



MLGTS LEGAL CIRCLE



5 May 2017

27 de Setembro de 2014

MORAIS LEITÃO  
GALVÃO TELES  
SOARES DA SILVA

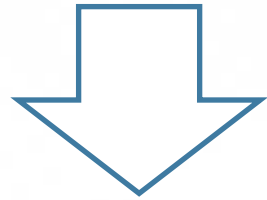
## I. THE GOLDEN VISA REGIME

PORTUGUESE RESIDENCE PERMIT FOR THE PROSECUTION OF AN  
INVESTMENT ACTIVITY

# GOLDEN VISA REGIME

## KEY FEATURES

The **Golden Visa** allows **third-country nationals** (i.e. who are not nationals of the European Union and the European Economic Area) to:



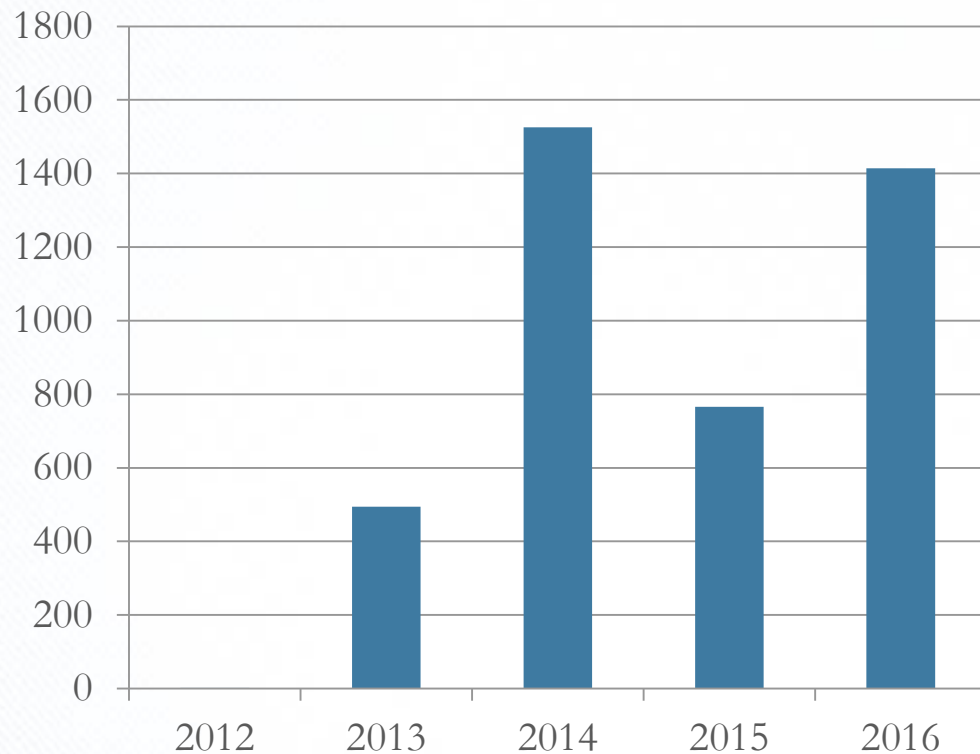
- Apply for and obtain a temporary residence permit in Portugal subject to the observation of certain requirements;
- Circulate freely within the Schengen Area (26 countries) without a visa requirement.



