed to be resident in the Portuguese territory any person who is a national of Portugal, and who transfers his fiscal domicile to a country, territory or region subject to a clearly more favourable tax regime included in the list approved by a ministerial order from the Minister of Finance, in the year in which such displacement occurs and in the subsequent four years, unless there is proof that such transfer is due to acceptable reasons, in particular the exercise in that territory of a temporary activity on account of an employer having his domicile in the Portuguese territory.

Otherwise, non residents are subject to IRS only on income derived within the Portuguese territory, independently of their familiar and personal situation.

Taxable persons resident in another EU Member State or in European Economic Area with which a tax information exchange exists may opt for the regime applying to unmarried taxable persons resident in the Portuguese territory with any necessary adaptation, in compliance with the rules of Article 17-A of IRS Code, where those taxpayers

PERSONAL INCOME TAX (IRS)

hold incomes from categories A, B and H obtained within the Portuguese territory, representing at least 90 % of the total of their overall income for the current year, including those incomes obtained outside this territory.

There shall be considered as income obtained within the Portuguese territory:

- Income from dependent services (including remuneration paid to the members of statutory bodies) derived from an activity therein exercised, or if such income is payable by any entity having there its residence, head-office, effective management or a permanent establishment to which the payment may be attributed;
- Income from services performed aboard a ship or aircraft, provided that the beneficial owner thereof is in the service of an entity with its domicile, head-office or effective management in such territory;
- Income derived from intellectual or industrial property, from information supplied concerning a commercial, industrial or scientific experience, or from the use or the right to use an agricultural, commercial or scientific equipment, other than income from real estate, as well as income from technical assistance payable by an entity with its domicile, head-office, effective management or permanent establishment situated there to which the payment may be attributed;
- Income from a business or professional activity, attributable to a permanent establishment situated therein;
- Income from a professional activity and from other services performed comprising scientific, artistic or technical services, as well as income from an agency commission for concluding contracts, realised or used within the Portuguese territory, other than services in connection with transports, telecommunication and financing activities, provided they are payable by an entity having its domicile, head-office, effective management or permanent establishment therein to which the payment may be imputed;
- Other income from capital payable by an entity having its domicile, head-office, effective management or a permanent establishment therein to which the payment may be attributed;
- Income from real estate situated therein, including capital gains from the transfer thereof;
- Capital gains from the transfer for consideration of corporate rights of any entity having there its head office or effective management, including their redemption and depreciation with capital decrease, as well as the amount attributed to its members as a result from a partition that is considered as a capital gain, or of other marketable securities issued by an entity having its head-office or effective management in this territory, or also of participation in capital or other marketable securities where, in the absence of such condi-

PERSONAL INCOME TAX (IRS)

tions, payment of respective income is attributable to a permanent establishment situated there;

- Capital gains from the alienation of intellectual or industrial property, where the respective registration or any similar requirement has been performed therein;
- Pensions and winnings from lotteries, raffles, *totoloto* and betting, as well as any sums or prizes won in draws or contests, payable by an entity having its domicile, head-office, effective management or a permanent establishment therein to which the payment may be attributed;
- Income derived from fortuitous acts therein performed;
- Net wealth accruals not comprised in the items listed above whenever the goods, rights or juridical situations to which they relate are situated there, including income from operations concerning derivative financing instruments payable or paid by an entity having its domicile, head-office, effective management or a permanent establishment therein to which the payment may be attributed;
- Income derived from an activity of an entertainer, artiste or sportsman exercised within the Portuguese territory, although this income is attributable to a different person.

The term permanent establishment means any fixed place of business or permanent representation through which a commercial, industrial, agricultural, forestry, cattle breeding activity or in connection with services rendered is exercised.

General Scheme for IRS assessment

Total Sum of:

Gross income of each income category	-
Specific deductions of each income category	=
Net income of each income category	-
Loss deductions of previous years	=
Net global income	-
Allowances	=
Taxable income	
(divided by 2 in case of married or similar persons)	x
Tax rate	
(the result is multiplied by 2 in case of married or similar persons)	=
Assessed income	-
Tax credits, except withholding at source and payments on account	=
IRS PAYABLE	

Determination of taxable income

The taxable income of a resident taxpayer is equal to the aggregated incomes of different categories derived each year, after deductions applying to each income category (specific deductions); this allows to determine the net global income after deduction, in the whole or in part, of any negative net incomes (losses) from previous years, as well as any abatements also provided for under the law.

However, there shall be considered as an exception to the aggregation general rule those incomes taxed by special rates or final tax rates, without option for aggregation of incomes, and also incomes falling outside the scope of the exercise of a business or professional activity, the aggregation of which is subject to a previous option by their respective holders who are residents within the Portuguese territory, as follows:

- Interest on demand and fixed-term deposits or those on deposit certificates;
- Income from marketable securities paid or made available to the respective owners resident in the Portuguese territory and paid by entities having not their domicile within that territory to which such income may be attributed;

- Income from registered or unregistered securities, as well as income from carry-over transactions, granting of credit, securities accounts with price guarantee or other similar or identical operations;
- Income corresponding to the positive difference between the amounts paid as a redemption, advance payment or maturity of a life insurance policy and premiums already paid or invested amounts, as well as the positive difference between the amounts paid as a redemption or any other form of advance availability of pension funds or within the scope of other complementary social security schemes;
- Gains from foreign currency swap operations, interest rate swaps, interest rate and currency swaps, fixed term foreign currency swaps;
- Profits (including payments on account of profits) payable by an entity subject to IRC, made available to the respective members;
- Amount attributed to its members as a result from a partition which is considered as a capital investment, as well as the amount attributed to its members in the redemption of corporate rights without a capital reduction;
- Income derived by a member of any kind of arrangement for participation in profits (*associação em participação* or *associação à quota*).

If such an option is made, any withholding tax shall be deemed to represent a payment on account of the final tax due.

The owners of income referred to under Article 18 (1) f), m) and o) of IRS Code subject to withholding at source under the provisions of Article 71 of IRS Code, resident in another EU Member State or in European Economic Area, provided that in the last-mentioned case there is tax information exchange can claim the whole or part of the reimbursement of the tax withheld at source or already paid, in that part exceeding the amount resulting from the tax rate schedule comprised in Article 68 (1); there shall be taken into account all incomes, including those obtained outside the territory of the country in the same conditions applicable as if they were residents.

Specific tax allowances

In relation to deductions, there are some specific rules applying to each income category:

Category A – Income from dependent employment

The following deductions shall be allowed from gross income derived from dependent employment for each income earner:

- 72 per cent of twelve times the minimum monthly wage;

If any compulsory contributions to social security schemes or to health sub-systems legally approved exceed this threshold, the whole amount of such contributions shall be allowed as a deduction.

This deduction may be raised up to 75 per cent of twelve times the minimum monthly wage, provided that such difference is a result from:

- a) Contributions to professional bodies paid by the taxpayer himself, which are necessary for the performance of an activity exclusively exercised on somebody else's account;
 - b) Amounts actually paid and not reimbursed concerning professional training expenses, provided that the training entity is a public law body or an entity recognized as duly qualified for the purposes of professional training and rehabilitation by the competent Ministries.
- Any indemnity paid by the employee to his employer upon unilateral cancellation of the individual labour agreement without previous notice as a result of a judicial sentence or a judicially ratified agreement, or, in all other cases, any indemnity the amount of which is no higher than the basic remuneration corresponding to the previous notice;
 - Trade-union contributions for that part that is not a consideration for health, education, third-age support, housing, insurance or social security benefits, and provided they shall not exceed, for each taxable person, 1 per cent of gross income in that category, increased by 50 per cent.

In relation to short-lived professions (sportspeople, miners and fisherman), the charges supported with the constitution of health, personal accidents and life insurances covering exclusively death, disability or old-age retirement risks (provided that in the last-mentioned case the beneficiary thereof is covered after 55 years of age) shall be fully deductible provided that, in any case, they do not guarantee the payment and such payment would not take place by way of redemption or any advance of capital in life-time during the first five years.

Category B – Income from self-employment (business and professional activities)

The determination of net income in this category, other than incomes from companies subject to the fiscal transparency regime, shall be based, as a general rule, on:

- Accounting records; or
- Simplified tax regime.

However, if earned incomes are a result of services rendered to a single entity, except services rendered by a member of a company covered by the fiscal transparency regime, the taxpayer may opt for taxation according to the rules of category A for a period of three years.

Fortuitous acts constitute another exception to the application of the two main regimes. In determining the respective net income there shall be allowed as deductions just duly substantiated expenses deemed to be necessary for the realisation of gross income, subject to certain limits according to the rules applying under the accounting regime, as below referred to. These rules of determination of the taxable income shall apply to in-

comes in category B, the amount of which does not exceed half the overall amount of the aggregated gross income of the beneficial owner or of his household nor the annual amount of the highest domestic minimum wage, in the case of sales or half of such yearly amount in case of other incomes in this category (the so-called ancillary incomes).

Simplified Tax Regime

The simplified tax regime shall apply to those taxable persons who in the exercise of their business activity have not exceeded, in the immediately previous fiscal period, in their activity, a threshold of € 149,739.37 (sales volume) or € 99.759.58 (net amount of all other incomes in this category).

Taxable persons covered by the simplified regime may opt for their assessment on an accounting base.

The application of the simplified regime must be observed for a minimum period of three years, automatically renewed for equal periods of time, unless the taxable person gives notice of his option for the regime of organized accounting; its application shall cease only where any of the above mentioned limits is exceeded in two consecutive tax periods, or in a sole tax period by an amount exceeding 25 per cent of such limit, in which case taxation according to organized accounting takes place as from the tax period next following that in which any such fact intervenes.

The determination of net income under the simplified regime shall be the result from the application of some objective indicators of a technical-scientific nature for the different business sectors. Until the approval of such indicators, or in the absence thereof, the taxable income is obtained by adding to the incomes from services rendered by a member of a company covered by the fiscal transparency regime the amount from application of a coefficient of 0.20 points to the amount of sales of merchandise and goods, and a coefficient of 0.70 points to all other incomes in this category (but for the production variance) with a minimum amount equal to half of the yearly amount of the minimum monthly wage. A coefficient of 0.20 points shall apply to services rendered within the scope of hotel and similar activities, catering and beverages, as well as to the amount of subsidies for exploitation purposes.

Organized accounting regime

In determining net income for taxable persons covered by this regime, the rules provided for under the IRC Code for the assessment of taxable profit shall apply subject to the following adjustments:

- Non deductible charges for tax purposes:
- ✓ Displacement, travel and stay expenses of the taxable person or of members of his household working with him, even if registered as operating costs or losses, for that part exceeding in the whole 10 per cent of the overall amount of registered proceeds, subject and not exempted from IRS;

- ✓ Charges in respect of motor vehicles used for the purpose of an activity over the maximum number of vehicles as established by the Administrative Rule nr. 1041/2001, of 28th August. This Administrative Rule states that the number of vehicles used for the purposes of any activity, regardless of the way how such allocation is made, and excepting those vehicles with less than 123 cm³, is limited to one unit for each income earner and for each employed person, subject in any case that evidence is given concerning the indispensability of their use;
- ✓ Where the taxable person affects to his business or professional activity one part of his dwelling house, the deductible charges connected thereto in respect of depreciation or rents, electricity, water and fixed phone are not allowed to exceed 25 per cent of duly substantiated expenses;
- ✓ Illicit expenses, being understood as such those expenses resulting from some kind of behaviour pointing out a well-grounded breach of the Portuguese penal legislation;
- ✓ The remuneration of income earners in this category, as well as remuneration attributed to members of his household rendering services to him, or any other remuneration paid as allowances for expenses, use of one's own vehicle for the purposes of the business activity, meal allowances and other remuneration of whatever nature;
- ✓ If the taxpayer exercises his activity together with other professionals, the deductible expenses shall be apportioned in accordance with their use, or in the absence thereof, at the pro rata of gross earnings;
- In respect of agricultural, forestry and cattle breeding activities, due regard should be had to the following:
 - ✓ That part of the expenses relating to pluriannual forestry exploitation that were borne during the production cycle, corresponding to the percentage of the extraction made in that period in relation to the global production of that same product not taken into account in the preceding tax period, shall be updated by way of the applicable monetary adjustment coefficients to be published each year through an Administrative Rule;
 - ✓ In determining profits from agricultural activities, the selling price method after deduction of standard profit margin may be used as a general rule;
 - ✓ Exploitation subsidies granted to taxable persons for the purposes of any agricultural, forestry, cattle breeding or fishing activity carried out by them, paid in a lump sum as a premium for stopping an activity, launching of plantations or killing of cattle, for that part in excess of costs or losses, may be comprised in the taxable profit, in equal fractions, during five accounting periods, starting from the tax period in which such subsidy was received.

Category E – Investment income

No deduction being allowed from income from capital, gross income shall be the same as net income.

However, profits made available by corporate persons subject and not exempted from corporate income tax; income derived from a partition resulting from liquidation of such entities deemed to be income from capital; income derived by a member of a company from an arrangement for participation in profits, if the distributed income has been effectively taxed, as well as the amounts attributed to company members on depreciation of corporate rights, without capital decrease, shall be taken into account only by 50 per cent of their amount, in case there is an option for aggregation of income.

This partial exemption shall only apply if the beneficial owner thereof is a resident in the Portuguese territory and the entity making the profits available or that is object of liquidation has its head-office or effective management in the Portuguese territory, or, in case of distributed profits, if this entity is considered to be resident in another EU Member State and meets the requirements and the conditions provided for under Art. 2. of Directive nr. 90/435/EEC, of 23rd July.

Category F – Income from immovable property

There shall be allowed as a deduction from gross income from real estate any maintenance and conservation expenses incumbent upon, and incurred by, the taxable person, provided they are duly substantiated, as well as the municipal tax on real property levied on the value of immovable property or part of immovable property the income of which has been aggregated.

In case of an autonomous fraction in a multiple unit building, expenses connected to conservation, fruition and others, which under the provisions of the civil law, the condominium is required to support, the ones effectively supported by him and provided they are duly substantiated shall be allowed as a deduction.

Category G – Capital gains and other increases in wealth

Excepting capital gains, no deduction shall be allowed in respect of income qualified as net wealth accrual.

The amount of income qualified as capital gains corresponds to the balance found between capital gains and capital losses realized in the same year, as determined according to the Code. However, such positive or negative balance shall be taken in account by only 50 per cent of its amount, in relation to operations carried out by residents as listed below:

- ✓ Disposal for consideration of rights in rem on immovable property and appropriation of any elements belonging to private assets to a business or professional activity exercised on his own account by the owner thereof;
- ✓ Transfer for consideration of intellectual or industrial property, or of a commercial, industrial or scientific experience, where the transferor is not the beneficial owner thereof;
- ✓ Transfer for consideration of contractual participation or other rights inherent in contracts concerning immovable property.

To determine the positive or negative balance of income qualified as capital gains relating to operations carried out by residents, any losses incurred are not relevant for such purpose, where the counterpart to the operation is subject in the country, territory or region of residence to a clearly more favourable tax regime for the following operations: disposal for consideration of corporate rights; operations concerning derivative financing instruments; autonomous warrants and operations concerning certificates granting to the respective holder a right to receive an amount of a certain underlying asset.

Category H - Pensions

Net income in this category shall be determined by deducting from gross income for each beneficial owner the following items:

- The whole amount of gross income in this category equal to, or lower than, € 6000. If the annual gross income, for each holder, is higher than € 6000, the deduction is equal to that amount. Gross income of this category with an yearly amount over € 30 000, per beneficial owner, shall be allowed to deduct an amount equal to, € 6000, reduced, up to the amount thereof, by 13 per cent of that part exceeding such annual amount;
- Contributions to professional unions for that part not representing a counterpart to health, education, third age support, housing, insurance or social security benefits, provided they do not exceed per each taxable person 1 per cent of gross income of this category, increased by 50 per cent.

In relation to temporary or life annuities and remuneration payable under complementary social security regimes qualified as pensions comprising amounts paid as capital reimbursement, there shall be deducted that part corresponding to capital. However, this deduction shall not apply to amounts payable under complementary social security regimes, regardless of the income payer entity or its designation, if the contributions giving rise to such rights were borne by a person or entity other than the recipient thereof, and if not effectively taxed in the hands of the latter.

Tax Rates

The IRS general rates applying to income earned in 2008 are as shown in the following table:

Taxable income (Euros - €)	Tax rate Percentage	
	Normal (A)	Normal (B)
Up to 4755	10.5	10.5000
Over 4755 up to 7192	13	11.3471
Over 7192 up to 17 836	23.5	18.5996
Over 17 836 up to 41 021	34	27.3039
Over 41 021 up to 59 450	36.5	30.1546
Over 59 450 up to 64 110	40	30.8702
Over 64 110	42	

The amount of taxable income if higher than € 4755 is divided into two parts: one equal to the limit of the highest bracket comprised therein, to which the rate of column B corresponding to such bracket applies; the other equal to the exceeding fraction to which the rate of column A corresponding to the next highest bracket applies.

After the application of the above mentioned rates, the beneficial owner of incomes mainly derived from dependent services may not obtain income net of tax lower than the yearly amount of the highest minimum monthly wage increased by 20 per cent, or be liable for tax on such incomes whose taxable amount, after the application of the family quotient is equal or lower than € 1896.

The above mentioned tax rates shall not apply to the taxable amount of any household with three or four dependants, or with five or more dependants, the amount of which is, respectively, equal or lower than the yearly amount of the highest domestic minimum wage increased by 60 per cent equal or lower than the yearly amount of the highest domestic minimum wage increased by 120 per cent.

Family quotient

The family quotient or «splitting» is designed to reduce the family taxation resulting from the aggregation of all incomes. Thus, in relation to taxable persons who are married and not legally separated from bed and board, the applicable rates are those corresponding to the taxable income divided by 2. The standard tax rates shall apply to the quotient of taxable income, and the value so obtained is multiplied by 2 to determine the IRS taxable amount.

PERSONAL INCOME TAX (IRS)

Special tax rates

SPECIAL TAX RATES	
INCOMES	RATES
<ul style="list-style-type: none"> • Positive balance between capital gains and capital losses deriving from operations below: <ul style="list-style-type: none"> - Disposal for consideration of corporate rights and other securities, as well as the amount attributed to company members as a result of a partition that, under the IRC Code, is deemed to be capital gain - Derivative financing instruments - Autonomous warrants - Certificates attributing to the owner the right to receive an amount of a certain underlying asset 	10 per cent (without prejudice to its aggregation, by option of respective owners resident within the Portuguese territory)
<ul style="list-style-type: none"> • Fees derived from, or by reason of, services performed if not attributed by the employer or by an entity having a group, control or mere participation relationship with such employer 	10%
<ul style="list-style-type: none"> ▪ Distributed profits and interest payable by non-resident entities if not subject to taxation by way of final withholding tax rates 	20 per cent (without prejudice to its aggregation, by option of respective owners resident within the Portuguese territory)
<ul style="list-style-type: none"> • Capital gains and other income earned by non residents within the Portuguese territory not attributable to a permanent establishment situated therein and being not subject to withholding at source at a final tax rate 	25 (or 15 per cent in case of income from real estate)

Taxable persons resident in another EU Member State or in European Economic Area provided that in the last-mentioned case there is tax information exchange may opt for the taxation regime applied to taxable persons resident in Portuguese territory in relation to incomes provided for under Article 72 (1) and (2) of IRS Code; such income shall be subject to the tax rates comprised in Article 68 (1) of IRS Code.

PERSONAL INCOME TAX (IRS)

In determining the above-mentioned tax rate, there shall be taken into account all incomes, including those obtained outside that territory under the same conditions as if they were residents.

Autonomous taxation

There shall be subject to autonomous taxation any charges and expenses incurred in the exercise of a professional or business activity as shown in the following table:

AUTONOMOUS TAXATION	
EXPENSES OR CHARGES	TAX RATE
<ul style="list-style-type: none"> • Expenses incurred by taxable persons who keep or are required to keep a duly organised accounting in the exercise of their business or professional activities, other than vehicles using exclusively electrical energy: <ol style="list-style-type: none"> 1. Deductible charges concerning representation fees and charges connected with passenger light or mixed vehicles, motorbikes and motorcycles 2. Deductible charges concerning passenger light or mixed vehicles whose acceptable levels of CO2 emissions are under 120g/km for motor vehicles using petrol and under 90g/km for motor vehicles using diesel, provided that in both cases a certificate of conformity has been issued <p>Any taxable persons covered by the simplified tax regime for the determination of taxable income shall be excluded.</p>	<p style="text-align: center;">10%</p> <p style="text-align: center;">5%</p>
<ul style="list-style-type: none"> • Deductible charges concerning travelling and registered allowances for expenses concerning the use of one's own vehicle for the purposes of the employer, not invoiced to clients, except for that part on which the beneficial owner is subject to IRS, as well as expenses of same nature being not allowed as a deduction under the provisions of Article 42 (1) (f) of IRC Code borne by taxable persons reporting fiscal losses in the tax period to which they relate. Any taxable persons covered by the simplified tax regime for the determination of taxable income shall be excluded 	<p style="text-align: center;">5%</p>
<ul style="list-style-type: none"> • Amounts paid or payable to entities resident outside the Portuguese territory and therein subject to a clearly more favourable tax regime, unless the taxable person is able to produce evidence that such charges are in connection with operations effectively realised and are not of an unusual nature or of an excessive amount 	<p style="text-align: center;">35%</p>
<ul style="list-style-type: none"> • Unsubstantiated expenses incurred by taxable persons who keep or are required to keep a duly organised accounting in the exercise of their business and professional activities 	<p style="text-align: center;">50%</p>

Assessment and collection

The IRS assessment is incumbent upon the Directorate General for Taxation and must be carried out in the year next following that to which income relates.

The IRS assessment is based on the income tax return, if this is produced up to 30 days after the end of the legal time limit. In the absence of a tax return, tax assessment is based on any information available to the Directorate General for Taxation.

With regard to payment of tax, it must be made in the year next following that to which income relates. The tax shall be paid until 31st August, if tax assessment takes place until 31st July, until 30th September if tax assessment takes place until 31st August and until 31st December if tax assessment takes place until 30th November.

Tax Credit

Other than deductions from the assessment basis in respect of tax incentives, payments on account of tax and amounts withheld at source for taxation purposes relating to the same tax period, there shall also be allowed as deductions the amounts below mentioned.

To be noted that, in relation to deductions provided for under Article 78 (1) of IRS Code, the taxable persons may not obtain income net of tax lower than their remaining income if their taxable income would correspond to the highest bracket immediately below. Deductions provided for under paragraph (1) of the above mentioned article shall only apply to taxable persons resident in Portuguese territory. (Amendment by the Law 64/2008 of 5 December took effect from 1 January 2008.)

