

Real estate, the golden visa and tax

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Golden visa Non-habitual tax regime

Golden visa

EU citizens may freely register as residents in Portugal. However, non-EU citizens may also obtain residence in Portugal if they obtain a 'golden visa' by participating in investment activity and fulfilling certain requirements.

Requirements

Obtaining a golden visa requires one of the following types of investment:

- acquisition of real estate valued at €500,000 or more;
- capital transfer of €1 million or more;
- creation of at least 10 jobs;
- acquisition of real estate where:
 - construction of the property was concluded at least 30 years previously; or
 - the property is located in a rehabilitation area and the cost of the rehabilitation work is €350,000 or more;
- capital transfer of €350,000 or more to be invested in research activities developed by scientific research institutions integrated within the national scientific and technological system;
- capital transfer of €250,000 or more to be invested in or support artistic productions or the recovery and maintenance of Portuguese cultural heritage through central and local administrative services, public institutes, entities that are integrated in public companies, public foundations, private foundations with public utility, inter-municipal entities, municipal associations or public cultural associations; or
- capital transfer of €500,000 or more to acquire participation units of investment funds or private equity funds for the capitalisation of small to medium-sized companies that submit a capitalisation plan and evidence of viability.

Regarding job creation, real estate acquisition and investment in research or culture, a 20% reduction in the minimum amount of investment required is possible if the investment is made in locations with low population density.

A decision on whether to grant a permit will be issued within 90 days of application; a decision on permit renewal will be issued within 60 days of application.

The regulation of visas for the purchase of real estate requiring reconstruction or the capitalisation of small to medium-sized companies will be implemented by an as-yet unpublished decree law.

Notwithstanding the quantitative requirements mentioned above, the applicant must also fulfil a number of general requirements. The applicant must:

- be subject to no legal impediments that, if known by the competent authorities, would prevent the grant of a visa;
- be present on Portuguese territory;

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- have proof of means of subsistence;
- have proof of accommodation;
- be registered with Social Security, where applicable;
- not have been convicted of any crime punishable by a prison sentence of more than one year;
- not be prohibited from entering Portugal, following deportation;
- not be subject to any alert in the Schengen Information System;
- not be subject to any alert in the Portuguese Immigration and Borders Service information system, refusing entry;
- have a valid Schengen visa; and
- have legalised his or her stay in Portugal within 90 days of first entry.

Non-habitual tax regime

The non-habitual resident tax regime was introduced to attract high-net-worth individuals, pensioners and qualified expatriates engaged in high-added-value activities by establishing a favourable tax regime for those who take up Portuguese tax residency. The regime applies to both EU and non-EU citizens.

The non-habitual resident tax regime has proved to be a competitive alternative to other expatriate tax regimes, since individuals who are eligible to register voluntarily as a non-habitual resident (ie, those who qualify as a Portuguese tax resident and have not been taxed as a resident in Portugal in the five years prior to that qualification) may benefit for a 10-year period from:

- a flat 20% tax rate on Portuguese-source employment and business income derived from the listed high-added-value activities; and
- the application of a progressive exemption method on foreign-source income (eg, pensions), provided that the state of source is entitled to tax such income under a double taxation agreement or, if no such agreement exists, under the Organisation for Economic Cooperation and Development Model Convention (covering passive income, capital gains, income from property and business profits).

The non-habitual resident tax regime benefits high-net-worth individuals and pensioners in general since it typically allows for an exemption on foreign-source income received by individuals resident in Portugal, while applying the Portuguese tax treaty network to restrict the source state's taxation rights (eg, a double tax agreement between Portugal and the source state typically restricts the source state's taxation rights concerning the amount of tax applicable on dividends or interest).

Foreign pensioners who elect to take up Portuguese tax residency by relocating to any Portuguese region might thus benefit from a tax exemption in Portugal on their pension income received from abroad while simultaneously claiming treaty benefits to restrict the ability of the source state to tax such income.

Further, the range of activities that are considered 'high added value' is broad. Such activities attract a significantly reduced flat tax rate of 20% for employment or business income obtained in Portugal (although a personal income tax surcharge of 3.5% is added in 2015). This category also includes senior company employees taking up residency, irrespective of their companies' activities.

The applicants may benefit from this tax regime while applying for the golden visa procedure.

Registration as a non-habitual resident

A taxpayer seeking to benefit from this special tax regime must request registration before the tax authorities as a non-habitual resident in Portugal and present a declaration attesting that he or she has not been a resident taxpayer in Portugal in the past five years.

After becoming a non-habitual tax resident the taxpayer must deliver a personal income tax declaration annually and fill in all relevant annexes (ie, Annexes L and J, if applicable) in order to properly declare the Portuguese-source income subject to the flat tax rate and the foreign-source income earned as a non-habitual tax resident in Portugal.

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