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U.S. Expats in Portugal

by
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euroFINESCO s.a.

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U.S. Expats in Portugal

TABLE OF CONTENTS

Introduction - Americans and Portugal.	7
 Pensions	
1. Taxation of U.S. Pensions.	9
2. U.S. Retirement Savings Plans.	11
 Social Security	
3. U.S. Social Security benefits outside in Portugal.	13
4. Freelancers & U.S. Social Security.	15
 Living in Portugal	
5. Healthcare in Portugal.	21
6. Exchanging a foreign Driving Licence.	25
 Taxation	
7. Tax Basics when living abroad.	27
8. US Tax Preparation Document Checklist.	31
9. US Tax Filing Requirements.	33
10. Foreign Tax Exclusions.	35
11. Portuguese Fiscal Residency.	36

Residency for third-country nationals

12. “Residências” for third country retirees..... 37
13. Residency Visas - 3rd country nationals. 39
14. Start-up Visa for Entrepreneurs. 43
15. Residency Visa and Family Reunification. 44
16. Short-term Visa extension..... 45

euroFINESCO Publications MASTER LIST. 47

Notes 48





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
- Tax Residence 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



Portugal is becoming a favorite destination for Americans. Whether retirees seeking a safe and affordable retirement in the sun or “IT” millennials making career and lifestyle choices in the prime of life, the southwestern corner of the Iberian peninsula has become a hot spot in Europe.

Quality of Life

Portugal is a safe country with a low crime rate and little to no terrorist activity. As the westernmost country of Europe, it is one of the most isolated, sharing only a border with Spain. Portugal has a unique culture and heritage, a beautiful Atlantic coastline, as well as spectacular ocean islands: Madeira and the Azores. The country enjoys an attractive quality of life, ranking 8th worldwide.

Climate

While Portugal is not geographically on the Mediterranean, it does have a Mediterranean climate with mild, wet winters and hot, dry summers. Basking in sunshine at the southwestern tip of Europe, Portugal enjoys one of the best climates in the world. With only a short rainy season and long hours of sunshine (the most in Europe), the Algarve is blessed with over 300 days of sunshine per year. Due to its relief and geographical position, Portugal is influenced climatically by the European continent, North Africa, the Atlantic Ocean as well as the Mediterranean. In the Algarve, maximum temperatures vary annually between 15°C and 31 °C and temperatures rarely fall below freezing in the winter.

Modest Cost of Living

Cost of living in Portugal is currently 28.38% lower than in the United States (aggregate data for all cities, rent not taken into account). Rent in Portugal is 46.37% lower than in the States

(average data for all cities). Portugal offers arguably the lowest cost of living in Western Europe.

Just about everything, from housing to groceries, is affordable. Including rent, a couple can live comfortably in Portugal's interior or in small cities from about \$1,700 a month. A couple's budget in Lisbon starts at about \$2,200 a month. Singles should plan on a budget of about two-thirds that of a couple.

Healthcare

In 2017, Portugal's healthcare system was ranked 12th worldwide by the World Health Organisation. With treatment eligibility based on residency, healthcare is a constitutional right. While not perfect, Portugal offers quality and affordable care.

Conclusion

These fundamental factors add up to a surprisingly bright future for those who choose Portugal. In recent years, there are also strong tax incentives that have come into place that further stimulate investments related to all of the diverse forms of tourism. These pervasive underlying realities should be the driving force to encourage more and more Americans to make the move to Portugal.

This eBook is a compilation of publications relating to **U.S. Expats in Portugal**. Our intention is to refresh this collection on a regular basis: changes in legislation that necessitate updates, new queries that will trigger additional articles, experience that will always teach us valuable lessons. Be sure to refresh your downloads.



1. Taxation of U.S. Pensions

Americans living in Portugal for more than six months during a fiscal year (01 January - 31 December) have dual tax accounting obligations. As resident for tax purposes in Portugal (over 183 days), you must declare your worldwide income to the Portuguese Tax Authorities (“AT”).

Simultaneously, you are also required to file an annual tax return to the Internal Revenue Service, reporting your global income as part of your duty as a U.S. citizen. To resolve conflicts between these two prerequisites, a Double Taxation Agreement (DTA) exists.

U.S. Social Security Pensions

Under the terms of this treaty, U.S. Social Security pensions “may be taxed” at source (USA). To eliminate double taxation, the country of residence (Portugal) agrees to grant a tax credit equal to the U.S. levy. Subsequently, the “AT” assesses according to domestic rules.

Many Americans who have grown accustomed to receiving their Social Security pensions free of tax in the States will find that, in Portugal, they will no longer have any applicable tax to credit, leading to ongoing Portuguese assessment.

Government Pensions

If you receive a civil service pension from past government service (local, state or federal), this retirement benefit will remain exclusively taxable at source in the United States.

Nevertheless, this income must be reported on your Portuguese tax return to determine your final tax rate. Although not assessed in Portugal, the pension will still be considered as part of your total income and will have a “top-slicing” effect on your other sources of revenue.

Private Pensions

On the brighter side, other pensions have different treatment under the agreement. Private pensions paid in the USA - occupational pensions, IRAs, 401Ks, annuities, etc. - now become solely taxable in your country of residence (Portugal). These rules allow you to take advantage of beneficial elements of Portuguese fiscal legislation such as the Non-Habitual Residency regime 10-tax holiday or appreciable exclusions routinely available on many forms of private pension income. NHR status has the added benefit that Social Security pensions also become exempt for up to a decade in Portugal.

Eliminating Double Taxation

To avoid being taxed twice on your private pensions and receive a refund on any tax inappropriately withheld at source in the States, you must complete IRS form 8833 - *Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)* - as part of your annual U.S. tax declaration (form 1040). A generic model of Form 8833 is available from **euroFINESCO** for you to follow as well as blank forms for you to use.

