“Mais Habitação” programme

Legislative package

Transformative Legal Experts

PLMJ

The public consultation on the legislation proposed by the Government as part of the "*Mais Habitação*" programme is under way.

The public consultation on the laws on housing loans and rents ends on 13 March. The remaining legislation had its public consultation extended until 24 March.

PLMJ is now making its own contribution to the understanding of the proposed measures by summarising the most significant points[1]:

Conversion to residential use

Provision is made for the possibility of converting buildings for residential use and the construction of new buildings for housing purposes in urban areas which are classified in the applicable municipal plan as spaces for equipment, commerce and services, under terms to be defined by the municipal plans (through a simplified amendment procedure).

The compatibility with residential use is presumed, without the need for an amendment to the municipal plan, of land owned exclusively by the State (including public institutes and public companies) which are no longer subject to public utility restrictions or easements or are removed from the public domain or from public utility purposes.

There is a proposal to maintain the classification as urban land of plots which, simultaneously, (i) are still classified as developable land / urban land with planned urban development, (ii) whose predominant intended use is housing and (iii) whose development is planned under a local housing strategy, or a municipal housing charter or housing stock or affordable housing (even if not yet developed).

Increasing the land available for public or affordable housing

The promotion of public housing or housing at controlled costs is included in the range of purposes which justify the exercise of the pre-emption right by the State, autonomous regions and local authorities in transfers of real estate properties between private individuals[2].

The free transfer by owners to the municipality of plots of land destined for the implementation of public housing projects or projects with controlled costs, in the context of transfers due for the promotion of urban planning operations, is now also provided for.

Support for the promotion of housing at controlled costs for affordable leasing

A support for the promotion of housing at controlled costs is provided for and this is to be ensured through:

i) A line of credit granted by the Government, in the global amount of €250 million, with mutual guarantee and interest rate subsidy, to finance projects regarding affordable housing, namely, construction or rehabilitation projects, including the acquisition costs of the properties that will be allocated to affordable housing. In this context, leasing to public entities for subsequent sub-leasing as part of programmes promoted in the area of accessible housing is allowed.

1 This document is intended for general distribution to clients and colleagues and the information contained herein is provided as a general and abstract overview. Its contents may not be reproduced, in whole or in part, without the express consent of the editor(s). If you should require further information on this topic, please contact Francisco Lino Dias (francisco.linodias@plmj.pt) or Rita Alarcão Júdice (rita.alarcaojudice@plmj.pt).

2 Although Decree-Law 81/2019, which regulates the Housing Framework Law, already stipulates in its article 6 that "The State, the autonomous regions and the municipalities enjoy the right of preference in onerous sales of real estate for residential use, in addition to the other situations provided for by law, in the following circumstances:
a) In an urban pressure zone, delimited on the grounds of lack or inadequacy of supply, under the terms set out in article 2-A of Decree-Law 159/2006 of 8 August, in its current wording.
b) In territories identified in the National Housing Programme based on the lack of inadequacy of supply referred to in the previous paragraph.

ii) Availability of public real estate assets, to be identified by the Government, to promote and make it available for accessible leasing. In this case, the availability of the public real estate assets is carried out through the assignment of the surface right, for a maximum period of 90 years, and the transfer of the property right in favour of the beneficiaries is not allowed.

The following entities may benefit from this support:

i) Housing and construction cooperatives, as long as they comply with the legally provided conditions of access to financing for these entities[3].

ii) Commercial companies engaged in civil construction, in consortium or in any other form of association with commercial companies whose corporate purpose includes housing leases and asset management, provided they comply with the conditions legally established for access to the concession of financing to private civil construction companies[4].

iii) The municipalities, individually or jointly with the entities referred to in the previous items.

iv) *Misericórdias*, private social solidarity institutions and collective persons of administrative public utility or recognised public interest.

Buildings constructed with financing granted under this scheme are subject to the parameters and values in force for controlled cost housing, namely as to construction cost per square metre and maximum rent amounts set out in the Affordable Renting Programme[5].

The buildings promoted under this scheme will be allocated for accessible renting for a minimum period of 25 years, without prejudice to the possibility of entering into lease agreements for a longer period.

