

TAX INFORMATION

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February 2012



INTERNATIONAL DOUBLE TAXATION IN PORTUGAL

On 26 January 2012 and 2 February 2012, the Council of Ministers approved two Agreements with the State of Qatar and the Special Administrative Region of the People's Republic of China and also two international Conventions to Avoid Double Taxation and Prevent Tax Evasion in the area of Income Tax with Japan and the Republic of Colombia.

It should be noted that international double taxation is an obstacle to commercial relations and the free movement of goods, services, people and capital. The need to eliminate it has become even more decisive in the current economic and international context dominated as it is by new technologies, by the Internet and by globalisation. In regulating the right of the countries involved to impose taxes in a determined situation, it is possible to avoid the transfer of income and capital for mere tax purposes and to strengthen ties (economics and others) between the States in question.

It is, therefore, hoped that these new agreements entered into with the said countries will contribute to increasing trade between the countries involved and to a fairer division of the respective powers to raise taxes.

With the news of the approval by the Council of Ministers of the said Agreements and the said Conventions, an up-to-date list of all the Conventions to avoid double taxation entered into by Portugal is annexed to this note.

"Portuguese Law Firm of the Year"
Chambers European Excellence Awards, 2009; Shortlisted 2010, 2011/ Who's Who Legal Awards, 2006, 2008, 2009, 2010, 2011/The Lawyer European Awards- Shortlisted, 2010, 2011

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

"5^a Most Innovative Law Firm in Continental Europe"
Financial Times - Innovative Lawyers Awards, 2011

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

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

Mind Leaders Awards™
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E ASSOCIADOS

INTERNATIONAL DOUBLE TAXATION IN PORTUGAL

TABLE OF THE CONVENTIONS TO AVOID DOUBLE TAXATION ENTERED INTO BY PORTUGAL

IMPORTANT NOTE:

The Conventions to Avoid Double Taxation (DTCs) entered into by Portugal, in accordance with the OECD model, should only be applied when the entities paying the income are in possession of the duly completed forms authenticated by the respective tax authority, in compliance with the provisions of art. 98 of the IRC (corporate income tax) Code and art. 18 of Decree-Law no. 42/91 of 22 January, approved by Order in Council no. 4743-A/2008, of the Minister of State for Finances, published in D.R. no. 37, II Series, of 21 February 2008, taking into account Amendment no. 427-A/2008, published in D.R. no. 43, of 29 February 2008.

We would also draw attention to the list of States which have communicated that it has not been possible to certify the said forms, to which the provisions of Order in Council no. 22600/2009 published in D.R. n.º 199, II Series, of 14 October 2009 apply:

- Brazil;
- Morocco;
- Mexico;
- Pakistan;
- Turkey.

COUNTRIES (ALPHABETICAL ORDER)	LEGAL INSTRUMENT	EXCHANGE OF RATIFICATION INSTRUMENTS / ENTRY INTO FORCE	REDUCTION OF RATES					
			DIVIDENDS		INTEREST		ROYALTIES	
			Art.º	Rate	Art.º	Rate	Art.º	Rate
ALGERIA	Resolution of the Parliament n.º 22/06, of 23 March	Notice n.º 579/2006 published 05-05-2006 IN FORCE SINCE 01-05-2006	10º	10% m) 15% b)	11º	15%	12º	10%
AUSTRIA	DL n.º 70/71, of 08 March	Notice published 08-02-1972 IN FORCE SINCE 28-02-1972	10º	15%	11º	10%	12º	5% b) 10% c)
BARBADOS	Signed on 22 October 2010	Awaiting ratification						
BELGIUM	DL n.º 619/70, of 15 December; Additional Convention (Parl. Res. 82/00 of 14 December)	Notice published 17-02-1971 IN FORCE SINCE 19-02-1971; Additional Convention IN FORCE SINCE 05-04-2001	10º	15%	11º	15%	12º	10%
BRAZIL d)	Resolution of the Parliament n.º 33/01, of 27 April	Notice published 14-12-2001 IN FORCE SINCE 05-10-2001 with effect from 01-01-2000	10º	10% m) 15% b)	11º	15%	12.º	15%
BULGARIA	Resolution of the Parliament n.º 14/96, of 11 April	Notice n.º 258/96 published 26-08-1996 IN FORCE SINCE 18-07-1996	10º	10% e) 15% b)	11º	10%	12º	10%
CANADA	Resolution of the Parliament n.º 81/00, of 6 December	Notice published 17-10-2001 IN FORCE SINCE 24-10-2001	10º	10% m) 15% b)	11º	10%	12.º	10%
CAPE VERDE	Resolution of the Parliament n.º 63/00, of 12 July	Notice n.º 4/2001 published 18-01-2001 IN FORCE SINCE 15-12-2000	10º	10%	11º	10%	12º	10%