Type of deduction	% deduction	Maximum limit
Amounts invested in individual accounts	20%	€ 350
Amounts invested in individual retirement savings plans (PPR)	20%	€ 400 for each taxpayer aged less than 35 years - € 350 per taxable person aged between 35 and 50 years - € 300 per taxable person over 50 years old The taxable person's age at the date of 1st January where the investment is made, shall be deemed to be considered
Expenses with retirement homes and other institutions for old-age care in respect of the taxpayer's ascendants or collaterals to the third degree, earning income no higher than the minimum monthly wage	25%	- 85 per cent of the minimum monthly wage

PERSONAL INCOME TAX (IRS)

Life and personal accident insurance premiums concerning the taxpayer and each dependant	25%	<ul style="list-style-type: none"> - € 64 for each taxpayer, unmarried or legally separated from bed and board or - € 128 for each taxpayer, married or not legally separated from bed and board.
Life insurance premiums where taxpayers or disabled dependants appears as first beneficiary thereof	25%	<ul style="list-style-type: none"> - 15 per cent of the IRS taxable amount the IRS taxable amount
Health insurance premiums concerning taxpayers and dependants	30%	<ul style="list-style-type: none"> - € 84 for each taxpayer, unmarried or legally separated from bed and board or - € 168 for each taxpayer, married or not legally separated from bed and board <p>For each dependant in charge, the above-mentioned thresholds shall increase up to € 42.</p>
EDUCATION AND PROFESSIONAL TRAINING EXPENSES of the taxable person and his non disabled dependants	30%	<ul style="list-style-type: none"> - regardless of the taxpayer' s marital status - 160 per cent of the minimum monthly wage - In case of a family unit with 3 or more dependants, the limit may be raised by 30 per cent of the monthly value of the minimum monthly wage for each dependant, if there are , in relation to all of them, educational and professional training expenses;
EDUCATION AND REHABILITATION EXPENSES of the taxpayer and his disabled dependants	30%	Without limit

PERSONAL INCOME TAX (IRS)

Deductions in respect of taxable persons, dependants and ascendants		55 per cent of the minimum monthly wage;
		80 per cent of the minimum monthly wage per for each taxable person in any monoparental family;
		40 per cent of the minimum monthly wage per each dependant being not a IRS taxable person;
		55 per cent of the minimum monthly wage for each ascendant living effectively in the same dwelling house as the taxable person and not deriving income higher than the minimum social pension of the general pension plan or 85 per cent of the minimum monthly wage in case of just one ascendant being in that situation
		4 times the minimum monthly wage for each disabled taxpayer
		1,5 times of the minimum monthly wage for each disabled dependant living effectively in the same dwelling house as the taxable person and not deriving income higher than the minimum social pension of the general pension plan
		4 times the minimum monthly wage for each taxable person or dependant whose degree of permanent disability duly substantiated is equal or higher than 90%
		An amount equal to the minimum monthly wage for each disabled military covered by Decree-Law nr.43/76, of 20th January and Decree-Law nr. 314/90, of 13th October
TAX CREDIT FOR INTERNATIONAL DOUBLE TAXATION		The lesser of the following amounts: - Income tax paid abroad - That part of the IRS taxable amount, as calculated before the deduction is given, that corresponds to those incomes which may be taxed in the country concerned, net from the tax allowances as laid down in the IRS Code
EXPENSES INCURRED WITH ALIMONIES	20%	Duly substantiated and not reimbursed amounts concerning expenses incurred with alimonies to which the taxable person is obliged by reason of a judicial sentence or under an agreement ratified in accordance with civil law, unless the beneficial owner thereof belongs to the same household, for tax purposes or where a deduction is provided for such amounts under the provisions of Article 78 of IRS Code

PERSONAL INCOME TAX (IRS)

<p>HEALTH EXPENSES</p> <ul style="list-style-type: none"> - of taxable person and his household; - of taxable person's ascendants and collaterals to the 3rd degree, earning an income no higher than the minimum national wage and living in joint economy 	<p>30%</p>	<p>Without limit</p>	<ul style="list-style-type: none"> - Acquisition of goods and services directly connected with health expenses which are exempted from VAT, even in case of waiving of tax exemption, or subject to a reduced rate of 5 per cent, as well as interest on debts incurred for payment thereof
<p>REAL ESTATE EXPENSES</p> <p>situated in the Portuguese territory or in the territory of other EU Member State or in the European Economic Area provided that in the last-mentioned case there is tax information exchange</p>	<p>30%</p>	<p>Limit of € 64 or 2.5 per cent of the above amounts</p>	<ul style="list-style-type: none"> - Acquisition of other goods and services directly connected with health expenses provided that they are duly justified by way of medical prescription <p>Deductions with a limit of € 586 per person (this limit shall be increased by 10 per cent if the real estate gets A or A+ certification according to energetic certification provided by Decree-Law nr.78/2006, of 4 April):</p> <ul style="list-style-type: none"> a) Interest and redemption of debts incurred with the acquisition, construction or improvement of a permanent owner-occupied dwelling house, or with the lease of a permanent home of the tenant, other than any redemption made through the balances of housing-savings accounts; b) Payments due on contracts concluded with housing cooperatives or within the scope of a group acquisition regime, for the purpose of acquiring a permanent owner-occupied dwelling house, or for the lease of a permanent home of the tenant, for that part in respect of interest on, and redemption of, the corresponding liabilities; c) The amounts net of any official grant or subsidy, paid as rents by the lessee of a building or an autonomous part thereof for his own permanent home, if related to lease contracts concluded under the Urban Rental System or paid as rents under a leasing agreement in respect of a permanent owner-occupied dwelling house subject to this regime, for that part not representing a capital depreciation. <p>Taking into account the brackets provided for under Article 68 (1) of IRS Code, the limits settled by sub-paragraphs a) and b) shall increase up according to the following conditions:</p> <ul style="list-style-type: none"> - To 50 per cent for taxable persons with taxable income, up to the limit of the second bracket; - To 20 per cent for taxable persons with taxable income, up to the limit of the third bracket; - To 10 per cent for taxable persons with taxable income, up to the limit of the third bracket. <p>(Amendment by the Law 64/2008 of 5 December took effect from 1 January 2008.)</p>

PERSONAL INCOME TAX (IRS)

ACQUISITION OF NEW EQUIPMENT FOR RENEWABLE ENERGIES		<p>Deduction with a limit of € 796</p> <p>Acquisition of new equipment for renewable energies, and equipments for the production of electric and/or thermic energy by micro turbines up to 100KW, with consumption of natural gas, including complementary equipment absolutely necessary to its functioning;</p> <p>Acquisition of vehicles subject to registration and using exclusively electrical energy or renewable non-fuel energies</p> <p>These deductions are non cumulative</p>
Acquisition of personal computers, including software and terminal equipment	50%	<p>€ 250</p> <p>This deduction shall be applied once for the years 2009-2011 for each member of taxable person's household attending any teaching or educational level and depends on the following conditions:</p> <ul style="list-style-type: none"> - that the rate applicable to the taxpayer is lower than 42 per cent; - that the equipment has been purchased new; - that the taxpayer or any other member of his household attend any education level; - that the invoice has the purchaser fiscal number and the endorsement "personal use"

Withholding at source

The entity paying incomes subject to withholding at source is required upon payment, maturity (even if presumed), disposal, settlement or ascertainment of respective amount, as the case may be, to deduct amounts corresponding to the application of the applicable rates for IRS purposes, in relation to the year during which these acts occur.

The amounts withheld must be lodged with the Treasury no later than the 20th of the month next following that in which such amounts were deducted.

Final Withholding at Source – Definitive withholding tax rates

The application of these withholding tax rates releases the income earner from his tax liability, unless he opts for its aggregation, as the case may be. If such option is made, any withholding of tax shall be deemed to represent a payment on account of the final tax due.

The final withholding rates apply to gross incomes, other than pensions, which benefit from the above-mentioned special deduction.

Subject to taxation by way of final withholding tax rates are incomes obtained within the Portuguese territory, as follows:

PERSONAL INCOME TAX (IRS)

FINAL WITHHOLDING TAX RATES	
INCOMES	RATES
<ul style="list-style-type: none"> • Income earned by non-residents in Portugal: <ul style="list-style-type: none"> • Income from capital in connection with contracts having as their object the alienation or temporary use of rights on intellectual or industrial property, or information concerning an industrial, commercial or scientific experience, when not derived by the original owner thereof, as well as income from technical assistance; • Income from the use or the right to use an agricultural, industrial, commercial or scientific equipment, other than income from real estate, and income from the occasional or uninterrupted cession, of computer equipments and networks, including data transmission or supplying of computing power installed in whatever form; • Income from a professional activity and from other services performed comprising scientific, artistic or technical services, as well as income from an agency commission for concluding contracts, realised or used within the Portuguese territory (other than services in connection with transports, telecommunication and financing activities) provided they are payable by an entity having its domicile, head-office, effective management or permanent establishment therein to which the payment may be imputed; • Income from intellectual or industrial property or information concerning an industrial, commercial or scientific experience if derived by their original owner. 	15%

PERSONAL INCOME TAX (IRS)

<p>a) Interest on demand and fixed-term deposits, including those on deposit certificates;</p> <p>b) Income from registered or unregistered securities, as well as income from carry-over transactions, granting of credit, securities accounts with price guarantee or other similar or identical operations;</p> <p>c) Income corresponding to the difference between the amounts paid as a redemption, advance payment or maturity of a life insurance policy and premiums already paid or invested amounts, as well as the difference between the amounts paid as a redemption or any other form of anticipated payments of pension funds or other complementary social security schemes;</p> <p>d) Gains from foreign currency swap operations, interest rate swaps, interest rate and currency swaps, fixed term foreign currency swaps;</p> <p>e) Profits (including payments on account of profits) payable by an entity subject to IRC, made available to the respective members;</p> <p>f) Amounts attributed to its members as a result from a partition which, according to Article 75 of IRC Code is considered as a capital investment, as well as the amounts attributed to its members in the redemption of corporate rights without a capital reduction;</p> <p>g) Incomes derived by a member of any kind of arrangement for participation in profits</p> <p>h) Incomes earned by non-residents in Portugal, as follows:</p> <ul style="list-style-type: none"> • any income from capital not expressly taxed at a different rate; • income from dependent employment; • income from professional activities provided for under Art. 151 of the IRS Code; • the amounts received as a compensation in connection with an activity performed, in particular, its reduction, suspension and cessation, as well as in relation to a change to the place where such activity is performed; • the amounts concerning the temporary cession of an establishment exploitation; • subsidies or allowances granted within the scope of services rendered; • pensions 	20%
<ul style="list-style-type: none"> • Capital gains and other increases in wealth paid as indemnities and amounts received by reason of non competition obligations assumed earned by non-residents in Portugal; • Amount attributed to company members as a result of partition which in accordance with the Art. 75 of IRC Code are considered as capital investment; 	25%
<ul style="list-style-type: none"> • Winnings from raffles, <i>totoloto</i> and lotto, as well as draws or competitions 	35%

Entities paying or making available to the beneficial owners thereof, resident within the Portuguese territory, are required to make a withholding of tax at a 20 per cent rate on

gross income from marketable securities paid by entities having not their domicile within the Portuguese territory to which such income may be attributed, except where the profits of corporate rights and income is paid or made available to investment funds established in accordance with domestic legislation.

To be noted that the owners of income referred to under Article 18 (1) f), m) and o) of IRS Code subject to withholding at source under the provisions of the same article being resident in another EU Member State or in European Economic Area, provided that in the last-mentioned case there is tax information exchange, may claim the whole or part of the reimbursement of the tax withheld at source or the part already paid, in that part exceeding the amount resulting from the tax rate schedule comprised in Article 68 (1) of the above-mentioned Code; there shall be taken into account all incomes, including those obtained outside the territory of the country in the same conditions applicable as if they were residents. Duly substantiated expenses shall therefore be allowed as a deduction, if deemed to be necessary for income realisation provided that are directly and exclusively connected with such incomes obtained within the Portuguese territory, and up to the amount thereof.

The reimbursement of the tax withheld at source or the part already paid shall be requested to the DGCJ competent services, within two years counting from the end of the calendar year following that during which the taxable event occurred. The reimbursement shall be paid until the end of the third month following that in which data and information necessary to meet the conditions and requirements established by law are made available. Failure to comply with the time limit above referred to shall give rise to compensatory interest at the same rate as applied to compensatory interest in behalf of the State. The submission of the above-mentioned application implies a spontaneous communication to the State of residence of the taxpayer of the contents of the request and the corresponding amount.

Withholding at source as a payment on account

Withholding at source on incomes of Categories A and H

The payer entities of income from dependent employment (other than residence allowances; interest-free loan or at a lower than the reference rate of interest; option or subscription plans or similar ones; use or purchase of a vehicle belonging to an enterprise by written agreement and fees not attributed by an employers) and pensions, other than alimonies, are required to withhold tax upon its payment or disposal of in behalf of the beneficial owners thereof.

Withholding at source on other categories of incomes

Entities that keep or are required to keep a duly organised accounting are obliged to withhold tax at source by applying to gross income payable by them the following rates:

PERSONAL INCOME TAX (IRS)

INCOME CATEGORY	INCOME	WITHHOLDING TAX RATE
B	<ul style="list-style-type: none"> • Income derived from the supply of services on one's own account, other than those activities as provided for under Art. 151 of IRS Code, including scientific, artistic or technical activities of whatever nature even if connected with a commercial, industrial, agricultural, forestry or cattle breeding activity; • subsidies or allowances granted within the scope of services rendered in the exercise on one's own account; • Income from fortuitous acts relating to those services rendered; 	10%
B	<ul style="list-style-type: none"> • Income from intellectual or industrial property or information concerning an industrial, commercial or scientific experience if derived by its original owner. 	15%
E	<ul style="list-style-type: none"> • Incomes from category E, except those subject to a final withholding tax rate. 	
F	<ul style="list-style-type: none"> • Incomes from category F. 	
G	<ul style="list-style-type: none"> • Any compensation aimed at the redressing of non pecuniary damages excepting those settled by judicial or arbitral decision or resulting from an agreement ratified in accordance with law, of non-confirmed actual damage and loss of profits, being considered as such in this later case only those designed to offset non received net benefits as a result of the damage; • Amounts in relation to non-competitiveness commitments regardless of their source or nature. 	15%
B	<ul style="list-style-type: none"> • Incomes from professional activities provided for under Art. 151 of the IRS Code 	20%

Withholding of IRS on income covered by international tax conventions

There is no obligation to withhold IRS at source, wholly or partly, as the case may be, in respect of incomes subject to withholding tax rates provided for under Art. 71 of the IRS Code, where under a convention for the avoidance of double taxation concluded by Portugal, the rights to tax income earned by a resident of the other Contracting State are not attributed to the source country or only in a limited way. In such case, the income earners are required to give evidence to the entity responsible for the withholding at source that the legal conditions have been met as laid down in the convention designed to avoid the double taxation. Such evidence consists in the production of a standard printed form approved by a ministerial order and duly certified by the competent authorities of the State of Residence.

Advance Payments

The ownership of income from self-employment (business and professional activities) implies the obligation for taxable persons to make three payments on account of the final tax payable until the 20th day of each month of July, September and December.

The whole amount of payments on account is equal to 75 per cent of the amount calculated on the base of the following formula. Its elements are in reference to the last but one year prior to that to which the payments on account relate:

Taxable amount net of deductions from the assessment basis other than those referring to health, education and training expenses x category B positive net income/overall net income
– withholding on category B

The value of each payment on account resulting from the application of the formula above shall be rounded off, by excess, in euros, and reported to the taxable persons by way of a tax assessment notice concerning the last but one year, without prejudice to the payment document being sent in the month preceding that during which the term for payment ends. This shall not apply to amounts lower than € 50.

Payments on account shall cease to be due if incomes from category B cease to be earned or if the taxable person on the base of any available information believes that the amounts withheld at source on category B incomes plus payments on account already made in respect of that year are equal to, or higher than, the whole tax payable.

Ancillary obligations

The IRS Code establishes a number of different ancillary obligations: statement of beginning or termination of an activity; accounting records or books for tax purposes; issuance of receipts; notification of incomes and withheld amounts, etc.

Among the different ancillary obligations provided for under the IRS Code, reference must be made to the liability, as regards non-residents deriving income subject to IRS, to appoint either an individual or corporate person with his domicile or head-office in Portugal to represent them before the Directorate General for Taxation and to guarantee that their tax obligations are to be complied with.

Such appointment is made upon the statement of beginning or alteration of activity, or of registration of taxpayer code number, and its acceptance must be expressly made by the competent representative.

Furthermore, any taxable person who is required to keep a duly organized accounting or books for tax purposes must centralize such tax records at his tax domicile or in a permanent establishment or fixed base situated in the Portuguese territory.

IV VALUE ADDED TAX (IVA)

Introduction

The Value Added Tax (VAT) is in force in Portugal since 1st January 1986, its legal regime being based on the Council Directive 77/388/EEC of 17 May 1977 (usually referred to as the «Sixth Directive») that establishes the common system of valued added tax in force in the Member States of the European Union (EU).

The legislation referring thereto is comprised in the VAT Code as approved by Decree Law nr. 384-B/84, of 26th December (and its subsequent changes), in the VAT System on Intra-Community Supply of Goods (RITI), approved by Decree Law nr. 290/92, of 28th December (and its subsequent changes), as well as some complementary law of a specific nature.

The present text is intended to reflect essentially the main rules which shape the general (or ordinary) taxation scheme. However, this text is not aimed at giving full details about all the fields concerning VAT legislation, rather to divulge the most relevant aspects thereof. Thus, for a complete framework of the facts or situations which are susceptible of being important for VAT purposes, or for a thorough analysis of the subject matters here pointed out, it becomes necessary to refer to the appropriate legislation or to other texts of a more specific scope.

VAT General features

The Valued Added Tax is a general tax on the consumption of goods and services that is levied at all stages of the economic circuit, from the importer or the producer up to the final consumer. In spite of its «multistage» nature, VAT is deprived of cumulative effects to the extent that each business operator situated in a previous stage in relation to the final consumer has, as a general rule, the right to deduction on his behalf or the right to refund of VAT shifted at a previous stage.

Thus, in relation to each (monthly or quarterly) taxation period, each taxable person shall take into due account the amount of tax levied upon any supplies of goods and services or intra-Community acquisition of goods subject to tax carried out by him. In order to calculate the tax concerning that taxation period, the taxable person must deduct from such amount the VAT paid by him or shifted to him by other taxpayers in respect of imports or purchase of goods and services carried out in the exercise of his business activity.

Thus, where the amount of tax levied upon taxable transactions carried out by a taxable person in a certain taxation period is higher than the VAT borne on acquisitions, the taxable person shall be deemed to owe to the Treasury an amount of tax corresponding to such difference. In case the VAT amount borne on acquisitions is higher than the VAT corresponding to taxable transactions carried out, the taxable person may consider such difference as being on his behalf in the following taxation period, or may,

subject to certain requirements expressly provided for, claim its refund by the Tax Administration.

Scope

Types of taxable transactions

The transactions subject to VAT may be divided into three large groups defined in general terms according to the provisions of Article 1 of VAT Code (CIVA) as below mentioned.

Supply of goods and services

There shall be liable to Value Added Tax the supply of goods and services carried out in the Portuguese territory, against remuneration, by a taxable person acting as such.

The general concept of **supply of goods** is comprised in paragraph 1 of Article 3 of CIVA, being considered as such the transfer against consideration of the right to dispose of tangible property in the same way as the exercise of any ownership right.

Electricity, gas, heat, refrigeration and similar ones shall be considered tangible property (Article 3 (2) CIVA).

Under paragraph 3 of the above mentioned Article, there shall be included some transactions **assimilated** to supply of goods for VAT purposes, such as:

- Hiring of goods subject to a binding clause for both parties in respect of transfer of property;
- Purchasing-selling with lien;
- Transfer of goods between the transferor and the transferee under an agency contract, as well as any transfer between the consignor and the consignee and non-redelivery to the consignor, within one year counting from the date of their supply, of the goods supplied on consignment;
- Contract jobs concerning movable property where the materials are wholly furnished by the contractor;
- The application on a permanent basis of goods belonging to the enterprise for non-business purposes or the free transfer thereof, provided that such goods or the component parts thereof have given rise to a wholly or partly VAT deduction. Samples not intended for subsequent marketing and aimed at exhibit or promote goods manufactured or traded by the taxable person, as well as gifts the unit value of which is equal or lower than € 50 and the annual total value does not exceed five per mil of the taxable person's turnover in the preceding calendar year within the framework of commercial practices, shall be excluded;
- The application of goods by a taxable person to a non-taxable business sector, as well as the application to fixed assets of goods the acquisition of which does not

confer the right to a deduction where, in both cases, there is the right, in connection with such goods or elements forming part thereof, to a wholly or partly VAT deduction.

Under the provisions of paragraph 1 of Article 7 of VAT system on intra-Community supply of goods (RITI), the transfer of tangible property dispatched or transported by the taxable person to another EU Member State for the purposes of his enterprise established in such other member State shall also be assimilated to a supply of goods carried out for consideration.

On other hand, the general concept of **supply of services** is established in paragraph 1 of Article 4 of CIVA, comprising all transactions resulting from a business activity susceptible of giving rise to a kind of consumption not covered by the concepts of supply of goods, intra-Community acquisition of goods and importation of goods.

Other than the contract jobs concerning movable property not included in the concept of supply of goods, paragraph 2 of Article 4 of CIVA lists other transactions that shall be deemed to be **assimilated** to supply of services carried out for consideration, namely:

- The use of goods belonging to the enterprise for non-business purposes or for exempted business sectors, where such goods or the component parts thereof give right to a deduction;
- The supply of services carried out free of charge by the enterprise on behalf of its owner, its personnel or, as a general rule, for purposes other than those of its business.

Finally, to be noted that the final assignment of a totality of assets susceptible of creating an autonomous branch of business – namely a commercial establishment – where the assignee is or shall be, by reason of such acquisition, a VAT taxable person covered by the general taxation scheme (Articles 3 (4) and 3 (5) CIVA) shall be **excluded** from the concept of supply of goods and services, falling outside the VAT scope.

Intra-Community acquisition of goods

According to the provisions of Article 1 subparagraph a) of RITI, there shall be subject to VAT the intra-Community acquisition of goods carried out in the territory of the country, for consideration, by a taxable person acting as such, provided that such goods are transported or dispatched from other EU Member State and the transferor thereof is a taxable person duly identified for VAT purposes in another Member State.

However, if such intra-Community acquisition is not related to **goods subject to excise taxes** and the purchaser is an exempt taxable person or a public legal person acting exclusively within the scope of his authority powers, the intra-Community acquisition of goods shall not be subject to VAT unless the yearly amount thereof exceeds € 10,000 (Article 5 of RITI).

On the other hand, with regard to intra-Community acquisitions of **new means of transport** carried out by any other person, even if acting as an individual person, they shall always fall within the scope of VAT.

The listing of goods subject to excise taxes and the concept of «new means of transport» for the purposes of both abovementioned rules are comprised in Article 6 of RITI.

Under the provisions of Article 4 (1) of RITI there shall be deemed to be **assimilated** to an intra-Community acquisition of goods the transfer of goods into the territory of the country by a taxable person for the purposes of his enterprise, if such goods are acquired produced or imported by him in another Member State.

Imports of goods

Under the provisions of Article 1 (1) (b) of CIVA, coupled with Article 5 of the same Code, there shall also be liable to VAT the imports of goods, being understood as such the entry into the territory of the country of goods proceeding from countries or territories not comprised within the EU fiscal territory.

However, no **import of goods** shall be deemed to take place where, upon their entry in the territory of the country, such goods are immediately placed under certain customs suspensive or economic scheme, namely, warehousing arrangements, free warehouse, temporary storage, inward processing arrangements, temporary importation or external or internal transit arrangements.

Types of VAT taxable persons

Taxable persons in general

VAT taxable persons are, essentially, those provided for in the first part of Article 2 (1) (a) of CIVA, that is to say, all individual and legal persons exercising on a **continuous and independent basis** an activity of producer, trader or supplier of services.

As a general rule, these entities are deemed to be taxable persons in relation to the supply of goods and services carried out by them within the scope of the activities referred to above; however, in certain circumstances, they may be considered as such in relation to certain purchases of goods or services carried out by them, including intra-Community acquisition of goods and imports of goods (Article 2 (1) (a), (b), (d), (e), (f), (g) and (h) CIVA).

There shall also be considered as VAT taxable persons those entities, which independently carry out a **single taxable transaction** in connection with the exercise of the abovementioned activities, even if exercised abroad.

Subject to the requirement for a taxable person to act independently, there shall be **excluded** from the concept of VAT taxable person an employee on somebody else's account (dependent personal services).

The concept of taxable person is susceptible of covering **legal persons of public law**, including the State, except where such entities are acting within the scope of their authority powers and their non-liability to tax is not leading to competition distortions (Article 2 (2) CIVA). However, public legal persons, even if they are acting within the scope of their authority powers, shall always be liable to tax if carrying out in a consid-

erable degree the following activities or transactions: telecommunications; supply of water, gas and electricity; passenger or goods transport; port and airport services; supply of new goods manufactured for sale; agricultural agencies; running of trade fairs and exhibitions; warehousing; canteens; and radio and television broadcasting services (Article 2 (3) CIVA).

Specific cases of taxable persons

As far as it concerns certain specific cases, other than those already referred to, the applicable law establishes other types of taxable persons, such as all other individual and legal persons carrying out, according to the customs law, import of goods, as well as those persons who unduly show a VAT amount on an invoice or any equivalent document (Article 2 (1) (b) and (c) CIVA).

