TAX
INFORMATION

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THE 2016 STATE BUDGET BILL

I. PERSONAL INCOME TAX (IRS)

▪ IRS RATES

The nominal rates of personal income tax (IRS – *Imposto sobre o Rendimento das Pessoas Singulares*) remain unchanged, but the bill proposes a slight change to the lower taxable income brackets, which leads leads to a small reduction in the tax to be paid.

In the bill, the first taxable income bracket is increased from EUR 7000 to EUR 7035, the second bracket from EUR 20 000 to EUR 20 100 and the third bracket from EUR 40 000 to EUR 40 200.

Even though this measure is not included in the budget bill, it should be noted that Law no. 159.-D/2015 of 30 December has come into force and repeals the IRS surcharge, although this will only take effect fully in 2017. In the meantime, the law introduces progressive reductions in line with the different income brackets. These changes lead to a reduction in the effective rate of IRS for households with a taxable income of up to EUR 80 000.

▪ TAX LOSS CARRY FORWARD

The bill provides that tax losses made by taxable persons who earn business and professional income under the organised accounting rules may only be carried forward for five years (rather than the current 12 years). Under the bill, the new carry-forward period only applies to losses made on or after 1 January 2017.

▪ FAMILY QUOTIENT

The bill proposes the elimination of the family quotient. However, it will increase the fixed tax allowance for each dependent, from EUR 325 to EUR 550, and for each relative in the ascending line who actually lives in the same household as the taxable person, from EUR 300 to EUR 525, as long as that relative does not earn income above the general regime minimum pension.

▪ TAX ALLOWANCES FOR HEALTH, EDUCATION AND TRAINING

Under the bill, expenses incurred outside Portugal will be eligible for the purposes of health, education and training tax allowances. These expenses will be allowed regardless of location and will not be restricted, as they are now, to European Union or European Economic Area Member States.

▪ DEDUCTION FOR PEOPLE WITH A DISABILITY

It is proposed that the deduction for people with disabilities should be increased from 1.5 to 2.5 times the value of the SSI (Social Support Index).

II. CORPORATE INCOME TAX (IRC)

SCOPE OF STATE EXEMPTION

The bill provides that the State, acting through the Treasury and Public Debt Management Agency, will be exempt from corporate income tax (IRC – *Imposto Sobre o Rendimento das Pessoas Coletivas*). This exemption also applies to capital income earned from securities repurchase (repo) transactions.

PARTICIPATION EXEMPTION REGIME

The bill makes changes to the requirement that allows distributed profits and reserves not be taken into account in determining the taxable profit of companies that are tax resident in Portugal. For these rules to apply, it will be necessary to have a minimum holding of 10% in the share capital or voting rights of the entity that distributes the profits or reserves (in place of the current 5%). However, the minimum holding period is reduced from two years to one year.

The bill also proposes changes to the application of the exemption from IRC withholding tax on profits and reserves distributed by companies resident in Portugal for tax purposes: the level of the minimum holding in the share capital or in the voting rights of the entity that distributes the profits or reserves changes from 5% to 10%. However, it will only be necessary to hold the minimum holding for one year (rather than the current two years).

There is also a proposal to reduce from two years to one year the minimum holding period for shareholdings that allows legal entities resident in Portugal for tax purposes to exclude any capital gains and capital losses made when the shareholdings are transferred for valuable consideration from the calculation of their taxable profit.

The new minimum holding period applies to shareholdings held at the date of entry into force of the 2016 State Budget and the minimum period runs from that date except if, under the wording of the previous rules, less time remains to complete the period.

The bill also proposes a broadening of the scope of exclusion of the application of the participation exemption regime to capital gains and capital losses made on the transfer of other equity instruments associated with shares in companies, including additional capital contributions, when the value of the real estate or real rights over real estate located in Portugal held by the subsidiary directly or indirectly represents more than 50% of the respective asset and this is not allocated to an activity other than the sale and purchase of real estate.

EXIT TAX (REDOMICILIATION OF COMPANIES)

The bill provides for the positive and negative components calculated upon the transfer of residence of (i) a company with its registered office or effective centre of management in Portugal, or (ii) a permanent establishment of a non-resident entity located in Portugal, to another Member State of the European Union or of the European Economic Area that is bound by administrative cooperation in the area of taxation equivalent to that established in the European Union, should not be taken into account in determining the taxable profit of legal entities that are tax resident in Portugal. To benefit from this provision, the requirements for the application of the participation exemption regime must be met at the date of termination of activity.

