



CAPITAL GAINS TAX IN PORTUGAL

What constitutes a Capital Gain under Portuguese law?

Capital Gains are derived from the sale of property or the respective rights:

- real estate termination of property rights;
- shares in partnerships, stocks and other securities and funds;
- literary rights;
- winnings from gambling.

Are there any exemptions?

Yes. The following are exempt from Capital Gains Tax;

- residential housing purchased prior to 1 January 1989;
- construction lots acquired by gift or inheritance prior to 08/06/1965 as well as rural property;
- shares in partnerships acquired before 01/01/1989;
- government bonds and debentures;

How do I report Capital Gains on Shares from Abroad?

Capital Gains from the sales of shares in a globally diversified portfolio should be declared on Annex J along with other foreign-sourced income.

How is the sale of shares of a Limited Liability Company assessed?

The “IRC” general rate is 21% in Mainland Portugal and Madeira and 16.8% in the Azores when applied to resident entities liable to tax on the basis of profits and to permanent establishments of non-resident entities. For small and medium size companies, the first €15,000 is taxed at 17%. In Madeira this rate is 16% and in the Azores, 13.6%.

Attention:

Don't get confused by the semantics in Portuguese. While English uses the word “**share**” for all kinds of Companies, Portuguese is more complex. “*Acções*” refer to Corporate (“*Sociedade Anónima*”) Shares. Shares in a Limited Liability Companies (*Lda.*) are called “*Quotas*”. Shares of Nominee Companies (*Civil Companies*) are normally referred to as “*Participações*”.

I sold some shares and made a small profit. How do I report the gain?

Capital Gains on corporate shares are taxed at a flat rate of 28% like other forms of income from Capital.

I was not so lucky. I had to sell shares at a loss. Is there any relief?

Net losses may be carried forward up to two years on income within the same category. To be eligible for a write-off in the 5 following years, losses must be declared in the tax year that they occurred.

How is the Capital Gain calculated on Real Estate sales?

Although it is Finanças, not you, who makes the actual calculation, it is worthwhile knowing what the damage will be.

Let's suppose that you sold your home last year originally purchased in 1994. Calculate your Capital Gain as follows:

- Step 1: From the sales price, subtract any buying and selling costs
Note that while taxes such as Stamp Duty and “*IMT*” (formerly “*Sisa*”) are deductible, estate agent's commissions and certain legal fees are normally not.
- Step 2: Multiply the purchase price by these coefficients to compensate for inflation:

Inflation Adjustment Coefficients

<u>Year</u>	<u>Coefficient</u>	<u>Year</u>	<u>Coefficient</u>	<u>Year</u>	<u>Coefficient</u>
1989.....	2.81	1998.....	1.43	2007.	1.10
1990.....	2.22	1999.....	1.41	2008.	1.07
1991.....	1.96	2000.....	1.38	2009.	1.08
1992.....	1.81	2001.....	1.29	2010.	1.07
1993.....	1.68	2002.....	1.24	2011.	1.03
1994.....	1.60	2003.....	1.20	2012.	1.00
1995.....	1.54	2004.....	1.18	2013.	1.00
1996.....	1.50	2005.....	1.16	2014.	1.00
1997.....	1.48	2006.....	1.12	2015.	1.00

- Step 3: Add to the adjusted purchase price any documented capital improvements made within the past 5 years.
- Step 4: The difference between the adjusted purchase and sales prices is your net profit.
- Step 5: One half of the net profit is assessed unless the gain is rolled over into another principal residence. Report the sale on Annex G.

I am not resident in Portugal. Is my tax calculated the same way?

No. Non-Residents are assessed at a flat rate of 25% on the full gain. This Portuguese tax is the first to be paid. It then serves as an international tax credit in your home jurisdiction when you are eventually taxed on your worldwide income.

When am I eligible for Rollover Relief?

Rollover Relief is a tax break available to those who sell their *principal residence* and reinvest the proceeds directly into another. In practical terms, your “*principal residence*” is the one that you registered as your “fiscal” address with *Finanças*.

Rollover Relief does not apply to *non-residents* who, by definition, are tax residents of another country and are presumed to have their *principal residence* in that jurisdiction.

I own my home through an Offshore Company. How am I taxed?

For reasons of *situs* (ie. you sold a piece of Portugal), the full gain is assessable and reported on the “IRC” tax declaration. As Companies have no “residence”, there is no 50% exemption.

Last year, I sold my home and declared my intention to reinvest the proceeds of the sale. What happens if I only reinvest part of the proceeds?

If the reinvestment is less than the amount of the sale, you may owe some additional tax and have to pay interest to *Finanças* on the non-reinvested balance. In the event that no reinvestment takes place, an assessment will be made on the sales price plus interest.

Capital Gains roll-over pertains to a home (“Urban” registration) only. It does not apply to land (“Rustic” areas or building plots).

*Remember, the secret to paying less tax is foresight.
Please consult our eBook n° 13,
“CGT MITIGATION: 14 Arrows in the Quiver”*