VIEIRA DE ALMEIDA
& Associados Sociedade de Advogados, R.L.

COUNTRY REPORT

PORTUGAL

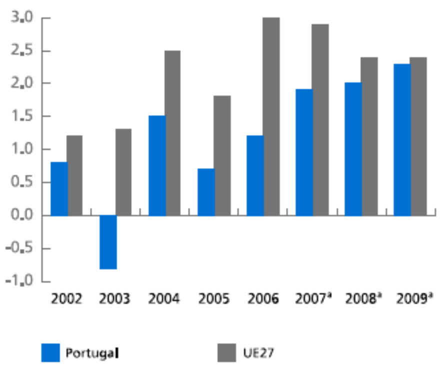
A. INVESTMENT FACTORS

1. Government attitude towards foreign investment

Attracting foreign direct investment (FDI) has become a key part of national development strategies for the Portuguese Government which has implemented several reforms to improve the economic environment. These reforms have had the following results: GDP convergence with EU average, remarkable decrease in inflation, unemployment consistently lower than EU average, and sound public accounts.

2. Economic trends

GDP Growth Rates- (convergence with EU27)

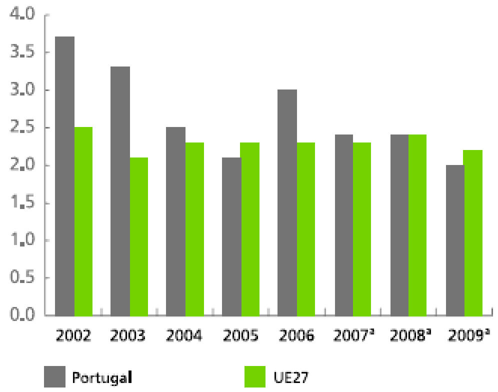


Source: 2002-2006 INE, Banco de Portugal

2007-2009 Banco de Portugal; UE27 – European Commision

Note: (a) Forecasts

Inflation rates (%)

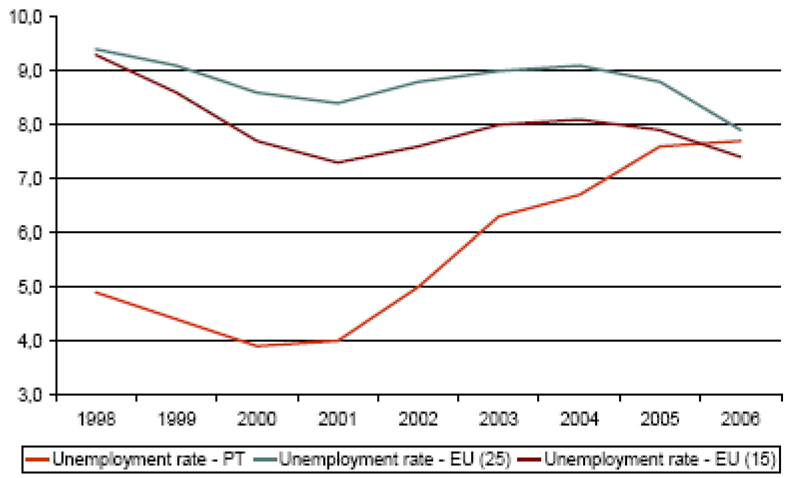


Source: 2002-2006 INE, Banco de Portugal

2007-2009 Banco de Portugal; EU27 – European Commision

Note: (a) Forecasts

Unemployment rate (%)

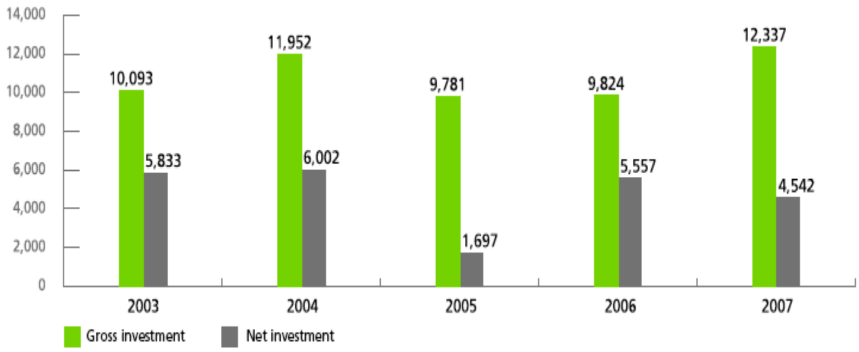


Source: INE

3. Investment Incentives

Over the last years, Portugal managed to remain attractive as a host country for foreign companies, despite the severe downward trend in FDI worldwide.

Trends in Portuguese FDI – Unit: million €



Source: Banco de Portugal

Several incentives and tax benefits are available for large-scale investments projects in Portugal which may consist on one or all of the following forms:

- Granting of financial incentives, either refundable or unrecoverable.
- Granting of tax relieves.
- Co-financing of the project by way of venture capital or development capital, of public source.

The granting of aids under these forms requires the previous demonstration of budget covering as well as the preceding authorisation by the members of the Government, Regional Governments or Municipalities, as the case may be.

4. Freedom of Operation

Portugal does not discriminate against foreign investments. Foreigners may invest in almost all economic sectors that are open to private enterprise.

5. Labour

Employment contracts can be set for an indefinite period of time or for a term. Term employment contracts can only be used under certain circumstances provided in the Law.

Legislation sets out a limit of 40 hours per week and 8 hours per day, however, in the case of a collective labour agreement, the weekly limit of 40 hours may be determined in average terms during a reference period that can go up to 12 months, in which case the working period can go up to 60 hours per week and 12 hours per day, provided the two month average does not exceed 50 hours per week.

The annual period of holiday is of 22 business days. This period can go up to 25 business days provided the employee has no unjustified absences or a limited number of justified absences in the year the holidays refer to.

6. Financial Services

Portugal does not discriminate against foreign financial services providers, which are subject to the same rules and requirements applicable to domestic financial institutions and financial companies.

