PLMJ

AGO. 26

INFORMATIVE NOTE

TAX

Renewable energy power plants

Changes to municipal property taxation

The Portuguese Supreme Administrative Court (“**STA**”) has ruled that renewable energy power plants are economic units that may be classified as urban properties for Municipal Property Tax (“**MPT**”) purposes. Following this case law, the Portuguese Tax Authority (“**PTA**”) published Circular No. 4/2026, which revokes Circular No. 2/2021. The new Circular sets out the PTA’s updated position on how to determine the taxable value – “valor patrimonial tributário” (“**VPT**”) – of these assets.

The Circular applies to the assessment, for MPT purposes, of all power plants converting wind or solar energy.

The Circular applies to the assessment, for MPT purposes, of all power plants converting wind or solar energy, including those already registered in the property tax register, pursuant to Decree-Law No. 15/2022, of 14 January (which establishes the organisation and operation of the National Electricity System).

Concept of “property” for MPT purposes

Circular No. 4/2026 maintains the interpretation set out in Circular No. 2/2021, according to which power plants, as a whole, meet the structural elements — the physical, legal and economic elements — of the concept of “property” provided for in the MPT Code:

- The physical element, corresponding to the physical structure installed on the land on a permanent basis.
- The legal element, resulting from the integration of a set of assets, equipment and infrastructure into the property of an individual or legal person, or of an entity with legal personality for tax purposes.
- The economic element, which consists in the aggregate — the power plant as a whole — having an economic value arising from its capacity to support the production of a marketable economic good, namely electricity.

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Power plants continue to be classified as industrial urban properties based on the licensing of the relevant constructions.

If no use permit has been issued, the classification is based on the plant's normal industrial use, since the facilities concerned are used to produce electricity from wind or solar energy. This activity is classified, respectively, under category 35122 (Production of electricity from wind energy) and/or category 35123 (Production of electricity from solar energy) of the Portuguese Classification of Economic Activities (CAE – Rev. 4).

For valuation purposes (determination of the taxable value), and in line with the case law of the Portuguese Supreme Administrative Court that has become established in recent years, the various components or structures considered individually cease to be relevant, subject to certain exclusions (e.g. the assembly comprising the blades, rotor and nacelle of wind turbines and the solar panels of photovoltaic plants).

The relevant object of the valuation is instead the aggregate of assets: the interconnected set of assets, equipment and infrastructure required to convert energy from renewable sources into electricity, comprising the component and integral parts of the power plant identified, in particular, in the relevant production and operation licences.

Valuation method and calculation of the taxable value

The valuation must cover the electricity-producing economic unit, understood as the aggregate of assets, equipment and infrastructure comprising the power plant and contributing to the production of electricity.

Under Circular No. 2/2021, only certain components, equipment and infrastructure were included in the valuation (e.g. substations, control buildings, wind towers and the land on which those structures were installed in the case of solar plants; substations, control buildings, the structures supporting the solar panels — but not the panels themselves — and the land on which those structures were installed in the case of photovoltaic plants). Under Circular No. 4/2026, the power plant must be considered as a whole, without distinguishing between its various elements.

Circular No. 4/2026 no longer expressly excludes certain elements or equipment of wind and photovoltaic plants from the valuation for MPT purposes. In principle, all component and integral parts of the power plant listed in the relevant production and operation licences are now included in the calculation of the taxable value.

All component and integral parts of the power plant listed in the relevant production and operation licences are now included in the calculation of the taxable value.

The taxable value is determined using the cost method, with the value of the land added, in accordance with Article 46(2) of the MPT Code and Ministerial Order No. 11/2017, of 9 January, which approves the list of urban properties to which this valuation methodology applies.

In January 2025, the Government established a working group to define the terms and conditions for applying the cost method with the addition of the land value, in particular to dams and power plants. The group was established in light of the doubts raised by this methodology and the related litigation. Its conclusions have not yet been made public.

Circular No. 4/2026 establishes that, where a power plant is installed across several plots of land, it is deemed to have economic autonomy from those plots and constitutes a separate property.

