

INFORMATIVE NOTE

PLMJ

Sharing Expertise. Innovating Solutions.

October 2012

PLMJ INTERNATIONAL LEGAL NETWORK

GOLDEN VISA – 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. These permits are known as “golden visas”.

■ 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**.

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.

“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

“5th Most Innovative Law Firm in Continental Europe”
Financial Times – Innovative Lawyers Awards, 2011 / Shortlisted 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

GOLDEN VISA – OBTAINING A RESIDENCE PERMIT BY INVESTING IN PORTUGAL

PLMJ

Sharing Expertise. Innovating Solutions.

October 2012

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

(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.

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 golden visa 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 8% 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);

- **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.

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 including the People's Republic of China.

■ Schengen Area: Like any other holder of a residence permit in Portugal, persons with a golden visa 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).

This Informative Note 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 Informative Note 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 **Rita Assis Ferreira** (rita.assisferreira@plmj.pt).