



*euro*FINESCO

eBook n° 22

**RESIDENCY  
RULES:**  
*in the EU, Portugal  
and the UK*

by

Dennis Swing Greene

PORTUGAL

## Ficha Técnica:

4ª Edição: *euroFINESCO eBook nº22: Residency Rules:  
in the EU, Portugal and the UK*  
Autor: Dennis Swing Greene  
Designer: Maria de São José Belchior Horta  
Distribuição: *euroFINESCO s.a.*  
Tiragem: Internet  
Executado: Abril 2018

Reservados todos os direitos.

Esta publicação não pode ser reproduzida no todo ou em parte,  
por qualquer processo, sem prévia autorização por escrito do autor.

COPYRIGHT © ALL RIGHTS RESERVED

Violators will be prosecuted to the full extent of the law

### *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



## *Table of Contents*

---

Beyond Advising on Fiscal Residence in the EU.....	5
Introduction .....	7
1. Staying Abroad up to 3 Months.....	9
2. Staying Abroad for more than 3 Months. ....	11
3. Permanent Residence.....	15
4. Residence for Non-EU Nationals . ....	17
• Temporary Residence Visa	
• Permanent Residence	
• Golden Residence Permit	
5. Residence and Taxation.....	21
6. Non-Habitual Residence .....	23
7. Voting in your new country . ....	25

8. Healthcare Abroad.....	27
9. UK Statutory Residence Test.....	31
Conclusion .....	37
Notes. ....	39
Other eBooks from <b>euroFINESCO</b> .....	40



## ***Beyond Questions on Residence Rules***

---

At **euroFINESCO**, we take pride in being a frontrunner in fiscal and expatriate services in Portugal, playing a leading role in interpreting Portuguese fiscal legislation as plain English for the foreign resident community since 1991.

### **PORTUGUESE TAXATION**

- *IRS* - Individual Income Tax Returns
- *IRC* - Tax Preparation for Portuguese Nominee Companies as well as Non-Resident Companies
- Fiscal Residency Transitions to Portugal
- Fiscal Representation for Non-Resident Individuals
- Fiscal Representation for Companies

### **INTERNATIONAL TAX ISSUES**

- Bilateral Tax Treaties
- International Tax Reconciliation
- Compliance Issues

### **PERSONAL TAX PREPARATION**

The Portuguese tax system offers surprising opportunities to the foreign resident. When properly prepared, Portugal can prove to be a “tax haven within Europe” for you.

### **PORTUGUESE “*IRS*” INCOME TAX RETURNS**

**euroFINESCO** specializes in helping foreign residents by preparing their annual Portuguese *IRS* Income Tax Returns.

## **NOMINEE COMPANIES FOR PORTUGUESE PROPERTY**

- Meeting basic compulsory compliance commitments;
- Liaison between *Finanças* and Company Owners.
- Resourcing information to Owners;

## **FISCAL REPRESENTATION**

- Protecting your Valuable Investment
- Meeting Compliance Requirements
- Resourcing Key Information
- Liaison with *Finanças*
- Personalised Service
- Payment Facility
- Plain English

## **DOCUMENTATION**

We can assist you by cutting through the bureaucracy:

- “*Residências*”
- Portuguese Wills
- Driving Licences
- Rates Exemptions
- Fiscal Numbers
- Medical Cards

## **SMALL BUSINESS FORMATION**

We can help expatriates launch new businesses in Portugal:

- Choosing the right structure
- Accountancy Services
- Social Security & VAT
- Local Lodging Plan



### *in Portugal . . .*

#### **Current Residence Rules**

In 2006, Portugal passed the current Residency Law, regulating the free circulation and residency of EU Citizens in Portugal. Transposing the EU Directive, this legislation changed basic assumptions and definitions while greatly simplifying the compliance process for EU citizens. The statutes define three phases and are in harmony with similar measures being adopted throughout the 27 member countries of the European Community Residency Requirements: *in the EU, the UK & Portugal* and Switzerland.

The government also announced an upcoming overhaul in the Law of Immigration to control non-EU workers migrating to Europe.

- *Phase 1: Free Circulation - up to 3 months*

For periods less than three months, all that is required for an EU citizen to travel in Portugal is an Identity Card or Passport. No visa and no registration are required.

