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SOCIEDADE DE ADVOGADOS, RL

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Alterações Fiscais

STATE BUDGET 2012
Tax Amendments

BUDGET DE L'ÉTAT 2012
Modifications Fiscales





State Budget 2012

Tax Amendments

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I. INTRODUCTION

PUBLICATION Law 64-B/2011, which approves the 2012 State Budget (the “Budget”), was published in the official gazette, Diário da República no. 250, Supplement, Series I of 30 December 2011.

ENTRY INTO FORCE The 2011 State Budget Law including all its amendments, updates and authorisations on tax matters came into force on 1 January 2012.

II. PERSONAL INCOME TAX

IMPOSTO SOBRE O RENDIMENTO DAS PESSOAS SINGULARES / IRS

MEAL ALLOWANCE The Budget provides for a reduction in the part of the meal allowance which is not subject to personal income tax (better known in Portugal and referred to in this document as ‘IRS’). This subsidy becomes part of the income from employment to the extent it exceeds the legal limit established by 20% (previously 50%), or by 60% (previously 70%) whenever the allowance is given in the form of vouchers.

HOUSING PROVIDED BY THE EMPLOYER The limit applicable to taxable income in the use of housing provided by the employer without payment of rent is reduced. The limit must correspond to the amount of the controlled rent, determined in accordance with legal criteria, and must not exceed one third (rather than one sixth) of the total income earned by the beneficiary.

INTEREST PAID BY THE EMPLOYER The taxable income relating to interest paid by the employer in the case of loans provided to the employee is now determined in accordance with distinct criteria, and also, depending on whether the loans are provided by the employer or by third parties. In the latter case the taxable income must correspond to the part of the interest paid by the employer.

COMPENSATION FOR TERMINATION OF CONTRACT OR POSITION Representatives of permanent establishments of non-resident entities are to be taxed on the total amount of compensation received for termination of employment. This puts them in the same position as public sector managers and company directors and managers. The Budget also provides for a reduction in the limit after which compensation for termination of the employment contract or equivalent is taxed. This corresponds to the average value (rather than one and the half times the value) of regular remuneration by way of salary subject to tax earned in the last twelve months, multiplied by the number of years or fraction of year of service, or of carrying out duties in the company paying the compensation.



PROFESSIONS WITH A SHORT LIFESPAN

The Budget introduces a limit of five times the Social Support Index (SSI) – (€2096.10) for the deduction of amounts spent by taxable persons who work in professions with a short lifespan (such as professional sportsmen and women) in taking out insurance for healthcare and personal accidents and life insurance that exclusively guarantees risks of death, invalidity or age-based retirement.

EXCLUSION OF TAXATION OF INCOME FROM AGRICULTURE, FORESTRY AND FISHERIES

The Budget includes a reduction in the limit up to which income from agriculture, forestry and fishery activities is excluded from taxation under category B (professional and business income). The limit changes to four and a half times the annual value of the SSI (€26 410.86) per household and substitutes the previous limit of five times the said SSI value per household.

IMPUTATION OF INCOME OF NON-RESIDENT COMPANIES BENEFITING FROM A PRIVILEGED TAX REGIME

Provision is made for the rules on imputation of income of non-resident companies subject to a privileged tax regime to apply to resident taxable persons who hold, directly, or indirectly through a legal representative, trustee or intermediary, 25% or 10%, according to the specific case, not only in stakes in the capital but also in voting rights or other rights over the income or the assets of those companies.

INCOME IN THE ASSIGNMENT OR ANNULMENT OF SWAPS OR FOREIGN EXCHANGE OPERATIONS

For the calculation of income resulting from the assignment or annulment of swaps or foreign exchange forward operations with payment and receipt of adjustment values, the Budget provides that neither the payment of compensation nor the cost imputed to the acquisition of a contractual position of a pre-existing swap should be taken into consideration when, in both cases, they exceed the adjustment or terminal payments provided for in the original contract, or the market prices applicable to operations with identical characteristics.

SPECIFIC DEDUCTION IN CATEGORY H

Provision is made for the specific deduction of gross pension income to be equal to the specific deduction laid down for income from employment, which is 72% of twelve times the value of the SSI. For this purpose, the value of the SSI is deemed to correspond to the value of the minimum monthly pay applicable in 2010, which is €475.00.

PEOPLE WITH DISABILITIES

On a temporary basis in 2012 only 90% of the gross income from categories A (employment income), B (business and professional income) and H (pensions) earned by taxable persons with disabilities is now considered for the purposes of IRS (personal income tax). The

part of the income excluded from taxation may not exceed €2500.00 per category of income.

CARRY FORWARD OF LOSSES IN CATEGORIES B, F AND G

A new period is established for the carry forward of losses in categories B (business and professional income), F (real property income) and G (increases in wealth including capital gains). The period is now five years in place of the previous four years and this change applies to tax losses made in taxation periods that begin after 1 January 2012. For category B, the deduction of losses in each of the periods cannot exceed 75% of the taxable profits.

DECLARATION BY EXECUTOR OR ADMINISTRATOR

In cases where a taxable person dies, the administrator (executor) of the deceased's estate must present an income declaration in the name of the deceased for the income earned between 1 January of the year of death and the date of death

TAX BANDS AND GENERAL RATES

The Budget retains the table of taxable income bands and the corresponding general rates that were in effect as of the end of last year.

ADDITIONAL SOLIDARITY RATE

However, it also introduces an additional (solidarity) rate of 2.5% charged on taxable income above €153 300.00. Its application is limited to income earned during the tax years 2012 and 2013.

SUBSISTENCE MINIMUM

The subsistence minimum limit is extended to cover not only income from Category A (employment) but also income from Category H (pensions).

SPECIAL RATES

The taxation of income from real property (Category E), not subject to withholding at source, earned in Portugal by a non-resident and not imputable to a permanent establishment within the country, is now subject to a rate of 16.5% rather than 15%. The Budget also provides that income from capital (including deposit interest and dividends) as well as the positive balance between capital gains and losses from real estate are now subject to a rate of 21.5%, in place of the previous rates of 21.5% and 20% respectively.

ANTI-ABUSE MEASURE

Under the new Budget, the income from capital and securities paid - by non-resident entities, without permanent establishment in Portugal, which are resident for tax purposes in a country, territory or region subject to a clearly more favourable tax system - to taxable persons

resident in Portugal, through the intermediary of entities instructed for this purpose, or which act on behalf of the debtors or those entitled to the income in question, is now subject to a withholding of tax at source, or in final terms, to a rate of 30%. The payment of such income to entities based there is also now subject to a definitive withholding tax at the same rate.

WITHHOLDING TAXES IN CATEGORIES A, B, E AND F

A withholding tax rate of 20% is introduced for income in categories A and B (in this case, in the context of carrying out activities with a high added value of a scientific, artistic or technical nature) earned by persons who are not habitually resident in Portugal. The Budget also alters the withholding tax rates for income in Categories A (employment income), B (business and professional income), E (income from capital) and F (income from real property) provided for in Decree-Law no. 42/91 of 22 June (withholding tax system), in accordance with the IRS Code.

REBATE OF EXCESS WITHHOLDING TAX

A limit of one year is introduced for the payment of the rebate for excess withholding tax payments. This time limit runs from the date of presentation of the request for the rebate and the documents proving the requirements for the rebate to be made in respect of income covered by international conventions. The period is suspended whenever the procedure stops through the fault of the applicant, and compensatory interest is due in the event of default.

HEALTHCARE, EDUCATION AND TRAINING EXPENSES, FAMILY MAINTENANCE PAYMENTS AND EXPENSES FOR HOMES AND REAL PROPERTY

The Budget eliminates the deductions in the two highest bands and extends the limitation on the tax allowances for costs of healthcare, education and training, family maintenance payments and cost associated with homes and real property, in the following terms:

Taxable income bands	2011	2012
Up to €4898	No Limit	No Limit
From more than €4898 up to €7410	No Limit	No Limit
From more than €7410 up to €18 375	No Limit	€1250
From more than €18 375 up to €42 259	No Limit	€1200
From more than €42 259 up to €61 244	No Limit	€1150
From more than €61 244 up to €66 045	No Limit	€1100
From more than €66 045 up to €153.300	1.666% of taxable income with a limit of €1100	€0
Above €153 300	€1100	€0

INCREASED ALLOWANCES FOR DEPENDENTS

However, provision is made for an increase in the limits set for income bands 3, 4, 5 and 6, in 10% for each dependant or child who is not a taxable person for the purposes of personal income tax.

DIVORCE, LEGAL SEPARATION AND DECLARATION OF NULLITY OR ANNULMENT OF MARRIAGE

In cases where, through divorce, legal separation of persons and property, declaration of nullity or annulment of the marriage, the parental responsibilities in relation to the children are exercised jointly by both parents, tax allowances in general are split 50/50 in respect of each dependant.

HEALTHCARE

Provision is made for healthcare expenses to be deductible up to only 10% (rather than the previous 30%), and with a limit of twice the SSI (€838.44). For households with three or more dependants the limit is increased to 30% of the value of the SSI (€125.77) for each dependant when there are healthcare expenses for all of them.

FAMILY MAINTENANCE PAYMENTS

Provision is made for tax allowances for the costs of family maintenance payments that the taxable person is required to pay under a court order or an agreement approved under the applicable legislation. This allowance is subject to a monthly limit of the SSI for each beneficiary (€419.22) and replaces the previous monthly limit of 2.5 times the SSI (€1048.05).

REAL ESTATE

The Budget reduces the allowance for real estate expenses which are now only deductible up to a limit of 15%. For contracts made before 31 December 2011, capital repayments under mortgage agreements for the purchase of a principal and permanent dwelling, and now also payments under financial leasing contracts, as well as rental contracts, are no longer deductible. The limit of €591.00 remains in place. The tax allowance for rent paid under contracts made with entities with their tax residence in countries with a privileged tax regime is also eliminated. This includes situations in which such rental payments correspond to more than 1/15 of the official valuation for tax purposes (valor patrimonial) of the rented property. The increase in the limits provided for in accordance with the income band also extends to rental contracts and financial leasing contracts.

ELIMINATION OF THE INCREASE IN THE LIMITS FOR BUILDINGS WITH NA A OR A+ ENERGY RATING

The increase in the limits on tax deductions for buildings with an A or A+ energy rating, in accordance with the energy certificate awarded under Decree-Law 78/2006 of 4 April is eliminated.

