

State Budget for 2020

On March 31, 2020, Law No. 2/2020 was published in the Official Journal, which promulgates the State Budget for 2020.

Below we present the main fiscal measures foreseen in the State Budget for 2020.

Personal Income Tax (“PIT”)

Non-habitual Residents – Pensions

Regarding non-habitual residents (“NHR”), they are now subject to the application of a special rate of 10% to net pension income that is not considered to be earned in Portuguese territory (depending on the location of the debtor and the part in which, when originated in contributions, have not generated a deduction for social protection schemes).

Notwithstanding, please note that this new measure will only apply to taxpayers who become tax resident in Portugal after 1st April 2020.

As such, the “old” tax regime (exemption on foreign-sourced pensions in Portugal), will still apply to the following taxpayers, for the full time of the regime:

- NHR who have obtained this status prior to 2020, until the end of the 10-year period which the regime applies;
- Tax Residents in Portugal who have applied for the NHR regime and are currently waiting for the validation of the regime by the Portuguese Tax Authorities
- Tax Residents in Portugal who have not yet applied for the NHR regime (and who have until the end of March 2021 to do so), as long as they have been registered as residents before April 1st 2020.

Income from dependent work - Exemption for young workers

A progressive exemption on dependent labour income is created, provided the following cumulative requirements are met:

- a) The income is earned by young people between 18 and 26 who are not considered dependent;
- b) They have completed the cycle of studies equal to or higher than level 4 of the National Qualifications Framework (secondary education obtained by dual certification courses or secondary education aimed at pursuing higher education studies plus a vocational internship with a minimum of 6 months);
- c) They completed the study cycle in 2020 or later; and,
- d) Whose taxable income is less than €25,075.

The exemption will be granted for 3 years as follows:

- 30% in the first year, with the 7.5xIAS limit;
- 20% in the second year, with a limit of 5xIAS;
- 10% in the third year, with the limit of 2.5xIAS.

The scheme will apply upon option expressed in the income statement “*Modelo 3*” and determines the aggregation of exempt income for the purpose of determining the final PIT rate.

This benefit may only be used once.

Exclusion of taxation for students

An exclusion from taxation is established in relation to the income earned by students considered to be dependent, who attend an educational establishment integrated into the national education system and who fall into category A or category B as services, including isolated acts. The annual limit for exclusion is 5 times the Social Support Index, € 2,194.05.

PIT income ranges and rates

An update of 0.3% in the PIT income ranges is expected.

Crowdfunding

Managing entities of crowdfunding platforms, with headquarters, effective management or permanent establishment (to which the payment should be imputed) in Portuguese territory, which pay or make

available capital income and income from securities, are now obligated to make a definitive withholding tax at the rate of 28%.

Payments on account

Holders of income in other categories, in addition to categories A and H, will now be able to make payments on account, when the entity owing the income is not obliged to make withholding tax. Each delivery must be € 50 or more.

Property income

Inclusion in the list of rents of the Property Right for Long-term Housing, created through Decree-Law no. 1/2020, of 9 January, both the monetary guarantee and the periodic counterparts.

The monetary security is only subject to PIT when it constitutes income or is deducted by the owner due to the non-compliance by the resident with his obligations.

The income in question is subject to the special rate of 28%.

The property income resulting from Property Right for Long-term Housing contracts, in the part related to the payment of the monthly cash benefit, may benefit from the reduction of the rate applicable to the lease for permanent housing depending on the duration of these contracts and the respective renewals.

The receipt required in relation to the payment of rents now also includes the amounts related to Property Right for Long-term Housing contracts. The deduction for the collection of charges for real estate now also includes Property Right for Long-term Housing contracts; the amount borne as an initial guarantee must be indicated by the resident in the model 3 declaration of the year in which it is taxable as the owner's income.

Business and Professional Income

Local accommodation

The applicable coefficient for determining the taxable income from local accommodation, in the form of housing or apartment located in the containment area, is increased from 0.35 to 0.50.

Capital Gains

Assignment of property to private usage

It is clarified that no capital gains arise from the transfer to the private usage of the entrepreneur of residential property that immediately begins generating income of category F (property income).