COUNTRIES (ALPHABETICAL ORDER)	LEGAL INSTRUMENT	EXCHANGE OF RATIFICATION INSTRUMENTS / ENTRY INTO FORCE	REDUCTION OF RATES					
			DIVIDENDS		INTEREST		ROYALTIES	
			Art.º	Rate	Art.º	Rate	Art.º	Rate
CHILE	Resolution of the Parliament n.º 28/06, of 6 April	Notice n.º 243/2008 published 29-12-2008 IN FORCE SINCE 25-08-2008	10º	10% f) 15% b)	11º	5% r) 10% r) 15% b)	12º	5% r) 10% r)
CHINA	Resolution of the Parliament n.º 28/2000, of 30 March	Notice n.º 109/2000 published 02-06-2000 IN FORCE SINCE 08-06-2000	10º	10%	11º	10% r)	12º	10%
COLOMBIA	Signed on 30 August 2010	Awaiting ratification						
CUBA	Resolution of the Parliament n.º 49/01, of 13 July	Notice n.º 187/06 published 23-01-2006 (& Notice no. 279/05 of 29-07-2005) IN FORCE SINCE 28-12-05	10º	5% f) 10% b)	11º	10%	12º	5%
CZECH REPUBLIC	Resolution of the Parliament n.º 26/97, of 09 May	Notice n.º 288/97 published 08-11-1997 IN FORCE SINCE 01-10-1997	10º	10% e) 15% b)	11º	10%	12º	10%
DENMARK	Resolution of the Parliament n.º 6/02, of 23 February	Notice n.º 53/2002 published 15-06-2002 IN FORCE SINCE 24-05-2002 to take effect after 01-01-03	10º	10%	11º	10%	12º	10%
ESTONIA	Resolution of the Parliament n.º 47/04, of 8 July	Notice n.º 175/04 published 27-11-2004 IN FORCE SINCE 23-07-2004 to take effect after 01-01-05	10º	10%	11º	10%	12º	10%
FINLAND	DL n.º 494/70, of 23 October	Notice published 22-08-1980 IN FORCE SINCE 14-07-1971	10º	10% f) 15% b)	11º	15%	12º	10%
FRANCE	DL n.º 105/71, of 26 March	Notice published 13-11-1972 IN FORCE SINCE 18-11-1972	11º	15%	12º	10% h) 12% b)	13º	5%
GERMANY	Law n.º 12/82, of 03 June	Notice published 14-10-1982 IN FORCE SINCE 08-10-1982	10º	15%	11º	10% a) 15% b)	12º	10%
GREECE	Resolution of the Parliament n.º 25/02, of 4 April	Notice no. 85/2002 published 24-09-2002 IN FORCE SINCE 13-08-2002 to take effect after 01-01-03	10º	15%	11º	15%	12º	10%