Once the rental period set out in the previous point has expired, and in the event of sale, the municipalities and the Housing and Urban Rehabilitation Institute, I.P. ("**IHRU**") have a pre-emption right in the acquisition of the properties built under this scheme. However, the value of the acquisition will be calculated in accordance with the legislation applicable to the promotion of housing at controlled costs, reported to the date of completion of the development and updated by the monetary correction factor.

The details of this scheme will be regulated by a ministerial order within 90 days of its entry into force.

Simplification of licensing procedures

A bill is expected to be presented to Parliament authorising the Government, as a matter of priority and urgency, to amend the rules on the prior control of plot division operations and urban development operations provided for in the Legal Framework on Urbanisation and Construction[6] ("**RJUE**"), with the following aim and extent:

- Alteration of the situations in which the use of prior notice for urban construction operations is permitted.

- Preliminary approval of the architectural project and specialty projects based on the terms of responsibility of the project authors.

- Mandatory, as of 1 January 2025, the presentation of architectural and specialty projects digitally and parametrically modulated and coordinated according to the Building Information Modelling (BIM) methodology and delivered in Industry Foundation Classes (IFC) format.

3 Article 4 of Decree-Law 145/97 of 11 June 1997, which regulates the granting of financing to housing and construction cooperatives for the construction of cost-controlled housing.
4 Article 4 of Decree-Law No. 165/93 of 7 May 1993, which regulates the granting of financing to private construction companies for the construction of cost-controlled housing under housing development contracts.
5 Created by Decree-Law 68/2019 of 22 May.
6 Approved by Decree-Law 555/99 of 16 December and subsequently amended.

- Creation of a new regime of joint and several liability between project authors and executing entities and reinforcement of the liability applicable to these professionals through the creation of a sanctioning regime.

- Application of the licensing regime to urban development works and to plot division operations.

- Holding weekly procedural conferences to issue the opinions of external entities. Regular specific procedural conferences may be set up for a particular municipality, whenever justified by the municipality’s urban dynamics.

- Development and implementation of a single, interoperable, nationwide digital platform for plot division operations, urban development operations, and land remodelling works.

- Penalising municipalities and external entities for non-compliance with the legally established time limits for decision making through the creation of a late payment interest scheme, with the possibility of a reduction in licensing fees.

State Lease for Sublease

The creation of a sub-leasing scheme is provided for. This is to be organised by the IHRU and ESTAMO - Participações Imobiliárias, S.A. (**“ESTAMO”**) and it is intended for families with difficulties in accessing housing. It works by mobilising properties available on the market on a lease agreement basis for subsequent sub-leasing at affordable prices.

The IHRU will enter into lease agreements with the owners (or holders of other real rights) of the properties identified by ESTAMO, for subsequent sub-leasing to households whose maximum gross annual rent does not exceed the maximum limit of the 6th bracket of Personal Income Tax (**“IRS”**), in the case of households of one person, to which must be added €10,000 in the case of households of two people and another €5,000 for each additional person.

The lease agreements entered into between the IHRU and the owner cannot have a duration of less than 3 years, and in the absence of a stipulation by the parties, they will be in force for 5 years, renewable for equal periods unless expressly opposed by either party.

The price of the rent to be paid by the IHRU observes the general limits of the rent price provided for in an order from the members of the Government responsible for the areas of Finance and Housing[7], and it is possible, in any case, to agree a higher rent price than those limits, up to 30% for each typology and municipality where the property is located.

The IHRU guarantees the punctual payment of rents to the owners (or holders of other real rights) and the handing over of the property at the end of the lease in the same conditions in which it was received.

The properties are allocated through a competition carried out by the IHRU, and priority is given to applications from young people up to the age of 35, single-parent families and families with a drop in income of more than 20% in relation to income in the previous month or the same period in the previous year.

Sublease agreements are signed between the IHRU and the applicants. The IHRU sets the price of the monthly rent, which must correspond to a maximum effort rate of 35% of the average monthly income of the housing unit, and the property cannot be allocated if the aforementioned effort rate is exceeded.

7 Ministerial Order 176/2019 of 6 June, approved pursuant to article 10(a) of Decree-Law 68/2019 of 22 May, as subsequently amended, which created the Accessible Renting Programme.

