Portuguese Budget Proposal for 2022

Key Takeaways – Personal Income Tax

ISSUE	WHAT IS THE CURRENT RULE?	WHAT IS EXPECTED TO CHANGE?
Capital Gains Derived by Individuals	▪ Capital gains from the sale of shares, bonds and units of funds are generally taxable at 28% flat rate in Portugal. ▪ Capital gains sourced in blacklisted jurisdictions are taxed at the aggravated rate of 35%. ▪ Taxpayers have an option to aggregate the capital gains with other income and apply progressive rates up to 48% but this option is seldomly used in practice (unless there is losses). ▪ Losses may be carried forward for 5 years when the option to tax at progressive rates is applied. ▪ Eligible NHR taxpayers only in certain exceptional cases apply the exemption method on capital gains derived from financial portfolio positions (e.g. Brazil source gains).	▪ Short term capital gains (i.e. held for a period less than 365 days) will be as from 1 January 2022 mandatorily subject to progressive rates up to 48%, when the taxpayers have total taxable income higher than €75.009. Surcharges may apply. ▪ This rule will apply to gains derived from disposal of shares and securities including: (i) from redemption/amortization of shares; (ii) from non-tax-neutral mergers, demergers and exchange of shares (iii) from liquidation, revocation or termination of fiduciary structures; (iv) from repayment of bonds; and (v) redemption of fund units or liquidation of funds. The progressive rates will also apply to short term gains sourced in blacklisted jurisdictions. ▪ Short term losses covered by this rule may be carried forward for 5 years. ▪ Specific capital gains taxed at final flat rates (e.g. Portuguese based funds) should remain in place. ▪ This rule will impact both normal tax residents and NHR to the extent that exemption method is not applicable (which is the case in most instances).
Progressive Rates for Individuals	▪ Residents in Portugal for tax purposes are taxed on their worldwide employment and self employment income at progressive rates varying from 14.5% to 48% for 2021. ▪ The top progressive rate applies to taxable income above €80.882. ▪ Additional solidarity surcharge is levied at: (i) 2.5% on the annual taxable income between €80.000 and €250.000; and (ii) 5% on the annual taxable income exceeding €250.000. ▪ Eligible NHR taxpayers benefit from a special tax rate of 20% on active source income derived from "high value added activities" (when such income is not covered by the NHR exemption method).	▪ The top progressive rate will apply to taxable income above €75.009 (i.e. the threshold is lowered). ▪ Increase from 7 to 9 of the tax brackets of the income tax table, lowering the effective tax rate for certain households on income below €48.033 of annual income. ▪ No changes to the solidarity surcharge that continues to apply for 2022. ▪ No changes to the NHR regime on the 20% flat rate regime or the list of "high value added activities" is included on the Budget proposal.

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First-In First-Out	▪ For capital gains on the transfer of shares and securities, the FIFO criteria is adopted. ▪ This means that for shares of the same nature with identical rights, it is deemed that the shares transferred are the ones that were acquired first.	▪ Taking into account the new rule for short term capital gains, the Budget proposal includes a simplification measure for the application FIFO criteria. ▪ Under the simplification rule, when the securities are deposited in more than one financial institution, the FIFO rule is applicable by reference to each of the securities portfolios.
Acquisition value on gratuitous transfers	▪ The acquisition value of the securities in case of donations and transfers mortis causa is determined based on the rules of the Stamp Tax Code. For example for quoted securities, the value of those securities is determined based on the listed value on the date of the transfer. ▪ In the case of exempt donations (applicable to direct family, meaning spouses, ascendants and descendants) there is a specific rule for donations of real estate located in Portugal that provides that the acquisition value is the cadastral tax value of the property up to two years prior to the donation.	▪ The Budget proposal includes a new provision for securities donated under the exemption for direct family. ▪ In the case of exempt donations, the acquisition value of the donated securities will be the value determined based on the rules of the Stamp Tax Code up to two years prior to the donation. ▪ Since Stamp Tax is a territorial tax and taxation is only triggered as regards the assets deemed to be located in Portugal, this rule should in principle not apply to donations of foreign based securities.
Tax regime applicable to ex-residents	▪ Portugal implemented in 2018 an alternative rule to the NHR regime that applies to former tax residents (i.e. persons that have left Portugal and then return). ▪ This tax regime provides for eligible taxpayers to exclude from progressive taxation 50% of employment and self-employed income received for a maximum of 5 years.	▪ The Budget proposal extends this ex-residents tax regime. ▪ Employment and professional income received by a person that becomes a tax resident in 2021 to 2023 is excluded from taxation in the amount of 50% if the person was a tax resident in Portugal in the years that precede 5 years from taking up residency in Portugal.

"Tax laws have changed dramatically in the past years and complexity is now the new norm. We help you navigate the complex and take the right decisions."

Meet the Kore Partners:

  

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