In case of restitution to private usage of residential property which is generating income of category F (property income), no capital gains will be taxed if, as a result of this restitution, the property generates income for five consecutive years.

Deductions to Taxable Income

Dependents

The deduction to taxable income regarding dependents from families with two or more dependents not exceeding three years of age until the 31st of December of the year to which the PIT respects to, is expected to increase from €726 to €900 and from €363 to €450 in families with joint custody, from the second dependent.

Corporate Income Tax (“CIT”)

Social Benefits - Travel Passes

For purposes of determining taxable income, expenses incurred with the acquisition of travel passes for the benefit of the taxpayer's staff are considered in 130%.

Patent Income and Other Rights

For purposes of determining taxable profit, income from intellectual property rights, including copyright on computer programs, shall now be considered at only half of its value.

Simplified Taxation Regime

In determining the tax base, for purposes of applying the simplified taxation regime, the coefficient associated with income arising from operating local accommodation establishments, in the form of housing, in the containment area, is raised from 0.35 to 0.5, maintaining the 0.35 coefficient for the remaining cases.

Small and Medium Enterprises Tax (“SME”)

For taxpayers who qualify as a small or medium-sized enterprise, under the terms of the annex to Decree-

Law No. 372/2007, of 6th November, the reduced corporate income tax rate of 17% applies to the first €25,000 tax base, instead of €15,000.

Autonomous taxation

The 10% autonomous tax rate is now applicable to all charges related to passenger cars, light freight vehicles, or motorcycles, whose purchase cost is under €27,500, instead of €25,000.

On the other hand, the 27.5% autonomous tax rate is now applicable to vehicles whose purchase cost is equal to or greater than €27,500 and less than €35,000.

It is proposed to cease to apply the increase of 10 percentage points in the autonomous tax rate of entities that have incurred tax loss in the period of the beginning of activity, and in the following.

LPG-powered passenger cars will no longer benefit from a reduction in the autonomous tax rate and will be subject to the general rates.

Value Added Tax (“VAT”)

Exemption for internal operations

VAT exemption for the provision of services by psychologists is now expressly provided for.

Exclusions from the right to deduct VAT - Gasoline

The tax contained in expenses relating to gasoline used in:

- Heavy passenger vehicles;
- Vehicles licensed for public transport, except rent-a-car;
- 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;
- Tractors with exclusive or predominant employment in carrying out cultural operations inherent to agricultural activity; and
- Freight transport vehicles weighing more than 3500 kg.

The possibility of deducting VAT incurred on gasoline may be of particular relevance for vehicles licensed for public transport, namely for taxis.

For VAT on diesel, LPG, natural gas and biofuels, there are no changes.

Electricity used in plug-in hybrid or electric vehicles

It is proposed that VAT incurred on electricity used in plug-in hybrid or electric cars will be deductible.

Special exemption regime

The turnover limit for the application of the special exemption regime, which was €10,000, is altered to €12,500 (from 2021 onwards).

VAT credit recovery

Doubtful debts

The minimum period of late payment for the purposes of its classification as “doubtful debts” is reduced from 24 to 12 months.

It is also reduced from 8 to 4 months, the time available to the Portuguese Tax Authorities for the evaluation of requests for prior authorization to recover the VAT contained doubtful debts.

In situations where tax regularization does not exceed €10,000 per VAT return, the required certification, for the purpose of recovering the VAT contained in doubtful debts, can now also be made by an independent Certified Accountant. In all other situations, the certification obligation by the Statutory Auditor remains.

Bad debts

Certification required for the purpose of recovering VAT on bad debts owed after January 1, 2013 can now be performed by an independent Certified Accountant, as well as by a Statutory Auditor.

Amendments of rates

The reduced rate will apply to the provision of services consisting in providing guided or non-guided visits to buildings classified as of national, public or municipal interest and to museums that comply with the requirements of Article 3 of Law no. 47/2004 of 19 August, excluding for profit purposes, and which do not benefit from the exemption provided for in Article 9 (13) of the VAT Code.

