

**Investing in Portugal**  
**- Advantages for the Companies -**

There are many attractive to the investment of companies, in Portugal in a difficult economic and financial environment, which the country is experiencing, since 2009. The weather and the life style attract a large number of people, from around the world, to move into Portugal and fix here their residency, and can, for now, do it with additional benefits of a favourable tax regime.

**1. Financial Incentives for Investment**

The companies, national or foreign, who wish to invest in Portugal, can apply for financial incentives through the incentives in place at the time of investment.

The existing incentives and in force at present are:

**FINICIA**

FINICIA is a program that facilitates access to financing solutions and assistance to differentiating business projects, close to the market or with economic value potential:

- in the company's creation phase;
- companies in the first 4 years of activity;
- in projects of local interest in more than 100 municipalities with protocol.

To ensure access to the financial resources, the state shares the risk of these operations with venture capital companies, banks, mutual guarantee societies and "Business Angels".

**PME Growth 2014**

**Terms of Credit Facility**

Specific Lines	Amount (million euros)
Overall amount of the Line	2.000
Specific Lines:	

Micro and Small Companies	500
General:	1.000
Appropriation "Operating Funds"	500
Appropriation "Investment"	500
Commercial Credit to Exporters	500

## Revitalize Funds

The Revitalize Funds, known as Business Expansion Regional Funds, are instruments of venture capital, created under the Revitalize Program, with the purpose of promote the growth and expansion of the PME (Small and Micro Companies), contributing to the development of new services and/or products, internationalization processes and exportation augmentation. Are intended to capitalize the PME which present sustainable business models and pursuing growth strategies and expansion.

## Sectors Covered

- Industry — activities included in the divisions 05 to 33 of the CAE;
- Energy — activities included in the division 35 of the CAE;
- Construction – activities included in the divisions 41 to 43 of the CAE;
- Commerce — activities included in the divisions 45 to 47 of the CAE;
- Tourism – activities included in the division 55, in the groups 561, 563, 771 and 791 and in subclasses 77210, 90040, 91041, 91042, 93110, 93192, 93210, 93292, 93293, 93294 and 96040 of the CAE, these last since declared of interest for tourism in accordance with applicable legislation;
- Transport and Logistics – activities included in the groups 493, 494 and division 52 of the CAE;
- Services – activities included in the divisions 37 to 39, 58, 59, 62, 63, 69, 70 to 74, 77, except for the group 771 and subclass 77210 when declared of interest for tourism in accordance with applicable legislation, 78, 80 a 82, 90, except for the subclass 90040, 91, except for the subclass 91041 e 91042, 95, in the groups 016, 022, 024 e 799 and in the subclass 64202.

## Funds Investment Limits in Each Society

The financing from the Funds may not exceed the amount of €1.500.000 by society, for each 12 months period to a global maximum of €4.500.000.

## 2. Tax Incentives for Investment

### 2.1 The Investment Fiscal Code

The fiscal benefits to productive investment projects, as well as investment projects for internationalization, accomplished until December 31<sup>st</sup> 2020, under certain

conditions, assume an exceptional nature on a temporary basis granted on a contractual basis and limited in function of the investment accomplished

The benefits are granted by entering into a contract of fiscal incentives, with duration of 10 years, counting from the beginning of the implementation of the investment project, which contains, granted fiscal benefits, objectives and targets to be met by the promoter.

The investments projects mentioned, must have their object in the following **economic activities**, as long as the limits established are respected in the articles 1<sup>st</sup>, 6<sup>th</sup> and 7<sup>th</sup> from the Rule CE) n.º 800/2008, from 6 August, which has approved the general block exemption regulation:

- a) extractive industry and transforming industry;
- b) Tourism and activities declared of interest for the tourism in the terms of the applicable legislation;
- c) Activities and computer services and related;
- d) Agricultural activities, fisheries, farming and forestry;
- e) Investigation and development activities and high technological intensity;
- f) Information technologies and audiovisual and multimedia production;
- g) Environment, energy and telecommunications.

The investment contracts with amounts higher than € 250.000 and lower than € 2.500.000 shall be subject of the Government's approval, by joint order of the Government members responsible for the finance and economic areas.

