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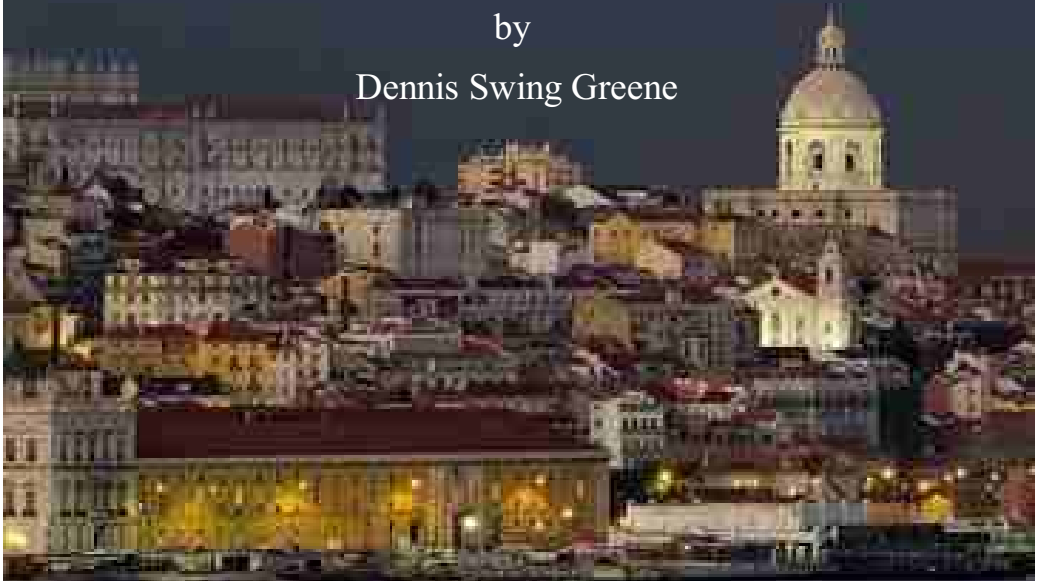
*eBook* n° 4

# Taking Up Fiscal Residency in Portugal

by

Dennis Swing Greene

PORTUGAL



## **Ficha Técnica:**

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Autor: Dennis Swing Greene  
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## ***euroFINESCO s.a.***

### **HEADQUARTERS**

Rua do Sol, 4  
8200-448 GUIA (Algarve)  
*tel:* +351 289 561 333  
*fax:* +351 289 562 061

### **Madeira Branch**

Rua do Aljube, 61, 2º Dtº  
9000-067 FUNCHAL (Sé)  
*tel:* +351 291 221095  
*fax:* +351 291 221103

### **Lisbon Branch**

Rua A.M. Cardoso, 15, 4ºD  
1200-273 LISBOA (Chiado)  
*tel:* +351 21 342 4210  
*fax:* +351 21 342 4212

### **Internet**

e-mail: [info@eurofinesco.com](mailto:info@eurofinesco.com)  
**[www.eurofinesco.com](http://www.eurofinesco.com)**  
Portugal  
*mobile:* +351 96 910 2813



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## nº 1: **Defining Fiscal Residency**

*theory and practice*

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The vast majority of Foreign Residents share a common trait: most, if not all, of their livelihood comes from outside of Portugal. Great confusion and disinformation abound regarding such Income from Abroad. Before analysing the different requirements surrounding Individual Income Tax (*IRS*) in Portugal, it is useful to dispel some of the myths and establish a few of the basics regarding Portuguese taxation and the obligations of the Foreign Resident. So the first question to consider is:

***Who is required to become resident for tax purposes in Portugal?***

### **Fiscal Residency**

It is important to distinguish between a Residency Permit (*Residência*) and Fiscal Residency. The former requires a lengthy bureaucratic process at the *Estrangeiros* Office. The latter is circumstantial in nature.

An individual is deemed to be *tax resident* if :

- physically present in Portugal for more than 183 days in a calendar year; or
- physically present in Portugal for less than 183 days but with a permanent place of residence at 31 December; or
- if an individual at the end of a tax year owns a dwelling in Portugal that the tax authorities might reasonably assume to be his or her usual residence, the individual generally is considered resident for that tax year; or
- if the head of a family is resident in Portugal for tax purposes, other family members are also considered to be resident, even if living abroad.

However, if the foreign country has a tax treaty with Portugal, the treaty contains rules to decide in which of the two countries an individual is resident.

Needless to say, if you do have a Residency Permit (*Residência*), you are deemed to be resident regardless of the number of days you are physically present in Portugal.