IRC RATE

The bill proposes a reduction in the general nominal rate of IRC in force in Portugal from the current 21.5% to 21% for resident entities that do not carry on activities of a commercial, industrial or agricultural nature as their main activity. This rate is thus brought into line with the general nominal rate of IRC applicable in Portugal for resident entities that do carry on activities of a commercial, industrial or agricultural nature as their main activity.

AUTONOMOUS TAXATION

If there is a breach of the conditions that exempt a taxable person from the autonomous taxation rate of 35% applicable to expenses or charges relating to bonuses and other variable remuneration paid to managers or directors, the bill proposes that the amount corresponding to the autonomous taxation that should have been assessed should be added to the value of the IRC for the period of taxation in which the breach occurred.

▪ TAX LOSS CARRY FORWARD

The bill proposes a reduction of the tax loss carry forward period from the current 12 years to 5 years. However, this new period only applies to losses made in taxation periods that begin on or after 1 January 2017.

The tax loss carry forward periods, depending on the year the losses are made, will be:

TAX LOSSES	
Taxation period of the loss	Carry forward period
2009	6
2010 to 2011	4
2012 to 2013	5
2014 to 2016	12
2017 and following	5

▪ PERIOD TO RETAIN TAX-RELEVANT DOCUMENTS

The bill proposes a reduction to 10 years of the period during which taxable persons are required to keep their books, accounting records and supporting documentation. This new minimum will only apply to taxation periods that begin on or after 1 January 2017.

▪ FINANCIAL AND TAX INFORMATION OF MULTINATIONAL GROUPS

Whenever certain requirements are met, the bill proposes that resident entities should file – in relation to each taxation period and within 12 months of the end of the period – a financial and tax information declaration by country or by tax jurisdiction. In parallel, the bill also proposes that any entity that is resident or has a permanent establishment in Portugal, which is part of a group in which any of the entities is subject to the requirement to file a financial and tax information declaration by country or by tax jurisdiction, should electronically communicate the identification and the country or tax jurisdiction of the reporting entity of the group.

III. VALUE-ADDED TAX (VAT)

▪ VAT RATES

The main proposal for change in relation to VAT (*Imposto sobre o Valor Acrescentado* – IVA) is that the provision of food and beverage services (excluding alcoholic beverages, soft drinks, juices, fruit nectars, sparkling and carbonated water, and waters with other added substances) will again be subject to the intermediate VAT rate (13% in Continental Portugal, 12% in Madeira and 9% in the Azores). In line with the above, ready-made meals will also be subject to the intermediate rate of VAT.

In contrast, food products such as breadsticks, milk bread, twist bread and crispbread will be subject to the standard rate of 23%.

The bill proposes that these changes will take effect as from 1 July 2016.

IV. STAMP DUTY

▪ TAXABLE PERSON

In the case of multiple tenants or sub-tenants, the bill proposes that the taxable person for stamp duty purposes will be the tenant who files the declaration of communication of the tenancy agreement or, when this declaration is filed by an authorised third party, the first tenant or sub-tenant identified in the declaration.

In the case of buildings that are let or sublet and belong to an undivided estate or the common part of the building in horizontal ownership, the bill proposes that the tax should be paid by the undivided estate represented by the administrator of the estate (representative of the beneficiaries), or the condominium represented by the administrator, respectively.

▪ EXEMPTIONS

It is proposed that the exemption for loans with the characteristics of shareholder loans (*suprimentos*) will be limited to shareholdings of not less than 10%. Furthermore, this shareholding must have been in their ownership for one consecutive year or since the incorporation of the company and, in the latter case, the shareholding must have been maintained for the whole of that period.

The bill does not specify the time at which the tax obligation arises when the minimum time period is not met.

The bill also provides that the exemption from tax upon providing guarantees to the State or the Social Security in the context of payments in instalments – which has appeared as separate rules successively inserted in the laws approving State Budgets – should be included in the Code, thus giving this exemption a greater degree of stability.

It is proposed that there should be an express provision that the exemption from tax on guarantees and financial operations made between financial institutions should only apply to guarantees and operations to grant credit in the context of activity carried on by these institutions and entities. This proposed change is interpretive.