***Note:** Remember to use a separate 8833 Form for each pension provider*



2. U.S. Retirement Savings Plans

When contemplating a move to Portugal, you need to decide what will come with you and what to leave behind. One key consideration is your pension as an essential element in your sustenance. There are several significant points to keep in mind:

- Review the specific regulations regarding early and regular withdrawal from your current pension program;
- Evaluate the “small print” of potential International Pension Plans to determine if there are any cross-country obstacles when transferring your pension;
- Assess the underlying investment options of any potential new Pension Plan: what are your options and who can advise you;
- Research the tax implications or further restrictions imposed by legislation in Portugal;
- Determine if you might benefit from transferring your entire U.S. plan versus taking payments to be transferred and converted on a monthly basis;
- Consider using a Foreign Currency Exchange service to reduce currency conversion costs when moving your pension.

Your 401(K) - Considerations for withdrawals

Before the age of 59.5, early withdrawals trigger a federal charge of 10% on 401(K) and IRA accounts. However, once beyond that age threshold, one of the greatest benefits of these plans is the ability to have access to all of your retirement savings at once without penalty. There are no longer restrictions; it is up to you to determine how to use the proceeds. You can reinvest the proceeds in an International Pension Plan that offers a broader range of investments than those offered in the U.S. within the 401(k). Also, you can enjoy significant tax breaks, helping you make the most of your new life in Portugal.

Contributions to a 401(k) plan are tax-deferred. Growth is not subject to annual capital gains tax assessment as would be the case in most U.S. investment portfolios. Once a lump-sum distribution is made, your earnings are no longer tax-deferred, leading to lower investment returns in the long run.

A traditional IRA

With an IRA, when you reach 59.5 years of age, you can start taking retirement distributions from your traditional IRA without restrictions or penalties just as you can from a 401(k). As resident for tax purposes in Portugal, you can take advantage of the 10-year tax holiday offered under Non-Habitual Residency (NHR). Alternatively, you may be eligible for an 85% exclusion under the standard Portuguese tax legislation.

International Pension Plans

While most people believe that they must contribute regularly throughout their working careers to a pension fund in order to qualify for retirement income, many do not realise that such a qualifying plan can be created by transfer or on a lump-sum basis. Unlike annuities or conventional onshore pension plans, where income is provided but capital forfeited upon death, the capital base can remain intact and be passed on to heirs as part of one's estate. In other words, in addition to being a flexible income vehicle during your lifetime, the same instrument can prove to be a highly effective estate planning tool.

Taxation of International Pension Plans

When assessing pension income, Portuguese legislation can allow for an 85% exclusion. On an annual pension of €100,000, the application of this principle would lead to a gross assessment before qualifying tax credits of just €1,500 (1.5%).



3. U.S. Social Security benefits in Portugal

Over half a million, including retired and disabled workers, as well as spouses, widow million U.S. citizens live abroad and receive some kind of Social Security benefits, widowers, and children. There are several special issues that Americans should take into consideration before moving. Bilateral Social Security agreements and foreign pension plans can impact the total amount of benefits received. If you qualify for Social Security benefits from both the U.S. and Portugal and you don't need the agreement to qualify for either benefit, the amount of your benefit may be reduced. This is a result of a provision in U.S. law which can affect the way your benefits are calculated if you also receive a pension based on work that was not covered by U.S. Social Security. For more information, get the publication n° 05-10045, *Windfall Elimination Provision*.

If you're a U.S. citizen, you may receive your Social Security payments outside the United States as long as you are eligible. To receive S.S. retirement benefits, you must have contributed to Social Security for a minimum cumulative total of at least 40 quarters (10 years). The SSA considers you to be outside the country once you've been absent from the U.S. for at least 30 days in a row. If you are traveling outside the U.S. for an extended amount of time, it is important to inform the SSA of your planned departure and return dates. The SSA can let you know whether your Supplemental Security Income (SSI) will be affected.

You can use the online tool to find out if you can continue to receive Social Security benefits when outside of the U.S. at www.socialsecurity.gov/international/payments_outsideU.S.html. This tool will help you find out if your retirement, disability, or survivor's payments will continue as long as you are eligible, stop after six consecutive calendar months, or if certain country specific restrictions apply.

Non-U.S. citizens (commonly referred to as *foreign aliens*) may receive U.S. Social Security benefits while outside the U.S. only if they meet certain requirements. Under the U.S. - PT bilateral Social Security Agreement, you may receive benefits as long as you reside in Portugal regardless of your nationality. If you are not a U.S. or Portuguese citizen and live in another country, you may not be able to receive benefits. The restrictions on U.S. benefits are explained in the publication n° 05-10137, *Your Payments while you are outside the United States* at www.socialsecurity.gov/pubs. When living outside the United States, the SSA will periodically send you a questionnaire. Your answers will help them to figure out if you still are eligible for benefits. Return the questionnaire to the office that sent it as quickly as possible. If you don't, your payments will stop. In addition to responding to the questionnaire, notify the SSA promptly regarding any changes that could affect your payments.



4. Freelancers & U.S. Social Security

Many expats and “IT” nomads mistakenly believe that the first \pm \$100,000 of income are tax free in the U.S. under the Foreign Earned Income Exclusion (FEIE). This is only partially true. The FEIE does let you exclude income from taxation. However, it does not get you out of paying self-employment tax on foreign income when working abroad as a freelancer, independent contractor or sole proprietor (non-resident aliens are not subject to U.S. self-employment tax).

1. Taxes for the self-employed abroad

Generally speaking, self-employed individuals pay income tax and self-employment tax (SE tax). If you qualify for the FEIE, you can exclude foreign earned income up to \$104,100 (2018) from U.S. income tax. But you still have to pay self-employment tax. Being self-employed, you must pay SE tax on your entire net profit, even the amount you can exclude from income tax.

The SE tax is a Social Security and Medicare levy for individuals who work for themselves. If you work for a company in the U.S. as an employee, the Social Security and Medicare tax is automatically taken out of your monthly paycheck. As a freelancer, however, you are responsible for calculating and paying SE yourself on a regular basis.