### **Getting Caught**

While the tax authorities used to turn a blind eye to foreign residents, the pendulum is now moving in the other direction. Rather than being invisible, expats have become prime targets. Many residents of Portugal have never submitted a tax return, thus likely to be eligible to pay tax owed and back interest as well as hefty penalties. The current government has made cracking down on tax fraud one of the cornerstones of economic policies and foreign residents are no exception. If you come forth voluntarily, you are dealt with accordingly. However, once on the “Black List” of tax-cheaters, it is difficult to shake that status. By being compliant, you can take an important step towards peace of mind.

### **Where you pay your taxes**

Unfortunately, you don't get to choose where you pay your taxes. The Law does. Just because you may pay (incorrectly) back home doesn't mean that you will win any favour with *Finanças*. Double Taxation Treaties clearly define taxpayer obligations. And Portugal now has over 40 tax treaties with all of the EU countries and many others around the world. An additional 10 countries are currently completing the ratification process, another 10 are under negotiation and another 30 waiting to start the process. In other words, Portugal is rapidly internationalizing its fiscal perspective.

It may come as a surprise that filing a correct tax return in Portugal can actually save you money. Submitting a tax return is not



synonymous with paying tax. The Portuguese tax code has generous allowances and unexpected exclusions on certain forms of income, broad deductions for numerous types of expenses and liberal tax credits for many common expenditures. Many people find their tax burden in Portugal to be significantly lower than in their country of origin (see Part 7).

### **Year One**

In your first year as a Fiscal Resident in Portugal, you will need to make the transition between one tax system to the other. This does not happen of its own accord. You need to take overt, concrete steps to make this happen. Otherwise, you will continue to pay tax in your home jurisdiction yet accumulate fiscal obligations and, eventually, serious penalties in your new country of Residence, Portugal.

We, as citizens, are compelled to be compliant with the Law. We, as taxpayers, are only required to pay the *legal minimum*. Over the course of the following pages, we will explain how to achieve both.

### **NON-HABITUAL RESIDENTS**

The tax regime for Non-habitual Residents is intended to attract to Portugal certain qualified individuals and investments. The Portuguese Government approved this status in 2009 potentially giving rise to tax saving opportunities for expatriates.

#### **1) Taxation**

Under the regime tax rules, employment and self employment income derived from “high value added activities of a scientific, artistic or technical nature” earned by non-habitual residents in Portugal is taxed at a flat rate of 20%. The Portuguese government has published the list of activities which should be considered as high value-added activities (relevant for employment and self employment income).

Additionally, the regime also establishes a tax exemption for foreign-source employment income, self-employment income, rental income, pensions, interest, dividends as well as other investment income and capital gains, provided this income could have been taxed in the State of source, under an existing Double Tax Treaty or such income have been taxed in another non-blacklisted jurisdiction under its domestic legislation (if no treaty exists).

The regime is applicable for a period of ten consecutive years.

## **2) Conditions**

The regime will apply to individual taxpayers who become Portuguese tax residents under Portuguese domestic law, provided they have not been taxed as tax residents in Portugal in the previous five years. In these circumstances, individuals will be considered Non-habitual Residents upon their registration.

## **3) Practicalities**

The status of non-habitual tax resident becomes effective upon registration of individuals with the Portuguese tax authorities. Based on a recent information published by the Portuguese Tax authorities, individuals may request their registration as Non Habitual Tax Residents and they should prove at the moment of registration their previous tax residence and taxation abroad through a certificate of residence/tax return demonstrating their effective taxation in that country.



## n° 2: **Other Key Definitions**

### *Statutory Residence Test in the UK*

Residence and domicile status can have significant implications in terms of an individual's liability to tax. An individual is broadly liable to income tax on worldwide income if resident in Portugal, or on Portuguese income if non-Portuguese resident. Since UK legislation often has more complex requirements than in EU Civil Code jurisdictions, we will concentrate next on key concepts under English Common Law. For UK taxpayers, liability to income tax and capital gains tax (CGT) generally depends on whether an individual is resident, ordinarily resident or domiciled in the UK. The following definitions should help clear up some of the confusion that abounds regarding these concepts present in Common Law but often only loosely defined in current legislation.

#### **Residence in the UK**

After years of study, the UK has adopted a more precise definition of Fiscal Residency. The *Statutory Residence Test* (“SRT”) will help to determine whether you are considered resident or non-resident in the UK in a given tax year for the purposes of income tax, capital gains tax as well as inheritance tax.

