

LOCAL HOUSING – DECREE-LAW NO. 128/2014

INTRODUCTION

Decree-Law no. 128/2014, of August 29, regulates local housing which has been regulated since 2008. The previous regime required the registration of house rentals to tourists, the declaration of rental income to the finance authorities and submitted the local housing to a set of requirements and penalties; however, the regime became too bureaucratic and outdated.

This new regime aims to respond to the increase in demand for such housing and the various offers and new realities, giving to this category of housing proper legal treatment.

LEGAL FRAMEWORK

All services related to temporary housing fall under this Decree-Law. Only those establishments that do not meet the requirements for tourism undertakings but meet the requirements of the Decree-Law are included.

Under the current regime there are three types of housing created in 2008, namely apartments, houses, and lodging establishments (which include “hostels”). Regarding apartments, although private initiative is important, the new Decree-Law regulates these as services to avoid tax evasion. Furthermore, this regime relates only to the maximum operation of nine units per building; if this is exceeded, the applicable law is the law applicable to touristic undertaking (Decree-Law no. 39/2008, 7 March, amended by Decree no. 15/2014, 23 January).

Decree-Law no. 128/2014 requires “hostels” to be mainly dormitory; units with a minimum of four beds (or a required equivalent in bunk beds). With the exception of these cases, all other forms of local housing require a maximum of nine bedrooms and thirty users.

SUPERVISION

Another aspect of this Decree-Law concerns the principle of competition, in order to ease its supervision and ruling to enable fair competition.

There was also a decrease in the access requirements, the elimination of service obligations and the creation of a process of registry without licensing. This is done exclusively through a notification to “*Balcão Único Eletrónico*” with no obligation to pay a fee. The holder of the right to operate the establishment must sign a term of responsibility ensuring the integrity and quality of the building and the compliance with the applicable laws and regulation. Within 30 days after the above mentioned



REAL ESTATE

There was also a decrease in the access requirements, the elimination of service obligations and the creation of a process of registry without licensing

This law seeks to find a balance between the absence of limitations or restrictions and an increased freedom for anyone who wishes to lease his or her house but implements supervision

notification, the competent municipality will inspect the facility to confirm compliance with the obligations and the information contained in the notification.

At the same time, the current legal regime does not foresee obligations regarding services rendered, leaving this type of regulation to the market, and it allows, as long as authorised, the operation of an establishment of local housing by a tenant in a leased building.

CONCLUSION

Decree-Law no. 128/2014 has two main concerns: establish a framework and the requirements for the operation of the local housing establishments and the supervision of the activity. This law seeks to find a balance between the absence of limitations or restrictions and an increased freedom for anyone who wishes to lease his or her house but implements supervision. Notwithstanding the fact that the legal regime on local housing does not contain specific tax rules, services rendered should be treated as such in relation to Personal Income Tax (IRS), Corporate Income Tax (IRC) and VAT (IVA), including the special exemption regime for annual income below EUR 10.000 without organised accounting.

Contact
Filipa Arantes Pedroso | fapedroso@mlgts.pt



MLGTS LEGAL CIRCLE
INTERNATIONALITIES WITH THE PORTUGUESE-SPEAKING WORLD

To address the needs of our Clients throughout the world, particularly in Portuguese-speaking countries, MORAIS LEITÃO, GALVÃO TELES, SOARES DA SILVA has established solid associations with leading law firms in Angola, Macau (China) and Mozambique.

MORAIS LEITÃO, GALVÃO TELES, SOARES DA SILVA

ASSOCIADOS
SOCIEDADE DE
ADVOGADOS

LISBON

Rua Castilho, 165
1070-050 Lisbon
Telephone: (+351) 213 817 400
Fax: (+351) 213 817 499
mlgtslisboa@mlgts.pt

Luanda, Angola (in association)
Angola Legal Circle Advogados

PORTO

Av. da Boavista, 3265 - 5.2
Edifício Oceanvs – 4100-137 Porto
Telephone: (+351) 226 166 950
Fax: (+351) 226 163 810
mlgtsporto@mlgts.pt

Maputo, Mozambique (in association)
Mozambique Legal Circle Advogados

MADEIRA

Avenida Arriaga, 73, 1.º, Sala 113
Edifício Marina Club – 9000-060 Funchal
Telephone: (+351) 291 200 040
Fax: (+351) 291 200 049
mlgtsmadeira@mlgts.pt

Macau, Macau (in association)
MdME | Lawyers | Private Notary

Member
LexMundi
World Ready

www.mlgts.pt