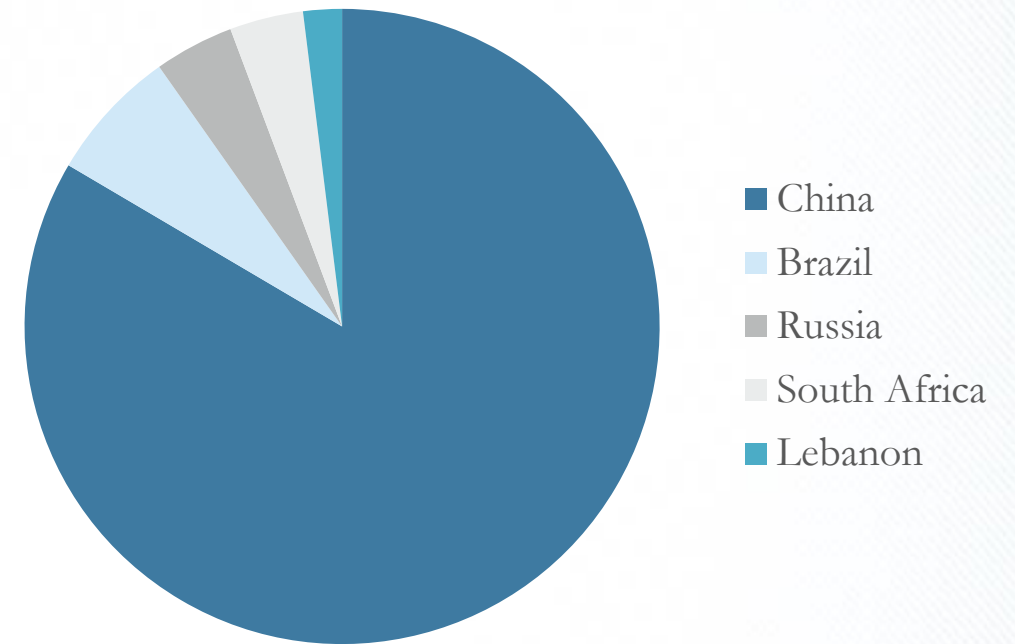
# GOLDEN VISA REGIME

## RECENT STATISTICS

Number of Golden Visas granted per year



Golden Visas by Country of origin



Estimated investment outcome since 2012: € 2.567.176.944,00

# GOLDEN VISA REGIME

## MAIN APPLICATION PROCEDURES

1.

- Choose the investment activity

2.

- Prepare and submit general and specific documents

3.

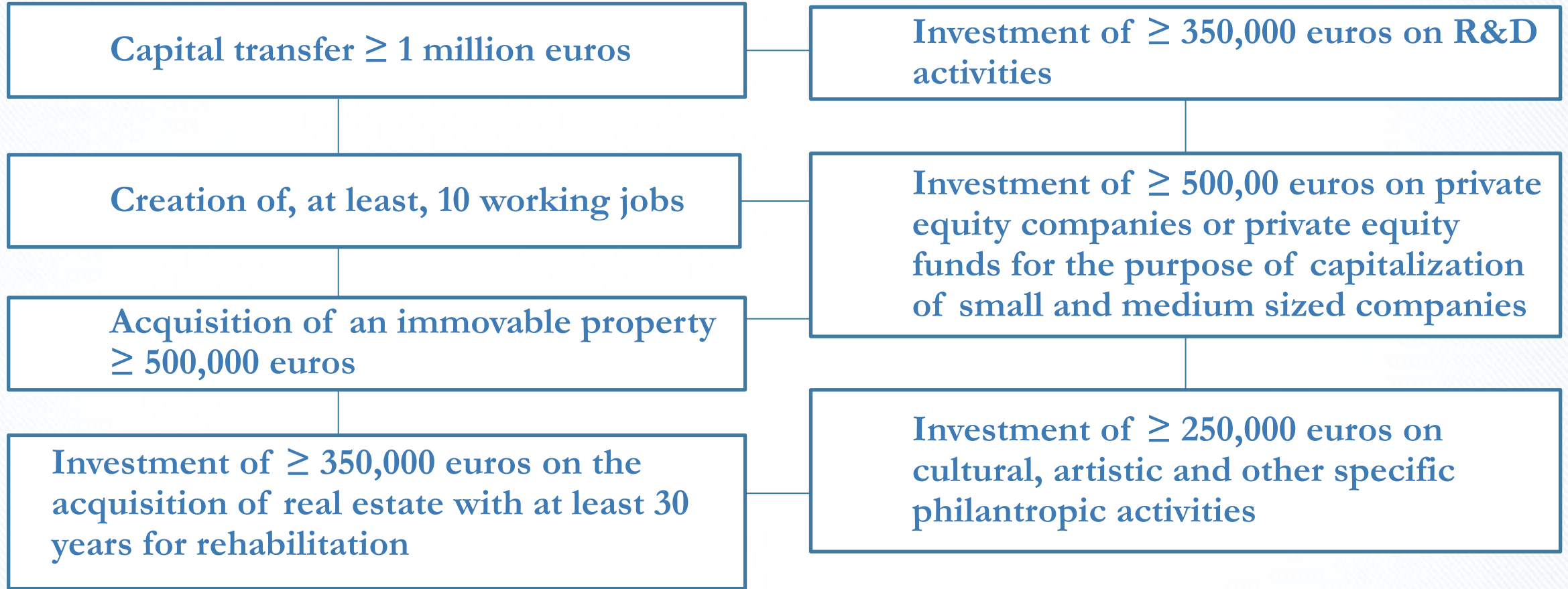
- Collection of biometrical data and signatures on the Portuguese Borders Services (“SEF”)