The IRS considers you self-employed if you work for yourself, whether full-time or part-time, even if you are not registered as a sole proprietor. Even if you have a U.S. LLC, but did not elect to have it taxed as a corporation, you must pay SE tax, because LLC *passes through* income to you as the owner. (To avoid SE tax, you must elect to have your LLC taxed as an S Corp).

2. Tax filing thresholds for the self-employed

Some expat freelancers may think that they don't earn enough to have to file a tax return. However, the approximately \$10,000 income threshold for filing also does not apply to the self-employed. If you are a freelancer, the IRS requires you to file a tax return if your annual net earnings are more than \$400.

3. Self-Employed vs Employee

The main differences between income as an employee and income from self-employment are as follows: 1) how income tax works and 2) how income is reported. An employee receives a W-2 form, whereas a contractor receives a 1099 form.

The same kind of work, like computer programming, could generate two different types of income. A remote employee for a U.S. company will receive a W-2. If you do programming work for a U.S. company as a contractor, he should receive a 1099-MISC form for that work. Make sure you understand if your company considers you an employee and provides a W-2, or if they treat you as a contractor and issue a 1099-MISC.

Differences between a contractor (1099) and an employee (W-2)

Here are three types of questions to distinguish between the two:

Behavioral: Does the company control or have the right to control what the worker does and how the worker does his or her job? If the answer is "yes," s/he is likely a W2. If the workers are free to manage their own schedule and work process, they are more likely a 1099.

Financial: Does the employer control the business aspects of the worker's job? This includes how the worker is paid, whether expenses are reimbursed, and who provides tools or supplies. If the company controls how the worker is paid and pays for expenses and supplies, s/he is likely a W2. If the worker has to send an invoice to get paid and/or cover their own expenses, they are more likely a 1099.

Type of relationship: Do you have a written employment contract (versus project or an independent contractor agreement) or employee-type benefits, e.g. health insurance, vacation pay? Will the working relationship continue for the foreseeable future if the work is done correctly and is the work performed is a key aspect of the business? If the company provides an employee with benefits and believes the employee is there for the long-term, s/he is likely a W2. Only ONE of these questions has to be met for the employee to be considered a W2 employee.

4. Form 1099 for self-employment income

1099-MISC forms are a bit more complicated than a W-2. First of all, you may not receive a 1099-MISC for all the income you earned. There may even be double-reporting. You can't rely on 1099-MISC forms alone to report your self-employment income for tax. Instead you have to keep track of your own self-employment income and all related expenses.

1099-MISC forms only list your gross earnings. Unlike W-2s, there are no taxes withheld on your behalf. Be aware that in some cases (for example with Airbnb), the amount on the 1099 may include commissions paid to the company that issued the form, instead of just your earnings net of that commission. Keep in mind that 1099s can contain errors. Always check them against your own records and request a corrected form if you find a mistake.

Who issues a form 1099?

If you earn more than \$600 as an independent contractor for a U.S. company, then the company must issue you a 1099-MISC form. (Just like with a W-2, a copy of the 1099 will be sent to the IRS.) But even if the company fails to give you a 1099, or you earn less than \$600 per year with a single company, you still have to disclose the income. PayPal and other electronic payment processors will also send out a 1099 form, called 1099-K, if you meet certain thresholds. According

to PayPal, they issue a form 1099-K to sellers who exceed the IRS thresholds, i.e. when they receive over \$20,000 in gross payment volume for the sale of goods or services AND receive over 200 separate payments in the same calendar year. If you don't receive a 1099 form from them, you need to use your own records to report the income. Many affiliate sites also issue 1099 forms. You can expect that every place that asks for your SSN or tax information, when signing up, could send you – and the IRS – a tax form.

When you receive a 1099-MISC form from a company you worked for and were paid electronically, for example via PayPal, there is a risk that the same payment is also included in a 1099-K from PayPal. You should compare all 1099-MISC and 1099-K forms carefully against your own records. Even without a 1099 form, you need to report your foreign self-employment income on your U.S. tax return.

5. Reporting self-employment income earned abroad

If you teach English online for a Chinese company, do web design or copy-writing for international clients, are an independent fashion designer, etc., you may not receive any official tax document. That doesn't mean that the income is not subject to U.S. self-employment tax. To report your income, you can use any official or semi-official document or your own spreadsheet. You want to keep track not only of the income you earned made, but also of your expenses and any foreign tax you may have paid on that income.

If your payments come through PayPal, you can go into the history section and download the history from January 1 to December 31 of the tax year. You can do the same for bank accounts and other financial providers you use for receiving payments. This exercise will be much easier if you have separate accounts for your business. Mixing business and personal finances is never a good idea.

6. Self-employment tax rate

The self-employment tax rate is 15.3% for the first \$128,400 of net income (2018). On income above this level, you have to pay only

2.9% Medicare tax, but no further social security tax. For self-employment tax, you cannot exclude any income you earn while abroad. You must pay self-employment tax on all of your net profit, including the amount excluded under the FEIE (Foreign Earned Income Exclusion).

Let's say you work abroad as a freelancer and qualify for the Foreign Earned Income Exclusion. Your foreign earned income is \$80,000 and your business deductions total \$20,000, so your net profit is \$60,000. You don't have to pay federal income tax because you can exclude all of your foreign income. But you have to pay 15.3% self-employment tax on all \$60,000 of your net profit.

7. Quarterly estimated payments

Since self-employed don't have tax deducted from their monthly paycheck, they have to make estimated quarterly payments.

Here's how to calculate quarterly estimates:

1. Calculate your net earnings:

Add up all (expected) income for the year and then subtract all business expenses to calculate your estimated net earnings. Accounting software or at least a simple spreadsheet helps with keeping track of all income and expenses.

2. Estimate your taxes and pay quarterly estimated taxes

Take your estimated net earnings for the year, multiply it by 0.15 for the total self-employment tax, then divide by 4 to get the quarterly payments.

