



Portugal

Introduction

A person's liability to Portuguese tax is determined by residence status for taxation and the source of income derived by the individual.

Portuguese residents are subject to tax on their worldwide income at progressive marginal tax rates, and nonresidents are subject to Portuguese tax on their Portuguese-sourced income at the applicable rates (between 15 and 25 percent), depending on the type of income received. A double taxation treaty may provide a variation to these rules.

Under the new regime of nonhabitual tax residents, the individuals who normally qualify as tax-resident will be subject to tax on Portuguese-sourced income at a special 20 percent rate; a tax exemption applies to the foreign-sourced income received by the individual (if certain conditions are met, namely, if the referred to income is subject to tax in its country source).

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Key messages

Extended business travelers are likely to be taxed on employment income related to their Portuguese working days provided that their income is paid or the related costs are recharged to a Portuguese entity.

Income tax

Liability for income tax

A person's liability for Portuguese tax is determined by residency status.

A person qualifies as a resident for tax purposes in Portugal provided that the person is physically present in Portugal for more than 183 days during the calendar year, either continuously or not, or that the person owns a home in Portugal at December 31 of the relevant year with the intention to use and occupy it as a habitual residence.

A Portuguese resident is liable for tax on the individual's worldwide income.

If none of the above conditions is met, the person is considered to be a nonresident. Tax liability will occur only with regard to the individual's Portuguese-sourced income (in the case of employment income, Portuguese-sourced income would include compensation derived from activities performed in Portugal as well as compensation paid by a Portuguese entity).

The special regime for nonhabitual tax residents will apply provided that the individual:

- Has not been taxed as resident in Portugal in the last five years
- Qualifies as tax resident in Portugal under the domestic rules in each year of that 10-year period
- Is registered as a "nonhabitual" tax resident with the Portuguese tax authorities.

The option to be taxed under this regime is valid for 10 consecutive years.

Tax trigger points

There is no minimum number of days that exempts the employee from the requirements to file and pay tax in Portugal with regard to Portuguese working days. However, the application of a double tax treaty may determine that the employee does not have a filing obligation, provided that the individual spends less than 183 days in Portugal and that the individual's income is not paid by or recharged to a Portuguese entity.

Types of taxable income

For extended business travelers, the types of income that are generally subject to tax are employment income, as well as any other Portuguese-sourced income, and gains from taxable Portuguese assets (such as real estate). The definition of employment income is broad and tends to include all benefits-in-kind.

Tax rates

Net taxable income earned by a resident is taxed at progressive marginal tax rates from 11.5 percent up to 46.5 percent. Some flat rates may apply (for example, interest and dividends are taxed at 21.5 percent).

For nonresidents, the tax rate depends on the type of income received, as follows:

- Employment income is taxed at a 21.5 percent flat tax rate.
- Rental income is taxed at a 15 percent special tax rate.
- Interest is taxed at a 21.5 percent flat rate.
- Dividends are taxed at a 21.5 percent flat rate.
- Capital gains arising from immovable property located in Portugal are subject to tax at a 25 percent autonomous tax rate.

Under the nonhabitual tax residents' special regime, where the activity performed by the individuals in Portugal is deemed to be a "high-value-added" activity,¹ the net employment income derived from such activity should be taxed at a 20 percent special rate.

Otherwise, if the activity that the individual performs is not deemed to be "high-value-added," the employment income received will be taxed at the marginal tax rate up to 46.5 percent.

This regime also allows for a tax exemption on the foreign-sourced income received by the individual, provided that one of the following conditions are met:

- Such income is subject to tax in the country of its source under the provisions of a double tax treaty
- Such income is subject to tax in the country of its source under the provision of the OECD model tax convention and provided that it does not relate to any activity performed in Portugal.

Social security

Liability for social security

Individuals working in Portugal are liable for social security contributions at a rate of 11 percent on their gross remuneration (9.3 percent for board members).

Employers are liable for social security contributions at a rate of 23.75 percent on the same gross remuneration (20.3 percent for members of the board).

As a rule, contributions are not capped except for those of board members.

¹ As listed in the Ministerial Order 12/2010, 7th January.

In general terms, an exception for social security contributions can apply if a foreign employee is assigned to work in Portugal for an expected period of less than one year and continues to pay social security contributions in the employee's home country. Such a period of exemption may be extended for an additional 12 months.

Based on the EU regulations, as well as on social security bilateral agreements, an exemption may apply on social security contributions for extended business travelers.

Compliance obligations

Employee compliance obligations

Tax returns are due within the following deadlines, depending on the type of income received:

On paper:

- From March 1 to March 31, if only employment or/and pension income was received
- From April 1 to April 30, if any other type of income was received

By Internet:

- From April 1 to April 30, if only employment or/and pension income was received
- From May 1 to May 31, if any other type of income was received

Employer reporting and withholding requirements

If the income is paid by a Portuguese company, the employer is required to withhold tax on a monthly basis at:

- Progressive marginal rates, if the individual qualifies as a resident
- A 21.5 percent flat rate, if the individual qualifies as a nonresident.

The employer also is required to report the income paid and tax withheld to the employee and to the tax authorities within specific deadlines.

Other

Work permit/visa requirements

Non-European Union individuals must apply for a visa before their arrival in Portugal. The type of visa required will depend on the purpose of the individual's entry into Portugal.

Double taxation treaties

In addition to Portuguese domestic arrangements that provide relief from international double taxation, Portugal has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow cooperation between Portugal and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential risk that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT (value-added tax) may be required in Portugal on the following:

- Supply of goods and rendering of services carried out in the Portuguese territory
- Imports of goods
- Intra-community acquisition of goods

There are three different VAT rates:

- Reduced: 6 percent (applied in general to basic food products, pharmaceutical products, medical services, electricity, etc.)
- Intermediate: 13 percent (applied in general to wine, flowers, oil and diesel oil, etc.)
- Normal: 23 percent (applied to the remaining goods and services not subject to the above rates)

Transfer pricing

Portugal has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but is performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Portugal has data privacy laws.

Exchange control

Portugal does not restrict the flow of Portuguese or foreign currency into or out of the country. However, certain reporting obligations are imposed to control tax evasion and money laundering.

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