



The Portuguese Tax System



aicep Portugal Global

Index

Introduction

1. IRC – Corporation Tax

- 1.1. Incidence of IRC
- 1.2. Tax base
- 1.3. Exemption
- 1.4. Period
- 1.5. Calculation of taxable income
- 1.6. Income or gains
- 1.7. Costs or losses
- 1.8. Deductibility of expenses
- 1.9. Amortizations and reintegrations
- 1.10. IRC rates

2. IRS – Personal Income Tax

- 2.1. Tax scales
- 2.2. Tax incidence
- 2.3. Calculation of taxable income
- 2.4. Tax returns and payment
- 2.5. Rates

3. VAT

- 3.1. Exemptions
- 3.2. Intra-community trade provisions
- 3.3. Rates

4. STAMP DUTY

- 4.1. Incidence
- 4.2. Territorial incidence
- 4.3. Exemptions
- 4.4. Returns and payment
- 4.5. Rates

5. IMI – Municipal Property Tax

- 5.1. Taxpayer
- 5.2. Incidence
- 5.3. Property
- 5.4. Taxable property value for IMI
- 5.5. Registration/Update
- 5.6. Rates

6. IMT – Property Transfer Tax

- 6.1. Taxpayer
- 6.2. Incidence
- 6.3. Exemptions
- 6.4. Proper authorities with power to grant exemptions
- 6.5. Time limit
- 6.6. Assessment
- 6.7. Rates

7. TAX INCENTIVES

- 7.1. The concept of tax incentive
- 7.2. Types of tax incentive
- 7.3. Supervision
- 7.4. Tax incentives and productive investment
- 7.5. Other tax incentives

8. SOURCES

9. ANNEXES

- 9.1. Annexe I – General Stamp Duty Table
- 9.2. Annexe II – Stamp duty exemptions
- 9.3. Annexe III – Legislation referring to tax incentives

Introduction

The aim of this text is to provide businessmen and women with a summary of the most relevant aspects of the Portuguese Tax System.

For this reason greater emphasis has been placed on some taxes (e.g. IRC – Corporation Tax) than on others (e.g. IRS – Personal Income Tax). So far as tax incentives are concerned this work deals only with those which are relevant to business activities.

This has meant that rigour has, to a certain extent, been sacrificed in favour of greater simplicity. Accordingly a more detailed approach, including a direct consultation of the legislation and/or of the tax authorities will be required with regard to any concrete questions regarding the Portuguese Tax System.



1. IRC - Corporation Tax

IRC is governed by Decree Law¹ (Decreto - Lei (DL)) 442-B/88 of 30/11, which came into force on 01/01/89. The law has been amended various times. The most important and relevant amendments were effected by:

- Decree Law 198/2001 of 03/07
- Law 30-G /2000 of 29/12
- Law 109-B/2001 of 21/02

1.1. Incidence of IRC

The following entities are subject to IRC:

- a) JURISTIC PERSONS, with their registered office or effective management in Portugal, i.e.:
1. State-owned corporations and other private and public sector corporations
 2. Commercial Companies
 3. Civil companies with a commercial form;
- b) Entities without a legal personality which have their head office or effective management in Portugal (i.e. which are tax resident in Portugal), whose income is not directly subject to IRS, and other sui generis entities such as unincorporated companies and associations, and commercial companies and civil companies in commercial form pending final registration.
- c) Entities with or without a legal personality, which do not have their head office or permanent management in Portugal (which are deemed to be non-resident entities), whose income arising in Portugal is not subject to personal income tax (IRS).

¹ Explanation:

The Portuguese legal system classifies legislation accordingly to the political body that issues them.

Leis (Laws) are passed by Parliament, while the laws introduced by the Government are termed Decreto-Lei (Decree-Law). Both Laws and Decree- Laws has the same legal value.

The detailed legislation regarding the implementation of both Laws and Decree-Laws is termed Decreto Regulamentar (Regulatory Decree) or Regulamento (Regulation). Only the Government or individual ministers can issue Decretos Regulamentares. This legislation can be overruled by Laws or Decree-Laws.

1.2. Tax base

The tax base of IRC is profit. As defined by the Code, profit is the difference between the net asset figures at the start and end of the taxation period, as corrected in accordance with the law. This concept of profit extends to all increases of assets.

In the case of resident entities, IRC is charged on all income, including income arising out of Portugal. In the case of non-residents the relevant income is limited to that arising in Portugal.

1.3. Exemption

Income, which arising directly from an activity, which is subject to the special gaming tax, is IRC exempt.