In addition to those entities referred to under sub-paragraph 2.1. of this chapter, the RITI also adds to the list of VAT taxable persons any other legal person (including legal persons of public law) acting within the scope of their authority powers, as well as individuals carrying out intra-Community transactions of new means of transport (Article 2 (1) (c) and (2) of RITI).

Place of taxable transactions

The provisions of Article 6 of CIVA and Articles 8 to 11 of RITI establish the rules governing the place of taxable transactions, which allow to determine in which cases a supply of goods or services or an intra-Community acquisition of goods must be considered as “carried out within the territory of the country” for the purposes of this tax. To be noted, however, that the mere fact that a given transaction is deemed to be carried out in the territory of the country does not necessarily mean that such transaction is liable to tax in that territory, since it must be taken into account, at a second stage, whether an exemption rule shall apply.

Place of supply of goods

General rule

As a general rule, the supplies of goods located within the territory of the country at the time the dispatch or transport to the person acquiring them starts or, if there is no such dispatch or transport, when such goods are placed at the disposal of the person acquiring them, are deemed to be carried out in Portugal (Article 6 (1) CIVA).

Supply of goods previous to their importation

According to Article 6 (2) of CIVA, there shall also be taxable in Portugal any supply of goods carried out by the respective importer and any subsequent supplies of goods proceeding from a third country or territory, if carried out by the importer before the importation takes place.

Supply of goods on board of means of transport

There shall also be deemed to be carried out in the territory of the country, under the provisions of Article 6 (3) of VAT Code, any supply of goods occurring on board of a ship, aircraft or train during an intra-Community transport of passengers, if the place of departure is situated in the territory of the country and the place of arrival in another Member State.

Supply of gas and electricity

According to the provisions of Article 6 (22) of CIVA, the supply of gas through the natural gas distribution system, and of electricity are deemed to be located in the domestic territory where the acquirer is a taxable dealer of gas/electricity having his head-office or a permanent establishment in Portugal. If such person is not a taxable dealer, such supplies are deemed to be located in Portugal where the effective use or consumption of such goods takes place in Portugal.

On the contrary, under paragraph 23 of the above mentioned Article, such supplies shall not be deemed to be located in Portugal where the acquirer is a taxable dealer of gas/electricity having his head-office or permanent establishment situated outside the territory of the country or, if the person acquiring such goods is not a taxable dealer, the effective use or consumption of such goods takes place outside the territory of the country.

Intra-Community supply of goods involving the installation or assembly thereof

Any intra-Community supply of goods involving their installation or assembly by the supplier or by a third person on his behalf shall be deemed to be situated in the Member State where the goods are located at the time such installation or assembly is concluded.

Thus, according to Article 9 (1) of RITI, the supply of goods dispatched or transported from the territory of the country to be installed or assembled by, or on behalf of, the supplier in another EU Member State shall not be deemed to be carried out in Portugal.

Furthermore, according to paragraph 2 of the above mentioned Article, the supply of goods transported or dispatched from another Member State, the installation or assembly of which is carried out by the supplier, or on his behalf, within the territory of the country shall be deemed to be located in Portugal.

Supply of goods to other Member States for entities not covered by a system of taxation on intra-Community transactions (“distance sales”)

a) Distance sales carried out from the territory of the country

According to Article 10 of RITI, the supply of goods dispatched or transported from the territory of the country into another Member State by, or on behalf of, the supplier, where the person acquiring them is an individual or an entity usually not covered therein by a system of taxation on intra-Community transactions, shall not be deemed to

be carried out in such territory, subject to the following further conditions: i) goods are not installed or assembled by, or on behalf of, the transferor in the Member State of arrival; ii) the supply is in respect of goods other than new means of transport or goods subject to excise taxes, except if, in the latter case, the purchaser is an individual person; iii) the sales made under such conditions by the transferor exceed the yearly amount over which the domestic law of the Member State of arrival shall determine the liability to tax in such country (in case of goods subject to excise taxes where the person acquiring them is an individual, the VAT liability in the State of arrival shall always occur regardless of such amount).

With regard to situations comprised in Article 10 of RITI, although the place of departure is located in the territory of the country, the supplies are deemed to be carried out by the transferor in the Member State of arrival.

b) Distance sales carried out from another Member State

On the other hand, where the conditions established under Article 11 of RITI are met, the transfer of goods shall be deemed to be carried out in the territory of the country by the respective transferor, even if such goods are dispatched or transported by, or on behalf of, the vendor from another Member State.

The above-mentioned conditions are as follows: i) the purchaser is an individual or, as a general rule, a taxable person not covered by a system of taxation on intra-Community acquisition of goods; ii) the goods are not designed to be installed or assembled by, or on behalf of, the supplier in the Member State of arrival; the supply is not related to new means of transport or to products subject to excise taxes, unless, in the last-mentioned case, the person acquiring such goods is an individual; iii) the supply of goods carried out by the supplier under the conditions above referred to exceeds the yearly amount of € 35,000 (for goods subject to excise taxes designed to be consumed by individuals, the supply thereof shall always be considered as carried out within the territory of the country, regardless of the above mentioned amount).

Place of supply of services

General rule

The general rule concerning the place of the supply of services, as established in Article 6 (4) of the VAT Code, provides for the taxation thereof in the domestic territory where the supplier of services has his **head-office, a permanent establishment or his domicile** within that territory.

Supply of services related to immovable property

The supply of services related to immovable property, including services aimed at preparing or coordinating construction works, as well as services performed by real estate agents and experts acting in their own name and on somebody else's account, shall be deemed to be carried out in the place where the immovable property is located (Article 6 (5) (a) and (6) (a) CIVA).

Supply of services of an artistic, scientific, sporting, entertainment, educational or of a similar nature

The supply of services of an artistic, scientific, sporting, entertainment, educational or of a similar nature, including services by the organizers or promoters of such activities, and the supply of ancillary services shall be deemed to be carried out in the place where such services are physically carried out (Article 6 (5) (d) and (6) (d) CIVA).

Other supply of services considered as *inputs* of the taxable person's activities

- Transfer or assignment of the right to use any copyrights, licenses, trade marks, etc;
- Advertising services;
- Services performed by consultants, engineers, lawyers, economists, accountants, and general consultancy offices;
- Data processing and supplying of information;
- Banking, financial and insurance or re-insurance transactions, other than the hiring of safes;
- Supply of staff;
- Telecommunication services;
- Radio and television broadcasting services;
- Electronically supplied services;
- Temporary or definitive cession of a player as agreed upon between the clubs and subject to the athlete's agreement as long as the contract with the original club is in force, as well as any promotional compensation payable after the conclusion of the contract;
- Hiring out of movable tangible property, other than means of transport;
- Cession or the right to access to a natural gas or electricity distribution system; the supply or expedition of transport services, as well as supply of services directly connected thereto;
- Agency services by agents acting in the name and on somebody else's account, where they are part of the supply of services referred to in the present list;
- The obligation not to exercise, even in part, a business activity or a right referred to in the previous points.

In relation to the above-mentioned supplies of services, even if the supplier of such services is not established in the territory of the country, such supplies are deemed to be carried out therein, provided that the beneficiary thereof is a VAT taxable person who has his head-office, a permanent establishment or his domicile in Portugal (Article 6 (8) CIVA). In such case, where the supplier of services is not established within the domestic territory, the person acquiring such services is required to assess the corresponding amount of VAT (Article 2 (1) (a), second sentence CIVA).

Conversely, the above mentioned supplies of services shall not be considered as carried out within the territory of the country, even if the supplier has his head-office, a permanent establishment or his domicile in Portugal, where the recipient thereof is established or domiciled in a non-EU country, or, if established or domiciled in another EU Member State, he is a VAT taxable person (Article 6 (9) CIVA).

As regards the **supply of telecommunication, radio and television broadcasting, and electronically supplied services**, in addition to the above mentioned rules, the provisions laid down in Article 6 (10) (b) of CIVA shall be taken into account. Thus, according to this provision, where the supplier of services is established in a non-EU country and the person acquiring them is a resident in the territory of the country, such services shall always be considered as carried out therein, even if the person acquiring them is not a taxable person registered for VAT purposes.

Hiring-out of means of transport

In principle, the place of hiring-out of means of transport shall be determined in accordance with the general rule as laid down in Article 6 (4) of CIVA. However, besides such rule, due regard shall be had to the provision of Article 6 (10) (a) of CIVA that provides that the hiring-out of means of transport shall be deemed to be located in the territory of the country if they are effectively used and exploited here, even if carried out by a supplier established outside the EU.

Supply of transport services and services ancillary thereto

a) General and ancillary transport services

As a general rule, and according to Article 6, (5) (b) and (6) (b) of VAT Code, there shall be considered as carried out in the territory of the country the supply of **transport services**, both of passengers and goods, with respect to the distances covered within the territory of the country.

With regard to **services ancillary to transport**, the general rule establishes that such services are located in the place where they are physically performed (Article 6 (5) (d) and (6) (d) CIVA).

b) Intra-Community transport of goods and services ancillary thereto

A transport of goods shall be deemed to be an «**intra-Community transport of goods**» where the place of departure and the place of arrival are situated in the territory of two different Member States (Article 1 (2) (e) CIVA).

In this respect, Article 6 (7) of CIVA establishes, as a general rule, the location in Portugal of intra-Community transport of goods where the place of departure is within the territory of the country.

However, this rule shall not apply whenever the acquirer of such services is a VAT taxable person. Thus, Article 6 (11) of CIVA establishes that the supplies of services under consideration shall be deemed to be located in the domestic territory, regardless of the place of departure of transport, provided that the person acquiring them is a taxable person in Portugal for VAT purposes. On other hand, paragraph 12 of Article 6 states that such supplies shall not be deemed to be located in the domestic territory, even if the departure of the transport has taken place therein, if the person acquiring them is a taxable person who is registered for VAT purposes in another Member State, who has used his tax identification number for the purpose of the acquisition.

In relation to **services ancillary** to an intra-Community transport of goods acquired by a VAT taxable person, the same rules concerning the place where the services are rendered shall apply to intra-Community services for transport of goods where the beneficiary thereof is a VAT taxable person (Article 6 (13) (14)).

Agency services by agents acting in the name and on somebody else's account

The agency services supplied by agents acting in the name and on somebody else's account, which are in connection with the supply of services listed under Article 6 (8) of CIVA, shall be subject to the same rules applying to such services (Article 6 (8) (g) CIVA).

Moreover, the supply of agency services in connection with intra-Community transport of goods or supply of services ancillary thereto shall be subject to the same rule applying to the place of supply of agency services (Article 6 (15) and (16) CIVA).

In relation to agency services by agents acting in the name and on somebody else's account, in connection with **other intra-Community transactions**, they shall be deemed to be located in the Member State where the main transaction takes place, or, if the person acquiring such agency services is registered for VAT purposes, in the Member State of registration (Article 6 (17) (18) CIVA).

In all other situations, the general rule of the place of such supplies contained in the Article 6 (4) of CIVA shall apply to agency services by agent acting in the name and on somebody else's account.

Work and expertise in respect of movable tangible property

According to the provisions of Article 6 (5) (c) and (6) (c) of CIVA, the work and expertise in respect of movable tangible property are, as a general rule, deemed to take place where the services are physically carried out.

However, such services shall be deemed to be located in the territory of the country where the acquirer of the services is a taxable person registered in Portugal for VAT

purposes, and the goods, after the supply of services in another Member State, are dispatched or transported outside that Member State (Article 6 (19) CIVA).

On the other hand, such services shall not be deemed to be located in Portugal, even if physically carried out therein, if the acquirer of such services is a taxable person registered in another Member State for VAT purposes, and the goods, after the supply of services, are dispatched or transported outside the domestic territory. Anyway, goods shall not be deemed to have been dispatched or transported outside the territory of the country where the supplies of services are related to means of transport subject to registration or license within the territory of the country (Article 6 (20) (21) CIVA).

Place of intra-Community acquisition of goods

General rule

According to the general rule laid down under Article 8 (1) of RITI concerning the place of intra-Community acquisition of goods, such transactions shall be deemed to be located in Portugal where the place of arrival of the goods dispatched or transported is within the territory of the country.

Goods having not entered the domestic territory, which are object of an intra-Community transaction by a taxable person registered therein

Where the place of arrival of the dispatch or transport from another Member State is not in the territory of the country, rather in another Member State, an intra-Community acquisition of goods may, nevertheless, be deemed to be carried out in the territory of the country, if the person acquiring such goods is a taxable person registered in Portugal for VAT purposes, who has not established that such acquisition has been subject to VAT in the Member State of arrival. Evidence shall be considered to be substantiated where: i) a taxable person registered in Portugal for tax purposes has acquired goods for their subsequent transfer to the Member State of destination and has shown the transaction on an intra-Community supply of goods recapitulative statement; ii) the acquirer of the goods is a taxable person registered in another Member State for VAT purposes and is expressly indicated in an invoice as the person liable for tax in the Member State of arrival (Article 8 (2) (3) of RITI).

Intra-Community acquisition of new means of transport

Under the provisions of Article 8 (4) of RITI, intra-Community acquisitions of new means of transport subject to registration or license within the territory of the country shall be deemed to be located in Portugal.

Chargeable event and chargeability of tax

Taxable transactions not giving rise to invoicing

In relation to a transaction not giving rise to an obligation to issue an invoice, the moment on which a taxable event (“the fact giving rise to tax”) occurs and the chargeability of tax are, as a general rule, coincident.

Thus, in the case of supplies of goods, the chargeable event and the chargeability of tax are deemed to occur upon delivery of goods to the customer. If there is an obligation of installation and assembly by the supplier, goods shall not be deemed to be delivered to the customer until such assembly is concluded (Article 7 (1) (a) and (2) CIVA).

In relation to supplies of services, the chargeable event and the chargeability of tax shall occur upon the performance of services (Article 7 (1) (b) CIVA).

Taxable transactions not giving rise to invoicing are comprised in Article 40 of CIVA and also referred to below in chapter VII, paragraph 3.

Taxable transactions giving rise to invoicing

For those transactions giving rise to issuance of an invoice or any document assimilated thereto, VAT chargeability shall be postponed to the invoice date, provided it is made within five working days following the chargeable event. If this time limit is not met, chargeability of VAT shall take place upon expiry date (Article 8 (1) (a) and (b) and Article 36 (1) CIVA).

Where an invoice is issued previous to the taxable transactions or any advanced payments are received as a consideration, tax chargeability concerning the amounts invoiced or received shall take place thereupon (Article 8 (1) (c) and (2) CIVA).

To be noted that, other than other foreseen situations, the issuance of an invoice or any document assimilated thereto is always required in case of supplies of goods or services carried out between VAT taxable persons.

In relation to **intra-Community acquisition of goods**, in particular, the chargeability of tax shall not occur until the 15th day of the month following that during which the goods were made available to the purchaser. Nevertheless, where the issuance date of an invoice or any document assimilated thereto is previous to the already mentioned time limit the chargeability of tax shall fall due on such date (Article 13 (1) of RITI). Unlike the domestic regime, tax shall not be chargeable on advance payments in relation to intra-Community acquisition of goods.

Special regimes of tax chargeability

Two optional special schemes of VAT chargeability are presently in force. One of them covers public work contract and subcontract services where the work owner is the State, the Autonomous Regions or certain public institutions. The other covers the supplies of agricultural products from their own agricultural exploitation made to agricultural cooperatives by their members. These special regimes are established by Decree Law nr. 204/97, of 9th August and Decree Law nr. 416/99, of 21st October, respectively.

According to the above regimes, VAT shall only fall due upon receipt, in the whole or in part, of the price and just in respect of the amount received. On the other hand, for the work owner and the agricultural cooperative the right to deduction is postponed at the time of the ownership or reception of the receipts referring to the payments made.

VAT exemptions

Types of exemptions

A distinction can be made between two types of exemptions as how they operate:

- **Ordinary exemption** – an exemption consisting of non-liability to VAT on the supply of goods or services carried out by a taxable person. However, this does not allow for the deduction or refund of VAT borne on the acquisition of goods and services and on importations. Exemptions relating to internal transactions provided for under Article 9 of CIVA, as well as those carried out under the special regime of tax exemption for small entrepreneurs as established by Articles 53 and following of CIVA are generally subject to this regime.
- **Full exemption** – an exemption carrying a right to deduction or refund of VAT borne on an acquisition, the so-called «zero-rate» transactions. As a general rule, full exemption is limited to exports, to certain operations assimilated thereto and to international transport, as well as supplies of goods to other Member States, under the terms laid down by RITI, and also certain transactions in connection with a suspensive or economic customs procedure.

Exempted domestic transactions

Exemptions applying to domestic transactions are comprised in Article 9 of CIVA and cover, in particular, the following fields or activities:

- Health cares (medical and paramedical professions, hospitals, centers for medical treatment or diagnosis, dispensaries, etc, transport of sick persons, and supplies of human organs, blood and milk);
- Social welfare and social security, child and youth protection;
- Education and training;
- Sports and physical education;
- Services of a cultural nature, namely admissions to libraries and museums; services by artists to entertainment promoters; transfer of copyrights, etc.;
- Supply of public postal services other than telecommunication services;
- Funerary services;
- Garbage collection public service;
- Financing and insurance transactions;
- Autonomous groups of persons exercising VAT exempted activities;
- Gambling or games of chance;

- Conveyance or letting of immovable property;
- Agricultural, forestry and cattle breeding activities;
- Certain activities carried out by non-profit-making organizations.

However, in accordance with the provisions of Article 12 of CIVA, taxable persons may **waive the right to tax exemption** – thereby opting for taxation of their transactions and for the possibility of deducting VAT borne on their acquisitions – if they carry out the following transactions or activities: professional training; employer owned canteens; agricultural, forestry and cattle breeding activities; non-agricultural cooperatives supplying services to farmers; hospitals not comprised into the national healthcare scheme; and conveyance and letting of immovable property where the beneficiary thereof is a VAT taxable person (the requirements and conditions for waiving the VAT exemption are established by Decree Law nr. 241/86, of 20th August).

Exempted international transactions

Exempted importation of goods

According to the provisions of Article 13 (1) (a) to (d) of CIVA, final importation of goods the supply of which would be exempted inside the territory of the country shall be exempt from tax.

Article 13 of CIVA also provides for exemption from tax, *inter alia*, of importation of goods carried out by international organizations or within the scope of diplomatic and consular relations; certain vessels and aircrafts and the provisioning thereof; supply of natural gas and electricity; as well as the exemption of services the amount of which is included in the taxable amount of imported goods.

According to the provisions of Article 16 of RITI, also exempt from tax are: importation of goods carried out by a taxpayer, where the place of arrival of such goods is another Member State, provided that the supply made by the importer may benefit from a tax exemption under Article 14 of RITI.

Other tax exemptions on importation of goods are provided for in CIVA and RITI complementary legislation, namely the legal texts below:

- Decree Law nr. 398/86, of 26th November concerning the importation of small packages of a non-commercial nature;
- Decree Law nr. 179/88, of 19th May concerning the importation of goods included in the personal luggage of travellers;
- Decree Law nr. 31/89, of 25th January concerning importations benefiting from a customs franchise.

Exempted intra-Community acquisition of goods

In relation to intra-Community acquisition of goods, the provisions of Article 15 (1) (a) of RITI provide for a tax exemption in case of **importation or supply of goods** which would be exempt from VAT in the territory of the country.

Furthermore, other exemptions are also provided for under Article 15 of RITI, namely:

- Intra-Community acquisition of goods carried out by a taxable person who may benefit from a tax refund as laid down by Decree Law nr. 408/87, of 31st December. This legal text lays down the tax refund of VAT borne in Portugal by taxpayers duly identified for VAT purposes and established in other Member States, or by companies resident in other non-EU countries, provided there is reciprocity of treatment in the last-mentioned case;
- Within the scope of the so-called «triangular transactions», the intra-Community acquisition of goods carried out in the territory of the country if such acquisitions are made by a taxable person having no establishment in Portugal and VAT payable on any subsequent supply within the territory of the country is paid by the person acquiring such goods, who is a VAT taxable person in Portugal.

Exemption of exports, assimilated transactions and international transport

Under the provisions of Article 14 of CIVA, exemption of exports, assimilated transactions and international transport shall apply, in particular, to:

- Supplies of goods dispatched or transported outside the EU by, or on behalf of, the vendor;
- Supplies of goods to a purchaser who has neither his residence nor an establishment in the territory of the country, transported by him outside the EU, excepting some means of transport;
- Services in connection with movable property imported or acquired in Portugal to be dispatched or transported outside the EU after such services are carried out;
- Supplies of goods and services linked to, or in connection with, certain kinds of vessels and aircrafts, and provisioning thereof;
- Supplies of goods and services to internationally recognized bodies, within the scope of NATO or of diplomatic and consular relations;
- Transport of goods outside the EU or to other EU-country, in this latter case, where the purchaser of services is a VAT taxable person in Portugal, as well as the transport of goods between the islands of the Autonomous Regions of Azores and Madeira and to and from these and the Mainland territory;
- Transport of passengers from abroad and leaving the territory of the country, as well as the transport of passengers between the islands of the Autonomous Re-

gions of Azores and Madeira, and to and from these and the Mainland territory or other EU Member State;

- Agency services supplied by a person acting in the name and on somebody else's behalf, where that person participates in a transaction comprised in Article 14 of CIVA, or in a transaction carried out outside the EU territory.

The following exemptions in connection with exportation are established in complementary legislation:

- Decree Law nr. 295/87, of 31st July, in respect of goods supplied to non-EU residents who transport them in their personal luggage outside the EU, within 90 days;
- Article 6 of Decree-Law nr. 198/90, of 19th June, provides for a VAT exemption on sales made to domestic exporters, where such goods are not delivered to, but exported by, the domestic exporter, under certain conditions, within 60 days.

Exempted supplies of goods to other EU Member States

In relation to exemptions on supplies of goods to other Member States, the following are provided for under Article 14 of RITI:

- Supplies of goods to other EU Member States, provided that the person acquiring them is a taxable person duly identified for VAT purposes in other Member State, who has used his tax identification number to carry out the acquisition and is therein covered by an intra-Community acquisition of goods taxation scheme;
- Supplies of goods to another Member State for the business purposes of a taxable person, who would benefit from such tax exemption in case of a supply made to another taxable person;
- Supplies of new means of transport;
- Supplies of goods subject to excise taxes to another Member State, where the purchaser is a legal person established in another Member State even if he is neither a VAT taxable person nor an exempt one.

Exemptions in connection with certain economic or suspensive customs arrangements

Article 15 of CIVA provides for some exemptions concerning the international traffic of goods, importation, supply of services and goods connected thereto, carried out within the scope of certain economic or suspensive customs arrangements, namely under customs warehouse, tax warehouse, free warehouse, temporary storage, inward processing, temporary importation and external or internal transit arrangements.

Taxable amount for transactions liable to VAT

Taxable amount for the supply of services and goods

As regards domestic transactions, the taxable amount is, as a general rule, the value of the **remuneration** that has been or is to be obtained from the purchaser, the customer or a third person.

The taxable amount **shall include** the following elements: any taxes, duties, levies and charges, excluding VAT itself; incidental expenses, such as commission, packing, transport, insurance costs and advertising made on customer's behalf; subsidies directly related to the price of each transaction, being considered as such those established by reference to the number of supplied units or services rendered, which have been fixed previously to the realization of the transactions.

On the other hand, the taxable amount **shall not include**: interest on deferred payment of a given remuneration or consideration as well as any judicial compensation for failure to comply, in the whole or in part, with a contract; discounts, price reductions or bonuses; amounts paid in the name and for the account of the customer and entered as such in the appropriate books of a third person; amounts relating to packing not covered by the transaction.

As far as it concerns transactions assimilated to supply of services or goods as laid down in Article 3 (3) and Article 4 (2) of CIVA, there are rules for determining the taxable amount thereto as laid down in Article 16 (2) of CIVA.

Taxable amount for intra-Community acquisition of goods

In determining the taxable amount of intra-Community acquisition of goods liable to VAT and not exempt therefrom, the rules concerning the taxable amount for the supply of goods as laid down in Article 16 of CIVA (introduced here in a distinct chapter) shall apply, in principle, under the terms of Article 17 of RITI..