C. ESTABLISHING A BUSINESS

1. Formalities for Establishment

1.1 <u>General Regime of Incorporation</u>

- <u>First Step</u>

  Define the main activity and request a Company's Admissibility Certificate along with a Provisional Identification Card of Corporate Entity at the National Registry of Corporate Entities (*Registo Nacional de Pessoas Colectivas or RNPC*).

- ➢ Second Step

  Opening a bank account in the company's name and deposit the minimum required share capital.

- ➢ Third Step

  Sign of the incorporation document.

- ➢ Fourth Step

  Register the company with the Commercial Registry Office (*Conservatória do Registo Comercial)* within 60 days counted from the signature of the incorporation document.

- ➢ Fifth Step

  Fill in the company's Statement of Commencement of Activity.

- ➢ Sixth Step

  Registration with the Labour Inspection Office (*Inspecção-Geral do Trabalho*) before the company's commencement of activity.

- ➢ Seventh Step

  Registration with the Regional Social Security Office within 10 business days counted from the date of the company's commencement of activity.

Estimate of Total Costs for Incorporation**:** around € 475 (does not include: the cost of the notarial deed of incorporation and the stamp duty on the share capital, not applicable to SGPS; the cost of the registry of the corporate bodies (€ 75); the company's corporate name certificate (€ 70) and the taxpayer provisional number (hereof "NIPC") (€ 19.20)).

Estimate of time required: between 2 and 3 weeks (not including the time to obtain the definitive registration certificate).

1.2 Immediate Incorporation Regime

- First Step

  The shareholders choose the company's name from a list of names approved by RNPC and published on http://www.empresanahora.mj.pt/listafirmas. If the shareholders intend to incorporate the company under a different name, must previously obtain a Company's Admissibility Certificate.

- Second Step

  The shareholders choose the company's articles of association, from one of the samples approved by RNPC and available on: http://www.empresanahora.mj.pt/pactos.

  Following the signature of the incorporation document, RNPC immediately provides the company's definitive registration certificate and pursues the publication of the company's relevant corporate information in the above mentioned website.

  The company's commercial definitive registration certificate and its articles of association, as well as the definitive taxpayer card and Portuguese Social Security number of the company are also immediately issued.

- Third Step

  Opening of a bank account in the company's name and deposit the minimum required share capital.

- Fourth Step

  Filing of the Statement of Commencement of Activity before the competent Government Tax Office (DGCI) within 15 days counted from the incorporation date.

Estimate of total costs for incorporation: the incorporation process costs should be around € 360 (this amount does not include the stamp duty in the amount of 0.4% on the share capital).

Estimate of time required: it is possible to incorporate a Company in Portugal in one day

Online Incorporation Regime

- First Step

  The company is incorporated through the website: www.empresaonline.pt

- Second Step

  The shareholders choose the company's name from a list of names previously approved by RNPC and published on the above mentioned website.

- Third Step

  The company's articles of association may be chosen from one of the samples approved by RNPC also available in the relevant internet site.

- Fourth Step

  The shareholders must submit in electronic form the required information in connection with the filing of the company's Statement of Commencement of Activity.

- Fifth Step

  Following the incorporation of the company, the publication of the company's relevant corporate information in the website http://publicacoes.mj.pt and the communications to the Government Tax Office, Labour Inspection Office and Regional Social Security Office are executed.

- Sixth Step

  Submit an electronic statement to prove that a bank account was opened in the company's name and that the minimum required share capital was deposit.

- Seventh Step

  The company's definitive registration certificate, definitive taxpayer card and social security number will be sent by mail.

Estimate of total costs for incorporation**:** around € 380 if the shareholders choose to draft their own articles of association, and around € 180 if they choose one of the samples approved by RNPC. (This amount does not include the stamp duty on the share capital).

Estimate of time required: the registration is immediately upon the confirmation of the payment of the incorporation costs or within two business days (in case the articles of association are specified by the parties).

2. Electronic Commercial Registers

The registration of corporate information is now possible by means of submitting in electronic form the documents and information on the website: www.empresaonline.pt.

Main Accounting and Bookkeeping Obligations:

- Prudence: Losses should be recognised when they become known but gains only when they are realised or realisable.
- Materiality: Financial statements should provide all relevant information which may affect the evaluation of the company or the decisions of any interested parties.
- Substance over form: Transactions should be accounted for and disclosed according to their commercial substance and financial reality and not merely according to their legal form.

All traders (corporate enterprises included) must keep orderly the accounts of their commercial activity, as well as the following mandatory books:

- Book of Minutes of the General Meeting.
- Book of Minutes of the Management.
- Share Registry Book (when applicable).

D. PRINCIPAL FORMS OF BUSINESS ENTITIES

1. Limited Liability Companies by "Quotas" (*"Sociedade por Quotas"* or "*Lda."*)

- Share capital: € 5 000.
- Number of quota holders: in general two (one in the case of Individual Stakeholder Companies).
- Management: the company may have one or more statutory managers.
- Only nominative registered quotas are admissible.
- Annual accounts deposit is required.
- Audit: the statutory accounts are not subject to statutory audit unless, for two consecutive years, either two of the following limits are exceeded:
  - (i) Total assets - € 1 500 000.
  - (ii) Total net sales and other incomes - € 3 000 000.
  - (iii) Average work force - 50 people.

2. Corporations – Limited Liability Company by Shares (*"Sociedade Anónima"* or *"S.A."*)

- Share capital: € 50 000.
- Number of shareholders: 5 (a company may incorporate by itself a new S.A. as its sole shareholder).

- Management: minimum of two directors if the capital is over € 200.000, otherwise only one director is required.
- Statutory auditor and annual accounts' deposit required.
- Admissibility of bearer shares.

3. Partnerships – Holding Company ("*Sociedade Gestora de Participações Sociais" or "SGPS"*)

The SGPS may be incorporated either as a S.A. or as a private limited liability company by *quotas*, however the SGPS is subject to several restrictions. In fact, the SGPS must have as its sole object the holding and managing of shareholdings in other companies, as an indirect mean of carrying on an economic activity.

