PORTUGUESE NOMINEE COMPANIES

Problem nº4: *Capital Gains Tax Liability*

Investors are potentially looking for two types of return: growth and income. Both are readily available from property investments. However, if one fails to anticipate the fiscal consequences, needless tax will be paid. Only residents selling their principal are eligible for roll-over relief. Non-residents by definition have their principal abode outside of Portugal.

For residents, profits from the sale of second homes will be taxed at marginal rates (up to 42%) after a 50% exclusion. hat is a net rate of up to 21%. Non-residents face a flat 25% tax in Portugal.

Solution: Compliant Mitigation

When you sell the shares of a Nominee Company, there is a flat tax of only 14% in Portugal. This also means that the 14% rate is independent from other sources of income so does not "top slice" to push you into a higher tax bracket. Since the property does not change hands, just the shareholding, other taxes are not triggered: no Municipal Property Tax, formerly called Sisa, (up to 6%) and no Stamp Duty on the Deed (0.8%) which also simplifies the transfer process.

Additional advantages of the *Nominee Company* are numerous:

No punitive taxation

Unlike Offshore Companies, there is no punitive taxation. There are no punitive Property Rates , no Deemed Income against the Company. In fact, *Nominee Companies* are tax exempt and any tax are levied directly to the Shareholders.

Reduced CGT Liability

14% CGT, plain and simple. There is a CGT rate of 14% on the sale of Company shares. This tax is flat rated, assessed independently from other income, so it will not "top-slice", unwittingly forcing the taxpayer into a higher tax bracket.

No Property Transfer Tax for Buyers

There is no "*IMT*" (Municipal Transfer Tax) on the sale of the shares as long as a single shareholder does not have absolute control of the Company (exceeding a 75% concentration of ownership).

Ease on Entry

When transacted though ***euro*FINESCO**, buying a property via a *Portuguese Nominee Company* should cost no more than the direct purchase of the property. We can perform both Company formation and the Property transfer simultaneously.

Reduced Closing Costs

Buyers also enjoy reduced closing costs, avoiding the 0.8% Stamp Duty on property transfers. For example, in a recent *Nominee Company* sale openly reported at €1,700,000, the total tax bill came to only €25 for incidental expenses on the deed, saving the buyer "*IMT*" and Deed Stamp Duty that normally would have cost more than €136,000.

Low Operating Costs

The annual operating costs are modest for *Portugese Nominee Companies*: just €700 + VAT. This annual fee includes all basic compliance requirements and offers a support structure for non-Portuguese speaking investors to guide them through the maze of bureaucracy.

Capital Improvements Don't Expire

Under normal Capital Gains Tax calculations, only improvements done in the 12 years prior to sale are eligible to be considered as deductible expenses. In other words, after this period, these improvements "expire". However, injections of capital into your company never lose validity and add value to the Company at the point of sale.

a Fully Compliant Solution

Last but not least, this is a fully compliant solution. The *Nominee Company* structure has been in Portuguese legislation since the nineteenth century and has survived countless reforms over the past 150 years. While no one has a crystal ball to look into the future, this basic structure under Portuguese Law has undoubtably stood the test of time. Although this type of company had fallen into disuse until recently, its revival is thanks to the "*win-win*" solution that it offers to both buyers and sellers, squarely within legislation.

 29 March 2018