

Stamp duty on international cash pooling

info@abreuadvogados.com
abreuadvogados.com



One of the many proposals made throughout the discussion of the State Budget for 2022 was to correct the discriminatory stamp duty regime applicable to short-term intra-group financing.

Until now, the Stamp Duty Code exempted, under the law, short-term intra-group loans (including cash pooling), as long as they were made between two entities resident in Portugal or, in international situations, provided that the entity which was granting the credit was resident in another Member State. Excluded from the scope were, therefore, situations in which the entity granting the credit was resident in Portugal.

This difference in treatment had a negative impact on national groups intending to internationalize, because of the limitation on the short-term financing capacity of their European subsidiaries. The national subsidiaries of international groups have also been harmed, often being prevented from integrating the cash pooling mechanisms implemented at a group level. This issue has thus generated a great number of tax disputes and has a pending decision to standardize jurisprudence at the Supreme Administrative Court.

Therefore, this change has to be congratulated as the legislator, finally, corrected this discrimination that had been going on for so many years. Regarding the past, the taxpayers have to keep the appeal before the Tax Authority and the courts about the illegality of the taxation imposed until now.



Thinking about tomorrow? Let's talk today.



Miguel Teixeira de Abreu
Honorary Partner
miguel.t.abreu@abreuadvogados.com



Mariana Gouveia de Oliveira
Professional Partner
mariana.oliveira@abreuadvogados.com



Susana A. Duarte
Associated Partner
susana.a.duarte@abreuadvogados.com