4. Public Companies *("Sociedades Abertas")*

Public companies are companies quoted and listed on the Stock Exchange that are participated by public investors, whose shares were subject to an IPO on the Stock Exchange.

5. Complementary Grouping of Enterprises (CGE) ("*Agrupamento Complementar de Empresas" or "ACE"*)

There are some restrictions imposed to their activities, namely they cannot own property unless they use it for business location purposes and they cannot acquire shares or *quotas* in other companies or in other complementary grouping of enterprises.

6. European Economic Interest Grouping (EEIG) (*"Agrupamento Europeu de Interesse Económico"* or "*AEIE"*)

The purpose behind the creation of the European economic interest grouping is to provide a common legal form through which business can be conducted by companies or individuals anywhere in the EU Member States.

7. Branches

A branch has no formal capital as such, although for registration and foreign investment regulation purposes, the parent company may decide to allocate an amount of designated capital to its Portuguese branch. The branch's allocated capital is not subject to any minimum amount.

A legal representative of the parent company is required to be appointed to manage the branch's affairs, acting as an attorney of such company. The branch is not required to have other formal bodies of management or supervision.

Although separately registered, the branch is not a separate entity and, consequently, the parent company registering the branch will be liable for all obligations incurred by the branch.

8. Subsidiaries

In general, there are operational differences between setting up a branch and incorporating a subsidiary in Portugal, being one of the differences the tax efficiency on the repatriation of profits: dividends paid by subsidiaries may be subject to Portuguese withholding tax if certain conditions are not met, transfers of branch profits are not.

9. Insurance Companies

- Insurance companies (“*Sociedades Anónimas*”/”S.A.”), duly authorised.
- Mutual Associations (“*Mútuas de Seguros*”), duly authorised.
- Branches of insurers officially authorised to pursue this business whose head offices are within the territory of other Member States, provided they duly comply with the applicable legal requirements.
- Branches of insurers officially authorised to pursue this business whose head offices are outside of the EU territory, duly authorised on a case by case basis by the Minister of Finance subsequently to the favourable opinion of the Portuguese Insurance Institute (“*Instituto de Seguros de Portugal*” or “ISP”). This authorisation is restricted to Portuguese territory.
- Public insurance or public capital companies incorporated under Portuguese law.

Insurers are financial institutions whose exclusive aim is the pursuit of the business of direct insurance and/or reinsurance, except for those classes or types which are legally reserved for certain kinds of insurers.

Insurance companies are required to adopt the form of a S.A. The minimum share capital, fully-paid, required to incorporate insurance companies is:

- € 2.500.000 if only one of the following classes is to be pursued: legal expenses or assistance.
- € 7.500.000 if both these classes or any other class or classes of non-life insurance are to be pursued.
- € 7.500.000 if life assurance is to be pursued.
- € 15.000.000 if life assurance along with one or more classes of non-life insurance are to be pursued.

10. Banks

A credit institution in Portugal must at all times comply with the applicable Portuguese rules and in particular, its conduct of business must abide with banking laws and regulations established with respect to the supervision of Portuguese credit institutions.

10.1 Establishment of a credit institution in Portugal

Requires the undertaking of a complete licensing process with the Bank of Portugal.

If the activities developed by the credit institution include any activity in connection with securities shall also be needed authorisation by the Portuguese Securities Exchange Commission ("*Comissão do Mercado dos Valores Mobiliários*" or "*CMVM*") prior to development of such activity.

Credit institutions located in Portugal are required to have an amount of capital deemed adequate to guarantee its envisaged business activities and operations in Portugal, which can not be inferior to € 17.500.000.

10.2. Establishment of a branch of a credit institution licensed and supervised by an EU Member State competent authority

Must comply with the applicable Portuguese rules and in particular, its conduct of business must abide with banking laws and regulations established with respect to the supervision of Portuguese resident credit institutions.

Moreover, the banking activities conducted in Portugal by the relevant branch must abide by specific accounting and prudential requirements established by Portuguese law.

With respect to capital requirements, being an EU resident credit institution, it is not required to allocate any minimum amount of capital to its Portuguese branch.

E. TAXATION

1. Corporate Income Tax

- Resident Entities: Commercial companies, civil companies in commercial form, cooperatives, nationalised corporations and other collective persons under public or private law with their head office or place of effective management in Portugal, no legal entities with their head office or place of effective management in Portugal, which earn income that is not liable to PIT or CIT directly in the person or corporation.

- Non-Resident Entities: Legal or no legal entities which do not have their head office or an effective place of management in Portugal but have a branch or a permanent residence in Portugal or entities without either head office or an effective place of management or branch or a permanent establishment in Portugal, which earn income and/or capital gains, considered to arise from a Portuguese source that is not liable to PIT.

1.1. Taxable Profits

- The profit of taxable entities that carry on an activity of a commercial, industrial or agricultural nature.
- The total revenues of resident entities not carrying on an activity of a commercial, industrial or agricultural nature.
- The profit attributable to Portuguese permanent establishments of non-resident entities.
- Revenues of various kinds, as defined for the purposes of PIT, received by non-resident entities not liable to PIT.

1.2. Permanent Establishment

An entity is deemed to have a permanent establishment in Portugal whenever it engages in commercial, industrial or agricultural activities through:

- Fixed premises located therein, namely a place of management, branch, office, factory or workshop or natural resource extraction site (mine or oil derrick) or a construction or assembly yard, if the construction or assembly yard lasts for more than six months.
- An employee or an agent engaged ad hoc empowered to negotiate and conclude any contracts on behalf of and in the interest of that entity, except if such an agent is a self-employed or liberal professional acting within his normal professional activities.