▪ RATES FOR CARD-BASED PAYMENT OPERATIONS

The bill suggests that commissions relating to rates of card-based payment operations should be expressly covered by the scope of incidence of the tax, thus making this provision an interpretive one.

▪ CONSUMER CREDIT DISINCENTIVE

The bill proposes that the tax rates applicable to consumer credit should be increased by 50% for taxable transactions taking place up to 31 December 2018.

▪ REPURCHASE (REPO) OPERATIONS

The bill proposes that, in repurchase operations – that is, the purchase, in cash, of negotiable debt securities for the simultaneous resale of securities of the same kind, at a specific time and price, when the purchase and resale are made by and to the same person – the taxable person will be the first purchaser. However, this provision does not apply when the first purchaser is not domiciled in Portugal. In this case, the obligation to pay the tax will fall on the central counterparties, credit institutions, financial companies or equivalent entities, or any other financial institution domiciled in Portugal that has acted as intermediary in the operation. Alternatively, if none of these entities has acted as intermediary, the obligation to pay the tax will fall on the first transferor.

The bill also provides that the territoriality rule will expressly cover repurchase operations whenever the first transferor or first purchaser is domiciled in Portugal. Domicile is deemed to be the registered office, subsidiary, branch or permanent establishment that acts as intermediary in carrying out the operations. The proposed change is merely interpretive in character.

V. EXCISE DUTIES

A) GENERAL

▪ PAYMENT AND CANCELLATION OF DEBT

In determining the rules on payment of the tax, the bill proposes that the tax should not be subject to forcible collection when the amount to be collected is less than EUR 10 (rather than the current EUR 25).

B) TAXES ON ALCOHOL AND ALCOHOLIC BEVERAGES

▪ TAX RATES ON BEER

The bill proposes a general increase in the tax rates on beer.

▪ TAX RATES ON INTERMEDIATE PRODUCTS

The bill also proposes an increase in the tax rate for intermediary products, from EUR 72.74/hl to EUR 72.86/hl.

▪ TAX RATES ON SPIRITS

The bill proposes a tax rate increase of around 3%, up to EUR 1327.94/hl, for spirits.

C) TAX ON OIL AND ENERGY PRODUCTS

▪ EXEMPTIONS

The bill proposes that the current tax exemption for oil and energy products proven to be used in public transport will exclusively apply to the public transport of passengers and not to the public transport of goods in respect of products classified by the code NC 2711. The extension of the exemption to natural gas is eliminated.

▪ RATES APPLICABLE TO FUEL OIL

The bill proposes that the maximum rate applicable to fuel oil with sulphur content above 1% will be 44.92%.

In turn, it is proposed that the maximum rate applicable to fuel oil with sulphur content of 1% or lower will be 39.93%.

These rates are applicable throughout Portuguese territory (Continental Portugal and the Autonomous Regions).

D) TOBACCO TAX

▪ TAXABLE EVENTS

The bill provides that rolls of tobacco with an outer wrapper in natural tobacco and roles of tobacco with a threshed blended filler and an outer wrapper are deemed to be cigarillos if their weight is 3 g or less per unit or cigars if their weight is greater than 3 g per unit.

▪ TAX RATES ON TOBACCO

The bill proposes a systematic increase in the taxation of tobacco, whether by increasing the specific component that makes up part of the rate, or by altering the formula for determining the minimum amount of tax applicable to tobacco.

There is also a proposal to increase the minimum tax on cigarillos and cigars.

The bill also includes a proposal to increase the rate of the specific component of the tax that applies to fine-cut tobacco for rolling cigarettes and to all other smoking tobacco, snuff, chewing tobacco and heated tobacco.

▪ SPECIAL RULES ON RELEASE FOR CONSUMPTION

In the period between 1 September and 31 December of each calendar year, the monthly release for consumption of manufactured tobacco, by each economic operator, may not, under the terms proposed, exceed the quantitative limits calculated by applying a scaling factor – defined by an order of the member of the Government responsible for the area of finance – to the average monthly quantity of manufactured tobacco released for consumption over the 12 immediately preceding months.

