

## OVERVIEW | STATE BUDGET | 2020

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The 2020 State Budget (OE2020) came into force on April 1. In this regard, we have compiled a summary of the main tax measures adopted that may be relevant.

During this troubled period in which we live, we have been sharing some of the tax changes introduced in this context, especially regarding payment deadlines and compliance obligations. Nevertheless, in our understanding, there will be other changes which, as we always do, we will share in a timely manner.

### **PIT**

#### **A. Self-employed workers**

- Capital gains resulting from the **transfer of residential real estate to the private sphere of self-employed workers allocated to entrepreneurial activities (of self-employed workers)** are no longer subject to taxation;
- For taxable persons who, in the exercise of their activity as self-employed workers, have not exceeded a gross annual income of € 200,000 in the previous year, the income arising from the **operation of a local accommodation unit in the form of a house or apartment located in a restricted area** for the purposes of taxation will only be included in 50% (i.e., 50% relief from taxation).

#### **B. Real estate income**

- The amounts related to **lifelong tenancy agreements** (new figure) are considered real estate income of the owner. The amounts earned by the owner for non-compliance by the resident with his obligations are taxed at a 28% rate, while those related to the payment of the monthly cash benefit (rent) are taxed at a 10% rate;
- Owners of real estate income are obliged to issue a discharge receipt – official form – for all the amounts received from their tenants for the

payments of **rents related to lifelong tenancy agreements**, even as a guarantee, advance or reimbursement of expenses;

- Any gains derived from the **restitution of a housing property, allocated to obtaining real estate income**, to the individual, if (because of this allocation) the property generates income of this nature for five consecutive years, are no longer subject to taxation.

## **PIT**

### **C. Non-habitual Residents ('NHR')**

- Net **income** from: (i) **pensions**; (ii) **pre-retirement or reserve situations**; and, (iii) **amounts spent by the employer on life insurance, contributions to pension funds, retirement savings funds or any complementary social security schemes**; which constitute 'rights acquired and individualized' by the beneficiaries; or, which are advanced by them; **are now taxed at the rate of 10%** when they are not considered obtained in the Portuguese territory.

If such income has originated in contributions (Social Security Contributions), that rate will only apply in the portion in which they have not been deducted from the total amount of gross income for the category of dependent employment earned by the taxable person.

The change is not that applicable to taxable persons who:

- a) are already registered as NHR or, whose applications have already been submitted by April 1, 2020;
- b) are considered tax residents in Portugal on April 1, 2020 and apply for registration until March 31, 2021. On this case, foreign source pensions income remain exempt.

## **PIT**

### **D. Others:**

- **Withholding tax on crowdfunding income:** The managing entities of collaborative funding platforms in Portugal are now obliged to withhold tax on the capital income that they pay or make available.

- **Payments on account:** Taxable persons will now be able to make payments on account in any PIT categories when withhold tax are not applicable and when the amount of each payment is greater than € 50.
- **PIT rates:** The limits of the general PIT brackets will suffer an overall update of 0.3% (increase).
  - **'Young PIT': Partial income exemption during the first 3 years of obtaining income.** The income obtained by students not considered dependent and falling into category A or B is exempted up to a maximum of 5 Social Support Index (€ 2,194.05).

## CIT

### A. Taxable profit

- **Patents and other industrial property rights (Patent Box Regime):** Enter in the determination of the taxable profit, if certain conditions are met, in half of its value: income from **contracts** - hereafter, only when registered - **involving a temporary assignment or use of patents, industrial drawings or models or copyright over computer programs**, and the income resulting from its violation. The income from ancillary services included in these contracts should be ring-fenced from the income arising from the contracts, and it does not benefit from this regime.gasto
  - **Tax increase on expenses with social passes:** Tax increase of 30% of expenses with the acquisition of social passes shall now count as a relevant cost in the determination of CIT taxable profit. Previously it was 100% and now it is 130%.

### B. Autonomous taxation rates

- In the first two tax period following the begging of the activity, **the increase of 10 percentage points of the rate is no longer applicable.**
- **Costs with: light passenger vehicles, light goods vehicles** (except those with more than three seats, including the driver's seat), **motorcycles, excluding vehicles powered exclusively by electric energy** made or borne by taxable persons who do not benefit from subjective exemptions and whose main business is commercial, industrial or agricultural are now taxed at the rate of:

a) 10% - Vehicles with an acquisition cost of less than € 27,500;

- b) 27.5% - Vehicles with an acquisition cost of € 27,500 or more and less than € 35,000.

