

## Real Estate &amp; Tax

# Portuguese housing policies – reporting on the government’s reforming initiative

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**L**ast February 17, the Council of Ministers approved the plan “Mais Habitação” (more housing), which is aimed at implementing a set of very impactful measures in the Portuguese real estate and housing markets, namely at the level of the urbanistic licensing, the lease agreements, the short-term rental for tourism (Alojamento Local), and the “Golden Visas”.

The outline and the specifications of such measures is still depending on the publication of the respective legislative acts. For this purpose, it was initiated a public discussion phase, which will run until March 10. The content of the plan is available at ConsultaLEX ([consultalex.gov.pt](https://consultalex.gov.pt)), wherein contributions may be presented.

In this newsletter we briefly overview the proposals under discussion:

## 1. Increase the public offer of properties available for housing purposes

- Conversion of the Properties’ prescribed usage – land that is classified for commerce or services may be used for the construction of housing, without the

need for changing neither the landplanning legislation, nor the properties’ use permit. The terms of the proposal under discussion circumscribe this conversion to the usage for public housing or subject to controlled costs;

- Public tenders for making State-owned properties available for accessible renting – the State shall make some of its property available to cooperatives or private entities for building, converting or rehabilitating purposes, under the format of modular construction. The households created must be rendered to accessible renting;

## 2. Simplifying Licensing procedures

- Simplification of licensing procedures - the Government announced that some of the formalities inherent to licensing procedures may be simplified. It announced that the licensing submissions may be approved without the need for Municipal prior assessment of the architectural and engineering projects, sufficing the presentation of the designers’ certifi-

icates of responsibility. The Municipal licensing would, therefore, be limited to the verification of the compliance with urban planning rules (e.g., verification of the intended land usage and the applicable building parameters);

- **Penalties (interests) applicable to public entities in case of failure to comply with the applicable deadlines for issuing administrative opinions and decisions** – according to what was announced, the amounts of the applicable penalties may be deducted from the final value of the licensing fee or, if it exceeds such amount, it may be deducted in Personal Income Tax / Corporate Income Tax;

### **3. Increase the number of households available for renting**

- **The State will be available to “lease for subleasing”**, meaning that the State rent vacant houses to its private owners, for 5-year renewable periods, at a market rent (with limitations), subject to the condition that the State may sub-rent the households. The State will sublease these properties by public contest, with propriety to people younger than 35, one-parent families, and families that experienced an income drop. The rents to be charged by the State will not exceed the family’s effort rate of 35%. It is also foreseen that the State will pay the rents to the owner in the year prior to maturity, thus assuming the risk of collecting the rent from the sub-tenant;
- **Mandatory renting of vacant residential properties** – it is foreseen that the State may coercively take possession of private vacant properties, with the purpose of sub-letting it to other people, and pay-

ing a rent to the owner. The Government intends to replicate the Compulsive Lease system (established in the Urban Rehabilitation Legal Regimen), which foresees that, under certain conditions, the Municipalities that compulsively execute works in private properties may lease, to third parties, the properties that were subject to the works. According to the proposal under discussion, if the property owner does not want to allow the usage of its property, it shall have a formal deadline to make a justified usage to the property, otherwise the state may take possession. The plan expressly excludes (i) holiday houses, (ii) houses of emigrants or displaced persons for health and professional or educational reasons, and (iii) houses of which the owners are in a social facility as a nursery or are providing permanent care as informal caregivers.

- **Creation of the Renting “One-Stop Desk”, and provision of state support to landlords in case of Tenant’s default of more than 3 months** – It is foreseen that the State may take responsibility for the payment of rents that fall due during eviction proceedings initiated by the Landlords;
- **Significant changes to the short-term rental for tourism (Alojamento Local)**, having been presented several measures, such as:
  - Suspension of new permits for short-term rental for tourism (except for rural accommodation, criteria to be defined);
  - In 2030, all the short-term rental permits that have been issued will be revaluated and, following to

that, subject to a 5-years' periodic revaluation (and non-renewable automatically);

- Expiry of the AL permits in case of transmission of the property;
- Possibility for condominiums to terminate the AL licences that were issued without their approval;
- Additional contribution on properties that remain being used for short-term rental for tourism, to fund public housing policies promoted by the Instituto da Habitação e da Reabilitação Urbana), at an amount still to be determined.
- **Tax benefits to promote housing renting** – several tax measures were presented, such as:
  - Exemption of capital gains taxation on the sale of real estate properties to the State / Municipalities for renting purposes;
  - Exemption from Real Estate Municipal Tax (“IMI”) for 3 years (extendible for 5 years) after the acquisition, construction or rehabilitation;
  - Exemption from Real Estate Transfer Tax (“IMT”), if the property is used for accessible renting;
  - Reduction to 6% VAT on rehabilitation works in houses for accessible renting;
  - Incentives for shifting properties from short-term renting for tourism to “regular” housing renting: exemp-

tion of real estate income earned until 31/12/2030 for those who cease to use houses for short-term rental until the end of 2024, and allocate them to the “regular” rental market until the end of 2024;

- **General reduction from 28% to 25% of the PIT autonomous rate on rental income (agreements up to 5 years);**
- **Reduction of the PIT autonomous rate in long-term rental contracts:**
  - 15% in contracts between 5 and 10 years;
  - 10% in contracts between 10 and 20 years;
  - 5% in contracts for more than 20 years.

## 4. Preventing Real Estate speculation

- **Intention is to terminate the Golden Visa programme** – it is not expected that Gold visas already granted will be affected; however, those that have been granted under the real estate investment modality will only be renewed if the real estate in question is (i) the investor’s (or his descendant’s) own or permanent residence, or if (ii) the property is made available in the renting market, for a period non-inferior to 5 years. It is still unclear what will happen to other investment modalities (such as private equity/venture capital funds), but it is expected that these shall also be eliminated or restricted;
- **Rent capping** – the State intends to impose a legal limit on the contractual

stipulation of rent amounts for new lease agreements. The cap will be calculated based on the rent paid in the previous 5 years for the household in hands and the annual rent adjustment indexes (published by the Government) in the 3 preceding years.

## 5. Supporting families in renting and in accessing housing credit

- Exemption of capital gains on the sale of real estate properties, if the value is used to repay the residential mortgage loan hired by oneself or by a descendant;
- Fixed rate has to be offered by Banks - all financial institutions that offer housing loans must provide credits with fixed interest rate;
- Temporary subsidy in the interest on Housing Loans - Households with incomes up to and including the 6th income bracket of PIT, which have hired housing loans of up to €200,000.00, in which the increase exceeds the stress test, may benefit from a 50% subsidy on the respective interest;

- Rental subsidy – a subsidy will be granted to families with incomes up to the 6th PIT tax bracket – from €26,355 to €38,632 – inclusive and which have a rent effort rate >35% (provided that the value of the rent falls within the maximum limits of the table set by the IHRU for the respective Municipality), the State will grant a subsidy up to a maximum of €200 per month (for a period of 5 years).
- Protection of older leases - it is expected that it will not be transferable to the New Urban Lease Regimen the contracts that, having been concluded before 1990, have tenants (i) whose gross annual income is less than 5x the minimum annual remuneration, or (ii) whose age is greater than 65 years or proven disability with 60% disability. These leases will, therefore, maintain the current conditions. It is expected that the Landlords in these leases will benefit from (i) total (PIT) tax exemption on real estate income obtained, (ii) IMI on the real estate in hands, and a (iii) compensation for being prevented from increasing the rent.