



## TAX

## No-deal Brexit

Law no. 27-A/2019 was approved on 28 March 2019 and establishes the contingency measures to be applied in the event of the United Kingdom's departure from the European Union (EU) without an agreement.

The main objective of this law is to offer a set of guarantees to British citizens who are resident in Portugal on the date the UK leaves the EU. In some cases, these guarantees extend to their family members.

However, it should be noted that this legal framework applies only if the UK treats Portuguese citizens resident there in the same way.

The new law provides as follows:

### 1. Right of residence:

First, the rights of residence in Portuguese territory are protected until 31 December 2020, and it is not necessary to obtain a residence permit.

Until that date, if obtained previously, the various residence documents - registration certificates, residence cards, permanent residence certificates or permanent residence cards issued to nationals of the United Kingdom and their relatives - are valid and guarantee the same conditions as established prior to the UK's exit from the EU. If UK citizens and their family members wish to continue to reside in Portugal, they will have until 31 December 2020 to apply for the renewal of their Portuguese residence permits.

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In the context of renewal, there will be different treatment depending on whether the person has been resident in Portugal for more or less than five years:

- i) If the period of residence is less than five years, a temporary residence permit will be granted.
- ii) If the residence period is five years or more, a permanent residence permit or long-term resident status will be granted.

This application for renewal must be made at the municipal councils or at civil registry offices that have the necessary technical resources. The application must be accompanied by proof of residence in Portugal (e.g., certificate of registration of European citizen).

This application for renewal is subject to payment of a fee to be defined by ministerial order, which will also provide for cases of reduction or exemption from payment.

## 2. Mandates in local government bodies

Any UK citizens who have been elected to local government bodies will remain in office until the end of their mandates.

## 3. Higher education

UK citizens and their family members will, until the end of their courses of study, be under the same rules that apply to citizens of other EU Member States if they have enrolled / enrol in Portuguese education institutions up to 31 December 2020. Therefore, the status of international student does not apply.

## 4. Social Security

UK citizens that have completed the periods of insurance, up to the date the UK leaves the EU, with mandatory contributions in that country, will have their rights to social security benefits (e.g., for old age, sickness, etc.) recognised.

The insurance periods to be considered will be communicated by the competent institutions of the UK.

After the date of the UK's exit from the EU, Regulation no. 883/2004 of the European Parliament and of the Council of 29 April 2004, on the coordination of social security systems, will cease to apply to relations between Portugal and the UK. Then, certain benefits will cease to apply, including the aggregation of contribution periods to comply with the guarantee period for access to old-age pension.

## 5. Professional activity

After the UK's exit from the EU, UK citizens will continue to benefit from administrative authorisations to engage in professional activities in Portugal.

In the same way, UK nationals who engage in professional work legally in Portugal will retain the right to recognition of their qualifications to do that work.

Any applications presented to the competent Portuguese authority at any time prior to the UK's exit from the EU, but which are still pending on that date, will benefit from the same rules.

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## 6. Health

UK citizens resident in Portugal on the date of the UK's exit from the EU will continue to have access to the Portuguese National Health Service (SNS).

UK citizens on a temporary stay in Portugal can benefit from healthcare with the SNS until 31 December 2020. In these cases, they must present a valid passport.

In cases of a temporary stay, except for any user charges, the costs will be borne by the SNS, if no third party is responsible for their payment, as will be the case of insurers. These costs will be re-invoiced to the UK in terms that will be established in future negotiations, after the UK's departure from the EU.

## 7. Driving licences

UK citizens and their families must exchange their driving licences by 31 December 2020.

## 8. Tax implications

Although not expressly addressed in Law no. 27-A/2019 of 28 March 2019, the Portuguese Tax and Customs Authority (TA) recently published information about the implications in terms of registration of taxpayers and on personal income tax (PIT), in the case of the UK's exit from the EU without an agreement.

In addition, the harmonised EU tax legislation will cease to be applicable.

### o Registration of taxpayer

British citizens with a Portuguese Tax Identification Number (TIN) and an address in the UK will be obliged to appoint a tax representative (an individual or a firm) with an address for tax purposes in Portugal.

The same obligation will apply to British citizens with their tax address in Portugal who, after the UK's departure from the EU, change their tax address back to the UK<sup>1</sup>.

### o Personal income tax

British citizens who are resident for tax purposes in Portugal will continue to be taxed for PIT under the rules applicable to tax residents. The provisions mean they will be taxed on all their income, regardless of whether or not it is obtained in Portugal.

British citizens currently residing in Portugal, who, after the UK's exit from the EU, move to the UK and lose their status as residents in Portugal, will continue to be taxed in Portugal on the income they earn in Portugal. They will be taxed in accordance with the general rules applicable to non-residents and the rate and any definitive withholding tax will depend on the income earned.

<sup>1</sup> For more information, please see the information published by the Tax and Customs Authority [here](#).

However, after the UK's exit from the EU, British citizens will cease to benefit from the rules specifically applicable to residents of EU Member States. These include the option to be taxed as a resident when the income obtained in Portugal represents 90% of the total income. This is without prejudice to the application of the rules contained in the Convention to Avoid International Double Taxation concluded between Portugal and the UK.

Finally, it should be noted that the UK's exit from the EU has no impact on British citizens resident in Portugal who benefit from the non-habitual tax residents scheme<sup>2</sup>.

#### o European Directives

Directive 2011/16/EU of the Council of 15 February 2011 on administrative cooperation in the field of taxation, and Directive 2010/24/EU of the Council of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures, will cease to apply to relations between the Portuguese Tax Authority and the UK tax authority (Her Majesty's Revenue and Customs).

Although the impact on individuals is only indirect, it appears that the tax authorities of Portugal and the UK will no longer be able to cooperate on the basis of these Directives for the purposes, respectively, of assessing taxes due and recovering, in Portugal or in the UK, tax credits established in one of these states.

However, the CRS (Common Reporting Standard) - regarding the standardisation of procedures for banking institutions to identify clients and report information of a tax nature - will continue to apply. Therefore, the exchange of information on bank accounts and financial income of individuals will continue to take place between the tax authorities of Portugal and the UK.

**"The proposed regulation is still awaiting approval by the European Parliament and the Council of the European Union, and its subsequent publication in the Official Journal of the EU, to enter into force."**

#### 9. Need to issue visas

On 9 April 2019, the Council of the European Union adopted a regulation that allows UK citizens of the enter and stay in the EU for tourism and business travel for a period of up to 90 days in any period of 180 days, without the need for a visa to be issued. This is subject to the proviso that there are reciprocal conditions for EU citizens travelling to the UK.

In any event, the proposed regulation is still awaiting approval by the European Parliament and the Council of the European Union, and its subsequent publication in the Official Journal of the EU, to enter into force.

<sup>2</sup> For more information, please see the information published by the Tax and Customs Authority [here](#).