## CIT

- In regard to costs with **light passenger vehicles powered by CNG**, the following tax autonomous rates are now applicable:
  - a) 7.5% - Vehicles with an acquisition cost of less than € 27,500;
  - b) 15% - Vehicles with an acquisition cost of € 27,500 or more and less than € 35,000;
  - c) 27.5% - Vehicles with an acquisition cost of € 35,000 or more.

## VAT

### A. Right to deduct:

- **VAT incurred in the consumption of petrol** becomes fully deductible for the determination of the tax due, in regard to the following vehicles:
  - a) Machines that consume diesel, LPG, natural gas or biofuels, as well as machines that have a registration number assigned by the competent authorities, provided that, in any case, they are not registered vehicles;
  - b) Goods transport vehicles weighting more than 3.500 kg.

Tax incurred on **expenses related to electricity used in electric or plug-in hybrid vehicles** also becomes fully deductible.

### B. Bad debts:

- Tax related to bad debts is deductible, namely, **when they are delayed for more than 12 months since their due date (reduction from 24 to 12 months)** and, if there is objective evidence of impairment and that steps have been put in place to collect.

The elements that confirm the realization of the operations that constitute the consideration of bad debts, should be documented and may now be certified as follows:

- a) By a statutory auditor or independent certified accountant, in the cases where the tax adjustment does not exceed € 10,000 in each VAT periodic statement;
- b) Only by a statutory auditor in other cases.

## Stamp Duty

### A. Exemptions:

- **From now onwards the following realities are exempt from tax:**
  - a) **Loans, including the associated interest**, for a term not exceeding one year, provided that they are exclusively intended to cover cash-flow shortages and carried out by venture capital companies in favour of companies in which they have holdings, as well as, those **carried out by other companies in favour of companies controlled by them or companies in which they hold at least 10% of the share capital with voting rights or, which acquisition value is not lower than EUR 5,000,000**, according to the last agreed balance sheet, and also those carried out for benefit of a company with which it is in a controlling or group relationship;
  - b) **Loans, including interest**, for a term not exceeding one year, when **granted by companies**, under a centralized treasury management contract, **in favour of companies with which they have a dominant or group relation**.

**Therefore, the Stamp Duty exemption** previously applicable to financial transactions **becomes limited to loans and the respective interest**.

### B. Accounting obligations:

- The registration of operations and acts on which Stamp Tax is due, by the entities required to have organized accounting, shall be reflect **by filing the monthly stamp duty return, although this return will, only take effect on 1, January 2021**.

## Stamp Duty

### C. Tax rates:

- Tax rates for the **use of credit derived from the granting of credit within the scope of consumer credit** on the respective value shall be the following:

- a) Credit with a term lower than one year - for each month or fraction - 0,141%;
- b) Credit with a term of one year or more - 1,76%;
- c) Credit with a term of five years or more - 1,76%;
- d) Credit used in the form of a current account, bank overdraft or any other facility in which the term of use is not determined or determinable, on the monthly average of the sum of the outstanding balances calculated daily during the month divided by 30 - 0,141%.

## ***Real Estate Transfer Tax ('RETT')***

### **A. Exemptions:**

- **Real estate acquisitions by credit institutions or commercial companies whose share capital is directly or indirectly controlled by them** are no longer exempt from RETT, if the buildings are not disposed of within five years from the date of acquisition or, if the acquirer is an entity with special relations (article 63(4) of the CIT Code).

### **B. Taxable value:**

- In case of constitution of **lifelong tenancy agreements** (legally created in the current year), tax is levied over the guarantee amount.

## ***Excise Duty ('IEC')***

- **Tax rates: Petroleum and Energy Products** classified by codes NC2701, NC2702 and NC2704 - coal and coke - which are used in the production of electricity, electricity and heat or, city gas, provided that the taxable person who uses them carries out these activities on a principal basis, **are taxed at 50% rate of the tax on Oil Products rate; and will also be taxed at a rate corresponding to 50% of the addition on CO2 emissions.**

## ***Tax benefits***

### **A. Stamp Duty Exemption:**

- **Entities that carry out, directly and primarily, an economic activity of agricultural, commercial, industrial or service provision nature, and that reorganize themselves as a result of restructuring operations or cooperation**

**agreements, are exempt from stamp duty on the following transmissions necessary** to the restructuring operations or cooperation agreements:

- a) Properties not used for habitation;
- b) Habitational properties allocated to the main activity carried out or to commercial, industrial or agricultural establishment (e.g. the transfer of ongoing concern).