TRANSITIONAL ARRANGEMENTS

The budget provides for the elimination of deductions for real estate expenses in stages and the following transitional arrangements have been established:

Real Estate Expenses	Consideration, for the purposes of IRS, of the limits on deduction of real estate expenses (€591)					
	2013	2014	2015	2016	2017	2018
Interest on debts	75% (€ 443,25)	50% (€ 295,50)	25% (€ 147,75)	-	-	-
Payments under contracts with housing cooperatives under the system for group purchases	75% (€ 443,25)	50% (€ 295,50)	25% (€ 147,75)	-	-	-
Rents due under financial leasing contracts	75% (€ 443,25)	50% (€ 295,50)	25% (€ 147,75)	-	-	-
Rents due under rental contracts	85% (€ 502,35)	70% (€ 413,70)	55% (€ 325,05)	40% (€ 236,4)	25% (€ 147,75)	-

DEADLINES FOR ASSESSMENT AND PAYMENT

Provision is made for the standardisation of the period for assessment of IRS and this now ends on 31 July. Payment of the IRS due must be made by 31 August regardless of the deadline for filing the income declaration.

ONE-OFF TRANSACTIONS (ACTOS ISOLADOS)

The Budget eliminates the exemption from issuing a receipt for work or services (*recibo verde*) and an invoice or equivalent document for one-off transactions (*actos aislados*).

INCOME PAID TO NON-RESIDENTS

The Budget changes the deadline for debtor entities to file the declaration of income paid or made available to taxable persons who are not resident in Portugal (tax form Modelo 30). The deadline is now the end of the second month following the month in which the income is paid or made available.

COMMUNICATION OF REAL ESTATE EXPENSES

The communication obligation in respect of interest expenses on debts contracted to acquire, build or renovate real estate for a principal and permanent dwelling is extended to financial leasing companies.

COMMUNICATION OF PAYMENT OF SUBSIDIES

Provision is made for entities that pay non-reimbursable subsidies or grants in the context of Category B (business and professional income) activities to be required to file a declaration on the official form



communicating the income attributed in the previous year by the end of the February of each year.

TAX REPRESENTATION OF NON-RESIDENTS

In compliance with the judgment of the Court of Justice of the European Union of 5 May 2011 (case C-267/09), the Budget removes the requirement to appoint a tax representative. This is now optional for non-residents or residents who move to Member States of the European Union or to countries in the European Economic Area (in the latter case, as long as they bound by rules on administrative cooperation in the area of tax equivalent to those established in the European Union).

CROSS-REFERENCES

The Budget updates the cross-references in the IRC (personal income tax) Code, IMI (municipal property tax) Code and the IMT (municipal tax on transfers of property for value) Code. NOTE: IMI is the annual tax paid by owners of real property and IMT is the tax paid when property is sold.

VAT CREDIT

The Budget introduces an IRS deduction corresponding to a value of up to 5% of the VAT borne and actually paid in the acquisition of goods or services, subject to an upper limit.

III. SOCIAL SECURITY

FREEZING OF THE SOCIAL SUPPORT INDEX

The current value of the SSI is frozen and remains at €419.22.

MEMBERS OF COMPANY BOARDS AND COMMITTEES

The Budget makes it clear that the members of the internal supervision bodies set up under the company's articles of association, as well as the members of other boards and committees set up in the same way, are subject to the contribution rules for members of corporate bodies when - not being mandatorily covered by the convergent social protection system for public employees - they do not opt for a different system of social protection for which registration is compulsory.

WORKERS IN THE FISHING INDUSTRY

As from 1 January 2012, the framework for local and coastal fishing workers, gatherers of marine species and on-shore fishermen changes. These workers are now expressly covered by the general rules in the Tax Code alongside the specific provisions for local and coastal fishing workers, the owners of boats who are part of the crew and exercise professional activity on these boats, and also gatherers of marine species and fishermen working on shore. The rate of contribution for



social security is now 29% (21% paid by the employer and 8% by the employee).

RESTARTING ACTIVITY FOR SEL-EMPLOYED WORKERS

When self-employed workers officially restart an activity, the legal relationship of subscription to social security is brought forward the first day of the month in which the activity is restarted. In this case, the basis of assessment is now determined by reference to the tax band that was used in the previous October if the termination of activity occurs during the twelve months for which the fixing of the tax band takes effect. Alternatively, it is set at the first tax band if there has been no activity in the previous twelve months.

ELECTRONIC TRANSMISSION OF DATA

Social Security authorities must send the values of all the social security contributions paid, by beneficiary, for the previous year, to the Directorate-General of Contributions and Taxes (DGCI). This data is to be transferred electronically in a declaration in the official form, by the end of February of each year.

IV. CORPORATE INCOME TAX ***IMPOSTO SOBRE O RENDIMENTO DAS PESSOAS COLECTIVAS - IRC***

TAXATION PERIOD

It is now possible for companies to adopt an annual tax period different to the calendar year and doing is no longer conditional on maintaining that period in the five tax periods immediately following. This option is available whenever the taxable company joins a group of companies that is obliged to prepare consolidated financial reports and in which the parent company adopts a taxation period different to the one adopted by the taxable company.

ENTITIES ATTACHED TO IPSSs

Entities attached to IPSSs (Private Social Solidarity Institutions) cease to benefit from the IRC exemption.

NON-CONSUMABLE BIOLOGICAL ASSETS

Non-consumable biological assets are now deemed to be tangible fixed assets for the purposes of acceptance of the respective depreciation for tax purposes.

CARRY FORWARD OF TAX LOSSES

It is now possible to deduct tax losses made in a specific taxation period up to the fifth following taxation period. This was only previously possible up to fourth taxation period. The Budget makes it

clear that this alteration applies to tax losses made in taxation periods that begin on or after 1 January 2012. In this respect the Budget also makes it clear that capital losses may only be deducted from income of the same category in one or more of the five following taxation periods. Provision is also made for the deduction to be made in each of the taxation periods to have a limit of 75% of the respective taxable profits. However, this does not prejudice the deduction of the part of these losses that has not been deducted under the same conditions and up to the end of the respective period of deduction. This change also applies under the special regime for taxation of groups of companies (Regime Especial de Tributação dos Grupos de Sociedades / RETGS).

LEGAL CERTIFICATION OF ACCOUNTS

This alteration also applies under the RETGS (Special Regime for Taxation of Groups of Companies) and provision is also made here for the reduction from six to five years of the period for cancellation liquidation, even when additional, of IRC (corporate income tax), made following corrections to tax losses declared by the taxable person. Finally, in the case of commercial companies that deduct tax losses in two consecutive taxation periods, the new law removes the requirement for legal certification of the accounts by an official accountant.

PAYMENTS TO NON- RESIDENTS WITH A PRIVILEGED REGIME

The Budget removes the right to deduct amounts paid or due indirectly, on any basis, to individuals or companies resident outside Portugal in a place where they are subject to a clearly more favourable tax regime, whenever the taxable person is or should be aware of the destination of such amounts. The Budget makes it clear that knowledge of the destination of the amounts is presumed to exist when there is a special relationship between (i) the taxable person and the individuals or companies resident outside Portugal in a place subject to a clearly more favourable tax regime or (ii) the taxable person and the representative, trustee or intermediary who makes the payment to the said individuals or companies.

IMPUTATION TO NON- RESIDENTS WITH A PRIVILEGED REGIME

Provision is made for the imputation of profits or income earned by entities not resident in Portugal and subject to a clearly more favourable tax regime to persons taxable in respect of IRC who are resident in Portugal to apply not only when the latter hold, directly or indirectly, at least 25% of the capital, but also when they hold 25% of the voting rights or of the rights over the income or the assets of these companies. Furthermore, in this context, provision is made for the said imputation



to occur even if the 25% of the capital, percentage of voting rights or rights over the income or the assets of these companies is held through a representative, trustee or intermediary. In addition, it is no longer possible to deduct - under this system for imputation of profits, up to the end of the five following taxation periods - the remainder of the amount of tax credit for international double taxation that could not be deducted because of a lack of taxable income in the taxation period in which the profits previously imputed had been distributed. Finally on this issue, the Budget provides that the rules on imputation of income for entities not resident in Portugal and subject to a clearly more favourable tax regime does not apply whenever the entity not resident in Portugal is resident or established in another Member State of the European Union or in a Member State of the European Economic Area. In the latter situation, the exemption is dependent on the EEA Member State being committed to administrative cooperation in the tax area which is equivalent to the one established in the European Union and also on the taxable person demonstrating that the entity was set up and operates for valid economic reasons and that it carries on economic activity of an agricultural, commercial or industrial nature, or one involving the provision of services.

TAX DOSSIER

In the same area, the Budget provides that the tax documentation procedure ("tax dossier") for taxable persons that hold 25% of the capital - or 25% of the voting rights or the rights over the income or the assets - of entities that are not resident in Portugal and subject to a clearly more favourable tax regime, now includes all legal instruments that relate to voting rights or rights over income or assets. The Budget makes it clear that - for the purpose of determining the percentage of shares in capital, the percentage of voting rights or rights over income or assets of the said companies held - the capital shares and rights held, directly and indirectly, by entities with which the taxable person has a special relationship are also taken into consideration.

PROOF UNDER THE RETGS

Proof of meeting the conditions for the application of the RETGS is now the responsibility of the controlling company.

GENERAL CORPORATE INCOME TAX (IRC) RATES

The reduced rate of 12.5% applicable to income of up to €12 500.00 is eliminated and replaced by the single rate of 25%. However, the Budget also introduces a special rate of 30% for income from capital paid or made available to non-resident entities without permanent

establishment in Portugal, which have their tax residence in a country, territory or region subject to a clearly more favourable tax regime.

DEBT SECURITIES AND OTHER CAPITAL INCOME

In turn, it is provided that income from debt securities and other income from capital not expressly taxed at a different rate and earned by non-resident entities is now subject to the rate of 25% (previously 21.5%).

STATE SURTAX

The basis of assessment of the state surtax is increased and is now charged on the part of the taxable income that exceeds €1 500 000.00. Under the previous legislation, only taxable income in excess of €2 000 000.00 was subject to the surtax. The Budget also increases the rate of the state surtax from the previous 2.5% to 3%. This new rate applies to taxable profits between €1 500 000.00 and €10 000 000.00 and a rate of 5% applies to any taxable profits exceeding €10 000 000.00. The Budget makes it clear that the said changes apply to taxable profits for the two taxation periods that begin on or 1 January 2012.

MUNICIPAL SURTAX UNDER THE RETGS

The Budget provides that when the RETGS applies, the municipal surtax rate applies to the individual taxable profits of each of the companies of the group.

UNDOCUMENTED EXPENSES

The Budget provides that the higher rate of 70% applicable to undocumented expenses now also applies to taxable persons that earn income resulting directly from activity subject to the special gambling tax.

AUTONOMOUS TAXATION

The rate for autonomous taxation applicable to all profits distributed by entities subject to corporate income tax (IRC) to taxable persons that benefit from total or partial exemption goes up from 20% to 25%.