## **2.2 Fiscal Benefits to the Investment**

The contractual fiscal benefits applicable to productive investment projects are regulated by Decree-Law No. 249/2009 depend on the fulfilment of the conditions necessary for the project in question and the most important are:

- a) Tax credit, determined based on the application of a percentage between 10% and 25% of the relevant applications of the project actually performed, o deduct from the amount calculated in the terms of the Corporate Income Tax Code (IRC);
- b) Exemption or IML reduction, regarding the properties used by the entity in the activity developed under the investment project;
- c) Exemption or IMT reduction, regarding the properties acquired by the entity, destined to the exercise of its activity performed under the investment project;
- d) Exemption or reduction of the Stamp Duty, due in all acts or contract necessary to the realization of the investment project.

The fiscal incentives to be granted can not be combined with other benefits of the same nature likely to be assigned to the same investment project.

As for the **criteria for determining the fiscal benefits**, the total fiscal benefit to be given to investment projects is 10% of the relevant applications of the project actually accomplished.

This percentage may be increased as follows:

- a) In 5%, if the project is located in an area that, until the application presentation date, don't present a *per capita* purchasing power index higher than the national average in the last two annual clearance published by the Statistics National Institute (INE);
- b) Until 5%, if the project provides the job creation or its maintenance until the end of the duration of the contract of the tax benefits concession in accordance with the 5 following echelons:
  - ☐ 1%: higher than or equal to 50 jobs;
  - ☐ 2%: higher than or equal a 100 jobs;
  - ☐ 3%: higher than or equal a 150 jobs;
  - ☐ 4%: higher than or equal a 200 jobs;
  - ☐ 5%: higher than or equal a 250 jobs;
- c) Until 5%, in case of relevant contribution of the project to technological innovation, environment protection, the appreciation of output of Community or national origin, the development and revitalization of the national PME or the interaction with relevant institutions of the scientific national system.

### **2.3 System of Fiscal Incentives for I&D Entrepreneurial II (SIFIDE II)**

The addressees may deduct from the amount calculated in accordance with Article 90 of the Corporate Income Tax Code (IRC), and to its competition, the value corresponding to expenses with research and development, in the part that has not been the object of financial contribution of the State repayable, held in tax periods beginning from January 1, 2013 and December 31, 2020, in a double percentage:

- Base rate - 32.5% of costs incurred in that period
- Incremental rate - 50% of the increase in costs incurred during that period in relation to the simple arithmetic average of the previous two years, up to € 1 500 000.

The expenses which for lack of collects, can not be deducted in the year they were incurred can be deducted up to the eighth immediate exercise.

To obtain the fiscal benefits, the companies must obtain a declaration by the Minister of Science, Technology and Higher Education.

## **2.4 Fiscal benefits for employment creation**

The costs relating to the net creation of employment for young people and long-term unemployed, accepted by an employment contract for indefinite period, are considered at 150% of the respective amount recorded as cost in the period (Article 19 of the Statute of Fiscal Benefits).

## **2.5 Income Tax (IRC)**

### **2.5.1 Rate**

The IRC general rate is 23%.

But the income tax rate applicable to the first 15 000 (euros) taxable is 17%.

(Applicable only taxable persons exercising, directly and primarily, an economic activity of agricultural, commercial or industrial nature, that qualifies as small or medium business).

### **2.5.2 Participation exemption regime (dividends and capital gains)**

It is predicted that the profits and reserves distributed, as well as the capital gain and losses accomplished, don't compete for determining the taxable income of IRC taxpayers.

The application of the regime is subject to cumulative verification of the following conditions:

- The taxable person holds a participation not lower than 5% of the share capital or voting rights of the entity which has distributed dividends or giving rise to a more or less added value.
- It is necessary a participation during a minimum period of twenty four months, uninterruptedly. In case of dividends, the participation may be hold for a lower period, as long as it is maintained, in order to complete this period.

