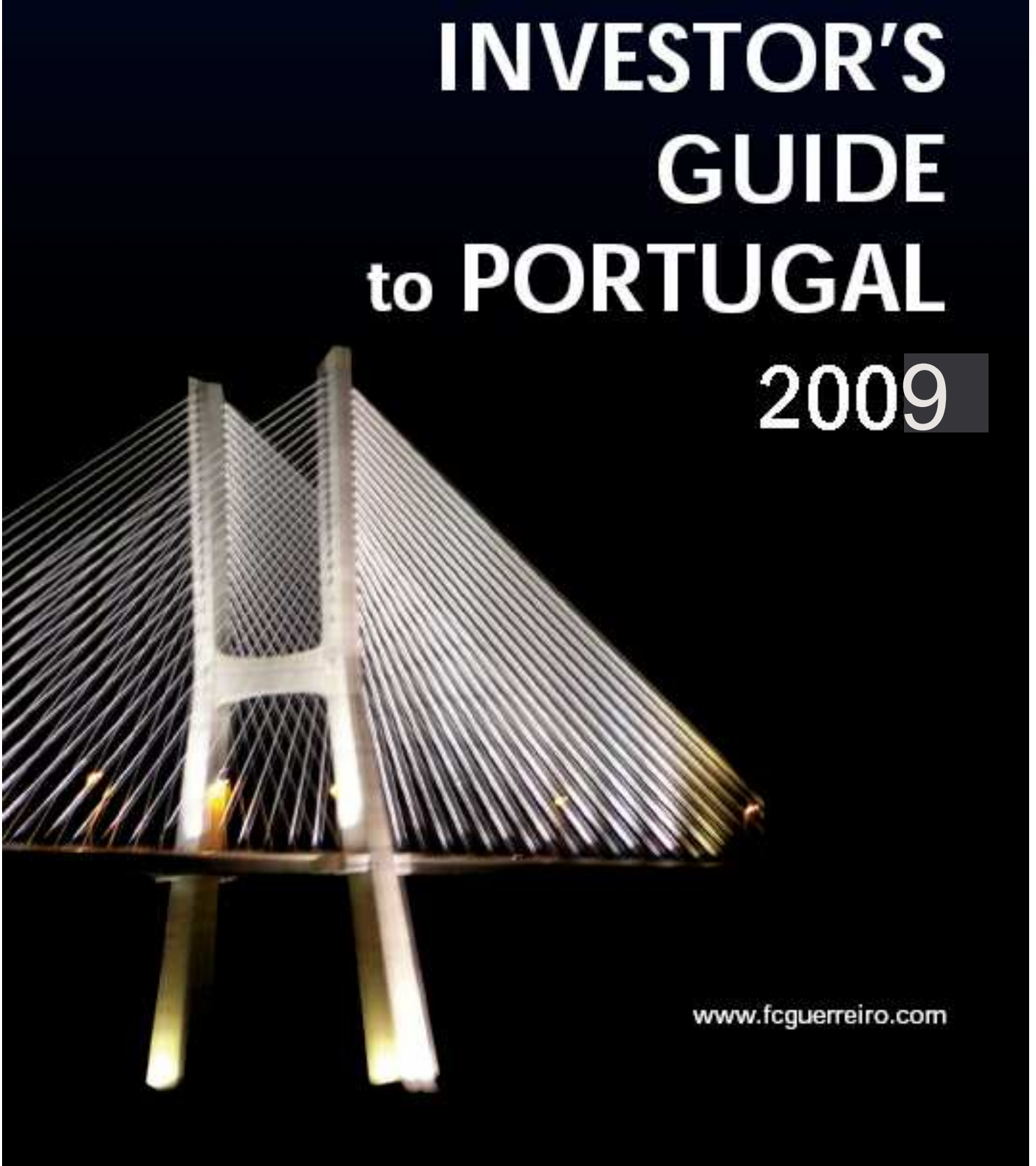


FRANCO CAIADO GUERREIRO & ASSOCIADOS
SOCIEDADE DE ADVOGADOS, RL

ATTORNEYS AT LAW

INVESTOR'S GUIDE to PORTUGAL 2009



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1. Introduction

With this document *Franco Caiado Guerreiro & Associados* wishes to offer its friends and clients an objective set of key guidelines for investing in Portugal.

Our intention is to provide brief but systematic information on how to invest in Portugal from a corporate, tax and labor law point of view.

The information provided in this document obviously does not free the investor from the need to take further specific legal advice.

Please feel free to contact us in case you need any further information concerning this subject.

Lisbon, September 1, 2008

João Caiado Guerreiro
Managing Partner

1.1 Take a quick look at Portugal

Official Name - Portuguese Republic

Founding of the Portuguese State – 1143

Founding of the Republic - 1910

Political System - Parliamentary Democracy

Language – Portuguese

Constitutional System - A Republic ruled by a Constitution.



The President is the head of State and the Government is headed by a Prime Minister. The unicameral Parliament (*Assembleia da República*) comprises 230 elected Members. The President is directly elected every five years and Members of Parliament every four years.

Political Parties represented in Parliament - Social Democratic Party (*Partido Social Democrata*), Socialist Party (*Partido Socialista*), Popular Party (*Partido Popular*), Communist Party (*Partido Comunista*), Left Block (*Bloco de Esquerda*) and Ecologist Party, The Greens (*Partido Ecologista, Os Verdes*).

Territorial Organization - 18 districts in the Continent and two Autonomous regions (Azores and Madeira islands).

Capital – Lisbon (*Lisboa*)

Area - 92.142 km²

Population – 10.5 million

Working population - 5.5 million

Currency - Euro (divided into 100 cents)

Language – **Portuguese** is the third most widely spoken European language in the world and is mother tongue to about 200 million people.



Countries in which Portuguese is the official language: Angola, Cape Verde, Guinea-Bissau, Mozambique, S. Tome and Principe in Africa, Brazil in South America and East Timor in Asia. There are also Portuguese-speaking communities in other countries: important communities of recent immigrants in Europe (France, Luxembourg and Germany), the Americas (United States, Canada and Venezuela), Africa (South Africa) and Australia, as well as small groups of people in former colonies such as Goa and Macau.

In Portugal, most people in business circles speak at least one foreign language, typically, English, Spanish and French.

International Relations

United Nations – since 1945 (founding member)

NATO – since 1949 (founding member)

Council of Europe – since 1976

European Union – since 1986

Community of Portuguese Speaking Countries – since 1996 (founding member).

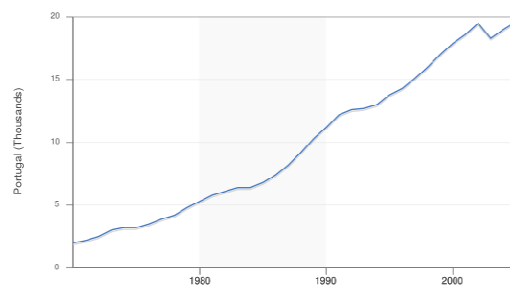
Portugal has established diplomatic relations with over 180 countries.



Economic Overview

Economic Environment

Portugal has strong economic fundamentals: GDP convergence with the EU average, a remarkable decrease in inflation, unemployment consistently lower than the EU average and sound public accounts.



Gross national income per capita

Remarkable Convergence

According to the OECD, next to Ireland, Portugal was the country with the highest GDP growth rates in Europe over the last forty years.

Main Economic Indicators

<i>Annual percentage changes</i>	2005	2006	2007	2008*	2009*
GDP growth	0.5	1.3	1.8	2.2	1.6
Private Consumption	1.7	1.2	1.2	1.4	1.4
Government Expenditure	1.9	-0.2	0.0	-0.1	0.5
Gross Fixed Capital Formation	-2.6	-3.1	1.0	4.0	6.7
Exports	1.0	9.3	6.9	6.7	6.0
Imports	1.6	4.3	3.8	3.9	4.8
Unemployment Rate	7.8	7.1	7.8	7.6	7.2
Inflation Rate	2.1	3.0	2.4	2.6	2.5
Current Account	-8.1	-7.6	-7.0	-5.8	-5.6

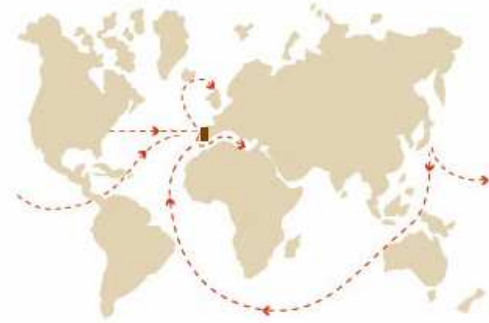
Sources: OECD, Bank of Portugal, European Commission

*Forecast

1.2 Portugal: competitive advantages

Strategic Location

The combination of Portugal's economic openness, strong ties with the EU and unique geo-strategic location, make it a natural gateway between the EU and world markets. The country's ties with the African continent, Brazil and the transatlantic link to the USA provide a cost-effective base for internationalization.



The industrial platform covers a total area of nearly 8 sq. miles (c. 2000 hectares), representing an excellent option for investors wishing to supply the EU market and to ship products by way of the most western deep-sea ports in Europe.

Adding to that, Lisbon maintains a leading position in terms of business location, ranked 14th most attractive in Europe (2005, Cushman & Wakefield European Cities Monitor).

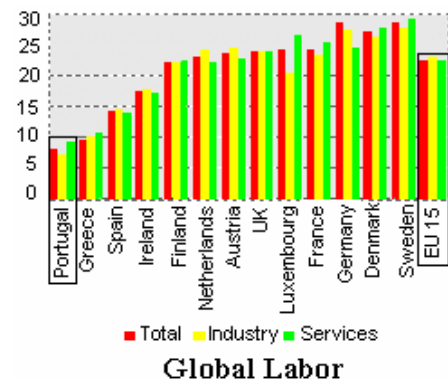
Low-cost Workforce

Portuguese employees are known for their versatility and commitment to work, with a positive attitude towards the adoption of new technologies and practices.