1.3. Fiscal Transparency

According to the CIT Code taxable profits of entities with head office or effective place of management in Portugal are directly attributable to the members or shareholders irrespective of dividend distribution and taxed according to the applicable rules of PIT and CIT where such entities are:

- Companies incorporated under the form of Civil Companies with Commercial Capacity.
- Professional partnerships.
- Civil companies constituted for the management of assets, whenever the majority of the share capital belongs either to a family group for more than 183 days or to a maximum five shareholders, none of which can be a legal entity governed by public law.

1.4. Tax Determination

Taxable profits are determined by making specified adjustments to the net results of the financial year and adding or subtracting any amounts not reflected in the profit and loss account but required to be included.

The normal CIT rate is of 12,5% up to € 12.500 and of 25% on the amount exceeding € 12.500. A Municipal Tax *(Derrama)* of up to 1,5% shall accrue to CIT in most areas. In case the Municipal Tax applies, the maximum aggregate rate of taxation on profits shall be around 26,5%.

Losses may be carried forward for up to six years after which the right to use them against profits will expire, which may also happen should any of the following events occur:

(i) If the company changes its core business;

(ii) If the company changes substantially the activity previously carried on; or

(iii) If there is a change on the title to more than 50% of the share capital or to the majority of the voting rights.

CIT returns must be submitted by May 31 following the year-end (or five months after the authorised year-end if the company's tax year is not the calendar year).

Three payments on account for the final CIT due should be made by the end of July, September and December, for calendar-year taxpayers (or in the 7^{th}, 9^{th} and 12^{th} month, for non calendar-year taxpayers).

The difference between the amount paid on account and the amount actually due is paid when the CIT return is submitted.

As a general rule, a special payment on account for the final CIT bill shall also be due either (i) in one instalment to be paid before the end of March each year, or (ii) in two subsequent instalments to be paid respectively before the end of March and before the end of October each year for calendar-year taxpayers (or in the 3^{rd} and 10^{th} month, for non calendar-year taxpayers).

The amount of the special payment on account is, as a general rule, equal to 1% of the previous year business volume with a minimum limit of € 1 250, and, when superior, shall be equal to this minimum limit plus 20% of the exceeding part, with a maximum limit of € 70 000. A deduction of the payments on account made in the previous tax year shall be made to the amount obtained in the terms mentioned above.

1.5. CIT General Rates

Entities	Rate
Resident entities (or permanent establishments) whose main activity is of a commercial, industrial or agricultural nature, shall be subject to a 12,5% rate regardingthe taxable amount up to € 12.500,00. The exceeding amounts shall be subject to a 25% rate	**12,5%**(1) + **25%**(1)
Resident entities whose main activity is not of a commercial industrial or agricultural nature	**20%**
Non-resident entities with no permanent establishment	**Up to 25%**(2)
Collective persons with their head office, place of effective management or permanent establishment in Azores shall be subject to a 8,75% rate regarding the taxable amount up to € 12.500,00. The exceeding amounts shall be subject to a 17,5% rate	**8,75%** + **17,5%**
Collective persons with their head office, place of effective management or permanent establishment in Madeira shall be subject to a 10% rate regarding the taxable amount up to € 12.500,00. The exceeding amounts shall be subject to a 20% rate	**10%** + **20%**
Resident entities whose taxable income is assessed by means of the "simplified assessment system"	**20%**(3)

(1) To which adds in most municipalities a Municipal Tax (*Derrama*) of up to 1,5%.

(2) From 5% to 25%, depending on the nature of the income obtained.

(3) Except when specific rates are foreseen.

1.6. Other Relevant Aspects

Transfer Pricing

According to the rules set out in the CIT Code, the terms and conditions established between related companies should be substantially identical to those that would be established between independent entities in comparable operations/carrying out transactions of the same nature. Whenever those terms and conditions are different from those that would be usually agreed between independent entities, the tax authorities may undertake corrections to the taxable profits.

A special relationship between two entities is deemed to exist when one entity has the power to influence, direct you indirectly, the business decisions of the other entity, namely between:

- An entity and its shareholders, respective spouses, ascendants or descendants who hold, directly or indirectly, at least 10% of the share capital or voting rights.
- An entity and members of any of its corporate bodies, board of directors, executive, management or supervisory bodies, their spouses, ascendants and descendants.
- Entities, in which the majority of the members of the corporate bodies, board of directors, or of the executive, management or supervisory bodies are the same persons, or, being different persons, are connected by marriage, live in legally recognised co-habitation, or are bound by direct kinship.
- Entities connected by a subordination agreement, of parity group or in any other way with similar effects.
- Companies dominant in a relationship, as defined in the rules establishing the obligation to prepare financial consolidated demonstrations.

- Entities that due to commercial, financial, professional or legal links, directly or indirectly established or in practise, are in a relationship of dependency when exercising their activities.
- A resident company which is a subsidiary of a non-resident entity.
- A resident company which depends on a non-resident in respect of management decisions, price-fixing or market distribution, on account of the commercial, financial or legal relationship between them.
- A non-resident entity outside the abovementioned situations which has another company with which the lender has a special relationship securing or guarantying the loan in question.
- A resident company or a non-resident company with a permanent establishment located in Portuguese territory which has a relationship with an entity subject to a clearly tax privilege regime resident in a country, territory or region included in the Decree approved by the Minister of Finance ("Tax Havens Black List")- See appendix 2.
- Following the legislative authorisation contained in the budget law for 2007, the budget law for 2008 introduced the possibility, as in many other countries of OECD, of execution with tax authorities of advanced price agreements (APA).
- Article 128-A of the Personal Income Tax Code states that taxable persons may request to the Tax Directorate General the execution of agreements towards the previous determination, on its intra-group transactions, of the method to apply the arm's length principle

Thin Capitalization

According to the Portuguese CIT rules a maximum debt to equity ratio of 2:1 must be observed in financings granted by non-resident entities – which are not resident in Portuguese territory or in another EU Member State –, with which the resident company has a special relationship.