- The entity which distributes dividends – or which share capital is transmitted onerously – must be subject and not exempted of IRC or similar, to a legal tax not lower than 60% of the applicable IRC tax (i.e., 13,8% in 2014).
- The entity which distributes dividends – or which share capital is transmitted onerously – can not have residence or domicile in country, territory or region subject to a tax regime clearly more favourable contained in the approved list by the Finance Ministry (list of “tax heavens”).

Exclusions of the regime application:

- profits and reserves received, whenever the income received from the portuguese entity constitute deductible expenses at the non-resident entity that make the distribution.

- as the gains and losses arising from the onerous transmission of social parts if the value of the properties held by the invested company is more than 50% of the respective asset. (Except if the immovable properties connected with the agricultural, industrial or commercial activity that does not consist in the lease or the purchase and sale of immovable properties. For the referred calculation of percentage of properties, are only considered the properties acquired at or January 1<sup>st</sup> 2014).

The *participation exemption* regime will be applicable – relatively to profits and capital gains – to the stable establishments situated in Portugal from entities residents in a State-member of the European Union (“UE”), European Economic Area (“EEE”) or State with which Portugal has signed a Convention to avoid double taxation which envisages administrative cooperation, as long as in the latter case: (i) that State is not on the tax heaven list, and (ii) the entity at its State of residency is subject and not exempted of a similar tax to IRC.

### **2.5.3 Tax Credit for Double Taxation**

If the exemption regime does not apply by virtue of not verify the entire requirement applicable, it is introduced a tax credit regime for international double taxation. It will be, in any case, necessary the holding of 5% of the share capital or voting rights, for at least twenty-four months (or, in case of lack at the time of distribution, is maintained for the time necessary to complete this period).

The tax credit for double taxation which is not deducted in the year it is generated can be used within five years.

#### **2.5.4 Investment Assistance Tax System (RFAl)**

The RFAl applies to relevant investments made from 2013 to 2017 in tangible and intangible assets.

The company that can use this tax benefit is the one that carries on business in the agricultural, forestry, agro-industrial and tourism and even the mining or manufacturing industries. This regime provides for a deduction from the collection, by the amount of 50% of the same. For investments up to five million euros, the deduction is 20% of the relevant investment. Above this level, the deduction is 10% of the relevant investment. According to Article 27 of the Investment Tax Code.

Thus, for example, a company that has obtained in 2013 one collectible income of three million euros may deduct investments up to a maximum of 50% of this amount (i.e. EUR 1.5 million). As this company has made over the past year an investment of 500 thousand euros, she will be able to deduct the collection 20% of this amount. I.e.: 100 thousand euros. There are still granted exemptions of IMI, IMT and Stamp Duty for acquisition of properties constituting a relevant investment.

### **3. Incentives to employment creation**

#### **3.1 Stimulus Employment**

Financial support for employers who enter into employment contracts for a fixed term for a period of not less than six months or permanent employment contracts, full time or par-time, with unemployed registered with the employment services, with the obligation to provide training to employees recruited.

□ 80% of the Social Support Indexation (IAS\*) multiplied by half of the whole number of months of the employment contract duration fixed-term but may not exceed the value of 80% of the IAS x 6;

□ 110% of the IAS x 12, if permanent employment contracts;

□ 100% of the IAS multiplied by half of the whole number of months of the employment contract duration, up to the limit of 6 IAS.

#### **3.2 Incentive Employment**

Financial support for employers who, between October 1<sup>st</sup> 2013 and September 30<sup>th</sup> 2015 conclude contracts of employment governed by the labour code: 1% of the employee's monthly salary.

### 3.3 Dispensation of Contributions

Employers who hire young people looking for 1<sup>st</sup> employment or long-term unemployed are exempted from paying social security contributions in charge (23.75%), by these workers for 36 months (maximum). However, remains the contribution obligation on the employee's contribution, i.e. 11% dependent on the worker.

### 3.4 Internships Employments

Internships lasting nine months, in order to promote the inclusion of young people in the labour market or retraining of unemployed.