Workers proposed and adopted a flexible working regime, agreed with top management, which optimizes efficiency according to market demand, being Portugal on top 4 in the former 15 EU members for average hours actually worked.

In addition, Portugal has:

- 1) The lowest labor costs in the former EU 15 members;
- 2) The lowest absenteeism levels of all European operations.



Source: Eurostat

Excellent environment to live and work

Living in Portugal is extremely agreeable. Residents and their families enjoy a quality of life that is enviable and rare in a modern society, with safe urban centers and open surroundings felt by all who live in the country.

An international study by Deloitte Consulting on the top locations for meetings and events placed Lisbon as one of the top five cities, chosen by organizers.

Portugal presents extremely low crime rates when compared with other European countries.

Infrastructures

During the past decade Portugal has invested heavily in modernizing its communications infrastructure: the result is an extensive network of land, air and maritime route facilities. The bigger cities like Lisbon and Oporto have major seaports and are very well connected by highways, railroads and airports. A high-speed train (TGV) Lisbon-Oporto-Madrid connection and a new international airport in Alcochete are expected in 2017.

EU Integration

As Portugal rapidly integrates into the EU and Portuguese economic development approaches the level of other economies in the Union, the number of business opportunities increases and the country becomes a more attractive destination to exporters and investors.

Imports have been growing because industrial modernization requires a large volume of machinery, equipment and instruments and consumers require more and better products. Inter-EU import duties have been abolished and import duties vis-à-vis third countries have been greatly reduced.

The Portuguese government and the European Union continue to support investments in Portuguese industry and services and are giving priority to projects concentrating on "dynamic competition factors" such as quality improvements, training and modernization.

1.3 Getting the Feel of Portugal

Healthcare

There are reciprocal health agreements established with most European countries, with a nominal fee charged for medical treatment at health centers. Visitors wishing to use these benefits should inform the doctor that they wish to be seen under EU social security arrangements, prior to treatment.

The Portuguese National Health Service is run by the Ministry of Health. Contributions to the national health system are deducted directly from employees' salaries. All persons covered by the general social security scheme are entitled to receive free public medical care.

Taxes

All employees and foreign property owners are required to have a tax card with a unique fiscal number, which can be obtained at the local tax office. The fiscal number must be quoted in all taxable transactions. Portugal has a monthly Pay-As-You-Earn system of personal income tax for employees, with a scale of rates from 10,5 to 42 per cent, with special low rates for pensioners.

Individuals living in Portugal are taxed on their worldwide income and non-residents must pay tax on income received in Portugal. All employees make mandatory monthly contributions to the Portuguese social security system of around 11 per cent of their gross monthly salary.

Cost of Living

Portugal is one of the cheapest countries in which to live in the EU, with a high quality of life being easily achievable.

Working in Portugal

Working conditions are well balanced between employees and employers – particularly with the enforcement of the new Labor Code in late 2003. The working week is usually 40 hours, although this is flexible and employees are entitled to a minimum of 22 days (and a maximum of 25 days) of annual vacation.

Entry Requirements

Nationals of the EU and certain other European Countries can live and work in Portugal without a visa or work permit. Non-EU nationals require a visa to enter Portugal if they plan to stay longer than 90 days or intend to work or study here. Visas should be applied for well in advance, from a Portuguese consulate or embassy in your home country.

Public Holidays

New Years Day	1 January
Carnival Tuesday	February or March (day before Ash Wednesday)
Good Friday	March or April
Liberty Day	25 April
Labor Day	1 May
Corpus Christi	9th Thursday after Easter - May or June
Portugal Day	10 June (also Camões & Communities Day)
Feast of the Assumption	15 August
Republic Day	5 October (1910 declaration of Portuguese Republic)
All Saints' Day	1 November
Independence Day	1 December (1640 restoration of independence from Spain)
Immaculate Conception	8 December
Christmas	25 December

Climate

In mainland Portugal, average temperatures are 55°F (13°C) in the North and 64°F (18°C) in the South. Madeira and Azores, due to their location in the Atlantic, are humid but have a narrower range of temperatures over the year.

Portugal is one of the warmest European countries. Spring and summer months are usually sunny and the temperatures relatively high during July and August, with the highest in the center of the country at 85-95°F (30-35°C), reaching sometimes as high as 115°F (46°C) in the southern interior. Autumn and winter are typically rainy and windy, yet sunny days are not rare either, the temperatures rarely fall below 41°F (5°C), usually staying at an average of 50°F (10°C). Snow is common in the mountainous areas of the north. Portugal's climate is classified as Atlantic-Mediterranean.

Useful Tips

Important business should be dealt with in person. Business negotiations may be conducted in English, French or even German, but it is advisable to check whether an interpreter is required. The Portuguese like to entertain. Lunch usually takes place between noon and 2pm, dinner between 7pm and 10pm. Lunch is an event where many crucial business deals are made – getting to know your business associate personally is viewed as very important in this Latin culture.

The Portuguese are extremely courteous, helpful and open to foreigners. They also are very open to new kinds of business due their entrepreneurial spirit.

In Portugal, as in any other country, presentation is important in making business.

2. Corporate

2.1 Types of corporation

Corporations in Portugal generally assume one of the two most common forms:

- 1) Public limited corporation or joint-stock corporation (“SA” or “*Sociedade Anónima*”)
- 2) Private limited corporation – (“*Limitada*” or “*Lda*” or “*Sociedade por Quotas*”)

These forms basically correspond to the German figures of the AG (*Aktiengesellschaft*) and the GmbH (*Gesellschaft mit beschränkter Haftung*).

The “SA” designation and form provide the positive image of a large corporation (there are, however, significant additional administrative and legal burdens for such a corporate format) and gives prestige and contractual strength to the investment made. Also, it provides the capitalization of funds for projects requiring financial backing, together with the possibility of easy integration of new partners in the structure, since stocks are bearer instruments (unlike for private limited corporations).

Private limited corporations are generally of a smaller dimension when compared to public limited corporations. Their legal structure favors the personalization of the business, providing a personal nature or group nature to it.

In a private limited corporation, the capital is divided into quotas representing each individual or corporate partner’s share of the total capital stock. On a subsequent capital increase, each partner subscribes to a new quota or increases their initial quota. Creditors can claim only against the corporation’s capital stock. But partners can be held responsible for the corporation’s debts if their direct responsibility is stipulated in the corporate statutes.

In a public limited corporation, the capital is divided into stocks and each stockholder’s liability is limited to the value of stocks held and subscribed.

In private limited corporations, payment of subscriptions may be deferred for up to 50% of the nominal capital. But the total nominal value of subscriptions paid up in cash and assets must correspond to the minimum capital for a private limited corporation as defined by law (€5,000).

In public limited corporations, payment of subscriptions may be deferred up to 70% of the nominal capital. But the total nominal value of subscriptions in cash and assets must correspond to the minimum capital for a public limited corporation as defined by law (€50,000).

Foreign corporations, just like Portuguese corporations, may invest in any sectors they wish to. Nevertheless, specific restrictions, like the need for a concession contract for private investors who want to operate in sectors under public administration, may appear.

Although in Portugal there is no legal restriction to the entry of foreign capital and foreign investors are not required to have a Portuguese partner, foreign investment projects have to comply with special legal requirements if they could in any way affect public order, security or public health. Projects of this nature require an assessment of their compliance with the legal conditions and pre-requisites set out in Portuguese Law.¹

¹ Foreign Corporations are also entitled to take the investment opportunity offered by the Portuguese **PIN Projects System**. The Portuguese government approved a new model for dealing with large scale investment by establishing the Recognition and Follow up System for Projects of Potential National Interest (abbreviated to PIN).

This resolution intends to ease administrative formalities and procedures as well as to adjust instruments and procedural rules governing incentives for private investment. Although a number of initiatives have been taken in recent years, there remain red-tape and other “contextual costs” associated with company operations that must be dealt with, especially in structuring investments where bureaucratic formalities and procedures can be complex.

To be considered for the PIN system, projects must be environmentally and territorially sustainable, represent a global investment over than 25 million euros and provide a positive impact in at least four of the following seven items:

- a) Production of goods and transactional services, with an innovative character and in markets with potential growth;
- b) Indirect knock-on effects, particularly in small and medium-sized companies;
- c) Interaction and cooperation with scientific and technological bodies;
- d) Job creation or development;
- e) Insertion in regional development strategies or contribution to the economic dynamism of less developed regions;
- f) External economic balance;
- g) Energy efficiency and/or renewable energy sources.

Projects below the 25 million euro limit with a strong component in Research and Development, applied innovation or recognised environmental significance may also be considered as PIN projects, as long they fulfil the same conditions.

2.2 Proceedings on incorporation

1. Define the corporation's principal activity & corporate name

Stockholders wishing to incorporate a corporation in Portugal must apply for a corporate name certificate at the National Registry for Collective Entities.

The corporate name application requires:

- 1) Proposed corporate name and two other alternative corporate names (in case the first choice is not available);
- 2) The corporate name, which:
 - a) Must reflect the activities that the corporation intends to perform;
 - b) Cannot be misleading regarding the activities it proposes to undertake;
 - c) Cannot be confused with another corporate name already registered with the Registry.

All registered names benefit from the exclusivity principle in Portuguese territory.

After the approval of the corporate name, the Registry will issue a certificate of registration together with a provisional tax registration card, which indicates the corporation's tax number, also referred to as the Collective Person Identification Number.

2. Commercial Corporation Registrar

Request:

- 1) Commercial Registry,
- 2) Publication in the Portuguese Official Journal "*Diário da República*";
- 3) Register at the RNPC – National Registry for Collective Entities.

3. Declare the Start of Activity date

Once the incorporation deed has been carried out, register the activity of the corporation at the local Tax Authorities, signed by the official accountant responsible for the corporation

accounts. Declare the start date of the corporation's activity by internet or at the Government Tax Office.