If during the year you realize that you will likely make more than estimated, you need to adjust your quarterly payments. You should also adjust if you think you will make less than expected. Once the year is over and you know your actual income and expenses, you can file your annual tax return and receive a refund if you overpaid. Quarterly payments are due on April 15, June 15, September 15, and January 15.

sources: www.irs.gov; www.onlinetaxman.com

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5. Healthcare in Portugal

Eligibility for the Portuguese healthcare system is residency-based, meaning healthcare is available to residents in Portugal. This can also include non-working residents as well such as retired, dependent family members as well as the unemployed in certain cases. Portugal has a high standard of medical services. The Portuguese national healthcare system ranked 12th in the 2018 World Health Organization (WHO) Health Systems Rankings, well ahead of the U.S. at 37th, the UK at 18th and Canada at 30th. Portugal performed particularly well for price-quality rankings.

Portuguese healthcare system overview

Healthcare in Portugal is delivered through the Portuguese National Health Service (“SNS”) which was founded in 1979. Similar to the National Health Service in the UK, the “SNS” is generally free and available to all residents, including expats in Portugal, although minor charges have been introduced for some services in recent years.

The “SNS” covers all of mainland Portugal (the regions of Azores and Madeira have their own healthcare systems) and is managed by a central administration and delivered by five regional health administrations (North, Central, Lisbon and Tagus Valley, Alentejo and Algarve). The “SNS” covers primary healthcare – GP services, maternity and family services, community healthcare, some dental services – delivered mostly from public health centres and secondary care (hospitals and specialist units). Public medical care in Portugal is primarily funded by Social Security contributions paid by working residents in Portugal.

Registering for healthcare in Portugal

To sign up for public healthcare in Portugal, you first need to register with Portuguese Social Security (*Segurança Social*) to get your Social

Security number. This is usually done by your employer if you are a salaried worker. Self-employed people need to make the arrangements themselves. Once your Social Security registration is in place, you sign up at your local Portuguese health centre (*centros de saúde*). You will need to take along your Social Security card along with your passport and Residency Permit (Residência”).

Once registered for public healthcare in Portugal you will receive your *cartão do utente* (healthcare card), which should show your eligibility every time you access Portuguese healthcare services. You can also register via the “SNS” online portal (<https://www.sns.gov.pt/>) which will enable you to access information and make appointments online.

Non-Residents and Visitors

Non-residents and temporary visitors to Portugal may want to purchase private health insurance to cover their stay in Portugal, enabling them to access doctors, emergency treatment and other Portuguese health services. Those on short visits from the European Union (EU), European Economic Area (EEA) and Switzerland can access public healthcare in Portugal through their European Health Insurance Card (EHIC). Nationals from non-EU countries that have reciprocal healthcare agreements with Portugal may also be able to access public healthcare in Portugal for free or at a reduced cost.

Health insurance in Portugal

Some residents opt for private health insurance to supplement their public health insurance. Medical insurance covers treatment from private healthcare providers in Portugal, which can be quicker than the public system. Extra health insurance coverage is also available to meet your individual needs. The cost of private health insurance in Portugal varies from several hundred to a few thousand euros per year.

Private healthcare in Portugal

Private healthcare in Portugal exists alongside the public “SNS” provision, with some doctors working in both sectors. The costs for

private GP services, specialists and hospitals can be covered by taking out private medical insurance in Portugal, otherwise fees are considerably higher than public services. Private healthcare in Portugal may be expensive than the public sector but waiting lists are typically shorter. There is a wide range in the availability of medical services and more chance of being seen by English speaking doctor.

Private health insurance for expats in Portugal is common, as well as growing in popularity among the local Portuguese population too, with between 10–20 percent using private services. Some services, such as dental and eyecare services, have limited coverage through the “SNS”, so some residents have little option but to seek out private providers.

Going to see a doctor in Portugal

Doctors in Portugal are part of primary medical services covered by the Portuguese healthcare system. Most doctors are based at public health centres and once you've registered for public healthcare in Portugal, you will be assigned a family physician. Most of the costs for doctors in Portugal is covered by “SNS” but you will usually have to make a small contribution of a few Euros towards consultation costs, unless you are elderly or from a vulnerable economic group.

Seeing a specialist

To see a specialist through the state healthcare system (e.g. cardiologists, psychologists, etc.), you need to be referred by your “SNS” family physician. Patients usually have to pay something towards the costs of seeing a specialist in Portugal. Depending on what kind of treatment is required and what kind of specialty, there can sometimes be a long wait to see specialists in Portugal in the “SNS”. Private care is much quicker and inexpensive health insurance can help cover much of the cost.

Hospitals

Hospital services are provided with a discount, and sometimes even without charge for people, that are registered at a local Medical Center. You should bring your “SNS” card with you. Unless you are admitted to hospital for emergency treatment, you will need to be referred by a Portuguese doctor for treatment. Public hospitals in Portugal provide emergency treatment, outpatient treatment, nursing, post-operative care, maternity care, psychiatric care and care for those with terminal illnesses. As with doctors' services, some hospital costs may not be covered by standard public health insurance, so you should check before receiving treatment. There are both public and private hospitals in Portugal.

Dental care

Free dental care is not available on the “SNS” unless you are classified as being in a vulnerable group unable to pay, such as children and elderly and disabled residents. Most dental treatments such as crowns and bridges can be covered by some form of private health insurance in Portugal. If you qualify for either free or subsidized treatment, you will need to bring your *cartão de utente* (healthcare card) when visiting your dentist to ensure you do not pay the full amount for the consultation.

Medical Emergencies

Emergency treatment in Portugal is available to everyone regardless of residence status or insurance, although once your condition has stabilized you will need to show proof of residence status or health insurance to have costs covered. The main emergency number in Portugal is 112, which connects to ambulance, police and fire services.