In this particular case of intra-Community acquisition of **goods subject to excise taxes, including the tax on motor vehicles**, the taxable amount for VAT purposes shall include such duties, even if they are not simultaneously assessed (Article 17 (3) of RITI).

Taxable amount for importation of goods

The taxable amount for importation of goods liable to VAT and not exempt therefrom shall correspond, in general, to its value for customs purposes, due regard being had to the Community Customs Code, and the specific provisions contained in Article 17 of CIVA.

VAT rates

The VAT rates are comprised in Article 18 of CIVA and are as follows:

- A reduced rate of 5 per cent applying to goods and services included in List I annexed to the Code;

- An intermediate rate of 12 per cent applying to goods and services included in List II annexed to the Code;
- A standard rate of 20 per cent applying to all other goods and services.

The above-mentioned rates are 4, 8 and 14 per cent, respectively, in respect of those transactions carried out in the Autonomous Regions of Azores and Madeira, according to special legislation.

The reduced rate shall apply, in particular, to some essential foodstuff, goods in connection with agriculture (if not exempt), electricity, transport of passengers, accommodation in hotel units and similar ones, and shows and public entertainment.

The intermediate rate shall apply to other foodstuff, services of restaurants, gas oil for agriculture purposes and certain equipment or machinery intended for agriculture or for other forms of alternative energy.

Right to deduction of VAT borne on acquisitions

General rules concerning the right to deduction of VAT borne

According to the provisions of Article 19 of CIVA, taxable persons are allowed to deduct on their own behalf almost the total amount of VAT borne on supplies of goods and services, including intra-Community acquisitions and importation of goods in connection with their taxable activities. To do so, in accordance with the provisions of Article 20 of CIVA, it is necessary that the transactions carried out by the taxable person are liable and not exempt from tax, unless such transactions are considered as being not carried out within the domestic territory by reason of the rules applicable to the place of such supplies, as well as exports, transactions assimilated thereto and international transport. For intra-Community transactions of goods similar rules provided for under Article 19 of RITI shall apply.

According to the provisions of Article 22 (1) of CIVA, the right to deduct in behalf of the purchaser shall arise when the deductible tax becomes chargeable for the supplier, and it may be exercised by deducting from the whole amount of tax due on taxable transactions, during a tax return period, the amount of tax deductible in the same period of time.

To be noted that the right to deduction shall only arise in respect of VAT shown in an invoice or any equivalent document legally issued, in any VAT payment receipt which is part of the import return, as well as documents issued by electronic means by the Directorate General for Customs and Excise Taxes in which the number and date of cash flow appears, in the name of, and held by, the taxable person.

Expenses giving rise to a limited or excluded right to deduct VAT

Nevertheless, subject to the provisions of Article 21 of CIVA, there are a number of expenses which do not give a right to deduct VAT therein included, even if incurred for the purposes of a taxable activity, namely:

- The acquisition, production or import, as well as hiring-out, use, processing and repair of light vehicles considered to be vehicles used for non-working purposes, pleasure boats, helicopters, aircrafts, motor and motorcycles. However, these expenses shall give right to VAT deduction if the goods are intended for sale (*e.g.* motor vehicle *stands*) or are the object of a business activity (*e.g.* rent-a-car).
- Expenses relating to fuel used in motor vehicles other than gas oil, liquefied petroleum gas, natural gas and bio fuels, in which case VAT shall be deductible by 50 percent, or fully deductible if used in certain conditions: heavy passenger vehicles; vehicles licensed for public transport; machines other than registered vehicles; tractors for agriculture; and vehicles designed for the transport of goods with gross weight over 3 500 kg.
- Expenses connected with transport and business travels, representation fees, accommodation and meals. VAT levied on such expenses may, under certain conditions, be deducted by 50 per cent where such expenses are in connection with congresses, fairs, exhibitions, seminars or conference arrangements, and by 25 per cent if related to the participation in such events;
- Entertainment or luxury charges, being considered as such those expenses which either by their nature or by their amount do not constitute ordinary operating expenses;
- Second-hand goods, art or collection works and antiques where the taxable amount of the supply thereof is equivalent to the difference between the selling price and the purchasing price, according to the regime governed by Decree-Law nr. 199/96, of 18th October.

Credits on behalf of taxpayers

If the amount of VAT to be deducted in a given taxable period exceeds the amount of tax due on taxable transactions carried out by the taxable person in the same period, the excess amount may be carried forward on his own behalf over the next tax periods.

Instead of using the tax carry forward, the taxable person may opt for claiming a tax refund to the Tax Administration, if one of the following conditions is met: i) if a credit higher than € 250 on behalf of the taxpayer subsists after a 12-month period; ii) previous to the expiration of a 12-month period of credit, if a business activity ceases or the taxpayer doesn't fit any more in the normal taxation regime provided that such credit is no lower than € 25; iii) if the amount of the tax refund exceeds twenty five times the minimum monthly wage, or if it exceeds half that amount in the six months following the beginning of a business activity, or in case of investment with recourse to borrowing.

These issues are governed by the provisions of Article 22 of CIVA. With regard to all requirements, conditions and elements to be produced in a tax refund claim, the competent legal text shall apply [see Ruling (*Despacho Normativo*) nr. 53/2005, of 15th December].

Deduction and adjustment of deductions by “mixed” taxable persons

A taxable person who carries out one or more transactions giving right to a deduction together with one or more transaction not giving such right shall estimate the amount of the appropriate deductions by applying a ratio (*pro rata*) that is the result of a fraction having as its numerator the yearly amount of the transactions giving rise to a deduction and as its denominator the yearly amount of all transactions carried out by the taxable person, including any non-taxable allowance other than an equipment allowance (Article 23 (4) CIVA).

However, the estimation of the deductible proportion shall not include the supply of goods belonging to fixed assets, nor transactions connected with real estate or financing operations of an incidental nature in relation to the activity performed.

The estimate of VAT to be deducted may alternatively be made according to an approach of effective allocation (in the whole or in part) of goods and services used for the purposes of the business.

The deductible portion for a given year, where the *pro rata* method applies, is calculated, on a provisional basis, taking into account the final *pro rata* of the previous year. In the last period of the year to which it relates, the final *pro rata* of that year shall be assessed, what may give rise to an adjustment of the deductions already made.

According to the provisions of Article 25 of CIVA, in case of property belonging to fixed assets, such adjustment may be extended for a period of 5 years in case of movable property or 20 years in the case of immovable property.

Taxable person’s obligations

Obligation to pay

The obligation to pay the self-assessed VAT by the taxable persons covered by the general (or standard) taxation regime as laid down in Article 27 (1) of CIVA must be complied with within the time limits established under Article 41 in respect of the production of a periodical tax return, that is to say:

- No later than the 10th day of the second month following that to which the transactions relate, by the taxable persons covered by the monthly ordinary regime (only for taxpayers with a yearly turnover higher than € 650,000 unless the taxpayer has expressly opted for a monthly period of time according to Article 41 (3) and (4) CIVA);
- No later than the 15th day of the second month following the end of each 3-month period to which the transactions relate, by those taxable persons covered by the quarterly ordinary regime.

Where VAT is due by a **person acquiring goods or services** who is not required to produce a periodical tax return, or VAT payable on the exercise of a single taxable

transaction (**fortuitous act**), payment must be made until the end of the next following month (Article 27 (2) to (4) CIVA).

In case of an intra-Community acquisition of new means of transport subject to Motor Vehicle Tax (IV), VAT shall be paid together with IV, at the Directorate General for Customs and Excise Taxes (Article 22 (3) (6) (a) of RITI). Payment of VAT payable on an intra-Community acquisition of a new means of transport by an exempt taxable person, a public legal person not liable for tax, or by an individual, even if not subject to IV, shall be made at the Directorate General for Customs and Excise Taxes previously to the registration or license of the vehicle (Article 22 (4) (6) (b) of RITI).

Declarative obligations

Taxpayer's registration

For the purposes of a taxpayer's registration, Article 29 (1) of CIVA sets out his declarative obligations, and the rules referring to its submission are comprised in Article 35 of the same Code.

Any taxable person is required to state the beginning of his activity, any change to the information provided in such statement within 15 days, if no other period of time is expressly provided for, and the termination of his activity within 30 days after its occurrence.

The statement of beginning of an activity must be produced before the beginning of an activity takes place. However, legal persons subject to commercial registration may do it within 15 days counting from the date of application for registration at the Trade Registry (*Conservatória de Registo Comercial*).

Periodical Tax Return

According to the provisions of Article 29 and Article 41 of CIVA, VAT taxable persons must send, each month or every three months, a periodical tax return concerning transactions carried out and tax assessment referring to the taxation period.

The periods of time for a taxable person covered by the ordinary regime to submit his VAT return are the same as the periods of payment as shown in paragraph 1 of this chapter.

Other statements

- A recapitulative statement in respect of any supply of goods to another Member State, having benefited from an exemption under Article 14 of RITI to be annexed to the periodical tax returns;
- Annual accounting and tax statements and respective annexes concerning the transactions carried out in the previous year;

- Statements annexed to the annual tax return concerning the identification of any customers and suppliers with whom internal transactions of a total amount higher than € 25,000 were carried out in the previous year.

Obligation to issue an invoice or a sale voucher

Obligation to issue an invoice

Every taxable person is obliged to issue an invoice or an equivalent document in respect of all goods and services supplied by him, as well as in respect of any advance payments made to him, except in those cases where a sale voucher may be issued as referred to below. The issuance of an invoice or an equivalent document is equally required whenever a change is made to the taxable amount of a transaction or to the corresponding tax.

Any invoice or an equivalent document must be issued no later than the fifth working day following that of the taxable event.

Any invoice or other equivalent document must be processed by computer or, if by hand, previously printed and numbered at an authorized typography. Subject to previous consent by the person to whom services or goods are supplied, invoices or equivalent documents may also be issued by electronic means provided that the authenticity of its source and data integrity is guaranteed.

In addition to numeration and dating, invoices or equivalent documents shall include the following information: the supplier and client identification including the corresponding fiscal identification number; indication of goods or services supplied; price net of tax, the applicable rate and the amount of tax due; justification for non-application of tax, where appropriate; and date on which goods were made available to the person acquiring them, services were rendered or payments on account made before the supply of goods or services, if such date is not coincident with that of issuance.

Obligation to issue a sale voucher

Where the issuance of an invoice is not required, the taxable person must obligatorily issue a sale voucher designed to support the supply of goods or services, without prejudice to the obligation to issue an invoice whenever the customer so wishes.

Discharge from issuance of invoices may occur in certain transactions where payment is made in cash and a customer is a private person or is not acting as a taxable person identified for VAT purposes. Such transactions are as follows: transactions carried out by a retailer or hawker; supplies by way of automatic vending machines; transactions generally giving rise to the issuance of a voucher, ticket for entry or transport; or supply of services the value of which is lower than € 10.

Cash vouchers must be dated, sequentially numbered and contain the following data: business name and the fiscal identification number of the supplier of goods or services; usual denomination of goods or services supplied; price net of tax, applicable tax rates and amount of tax due, or price including tax and applicable rate or rates.

Accounting obligations

Taxable persons shall keep an appropriate accounting allowing for a clear and accurate disclosure of all elements needed for tax assessment and its control by tax authorities.

The rules establishing the accounting system and the filing of documents and other relevant elements for tax purposes are comprised in Articles 44 to 52 of CIVA and in Article 31 of RITI.

Taxpayers who are not required to keep an appropriate accounting as defined for income taxes purposes may comply with their accounting duties in a simplified way by using the accounting records provided for under Article 50 of CIVA.

Books, records and any supporting documents or elements must be filed and kept in good conditions for a 10-year period of time (Article 52 CIVA).

Designation of a tax representative

In order to comply with the obligations resulting from the carrying out in Portugal of transactions chargeable to VAT, including registration for the purposes of this tax, a non-resident taxable person without a permanent establishment in Portugal and having not his head-office, a permanent establishment or his domicile in other EU Member State, is required to designate a tax representative, holding a letter of attorney conferring upon him due powers, who is jointly liable with the person he represents for the accomplishment of such duties (Article 30 (2) CIVA).

The designation of a tax representative shall be optional where the taxable person who is not established in the territory of the country has his head-office, a permanent establishment or his domicile in other EU Member State (Article 30 (1) CIVA).

According to the provisions of Article 30 (4) of CIVA, the designation of a tax representative must be transmitted to the other contracting party before a transaction subject to tax is carried out.

Special and particular schemes

In addition to the general taxation regime referred to in more detail in the preceding chapters, CIVA and its complementary legislation also contain a whole set of special and particular schemes concerning this tax, namely:

- A special exemption scheme (Articles 53 to 59 CIVA);
- A special scheme for small retailers (Articles 60 to 68 CIVA);
- Taxation scheme for liquid fuels applicable to dealers (Articles 69 to 75 of CIVA);

VALUE ADDED TAX (IVA)

- Special scheme for travel agents and tour operators (Decree Law nr. 221/85, of 3rd July as modified by Decree Law nr. 206/96, of 26th October);
- Special taxation scheme for gas fuel (Article 32 of Law 9/86, of 30th April, according to the wording of Law nr. 3-B/2000, of 4th April);
- Special taxation scheme for second-hand goods, art collection works and antiques (Decree Law nr. 199/96, of 18th October as modified by Law nr. 4/98, of 12th January);
- Special scheme for investment gold (Decree Law nr. 362/99, of 16th September as modified by Law nr. 3-B/2000, of 4th April).

V
MUNICIPAL TAX ON REAL ESTATE TRANSFER (IMT)

Scope

Objective and territorial scope

The IMT is levied on the transfer for consideration of ownership rights or parts thereof on real estate (immovable property) situated in the Portuguese territory, regardless of how such transfer is carried out.

The fiscal concept of «transfer» for the purposes of this tax is coincident, in principle, with that of private law, but also includes a number of situations assimilated to the conveyance or transfer of goods or rights on assets provided for by law with the purpose of preventing tax avoidance. The IMT Code also includes an exemplification listing of such situations. Thus, there shall be treated as a conveyance of assets:

- a) Promise of purchase and sale upon delivery to the promisor buyer, or when this is benefiting from such goods, except in the case of acquisition of a dwelling house as a permanent home of its owner or of his household and provided that any of the conditions laid down in Article 2 (3) of IMT Code occur;
- b) Letting with a clause under which all leased goods become leaseholder's possession after settlement of all agreed payments;
- c) Long term letting or subletting, being considered as such those lasting for more than 30 years, whether they are in force for a period of time established at the beginning of the contract or it results from a prorogation by mutual agreement of the parties concerned, even if there is a change concerning the lessor, the rent or any other contractual clause;
- d) Acquisition of corporate rights or shares in a partnership, in a limited partnership or a joint-stock company, when such companies own immovable property and if by reason of such acquisition, amortization or any other event, one of the partners obtains at least 75 per cent of the capital stock, or if there are only two partners, husband and wife, married under a joint ownership of subsequently acquired property regime.

There shall also be considered as a transfer for consideration the granting of the following acts or contracts:

- a) Promise agreement of purchasing and sale of immovable property containing a provision under which promissory-buyer may assign his contractual position to a third party;
- b) Assignment of a contractual position in the exercise of the right granted under the promise agreement as above referred to;

- c) Granting of a proxy conferring the power to dispose of immovable property or corporate rights in real estate companies, where by waiving the right of repeal or a similar provision, the represented person is not entitled to revoke the proxy;
- d) Granting of an instrument with sub-establishment of a proxy/power of attorney with the powers and effects provided for under the preceding sub-paragraph;
- e) Assignment of a contractual position or arrangement for resale by the promisor-purchaser in a promise of sale, where the final contract is to be concluded between the promisor seller and a third party.

The granting referred to under subparagraph e) shall not apply whenever the final contract is concluded with a designated third party or with a company under incorporation at the moment the contract is entered into, that is going to purchase the real estate, provided that the promisor-buyer is the holder of the capital stock in that company.

Also subject to IMT are:

- ◆ The rescission, voidance or extinguishment by mutual consent of the contract of purchase and sale or exchange of immovable property, as well as the rescission, voidance or extinguishment by mutual consent of promise-agreement where, in the last-mentioned case, this event takes place 10 years after its tradition or possession;
- ◆ Barters or exchanges according to the declared difference in the amounts or the difference between the taxable net worth , depending on which is the higher;
- ◆ The excess of the proportional share in immovable property belonging to the purchaser in an allotment deed or partition of a succession, as well as the alienation of an inheritance or hereditary share;
- ◆ Sale or transfer of the right to certain waters, even as an authorization for exploitation or mining in any land belonging to another person;
- ◆ Capital contribution of immovable property by the members of a trading company or civil company under a commercial form, or a civil company recognized as a corporate entity, as well as the award of immovable property to company members upon the winding-up of those companies, and the transfer of immovable property as a result from the merger or demerger of such companies;
- ◆ Capital contribution of immovable property by the members of all other civil companies, for that part giving rise to community property or any other right on such property to the other company members, as well as the transfer of corporate rights or quotas, or the admission of new partners, under the same conditions;
- ◆ Transfer of betterments and acquisition of real estate by way of accession.

Personal scope

The IMT shall be due by any individual or legal person to whom the immovable property is transferred, without prejudice to the rules provided for under subparagraphs of Article 4 of IMT Code.

Exemptions

A great number of tax exemptions are provided for, namely:

- Acquisitions made by the State, local authorities, the Autonomous Regions and the associations and federations of municipalities of public law, as well as any of their services, establishments and bodies, even if personalized, including public institutes of a non business nature;
- Purchase of immovable property qualified as of public or municipal interest;
- Purchase of immovable property situated in economically less favoured areas if carried out by commercial or civil companies under a commercial form, designed for the exercise of an agricultural or industrial activity considered as having an upper economical and social interest for such region;
- Public administrative legal entities and mere public legal entities, private social solidarity institutions and any persons assimilated thereto under the law with regard to property designed to the direct and immediate achievement of their statutory aims;
- Exemptions agreed upon between the State and any other entity of public or private law in accordance with the respective law;
- Purchase of property by physical education associations if designed to facilities usually not used for payable shows;
- Acquisition of property by museums, libraries, schools, public enterprises responsible for the public schools network, teaching or educational associations, cultural, scientific, literary or artistic, charitable or social welfare institutions or associations, if designed, directly or indirectly, to the achievement of their statutory aims;
- Acquisition of rural property designed for the first establishment of young farmers applying for the aids provided for under the applicable legislation, even if taking place in different moments, up to the amount of € 89.700, irrespective of the fact that the amount that would be liable to tax should exceed that limit;
- The Foreign Governments on the acquisition of property exclusively affected to their respective diplomatic or consular missions, or designed as the domicile of the head of such mission or consul, as well as building land, provided there is reciprocity of treatment;
- Acquisition of property for religious purposes carried out by religious legal persons recognized as such under the law governing the freedom of religion;

- Purchase of immovable property for resale provided that a statement of start-up, change or termination of an activity, as the case may be, in respect of the activity performed by a dealer on real estate for resale has been produced previously to such acquisition;
- Acquisition of immovable property by financing institutions or trading companies the capital of which is directly or indirectly controlled by them, in an enforcement or prosecution proceeding brought by such institutions or any other creditor, as well as the acquisition carried out following a bankruptcy or insolvency suit, provided that, in any case, such acquisitions are meant for credits in connection with loans or guaranties;
- Acquisition of urban property or an autonomous fraction thereof intended exclusively for the acquisition of a permanent owner-occupied dwelling house, provided that the amount on which the tax would be levied should not exceed € 89,700.

Determination of taxable amount

The IMT is levied on the amount shown in the respective deed or agreement, or on the taxable net-wealth of the real estate (TNW), depending on which is higher. In respect of real estate omitted in the register or inscribed therein without its TNW, as well as assets or rights not subject to registration, the TNW shall be determined in accordance with the IMI Code.

The TNW of real estate shall be increased by the declared amount of its parts if not included therein.

However, some special rules must be taken into consideration for the determination of the taxable amount:

- ◆ Where any co-owner or share-owner transfers his right, the IMT shall be assessed on the corresponding part of the TNW of real estate, or shall be levied on the amount shown in the respective deed or agreement, depending on which is higher;
- ◆ Upon the constitution of a temporary surface right, whether the building works are finished or not, or the plantation concluded, the provisions of 2nd and 3rd rules of Art. 12 (4) of the IMT Code shall apply;
- ◆ Upon the exchange of immovable property, there shall be deemed to be the assessment base the difference of amounts declared if such difference is higher than the difference between both TNW;
- ◆ Upon the conveyance by way of accord and satisfaction, the IMT shall be calculated on its TNW, or on the amount of the debt to be paid by the transferred property, if higher;

- ◆ Whenever a conveyance is carried out by way of a waiver or cession, the IMT shall be calculated on the TNW of the respective immovable property, or shall be levied on the amount shown in the deed or agreement, if higher;
- ◆ If a real estate is transferred separately from the usufruct, use or habitation, the IMT shall be calculated on the tenancy amount, in accordance with subparagraph a) of Art. 13 of the IMT Code, or on the amount shown in the deed or contract, if higher;
- ◆ In case of usufruct, use or habitation, as well as if any of such rights is waived, or the usufruct is transferred separately from the property, the IMT shall be assessed according to the usufruct, use or habitation current value calculated in accordance with Art. 13 (b) of IMT Code, or shall be levied on the amount shown in the deed or contract, if higher;
- ◆ If the pensioner acquires the property charged with a pension, the IMT shall be levied on the TNW after deduction of the pension current value, or in the amount shown in the act or contract, if higher;
- ◆ In case of long term letting and subletting, the IMT shall be levied on the amount corresponding to 20 times the annual rent, if equal to, or higher than, the TNW of the real estate, and shall be levied on the difference between the net-wealth of the immovable property at the date of letting and that at the date of acquisition, or on the amount declared, if higher, in case the lessee should acquire the property concerned;
- ◆ According to the provisions of Article 2 (5) (c), in a judicial and an extrajudicial partition, the amount of real estate in excess of the acquirer proportional part is calculated on the TNW of such property increased by the value attributed to the real estate not subject to a cadastral registration or, if higher, on the amount on which the partition was based;
- ◆ With regard to contributions of immovable property made by members of a company for the capital of such company, the value of such immovable property is the TNW or the value shown in the company assets, depending on which is higher;
- ◆ In relation to mergers and demergers, the IMT is levied on the TNW of all immovable property belonging to merged or demerged companies that is transferred to the fixed assets of those companies resulting from a merger or demerger, or on the amount shown in the fixed assets of the companies, if higher;
- ◆ The value of the immovable property or of the surface right established on leased real estate purchased by the lessee by way of a contract of sale, upon the expiration of the leasing agreement, and under the conditions agreed upon, shall be the residual value as determined or determinable under the contract;
- ◆ The value of property expropriated for public interest reasons shall be the value corresponding to the indemnity amount, unless such indemnity is established by way of an agreement or transaction, in which case the general rules shall apply.

MUNICIPAL TAX ON REAL ESTATE TRANSFER (IMT)

Tax Rates

- a) In case of purchase of an urban property or an autonomous fraction thereof exclusively intended for dwelling purposes the tax rates are as follows:

AMOUNT LIABLE TO IMT (€)	PERCENTAGE RATES	
	MARGINAL	AVERAGE (at the highest bracket)
Up to 89 700	0	0
Over 89 700 up to 122 700	2	0.5379
Over 122 700 up to 167 300	5	1.7274
Over 167 300 up to 278 800	7	3.8361
Over 278 800 up to 557 500	8	-
Over 557 500	Single rate 6	

- b) In case of purchase of an urban property or an autonomous fraction thereof exclusively intended for dwelling purposes not covered by the above-mentioned sub-paragraph, the tax rates are as follows:

AMOUNT LIABLE TO IMT (€)	PERCENTAGE RATES	
	MARGINAL	AVERAGE (at the highest bracket)
Up to 89 700	1	1.0000
Over 89 700 up to 122 700	2	1.2689
Over 122 700 up to 167 300	5	2.2636
Over 167 300 up to 278 800	7	4.1578
Over 278 800 up to 557 500	8	-
Over 557 500	Single rate 6	

When the value on which the tax is levied is higher than € 89,700, it shall be divided into two parts, one equal to the limit of the highest bracket therein comprised to which the average rate corresponding to such bracket applies, and the other equal to the excess amount, to which the marginal rate corresponding to the immediately higher bracket applies.