ADDITIONAL PAYMENT ON ACCOUNT

The additional payment on account resulting from the increases in the state surtax – owed by entities obliged to make payments on account and special payments, whenever the state surtax was due in the previous taxation period – is now 2.5% on the part of the taxable profits for the previous taxation period between €1 500 000.00 and €10 000 000.00 and 4.5%, on the part of the taxable profits exceeding €10 000 000.00. Under the previous legislation, the additional payment on account was 2% of the part of the taxable



profits exceeding €2 000 000.00 for the previous taxation period. In this respect, the Budget establishes a rate of 2.5% on €8 500 000.00, and 4.5% on taxable profits exceeding €10 000 000.00, both to apply as a payment on account in addition to the part of the taxable profits for the previous taxation period that exceeds €10 000 000.00. The Budget also provides that these changes apply to additional payments on account for the two taxation periods that begin on or after 1 January 2012.

SIMPLIFIED BOOKKEEPING SYSTEM

Provision is made for the simplified bookkeeping system – the obligation to register income, expenses and inventory on the part of entities that do not carry on, as their principal activity, commercial, industrial or agricultural activity – to apply whenever the total income earned in each of the two previous financial years does not exceed €150 000.00 (under the previous legislation, the limit was €75 000.00, with reference to the immediately preceding financial year) and the taxable person does not opt for organised accounting that allows the control of profit earned from these activities. The Budget also includes a requirement for organised accounting to cease to apply whenever, in two consecutive financial years, the amount of €150 000.00 is exceeded.

TAX REPRESENTATIVE

The appointment of a tax representative is now optional for entities considered to be resident for tax purposes in other Member States of the European Union or the European Economic Area, as long as, in the latter case, this Member State is committed to administrative cooperation in the tax area which is equivalent to the cooperation established in the European Union.

GRANTING OF SUBSIDIES

Entities that pay non-reimbursable subsidies or grants to taxable persons for IRC must file a declaration with the DGCI (Directorate-General of Contributions and Taxes) on the official form in respect of income attributed in the previous year. The form must be filed by the end of February of each year.

COMPUTER EQUIPMENT AND INVOICING SOFTWARE

Provision is made for the exceptional depreciation arising from the loss, in the 2012 taxation period, of computer programs and equipment for invoicing - that is substituted as a consequence of the requirement for certification of software for the purposes of complying with the accounting obligations of companies - is automatically deemed to be an impairment loss. Furthermore, it is not necessary for the taxable

person to obtain the respective acceptance from the tax authorities. Provision is also made for the expenses of the acquisition of computer programs and equipment for certified invoicing acquired in 2012 to be considered as a tax expenses in the taxation period in which they are borne.

V. VALUE ADDED TAX – VAT *IMPOSTO SOBRE O VALOR ACRESCENTADO – IVA*

- COPYRIGHT** The VAT exemption relating to the transfer of copyright and authorisation of the use of intellectual work when the author that makes the transfer is a company is eliminated.
- TAXABLE AMOUNT** The Budget creates new rules on the determination of the taxable amount in operations between taxable persons that have special relationships (related entities under article 63 (4) of the IRC Code). In this case, the criterion of normal value prevails over the value of the consideration obtained or to be obtained from the other party or from a third party. This exception to the general rule for determining the taxable amount can be excluded if it can be proved that the difference between the consideration and the normal value is justified by circumstances other than the special relationship between the parties. This is an anti-abuse rule that seeks to prevent situations of manipulation of the value of operations and of the VAT assessed in transactions between entities that have special relationships and restrictions on the right to the deduction.
- MICRO-ENTITIES** Provision is made for taxable persons to whom the system of accounting standardisation for micro-entities applies to be excused from having to file a declaration of accounting and tax information and annexes in respect of the application of Decree-Law no. 347/85 of 23 August (VAT rates applicable in the Autonomous Regions of the Azores and Madeira).
- DECLARATION OF CHANGE** Taxable persons are not required to file a declaration of change relating to the start of activity whenever the change in question is in respect of facts subject to registration at the commercial registry and to entities registered on the central file of companies that are not subject to commercial registration.

**SPECIAL EXEMPTION
SYSTEM**

Provision is made for taxable persons exempt by reason of turnover under article 53 of the VAT Code (and not required to comply with the various requirements under the VAT Code), to be required to include the provision of services to taxable person located in other Member States in their summary declaration of intra-EU operations when the operations are not taxable in Portugal.

OFFICIAL ASSESSMENT

The Budget includes new rules for the official assessment of VAT by the tax authorities. These rules are based on the details of the taxable person or the respective sector of activity and the following minimum limits are established: (i) an annual amount equal to six times the guaranteed minimum monthly income for taxable persons under the monthly system, and (iii) an annual amount equal to three times the guaranteed minimum monthly income for taxable persons under the quarterly system.

**CHANGES FROM THE
REDUCED RATE TO THE
NORMAL RATE**

As regards the reduced rate of 6% (still 4% in the Autonomous Regions as the Budget does alter the existing rates), the Budget provides that this no longer applies to the following goods and services which are now taxed at the normal rate of 23% (still 16% in the Autonomous Regions as the Budget does not alter the current rates): (i) soya desserts; (ii) water with added substances, (iii) whole or cut fresh peeled potato that is pre-fried, refrigerated, frozen, dry or dehydrated, whether in purée or prepared by means of boiling or frying; (iv) cold drinks, juice syrups, concentrated juice drinks and concentrated juice products; (v) shows, sporting competitions and demonstrations and other public entertainment; and (vi) natural raffia. The new rules represent an increase of 17% in the rate of VAT previously applicable to the goods and services referred to above in mainland Portugal, and of 12% in the Autonomous Regions.

**CHANGES FROM THE
REDUCED RATE TO THE
INTERMEDIATE RATE**

The Budget provides that the reduced rate of 6% (4% in the Autonomous Regions) no longer applies to (i) transfers of spring, mineral, medicinal and table water, sparkling or carbonated water (with the exception of water to which other substances have been added) and (ii) tickets for song, dance, music, theatre, cinema and circus shows (but not tickets for shows that are pornographic or obscene in nature). Both groups of items are now taxed at the intermediate rate of 13% (still 9% in the Autonomous Regions as the Budget does alter the existing rates), For mainland Portugal this proposal represents an increase of 7% in rate of VAT previously applicable to the goods referred to above, and an increase of 5% in the Autonomous Regions.

CHANGES FROM THE INTERMEDIATE RATE TO THE NORMAL RATE

As regards the intermediate rate of 13% (9% in the Autonomous Regions), provision is made for this to cease to apply to the following goods and services, which are now taxed at the normal rate of 23% (16% in the Autonomous Regions): (i) heating oil; (ii) fruit preserves; (iii) fruit and dried fruits; (iv) preserves of horticultural products; (v) Directly edible oils and mixtures of the same (food oils); (vi) margarines of animal and vegetable origin; (vii) green, raw or toasted coffee in bean or powder form and substitutes and mixtures of the same; (viii) aperitifs based on horticultural products and seeds; (ix) products prepared from meat, fish, vegetable horticultural products, pasta with fillings, pizzas, sandwiches and soups, even when presented frozen and pre-frozen and ready-to-eat meals sold as ready-to-eat and take away or with home delivery; (x) aperitifs or snacks made from corn and wheat extracts, from ground and fried corn or potato starch, in individual packages; (xi) devices, machinery and other equipment exclusively or principally used for the harvesting and use of solar, wind and geometric energy; harvesting and use of other alternative forms of energy; production of energy from incineration or transformation of refuse, household and other waste; prospecting and search for oil and development of oil and natural gas discoveries; and measurement and control to avoid or reduce the various forms of pollution; (xii) provision of food and beverage services. This provision represents an increase of 10% in the VAT rate previously applicable to the goods and services referred to above in mainland Portugal, and of 7% in the Autonomous Regions.

SALES TO NATIONAL EXPORTERS

In order to simplify its application, the Budget redefines the conditions of application of the VAT exemption system to sales to national exporters of merchandise

INTRA-EU TRANSACTIONS

The minimum limit from which taxable persons must provide a summary statement to be filed by the 20th of the month following the one to which the operations relate is to change from €100 000 to €50 000.

GAS FUELS

The Budget substitutes the special taxation system for gas fuels with the normal VAT system as from 1 January 2012. A number of transitional arrangements will apply.



RULES FOR WHEN VAT IS DUE TO THE STATE

The Government plans to carry out the consultation and studies necessary to present a proposal for the introduction, during 2012, of a simplified and optional system allowing for VAT to be paid to the State when it is received by the taxable person, rather than when the invoice is issued. This system is intended for micro companies that are not exempt from the tax.

"VAT PACKAGE" – RENTAL OF TRANSPORT AND BOATS

Provision is made for the Government to be authorised to proceed with the transposition of the "VAT Package", as regards the place of provision of services in specific rentals of means of transport and boats.

INVOICING AND CHARGEABILITY OF VAT

Provision is made for the Government to be authorised to proceed with the transposition of Council Directive no. 2010/45/EU of 13 July 2010 on invoicing and chargeability of the tax.

ELECTRONIC TRANSMISSION OF INVOICES

Provision is made for the Government to be authorised to approve a system that sets up and regulates the electronic issue and transmission of invoices and other tax related documents.

VAT CREDIT

The Budget provides for the creation of deductions for IRS (personal income tax), IMI (municipal property tax) or IUC (single road tax) corresponding to a value of up to 5% of the VAT due and actually paid by the taxable persons in the acquisition of goods or services, up to a specific limit.

VI. MUNICIPAL PROPERTY TAX *IMPOSTO MUNICIPAL SOBRE IMÓVEIS - IMI*

START OF TAXATION

The Budget provides that the year in which the said property appeared on the respective inventory is taken into consideration to determine the start of the IMI taxation in the case of land for construction owned by a company which has the object of constructing buildings to sell, or buildings owned by a company that has the object of selling them. The start of taxation is no longer based on the year in which the property in question appears as an asset or working asset. The new wording of the rule that determines the start of the IMI in the case of land for construction owned by a company which has the object of constructing buildings to sell are interpretative in nature.

DECLARATION FOR VALUATION

To remove the need to file the final drawings and parcelling projects at the Tax Office, it is no longer necessary to present the final drawings and parcelling projects to the Municipal Council in digital format. As a consequence, it is not necessary for the taxpayer to refer to that fact in the tax return.

VALUE FOR TAXATION PURPOSES VALOR PATRIMONIAL TRIBUTÁRIO

The budget establishes an adjustment coefficient for areas of land for construction which applies to authorised or planned buildings in accordance with the following rules: (i) when there is only one application, the corresponding table applies; when there is more than one application, with specification of the area, the table corresponding to each one of the applications applies; (ii) when there is more than one application and it is not possible to establish the specification referred to above, the table for the economically dominant application applies. The Budget also increases the maximum limit for the location coefficient from 2 to 3.5. This naturally brings an end to the increase in the location coefficient (to 3) previously provided for areas with a high value real estate market.