4.

- Upon the obtainment of all documents, the Golden Visa shall be appreciated and ultimately granted on three months

# GOLDEN VISA REGIME

## ELEGIBLE INVESTMENTS





# GOLDEN VISA REGIME


## INVESTMENT ON IMMOVABLE PROPERTY

- One of the ways to obtain the Golden Visa is the acquisition of real estate of value **equal or superior to 500,000 euros**;
- This requirement shall be deemed to be fulfilled where the applicant **demonstrates ownership of the immovable property**;
- This **investment activity** must be maintained for at least **5 years from the date of the granting of the Golden Visa**.



# GOLDEN VISA REGIME

## IMMOVABLE PROPERTY – ELEGIBLE INVESTMENTS



As the sole holder of the immovable property	<ul style="list-style-type: none"><li>• Acquisition of an immovable property above 500,000 euros</li></ul>
In co-ownership	<ul style="list-style-type: none"><li>• Provided every investor has an investment of at least 500,000 euros</li></ul>
Through a promissory contract	<ul style="list-style-type: none"><li>• With an advanced payment of at least 500,000 euros</li></ul>

# GOLDEN VISA REGIME

## POTENTIAL BUSINESSES



Selling of the immovable property

Lease the immovable property

- For commercial, habitational or touristic purposes



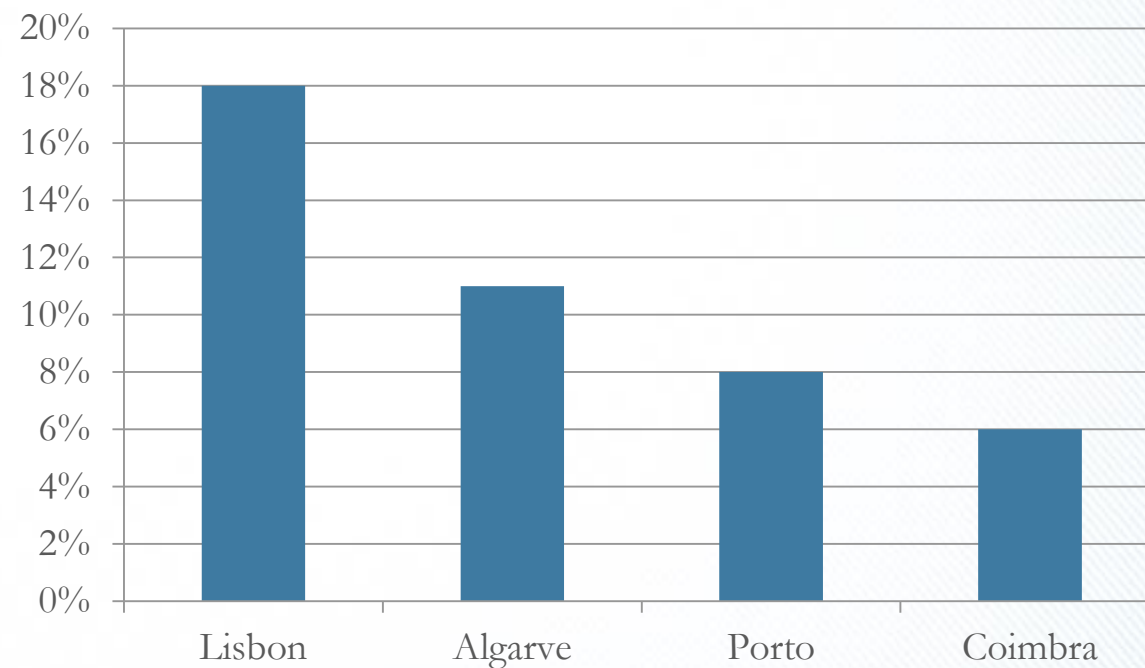
# GOLDEN VISA REGIME

## IMMOVABLE PROPERTY MARKET OVERVIEW

Average sq/m prices evolution:



Growth rate of the real estate market by region in 2017  
(when in comparison with the previous year)



# GOLDEN VISA REGIME

## ADVANTAGES OF THE GOLDEN VISA PERMIT

- Live and work in Portugal, although being able to maintain the residence in another country;
- Enter in Portugal with exemption of residence visa;
- Free movement through Schengen;
- To accede to the permanent residence, after 5 years and in accordance with the legislation in force;
- Acquire Portuguese nationality, after 6 years and in accordance with the legislation in force;
- Tax benefits.



# GOLDEN VISA REGIME

## POSSIBILITY OF “FAMILY REGROUPING”

**The following members of the family of the person to which the Golden Visa is granted may also benefit from the status:**

- Spouse;
- Smaller children;
- Adults, in charge of the couple or one of the spouses, who are single and are studying in an educational establishment;
- Ascendants in the straight line and in the first degree of the resident or the spouse, since they are in charge;