A non-resident entity is considered to have a special relationship with a resident company for thin capitalisation purposes namely where:

- It has a 10% or higher holding in the share capital or voting rights of the said resident company.
- The resident company is a subsidiary of the non-resident entity.
- The majority of the Board members of the non-resident entity are also Board members of the resident company.
- The resident company depends on the non-resident in respect of management decisions, price-fixing or market distribution, on account of the commercial, financial or legal relationship between them.
- The loan in question is secured or guaranteed by another company with which the borrower has a special relationship.

If the indebtedness of a Portuguese company to a non-resident entity with which a special relationship exists is excessive, the interest paid on the part of the loan considered to be excessive is not tax deductible.

Nevertheless, except in the case of indebtedness with an entity resident in a Tax Haven, if the resident company is able to evidence that it could have obtained the same indebtedness level with an independent entity, bearing in mind the activity in question, the respective sector, dimension, and the risk of the transaction, the ratio of 2:1 may be exceeded.

Controlled Foreign Corporations (CFC)

According to the Portuguese CIT rules an imputation shall be made to shareholders resident within the Portuguese territory, in the proportion of their shareholding and irrespective of distribution, of the profits obtained by companies resident outside that territory whenever they are subject to a clearly tax privilege regime, provided that the shareholder holds, directly or indirectly, a shareholding of at least 25% or 10% thereof, where more than 50% of the capital is held by Portuguese residents.

A tax privilege regime is deemed to exist when the companies' residence territory is included in the tax havens list published by Decree of the Minister of Finance or when the company is not taxed by an equivalent tax to CIT or when the tax effectively paid is equal or less than 60% of the CIT that would be due if the company was deemed resident in Portuguese territory.

2. Double Taxation Relief and Tax Treaties – Appendix 3

Portugal has concluded a significant number of Double Tax Treaties (DTT's) with other countries to avoid the double taxation of income. Please find below a chart listing the DTT's currently in force as well as the maximum withholding tax rates provided for in each.

3. Special Tax Situations

The CIT Code sets forth a specific regime applicable to mergers, de-mergers, transfers of assets and share for share exchanges, thus incorporating the Directive 90/434/EEC of the Council, of 23 July 1990.

Dividends paid by companies whose shares are held by companies resident in another EU Member State in the conditions set forth in the Directive shall be exempt from withholding tax provided that certain conditions are met, namely the following (i) the participation is held directly by said EU resident company through a share capital participation equivalent to not less than 15% and (ii) this participation has been held, uninterruptedly, during the two years preceding the date of distribution of profits or, if held for less time, such participation is subsequently maintained for the time required to complete that period, under the conditions established in the applicable tax law.

4. Personal Income Tax

4.1. <u>Persons Liable to PIT</u>

Individuals resident in Portugal are subject to PIT on their world-wide income.

The following individuals are considered as resident in the Portuguese territory with respect to the year in which the taxable income was obtained:

- Individuals who have spent more than 183 days, consecutive or not, in any given calendar year in Portuguese territory.
- Individuals who have remained in Portugal for a lesser period but keep a residential accommodation in Portugal on 31st December of the same year which suggests intention to maintain and occupy it as an habitual abode.
- Crew members of vessels or aircrafts used by entities with head offices of effective place of management in Portugal, if the former holds such a capacity as of 31st December of the same year.
- Individuals who are abroad, performing public duties on behalf of the Portuguese State.

- Members of the same family if the head of the family is a Portuguese resident. However if the spouse does not spend more than 183 days in Portuguese territory, and is able to prove that his/her economic activity is majorly based abroad with the Portuguese territory, he/she will only be taxed on income arising in this territory.
- Individuals who, being Portuguese, changed their tax residence to a territory subject to a more privileged tax system, unless he/she proves that the residence change was due to solid reasons.

The Portuguese State Budget for 2009 foresees a new tax framework applicable to taxpayers resident in other EU Member States, which allows these taxpayers to benefit from the tax regime applicable to Portuguese resident taxpayers if their income is obtained in Portugal in 90% or more and if the later is qualified as employment income, business and professional income or pension income.

Non-resident individuals are subject to tax only on their Portuguese-source income.

The following categories of income are generally considered to have been obtained in Portugal:

- Income arising from isolated acts performed therein.
- Labour earnings arising from activities carried out in Portugal or paid by a resident entity.
- Income arising from director's remuneration paid by a resident company.
- Income arising from employment aboard an aircraft or vessel, if the employer is a resident entity.

- Income arising from payments made by an entity residing or with head offices, place of management or a permanent establishment in Portuguese territory in respect of:
    - Intellectual or industrial property rights.
    - The supply of know-how in the commercial, industrial or scientific fields.
    - Commercial activities or supply of services arising from a permanent establishment located in Portugal or carried out within this territory, except for services related to transportation, communications or financial activities.
    - Intermediation activities.
    - Any other capital income.
- Income arising from property situated in Portuguese territory, including capital gains arising from its transfer.
- Capital gains resulting from:
    - The transfer of shares and securities of resident companies.
    - The transfer of industrial or intellectual property rights if the vendor is not the original owner of such rights.
    - Derivative financial instruments, if such gains are paid by a resident entity.
    - Gambling, lotteries or raffle prizes if paid by a resident entity.
    - Income arising from pensions paid by a resident entity.

4.2. Taxable Income

Income liable to PIT is computed under the following 6 headings, according to its source:

(i) Employment income.

(ii) Business and professional income.

(iii) Investment income.

(iv) Rental income/immovable property income.

(v) Net worth increases.

(vi) Pension income.

4.3. Tax Determination

Total taxable income is determined by aggregating income from the above sources after any allowable deductions have been made. Certain types of income are taxed at source (e.g. most investment income) and are not required to be included in the tax return. This means that the rate of withholding will be the final rate of tax, which may be in certain cases substantially below the taxpayer's marginal rate.

There are two types of deductions: (i) the ones that proceed directly from each category (generally referred as tax deductions) and (ii) the ones that result from the personal expenditure or family circumstances of the taxpayer (also mentioned as tax credits).

4.4. Tax Rates

For the tax year 2009, the general rates of PIT may vary from 10,5% in respect of income of up to € 4.755 to 42% in respect of income of higher than € 64.110.