VALUATION COSTS

Under the new Budget taxpayers are now responsible for the costs of any valuation made at their request, whenever the value challenged increases, and no longer only in cases in which that value remains the same. In the case of a second direct valuation of rural buildings requested by the taxable person, if the respective value for taxation purposes (VTP) remains the same or increases, this gives rise to an obligation to reimburse the DGCI for the costs of the valuation carried out. Finally, there is an increase in the minimum and maximum limits of the initial rate due upon a request for a second valuation of urban buildings. The rate is based on the complexity of the issue - to be set between 7.5 and 30 units of account and rather than the previous 5 to 20 units of account – and the non-repayment of the respective amount if the VTP is considered distorted.

RATES

The minimum and maximum limits of the rates of IMI applicable to urban buildings that have not yet been valued under the IMI Code and to urban buildings valued under the said legislation increase by 0.1 percentage points. In the former case, the rates change from between 0.4% and 0.7% to between 0.5% and 0.8%. In the latter case, the rates change from between 0.2% and 0.4%, to between 0.3% and 0.5%.

VACANT BUILDINGS

For buildings that have been vacant for more than one year, the Budget establishes the same increase in IMI rates (the one applicable to urban buildings that have not yet been valued under the IMI Code and to urban buildings that have already been valued) that is in place for buildings in ruins. This means a threefold annual increase in the said rates rather than the twofold increase that had applied up to the end of 2011.

TAX HAVENS

For buildings owned by entities that have their tax residence in a country, territory or region subject to a clearly more favourable tax regime, appearing on the list approved by the Order in Council of the Minister of Finance, the Budget increases the respective IMI rate by 2.5 percentage points to 7.5%.

CORRECTIONS TO THE REAL ESTATE TAX VALUATION RECORDS

The head of the a tax office may, at any time, rectify any error in the real estate tax valuation records - with the exception of cases in which to do so would cause a change to the VTP resulting from a direct valuation – on the grounds that the record is out of date. In this case, the rectification may only take place after three years have passed from the date of the closing of the record in which the result of the valuation was registered.

UPDATING OF THE VTP

The Budget provides for the annual updating of the VTP of urban buildings for commercial, industrial or service use rather than every three years as was previously the case. The updating is to be done on basis of factors corresponding to the currency devaluation coefficients rather than on the basis of only 75% of the said coefficients, as previously happened. However, all other urban buildings continue to be updated every three years on the basis of 75% of the currency devaluation coefficients.

VAT CREDIT

The Government is also be authorised to create an IMI deduction corresponding to a value of 5% of the VAT payable and actually paid by taxable persons in the acquisition of goods or services, subject to an upper limit

VII. MUNICIPAL TAX ON TRANSFERS OF PROPERTY FOR VALUE *IMPOSTO MUNICIPAL SOBRE AS TRANSMISSÕES ONEROSAS DE IMÓVEIS - IMT*

RATES In cases in which the buyer of the property is resident or has its registered office in a country, territory or region subject to a more favourable tax regime appearing on the list approved by the Order in Council of the Minister of Finance, the Budget increases the respective IMT rate by 2 percentage points to 10%.

LIMITATION PERIOD The Budget provides that, when benefits expire, the limitation period for IMT begins to run from the date on which the benefits ceased to have effect.

REBATE The Budget repeals the rebate system for IMT unduly paid in the last four years, regardless of the annulment of the respective assessment, applicable only in cases in which the taxpayer has not used the appropriate means as laid down in the Tax Proceedings and Procedure Code (CPPT) in due time.

VIII. STAMP DUTY *IMPOSTO DO SELO*

TIME LIMIT The Budget changes the period for expiry of the right of assessment of Stamp Duty (SD) due on the acquisition for value of a right of ownership or other rights over real estate assets subject to taxation under the terms of item 1.1 of the General Table, from the previous four years to eight years from the transfer or the date on which the exemption ceased to have effect.

ANNUAL DECLARATION The Budget eliminates the requirement for presentation of the annual itemised declaration for SD assessed for taxable persons to which the accounting normalisation system for micro entities applies.

REBATE In similar way as for IMT, the Budget repeals the system for rebates of SD unduly paid in the last four years, applicable only in cases in which the taxpayer has not used the appropriate means as laid down in the Tax Proceedings and Procedure Code (CPPT) in due time.



**EXEMPTION FOR
GUARANTEES**

The Budget includes an exemption from SD in the setting up, in 2012, of guarantees in favour of the State or the social security institutions, in the context of payment in instalments of debts payable in enforcement proceedings or tax and social security debt recovery operations.

REPO OPERATIONS

The Budget extends the exemption from SD on repo operations for securities or equivalent rights carried out on the stock market as well as the repo and the fiduciary disposal transfer in a guarantee made by financial institutions with the intervention of central counterparties to 2012.

IX. EXCISE DUTIES

IMPOSTOS ESPECIAIS DE CONSUMO - IEC

(i) GENERAL

EXCISE DUTY STATUTES

Provision is made, as grounds for the official repeal of the statutes in the area of excise duties, for supervening non-compliance with the requirements in place (e.g. good standing, guarantees and change in the principal activity).

DUTY SUSPENSION

The Budget provides that, in the domestic circulation of products under excise duty suspension, a guarantee is no longer required for public or regulatory bodies or in transport of products subject to excise duty at the zero rate.

RESERVE TANKS

The Budget reduces from 50 to 10 litres of the maximum quantity of fuel that can be transported in a “reserve tank” (e.g. cross-border trade) in order to combat tax evasion).

EXCISE STAMPS

The concept of “release for home use” now also covers cases in which it is deemed that the (irregular) introduction for home use of products subject to excise duty has taken place for reasons linked to excise stamps (e.g. incorrect use, loss, excess of loss).

**ELECTRONIC TRANSFER
OF DATA**

The bill includes legislative authorisation for the Government to provide for notifications generated by the Directorate-General for Customs and Excise (DGAIEC) to be sent electronically by computer system.



(ii) TAX ON ALCOHOL AND ALCOHOLIC DRINKS

BEER The Budget provides for an increase in taxation of 3.5% for most beers even though the budget bill only proposed an increase of 2.3%. However, the tax of beers with a degree Plato of between 7 ° and 8 ° sees a significant increase, moving as it does to the 3rd scale (prior to the Budget this scale only included the degrees Plato between 8 ° and 11 °). However, this is a marginal situation (possibly to avoid “deflections”) as most of the beer consumed in Portugal at the moment is of 10 ° and this only goes up by 3.5%.

INTERMEDIATE PRODUCTS AND SPIRITS The Budget also increases the tax on intermediate products and spirits by 7.5%. In the budget bill the increase for intermediate products was only 2.3% and only 4.6% for spirits.

MEASUREMENT OF PRODUCTS AND EXCISE STAMPS The Budget improves the wording of the IEC Code on conditions for measuring products and also on the rules on excise stamps.

ACQUISITION OF EXCISE STAMPS The Budget provides that the acquisition of excise stamps by economic operators that do not have status in the context of excise duties is conditional upon the prior provision of a guarantee of 25% of the value of the tax involved. This measure is aimed at controlling and combating fraud.

(iii) TAX ON TOBACCO

CIGARETTES The tax on cigarettes goes up through and increase the specific component (from €69.07 to €78.37 per thousand) while the ad valorem component goes down (from 23% to 20% of the Retail Sale Price).

CIGARS AND CIGARILLOS The Budget provides that cigars and cigarillos, for which the tax is exclusively ad valorem, see a significant increase with the rate increasing from 13% to 15%. This brings the Portuguese rates into line with those in force in Spain.

FINE CUT TOBACCO The tax rate for fine cut tobacco for hand-rolled cigarettes goes up from 60% to 61.4% and, for all other smoking tobacco, from 45% to 50%. This shows that shows that the Government is continuing to follow closely the tendency of smokers to change from cigarettes



to less distinguished forms of tobacco. As regards the tax on fine cut tobacco for hand-rolled cigarettes, the rate cannot be lower than €0.075 per gram. Cigarettes that do not belong to the most sold class of prices are now taxed at least 104% of the taxation applicable to the tobacco from the most sold class of prices whereas the budget bill had proposed a minimum tax of 100.5%

**ACQUISITION OF
EXCISE STAMPS**

The Budget provides that the acquisition of excise stamps by economic operators that do not have status in the context of excise duties is now conditional upon the prior provision of a guarantee of 25% of the value of the tax involved.

DISTANCE SELLING

The ban on the sale in mainland Portugal of tobacco declared for consumption in the Autonomous Regions of Madeira and the Azores is widened to “distance selling” (by post or other means). Minimum rates to be applied to certain products are also established

(iv) TAX ON ELECTRICITY

TAX ON ELECTRICITY

In compliance with Directive 2003/96/EC, the Budget establishes the principle of the taxation of electricity as part of the Tax on Oil and Energy Products. A number of articles from the Excise code have been altered for this purpose (objective incidence, subjective incidence, taxable event, exemptions, taxable unit, etc.).

RATE

The range within which the rate can vary is set at between €0.0 MW/h to €1 MW/h (the specific value will be set by an Order in Council). It should be noted that the values of the minimum rates set at the EU level (annex C of the Directive) are from €0.5 Mw/h for companies and from €1.00 MW/h for families.

EXEMPTIONS

Electrified rail transport (e.g. Fertagus, CP, the Metropolitan railways, trams and trolleys) is exempt from the tax in accordance with EU policy for these sectors. The Budget provides that low income families are also be exempt

COLLECTION

The tax on electricity will be collected by the companies selling electric energy and they will pay this to the State in the second month following the invoicing of the client. The extension of this deadline (for other excise duties, payment is in the following month) is justified by the fact that the metering of consumption is done by the network operators and not by the sellers.

(v) TAX ON OIL AND ENERGY PRODUCTS

LIQUID FUELS As yet nothing is known on the Government's possible intention to update the rates of Tax on Oil and Energy Products (Imposto sobre os Produtos Petrolíferos e Energéticos - ISP) applicable to diesel and petrol. This updating is made by Order in Council at legally established intervals.

GAS FUELS The rates of ISP applicable to liquefied petroleum gases (butane and propane) used as motor vehicle fuel are increased by 2.3% (from €125/1000 kg to €127.88/1000 kg) as is the ISP rate for natural gas fuel which goes from €2.78/gj to €2.84/gj.

HEATING OIL The Budget increases the upper limit on the range for the rate of ISP on heating oil from €260/1000 litres to €400/1000 litres. This allows for an increase in the taxation of the product which will be put into effect by an Order in Council from the Government.

TAX WAREHOUSE FOR PROCESSING Provision is made for the definition of the concept of tax warehouse for processing to appear in the IEC Code in order to fill in the gap existing in the legislation.

ROAD SERVICE CONTRIBUTION The amounts of ISP that make up the revenue allocated to the company "EP - Estradas de Portugal E.P.E." are increased, for petrol, from €64/1000 litres to €65.47/1000 litres and for diesel, from €86/1000 litres to €87.98/1000 litres.

