



## Local Lodging Options for Property Holding Companies

Property Companies wishing to engage directly or indirectly in Local Lodging in Portugal have several different options. Given the fact that most originally registered to buy their property on a one-off basis, they are normally seen as non-trading corporate entities (*non-resident without permanent establishment*) and must make changes in status in order to engage in a Local Lodging business activity.

### 1) “*Contrato de Comodato*” (Lending)

A lending contract where the Owner (the Company) lends an asset (the property to be let out under Local Lodging) to the borrower (“Comodatário”) for a prescribed period of time. As lending, this is a gratuitous arrangement (not for consideration). It is temporary in nature with the expectation that the asset will be returned in good condition at the conclusion of the lending period.

#### ***How it works:***

*As a non-trading company, ABC Ltd., lends its property to one of its shareholders who exercises the commercial business activity of Local Lodging in his/her personal name (IRS), taking advantage of favourable taxation under the Simplified Regime (<9%). This solution is simple and inexpensive.*

### 2) “*Secural*” (Branch Office)

The Parent Offshore Company sets up a *Branch Office* – a resident extension of the non-resident parent company (the Offshore Company) – that works based in a Portuguese *Permanent Establishment* (the



place of doing business). It is not a legal entity *per se*, so claims and liabilities are the responsibility of the Parent Company. Public corporate (“IRC”) filing of accounts in Portugal (“IRC”) is required.

***How it works:***

*An Offshore Company sets up a Branch Office in Portugal which conducts the Local Lodging business. The Company files “IRC” tax declaration. The Company pays standard corporate tax (21%).*

3) ***“Subsidiário”*** (*Subsidiary Company*)

The Parent Offshore Company creates a subsidiary company (“*Limitada*”) in Portugal and is the sole shareholder. The subsidiary runs the local lodging business and files *standard accounts* under “*IRC*”.

4) ***“Sociedade Comercial”*** -

(Change Registration to Commercial Company)

Foreign Property Companies can redomicile to Portugal as resident commercial companies maintaining the original shareholders.

As a resident Portuguese Company, a “*Limitada*” can conduct the Local Lodging business under Standard Accounts.

5) ***“Titular de Exploração”***

(*Assignment of Activity to an Operator*)

The Offshore Company can *assign* the local Lodging Activity to an Operator (“*titular de exploração*”). This activity is taxed at normal corporate tax rates (21% in 2017).



***Note:** Despite the low tax rate (65% exclusion) for tourist activities under the “IRC” Simplified Regime, many companies do not meet the narrow parameters required. In addition, companies must also pay “PEC” - Pagamento Especial por Conta” (Special Payment on Account) - €1,000 minimum. Accounting costs and other overheads also may vary depending on the type registration of the Company.*

### **Portuguese-based Agencies and Managers**

The same basic principles apply to Portuguese-based Tourist Agencies and Property Managers using booking services from major web sites. Income from immovable property is attributable to business and professional activities and is also considered to be in Category B.

When conducting support services to a tourist business that are eventually carried out in the name of the Owner, a charge is made. This type of business can take advantage of a 65% exclusion under the Simplified Regime of IRS.

Owners conducting Local Lodging continue to benefit from the highly favourable tax regime in Category B (a 65% exclusion). While it is only human to resist change and carry on “business as usual”, evolution to compliance under Local Lodging legislation is so favourable that migration to the new system can only be seen as a “win-win situation”.