The "income-splitting" system is applied and the income of a married couple is divided by two for the purposes of applying the tax rates, and the resulting tax liability is doubled.

As mentioned above, special or definitive withholding tax rates apply to certain income, from 5% up to 25%.

5. Value Added Tax

VAT is payable by suppliers of goods and services who charge it in every supply they make in the scope of their activities and afterwards deliver the due amount to the tax authorities.

The Portuguese VAT taxation structure is based on two fundamental concepts: the supply of goods and the rendering of services. Additionally, VAT shall be levied on the import from countries outside the EU and on the intra-Community acquisition of goods.

For VAT purposes, a taxable person is any person or corporate entity who, independently, carries out an economic activity, continually or from time to time, whatever the purpose or result of that activity.

The following operations may be subject to VAT, when they are executed by a taxable person acting accordingly, within the Portuguese territory:

- The supply of goods and services made for consideration.
- The intra-Community acquisitions of goods of valuable consideration.
- The import of goods into Portuguese territory.

Every taxable person is required to comply with certain obligations such as stating the commencement of activity or any changes thereof, submitting monthly or quarterly VAT returns and paying the net amount of VAT. In addition, annual statements, containing aggregate information on a calendar year basis, must also be filed.

5.1. VAT Rates

Rate	Mainland	Madeira and Azores
Standard	20%	14%
Intermediate	12%	8%
Reduced	5%	4%

5.2. VAT Recovery

Registered taxable persons for VAT purposes may use a tax credit mechanism that enables for the VAT recovery during the production and distribution process.

Due to this mechanism, generally VAT does not constitute a cost for business enterprises since it will be ultimately borne by the final consumer.

The invoices support the recovery of VAT, hence, Portuguese VAT legislation imposes stringent invoicing requirements. Failure to comply with such requirements usually implies the irretrievability of the tax.

Certain exemptions are granted for, among others, the provisions of medical services, the supply, leasing or letting of immovable property, banking, financial, insurance and reinsurance operations. Accordingly, VAT does not need to be charged on such supplies, but no tax credit for related input tax is allowed.

VAT recovery can also be obtained under the 8th VAT Directive (Directive nr. 79/1072/EEC of the Council of 6 December 1979) by taxable persons not established in the Portuguese territory which have been charged for VAT in respect of goods supplied or services rendered in Portuguese territory through a direct repayment claim addressed to the VAT authorities, provided certain conditions are met.

6. Stamp Tax

Stamp Tax is generally charged on certain formal acts and documents, such as contracts, titles, books, papers and other facts, as outlined in the General Table of Stamp Taxes, that take place in the Portuguese territory and are not subject to VAT.

Also liable to Stamp Tax are certain documents, acts or contracts, issued or concluded outside of Portugal in the same conditions (*i.e.* as if they were issued or concluded in Portugal) that are presented in Portuguese territory for any legal effects.

The taxation of gratuitous transfers is set forth in the Stamp Tax Code and in the General Table of Stamp Taxes.

A tax exemption is provided in the Stamp Tax Code regarding the gratuitous transmissions between ascendants, descendants and spouses, being the tax rate applicable to other taxable gratuitous transfers of 10%.

The persons liable to Stamp Tax are all entities legally in charge of its' payment. Generally, Stamp Tax is paid by the entities with economic interest on the facts that are subject to tax.

As a general rule, Stamp Tax is levied on the value of each taxable deed or operation at a specific rate or value, which varies according to the type of deed or operation.

7. Municipal Tax on property Transfers (MTT)

MTT shall be payable on the onerous transfer of immovable property as well as on the following situations:

- The signing of a rental contract that exceeds a period of 30 years.
- The acquisition of 75% or more of a private limited liability company (Lda.) that owns immovable property.

- Other specific situations such as surface rights' transfer or rights of passages' grant.

7.1. MTT Rates

As a general rule MTT is paid by the acquirer of the immovable property.

Regarding the acquisition of buildings for permanent residence purposes or parts thereof the following rates shall apply:

Portuguese Mainland

Value (€)	Rate %	Deduction (€)
Up to 89 700	0	-
< 89 700 up to 122 700	2	1.794,00
< 122 700 up to 167 300	5	5.475,00
< 167 300 up to 278 800	7	8.821,06
< 278 800 up to 557 500	8	11.608,95
< 557 500	6	-

Regarding the acquisition of buildings for non-permanent residence purposes or parts thereof the following rates shall apply:

Portuguese Mainland

Value (€)	Rate %	Deduction (€)
Up to 89 700	1	-
< 89 700 up to 122 700	2	897,00
< 122 700 up to 167 300	5	4.578,06
< 167 300 up to 278 800	7	7.924,00
< 278 800 up to 534 700	8	10.712,05
< 534 700	6	-

With respect to the acquisition of urban building (such as offices or immovable property used for commerce or industry purposes) the applicable general rate is of 6,5% while for non-urban property is of 5%.

An anti abuse clause has been introduced establishing the application of an aggravated rate of 8%, excluding any possibility for application of an exemption, regarding property acquisitions carried out by residents in tax havens included in Tax Havens Black List..

8. Municipal Tax on Property (MTP)

MTP is payable on the taxable value of immovable assets in each municipality by the owner or beneficiary of the property as of 31st December of each year, to be paid in two instalments in the following year.

8.1. MTP Rates

Building Classification	Rates
Non-urban property	0,8%
Urban property	0,4% - 0,7% (1)
Urban property evaluated according to the MIT criteria	0,2% - 0,4% (1)

(1) Depending on the municipality where the property is located.

An anti abuse clause has also been introduced establishing the application of an aggravated rate of 1%, excluding any possibility for application of an exemption, regarding property held by residents in tax havens included in the Tax Havens Black List.

8.2. MTP Exemptions

The State, the Autonomous Regions and Local Public Entities benefit from several MTP exemptions.