4. Social Security

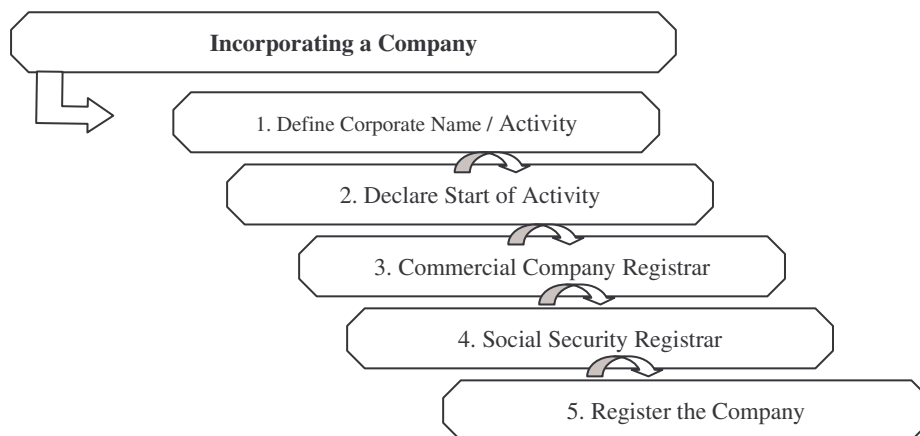
The new corporation must also register with the regional Social Security office.

Request:

- 1) Social Security Forms;
- 2) Collective Entities Provisory Registry;
- 3) Corporation deed;
- 4) Start of activity signed declaration;
- 5) Photocopies of the respective signing entities' identity papers.

5. Register the corporation

At the Department for Trade & Competition or at the corresponding Regional Directorate of the Ministry of Economy.



2.3 The “Instant Company Service”²

The “Instant Company Service” service is available in any Commercial Register Office.

The main difference of this special procedure for incorporating a company in one day is that the corporate name and the articles of incorporation are off-the-shelf.

Nevertheless, immediately after incorporation, the name and articles of incorporation can easily be changed or amended.

This permits a company to be fully operational within 24 hours.

2.4 Venture Capital Markets and the Lisbon Stock Market

Venture Capital Markets

A venture capital market is already well established in Portugal and may be a good vehicle for financing corporations which are operating in emerging sectors, are at a high risk stage of their development or do not have direct access to capital markets.

The recent setting up of venture capital syndication funds will encourage the creation of new corporations focused on innovation and high productivity, strengthening and mobilizing the capital of existing corporations. The funds seek to expand the range of financial instruments targeted at increasing the competitiveness and capitalization of SMEs by supporting alternative and innovative financing mechanisms.

Measures designed to support the creation and strengthening of specialized venture capital instruments, taking into account the alterations introduced by the PRIME program, have the same objective. They are aimed particularly at the creation of corporations focused on innovation, as well as at strengthening or mobilizing the capital of existing SMEs by making it possible for them to acquire vital fixed assets.

² In Portuguese “*Serviço Empresa na Hora*”

Legal Framework

Concerning the activity of market operators, Portuguese law aims to simplify, clarify and support the building, management and development of a venture capital market in Portugal. Its special aim is to:

1) Simplify and facilitate the setting up and operation of venture capital corporations, enabling them to be classified as financial corporations registered and supervised only by the Portuguese Securities Market Commission (*Comissão de Mercado de Valores Mobiliários – CMVM*);

2) Redefine the aims of venture capital firms as commercial corporations set up as limited corporations with the objective of investing or promoting investment and acquiring stock holdings for a maximum period of 10 years in corporations with a high potential for growth and increased value;

3) Develop a new concept of venture capital funds with their own specific legal regime, increasing their value as specialized venture capital instruments that can be promoted and traded in accordance with clearly defined regulations among a wider range of investors. To this end, two separate types of venture capital funds have been created, bearing in mind different types of investors:

I) ***Closed Funds***: funds whose investment units are designed to be sold only to institutional investors;

II) ***Open-ended Funds***: funds whose investment units are designed to be sold to the public at large.

2.5 Mergers and Acquisitions

Acquisitions

Types of acquisitions

As in other jurisdictions, there are two main ways of acquiring an already established corporation in Portugal: “Business Acquisition” and “Stock Acquisition”.

1) Business Acquisition

Through a Business Acquisition, the buyer acquires all assets (plant and machinery, vehicles, inventory, goodwill, etc) that make up the business. The business is transferred but the selling corporation itself remains in the same hands.

The buyer may not wish to acquire the entire business, and therefore can limit the said transaction to certain assets. However, in this case this operation may not be considered as a business acquisition but a mere assets acquisition.

Main aspects of the legal framework of a Business Acquisition³

- 1) Several tax advantages (such as VAT exemption and Capital Gains and Capital Income relief);
- 2) Labor law consequences (automatic transfer of employees' contracts entered into before the operation, whether the buyer likes it or not).

2) Stock Acquisition

Through a stock acquisition, the buyer acquires the stocks of the corporation that owns the business and not the business itself. In this case, the stocks of the corporation are transferred to the buyer and the business remains in the ownership of the corporation. From an outsider's point of view, very little will appear to have changed and customers and suppliers will usually be content to carry on dealing with the corporation as before.

³ Note that the above-mentioned will not apply in case the acquisition is considered to be a mere sale of assets.

The choice between a Business Acquisition and a Stock Acquisition will depend on the investor's purpose and on the results of the investigation of the target corporation. To the extent that a lawyer is involved in the transaction, the lawyer may identify risks of a legal nature and seek to protect the investor from the risks as far as possible. A lawyer may also bring valuable input into the commercial aspects of the transaction. In this way – and since it is so difficult to isolate the legal aspects from the commercial aspects – most lawyers prefer to be involved as early as possible in parties' negotiations. This is particularly so when the lawyer is asked to give taxation advice in relation to the acquisition. The way the acquisition is structured can have significant bearing on the parties' tax position: if the client delays in instructing the lawyer, it may be too late to choose the most tax effective method. Another function, which the lawyer may carry out for an investor, is to coordinate the various professional advisers involved in the proposed acquisition.

3) Due diligence

Before the buyer enters into a contractual commitment to buy the target business or corporation, it is advisable to acquire as much information as possible. The process of collecting data about the target corporation – due diligence – is a fundamental procedure, even in a pre-contract period to decide the heads of agreement.

Concerning these transactions – Business Acquisition and Stock Acquisition – *Franco Caiado Guerreiro & Associates* often prepare due diligence reports. Based on our experience, we set out below a summary of our standard due diligence questionnaires.

Due Diligence Report

1) *Main features*

- Name, registered number and registered office; date of incorporation;
- Authorized and issued capital on incorporation and details of changes thereafter;
- Names and addresses of directors and holders of its issued capital with the number of stocks held (copies of stock certificates); whether such stocks are not fully paid.

2) *Articles of Association and Resolutions*

- Particulars of the articles of association of Target Corporation as filed on incorporation; subsequent changes;
- Particulars of main resolutions: Stockholders/Board of Directors (date/subject);

3) Options, Stockholder Agreements etc.

- Particulars of any options (whether exercisable now or in the future) to call for the allotment, issue, sale or transfer of any stock or loan capital of the Target Corporation (including conversion rights and rights of pre-emption);
- Copies of stockholders' agreements and Annual Reports; details of dividend policy;

4) Target corporation's Accounts and Records

5) Business since the latest audited accounts

- Particulars in relation to the Target Corporation in respect of any of the following since the date of the latest audited accounts: transactions entered into, liability assumed or payment made which is not in the ordinary course of business; if it has ceased or altered in nature or manner any of its businesses; issued, or agreed to issue, any stock or loan capital; and declared, made or paid any dividend or other distribution.

6) Licenses etc.

- Particulars and copies of all licenses, consents, permits and authorities (public and private) held or applied for by the Target Corporation required to conduct its business.

7) Litigation

- Particulars of any litigation, arbitration proceedings or product liability claim in which the Target Corporation is engaged or which are pending or threatened by or against the Target Corporation or of any facts likely to give rise to any litigation or arbitration.

8) Insurance

- Particulars of all insurances maintained by the Target Corporation, including date(s) of expiry of policies and evidence of latest premium payments.

9) Grants and subsidies

- Particulars of any grants or subsidies received by the Target Corporation from any authority whether from Portugal or the EU (including copy documentation).

10) Powers of Attorney

- Particulars of any power of attorney currently in force given by Target Corporation.

11) Associations

- Specifics of any Trade or Business Association that Target Corporation is a member.

12) Assets, Title Retention/Encumbrances

- Particulars and copies of all hire, purchase, credit sale, leasing or rental agreements;

13) Intellectual Property

- Particulars of intellectual property used by the Target Corporation, namely patents, trade marks, service marks, rights (whether registered or not) in any designs, etc.

14) Computer systems

- Specifics of the IT systems (hardware/software/ownership/related contracts);

15) Property

- Address, report, and estimated area of property owned or leased;

*16) Environmental**17) Material Contracts*

- Particulars of any agreement, transaction, obligation, commitment, understanding, arrangement or liability of the Target Corporation, which is disabled/terminable/frustrated;
- Particulars of any partnership, joint venture, consortium or other unincorporated association of which the Target Corporation is a member;

18) Customers and Suppliers

- Any standard terms of business on which the Target Corporation carries on dealing.

19) Debtors

- Details of standard discount and credit terms;

20) Guarantees

- Particulars of any guarantee of a security given, surety, comfort letter or other obligation by any person other than the Target Corporation.

21) Banking

- Facilities: details of overdrafts, loans, debentures, debenture stock or other financial facilities outstanding or available to the Target Corporation;
- Banking: name and branch address of all banks at which the Target Corporation has an account and account numbers. Details of any pooled banking arrangements.

22) *Employees*

- A schedule of present employees showing length of service, age, salary, holiday entitlement, benefits, position and qualifications; standard terms/conditions of employment, staff handbooks and corporation rules and disciplinary procedures;
- Terms of employment of, and fees paid to, all directors and senior executives;
- Details of any trade union or other collective agreements and codes of conduct;

23) *Investments*

Name of all corporations in which the Target Corporation holds stocks stating percentage and particulars of total issued capital so held, and details so far as known of other stockholders in such corporations.