The scope of the concept of 'restructuring operations' now extends to any type of entity, thus including:

- a) The merger of companies, public companies, cooperatives or other entities;
- b) The incorporation by an entity of the whole or one or more branches of activity of another entity;
- c) The demerger of an entity, through which: (i) **an entity carves-out one or more branches of its activity for the purpose of incorporating other entities or, to merge with existing entities**, keeping at least one of the branches of activity; or (ii) a **winding-up entity** splits its assets into two or more constituent parts, each one of them with at least one branch of activity intended to constitute a new entity or to be merged with already existing entities or with parts of assets of other entities, separated by identical processes and with the same purpose.

## **Tax benefits**

### **B. Capital gains taxation at the 5% rate for PIT purposes:**

- Capital gains earned by PIT taxable persons resident in the Portuguese territory arising from the first **sale, subsequent to the intervention, of a property located in an urban rehabilitation area**, are taxed at the **rate of 5%**; with the option to include this income in the computation of the taxable income, which is subject to the PIT progressive rates.

A level of conservation is considered "good" as a result of works carried out in the four years prior to the date of the application for valuation (as opposed to the previous two years), provided that the cost of the works, including VAT, corresponds at least to 25% of the taxable patrimonial value of the property and this is intended for permanent rental housing.

**C. Deduction for reinvestment of retained earnings ('DLRR'):**

- Taxable persons who can benefit from the **deduction for retained and reinvested profits** may deduct from the CIT collection up to 10% (currently at the maximum amount of € 12,000,000 per tax period) of the retained profits that are reinvested in relevant applications **within four years (previously three)**, from the end of the tax period to which the retained profits correspond. Relevant applications are now considered:
  - a) Intangible assets, constituted by expenditure on technology transfer, through the acquisition of patent rights, licenses, know-how or unpatented technical knowledge, provided that: (i) they are subject to amortization or depreciation for tax purposes; (ii) and are not acquired from entities with which there are special relations (article 63(4) of the CIT Code);
  - b) Additions of tangible fixed assets or intangible assets verified in each tax period and what, being a fixed tangible asset and not referring to advances, corresponds to additions to ongoing investments.

**Tax benefits**

**Is deductible to the CIT taxable base:** a percentage of the costs with the acquisition of share capital of research and development institutions and contributions to investment funds intended to finance companies mainly engaged in research and development, including the financing of the exploitation of their results, which suitability in the field of research and development is from now on recognised by the National Innovation Agency (ANI).

**If the participation units in those investment funds are sold, within less than five years from the date of the respective acquisition, the deduction made will be proportionally corrected, with addition of compensatory interest.**

- **The Government has been authorized to extend the scope of the DLRR regime** to acquisitions of shareholdings in companies whose main corporate purpose is identical to that of the acquiring company. This incentive is, however, conditional on obtaining the majority of the capital with voting rights and on the conclusion of a business concentration operation within 3 years, as well as on the European Union's approval of the extension of the state aid regime.



**D. R&D tax incentive scheme (SIFIDE II)**

- **SIFIDE II's application is extended for 5 tax periods, i.e., until 2025 (currently applicable until 2020).** The National Innovation Agency (ANI) is responsible for clarifying the wording of the law regarding the scope of recognition of the suitability of the entities subject to investment.

***Special contribution to the conservation of forest resources***

- **A special contribution to the conservation of forest resources is created, which will apply to both individuals and corporate entities that use, incorporate or transform forest resources, in an intensive way.**

The respective **tax will be levied over the turnover** of such taxable persons, and the **annual amounts relating to investment in forest resources**, as well as **contributions or expenses incurred in order to promote the protection, conservation and renewal of these resources**, will be deducted from the result of its application.

**Extraordinary Contribution on the Energy Sector ('CESE')**

- **Exemption:** The production of electricity through electric electroproducer centres that use renewable energy sources - hydroelectric power stations, power stations that use renewable sources or the cogeneration process or thermoelectric power stations - **with an installed power lower than 20 MW**, is now exempt from CESE.

However, the exemption does not apply if the taxable person is owner of electroproducer centres, on a guaranteed remuneration regime, which **sum of the respective powers exceeds 60 MW**.

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