



“IRS”
Scope of Individual Income Taxation

One of the common threads in the lives of the vast majority of Foreign Residents is the fact that most, if not all, of their livelihood comes from outside of Portugal. Great confusion and dis-information abound regarding the tax status of Income from Abroad. Before analysing the different requirements surrounding Individual Income Tax (“IRS”) in Portugal, it is useful to dispel some of the myths and establish a few of the basics regarding Portuguese taxation and the obligations of the Foreign Resident.

I have lived in Portugal for years and have never filed a tax return. Why start now?

Only small pensioners earning less than €4,104 p.a. with no other income are exempt from filing. This means that no tax return automatically puts you on the wrong side of the law and vulnerable to undesired consequences. Fines range from €50 to €2,500 for late submissions and assessments may increase by 4% to 200%. Voluntary declarations will assure reductions in any penalties.

Do I need to declare my Income from Abroad?

Yes. Unlike the “good old days” (pre-1989), residents are taxable on their worldwide income. On the IRS declaration, there is a special annex for this purpose, *Anexo J*, where you should summarize your different sources of income as well as the source countries. In fact, all residents, both foreign or national, are required to declare their global income, regardless of whether it comes into Portugal or not.

I receive my income in another currency. Should I convert to Euros on my tax return?

Yes. All amounts declared must be expressed in Euros. There are three acceptable methods for determining exchange rates: 1) the documented exchange rate that you actually received, 2) the rate available at the time of a transaction or 3) the official exchange rate on the 31st of December of the tax year. This final one is the “catch-all” when other methods are difficult to apply.

I rented out my Portuguese property last year as a Non-Resident. Do I declare the income in Portugal or my home country?

Your first obligation is to declare the income in the jurisdiction where it arose - Portugal. Under the provisions of the Double Tax Treaty, you should receive a foreign tax credit for any Portuguese tax paid on your tax declaration in your country of residence.

I receive income from bank interest but don't bring it into Portugal. Do I have to declare this income in Portugal?

Yes. It is the fact that you receive the income, not where it is received, that makes you liable for taxation. If your account is Offshore, don't ignore new procedures regarding information sharing with tax havens. The EU Savings Directive came into effect on 1 July 2005 and represents substantial changes from the past.

I pay tax in my home country. Do I need to declare in Portugal?

Yes. Just because you have already paid tax does not mean that you have done so correctly. The relevant Double Taxation Treaty sorts out such conflicts between two jurisdictions: the country where the income arises and the one where the taxpayer is resident. All forms of personal income are considered in the many articles of this accord. The treaty determines which jurisdiction gets to tax which sources of income. It protects you from being taxed twice and takes precedence over local tax codes.

My home jurisdiction has always deducted tax from my pension. Can I avoid tax from being withheld at source?

Yes, depending on the conditions of the treaty in force and the type of pension that you receive. The first step is to declare yourself as resident for tax purposes in Portugal. There are special forms for this purpose. Once accepted and processed, you should eventually receive a full refund from your country of origin for any tax withheld after the commencement date of your residency in Portugal. From then on, you should receive your pension gross. You will, of course, need to declare this income in Portugal.

I got married in October. Should my wife and I file separate returns for the period of the year that we were still single?

You can file a joint return but you may elect to continue to report separately if you prefer. Couples declaring jointly normally pays less tax than two individuals.

My boyfriend and I have been living together for several years. Should we file separate returns or jointly?

While either is possible, unmarried couples may file a joint return and both must sign the return. To qualify for this status, you must have been living together for at least two years. This status applies to both heterosexual and homosexual couples. It's a good idea to run a simulation before finalising your return to be sure which status is most advantageous.

My wife and I broke up last year but we are not yet divorced. Do we still file a joint return or can we file separately?

Both ways are accepted although your circumstances may make separate returns more practical, even if less economical. If filing individually, remember that both cannot claim the same dependents or deductions.

My spouse died last year. How should I declare?

Fortunately, the declaration process has been vastly simplified from past practice. You merely need to declare the total annual income of both spouses for the year and tick the box as a widow (or widower).

My Old Age Pension falls below the Portuguese minimum wage. But I also had a small amount of interest income from. Do I still have to submit a tax return?

Yes. The true purpose of this reporting waiver is to exempt the large number of small Portuguese pensioners who would only clog up the system without bringing in any appreciable income to the State's coffers. All others must file. In addition to *Modelo 3*, any investment income from abroad must be reported on *Anexo J* (Income from Abroad).

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