Mergers

According to Portuguese Law, two or more corporations may join together, becoming a single corporation.

This operation should be preceded by a Merger Proposal containing all necessary or useful elements to enable complete financial and legal understanding of the operation. Later, the Merger Proposal should be submitted to the corporation's supervisory board. This regime has been recently improved and is now significantly faster, easier and cheaper.

Following the normal procedures of incorporation⁴ for the new entity resulting from the merger, the registry will extinguish the merged corporations.

Most mergers actually benefit competition and consumers by allowing firms to operate more efficiently. However, the merger of two or more corporations may raise issues of competition law. Generally, at least two conditions are necessary for a merger to have a likely anti-competitive effect: the market must be substantially concentrated after the merger; and it must be difficult for new firms to enter the market in the near term and provide effective competition.

⁴ Please see 2.2

Types of Merger

1) *Horizontal merger*

Involves two competitors. The acquisition of a competitor could increase market concentration and increase the likelihood of collusion. The elimination of head-to-head competition between two leading firms may result in unilateral anti-competitive effects.

2) *Vertical merger*

A vertical merger involves firms in a buyer-seller relationship. A manufacturer merging with a supplier of component products, or a manufacturer merging with a distributor of its products. A vertical merger can harm competition by making it difficult for competitors to gain access to an important component product or to an important channel of distribution. This is called a "vertical foreclosure" or a "bottleneck" problem.

3) *Conglomerate merger (potential competition merger)*

A potential competition merger is the acquisition of a corporation that is planning to enter a market and compete with the acquiring corporation (or vice versa). This results in the elimination of a potential competitor and that can be harmful to the market, preventing the entrance of new firms or competitors.

On the other hand, a firm can have a pro-competitive effect on competition simply by being recognized as a possible entrant. The elimination of the potential entrant through a merger would remove the threat of entry and make anti-competitive pricing a real possibility.

EU Rules on Mergers and Acquisitions

There are several rules relating to this kind of corporate operation in the EU area, aimed at maintaining substantial competition between the remaining corporations, in case these operations acquire a "EU dimension".

This means that if (i) the combined aggregate worldwide turnover of all the undertakings concerned is more than €5 billion; and (ii) the aggregate European Union-wide turnover of each of at least two of the undertakings concerned is more than €250 million; the operation must be notified to the European Commission before initiating the formal proceedings and submitted to a "substantive test" through which it decides whether the operation must be challenged or not. These specific merger cases are assessed in a single procedure (also called the "one stop shop" principle), thus avoiding numerous EU national procedures, as well as reducing costs, bureaucracy and legal uncertainty.

The notification made to the European Commission will allow it to decide if the operation can or cannot be made, bearing in mind that EU-specific Directives on this matter and the General Competition Rules established by the Nice Treaty state that this kind of operation must be blocked if it would “significantly impede effective competition”, that is, if it creates a dominant position and is therefore likely to generate higher prices or reduced choice and innovation.

3. Labour

Given all the negative consequences of having a wide range of laws regulating labor rules in Portugal, a great effort was made to systematize all legislation and diplomas in one unified Code.

Since the new Labor Code entered into force in 2003, Portugal now has a single law regulating employment contracts and employees' issues.

The opportunity was taken to make some improvements, in particular, introducing flexibility on a wide range of specific issues.

The new Code attempts to address the needs of modern corporations, readjusting labor law to current market forces and stimulating productivity in order to keep up with the increasingly global economy.

3.1 Forms of Employment Contract

1. Indefinite Term Contract

This is the main and general form of employment contract made in Portugal. Employer and employee do not preset a time limit to the contract and it can only be terminated under the terms set down by law.

2. Fixed Term Contract

These kinds of contract can only be entered into to fulfill a corporation's temporary need and only for the exact time that this need lasts. These agreements may be of definite, or indefinite fixed term. The extent of these contracts is in principle what the interested parties agree upon but there is a legal minimum of six months, except for a few special cases set out in the legislation.

Definite Fixed Term

Here, the contract stipulates a specific time period and terminates on completion of that period. However, such a contract may be renewed, up to a total maximum period of 3 years, after which the contract automatically converts into an indefinite term contract.

Indefinite Fixed Term

In this case, the employer and employee specify that the agreement should terminate with the occurrence of a specific event to take place at an uncertain date – for example, the return of an employee from maternity or sick leave, or the completion of a project. The contract continues in force until the event specified in the contract occurs. Again, the contract can be automatically converted into an indefinite term contract: this time if the contracted employee continues working more than 15 days after the specified event has occurred.

3. Rendering of Services Contract

This is a contract where one of the parties is required to supply the other with a result of its intellectual or manual work. In this case no working relation will bind the two parties.

This differs from employment contract rules in that the service supplier is not under a form of dependency or subordination to the other party – it is not an employer-employee but a customer-supplier relationship. The only commitment of service suppliers under such a contract is to provide assured outcomes from their actions, being free to organize and implement their work and strategies as they see fit in order to achieve these ends.

3.2 General Rules on Hiring workers**1. Working hours***Timetable*

A normal period of a day's work has a maximum of 8 hours and cannot go beyond 40 hours per week. However, private Agreements may raise these limits to 10 and 50 hours and Collective Bargaining Agreements to 12 and 60 hours, without exceeding an average of 50 hours per week over a period of two months, excluding supplementary work due to unforeseeable causes.

Supplementary Work (Overtime)

Work carried out outside the normal working timetable is called supplementary work (i.e. overtime). It can only be used when an employer needs to respond to the occasional and transient circumstances of increasing work that does not justify the hiring of another worker.

The daily limit for supplementary work is legally set at a maximum of 2 hours. Medium and large corporations cannot exceed 150 hours, of supplementary work per year but micro and

small enterprises can go up to 175 hours. However, even this limit may be raised by a Collective Trade Union Agreement to an upper limit of 200 hours. These limits do not stand for indispensable cases to prevent losses or damages.

Rest Periods

Portuguese labor law gives employees the right to at least one day's rest per week and a minimum of eleven hours of uninterrupted rest between two successive daily work periods.

Maternity or Paternity Leave

After giving birth, a mother has the right to maternity leave of 120 days, of which 90 days must be continuous and immediately subsequent to the birth. Should the mother have more than one child, the law insures an extra leave period of 30 days for each child beyond the first one. The father is also entitled to five days' leave, which may only be taken during the following month after birth.

2. Probation Period

For any employment contract, the law establishes an initial period during which either party can terminate the contract without prior notice and without requiring justification. Such a termination does not give the other party the right to compensation, except when there is a written agreement stating otherwise.

The usual trial period is 90 days, but by contract it can also be extended up to a maximum of 180 days for employees who carry out technically complex jobs, hold a high level of responsibility (typically, top management) or are in a special position of trust (for example, personal assistants to top management, treasury managers and so on). These legal time limits could be reduced or excluded by private Agreement. In the cases in which probation period stands over 60 days, a prior notice shall be provided by the employer to end the contract.

3. Wages

Wages can be fixed, variable or a mixture of these – a fixed part and a variable part. All workers are entitled to a minimum monthly wage, which is set each year. For 2008, the minimum wage is set at € 426,00 gross per month (fourteen months per year – see below).

While on vacation, employees are entitled to their full regular wage.

Furthermore, workers are entitled to a Christmas bonus and a Vacation bonus, each equivalent to a full month's wage each.

Supplementary work gives employees a right to an overtime addition of 50% of their normal wage for the first hour; 75% for subsequent hours or fraction of hours; and an addition of 100% of the normal wage, for every hour of work carried out during a mandatory or complementary weekly rest day or during an official holiday.

If an organization is legally permitted to work during official holidays, the employer must also choose between compensating workers with a comparable rest period, or paying them an equivalent sum to a normal day's wage (in addition to the wages and overtime earned on the holiday worked).

Night working (work undertaken between 10 pm and 7 am of the following day) entitles workers to receive an addition of 25% above normal daytime wages, although a Collective Bargaining Agreement may change these time limits and additional rates.

4. The right to Strike

The right to strike is a collective right that may be exercised by a wide group of workers, based upon a need to defend specific interests, as expressed through any Trade Union or Employees' Association.

Such bodies must give a minimum of 5 working days notice of intended strike action to the employer or the employer's association and to the relevant labor ministry either directly in writing or through major national printed news media.

Such a notice must contain a proposal for securing indispensable services for equipment safety and maintenance. Where a strike is to take place in an organization providing vital social services, the strike warning must also contain a proposal for the provision of minimum services.

5. Holidays

Employees have the right to vacations, that is, the right to a certain yearly period of paid leave. This period may last between 22 and 25 workdays per year.

Where the employment agreement is less than 6 months, the worker has the right to a vacation period equivalent to two workdays for every completed month of the contract.

6. Contract Termination

End of Contract Term

Fixed Term contracts terminate when the stated period is over or the specified terminating event occurs but the employer must declare the intention to terminate with 15 days prior notice in writing to the employee.

Indefinite term contracts may be terminated in very specific conditions established by labor law, such as: proof of fair grounds for individual dismissal; retirement, illness or death of the employer (for an individual employer); the liquidation or closure of the corporation. It should be pointed out that proving fair grounds – or “just cause” – for dismissal is often very difficult in the Portuguese Labor Courts under present law. See the definition of just cause in the relevant paragraph below.

Termination by mutual agreement

The parties of an employment contract may also terminate it by mutual agreement. However, in such a case, the employee is entitled to revoke the termination agreement by written declaration within 7 days after its signing.

Resignation and dismissal

a) Employee resignation for just cause

An employee may terminate an employment contract directly whenever he has just cause. In this case, such an employee is entitled to be given a fixed compensation of between 15 and 45 days base salary and bounty payment for each completed work year.