1.4. Period

As a general rule, the relevant taxation period is the calendar year. There are exceptions, which are linked to the specificities of each case: e.g. commencement of trading, termination of trading and when a company is being liquidated.

1.5. Calculation of the taxable income

The Code defines taxable income as the "taxable profit", which is defined as the net annual results (the difference between income and gains and costs and losses), plus positive and negative asset variations during the tax year, which are not reflected in the results, plus additions and deductions (tax adjustments).

1.6. Income or gains

The definition enshrined in the law is broad and includes all income and gains arising from transactions of any nature

and not only those arising from the company's normal activity. For example:

- a) Sales, supplies of services, discounts, bonuses, reductions, commissions and brokerage fees;
- b) Income from land or buildings;
- c) Financial income such as interest, dividends, discounts, fees in the nature of interest, transfers, foreign exchange differences and bond issue bonuses;
- d) Income from industrial or other analogous income.
- e) Supply of services of a scientific or technical nature;
- f) Realisation of capital gains;
- g) Damages received, whatever the basis thereof;
- h) Operating subsidies or subventions.

1.7. Costs or losses

As in the case of income and gains, the legal definition of costs and losses is broad. The following list is merely by way of example:

- a) Costs regarding the production or acquisition of any goods or services, such as materials used, labour, energy and other general production, conservation and repair expenses;
- b) Distribution and sales costs, including transport, publicity and goods placement;
- c) Financial costs, such as interest on borrowed capital invested, discounts, fees, transfers, foreign exchange differences, costs of credit transactions, debt collection and of share and bond and other instruments and reimbursement premiums;
- d) Administrative costs such as salaries, expense allowances, pensions and pension supplements, consumption goods, transport and communications, rents, contentious matters and insurance, including life insurance and associated operations, pension fund contributions and contributions to any schemes supplemental to social security;

- e) Costs in respect of analyses, rationalisation, research and consultations;
- f) Fiscal and para-fiscal costs;
- g) Reintegrations and amortizations;
- h) Provisions;
- i) Capital losses sustained;
- j) Compensation arising from uninsurable risks.

1.8. Conditions governing deductibility of costs

In order to be tax deductible, expenses must:

- Be proved by documents issued in accordance with the law.
- Be indispensable to the earning of the revenue or for the maintenance of the productive source.

1.9. Amortizations and reintegrations

Only amortizations and reintegrations, which comply with the following required are allowable:

- a) Regarding tangible fixed assets, as from the date they are first used;
- b) Regarding intangible fixed assets:
 - From the date they are acquired;
 - From the commencement of trading, if later;

Or, in the case of items specifically associated with the obtaining of revenue or gains, as from the first use for the said purpose.

There are official accounting definitions of these two comments are to be found in the (POC) Official Accounting Plan. The Portuguese Accounting Rules follows the EU Directives. For any doubt please see www.cnc.min-financas.pt where all the accountancy rules can be find. This site has an English version.

1.9.1 Amortization rates

The rates are to be found in the table, which is a schedule to Regulatory Decree (DR) 2/90 of 12/01, which was updated subsequently by: DR 16/94 of 23/03 and DR 28/98 of 26/11.

The rates vary between 2% and 33.5% depending on the fixed assets and the business sector. The most common rate is 20%.

These rates are merely indicative and are the maximum rates permitted by law. The taxpayer may opt to use them or to use a rate between these and a minimum equal to half the rates referred to above.

1.9.2 Calculation of reintegrations and amortizations

The legal rule, with some exceptions, is the straight line method.

Taxpayers may use other methods, such as the double-declining depreciation method, or other methods, provided that the nature of the business justifies this. The use of a method other than the general method is subject to the prior permission of the Tax Authorities.

However, methods other than the general method cannot be used in respect of the following goods:

- Used assets;
- Buildings, light passenger or mixed use vehicles, except when used by major enterprises, which are public service operators, or which are intended to be rented out in the normal course of the business of the enterprise, which owns them, social facilities and infrastructures.

When fixed assets are subject to wear, which is more rapid than normal, the depreciation rate may be increased as follows:

- 25% if 2 shift working;
- 50 % if working by more than 2 shifts.

This increase does not apply to buildings and other structures.

The method chosen must always be the same from the beginning until the sale, disposal or destruction of the asset.

1.10. IRC Rates

It is necessary to distinguish between General Rates, Municipal IRC Surcharges and Autonomous Region Rates.

1.10.1. General Rates

This is the normal IRC rate, subject to the following exceptions and without prejudice to the addition of the Municipal IRC Surcharge.