Support		
Internship grant	1 IAS *	trainee with level 2 qualification or lower
	1,2 IAS	trainee with level 3 qualification
	1,3 IAS	trainee with level 4 qualification
	1,4 IAS	trainee with level 5 qualification
	1,65 IAS	trainee with level 6, 7 or 8 qualification
* value of the IAS (Social Support Indexation): 419,22 €		
Meal or food allowance		
Work accident insurance		

## 4. Property Tax

### 4.1 Municipal Tax on Property Transfer (IMT)

#### 4.1.1 Purchase and Sale for resale

In Portugal, the transmission of properties is subject of tax. However, it is possible to obtain exemption of the payment of this tax, when the purchase is made for the property resale, as long as:

- The purchaser is taxable to IRS/IRC;
- He is registered for the activity of purchase and sale of properties and resale of acquired;
- Normally and usually engaged in the activity of buyer of properties to its resale, which is proved with the presentation of a certificate from the Finance

8

#### **Verónica Pisco - Responsabilidade Limitada**

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Department from the location of the registered office or domicile, containing that it was acquired or sold at least one property for resale in the previous year's practice related to the purchase in which he wants benefit the exemption;

- d) The resale of the property acquired with exemption, until 3 years after the acquisition. If not, the exemption expires. The exemption also expires if it is gave a different finality to the properties.

This exemption is automatically acknowledged by the notary in the act's celebration, or acquisition contract.

#### **4.1.2 Real estate investment funds, pension funds and retirement savings funds**

The municipal tax rates on real estate and municipal tax on onerous transfer of property applicable to integrated buildings in open real estate funds or closed public subscription are halved.

#### **4.2 Municipal Property Tax (IMI)**

In Portugal the properties are subject to a municipal tax which can vary between 0.2% and 0.8% of the proportional value of each property.

Despite this, the urban properties may be exempt from paying for a certain period, if the buyer (and new owner) formally requests it by application. This exemption will be subject to certain criteria, such as the tax amount, the use of the property and the economic conditions of their owners.

##### **4.2.1 Urban property object of rehabilitation**

Are exempt from property tax urban buildings subject of urban rehabilitation at the two year period following the year, including the issuance of the respective city council license.

##### **4.2.2 Buildings integrated into developments which have been attributed to tourism utility**

Are exempt from property tax, for a period of seven years, the integrated buildings into developments which have been attributed tourism utility.

##### **4.2.3 Urban buildings built, extended, improved or acquired for consideration for residential (Long-Term Leasing)**

Are exempt from property tax, the buildings or parts of urban housing buildings built, extended, improved or acquired for consideration, for the permanent residence of the tenant, and are effectively connected with such order, within six months after the

acquisition or completion of construction, expansion or improvements, saved by not attributable to the beneficiary reason, and the request for exemption shall be submitted by taxpayers until the end of the 60 days after that deadline.

## 5. Social Security

Legal Framework:

23.75% - payable by the employer on the value of the contribution;

11% - payable by the worker, on the value of the contribution.

The managing partners, although not receive remuneration shall be subject to the payment of social security in Portugal, if they don't prove payment of a social contribution, equivalent to the Portuguese social security in the country of residence (A2 model).

## 6. Companies creation

Through the initiative 'Empresa na Hora' ('On the Spot Firm') it will be possible to constitute a single-member, limited or public limited company on the same day, using a mechanism named Empresa na Hora: special regime of immediate constitution of societies; or even, of the On-line Company: society's constitution by internet.

### Costs:

EMPRESA NA HORA		EMPRESA NA HORA	
Emoluments in the case of the choice of a pre-approved firm	€360	Emoluments in the case of choosing a pre-approved model of social status	€360
Emoluments in case it is previously asked for a firm admissibility certificate	€435	Emoluments in the case of choosing prepared statutes by the concerned(s)	€380

## 7. Tax Planning

Due to the mentioned opportunities available in Portugal, it is expected to verify a large number of companies considering investing in Portugal. Therefore, it is highly recommended planning this investment, with proper care and caution. You should take advice from a professional and plan, from a legal and tax point of view, the investment, you want to perform.

Please note that only lawyers are covered by professional secrecy with regard to tax planning.

**Verónica Pisco**

**15/12/14**

*(Lawyer and post-graduated in Taxation)*

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