The following tax benefits for owners are also envisaged:

- Rental income resulting from lease agreements entered into under this regime will be exempt from IRS and Corporate Income Tax (**"IRC"**), provided that the general limits of the rent price provided for in an order of the members of the Government responsible for the areas of Finance and Housing[8] are met and the agreement is registered with the Tax Authority (**"AT"**).

- Municipalities may also exempt from municipal real estate tax (**"IMI"**) real estate subject to rental agreements entered into under the terms of this scheme, during its validity.

Within 5 working days of the signature of the sub-lease agreement, the landlord must: (i) register the lease agreement with the AT; and (ii) inform the IHRU of this registration. After this last communication, the tax benefit is granted.

New Landlord and Tenant Counter[9]

There is a plan to present to Parliament a draft law authorising the Government, with a request for priority and urgency, to review the legal systems applicable to the special eviction procedure[10] and to the special debt recovery procedure in relation to the leasing of properties[11]. This will involve creating the Tenant and Landlord Counter and simplifying, speeding up and improving the functioning of these mechanisms, with the reinforcement of guarantees for both parties. The legislative authorisation is to have the following aim and extent:

- Integration of the special debt recovery procedure in relation to the leasing of properties into the National Lease Counter ("*Balcão Nacional do Arrendamento*"), (**"BNA"**), renamed as the Tenant and Landlord Counter ("*Balcão do Arrendatário e do Senhorio*"), with integration into the information system supporting the procedural processing.

- Implementation of an integrated system of access to rental information for landlords and tenants.

- Introduction of the possibility for the termination of the lease due to default in the payment of the rent to be carried out through a special eviction procedure (to be carried out at the Tenant and Landlord Counter), safeguarding the tenant's right to put an end to the default within the opposition period.

- Clarification of the rules that apply in the absence of opposition by the defendant with reinforcement of guarantees.

- Establishment of the defendant's duty to inform, at the time of the opposition, of the existence of other holders in whom, under the terms of the law, the right to lease may be recognised and the possibility of remedying the defect of legitimacy.

- Strengthening of notification guarantees.

- Replacement of the title to vacate the leased premises by a court order allowing entry into the home.

- Guarantee that, after a judicial decision to vacate the leased premises, the same may be suspended or deferred in proven situations of (i) a threat to life; (ii) acute illness; (iii) a lack of means; or (iv) disability with a degree of incapacity over 60%.

- In special eviction proceedings taking place at the new Landlord and Tenant Counter ("*Balcão do Arrendatário e do Senhorio*"), based on the tenant's delay in paying the rents:

  a) Creation of a payment arrangement by the State for the rents that fall due after the end of the opposition period, and establishment of the right of the State to take on the landlord's rights, which may be exercised through fiscal enforcement.

  b) Institution of a social and housing support mechanism, in case of proven lack of means by the tenant, to ensure (i) the continuation of the agreement; or, in case of opposition by the landlord, (ii) the allocation of a housing solution.

8 Ministerial Order 176/201, of 6 June, approved pursuant to article 10(a) of Decree-Law 68/2019 of 22 May, as subsequently amended, which created the Accessible Renting Programme.
9 These measures are part of a 180-day legislative authorisation proposal for the Government to review the rules applicable to the special eviction procedure.
10 Provided for in Decree-Law 1/2013 of 7 January and Law 6/2006 of 27 February, as amended.
11 Provided for in Decree-Law 34/2021 of 14 May.

Acquisition of real estate properties by public entities

The acquisition for value of the property right or other *in rem* rights over real estate for affordable rental by public entities is admitted, in general terms, and the acquisition value must be compatible with that resulting from the evaluation procedure.

The procedure provided for in the preceding paragraph will apply, with the necessary amendments, to rental for subsequent residential sub-leasing.

Incentives for the transfer of properties allocated to Local Lodging

NON-TRANSFERABILITY OF LOCAL LODGING REGISTRATION

The local lodging registration number will be, in a general (regardless of the type of local lodging and the location of the property), personal and non-transferable;

Any transfer of the share capital of titleholders of the local lodging registration will be considered a transfer of the local lodging registration.

