

RCBE

The Central Register of the Effective Beneficiary

The Legal Regime governing the Central Registry of Effective Beneficiary was approved by Law no. 89/2017 of 21st August and is ruled by the Ordinance No. 233/2018 of 21st August. These national laws transfer chapter III of Directive (EU) no. 2015/849, the aim in which is to prevent the use of the financial system for money laundering or financing terrorism, under the terms of which the member states are required to ensure the identification of all individual persons who own or control a collective entity.

What is RCBE?

The Central Register of the Effective Beneficiary (RCBE) is a national database with enough, accurate and up-to-date information about the persons who, indirectly or through a third party, have ownership or effective control of established entities in Portugal.

Who is the Effective Beneficiary?

- a) The legal persons that, ultimately, hold the ownership or control, directly or indirectly, of a sufficient percentage of shares, rights of vote or participation of share capital in the corporate body;
- b) The legal persons that execute the control by other means over the corporate body;
- c) The legal persons that hold administration position, when identifiable in terms of the previous paragraphs or when there are doubts about who are the actual beneficiaries.
- d) Settlor, trustees of a trust or any person who has the effective control of the trust or its executor.

Who was to comply?

Collective entities that carry out any activity or practice acts or legal transactions in Portugal that determines the obtaining of a tax identification number (NIF) in Portugal, namely companies, associations, foundations, business entities, civil societies, cooperatives, funds or trusts.

Deadlines?

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The initial declaration period began on 1st January 2019 and finishes:

- a) the entities already set up at the commercial register by 30th June 2019 (as the initial deadline of 30th April was postponed);
- b) the remaining entities subject to the RCBE by 30th June 2019.

After submitting the first declaration, the registered entities are obliged to update all the information at the data base, within 30 days of any changes.

Apart from that every year, starting in 2020, this information will be confirmed on the annual tax & accounts declaration called "IES", which has to be submitted till 15th July of each calendar year.

How?

The declaration has to be submitted on line through a specific portal: <https://rcbe.justica.gov.pt/Autenticacao?ReturnUrl=%2fDeclaracao%2fAutenticarEntidade>

The authentication in the RCBE is available by digital certificate, Digital Key, professional certificates and authentication and certification systems from legitimate entities.

The data to be submitted in the declarations in question is:

- a) for the holders of social participations: the complete name, the birth date, the country of birth, the nationality, the complete address, the data of the identification card, the tax number and the e-mail.
- b) for the beneficial owners: the complete name, the birth date, the country of birth, the nationality, the complete address, the data of the identification card, the tax number and the e-mail.
- c) for the reporters: the name, the complete address and the data of the identification card or the professional card, the tax payer number, the quality in which they are acting and the e-mail.

Costs

The first declaration is free, if submitted in time. In 2020, the information will be presented together with IES, so included on the costs of this document (85€).

Other costs involved are:

Issue of proof of declaration: € 20,00;

Late submission of the declaration: € 20,00;

Rectification, modification or revocation of the declaration by mistake: € 50,00;

Electronic assisted fill of the declaration for (in-person) registration at the counter: € 15,00;

Electronic access to the information in the RCBE (monthly subscription): € 50,00

Consequences of non-compliance?

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In case of not proceeding with the registry and/or not keeping the register up to date is punished with a fine which value can vary from €1,000 to €50,000.

The collective entities or companies failing their declarative duties are prohibited to:

- distribute profits for the year or advance any profits;
- enter into supply contracts, public works contracts or purchase of services and assets with the State;
- compete for the concession of public services;
- receive support from European structural and investment funds;
- be party of any business related to the transfer of ownership or to the constitution, sale or acquisition of any other rights over immovable property.

Conclusion

This new regime is very complex and demanding. It breaches the right to privacy and the rights entered in force recently regarding the people's data protection, which was ruled by the European Parliament as well. Doing this registry you have to supply with your ID info, to which, from now on will be accessible to the government bodies, tax authority, police and even your neighbour might have access to your details, since the portal will be of public access.

However, if you have not accomplished with the first deadline, its time to think wisely about what do next.

Verónica Pisco

26/04/2019

(Lawyer and post-graduated in Taxation)

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