X. TAX ON MOTOR VEHICLES

(i) MOTOR VEHICLE PURCHASE TAX - IMPOSTO SOBRE VEÍCULOS - ISV

RATES There is no change to the structure of the tables of rates, either in relation to the cubic capacity, or in relation to the environmental component (CO2 emissions).

LIGHT PASSENGER VEHICLES The rates of ISV applicable to light passenger vehicles and all other vehicles covered by Table A see an increase of up to 5% on the cubic capacity component and 7.5% on the environmental component. The above increases added to by the increases in VAT which mean that in total, they reach 6.15% and 9.23% respectively – an average of 7.7%.

- PARTICULATE EMISSIONS** Diesel light passenger vehicles with particulate emissions equal to or greater than 0.003 g/km (previously 0.005 g/km) are now subject to an increase of €500 in the amount of ISV to be paid, or €250 in the case of certain light goods vehicles.
- LIGHT GOODS VEHICLES** The ISV rates for light goods vehicles (Table B), which apply exclusively to the cubic capacity of the vehicle, increase by 5% going up to 6.15% when the respective VAT is taken into account. Light goods vehicles with open or closed boxes or no box, with a maximum of three seats including the driver, which were previously excluded from ISV, are now subject to tax at a reduced rate of 10% of Table B.
- INTERMEDIATE RATES** In addition to this, the previous intermediate rates of 30% and of 10% for certain types of light goods vehicles increase to 50% and 15% respectively.
- “DERIVATIVE” VEHICLES** What are known as “derivative” vehicles are now subject to tax at 100% (previously 55%) of Table B. This puts an end to a specifically Portuguese situation that no longer made sense.
- THREE-WHEELER MOTORBIKES AND QUAD MOTORBIKES** For motorcycles, three-wheelers and quad bikes, ISV, which had only applied to vehicles with a capacity of 180 cm³ or more, now also applies to vehicles with a capacity of between 120 and 180 cm³. The two previous scales of rates (of 180 cm³ to 750 cm³ and more than 750 cm³) - the rates for which varied between €53.84 and €105.37 – are broken down into 5 scales with rates that can vary between €60 and €200. This represents a large increase in taxation.
- TAXIS** The reduction of 70% in the rate of ISV, which benefits vehicles introduced for consumption as taxis, are now subject to the requirement that the respective level of CO₂ emission of the vehicle does not exceed 175 g/km (160 g/km in the budget bill). This measure is one of environmental protection and road safety.
- RENT-A-CAR** The reduction in the rate of ISV from which rent-a-car companies benefit changes from 50% to 40%.
- OLD VEHICLES** The taxation of what are known as “old vehicles” or “collectors’ vehicles” also sees a substantial increase from 55% to 95% (100% in the budget bill) of Table B. The extension of the tax to motorcycles proposed in the budget bill was dropped and the reduction in taxation arising from the respective “years of use” will continue to apply.

ELECTRIC VEHICLES The tax incentives for acquisition of electrical vehicle have been eliminated. This provision was not included in the budget bill.

(ii) SINGLE ROAD TAX - IMPOSTO ÚNICO DE CIRCULAÇÃO - IUC

PASSENGER VEHICLES REGISTERED UP TO 30/06/2007 The rates of IUC for passenger vehicles registered before the reform of motor vehicle taxation (prior to 1/07/2007) are updated by 2.3%, with the exception of the rates for the two highest scales where the increase reaches 7.5%

PASSENGER VEHICLES REGISTERED AFTER 30/06/2007 In respect of the cubic capacity component, the rates of IUC for passenger vehicles registered after the reform of motor vehicle taxation (since 1/07/2007) increase by 2.3%, with the exception of the rate in the highest scale where the increase reaches 7.5%. In the environmental component, the rates of IUC for passenger vehicles registered after the reform of motor vehicle taxation (since 1/07/2007) increase by 4.6%, with the exception of the rate for the last scale which goes up to 7.5%.

GOODS VEHICLES The rates for goods vehicles increase by 2.3%. This increase covers not only “private use” as was usually the case, but also “professional use”.

MOTORCYCLES The rates for motorcycles increase by 2.3%.

PLEASURE BOATS The rate for pleasure boats for private use increases by 7.4%.

AIRCRAFT The rates for aircraft for private use increase by 7.4%.

VAT CREDIT The Budget also authorises the Government to create an IUC deduction corresponding to up to 5% of the VAT due, and actually paid, in the acquisition of goods or services. The deduction is subject to an upper limit.

XI. TAX BENEFITS

EXPIRY The range of tax benefits which are not subject to the expiry period of five years laid down in the Tax Benefits Statute (Estatuto dos Benefícios Fiscais - EBF) is broadened to cover the tax benefits granted to Corporate Holding Management Companies (Sociedades Gestoras de Participações Sociais - SGPS), the tax benefits granted on the



reorganisation of companies as a result of acts of concentration or cooperation agreements and the tax benefits granted to cooperatives.

PENSION FUNDS

The IRC (corporate income tax) exemption in respect of the income of pension funds and their equivalents, which are set up and operate in accordance with the domestic legislation, is extended to income generated by pension funds which are set up and operate in accordance with the legislation and are established in Member State of the European Union or the European Economic Area.

PUBLIC CAPITALISATION SCHEME

The rules for Savings-Retirement Funds (Fundos Poupança-Reforma) and Savings-Retirement Plans (Planos Poupança Reforma) now apply to the amounts paid in the form of a life annuity or redemption of accumulated capita in the context of the public capitalisation scheme.

FUNDS AND PLANS FOR SAVINGS & RETIREMENT *FUNDOS E PLANOS DE POUPANÇA REFORMA*

When a participant receives any income or, in other words, is granted reimbursement of certificates, any tax benefits cease. All the amounts deducted, plus 10% for each year or part year that has passed since the one in which the right to the deduction was exercised, must be added to the taxable amount for IRS for the year in which the payment occurs. There is an exception in the event of the death of the subscriber or when at least five years have passed from the respective delivery and any of the situations defined by the law occurs. The Budget also provides that tax benefits for the taxation of the amounts paid by the savings-retirement funds do not take effect when the reimbursement of the certificates occurs outside the situations provided for in the law, and the income is now taxed at the rate of 21.5%.

SECURITIES INVESTMENT FUNDS

Capital gains earned from securities investments are now taxed at the rate of 21.5% on the positive difference between the capital gains and capital losses for each year.

REAL ESTATE INVESTMENT FUNDS

The taxation rate of 20% for income from real estate investment funds is now charged on the net income after conservation and maintenance costs and municipal property tax.

SAVINGS PLANS IN SHARES

The positive difference between the value due at the time of closing of share savings plans and the amounts handed over by the subscriber to the shares is now subject to a final withholding tax rate of 21.5%, without prejudice to the possibility of aggregation, at the choice of the taxable person, in which case the tax withheld has the nature of a payment on account.

CAPITAL GAINS BY NON-RESIDENTS

The Budget introduces an exemption from IRS (personal income tax) and IRC (corporate income tax) for capital gains made by non-resident individuals and entities without permanent establishment in Portugal who are resident for tax purposes in a country, territory or region with which no international agreement to avoid double taxation or tax information exchange agreement is in force, as long as the country, territory or region in question is not one subject to a more favourable regime that appears on the list approved by the Minister of Finance.

SGPS, SCRS AND ICRS

The system applicable to corporate holding management companies (Sociedades Gestoras de Participações Sociais - SGPS), risk capital companies (Sociedades de Capital de Risco - SCR) and risk capital investors (Investidores de Capital de Risco – ICR) is now independent from the one applicable to SGPSs, and in general terms, the SGPS system remains unchanged.

URBAN BUILDINGS

The IMI exemption for urban buildings built, extended, improved or acquired for value which are destined for housing is reduced to a period of three years, and now only benefits taxable persons or households whose taxable income for the purposes of IRS in the previous year was not greater than €153 300.00 and properties for which the taxable value does not exceed €125 000.00.

BUILDINGS WITH A REDUCED VALUE FOR TAX PURPOSES AND LOW INCOME

Rural and urban buildings are now exempt from IMI when they belong to taxable persons whose gross total household income, subject to aggregation for the purposes of IRS, is not greater than 2.2 times the annual value of the SSI and the overall value for tax purposes of all the rural and urban buildings belonging to the taxable person does not exceed 10 times the annual value of the SSI.

WINE COMMISSIONS

The Budget creates a total exemption from IRC for the income of regional wine commissions, with exception of income from capital as defined for the purposes of IRS.

SPORTS CLUBS

The amounts invested by sports clubs in new infrastructures, not coming from subsidies, can be deducted from the basis of assessment for tax up to the limit of 50%. The excess is deducted up to the end of the second financial year following the investment.

INTELLECTUAL PROPERTY

The income from intellectual property is deemed part of the aggregation for IRS purposes only in respect of 50% of its value, with an upper limit of €20 000.00.



BUILDINGS LOCATED IN BUSINESS USE AREAS

The IMT (property transfer tax) and IMI (municipal property tax) exemptions that apply to acquisition and ownership of building located in business areas ser extended to buildings acquired or completed by 31 December 2012.

SUPPORT MEASURES FOR ROAD TRANSPORT OF PASSENGERS AND GOODS

The tax incentives for renewal of fleets and benefits for the increase in tax costs in terms of fuel expenses are extended to the financial year 2012.

HEALTH INSURANCE

Limitation of the IRS tax allowance to 10% of the premiums and insurance or contributions paid to mutual associations or not-for-profit institutions whose object is to provide healthcare which, in either case, exclusively cover health risks, with the limit of €50 or €100, depending on whether or not the taxable person is single or married and not legally separated.

SCIENTIFIC PATRONAGE

The scientific patronage statute is repealed and the system of benefits on the scientific patronage is now contained in the tax benefit statute.

COOPERATIVES

The Cooperative Tax Statute is repealed and the system of benefits for cooperatives is now contained in the Tax Benefits Statute.

TIME DEPOSITS

The tax benefits granted for income from deposit certificates and bank deposits set up for periods exceeding five years which are not negotiable are repealed.

SYSTEM TO BENEFIT THE INTERIOR OF THE COUNTRY

The tax benefits for the interior of the country, specifically the reduction to 15% of the rate of IRC applicable to companies operating in areas of the interior, are repealed.

PRIVATE EDUCATION ESTABLISHMENTS

The tax benefits granted to private education establishments are repealed.

INTERNATIONAL SCIENTIFIC COMPANIES AND ASSOCIATIONS

The tax benefits for international scientific companies and associations, which consist, essentially, of the possibility for the Minister of Finance to grant a total or partial IRC exemption to not-for-profit international scientific companies or associations wanting to set up business Portugal are repealed.

PATRONAGE OF THE INFORMATION SOCIETY

The tax benefits fore to patronage of the information society are repealed.

