# NHR: *when it works and when it doesn't*

The media headlines of a 10-year tax holiday offered under the Non Habitual Resident scheme have attracted many credulous taxpayers to Portugal, seeking relief from the heavy tax burdens that are the norm in many EU countries. Often these prosperous migrants fail to grasp that the actual benefits work well only with certain forms of income, but with not others.

## When it doesn't work

The NHR guidelines state that most sources of foreign income can be exempt from taxation in Portugal provided that they are be subject to taxation at source as defined in the appropriate Double Tax Treaty. The majority of streams of revenue (listed below) "may be taxed" prior to being considered for assessment in Portugal as the country of residence, as illustrated in the following categories of income detailed in Double Tax Treaties.

- Royalties
- Dividends
- Interest
- Director's Fees
- Rental income
- Capital Gains - Movable
- Capital Gains - Immovable
- Independent Services
- Teachers & Students
- Government Service

As standard practice <u>without</u> NHR, the country of residency credits tax levied at source under tax treaty rules. When assessment is similar, as is often the case, there is little or no net fiscal benefit. If there is no taxation at source, Portugal interprets this fact to be evidence of double exemption and thereby assumes the right to tax the income.

## When it works

Theory aside, NHR works best in practice in two situations:

### *Pensions*

In the vast majority of Double Tax Treaties, private pensions, such as occupational pensions, company pensions and personal pension plans, along with many Social Security pensions, are exclusively taxed in the country of residence. When Portugal offers a 10-year tax holiday to pensioners, this is a simple exemption from the Portuguese legal perspective. However, the source country may view the tax waiver as a double exemption: first, in the source country via the treaty, then in the country of residency by national practice.

This double waiver leads to cries of "unfair" from Tax Authorities around Europe. Many countries are convinced that the primary purpose of these tax treaties is supposed to be to avoid double taxation, not grant double exemption. For the time being, the migrant pensioners are the winners, with th exception of Finland which has cancelled its treaty with Portugal for the time being.

## Salaries from high value-added professions

1 - Architects and engineers;
2 - Artists, actors, musicians;
3 - Accountants and Auditors;
4 - Doctors and dentists;
5 - Teachers and professors;
6 - Psychologists;
7 - Professional services, technicians;
8 - Investors, administrators, managers.

When exercising a *high value-added* profession, wages paid in Portugal have flat taxation of 20%. In other words, employees who would normally be taxed at twice that rate pay the same percentage as standard rate taxpayers.

## What if . . .

If other sources of income derive little immediate benefit in practice from NHR, does this mean that you should forego applying? The answer is: *you should still request the status*. First and foremost, if you don't, you will automatically lose eligibility. Second, even if you can't take advantage of the benefits right away, 10 years is a long time and your circumstances may change. Finally, in the worst case scenario, there is little to lose, even if you never apply your NHR status. The cost is modest and the potential savings can be substantial.

## Choosing Portugal

Ample opportunities already exist within the Portuguese Tax System to minimise taxation without the need for special incentives.

Let's look at a few:

a) no *Wealth Tax*;

b) no *Inheritance Tax*;

c) *Sole Trader income* often assessed at under 10%;

d) *Fiscal Territoriality* - some taxes are only domestic in scope and have no application to assets held outside of Portugal;

e) *Tax Exclusions* ranging up to 85%, running across almost every category of income: *pensions, salaries, dividends, royalties, disabilities, donations, healthcare, housing, education, etc.* These are lawful and stable fiscal adjustments ("*desagravamentos*"), not ephemeral tax breaks.

With knowledgeable guidance, foreign residents may be able to achieve considerable tax relief above and beyond *Non-Habitual Resident* status.



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