There are two layers to this test:

- The *Automatic Residence Test*;
- The *Sufficient Ties Test*.

Legislation distinguishes between those leaving the UK, and those arriving to take up residence in the UK, when considering residence for any particular year:

- “**Leavers**” are those individuals who have been resident in the UK for any of the past three years.
- “**Arrivers**” are those individuals who have **not** been resident in the UK for any of the past three years.

The *Automatic Residence Test* is met if you meet any of the four *Automatic UK Tests* and none of the *Automatic Overseas Tests*.

### ***Automatic UK Test***

- Present for 183 days in a tax year in the UK.
- You have a home in the UK available for more than 90 days and visits that home for 30 days in the tax year and either:
  - ▶ This is the individual’s only home.
  - ▶ The individual has an overseas home but does not use it for at least 30 days in the tax year.
- Works full time in the UK in a year more than 75% of these days are in the UK.
- Where a person dies and they were UK resident in **each** of the three preceding years and had a home in the UK when they died.

If you meet one of the *Automatic UK Tests*, it is then necessary to consider whether the *Automatic Overseas Tests* apply to prevent the individual being UK resident.

### ***Automatic Overseas Tests***

- Leavers – spend less than 16 days in the UK;
- Arrivers – spend less than 46 days in the UK;
- Working full time abroad, spending less than 91 days in the UK in the tax year and less than 31 days working in the UK for more than 3 hours;
- Dies abroad having been not UK resident for two years having spent less than 46 days in the UK.

### ***Sufficient Ties Test***

If you do not meet any of the *Automatic UK Tests*, or any of the *Automatic Overseas Tests*, then the *sufficient ties test* must be considered. There are two levels of tests: one for arrivers and a more stringent one for leavers. Someone leaving the UK will generally be a leaver for the first three years after leaving and from the fourth year be treated as an arriver for these purposes – in other words the rules relax from the fourth year of non UK residence. The following table demonstrates the main differences in the total number of days a leaver and an arriver could spend in the UK without triggering UK residence.

Once the number of ties has been established, you can refer to the following table to determine if you are considered UK tax resident in a particular tax year.

<b>MAXIMUM NUMBER OF DAYS RETURN TO UK</b>		
<b><u><i>Number of ties to the UK</i></u></b>	<b><u><i>Leaver</i></u></b>	<b><u><i>Arriver</i></u></b>
1	120	182
2	90	120
3	45	90
4	15	45

## ***UK Ties***

### ***i) Family Tie***

Your ‘relevant family relationships’ with spouse, civil partner, ‘co-habiting’ partner or a child or children under 18 years resident in the UK. Children in full time education in the UK are not counted provided they do not spend more than 21 days in the UK outside of term time.

### ***ii) Accommodation Tie***

‘A place to live’ in the UK which is available to you for a continuous period of at least 91 days in that year, and at least one night is spent there. If the accommodation belongs to a close relative, the threshold drops to 16 days. A ‘place to live’ also includes a holiday home or rented accommodation.

### ***iii) Work Tie***

If you work (more than 3 hours a day) in the UK for at least 40 days (continuously or intermittently) in that year. Work includes travelling time when paid by the employer as well as job related training.

### ***iv) 90 day Tie***

If you spend more than 90 days in the UK in either the year preceding the current tax year and/or the year before that one.

### ***v) Country Tie***

Days spent in the UK must meet the “*Midnight Test*”. This test is met if you are present in that country at the end of a day. The UK will be considered if that is where you spend the greatest number of days in that year. If the greatest number of days is equal in two or more countries, you have a country tie provided one of those countries is the UK.

## **OTHER REVISIONS IN KEY CONCEPTS**

### ***Split year basis***

For individuals leaving the UK, it is possible to claim the split year basis, subject to meeting certain conditions. Split year basis allows an individual to be treated as non-UK resident from the date of departure where:

- You go to work full time overseas;
- You leave with your partner to work full time overseas;
- You leave the UK to live abroad and cease to have a home in the UK after which you spend fewer than 16 days in the UK.

### ***Taxation of Capital Gains – the basic rules***

- You are chargeable to capital gains tax in respect of any gains arising for your benefit in any tax year during any part of which you are resident in the UK. (Under the rules in the Finance Bill, if there is a split year, any gain in the overseas part of the tax year is not chargeable.)
- Persons ceasing to be UK resident for less than five complete tax years will be taxed on any gains arising in the period of non-UK residence in the year they recommence UK residence. (this has been extended to dividends and other income).
- This does not apply to non-domiciled individuals who elect to be taxed on a remittance basis.