- c) Acquisition of rural property – 5 per cent rate.
- d) Acquisition of other urban property and other acquisition against payment – 6.5 per cent rate.

On the onerous acquisition of partial items of the ownership right there shall apply the rate referred to under the preceding subparagraphs according to the nature of the property in connection with the acquired right; the rate referred to under subparagraph a) shall only apply where the transfer of usufruct, use or habitation of an urban property or an autonomous fraction thereof exclusively intended for dwelling purposes is concerned.

The rate shall always be 8 per cent if the acquirer has his domicile in a country or territory subject to a clearly more favourable tax regime.

Tax assessment and collection

The IMT assessment is incumbent upon the persons concerned, who are required to produce a tax return on an official model form, duly filed for that purpose in any finance office or by electronic means. Such tax return must also be lodged with any finance office or by electronic means prior to the act or event of transfer of property, in case of exemption.

The assessment is officiously promoted by the competent tax offices whenever the persons concerned do not take the initiative within the legal deadlines, or if an additional assessment is needed, without prejudice to the compensatory interest it may give rise and to the penalty imposed.

The IMT is assessed by the DGCI central services, either officiously or on the basis of the taxable person tax return, the tax act being considered for all legal purposes as carried out at the competent tax office.

In respect of alienation of an inheritance or hereditary share, as well as in case of transfer following a judicial or extrajudicial partition, the IMT assessment is always carried out by the competent tax office dealing with the stamp duty assessment. If stamp duty is not due, the IMT assessment is carried out by the tax office where the property in question is situated.

The IMT assessment is prior to the act or event of transfer of assets/goods; however, if such transfer does not take place within two years, the tax assessment shall become null and void.

MUNICIPAL TAX ON REAL ESTATE TRANSFER (IMT)

In case of real estate omitted in the register or inscribed therein without its TNW, the IMT is assessed on the amount shown in the deed or contract; if necessary, the tax assessment shall be officiously corrected as soon as the evaluation value becomes a final one, according to the provisions of the IMI Code.

Where the TNW registered in the cadastral register on which the IMT assessment was based is considered as excessive, the taxable person may apply for the valuation of the property, prior to the act or contract; if necessary, as soon as the valuation becomes definitive the assessment shall be the object of an adjustment.

The IMT must be paid on the assessment day or on the first subsequent working day; otherwise it may become null and void. However, if the transfer is operated by way of a deed or contract concluded abroad, the tax is payable during the next month. If the assets are transferred by way of bidding, judicial or administrative sale, award, transaction or settlement, the tax is payable within thirty days counting from the signature of the competent record or judicial proceedings for ratification of the transaction.

The IMT shall be paid within thirty days counting from the notification in case of additional assessment, transit in *rem judicatam* in case of preferential right, from the date of the contract if the acquirer is benefiting from such goods or from the conveyance date in relation to purchasing, sale or exchange processes.

The IMT is payable at the Treasury offices or any other authorized place by way of an official collection document.

VI
MUNICIPAL TAX ON REAL PROPERTY (IMI)

Scope

Effective Scope

The municipal tax on real property (IMI) is levied on the *taxable net-worth value (TNW) of real property* classified as rural or urban property situated within the Portuguese territory being the tax revenue from property of the municipality where such property is located.

Immovable property is meant to include:

- Any fraction of territory, including the waters, plantations, buildings or constructions of any kind incorporated therein or permanently based therein, provided that it forms part of a given asset belonging to an individual or legal person, and has an economic value under normal circumstances;
- Any such waters, plantations, buildings or constructions with economic autonomy in relation to the land on which they are set up, even if located in a fraction of the territory forming part of other assets or devoid of a net wealth nature;
- Any buildings or constructions, even of a movable nature, where connected with non temporary purposes, in particular, if established in the same place for a period exceeding one year;
- Each autonomous fraction under the regime of separate ownership in a multiple-unit building (strata title).

Immovable property may be classified as rural, urban and mixed.

Rural property shall include:

- Land located outside an urban centre that cannot be classified as building land, provided that:
 - Such land is connected with, or in the absence of effective connection, has as its normal purpose, any use giving rise to agricultural income;
 - Such land, although used for other purposes than the purposes above mentioned, is not built-in or has only buildings or constructions of an ancillary nature, with no economic autonomy and with a limited value;
- Land located within an urban centre that cannot be used for profitable purposes, or can only be used for agricultural purposes and is effectively used for such purpose;

MUNICIPAL TAX ON REAL PROPERTY (IMI)

- Buildings and constructions directly used for the production of agricultural income, if located in land as above referred to;
- Waters and plantations in the above mentioned situations.

There shall be classified as *urban property* property that is not classified as rural property. Urban property can be divided into:

- Housing, commercial, industrial or services buildings – buildings or constructions licensed for that purpose, or, in the absence of a licence, whose normal use is in connection with one of the above mentioned activities;
- Building land – land located inside or outside an urban centre, that has been granted a licence or permission, a favourable prior communication has been given in relation to land-lot division permit or construction, as well as any land declared as such in its acquisition deed, excepting those in relation to which the competent entities preclude any of such operations namely: land located in green or protected areas or, according to municipal regional planning schemes, such land is connected with public places, infrastructures or equipment;
- Others: land located inside an urban centre, as well as licensed or non-licensed buildings and constructions not covered by the preceding specifications.

There shall be classified as mixed property any property that is partly rural and partly urban, where it is not possible to classify either of them as the main one.

Personal scope

The taxable person is the owner, the usufructuary, the building lease holder or the person entitled to the use or fruition of the immovable property on the 31st December of the year to which the tax relates.

Tax liability starts according to the following situations:

- a) In the year during which the fraction of the territory concerned or any other elements are classified as immovable property;
- b) In the year next following that in which the exemption ceases;
- c) In the year during which any work of construction, improvement or other alterations leading to a variation in the net-worth value of real estate is concluded;
- d) In the fourth year following that in which a building land is included in the assets of a company having as its object the construction of buildings for sale;
- e) In the third year following that in which an immovable property is included in the current assets of an enterprise having as its object its sale. In this case the tax

shall be due in the year in which the sale of the immovable property has been delayed by any reason chargeable to the taxpayer.

In the cases provided for under subparagraphs d) and e):

- ◆ If the immovable property is used for other purposes, the tax shall be assessed in relation to the whole period of time since its acquisition;
- ◆ This regime shall not apply to taxable persons having their domicile in a country, territory or region subject to a clearly more favourable tax regime, comprised in a list approved by a ministerial order from the Minister of Finance.

The IMI Code provides for a number of presumptions on the ground of which real estate shall be considered as concluded or modified; however, there is always the possibility of starting this procedure by an administrative way.

Exemptions

There shall be exempted from IMI, the State, the Autonomous Regions, as well as any services, establishments and bodies thereof, even if personalized, including public institutes of a non business nature, as well as local authorities and their associations of public law.

Also exempt from IMI, in accordance with the Tax Incentives Statute (EBF), are foreign States in relation to immovable property designed for consular and diplomatic representations; establishments for indigent persons (*Misericórdias*); associations or organizations of any religion or creed as far as it concerns buildings designed for worship or related activities; and companies holding exclusively public capital in relation to immovable property granted at any title whatsoever to the State or to other public entities for the exercise of an activity of public interest.

Furthermore, also exempt from this tax are certain social security and welfare institutions; trade union associations and other independent professional associations; public administrative legal entities and mere public legal entities; private social solidarity institutions and legal persons assimilated thereto; private teaching establishments integrated into the educational system; sport associations and youth associations established by law in relation to immovable property used for the prosecution of their goals.

Also exempted are real estate or parts of real estate granted free of charge by their owners or usufructuaries to public entities exempt from IMI for the direct prosecution of their goals.

Exempted from IMI are:

- Immovable property classified as national monument or immovable property of public interest, as well as those eligible as municipal immovable property, according to the applicable legislation;

MUNICIPAL TAX ON REAL PROPERTY (IMI)

- Urban property object of urban rehabilitation for a period of two years, counting from the year of issuance of the City Council licence;
- Buildings used in undertakings qualified as of tourist utility for a period of seven years;
- Rural and urban property owned by taxable persons whose household overall gross income as aggregated for IRS purposes, does not exceed the double of the annual value of the highest minimum domestic wage and whose global taxable amount is no higher than ten times the yearly amount of the highest minimum domestic wage;
- Immovable property integrated into real estate investment funds and assimilated, in pension funds and retirement-savings funds established according to the domestic law;
- Urban property exclusively affected to public underground car-parking declared of municipal utility by a resolution of the competent municipality;
- Immovable property used as main office of cultural and leisure collective organizations; non-governmental organizations; and other kind of non-profit making associations, recognized as of public utility, after a decision by the municipal assembly of the local authority where such property is situated under the provisions of the Local Finance Law;
- Urban housing property or part thereof, constructed, enlarged, improved or purchased for the permanent residence and effectively assigned to such purpose, within six months after the purchase or completion of the construction, enlargement or improvement works, except for a reason not imputable to the beneficial owner thereof;
- Immovable property or part thereof, newly constructed, enlarged or improved, or purchased (for the first transfer) for that part designed to be rented for dwelling purposes, provided that the above conditions are met, except if such buildings or part thereof have been newly constructed, enlarged, improved or purchased by an entity having its domicile in a country, territory or region subject to a clearly more favourable tax regime as comprised in a list approved by a ministerial order from the Minister of Finance, unless the rental amount agreed upon is equal to, or higher than, the amount corresponding to 1/15 of the net worth of the leased property.

The exemption period in both these last-mentioned situations shall be determined in accordance with the following table:

TAXABLE NET WORTH (€)	EXEMPTION PERIOD (YEARS)
Up to 157 500	8
Over 157 500 up to 236 250	4

Attention: The change of the exemption period, according to the wording of Law nr. 64/2008, of 5th December, shall apply to exemptions where the period of 6 or 3 years relating to the benefit is still in force or has terminated in the year 2008.

Taxable net worth

The taxable net-worth of immovable property is determined by an evaluation based on a taxpayer's statement, but if necessary, the evaluation shall be preceded by an expert survey.

The appraisal of rural property shall be made on a cadastral, non-cadastral or direct base. The appraisal of urban property is always directly undertaken.

Rural property

Taxable net-worth (TNW) of rural property corresponds to the result of its ground rent income by applying a factor 20, rounded up to the immediately higher ten Euros.

The ground rent income corresponds to the balance of an annual crop account in which the credit is represented by gross income and the debit by the operating costs.

The ground rent income of a real estate is determined by the total sum of incomes from its different portions and income from the trees therein existing, if they belong to the person holding the right to the income derived from the real estate and if, globally considered, they have an economic interest.

Appraisal on a cadastral base (real estate register)

Appraisal on a cadastral base consists in preparing the *qualifying and classifying tables* of the *tariff lists* and in its division into parts, as indicated below. It is carried out under the DGCI supervision on the base of the real estate register elements supplied by the Portuguese Geographic Institute.

To prepare qualifying and classifying tables means listing the cultural characteristics with an economic interest; to define different productivity categories and degrees, as well as to choose *standard items* representative of each cultural quality and category.

As a general rule, in the preparation of these tables the usual proceeding is to achieve a qualification and classification for each civil parish or groups of civil parishes having similar characteristics. Exceptionally, in bigger civil parishes with strongly differenti-

ated economic and agrolological conditions, such preparation is made according to zones delimited by natural characteristics of the ground or by permanent works.

Those land portions with the same type of utilization have always similar names.

The preparation of *tariff lists* consists in determining the unit income of each quality and category taken into consideration in the qualifying and classifying tables.

The tariff for each quality and category is the unit ground rent income of the corresponding standard portions or trees.

Tariffs are estimated by way of annual crop accounts in accordance with the following formula:

$$T = RB - EE$$

Where:

T → tariff

RB→ gross income: value at the current market prices at the normal selling opportunity, of the whole production for a given period, which is formed by the main and secondary products, spontaneous or obtained by crop, marketable in kind or at the very first stage of technological processing to become regionally negotiable.

EE→ operating costs: cost in connection with crops, preservation and transport of the products to the warehouse and markets; expenses of preservation and reintegration of the plantations, building, improvement and other agrarian betterment; general operation expenses, and interest corresponding to working capital.

The non-cadastral evaluation consist in: preparing the qualifying and classifying tables and tariffs, in the same terms as cadastral evaluation; parcelling and measurement of the real estate. This kind of evaluation is carried out in those municipalities where there is no geometrical or real estate register, as well as in the so-called deferred register zones.

Direct appraisal consists in measuring the real estate area and in determining its TNW. It applies to defaulting immovable property or in case of crop changes or any area default giving rise to a change to its TNW.

Urban property

Housing, commercial, industrial or services buildings

The determination of the TNW of built-in immovable property designed for housing, commerce, industry and services purposes is the result from the following formula:

$$V_t = V_c \times A \times C_a \times C_l \times C_q \times C_v$$

Where:

- Vt** → taxable net worth
- Vc** → base value of built-in property
- A** → total area of the building construction plus area in excess of building ground
- Ca** → type of building coefficient
- Cl** → location coefficient
- Cq** → quality and comfort coefficient
- Cv** → age of the building coefficient

The **Vc** corresponds to the average building cost per m² plus the value of each m² of the building ground fixed in 25 per cent of that cost.

The total area of the building construction or of a fraction and the area in excess of the building ground (**A**) result from the following formula:

$$A = (Aa + Ab) \times Caj + Ac + Ad$$

Where:

- Aa** → total private area: total surface as measured by its external perimeter and the axis of the walls or another dividing component of the real estate or fraction (including private balconies, basements and attics having the same use as the real estate or fraction) to which coefficient 1 applies.
- Ab** → dependent total areas: covered areas for exclusive use, even if being a fraction in common, located outside the real estate or fraction, the use of which is of a secondary nature in relation to the use of the building or fraction thereof (being considered as ancillary places for that purpose any garage and parking, store-room, animal facilities, attics or basements, balconies and other private premises) to which coefficient 0.30 applies
- Caj** → area adjustment coefficient
- Ac** → the free land area till the limit of two times the implantation area has the coefficient of 0.025
- Ad** → the free land area exceeding the limit of two times the implantation area has the coefficient of 0.005

The *free land area* of the immovable property or fraction thereof or its proportional part is the result from the difference between the land total area and the building implantation area, which includes gardens, parks, playgrounds, swimming pools, backyards and other common grounds.

The type of **building coefficient** (**ca**) depends on the kind of use of buildings, according to the following table:

MUNICIPAL TAX ON REAL PROPERTY (IMI)

USE	COEFFICIENTS
Commerce	1.20
Services	1.10
Housing	1.00
Social housing subject to legal regimes of controlled costs	0.70
Warehouses and industrial activity	0.60
Commerce and services in buildings for industry	0.80
Covered and closed parking	0.40
Covered but not closed parking	0.15
Non-licensed buildings in very bad conditions of habitability	0.45
Non-covered parking	0.08
Store and box-rooms	0.35

The **location coefficient** (cl) takes into consideration the accessibilities, the proximity of social equipments, public transport services, localization in areas with high real property market value, and ranges between 0.4 and 2. In case of scattered houses in a rural environment, that coefficient may be reduced to 0.35 and in areas of high real property market value it can rise up to 3. The applying coefficients in each homogeneous area of a municipality may vary depending on whether we are dealing with buildings for housing, commercial, industrial or services purposes.

The **quality and comfort coefficient** (cq) shall apply to the basic value of the building and can be increased up to 1.7 and reduced up to 0.5. This coefficient can be reached by adding to the unit the increased coefficients and, on other hand, subtracting the diminished according with the following schedules:

URBAN PROPERTY FOR HOUSING PURPOSES	
QUALITY AND COMFORT ELEMENTS	COEFFICIENTS
INCREASING ELEMENTS:	
One family dwelling house	Up to 0.20
Location in a closed condominium	0.20
Private garage	0.04
Common garage	0.03
Private swimming-pool	0.06
Common swimming-pool	0.03
Tennis court	0.03
Other leisure equipments	0.04
Quality of building construction	Up to 0.15
Exceptional localization	Up to 0.10
Acclimatization central system	0.03
Lifts in buildings not exceeding four floors	0.02
Relative location and operationalization	Up to 0.05

MUNICIPAL TAX ON REAL PROPERTY (IMI)

URBAN PROPERTY FOR HOUSING PURPOSES	
QUALITY AND COMFORT ELEMENTS	COEFFICIENTS
DIMINISHING ELEMENTS:	
No kitchen	0.10
No sanitary installations	0.10
No public or private water distribution system	0.08
No public or private electric distribution system	0.10
No public or private gas distribution system	0.02
No public or private sewerage system	0.05
No road paving	0.03
Areas being not into conformity with standard ones	0.05
No lift in buildings with more than three floors	0.02
Deficient building preservation	Up to 0.05
Relative location and operationalization	Up to 0.05
Use of environmentally sustainable techniques, either active or passive	0.05

URBAN PROPERTY FOR COMMERCE, INDUSTRY AND SERVICES	
QUALITY AND COMFORT ELEMENTS	COEFFICIENTS
INCREASING ELEMENTS:	
Localization in a shopping centre	0.25
Localization in buildings designed for offices only	0.10
Acclimatization central system	0.10
Quality of building construction	Up to 0.10
Lift(s) or escalator(s)	0.03
Relative location and operationalization	Up to 0.20

URBAN PROPERTY FOR COMMERCE, INDUSTRY AND SERVICES	
QUALITY AND COMFORT ELEMENTS	COEFFICIENTS
DIMINISHING ELEMENTS:	
No sanitary installations	0.10
No public or private water distribution system	0.08
No public or private electric distribution system	0.10
No public or private sewerage system	0.05
No road paving	0.03
No lift in buildings with more than three floors	0.02
Deficient building preservation	Up to 0.05
Relative location and operationalization	Up to 0.10
Use of environmentally sustainable techniques, either active or passive	0.10

MUNICIPAL TAX ON REAL PROPERTY (IMI)

The **age of building coefficient** (cv) varies according to the full number of years elapsed since the date of issuance of the occupation licence, if any, or the date of conclusion of the edification works, according to the following schedule:

YEARS	AGE OF BUILDING COEFFICIENT
Less than 2	1
2% to 8%	0.90
9 to 15	0.85
16 to 25	0.80
26 to 40	0.75
41 to 50	0.65
51 to 60	0.55
Over 60	0.40

The above-mentioned rules shall apply to the enlarged immovable property depending on each part's age respectively.

Building land

The TNW of building land is the total sum of the value of implantation area to be built in, located within the perimeter of establishment of the building into the ground, measured in its external part plus the value of the land adjacent to the implantation.

The value of the implantation area ranges between 15 and 45 per cent of the value of the authorized or foreseen buildings.

“Others”

In case of buildings, the TNW shall be determined in accordance with the rules applicable to built-in immovable property designed for housing, commerce, industry and services purposes. In the event that such rules are not applicable, the real estate expert shall use the cost method plus the value of the land.

In case of land, its unit value corresponds to the value resulting from the application of a coefficient of 0.005 in relation to the result of base value of built-in property by the location coefficient.

The TNW of tumble down buildings is determined as building land according to a resolution issued by the competent municipality.

Tax Rates

The IMI rates are as follows:

- Rural (unbuilt) property: 0.8%;
- Urban property 0.4% to 0.7%

- Urban property evaluated under the IMI Code: 0.2% to 0.4%.

In relation to real estate formed by rural and urban fractions, the respective tax rate shall apply to the TNW of each part.

The tax rates applicable to urban property and that evaluated under the IMI Code shall be yearly increased up to the double in relation to urban property which is unoccupied for more than one year and shall triplicate in relation to tumble down buildings, being considered as such those buildings that are unoccupied for more than one year or tumbled down covered by the competent law.

With regard to real estate owned by an entity having its domicile in a country, territory or region subject to a clearly more favourable tax regime, comprised in a list approved by the Minister of Finance, the IMI rate shall be 1 per cent, or 2 per cent to urban property, which is unoccupied for more than one year.

Subject to a decision from the Municipal Board, the municipalities may:

- ◆ Establish the tax rate to be applied each year (within the period of time established by law) to urban property evaluated under the IMI Code; such tax rate may be established by civil parish;
- ◆ Define territorial areas corresponding to civil parishes or delimited zones of civil parishes object of rehabilitation operations or fight against desertification, and increase or decrease up to 30 per cent the rate in force in the year to which the tax relates;
- ◆ Define territorial areas corresponding to civil parishes or delimited zones of civil parishes and establish a reduction up to 20 per cent of the rate in force in the year to which the tax applicable to leased urban property relates, which can be cumulative with the tax rate referred to in the preceding dash;
- ◆ Increase up to 30 per cent the rate applicable to deteriorated urban property, being considered as such those buildings that, owing to their state of maintenance, do not comply with the corresponding requirements or are likely to involve a risk for the security of persons and goods;
- ◆ Increase up to the double the rate applicable to rural property with woodlands in abandonment, not resulting from that increase a taxable amount under 20 Euros per each property concerned;
- ◆ Establish a reduction up to 50 per cent of the rate in force in the year to which the tax applicable to buildings classified as property of public interest or of local interest relates, provided that such buildings are not covered by Article 40 (1) (n) of EBF.

Assessment and collection

The IMI is yearly assessed for each municipality by the Central Services of the Directorate General for Taxation, on the basis of the TNW of the real estate and in respect of the taxable persons inscribed in the registers on the 31st December of the year to which the tax relates. The tax assessment takes place in February and March of the following year.

The services of the Directorate General for Taxation will send to each taxpayer – no later than the end of the month previous to that of payment – the competent collection document, specifying therein all identifying data in respect of the real estate concerned, as well as its TNW and tax payable.

This tax is payable in two instalments in April and September if the amount due is higher than € 250. If that amount is equal to, or lower than € 250, it must be fully paid in April.

VII
STAMP DUTY (IS)

Scope**Material scope**

Stamp Duty is levied on any deeds, contracts, documents, securities, books, papers, and other events comprised in its General Schedule, attached to Stamp Duty Code, including the transfer of goods carried out free of charge.

