

# INFORMATIVE NOTE

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## PLMJ INTERNATIONAL LEGAL NETWORK

# GOLDEN RESIDENCE PERMIT PROGRAMME

## OBTAINING A RESIDENCE PERMIT BY INVESTING IN PORTUGAL

The recent changes to the legal rules on entry and stay of foreign nationals in Portugal have introduced (among other changes) a mechanism that allows foreign nationals to obtain a Portuguese residence permit if they make certain investments in the country.

■ General Principles: With the introduction of this mechanism it is now possible for a temporary residence permit to be granted without the need to first obtain a residence visa if the foreign national, personally or through a company, makes an investment that leads to the creation of at least one of the following situations in Portugal:

- (A) Transfer of capital in an amount equal to or greater than **EUR 1 000 000** ;
- (B) Creation of at least **30 jobs**; or
- (C) Acquisition of real estate of a value equal to or greater than EUR 500 000.

The investment chosen by the applicant for the residence permit must have been made at the time the application for the residence permit is presented and must be **maintained for a minimum period of five years** from the date the residence permit is granted.

■ Investment using companies: If the investment is made through a company, the respective value is determined by reference to the proportion of the investment in the respective share capital, as long as the company has its registered office in Portugal or in another European Union Member State but with a permanent establishment in Portugal.

■ Validity Periods: The temporary residence permit is valid for the period of **one year** from the date of issue and may be renewed for **successive periods of two years** as long as the conditions necessary for it to be granted remain in place.

For the residence permit to be granted under these terms, foreign nationals must regularise their stay in Portugal within **90 days** of their first entry into the country (obtaining, in cases in which it is necessary, a short term visa – Schengen visa – issued by the Portuguese Consulate in the country of origin) and prove they have met the minimum quantitative requirements for the chosen investment activity. For the purposes of renewal, applicants must demonstrate that they have stayed in Portugal for at least **(i) 30 days in the first year and (ii) 60 days in each subsequent period of two years**.

(A) Transfer of capital: In the case of a **transfer of capital** in an amount equal to or greater than EUR 1 000 000, the applicant must present (i) a declaration issued by a Portuguese financial institution stating that the applicant is the sole or first holder of the capital or, if it is an investment made by a company, (ii) an up to date commercial registration certificate declaring the holding of the stake in the company, valued at the amount of the investment required for this purpose.

(B) Job creation: In the case of investment activity that leads to the **creation of at least 30 jobs**, the applicant must demonstrate that he or she has registered the employees for social security purposes by presenting an up to date certificate issued by the social security authorities.

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“Portuguese Law Firm of the Year”  
*Chambers European Excellence Awards, 2009, 2012 / Who’s Who Legal Awards, 2006, 2008, 2009, 2010, 2011 / The Lawyer European Awards-Shortlisted 2010, 2011, 2012*

“6<sup>a</sup> Most Innovative Law Firm in Continental Europe”  
*Financial Times – Innovative Lawyers Awards, 2011, 2012*

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

“TOP 100 Firms in Competition”  
*Global Competition Review 2007 - 2012*

“Best Portuguese Tax Firm of the Year”  
*International Tax Review - Tax Awards 2006, 2008, 2009, 2010, 2011*

“Best Portuguese Law Firm”  
*International Financial Law Review Awards 2006 / Shortlisted 2007 - 2012*

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Like any other holder of a residence permit in Portugal, persons with a golden visa may travel around the Schengen Area.

Currently social security contributions for most employers are 23.75% to be paid by the employer [the applicant for the residence permit] and 11% to be paid by the employee. These contributions are calculated on the gross value of the monthly salary.

(C) Real estate investment: The most accessible investment activity leading to obtaining a residence permit is a **real estate investment made by acquiring property of a value equal to or greater than EUR 500 000**. In this case, the applicant must prove full ownership of the property and that the property is free from any burdens of charges. This is done by presenting the respective up to date land registry certificate (or certificates).

■ Taxation of real estate investments: when acquiring a property in Portugal, the investor must take into consideration the charges associated with such a transaction. These charges include *Imposto Municipal sobre as Transmissões Onerosas* ("IMT"), which is the municipal tax on transfer of real property for value, *Imposto do Selo* ("IS"), which is stamp duty and *Imposto Municipal sobre Imóveis* ("IMI"), which is the annual municipal property tax:

- **IMT** is charged on transfers of rights in property for value and the applicable rate is 6.5% or, in the case of residential property there is a progressive rate (which is of, approximately, 6% for a property valued at EUR 500 000). The rate is calculated on the basis of the value that appears in the contract or other transfer document (or on the valor patrimonial tributário - the official valuation of the property for tax purposes, if greater);<sup>1</sup>

- **IMI** is payable by whoever owns the property on 31 December of the year for which the tax is due. The rate varies between 0.3% e 0.5% for urban buildings (according to the location of the property) and 0.8% for rural buildings. These rates are applied to the official valuation of the property for tax purposes;

- The rate of **IS** (stamp duty) is 0.8% and is charged on the value that serves as the basis for assessment of IMT.

■ Tax Regime: Applicants for a residence permit who intend to move their official tax residence to Portugal, may – upon making an application, to be considered on a case-by-case basis by the tax authorities – **benefit from the non-habitual residents' regime** (as long as they have not been taxed as tax residents in Portugal in any of the preceding 5 years). In doing so, they acquire the right to be taxed as non-habitual residents for a period of 10 consecutive years at the end of which they will be taxed in accordance with the general rules of the IRS (personal income tax) Code.

Residence in Portugal for tax purposes may be acquired in any year, among other situations, when the taxable person has remained in Portugal for more than 183 days, whether consecutive or not, or when they have remained for fewer days but, on 31 December of the year in question, they have a residence in Portugal in conditions that make it possible to presume the intention to maintain and occupy it a their habitual residence.

We should also highlight the fact that **Portugal has entered into a number of Double Taxation Agreements** the provisions of which should be taken into consideration in the taxation of income earned from operations between entities resident in Portugal and entities resident in other states.<sup>2</sup>

■ Schengen Area: Like any other holder of a residence permit in Portugal, persons with a residence permit through an investment in Portugal may **travel around** the Schengen Area (Germany, Austria, Belgium, Denmark, Slovakia, Slovenia, Estonia, Spain, Finland, France, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, Norway, the Czech Republic, the Netherlands, Poland, Portugal, Sweden and Switzerland).

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<sup>1</sup>As from EUR 550 836 a single rate of 6% will apply, for a property exclusively intended for non-permanent housing purposes.

<sup>2</sup> To see information on Double Taxation Agreements entered into by Portugal please visit: [http://info.portaldasfinancas.gov.pt/pt/informacao\\_fiscal/convencoes\\_evitar\\_dupla\\_tributacao/convencoes\\_tabelas\\_doclib/](http://info.portaldasfinancas.gov.pt/pt/informacao_fiscal/convencoes_evitar_dupla_tributacao/convencoes_tabelas_doclib/)