VI. PROPERTY TRANSFER TAX

▪ TAXABLE EVENTS AND TAXABLE VALUE

The bill proposes that municipal property transfer tax (*Imposto Municipal sobre as Transmissões Onerosas de Imóveis* – IMT) will apply to unmarried partners (the Portuguese concept of *união de facto*) and married couples under the separation of property regime. The tax applies to them when they acquire shareholdings in partnerships, limited partnerships or quota companies, when those companies own the property (real estate) and, because of this acquisition or because of any other fact, any of the partners has at least 75% of the capital, or the number of partners falls to two. This is what already happens with married couples under the community of property and community of acquired property regimes.

The bill also includes a proposal to make the acquisition of units in investment funds and in closed-end real estate funds for private subscription subject to this tax. It also proposes that this tax will apply to redemption operations, increases or reductions in capital or other operations that result in the purchaser or purchasers, when they are married or unmarried partners, having more than 75% of the units representing the assets of the fund. In these cases, it is proposed that the tax should apply proportionally to the taxable value (*valor patrimonial*) or to the valuation report of the investment management company, if higher.

The bill also proposes that IMT will apply to transfers of real estate assets for subscription of units in closed-end real estate investment funds and to pay-outs, with reimbursement in cash, to the fund investors when the funds are liquidated. In these cases, it is proposed that the tax will apply to the taxable value of the properties or to the value for which they were transferred to the assets of the fund, whichever is the higher. However, IMT will not apply if the participants have already been taxed. In this case, the tax will only apply to the difference between the pay-out value and value on which the tax was previously assessed.

■ INVESTMENT FUNDS
The bill also proposes the elimination of the current reduction to half of the rate of IMT applicable to properties that are part of open or closed-end real estate investment funds for public subscription, pension funds and retirement savings funds incorporated and operating under the initial legislation.

VII. ANNUAL PROPERTY TAX

■ DEFINITION OF RURAL PROPERTIES
The bill proposes that the definition of rural properties should include any land (and any construction and buildings on the land) that is normally used to generate commercial and industrial income, as long as the land is used for agricultural or forestry activities. This change is not innovative, merely interpretive.

A further proposal is that buildings situated on rural properties that are not used to generate commercial and industrial income should be valued under the general rules for urban properties. However, they may be registered in the rural land tax register at the request of the owner.

■ ALTERNATIVE VALUATION OF COMMERCIAL, INDUSTRIAL AND SERVICES PROPERTIES
Commercial, industrial and services properties may be valued using the cost plus value of land method, whenever the valuation in general terms is shown to be inappropriate. This valuation will be carried out under the terms to be defined by ministerial order.

The cost plus value of land is currently calculated using the formula: **V= T + Et + (C+ Ec) * Cad + Evc + L**, in which: **V** is the taxable value, **T**, is the value of the land, **Et** is the costs of purchasing the land, **C** is the construction cost, **Ec** is the construction charges and **Cad** is the appreciation or depreciation coefficient. **Evc** is the charges for the sale of the building and **C** is the profit of the promoter.

■ STANDING OF MUNICIPAL COUNCILS TO SEEK CORRECTION OF LAND TAX REGISTERS
The bill proposes an express provision for municipal councils to have standing to request the correction of errors in land tax registers and to request the revaluation of properties.

■ SAFEGUARD CLAUSE
It is proposed that it should not be possible for the tax due on properties used for a taxable person's own permanent residence to increase by more than EUR 75 or by more than one third of the difference between the tax resulting from its current taxable value and the tax that would result from an earlier valuation, whichever is the higher. This provision will only apply as long as there has been no transfer of the property (except in the case of free transfers in favour of spouses or relatives in the ascending or descending lines).

■ EXTRAORDINARY CORRECTION
The bill proposes that the taxable values of urban commercial, industrial or services properties updated between 2012 and 2015 on the basis of the currency devaluation coefficients should be subject to an extraordinary update by 31 December based on the factor 1.0225.

■ INVESTMENT FUNDS
The bill proposes the repeal of the rule that provides for the reduction to half of the IMI rate applicable to properties that are part of open or closed-end real estate investment funds for public subscription, pension funds and retirement savings funds incorporated and operating under the initial legislation.

■ REDUCTION OF RATE FOR OWNERS WITH DEPENDENTS
The bill proposes the addition of a new article to the Code, in terms similar to those that already apply in other cases, to provide that municipal councils may reduce the rate applicable to properties used for the own permanent residence of taxable persons with dependents. The basis for any such reduction will be the composition of the household as it is on the last day of the year prior to the one to which the tax relates.

