

Housing package: what changes?

Introduction

On May 20, Decree-Law 97/2026 of May 20 was published, introducing a package of measures aimed at promoting the supply of and access to housing in Portugal. This package comprises tax and regulatory rules applicable to the construction, rehabilitation, sale and rental of housing.

This newsletter presents the main points of this legislative package.

Measures to encourage the construction and rehabilitation of buildings

APPLICATION OF THE REDUCED VAT RATE

The 6% reduced Value Added Tax (“VAT”) rate (instead of the current rate of 23%) will now be applied to construction or rehabilitation works relating to:

- i) Properties intended for sale at moderate prices – i.e. up to EUR 660,982 – for the buyer’s own permanent residence, provided that the property is sold within a maximum period of 24 months of the date of issuance of the documentation relating to the start of use, under the terms of the Legal Framework for Urban Development and Construction (“RJUE”), and the reduced rate is expressly mentioned in the acquisition title.
- ii) Dwellings for rent with moderate rents (up to EUR 2,300 per month), provided that, in particular: (a) the property is rented within a maximum period of 24 months from the issuance of the documentation relating to the start of use under the terms of the RJUE; (b) the lease is exempt from VAT; (c) the lease is communicated to the Portuguese Tax Authority; (d) the possibility of subletting with a rent higher than the moderate rent value is not agreed; and (e) a lease agreement is in place for at least 36 months (whether consecutive or not) in the 5 years following the issuance of the documentation relating to the start of use under the terms of the RJUE.

- iii) Properties (including autonomous units) for residential lease or sublease covered by the Housing Lease Investment Contracts (“CIA”) regime.

The reduction in the VAT rate referred to in paragraphs (i) and (ii) above will be in force until 31 December 2032.

In addition, the application of the scheme also depends on the following conditions:

- i) The urban planning procedure is initiated between 25 September 2025 and 31 December 2029, and the presentation of one of the following:
 - o A licensing application
 - o A prior communication
 - o A prior opinion
 - o Information on the start of the work
- ii) The tax will be chargeable from 1 January 2026.

The Decree-Law also provides for the refund of 50% of the VAT incurred on architectural and engineering services, as well as on projects and studies related to the construction or rehabilitation of properties (including autonomous units) for residential rental or sublease covered by the Housing Lease Investment Contracts for (“CIA”) regime.

The 6% reduced VAT rate will now be applied to some construction or rehabilitation works.

FAILURE TO COMPLY WITH THE REQUIREMENTS FOR THE APPLICATION OF THE REDUCED VAT RATE

The initial housing package proposal provided that the buyer would be obliged to repay the VAT tax benefit – corresponding to the difference between the reduced rate and the standard rate of 17% – if the property was not used as their to own permanent residence within 12 months.

However, the Government ended up not moving forward with this penalty, and the only applicable consequence was the increase of the Real Estate Transfer Tax (“RETT”) by 10% on the taxable value of the property.

This increase in RETT applies when:

- i) the property is not used as the buyer’s own permanent residence within 6 months of the issuance of the documentation of start of use; or
- ii) the buyer does not remain in the property for at least 12 months.

However, exceptions are provided for when failure to meet these requirements results from exceptional circumstances.

NEW SYSTEM OF PARTIAL REFUND OF THE AMOUNT EQUIVALENT TO VAT FOR INDIVIDUALS

A partial VAT refund is created applicable to natural persons outside the scope of the exercise of a business or professional activity, in the acquisition of works and subcontracting services for the construction of buildings intended for their own permanent residence.

The amount refunded corresponds to the difference between the VAT actually paid at the standard rate (23%) and that which would result from the application of the reduced rate (6%).

This regime is only applicable when all of the following conditions are met:

- i) The property is intended for the buyer’s own and permanent residence.
- ii) The acquisition price or the official taxable value (“VPT”), if higher, plus construction costs, excluded from the value of VAT, does not exceed EUR 660,982.
- iii) The standard VAT rate is applied to the construction and subcontracted construction services relating to eligible properties.
- iv) The VAT is stated on in invoices issued in accordance with the law and their details must be duly communicated to the Portuguese Tax Authority.

The refund application must be submitted online within 12 months of the issuance of the documentation relating to the start of use.

Similarly to what happens in the reduced VAT rate regime, the partial VAT refund is no longer applicable if the property is not used as the buyer’s own permanent residence within 6 months or, if it is, the buyer does not remain in the property for a minimum of 12 months, except in exceptional circumstances.

