



## Quandary regarding the *Non-Habitual Resident* Status

There have been a number of front page stories recently regarding the “*Non-Habitual Resident*” status and possible 10-year tax relief for foreign pensioners in Portugal. Like many things that seem “*too good to be true*”, it probably is.

First, some basic facts. The changes that have been approved only come into effect as of January 2013. According to the rules of eligibility, only those applying for fiscal residency in Portugal after this date will be considered. Those resident within the previous 5 years are categorically excluded from this potential tax relief.

Next, the “*Non-Habitual Resident*” program has been on the books since 2009 and, as yet, not a single pensioner has been approved. The actual changes in the legislative update are quite subtle and offer no guarantee that the Tax Authorities will change their interpretation.

Finally, even if Portugal were successful in implementing unilateral tax relief on pensions for new residents, there is every likelihood that other tax authorities around the EU and beyond would reassert their taxation practices with the threat of double taxation no longer in question.

### ***What is a Non-Habitual Resident?***

#### ***Professional Activities with high added value***

- 1 - Architects, engineers and the like;
- 2 - Visual artists, actors and musicians;
- 3 - Auditors;
- 4 - Physicians and dentists;
- 5 - Teachers;
- 6 - Psychologists;
- 7 - Professional services, technicians & related professionals;
- 8 - Investors, administrators and managers.



The Non-Habitual Resident legislation was introduced with the specific purpose of attracting highly skilled professionals to come and contribute to the country's development. Once engaged in a qualifying activity in Portugal, compensation enjoys special tax treatment, roughly half the normal rate. *Finanças'* interpretation to date has been a *quid pro quo*: only those exercising qualifying professions achieve the subsequent tax exempt status on other income sources from outside of Portugal, including pensions.

### ***A Better Way?***

For those who are *au fait* with the Portuguese Tax System, ample opportunities already exist to minimise taxation without the need for further incentives. Let's look at a few:

- a) no *Wealth Tax*;
- b) no *Inheritance Tax*;
- c) *Holiday let income* assessed at only 5% or less;
- d) *Fiscal Territoriality* - many 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 and expense: *pensions, salaries, dividends, royalties, disabilities, donations, healthcare, housing, education, etc.* These are lawful fiscal readjustments (*desagravamentos*), not mere tax breaks.

Given the recent austerity measures, Portugal may not currently feel like a Tax Haven within Europe. However, with knowledge, *know-how* and foresight, foreign residents may be able to achieve considerably more tax relief than the *Non-Habitual Resident* status without the disarray, reversals and limitations.