### **Personal Allowances**

An non-resident individual in the UK may claim tax allowances if falling within certain permitted categories. Examples include UK nationals, Commonwealth citizens, EU and EEA nationals, residents of the Isle of Man or Channel Islands, and nationals and/or residents of a country with which the UK has a double taxation agreement allowing such a claim. If you become or cease to be UK resident during a tax year, you can still claim full allowances and reliefs for the tax year of arrival and departure.

## **UK DOMICILE**

Domicile involves complex issues of law. An individual can be resident in more than one country at the same time, but can only have one domicile. A person is generally domiciled where his or her permanent home is situated. A 'domicile of origin' is acquired at birth, normally from one's father. The domicile of a minor normally follows that of the person on whom he or she is legally dependant (a 'domicile of dependency'). However, a 'domicile of choice' can be acquired from age 16. This broadly involves leaving the current country of domicile to settle in another country, and requires strong proof of having moved to the other country permanently or indefinitely. Living in another country is not conclusive evidence of an intention to change domicile.

### **Domicile Status and Inheritance Tax (IHT)**

An individual who is domiciled in the UK is liable to IHT on chargeable assets on a worldwide basis. A non-UK domiciled individual is also liable to IHT, but only on chargeable property in the UK. There is a separate rule regarding domicile, which applies for IHT purposes only. An individual can be deemed domiciled in the UK for IHT purposes if he or she was UK domiciled at any time in the 3 years immediately preceding the time at which the question of domicile is to be decided, or alternatively UK resident for at least 17 out of the last 20 years ending with the tax year in which a chargeable event takes place.





Just because you leave your home country, you will still have to take overt steps in order to establish your new status as *non-resident* for tax purposes. Otherwise, you will continue to be treated as if you had never left. This means that, for example, for UK nationals, if you are *PAYE* (tax withheld at source and not required to file a *Self Assessment*), tax will continue to be withheld at source in the UK. Such taxation is not eligible for international tax credits since you are still seen as UK resident for tax purposes. While you may feel morally assuaged by paying UK tax, the Portuguese authorities will still consider you a tax cheat if you fail report income in Portugal that, by treaty, is exclusively taxable in Portugal.

If you claim that you are no longer resident and ordinarily resident in the UK, you may be asked to give some evidence that you have left the UK permanently, or to live outside the UK for three years or more. This evidence might be, for example, that you have taken steps to acquire accommodation abroad to live in as a permanent home. If you continue to have property in the UK for your personal use, the reason should be consistent with your stated aim of living abroad permanently. You will be treated as not resident and not ordinarily resident from the day after the date of your departure providing:

- your absence from the UK has covered at least a whole tax year, **and**

- your visits to the UK since leaving
  - have totalled less than 183 days in any tax year, and
  - have averaged less than 91 days a tax year.

(The average is taken over the period of absence up to a maximum of four years. Any days spent in the UK because of exceptional circumstances beyond your control, for example the illness of yourself or a member of your immediate family, are not normally counted for this purpose.)

### **Tax Forms**

Certain tax forms are associated with non-residence. Those leaving the UK and claiming to be no longer resident in the UK should complete form *P85*, giving details of the proposed stay abroad (or *P85(S)* on completion of a work assignment). In addition, the self-assessment tax return has a supplementary non-residence page for completion by individuals claiming to be not resident, not ordinarily resident or not domiciled in the UK, and also requests information for double taxation relief purposes (e.g. in connection with claims to be dual resident in the UK and elsewhere). These forms are available to be downloaded from the Inland Revenue's website. The booklet *IR20* is available on “*Residents and Non-Residents*” at online.

### **Split Tax Year**

If you leave the UK during a tax year and are treated as resident there up to and including the date of your departure, you will not pay tax on earnings for the part of the year after you depart, where these are from an employment carried on wholly in the UK. In the case of earned income other than earnings from employment, the rules are the same as those for unearned income. You will only be charged tax on overseas income you receive through a **paying or collecting agent** up to and including the date of your departure.

However, if you wish to receive overseas income without deduction of tax from a paying or collecting agent after you have ceased to be resident there, you will need to complete a declaration and give it to the paying or collecting agent. You should make the declaration on form PA1 (in the case of a paying agent) or form CA1 (in the case of a collecting agent). The forms are available from paying and collecting agents.

### **Income Still Arising in the UK**

**Rental Income** - Any profits you make from letting property situated in the UK are taxable in the UK, even if you cease to be resident in the UK.