The Portuguese Tax Authority may correct the amount refunded within 4 years if any of the conditions for the application of the regime are no longer met.



Measures to encourage renting

BENEFITS FOR LANDLORDS

For Corporate Income Tax (“CIT”) taxpayers – and for Personal Income Tax (“PIT”) taxpayers with organised accounting, within the scope of business and professional income – property income arising from rentals with moderate rents will now benefit from a 50% tax exemption.

The PIT flat rate drops from 25% to 10%, provided that the monthly income does not exceed EUR 2,300 (so-called moderate rents).

The PIT flat rate drops from 25% to 10%, provided that the monthly income does not exceed EUR 2,300 (so-called moderate rents). The withholding tax on property income, which debtor entities with organised accounting are obliged to levy, is also reduced to 10%.

These benefits apply to the period from 1 January 2026 to 31 December 2029.

A PIT exemption from the taxation of real estate capital gains arising from the sale of residential properties was also introduced, provided that the taxpayer expresses the intention to reinvest the realisation value in rental properties intended for housing with moderate rents. The reinvestment must be made between the 24 months before and 36 months after the date of sale.

The exemption ceases to apply if one of the following conditions is met:

- i) The residential lease agreement is not entered into within a maximum period of 6 months from the date of reinvestment or the realisation of the capital gain, if later.
- ii) The property in which the reinvestment is made is not subject to a residential lease agreement for at least 36 months, whether consecutive or not, in the first 5 years from the reinvestment or from the date of realisation of the capital gain, if later;
- iii) The property in which the reinvestment is made is subject to a lease agreement whose monthly rent exceeds EUR 2,300, without prejudice to the possible updating of this amount by ministerial order;
- iv) The property subject to the reinvestment is transferred – whether for consideration or free of charge – within 5 years of the reinvestment or from the date of realisation of the capital gain, if later.

BENEFITS FOR TENANTS

The gradual increase in the maximum amount of deduction from the PIT collection of rents paid under residential lease agreements is approved: the limit rises from the current EUR 800 to EUR 900 in 2026 and to EUR 1,000 in 2027, maintaining the rate of 15% of the annual charges incurred.

NEW SIMPLIFIED AFFORDABLE RENTAL REGIME

The New Simplified Affordable Rental Regime (“RSAA”) was created to replace the Affordable Rental Programme, which will be revoked with effect from 1 September 2026. The RSSA exempts property income from residential lease agreements, leases for residential subletting and affordable residential subletting from PIT and CIT.

Renting or subletting is considered affordable when the monthly rent is equal to or less than the maximum limit per typology, to be defined by ministerial order, based on 80% of the median rent values published by the National Institute of Statistics for the municipality in question.

The RSSA is applicable to agreements for permanent residence, as well as temporary residence when the tenant has tax residence in a municipality other than the one where the leased property is located. The RSSA is also expected to apply to agreements entered into under municipal affordable rental programmes.

References to the previous Affordable Rental Programme will now be considered made in relation to the RSAA, and references to the rent limits of that programme will refer to the maximum monthly rent limits of the RSAA.

ALTERNATIVE INVESTMENT UNDERTAKINGS ORIENTED TOWARDS AFFORDABLE RENTAL

Income earned by holders of units or shareholdings in Alternative Investment Undertakings (“AIUs”), by distribution, which relates to the results of the immediately preceding tax period, will now be taxed at the special rate of 5% in proportion to income resulting from residential lease or sublease agreements entered into under the RSAA or other legislation that promotes affordable residential rentals. In order to access this benefit, the assets of these AIUs must consist of at least 5% of real estate subject to such agreements.

For PIT or CIT purposes, the remaining income earned by participants or shareholders of AIUs, whether by distribution or by means of redemption or liquidation, is determined by the difference between the amount obtained and the amount corresponding to the exclusion percentage, as set out below:

ELIGIBLE ASSET	EXCLUSION FROM TAXATION
> from 5% to 10%	2.5%
> from 10% to 15%	5%
> from 15% to 25%	7.5%
> 25% to 50%	15%
> 50%	30%

In addition, a 25% reduction in the rate of 0.0125% of Stamp Tax applicable to the overall net value of AIUs whose eligible assets correspond to more than 25% also applies.

These benefits are applicable only to AIUs constituted or whose constitutive documents are amended by 31 December 2029.