- Minor siblings, provided they are under the resident's control, in accordance with a decision rendered by the competent authority in the country of origin and provided that it is recognized by Portugal;
- A partner who maintains, in national territory or abroad, a *de facto* union, duly proven in accordance with the law.



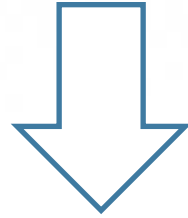


# GOLDEN VISA REGIME

## RENEWAL OF THE GOLDEN VISA

- Golden Visa is valid for one year and renewable for subsequent two-year terms.

**For renewal of the Golden Visa title, the investor must:**



- Prove the required period of stay: 7 days in the first year and 14 days in subsequent two-year periods;
- Present the required means of proof depending on the type of investment made.

# GOLDEN VISA REGIME

## IMMOVABLE PROPERTY TAXATION

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### Immovable Property Transfer Tax

- Immovable property for commercial or industrial activities – 6,5%
- Rural property – 5%
- Immovable property exclusively for housing – 6%

### Municipal Property Tax

- Rural property – 0,8%;
- Urban property – 0,3% to 0,45%;
- Those who own properties that in the overall have a tax value higher than 600,000 euros pay an additional 0,7% annually over the excess. In case the overall value of the properties exceed 1,600,000 euros, 1% over that excess.

### Stamp Duty

- 0,8% on the higher between the sale price and the tax value of the property.

# GOLDEN VISA REGIME

## CORPORATE INCOME TAX

### Corporate Income Tax

- General 21 % tax rate;
- Possibility of a 17% tax rate for small/medium businesses, until a € 15,000 taxable income.





MIGTS LEGAL CIRCLE



MORAIS LEITÃO  
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SOARES DA SILVA

## II. THE NON-HABITUAL RESIDENT TAX REGIME

Member  
**LexMundi**  
World Ready



## TARGETED INDIVIDUALS:

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- **HIGH NET WORTH INDIVIDUALS**
  - Wealthy individuals
  - Upper management/investors
- **PENSIONERS**
- **OTHERS**



# NON-HABITUAL RESIDENT TAX REGIME

## WHO IS ELIGIBLE?

### Newly registered tax residents in Portugal:

Remain in Portugal more than 183 days, consecutive or otherwise in any twelve 12-month period ending or beginning in that relevant year; or,

Staying for less time, but having available in Portugal (on any day of that year) accommodation in a condition that indicates an intention to keep and occupy it as an habitual residence.

It is crucial that the person in question has not been resident in Portugal for the past 5 years.