This methodology may lead to a significant increase in the taxable value of wind and photovoltaic power plants and, consequently, in the MPT due each year.

The specific impact will depend on the composition of each power plant, the nature and quantity of the relevant equipment and infrastructure, and the costs associated with their implementation, and may have a material impact on the economic viability of the projects.

Economic autonomy and relationship with the lands

Circular No. 4/2026 establishes that, where a power plant is installed across several plots of land, it is deemed to have economic autonomy from those plots and, for MPT purposes, constitutes a separate property.

Conversely, where the power plant is located on a single plot of land, it does not have economic autonomy — as a property — from that land, provided that the ownership, usufruct or surface right ("direito de superfície") over the land is held by the same entity that owns the power plant. In that case, the power plant and the land constitute a single property.

The position is maintained that, where the property constituted by the power plant has economic autonomy from the land on which it is installed, the land to be taken into account for the purposes of calculating the taxable value corresponds only to the area effectively occupied by the power plant.

Registration in the property tax register

As regards registration in the property tax register, the position remains that, where the property is located in a single parish, it must be registered in the urban property tax register corresponding to that parish.

Where the property is located across several parishes and is fenced, it must be registered in the property tax register corresponding to the parish in which the part containing the main entrance is located. If it is not fenced, it must be registered in the property tax register corresponding to the parish in which the largest number of constructions are located.

Reporting obligations

Taxpayers must ensure the registration or updating of the property tax register and submit the information required to characterise the power plant and determine its VPT.

The documentation must demonstrate the area occupied, as well as the nature, quantity, characteristics and costs of the equipment and structures, pursuant to the principle of cooperation laid down in the General Tax Law (“Lei Geral Tributária”).

The documents identified as relevant in Circular No. 4/2026 include:

i) the production and operation licence.

ii) the technical specifications of the components of the energy conversion system.

iii) the supply schedule for the supporting structures and the associated costs.

iv) the accounting records evidencing the acquisition cost.

v) the geometric configuration of the land covered by the power plant.

vi) the location of the respective components.

Our conclusions

Circulars issued by the PTA are binding on the tax administration’s services. However, they are not a source of tax law and do not carry the same legal force as legislation. As a result, they cannot restrict, broaden or change the applicable legal framework. This is particularly relevant given that the MPT Code has not yet been amended to expressly regulate the taxation of power plants. Moreover, the conclusions of a working group specifically set up by the Government to define how the cost method should apply to these assets have not yet been published. These factors do not help to clarify the many uncertainties in this area and may lead to more disputes between power plant owners and the PTA.

The inclusion of certain equipment in the calculation of the VPT requires a prior and explicit legal basis and cannot result merely from administrative guidelines issued by the tax authorities.

In particular, the inclusion of certain equipment in the calculation of the VPT requires a prior and explicit legal basis and cannot result merely from administrative guidelines issued by the tax authorities.

In essence, Circular No. 4/2026 does not depart from the PTA’s position held at least since 2021 that a power plant, taken as a whole or as an economic unit, may be classified as an urban property. However, the inclusion of equipment and/or equipment components in the formula for calculating the VPT represents a change from the previous approach. This may increase the VPT and, consequently, the MPT burden on both new projects and existing facilities, including power plants already registered in the property tax register. The actual impact will depend on the specific valuation and composition of each unit.

In the case of existing power plants, municipalities may request their reassessment. Accordingly, their owners should anticipate the impact of the new methodology on the cost structure and economic viability of renewable energy projects.

We recommend that operators assess the impact of the new Circular on projects currently underway and in the pipeline. This includes reviewing the MPT exposure of each power plant.

We therefore recommend that operators assess the impact of the new Circular on projects currently underway and in the pipeline. This includes reviewing the MPT exposure of each power plant, confirming the boundaries between the power plant and the relevant land, and preparing the necessary technical, property tax and accounting documentation in good time.

Given the sector's history of challenging valuations that include equipment and infrastructure installed at power plants in the VPT, further litigation cannot be ruled out, particularly in relation to the scope of the aggregate of assets, the economic autonomy from the land, the quantification of the relevant costs and the application of the cost method with the addition of the land value. ■