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Portugal – 2014 Budget Law Maintains Higher Taxation, but Some Relief

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For coverage of last year's budget, see *Flash International Executive Alert* 2013-016, 23 January 2013.

Portugal's Budget Law, enacted at the end of December, maintains for 2014 many of the previous year's measures imposing higher taxation. Included are some changes to social security taxation as well as taxation of employees' personal use of company cars.

Why This Matters

The Budget Law has introduced important changes to social security, for example, the removal of the wage ceiling for board members. For companies with assignees who are board of directors members, this could impact their international assignment costs.

In other areas, such as the tax treatment of certain health insurance and life insurance premiums paid by the employer on the employee's behalf, and the new rules for the taxation of certain nonresidents, the government has sought to lighten individuals' tax burdens and inject more flexibility into the tax system.

Taxation on personal use of company's cars was increased at the level of the employer rather than at the level of the employee.

Social Security

Board Members

The government eliminated the maximum monthly limit (currently EUR 5,030.64) of the contributions base for social security contributions applicable to board members. Social contributions are therefore due on the total remuneration amount actually received in respect of each entity where the board member performs his or her activity.

The minimum monthly base corresponding to EUR 419.22 continues to apply (except in certain circumstances).

Concept of "Regularity"

The Budget Law alters the definition of regularity for social security purposes. An item of remuneration is considered to be of a "regular" nature and, thus, subject to social contributions when:

- it is deemed as a right of the employee based on pre-established objectives and general criteria, which creates for the employee the expectation to receive it; and
- its attribution is made more than once within a five-year period.

Previously, items of remuneration were deemed to be "regular" regardless of the frequency of their attribution.

Personal Income Taxation (*Imposto sobre o Rendimento das Pessoas Singulares*)

Tax Rates

According to the State Budget Law, the marginal tax rates for 2014 remain unchanged as compared with last year.

2014 Income Brackets (€)	2014 Marginal Tax Rates
Up to 7,000	14.6%
From more than 7,000 up to 20,000	28.5%
From more than 20,000 up to 40,000	37%
From more than 40,000 up to 80,000	45%
More than 80,000	48%

Employment Income: Health/Life Insurance Premiums Paid for Family Members

Health and life insurance premiums borne by the employer for the benefit of employees' family members are no longer deemed as taxable income for personal income tax purposes, provided that such benefit is granted to all employees.

Previously such benefit could be tax exempt only for employees provided that some criteria were met under the personal income tax and corporate income tax rules.

Nonresidents – Optional Regime

The government has clarified the scope of the optional regime for residents of/in another member state of the European Union (EU) or European Economic Area (EEA) with which there is an agreement on the exchange of information in tax matters when they earn income which is subject to tax in Portugal. The rules now allow such nonresidents the option to be taxed as a resident in Portugal with regards to any type of income (and not only with regards to employment income, professional income, or pension income as per the rule previously in force). Up until this change, customarily nonresidents were taxed at 20 percent on income obtained in Portugal.

KPMG Note

This measure aligns Portugal with EU rules and practices in other member countries. Giving EU/EEA taxpayers the option introduces greater flexibility with respect to deciding their tax affairs. Furthermore, depending on the taxpayer's activities and income situation, being taxed as Portuguese resident could turn out to be tax advantageous.

Business and Professional Income

The rules noted below apply only to income received by self-employed individuals derived from their professional activities.

Taxable Income

With respect to annual incomes below EUR 200,000, in order to assess taxable income, the following coefficients apply:

- 0.04 – on the sale of goods and products, as well as on the services provided by hotels and similar activities, and provision of food and beverage;
- 0.75 – on the income deriving from professional activities listed in Article 151;
- 0.95:
  - ✓ on the income deriving from contracts whose purpose is the assignment or temporary use of intellectual or industrial property rights or the supply of information relating to an experiment carried out within the industrial, commercial, or scientific sectors,
  - ✓ on the investment income deriving from business and professional activities,
  - ✓ on rental income, capital gains, etc.
- 0.10 – on operating subsidies and on other business income (except subsidies not intended for operating purposes).

According to the previous law, the taxable income base was calculated by applying a 0.20 coefficient to the sale of goods and other products, and 0.75 to the remaining business income.

> *Example*:
>
> A self-employed individual, who exercises a professional activity:
>
> Total annual income received: €80,000
>
> Coefficient to determine the taxable income: 0.75
>
> Computation of the taxable income: €80,000 x 0.75 = €60,000
>
> Income subject to marginal tax rates: €60,000

Taxation on Passenger Vehicles

This rule only applies to self-employed individuals who are taxed based on the results reported in their accounts (as if they were a company) and who use their cars for work purposes.

Costs related to passenger vehicles are taxed at the following rates:

- 10% when the acquisition cost is less than EUR 20,000, and
- 20% when the acquisition cost is higher than EUR 20,000.

Corporate Income Tax –Taxation of Company Passenger Vehicles

As mentioned above, due to the difficulty of taxing at a personal level the use of company-provided passenger vehicles by employees, the government has decided to alter the tax regime in respect of the costs incurred by companies with passenger vehicles, irrespective of the use, as follows:

- 10% for vehicles with an acquisition value lower than EUR 25,000;
- 27.5% for vehicles with an acquisition value between EUR 25,000 and EUR 35,000;
- 35% for vehicles with an acquisition value higher than EUR 35,000.

The rates indicated above will be increased by 10 percent in cases where a company experiences tax losses in a given tax year.

The rules are not applicable in case the attribution of this benefit is subject to personal income tax.

KPMG Note

Please note that these rules are not included in the State Budget for 2014 but are already approved and entered into force upon the publication of the Corporate Income Tax Reform[2], with effect from 1 January 2014.

Footnotes:

1 See the 2014 Portuguese State Budget law, *Lei n.º 83-C/3013 de 31 de dezembro, Orçamento do Estado para 2014,* (in Portuguese) at:

http://dre.pt/pdf1sdip/2013/12/25301/0005800295.pdf .

2 See the Corporate Income Tax Reform, *Lei n.º 2/2014 de 16 de janeiro*, (in Portuguese) at:

http://www.dre.pt/pdf1s/2014/01/01100/0025300346.pdf .

See a related press release (in Portuguese) at: http://www.publico.pt/politica/noticia/presidente-da-republica-promulgou-o-orcamento-do-estado-para-2014-1618036 .

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