CANCELLATION OF LOCAL LODGING IN AUTONOMOUS UNITS OR PARTS OF BUILDINGS CAPABLE OF INDEPENDENT USE

The condominium meeting, by a resolution representing more than half of the shares of the building’s arear, may oppose to local lodging activity, except when the constitutive title expressly provides the use of the unit for local lodging or there has been an express resolution of the condominium meeting to authorise the use of the unit for that purpose.

For the purpose of immediate cancellation of registration, the condominium meeting must inform the mayor of the relevant municipality of the decision.

The cancellation of the registration will prevent the property in question from being operated as local lodging, regardless of the entity in question, until the condominium meeting decides otherwise.

SUPERVISION

In addition to Food and Economic Security Authority (*ASAE*) and the municipal council with jurisdiction, the civil parish council with territorial jurisdiction will now also have powers to supervise compliance with the provisions of Decree-Law 128/2014 of 29 August (rules on the operation of local lodging establishments), as amended, as well as to bring proceedings and apply fines and ancillary sanctions. It will also have powers to temporarily prohibit the operation of local lodging establishments in the situations provided for in the above decree-law.

DURATION

The registration of local lodging establishments will have a duration of 5 years, counting from the previous communication with a deadline.

The renewal of local lodging registration will require express authorisation by the municipal council with jurisdiction.

The renewal must be requested by the holder of the local lodging registration up to 120 days before the expiration date, otherwise it will expire.

SUSPENSION OF NEW LOCAL LODGING REGISTRATIONS

The issuing of new registrations of local lodging establishments will be suspended until 31 December 2030, with the exception of zones for rural lodging, under the terms to be defined by ministerial order. This provision will not apply to the Autonomous Regions.

EXPIRY OF EXISTING LOCAL LODGING REGISTRATIONS

The local lodging registrations that have been issued until the date of entry into force of the law that will result from the proposal under analysis, will expire on 31 December 2030 and be renewable for 5-year periods, under the terms referred to above.

The registrations of local lodging establishments that constitute an *in rem* guarantee of loan agreements entered into prior to the entry into force of the law resulting from the proposal under analysis, will not expire on 31 December 2030 and can be extended until the full payment of the loan.

EXTRAORDINARY CONTRIBUTION ON LOCAL LODGING ESTABLISHMENTS - CEAL

Creation of an extraordinary contribution on local lodging establishments (*CEAL*), which will be levied on the allocation of residential real estate, located in areas of urban pressure, to local lodging, on 31 December of each year.

The taxable persons for the *CEAL* will be the holders of the local lodging establishments. When these are not the same as the owners of the properties, the owners of the properties will be responsible on a subsidiary basis for the assessment and payment of the *CEAL*.

The Government will publish annually: (i) the economic coefficient of the property based on the average annual income per room calculated by the National Institute of Statistics for the previous year and (ii) the urban pressure coefficient calculated for each zone according to the variation of the rent per square metre. The rate applicable to the taxable base - constituted by the application of these coefficients - will be 35%.

AGE COEFFICIENT

The age coefficient of buildings that constitute local lodging establishments either fully or in part will always be 1. This is the case regardless of the number of years that have passed since the date of issue of the use licence, if any, or the date of conclusion of the construction works.

TRANSFERRING PROPERTIES FROM LOCAL LODGING TO LEASE

Personal income tax and corporate income tax exemption on income from property obtained until 31 December 2030 deriving from lease agreements for permanent residential purposes provided that all of the following conditions are met: (i) the income results from the transfer, for residential purposes, of property previously used for local lodging; (ii) the registration of local lodging establishments took place by 31 December 2022; and (iii) the signing of the lease agreements (and their registration with the Tax Authority) occurs by 31 December 2024.

Verification of the habitability conditions of leased or sub-leased properties

As soon as it becomes aware, by a complaint or by information sent to it, of facts that may evidence the existence of deficiencies in leased or sub-lease properties, the Institute for Housing and Urban Rehabilitation (*IHRU*) will be able to ask the municipal council for:

a) The assessment of the leased premises’ maintenance level and, should this procedure result in a poor or very poor maintenance level, the municipal council (or legally competent body) must, in turn, follow the procedure established in the Legal Framework of Urban Development and Construction (*RJUE*)[12].

b) The conditions of habitability.