The reduced VAT rate will apply to exhibitions, entries in zoos, botanic gardens and public aquariums, as long as they do not belong to the State, other

public legal entities or non-profit organizations or not carried out solely and exclusively through its own agents.

The provision of tele-assistance services for the elderly and chronically ill will benefit from the reduced VAT rate, whether these services are provided to the end user, or whether they are provided to public or private entities.

The reduced rate for entry into bullfighting shows will no longer apply and the normal tax rate will apply.

Stamp Duty

Changes in exemptions for financial transactions

The exemption applicable to financial operations (loans, including interest), for a term not exceeding one year, provided that they are exclusively destined to cover treasury shortages, shall apply to loans made by other companies in favour of companies controlled by them or to companies in which they hold a stake of at least 10% of the voting capital or whose acquisition value is not less than € 5,000,000, according to the last balance sheet agreed, as well as those made for the benefit of a company with which it is in control or group relationship..

Cashpooling

It is also established an exemption for loans, including interest, for a period not exceeding 1 year when granted by companies under a centralized treasury management contract (cashpooling) to companies with which they are in a group / control relationship (i.e. when a company has held for more than 1 year, directly or indirectly, at least 75% of the capital of another or other companies, provided that such holding gives it more than 50% of the voting rights).

Increase of tax on consumer credit

The fees provided for in Item 17.2 of the General Table of Stamp Duty regarding consumer credit are expected to increase, as follows:

- Credit maturity of less than one year: from 0.128% to 0.141%;
- Credit with a maturity of 1 year or more and less than 5 years: from 1.6% to 1.76%;

- Credit with a term of 5 years or more: from 1.6% to 1.76%;
- Credit used in the form of checking account, bank overdraft or any other form of use or maturity: from 0.128% to 0.141%.

Additionally, by the end of 2020, the Proposal contemplates a 50% increase in these rates, in light of the consumer credit disincentive regime.

Property Tax

Rustic buildings

They start to fit as rustic buildings the affections to livestock activities, similarly to what already happened with the properties related to agricultural and forestry activities.

Taxable amount and special rules

In the Property Right for Long-term Housing, the tax is paid on the value of the security. The rate table applicable in determining the taxable value of the Property Tax was maintained in relation to the value of the property separate from the usufruct, use or lifetime housing, now also contemplating the Property Right for Long-term Housing.

Taxable Value of 'Other' buildings

In the case of urban buildings with economic autonomy, to which the method of cost plus the value of the land is applied, it will only be considered the area occupied with the implementation to determine the taxable value.

Unsealed urban building located in more than one parish

The unsealed urban building located in more than one parish should be inscribed in the one with the largest number of buildings.

Vacant buildings located in urban pressure zones

Ruined buildings and terrains on urban land and whose qualification in a municipal planning plan gives rise to suitability for residential use in areas of urban pressure will be subject to increased Property Tax rates, like the vacant autonomous buildings / fractions.

Thus, the rate is increased to six times, plus 10% each subsequent year, and the increase is limited to 12 times the maximum expected rate.

Property Transfer Tax

Expiry of exemption for acquisition of real estate by credit institutions

Purchases of real estate by credit institutions in the execution, bankruptcy, insolvency or in-compliance proceedings are no longer eligible for the Property Transfer Tax exemption, intended for the realization of credits resulting from loans or guaranties provided, whenever they are sold to a company or entity with which they have special relationships, even if 5 years have not elapsed since the acquisition date.

It is maintained the provision which established that the exemption will also terminate when the buildings are not sold within 5 years from the date of acquisition.

Property Transfer Tax Rates

The purchase of an urban building or an autonomous fraction of a residential building worth more than €1,000,000 will be subject to a one-off rate of 7.5% (currently 6%).

Tax Benefits Law

Tax benefits applicable to the interior territories

Companies that qualify as SMEs and that directly and principally carry out an economic activity of an agricultural, commercial, industrial or service nature in interior territories, now benefit from the reduced CIT rate of 12.5% for the first € 25,000 of tax base, instead of the previous € 15,000. The maximum total benefit for these entities, which was € 1,275.00 per entity, goes to € 2,125.00.

