



PORTUGUESE INTERNATIONAL DOUBLE TAXATION TREATIES

International double taxation is an obstacle to trade relations and to the free movement of goods, services, people and capital. The need to eliminate this obstacle has become more acute in the current context, dominated by new technologies and by the internet. By regulating the right of the countries involved to levy taxes, it is possible to avoid the relocation of income and capital to other countries merely for tax purposes and boost (economic and other) ties between the countries in question.

Over the years, Portugal has signed fifty-two double tax treaties for the avoidance of double taxation on income tax, following the OECD Model Convention, with some reservations which are aimed essentially at ensuring a broader concept of permanent establishment and seek to raise the level of taxation in the source country with regard to dividends, interest and royalties. As a rule, the method used in the concluded treaties is that of the ordinary tax credit, although it should be noted that in some of the treaties, provision has been made for a matching credit or tax-sparing credit.

By circular issued on 13 March 2009 (No. 20137), the International Relations Services Department of the Directorate- General of Taxation again released the official list of all the international double tax treaties entered into by Portugal. An updated list has recently been made available in the internet site of the Portuguese tax authorities (www.portaldasfinancas.gov.pt).

The reason behind this release is that traders need up-to-date information about the existing agreements and the legal instruments which preceded their publication, the date on which they came into force and easy access to the rates of tax for situations where withholding tax is partially waived.

The treaties concluded by Portugal in accordance with this OECD model come into play only when those paying the income have the necessary forms for this purpose (21-RFI to 24-RFI), duly completed and authenticated by the respective tax authorities. These forms replaced the old forms (7-RFI to 18-RFI) in 2008. However, according to Circular No. 5/2008, of 7 March, issued in the meantime by the International Relations Services Department of the Directorate-General of Taxation, the Portuguese and Spanish versions of forms (7-RFI to 18-RFI) will remain in force until the new forms in these two languages have been approved, in view of the fact that internal legislation obliges the respective tax authority to certify only documents drawn up in Spanish.

The following table lists the treaties for the avoidance of double taxation entered into by Portugal and published by the tax authorities, as it stands in the Portuguese tax authorities' internet site, at the present date:

"Portuguese Law Firm of the Year"
Chambers Europe Excellence 2009, IFLR Awards 2006 & Who's Who legal Awards 2006, 2008, 2009

"Corporate Law Firm of the Year - Southern Europe"
ACQ Finance Magazine, 2009

"Best Portuguese Law Firm for Client Service"
Clients Choice Award - International Law Office, 2008, 2010

"Best Portuguese Tax Firm of the Year"
International Tax Review - Tax Awards 2006, 2008