6. Exchanging a foreign Driving Licence

Swapping a foreign driving licence must be done in person at the local office of the “IMT” (*Instituto da Mobilidade e dos Transportes, I.P.*). You will need to bring the following documents:

- Your valid foreign driving licence;
- “NIF” (Portuguese Fiscal Number);
- Your passport;
- Your Portuguese Residency Certificate (“*Residência*”);
- A “fit-to-drive” Certificate from a Portuguese doctor;
- Proof of address (e.g. utility bill)

The “IMT” staff will help you complete the necessary paperwork, take a digital photo and digital signature and keep your foreign driving licence. In its place, the “IMT” will issue a temporary permit which allows you to drive (only in Portugal) until your permanent license is sent to you by registered post (usually within three weeks). The cost of the licence exchange is €30.

Driving licence test in Portugal

If for any reason you must pass a Portuguese driving test, the exam is composed of three parts: technical, theoretical and practical:

- Theoretical: 30 questions in 35 minutes (passing grade: 27 out of 30);
- Technical exam: 50 minutes;
- Driving test: 40-50 minutes with instructor and examiner present.

Before taking the exam, you must pass the theoretical part of the test and complete at least 32 hours of hands-on driving lessons at a Driving School. Once you have completed the course, you can register for the practical driving exam. Costs vary between Driving Schools. Typical charges range between €750 - €1,000. Older drivers in Portugal are required to complete a medical examination when renewing their Driving Licence at ages 50, 60, 65 and 70. After 70, drivers must renew their licence every two years.

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The issues surrounding Short Term Letting continue to generate confusion amongst Owners wanting to rent their properties and Agents wishing to serve the growing need for *self-catering accommodations*.

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Linking you to specialised lawyers to prepare *protective contracts*.

Compliance: Submitting *Local Lodging* Registrations;
Preparation of “*IRS*” Tax Declarations.



7. Tax Basics when living abroad

Tax planning is an essential part of preparing to move abroad. You will continue to have reporting obligations and possible tax liabilities in the States based on your U.S. nationality, in addition to the new requirements founded on fiscal residency in Portugal. As always, the IRS applies harsh penalties for non-compliance. The following is an overview of some of the basics for expats on federal and state taxes as well as estimated payments, penalties and interest. Fortunately, there is a bilateral tax treaty designed to protect you from double taxation. The accord can be used to mitigate or even eliminate assessment in the States while taking advantage of Portugal's most favorable tax breaks.

Filing a Federal U.S. Tax Return

All U.S. citizens are required to complete an annual return when they live overseas. Other reporting requirements apply to U.S. nationals as well, including FBAR (Foreign Bank and Financial Accounts) and FATCA (the Foreign Account Tax Compliance Act), that are triggered by meeting thresholds in foreign bank accounts and asset holdings.

Filing a State Tax Return

State income tax can also be a problem. Whether you need to file a state tax return depends on the last state where you lived. Some states have more complex residency rules than others, which means that these states may continue to consider you as a resident if in the state you own a property, possess a driver's license, have bank accounts or an investment portfolio, are a registered voter, keep a mailing address, or have dependents who live in that state. If you meet these criteria, you may need to submit a state tax return and pay state taxes even if you were absent during the fiscal year.

Four of the more sticky states are California, New Mexico, South Carolina and Virginia. On the other hand, seven states charge no state tax: Alaska, Florida, Nevada, South Dakota, Texas, Washington State and Wyoming.

Most of the other states only require a state tax return when you were actually present in that state during the tax year. If you were, income tax is only due on earnings within the state. Because of the variability in different state requirements, you should confirm your own individual circumstances.

Closing or moving bank accounts, selling a property or changing your driver's license to another state are steps that can help to sever the ties in your former state of residence.

Estimated Tax Payments

The IRS requires taxpayers to make quarterly estimated tax payments if the following conditions apply:

- You anticipate at least \$1,000 in federal tax in the current tax year after federal withholding tax and refundable credits; and
- Federal withholding tax and refundable credits do not reach 90% of your current tax liability or are less than the total tax you owed in the previous year.

If you must make estimated payments, the reporting schedule is as follows:

<u>Payment Period</u>	<u>Due Date</u>
January 1 – March 31	April 15, 2019
April 1 – May 31	June 17, 2019
June 1 – August 31	September 16, 2019
September 1 – December 31	January 15, 2020

You will not have to make the 4th quarter payment if you file by January 31 and pay the outstanding balance with your tax return.

Penalties

Two types of sanctions can be charged against expats who fail to pay their estimated taxes: “failure-to-pay” and “failure-to-file”.

Submitting your federal tax return after the extended deadline can lead to a punitive “failure-to-file” penalty: 5% each month on the unpaid balance.

This charge is ten times the “failure-to-pay” fine. However, penalties are not allowed to exceed 25% of your total tax bill. If you are unable to pay all your taxes when due, reporting by the deadline is always preferable.

The “failure-to-pay” penalty is less severe: 0.5% monthly of the unpaid balance. “Failure-to-pay” fines begin to accrue on the day after the assessment is due. If you owe both penalties in one month, the maximum cumulative penalty in any given month is capped at 5%. On the positive side, taxpayers living abroad get an automatic two-month filing extension. Nevertheless, keep in mind that a filing extension is not an extension on paying outstanding taxes.

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8. US Tax Preparation Document Checklist

Americans living in Portugal always have tax declaration obligations to the Internal Revenue Service. Due to distance and distractions, preparation for this annual reporting chore can be complicated. The following checklist can help guide you to a smoother US tax return.

Income

- ✓ *Wages*: If W-2s are unavailable, paychecks can provide the necessary supporting information to summarize wages and any withholding tax;
- ✓ *Investment Income*: You will need to summarize annual interest income, dividends, and capital gains;
- ✓ *Rental Income*: An overview of your rental income and expenses. In the first year of rental income, also provide:
 - Starting date;
 - Purchase price or capital improvements to the property;
 - Cost of fixtures and fittings.
- *Business Income*: Include an annual income statement, balance sheet, purchase/disposition of fixed assets, home office information, etc.;
- *Pensions*: Pull together statements for all pension income including company pensions, Social Security, IRS's, 401K's, etc.
- *Other Income*: Include documents showing alimony, gambling winnings, and miscellaneous income.