RENEWABLE ENERGIES

The tax benefits granted for the acquisition of equipment for use of renewable energies are repealed.

SIFIDE II SIFIDE - the system of tax incentives for business research and development - in force for the tax periods from 2011 to 2015, continues to apply but with the following changes: (i) operating expenses up to the maximum amount of 55% of costs of personnel directly involved in R&D tasks are deductible; (ii) the eligibility of the costs of carrying demonstrations in supported R&D projects now depends on prior notice; (iii) the costs of acquisition, registration and maintenance of patents that are predominantly intended for carrying out R&D activities and the costs of R&D audits are now only accepted for micro, small and medium-sized companies.

RFAI The tax system for investment support (Regime Fiscal de Apoio ao Investimento - RFAI) is extended until 31 December 2012.

**SECURITIES REPRESENTING
DEBT ISSUED BY NON-
RESIDENT ENTITIES**

The income from securities representing public and non-public debt issued by non-resident entities, which is considered as earned in Portugal under the IRS (personal income tax) and IRC (corporate income tax) Codes, benefits from an exemption from IRS and IRC when it comes to be paid by the Portuguese State as guarantor of the obligations assumed by companies in which it is a shareholder together with other Member States of the European Union.

XII. TAX JUSTICE

VIRTUAL TAX RESIDENCE

The concept of tax residence now also includes the electronic mailbox, under the terms of the public electronic mailbox service. In this context, taxable persons for IRC with their registered office or de facto management in Portugal and permanent establishments of companies and other non-resident entities, as well as taxable persons in the normal VAT system, are now subject to the obligation to create an electronic mailbox.

TAX REPRESENTATIVE

Non-resident or resident taxable persons who move to Member States of the European Union or the European Economic Area - in the latter case as long as there is administrative cooperation in the tax domain equivalent to that established in the European Union - are no longer required to appoint a representative for tax purposes.

**DEBT WRITE-OFF
IN CORPORATE
INSOLVENCY**

In the event of a request from the court liquidator to take over tax enforcement cases, provision is made for the movement of the proceedings to the court to be preceded by an order from the tax enforcement body in respect of debt write-off.

LATE PAYMENT INTEREST IN FAVOUR OF THE TAXPAYER

In the period from the date of the end of the period for voluntary payment under a final judgment and the date of issue of the credit note, interest is due at a rate equivalent to double the rate of interest applicable for debts to the State and other public bodies. This rule applies immediately to final court decisions for which enforcement is pending as at 1 January 2012. However, this only applies to the period from the said date.

LATE PAYMENT INTEREST IN FAVOUR OF THE TAX AUTHORITIES

The Budget provides that the late payment interest applicable to tax debts will be due up to the date of the respective payment. This rule has immediate application to all tax enforcement cases pending as at 1 January 2012. However, this only applies to the period from the date of entry into force of the said law. The rate of interest for late payment is the one defined in the law applicable to debts to the State and other public bodies, except in the period between the date of the end of the period for voluntary payment under a final court decision and the date of payment of the debt relating to the tax that should have been paid under the final court decision. In this case the rate applied will be double the usual rate.

TIME LIMITS

If the State's right to assessment relates to chargeable events connected to a country, territory or region subject to a more favourable tax regime appearing in the Order in Council approved by the Minister of Finance, the time limit increases to 12 years. The same limit applies whenever the taxable event is connected to an account or deposit open at a financial institution that is not resident in Member State and the existence of that account or deposit has not been mentioned by the taxable person (for personal income tax – IRS) in their tax return.

SUSPENSION OF TIME LIMITS

The presentation of a request for revision of the taxable amount suspends the period up to notification of the respective decision.

LIMITATION PERIOD

In the case of tax debts for which the right to collection relates to chargeable events connected to a country, territory or region subject to a more favourable tax regime appearing in the Order in Council approved by the Minister of Finance, the Budget provides for the limitation period to increase to 15 years.

GUARANTEE WAIVER

The decision on exemption from the provision of a guarantee to suspend tax enforcement proceedings is valid for the period of one year. The enforcement debtor must be notified by the tax authorities

ELECTRONIC PROCESSING

at least 30 days before the deadline to demonstrate that all the requirements are in place and, if no application is made for a new exemption or the request for exemption is refused, the suspension of the enforcement proceedings will be lifted.

DEADLINES IN PROCEEDINGS

An Order in Council from the Minister of Finance is to regulate the electronic processing of tax proceedings. In addition, the presentation in electronic format of any document, specifically, applications, statements and petitions is to be mandatory.

RIGHT TO INFORMATION

The deadline for conclusion of tax proceedings is reduced to four months. Acts in tax proceedings must be done within the supplementary period of eight days.

NEW INFORMATION AND COMMUNICATION TECHNOLOGIES

In the context of the range of situations covered by the principle of cooperation of the tax authorities with taxpayers, the Budget requires the inclusion of information for taxpayers on their rights and duties. This requirement applies specifically in the case of periodic obligations and requests to the taxpayer to regularise their tax situation and to the exercise of the right to a reduction in the fine, when the tax authorities detect an infringement that is not criminal in nature.

EFFECTS OF A FAVOURABLE DECISION

The tax authorities may use information and communication technology in tax proceedings. For this purpose, the tax authorities are to have the use of a service on the Internet which will provide functions identical to those available at the physical premises of the tax authorities. Furthermore, an Order in Council from the Minister of Finance will identify the obligations in respect of tax returns, payment, petitions, applications and other communications which must be sent by electronic means. The Order in Council will also identify the acts and communications for which the tax authorities must use the same means.

TAX OFFICE FOR NON-RESIDENTS

The 'Lisbon 3' Tax Office is named as the tax office with authority to deal with the tax affairs of taxable non-resident persons that do not have a permanent establishment or a tax representative in Portugal.

BINDING ADVANCE RULINGS

The deadline for providing binding advance rulings of an urgent nature is 120 days, and binding advance rulings cannot include facts covered by tax inspection proceedings when the taxpayer has been given notice of the start of those proceedings prior to the request. In



the case of a binding advance ruling of an urgent nature, it is no longer necessary for the acts or facts intended to be brought into the legal-tax framework to be prior to the request. The deadline for answering requests by taxable persons, other interested parties or their legal representatives, made by electronic means and in the official form, to be approved by the head of the tax office, increases to a maximum of 150 days. The deadline for recognition of the urgent character of the binding advance ruling by the tax authorities is increased to 15 days. If the urgency is recognised, the taxpayer must pay the amount due within five days. The fee for urgent provision of a binding advance ruling varies between 25 and 250 units of account (U.A. 102 euros) and the fees must be set in accordance with the complexity of the case. If the elements presented by the taxpayer for the provision of a binding advance ruling are insufficient, the tax authorities give notice to the taxpayer to remedy the problem within ten days. The penalty for failure to meet the deadline is the archiving of the proceedings and suspension of the deadline for decision.

EFFECTS OF A FAVOURABLE DECISION

In the event of a favourable decision by the authorities, the taxpayer is put into the situation that would have existed in the present. Provision is also made for payment of compensatory interest.

CERTIFICATES AND LETTERS OF REQUEST

The certificates of acts and terms of tax and legal proceedings, as well as of proof of tax rolls or other elements filed with the tax authorities, whenever computerised must be provided within three days. In proceedings and cases that are not computerised, the certificates and terms must be provided within five days.

ELECTRONIC CERTIFICATION

Certificates of acts and terms of tax and of legal proceedings, as well as for proof of tax rolls or other elements filed with the tax authorities, whenever computerised and issued electronically, must be authenticated by an identification code making it possible for any interested party to consult the electronic original available at the tax authorities' electronic service on the Internet.

COMPUTER ARCHIVE

The tax authorities and the tax courts register and archive administrative and legal proceedings started electronically to make it possible to consult them using a range of search criteria. These archives must be kept for ten years from the date of the decision in administrative proceedings or of the final judgment in legal proceedings.

MODELS FOR FORMS

The printed forms to be used in tax administrative proceedings which are not computerised, including tax enforcement proceedings, follow the models approved by the member of the Government or executive body on which the services of the tax authorities depend.

ELECTRONIC SIGNATURE CERTIFICATES

For acts done by electronic means by the head of the tax office, notices in the form of electronic transmission of data are authenticated by an advanced electronic signature certificate.

PERFECTION OF NOTICES SENT ELECTRONICALLY

If a taxpayer does not access their email inbox, the notice is deemed given on the 25th day after it was sent, except when proved that the taxpayer duly communicated a change of email address or that it was impossible to do so.

ELECTRONIC NOTICES OR SUMMONSES TO COMPANIES

The Budget establishes the use of a company or other legal entity's electronic mail box as a way of serving summonses and notices.

NOTICES OR SUMMONSES TO THE STATE AND OTHER PUBLIC BODIES

Summonses and notices to local authorities or other public bodies may be served electronically. If the notice or summons is for a State public service and is not sent by electronic means, it must be served on the person of the president, director-general or equivalent, except where the law makes provision to the contrary.

CHANGE OF VIRTUAL RESIDENCE FOR TAX PURPOSES

Any change in a tax residence or registered office or email address must be communicated to the tax authorities within fifteen days.

SUBSTITUTE TAX RETURNS

When a substitute tax return results in higher tax or a lower rebate than the one previously established, that tax return - when substituted before the deadline for an administrative appeal or a legal challenge in respect of the assessment - no longer needs to be filed at the tax office for the tax residence of the taxable person.

APPLICATION OF THE ANTI-ABUSE RULES

The procedure for the application of anti-abuse rules now only applies to the general anti-abuse clause. The procedure for application of the general anti-abuse clause now takes place under general terms and the reduced period of three years to begin the procedure is eliminated.

ELECTRONIC DEBT CERTIFICATES

Certificates may be issued electronically and authenticated by the advanced electronic signature of the issuing entity.



OFF-SETTING OF DEBTS

Off-setting of debts done at the initiative of the tax authorities to ceases to be mandatory and it is no longer necessary for the said off-setting to be done using taxes administered by the same entity.

TERRITORIAL JURISDICTION AND JURIDICION OF TAX OFFICES

For jurisdiction in tax enforcement proceedings, generic reference is made to the tax authorities and not to the local peripheral body. Proceedings must be started and enforced in the body of the tax authorities that is designated by an order from the head of the tax office. Whenever there is no such order, the enforcement action is to be brought in the local peripheral body covering the registered office of the debtor, the location of the assets or of the collection. This provision does not apply in the case of tax fines and respective costs for which the local peripheral body for the area where the proceedings that gave rise to them now has jurisdiction.

TERRITORIAL JURISDICTION OF THE COURTS

In tax enforcement proceedings, the Tax Court of 1st Instance with jurisdiction is the one for the area of the residence or registered office of the debtor. This differs from the previous system which gave jurisdiction to the court "for the area where the enforcement is taking place".