**Securities** - UK tax is not chargeable on interest arising on **UK Government ‘FOTRA’ securities**, if you are not ordinarily resident in the UK. ‘FOTRA’ stands for ‘Free of Tax to Residents Abroad’. Where you become or cease to be ordinarily resident in the UK part way through the tax year, no tax will normally be charged on interest payable while you are not ordinarily resident - that is, before the date you arrive here or after the date you leave. UK tax is, however, charged if the interest forms part of the profits of a trade or business carried on in the UK.

**Interest** - Building societies, banks and other deposit takers in the UK normally deduct UK tax from interest paid or credited to your account. But if you are not ordinarily resident in the UK, interest should be paid gross and reported by the financial institution in the information sharing provisions of the EU Savings Directive to the tax authorities of your Country of Residence. You can arrange this by completing a ‘not ordinarily resident’ declaration through your bank or building society.

For further details and/or treatment of other sources of income, consult IR20 “*Residents and Non-Residents*”.

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## n° 4: **The Entry Compliance Obligations**

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Residents in Portugal are required to submit a tax return with the exception of those whose sole earnings are from Social Security pensions falling below the national minimum wage. Submitting your income tax declaration in Portugal (commonly referred to as *IRS* (*Imposto sobre o Rendimento das Pessoas Singulares*)) is the first step towards achieving Fiscal Residency. The process cannot get off square one without it.

### **Your IRS Declaration**

Residents are taxed on worldwide income, regardless of where, what currency, or whether or not it comes into Portugal. In other words, remittance is not necessary for income to be taxable.

All tax returns must be submitted by the following deadlines following the tax year to avoid penalties:

- April, if only salaried and/or pension income
- May, in all other cases

**Attention:** *In the past, late returns incurred only a token fine. However, the law has changed and the fines now start at €50 and can be as high as €5,000.*

Remember that the fiscal year in Portugal corresponds to the calendar year (1 January - 31 December). British nationals need to be especially careful since their April-to-April “P 60” will not correspond to the Portuguese fiscal year.

### ***Submitting your return***

Declarations may be submitted in person at the local tax office (*Repartição de Finanças*), by post or over the internet at <http://www.e-financas.gov.pt>. The website has only a Portuguese version. More and more services are becoming available on line, such as checking your newly updated rateable value (*Valor Patrimonial*) of your home. Some business related submissions can *only* be submitted over the internet.

***Attention:*** Getting a password takes at least a week so should not be left to the last minute.

### ***Filing Status***

Single, widowed and divorced taxpayers submit an individual return. Couples must file a joint declaration.

Separated couples who are not divorced may file separately. This is usually advisable since both spouses are responsible for meeting all fiscal obligations under a joint return. All unmarried couples living together for more than two years, whether of different or the same sex, may also file a joint return. Please note that while such a joint return is admissible, it is essential that both are registered at the same address with *Finanças*.

***Warning:*** While unmarried couples are treated the same as married couples for IRS income tax purposes, there is no carryover of this equality to other forms of taxation. This is specially important in Estate Planning. Unmarried couples generally have no succession rights, with marital and/or blood relations taking full precedence. While Estate Planning is advisable for almost everyone, it is imperative in the case of unmarried couples.

## ***Tax Forms***

Tax forms are in Portuguese Bureaucratise only and frequently change from year to year. The central form, *Modelo 3*, is an information cover sheet about the taxpayer(s). Different categories of Portuguese sourced income are reported on the appropriate corresponding annexes. Foreign income is reported exclusively on *Modelo J*. Any expenses eligible for tax credits are reported on Annex H. Net taxable income is calculated by reducing taxable income by personal deductions and tax credits. Certain types of income benefit from specific tax incentives. Tax liability is computed according to tax rate tables, reduced by applicable tax credits. Marginal rates range between 0%-52%.

If you are still non-resident, you are taxable only on income arising in Portugal. In this instance, withholding tax represents a final payment and no further declaration is required. However, any other income arising in Portugal, such as rent or capital gains on Portuguese real estate, *must* be reported.

***Attention:*** *Your first obligation is to report the income and pay the tax in the country where it arises (in this case, Portugal), then report again in your home jurisdiction to claim the international double taxation credit.*

## ***Paying your Income Tax***

Based upon your submission, Finanças will calculate what you owe and later send a demand, usually within 3-6 months. Income tax is due within 30 days of the issue of an assessment by the Tax Authorities. Late payment will incur monthly interest penalties.