12 Article 89 et seq.

In any case, municipal councils will have a general duty to periodically inspect buildings as to their habitability conditions. Of their own motion or at the request of any interested party, municipal councils may also decide to inspect the conditions of use of the property.

As part of the inspection, compliance with the legal rules on leases for housing purposes, habitability conditions and irregular situations of leasing or sub-leasing for housing purposes should be verified.

The inappropriate typology of the property in relation to the size and characteristics of the household is considered to be a use in disagreement with the use established in the property's permit or advance notice.

If irregular situations are identified, the municipal council must serve notice on the owners requiring them to restore the use in the authorised terms[13], and it may also bring administrative offence proceedings.

In situations of lease of properties in which tenant occupancy may be seen as overcrowded, the landlord is responsible for providing alternative housing for the tenants in question[14].

Mandatory leasing of vacant homes

A procedure is provided for under which residential properties classified as vacant under the terms of the law[15] – and preferably those that meet habitability conditions that enable their immediate rental – may be subject to forced rental by municipalities, for subsequent sub-leasing within the scope of public housing programmes.

For the purposes of the above procedure, the municipalities will present the owners with a lease proposal to which the owners must respond within 10 days.

The value of the rent to be proposed by the municipality to the owner has a maximum limit of the reference value of the price per rental and accommodation applicable under the Affordable Renting Programme[16], and the respective lease agreement is preferably signed under that Programme.

In the event of refusal of the rental proposal or lack of response and if the property remains vacant for another 90 days, the municipalities will proceed with the forced rental of the property, in accordance with the *RJUE*[17].

Under the Housing Framework Law[18] (Article 5) and Decree-Law 159/2006 of 8 August (Article 3), when buildings or apartment units are in one of the following situations, they are not considered vacant:

a) They are for use as secondary homes, migrant homes or homes for persons displaced for professional, educational or health-related reasons.

b) During the period in which duly authorised or communicated works are being carried out, during the time limits defined for them, or while legal proceedings are pending that prevent such use.

c) They are acquired for resale by natural or legal persons.

d) They are part of a tourist development or are registered as a local lodging establishment.

13 Pursuant to articles 102 and following of the RJUE.

14 Pursuant to article 9-B of Decree-Law 157/2006 of 8 August 2006, which regulates the suspension of the execution of the lease agreement for profound remodelling or restoration and pursuant to which it is anticipated that the landlord will re-occupy the tenant in the same municipality, in a home in a state of conservation equal or superior to that of the original leased premises and suitable for the needs of the tenant's family household (without prejudice to the provisions of article 73 of the Legal Framework of Urban Rehabilitation approved by Decree-Law 307/2009 of 23 October, when it is a case of execution of an urban rehabilitation operation).

15 Decree-Law 159/2006 of 8 August, in its current wording, which approves the definition of the fiscal concept of a vacant building.

16 Pursuant to Article 5 of Decree-Law 89/2021 of 3 November, which refers to Ministerial Order 176/2019 of 6 June.

17 Article 108-B of *RJUE*.

18 Approved by Law 83/2019 of 3 September.

In cases in which the property’s state of conservation does not allow for its habitational use, the municipalities may forcibly execute the works necessary to correct any bad health and safety conditions, as well as the habitability conditions, under the terms of the RJUE[19], and the expenses will be recovered from the rents due.

The water, electricity and landline telephone service providers are already obliged to communicate certain information to the Tax Authority by 15 April, 15 July, 15 October and 15 January of each year. This information is on contracts signed with their clients and any alterations to them, with an indication of the tax number of the owner, or the holder of the right of usufruct or surface right, and their addresses, and the land registry information of the property. In addition to this information, they will now also have to send an updated list of the absence of consumption or low consumption, per building or unit.

As a further aspect of the duty of cooperation of the different bodies, to determine whether a certain building or unit is vacant, it is established that the telecommunications companies and the gas, electricity and water distribution companies must send to the municipalities, by 1 October of each year, an updated list of the absence of consumption or low consumption for each building or apartment block.

