Unit-Linked

An efficient investment

Being very versatile for financial planning and an important wealth protection instrument, unit-linked insurance is also a very efficient investment vehicle for individuals, from a Portuguese tax perspective. In fact, under Portuguese Personal Income Tax (PIT) Code no tax is due upon the growth of the policy during its term, meaning that if no surrender occurs, no tax will be due on income or gains in the assets held within the policy (this being an important advantage when compared to direct investment). Also, in case of partial surrenders, the positive difference between the amounts paid and the income derived from the policy will only be subject to PIT if and from the moment the amounts withdrawn from the policy exceed the sum of the premiums paid.

In case of surrender, advance disposal or maturity of the policy, the positive balance between the amounts paid under the form of premiums or amounts invested by the beneficiary, and the amounts withdrawn shall be considered, for individual taxation purposes, as investment income (capital income). In order to encourage these savings instrument, the Portuguese legislator established a regime provided to which, where the sum of the premiums paid during the first half of the term of the policy amounts to, at least, 35% of the total premiums paid during the term of the policy, the taxable income will be reduced as follows: if the maturity occurs (i) between the 5th and the 8th year of the duration the policy, only 80% of the above difference will be subject to tax, (ii) on or after the 8th year of the duration of the policy, only 40% of the above difference will be subject to tax. In the remaining cases, the total amount of the income shall be subject to tax. The taxable income (i.e., 100%, 80% or 40% as applicable) shall be subject to 28% flat rate (resulting in effective tax rates of 28%, 22.4% and 11.20%, respectively). Alternatively – even though it is generally less favorable – the taxpayer has the option to include (aggregate) such income with other sorts of ordinary taxable income (e.g., business, employment, pensions). In that case the income will be subject to tax at progressive rates up to 48%, plus additional solidarity surtaxes.

Under the special Non-Habitual Residency (NHR) regime, taxable persons who meet the conditions to qualify as residents under Portuguese law and have not been tax residents in this territory in the five preceding years may benefit from the special scheme for a period of 10 years. The granting of NHR status allows taxpayers to obtain tax advantages in respect of the following income sources: (i) employment and self-employment income obtained in Portugal from high added value activities as listed in a ministerial order; (ii) employment income; self-employment income from high added value activities; passive income and pension income, whenever, in any of these cases, the income is earned abroad.

As far as passive income is concerned, it includes interest, dividends, other investment income, rental income and capital gains. This class of income will be exempt from Portuguese taxation as long as (i) It may be taxed in the source state in accordance with a double taxation agreement made between Portugal and that state, or in case no tax treaty exists, if: (a) this income may be taxed in the source state in accordance with the

OECD Model Tax Convention; (b) the same is not deemed earned in Portugal under the PIT Code; and (c) the country, territory or region that is the source of the income is not on the Portuguese list of tax havens.

Therefore, when derived from a Portuguese source, the income originating from unit-linked insurance will not benefit from NHR scheme but will be taxed in accordance with the advantageous regime described above. When the insurance company is not located in Portugal, the exemption of the income received under NHR status depends on whether the tax treaty entered into force with the source country refers to the definition of interest of each of the signatory countries and the income is qualified as such under such source country legislation. Hence, in most cases, although income will not be exempt under NHR and will be subject to PIT according to the general rules applicable to this instrument although we are aware that in certain jurisdictions and under certain circumstances this status quo may be about to change very soon. Finally, note that there is no inheritance tax in Portugal. Gifts and transfers upon death are subject to Stamp Tax (at a 10% rate), although gifts and transfers upon death between spouses and between parents and their children are exempt from Stamp Tax for both the donors and the recipients, regardless of their tax residency. Nonetheless, credits arising from life insurance policies, notably death benefits, are not subject to Stamp Tax regardless of who the beneficiaries are and what is their family relationship with the policyholder or the life assured.

Hence, even if NHR do not benefit from an exemption on income derived from unit-linked, this instrument allows for a very efficient tax planning, providing for policyholder to determine when (and if) liability to tax arises, benefitting from a tax saving (under circumstances described) and allowing no Stamp Tax to arise on payments to beneficiaries of insurance policy irrespectively of the degree of kinship with the policyholder. •

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