INFORMATION ON THE DEBT AND GUARANTEE

The amount of the debt being enforced and any added amounts, as well as the guarantee to be given is made available on the Internet portal of the tax authorities. When no suitable guarantee has been given or when it has been waived, the tax authorities should proceed immediately with the enforcement measures fifteen days from the presentation of any available response.

INADEQUACY OF THE GUARANTEE

When any guarantee becomes inadequate, the debtor is given notice of this fact and of the obligation to strengthen the guarantee or provide a new one within fifteen days. The penalty for failure to resolve the problem is the lifting of the suspension of the enforcement. This rule has immediate application in all tax enforcement proceedings pending as at 1 January 2012.

DEADLINE FOR WAIVER OF GUARANTEE

The deadline to make a request for waiver of the provision of a guarantee in order to suspend tax enforcement proceedings is fifteen days from the date of presentation of a proper response

DEADLINE FOR PAYMENT IN INSTALMENTS

A request to pay a tax debt in instalments may be made up to the appointment for sale of assets (as opposed to the deadline of opposition to the enforcement).

SUMMONS FORMALITIES

The summons must state that the suspension of the enforcement and the regularisation of the tax situation depend on the existence of a suitable guarantee, the value of which should be stated in the summons, or in the alternative the debtor must obtain an authorisation to waive it.

PERSONAL SUMMONS AND SUMMONS BY PUBLICATION

When it is necessary for assets to be sold, personal service of the summons is required. This is done by registered letter with recorded delivery. If the letter is returned or the respective delivery record is not signed because the addressee refused or did not collect the letter within the legal period, and it cannot be proved that the taxpayer communicated a change in their residence or registered office for tax purposes, the summons is re-sent in a new registered letter with recorded delivery to the person summonsed. This second summons informs the addressee of the fact that the summons will be deemed served on the date certified by the postal service distributor or, in the event the postal notice has been left, on the 8th day after this date, presuming that the addressee of the summons is aware of the documents left for him, without prejudice to proving that it was not possible to communicate the change in his residence or registered office, as required for postal summonses.

LEGAL CHARGE AND ATTACHMENT

The legal charge or attachment is now be established electronically or by official document and notice is given to the debtor in the same way as for a summons.

WIDENING OF THE POSSIBILITY OF PAYMENT IN INSTALMENTS

The Budget establishes the possibility of requesting payment in instalments of debts for community own resources and debts resulting from the failure to pay tax withheld at source or legally collected from third parties when exceptional financial difficulty and foreseeable grave economic consequences can be demonstrated. The maximum number of instalments is twelve monthly payments and the value of any them may not be lower than one unit of account at the moment of authorisation. In the context of the plan for economic recovery and also, when the risks inherent to debt recovery recommend it, the tax authorities may extend the instalment payments up to a maximum of 150 payments. The previous maximum was 60 instalments over 5 years.

GUARANTEES

Bank guarantees, collateral and performance bonds, or any other means of securing the debts of the debtor, are to be set up in favour of the tax authorities by electronic means, under terms to be defined



by an Order in Council from the Minister of Finance. This rule takes effect immediately in all tax enforcement proceedings pending at 1 January 2012.

ATTACHMENT OF ALLOWANCES AND SALARIES

When the subject of the attachment is any (i) allowances or salaries of public employees or employees of any public law bodies or, (ii) the salaries of employees of private companies or individuals, the failure to summons the entity responsible for processing the discounts does not prevent the application, in the respective tax enforcement proceedings, of the amounts deposited, if the summons is not returned or, if returned, does not indicate the new address of the debtor. This rule also applies if the electronic mail box is not accessed. The Budget provides, however, that the said application does not prejudice the exercise of the rights of the debtor, specifically in respect of presenting an opposition to the enforcement.

PREFERENTIAL CREDITORS AND THEIR SUCCESSORS

The deadline for summoning unknown creditors and the successors of preferential creditors is reduced to ten days.

UNKNOWN CREDITORS AND UNQUALIFIED SUCCESSORS OF PREFERENTIAL CREDITORS

The Budget provides that a summons to an unknown creditor and a successor with no entitlement should be made in a single notice at the body of tax enforcement where the proceedings are taking place.

SUSPENSION OF THE SALE

The provision of the possibility for the sale to be suspended on the basis of the value of the credits claimed by other creditors is repealed.

SALE OF ATTACHED ASSETS

The deadline for the last electronic auction is reduced from twenty to fifteen days.

ADVERTISEMENT OF SALE

Once a sale has been determined, the advertisement is published on the Internet alone.

RESERVE VALUE OF ASSETS TO BE SOLD

The reserve value of rural property is determined, by the updated value for tax purposes on the basis of currency correction factors, under Decree-Law no. 287/2003, of 12 November.

LACK OF BIDS

When the value of the bids is lower than the reserve price, the tax enforcement body can acquire the assets, which will revert in favour of the Public Treasury as long as the conditions already laid down in earlier legislation are met.

SALE FORMALITIES

The period for the purchaser to deposit the total price in favour of the enforcement body begins to run from the adjudication decision. Furthermore, in acquisitions of a value greater than 500 times the unit of account (€51 000.00), the request to be presented by the purchaser for authorisation to deposit only part of the price must be filed within five days of the adjudication decision. The non-payment of the price due from the purchaser by the legal deadline means the purchaser may not present any bid in any tax enforcement sale for a period of two years.

CANCELLATION OF THE SALE

Any request to cancel the sale must be addressed to the peripheral regional body of the tax authorities. Within 45 days and after hearing all the interested parties, this body can allow or refuse the request. In the absence of any decision by the tax authorities within the said period of 45 days, there should be a tacit refusal of the request for cancellation of the sale. Whether the decision is express or tacit, it can be challenged by following the procedure for complaints in respect of the decision of the tax enforcement body.

SUSPENSION OF THE ASSET SALE PROCEEDINGS

Payment of minimum a value of 20 % of the value of the debt claimed suspends the sale in these tax enforcement proceedings for fifteen days.

VOLUNTARY PAYMENT

If the debt is cleared by voluntary payment, the tax enforcement body must declare the termination of the enforcement and immediately communicate this fact to the debtor by electronic means.

XIII. TAX OFFENCES

WAIVER AND SPECIAL MITIGATION OF PENALTY

In order to benefit from waiver or special mitigation of the penalty, the taxpayer must regularise the tax situation before the accusation is presented.

CLASSIFICATION OF OFFENCES

Offences punishable with a maximum fine of €5750.00 will be classified as simple offences. Offences punishable with a fine greater than €5750.00 will be classified as serious offences. This is in addition to those offences expressly classified as serious by the law regardless of the level of the fine.

LEVEL OF FINES

Unless the law makes provision to the contrary, the fines applicable to legal entities, companies, even when irregularly set up, or other entities equivalent to them for tax purposes, may go up to a maximum of: a) €165 000.00, in cases with intent; b) €45 000.00, in cases of negligence. The minimum amount of the fine to be paid is €50.00, except in cases of a reduction in the fine in which case it is €25.00.000.00, in cases of negligence. The minimum amount of the fine to be paid is €50.00, except in cases of a reduction in the fine in which it is €25.00.

RIGHT TO REDUCTION IN FINES

Fines paid on a voluntary basis are reduced as follows: a) If the request for payment is presented within 30 days of the offence and there has been no notice of offence issued, no complaint made and no tax inspection proceedings started, to 12.5% of the legal minimum; b) If the request for payment for presented after the above deadline and there has been no notice of offence issued, no complaint made and no tax inspection proceedings started, to 25% of the legal minimum.

FINE DEPENDENT FOR UNPAID TAX INSTALMENT AND CORRECTION OF THE FINES PAID

In cases in which the fine varies in accordance with the tax instalment, for the purposes of the right to a reduction in the fine, the minimum amount is deemed to be 10% or 20% of the tax instalment due depending on whether the offence was committed by an individual or a legal entity.

TAX FRAUD

If the amount in question is high, the penalty is a minimum of one year in prison. The maximum of five years remains in place. For legal entities, the fine is a minimum of 240 days and a maximum of 1200 days. It should be noted that each day of the fine amounts to between €1.00 and €500.00 for individuals, and between €5.00 and €5000.00, for companies or equivalent entities.

CRIMINAL ASSOCIATION

The penalty for anyone who supports (under the previous the person actually had to be a member of the group) criminal organisations or associations, specifically by supplying arms, munitions, instruments of crime, warehousing, storage or meeting places, or any help in recruiting new members is a prison sentence of between one and five years. This penalty is subject to any other law which may impose a longer sentence. Anyone who heads, directs or joins such groups, organisations or associations can be punished with two to eight years in prison unless another law provides for a more serious punishment.

FRAUDULENT RELEASE FOR CONSUMPTION

The Budget introduces a new type of crime related to the fraudulent release for consumption of energy products. Whenever a tax benefit or advantage is obtained by false declarations or by any other fraudulent means, the agent will incur the same penalty of a prison sentence of up to three years or a fine of up to 360 days. The same penalties apply to any person who, with intention of avoiding payment of the tax instalment due, releases a taxable vehicle for consumption and obtains a tax benefit or advantage by false declarations, or any other fraudulent means, if the value of the tax not paid exceeds €15 000.00.

AGGRAVATION

Aggravated customs crimes are punished by a prison sentence of five years for individuals and a fine of 240 to 1200 days for legal entities.

SMUGGLING OF ITEMS USED TO INFLICT THE DEATH PENALTY OR TORTURE

In the case of importation or exportation of items which, in practice, can only be used to inflict the death penalty or torture or cruel, inhuman or degrading treatment as described in annex II of Regulation (EC) no. 1236/2005, of the Council 27 June, the agent will be subject to a punishment of five years in prison for individuals and a fine of 240 to 1200 days for legal entities.

AGGRAVATED CRIMES

The penalty for aggravated fraud (five years in prison for individuals and 240 to 1200 days' fine for legal entities) applies when the illegal gain exceeds €50 000.00. In turn, there is an even more serious penalty in situations in which the illegal gain exceeds €200 000.00. In this case, the punishment is eight years in prison for individuals and a fine of 480 to 1920 days for legal entities.

LIMIT ON FINES

The Budget introduces a generalised increase in the penalties for offences and, as a rule, the minimum and maximum fines applicable in each specific case are increased by around 50%.

OMISSIONS OR INACCURACIES IN REQUESTS FOR A BINDING ADVANCE RULING

The Budget introduces a new type of legal offence in relation to omissions or inaccuracies in acts, facts or documents relevant to the appreciation of requests for a binding advance ruling provided with urgency. These are punishable with a fine of €375.00 to €22 500.00. These limits are reduced to a quarter for requests for a binding advance ruling that are not urgent in nature.

UPDATING OF COSTS

The Budget updates the costs in tax proceedings.