- *Phase 2: Residency - more than 3 months*

If citizens wish to stay beyond three months, they must register with the *Câmara* (local Council) in the town where they reside within 30 days following the initial period. Beyond presenting proper identification, the registration includes a self-declaration, stating the basis of the Residency:

- a) Employment or Self-Employment
- b) Health Insurance and Declaration of Means  
(*no lower than Portuguese national standards*)
- c) Education or Family

The purpose behind the Means Test and health insurance is to assure that new arrivals will not be a burden on Portugal's social support system. Based on the self-declaration principle, no documentation is required to accompany this application. A Residency Registration Certificate (*Certificado de Registo*) is to be issued in the act and is valid for 5 years.

- *Phase 3: Permanent Residency - more than 5 years*  
After five years, a permanent Residency Card is required. This document is issued by the *Serviços de Estrangeiros e Fronteiras*. The only required documentation is an Identity Card or Passport and the original *Certificado de Registo* from the *Câmara*. Upon application, the foreign resident receives an acknowledging certificate with the final card (*Carão de Residência*) to follow within 15 days.

The current green, 3-fold *Residências* remain valid and may be exchanged on demand.

### **Loss of Residency**

As a foreign resident, one may continue to travel freely within the EU. Residency status will only be lost when absent from Portugal for 2 consecutive years or when there is evidence of abuse of rights, fraud or a marriage of convenience.

### **Fines**

Those who fail to comply with the new regulations will be subject to the following fines:

Lack of Registration:	€400 - €1,500
Ongoing non-compliance:	€500 - €2,500
Negligence:	half of the above





## 1. **Staying Abroad up to 3 Months**

---



As an EU national, you have the right to stay in another EU country. If you stay there for less than 3 months, all you need is a valid identity card or passport. In many EU countries, you need to carry a national identity card or passport at all times. In these countries, you could be fined or temporarily detained if you leave your identity documents at home - but you cannot be expelled just for this.

### **Reporting Presence**

Some EU countries require you to report your presence within a reasonable period of time after arrival and may impose a penalty, such as a fine, if you fail to do so.

Before you go to another country, check the deadlines and relevant conditions for reporting your presence there with the national authorities.

All you need to report your presence is your identity card or passport. You should not have to pay any fees. If you are staying in a hotel, it is usually enough to fill in a special form - the hotel will take care of the rest.

In some EU countries, failure to report your presence might result in a fine, but you cannot be expelled just for this.

***Sample Story** - Hans is Austrian and spends his summer holiday every year on the Italian coast. Last summer he stayed in Italy for 2 months in his own flat. He reported his presence but the Italian authorities asked him to register at the town hall as well and to prove he had sufficient means to support himself in Italy.*

*Hans is entitled to stay in Italy for up to 3 months without providing any documents other than his identity card. If he stays for such a short period only, the Italian authorities can ask him to report his presence, but not to register.*

## **Equal treatment**

During your stay, you should be treated as a national of the country, notably as regards access to employment, pay, benefits facilitating access to work, enrolment in schools etc.

Even if you are staying as a tourist, you should not, for example, have to pay higher fees to visit museums or when buying transport tickets, etc.

***Exception:** If you are a pensioner, EU countries may decide not to grant you and your family income support for the first 3 months in the country.*

## **Expulsion**

Your new country can, in exceptional cases, decide to expel you on grounds of public policy, public security, or public health - but only if it can prove you represent a serious threat.

The expulsion decision must be given to you in writing. It must state all the grounds and specify how you can appeal and by when.



***in Portugal . . .***

Short term stays comprise one of Portugal's most successful industries: **Tourism**. However, playing the "eternal tourist", while popular for some, can be a precarious occupation. Compliance is your best bet that combines peace of mind with enjoying life.



## 2. Staying Abroad for More than 3 Months

---



### **Workers**

You have the right to live in any EU country where you work, are self-employed or have been posted to.

#### **Job Loss**

If you lose your job while living in another country, you can keep your right to work and live there if you are:

- temporarily unable to work because of illness or accident;
- registered with the relevant employment office as involuntarily unemployed after having been:
  - employed for over a year on an indefinite contract; or
  - employed for less than a year on a permanent contract (in this case, you retain the right to equal treatment with nationals for at least another 6 months);
- beginning vocational training (if you are not involuntarily unemployed, the training must be related to your previous job).