Deductions/Credits

- *Foreign Housing Expenses*: If you qualify for the foreign earned income exclusion, a further deduction from your gross income is available for overseas housing expenditure;

- *Real Estate and Personal Property Tax Records;*
- *Loan/Mortgage Interest Statements;*
- *Childcare Expenses:* include name, address, and ID (if applicable) of child care provider(s);
- *Health Insurance:* medical expense summary;
- *Charitable Contributions.*

Foreign Information

- *Foreign Bank Accounts:* if you meet certain account balance thresholds, reporting foreign bank account information (FATCA) may be required:
 - Name and address of financial institution;
 - Account number;
 - Highest account balance / year-end balance;
 - Joint ownership/signatory authority, if applicable;
- ✓ *Foreign Mutual Funds/ETFs, other investment funds;*
- ✓ *Overseas pensions;*
- ✓ *Foreign Gifts/Inheritances:* Certain foreign gifts/inheritances, or organize a foreign trust may require additional reporting.

Other Information

- ✓ *Personal information of dependent(s), including date(s) of birth and passport number(s);*
- ✓ *Current Portuguese Tax Return;*
- ✓ *Prior Year US Tax Return.*



9. U.S. Tax Filing Requirements

If you are a U.S. citizen living overseas, you are required to file income tax returns in the same way as those residing in the United States. Your income, filing status, and age determine whether you must file a return.

You may have U.S. tax filing obligations even if you haven't ever lived in the USA or left several years ago and all your income is from "foreign sources.

You may have U.S. tax filing obligations even if some or all of your income was already taxed at source or is going to be taxed by a foreign country.

You may have U.S. tax filing obligations even if you aren't earning any money but are married to someone who did have income.

Generally, you must file a return if your gross income from worldwide sources is at least the amount shown in the following table:

<u>Filing Status*</u>	<u>Amount</u>
Single.....	\$10,400
65 or older.....	\$11,950
Head of household.....	\$13,400
65 or older.....	\$14,950
Qualifying widow(er).....	\$16,750
65 or older.....	\$18,000
Married filing jointly.....	\$20,800
Not living with spouse at end of year.....	\$ 4,050
One spouse 65 or older.....	\$22,050
Both spouses 65 or older.....	\$23,300
Married filing separately.....	\$ 4,050

* If you are a dependent of another taxpayer, see the instructions for Form 1040 for more information on whether you must file a return.

Foreign Currency

You must express the amounts you report on your U.S. tax return in U.S. dollars. If you receive all or part of your income or pay some or all of your expenses in a foreign currency, you must translate the foreign currency into U.S. dollars. You can find Information about currency conversion at:

<https://www.oanda.com/currency/converter/>

Gross Income

Gross income includes all income you receive in the form of money, goods, property, and services that is not exempt from tax. In determining whether you must file a return, you must consider as gross income any income that you exclude as foreign earned income or as a foreign housing allowance.

If you are self-employed, your gross income includes the amount of gross income on line of Schedule C - *Profit or Loss from Business*, or the gross receipts line of Schedule C-EZ - *Net Profit from Business*.

Social Security Number and ITIN

All tax returns must have either a Social Security Number (for a U.S. citizen or resident) or an ITIN (Individual Tax Identification Number). Your SSN numbers are valid for life. A ITIN is for a nonresident alien spouse or dependent.

How does living abroad mitigate your U.S. tax?

There are two methods to reduce your U.S. tax. These are the "Foreign Earned Income Exclusion (FEIE)" and the "Foreign Tax Credit." However, neither of these methods excuses you from filing if your income was above the filing threshold. The Foreign Earned Income Exclusion (FEIE) using IRS Form 2555 allows you to exclude \$104,100 in tax year 2018.

The other method is the foreign tax credit which is reported on IRS Form 1116. If your income was taxed by a foreign country, you may be able to subtract that levy from your U.S. tax, substantially reducing or even eliminating taxation in the U.S.



10. Foreign Tax Exclusions

Two crucial provisions exist for U.S. expats residing abroad to mitigate their U.S. income tax liabilities: the “Foreign Tax Credit” and the “Foreign Earned Income Exclusion” (FEIE).

“Foreign Tax Credit”

The “Foreign Tax Credit” makes possible a reduction or even the elimination of U.S. taxation to offset foreign taxes on earnings that are not sourced in the United States. The “Foreign Tax Credit” is available to expats who either work overseas or have investment income from a foreign source. Following the rules of the Bilateral Tax Treaty is essential with reporting done via Form 1116.

“Foreign Earned Income Exclusion”

This exclusion is only applicable to salaries or freelance income earned for services performed in a foreign country. You must have lived abroad for a full year, meeting either the bona fide residence test or physical presence test. Foreign earned income includes wages, commissions, bonuses in addition to self-employment income.

FEIE does not apply to:

- Investment income (e.g. interest, dividends and capital gains);
- Social Security benefits;
- Civil Service income;
- Employment on a ship or aircraft in international traffic;
- Self-employment taxes

(while you can exclude your self-employment income, your self-employment income is still subject to self-employment taxes (Social Security and Medicare taxes).

The Foreign Earned Income Exclusion permits U.S. expats to free up to \$104,100 of foreign earnings from U.S. assessment as long as specific requirements are met. This exclusion is indexed to inflation and increases annually.



11. Portuguese Fiscal Residency

Americans citizens are taxable based on their citizenship, not residency. All other countries, with the exception of Eritrea, only tax the country's residents, often doing so on a worldwide basis. A non-resident individual is only subject to tax on income specifically arising within that country with worldwide income otherwise being assessed in the jurisdiction where resident for tax purposes. A U.S. citizen, no matter where he or she resides, is subject to U.S. income tax, as long as certain minimum income thresholds are met. That individual must file a tax return with all the associated forms and schedules and settle any tax due.