STAMP DUTY GENERAL SCHEDULE (Some transactions liable to tax)

ARTICLE	TRANSACTION LIABLE TO TAX	TAX RATE
1	Acquisition of goods	
1.1	Acquisition against payment, or by way of donation, of ownership rights, or parts thereof, on immovable property	0.8% on its value
1.2	Acquisition of goods carried out free of charge, including by way of adverse possession, to be added to Article 1.1, as the case may be	10% on its value
2	Letting or subletting of immovable property, including any change leading to an increased rental income	10% on the monthly rent or on the agreed increased amount
3	Judicial proceedings and terms carried out before courts and State, Autonomous Regions and Municipalities services, establishments or bodies, including Public Institutions	€ 10 each
4	Cheques of any nature, issued in the territory of the country	€ 0.05 each
5	Repealed by Law n. 64-A/2008, of 31 st of December	
6	Repealed by Law n. 64-A/2008, of 31 st of December	
7	Deposit of the by-laws of associations and other institutions with the competent public services	€ 50 each
8	Any contract deeds not comprised in the present schedule, including those carried out before public entities	€ 5 each
9	Repealed by Law n. 64-A/2008, of 31 st of December	

STAMP DUTY (IS)

10	Bond guarantees of any nature or form, namely a suretyship, a surety bond, an autonomous bank guarantee, a bail bond, a mortgage, a pledge and a guarantee-insurance, except if ancillary to any contract deed liable to tax comprised in the present schedule, and if simultaneously established with the bond guarantee, even if under a different instrument or deed, on the respective amount, according to the time period, being always considered as a new transaction the extension of the time period.	
10.1	Guarantees not exceeding 1 year	0.04% on the value thereof, for each month or fraction
10.2	Guarantees equal to, or more than, 1 year	0.5% on the value thereof
10.3	Guarantees without term or with a 5-year term or more	0.6% on the value thereof
11	Gambling:	
11.1	Betting not liable to the special tax on gambling, such as tickets, bulletins, cards, matrices, ruffles or tombolas	
11.1.1	Betting	25% on the value thereof
11.1.2	Other kinds of betting	25% on the value thereof
11.2	Admittance cards for game of chance gambling houses or an equivalent document	
11.2.1	Model A cards:	
11.2.1.1	Valid for 3 months	€ 10
11.2.1.2	Valid for 6 months	€ 15
11.2.1.3	Valid for 9 months	€ 20
11.2.1.4	Valid for 12 months	€ 25
11.2.2	Model B cards:	
11.2.2.1	Valid for 1 day	€ 3
11.2.2.2	Valid for 8 days	€ 5
11.2.2.3	Valid for 30 days	€ 15
11.2.3	Model C cards:	€ 2

STAMP DUTY (IS)

12	Licences:	
12.1	For installation or exploration of automated gambling machines	20% for each machine and on the value of the corresponding fee on the issuing of a licence of a minimum amount of € 15
12.2	For any other legal games	<i>idem</i>
12.3	For restaurants and beverage establishments:	
12.3.1	For night clubs and other establishments specially designed to dance, as bars and discos	€ 250
12.3.2	Other establishments	€ 50
12.4	For automatic vendors selling goods or services in public places	€ 50 each machine
12.5	Other licences not comprised in this schedule, granted by the State, the Autonomous Regions and Municipalities, or by any of their services, establishments or bodies, even if personalized, including the Public Institutions:	
12.5.1	If any tax or fee is paid for the issuance licence	20% on the value thereof, to a maximum of € 3
12.5.2	If no tax or fee is paid for the issuance licence	€ 3
13	Trading books which are mandatory according to the Commercial Law	€ 0.50 per sheet
14	Repealed by Law n. 64-A/2008, of 31st of December	
15	Notary public, notary acts and acts performed by registrars, judicial secretaries, any entity or professional certifying private documents, regardless of the entity being incumbent on its practice:	
15.1	Deeds excluding those having as their main purpose the acts referred to under nr. 26 of this schedule, testimonies and other instruments rendered from the notary public books, including private notary	€ 25 each instrument
15.2	Heirs and legatees eligibility	€ 10 each inheritance
15.3	Instruments for the reading and approval of a closed and an international last will	€ 25 each

STAMP DUTY (IS)

15.4	Power of attorneys and other instruments connected with the assignment of voluntary representation powers including letters of attorney and substitutions where those powers are also conferred in the interests of the attorney or of a third party:	
15.4.1	Power of attorneys and other instruments connected with the assignment of voluntary representation powers, where those powers are also conferred in the interests of the attorney or of a third party – for each:	
15.4.1.1	With agency power	€ 30 each
15.4.1.2	With any other power	€ 5 each
15.4.2	Substitutions	€ 2 each
15.5	Registration of any deeds lodged with a notary public to be filed	€ 0,80 each register
15.6	Wills, including donation <i>mortis causa</i> when it causes juridical effects	€ 25 each
15.7	Other single notarial instruments not comprised in this schedule	€ 8 each
15.8	Private certified document or any other deed or procedure where such form is accepted instead of public deed	€ 25 each
16	Repealed by Law n. 64-A/2008, of 31st of December	
17	Financing operations:	
17.1	Use of credit under the form of funds, goods or other assets by reason of credit granting, including assignment of credits, factoring and treasury operations if involving any kind of financing to the assignee, adhering or debtor:	
17.1.1	Credit for less than 1 year (per month or fraction)	0.04% on the value thereof
17.1.2	Credit up to or for more than 1 year	0.50% on the value thereof
17.1.3	Credit up to or for more than 5 years	0.60% on the value thereof
17.1.4	Credit used as a current account, bank overdraft or in any other way where the utilization period is not determined or determinable	0.04% on the monthly average of the balance due, daily ascertained during the month, divided by 30

STAMP DUTY (IS)

17.2	Operations carried out by, or by the intermediary of, credit institutions, financing companies or any other entity legally assimilated thereto and any other financing institutions:	
17.2.1	Interest	4% on the paid value
17.2.2	Premiums and interest on bills	4% on the paid value
17.2.3	Commissions in respect of guarantees granted	3% on the paid value
17.2.4	Other commissions and instalments on financial services	4% on the paid value
18	A commission or writ concerning drawing or delivery of money or other existing assets	5% on the amount to be drawn or delivered
19	Advertising:	
19.1	Advertisement boards or posters in public places, designed to promote products, services or any kind of industry, trade or amusement, except those referring to their own establishment affixed therein.	€ 1 each m2 or fraction in each calendar year
19.2	Advertising in catalogues, programmes, labels and other printed forms designed to public delivery	€ 1 each 1000 copies issue or fraction thereof
20	Public register and registering in movable property registers	€ 3 each
21	Forward premium	0.5% on the value of the contract
22	Insurance:	
22.1	Insurance policies:	On the whole amount of the insurance premium, the policy cost and any other amount representing proceeds of insurance companies
22.1.1	«Guarantee» or «collateral» branch	3%
22.1.2	«accident», «sickness», «credit» and «farming and stock-breeding» insurance	5%
22.1.3	«transported goods» insurance	5%
22.1.4	«vessels» and «aircrafts» insurance	5%

STAMP DUTY (IS)

22.1.5	Any other kind of insurance	9%
22.2	Commissions charged by insurance agency	2% on the value thereof, Stamp Duty free
23	Securities:	
23.1	Bills of exchange	0.5% on the value thereof, with a minimum amount of € 1
23.2	Promissory notes	<i>idem</i>
23.3	Any kind of payment orders and deeds or payment on delivery, except cheques	<i>idem</i>
23.4	Statement of invoice and certified invoices	0.5% on the value thereof, with a minimum amount of 0.5%
24	Repealed by Law n. 64-A/2008, of 31st of December	
25	Repealed by Law n. 64-A/2008, of 31st of December	
26	Capital contributions: incorporation of a joint stock company; transformation into a joint stock company; corporate capital increase of a joint stock company; assets increase of a joint stock company; transfer of the head-office or effective management of a company from a third country to a member State where the statutory legal seat or the head-office or effective management is in a third country and is considered as a joint stock company within the member State for the purpose of tax levied on capital contributions	0.4% on the actual value of any kind of goods, after deduction of liabilities and charges, as the case may be
27	Transfer for consideration of an activity or exploitation of services: <ul style="list-style-type: none"> ▪ Conveyance of title of a commercial, industrial or agricultural establishment ▪ Sub-granting and conveyance of title carried out by the State, the Autonomous Regions or local authorities, for the carrying out of a company or any kind of services, regardless of the beginning of such exploitation or not 	5% on the respective amount

According to Article 1 (3) (4) and Article 4 (3) of the Stamp Duty Code, there shall be considered as transfers free of charge those having as their main purpose:

- ◆ Ownership right or partial rights on immovable property, including acquisition by adverse possession/by prescription;

STAMP DUTY (IS)

- ◆ Movable property subject to registration, licence or number plate;
- ◆ Corporate rights, securities and debt-claims associated thereto, even if autonomously transferred, Government bonds as well as currency amounts, even if deposited in bank account;
- ◆ Commercial, industrial or agricultural establishments;
- ◆ Industrial property rights, copyrights and other rights connected thereto;
- ◆ Debt-claims of company members on non commercial pecuniary payments connected with corporate rights, regardless of the name, nature or form of the incorporation or modification deed, namely capital inflow, loans, complementary capital allowances, ancillary cash allowances, as well as any other advance payments granted to the company;
- ◆ Acquisition resulting from voidness or nullity, dissolution, waiver or desistance, dissolution or revocation of a gift *inter vivos*, with or without a usufruct reservation, except in those cases provided for under Articles 970 and 1765 of the Civil Code, in relation to assets and rights referred to under the preceding subparagraphs.

The following free transfers shall not be subject to Stamp Duty:

- ◆ Family allowance falling due upon the death of the respective title-holder death; credits from life insurance as well as pensions and allowances attributed by social security schemes, even if they are paid as a death allowance;
- ◆ Amounts invested in retirement-savings funds, education-savings funds, retirement-and-education-savings funds, stock-savings funds, pension funds or movable and immovable investment funds;
- ◆ Gifts granted under the provisions of the Patronage Law;
- ◆ Gifts of goods or values not included in the above paragraphs, according to the common use, up to € 500;
- ◆ Transfers in behalf of taxable persons subject to corporate income tax, even if exempted therefrom;
- ◆ Goods of a personal or domestic use.

In the case of free transfers, there shall be considered as a taxable person any individual to whom the goods are transferred to, such as:

- a) In succession *mortis causa*, the tax shall be payable on the estate, this being represented by the head of the household and the legatees;
- b) In any other free transfer, including the acquisition by adverse possession, tax shall be due by the beneficial owners thereof.

STAMP DUTY (IS)

Stamp Duty is levied on all above-mentioned facts taking place *in the territory of the country* and also in respect of:

- ◆ Any documents, acts or contracts issued or concluded outside the territory of the country, in the same way as if such documents, acts or contracts would have been issued or concluded in Portugal, if produced here for any legal purposes;
- ◆ Credit operations carried out and guarantees provided by credit institutions, financing companies or any other entities, regardless of their nature, having their head-office abroad, by branches or subsidiaries of credit institutions, financing companies or any other entities established in the territory of the country, which are established abroad, to any entity, regardless of its nature, having its domicile within the territory of the country, being considered as such its head-office, a branch, a subsidiary or a permanent establishment;
- ◆ Interests, commissions and other remuneration charged by credit institutions or financing institutions established abroad or by branches or subsidiaries abroad of credit institutions or financing companies established in the territory of the country, to any entities having their domicile in that territory, being considered as such its head-office, a branch, a subsidiary or a permanent establishment of the entities participating in the operations concerned;
- ◆ Insurance carried out in other Member States where the risk takes place within the Portuguese territory; however, tax shall not be payable on an insurance carried out in Portugal if the risk occurs in another EU Member State;
- ◆ Insurance carried out outside the EU if the risk takes place in Portugal.

Personal scope

Taxable persons are:

- ◆ Notary public, municipal magistrate of public register (civil, commercial, immovable property and other goods or assets subject to registration), other public entities, including government agencies and other bodies, as well as any entity or professional certifying private documents in respect of any deeds, contracts and other events in which they participate other than those issued or concluded before a notary public in relation to credit operations carried out and guarantees provided by credit institutions, financing companies or any other entity legally assimilated thereto and any other financing institutions and where under Article 5 subparagraph n) the contracts or documents are submitted to them for any legal purposes;
- ◆ Entities granting credit and guarantees or being creditors of interests, premiums, commissions and other payments;
- ◆ Credit institutions, financing companies or any other entity assimilated thereto, resident within the Portuguese territory, acting as an intermediary for credit operations, warrants or interest, commissions and other remuneration payable by residents in this territory to non-resident credit institutions or financing companies;

STAMP DUTY (IS)

- ◆ Credit institutions, beneficiaries of guarantees or debtor of interest, commissions and other remuneration in relation to the transactions referred to under the preceding paragraph, which were carried out without the agency of credit institutions, financing companies or any other entity assimilated thereto, and whose creditor is not exercising such activity by a way of supply of services, in the Portuguese territory;
- ◆ Insurance companies on the amount of an insurance premium, policy cost and any other amount charged both jointly and under a separate document, as well as on commissions paid tax free to a middleman;
- ◆ Entities issuing bills of exchange and other securities, cheques and promissory notes, or in case of securities issued abroad, the first entity participating in the negotiation or payment;
- ◆ Lessor and sub-lessor on lettings and sub-lettings;
- ◆ Other entities participating in acts and contracts, or issuing or using documents, books, securities or deeds;
- ◆ Representatives appointed in Portugal by entities issuing insurance policies carried out in the territory of other Member States or outside that territory, where the risk takes place within the Portuguese territory;
- ◆ Representatives appointed in Portugal by credit institutions or financing companies carrying out within the Portuguese territory financing transactions under a supply of services scheme.

Exemptions

In case of tax liability, exempted from tax are:

- ◆ The State, the Autonomous Regions, local authorities and their associations and federations of public law, as well as any services, establishments and bodies thereof, even if personalized, including public institutes of a non business nature;
- ◆ Social security institutions;
- ◆ Administrative public utility companies as well as mere public utility companies;
- ◆ Private social solidarity institutions as well as any entities assimilated thereto under the law;
- ◆ The spouse or the member of an unmarried couple, descendants and ascendants on transfer of goods carried out free of charge as a beneficiary thereof according to Article 1.2 of the general schedule.

Also exempt from Stamp Duty are:

STAMP DUTY (IS)

- Insurance premiums received for re-insurance from an enterprise legally operating in Portugal;
- Premiums and commissions related to «Life» insurance;
- Deeds of any contract related with operations realized, registered, paid or cleared in a regulated or organized market registered with the Marketable Securities Market Commission (*Comissão de Mercado de Valores Mobiliários – CMVM*), as well as any warrant connected thereto;
- Interest and commissions paid, guarantees granted and the use of credit granted by credit institutions/financing companies or institutions to venture capital companies/companies or entities whose form or object fulfil the different requirements of credit institutions/financing companies and institutions provided for by the Community law, having their domicile in the EU Member States or in any other State, except if resident in a territory with a more favourable tax regime;
- Guarantees granted to the State within the scope of the direct public debt management solely with the purpose of covering its credit risk;
- Financial operations, including interest, for a period of time not exceeding one year, provided that such operations are exclusively designed to cover a treasury lack, which are carried out by venture capital companies in behalf of a company in which they hold a participation, as well as those operations carried out by SGPSs (holding companies) in behalf of their own controlled companies or of companies in which they hold a participation under certain conditions, or if carried out in behalf of the holding company (SGPF) having a controlling or group relation with it;
- The above-mentioned financial operations, including interest, if carried out by the owners of capital stock to an entity in which they directly hold a participation of at least 10 per cent, and provided that such participation is held for an uninterrupted year or since the incorporation of the controlled entity, in which case such participation must be held for that period of time;
- Loans of a contributing nature, including interest thereon, made by the members of a company, provided that an initial term of at least one year has been established and such loans are not to be reimbursed before such period of time has elapsed;
- Loans concluded within the scope of housing credit legal scheme up to the amount of the outstanding capital, in case of change of a credit institution or a subrogation for the mortgagor's rights and guarantees;
- Interest paid on loans contracted for the acquisition, construction, reconstruction or improvement of the owner's dwelling house;
- The carry-over of marketable securities or rights assimilated thereto carried out in a stock exchange;

STAMP DUTY (IS)

- Credit granted by a way of wage-savings account, for that part not exceeding, each month, the amount of the wage monthly credited on account;
- Any deeds, contracts and operations in which Community institutions or the European Investment Bank intervene or are a recipient thereof;
- Bingo and gambling promoted by social welfare institutions, legal persons assimilated thereto or public utility entities having as their sole, exclusive or main object charity, assistance or beneficial purposes, where the proceeds therefrom are intended for their own statutory purposes or in behalf of other entities;
- Constitution and increase of the equity capital of holding companies (SGPS) and venture capital companies (SCR);
- Registration related to vehicles using exclusively electrical or solar energy or any other non-polluting source of energy.

Tax exemptions on transfers carried out free of charge as laid down in agreements between the State and any person of public or private law shall be kept in force.

Taxable amount

The Stamp Duty taxable amount is the amount resulting from the General Schedule. The taxable amount may be assessed by indirect methods in those cases and conditions provided for under the Articles 87 and 91 of LGT as well as under Article 90 of LGT and Article 52 of CIRC subject to any necessary adjustments.

Tax assessment and collection

Tax assessment is incumbent upon the taxable persons referred to under Article 2 (1) (3) of the Stamp Duty Code.

The assessment of tax payable by reason of free transfers shall be made by DGCI central services.

The head of the household and the beneficial owner of any free transfer subject to tax are required to notify the competent finance office on the gift, death of the *de cujus*, presumptive death or judicial justification of death, judicial justification, notarial or carried out under the terms laid down by Immovable Property Register Code (*Código do Registo Predial*) for the acquisition by way of adverse possession, or any other deed or contract involving a transfer of property. The notification must be lodged with the competent finance office for the purpose of tax assessment no later than the end of the third month following the event giving rise to tax liability.

Regardless of the fact that tax is due or not, there shall always be required to produce a statement and a list describing any assets and rights, which, in case of tax exemption, shall only include those assets and rights referred to in Article 10 of the IRS Code, as well as any other assets subject to registration, licence or number plate.

STAMP DUTY (IS)

Tax payment shall be made by the taxable persons as referred to under paragraph 1 of Article 2 of the Stamp Duty Code, by means of a collection form, to be lodged with the Treasury offices no later than the 20th day of the month following that in which the fact giving rise to tax liability occurred. In case of tax assessment by the tax administration services, the taxpayer shall be notified to make its payment within 30 days.

Tax assessed on free transfers shall be paid, in its entirety, until the end of the second month following the notification or during the month in which each instalment is due. If tax is paid in a lump sum until the end of the second month following the notification, a deduction of 0.5% per month shall be allowed to be estimated on the amount of each instalment according to the circumstances described below, excluding the first-mentioned one.

If the tax payable is higher than € 1000, it shall be divided into equal instalments up to a maximum of 10 and a minimum of € 200 per instalment, the first being increased by the fractions resulting from the rounding sum of all the others, together with any compensatory interest and the IMT (Municipal Tax on Real Estate Transfer) that may fall due. The first instalment shall be paid in the second month following the notification and each one of the remaining instalments six months after the maturity date of the previous one.

VIII TAX BENEFITS

General principles applicable to tax benefits

In the Portuguese tax system, the concept of *tax benefit* is presently *defined by law*, being also considered as a “tax expenditure” to be quantified in a report annexed to the State Budget [Art. 106 (3) (g) of the CRP].

According to the provision of paragraph 1 of Article 2 of the Statute of Tax Benefits (“Estatuto dos Benefícios Fiscais” – EBF), as approved by Decree Law nr. 215/89, of 1st July, tax benefits are “exceptional measures created to protect extra-fiscal public interests which are relevant and of greater importance than those connected with taxation thereby prevented”. Under the Constitution of the Portuguese Republic, both the preconditions and the granting of tax benefits must be set by a legislative act (Article 103 (2) of CRP).

The scope of application of the general principles included in I Part of EBF covers either the tax benefits therein provided for or any other tax benefit contained in separate legislation, with any necessary adjustments, as the case may be.

Among other issues, the EBF establishes impeditive, suspensive and extinctive sanctions of tax benefits (Article 8) and provides for rules concerning the interpretation and integration of loopholes of the law, removing any analogy and permitting an extensive interpretation (Article 10), and concerning the timely application of the rules in respect of tax benefits in order to comply with the acquired rights (Article 11) as well as rules relating to the creation, impediment to the grant of the right and termination of such tax benefits (Articles 12 through 14, *idem*).

Other than the general principles (I Part), the current structure of the EBF provides for tax benefits of a structural nature (II Part) and tax benefits of a temporary nature (III Part).

Tax benefits of a structural and temporary nature

Benefits of a social nature

- *Public capitalization regime (Article 17, EBF)* - There shall be allowed as a deduction in the IRS taxable amount, for each taxpayer, unmarried or for each of the spouses not judicially separated from bed and board, 20 per cent of the amounts invested in individual accounts managed with the public capitalization regime within a ceiling per taxpayer of € 350. The regime as laid down by the IRS Code for life annuities shall apply to amounts paid within the scope of public capitalization regime;
- *Pension funds (Articles 16 and 49 of EBF and Decree Law nr. 12/2006 of 20th January as modified by Decree Law nr. 180/2007, of 9th May)* - Income obtained

by Pension Funds is exempt from IRC (Corporate Income Tax) provided that they are established in accordance with domestic law.

Immovable property making part of pension funds is exempt from IMI (Municipal Tax on Immovable Property) and IMT (Municipal Tax on Real Estate Transfer). The rules provided for retirement-savings plans (PPR) shall apply to the holders' individual contributions and to reimbursements paid by pension funds and other complementary social security schemes granting exclusively the benefit of retirement, complementary retirement benefit and disability or survivor's annuity;

- *Creation of jobs (Article 19)*- In determining the taxable profit of IRC and IRS taxable persons with duly organized accounting, there shall be accepted as costs for the financial year 150 per cent of expenditures corresponding to the net creation of jobs for young people (aged over 16 and under 30) and for long-term unemployed under a non fixed term contract, provided that the maximum amount of such expenditure for each job is 14 times the highest minimum monthly guaranteed wage. Such gross-up is only applicable during a five years period counted from the beginning of the individual labour agreement.

Savings incentives

- *Pensioner-savings account (Article 20)* - Interest on this kind of account is exempt from IRS for that part the balance of which does not exceed € 10, 500;
- *Retirement-Savings Funds (FPR), Education Savings (FPE) and Retirement and Education Savings (FPR/E) (Articles 21 and 49)* - Income obtained by FPR, FPE and FPR/E established and operated in accordance with domestic law are exempt from IRC. Immovable property integrated in retirement-savings funds shall also benefit from IMI and IMT exemption.

Income from FPR shall be subject to IRS: (i) according to the rules applying to incomes in category H if received as rents; (ii) according to the rules applying to incomes in category E in case of total or partial reimbursement, due regard being had to the fact that the taxable income has two fifths of the income and shall be autonomously taxable at a 20 per cent rate.

The above referred benefits shall apply to deposits made by an employer in the name or on behalf of his employees.

Incentives to the financing system and capital market

- *Securities Investment Funds (FIM) (Article 22)* - Income derived by FIMs established and operated in accordance with the domestic law (Decree Law nr. 252/2003, of 17th October) within the Portuguese territory, other than capital gains, shall be autonomously taxed by way of withholding at source under IRS as individual persons, or at a 25 per cent rate on net amount obtained each year, in case of income not subject to withholding at source. Any income other than capital gains received from outside the Portuguese territory shall be taxed in an autonomous way at a 20 per cent rate, in case of securities, dividends and income

from investment funds; and at a 25 per cent rate in all other cases. Capital gains derived from, or outside, the Portuguese territory shall be subject to a 10 per cent rate, on the positive difference between capital gains and capital losses obtained each year within or without the Portuguese territory, in the same conditions as if it were income held by individual persons resident therein.

The titleholders, if liable to personal income tax (IRS), shall be exempt from tax and may opt for an aggregation in respect of income concerning the participating units on these funds if not derived within the scope of a commercial, industrial or agricultural activity. If they fall into the scope of such an activity, any person liable to IRS shall be subject to the same tax regime as IRC taxable persons: liability to the applying tax, under the general rules, and the taxes paid by the fund shall constitute a payment on account of their final tax;

- *Real Estate Investment Funds (FII) (Article 22 (6) established and operated in accordance with the domestic law (Decree Law nr. 60/2002, of 20th March)* - Income from real estate not related to social housing subject to a legal controlled cost regime shall be autonomously taxable at a 20 per cent rate, excepting real estate capital gains which shall be autonomously taxed at a 25 per cent rate levied on 50 per cent of the positive difference between the realized real estate capital gains and capital losses. The same regime applying to FIM shall apply to all other income. Income from real estate is exempt from withholding at source.

Income derived by the holders in respect of participating units shall be subject to the same regime applying to income from FIM.

The owners of income in respect of FIM and FII participating units, in case of income aggregation, shall be entitled to deduct 50 per cent of income giving right to an economic double taxation mitigation as laid down under Article 40-A of CIRS and Article 46 of CIRC;

- *Funds of funds (Article 22 (13) (14))* - Income from participating units in funds constituted according to the domestic law is exempt from IRC and not subject to the application of paragraph 4.
The regime applying to participating units in investment funds income shall equally apply to income concerning participating units in funds of funds, excluding those rules concerning payment on account or refund of tax withheld or payable by the fund;
- *Venture Capital Fund – FCR (Article 23)* - Exempt from IRC are incomes obtained by a FCR established and operated according to the domestic laws. Income from participating units paid or made available to the respective owners either by distribution or redemption shall be taxed by way of withholding at source under IRS and IRC at a 10 per cent rate, provided that the holders of such income are entities exempted from capital income or non-resident entities with no permanent establishment in the Portuguese territory to which the income is attributable;
- *Fixed term applications (Article 25)* - For IRS purposes, there shall be taken into consideration by 80 per cent of the respective amount income from deposit certificates and bank deposits issued or constituted for more than five years, provided

that they are not negotiable in that period of time, if the maturity date of such income occurs after five and before eight years counting from the issuance or constitution date. They shall be taken into consideration by 40% of their amount if the maturity date of such income occurs after eight years counting from the date of their issuance or constitution;

- *Stock Saving Plans (PPA) (Article 26)* - Exempt from IRC are incomes obtained by a FPA established and operated pursuant to the domestic law (Decree Law 204/95, of 5th August, as modified by Law nr. 85/2001, of 4th August).