#### **Pensioners**

If you are a pensioner, you may live in any EU country if you have:

- comprehensive health insurance cover there
- sufficient income (from any source) to live without needing income support.

National authorities cannot require your income to be above the level that would qualify you for basic income support.

## **Registration**

During the first 3 months of your stay in your new country, you cannot be required to register (to obtain a document confirming your right to stay) but you may do so if you wish.

After 3 months in your new country, you are required to register with the relevant authority (often the town hall or local police station).

To obtain your registration certificate, you will need:

### **Employees / Postings Abroad**

- Valid identity card or passport
- Certificate of employment or confirmation of recruitment from your employer

### **Self-employed**

- Valid identity card or passport
- Proof of your status as self-employed

### **Pensioners**

- Valid identity card or passport
- Proof of comprehensive health insurance
- Proof you can support yourself without further assistance.

You do not need to provide any other documents.

When you register, you will get a registration certificate. This certificate confirms your right to live in your new country; it states your name and address and the registration date.

Your registration certificate should be issued immediately and cost no more than the price nationals pay for identity cards. Initially, your new residency status is valid for 5 years. Once renewed, the status should be valid indefinitely though you will need to report any change of address to the local authorities. If you fail to register, you may be fined but may continue to live in the country and cannot be expelled just for this.

In many countries, you will need to carry your registration certificate and national identity card or passport at all times. If you leave them at home, you may be fined but cannot be expelled just for this.

***Sample Story*** - Kurt is a German who moved to Belgium to work as an independent lawyer in a partnership. When he went to register at the town hall, he was told he couldn't start working until he'd received a registration certificate.

*This is incorrect: as an EU national, Kurt may work as a self-employed person without waiting for a registration certificate. In any case, the authorities must issue a registration certificate immediately when asked.*

***Another Sample Story*** - Stephanie is a French engineer who has been posted to the Czech Republic for 6 months. He must register in Prague, where he works at the local branch of his company, but the Czech authorities refused to register him because his passport was only valid for 1 more month.

*In fact, Stephanie should have received his registration certificate immediately because the only condition is that his identity document is valid at the time of registration.*

## **Equal Treatment**

During your stay in your new country, you should be treated as a national of the country, notably as regards access to employment, pay, benefits facilitating access to work, enrolment in schools, etc.

## **Expulsion**

You may live in the other EU country as long as you continue to meet the conditions for residence. If you no longer do so, the national authorities may require you to leave.

In exceptional cases, your new country can decide to expel you on grounds of public policy or public security but only if it can prove you represent a very serious threat.

The expulsion decision or the request to leave must be given to you in writing. It must state all the grounds, and specify how you can appeal and by when.



### *in Portugal . . .*

Registration is done at the Town Hall in the municipality where you are live. All that is needed is valid identification, such as a passport or identity card. You will be asked to sign a declaration stating that you will take care of your own housing, provide sufficient means to live and be responsible for health insurance. No proof, other than your word, is required. You will be issued a Residence Permit called a “*Residência*” on the spot which remains valid for a period of 5 years.

The *Residência* processing fee for EU citizens is €15.



### 3. **Permanent Residence**

---



If you have lived legally in another EU country for 5 years continuously - as an employee posted abroad, a pensioner or self-employed person - you automatically acquire the right of permanent residence there. This means that you can stay in the country as long as you want.

Your continuity of residence is not affected by:

- temporary absences (less than 6 months a year);
- longer absences for compulsory military service;
- one absence of 12 consecutive months, for important reasons such as pregnancy and childbirth, serious illness, work, vocational training or a posting to another country.

You can lose your right to permanent residence if you live outside the country for over 2 consecutive years.

#### **Former employees and self-employed workers**

You may qualify for permanent residence earlier, if you have stopped working because:

- you have retired and have worked in the country for the last year or have lived there continuously for 3 years;
- you are no longer able to work and have lived in the country continuously for 2 years;
- you are no longer able to work due to an accident at work or occupational disease – in this case you have the right to remain regardless of how long you have lived in the country.

#### **Permanent Residence document**

This is different from the registration certificate which is compulsory in many countries. The permanent residence document is not always

compulsory. It confirms your right to live in the country where you now live permanently, without any conditions.