The practice of citizenship-based taxation in the U.S. dates back to 1861 when the United States was struggling to raise revenue during the Civil War. Congress argued that American citizens living outside the country were avoiding their duties to the nation during a time of need. They determined that these citizens could make up for their absence by paying a higher rate of tax on their U.S.-source income.

To date, no other country that has adopted citizenship-based taxation has stuck with it. Some do not have the administrative capacity to enforce it, while others have chosen to discard it in times of reform. The United States, on the other hand, has the power to enforce citizenship-based taxation and has little motivation to attempt the kind of drastic change that has enabled most other countries to abandon the practice.

The almost inevitable clash between the potentially conflicting principles of nationality and residency makes the interpretation of Double Taxation Agreements ("DTA") all the more significant. It should come as no surprise that, while most countries follow the OECD model treaty, the U.S. has its own model treaty that serves as the starting point for negotiations of these bilateral agreements.



12. “Residências” for 3rd country retirees

These residence visas are for all foreign citizens who are not nationals of EU Member States, the European Economic Area (EEA) and Switzerland who wish to reside in Portugal as being retired; or for religious purposes; or who are living from their own means.

Application must be made in person at a Portuguese consular post or through the embassy in the applicant’s country of origin. The following are the required documents for the emission of the visa:

- Visa Application Form from the Portuguese Embassy or “SEF” (Immigration and Borders Service);
- Passport valid for more than 3 months beyond the planned departure date;
- 1 photo, size 3 x 4 cm, colour and plain background, updated and recognisable to support the applicant's identification;
- Proof of medical insurance which covers any necessary medical expenses including emergency medical assistance and repatriation;
- Application for the applicant’s Criminal Record by “SEF”;
- Criminal Record Certificate, issued in the previous 3 months, in the country of origin or where the applicant has lived for more than a year, authenticated by the Ministry of Foreign Affairs;
- Proof of accommodation: property deed or rental contract;
- Proof of means of subsistence

a) If under the charge of a local:

Terms of Responsibility from a Portuguese citizen or a foreign national resident in Portugal, with the accompanying IRS income tax declaration of the responsible person together with a copy of the responsible individual’s identity document.

b) If by one’s own means:

Proof of means in the amount of at least €40 per day for the duration of the stay (in cash or credit card with information of the daily limits or updated bank account balance);

- Proof of pension; or
- Proof that the applicant has income that allows for subsistence in Portugal.

The cost of application is €90.00. Requests should be processed within 60 days. Prior to final approval, the visa candidate may travel to Portugal on a tourist visa and receive final approval through the local “SEF” office.

Missionary applicants

Those wishing to reside in Portugal for religious purposes must also offer proof of means as well as a declaration from the religious organisation or supporting community clarifying the applicant’s status and purpose.

USEFUL CONTACTS

- Portuguese Consular Posts available via internet;
- Directorate General for Consular Affairs and Portuguese Communities

Phone (+351) 21 396 30 86

Email vistos@mne.pt

Schedule Weekdays from 09: 30h to 12: 30h.

The legal provisions are secured regarding equal treatment to foreign citizens, specifically in connection to:

- Social security,
- Fiscal benefits,
- Participation in unions,
- Recognition of diplomas,
- Certificates and other professional qualifications;

as well as the right of access to goods and services available to the general public and the application of provisions granting special rights.



Portuguese visa requirements depend on the nature of the visit and length of stay. Whether an entry visa or a long-term residence permit in Portugal, application should be made for the relevant Portuguese visa applicable.

Short-stay visa

If travelling to Portugal as a tourist or for a period less than three months, application should be made for a Portuguese “Schengen Visa”. The Schengen short-stay visa allows visitors to stay in Portugal, or in any Schengen country, for up to 90 days.

There are three types of short-stay Schengen Visas:

- a) Airport Transit Visas (Visa A), permitting transit from one flight to another within the international section of an airport, without actually entering the formal Schengen area. Unless a foreign national traveller is exempt, this type of visa is mandatory for all passengers changing flights in a Schengen country airport.
- b) Transit and short-term stay visa (Visa C) are for short stays within the Schengen area. These are 90-day, multiple entry visas and are commonly issued for tourism and business purposes.
- c) Limited Territorial Validity (LTV) are special visas permitting travel to a specific Schengen state(s). This type of visa is used in emergency situations where the traveller does not have a valid travel document.

Long-stay visas

Long-stay Portuguese visas are issued under the following conditions:

- Medical care;
- Accompanying a family member for medical treatment.
- Temporary employment;
- Self-employment;
- World Trade Organisation (WTO) worker transfer when providing services or training;
- Scientific research or teaching;
- Amateur athletic competitions;
- International assignments;

Portuguese Residency Visa

This visa is for four months when requesting a residency permit after arrival and may be granted in the following situations:

- Employment;
- Self-employment or entrepreneurial activities;
- Scientific research or teaching;
- Study, student exchange, internship, voluntary or religious service;
- Higher education mobility programs for graduate students already residing in Portugal (advanced studies);
- Family reunification;
- Pensioners and those with a proven income.

A long-term residency visa can also be issued as a type D which is for individuals who will be working, studying or residing in Portugal for a set period. This is a multi-entry visa allowing travel to other Schengen countries. When obtaining any type of Portuguese residency visa, applicants must get a Residency Permit when entering Portugal.

Visa application

Whether for a short-stay or long-stay visa, the foreign national must complete and submit an application form to the Portuguese embassy or consulate in one's home country prior to entry. Forms are available online in several languages.

The following documentation must accompany the visa application:

- Two passport photos;
- Copies of the passport and previous visas;
- A copy of a return ticket reservation (not always required);
- Travel insurance;
- Cover letter stating the purpose of the visit and itinerary;
- Flight dates and times;
- Accommodation reservations for the duration of the stay;
- Proof of means;
- Civil status;
- Evidence of economic situation.

