PENSIONS and IRS

Foreign Residents receiving pensions from their home jurisdictions first need to study the nature of their pension to see how it is to be reported and assessed. Three types of pensions are taxable under the rules of this category. Each may receive different treatment under the Double Taxation Agreement between Portugal and the home country to determine which jurisdiction can tax:

- *Civil Service Pensions*: government, military, foreign service, etc.
- *Social Security Pensions:* old age, disability
- *Occupation/Private Pensions*: company pensions, annuities, SIPP's

If you take early retirement, complex rules may apply for determining whether benefits are considered pension or continuation of salary.

Civil Service Pensions

Civil Service or Government Pensions (not to be confused with what the British call "State Pensions" or "Old Age Pensions" which are, in fact, from Social Security or "National Insurance" as it is called in the United Kingdom) are solely taxable in the country of origin in most cases (although Germany is a notable exception to this rule). However, although not taxed in Portugal, these pensions should be reported both for reasons of transparency as well as determination of your final tax bracket.

Social Security or "Old Age" Pensions

Social Security pensions are customarily taxed in the country of Residence, in this case, Portugal. However, they are subject to specific negotiations in Double Tax Treaties and the outcome is most varied. In some instances, the Source Country retains the sole taxation rights. In other instances, it is the Country of Residence that taxes exclusively. Finally, there are cases when both jurisdictions are allowed to assess, first the home jurisdiction, then the residence country after granting the appropriate tax credit. It goes without saying that it is crucial to be fully informed before filing.

Occupational and Private Pensions

Private pensions, from company service, personal pension plans, annuities and the like, are normally assessed in the Country of Residence: in this case, Portugal. In most double tax treaties, the Source Country cedes the taxation rights to the country of Residence. This means that all withholding should stop and that the pension should be paid gross. In order to achieve this feat, you must first declare yourself to be resident for tax purposes in Portugal, normally after your first "*IRS*" submission. This is done via a Certificate of Fiscal Residency issued by *Finanças* or via a special dual-language form that is submitted to the authorities in both jurisdictions. Once accepted and processed, you should receive a full refund from your Country of Origin for any tax withheld after the commencement date of your residency in Portugal. From then on, you should be paid your income gross and are required to declare this income in Portugal.

Pension allowances

The deductible allowance for pensions has reduced to €4,104 per individual. Those receiving pensions above €22,500 gradually loose this allowance which disappears altogether on pensions exceeding €43,020. While couples must file a joint declaration, their income is viewed individually <u>within</u> the return. While each is entitled to a pension allowance, neither can pass on any unused benefits to the spouse. If certain conditions defined in legislation are met, occupational pensions may benefit from an 85% exclusion to eliminate any underlying double taxation.

© - *All rights reserved* 19 May 2018