

STATE BUDGET PROPOSAL FOR 2020

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On December 16, 2019, was presented to the Assembly of the Republic, the Government Proposal of the State Budget Law for 2020.

We present below the main tax measures foreseen on the State Budget Proposal for 2020.

Personal Income Tax (“PIT”)

Income from dependent work - Exemption for young workers

It is envisaged the creation of a progressive exemption on dependent labour income, 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 and is subject to submission to the Portuguese Tax Authorities website (“*Portal das Finanças*”), by February 15 of the year following the first year of income after the completion of the study cycle, of certificate attesting that completion.

For purposes of withholding tax, employees must communicate to the employer this partial exemption, by proving that a study cycle has been completed. Employers shall consider the exempt part for purposes of determining the withholding tax applicable to non-exempt income.

PIT ranks

An update of 0.3% in the PIT ranks 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%.

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.

Transitional rules on Category B specific deductions

Taxable persons covered by the simplified tax regime may declare the amount of business-related expenses and charges in the income statement for the year 2019 in lieu of the amounts reported to the Portuguese Tax Authorities (except for remuneration expenses with staff communicated by the taxable person) and shall, to that end, keep proof of the amounts declared.

Taxpayers may not challenge the deductions regarding General / Family Expenses present on *Portal das Finanças*, declaring, for purposes of allocating these charges to business or professional activity, the expenses amount in their income statement.

Capital Gains

Assignment of property to private usage

It is clarified that the 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 the 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.

Transitional rules on deductions to taxable income

As with the 2018 PIT returns, taxpayers may include in the 2019 PIT return the amounts of health, education and training expenses, real estate and home expenses, which replace those in the e-invoice portal, provided that they are able to keep evidence of the amounts declared.

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 the 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 the 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 company, under the terms of the annex to Decree-Law No. 372/2007, of 6th November, the 17% reduced corporate income tax rate 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”)

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.

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

It is proposed to apply the reduced rate 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.

It is expected that 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

It is proposed that the exemption applicable to financial transactions for a period not exceeding one year, intended to cover cash shortfalls, be limited to loans and interest, eliminating the reference to venture capital companies, which are obliged to comply with the requirements for the remaining companies.

In order for the exemption to apply, it is necessary a period of ownership of the shares of at least 1 consecutive year or since the incorporation of the participated entity, provided that in the latter case the holding is maintained during that period.

It is also foreseen an exemption for loans, including interest, for a period not exceeding 1 year when granted by companies under a centralized treasury

management contract to companies with which they are in a 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).

Accounting obligations

Within the scope of the registration of taxable transactions, the taxpayer shall disclose in its accounting any changes made by submitting a replacement statement to the monthly Stamp Duty return.

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

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 are expected to 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

It is proposed that the exemption from Property Transfer Tax on the purchase of real estate by credit institutions for the realization of credits resulting from loans will expire if they are transferred to a related entity within the meaning of the pricing rules, even before the five-year period has elapsed.

Property Transfer Tax Rates

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

Tax Benefits Law

Road transport of passengers and freight

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

National monuments and buildings classified as public interest or municipal interest

The exemption from Property Tax applicable to buildings classified as national monuments and of public or municipal interest is expected to cease.

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

The exemption from PIT and CIT on property income obtained under the Municipal Programs for Affordable Housing is transposed to the Tax Benefits Code. This exemption is subject to recognition by the Government member responsible for finance.

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 main changes proposed are related to expenses associated with investment funds.

It is expected that equity investments in research and development ("R&D") institutions and contributions to public or private investment funds intended to finance mainly R&D companies, which are recognized by the National Innovation Agency, SA ("ANI"), will be considered as relevant investments, eliminating the need for recognition of the respective projects and other reporting and annual evaluation obligations.

If the units in the abovementioned investment funds are disposed of before the 5-year period has elapsed, the amount that has been deducted from the collection shall be added to the CIT of the disposal period, in the proportion corresponding to the default period, plus respective compensatory interest.

It is also proposed to repeal the provision allowing the Government to request the payment of a maximum rate of 1% to entities applying for tax relief to support the assessment of the applications concerned.

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.

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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