## ***Application for Fiscal Residency***

With your first declaration in the hands of Finanças, it is time to apply for a Certificate of Fiscal Residency. This Portuguese-language-only form (*Modelo 2*) covers your personal details, start

date of tax residency and the source of income (each requires a separate form). When the Certificate is issued (usually 4-6 weeks), it should be sent to the International Division of the Tax Authority in your home country where they should proceed to stop withholding at source and refund any taxes that were inappropriately withheld after the date of transition to fiscal residency in Portugal. For UK nationals, there is a special dual language form (XE) that replaces the Certificate of Fiscal Residency. Once approved by *Finanças*, the form should be sent to Inland Revenue where they will authorise income to be paid gross and arrange for refunds.





## n° 5: **Avoiding Tax Evasion**

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### *Manifestations of Wealth*

The Portuguese Tax System contains a number of measures (a few introduced by Law 109-8/2001 of 27th December 2001) to reduce international tax evasion with countries with favourable tax system - named tax havens. These countries are listed in Governmental Order 1272/2001 of 9th November 2001.

#### **Individual Income Tax**

Resident individuals who transfer their residence to a *tax haven* are considered to be Portuguese residents for taxation purposes in the tax year where the transfer takes place and in the four subsequent tax years, unless they are able to prove that the transfer was justified, namely to carry out a professional activity as employees of a Portuguese-resident company.

#### **Manifestations of Wealth**

When conspicuous consumption patterns do not match declared income, the tax authorities now have concrete guidelines to tax the suspected offender in this category. The following table reveals the presumed income level when certain major consumer goods are acquired:

MANIFESTATIONS OF WEALTH	PRESUMED INCOME
Principal/Secondary Residence over €249 399	20% of value of acquisition
Cars over €49 880 Motorcycles over €9 976	50% of value in the year of registration, reduced by 10% in each of following years
Recreational Boats over €24 940	Value in the year of registration, reduced by 20% in each of the following two years
Light Aircraft	Value in the year of registration, reduced by 20% in each of the following 2 years
Director's Loans over €50 000	50% of the annual value

This presumed income is deemed to be Capital Gains and reported on Annex G.

### **Onus of Proof**

Following the principle of “innocent until proven guilty”, the burden of proof has always been on the taxman to prove wrong doing. This situation now reverses with the obligation falling on the taxpayer to demonstrate that returns are complete and accurate. Those who have “champagne taste”, yet only declare a “beer budget” may be called to justify their extravagance.

### **Tax deductible expenses**

The expenses described below are not tax deductible for the purposes of assessing taxable income:

1. Amounts paid to entities resident in tax havens by way of interest on or redemption of, loans granted for the construction, purchase or improvement of a urban”building for residential purposes;
2. Rents paid to individuals or legal entities residing in tax havens without permanent operations in Portugal, except if the annual value of such rents is higher than 1/15 of the taxable value of the building.

### **Payments made to entities residing in tax havens**

The amounts relating to all payments made or due by a resident individual to an entity residing in a *tax haven* are taxed at a 35% tax rate, irrespective of the tax rate applicable to other categories of income, unless the former is able to prove that such payments relate to effective operations and are not of an abnormal character and exaggerated amount.

### **Corporate Income Tax**

Payments made to such companies with residence in tax havens are not tax deductible, except if the taxpayer proves that they correspond to operations which took place and are not of an abnormal character and exaggerated amount.

### **Earning distribution**

Profits obtained by a company residing in a *tax haven* are distributed for corporate income tax purposes, to Portuguese-resident corporate shareholders in the following way: (*irrespective of dividend distribution*)

- In accordance to their holdings, when these are equal or higher than 25% of the company's share capital,
- In accordance to their holdings, when these are equal or higher than 10% if more than 50% of the company's share capital is held, directly or indirectly, by Portuguese resident entities.

This rule does not apply when the company residing in a *tax haven* derives more than 75% of its profits from agricultural, industrial or commercial activity from the territory they reside in, or when they are not involved in banking or insurance activities.

These rules also apply to individual shareholders for income tax purposes.

### **Property income**

When a corporation or individual entity residing in a *tax haven* owns an urban building in Portugal, which is not rented or used for a specific economic activity, 1/15th of the building's taxable value is attributed as property income to the entity's taxable profits for the purposes of corporate income tax.

### **Municipal Tax**

Municipal tax on immovable assets owned by entities residing in a "tax-haven" is collected at a 7.5% rate, irrespective of whether the asset is an urban building, construction or rural land.