Limit on setting the amount of rent in new lease agreements

The proposal includes a limitation on the initial rent in new residential lease agreements, setting out that it may not exceed the value of the last rent charged on the same property, in a previous agreement, increased by a coefficient of 1.02. The annual coefficients legally provided for[20] (considering the coefficient of 1.0543 for the year 2023) may also be applied in the initial rent, provided no more than 3 years have passed since the date on which its application would have been initially possible and may only be applied once in each calendar year.

In the case of properties that are subject to major works or extensive restoration works certified by the Municipality, the amount corresponding to the landlord’s corresponding expenses may be added to the initial rent, up to an annual limit of 15%.

The proposed limitation applies to lease agreements for properties over which lease agreements have been entered into in the last 5 years.

Lease agreements executed prior to 1990

The proposal includes the elimination of the possibility of landlords transitioning lease agreements to the NRAU[21] in cases where tenants invoke and prove that the Gross Annual Corrected Income (“**RABC**”) of their household is below five times the National Annual Minimum Income (“**RMNA**”) or where they are 65 years old or over, or disabled with a degree of incapacity of 60% or more (or in the cases where a spouse, de facto partner or relative of the tenant, in the first degree of the family line, who is in these conditions, is residing in the leased premises for more than five years, with the RABC of the household being below 5 x RMNA).

In such cases, it is also proposed that the rent be updated in accordance with the annual coefficients legally provided for[22] (instead of being indexed to the taxable value of the leased premises and to the tenant’s income, as currently provided for).

Landlords are granted a tax benefit, whereby property income obtained through housing leases entered into before the RAU came into force (15 November 1990) is exempt from personal income tax (“**IRS**”).

A tax benefit is also granted to landlords, through which properties subject to leases in those circumstances are exempt from the Municipal Property Tax (“**IMI**”).

19 Article 89 et seq.
20 Resulting from article 24 of the New Urban Lease Framework, approved by Law 6/2006 of 27 February.
21 New Urban Lease Regime, approved by Law 6/2006 of 27 February.
22 Resulting from article 24 of the New Urban Lease Framework, approved by Law 6/2006 of 27 February.

The report provided for in the State Budget for 2022[23] to be issued with reference to the lease agreements that fit into the above mentioned situations will also propose the measures necessary to define the amount and limits of the compensation to be granted to the landlord for the rents not collected from the tenants.

Residence Permit for Investment Activity in Portugal (“Golden Visas”):

There is a proposal to end the granting of new Golden Visas for all types of investment. However, the applications for Golden Visas that, as at 16 February 2023, were still awaiting a decision from the competent authorities will remain valid;

Regarding the renewal of Golden Visas:

- There is a proposal to end the renewal of Golden Visas for all types of investment (except real estate investment for housing purposes). However, Golden Visa renewal applications which, as at 16 February 2023, were still awaiting a decision from the competent authorities will remain valid.

- Renewal of Golden Visas for property investment will only be possible if (a) the property is leased for residential purposes for a period of no less than 5 years or if (b) it is used for the permanent residence of the holder or his or her descendants.

- To prove that the holder meets one or other of the requirements referred to in (a) and (b) above, the holder of the residence permit must submit, 90 days before the expiry date of the residence permit, to the competent authorities: (i) the lease agreement registration on the Tax Authority’s website if the property is leased for a period of no less than 5 years, or (ii) a document attesting to the tax domicile, in the case of a property intended for the holder’s own and permanent residence or that of his or her descendants.

- Applications for renewal of the residence permit for real estate investment activity which, on the date of entry into force of the law to be enacted, are pending decision with the competent entities, will be valid if evidence of the situations referred to in (a) and (b) above is provided.

Residential loans

The loan agreements for the acquisition or construction of permanent own homes (covered by Decree-Law 74-A/2017, of 23 June) that have a variable or mixed rate, which have been concluded up to 31 December 2022 and whose outstanding amount is €200,000 or lower benefit from a financial support from the State (in the form of a temporary subsidy).

Only borrowers who have a significant aggravation of the effort rate or a significant effort rate, who have their instalments duly settled and who have incomes up to the 6th bracket of the IRS table, will be eligible.

Eligible borrowers may benefit, upon request, from a temporary interest subsidy when the indexer of the loan agreement is equal to or higher than 3%. The subsidy may be equivalent to up to 50% of the value of the interest corresponding to the difference between the indexer value established contractually and the above 3% threshold.

