



What is a Nominee Company?

A Nominee Company is a “*Sociedade Civil de Simples Administração de Bens Próprios*” (a Civil Company for the administration of owner assets), with headquarters and effective management in Portugal. This form of entity limits its activity to the management of belongings and possessions held as a reserve or benefit, or for the purchase of accommodation for its shareholders. In translation, this form of company is commonly referred to as a “*Portuguese Nominee Company*”.

In these entities, the share capital must belong to either a family group or from two (2) to five (5) shareholders and may be either resident or non-resident indiscriminately. Normally held by individual family members, shareholders may also be other companies or trusts, although none of these may be a public collective entity.

1.1 **Civil Companies**

As Civil Companies, these entities do not practice any commercial activity nor other like activities as defined in Portuguese Law. They are pure Civil Companies, regulated by the Civil Code, articles 980 - 1021, and may or may not have “judicial personality” (formation via public deed). These Companies are subject to the Fiscal Transparency Regime (*see below*: paragraph 1.4).

1.2 **Trusts**

Those familiar with Trusts will immediately recognise certain similarities. A Trust is a legal device under English Common Law that allows title to - and possession of - property to be held, used and/or managed by one person, *the trustee*, for the benefit of another different person or group, *the beneficiaries*.



In the case of the Civil Company, possession of property is transferred to the Company, overseen by the *administrators*, and managed for the benefit of the shareholders: the owners of the Company. Competencies of the administrators are defined in the *Statutes* of the Company and are normally limited to meeting required compliance and basic administrative functions as stipulated under Portuguese law.

1.3 Confidentiality

A Civil Company is registered with the National Company Registry (*Registo Nacional de Pessoas Colectivas*) as well as with Tax Authorities (“AT”). Only Company administrators are recorded, not the shareholders, nor are the shareholders identified in the Statutes of the Company, which appears as an annex to the Deed of Establishment. Their names do appear in this initial deed as well as in any Deed of Transfer of ownership of the Company. These deeds are kept in the archives of the practising notary as the sole registry.

1.4 Fiscal Transparency

Some Civil Companies fall under the regime of Fiscal Transparency. They are considered “*look-thru*” companies. Chargeable events of the Civil Company, as calculated according to the Corporate Tax Code (“CIRC”), are attributed and assessed directly to the shareholders (beneficial owners) in their Individual Income Tax declaration (“IRS”). The Company is tax exempt but still has nominal reporting requirements (“IRC”). The other form of Civil Company, “*Sociedade Civil sob forma comercial*”, follows the same rules as Commercial Companies.

1.5 Company Assets

Portuguese law does not place limits on what kinds of assets may be held in a Civil Company. They may be immovable (real property) or moveable (investment portfolio).



Normally, one property or portfolio is held in its own separate company so that ownership of the Company may be easily transferred to a new owner without untangling an entire portfolio.

If the conveyance is a gift or bequest to an immediate family member, the transfer is tax exempt. If the shares are sold, the gain will be subject to a flat Stamp Duty assessment of 10%.

1.6 **Two forms of “Sociedades Civas”**

There are two forms of Nominee Companies, each with its own place and purpose. While they share many of qualities, they differ in the following aspects:

1.6.1 **“Sociedade Civil de Administração de Bens Próprios”** (Civil Company for Administration of Owner Assets)

PROS

- Tax exempt in IRC. Assessment still calculated according to Company rules including IRC tax breaks.
- No annual "PEC" (Special Estimated Corporate Tax);
- Fiscal Transparency - avoids economic double taxation;
- There are no minimum share capital requirements;
- Capital can be uplifted at any time, usually without creating a chargeable event.

CONS

- Due to problematic endorsement upon registration, not suited for real property;
- Exemption from Company Registry can raise security questions;
- Some lawyers & government officials may lack of experience;
- No limited liability status;
- Despite no *standard accounts* reporting requirement, Certified Accountant (CC) still required;
- No *limited liability* status;
- Fiscal Transparency implies possible loss of IRS tax benefits.



1.6.2 “*Sociedade Civil sob Forma Comercial*” (Civil Company under Commercial Form)

PROS

- Simplified tax obligations;
- No annual "PEC" assessment;
- Customary procedures: same rules as Commercial Companies;
- Retains non-trading status;
- Ease of registration & bank credit and is appropriate for holding real property;
- There is no minimum share capital.

CONS

- Some different bureaucratic requirements (but usually not at extra expense);
- No shareholder confidentiality;
- No *limited liability* status;
- Can be exposed to economic double taxation;
- Despite no *standard accounts* reporting requirement, Certified Accountant (“CC”) still required;

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