Just cause is interpreted as unacceptable conduct by the employer towards the employee including: failing to pay salary punctually; violating the employee's legal or agreed guarantees; lack of adequate workplace safety, hygiene and health conditions; offense to the employee's property or physical or moral integrity, liberty, honor or dignity, punishable by law, practiced by the employer or his legal representative.

Employees have the right to resign employment agreements even if they do not have just cause, if they previously state their intention to do so, by written notice to the employer within 30 or 60 days, having two or more years of activity respectively.

b) Dismissal of the employee for just cause:

In this case, just cause is defined, roughly speaking, as inappropriate conduct of an employee which is sufficiently serious to make continuance of the working relationship fundamentally untenable.

c) Collective dismissal (“layoffs”)

Dismissal or layoff of a group of employees, whether at the same time or spread out over a period of up to three months, is allowed under the following circumstances: the closure of a business unit or operational section; significant financial or economic changes such as severe financial difficulties, changes in the field of business activity, major restructuring of the organization, significant alterations of products or product lines; important technological changes such as changes in the structure of the supply chain, changes in manufacturing processes, automation of production, control or transportation, computerization of services or communications systems; major market changes such as significantly reduced demand or new barriers to entry into the market. Group of this kind are much easier to carry out than individual dismissals for just cause.

7. Foreign workers in Portugal

Any foreign worker in Portugal who holds the necessary work permits has exactly the same rights under Portuguese law as a local. However, a copy of the written employment contract must be lodged with the appropriate Government department and there is the need to fulfill a number of additional legal requirements. These special conditions do not apply to workers from other EU countries or countries which also waive any special conditions to Portuguese workers.

A foreign worker who is not a citizen of the EU and who is living outside Portugal may only be hired after the submission of an application for a work visa before entering Portugal. Before making an application for a work visa, the prospective worker must submit a copy of the signed formal offer for work to the Portuguese Employment and Professional Training Institute (*Instituto de Emprego e Formação Profissional*). The visa application must then be made at a Portuguese Consulate or consular representative, together with a copy of the signed formal offer for work in Portugal and the ruling of the Portuguese General Inspectorate for Labor (*Inspecção-Geral do Trabalho*).

3.3 Social Security contributions

The Portuguese contribution system consists of a general contribution scheme for employers and employees and special contribution schemes. Under the general contributions scheme, social security contributions are payable on all salaries, wages, regular bonuses and other regular income. The rates are:

- a) 11% of an employee's wages is deducted at source by the employer – the “Employee's Social Security Contribution”;
- b) In addition, the employer pays a further 23.75% of the employee's gross salary – the “Employer's Social Security contribution.”

Employee's contribution	11.00%
Employer's contribution	23.75%
Total Social Security contributions	34.75%

Social security contributions of Board Directors (“Administradores”), Registered Managers (“Gerentes”) and other members of corporate bodies are based on their respective monthly salaries, with a maximum limit of 12 times the national minimum monthly wage as follows:

- a) Board Directors, Registered Managers and other members of corporate bodies contribute 10% of their salary (deducted at source by the employer);
- b) The employer contributes 21,25% of the Directors', Managers' (etc) gross salary.

Director/Manager's contribution	10.00%
Employer's contribution	21.25%
Total Social Security contributions	31.25% *

* Up to a maximum limit of 12 times the national minimum wage

Foreign investors – just like Portuguese investors – who make indefinite term employment contracts with:

- i) long-term unemployed people, or
- ii) workers aged between 16 and 30 years old,

may benefit from a 3-year exemption from social security contributions (amounting to 23.75%) on wages paid to those workers.

Foreigners working temporarily in Portugal (up to two years) and contributing to a compulsory social security scheme in their home countries are exempt from Portuguese social security contributions.

3.4 Amendments to the Labor Code

It is now imperative to say that, in order to review the Labor Code, a non-government bill has been recently approved. We leave here the main changes of the Code that are predicted to enter into force in January, 2009.

1. Forms of Employment Contract

A new form of employment contract will be created, in which the employee only works during a part of the year, but preserve an indefinite term contract during the rest of the year (“contrato intermitente”).

In this type of employment contract the probationary period is 180 days.

Regarding the indefinite fixed term contract, it will have a maximum period of 6 years, while now it continue in force until the event specified in the contract occurs, without any time limit.

2. General Rules on Hiring workers - Working hours

Timetable

By private or Collective Bargaining Agreements it will be possible to raise the normal period of a day's work to 12 hours in order to concentrate the weekly work in 3 or 4 followed days and raise the number of rest days.

By private or Collective Bargaining Agreements it will be possible to apply, to groups of workers, day and week's work periods higher than the normal, without the approval of all, observing the limits mentioned above. Whether the increase is by private Agreement, it has to

be accepted for 75% of the group's workers; if it is by Collective Bargaining Agreement, it has to be accepted for 60% of the group's workers.

Maternity or Paternity Leave

The leave will bring the parents more advantages if they both share it, given that it will be possible a 150 days leave, if the father takes, at least, one of the months.

Instead of the present five days' leave, in the month after birth, the father will have the right to ten days' leave. The father will be also entitled to more ten days' leave, which may only be taken during the time of the mother's leave.

3. Social Security contributions

The social security contributions will modify, given that companies will pay a smaller contribution (less 1%) for each worker with an indefinite term contract (22,75%); for each worker with fixed term contract, employers will pay a higher social security contribution (more 3%), being the total contribution 26,75%.

Whether the employer opts for a rendering of services contract, he has to pay 5% of the social security contribution born by the service supplier. The goal of this measure is to avoid the celebration of fake rendering of services contracts instead of employment contracts.

4. Taxation

4.1 Introduction

The Portuguese tax system comprises a number of taxes, namely personal and corporation income taxes, consumer tax (VAT) and local taxes.

As we have seen, Social Security contributions are also mandatory.

The most important taxes in Portugal are:

- 1 Corporation Income Tax (“IRC”), with rates from 20% to 25 %;
- 2 Personal Income Tax (“IRS”) with rates from 10.5 % to 42 %;
- 3 Value Added Tax (“IVA”) with rates from 5% to 20%;
- 4 Real Estate Sales Tax (“IMT”) with rates from 0% to 8%;
- 5 Real Estate Municipal Tax (“IMI”) with rates from 0.2% to 2%;
- 6 Stamp Duty (“IS”) with rates from 0.04% to 25%;
- 7 Municipal Surcharge on Corporation Income (“Derrama”) with a rate up to 1.5 %;

4.2 Corporate Income Tax (IRC)

Who is subject to IRC

Corporate tax (IRC) applies to corporations and other legal entities with their registered office or an effective place of management in Portugal that carry out commercial, industrial or agricultural activities. These entities are resident in Portugal.

Legal entities that do not have their registered offices or effective place of management in Portugal are also subject to IRC in two situations:

- i) When those entities have a branch or a permanent establishment in Portugal⁵, the income resulting of the activity of that branch is subject to tax in Portugal;
- ii) When those entities earn any sort of income considered by law to be income obtained in Portuguese territory.

Income Liable to IRC

Residents and non-residents with a permanent establishment in Portugal

These entities are subject to tax regarding all income and capital gains obtained during the tax year (generally matching the calendar year), including income or capital gains obtained in other countries as a result of activities carried out by the resident corporations or by the permanent establishment.

IRC is based on the principle that tax is levied on real profits and therefore the income subject to tax will be the result of the accounting profits adjusted in compliance with cost deduction rules (“Organized Accounting Method”)⁶. Consequently the profit subject to tax will be:

$$\text{Profit subject to tax} = \text{Profit} - \text{Eligible costs (allowable expenses)}$$

Net profit is subject to a **25 % tax rate**.

Subsequently, the taxpayer is also entitled to deduct certain amounts such as:

- i) tax credit (international double taxation);
- ii) tax benefits;
- iii) amounts withheld (in certain conditions);

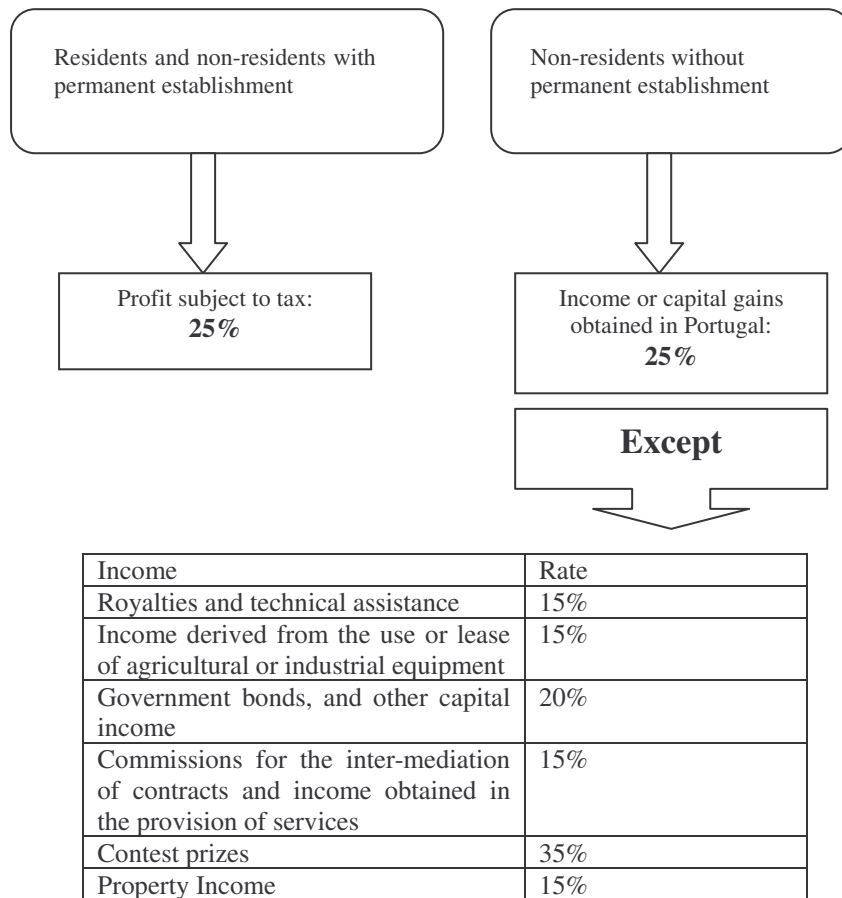
⁵ A permanent establishment is a fixed premises or permanent representation used for the exercise of any commercial, industrial or agricultural activity and is subject to the same tax regime as resident entities.