VIII. VEHICLE TAX (ISV)

It is proposed that the vehicle tax (*Imposto sobre Veículos* – ISV) exemption that applies to ambulances should be extended to cover vehicles used to transport patients, under the terms laid down in regulations.

There is also a proposal to introduce an additional minimum scale for cubic capacity and CO2 in the tables for the cubic capacity component and the environmental component, respectively. This new scale is for the normal rates of vehicle tax applicable to passenger vehicles, light mixed-use vehicles and light goods vehicles. The normal tax rates increase in the various components (cubic capacity component and environmental component). The bill also proposes that the value of deductible amount in the environmental component should increase.

When it comes to the Green Taxation Law, there is a proposal – in the context of the tax incentive to scrap vehicles at the end of their useful life – that the limit of reduction of vehicle tax (which translates into an actual reduction of vehicle tax or into the award of a subsidy for this amount) due on the release for consumption of a new hybrid plug-in vehicle without license plate, should be reduced to EUR 1125.

There is also a proposal to increase the tax rates applicable to motorcycles, trikes and quad bikes.

IX. ROAD TAX (IUC)

There is a proposal to increase road tax (*Imposto Único de Circulação* – IUC) on all categories of vehicles (categories A, B, C, D, and F), and to limit the tax applicable to category G vehicles (EUR 12 110).

The only vehicles that will remain subject to the same tax rates are category C vehicles with a gross weight up to 2500 kilograms (EUR 32) and between 2501 and 3500 kilograms (EUR 52), category D vehicles with a gross weight below 12 tonnes and category D with a gross weight up to 2500 kilograms (EUR 17) and a gross weight between 2501 and 3500 kilograms (EUR 29). The exemption from vehicle tax for category E vehicles with a capacity of between 120 and 250 cubic centimetres and whose second year of registration is between 1992 and 1996, is also to be maintained.

There is also a proposal to repeal the specific obligation on vehicle leasing companies (in the context of financial leasing, operational leasing and long-term rental agreements) to provide the Tax and Customs Authority with the data relating to the tax identification of the people who use the least vehicles.

X. TAX BENEFITS STATUTE

▪ INCOME PAID BY COLLECTIVE INVESTMENT UNDERTAKINGS

The bill proposes the application of a definitive withholding tax rate of 35%: (i) to income distributed or arising from the redemption of fund units held by a person resident in an offshore country, territory or region; any other income earned by a person resident in an offshore country, territory or region will be taxed under the general terms set out in the IRC or IRS Code, as applicable; and (ii) to income that is paid or made available in bank accounts opened in the name of one or more account holders, but on account of unidentified third parties (except if the beneficial owner is identified).

It is also proposed that the income paid by collective investment undertakings to non-resident entities that are held, directly or indirectly, as to more than 25%, by legal entities or individuals resident in Portugal should be taxed under the general terms set out in the IRS Code and the IRC Code.

▪ REAL ESTATE INVESTMENT FUNDS

The bill provides for the tax rules on collective investment undertakings to apply to real estate investment funds and to real estate investment funds in forestry resources, whenever they no longer meet the requirements for the application of the respective rules. The taxation period is deemed to be the period between the date of termination of activity and the end of the calendar year in which this occurs.

▪ CAPITAL GAINS MADE BY NON-RESIDENTS

The bill includes a proposal to broaden the scope of application of the IRC exemption for real estate capital gains made by non-resident entities with no permanent establishment in Portugal, even if they are held directly or indirectly as to more than 25% by resident entities, as long as they meet all the remaining applicable requirements.

▪ PARENTS ASSOCIATIONS

The bill proposes that income earned by parents associations should be exempt from IRC (except for investment income), as long as the total gross income subject to and not exempt from taxation does not exceed EUR 7500.

▪ PROPERTIES SITUATED IN BUSINESS LOCATION AREAS

There is a proposal to extend the period of the IMT and IMI exemptions provided for properties situated in business location areas (*Áreas de Localização Empresarial* – ALE) to properties purchased or concluded until 31 December 2016.