INTERNATIONAL DOUBLE TAXATION IN PORTUGAL

COUNTRIES (ALPHABETICAL ORDER)	LEGAL INSTRUMENT	EXCHANGE OF RATIFICATION INSTRUMENTS / ENTRY INTO FORCE	REDUCTION OF RATES					
			DIVIDENDS		INTEREST		ROYALTIES	
			Art.º	Rate	Art.º	Rate	Art.º	Rate
GUINEA BISSAU	Resolution of the Parliament n.º 55/09, of 30 July	No Notice s)	10º	10%	11º	10% r)	12º	10%
HONG KONG	Signed on 22 March 2011	Awaiting ratification						
HUNGARY	Resolution of the Parliament n.º 4/99 of 28 January	Notice n.º 126/2000 published 30-06-2000 IN FORCE SINCE 08-05-2000	10º	10% e) 15% b)	11º	10%	12º	10%
ICELAND	Resolution of the Parliament n.º 16/02, of 8 March	Notice n.º 48/2002 published 08-06-2002 IN FORCE SINCE 11-04-2002 to take effect after 01-01-03	10º	10% m) 15% b)	11º	10%	12º	10%
INDIA	Resolution of the Parliament n.º 20/2000, of 6 March	Notice n.º 123/2000 published 15-06-2000 IN FORCE SINCE 05-04-2000	10º	10% m) 15% b)	11º	10%	12º	10%
INDONESIA	Resolution of the Parliament n.º 64/2006, of 6 December	Notice n.º 42/2008 published 04-04-2008 IN FORCE SINCE 11-05-2007	10º	10%	11º	10%	12º	10%
IRELAND	Resolution of the Parliament n.º 29/94, of 24 June Protocol to amend DTC - Res. of Parl. n.º 62/2006, of 06-12-2006	Notice n.º 218/94 published 24-08-1994 IN FORCE SINCE 11-07-1994 Notice n.º 45/2008 published 17-04-2008 Protocol to amend DTC IN FORCE SINCE 18-12-2006	10º	15%	11º	15%	12º	10%
ISRAEL	Resolution of the Parliament n.º 02/08 of 15 January	Notice n.º 94/2008 published 13-06-2008 and amended by Notice no. 129/2008 published 22-07-2008 IN FORCE SINCE 18-02-2008	10º	5% r) 10% r) 15% r)	11º	10%	12º	10%
ITALY	Law n.º 10/82, of 01 June	Notice published 07-01-1983 IN FORCE SINCE 15-01-1983	10º	15%	11º	15%	12º	12%
JAPAN	Signed on 19 December 2011	Awaiting ratification						
KUWAIT	Resolution of the Parliament n.º 44/2011, of 18 March	Awaiting publication of Notice s)						
LATVIA	Resolution of the Parliament n.º 12/03, of 28 February	Notice n.º 138/2003 published 26-04-2003 IN FORCE SINCE 07-03-2003	10º	10%	11º	10%	12º	10%

COUNTRIES (ALPHABETICAL ORDER)	LEGAL INSTRUMENT	EXCHANGE OF RATIFICATION INSTRUMENTS / ENTRY INTO FORCE	REDUCTION OF RATES					
			DIVIDENDS		INTEREST		ROYALTIES	
			Art.º	Rate	Art.º	Rate	Art.º	Rate
LITHUANIA	Resolution of the Parliament n.º 10/03 of 25 February	Notice n.º 123/2003 published 22-03-2003 IN FORCE SINCE 26-02-2003	10º	10%	11º	10%	12º	10%
LUXEMBOURG	Resolution of the Parliament n.º 56/00 , of 30 June; Protocol and Additional Protocol signed on 7 September 2010	Notice n.º 256/2000 published 30-12-2000 IN FORCE SINCE 30-12-2000 Protocol and Additional Protocol awaiting ratification	10.º	15%	11.º	10% n) 15% b)	12º	10%
MACAO	Resolution of the Parliament n.º 80-A/99 of 16 December	Notice n.º 72/2001 published 16-07-2001 IN FORCE SINCE 01-01-1999	10.º	10%	11.º	10%	12º	10%
MALTA	Resolution of the Parliament n.º 11/02, of 25 February	Notice no. 33/2002 published 06-04-2002 amended on 30-04-2002 IN FORCE SINCE 05-04-2002 To take effect after 01-01-03	10º	10% m) 15% b)	11º	10%	12º	10%
MEXICO	Resolution of the Parliament n.º 84/00 of 15 December	Notice n.º 49/01 published 21-05-2001 IN FORCE SINCE 09-01-2001	10º	10%	11º	10%	12º	10%
MOLDOVA	Resolution of the Parliament n.º 106/2010, of 2 September	Notice no. 300/2010 published 08-11-2010 IN FORCE SINCE 18-10-2010	10º	5% r) 10% r)	11º	10%	12º	8%
MOROCCO	Resolution of the Parliament n.º 69-A/98 of 23 December	Notice n.º 201/2000 published 16-10-2000 IN FORCE SINCE 27-06-2000	10º	10% e) 15% b)	11º	12%	12º	10%
MOZAMBIQUE	Resolution of the Parliament n.º. 36/92 of 30 December; Protocol which reviews DTC (Resolution of the Parliament n.º 36/99, of 8 May)	Notice n.º 55/95 published 03-03-1995 IN FORCE SINCE 01-01-1994 Protocol in force since 07-06-2009 (Notice MNE n.º- 45/2009, of 21-08-2009).	10º	15%	11º	10%	12º	10%
NETHERLANDS	Resolution of the Parliament n.º 62/00 of 12 July	Notice n.º 177/2000 published 24-08-2000 IN FORCE SINCE 11-08-2000	10º	10%	11º	10%	12º	10%
NORWAY	DL n.º 504/70 of 27 October; New Convention signed on 10 March 2011 to substitute the current one	Notice published 15-10-1971 IN FORCE SINCE 01-10-1971; New Convention awaiting ratification	10º	10% f) 15% b)	11º	15%	12º	10%