In addition, a MPT exemption is available in respect of residential "urban" properties that are built, acquired, improved or enlarged for residential purposes only. The durability of this exemption depends on the value of the property on the following terms:

Taxable Value of the Property (€)	Exemption Period (years)
Up to 157 500	8
More than 157 500 up to 236 250	4

The above exemption shall not apply when the property has been built, improved or acquired by entities domiciled in tax privileged regimes, unless the annual value of the rent is equal or superior to an amount corresponding to 1/15 of the rented property patrimonial value.

This exemption shall only be granted to the same person or family in two occasions.

9. Tax Havens

The Portuguese tax legislation contains a considerable number of rules to avoid or reduce international tax evasion with countries with a more favourable tax regime, usually named "Tax Havens". See Tax Havens Black List on appendix 2.

10. Tax Incentives and Tax Benefits

10.1. <u>CIT – Tax Excluded Capital Gains Arising from the Disposal of Securities</u>

Capital gains shall be excluded from CIT taxation in the following cases:

- Capital gains arising from the sale of stocks or shares acquired before 1 January 1989.

- Capital gains arising from the sale of shares and other securities, obtained by non-resident entities (without a permanent establishment in Portugal) not held, directly or indirectly, in more than 25% by resident entities, if the shares have been acquired before 1 January 2001.
- Capital gains of non-resident entities (without a permanent establishment) arising from the sale of shares and other securities, warrants issued by resident entities and traded in stock markets, if:
  - (i) They are held, in more than 25%, by resident entities.
  - (ii) They are not resident in a territory with a more favourable tax regime (included in the "Tax Havens Black List").
  - (iii) The capital gains do not result from the sale of resident companies' shares, whose assets consist, in more than 50%, of immovable property located in Portugal.

10.2. PIT – Tax Excluded or Tax Exempt Capital Gains

Capital gains shall be excluded from PIT taxation in the following cases:

- Capital gains arising from the sale of urban or non-urban buildings, with the exception of development land (except if acquired before 9 June 1965) acquired before 1 January 1989.
- Capital gains arising from the sale of shares and other securities acquired before 1 January 1989
- Capital gains and losses arising from the sale of bonds and other securities and of shares held by their holder for more than 12 months, insofar as such capital gains do not result from the sale of resident companies' shares, whose

assets consist, directly or indirectly, in more than 50%, of immovable property located in Portugal.

The surplus obtained with the shares and securities' alienation held in this case or for less than 12 months, as well as operations regarding warrants and certificates that grant the holder the right to an amount of the remaining asset, are autonomously taxed at a rate of 10%.

- Capital gains of non-resident individuals arising from the sale of shares or other securities, warrants issued by resident entities and traded in stock markets, if:
  - (i) The individual does not reside in a territory with a more favourable tax regime (included in the Tax Havens Black List).
  - (ii) The capital gains do not arise from the sale of resident companies' shares whose assets consist, in more than 50%, of immovable properties located in Portugal.
- Capital gains arising from the disposal of immovable assets used for own and permanent residential purposes if the sale profits (after deduction of the eventual loan amortization) are reinvested in the 24 months following the above mentioned disposal in the acquisition or construction of another immovable property located in Portuguese territory also to be exclusively used for personal residence or used for the payment of the above mentioned acquisition, provided it is carried out in the 12 months prior to the disposal.

10.3. Residential Saving's Account *("Conta Poupança-Emigrante")*

- This regime has been revoked by State Budget for 2008, however, it is still applicable to interest arising from savings deposited until 31 December 2007.

- PIT- Reduction of the PIT tax rate applicable to long term interest 25% of the annual deposited amounts with a limit of € 575.57.
- 50% reduction of all registration and notary certification expenses in the acquisition of a permanent and personal residence.

10.4. Intellectual Property

Exemption of 50% of the profits, net from other benefits, proceeding from literary, artistic and scientific property, when granted to authors residing in Portugal, provided they are the original patentee.

10.5. Companies Concentration, Cooperation and Merger

Immovable property transmission inherent to companies' concentration or cooperation (e.g. mergers, divisions, transfers of assets) and the necessary reorganisation acts and processes, may benefit from an exemption of MTT, Stamp Tax and other legal costs.

10.6. Productive Investment Projects

Investment projects in productive units carried out until 31 December 2010, in an amount above € 4 987 978,97, relevant to the development of the sectors considered to have a strategic interest to the national economy and to the regional asymmetries' reduction, induce job creation and contribute to stimulate technological innovation and national scientific investigation, may benefit from tax incentives, within a negotiable regime, for a 10 year period.

These incentives which essentially consist in a CIT tax credit, a MTT and MTP exemption or reduction or a Stamp Tax reduction may be cumulative between themselves but not with other similar incentives.

11. Free-Trade Zones

There are two Free-Trade Zones in Portugal, the Madeira International Business Centre and Santa Maria (Azores) Free-Trade Zone respectively.

11.1 Madeira International Business Centre

The Madeira International Business Centre (MIBC) is one of the most appealing and exciting free-trade zones in the EU, being a fast developing free-trade zone, a highly efficient financial centre, a fast growing international services centre and an international shipping register.

MIBC is presently managed and administered by *S.D.M. – Sociedade de Desenvolvimento da Madeira, S.A.*, a private operated company that has the full support of the Autonomous Region of Madeira.

The MIBC benefits from a special corporate tax regime, applicable to the industrial and commercial activities, to sea transport and to certain types of services.

This regime is guaranteed until, presently, the year 2020. Companies registered under the MIBC regime provide for very interesting opportunities in international tax planning as they may take advantage of the DTT concluded by Portugal.

11.2 Santa Maria (Azores) Free-Trade Zone

The Santa Maria free-trade zone has not been used by investors in the most recent years. However, this free-trade zone benefits from tax benefits similar to the ones applied to the MIBC.

12. Social Security

Social Security contributions for employees are calculated as a percentage of gross salary received.

The following types of income are, however, specifically exempt from Social Security:

- Payment in lien of holiday.
- Illness pension.
- Payments towards the education of minors/offspring or college education.
- Medical bills.
- Guarantees.
- Profit-related payments.

