



FISCAL REPRESENTATION PROBLEMS

Sample Cases

The meandering path of Portuguese bureaucracy can easily lead to complications. With proper, professional Fiscal Representation, you can stem trouble before it happens, solve problems when they arise and ensure that you are informed so that you can make the best decisions. The following problem cases are based on real events, illustrating what sorts of tangles arise for Non-Residents in Portugal and how these unfortunate situations can be avoided.

Case nº 1 - Rental Income

John and Mary Jones bought the holiday home of their dreams in Portugal. To help defray expenses, they let out the property to holidaymakers. Although they declared and paid tax in the UK, they believed that there nothing due in Portugal because they let only to British. Sadly, they misunderstood their obligations at several levels and eventually paid dearly for their mistakes.

A few years later, their rental agent was inspected and subsequently reported their letting activity. *Finanças* coercively assessed them in arrears after attaching the property. Due to their negligence, they lost their right to claim any deductible expenses, paid tax plus fines and late interest penalties and nearly lost their property altogether! To add insult to injury, they also failed to procure a Local Lodging Licence and found themselves with a minimum fine of €2,500 to pay.

Solution: *When letting to holidaymakers, owners must have a “Local Lodging” Registration. As your Fiscal Representative, euroFINESCO will submit the necessary documents and make application for the Licence as part of our normal representation services.*

Likewise, as your Fiscal Representative, we will prepare your annual Income Tax Declaration on the rental income. By reporting deductible expenses, we can often achieve tax refunds. Any tax paid in Portugal will also be eligible for an international tax credit in your home jurisdiction according to the prevailing Double Tax Treaty, saving you money as well.



Case nº 2 - Capital Gains Tax

George and Susan White had a holiday apartment in Albufeira. When they decided to retire to Portugal, they realised that they wanted something more spacious with a garden. They purchased a ruin and over the next 3 years, they rebuilt and remodelled the old farm house into their dream home.

After completion, they moved in and put the apartment on the market. When the flat sold a few months later, they were devastated to learn that they were no longer eligible for rollover relief. They had not taken into account the rigid reinvestment time periods.

***Solution:** Had the Whites taken professional advice from their Fiscal Representative, they could have understood the time framework and the correct steps in order to qualify for reinvestment rollover relief. Like any other country in Europe, Portugal sets its own laws and procedures and full knowledge of these requirements is essential to achieve a successful outcome.*

Case nº 3 - Wrong Address

For years after buying their “*piéd-à-terre*” in Calheta, Fred and Fran never thought it strange that they never got a Rates bill from Finanças. It was only when two inspectors knocked on their door with a notice that their apartment was to be auctioned off for back taxes did they realise than something was seriously wrong.

***Solution:** All registered information is presumed to be current by Finanças. If your lawyer applied for your Fiscal Number at the beginning of the property purchase process, your address may appear as his office, not where you are currently living. Such temporary arrangements can cause serious problems in the long run if not updated. As your Fiscal Representative, **euroFINESCO** can keep your official records current.*

Case nº 4 - Moved

Tom and Julie had a holiday apartment for many years. When they finally moved to Portugal, they sold the flat and purchased a villa. However, they never switched their “Principal Residence” Registration with Finanças, so never received essential communications. *Finanças* won’t be aware of the change in address unless explicitly informed. If you have lived in your current home for some time yet have never received a “Rates” bill (“*IMP*”) or other correspondence from Finanças, an incorrect address is usually the most common explanation. If allowed to persist, such non-payments can eventually lead to serious problems: fines, liens and worse.



Solution: As your Fiscal Representative, **euroFINESCO** can check your records with *Finanças* on-line and assure that all data is current. If changes are needed, we can update the necessary information directly. This is just one of many online services we can perform for you.

Case nº 5 - Non-Resident Misrepresentation

When Harry and Anne put down a down payment on their new home in Portugal, the Estate Agent went to *Finanças* to get them Fiscal Numbers. Not wanting to take on the responsibility *Fiscal Representation*, he ticked the “resident” box. Rates bills went straight to the house and everything seemed fine until a notice arrived asking why they had never put in a IRS “Self-Assessment” in Portugal. If you are registered as “resident”, *Finanças* will expect annual tax declarations based on your worldwide income. This alleged dual tax residency status could prove to be an expensive nightmare. Appointing a proper *Fiscal Representative*, as required by law, should sidestep an otherwise avoidable double assessment.

Solution: As your Fiscal Representative, it is our job to see that you are correctly registered and that you meet your compliance obligations in Portugal. Likewise, we strive to use every mechanism available under the law for you to pay the legal minimum.

Case nº6 - Rental Licensing

Sarah H. moved to Portugal and opened a Property Management service for non-residents letting to holiday makers. She assumed that Fiscal Representation was the responsibility of each owner as well as Local Lodging Licensing. Unfortunately, both her assumptions proved ill-founded. First, in organising her business, she failed to make the proper distinction between Property Management and Holiday Letting. When inspected by “*ASAE*”, she found herself faced with a €25,000 fine for providing tourist services without a license. Her Owners did not fare much better. They were fined €2,500 for failure to have a Local Lodging Licence.

Solution: Had she secured professional *Fiscal Representation* for her Owners and proper advice for herself, all of this trouble and expense could have been avoided. With **euroFINESCO**'s full-service *Fiscal Representation*, *Rental Licensing* is included at no extra charge. In addition, our *Small Business* department can help new businesses get started on the right foot.

Case nº 7 - Income Tax Rebates

The Smiths bought an apartment in Praia da Luz and let it out through the development's management. While they were scrupulous in declaring all of the rental income in the UK, they never put in a tax declaration in Portugal. Little did they know that they were only shooting themselves in the foot!



Solution: *When a management company rents a property behalf of the owner, they are required by law to withhold 15% tax on rental income. The real purpose of the “IRS” tax return is to declare the deductible expenses to qualify for a tax refund. Not only did they miss out on this repayment, they failed to take advantage of their international tax credit in the UK and doubled their assessment on the same income. Simple compliance could have saved them hundreds of Euros year after year!*

Case nº 8 - Sound Information

Larry and Joan Brown were confused. For every question that they asked about Portugal, they got at least two conflicting answers. Their lawyer told them one thing, the estate agent another while their neighbour had yet a different version.

Solution: *The Browns were finally referred to **euroFINESCO** and were delighted to discover the Information Library. With 20 in-depth e-books on a variety of essential topics, over 50 brochures on specific subjects, not to mention up-to-date books on Portuguese Individual Income Tax, Social Security Rights within the EU and Cross Border Estate Planning. At last, they found easy-to-understand explanations to their many questions about Portugal.*

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