INTERNATIONAL DOUBLE TAXATION IN PORTUGAL

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			DIVIDENDS		INTEREST		ROYALTIES		
			Art.º	Rate	Art.º	Rate	Art.º	Rate	
PANAMA	Signed on 27 August 2010	Awaiting ratification							
PAKISTAN	Resolution of the Parliament n.º 66/03 of 2 August	Notice n.º 6/08 published 21-01-2008 IN FORCE SINCE 04-06-2007	10º	10% m) 15% b)	11º	10% o)	12º	10% p)	
POLAND	Resolution of the Parliament n.º 57/97, of 9 September	Notice n.º 52/98 published 25-03-1998 IN FORCE SINCE 04-02-1998	10º	10% e) 15% b)	11º	10%	12º	10%	
QATAR	Signed on 12 December 2011	Awaiting ratification							
ROMANIA	Resolution of the Parliament n.º 56/99, of 10 July	Notice n.º 96/99 published 18-08-1999 IN FORCE SINCE 14-07-1999	10º	10% m) 15% b)	11º	10%	12º	10%	
RUSSIA	Resolution of the Parliament n.º 10/02, of 25 February	Notice n.º 32/2003 published 30-01-2003 IN FORCE SINCE 11-12-2002 to take effect from 01-01-03	10º	10% m) 15% b)	11º	10%	12º	10%	
SAN MARINO	Signed on 19 November 2010	Awaiting ratification							
SINGAPORE	Resolution of the Parliament n.º 85/00, of 15 December	Notice n.º 45/01 published 11-05-2001 IN FORCE SINCE 16-03-01	10º	10%	11º	10%	12º	10%	
SLOVAKIA	Resolution of the Parliament n.º 49/04, of 13 July	Notice n.º 191/04 published 04-12-2004 IN FORCE SINCE 02-11-2004 to take effect after 01-01-2005	10º	15% b) 10% m)	11º	10%	12º	10%	
SLOVENIA	Resolution of the Parliament n.º 48/04, of 10 July	Notice n.º 155/04 published 31-08-2004 IN FORCE SINCE 13-08-2004 to take effect after 01-01-05	10º	5% f) 15% b)	11º	10%	12º	5%	
SOUTH AFRICA	Resolution of the Parliament n.º 53/08, of 22 September	Notice n.º 222/2008 published 20-11-2008 IN FORCE SINCE 22-10-2008	10º	10% m) 15% b)	11º	10%	12º	10%	
SOUTH KOREA	Resolution of the Parliament n.º 25/97, of 08 May	Notice n.º 315/97 published 27-12-1997 IN FORCE SINCE 21-12-1997	10º	10% e) 15% b)	11º	15%	12º	10%	

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			DIVIDENDS		INTEREST		ROYALTIES	
			Art.º	Rate	Art.º	Rate	Art.º	Rate
SPAIN u)	Resolution of the Parliament n.º 6/95, of 28 of January	Notice n.º. 164/95 published 18-07-1995 IN FORCE SINCE 28-06-1995	10º	10% f) 15% b)	11º	15%	12º	5%
SWEDEN	Resolution of the Parliament n.º 20/03, of 11 March	Notice n.º 3/2004 published 02-01-2004 and Notice n.º 32/04, of 10-04-2004 IN FORCE SINCE 19-12-2003 with effect from 01-01-2000	10º	10%	11º	10% q)	12º	10%
SWITZERLAND	DL n.º 716/74, of 12 December	Notice published 26-02-1976 IN FORCE SINCE 18-12-1975	10º	10% f) 15% b)	11º	10%	12º	5%
TUNISIA	Resolution of the Parliament n.º 33/2000, of 31 March	Notice no. 203/2000 published 16-10-2000 IN FORCE SINCE 21-08-2000	10º	15%	11º	15%	12º	10%
TURKEY	Resolution of the Parliament n.º 13/06, of 21 February	Notice n.º 2/2007 published 10-01-2007 IN FORCE SINCE 18-12-2006	10º	5% m) 15% b)	11º	10% t) 15% b)	12º	10%
UKRAINE	Resolution of the Parliament n.º 15/02, of 8 March	Notice n.º 34/2002 published 11-04-2002 and amended on 30-04-2002 IN FORCE SINCE 11-03-2002 and to take effect after 01-01-03	10º	10% m) 15% b)	11º	10%	12º	10%
UNITED ARAB EMIRATES	Signed on 17 January 2011	Awaiting ratification						
UNITED KINGDOM	DL n.º 48497, of 24 July 1968	Notice published 03-03-1969 IN FORCE SINCE 20-01-1969	10º	10% f) 15% b)	11º	10%	12º	5%
UNITED STATES OF AMERICA	Resolution of the Parliament n.º 39/95, of 12 October	Notice n.º 35/96 published 09-01-1996 IN FORCE SINCE 01-01-1996	10º	5% g) 10% g) 15% b)	11º	10%	13º	10%
URUGUAY	Resolution of the Parliament n.º 77/2011 of 5 April	No Notice s)						
VENEZUELA	Resolution of the Parliament n.º 68/97, of 05 December	Notice n.º. 15/98 published 16-01-1998 IN FORCE SINCE 08-01-1998	10º	10% i) 15% j)	11º	10%	12º	10% k) 12% l)