COSTS OF CREDIT CLAIMS

In cases in which there is a need to confirm and rank credits, provision is made, in the context of tax enforcement proceedings, for the creditor or creditors making the claim to be obliged to pay an initial court fee as follows:

Claim for credits of	Normal Legal Fee (Unit of account)	Higher Legal Fee (Unit of account)
Up to €30 000.00	2	2
Equal to or higher than the €30 000.01	4	4

REDUCTION OF THE COURT FEES TO 3/4

The court fee is reduced to 3/4 whenever, in the tax enforcement proceedings, the payment is made in instalments as long as the timing of the payment plan is respected and payment is made in full.

COSTS

Provision is made for the updating of the costs of the Directorate-General of Taxes.

CHANGE TO THE ENFORCEMENT PROCEDURE IN SOCIAL SECURITY AND SOLIDARITY PROCESS SECTIONS

The Budget introduces the possibility of extending the period for payment in instalments to up to 60 instalments, as long as the debt exceeds 50 units of account (€5100). If the debtor is an individual and, as such, it is not a write-off procedure, the possibility of extending the number of instalments up to 60 is not conditional upon the amount of the debt. The extension can be up to 120 instalments as long as the debt exceeds 50 units of account and the taxpayer provides a suitable guarantee (or this is waived). In any of the said cases, the actual determination of the number of instalments is not conditional upon the minimum payment limit.

PUBLICATION OF THE LIST OF DEBTORS

The Budget provides for the identification of taxpayers who owe money to Social Security to be published in the Internet.

XIV. TAX ARBITRATION**SCOPE**

The consideration of the legality of acts setting the taxable amount is only possible in situations that do not give rise to the payment of any tax.

SUSPENSIVE EFFECT

The rule that payment has the effect of suspending proceedings or suspending the periods for the expiry of the State's rights to payment and for time limitation is repealed.

XV. OTHERS CHANGES

(i) NEW SYSTEM FOR TAX REGULARISATION OF ASSETS HELD ABROAD

RERT III The Budget approves the new system of tax regularisation, known by its Portuguese initials, RERT III, relating to assets held abroad. The new system is identical to the earlier RERT II, but without repatriation.

SCOPE Those who may benefit from this system are individuals and companies that own assets that were not in Portugal in 31 December 2010 - and consist of deposits, deposit certificates, capital shares, securities and other financial instruments, including insurance policies in the “life” field linked to investment funds and capitalisation operations in the “life” - to field benefit from this system.

REQUIREMENTS To benefit from RERT III, taxable persons must: a) present a tax regularisation declaration which must be filed with the Bank of Portugal or other banks established in Portugal by 30 June 2012; b) annex the documents proving ownership and deposit or registration of the assets appearing in the said declaration; c) pay the amount corresponding to the application of the respective rate.

RATE The rate is set at 7.5% (rather than the 5% in RERT II). The tax supplement increases from 50% to 60% to be paid on income corresponding to the undeclared assets in the event of a failure to file the regularisation declaration or omissions or inaccuracies in it.

VALUE OF ASSETS The rate is applied to the value of the assets appearing in the tax regularisation declaration. The determination of the value of assets appearing in the tax regularisation declaration is done in accordance with the following rules, with reference to the date of 31 December 2010: a) as to deposits in financial institutions, the amount of the respective balance; b) as to shares in capital, securities and financial instruments quoted on a regulated market, the value of the latest quotation; c) as to unit holdings in collective investment undertakings not admitted to trading on a regulated market, as well as insurance in the “life” area linked to an investment fund, the value for redemption purposes; d) as to capitalisation operations in the “life” field and other capitalisation instruments, the capitalised value; f) in other cases, the



value that results from application of the rules for determination of the taxable amount set out in the Stamp Duty Code or the respective cost of acquisition, whichever is the greater.

SECRECY The tax regularisation declaration cannot, in any way, be used as an indication or relevant element for the purposes of any tax proceedings, whether civil or criminal, and the banks involved must ensure the secrecy of the information provided.

(II) SPECIAL CONTRIBUTIONS

SUBJECTIVE INCIDENCE The Budget introduces changes to the basis of assessment of special contributions for the increase in value brought by the investments in the Vasco da Gama Bridge, in Expo 98, in the CRIL, CREL, CRIP and CREP road systems, in the Tagus rail crossing and complementary rail sections and extensions to the Lisbon Metro system. These changes also apply to the holders of a receipt for presentation of prior notice of planning operations accompanied by proof of its admission.

VALUE SUBJECT TO TAXATION The value subject to taxation is corrected by the application of the devaluation coefficients provided for capital gains and losses in the IRC (corporate income tax) Code, with the date of acquisition corresponding to 1 January 1992 and the date of realisation to the date of issue of the licence for construction or works or of receipt of the presentation of the prior notice of planning operations. The Budget provides that these changes are interpretive in nature and apply to all prior notices made as from 3 March 2008.

(III) BANKING SECTOR EXTRAORDINARY CONTRIBUTION

BANKING SECTOR EXTRAORDINARY CONTRIBUTION The Budget extends the rules that created the extraordinary contribution paid by the banking sector. In calculating the base on which the contribution is charged, that the deposits covered by the deposit guarantee fund (Fundo de Garantia de Depósitos) and the agricultural credit guarantee fund (Fundo de Garantia do Crédito Agrícola Mútuo) and deposits in the central bank set up by the agricultural credit bank belonging to the integrated system for agricultural credit are deducted from the liability.

(IV) OTHERS

**TAX ID NUMBER
NIF**

The Government is authorised, through the Directorate-General of Taxes, to review and organise all the regulations on the attribution and management, exclusively for tax purposes, of the taxpayer's tax identification number (NIF). The scope of this authorisation includes (i) gathering all provisions on the creation of the taxpayer number in a single piece of legislation; (ii) bringing the rules for the issue of the tax identification card are brought into line with the rules applicable to the citizen's card, company card and legal entity card; and (iii) introducing procedures to make it easier for taxpayers to meet their tax obligations.

**TRANSMISSION OF
INVOICES**

The Government is authorised to approve a system that sets up and regulates the electronic issue and sending of invoices and other tax-related documents and establishes rules that: (i) regulate the reliability and integrity of the sequence, the authenticity of the origin, the integrity and the non-rejection of invoices issued electronically; (ii) regulate the electronic sending of invoices from the issuer to the tax authorities (including the provision of facilities for issue and electronic sending); (iii) regulate the electronic sending of payment receipts (specifically rents and salaries); (iv) make it a mandatory for the items appearing in the Orders in Council relating to invoicing to be sent electronically; (v) regulate the electronic issue of documents for transport in circulation and their sending to the tax authorities; (vi) regulate the conditions and frequency of electronic sending of inventories to the tax authorities.

VAT CREDIT

The Government is authorised to create IRS, IMI and IUC deductions of a value of up to 5% of the VAT charged and actually paid by the taxable persons in acquisition of goods and services, subject to an upper limit.

**COLLECTION OF
TOLL FINES**

For offences committed in road systems where tolls are payable, the Instituto de Infraestruturas Rodoviárias, I.P (road infrastructures institute) is no longer responsible for issuing and dealing with proceedings in respect of offences committed and debt recovery for tolls, fines and administrative costs as well as late payment interest. These powers pass to the tax office for the area of the tax address of the person committing the offence and, in future, revenue from fines ceases to be distributed 60% to the State and 40 % to the entity



that collects them. The new proportions are: 40 % to the State, 35% to the Directorate-General Of Taxes, 10% to the InIR – Instituto of the Infrastructures Rodoviárias, I.P. and 15 % to the concessionaires, sub-concessionaires, entities that collect the tolls and the entities that manage the electronic systems for toll collection.

GENERAL RIGHT OF PREFERENCE

The above credits enjoy special right of preference over the vehicles in which the offences were committed and the law applicable on a subsidiary level changes from the general civil offences rules (Regime General do Ilícito de Mera Ordenation Social) to the tax offences rules (Regime General of the Infractions Tributárias).

INCOME FROM THE TAX STABILISATION FUND (FET)

The part of the income of the Fundo de Estabilization Tributário (tax stabilisation fund) coming from the income of the DGCI (Directorate-General of Contributions and Taxes) itself is 10 % of the income of this body (rather than 40%).

THE DGCI'S OWN INCOME

The income of the DGCI (Directorate-General of Contributions and Taxes) also includes: (i) fees due for second valuations of urban buildings when paid by taxpayers; (ii) the reimbursement of expenses paid for first and second valuations (other than those not referred to) and which are taken away from income transferred to the municipalities for the period in which they were incurred; (iii) the product of the percentage defined in the law for IMI charged in the years in which the general valuation of urban and rural buildings takes place; and (iv) the fees for the urgent provision of a binding advance ruling.

PORTUGUESE CARBON FUND

The Government is authorised to transfer to the Portuguese Carbon Fund: (i) the revenue from the tax harmonisation between the heating gas oil and automotive gas oil; (ii) the revenue from the tax on low efficiency bulbs ; (iii) the revenue from compensation for breach of the obligation to incorporate bio fuels; (iv) the income from auctions in the to the aviation sector; (v) the domestic income from auctions relating to the EU greenhouse gas emission allowance trading, better known on Portugal by its initials CELE (Comércio Europeu de Licenças de Emissão); (vi) any other income attributed to it.

AUDIOVISUAL CONTRIBUTION

Provision is made for the monthly value of the audiovisual contribution for 2011 to be set at €2.25, up from the previous €1.74.



COLLECTION OF DEBTS
AND FINES OF THE
NATIONAL HEALTH
SERVICE AND THE ADSE

The collection of debts relating to the provision of healthcare by the National Health Service is placed in the hands of the tax authorities and failure to pay moderating fees (taxas moderadoras) after notice to do so is now an administrative offence with a fine corresponding to five times the value of the respective moderating fees, but never less than €50. The maximum value is five times the minimum value of the fine, with respect to the maximum limits laid down in the General Regime of Unlawful Acts of a Mere Social Order. Of the fine, 40% goes to the State, 35% to the entity that prepares the notice and 25% to the DGCI. Provision is made for the certificates of debts issued by the ADSE (the sickness assistance scheme for civil servants) which certify outstanding debts to be grounds for enforcement and collection of such debts is now carried out by the tax authorities (DGCI).

EXTRAORDINARY
REGULARISATION OF
PAYMENTS TO SUPPLIERS
FROM THE PUBLIC
ADMINISTRATION AND
BUSINESS SECTORS

The Budget provides that in cases in which the payment period exceeds 60 days, the management bodies of the public administration and business sectors must propose the renegotiation of the contractual conditions. They may be subject to financial liability and disciplinary action if they do not pay suppliers when they have available or accessible finances. The Government's debt authorisation to meet the needs arising from the execution of the 2012 State Budget may, up to a limit of €1 000 000 000, be used for the purpose of settling debts to suppliers within the limits of the possibilities for the budget year.