Specific documentation may also be required related to the purpose of the visit. For example, a student will need proof of enrolment in a Portuguese educational institution. If applying for a business visa, the employer may need to furnish verification. References may also be requested.

Processing time

The time to process a Portuguese Visa varies depending on the purpose of the visit and can take from between two weeks and three months or more. Leaving adequate time for the completion of the process is essential.

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14. **Start-up Visas for Freelance Entrepreneurs**

As of March 2018, entrepreneurs from all over the world may apply for a Startup Visa in Portugal, a new residence permit recently approved by the Portuguese Government.

Following the success of other investment visa programs in Portugal, this new visa represents one of the most ambitious and innovative programs for attracting entrepreneurship in the European Union. The main goal is to continue to lure foreign direct investment, with a special focus in Research and Development projects in the Portuguese market.

Besides obtaining a residence and work permit and taking advantage of Portugal's highly skilled labor force, entrepreneurs may also be entitled to several tax incentives – both personal and corporate – that were implemented to attract foreign direct investment and R&D research.

Eligible applicants

International entrepreneurs that wish to access the Startup Visa must demonstrate that:

- Want to develop a business with innovative goods or services;
- Will open or relocate companies and/or projects focused on technology and knowledge, with an expectation to develop innovative products;
- Have the potential to create qualified jobs and generate, within 5 years after the incubation period, a turnover of € 325,000.



15. Residency Visas and Family Reunification

If one partner becomes a civil resident in Portugal, the other partner, as a third-country national, is also eligible for Portuguese civil residency under the statute of “*family reunification*” even if they are not married but have been living together at the same address for more than two years. The following documents can serve as proof of this cohabitation status:

- An affidavit of residency sworn in the competent parish council (*Junta de Freguesia*) before two locally resident witnesses.
- A declaration of honor signed by both partners of the union, stating that they have been living together at the same address for more than two years;
- Recent copies of both birth certificates (within the previous 6 months), attesting to the civil status of both partners (i.e. that neither has been a spouse in a prior undissolved marriage).

To move forward with the *residência* process, the following additional documents must be presented to “SEF” (*Serviço de Estrangeiros e Fronteiras*):

- Certified copy of Passport;
- *Residência* (partner);
- Marriage Certificate (original); proof of cohabitation (see above);
- Criminal registry (Portugal + former countries of residence);
- Portuguese Fiscal Number (NIF);
- Proof of subsistence (copy of a recent Portuguese bank statement);
- Proof of address (utility bill, property deed or rental contract).



16. Short-term Visa extension

Application for the extension of stay is submitted to any SEF delegation (*Serviço de Estrangeiros e Fronteiras*) on a standard form (https://imigrante.sef.pt/?media_dl=1880), signed by the applicant or legal representative, or on-line, holding the following necessary documentation:

- Application delivered personally, (on a standard form) signed by the applicant (where the applicant is either a minor or legally disabled person the form shall be signed by his / her legal representative);
- Two recent, identical photographs, in color with blank background, and easily identifiable (only for appointments at Odivelas, Aveiro or Braga SEF bureau);
- Passport or any other valid travel document;
- If the applicant is a minor or legally disabled person, the application should be submitted and signed by the legal representative;
- Evidence of sufficient means of subsistence, as per the provisions of Portaria n° 1563/2007 of 11/12;
- Evidence that the applicant has adequate accommodation;
- Permission for checking criminal records, where the stay is intended to exceed 90 days (except for under 16 years old);
- Return travel ticket, or, in duly proven and well-documented situations, booking travel arrangements with clear return date, where the stay is intended to exceed 90 days;
- Evidence that the conditions that allowed the admission of the foreign citizen in national territory still exist or, exceptionally, evidence of the existence of alternative motives that justify the permanence beyond the period initially authorized – invocation and proof of personal or professional reasons.

COMMENTS

- Applications submitted on-line do not relieve the applicant from collecting biometric data and the affixing of SEF's sticker, by scheduling one at of its Service Bureaus;
- Limits to the extension of stay: up to 90 days, which can be extended for another 90 days;
- Where the period of stay exceeds 90 days per semester, from the date of the first entry through an external border, the extension of stay is limited to Portuguese territory;
- Applications for extending the period of stay shall not be granted where delivered more than 30 days after the term of the authorized period of stay;
- The following administrative offences apply: Article 192 of the Aliens Act (Illegal Stay); Article 197 of the Aliens Act (No entry declaration); Article 198 of the Aliens Act (Unauthorized professional activity); Article 199 of the Aliens Act (No travel document).

For more details, please consult the SEF website:

<https://imigrante.sef.pt/en/>

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







*This eBook is a compilation of publications relating to **U.S. Expats in Portugal**. Our intention is to refresh this collection regularly: changes in legislation necessitate updates, new queries will trigger additional articles, experience teaches valuable lessons.*

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		<u>page</u>
A.	 CGT - <i>Capital Gains Tax</i>	2
B.	 DOCUMENTATION.....	3
C.	 <i>euroFINESCO SERVICES</i>	4
D.	 ESTATE PLANNING.....	4
E.	 FISCAL REPRESENTATION.....	5
F.	 INFORMATION SHARING & TAX EVASION.....	5
G.	 IRS - <i>Individual Income Tax</i>	6
H.	 LOCAL LODGING.....	7
I.	 LONG-TERM RENTALS.....	8
K.	 NHR - <i>Non-Habitual Residency</i>	9
L.	 NOMINEE COMPANIES.....	9
M.	 OTHER TAXES.....	10
N.	 PENSIONS.....	12
O.	 PORTUGUESE PROPERTY.....	12
P.	 REDOMICILIATION.....	12
Q.	 RELOCATING TO PORTUGAL - <i>Useful Information</i>	13
R.	 RESIDENCY.....	13
S.	 SOLE TRADERS.....	15
T.	 TRUSTS.....	15
U.	 US EXPATS IN PORTUGAL.....	15
X.	 FOREIGN LANGUAGE PUBLICATIONS (FR, DE, PT, PV, TU)..	16

