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GMS Flash Alert

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Portugal - New Tax on Pension Income of Non-Habitual Residents

Portugal's annual State Budget Law for 2020 introduced a change to the "non-habitual resident" (NHR) tax regime.[1] The provision adopted would impose a 10-percent tax on foreign-source pension income. This was expected in light of concerns raised by some European Union (EU) countries over discriminatory tax regimes resulting in zero-taxed income.

WHY THIS MATTERS

The 2020 annual State Budget Law introduces some important changes to the NHR tax regime that will affect individuals who might be considering relocating to Portugal to enjoy retirement, although the level of taxation on pension income will still remain relatively low.

The intention of multinational companies to relocate their top management employees – who may envision Portugal as a location for their retirement in the near future – may be affected, so understanding these changes, and undertaking careful planning, can help to foster appropriate decisions.

Overview of Changes

When it entered into force back in 2009, one of the benefits provided by the NHR regime to certain individuals relocating to Portugal was the possibility for them to benefit from a tax exemption for certain types of foreign-source income, including pension income.

Under the new rules, net pension income received by individuals who have been granted NHR status, if the income is not deemed income from a Portuguese source, will now be subject to a flat 10-percent income tax rate. A tax credit will be available for the tax paid abroad, limited to the taxes due in Portugal for such income.

The same rule is applicable to early retirement income paid by the foreign country's social security authorities and pension funds, as well as employment income related to benefits attributed to the employee from life insurance premiums, pension funds, or other contributions paid by the employer, when not previously subject to taxation.

Individuals who are subject to the new NHR tax regime rules will be able to choose if they prefer to be taxed according to the general tax regime, in which case the marginal Portuguese income tax rates will be applicable (currently, up to 53 percent), rather than the flat rate.

The above-mentioned increase in taxation will only affect those who relocate to Portugal after 31 March 2020.

Individuals already registered as NHRs by 31 March 2020, or registered as Portuguese tax residents and still applying for the NHR tax regime (until the applicable deadline of 31 March 2021), may still benefit from a tax exemption (under certain conditions) in respect of their foreign-source pension income, but will be allowed to follow the new taxation rules.

FOOTNOTE:

1 *Lei n.º 2/2020 de 31 de março, Orçamento do Estado para 2020*, published in the country's official gazette, *Diário da República n.º 64/2020, Série I de 2020-03-31*. Also, you may see a version of the Law (in Portuguese) by clicking here.

RELATED RESOURCE:

Adapted from an April 2020 *Flash Alert*, "Portugal – 2020 Annual State Budget – Taxation of pension income under the non-habitual tax regime," A Publication for Global Mobility and Tax Professionals by KPMG's Global Mobility Services Practice.

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