Road transport of passengers and freight

Expenses incurred with the acquisition of liquefied petroleum gas ("LPG") will cease to benefit from the 20% increase for the purposes of determining CIT and PIT (category B) taxable income.

Incentives for urban rehabilitation

Certification of the evolution of the building's state of conservation, for the purpose of granting tax incentives for urban rehabilitation, now considers the works carried out in the previous 4 years (currently 2 previous years).

Affordable housing rentals

Income earned under Municipal Affordable Leasing Programs is now exempt from PIT and CIT (notwithstanding, consideration for the purpose of determining the PIT rate).

Reorganization of companies as a result of restructuring operations or cooperation agreements

The exemption from stamp duty in connection with restructuring operations or cooperation agreements is extended to the transfer of commercial, industrial or agricultural establishments.

Tax Investment Law

Tax benefit for the reinvestment of retained earnings ("DLRR")

The period for reinvesting retained earnings in relevant investments is expected to be extended from 3 to 4 years from the end of the tax period to which retained earnings correspond.

In addition, the maximum amount of retained and reinvested profits for each tax period will be increased from € 10,000,000 to € 12,000,000 per taxable person.

It is proposed that technology transfer expenses be considered as relevant applications, namely through the acquisition of patent rights, licenses, know-how or non-patent protected technical knowledge, provided that the following requirements are cumulatively met:

- a) Are subject to depreciation or depreciation for tax purposes;
- b) Are not acquired from entities with which special relations exist.

The expected deduction at the level of assets acquired under financial leasing is subject to the exercise of the call option by the taxable person within 7 years instead of 5 years from the date of acquisition.

System of Tax Incentives for Business Research and Development ("SIFIDE")

The period of validity of SIFIDE II is extended from 2020 to 2025.

Regarding the eligible investment made in the acquisition of units in eligible investment funds, an obligation to maintain these units for a period of 5

years is now foreseen, which, if not fulfilled, determines that the CIT on the year of sale is added the amount that has been deducted in the part corresponding to the missing period, plus the corresponding compensatory interest.

Social Security

The penalty for failure to submit the quarterly income statement for self-employed persons shall be waived.

It is established the possibility for the Government to adjust the contributory regime of self-employed workers to activities with a strong seasonal component and a high fluctuation of billing moments, namely with regards to reporting obligations.

Subsidies or payments by the State and other public or mostly public legal persons

The presentation of proof of the payment of contributions before the Social Security Authorities is due from subsidies or payments over € 3,000, net of VAT (previously, € 5,000).

Benefits of self-employed workers and beneficiaries of voluntary social insurance

Benefits may only be granted if the contributory situation is regularized on the date the benefit is recognized, when the situation was previously required to be regularized by the end of the 3rd month prior to the event determining the granting of the benefit.

General Tax Law

Settlement of accounts

Taxpayers classified as micro or small enterprises under the terms of article 2 of the annex to Decree-Law no. 372/2007, of 6 November, who, when paying tax obligations, hold overdue and unpaid tax credits, can take advantage of the respective settlement of accounts, paying only the difference between the amount receivable and payable.

Special Contributions

Contribution on the banking sector

The contribution to the banking sector remains in force for 2020.

Contribution on the pharmaceutical industry

The extraordinary contribution to the pharmaceutical industry also remains in force throughout 2020.

Extraordinary contribution on the energy sector

The extraordinary contribution to the energy sector will remain in force throughout 2020 and the contribution's reference years will be updated.

Extraordinary Contribution on National Health Service (NHS) Medical Device Industry Suppliers

It is proposed to create a contribution on NHS providers of medical devices, with rates varying between 1.5% and 4% on the value of purchases, excluding VAT, reported to the total value of purchases of medical devices and in vitro diagnostic medical devices from entities of the NHS.

Exemption from this contribution is foreseen for entities that may join, individually and without reservation, the agreement between the Portuguese State and the suppliers' associations, aiming at the NHS sustainability.

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