▪ DEBT SECURITIES ISSUED BY NON-RESIDENT ENTITIES

There is a proposal for income earned in Portugal from securities representing public and non-public debt issued by non-resident entities to be exempt from IRS or IRC when the income is paid by the Portuguese State as a guarantee for obligations assumed by companies in which it is a shareholder jointly with other Member States of the European Union.

This exemption applies exclusively to the following beneficial owners: (i) central banks and agencies that are governmental in nature; (ii) international organisations recognised by the Portuguese State; (iii) entities resident in a country or jurisdiction with which an international double taxation agreement or an agreement providing for the exchange of information on tax matters is in force; (iv) other entities that do not have their residence, registered office, effective centre of management or a permanent establishment in Portugal to which the income can be imputed and which are not resident in an offshore country, territory or region.

XI. INVESTMENT TAX CODE

▪ IMI AND IMT TAX BENEFITS

There is a proposal that municipal bodies should be able to grant full or partial municipal property tax (IMI) and/or municipal property transfer tax (IMT) exemptions to taxable persons to support investment made in the area of the municipality, without the restrictions applicable to the other tax benefits provided for in the Investment Tax Code.

XII. GENERAL TAX LAW

▪ SUSPENSION OF TAX DEBT LIMITATION PERIOD

There is a proposal to suspend the limitation period from the date the proceedings are issued until a final and unappealable judgment in actions brought by the Public Prosecutor to overturn earlier transactions that were intended solely to reduce the financial guarantee of creditors. This measure applies to all ongoing actions, but the suspension only begins from the date the law comes into force.

▪ INFORMATION RELATING TO FINANCIAL OPERATIONS

Credit institutions and financial companies are under an obligation to report to the Tax and Customs Authority the value of flows of payments with credit and debit cards made through them to IRC and category taxable persons by July of every year. The bill proposes an extension of this obligation from only credit institutions and financial companies to all entities that provide payment services.

▪ TAXPAYERS' GUARANTEES

For the purposes of review of tax acts, it is proposed that errors in the self-assessment made by the taxable person will cease to be imputable to the offices of the Tax and Customs Authority. This implies a reduction from 4 to 2 years from the date of filing the tax return of the period for taxpayers to take administrative action in these cases.

XIII. CODE OF TAX PROCEDURE AND PROCESS

■ JURISDICTION TO OVERTURN CHALLENGED ACTS

The bill proposes that the value of actions should cease to be relevant for the purposes of allocating jurisdiction to overturn acts that have been challenged. Instead, jurisdiction will be allocated to the regional peripheral body of the Tax and Customs Authority or, if there is no such body, to the highest level manager in the tax office.

■ REGULARISED TAX SITUATION

For the purposes of issuing a certificate of a regularised tax situation, the bill proposes that the rule should be extended to cover the form of litigation that is appropriate to decide whether or not the debt subject to tax enforcement is due (the current rule only provides for a decision on the legality of the debt).

■ PAYMENT IN INSTALMENTS BEFORE TAX ENFORCEMENT

The bill proposes that payment in instalments should be allowed before enforcement proceedings are issued, with waiver of guarantee, in the case of IRS debts below EUR 5000 and IRC debts below EUR 10 000 (previously, EUR 2500 and EUR 5000, respectively), in the following instalments:

Value of IRS debt (in euros)		Number of instalments	Value of IRC debt (in euros)	
204	350	2	408	700
351	500	3	701	1000
501	650	4	1001	1300
651	800	5	1301	1600
801	950	6	1601	1900
951	1100	7	1901	2200
1101	1250	8	2201	2500
1251	1400	9	2501	2800
1401	1550	10	2801	3100
1551	1700	11	3101	3400
1701	5000	12	3401	10000

■ SERVICE OF TAX ENFORCEMENT PROCEEDINGS

In cases where various debts are being collected under a single tax enforcement action, the bill proposes that:

a) The essential requirements for the enforcement title, in particular, the nature and provenance of the debt and the indication of its amount, may refer to all of the debts in question;

b) The summons is deemed served only on the fifth day after the summons;

c) The information on each one of the debts may be consulted on the Tax Authority website;

d) In the case of taxable persons that are not under an obligation to register for the electronic mailbox service and who do not have a password to access the Tax Authority website, the information on each one of the debts can be obtained (free of charge) from the tax enforcement body.

In addition, in the context of formalities for service of tax enforcement proceedings, the bill proposes that the various forms of service by post may be done by electronic transfer of data, and this will be equivalent to personal service.