## n° 6: Frequently Asked Questions

### *answers to your queries*

The following questions commonly arise during the Fiscal Residency transition process:

***I have lived in Portugal for years and have never filed an IRS return. Why should I start now?***

Only small Social Security pensioners with no other forms of income are exempt from filing. This means that not filing a tax return automatically puts you on the wrong side of the law and vulnerable to undesired consequences. Fines range from €50 to €5,000 for late submissions and assessments may increase by 10% to 200%. Voluntary declarations will assure substantial reductions in any penalties.

***Do I need to declare my Income from Abroad?***

Yes. Unlike the “good old days” (pre-1989), residents are taxable on their worldwide income. On the *IRS* declaration, there is a special annex for this purpose, *Anexo J*, where you should summarise your different sources of income as well as the source countries. In fact, all residents, both foreign or national, are required to declare their global income, regardless of whether they bring it into Portugal or not.

***I already pay tax in my home country. Do I need to declare in Portugal?***

Yes. Just because you have already paid tax does not mean that you have done so *correctly*. The relevant Double Taxation Treaty sorts out such conflicts between two jurisdictions: the country where the income arises and the one where the taxpayer is resident. All forms of personal income are considered in the many articles of this accord. This pact determines which

jurisdiction gets to tax which sources of income. The treaty protects you from being taxed twice and takes precedence over local tax codes. However, it is crucial that you follow the rules.

***My home jurisdiction has always deducted tax from my pension. Can I avoid tax from being withheld at source?***

Yes, depending on the conditions of the treaty in force and the type of pension that you receive. The first step is to declare yourself as resident for tax purposes in Portugal. There are special forms for this purpose. Once accepted and processed, you should receive a full refund from your country of origin for any tax withheld after the commencement date of your residency in Portugal. From then on, you should receive your income gross. You will, of course, need to declare this income in Portugal.

***Who is exempt from submitting a Portuguese income tax return?***

All those earning income in the tax year (January to December) are required to submit a tax declaration with the following exceptions:

- a) those who *only* have earnings subject to final withholding tax (except dividends) and accept the tax paid as final.
- b) those receiving *only* compulsory state social security pensions falling below the National Minimum Wage.

***Are non-residents required to declare income arising in Portugal such as rental income?***

Yes. Your first obligation is to settle up with the tax authority in the country where the income is generated. As such, non-residents are taxable on income arising in Portugal. Once declared and paid in Portugal, this tax should be eligible for a tax credit in your home jurisdiction, thus eliminating double taxation.

***My Old Age Pension falls below the Portuguese minimum wage. But I also had a small amount of interest income from my bank in my home country. Do I still have to submit a tax return?***

Yes. The true purpose of this reporting waiver on pensions referred to above is to exempt the large number of small Portuguese pensioners who would only clog up the system without bringing in any income to the State's coffers. All others must file. In addition to the standard *Modelo 3*, any investment income from abroad must be reported on *Anexo J* (Income from Abroad).

***The only income that I received was from bank interest, taxed at source (28%). Do I have to declare this income?***

If the interest and respective withholding were in Portugal, no declaration is required. Nevertheless, if your tax rate falls below 28%, you may achieve a small savings in reporting and submitting a return. In other words, you may be entitled to a refund.

If the interest that you received came from outside of Portugal and you are resident here for tax purposes, this income should be reported regardless of the withholding.

**Attention:** *Special (and sometimes complicated) rules from Double Taxation Treaties may apply.*

***Even though I am resident here, my pension is paid into the bank back home. Do I still have to declare?***

Yes. Where your income is paid is irrelevant: neither where you receive it, nor where you spend it, nor the currency in which it is paid. What matters is that it is available to you. That's what makes it taxable to you.

***How do I report income received in another currency?***

All income and expenses must be reported in Euros, regardless of the original currency of the transaction. The equivalent in Euros of another currency will be determined by the following rules:

- 1) The exchange rate received at the time of transfer from abroad.
- 2) The exchange rate on the day that income was brought into Portugal.
- 3) The prevailing exchange rate on the day that income became available.
- 4) For expenses, nº 1 will apply.

If the above mentioned rates cannot be confirmed, the prevailing exchange rate on 31 December of the tax year should be used.

***I own several apartments and let them out on a weekly basis throughout the high season. How should I be organised and what should I declare?***

It is quite common for some property owners to “let” on a short term basis during the high season. In fact, many do so as a business, running a “mini-hotel” during the summer months. When such an activity is conducted as a business, the taxpayer should register and report in Category B, rather than as normal rentals in Category F. You should find also that you pay less tax by being compliant.

Consult **euroFINESCO** eBook nº2 Guide ***Self-Employed in Portugal***.





