Winter Rentals:
Category B or Category F

After the hubbub of the summer, many Local Lodging owners wish to book long-term rentals to assure low-season occupancy over the quieter months of winter. As always, there are pros and cons, particularly in an area where distinguishing between concurrent businesses (long and short term lets) is not always easy.

REPORTING LONG-TERM RENTALS

Under current legislation, bureaucracy has mushroomed in recent years for long-term rentals:

a) ***Registration of Rental Contracts***
Rental Contracts must be reported via the filing of *Modelo 2*. This form identifies the parties, the property, the price and the terms of the agreement.

b) ***Stamp Duty***
Stamp Duty is due on the rental contract based on 10% of one month's income. Every time there is a change in the contract, Stamp Duty must be paid again so automatic renewals, if appropriate, should be included in the original contract to avoid repetitive payment of tax.

c) ***On-going Electronic Rental Receipts***
Similar to Electronic Green Receipts, *Electronic Rent Receipts* must be issued in Portuguese in duplicate on a monthly basis via the *Finanças* website. A copy is issued to the tenant with another retained for the landlord's records.

d) ***Annual Rental income summary***
In the following January, landlords must declare an annual summary of rents received via Model 44 ("*Comunicação Anual de Rendas Recebidas*").

e) ***"IRS" Declaration***

An annual personal income tax declaration will necessitate completion of *Anexo F*. All claimed deductible expenses must be substantiated by original invoices that include the name of the landlord and the corresponding tax number.

f) ***VAT***

On the positive side, long-term rentals are VAT exempt and require no VAT reporting, potentially saving time and money.

LOCAL LODGING

As a tourist accommodation, a Local Lodging unit must: a) be furnished and equipped, b) be available to the general public, c) meet health and safety standards and d) limit stays to less than 30 days.

However, there is nothing improper about a guest checking out after a month, then checking back in for another 30-day period. If this procedure is adopted, the owner can continue the "AL" operation on a year-round basis, avoiding the additional bureaucracy associated with Category F. In addition, the on-going use of the property under Local Lodging avoids the overlap and potential contradictions of property usage in two distinct business categories within the same fiscal year.

TAXATION

Beyond Stamp Duty and VAT, the income tax calculation for each activity is substantially different. In Portugal, rental income is taxed residentially under Category F (*Income from Immoveable Property*) while Local Lodging is assessed commercially under Category B (*Business Income*).

For a Local Lodging activity, most owners are taxed under the "Simplified Regime" where they receive a flat exemption of 65% on gross income. Residents then add the remaining 35% to other taxable forms of income and are assessed at marginal rates. Non-Residents have the standard levy of 25%, leaving a final tax to pay of 8.75% of gross business income.

Under Category F (long-term rentals), Non-Residents are taxed at a flat rate of 25%. Residents may elect to be assessed autonomously at 28% or aggregate this income with other sources and be taxed at marginal rates.

RENTAL INCOME: DEDUCTIBLE EXPENSES

Most necessary expenses incurred in conducting the activity are deductible. There are numerous categories of overhead that reduce tax on rental income for *"IRS"* purposes:

1) Expenses incurred to obtain or guarantee the property income, with the exception of financing, depreciation and fixtures & fittings.
2) Included Services, such as pool & garden maintenance and cleaning (between occupancies only, not during).
3) In apartment buildings, collectively shared expenses such as doorman, common area cleaning, building security, maintenance of elevators and condominium fees.
4) Maintenance, such as interior and exterior painting, building insurance, etc.
5) Repairs, such as repairs or replacements of parts of the plumbing, electrical systems, appliances, etc.
6) Rates ("*IMI*") and other Municipal charges;
7) Cost of agency fees and Energy Certificate.
8) Withholding Tax is reported as a tax credit.

When properly documented, any capital improvement expenditures, completed in the 12 years prior to sale of the property, may enter into the calculation of the taxable base for Capital Gains Tax when the property is eventually sold.

CONCLUSION

There is no "one-size-fits-all" answer. Some owners will find rolling over a one-month winter "AL" let to be a straightforward solution. Others may be willing to endure the doubled-up bureaucracy of opening a new long-term lease as a solution that merits the extra time and effort. Faced with a difficult choice, professional guidance is always the order-of-the-day.

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