This means that the authorities may no longer require you to prove that you have a job, sufficient resources, health insurance, and so on. If you request a Residence Card, it must be issued as soon as possible and for no more than nationals pay for identity cards. The document should be valid indefinitely and does not have to be renewed.

To get one, you must submit:

- proof you have been living in the country for 5 years (the residence registration certificate originally issued; **or**
- proof you have stopped working and meet the conditions for earlier permanent residence.

## **Equal treatment**

During your permanent stay in another country, you should enjoy the same rights, benefits and advantages as nationals.

## **Expulsion**

In exceptional cases, the country where you live can decide to expel you on grounds of public policy or public security but only if it can prove you represent a very serious threat.

The expulsion decision must be given to you in writing. It must state all the grounds and specify how you can appeal and by when.



### ***in Portugal. . .***

After 5 years, your Permanent Residence Card (a credit-card style photo ID) may be obtained at the *Serviço de Estrangeiros e Fronteira* Office (“SEF”). Valid identification and your original *Residência* Certificate are required. The card will not expire and only needs renewal if you move address. The fee for EU nationals is €15.





#### 4. Residence for Non-EU Nationals



“Uniform” *Schengen* Visas allow nationals of third countries (outside of the *European Union* and the *European Economic Area*) who require a visa to enter or transit the countries that make up the *Schengen* area.\* These visas are called “uniform” because their regulation is common to all member countries of the Convention implementing the *Schengen Agreement*.

They are intended for short stays up to 90 days and are granted particularly for tourism.

##### \* *Schengen Countries*

Austria	Belgium	Czech Republic		Denmark
Estonia	Finland	France		Germany
Greece	Hungary	Iceland		Italy
Latvia	Lithuania	Luxembourg		Malta
Netherlands	Norway	Poland		Portugal
Slovakia	Slovenia	Spain	Switzerland	Sweden



## *in Portugal . . .*

Long-term Visas, regulated under national legislation, may be for temporary stays of residence and entitle the holder to remain in Portugal for an intended purpose: study, internship, work, medical treatment, retirement amongst others.

The temporary stay visa is generally valid for 4 months and allows for multiple entries.

The temporary residence visa is valid for a period of 4 months and allows for up to 2 entries, during which the holder must apply for a Residence Permit at a local “*SEF*” office (*Serviço de Estrangeiros e Fronteiras*) in the area of residence in order to establish permission for on-going residence.

### **Temporary Residence Visa**

Any foreign citizen who is not a national of a Member State of the European Union, the European Economic Area or Switzerland can apply for a *Residence Visa* at Portuguese consular posts outside of Portugal. The visa theoretically takes up to 60 days to be issued but be prepared for longer periods with a cost of €80.

The residence permit is valid for two entries and for four months, during which time the holder must apply for a title to establish residence.

The following documents are necessary:

1. Application form;
2. Travel document valid for a further three months duration of the intended stay;

3. Two identical photographs, passport, updated and suitable for identification of the applicant;
4. Ticket that ensures their return;
5. Valid health insurance, which can cover the expenses necessary for medical reasons, including urgent medical attention and eventual repatriation;
6. Application for consultation of the Portuguese Criminal Record by the Borders Service (“SEF”);
7. Criminal Record Certificate from the country of origin or where the applicant resided for more than one year;
8. Proof of Accommodation;
9. Proof of means or documentary proof of pension amount.

Temporary Resident Visas are valid for a period of 1 year. Application for renewal should be made in the final 30 days of validity. However, whenever there is any alteration in essential information, such as a change of address, renovation is required.

### **Permanent Residence**

Application for Permanent Residency must include all of the above documents. In addition, the applicant must submit an Individual Income Tax Declaration (“*IRS*”) as well as proof of registration with the Social Security Administration.

Citizens of EU / EEA / Switzerland and their family members can only formalize the right of permanent residence in Portugal after five consecutive years of living legally in the country by requesting a Certificate of Permanent Residence.

This document must be requested before the expiry of the certificate of residence, at the counters of the SEF, by appointment. The cost is €15.

## **GOLDEN RESIDENCE PERMIT PROGRAMME**

New legal provisions open up the possibility of applying for a *residence permit* for pursuing investment activities to those who have entered the country regularly by transferring capital, creating jobs or acquiring real estate.

