



Brief residency  
and nationality guide  
for wealthy families  
in **Portugal**

July 2013



This memo outlines the most relevant legal and tax aspects of the regime applicable to wealthy individuals applying for a Portuguese residency and/or nationality under the basis of their investment in Portugal.

## A. LEGAL

### I. Golden Residence Permit

In 2012 Portugal has implemented a Golden Residence Permit Program for third-country nationals that intend to make investments in Portugal.

#### *Key questions:*

<b>Granted right</b>	Temporary Residence Permit
<b>Who may apply</b>	Any third-country nationals subject to: <ul style="list-style-type: none"><li>• Holding a valid Schengen visa (or being exempt from it) or;</li><li>• Legalizing their permanence in Portugal within 90 days of their first entry into national territory.</li></ul>
<b>Main requirements</b>	<p>The applicant shall perform a 5 years investment (as defined below) in Portugal.</p> <p>The investment may be made directly or through a vehicle based in Portugal or in another EU country with a permanent establishment in Portugal. The applicant shall evidence his/her stake in the share capital of the company and in this case, the investment amount to be taken into consideration is the one that results from the proportion of the share capital owned by the applicant in the vehicle in relation to the total investment made in Portugal by such company.</p>
<b>Negative requirements</b>	Applicant shall not have been: <ul style="list-style-type: none"><li>• Convicted for a crime punishable with deprivation of liberty exceeding one year;</li><li>• Subject to an entry ban in national territory following a removal order from Portugal;</li><li>• Subject to alerts in the Schengen Information System; and</li><li>• Subject to alerts in the Immigration and Borders Service in Portugal.</li></ul>

**Documents:**

- Passport or another valid travelling document;
- Proof of legal entry and permanence in national territory;
- Proof of health insurance;
- Signed application enabling consultation of the Portuguese Criminal records by the Portuguese Authorities;
- Criminal Record Certificate from the relevant authority of the applicant's home country or from any other country where he/she resided for over a year;
- Bona fide statement attesting that he/she will keep the investment activity for a minimum 5 years period (this period shall start from the granting of the Golden Residence Visa);
- Declaration issued by the Portuguese Tax and Social Security Authorities attesting that the applicant has not outstanding tax liabilities;
- Portuguese taxpayer number (it may be obtained during the process).

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**Prior residence visa** Not required.

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**Where to apply** Online: [www.sef.pt](http://www.sef.pt);

- At Portuguese diplomatic or consular posts;
- At the Regional Directorate and Regional Delegation of the Immigration and Borders Service in Portugal.

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**Duration** Initial duration: 1 year; renewable;

Renewals: for 2 years periods. However, after an initial period of 5 years, the applicant may apply for a Permanent Residence Permit (see below);

Renewal requirements:

- Legal requirements for the concession shall remain in place (evidence of that shall be demonstrated *mutatis mutandis* as above);
- Minimum periods of stay in Portugal:
  - 7 days in the first year;
  - 14 days in each of the following periods of 2 years.

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**Costs** First application: Approximately: € 6,000.

**Renewal application:** Approximately: € 2,600.

Note: these costs are limited to administrative fees payable before the authority that will process the request. Other costs as legal fees, taxes and costs inherent to the investment were not considered.

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### **Timings**

Average timings: ranging between 15 to 30 days after all documentation being submitted.

After the application being approved, the permit takes approximately 10 days to be issued.

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### **Family reunification**

Yes, under the general rules applicable that implies the need to evidence that family has a place to live and financial resources in Portugal.

There is no limitation to the number of family members. Definition of “family” includes: spouses, descendants under legal age, adopted children and other first level relatives subject to them being considered as dependent of the initial holder of the permit.

Children born in Portugal, subject to one of their parents having a residence permit to live in Portugal at the time when he/she was born, may apply for Portuguese nationality.

## **Investment Alternatives:**

### **Purchase of a real estate property**

Amount: = or > than € 500,000;

Documents:

- Public deed or the promissory sale and purchase agreement, including a declaration issued by a financial institution operating in Portugal attesting the effective transfer of the purchase price or of the down payment;
- Updated land registry certificate, attesting the registration of the acquisition or the registration of the promissory sale and purchase agreement.

Other comments:

- Applicant may apply for bank financing and the property may be charged but only in relation to an amount above Euro 500,000 of investment;

- Property may be leased for commercial, agricultural or tourism purposes.
- If the property is acquired in co-ownership the applicant shall invest at least Euro 500,000 in his share of the property or, if the applicant executes a promissory sale and purchase agreement, the down payment shall be of at least Euro 500,000.
- If the permit is granted under the basis of a promissory agreement, the definitive public deed shall be exhibited before renewing the permit.

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**Capital transfer**

Amount: = or > than € 1Million.