## **Conclusion**

It may come as a surprise that filing a correct tax return in Portugal can actually save you money. Submitting a tax declaration is not synonymous with paying tax. The Portuguese tax code has generous allowances and unexpected exclusions on certain forms of income, broad deductions for numerous types of expenses and liberal tax credits for many common expenditures. Many people find their tax burden in Portugal to be significantly lower than in their country of origin. Note these examples:

### ***Pensions***

- Each pensioner is entitled to a pension allowance of over €4,104. This means that a retired couple, after personal allowances, typically receives the first ±€20,000 of pension earnings free of tax.
- Many pensions paid within EU and beyond are entitled to an appreciable exclusion applying basic principles of elimination of Double Taxation. If eligible, an occupational pension of €60,000 should have little or no tax to pay.

### ***Non-Habitual Resident***

- Only the Portuguese-source portion of a non-habitual resident's employment income will be subject to Portuguese Income Tax. Additionally, this income will be levied at a flat rate of 20%.

- Foreign-sourced income will be exempt from assessment in Portugal when assessed under the rules of standing Double Taxation Agreements or the like.

### ***Disabilities Benefits***

Sometimes the common consequences of aging qualify taxpayers for 60% or greater disability status and still not hurt your golf game. If you are eligible, you will enjoy enhanced deductions.

### ***Income from Portuguese Property***

When reported as Portuguese-sourced business income, final tax rates are 4% or less with no further tax liability in the home jurisdiction for Non-Residents.

### ***Dividends***

Dividends paid by Portuguese companies as well as those from any country within the European Union are entitled to a 50% exclusion and are taxed on the other half at marginal rates with withholding on national dividends.

### ***Roll-Over Relief***

If you sell your principal residence and fully reinvest the proceeds in a new home, the capital gain is exempt. This is to be extended eventually to new home reinvestment anywhere in the European Union.

### ***Nominee Companies***

If you purchase property for investment purposes, using a Portuguese Nominee Company will provide many benefits including simplified bureaucracy and tax efficiency.

## ***Inheritance Tax***

Portugal abolished Inheritance Tax as of 2004. Transfers to immediate relatives (spouse, children, grandchildren, parents and grandparents) are tax exempt. All others pay only 10% Stamp Duty.

These and other benefits are entitlements under legislation. It is your right as a citizen and taxpayer to take maximum advantage of these tax breaks. Who knows? Portugal may prove to be a legal “*tax haven*” for you within Europe.

### ***euroFINESCO s.a.***

#### **HEADQUARTERS**

Rua do Sol, 4  
8200-448 GUIA (Algarve)  
*tel:* +351 289 561 333  
*fax:* +351 289 562 061

#### **Madeira Branch**

Rua do Aljube, 61, 2º Dtº  
9000-067 FUNCHAL (Sé)  
*tel:* +351 291 221095  
*fax:* +351 291 221103

#### **Lisbon Branch**

Rua A.M. Cardoso, 15, 4ºD  
1200-273 LISBOA (Chiado)  
*tel:* +351 21 342 4210  
*fax:* +351 21 342 4212

#### **Internet**

e-mail: [info@eurofinesco.com](mailto:info@eurofinesco.com)  
**[www.eurofinesco.com](http://www.eurofinesco.com)**  
Portugal  
*mobile:* +351 96 910 2813

## **eBooks from euroFINESCO**

- 1) Offshore Companies: *Moving Onshore*
- 2) Self-Employed in Portugal
- 3) Requirements of the Common Reporting Standard
- 4) Setting Up Fiscal Residence
- 5) Capital Gains Tax on Portuguese Property
- 6) Portuguese Tax Code Summaries
- 7) “VPT” Unveiled
- 8) Tax-Efficient Investing in Portuguese Property
- 9) Income from Portuguese Property
- 10) Taxation on Portuguese Property
- 11) “S.C.I.”: *Sociedade Civil Imobiliária*
- 12) Property Companies: *White-List or Portugal*
- 13) Nominee Companies for Portuguese Property
- 14) Fiscal Representation in Portugal
- 15) “Permutas” or Property Swaps
- 16) Estate Planning & Nominee Companies
- 17) “I.H.T.” – Residence Rules & Determining Domicile
- 18) Moving to Portugal – *before, during & after*
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    - 28) Social Security Entitlements
    - 29) Golden Residence Visa
  - 30) Leaving Portugal - *Moving Back*
  - 31) Non-Habitual Residence Status and the Alternatives
  - 32) Trusts, Foundations and Fiduciary Structures