Social Security Contributions Rates

Workers under an employment contract are required to register at the local Social Security Office and pay a monthly contribution which shall be paid in part by the employer and in part by the employee.

Regime	Employee	Employer	Total
Employees	11%	23.75%	34.75%
Members of a company's statutory board	10%	21.25%	31,25%

Self-Employed			
Compulsory Regime	25.4%	-	-
Voluntary Regime	32%	-	-

The new social contributions code is on the verge of being approved and will give rise to several amendments regarding the income of employees that shall be subject to social security contributions.

VDA CONTACTS

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<u>**APPENDIX 1**</u>

Sources of Business Information

- **PORTUGUESE AGENCY FOR INVESTMENT (API)**
  Main Office: Rua Laura Alves, n.º 4, 5º, 1050-138, Lisbon
  Tel: +351 21 790 20 00
  Fax: +351 21 790 20 70
  E-mail: api@investinportugal.pt
  URL: www.investinportugal.pt

- **IAPMEI– SMALL/MEDIUM COMPANIES INVESTMENT INSTITUTE**
  Main Office: Rua Rodrigo da Fonseca, n.º 73, 1269-158, Lisbon
  Tel: +351 21 383 60 00
  Fax: +351 21 383 62 83
  E-mail: info@iapmei.pt
  URL: www.iapmei.pt

- **ICEP PORTUGAL**
  Main Office: Avenida 5 de Outubro, n.º101, 1050-051, Lisbon
  Tel: +351 21 790 95 00
  Fax: +351 21 793 50 28
  E-mail: icep@icep.pt
  URL: www.icep.pt

APPENDIX 2

"Tax Havens Black List"		
Andorra	Guam	Pitcairn
Anguilla	Guiana	Puerto Rico
Antigua and Barbuda	Honduras	Qatar
Antilles, Netherlands	Hong Kong	San Marino
Aruba	Isle of Man	Santa Lucia
Ascension	Jamaica	Seychelles
Bahamas	Jordan	Solomon Islands
Bahrain	Keslim Islands	St. Christopher and Nevis
Barbados	Kiribati Island	St. Helena
Belize	Kuwait	St. Pierre and Miquelon
Bermuda	Labuan	St. Vincent and Grenadines
Bolivia	Lebanon	Samoa, American
Brunei	Liberia	Samoa, Western
Cayman Islands	Liechtenstein	Svalbard Islands
Christmas Island	Luxembourg (Holdings only)	Swaziland
Cocos (Keeling) Islands	Maldives	Tokelau Islands
Cook Islands	Mariana Islands	Tonga
Costa Rica	Marshall Islands	Trinidad and Tobago
Cyprus	Mauritius	Tristan da Cunha
Djibuti	Monaco	Turks and Caicos
Dominica	Montserrat	Tuvalu Island
English Channel Islands (incl. Jersey, Guernsey, Alderney, Great Stark, Little Sark, Herm, Brechou, Jethou and Lihou)	Nauru	United Arab Emirates
Falkland Islands	Niui Island	Uruguay
Fiji	Norfolk Island	Vanuatu
French Polynesia	Oman	Virgin Islands, British
Gambia	Pacific Islands (Trust Territory of the)	Virgin Islands, of the United States
Gibraltar	Palau Islands	Yemen
Grenada	Panama	

APPENDIX 3

Double Tax Treaties concluded by Portugal and currently in force			
Country of Residence of the Payee	**Dividends**	**Interest**	**Royalties**
Algeria	**15/10**	**15**	**10**
Austria	**15**	**10**	**10/5**
Belgium	**15**	**15**	**10**
Brazil	**15/10**	**15**	**15**
Bulgaria	**15/10**	**10**	**10**
Canada	**15/10**	**10**	**10**
Cape Verde	**10**	**10**	**10**
Chile	**15/10**	**15/10/5**	**10/5**
China	**10**	**10**	**10**
Cuba	**10/5**	**10**	**5**
Czech Republic	**15/10**	**10**	**10**
Denmark	**10**	**10**	**10**
Estonia	**10**	**10**	**10**
Finland	**15/10**	**15**	**10**
France	**15**	**12/10**	**5**
Germany	**15**	**15/10**	**10**
Greece	**15**	**15**	**10**
Guinea-Bissau, Republic of (on the verge of being in force)	**10**	**10**	**10**
Hungary	**15/10**	**10**	**10**
Iceland	**15/10**	**10**	**10**
India	**15/10**	**10**	**10**
Indonesia	**10**	**10**	**10**
Ireland	**15**	**15**	**10**
Israel	**15/10/5**	**10**	**10**
Italy	**15**	**15**	**12**
Korea, Republic of	**15/10**	**15**	**10**
Latvia	**10**	**10**	**10**
Lithuania	**10**	**10**	**10**
Luxembourg	**15**	**15/10**	**10**
Macau	**10**	**10**	**10**
Malta	**15/10**	**10**	**10**
Mexico	**10**	**10**	**10**
Morocco	**15/10**	**12**	**10**
Mozambique	**15**	**10**	**10**
Netherlands	**10**	**10**	**10**
Norway	**15/10**	**15**	**10**
Pakistan	**15/10**	**10**	**10**

Poland	**15/10**	**10**	**10**
Romania	**15/10**	**10**	**10**
Russia	**15/10**	**10**	**10**
Singapore	**10**	**10**	**10**
Slovakia	**15/10**	**10**	**10**
Slovenia	**15/5**	**10**	**5**
South Africa	**10/15**	**10**	**10**
Spain	**15/10**	**15**	**5**
Sweden	**10**	**10**	**10**
Switzerland	**15/10**	**10**	**5**
Tunisia	**15**	**15**	**10**
Turkey	**15/5**	**15/10**	**10**
Ukraine	**15/10**	**10**	**10**
United Kingdom	**15/10**	**10**	**5**
United States	**15/10/5**	**10**	**10**
Venezuela	**15/10**	**10**	**12/10**