■ ATTACHMENT BY THE TAX AND CUSTOMS AUTHORITY

If it is not possible serve the summons in tax enforcement proceedings, it is proposed that the amounts deposited may be applied towards payment of the debt being enforced. This possibility does not prevent the debtor from, among other things, opposing the enforcement.

The bill also proposes that it should be possible for the debtor to ask any banking institution holding a deposit that has been attached to deposit the attached amounts with the tax enforcement body.

Finally, there is a proposal to simplify the procedures when bonuses, wages or salaries are attached. The companies that have to pay them will be given notice and they will be under an obligation to discount and then deposit the only the amounts due under the attachment.

CANCELLATION OF TAX ENFORCEMENT PROCEEDINGS

It is proposed that, in the case of voluntary payment of a tax debt that is paid in full when all that remains is a value of EUR 10 or less corresponding to penalty interest or costs, the tax enforcement proceedings will be cancelled.

This rule will apply immediately to all tax enforcement actions that are pending on the date the 2016 State Budget comes into force.

PROCEDURE FOR VALUATION OF GUARANTEES

There is a proposal to add a rule to the Code of Tax Procedure and Process on the valuation of guarantees that consist of immovable property, movable property, shareholdings, debt securities and monetary values, and commercial, industrial and agricultural establishments. The new rule provides that the value should be calculated in accordance with the rules contained in the Stamp Duty Code. It also defines the amounts that should be deducted from the value of each of these assets.

The proposal is for this rule to apply to guarantees that have been accepted up to the date the 2016 State Budget comes into force. This means that guarantees already accepted by the Tax and Customs Authority may be subject to a new valuation. As a consequence, the guarantees may have to be increased or substituted whenever the value calculated under the new rules is less than 80% of the value of the debt, plus penalty interest and 25% of the sum of those values.

WAIVER OF GUARANTEE IN TAX ENFORCEMENT

There is a proposal for a transitional scheme of payment in 12 instalments with waiver of the guarantee in cases that are at the tax enforcement stage, regardless of the amount owed. This scheme will apply to all requests filed on or before 31 December 2016. To maintain the instalment plan, it will be necessary, in any event, to comply with the following requirements:

a) Payment of the instalments in due time (failure to pay one instalment will mean that all the following instalments fall due and the tax enforcement proceedings will go ahead with steps to enforce recovery of the outstanding amounts).

b) Any assets capable of guaranteeing the debt may not be disposed of or charged (in full or in part) until the instalment plan is completed;

c) Any new debts must be regularised within 90 days of the date they fall due.

Taxpayers who file a request to pay in 12 instalments will be required to pay interest at double the rate applicable to debts to the State and other public entities.

XIV. GENERAL FRAMEWORK OF TAX INFRINGEMENTS REGIME

DECLARATION OF FINANCIAL AND TAX INFORMATION BY COUNTRY OR JURISDICTION

The bill proposes that failure to file the declaration of financial and tax information by country or jurisdiction, in relation to entities of a multinational group, by the deadline set by the Tax and Customs Authority, will be punishable with a fine of between EUR 500 and EUR 10 000.

XV. LEGISLATIVE AUTHORISATIONS

PERSONAL INCOME TAX

The bill authorises the Government to pass legislation to amend the rules on registration of non-habitual residents in order to introduce a system of electronic registration. The bill also authorises the Government to pass legislation to shorten the period in which credit institutions must communicate the data relating to mortgage interest for a permanent residence, insurance premiums, health expenses co-pays, retirement savings plans (PPRs) and pension funds. Data is currently communicated using the declaration form *Modelo 37*.

CORPORATE INCOME TAX

The State Budget bill grants the Government authorisation to pass legislation to repeal the current patent box regime under which 50% of income earned from patents and industrial designs or models is exempt from taxation. The existing regime will be replaced by a new one which makes the exemption subject to a ceiling that takes into account the expenses incurred in developing the intellectual property and the income generated by this intellectual property.

The bill also authorises the Government to pass legislation to introduce a new method for calculating the Special Payment on Account (*Pagamento Especial por Conta* – PEC) payable by companies that are part of the special regime for taxing groups of companies (*Regime Especial de Tributação de Grupos de Sociedades* – RETGS).