The holders of the Golden Residence Permit for Investment Activity have the right to family regrouping, and may gain access to a permanent residence permit, as well as to Portuguese citizenship in accordance to the current legal provisions.

Third State citizens may apply when involved in an investment activity, either individually or through a company conducting, at least, one of the following operations in national territory for a minimum period of five years:

- Capital transfer with a value equal to or above 1 million Euros;
- Creation of, at least, 10 job positions;
- Acquisition of real estate with a value equal to or above 500 thousand Euros.

It covers shareholders of companies already set up in Portugal, or in another EU State, with a stable presence in Portugal and with tax obligations fulfilled.

Applicants and their families must the following:

- Fulfill the general conditions laid down by legislation;
- Hold a valid *Schengen* visa;
- Legalize their permanence in Portugal within 90 days of their first entry into national territory;

The Residence Permit shall be renewed for two years periods.



## 5. Residence and Taxation

---



If you spend more than 6 months a year in another EU country, you are likely to be considered as resident for tax purposes. If so, you will have to pay tax to that country on your total income worldwide — on your pension and on other income from any source within or outside that country. If you spend less than 6 months a year in another country, only the income generated there (such as rental income) would normally be taxed there, as you would continue to be a tax resident in your home country.

The jurisdiction where you work will normally tax the income you earn in its territory. If you are a tax-resident in a different country, your country of residence might also charge tax on the income you earned in the country where you work.

Most countries have Double Tax Agreements that let you offset tax paid in the country where you work against the tax payable where you are a tax-resident. In some cases, income earned in the country where you work might be tax-exempt in the country where you are a tax resident.

### **Equal Treatment**

If you move to a new country and are considered a tax-resident there, you should be treated in the same way as nationals of that country. Even if you do not become a tax-resident in the country where you work and earn most of your income, you should normally qualify for the same tax deductions as those available to residents of that country.

## Example

*If pension contributions or private health and invalidity insurance premiums are tax deductible in the country you move to, they should be deductible for you too, as a tax-resident there, even if your contributions are paid to pension schemes in your country of origin.*

*If you feel discriminated against, seek personalised advice. You may be entitled to deductions in your country of work – even for contributions to foreign pension funds.*



### *in Portugal . . .*

To register with *Finanças* as a *Fiscal Resident*, you must present your *Residence Certificate* as documentary proof. You will be only recognised as a resident for tax purposes once you have submitted your first Portuguese Income Tax Declaration which should take place in the Spring of your second year as a resident. Once the first annual return is made, you can request a *Certificate of Fiscal Residence* from the Portuguese tax authorities (“AT”).

This declaration will serve as proof of your fiscal status in Portugal. It is necessary for reclaiming any tax paid at source after the beginning of your Portuguese residence or stopping inappropriate withholding all together in your home country.



## 6. Non- Habitual Residence

The status of *Non-Habitual Residence* can be obtained if you become resident for tax purposes in Portugal without having had fiscal resident status in Portugal in the five years prior to application. This status may be enjoyed for a maximum period of ten consecutive years, after which you will become ordinarily regular tax resident, subject to the standard IRS tax regime.

The Non-Habitual Resident Individuals' special tax regime previews the following exemptions/benefits:

### A) **Professional Income from Portugal**

Income generated in Portugal classified under the IRS code as derived from categories A (employment) and B (self-employment, royalties), linked with “high value-added activities” of a scientific, artistic or technical nature, as defined by the Portaria no. 12/2010 of 7 January (see summary below) will be taxed at a special flat rate of 20%.

#### ***Professional Activities with high added-value***

- 1 - Architects, engineers and the like;
- 2 - Visual artists, actors and musicians;
- 3 - Auditors;
- 4 - Physicians and dentists;
- 5 - Teachers;
- 6 - Psychologists;
- 7 - Professional services, technicians, etc.
- 8 - Investors, administrators and managers.

## **B) Salary from Abroad**

Income generated outside Portugal from category A (employment) will be exempt in Portugal if such income is taxed at source and it is possible to establish a tax credit under an existing tax treaty for the elimination of double taxation or in the absence of such treaty, if taxed in the source jurisdiction and such income cannot be considered as taxable in Portugal under the IRS Code's rules.

