

**EMPLOYMENT AND LABOUR**

# Performance bonuses and profit sharing

Article 96 of the 2026 State Budget (Law 73-A/2025) maintains the personal income tax exemption applicable to productivity bonuses and others. This exemption stems from Article 115 of the 2025 State Budget, which in turn stems from Article 236 of the 2024 State Budget.

The Tax Authority recently issued a Guidance Note providing clarifications on Article 115 of the 2025 State Budget which may be relevant to interpreting the new exemption rules since the provisions are similar.

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**1. The scope of Article 96 of the 2026 State Budget**

Article 96 establishes that amounts paid or made available to employees or members of statutory bodies in 2026 are exempt from personal income tax up to a limit of 6% of the employee's annual base salary, provided that:

- They are paid by the employer on a voluntary and non-regular basis.
- They correspond to productivity bonuses, performance bonuses, profit sharing, or balance sheet bonuses.
- The employer has made an eligible salary increase in 2026.

**2. Clarifications from the Guidance Note (Case 28516):**

Although the Doctrinal Note refers to Article 115 of the 2025 State Budget Law, the clarifications it provides may be directly applicable to Article 96 of the 2026 State Budget Law, given that the two articles have identical wording and requirements.

**The bonus cannot arise from a legal obligation, such as an employment contract, a collective bargaining agreement, or internal regulations, even if it is subject to objective criteria.**

#### What is meant by “annual base salary”?

- It corresponds to the employee’s monthly base salary multiplied by 14 months (12 months + holiday allowance + Christmas allowance).
- It does not include any other fixed or variable salary supplements, such as shift allowance or exemption from working hours.

#### What does “voluntary and non-regular” mean?

- “Voluntary”: the bonus cannot arise from a legal obligation, such as an employment contract, a collective bargaining agreement, or internal regulations, even if it is subject to objective criteria.
- Bonuses arising from a legal obligation, even if subject to objective criteria, are not considered voluntary and are excluded from the benefit.
- “Non-regular”: not covered by the concept of regularity provided for in Article 47 of the Contributory Code, which provides that “... *a benefit is considered regular when it constitutes a right of the employee, as it is pre-established according to objective and general criteria, even if conditional, so that the employee can count on receiving it, and it is granted at a frequency of five years or less.*”

#### How is the requirement for a salary increase verified?

For 2026, employers must comply with the requirements of Article 19-B of the Tax Benefits Statute. These requirements are as follows:

- A minimum increase of 4.6% in the company’s average annual base salary, based on the previous year-end figures.
- A minimum increase of 4.6% in the annual base salary of employees who earn the company’s average annual base salary or less.

#### Is it mandatory to award the bonus to all employees?

- No. The company can choose who to award the bonus to. The decision is up to the employer.

### 3. Comparison: Art. 115 of the 2025 State Budget Law v Art. 96 of the 2026 State Budget Law

- The exemption limit remains at 6% of the annual base salary in both years.
- Required salary increase: 4.7% in 2025 and 4.6% in 2026.
- Contribution exclusion: exclusion from the basis of assessment remains unchanged.
- Nature of the exemption: bonuses are subject to income tax withholding at source but are not included when calculating the applicable rate for other income.

### 4. Practical aspects for human resources departments:

- Check that the company meets the salary increase criteria before applying the exemption.
- Ensure that bonuses are truly voluntary.
- Avoid bonus allocation patterns that could be considered regular.
- Correctly calculate the 6% limit on basic pay only (14 months).

According to the Portuguese Tax Authority (PTA), it may not be possible to benefit from the incentive provided for in the 2026 State Budget if the same employee has already benefited from the incentive provided for in the 2025 or 2024 State Budgets. If confirmed, this PTA understanding only concerns personal income tax and is not binding on Social Security. ■

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