The payment of the interest rate subsidies will be made through appropriations included in the State Budget. The procedures to be observed between the Directorate-General for the Treasury and Finance (DGTF) and the institutions relating to the provision of financing to borrowers, and respective management, control, repayment and collection, will be set out in a protocol to be signed between the DGTF and the financial institutions.

Lenders or credit intermediaries will now make available to consumers at least one offer of a credit agreement at a variable, mixed or fixed rate.

23 Article 228(2) of Law 12/2022 of 27 June.

Tenant support

Two types of support aimed at protecting tenants are envisaged:

- Creation of extraordinary rent support.
- Extension of the Porta 65 Programme.

Tax provisions

In addition to the tax-related changes already listed above, the proposal also provides for the following changes:

VAT

The following are subject to reduced rates:

- Construction or rehabilitation works agreements for affordable housing, controlled cost housing or affordable rental housing, regardless of the promoter, provided that at least 700/1000, or the entire property in case of full ownership or autonomous unit is allocated to one of those purposes and certified by IHRU[24].

- Rehabilitation works agreements for buildings located in urban rehabilitation areas (critical areas for urban recovery and reconversion, intervention zones of urban rehabilitation companies and others) delimited in legal terms, or within the scope of requalification and rehabilitation operations of recognised national public interest (this new revenue constitutes a restriction of the current scope of application of the reduced VAT rate to urban rehabilitation works agreements).

- Construction or rehabilitation agreements, provided that at least 700/1000, or the totality of the property in case of total ownership or autonomous unit is allocated to affordable rental, regardless of the promoter, as long as certified by IHRU[25].

PERSONAL INCOME TAX ("IRS")

The conditions set out below are added to the range of conditions on which the IRS exemption on gains arising from the transfer for value of real estate intended for the taxpayer's or his or her household's own and permanent residence is dependent. The exemption does not apply when the tax domicile of the taxpayer or his or her household has not been fixed on the property. The new conditions are:

- The transferred property has been intended for the taxpayer's or his or her household's own and permanent residence, proven through their respective tax domicile, in the 24 months prior to the date of transfer.
- The taxpayers have not benefited in the year in which the gains were obtained, nor in the 3 previous years, from the exclusion regime. However, it is possible for the taxpayer to prove that the failure to meet this condition was due to exceptional circumstances.

IRS exemption on capital gains arising from the sale of residential property to the State or local authorities, except for capital gains earned by residents with tax residence in a country, territory or region subject to a more favourable tax regime.

Reduction from 28% to 25% of the general IRS rate applicable to real estate gains[26].

24 Or when organised in the autonomous regions by Investimentos Habitacionais da Madeira, EPERAM (IHM) or by the Regional Direction of Housing of the Azores.
25 Or when organised in the autonomous regions by Investimentos Habitacionais da Madeira, EPERAM (IHM) or by the Regional Direction of Housing of the Azores.
26 Including revenue deriving from contracts of rights in rem of the permanent dwelling, as from the date the annual pecuniary benefit constitutes income or is deducted by the owner by virtue of the non-compliance by the dweller with his or her obligations under the terms set out in the law that creates the right in rem to a permanent dwelling, in the part relating to the initial deposit.

Reduction of the IRS rates applicable to income from real estate gains for permanent residence according to the duration of the agreements:

- Duration of 5 years or more and less than 10 years - 15%, with a reduction of 2% - up to a limit of 10% - for each renewal of equal duration.

- Duration of 10 years or more and less than 20 years – 10%.

- Duration of 20 years or more - 5%[27].

There is a tax exemption on capital gains arising from the transfer for value of real estate carried out between 1 January 2023 and 31 December 2024, provided that both of these conditions are met:

- The property is not intended for the taxpayer’s own and permanent residence or that of his or her household.

- The value gained, deducted from the amortisation of the loan contracted for the acquisition of the property, is applied to the amortisation of the capital owed on a housing loan destined for the taxpayer’s own and permanent residence or that of his or her descendants, to be carried out within a period of 3 months as of the realisation date.

REAL ESTATE TRANSFER TAX (“IMT”)

Decrease from 3 to 1 year of the period in which real estate acquired for resale must be resold in order to maintain the exemption benefit on Real Estate Transfer Tax (“**IMT**”) or, when tax has been paid, to annul it.

