



TAXATION OF PENSIONS FOR NON-HABITUAL RESIDENTS

Category H income (pensions) received abroad by non-habitual residents shall be exempt from tax in Portugal when:

- 1) for the part in which that income, where it arises from contributions, did not give rise to deduction (*for Social Security*) for the purposes of article 25° (2) of the Personal Income Tax Code;
- 2) or where:
 - a) it is taxed in the State of origin in accordance with a Double Taxation Convention signed entered into by Portugal and that State; or
 - b) in accordance with article 18° of the Personal Income Tax Code, it cannot be considered that this income was obtained in Portugal.

Despite being tax exempt under the conditions described above, this income must be aggregated in order to determine the tax rate applicable to the remaining taxable income.

Finally, because this status does not allow for a double exemption, it should be mentioned that the Decree-Law gives non-habitual residents the possibility to waive the right to exemption in favour of the method of tax credit.

Potential Pension Exclusion

Under the Portuguese IRS tax code, contributions to pension plans may be seen as having already satisfied tax obligations in the fiscal year in which they were made and be treated as “capital”. In this case, only the subsequent growth portion of the Pension Fund is taxable upon withdrawal. When the appropriate statutory criteria have been satisfied, a significant portion of the income may be excluded from assessment.



While straightforward in definition and potentially attractive in terms of final tax obligations, many complications can arise in the international arena that make it difficult to demonstrate definitively that the required standards have been fully met. For this reason, we strongly advise seeking specialised professional advice before proceeding along these lines.

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