⁶ A Simplified Assessment Method can also be applied to resident corporations provided that the total annual return does not exceed €149,639, that they are subject to and not exempt from IRC and do not require external account auditing. In such cases the IRC rate is 20 %.

Non-residents without a permanent establishment in Portugal

Each income or capital gain obtained in Portugal will be subject to corporate income tax at a rate of 25% (except income subject to specific tax rates). In this case, a cash basis is used, rather than the normal accrual basis as for residents and permanently established entities – i.e. tax is paid upon receipt of income.

General Rates and Specific withholding tax rates for non-residents



Tax Benefits

The **System of Tax Reserves for Investments** consists in a deduction of 20% on the amount due as corporate income tax. The amount deducted must be put in an account and invested during the following two years in fixed assets or in R&D.

Portuguese law establishes that certain **Investment Projects** can benefit from tax incentives, determined by contract, within a period of 10 years. Such projects can benefit from the following various tax incentives:

1. Tax credit of 5% to 20% of the amount invested in the project, deductible for corporate income tax purposes.
2. Exemption or reduction on Property Transfer Tax and Municipal Real Estate Tax due for all property used in the implementation of the investment project.
3. Exemption from or reduction of Stamp Duty due for all acts or contracts necessary to the implementation of the investment project.

This regime applies to investment projects begun before December 31, 2010. The investment project must be made in certain business sectors such as IT and related activities.

These tax incentives cannot be granted simultaneously with other tax benefits of the same nature that could be granted to the same investment project.

In Portugal there are also tax incentives for projects that **Create New Jobs** for long-term unemployed workers and young people looking for their first job.

Expenses on **Research and Development** are strongly supported through a tax benefit regime applicable to corporations liable to income tax. In order to benefit from this regime the main activity of the corporation must be a commercial, industrial or agricultural activity.

This regime consists of a tax credit to investment in R&D. About 20% of qualifying expenses can be deducted on the amount due as corporate income tax. Expenses not deducted due to insufficient taxable profit can be carried forward during the following six years.

Non-residents without a permanent establishment are, when complying with certain criteria, exempt from tax on capital gains resulting from sale or purchase of stocks.

Municipal Surcharge (*Derrama*)

Municipal Surcharge is levied in addition to corporate income tax up to a maximum rate of 1,5% on the taxable income.

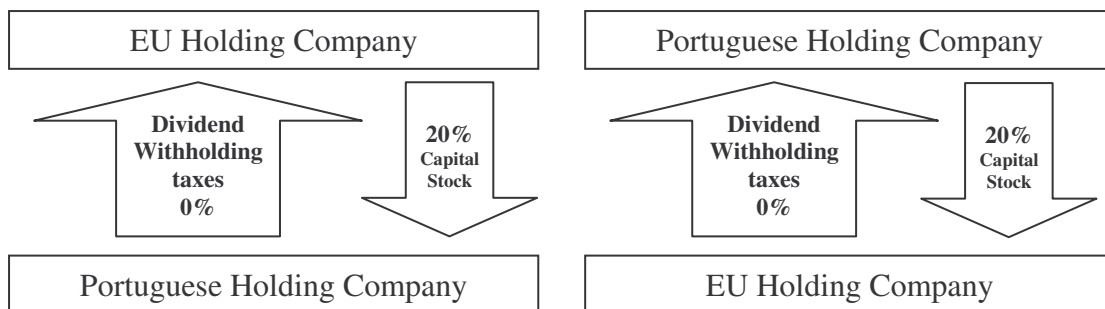
Rates vary from municipality to municipality. The decision on the rate applicable for each year has to be taken the year before by the appropriate municipal assembly.

Holding companies (“SGPS”)

Withholding Taxes on incoming dividends

As a member of the EU, Portugal is governed by the provisions of the EU's Parent-Subsidiary Directive, whose effect is that, where a Portuguese holding company controls at least 15% of the stock of an EU subsidiary for a minimum period of 24 months, any dividends remitted by the EU subsidiary to the Portuguese holding company are free of withholding taxes.

Where the provisions of this directive do not apply, Portuguese holding companies can rely on an extensive network of double taxation treaties⁷.



Corporate Income Tax on Dividend Income Received

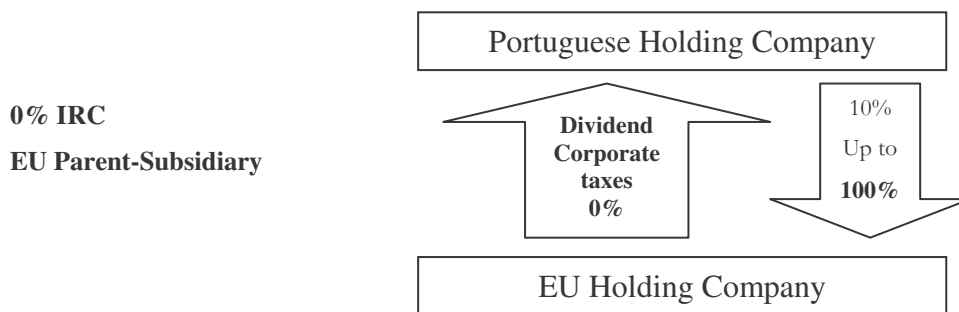
Income received by Portuguese holding companies from foreign subsidiaries is subject to the standard rate of IRC. However dividend income can be exempt under the terms of the EU Parent-Subsidiary directive:

- The foreign subsidiary must be a corporate body as per the definition set out in the EU Parent-Subsidiary directive.

⁷ See chapter 4.9

- The Portuguese holding company must hold its stockholding in the foreign subsidiary for a minimum period of 12 months.
- There is a minimum holding percentage of 10% applicable⁸.

When dividend income paid by a foreign subsidiary to a Portuguese holding company meets the above-mentioned criteria, no further tax is payable in Portugal on the dividend income received. When the holding in the subsidiary is held for less than 12 months, 50% of the amount received is subject to tax.



Capital Gains Tax on the Sale of Stock

In Portugal, capital gains are taxed as corporate income. Capital gains made by a holding company on the profitable sale of its stockholding in a foreign subsidiary are subject to the standard rate of corporate income tax unless the holding company holds the stock in the foreign subsidiary for a minimum of 12 months prior to the sale of the stock. In this case, capital gains or losses and acquisition-related costs are not considered for income tax purposes.

⁸ Meeting some criteria, there are no minimum percentage required.

4.3 Personal Income Tax (IRS)

Income Liable to IRS⁹

Portuguese residents are subject to personal income tax on a worldwide income criterion.

Non-residents are only subject to personal income tax on income received in Portugal.

Categories of Income

IRS applies to several categories of income:

A - Dependent employment income;

B - Business activities and supply of services;

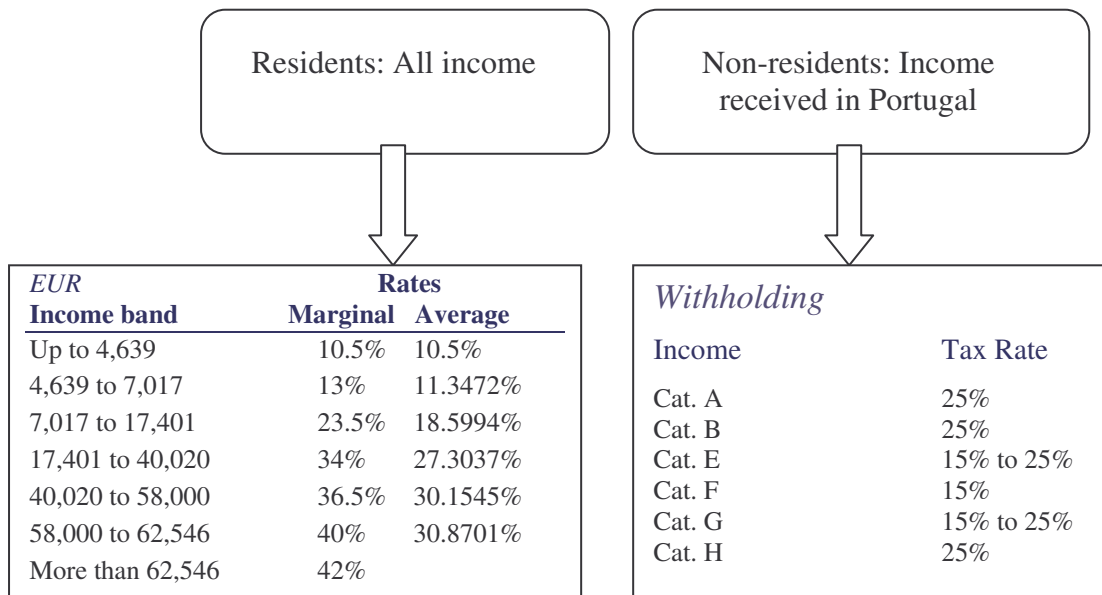
E - Capital income;

F - Property income

G - Capital and other gains

H – Pensions

Tax Rates



⁹ As in IRC, there are two methods to determine the taxable income: (i) simplified assessment system; and (ii) organized accounts system.

Capital Gains

Non-residents are exempt from IRS on capital gains resulting from sales of holdings in corporations, warrants and other financial instruments, when complying with certain legal criteria.

Capital gains resulting from the sale of stock held for more than 12 months are exempt from IRS.

4.4 Value Added Tax (VAT¹⁰)

VAT is an indirect tax paid by the final consumer of tradable goods and of services rendered. There are three rates of VAT on mainland Portugal: a reduced rate of 5%, an intermediate rate of 12% and the standard rate of 20%.