Mind Leaders Awards™
Human Resources Suppliers 2007

INTERNATIONAL DOUBLE TAXATION

COUNTRIES (alphabetical order)	LEGAL INSTRUMENT	EXCHANGE OF RATIFICATION INSTRUMENTS/ ENTRY INTO FORCE	REDUCTION RATE					
			DIVIDENDS		INTEREST		ROYALTIES	
ARGELIA	Parliamentary Resolution No.22/06 of 23 March	Notice 579/2006 published on 05-05-2006 IN FORCE SINCE 01-05-2006	10°	10% m) 15% b)	11°	15%	12°	10%
AUSTRIA	DL 70/71 of 8th March	Notice published on 08-02-1972 IN FORCE SINCE 28-02-1972	10°	15%	11°	10%	12°	5% b) 10% c)
BARBADOS	Signed in 22.10.2010	Not into force yet						
BELGIUM	DL 619/70, of 15 December Additional Convention (Parl. Res. No. 82/00 of 14 December)	Notice published on 17-02-1971 IN FORCE SINCE 19-02-1971 Additional Convention IN FORCE SINCE 05-04-2001	10°	15%	11°	15%	12°	10%
BRAZIL d)	Parliamentary Resolution No. 33/01 of 27 April	Notice published on 14-12-2001 IN FORCE SINCE 05-10-2001 effective from 01-01-2000	10°	10% m) 15% b)	11°	15%	12°	15%
BULGARIA	Parliamentary Resolution No.14/96 of 11 April	Notice 258/96 published on 26-08-1996 IN FORCE SINCE 18-07-1996	10°	10% e) 15% b)	11°	10%	12°	10%
CANADA	Parliamentary Resolution No. 81/00 of 6 December	Notice published on 17-10-2001 IN FORCE SINCE 24-10-2001	10°	10% m) 15% b)	11°	10%	12°	10%
CAPE VERDE	Parliamentary Resolution No. 63/00 of 12 July	Notice 4/2001 published on 18-01-2001 IN FORCE SINCE 15-12-2000	10°	10%	11°	10%	12°	10%
CHILE	Parliamentary Resolution No. 28/06 of 6 April	Notice 243/2008 published on 29-12-2008 IN FORCE SINCE 25-08-2008	10°	10% f) 15% b)	11°	5% r) 10% r) 15% b)	12°	5% r) 10% r)
CHINA	Parliamentary Resolution No. 28/2000 of 30 March	Notice 109/2000 published on 02-06-2000 IN FORCE SINCE 08-06-2000	10°	10%	11°	10%	12°	10%
COLOMBIA	Signed in 30.08.2010	Not into force yet						
CUBA	Parliamentary Resolution No. 49/01 of 13 July	Notice 187/06, published on 23-01-2006 (and Notice 279/05 of 29-07-2005) IN FORCE SINCE 28-12-05	10°	5% f) 10% b)	11°	10%	12°	15%
CZECH REPUBLIC	Parliamentary Resolution 26/97, of 9 May	Notice 288/97, published on 08-11-1997 IN FORCE SINCE 01-10-1997	10°	10% d) 15% b)	11°	10%	12°	10%

DENMARK	Parliamentary Resolution No. 6/02 of 23 February	Notice 53/2002, published on 15-06-2002 IN FORCE SINCE 24-05-2002 effective from 01-01-03	10°	10%	11°	10%	12°	10%
ESTÓNIA	Parliamentary Resolution No. 47/04 of 8 July	Notice 175/04 published on 27-11-2004 IN FORCE SINCE 23-07-2004 effective from 01-01-05	10°	10%	11°	10%	12°	10%
FINLAND	DL 494/70, of 23 October	Notice published on 22-08-1980 IN FORCE SINCE 14-07-1971	10°	10% f) 15% b)	11°	15%	12°	10%
FRANCE	DL 105/71 of 26 March	Notice published on 13-11-1972 IN FORCE SINCE 18-11-1972	11°	15%	12°	10% h) 12% b)	13°	5%
GERMANY	Law 12/82 of 3 June	Notice published on 14-10-1982 IN FORCE SINCE 08-10-1982	10°	15%	11°	10% a) 15% b)	12°	10%
GREECE	Parliamentary Resolution No. 25/02 of 4 April	Notice 85/2002, published on 24-09-2002 IN FORCE SINCE 13-08-2002 effective from 01-01-03	10°	15%	11°	15%	12°	10%
GUINEA BISSAU	Parliamentary Resolution No. 55/09 of 30 July	No Notice (not into force yet) s)	10°	10%	11°	10% r)	12°	10%
HOLLAND	Parliamentary Resolution No. 62/00 of 12 July	Notice 177/2000 published on 24-08-2000 IN FORCE SINCE 11-08-2000	10°	10%	11°	10%	12°	10%
HONG KONG	Signed in 23.02.2010	Not into force yet						
HUNGARY	Parliamentary Resolution No. 4/99 of 28 January	Notice 126/2000 published on 30-06-2000 IN FORCE SINCE 08-05-2000	10%	10% e) 15% b)	11°	10%	12°	10%
INDIA	Parliamentary Resolution No. 20/2000 of 6 March	Notice 123/2000 published on 15-06-2000 IN FORCE SINCE 05-04-2000	10%	10% m) 15% b)	11°	10%	12°	10%
INDONESIA	Parliamentary Resolution No. 64/2006, of 6 December	Notice 42/2008, published on 04-04-2008 IN FORCE SINCE 11-05-2007	10%	10%	11°	10%	12°	10%