Documents:

- Statement issued by a financial institution operating in Portugal attesting that the applicant has invested the minimum amount and thus:
  - Is the sole or the first holder of a deposit in such amount; or
  - Has purchased shares in a Portuguese company, in which case evidence of that shall be issued by the entity that shall keep the updated track of such acquisition (e.g. the target company itself, the Securities Market Commission, the financial intermediary or, as applicable, the Commercial Registry Office).

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**Creation of jobs**

Number of jobs: = or > 10;

Documents:

- Certificate issued by the Social Security attesting that all employees are duly enrolled in the Social Security;

## 2. Definitive Residence Permit

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**Granted right**

Definitive Residence Permit

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**Who may apply**

Any third-country nationals subject to:

- Holding a temporary residence permit in Portugal for at least 5 years (this includes a Golden Visa Permit);

- The applicant having not been convicted in Portugal during the last 5 years for a crime punishable with deprivation of liberty exceeding 1 year;
- The applicant having financial resources to live in Portugal;
- The applicant having a place to live in Portugal; and
- The applicant demonstrating that has basic Portuguese language commands.

### 3. Portuguese nationality

**Granted right** Portuguese nationality/passport

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**Who may apply** Any third-country nationals subject to:

- Being of legal age under the Portuguese law (parents may also apply for the nationality of their children subject to certain requirements);
- Being legally resident in Portugal for at least 6 years;
- Being fluent in Portuguese; and
- Having not been convicted in Portugal for a crime punishable with deprivation of liberty exceeding 3 years.

## B. TAX

### 4. Habitual Residents tax regime

**Taxation** Resident individuals are liable to personal income tax (PIT) on their worldwide income.

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**Taxable income** For PIT purposes taxable income is basically separated into six categories:

- Category A (employment income)
- Category B (business income)
- Category E (investment income)
- Category F (real estate income)
- Category G (capital gains)
- Category H (pension and annuity income)

### Tax residence

Individuals are deemed to be resident in Portugal for PIT purposes with respect to the year in which the taxable income was obtained if:

- During that year the individual has remained in Portugal, in the aggregate, for more than 183 days;
- Having remained in Portugal for less than 183 days, the individual owns or possesses a permanent home in Portugal by the 31st of December of the same year, which demonstrates the intention to use it as his habitual residence.

All members of the family unit (including the spouse) are considered tax residents in Portugal, if the principal member of the family is a Portuguese resident, except if one of the spouses remains in Portugal for less than 183 days. In that case, the spouse must prove that there is no connection between the major part of his/her economic activities and the Portuguese territory.

If an individual is also considered resident for tax purposes in a different State, the tax treaties entered between Portugal and the other State will determine his/her tax residence. If no tax treaty exists, the individual will be considered as tax resident of both States and may request in Portugal a unilateral tax credit for the tax paid in the other country.

### Rates

The income obtained by a Portuguese resident is subject to the following progressive rates:

Taxable income (euros)	Rates (percentage)
Until 7.000	14,5
From more than 7.000 until 20.000	28,5
From more than 20.000 until 40.000	37
From more than 40.000 until 80.000	45
Above 80.000	48

Additionally there are two surtaxes applicable for the year 2013.

- A Personal Income Tax extraordinary surtax levied at a 3.5% rate over the annual income exceeding the annual amount of the minimum national wage (€ 6,790).
- An additional surtax with two rates, one of 2.5% applicable to the yearly income exceeding € 80,000 and another of 5% applicable to the yearly income exceeding € 250,000.

Finally it is important to note that, since January 1, 2013, the general tax rate on investment income, capital gains and real estate income is 28%.

## 5. Non-Habitual Residents tax regime

### Regime

The Portuguese Non-Habitual Residents (“NHR”) taxation regime was introduced in 2009 and provides certain special tax rates and rules applicable to individuals that qualify as NHR. Such regime is applicable for a period of consecutive 10 years.

In order to qualify for the regime, the individual has merely to fulfill two requirements:

- Qualify as a Portuguese resident taxpayer under the Portuguese domestic rules (please refer to point 4. above)
- The individual applying for the regime has not been taxed as a Portuguese resident taxpayer in the five years prior to taking up residence in Portugal.

An inward expatriate fulfilling the two requirements set out above will be in a position to benefit from the favorable tax treatment for a maximum period of 10 years through its registration in the tax authorities taxpayer register. From a domestic perspective, the inward expatriate will qualify as a resident domestic taxpayer and therefore should benefit from the Portuguese tax treaty network.

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### Procedure

In order to benefit from the NHR regime, the individual must request to be registered as such with the Portuguese Tax Authorities. Such registration may be operated with the Portuguese Tax & Customs Authority upon registering as resident for tax purposes or until 31 March of the year following the year in which the individual qualified as a tax resident. In addition, the personal income tax return (“Modelo 3 de IRS”) must be also filed (every fiscal year), including Annex L (for income falling under the expatriate regime)

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### Taxation

If qualifying and duly registered as a NHR with the Portuguese Tax Authorities, the following benefits would be available for the said individuals:

- Portuguese-sourced income: employment (category A) and self-employment (category B) income derived from specific high value added activities is subject to tax at a 20% flat rate. The extraordinary surtax of 3.5% will also apply for 2013 on this income.