## **C) Other Income**

Income generated outside Portugal from category B (within high value added activities, as mentioned above) or categories E (capital income), F (letting income) or G (capital gains) will be exempt in Portugal if this income may be taxed in the source jurisdiction and it is possible to establish a tax credit under an existing Tax Treaty for the elimination of double taxation or equivalent provided that such source jurisdiction is not included on the tax havens' black-list (Ministerial Decree no./“Portaria n.º” 150/2004 of 13 February).

## **D) Pensions**

Income generated outside Portugal, classified under the IRS code as derived from category H (pensions), will be exempt in Portugal if this income is, alternatively:

- 1) Taxable in the source jurisdiction whereby a tax treaty for the elimination of double taxation is in place allowing for a tax credit;
- 2) Under the criteria of the Portuguese “IRS” Code, this income cannot be considered as taxable 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 tax credit method.





## 7. Voting in your new country

---



If you live in another EU country, you have the right to vote and to stand as a candidate in municipal as well as European elections held in that country.

### **Registering to Vote**

The conditions for voting are the same for you as for nationals. If you want to vote in these elections, you need to express your intention to do so and ask to be put on the electoral roll in that country. You will be asked to supply information such as your nationality and address. For European elections, you will also have to declare that you will only vote once at the same elections.

If nationals of the country are required to have been living in the country for a certain period to be allowed to vote in municipal and European elections, it will be the same for you. However, the periods that you have spent in other EU countries - other than your home country - should be taken into account. Special rules can apply in EU countries where more than 20 % of the total electorate are non-nationals (today the only such country is Luxembourg).

### **Compulsory Voting**

If voting in municipal and European elections is compulsory in your new country and you are on the electoral roll of that country, you are obliged to vote.

### **Running for Office**

To stand as a candidate in municipal elections you may be required to make a declaration that you are not disqualified from standing as

a candidate. You may be asked to support this declaration with an attestation issued in your home country.

When standing in European elections, your application must be supported by an attestation from your home country certifying you are not disqualified from standing. You will also be required to make a declaration that you are not standing in any other EU country.



### *in Portugal . . .*

All EU citizens over 18 years of age living as residents in Portugal are legally entitled to vote in certain Portuguese elections, specifically:

- Local Municipal Elections
- European Parliamentary Elections

To be eligible, you must be at least 18 years old. You must not have been banned from voting in another EU state. You may also stand as a candidate in Municipal and European Parliamentary elections under the same conditions as a Portuguese national.

### ***Registering to Vote in Portugal***

A residence document and proof of address are required to register on the electoral roll. Inscriptions must take place at least 60 days before an election at the local *Junta de Freguesia* which is a sub division of the Town Hall.. Electors will be issued a *Cartão de Eleitor* (Voter's Card).

Voting normally takes place at the local *Junta de Freguesia* or another municipal building such as a local school.



### **Your Social Security Cover**

If you are planning to settle in another EU country, the country responsible for your Social Security cover, including health insurance, depends on your economic status - whether you are employed, self-employed, unemployed, a student, posted abroad, working across the border from where you live, and so on. You may not choose which country you will be covered by.

Depending on your situation, you will either continue to be covered by the Social Security of your home country, or you will fall under the regime of the country you move to or work in. In both cases, you will need to make specific arrangements for your continued health and Social Security coverage.

The country responsible for your health care depends on your employment situation or your place of residence, not your nationality. To avoid potentially serious problems and misunderstandings, find out about the health system in the country where you are going to settle before you leave.

### **Social Security Benefits differ between Countries**

Health-related Social Security rights are very different across the EU. Your entitlement to health-related benefits – like maternity or invalidity benefits – will depend on which country's social security system you belong to. For example, if a Spanish national living and working in Poland gives birth to a child there, she is entitled to

maternity leave under the same conditions as other Polish residents, according to Polish social security rules.

### **Your Social Security History**

In some countries, you must be covered by an insurance scheme for a minimum period before you are entitled to benefits, such as invalidity benefits. Under the EU rules all your periods of insurance must be taken into account by your current national insurance, including those spent in a different EU country. For example, if a Greek national moves to Sweden to work after 10 years of working in Belgium, and requires invalidity benefits after only 4 months, the Swedish authorities must take into account his 10 years of insurance cover in Belgium.