Any positive difference between the amount due at the PPA closing and the amounts delivered by the subscriber is subject to IRS in accordance with the rules applicable to category E, but, with any necessary adaptation, in compliance with the rules of paragraph 3 of Article 5 of the IRS Code, in particular with regard to the amount subject to withholding at source and to the tax rate;

- *Capital gains realized by non-resident entities (Article 27)* - Exempt from IRS or IRC are capital gains realized on the transfer for consideration of corporate rights, autonomous warrants and other marketable securities, issued by entities resident in the Portuguese territory, and negotiated in regulated stock exchange markets, as well as derivative financial instruments negotiated in regulated stock exchange markets, by any entity or any individual person having not its/his domicile within the Portuguese territory and no permanent establishment therein to which such capital gains are attributable, other than:

(a) Non-resident entities with no permanent establishment in the Portuguese territory which:

- Are directly or indirectly owned for more than 25 per cent by resident entities;
- Have their domicile within a country, territory or area subject to a clearly more favourable tax regime, comprised in the list approved by the ministerial order nr. 1272/2001, of 9th November, from the Minister of Finance; and

(b) Capital gains realized by non-resident entities on the transfer for consideration of corporate rights in the capital of a company resident in the Portuguese territory, the assets of which are formed by more than 50 per cent by real estate situated therein or, in case of entities managing or holding corporate rights, if such companies have a controlling position in respect of controlled companies resident in the Portuguese territory whose assets are formed up to 50 per cent by real estate situated therein

- *Foreign loans and rents from leasing of imported equipment (Article 28)* Upon request by the person concerned, the Minister of Finance may grant a total or partial exemption from IRS or IRC in respect of capital interest from abroad, representative of loans and rents from leasing of imported equipment payable by the State, the Autonomous Regions, local authorities and their federations or unions, as well as any service, establishment or organization thereof, even if personalized,

including public institutes and public services companies, provided that the creditor is a non-resident with no permanent establishment to which the loan is attributable;

- *Swaps and loans granted by non-resident financing institutions (Article 30)* - Exempt from IRC are interests from loans granted by non-resident financing institutions, as well as gains obtained by such institutions from swap operations with resident credit institutions or with the State, acting through the *Instituto de Gestão do Crédito Público*, provided that such interest or gains are not attributable to a permanent establishment that such institution has in the Portuguese territory;
- *Deposits by non-resident credit institutions (Article 31)* - Exempt from IRC are interests on term deposits made in legally authorized establishments by non-resident credit institutions;
- *Corporate rights management companies (SGPS), Venture Capital Companies (SCR) and Venture Capital Investors (ICR) (Article 32)* - Exemption of dividends received from controlled companies by way of the application of the regime for elimination of economic double taxation as provided for under the IRC Code, regardless of any requirement in respect of the percentage or the participating value. Capital gains and capital losses realised by a SGPS, SCR or a ICR from the corporate rights held by them (provided that they are held for at least one year) and from financial charges borne on the acquisition thereof shall not be considered as forming part of the taxable profit of these companies.

The SCR and ICR may deduct from the amount ascertained for IRC purposes and up to the amount thereof, an amount corresponding to the limit of the total amount of the IRC taxable amounts of the five taxable periods preceding that to which the benefit refers, provided that such amount is used as investment in companies with a high potential of increase and improvement. The deduction is carried out in respect of the IRC assessment for the accounting period in which the investments were made or, in case of insufficiency of assessed income, up to the end of the five subsequent accounting periods;

- *Shares acquired within the scope of privatisation (Article 67)* - Dividends from shares acquired as a result from a privatisation procedure until the end of 2002, even if resulting from a capital increase, shall be taken into consideration by only 50 per cent of their amount, net of other benefits for IRS or IRC purposes, since the date of the beginning of such procedure until the end of the first five accounting periods closed after the conclusion date.
This benefit may be allowed by a Ministerial Decision – effective until the end of the 2007 – to dividends from shares acquired as a result from a privatisation procedure initiated no later than the end of 2002, including those resulting from capital increase, upon request by the parties concerned, to be lodged with before the operation takes place, provided that the advantages designed to make the capital market more dynamic and the protection of small investors interests are both duly substantiated.

Tax benefits to productive investment

- *Incentives granted on a contractual basis (Article 41)*
 - (i) To investment projects in production units carried out no later than 31st December 2010, the amount of which is equal to, or higher than, € 4 987 978.97, and which are deemed to be of major interest for the development of sectors considered of strategic interest for domestic economy and for reducing regional asymmetries, favouring the creation of jobs, and contributing to promote the domestic technological and scientific research, the following tax benefits may be granted on a contractual basis and for a period of time not exceeding ten years:
 - (a) Tax credit as determined on the basis of the application of a percentage comprised between 5 per cent and 20 per cent of the relevant applications of the project effectively carried out to be deducted from the amount ascertained on that part of the activity carried out by the entity in respect of that project;
 - (b) Exemption from, or reduction of, municipal tax on immovable property (IMI) in respect of real estate used by an entity for its activity carried out within the scope of the investment project;
 - (c) Exemption from, or reduction of, municipal tax on real estate transfer (IMT) in respect of real estate acquired by the entity for the exercise of its activity within the scope of the investment project;
 - (d) Exemption from, or reduction of, stamp duty payable on every deed or contract necessary for the carrying out of the investment project.

These benefits are not cumulative with others of the same nature susceptible of being attributable to the same investment project.

- (ii) Direct investment projects carried out by Portuguese enterprises abroad, the amount of which is equal to, or higher than, € 249 398,95 of relevant applications contributing in a positive way for the business results, and which may reveal a strategic interest for the internationalisation of Portuguese economy may benefit, on a contractual basis under the terms of Decree Law nr. 401/99, of 14th October, in force for a period of time not exceeding five years, from the following tax benefits:
 - (a) Tax credit between 10 per cent and 20 per cent of any relevant applications to be deducted from the IRC taxable amount, not exceeding in each fiscal period 25 per cent of such taxable amount up to the limit of € 997 595,79;
 - (b) Elimination of economical double taxation according to the terms and conditions laid down in Article 46 of the IRC Code, during the contractual period, where the investment is made under the form of incorporation or acquisition of foreign companies.

Excluded from tax benefits mentioned under (i) and (ii) are investments made in Free Zones or in a country, territory or area subject to a clearly more favourable tax regime.

With regard to investment projects carried out in another EU Member State, these tax benefits shall only apply to small and medium enterprises as defined under the terms of Community law.

➤ *Tax benefits to inlandness (Article 43)*

Those entities who exercise their main activity in eligible inland areas shall benefit from a reduced IRC rate of 15 per cent; such rate is 10 per cent if new industries establish themselves during the first five accounting periods.

Increases shall take part of the benefits by 30 per cent of the costs with depreciations concerning investment expenses up to € 500 000, and by 50 per cent of mandatory business costs.

The Decree Law nr. 55/2008, of 26th March lays down the conditions of access by beneficiary entities, the entities responsible for provision of incentives, the obligations to which the beneficiary entities are subject to, as well as the penalties for failure. According to the provision of Article 6 (1) of the above-mentioned legal text “For the purposes of incentives to provide an accelerated recovery of the regions suffering from inlandness problems as defined by Article 39-B, of EBF, there shall be deemed to be considered as beneficiary territorial areas in respects of the established facts occurred in 2007 and 2008 those areas laid down in the Ministerial Order nr. 1467-A/2001 of 31st December”. Furthermore, according to the provisions of Article 8 (2), the rules laid down in the Ministerial Order nr. 170/2002 of 28th February shall apply, until the Ministerial Order referred to in the sub-paragraph of the above-mentioned article is ratified, to incentives regulated under this Decree Law.

Tax benefits granted to real estate

Special reference can be made to the following:

Housing

- *Urban property constructed, enlarged, improved or purchased for housing purposes (Article 46) - Exempt from municipal tax on immovable property (IMI) for a period as laid down in the following table:*

TAX BENEFITS

Taxable amount (€)	Exemption period (years) ▪ Permanent self-owned housing ▪ Residential letting (n° 1 and 3)
Up to 157 500	8
Over 157 500 up to 236 250	4

The change of the exemption period according to the wording of Law nr. 64/2008, of 5th December, shall apply to exemptions where the period of six or three years relating to the benefit is still in force or has terminated in the year 2008.

In case of enlargement or improvement of a dwelling home the exemption shall only apply to the taxable amount of real estate (VPT) corresponding to the increase resulting therefrom;

- *Property classified as national monument or buildings individually classified as property of public interest or of local interest (Article 44 (1) (n))* - They may benefit from an IMI exemption;
- *Immovable property being part of real estate investment funds, pension funds and retirement-savings funds (Article 49)* - They are exempt from IMI and IMT;
- *Immovable property situated in Business Localization Areas (ALE) purchased or built up no later than 31st December 2007 (Article 69)* - ALE management corporations and enterprises situated therein shall benefit from IMT exemption on the acquisition of immovable property situated therein and from IMI exemption for a period of 10 years on immovable property purchased or concluded no later than 31st December 2011.

Incentives to corporate restructuring

- *Reorganisation of businesses as a result from concentrations between undertakings or cooperation arrangements (Article 60)* – To enterprises that exercise directly and as their main activity an agricultural, commercial, industrial activity or supply of services and that are reorganized as a result from concentrations between undertakings or cooperation arrangements, the following tax benefits may be granted: a) Exemption from IMT (Municipal Tax on Real Estate Transfer) in respect of immovable property not designed for housing purposes necessary for the concentration or cooperation; b) Exemption from Stamp Duty in respect of transfer of the immovable property referred on paragraph a) or of incorporation, increase in capital or in the assets of the joint stock company necessary to concentration or cooperation; c) Exemption from emoluments and other legal charges

payable for taking any action in relation to concentration or cooperation processes.

Free Zones

➤ *Madeira and Island of Santa Maria Free Zones (Article 33)*

Entities set up in the Free Zones of Madeira and Island of Santa Maria shall benefit from certain tax benefits, namely:

- Exemption from taxes (IRS and IRC) up to 31st December 2011 on business income, subject to the following conditions:
 - a) Entities established in the respective demarcated industrial zone, in respect of income derived from the exercise of any industrial activity as provided for under paragraph 1 and eligible in the terms of paragraphs 2 and 3 of Article 4 of Executive Decree nr. 53/82, of 23rd August and Executive Decree nr. 54/82 of the same date, as well as any ancillary or complementary activity;
 - b) Duly authorized entities carrying out a shipping activity in respect of income derived from the exercise of such authorized activity other than income from the transport of passengers or goods between domestic harbours;
 - c) Credit institutions and financing companies in respect of income derived from their activity therein exercised, subject to the following conditions:
 - 1) No transaction is carried out with a resident in the Portuguese territory or with a permanent establishment of a non-resident situated therein, excepting those entities set up in the Free Zones other than credit institutions, financing companies or financing affiliates carrying out operations within the scope of their activities with a resident or a permanent establishment of a non-resident. Operations concerning transfers of funds to credit institutions' head offices, provided that the funds are transferred in the same currency used in the acceptance and remuneration thereof and on condition that on operations in which such funds were accepted, there hasn't been carried out any operations using derivative financial instruments, shall be excluded;
 - 2) No transaction is carried out with a non-resident in respect of a derivative financial instrument, excepting if such active and passive operations are connected to the structure set up in the Free Zones;

TAX BENEFITS

- d) Entities whose activity is the management of investment funds, in respect of income derived from managing of funds, whose participation units are exclusively acquired, when issued, by non-residents in the Portuguese territory, excepting their permanent establishments situated therein, and whose investments are exclusively made in capital assets issued by non-residents or other assets situated outside the Portuguese territory, without prejudice to the fact that the net global value of such fund may be formed, up to a maximum of 10 per cent, by cash, bank deposits, deposit certificates or investment in inter-banking markets;
- e) Entities carrying out an insurance or re-insurance activity, in «non life» branches, and operating exclusively in connection with risks situated in the Free Zones or outside any other Portuguese territory, in respect of income from their activity;
- f) Pension funds management companies, and insurance or re-insurance companies («life branch»), dealing exclusively with non-residents in the Portuguese territory, excluding their permanent establishments situated therein, in respect of income derived from their activity;
- g) Holding companies (SGPS) in respect of income (in particular, profits and capital gains) derived from corporate rights held in non-resident companies in the Portuguese territory, excepting the Free Zones, or in the territory of other EU Member States;
- h) Entities referred to under sub-paragraph a), in respect of income derived from their activities exercised in the industrial zone not covered by such sub-paragraph a), as well as all other entities not mentioned in the previous sub-paragraphs, in respect of income from their activities comprised within the institutional scope of the respective Free Zone, provided that such activities concern in both cases operations carried out with entities set up in the Free Zones, or with non-residents of the Portuguese territory, excepting any permanent establishment situated therein and outside the Free Zones.

Special regime for the Free Zone of Madeira (Article 35)

1. Income of entities licensed from 1st January 2003 up to December 2006 carrying out an industrial, commercial or shipping activity and other services, subject to the conditions provided for under paragraph 1 of Article 33 of the Tax Benefits Statute, shall be liable to IRC up to 31st December 2011, at a 1 per cent rate for 2003 and 2004; a 2 per cent rate for 2005 and 2006; and a 3 per cent rate for 2007 until 2011;
2. Any entity wishing to benefit from this regime is required to create jobs and to invest in fixed assets;
3. Profits derived by holding companies (SGPS) licensed from 1st January 2003 up to 31st December 2006 shall be liable to IRC under the provisions of Article 35 (1) of

EBF, excepting income obtained within the Portuguese territory, excluding the Free Zones, or in other EU Member States which are liable to tax under the general rules.

4. Licensed companies carrying out industrial activities shall also be allowed a deduction of 50 per cent from the IRC taxable amount, provided that such activities are contributing to the modernisation and diversification of the regional economy and to the settlement in the region of high qualified human resources in order to improve the environmental conditions, and the creation of at least 15 jobs maintained for a minimum period of 5 years.

Others

- *International scientific associations or companies resident in Portugal (Article 57)* - The Minister of Finance may grant total or partial exemption of IRC to non-profit making associations or companies having their permanent head offices in Portugal;
- *Private educational establishments being part of the education system (Article 54)* - Incomes resulting therefrom are liable to IRC at a 20 per cent rate, unless they benefit from a lower rate;
- *Shipowner companies of the national merchant navy (Article 48)* - There shall be liable to tax only 30 per cent of the profits resulting exclusively from a shipping activity. Exempt from Stamp Duty are financing operations abroad used for the acquisition of ships, containers and other ship equipment, even if the arrangements are made through domestic institutions;
- *Integrated systems management companies of specific waste management flow (Article 53)* – Exempt from IRC, excepting income from capital defined as such for IRS purposes, provided that such entities are duly licensed according to law during the whole period of time corresponding to the licensing in what concerns results, which during that period are reinvested or used in order to carry out the purposes legally attributed to such companies.

Other tax benefits provided for under separate legislation

In addition to tax benefits comprised in the EBF there are some benefits covered by tax codes and sundry legislation. The former are indicated under the items concerning each tax; among the later special reference could be made to the following:

- *Investment in Business Research & Development (R&D) (Law nr 40/2005, of 3rd August)*

An IRC taxable person who is a resident in the Portuguese territory and who exercises as his main activity a commercial, industrial or agricultural activity, as well as a non-resident person with a permanent establishment within that territory shall be allowed to deduct from their IRC taxable amount, and up to the value thereof, the amount corresponding to expenses incurred with research and development, for that part that was not

the object of a non-reimbursable financing co-participation by the State, carried out in the taxation period starting on the 1st January 2006 according to a double percentage:

- (a) Basic rate: 20 per cent of expenses incurred in that period of time;
- (b) Additional rate: 50 per cent of the accrued expenses as incurred during that period of time in relation to the single arithmetic average of the previous two exercises up to a limit of € 750 000.

Expenses not deducted in a given accounting period for lack or insufficiency of assessment basis may be deducted in the subsequent six accounting periods.

The deduction is not cumulative for the same investment with tax benefits of the same nature covered by other legislation.

- *Incentives to domiciliary jobs for handicapped workers (Law nr. 31/98, of 13th July)*

An IRC taxable person shall benefit from a gross-up of charges for the purposes of assessing the IRC taxable profits. Thus, the charges corresponding to the contracting of handicapped workers under 80 per cent of the normal work capacity required to a non-handicapped worker, under an unlimited labour agreement, shall be accepted as costs for a value corresponding to 200 percent. This grossing-up shall be 150 per cent in case of fixed labour contracts or contracts for the supply of services.

- *Real estate investment funds and companies for residential letting (Law nr. 64-A/2008, of 31st of December)*

The Law nr. 64-A/2008, of 31st of December establishes a special regime applicable to real estate investment funds for residential letting (FIIAH) and to real estate investment companies for residential letting (SIIAH).

It emphasises the tax regime applicable to real estate investment funds and companies for residential letting. Incomes of whatever nature obtained by FIIAH, established between 1st January 2009 and 31st December 2013 and operated in accordance with domestic law are exempt from IRC.

Income from participating units in such investment funds paid or made available to the respective owners either by distribution or redemption, other than the positive balance of income qualified as capital gains from the alienation of participating units shall also be exempted from IRS and IRC.

There shall be exempt from IMT: acquisition by the above-mentioned funds of urban property or its autonomous fractions exclusively designed for a permanent owner-occupied residence; acquisition of urban property or its autonomous fractions intended for own and permanent residence, as a result from a purchase option provided for under the present regime.

TAX BENEFITS

Any acts performed, provided that they are connected to the transfer of urban property intended for permanent occupied residence, which takes place under the conversion of ownership right of that property into a letting right, as well as the purchase option held on that property, shall be exempt from Stamp Duty.

Abbreviations used:

- ALE-** Áreas de Localização Empresarial (Business Localization Areas)
- CRP** – Constituição da República Portuguesa (Constitution of the Portuguese Republic)
- EBF-** Estatuto dos Benefícios Fiscais (Statute of Tax Benefits)
- FCR-** Fundos de Capital de Risco (Venture Capital Funds)
- FII-** Fundos de Investimento Imobiliário (Real Estate Investment Funds)
- FIM-** Fundos de Investimento Mobiliário (Securities Investment Funds)
- FPA-** Fundos de Poupança Acções (Stock Savings Funds)
- FPE-** Fundos de Poupança-Educação (Education Savings Funds)
- FPR-** Fundos de Poupança-Reforma (Retirement Savings Funds)
- FPR/E-** Fundos de Poupança-Reforma/Educação (Retirement and Education Savings Funds)
- ICR-** Investidores de Capital de Risco (Venture Capital Investors)
- IMI-** Imposto Municipal sobre Imóveis (Municipal Tax on Immovable Property)
- IMT-** Imposto Municipal sobre as Transmissões Onerosas de Imóveis (Municipal Tax on Real Estate Transfer)
- IRC-** Imposto sobre o Rendimento das Pessoas Colectivas (Corporate Income Tax)
- IRS-** Imposto sobre o Rendimento das Pessoas Singulares (Personal Income Tax)
- PPA-** Planos de Poupança-Acções (Stock Savings Plans)
- PPR-** Planos Poupança-Reforma (Retirement Savings Plans)
- SCR-** Sociedades de Capital de Risco (Venture Capital Companies)
- SGPS-** Sociedades Gestoras de Participações Sociais (Corporate Rights Management Companies)
- VPT-** Valor Patrimonial Tributário (Taxable Amount of Real Estate)

IX TAXPAYER'S GUARANTEES

Guarantees resulting from the constitutive principles of the Tax Administration taxation activity

Principle of limited reservation on Parliament legislative powers

Only the Parliament or the Government, by way of a legislative authorisation, are entitled to legislate in tax matters as far as it concerns the creation of taxes, tax assessment, tax rates, tax benefits and taxpayers' guarantees (see Article 165 (1) (i) and Article 103 of CRP).

Decision and celerity principles

The Tax Administration is required to express its own opinion on all matters falling within its scope, which may be submitted to it by any way provided for by law, by a taxable person or by whom it may concern (Art. 56 of LGT).

The proceeding must be concluded within 6 months (Art. 57 of LGT). Failure to comply with the time limit above referred to shall be assumed as an application dismissal for the purpose of hierarchic or contentious appeal, or judicial opposition. Unless otherwise stated, tax procedure acts shall be performed within 10 days.

The time limit to draw a certificate is 10 days or 48 hours in case of urgency and its validity may be extended for periods from 1 to 3 years (Art. 24 of CPPT).

The celerity requirement concerning the determination of a citizen's tax situation is also connected with the time limits set up to exercise the right to assess and to collect the respective tax liability.

Since the 1st January 1998, the forfeiture period is 4 years, unless otherwise established by law (Art. 45 of LGT). In case of error or mistake clearly shown on a taxpayer's tax return and on the application of indirect methods, such period of time is of 3 years. With regard to losses carry-over or use of other tax deductions or tax credit, the forfeiture period shall be the same as the exercise of such right.

Where the right to levy tax relates to facts, in relation to which, a criminal inquiry has been brought, the assessment period may be extended until its *non prosequitur* or transit in *rem judicatam*, increased by 1 year.

Access to judiciary powers

The access to tax litigation shall be assured with a view to the full and effective tutelage of all rights or interests protected by law. All acts that may violate any legally protected rights or interest are susceptible of an opposition or an appeal, under the provisions of the law (Art. 268 of CPPT and Art. 9 of LGT).

The general duty of secrecy

The taxpayer's tax situation, as well as any data of a personal nature obtained in the course of a tax proceeding shall be protected by the duty of secrecy. This duty of secrecy shall be imposed on the Tax Administration officers and agents. The secrecy duty is not challenged either by the disclosure of taxpayer lists, whose tax situation is not settled, or by the publishing of incomes, according to the provisions of paragraph 5 of Art. 64 of LGT.

Principle of consideration of the taxpayer's tax return

The taxpayer's tax return produced according to law, as well as any accounting or reporting data whenever such elements are organized according to the provisions of the fiscal and commercial law shall be deemed to be true. Such presumption shall be disregarded in case of facts provided for the provisions of Art. 75 (2) of LGT.

Right to trier of facts

Within the scope of a tax proceeding, the Tax Administration shall endeavour to accomplish all necessary efforts to satisfy the public interest and to reach the material truth, without being subordinated to the initiative of the author of the request (Art. 58 of LGT).

Co-operation principle

Both the Tax Administration bodies and the taxpayers are subject to a mutual cooperation duty, as exemplified by the enumeration contained in Art. 59 of LGT:

- public, regular and systematic information on taxable persons' rights and obligations;
- publication within thirty days by the Tax Administration of some general guidelines on the interpretation of tax rules;
- necessary assistance for compliance with ancillary duties;
- notification of the taxable persons or other parties concerned for clarifying any doubts on their statements or documents;
- binding information about their tax positions under the provisions of the law;
- ordinary clarification of well-founded doubts on the interpretation and application of tax rules;
- personal access or access through a representative to the taxpayer's individual files, or, according to the law, to those files in which the taxpayer is directly, personally and legally concerned;
- establishment, by law and in justified cases, of taxation simplified schemes and restriction of taxable persons' ancillary obligations to those necessary to ascertain the tax situation of the taxpayers;
- publication, according to the law, of advantages or other tax benefits, unless the granting of such incentives is not subject to Tax Administrations' free assessment;
- right of the taxable persons to become aware of the identity of Tax Administration officers' responsible for conducting procedures concerning themselves;

- previous communication of the beginning of inspection, together with an indication about the scope and extension of the taxpayer's rights and duties.

