



## **SPLIT-YEAR FISCAL RESIDENCE IN PORTUGAL**

The 2015 Tax Reform broadened the criteria for *tax residence* in Portugal. As a result, tax residents in Portugal are those who:

- stay in Portugal for more than 183 days (consecutively or not) during any 12 month period commencing or ending in that year (and not only between January 1 and December 31 of the fiscal year in question);
- having remained less than 183 days, with housing that permits them being regarded as *ordinarily resident* in Portugal (not just as of the 31 December each year) at any time during the period referred.

On the other hand, the possibility was introduced that taxable persons could be considered to be tax residents during a split tax year. According to the Portuguese Tax Authorities (“AT”), split-year residence allows the taxpayer to be a resident in Portugal for only part of the year, as long as he/she remains more than 183 days, consecutive or not, in any 12-month period. The taxpayer will also be considered a tax resident if, having remained for a period of time of less than 183 days, he/she has available housing in conditions considered as the primary residence. Once these conditions are met, the taxpayer is considered to be a fiscal resident in Portugal as of the 1<sup>st</sup> day of the stay.

In the past, Portugal did not recognise the split tax year concept. It was the status of the taxpayer on 31 December that determined fiscal residence for the entire year with differences sorted out by international tax credits. Increasingly isolated in embracing this concept, Portugal finally decided to join the mainstream with these reforms.



### ***Exceptions to the application of split-year Tax Residence Status***

In the year of entry, if a taxpayer fulfills at any time of the year the conditions to be taken as a tax resident in Portugal and, in the previous year, was also considered resident for tax purposes, he is considered to have obtained tax residence from the first day of the year of the return.

In the year of exit, the rule is the last day of stay in the country that determines the end of residence. Nevertheless, the taxpayer will still be considered resident for tax purposes in Portugal throughout the year when staying in Portugal for more than 183 days (consecutive or not) if:

- he/she has obtained income subject to Portuguese personal income tax (not exempt from IRS) in the year after the last day of stay, or:
- he/she reestablishes the status of tax resident in Portugal in the following year.

This differs from the exit year when he/she remained in Portugal for more than 183 days and can demonstrate that his earnings are taxed in a similar fashion:

- in another Member State of the European Union or the European Economic Area; or
- in another State where the tax rate is not less than 60% of what would apply if resident in Portugal.

Once the split-year fiscal residence has been established, it is important to determine which sources of income should be declared during the respective entry and exit years to Portugal. The “AT” clarifies that the taxpayers must declare income earned in Portugal as well as income obtained abroad, that have been earned during the period in which he/she was considered tax resident in Portugal.



Thus, up to the first day of residence (in the year of arrival in Portugal), or after the last day of stay in Portugal (in the year of termination of tax residence), the only income to be declared for IRS purposes will be earnings generated in Portugal such income from self-employment such as Local Lodging (tourist lets) or long term rental income, requiring a mandatory IRS declaration as a *non-resident*.

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