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Portuguese State Budget

Highlights

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Highlights

The draft State Budget for 2024 introduces several significant changes to income tax and tax benefits. Here, we highlight some of the most notable proposals:

1) IRS: Special Taxation Regimes

Repeal of the Non-Habitual Residents Regime (NHR)

The NHR regime, which grants tax benefits for personal income tax, is proposed to be repealed. However, transitional rules are established to allow the NHR regime to continue applying beyond December 31, 2023, under specific conditions:

- Taxpayers already registered as NHRs before January 1, 2024, can continue to benefit from the regime until the end of their 10-year period.

- Taxpayers who meet NHR registration conditions by December 31, 2023, and hold a valid residence visa on that date must apply for NHR registration by March 31, 2024, to maintain their eligibility.

The NHR regime remains unchanged for existing beneficiaries and those meeting the requirements on December 31, 2023. Changes are also made to the Return Program to broaden its scope, and a new incentive for scientific research and innovation is introduced.

Return Program

The Regressar Program, which provides a 50% tax exclusion benefit on dependent work and business/professional income, will now apply to taxpayers who become residents by 2026, extending the program beyond the initial 2019-2023 timeframe. The tax exclusion would be limited to €250,000 and lasts for five years. Notably, prior residence in Portuguese territory is no longer a requirement.

Tax Incentives for Scientific Research and Innovation

The 2024 draft State Budget introduces a special taxation regime for personal income tax aimed at attracting highly qualified individuals and promoting scientific and industrial research in Portugal. To be eligible for this scheme, contributors must meet the following criteria:

- Be tax residents in Portugal.
- Not have been tax residents in Portugal for the last 5 years.
- Have not benefited from NHR status.
- Have not opted for the Return Program.
- Do not earn income from jobs created under the investment support tax scheme (RFAI).

Under this special tax regime:

- A special rate of 20% applies to net income from categories A (dependent work) and B (business/professional income) within the scope of eligible activities in national territory.
- The exemption method applies to income from employment, business, professional activities, capital, property, and capital gains obtained outside Portuguese territory.
- A 35% tax rate is imposed on foreign-source income paid by non-resident entities without a permanent establishment in Portuguese territory domiciled in a country, territory or region subject to a clearly more favorable tax regime.

Eligible income includes that derived from:

- Higher education teaching and scientific research careers, including scientific employment in entities, structures and networks dedicated to the production, dissemination and transmission of knowledge, integrated into the national science and technology system;
- Qualified jobs under the contractual benefits for productive investment of the Investment Tax Code, i.e. investment projects operating in areas linked to industry, tourism, technology, among others; and
- Research and development jobs for staff with a minimum qualification of level 8 of the National Qualifications Framework (corresponding to a PhD), the costs of which are eligible for the purposes of the system of tax incentives for research and business development.

The regime has a maximum duration of 10 years, allowing intermittent enjoyment of the benefits.

Youth IRS

The proposed changes alter the exemption limits for income in categories A and B for taxpayers aged between 18 and 26 who are not considered dependents (IRS Jovem). The new exemption rates are:

- 100% in the first year, up to 40 times the Social Support Index (IAS).
- 75% in the second year, up to 30 times the IAS.
- 50% in the third and fourth years, up to 20 times the IAS.
- 25% in the fifth year, up to 10 times the IAS.

2) IRS: Employment Income Tax Incentives

Tax Incentives for Workers' Housing

Income from work in kind resulting from the use of a permanent home located in Portugal will be tax and social security contribution-exempt between 2024 and 2026. The limit value aligns with the Rental Support Program's rent limit, although the properties in question may not be enrolled in this Program, but the exemption does not apply if the worker holds 10% or more of the employer company's share capital or voting rights.

Tax Incentives for Wage Increases

For tax purposes, costs related to employees covered by a dynamic collective bargaining agreement with a salary increase of at least 5% above the guaranteed minimum monthly remuneration (0.1% less than what was established for 2023) will be considered for a 150% increase in the respective amount. This benefit is thus no longer restricted to the increase determined by a collective bargaining agreement, and applies to salary increases for governing bodies as well, expanding the benefit.

In the context of the tax incentive to increase salaries, the concept of "salary range" has been altered so that it now corresponds to the ratio between the share of the annual fixed remuneration of the 10% most highly paid workers in relation to the total and the share of the annual fixed remuneration of the 10% least highly paid workers in relation to the total, calculated on the last day of the tax period of the financial years in question.

The concepts of "salary increase", "fixed remuneration" and "guaranteed minimum monthly remuneration" are also defined. In this context, a "salary increase" is considered to be the increase that occurred between the last day of the tax period for the year and the last day of the previous period. “Fixed remuneration" corresponds to remuneration that is not dependent on the individual performance of the employee, the team or the company, but may include supplementary remuneration. Finally, the "guaranteed minimum monthly remuneration" corresponds to the value of the minimum monthly remuneration in force on the last day of the tax period.

3) IRC: Corporate Tax Regime to Encourage Company Capitalization

The 2024 draft State Budget strengthens the incentive to capitalize companies by introducing a variable rate, based on the 12-month Euribor rate plus a spread of 1.5 p.p., or, if the taxpayer qualifies as an SME or Small Mid Cap, 2 p.p.. The deduction is calculated using eligible net equity increases from the current year and the preceding six periods. The deduction increases by 50%, 30%, and 20% in the 2024, 2025, and 2026 tax periods, respectively.

4) Startups & Stock Options

In May 2023, the new legal regime applicable to startups was approved. The 2024 draft State Budget, on the one hand, creates measures to encourage investment and capitalization of entities that obtain startup status, and, on the other, clarifies some issues that were not contained in the existing legislation. Specifically:

- **Reduced Corporate Income Tax (CIT) rate for Startups:**

Entities that obtain startup status will benefit from a reduced CIT rate of 12.5% on the first €50,000 of taxable income, with the current rate of 21% being applied to the amount exceeding this value.

- **Extension of tax benefits for share plans:**

The new legislation for startups introduced a special rate of 28% on 50% of the gains resulting from stock options, with a deferral of the moment of taxation to the moment of sale. This benefit will be extended to employees of entities that grant stock options in the year in which they obtain startup status, if this corresponds to the entity's first year of activity.

- **Extension of IRS tax incentives for members of the governing bodies of medium-sized companies:**

Members of the governing bodies of medium-sized companies, who were initially excluded from the benefits applicable to stock option plans under the start-up law, will now be able to take advantage of IRS tax incentives related to the granting of these plans.

- **Introduction of an exemption to the exit tax:**

Introduction of an exemption of up to 20 times the value of the IAS, in terms of IRS, in the taxation of gains obtained by holders of stock options (granted by startups) who lose their tax resident status in Portugal (exit tax). The proposal also clarifies that, in these cases, the calculation of the taxable amount is based on the moment the option or right is exercised.

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Thinking about tomorrow? Let's talk today.

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