Principle of participation

The taxpayer is entitled to an «hearing right» in the decision-making whenever he is a concerned party (Art. 60 LGT) in the following previous situations: tax assessment; total or partial dismissal of taxpayer's requirements, claims, appeals or applications; revocation of benefits or administrative acts on fiscal matters; decision of application of indirect evaluation methods, where there is no tax inspection report; completion of the tax audit report.

Guarantees resulting from the direct assignment of powers granted by law to taxpayers in their relation with Tax Administration

Right to information

The taxpayer has the right to be informed about: the stage of his tax proceeding and the foreseeable date for its conclusion; the existence and contents of non-confirmed malicious prosecution and identification of the author thereof; his own tax situation. He is also entitled to obtain binding information about his tax position, and on still pending pre-conditions regarding tax incentives. The Tax Administration is equally bounded to written information supplied to the taxpayer, and general guidance comprised in circular letters, regulations or other instruments of same nature that may be issued on the interpretation and application of tax rules (Articles 67, 68 and 68-A of LGT and Article 57 of CPPT).

Right to the well-grounded justification and notification

This right shall comprise the de facto and de jure justification to be notified to the taxpayer together with the decision upon notification. The justification may be briefly described and shall always include the appropriate legal provisions, the quantification and qualification of the tax events, and the assessment of the taxable income and payable tax. In case the communication or the notification does not include the legal justification, the indication of the opposition procedures or any other requirements laid down by law, the person concerned may, within 30 days or within the delay established for a claim, appeal or opposition, or any other legal means, if lesser, request notification or drawing of a certificate in respect of default formalities. In such case, the period of time within which a claim, appeal, opposition or any other legal means may be lodged with shall run from the date of such notification or delivery of certificate (Art. 77 of LGT and Articles 35 and 37 of CPPT).

Right to compensation

The taxpayer is entitled to the payment of compensatory interest in case of a claim free of charge or judicial opposition, if there is evidence of an error attributable to the services, giving rise to an overpayment of tax debt. Compensatory interest shall also be attributed where the delay legally prescribed for a tax refund has not been complied with; counting from the 30th day after a decision of voidance by the Tax Administration without a credit note having been processed; the reviewing of the taxable event by a

taxable person is carried out more than one year after his request, unless such delay is not attributable to the Tax Administration. The compensatory interest shall be determined and paid within 90 days after the decision that recognized such right is taken or on the day immediately following the end of the legal time limit prescribed for a tax refund (Article 43 of LGT and 61 of CPPT).

The taxpayer is also entitled to receive a compensation on losses resulting from a guarantee unduly given (Article 171 of CPPT).

Tax inspection upon request by the taxpayer

The taxpayer or a third person duly authorized and legally concerned may request a tax inspection (Art. 47 of LGT).

Payment of tax by instalments

The taxpayer is entitled to pay any debts in connection with a tax enforcement procedure by monthly equal instalments, upon request submitted to the tax enforcement body within the opposition period. The payment may be made by monthly instalments of any debts in connection with a tax enforcement procedure, where such debts are not the result from a tax withheld at source, a tax legally shifted to a third person, or Community own resources; where any of the above referred situations occurs, in case of death of the judgement debtor, or if there is under way an economic recovery plan that justifies the absolute need of such procedure, provided that the change of managers responsible for the payment of such tax instalments is ensured (Articles 196 to 200 of CPPT).

Right to reduction in the amount of fines (Articles 29 to 31 of RGIT)

The taxpayer is entitled to a reduction of fines paid upon his request, provided that such request is made before the regulatory offence suit is filed. Such reduction depends on payment of fine being made and on the period of time during which it is made:

- if within 30 days after the infringement, and before written notice, participation, denunciation, beginning of a tax inspection procedure, the fine will be paid by 25 per cent of the minimum amount established by law for negligence;
- if paid after 30 days, the fine shall be reduced to 50 per cent of the minimum amount established by law for negligence;
- if the infringement is a mere neglect and the request for payment is made until the end of a tax inspection procedure, the amount of the fine is reduced to 75 per cent of the corresponding minimum amount established by law.

The achievement of the right to a fine's reduction depends on the settlement of the taxpayer's tax situation and on the payment of the fine within 15 days after the reduction request or, in case of the third situation mentioned above, on the notification to pay the fine.

The tax law provides for the advance payment of a fine (Art. 75 of RGIT). In case of a simple offence proceeding, if the defendant pays the fine within the time limit estab-

lished for his defence, he shall benefit from a fine reduction corresponding to the minimum amount imposed on the offence proceeding as well as a reduction to one half of the procedural costs.

The voluntary payment of a fine shall imply its reduction to 75 per cent of the fixed amount, if requested until the decision is taken (Art. 78 of RGIT). After the fine is fixed, the defendant shall be notified to make a voluntary payment within 15 days; otherwise, he shall lose his right to reduction.

CPPT: Código do Procedimento e do Processo Tributário (*Code of Tax Procedure and Tax Proceeding*)

CRP – Constituição da República Portuguesa (*Portuguese Republic Constitution*)

LGT: Lei Geral Tributária (*General Taxation Law*)

RGIT: Regime Geral das Infracções Tributárias (*General Regime of Tax Infractions*)

X
DOUBLE TAXATION CONVENTIONS CONCLUDED BY PORTUGAL

CONTRACTING PARTY	TYPE OF INSTRUMENT	DATE OF SIGNATURE	DATE OF PUBLICATION	ENTRY INTO FORCE
ALGERIA	Income/Capital	03/12/2003	<ul style="list-style-type: none"> • RAR n° 22/2006 DR n° 59, of 23/03 	01/05/2006 Notice of 05/05/2006 DR n.º 87
AUSTRIA¹	Income/Capital	29/12/1970	DL n° 70/71, of 08/03 DG n° 56	28/02/1972 Notice of 08/02/72 DG n° 32
BELGIUM²	Income	<ul style="list-style-type: none"> • 16/07/1969 • 06/03/1995 	<ul style="list-style-type: none"> • DL n° 619/70, of 15/12 DG n° 289 – Supplement • RAR n° 82/2000 DR n° 287, of 14/12 	<ul style="list-style-type: none"> • 19/02/1971 Notice of 17/02/71 DG n° 40 • 05/04/2001 Notice 36/2001, of 21/04 DR n° 94
BRAZIL³	Income	<ul style="list-style-type: none"> • 22/04/1971 • 16/05/2000 	<ul style="list-style-type: none"> • DL n° 244/71, of 02/06 DG n° 129 • RAR n° 33/2001 DR n° 98, of 27/04 	<ul style="list-style-type: none"> • 01/01/1972 Notice of 30/10/71 DG n° 256 • 05/10/2001 Notice 131/2001, of 14/12 DR n° 288 (as from 01/01/2000)
BULGARIA	Income	15/06/1995	RAR n° 14/1996 DR n° 86, of 11/04	18/07/1996 Notice 258/96, of 26/08 DR n° 197
CANADA	Income	14/06/1999	RAR n° 81/2000 DR n° 281, of 06/12	24/10/2001 Notice 111/2001, of 17/10 DR n° 241
CAPE VERDE	Income	22/03/1999	RAR n° 63/2000 DR n° 159, of 12/07	15/12/2000 Notice 4/2001, of 18/01 DR n° 15
CHILE	Income	07/07/2005	RAR n° 28/2006 DR n° 69, of 06/04	25/08/2008 Notice 243/2008, of 29/12 DR n° 250
CHINA	Income	21/04/1998	RAR n° 28/2000 DR n° 76, of 30/03	08/06/2000 Notice 109/2000, of 02/06 DR n° 128
CUBA	Income	30/10/2000	RAR n° 49/2001 DR n° 161, of 13/07	28/12/2005 Notice n.º 187/2006, of 06/01 DR n.º 16, 23.01.2006
CZECH REPUBLIC⁴	Income	24/05/1994	RAR n° 26/1997 DR n° 107, of 09/05	01/10/1997 Notice 288/97, of 08/11 DR n° 259

DOUBLE TAXATION CONVENTIONS CONCLUDED BY PORTUGAL

DENMARK⁵	Income	14/12/2000	RAR n° 6/2002 DR n° 46, of 23/02	24/05/2002 Notice 53/2002, of 15/06 DR n° 136
ESTONIA	Income	12/05/2003	RAR n° 47/2004 DR n° 159, of 08/07	23/07/2004 Notice 175/2004, of 27/11 DR n° 279
FINLAND	Income/Capital	27/04/1970	DL n° 494/70, of 23/10 DG n° 246	14/07/1971 Notice of 22/08/80 DG n° 193
FRANCE	Income	14/01/1971	DL n° 105/71, of 26/03 DG n° 72	18/11/1972 Notice of 13/11/72 DG n° 264
GERMANY	Income/Capital	15/07/1980	Law n° 12/82, of 03/06 DR n° 126	08/10/1982 Notice of 14/10/82 DR n° 238
GREECE	Income	02/12/1999	RAR n° 25/2002 DR n° 79, of 04/04	13/08/2002 Notice 85/2002, of 24/09 DR n° 221
HUNGARY	Income	16/05/1995	RAR n° 4/1999 DR n° 23, of 28/01	08/05/2000 Notice 126/2000, of 30/06 DR n° 149
ICELAND	Income/Capital	02/08/1999	RAR n° 16/2002 DR n° 57, of 08/03	11/04/2002 Notice 48/2002, of 08/06 DR n° 132
INDIA	Income	11/09/1998	RAR n° 20/2000 DR n° 55, of 06/03	05/04/2000 Notice 123/2000, of 15/06 DR n° 137
INDONESIA	Income	09/07/2003	RAR n° 64/2006 DR n° 234, of 06/12	11/05/2007 Notice 42/2008, of 04/04 DR n° 67
IRELAND⁶	Income	01/06/1993	RAR n° 29/1994 DR n° 144, of 24/06 RAR n° 62/2006 DR n° 234, of 06/12	11/07/1994 Notice 218/94, of 24/08 DR n° 195 18/12/2006 Notice 45/2008, of 17/04 DR n° 76
ISRAEL	Income	26/09/2006	RAR n° 2/2008 DR n° 10, of 15/01	18/02/2008 Notice 94/2008, of 13/06 DR n° 113
ITALY	Income	14/05/1980	Law n° 10/82, of 01/06 DR n° 124	15/01/1983 Notice of 07/01/83 DR n° 5
KOREA (SOUTH)	Income	26/01/1996	RAR n° 25/1997 DR n° 106, of 08/05	21/12/1997 Notice 315/97, of 27/12 DR n° 298
LATVIA	Income	19/06/2001	RAR n° 12/2003 DR n° 50, of 28/02	07/03/2003 Notice 138/2003, of 26/04 DR n° 97
LITHUANIA	Income	14/02/2002	RAR n° 10/2003 DR n° 47, of 25/02	26/02/2003 Notice 123/2003, of 22/03 DR n° 69

DOUBLE TAXATION CONVENTIONS CONCLUDED BY PORTUGAL

LUXEMBOURG	Income/Capital	25/05/1999	RAR n° 56/2000 DR n° 149, of 30/06	30/12/2000 Notice 256/2000, of 30/12 DR n° 300
MACAO	Income	28/09/1999	RAR n° 80-A/1999 DR n° 291, of 16/12 – 1° Supplement	01/01/1999 Notice 72/2001, of 16/07 DR n° 163
MALTA⁷	Income	26/01/2001	RAR n° 11/2002 DR n° 47, of 25/02	05/04/2002 Notice 33/2002, of 06/04 DR n° 81
MEXICO	Income	11/11/1999	RAR n° 84/2000 DR n° 288, of 15/12	09/01/2001 Notice 49/2001, of 21/05 DR n° 117
MOROCCO⁸	Income	29/09/1997	RAR n° 69-A/1998 DR n° 295, of 23/12 – 1° Supplement	27/06/2000 Notice 201/2000, of 16/10 DR n° 239
MOZAMBIQUE	Income	21/03/1991	RAR n° 36/1992 DR n° 300, of 30/12	01/01/1994 Notice 55/95, of 03/03 DR n° 53
NETHERLANDS	Income/Capital	20/09/1999	RAR n° 62/2000 DR n° 159, of 12/07	11/08/2000 Notice 177/2000, of 24/08 DR n° 195
NORWAY	Income/Capital	24/06/1970	DL n° 504/70, of 27/10 DR n° 249	01/01/1971 Notice of 15/10/71 DG n° 243
PAKISTAN	Income	23/06/2000	RAR n° 66/2003 DR n° 177, of 02/08	04/06/2007 Notice 6/2008, of 21/01 DR n° 14
POLAND	Income	09/05/1995	RAR n° 57/1997 DR n° 208, of 09/09	04/02/1998 Notice 52/98, of 25/03 DR n° 71
ROMANIA	Income/Capital	17/09/1997	RAR n° 56/1999 DR n° 159, of 10/07	14/07/1999 Notice 96/99, of 18/08 DR n° 192
RUSSIAN FEDERATION	Income	29/05/2000	RAR n° 10/2002 DR n° 47, of 25/02	11/12/2002 Notice 32/2003, of 30/01 DR n° 25
SINGAPORE	Income	06/09/1999	RAR n° 85/2000 DR n° 288, of 15/12	16/03/2001 Notice 45/2001, of 11/05 DR n° 109
SLOVAKIA⁹	Income	05/06/2001	RAR n° 49/2004 DR n° 163, of 13/07	02/11/2004 Notice 191/2004, of 04/12 DR n° 284
SLOVENIA	Income/Capital	05/03/2003	RAR n° 48/2004 DR n° 161, of 10/07	13/08/2004 Notice 155/2004, of 31/08 DR n° 205
SOUTH AFRICA	Income	15/07/1980	RAR n° 53/2008 DR n° 183, of 22/09	22/10/2008 Notice 222/2008, of 20/11 DR n° 226
SPAIN¹⁰	Income	26/10/1993	RAR n° 6/1995 DR n° 24, of 28/01	28/06/1995 Notice 164/95, of 18/07 DR n° 164

DOUBLE TAXATION CONVENTIONS CONCLUDED BY PORTUGAL

SWEDEN	Income	29/08/2002	RAR n° 20/2003 DR n° 59, of 11/03	24/12/2003 Notice 3/2004, of 02/04 DR n° 1
SWITZERLAND¹¹	Income/Capital	26/09/1974	DL n° 716/1974 DG n° 289, of 12/12	18/12/1975 Notice of 26/02/76 DG n° 48
TUNISIA	Income	24/02/1999	RAR n° 33/2000 DR n° 77, of 31/03	21/08/2000 Notice 203/2000, of 16/10 DR n° 239
TURKEY	Income	11/05/2005	RAR n° 13/2006 DR n° 37, of 21/02	18/12/2006 Notice 2/2007, of 10/01 DR n° 7
UKRAINE¹²	Income/Capital	09/02/2000	RAR n° 15/2002 DR n° 57, of 08/03	11/03/2002 Notice 34/2002, of 11/04 DR n° 85
UNITED KINGDOM¹³	Income	27/03/1968	DL n° 48.497, of 24/07/1968 DG n° 174	20/01/1969 Notice of 03/03/69 DG n° 52
USA	Income	06/09/1994	RAR n° 39/1995 DR n° 236, of 12/10	01/01/1996 Notice 35/96, of 09/01 DR n° 7
UZBEKISTAN	Income	10/09/2001		
VENEZUELA	Income	23/04/1996	RAR n° 68/1997 DR n° 281, of 05/12	08/01/1998 Notice 15/98, of 16/01 DR n° 13

DG – Diário do Governo (Official Bulletin until 9th April 1976)

DL – Decree-Law

DR – Diário da República (Official Bulletin as from 10th April 1976)

RAR – Resolução da Assembleia da República (Parliament Resolution)

¹ Amendment published in DG n° 122/71, of 25th May.

² Additional Convention to DTC of 16th July 1969.

³ Convention in substitution of previous DTC of 22nd April 1971.

⁴ Convention in substitution of previous DTC of 28th June 1978.

⁵ Convention in substitution of previous DTC of 3rd March 1972, terminated on 19th January 1993, by Notice 85/94, in DR n° 55/94, of 7th March. Termination has effect as from 1st January 1995.

⁶ Amendment Note n° 15/94, published in DR I-A, n° 250, of 28th October 1994. Approval of Protocol signed in Lisbon on 11th November 2005.

⁷ Amendment Note n° 19-B/2002, DR n° 100, Supplement, of 30th April: entry into force 5th April 2002 and not 10th April 2002. Approval of the Protocol Amending the Convention signed in Lisbon, on 11 November 2005, RAR n° 62/2006, DR n° 234, of 06/12. Entry into force on 18/12/2006, by Notice n° 45/2008, DR n° 76, of 17/04.

⁸ Amendment Note n° 10/99, DR n° 65, of 18th March 1999.

⁹ Convention in substitution of previous DTC of 28th June 1978.

¹⁰ Convention in substitution of previous DTC of 29th May 1968.

¹¹ Amendment published in DG n° 52, of 3rd March 1975, 3rd Supplement.

¹² Amendment Note n° 19-E/2002, DR n° 100, Supplement, of 30th April: entry into force 11th March 2002 and not 10th April 2002.

¹³ Portuguese version published in DG n° 174/68, of 24th July, and English version published in DG n° 187/68, of 8th August. Amendment in DG n° 104/69, of 2nd May.

DOUBLE TAXATION CONVENTIONS CONCLUDED BY PORTUGAL

COUNTRIES	PERMANENT ESTABLISHMENT
ALGERIA	6 months
AUSTRIA	12 months
BELGIUM	12 months
BRAZIL	9 months
BULGARIA	12 months
CANADA	6 months
CAPE VERDE	183 days
CHILE	6 months/183 days
CHINA	6 months
CUBA	12 months
CZECH REPUBLIC	12 months
DENMARK	6 months
ESTONIA	9 months
FINLAND	12 months
FRANCE	12 months
GERMANY	6 months
GREECE	120 days
HUNGARY	12 months
ICELAND	12 months
INDIA	120 days
INDONESIA	6 months/183 days
IRELAND	6 months
ISRAEL	12 months
ITALY	6 months
LATVIA	9 months
LITHUANIA	9 months
LUXEMBOURG	6 months
MACAO	6 months
MALTA	9 months

DOUBLE TAXATION CONVENTIONS CONCLUDED BY PORTUGAL

MEXICO	9 months
MOROCCO	8 months
MOZAMBIQUE	6 months
NETHERLANDS	6 months
NORWAY	12 months
PAKISTAN	6 months
POLAND	12 months
ROMANIA	12 months
RUSSIA	12 months
SINGAPORE	120 days
SLOVAKIA	12 months
SLOVENIA	12 months
SOUTH AFRICA	12 months
SOUTH KOREA	6 months
SPAIN	12 months
SWEDEN	6 months
SWITZERLAND	12 months
TUNISIA	6 months
TURKEY	9 months
UKRAINE	12 months
UNITED KINGDOM	12 months
UNITED STATES OF AMERICA	6 months
UZBEKISTAN	9 months
VENEZUELA	9 months

DOUBLE TAXATION CONVENTIONS CONCLUDED BY PORTUGAL

COUNTRIES	RATE REDUCTIONS					
	Dividends		Interest		Royalties	
	ARTICLE	RATES	ARTICLES	RATES	ARTICLE	RATES
ALGERIA	10(2)(a)(b)	10%; 15%	11(2)	15%	12(2)	10%
AUSTRIA	10(2)	15%	11(2)	10%	12(2)(a)(b)	5%; 10%
BELGIUM	10(2)	15%	11(2)	15%	12(2)	10%
BRAZIL	10(2)(a)(b)	10%; 15%	11(2)	15%	12(2)	15%
BULGARIA	10(2)(3)	10%; 15%	11(2)	10%	12(2)	10%
CANADA	10(2)(a)(b)	10%; 15%	11(2)	10%	12(2)	10%
CAPE VERDE	10(2)	10%	11(2)	10%	12(2)	10%
CHILE	10(2)(a)(b)	10%; 15%	11(2)(a)(b)(c)	5%; 10%; 15%	12(2)(a)(b)	5%; 10%
CHINA	10(2)	10%	11(2)	10%	12(2)	10%
CUBA	10(2)(a)(b)	5%; 10%	11(2)	10%	12(2)	5%
CZECH REPUBLIC	10(2)(3)	10%; 15%	11(2)	10%	12(2)	10%
DENMARK	10(2)	10%	11(2)	10%	12(2)	10%
ESTONIA	10(2)	10%	11(2)	10%	12(2)	10%
FINLAND	10(2)(a)(b)	10%; 15%	11(2)	15%	12(2)	10%
FRANCE	11(2)	15%	12(2)	10%; 12%	13(2)	5%
GERMANY	10(2)	15%	11(2)(a)(b)	10%; 15%	12(2)	10%
GREECE	10(2)	15%	11(2)	15%	12(2)	10%
HUNGARY	10(2)(3)	10%; 15%	11(2)	10%	12(2)	10%
ICELAND	10(2)(a)(b)	10%;15%	11(2)	10%	12(29)	10%
INDIA	10(2)(a)(b)	10%; 15%	11(2)	10%	12(2)	10%
INDONESIA	10(2)	10%	11(2)	10%	12(2)	10%
IRELAND	10(2)	15%	11(2)	15%	12(2)	10%
ISRAEL	10(2)(a)(b)(c)	5%;10%;15%	11(2)	10%	12(2)	10%
ITALY	10(2)	15%	11(2)	15%	12(2)	12%
KOREA	10(2)(3)	10%; 15%	11(2)	15%	12(2)	10%
LATVIA	10(2)	10%	11(2)	10%	12(2)	10%
LITHUANIA	10(2)	10%	11(2)	10%	12(2)	10%

DOUBLE TAXATION CONVENTIONS CONCLUDED BY PORTUGAL

LUXEMBOURG	10(2)	15%	11(2)(a)(b)	10%; 15%	12(2)	10%
MACAO	10(2)	10%	11(2)	10%	12(2)	10%
MALTA	10(2)(a)(i)(ii)	10%; 15%	11(2)	10%	12(2)	10%
MEXICO	10(2)	10%	11(2)	10%	12(2)	10%
MOROCCO	10(2)(a)(b)	10%; 15%	11(2)	12%	12(2)	10%
MOZAMBIQUE	10(2)	15%	11(2)	10%	12(2)	10%
NETHERLANDS	10(2)	10%	11(2)	10%	12(2)	10%
NORWAY	10(2)(a)(b)	10%; 15%	11(2)	15%	12(2)	10%
PAKISTAN	10(2)(i)(ii)	10%; 15%	11(2)	10%	12(2)	10%
POLAND	10(2)(3)	10%; 15%	11(2)	10%	12(2)	10%
ROMANIA	10(2)(3)	10%; 15%	11(2)	10%	12(2)	10%
RUSSIA	10(2)(3)	10%; 15%	11(2)	10%	12(2)	10%
SINGAPORE	10(2)	10%	11(2)	10%	12(2)	10%
SLOVAKIA	10(2)(3)	10%; 15%	11(2)	10%	12(2)	10%
SLOVENIA	10(2)(a)(b)	5%; 15%	11(2)	10%	12(2)	5%
SOUTH AFRICA	10(2)(a)(b)	10%; 15%	11(2)	10%	12(2)	10%
SPAIN	10(2)(a)(b)	10%; 15%	11(2)	15%	12(2)	5%
SWEDEN	10(2)	10%	11(2)	10%	12(2)	10%
SWITZERLAND	10(2)(a)(b)	10%; 15%	11(2)	10%	12(2)	5%
TUNISIA	10(2)	15%	11(2)	15%	12(2)	10%
TURKEY	10(2)(a)(b)	5%; 15%	11(2)(a)(b)	10%; 15%	12(2)	10%
UKRAINE	10(2)(3)	10%; 15%	11(2)	10%	12(2)	10%
UNITED KINGDOM	10(2)(a)(b)	10%; 15%	11(2)	10%	12(2)	5%
UNITED STATES	10(2)(3)	10%; 15%	11(2)	10%	13(2)	10%
UZBEKISTAN	10(2)(3)	10%; 15%	11(2)	10%	12(2)	10%
VENEZUELA	10(2)	10%; 15%	11(2)	10%	12(2)(a)(b)	10%; 12%