INTERNATIONAL DOUBLE TAXATION

ICELAND	Parliamentary Resolution No. 16/02, of 8 March	Notice 48/2002, published on 08-06-2002 IN FORCE SINCE 11-04-2002 effective from 01-01-03	10°	10% m) 15% b)	11°	10%	12°	10%
IRELAND	Parliamentary Resolution No. 29/94, of 24 June Review Protocol - Parl. Res. No. 62/2006, of 06-12-2006	Notice 218/94 published on 24-08-1994 IN FORCE SINCE 11-07-1994 Notice 45/2008, published on 17-04-2008 – Review Protocol IN FORCE SINCE 18-12-2006	10°	15%	11°	15%	12°	10%
ISRAEL	Parliamentary Resolution No. 02/08 of 15 January	Notice 94/2008, published on 13-06-2008 and rectified by Notice 129/2008 published on 22-07-2008 IN FORCE SINCE 18-02-2008	10°	15%	11°	15%	12°	10%
ITALY	Law 10/82, of 1 June	Notice published on 07-01-1983 IN FORCE SINCE 15-01-1983	10°	15%	11°	15%	12°	10%
KOREA	Parliamentary Resolution No. 25/97 of 8 May	Notice 315/97 published on 27-12-1997 IN FORCE SINCE 21-12-1997	10°	10% e) 15% b)	11°	15%	12°	10%
KOWEIT	Signed in 23.02.2010	Not into force yet						
LATVIA	Parliamentary Resolution No. 12/03, of 28 February	Notice 138/2003 published on 26-04-2003 IN FORCE SINCE 07-03-2003	10°	10%	11°	10%	12°	10%
LITHUANIA	Parliamentary Resolution No. 10/03 of 25 February	Notice 123/2003, published on 22-03-2003 IN FORCE SINCE 26-02-2003	10°	10%	11°	10%	12°	10%
LUXEMBOURG	Parliamentary Resolution No. 56/00 of 30 June	Notice 256/2000, published on 30-12-2000 IN FORCE SINCE 30-12-2000	10.°	15%	11°	10% 15% b)	12°	10%
MACAO	Parliamentary Resolution No. 80-A/99, of 16 December	Notice 72/2001 published on 16-07-2001 IN FORCE SINCE 01-01-1999	10.°	10%	11.°	10%	12.°	10%
MALTA	Parliamentary Resolution No. 1/02 of 25 February	Notice 33/2002, published on 06-04-and rectified on 30-04-2002 IN FORCE SINCE 05-04-2002 effective from 01-01-03	10°	10% m) 15% b)	11°	10%	12°	10%

MEXICO	Parliamentary Resolution No. 84/00, of 15 December	Notice 49/01 published on 21-05-2001 IN FORCE SINCE 09-01-2001	10°	10%	11°	10%	12°	10%
MOLDOVA	Parliamentary Resolution n.º 106/2010, of 2 September	Notice n.º300/2010 Published on 08-11-2010 INTO FORCE SINCE 18-10-2010						
MOROCCO	Parliamentary Resolution No. 69-A/98 of 23 December	Notice 201/2000 published on 16-10-2000 IN FORCE SINCE 27-06-2000	10°	10% e) 15% b)	11°	12%	12°	10%
MOZAMBIQUE	Parliamentary Resolution No. 36/92 of 30 December – Review Protocol (Parl. Res. No. 36/2009, of 8 May)	Notice 55/95, published on 03-03-1995 IN FORCE SINCE	10°	15%	11°	10%	12°	10%
NORWAY	DL 504/70 of 27 October v)	Notice published on 15-10-1971 IN FORCE SINCE 01-10-1971	10°	10% f) 15% b)	11°	15%	12°	10%
PAKISTAN	Parliamentary Resolution No. 66/03, of 2 August	Notice 6/08 published on 21-01-2008 IN FORCE SINCE 04-06-2007	10°	10% m) 15% b)	11°	10% o)	12°	10% p)
PANAMA	Signed in 27/08/2010	Not into force yet						
POLAND	Parliamentary Resolution No. 57/97, of 9 September	Notice 52/98 published on 25-03-1998 IN FORCE SINCE 04-02-1998	10°	10% e) 15% b)	11°	10%	12°	10%
ROMANIA	Parliamentary Resolution No. 56/99, of 10 July	Notice 96/99, published on 18-08-1999 IN FORCE SINCE 14-07-1999	10°	10% e) 15% b)	11°	10%	12°	10%
RUSSIA	Parliamentary Resolution No. 10/02, of 25 February	Notice 32/2003, published on 30-01-2003 IN FORCE SINCE 11-12-2002 effective from 01-01-03	10°	10% m) 15% b)	11°	10%	12°	10%
SAN MARINO	Signed in 19/11/2010	Not into force yet						
SINGAPORE	Parliamentary Resolution No. 85/00, of 15 December	Notice 45/01, published on 11-05-2001 IN FORCE SINCE 16-03-2001	10°	10%	11°	10%	12°	10%