Income of residents and non-residents with a fixed establishment in Portugal, whose main business is commercial, industrial or agricultural	25%
The overall income of residents whose main business is not commercial, industrial or agricultural	20%
Income of residents and non-residents with a fixed establishment in Portugal, whose main business is a commercial, industrial or agricultural activity included within the Simplified Provisions for the Calculation of Taxable Profit	20%
Income of non-residents without a fixed establishment in Portugal, which is imputable thereto	25%



The following expenses are treated differently:

Autonomous taxation

Undocumented expenses Taxpayers, whose main business is commercial, industrial or agricultural.	50%
Taxpayers, which are wholly or partially IRC exempt, or whose main business is commercial, industrial or agricultural.	70%
Expenses corresponding to amounts paid or due to persons resident outside of Portugal, who are subject to a clearly more favourable tax regime there. Taxpayers whose main business is a commercial, industrial or agricultural activity	35%
Taxpayers, who are totally, or partially IRC exempt or whose main business is not a commercial, industrial or agricultural activity.	55%
Deductible costs with regard to representation expenses and light passenger vehicles and motorcycles, which are incurred or borne by non-exempt taxpayers, whose main business is a commercial, industrial or agricultural activity.	5%
Deductible costs with regard to light passenger or mixed use vehicles with an acquisition value of more than €40,000, which are borne by non-exempt taxpayers, who have tax losses in the previous two tax years.	15%
Deductible costs with regard to expense allowances for use of own vehicle, which is not invoiced to clients, except for the part which is subject to IRS, and identical costs, when the same are not deductible and borne by taxpayers with a tax loss during the tax year to which the costs relate.	5%

1.10.2. Municipal Surcharge

This is a municipal tax, which is imposed by the local authority for the area in which the head office of the enterprise is located, or in which it carries on its main business. In the case of non-residents Law 42/98 of 6/08 permits the imposition of a rate of 1.5% of taxable profit.

1.10.3. Autonomous Regions Rates

In the Azores Autonomous Region the rate is the same as the national rate, less 30%.

The rate is 22.5% in the Madeira Autonomous Region.

2. IRS

Personal Income Tax (IRS) was introduced by Decree Law (DL) 442-A /88 of 30th November. It has been successively altered since that date. The last major alteration was introduced by Law 30-G/2000 of the 29th of December, which profoundly amended the original legislation. In addition to the most recent tax reform, the IRS Code has been altered in terms of both tax rates and the definition of tax scales, as a consequence of the economic policy adopted by the various governments. Normally these alterations are introduced by the legislation which approves the Annual State Budget.

It is a system, which deals with income in a unitary and overall manner, which involves the subjection of the various categories of income to a uniform tax treatment. The aim of this approach, which involves a single and progressive tax structure, which personalises income and effects a secondary redistribution of income is to make the tax equal to all taxpayer's.

2.1. Tax scales

IRS is a progressive tax with seven income scales, up to an annual maximum of +/-€ 65,000.

It also provides for minimum levels of tax free income (currently € 1,850) and, according to the size of the dependent family unit, a minimum living income (which for three dependants, in currently € 6,770.40). Pensioners are treated on a different basis.

2.2. Tax incidence

As IRS is a personal incidence tax, it distinguishes between the origin of income according to the source thereof: employment contract, self-employed worker, pensioner, interest, rents and other income sources, each of which is treated independently.





2.3. Calculation of taxable income

Taxable income is calculated by adding each of the categories, which can comprise the taxpayer's income, which are six in number, and by applying the rate corresponding tax rate to the income scale. If there is a family unit, and whatever the tax regime to which the family members are subject, the income is the sum total of all of the income of the members of the family unit.

The law provides specific deductions for each category and deductions, which take the taxpayer's personal circumstances into consideration, such as marital status, dependents, type of activity, etc., etc.

The tax due cannot accordingly be calculated in the abstract, i.e. without reference to a specific case. Tax rates vary from 10% to a maximum of 42%.

In addition to the taxpayer's income the tax is also based on the taxpayer's habitual residence, or, if the taxpayer is non-resident, on the fact that part of the taxpayer's income arose in Portugal. This rule can be defeated if certain legal requirements are complied with.

2.4. Tax returns and payment

Tax is settled with the Tax Authorities and is voluntary. Tax returns are assumed to be truthful and the information stated may be confirmed by the Tax Authorities.

The time limit for tax returns and payment varies from category to category, although the time limits end between February and May of the calendar year following the calendar year in which the taxable income was obtained. In the event of failure the taxpayer is subject to the imposition of a fine, and the levying of the tax by assessment on the basis of the taxpayer's tax record.