- Foreign-sourced income may be exempt of taxation under certain circumstances and the rules provide for differences depending on the type of income.

In general terms: (i) self-employment income (category B) derived from high value added activities, (ii) employment (category A); (iii) investment income (interest, dividends and capital gains, category E and G) may qualify for an exemption from tax in Portugal, insofar they are either subject to tax or may be taxed in the source country under the provision of the relevant tax treaty in force between Portugal and source country. Pension income (category H) may also qualify for an exemption from tax in Portugal, regardless if it is subject or not to taxation in the source country (insofar is not deemed to be derived in Portugal under the Portuguese sourcing rules).

Other types of domestic or foreign source income derived by the expatriate (not falling either on the 20% flat rate or exemption) will be taxable either at the progressive rates or at the applicable 28% flat rate depending on the type of income in question.

Besides lower final taxation for the individual, for the employer this regime also provides lower costs in the expatriation when the expatriation agreement establishes a tax equalization mechanism.

## 6. Conclusion

The Golden Residence Permit is expected to stimulate international investment in Portugal, especially in relation to Portuguese property. Apart from the normal advantages of having a residence permit in Portugal, the Golden Residence Permit also provides the possibility of working in Portugal and traveling within the Schengen Area.

The Golden Residence Permit coupled with the non-habitual tax regime provides further advantages. In fact, based on a benchmarking of other similar tax regimes available in Europe, the Portuguese non-habitual resident regime stands out for its reduced taxation and flexible requirements. The lack of a threshold and the flexible exemption method for foreign source income may prove a plus factor also for high-net-worth individuals seeking to take residence in Portugal. Finally, the extension of the regime to pension income may well broaden the scope of the persons that will ultimately benefit from the regime and provide an edge in the competition for the best sunny place in Europe to retire.

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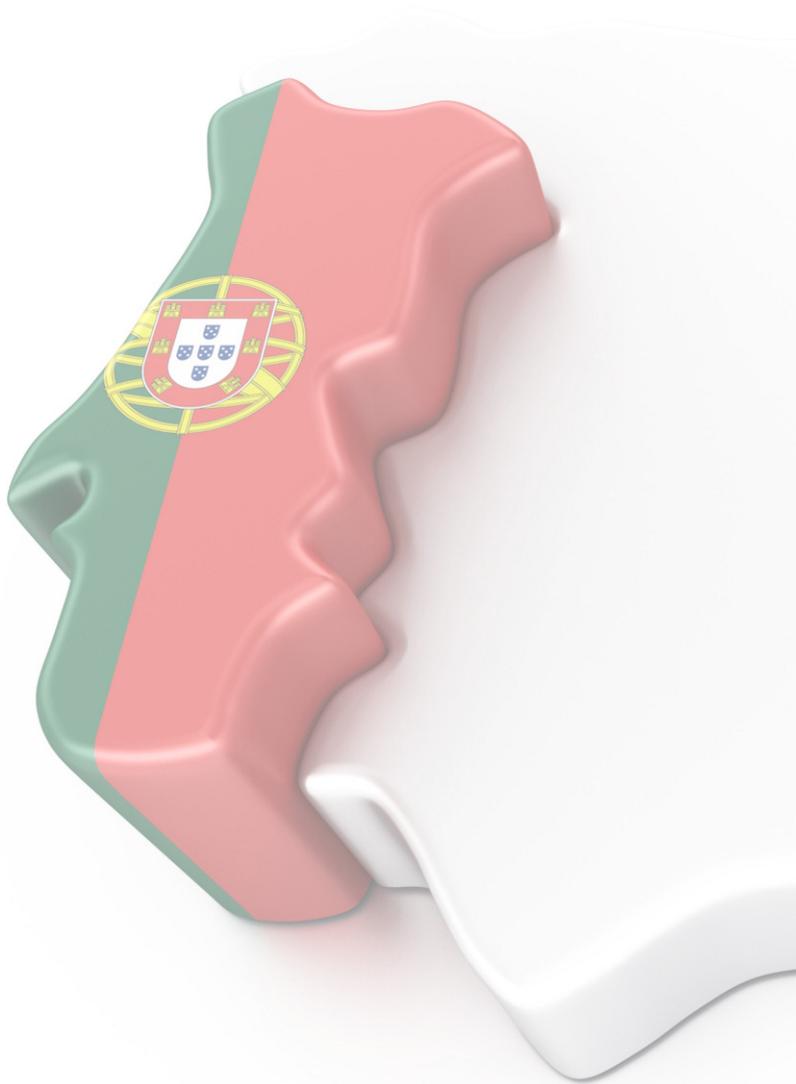
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