4.5 Real Estate Taxation (IMI and IMT)

Real Estate Sales Tax (IMT)

This tax is levied on the sale of real estate and must be paid by the acquirer.

The rates are variable (depending on value of the asset or its nature and use), from 0% to 6.5%, but whenever the acquirer is a resident in a country, territory or region with a tax regime that is clearly more favorable, a tax rate of 8% is levied as an anti-avoidance measure.

Sales of rural property are taxed at a rate of 5%.

Sales of urban property not for habitation are taxed at a rate of 6.5%.

Sales transfer on urban property exclusively for residential use are taxed at the following rates:

Taxable value	Rate
---------------	------

¹⁰ "IVA" in Portuguese.

<i>Euros</i>	<i>Marginal</i>	<i>Average</i>
Up to 87,500	0%	0%
From 87,500 to 119,700	2%	0.5380%
From 119,700 to 163,200	5%	1.72.73%
From 163,200 to 272,000	7%	3.8364%
From 272,000 to 543,900	8%	
Above 543,900	6% (single rate)	

Example:

Mr. Auden, owner of an urban property exclusively for residential use located in the Algarve, decided to sell it to Ms. Byron for €100,000. By acquiring the property Ms. Byron will be liable to IMT, and therefore she will have to pay an amount of € 290.

Mr. Auden, in the same year acquired an urban property exclusively for residential use for €1,000,000. He had to pay an IMT amount of € 60,000.

Real Estate Tax (IMI)

IMI is a Municipal Tax on the value of each real estate property located within determined municipal boundaries and is payable by the owner or beneficiary of the property. IMI is levied on the taxable value of each property and according to the following rates:

Rural property:	0.8%
Urban buildings (Valued after January 1, 2004)	0.2 to 0.5%

Whenever the owner or beneficiary is a resident in a low tax jurisdiction, a tax rate of 2% is levied.

4.6 Stamp Duty (IS)

Stamp Duty is charged on deeds, contracts, documents, titles, books, papers and other items listed in the annex to the stamp duty code.

This duty can be charged: (i) at a fixed value regardless of the value of the transaction involved (contracts not specified in the annex to the stamp duty code and deeds, acts and other documents drawn up by public departments) or (ii) at a variable rate and depending of the value of the transaction.

Among others, the following items are subject to stamp duty:

	Fixed Value
Documents draw up by public departments	€10
Checks	€0.05
Deposit of articles of association/ and others in public departments	€50
Others contracts not specified in this list	€5
Gambling cards	€2 to €25
Commercial books	€0.50 (per page)
Public deeds	€25
Wills	€25
Registration of movable assets	€3
	Variable Rate
Onerous or gratuitous acquisition of real estate	0,8 %
Donation (including gratuitous transfers of money)	10%
Bond guarantees, including sureties, cautions, bank guarantees, deposits, mortgages, warrants, pledges and insurance cautions	From 0,04% to 0,6%
Any type of credit	From 0,04% to 0,6%
Premiums and interest charged on bills of exchange and drafts issued in Portuguese markets or on any transfer	4 %
Fees charged for providing guarantees	3 %
Other fees and commissions for the provision of financial services	4 %
Insurance policies	From 3% to 9%

4.7 Portuguese Free Trade Zones

General Advantages

The Portuguese Free Trade Zones are not offshore jurisdictions. Companies located there and duly licensed are deemed as Portuguese entities, being subject to all rights and obligations effective in Portugal. These companies are liable to income tax and VAT. However they benefit from several tax exemptions which shall be in force until 2020.

This circumstance grants great credibility to these companies, since they are not located in a jurisdiction included in the so-called tax haven “*black lists*” prepared by several countries.

The acquisition of Real Estate Assets used in the activity of the entities duly incorporated in the Free Trade Zones are, in principle, **exempt from Real Estate Transfer Tax (IMT)**, also from **Real Estate Municipal Tax (IMI)**.

Entities duly incorporated are also **Stamp Duty exempt** concerning documents, books, contracts and public acts foreseen in the Stamp Duty Code, as long as the parties are (i) non-resident entities and/or (ii) other entities duly incorporated in the respective free trade zone.

Compared to mainland Portugal, Madeira and Santa Maria (Azores) also benefit from **lower rates of VAT**: a reduced rate of 4%, an intermediate rate of 8% and a standard rate of 14% (instead of 5%, 12% and 20% respectively, on the mainland).

Regarding withholding taxes the general rule is that no withholding taxes are deducted on remittances made by a company licensed to operate under Free Trade Zone legislation unless the income remitted by way of dividends, loan interest or royalties relates to either income earned in mainland Portugal or alternatively where the recipient is a Portuguese resident.

If the income is earned in mainland Portugal by a Madeira subsidiary but the recipient of the dividends is an UE resident parent corporation to whom the Parent-Subsidiary directive applies then no withholding taxes are levied on remittances.

If the income is earned in mainland Portugal but the recipient of the dividends is resident in a country with whom Portugal has a double taxation treaty then reduced withholding taxes are levied on remittances in accordance with the terms of the double taxation treaty.

Free Trade Zone of Madeira: specific benefits

Madeira Free Trade Zone benefits from a **Special Tax Regime**. In this way companies duly incorporated in this area are **exempt from Corporate Income Tax**. This regime is applicable to the following sectors: (i) industry, (ii) commerce, (iii) sea transport, and (iv) services.

Notwithstanding this, companies whose licensing took place from January 1, 2003 to December 31, 2006, shall be liable to a corporate income tax rate of 1% in 2003 and 2004, 2% in 2005 and 2006, 3% between 2007 and 2009, 4% between 2010 and 2012, and 5% from the year 2013 onwards (until 2020).

The regime described above also applies to capital gains tax, being possible a total exemption or a main reduction of the rate.

Also, no death duties are payable in Madeira on the transfer of a shareholding in a company licensed to operate under Free Trade Zone legislation provided the shareholder was not a resident of Portugal.

Free Trade Zone of Santa Maria: specific benefits

Santa Maria Free Trade Zone benefits from a special tax regime, which is applicable to the following sectors: (i) industry, (ii) commerce, (iii) sea transport, and (iv) services.

Corporate entities licensed to operate under the Free Trade Zone of Santa Maria legislation are fully **exempt from the corporate income tax** until the year 2011.

4.8 Especially Attractive Features of the Portuguese Tax Regime

In Portugal there is no Inheritance Tax. This is in fact a characteristic that makes Portugal a very appealing jurisdiction to settle in for anyone with high personal wealth. At the same time, if you decide to reside in Portugal you can also benefit from tax exemption on capital gains resulting from the sale of corporate stocks held for more than 12 months.

Inheritance Tax

In Portugal, since 2004, Stamp Duty replaced Inheritance Tax, therefore most part of inheritances are exempt. From August 3, 2005, Stamp Duty is levied on gratuitous transfers of money at a tax rate of 10%. However, gratuitous transfers to spouses and children are not subject to Stamp Duty and are therefore tax exempt. This exemption applies whether the gratuitous transfer results from inheritance or from a gift.

Therefore, if you are a resident and decide to donate to your children a great amount of properties, stocks, money and so on, they will be tax exempt.

Capital Gains on Sales Transfers

According to Portuguese law, residents in Portugal benefit from an exemption on all capital gains resulting from the sale of stocks and bonds held for more than 12 months. This is a really appealing feature of the Portuguese tax framework and is considered an advantage for those who decide to settle in Portugal.

With the above-mentioned advantages, a temperate climate, a European location, easy access to every European capital (at least daily flights), political stability, Portugal presents itself as an attractive country to settle in.

Special Tax benefits for Portuguese Foundations

Portuguese Foundations are legal entities that are recognized by the State for advancing social interests and not having commercial or industrial activity as a main purpose.

A Portuguese Foundation can be private or public and be owned by private or public entities.

They can have a social purpose or an economic purpose. If a Foundation has profits derived from interest, warrants or dividends, it will be taxed on such profits.

Portuguese Foundations are liable to a favorable **20% Income Tax rate** (instead of the ordinary tax rate of 25%).

However, Portuguese Public Foundations and Foundations considered to be legally equivalent to Public Social Solidarity Entities by having a public utility (*i.e.*, following **exclusively** scientific, cultural, charity, beneficial aims or environmental defense), may be income **tax exempt for social purpose activities**.

Total exemption from Real Estate Tax and Stamp Duty may be achieved under certain conditions, namely if the social, environmental or traditional art protection activity of the Foundation is considered to be legally equivalent to the activity of Public Social Solidarity Entities and if the real estate acquired is used for the statutory purposes of the Foundation.

4.9 Double Taxation Agreements

Listed below are all the Double Taxation Agreements Portugal has entered into¹¹:

Countries	Dividends	Interest	Royalties
Algeria	10% / 15%	15%	10%
Austria	15%	10%	5% / 10%
Belgium	15%	15%	10%
Brazil	10% / 15%	15%	15%
Bulgaria	10% / 15%	10%	10%
Canada	10% / 15%	10%	10%
Cape Verde	10%	10%	10%
Chile	10% / 15%	5% / 10% / 15%	5% / 10%
China	10%	10%	10%
Cuba	5% / 10%	10%	5%
Czech Republic	10% / 15%	10%	10%
Denmark	10%	10%	10%
Estonia	10%	10%	10%
Finland	10% / 15%	15%	10%
France	15%	10% / 12%	5%
Germany	15%	10% / 15%	10%
Greece	15%	15%	10%
Hungary	10% / 15%	10%	10%
Iceland	10% / 15%	10%	10%
Israel	5% / 10% / 15%	10%	10%
India	10% / 15%	10%	10%
Indonesia	10%	10%	10%
Ireland	15%	15%	10%
Italy	15%	15%	12%
Korea	10%	15%	10%
Latvia	10%	10%	10%
Lithuania	10%	10%	10%
Luxemburg	15%	10% / 15%	10%
Macao	10%	10%	10%
Malta	10% / 15%	10%	10%
Mexico	10%	10%	10%
Morocco	10% / 15%	12%	10%
Mozambique	15%	10%	10%
Netherlands	10%	10%	10%
Norway	10% / 15%	15%	10%
Pakistan	10% / 15%	10%	10%
Poland	10% / 15%	10%	10%
Romania	10% / 15%	10%	10%
Russia	10% / 15%	10%	10%
Singapore	10%	10%	10%
Slovakia	15% / 10%	10%	10%
Slovenia	5% / 15%	10%	5%
South Africa	10% / 15%	10%	10%
Spain	10% / 15%	15%	5%
Sweden	10%	10%	10%
Switzerland	10%	10%	5%
Tunisia	15%	15%	10%
Turkey	5% / 15%	10% / 15%	10%
UK	10% / 15%	10%	5%
Ukraine	10% / 15%	10%	10%
United States	5% / 10% / 15%	10%	10%
Venezuela	10% / 15%	10%	10% / 12%

¹¹ During 2005 and 2006, Portugal entered or may enter into other Double Taxation Agreements, already approved but not yet in force, such as Brunei and Japan.