Finally, the bill authorises the Government to pass legislation to introduce an optional regime for revaluation of fixed tangible assets and investment property. In line with similar regimes, this will allow taxable persons to choose to revalue their assets upon payment of a special autonomous taxation rate of 14% on the amount of the revaluation reserves they have to set up for the purpose.

▪ VALUE-ADDED TAX

The bill authorises the Government to pass legislation to allow the deduction of VAT only in the periodic VAT declarations made at the time the invoices are received, or in the following period. This authorisation also allows the Government to introduce a single period to file the declaration of beginning of activity, and to simplify the flat rate compensation and small retailer regimes.

The State Budget bill also authorises the Government to pass legislation to create mechanisms for electronic control of the exemptions to be granted for the exportation of goods.

▪ STAMP TAX

The Government is authorised to pass legislation to:

a) Establish criteria to determine the taxable value of real property in cases of acquisition by adverse possession;
b) Introduce changes to the formula to determine the value of shareholdings in unlisted companies that are transferred for no consideration;
c) Make it clear that the rules on assessment, review of the assessment and deadlines for claims and challenges applicable to stamp duty on high-value properties also apply to municipal property tax (IMI); and
d) Extend the rules on the restriction on withdrawing monetary values in the event of a transfer for no consideration to any shareholdings, deposits of securities, public debt securities and certificates, and deposits of monetary values.

▪ ANNUAL PROPERTY TAX

The State Budget bill authorises the Government to pass legislation to bring the quality and comfort coefficients relating to location and operability for residential properties into line with those used for commercial, industrial and services properties.

The Government is also authorised to pass legislation to restrict the counting of periods for presenting claims and challenges, so that the periods run from the end of the period for voluntary payment of the first or only instalment of the tax.

▪ ROAD TAX

The State Budget bill authorises the Government to pass legislation to specify that the taxable person for road tax is always the person or entity in whose name the vehicle is registered. It will also be possible to automatically assess IUC, when there is an error imputable to the bodies responsible for maintaining, conserving and updating the registrations of vehicles subject to IUC.

The authorisation also allows the Government to restrict the concession of road tax benefits to vehicles with $CO2$ emissions of up to 180g/km, and to establish a maximum of EUR 200 for the IUC exemption for people with disabilities.

▪ TAX BENEFITS STATUTE

The State Budget bill authorises the Government to pass legislation to specify that the costs of purchasing fuel, in Portugal, for goods vehicles, public transport of passengers and taxis, are increased to 120% in the deduction of costs for the purposes of determining the IRC or IRS taxable profit of taxable persons with organised accounting. This restores the rules that were previously in force under the Tax Benefits Statute.

▪ TAX PROCEDURE AND PROCESS CODE

The State Budget bill proposes an amendment to the Tax Procedure and Process Code in order to make it clear that, for the purposes of the standing of debtors in tax enforcement proceedings, companies that benefit from merger or demerger operations are successors of the original debtors. To achieve this, a procedural step will be introduced in the enforcement proceedings to identify who the debtor's successors are and to quantify how much of the debt they are responsible for.

▪ COMPLEMENTARY RULES ON TAX AND CUSTOMS INSPECTION PROCEDURE REGIME

The State Budget bill authorises the Government to pass legislation to create a paper-free tax inspection process, particularly in the case of notifications to taxable persons. To achieve this, notifications will be sent by electronic data transfer using the electronic mailbox.

THE COSTS REGULATION

The State Budget bill authorises the Government to pass legislation to increase costs in tax enforcement proceedings, including in the matter of ranking credits.

INTERNATIONAL INFORMATION EXCHANGE

The State Budget bill authorises the Government to pass legislation to implement the following international legislation:

e) The OECD multilateral agreement on Common Reporting Standard ("CRS"), and

f) Directive no. 2014/107/EU of the Council, which amended Directive no. 2011/16/EU, on administrative cooperation in the field of taxation.

In executing this legislative authorisation, the Government may give the Tax and Customs Authority access to bank details which are not currently automatically communicated to this entity, including taxpayers' account balances, whether or not they are resident in Portugal.

OTHER LEGISLATIVE AUTHORISATIONS

The Government is also authorised to pass legislation to introduce a tax incentive for film production. The bill proposes a corporate income allowance for film production expenses when the filming is carried out in Portugal, and requires a total value of eligible expenses of at least EUR 1 million.

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