# NON-HABITUAL RESIDENT TAX REGIME

## DOUBLE TAX TREATY (DTT) LIST

Algeria	Ethiopia	Luxembourg	Saudi Arabia
Andorra	Finland	Macao	Senegal
Austria	France	Malta	Singapore
Bahrein	Georgia	Mexico	Slovak Republic
Barbados	Germany	Montenegro	Slovenia
Belgium	Greece	Morocco	South Africa
Brazil	Guinea Bissau	Mozambique	South Korea
Bulgaria	Hong Kong	Netherlands	Spain
Canada	Hungary	Norway	Sultanate of Oman
Cape Verde	Iceland	Oriental Republic of Uruguay	Sweden
Chile	India	Pakistan	Switzerland
China	Indonesia	Panama	Switzerland
Colombia	Ireland	Peru	Timor-Leste
Croatia	Israel	Poland	Tunisia
Cuba	Italy	Qatar	Turkey
Cyprus	Ivory Coast	Republic of Moldova	Ukraine
Czech Republic	Japan	Romania	United Kingdom
Denmark	Koweit	Russian Federation	United States of America
United Arab Emirates	Latvia	San Marino	Venezuela
Estonia	Lithuania	São Tomé and Príncipe	Vietnam

# NON-HABITUAL RESIDENT TAX REGIME

## FAVOURABLE TAX REGIME

*For a 10-year period*



A **flat tax rate** (20%) on Portuguese-source employment and business income derived from the listed high value added activities

Foreign source income may be exempt from personal income tax in Portugal, in certain conditions.



# NON-HABITUAL RESIDENT TAX REGIME

## HIGH ADDED VALUE ACTIVITIES

### 1 - ARCHITECTS, ENGINEERS AND SIMILAR TECHNICIANS:

- 101 - ARCHITECTS;
- 102 - ENGINEERS;
- 103 - GEOLOGISTS.

### 2 - VISUAL ARTISTS, ACTORS AND MUSICIANS:

- 201 - THEATER, BALLET, FILM, RADIO AND TELEVISION ARTISTS;
- 202 - SINGERS;
- 203 - SCULPTORS
- 204 - MUSICIANS;
- 205 - PAINTERS.

### 3 - AUDITORS:

- 301 - AUDITORS;
- 302 - TAX CONSULTANTS.

### 4 - DOCTORS AND DENTISTS

- 401 - DENTISTS;
- 402 - ANALYST DOCTORS
- 403 - SURGEONS;
- 404 - BOARD DOCTORS IN SHIPS;
- 405 - GENERAL PRACTITIONERS;
- 406 - DENTISTS;
- 407 - DENTIST DOCTORS;
- 408 - PHYSIATRISTS;
- 409 - GASTROENTEROLOGISTS;
- 410 - OPHTHALMOLOGISTS;
- 411 - ORTHOPEDISTS;
- 412 - OTORHINOLARYNGOLOGISTS;
- 413 - PAEDIATRICIANS;
- 414 - RADIOLOGISTS;
- 415 - DOCTORS IN OTHER SPECIALITIES.

### 5 - TEACHERS:

- 501 - UNIVERSITY PROFESSORS.

### 6 – PSYCHOLOGISTS

- 601 - PSYCHOLOGISTS.