4.10 Major amendments from January 2009 onwards

Personal Income Tax (IRS): non residents

The 2009 National budget foresees the possibility of non-residents in Portugal, but with residence in European Union, to choose the tax regime applicable to residents, concerning dependent, professional or corporation work income or pensions.

Non residents will also be able to request, in some cases, the reimbursement of the withheld and paid part of the tax that is superior to the amount paid by residents in Portugal.

Corporate Income Tax (IRC)

It has been created a new tax rate level which states the earliest 12,500 € of taxable income will be subject to a 12.5% tax rate.

Non-resident companies, but with head offices in European Union, may, as in the case of Personal Income Tax, request the reimbursement of the tax withheld and paid in the amount that is superior to the amount paid by companies with head offices in Portugal.

Adding to the Corporate Income Tax (IRC) exemption already foreseen for income derived from interest on loans granted by non resident financial institutions to resident credit institutions, as well as on incomes obtained by those credit institutions with swap operations, forward foreign exchange operations may now also benefit of such exemption.

Stamp Duty

The Stamp Duty exemptions regime will be extended to the following operations: rental agreements, patent and trademark registration, customs operations and government bonds.

The companies' restructuring operations based on the constitution or increase of capital are also exempted if caused by: (i) the delivery of one or more private or public companies' entire assets or (ii) exchange of shares operations, when it represents majority of voting rights.

Real Estate Investment Funds for rented real properties

The 2009 National budget created the possibility of real estate property owners to sell their properties destined to their own permanent accommodation, to a Public Real Estate Investment Fund created for real estate properties' renting, that may rent it back to the owner, keeping the owner the right to buy it back later.

It has been stipulated a very encouraging tax regime for these Funds: Corporate Income Tax exemption for any incomes obtained until 2014; Corporate Income Tax and Personal Income Tax exemption for share's incomes; Real Estate tax exemption for real estate properties that stay on Fund's property; Real Estate Sales Tax exemptions for Fund's acquisitions of real estate properties and Stamp Duty exemption for all acts related with the transmission of the real estate properties.

5. Real Estate Investment

5.1 Acquiring or Selling Real Estate

Legal Procedures

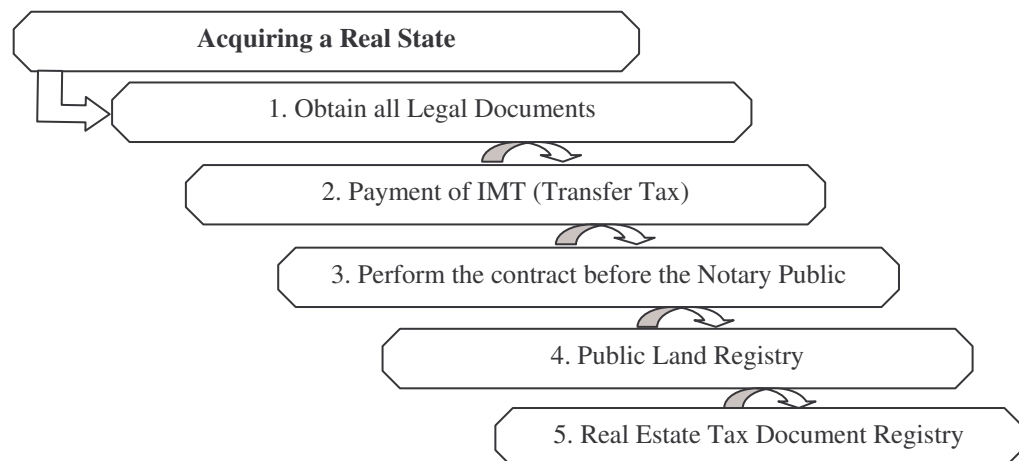
The first step in acquiring a real state is to **obtain all the necessary legal documents**. In Portugal in order to buy a real estate property, for example a flat, several legal documents are needed:

1. License of Use (a document issued by the Local Town Hall for purposes of approving the use of the same, for example, habitation license);
2. Property Registration Certificate (Document of the Public Land Registry that certifies the ownership);
3. Real Estate Tax Document (issued by the Tax Authorities, this document certifies that the property is registered for tax purposes);
4. Personal Tax Number (if the buyer is a non-resident, he will have to establish a tax representation in order to obtain a Portuguese tax number);

The second step is to enter into a **contract of real estate transfer**. This contract needs to be performed before a Public Notary.

Transfer Tax is also due (see above).

After that you will have to request the **inscription of the ownership** in the Public Land Registry and in the Real Estate Tax Document.



5.2 Real Estate Investment Funds

The Concept

Portuguese Real Estate Investment Funds (FII) are special vehicles to take into consideration when considering real estate acquisition, construction, sale, resale and rental. FII are considered to be investment vehicles created with the aim of advancing investors' capital in different real estate values following a principle of division of risk between investors and the FII. This structure benefits from several tax incentives, exemptions and tax reductions pursuant to Portuguese Tax Law.

Capital

FII capital should have a minimum real estate portfolio of €5 million, which may be reduced or increased with authorization from the CMVM (Securities Market Commission), if allowed by the management regulation.

FII Tax Regime

Real Estate Taxation

FII Real Estate Acquisition is fully exempt from Real Estate Transfer Tax (**IMT**). Accruing to this, FIIs are also Real Estate Municipal Tax (**IMI**) exempt¹².

Income Tax Schedules

Rental Income

The annual net rental income is subject to taxation at FII level at 20%, benefiting from exemption from provisional withholding.

Real Estate Capital Gains Income

The annual net tax capital gains resulting from real estate sales are taxed individually by the positive difference between annual capital gains and losses, based on 12.5% of the difference.

Other Capital Gains Income

The remaining capital gains obtained in or outside Portugal, are taxed individually under the same conditions at a rate of 10% over the positive difference between the capital gains and losses in each year.

The distribution of PU income is exempt from withholding tax.

¹² Although, if some criteria is not met, exemption will be replaced for 50% tax reduction.

Comparative Tax Table

Real Estate Investment Fund (FII) vs Portuguese Company (Co)

	Income Tax			Real Estate Tax		
	IRC			IRS	IMI	IMT
	Rental Income	Real Estate Capital Gains	Other Capital Gains			
Co	26.5%	26.5%	26.5%	Up to 21%	Up to 0.8%	Up to 6.5%
FII	20%	12.5%	10%	0%	0%	0%

6. Dispute Settlement

Portuguese courts have been the main formal means of resolving disputes and enforcing property and contractual rights. Many foreign firms and investors consider Portuguese courts slow and ineffective and routinely seek assistance from lawyers and also prefer to include arbitration clauses in their contracts, as well as preventing disputes whenever possible through careful drafting of their contracts.

However in regard of commercial conflicts their resolution is even more discussed in appeal of arbitration. Under these circumstances a Tribunal is created for each case with a minimum of 3 arbitrators.

Arbitration clauses can include any disposable rights, the chosen law to regulate conflicts, and any other domain not exclusively to be dealt by a judicial court.

7. Conclusion

Portugal is unanimously considered to have laid down long, sustainable economic and financial policies aimed at stability, productivity and growth. Furthermore, its tax system provides among the lowest corporate tax rates in the EU, mainly due to the Fiscal Investment Reserve Incentive ability to grant merit payments and risk sharing for sound and solid foreign investments.

The adoption of the Euro – removing most foreign exchange risk within Europe and reducing volatility for exchange with non-euro currencies and providing low inflation and interest rates, production costs among the lowest in the EU, stable growth forecasts above the European average, all constitute strong incentives to invest in Portugal.

Several substantial new measures to cut red tape and unnecessary costs have been approved by the Portuguese Government and are now in the implementation phase. These reforms intend to provide economic growth and will allow more efficiency and better conditions for investing in Portugal.

Portugal's specific geographical position represents a privileged gateway to Europe, America and Africa. As a result, a broad set of road and communication infrastructures have been developed over the years, including a world leading, state-of-the-art, broadband telephone network system with high-speed capabilities and a main line high-density capacity.

Nonetheless, Portugal's Latin culture can mean a strong role for the State and heavy bureaucratic decision mechanisms. Although this aspect may at times seem rather burdensome, foreign investments often benefit greatly from intervention from government or state-held institutions in a country that is especially welcoming to foreign investment. Therefore, good technical advice, handled by qualified professionals that understand investors' strict and demanding needs is an essential part of the investment decision process.

At *Franco Caiado Guerreiro & Associados*, Attorneys at Law, we have long identified such needs, which is why we take care of business with great determination, highly professional standards and unrelenting perseverance whenever dealing with traditionally slow decision-makers such as state institutions. Only private entities can offer efficient responses and adjust to an investor's strict schedule. Therefore, this guide emerges as a result of many years of experience with demanding foreign corporations and investors and intends to give a first insight into possible investment opportunities.

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