### **Using the local Health Care System**

You have equal access to healthcare as do the nationals of your new country of residence. You can visit a doctor under the same conditions as other local residents.

Which country's health care system ultimately pays for your medical treatment will depend on your economic status. If you have moved there to work, for example, it will usually be your new home country. If you are a Social Security beneficiary, such as an old-age pensioner, it will normally be the country where you made your contributions.

Health care and Social Security systems in Europe differ from country to country. In some countries you are expected to pay the doctor directly for treatment, although you may be used to a system where no money changes hands between doctor and patient.

When you move to another EU country, certain prescribed medicine might not be available, or it may have another name.



## *in Portugal . . .*

The Portuguese Constitution states that all citizens - including foreigners - are entitled to the provision of global healthcare. Therefore, all means of existing healthcare should be provided according to the needs of each individual and regardless of economic, social and cultural status.

An immigrant who is in the Portugal, takes ill or needs any form of healthcare, has the right to be assisted at a health clinic or a hospital. Health services can not refuse care based on any grounds of nationality, scarcity of financial resources, lack of legalization or any other reason.

The benefits of the National Health Service (NHS) include:

- Health supervision and disease prevention;
- Medical care by general practitioners and specialists;
- Nursing care;
- Hospitalization;
- Diagnostic procedures;
- Medicinal and pharmaceutical products;
- Prostheses and other complementary therapeutic devices.

### **Requesting the *Cartão de Utente* (NHS User Card )**

The user identification card called “*Cartão de Utente*” is the document that proves the identity of its holder to the institutions and integrated services of the Portuguese National Health Service (NHS). Both the registration process and card are free.

With the card, the holder is entitled to:

- Provision of health care;
- Request diagnostic tests and therapeutics;
- Prescription and drug procurement.

To apply for a Portuguese Health Card, foreign residents must show proof of:

- Identification (passport or national ID card)
- Residence (Residence Certificate) or a valid work visa.



## 9. UK Statutory Residence Test

*Due to a major revision in UK Residence rules, we are also providing a comprehensive summary of the new procedures and requirements for UK nationals when leaving the United Kingdom*



The UK authorities have changed the rules regarding tax residence. A *Statutory Test* determines whether individuals are resident in the UK for tax purposes.

### **Background**

The Statutory Residence Test for individuals took effect in April 2013 replacing the former current case law based approach. The current system was uncertain and recent cases (most notably *Gaines-Cooper* in 2008) demonstrated that reliance could not be placed on published HMRC guidance in this area.

A long consultation process began in June 2011 resulted in draft legislation set out in the Finance Bill published on 11 December 2012. The final version was published after the Budget 2013.

### **The Test**

UK Statutory Residence Test (“*SRT*”) will determine whether you are resident or not resident in the UK in a tax year for the purposes of income tax, capital gains tax and inheritance tax. There are two layers to the *SRT*:

- i. The Automatic Residence Test
- ii. 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 individuals who have been resident in the UK for any of the past three years.
- “**Arrivers**” are individuals not 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 tests**

- I. Present for 183 days in a tax year in the UK.
- ii. The individual has a home in the UK available >90 days and visits that home for 30 days in the tax year and either:
  - a. This is the individual’s only home.
  - b. The individual has an overseas home but does not use it for at least 30 days in the tax year.
- iii. Works full time in the UK in a year (more than 75% of these days are in the UK).
- iv. Where a person dies and was UK resident in **each** of the three preceding years with a home in the UK at death.

If an individual meets 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**

- i. Leavers – spend < 16 days in the UK.
- ii. Arrivers – spend < 46 days in the UK.
- iii. Works full time abroad, spending < 91 days in the UK in the tax year, and < 31 days working in the UK for >3 hours.
- iv. Dies abroad having been not UK resident for two years and has spent < 46 days in the UK.



## Sufficient Ties Test

If an individual meets none of the automatic UK tests, or any of the automatic overseas tests, the sufficient ties test must be considered. There are two levels of test: 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 number of days a leaver and an arriver could spend in the UK without triggering UK residence:

***Maximum number of days return to UK***

<b><u>Number of ties to the UK</u></b>	<b><u>Leaver</u></b>	<b><u>Arriver</u></b>
1	120	182
2	90	120
3	45	90
4	15	45

Once the number of ties has been established, you can then refer to the table above to determine whether, taking into account the number of days the individual has spent in the UK, you are considered UK tax resident in a particular tax year.