### 7 - PROFESSIONAL SERVICES, TECHNICIANS AND SIMILAR:

- 701 - ARCHAEOLOGISTS;
- 702 - BIOLOGISTS AND EXPERTS IN LIFE SCIENCES;
- 703 - COMPUTER PROGRAMMERS
- 704 - SOFTWARE CONSULTANCY AND ACTIVITIES RELATED TO INFORMATION TECHNOLOGY AND INFORMATION TECHNOLOGY
- 705 - COMPUTER PROGRAMMING ACTIVITIES;
- 706 - COMPUTER CONSULTANCY ACTIVITIES;
- 707 - MANAGEMENT AND OPERATION OF COMPUTER EQUIPMENT;
- 708 - ACTIVITIES OF INFORMATION SERVICES;
- 709 - ACTIVITIES OF DATA PROCESSING, HOSTING INFORMATION AND RELATED ACTIVITIES; WEB PORTALS;
- 710 - ACTIVITIES OF DATA PROCESSING, HOSTING INFORMATION AND RELATED ACTIVITIES;
- 711 - OTHER INFORMATION SERVICE ACTIVITIES;
- 712 - ACTIVITIES OF NEWS AGENCIES;
- 713 - OTHER INFORMATION SERVICE ACTIVITIES;
- 714 - SCIENTIFIC RESEARCH AND DEVELOPMENT;
- 715 - RESEARCH AND DEVELOPMENT OF SCIENCE PHYSICAL AND NATURAL;
- 716 - RESEARCH AND DEVELOPMENT IN BIOTECHNOLOGY;
- 717 - DESIGNERS

### 8 - INVESTORS, ADMINISTRATORS AND MANAGERS:

- 801 - INVESTORS, ADMINISTRATORS AND MANAGERS OF COMPANIES PROMOTING PRODUCTIVE INVESTMENT, IF ALLOCATED TO ELIGIBLE PROJECTS UNDER TAX BENEFIT CONTRACTS AWARDED UNDER THE TAX CODE FOR INVESTMENT;
- 802 - SENIOR EMPLOYEES OF COMPANIES



# NON-HABITUAL RESIDENT TAX REGIME

## INCOME OBTAINED ABROAD

**Employment income**



**Exempt** if taxed in the other Contracting State according to DTT or, in case there is no DTT, exempt if taxed in the other State and not covered by the Portuguese territoriality rules.

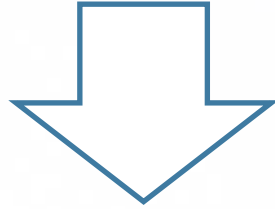
**Business income related with high value added activities,  
dividends, interest, royalties,  
rental from immovable property  
and capital gains**



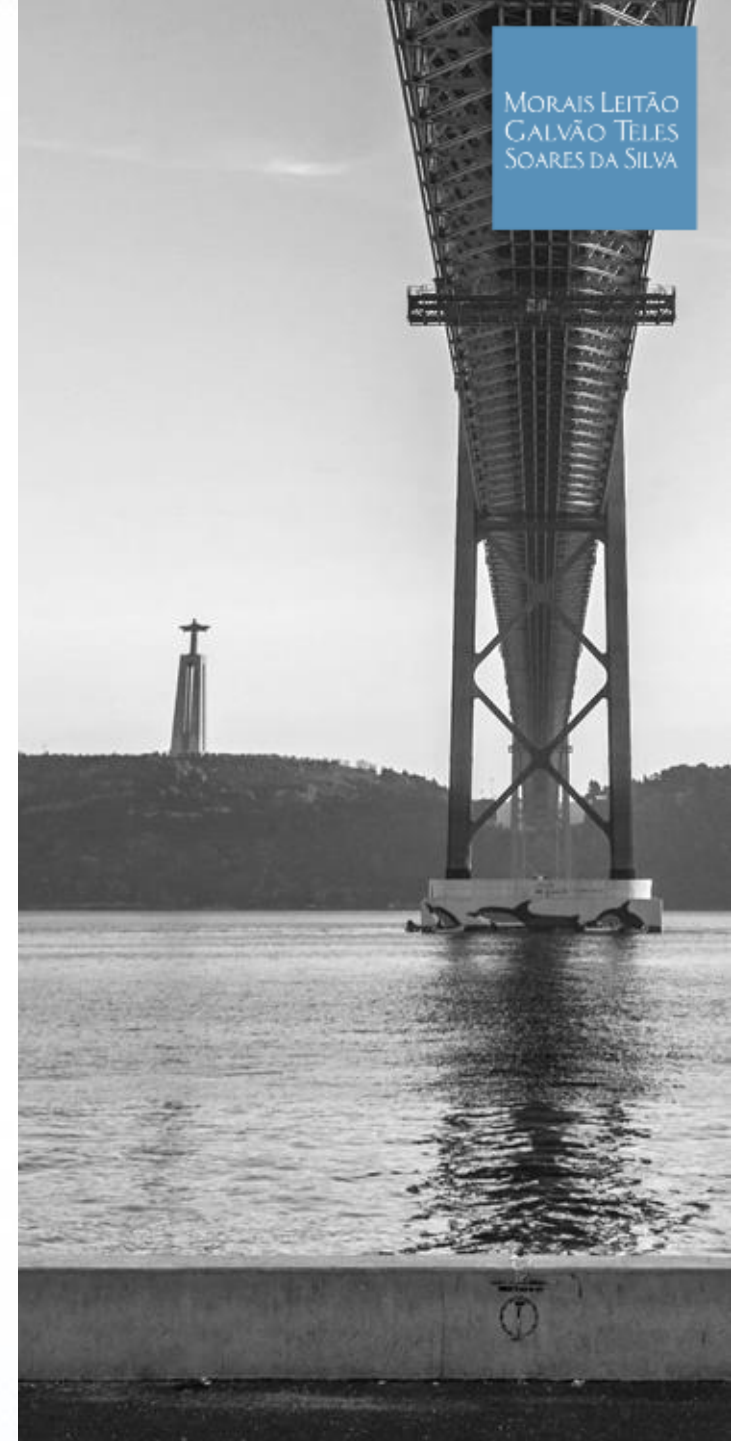
**Exempt** if taxable in the other Contracting State according to DTT or, in the absence of DTT, if taxable in the other State according to the OCDE MTC and not covered by the Portuguese territoriality rules.

