

Tax Alert

Special tax regime for Non-Habitual Portuguese Resident individuals

Ana Paula Basílio

Head of the Tax Department of the office in Portugal

Portuguese income tax law provides for a 20% reduced rate and, in respect to income obtained abroad, a full tax exemption, for certain types of income derived by individuals having the status of Non-Habitual Portuguese Residents (NHPR).

Any individual that in a certain year becomes tax resident in Portugal will qualify for this NHPR regime, provided that, **during the previous 5 years, he/she was not tax resident in the Portuguese territory.**

An individual is considered tax resident in the Portuguese territory in a given civil year if he/she meets one of the following conditions in that year:

- (i) He/she remains in Portugal for more than 183 days, consecutively or not, within any period of 12 months starting or ending during that civil year;
- (ii) He/she has a house available in Portugal (whether its own or rented) in conditions which indicate his/her intention to use it as habitual residence;
- (iii) He/she is, by 31 December of that year, a crew member of a ship or aircraft explored by a Portuguese resident company;
- (iv) He/she renders public services abroad for the Portuguese State.

Disclaimer: This paper is provided for general information purposes only and nothing expressed herein should be construed as legal advice or recommendation.

Thus, in order to qualify for this NHPR regime, **individuals are not required to acquire real estate or to make any investment in Portugal** (differently from the “Golden Visa” which requires a minimum investment in real estate located in Portugal of € 500.000,00).

If an individual meets the conditions for being qualified as NHPR, he/she should get registered with the Portuguese tax authorities under such status. This registration as NHPR must be requested in the year the individual becomes tax resident in Portugal or until 31 March of the following year.

This NHPR regime **applies for a 10 years’ period**, provided that during such period the individual meets one of the conditions above mentioned.

Tax benefits granted to individuals who qualify and are registered with the Portuguese tax authorities as NHPR are the following:

- A **20% reduced rate** applies to employment, professional and business income obtained within the scope of an activity that is considered a “high value-added activity of a scientific, artistic or technical nature” – one of the activities listed in the Dispatch (“Portaria”) 12/2010, of 7/01/10, which, among others, includes architects, engineers, doctors, scientific research and development, data processing activities, software consultancy and activities related to information technology and computing, biologists, psychologists, designers, directors and top executives with powers to bind the companies to whom they work for.
- A **full tax exemption** applies to the following income obtained outside of Portugal:
 - **Pension income** paid by non-Portuguese resident entities, provided that such pension income does not derive from contributions that have been deducted for Portuguese individual income tax purposes (**taxation at source is not required**).
 - **Employment income**, provided that such income is taxed (**effective taxation at source is required**) in its State of source: (i) in accordance with the applicable Double Tax Treaty entered into by Portugal (PT Treaty), or (ii) if no PT Treaty applies, it is further required that such income does not derive from an activity carried out in Portugal and is not paid by a Portuguese-resident entity.
 - **Self-employment income** obtained within the scope of an activity that is considered a “high value-added activity of a scientific, artistic or technical nature” (please see above), provided that such income can be taxed (**effective taxation at source is not required**) in its State of source: (i) in accordance with the applicable PT Treaty, or (ii) if no PT Treaty applies, in accordance with the OECD Model Convention on the Taxation of Capital and Income considering the observations and reserves made by Portugal on that Convention rules. Where no PT Treaty applies, it is further required that income is not obtained in a tax heaven as per the Portuguese blacklist, nor derives from services rendered in Portugal or to Portuguese-resident entities.
 - **Income from intellectual or industrial property, know-how, real estate rents, investment income and capital gains**, provided that such income/gains can be taxed (**effective taxation at source is not required**) in its State of source: (i) in accordance

with the applicable PT Treaty, or (ii) if no PT Treaty applies, in accordance with the OECD Model Convention on the Taxation of Capital and Income considering the observations and reserves made by Portugal on that Convention rules. Where no PT Treaty applies, it is further required that such income/gains are not obtained in a tax haven as per the Portuguese blacklist, nor are considered Portuguese sourced income/gains under the Portuguese domestic tax rules.

In respect to other aspects which are not specifically addressed by the NHPR regime (ex., tax deduction of personal expenses, such as health and educational expenses), the general tax rules foreseen to Portuguese-resident individuals apply. Individuals with the NHPR status are eligible for the Treaties entered into by Portugal, as any other Portuguese-residents.