## UK Ties

### ***D) The Family tie:***

If your ‘relevant relationships’ with spouse, civil partner, ‘co-habiting’ partner or a child under 18 years who is 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) the Accommodation tie:**

If ‘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’ can include a holiday home or a rented accommodation.

**iii) the 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) the 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) the Country tie:**

If the UK is the country in which you meet the “midnight test” for the greatest number of days in that year.

The ‘midnight test’ is met if the individual is present in that country at the end of the day. If the midnight test is met for the same number of days in two or more countries (and that number is the greatest number of days, you meet the “midnight test” in any country), you have a country tie provided just one of those countries is the UK.

*NOTE: This summary is not intended to give individual advice on residence status as a detailed knowledge of an individuals’ family situation and work activities are required to do so. HMRC have published a guidance note on these new rules and this gives a more detailed analysis of the Statutory Residence Test.*



## **Conclusion** *Opportunities in Portugal*

---



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 many forms of income, broad tax credits for many 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 the following examples:

### ***Pensions***

- Each pensioner is entitled to a pension allowance of over €4,104. A retired couple, after personal allowances, receives the first ±€15,000 of pension earnings tax free.
- Many pensions paid within EU and beyond are entitled to substantial exclusion. If eligible, a gross private pension of €60 000 could pay almost no tax at all.

### ***Disabilities Benefits***

For those with 60% or greater disabilities, 50% of salary and 30% of pensions are tax exempt within certain limits, home care support for ≥90% disability.

### ***Holiday Let Income***

If you engage in Local Lodging, you are entitled to an 85% on your gross invoiced income, leaving less than 4% to pay as a final tax.

### ***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 only half of their value.

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

If you sell your principal residence and fully reinvest the proceeds in a new home, the capital gain is exempt. If you make only a partial reinvestment, the tax will be calculated on a pro rata basis. This exemption can be extended to new home reinvestment anywhere in the European Union, not just Portugal.

### ***Nominee Companies***

If you purchase property for investment purposes, using a Portuguese Nominee Company can lower your eventual Capital Gains Tax liability by half, sidestep typical taxes on property transfer as well as avoid many of the complexities of Portuguese bureaucracy.

### ***Non-Habitual Residence Status***

Qualifying individuals may achieve a most flat-rate tax of 20% on salary and self-employment income in Portugal. Foreign-sourced income may be totally exempt in certain circumstances. Of special interest for retirees, occupation pension income is normally fully exempt under the Non-Habitual Resident programme.

To qualify for this status, you have only to be able to demonstrate that you have not been tax resident in the previous five years.

### ***Inheritance Tax***

Portugal has no Inheritance Tax. Transfers to immediate relatives (spouse, children, grandchildren, parents and grandparents) are tax exempt. All others pay only 10% Stamp Duty.

## ***Conclusion***

These and other benefits are entitlements under current 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.

**FISCAL & EXPATRIATE SERVICES**  
from  
**euroFINESCO**



*We are a full service company, helping expatriates to make the most of their life in Portugal since 1991. Whether it be meeting obligations in a new land, maximizing opportunities in a smooth transition from the past, or financial and estate planning for the future, euroFINESCO is here to guide you, keep you compliant and prepare you to meet your goals.*

**TAX CONSULTANCY**

**FISCAL REPRESENTATION**

**PORTUGUESE NOMINEE COMPANIES**

**CROSS BORDER ESTATE PLANNING**

**SMALL BUSINESS FORMATION**

**DOCUMENTATION**



## **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*
- 19) Taxation of Pensions in Portugal
- 20) “I.R.S.” Tax Credits
- 21) CGT Mitigation: *14 Arrows in the Quiver*
- 22) Residence Rules: *in the EU, Portugal and the UK*
  - Extracts from *Relocating to Portugal - Useful Information*
    - 23) Acquiring Portuguese Citizenship
    - 24) Visas and Legal Framework
    - 25) Your Rights to Health Care
    - 26) Access to Education
    - 27) Recognition of Qualifications
    - 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