# NON-HABITUAL RESIDENT TAX REGIME

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In any case it is paramount that the source of the income obtained abroad is not a tax haven foreseen in the Portuguese black list of off-shore jurisdictions



# NON-HABITUAL RESIDENT TAX REGIME

## BLACKLISTED JURISDICTIONS

Andorra	Falkland Islands (Malvinas)	Monaco	Seychelles
Anguilla	Fiji Islands	Montserrat	Swaziland
Antigua and Barbuda	Gambia	Nauru	Svalbard
Netherlands Antilles	Grenada	Niue Island	Tokelau
Aruba	Gibraltar	Norfolk Island	Kingdom of Tonga
Ascension Island	Guam	Sultanate of Oman	Trinidad and Tobago
Bahamas	Guyana	Pacific Islands (other Islands not listed)	Tristan da Cunha
Bahrain	Honduras	Palau Islands	Turks and Caicos Islands
Barbados	Hong Kong	Panama	Tuvalu
Belize	Jamaica	Pitcairn Island	Vanuatu
Bermuda	Jordan	French Polynesia	British Virgin Islands
Bolivia	Queshm Island	Porto Rico	United States Virgin Islands
Brunei	Kiribati	Qatar	Yemen Arab Republic
Channel Islands*	Kuwait	Solomon Islands	Saint Kitts and Nevis
Cayman Islands	Labuan	American Samoa	San Marino
Christmas Island	Lebanon	Western Samoa	Saint Pierre and Miquelon
Cocos (Keeling)	Liberia	Saint Helena	St Vicente and the Grenadines
Cook Islands	Liechtenstein	Saint Lucia	Mauritius
Costa Rica	The Maldives	United Arab Emirates	Marshall Islands
Djibouti	Marianas	Dominica	

\* With the exception of Jersey





## BLACKLISTED JURISDICTIONS

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- Non-applicability of the exemption method
- Non-applicability of the flat tax rate of 20%
- Aggravated tax rates: 35%
- CFC rules

# NON-HABITUAL RESIDENT TAX REGIME

## INCOME OBTAINED ABROAD (CONT.)

Finally, **pension income** obtained abroad



**Exempt**

Provided that taxed in the other Contracting State according to DTT signed with such State