NOTES:

- a) When paid by banking institutions.
- 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 a DTC was in force between Portugal and Brazil approved by DL no. 244/71 of 2 June and which was renounced unilaterally by Brazil. The reduced rate for dividends, interest and royalties was 15%, and a rate of 10% could apply in the case of royalties for literary, scientific or artistic works. The application of this rate was regulated by Administrative Order no. 17/73 of 19/10.
- e) When the beneficial owner is a company which, during a consecutive period of 2 years prior to the payment of the dividends, holds 25% of the share capital of the paying company, the rate may not exceed 10% of the gross amount of the dividends paid since 31-12-1996. However, under the terms of art. 28 or 29 of the respective conventions, this reduced rate of 10% will only apply due to the fact that it is a tax payable at source, to situations in which the taxable event occurs on or after 1 January of the year immediately after the year in which the Convention came into force.
- f) When the beneficial owner is the company that controls 25% or more of the share capital.
- g) When the shareholder is a company that during two consecutive years prior to the payment of the dividends directly holds 25% or more of the share capital, the rate is 10% between 01-01-1997 and 31-12-1999 and 5% after 31-12-1999.
- h) For bonds issued in France after 01-01-1965.
- i) From 01-01-1997 onwards. However, under art. 29 (2) a) of the Convention made with Venezuela, this reduced rate of 10% will only apply due to the fact that it is a tax payable at source, to situations in which the taxable event occurs on or after 01-01-1999.
- j) Up to 31-12-1996, in accordance with the provisions of art. 10 (2) of the Convention with Venezuela. However, given that this Convention only came into force on 08-01-1998, this reduced rate of 15% was never, and never will be, applied.
- k) Rate for technical assistance.
- l) Rate for royalties in general.
- m) When the beneficial owner of the dividends is a company which, during an uninterrupted period of two years prior to the payment of the dividends, directly holds at least 25% of the share capital of the company that pays the dividends.
- n) If the interest is paid by a company from a Contracting State where the interest is deemed to be a deductible expense, to a financial establishment resident in another Contracting State.
- o) However, interest coming from a Contracting State will be exempt, in this State, under, and if it complies with, the conditions provided for in paragraphs a), b) or c) of no. 3 of art. 11 of the DTC with Pakistan.
- p) This reduced rate of 10% also applies to "remunerations for technical services", under the terms and with the coverage provided for in nos. 4 and 5 of art. 12 of DTC with Pakistan.
- q) However, interest may only be taxed in the Contracting State in which the respective beneficial owner is resident if one of the conditions provided for in paragraphs a) to d) of no. 3 of art. 11 of the DTC with Sweden applies.
- r) Consult the respective article.
- s) As the notice from the Ministry of Foreign Affairs, which publishes the exchange of ratification instruments between the two Contracting States, has not yet been published, this convention has not yet come into force.
- t) As long as it is interest paid in connection with a loan made for a period greater than 2 years.
- u) Between 26-03-1970 and 27-06-1995, a DTC was in force between Portugal and Spain approved by DL no. 49.223, of 04 September 1969 (*Diário do Governo, 1.ª Série*, no. 207 of 04/09/1969). The reduced rates for dividends were 10% and 15%; for interest 15%; for royalties 5%.

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Lisbon, 22 February 2012
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