INTERNATIONAL DOUBLE TAXATION

SLOVAKIA	Parliamentary Resolution No. 49/04 of 13 July	Notice 191/04 published on 04-12-2004 IN FORCE SINCE 02-11-2004 effective from 01-01-2005	10°	15% b) 10% m)	11°	10%	12°	10%
SLOVENIA	Parliamentary Resolution No. 48/04 of 10 July	Notice 155/04 published on 31-08-2004 IN FORCE SINCE 13-08-2004 effective from 01-01-05	10°	5% f) 15% b)	11°	10%	12°	5%
SOUTH AFRICA	Parliamentary Resolution No. 53/08 of 22 September	Notice 222/2008 published on 20-11-2008 IN FORCE SINCE 22-10-2008	10°	10% m) 15% b)	11°	10%	12°	10%
SPAIN <i>u)</i>	Parliamentary Resolution No. 6/95, of 28 January	Notice 164/95 published on 18-07-1995 IN FORCE SINCE 28-06-1995	10°	10% f) 15% b)	11°	15%	12°	5%
SWEDEN	Parliamentary Resolution No.20/03, of 11 March	Notice 3/2004 published on 02-01-2004; Notice 32/04, de 10-04-2004 IN FORCE SINCE 19-12-2003 effective from 01-01-2000	10°	10%	11°	10% q)	12°	10%
SWITZERLAND	DL 716/74, of 12 December	Notice published on 26-02-1976 IN FORCE SINCE 18-12-1975	10°	10% f) 15% b)	11°	10%	12°	5%
TUNISIA	Parliamentary Resolution No. 33/2000, of 31 March	Notice 203/2000, published on 16-10-2000 IN FORCE SINCE 21-08-2000	10°	15%	11°	15%	12°	10%
TURKEY	Parliamentary Resolution No. 13/06, of 21 February	Notice 2/2007, published on 10-01-2007 IN FORCE SINCE 18-12-2006	10°	5% m) 15% b)	11°	10% t) 15% b)	12°	10%
UNITED ARAB EMIRATES	Signed in 17.01.2011	Not into force yet						
UNITED KINGDOM	DL 48497, of 24 July 1968	Notice published on 03-03-1969 IN FORCE SINCE 20-01-1969	10°	10% f) 15% b)	11°	10%	12°	5%
UKRAINE	Parliamentary Resolution No. 15/02, of 8 March	Notice 34/2002, published on 11-04-2002 and rectified on 30-04-2002 IN FORCE SINCE 11-03-2002 effective from 01-01-03	10°	10% m) 15% b)	11°	10%	12°	10%