In the case of the previous point, the tax is due from the acquisition, plus compensatory interest.

TAX BENEFITS STATUTE (“EBF”)

The law provides that the incentives set out in article 45 of the Tax Benefits Statute - relating to buildings subject to rehabilitation - will only apply if, cumulatively with the conditions in force for this purpose, and in the event the intervention takes the form of construction, the properties are allocated to housing use.

The proposal includes the elimination of the 5% autonomous rate of Personal income Tax (IRS) on capital gains earned by taxpayers resident in Portugal arising from the first sale of the property following the intervention in a property located in an urban rehabilitation area.

The proposal includes the elimination of the 5% rate for IRS on real estate gains earned by taxpayers residing in Portugal when arising from the rental of:

- Properties located in an “urban rehabilitation area”, recovered under the terms of the respective rehabilitation strategies; and

- Leased properties which are subject to phased updating of rents under the terms of articles 27 and following of the New Urban Leasing Framework (“NRAU”), which are the object of actions of rehabilitation.

Acquisitions of land for construction destined for the construction of housing are exempt from IMT if they meet both of these conditions:

- At least 700/1000, or the entire property in case of total ownership or a autonomous unit is allocated to the Lease Support Programme, regardless of the promoter, provided they are certified by IHRU[28].

- The procedure of prior control for construction works in real estate for housing allocation is started with the competent body within 2 years of the acquisition.

27 This reduction also applies to income deriving from rights in rem of the permanent dwelling (DHD) contracts, as regards the payment of the monthly pecuniary provision.
28 Or when organised in the autonomous regions by Investimentos Habitacionais da Madeira, EPERAM (IHM) or by the Regional Direction of Housing of the Azores.

The following tax benefits are applicable to urban buildings or autonomous units acquired or built to be allocated to the Lease Support Programme:

- Exemption from Municipal Property Tax (IMI) for a period of 3 years starting from the year of purchase, inclusively, and this can be renewed for another 5 years at the owner’s request; and

- Exemption from Property Transfer Tax (IMT).

The exemptions provided for herein will become ineffective if either of the following occur:

- The properties are put to a use other than the one on which the benefit was based within 5 years of the transfer date or, in the case of benefit renewal, within 10 years.

- The properties are not subject to a contract under the Lease Support Programme within 6 months of the date of transfer.

However, tax will be due from the date of acquisition if the building is used for purposes other than housing.

If this exemption is granted, it does not transfer to any purchasers of the properties in question.

This exemption also does not apply to taxpayers domiciled in a country, territory or region subject to a more favourable tax regime or that are entities controlled, directly or indirectly, by an entity with tax domicile in a country, territory or region subject to a more favourable tax regime.

The proposal includes the repeal of the 3-year tax suspension rule applicable to real estate acquired for resale that is included in a company’s inventory, and the 4-year tax suspension rule applicable to land for construction that has become part of the inventory of a company that has the construction of real estate for sale as its purpose.

STAMP DUTY

If the landlord fail to do so, the tenant may communicate the lease agreement to the Tax Authority within two months of the end of the deadline set for the landlord to do so.

REAL ESTATE TAX (“IMI”)

Land for construction for which the prior control procedure for (i) construction works for buildings for habitational purposes or (ii) habitational use has been started with the competent authority, and for which a final decision has not yet been reached, is exempt from IMI, upon communication to the tax office.

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About the Real Estate and Tourism team

→ What we do

KEY CONTACTS

Rita Alarcão Júdice

Partner and co-head of the Real Estate and Tourism practice

(+351) 213 197 453
rita.alarcaojudice@plmj.pt

Francisco Lino Dias

Partner and co-head of the Real Estate and Tourism practice

(+351) 213 197 571
francisco.linodias@plmj.pt

About the Public Law team

→ What we do

KEY CONTACTS

Andreia Candeias Mousinho

Partner in the Public Law practice

(+351) 213 197 571
andreia.candeiasmousinho@plmj.pt

About the Tax team

→ What we do

KEY CONTACTS

Serena Cabrita Neto

Partner and head of the Tax practice

(+351) 213 197 567
serena.cneto@plmj.pt

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