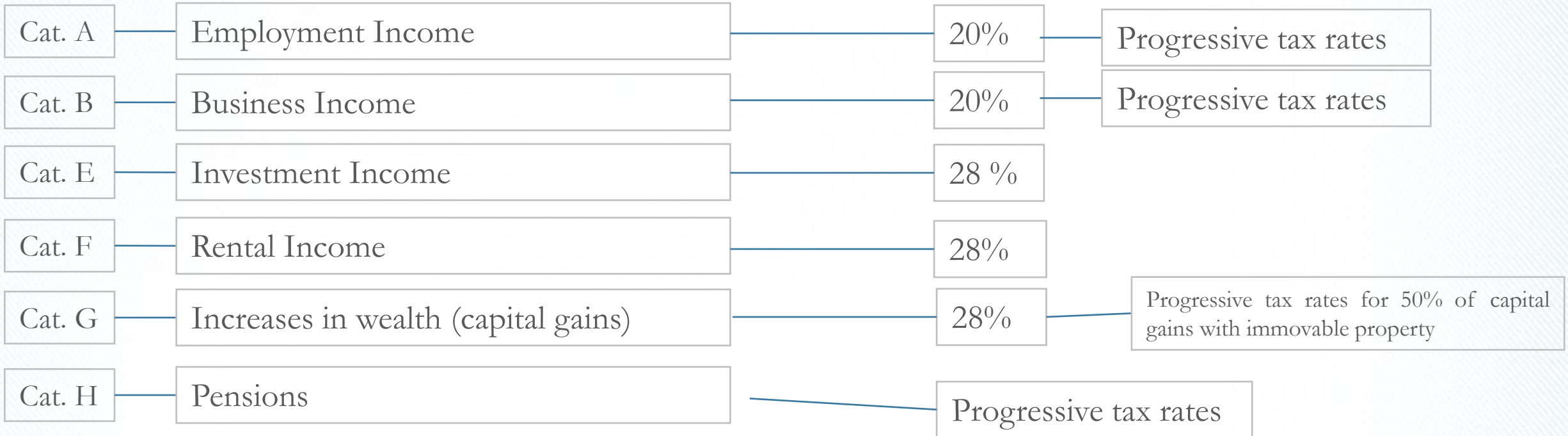
or

If considered not obtained in Portugal according to the Portuguese territoriality rule



# NON-HABITUAL RESIDENT TAX REGIME

## DOMESTIC TYPES OF INCOME: PORTUGUESE SOURCED





# NON-HABITUAL RESIDENT TAX REGIME

## DOMESTIC TYPES OF INCOME: FOREIGN SOURCED

Cat. A	Employment Income	0%   20%   Progressive tax rates
Cat. B	Business Income	0%   20%   Progressive tax rates
Cat. E	Investment Income	0 %, except if from tax haven
Cat. F	Rental Income	0 %, except if from tax haven
Cat. G	Increases in wealth (capital gains)	In principle 28%
Cat. H	Pensions	0 %

# NON-HABITUAL RESIDENT TAX REGIME

## PORTUGUESE PROGRESSIVE TAX RATES

Additional Solidarity rate		
	Tax rate (%)	
From more than 80.000 up to 250.000	2,5	
Higher than 250.000	5	

Taxable income (euros)	Applicable tax rates (%)	
	Normal (A)	Average (B)
Until 7.091	14,5	14,5
From more than 7.091 up to 20.261	28,5	23,6
From more than 20.261 up to 40.522	37	30,3
From more than 40.522 up to 80.640	45	37,65
Higher than 80.640	48	

# NON-HABITUAL RESIDENT TAX REGIME

## REGISTRATION PROCEDURES

- A. On a voluntary basis
- B. Registration before the Municipality
- C. Registration before the Portuguese Tax Authorities
- D. Filing the NHR application before the Portuguese Tax Authorities on-line
- E. Practical issues







## NON-HABITUAL TAX RESIDENT REGIME

### HIGHLIGHTS:

- ✓ Eligibility
- ✓ Valid for a 10 year period
- ✓ Qualification of the income
- ✓ Distinction between Portuguese Source and Foreign source income
- ✓ Analysis of domestic source state tax legislation
- ✓ Analysis of the DTT / OECD MC
- ✓ Determination of taxable income
- EXEMPTION ON FOREIGN SOURCED PASSIVE/RENTAL/PENSION INCOME
- FLAT TAX RATE (20%) for high value added activities



*Thank you*

<http://www.mlgts.pt>