URUGUAI	Signed in 30/11/2009; Resolution No. 77/2011, of 5 April	Not into force yet	10°	5% f) 10% b)	11°	10%	12°	10%
USA	Parliamentary Resolution No. 39/95, of 12 October	Notice 35/96 published on 09-01-1996 IN FORCE SINCE 01-01-1996	10°	5% g) 10% g) 15% b)	11°	10%	13°	10%
VENEZUELA	Parliamentary Resolution No. 68/97, of 5 December	Notice 15/98, published on 16-01-1998 IN FORCE SINCE 08-01-1998	10°	10% i) 15% j)	11°	10%)	12°	10%k) 15% l)

NOTES:

- a) When paid by banking entities.
b) In all other cases.
c) When the company controls 50% or more of the share capital.
d) Between 01-01-1972 and 31-12-1999, there was a double tax treaty between Portugal and Brazil approved by DL 244/71 of 2 June which was unilaterally terminated by Brazil. The lowest rate for dividends, interest and royalties was 15% and 10% on royalties, whenever literary, scientific or artistic work was in question. Its application was regulated by Circular No. 17/73 of 19 October.
e) When the actual beneficiary is a company that held 25% of the share capital of the payer for a consecutive period of two years prior to the time the dividends were paid, the rate may not exceed 10% of the gross amount of dividends paid after 31-12-1996. However, under Article 28 or 29 of the treaties in question, as this lower 10% rate is a withholding tax, it will only apply to situations where the chargeable event came about on or after January 1st of the year immediately after the year the treaty came into force.
f) When the actual beneficiary is a company which controls 25% or more of the share capital.
g) When the member is a company which directly held 25% or more of the share capital for two consecutive years prior to the payment of the dividends, the rate is 10% from 01-01-1997 to 31-12-1999 and 5% after 31-12-1999.
h) For bonds issued in France after 01-01-1965.
i) As from 01-01-1997. However, under Article 29(2)(a) of the treaty with Venezuela, as this lower 10% rate is a withholding tax, it will only apply to situations where the chargeable event came about on or after 01-01-1999.
j) Until 31-12-1996, as set out in Article 10(2) of the treaty with Venezuela. However, as this treaty only came into force on 08-01-1998, the lower 15% was never applied, nor will it be.
k) Technical assistance rate.
l) Rate for royalties in general.
m) When the actual beneficiary of the dividends is a company which directly held at least 25% of the share capital of the company paying the dividends for an uninterrupted period of two years prior to the payment of the dividends.
n) If the interest is paid by one company from a Contracting State where interest is considered a deductible expense to a financial establishment resident in another Contracting State.
o) However, interest deriving from a Contracting State will be exempt in that State under the terms of Article 11(a), (b) or (c) of the Treaty with Pakistan, if the condition set out therein are met.
p) The lower 10% rate still applies to "technical assistance payments" under Article 12(4) and (5) of the Treaty with Pakistan and has the same range.
q) However, the interest may only be taxed in the Contracting State where the actual beneficiary is resident if one of the conditions set out in Article 11(3)(a) to (d) of the Treaty with Sweden have been met.
r) See the article in question.
s) This Convention did not yet enter into force due to the fact that the Notice from the Ministry of Foreign Affairs publicizing the exchange of the instruments of ratification between both Contracting States has not yet been published.
t) As long as it is interest paid in connection to a loan made for a period longer than two years.
u) A DTC concluded between Portugal and Spain, approved by the Decree-Law Nr. 49223 of 4 September 1969 (Government Journal, 1st Series, Nr. 207, of 04/09/1969) was in force from 26-03-1970 to 27-06-1995. The reduced rates were of 10 and 15% for dividends, 15% for interest and 5% for royalties.
v) It was already signed on 10-03-2011 another Convention which although it is not in force yet, it will replace DL 504/70 of 27 October.

Rogério M. Fernandes Ferreira
Mónica Respício Gonçalves
Marta Machado de Almeida

This Tax Information is intended for general distribution to clients and colleagues and the information contained herein is provided as a general and abstract overview. It should not be used as a basis on which to make decisions and professional legal advice should be sought for specific cases. The contents of this Tax Information may not be reproduced, in whole or in part, without the express consent of the author. If you should require further information on this topic, please contact arfis@plmj.pt.

Lisbon, 5 of April 2011
13/ 2011