NEW REGIME APPLICABLE TO INVESTMENT CONTRACTS FOR HOUSING LEASES

A new regime applicable to Housing Lease Investment Contracts (CIAs) is introduced. These are investment contracts entered into between an investor and the Institute for Housing and Rehabilitation (“IHRU”), on behalf of the State.

Under this regime, several tax benefits can be granted to investment in the construction, rehabilitation or acquisition of real estate intended for residential leases or leases for residential subletting, for a period of up to 25 years.

The following investments are eligible:

- i) The construction area of buildings to be allocated for residential lease corresponds to at least 700/1000 of the total construction area, and the remainder may be allocated to complementary or compatible uses with the housing.
- ii) The monthly rent of residential lease agreements or leases for residential subletting does not exceed EUR 2,300.

The main tax benefits applicable by reference to eligible land, buildings or units are:

- i) Exemption from RETT, as decided by the municipal assembly, borne:
 - o in the acquisition of building land and other urban buildings for the construction or rehabilitation of buildings intended for residential rental or rental for residential subletting, as well as
 - o in the acquisition of urban or mixed buildings or autonomous units for residential letting or subletting within the scope of the CIA.
- ii) Exemption from Stamp Tax applicable to the transfer of real estate referred to in the previous point.

Several tax benefits can be granted to investment in the construction, rehabilitation or acquisition of real estate.

- iii) Exemption from Municipal Property Tax (“MPT”) for a period of 8 years (counting from the year of acquisition inclusive), and a 50% reduction in the MPT rate for the remaining period of the CIA’s validity, as determined by the municipal assembly.
- iv) Reduced rate of 6% VAT on construction or rehabilitation contracts for residential properties and the associated regularisation regime.
- v) Exemption from MPT surtax (“AIMI”).
- vi) Refund of 50% of the amount equivalent to VAT paid on architecture, engineering, projects and studies services related to the construction or rehabilitation of real estate, not including projects and studies of urban development works.
- vii) Reduction of 50% of the 0.0125% Stamp Tax rate applicable to AIUs, depending on the proportion of assets held for residential lease or sublease covered by the CIA.

The transfer of the contractual position in the CIA is allowed, provided that it is accompanied by the transfer of all the properties that are subject to it and the transferee demonstrates that they have met the eligibility requirements, expressly assuming the conditions and duties established in the CIA and responsibility for their fulfilment.

The legislation also provides for a stability clause: legislative or regulatory changes that affect the economic and financial balance of contracts entered into within the scope of the CIAs give the investor the right to compensation, under the terms of the Public Procurement Code.

The CIAs will only come into force in September 2026.

Benefits for buyers of controlled housing

Buyers of Controlled Cost Housing (“HCC”) can enjoy the following benefits:

- i) Exemption from RETT on the first acquisition of property intended exclusively for the buyer’s own permanent residence, whose value does not exceed EUR 330,539, or reduction of RETT rates, when it exceeds this amount;
- ii) A tax credit corresponding to the Stamp Tax paid for the onerous acquisition of HCC.

The application of these benefits varies from municipality to municipality and is subject to a decision by the municipal assembly, following a proposal from the city council.

Buyers are responsible for ensuring that the properties are effectively allocated for use as their own permanent residence. If this does not happen, a penalty will be incurred in the form of an increase in the RETT of 10%, unless the non-compliance is due to exceptional circumstances.

However, the concept of controlled costs remains to be regulated in its own legislation, which is yet to be published.

The application of these benefits varies from municipality to municipality and is subject to a decision by the municipal assembly.

Measures to reduce demand

NON-RESIDENTS

An increased RETT rate of 7.5% is introduced applicable to non-residents in the purchase of housing, unless the buyer:

- i) Has been considered a tax resident, for tax purposes, in Portugal;
- ii) Become a tax resident in Portugal within 2 years; or
- iii) Assign the property to rent with moderate rent, within 6 months of acquisition and keeps it leased for at least 36 months, whether consecutive or not, during the first 5 years after acquisition.

In the cases provided for in points (i) and (ii), the Tax Authority is required to refund the difference between the tax paid and the amount that would be payable under general rates, if requested to do so.

The increased rate replaces the application of the general progressive rates which, to date, have applied irrespective of the buyer’s place of residence.

This measure raises serious doubts as to its compatibility with the principle of non-discrimination under European tax law, particularly with regard to the free movement of capital, as well as with the constitutional principle of equality.

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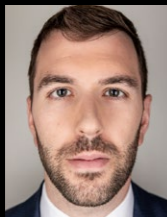
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