2.5. Rates

Deduction or limit	2008
Description	€
Maximum amount excluded for pensions	6,000
Maximum limits for higher pensions	30,000 10%
Maximum limit of 1 st scale	4,639 10.5%
Maximum limit of 2 nd scale	7,017 13%
Maximum limit of 3 rd scale	17,401
Maximum limit of 4 th scale	40,020 34%
Maximum limit of 5 th scale	58,000 36.5%
Maximum limit of 6 th scale	62,546 40%
Lower limit of 7 th scale	62,546 42%
Minimum tax threshold	1,850
Amount fixed as "subsistence level" for employed workers, who have up to 3 dependents	6,770.40
Amount fixed as "subsistence level" for employed workers, who have up 3 or 4 dependents	9,027.20
Amount fixed as "subsistence level" for employed workers, who have 5 or more dependents	12,412.40

3. VAT

The VAT regulations are a direct transposition into domestic law of the EU VAT Directives.

Value Added Tax (VAT) was introduced by Decree-Law 394-B/84 of 26/12 and came into force on 1/01/1986.

3.1. Exemptions

Exports and imports, in the broadest sense (subject to conditions detailed hereunder) and according to the strict meaning thereof (see further ahead), plus some internal transactions, can be VAT exempt in certain circumstances.

If a transaction is VAT exempt, the supplier does not charge the tax and cannot deduct the VAT it has paid on its purchases.



3.1.1. VAT exempt internal transactions

There are many exceptions in art. 9 and other articles of the law. Given the extent of these exemptions, we provide the following list of examples:

- a) Medical and hospital health and assistance
– physicians paramedics, clinics, dispensaries and similar establishments;
- b) Social assistance and security;
- c) Education;
- d) Vocational training;
- e) Sport;
- f) Culture, science and art;
- g) Spiritual assistance;
- h) Supplies of services and transfers of goods connected therewith in the common interest when by non-profit organisations with social objectives;
- i) Supplies of services and transfers of associated goods by public postal services, except for communications
- j) Transmissions at face value of postage stamps in circulation or fiscal stamps and the corresponding sales commissions;
- k) Banking and financial transactions;
- l) Insurance and reinsurance transactions;
- m) Leasing of land and buildings;
- n) Transactions subject to MLTT;
- o) Food and drink supplied by employers to their employees;
- p) Services rendered by the agricultural cooperatives to its associates;
- q) Lottery, bingo games and all other activities that are levied by the Gambling Tax.

In any specific case, you are advised to consult the VAT code.

3.1.2. Import exemptions

As in the case of internal transactions, imports also benefit from various exemptions. Without prejudice to specific consultation of art. 15, the following is a list of examples of exemptions:

- a) Definitive imports of:
 - Coins and legal tender in circulation;
 - Ships aircraft and associated equipment, such as fishing equipment;
 - Human organs, milk and blood;
- b) Imports of supplies for ships and aircraft used in international transport;
- c) Imports of fish caught by them, which have not been processed;
- d) Gold imported by the Bank of Portugal;
- e) Imports of cars, tricycles and wheelchairs for the disabled.

3.1.3. Export exemptions

Exports in the broad sense are exempt from VAT, as VAT is charged at the destination, in the case of sales within the EU, or will not be charged because the destination is a third country, or is not within the community taxation space. This exemption does not affect the neutrality of the tax or prevent the importer from recovering the tax paid included in the purchases made in order to produce the product. Intra-community trade is subject to its own specific rules.

3.2. Intra Community Trade Provisions

Intra community transactions have, since 1993, been subject to special provisions. Directive 91/680/EEC of 16/12, which was applied in Portugal by DL 290/92 de 28/12 replaced the former concept of “import” with a new concept – “intra community transaction”.

Accordingly, import, in the legal sense of the term came to mean only entries of goods or services from third countries, or from territories, which are not part of the EU taxation system.

The concept of intra community transaction is broad and is subject to a series of requirements, i.e.:

- a) The seller must be a VAT taxpayer in the EU;
- b) The person, who acquires the goods or services, must also be a taxpayer, in accordance with the law governing intra community transactions, even if exempt or with a similar status;
- c) The goods must come from an EU country to Portugal or from Portugal to an EU country.

Intra community transactions are VAT exempt if they comply with the above requirements and the following conditions:

- a) The buyer is a taxpayer who is registered as subject to VAT in another EU country;
- b) The buyer used its VAT number in the transaction;
- c) The transaction is covered by the provisions governing intra community transactions.

VAT is charged in accordance with the terms and conditions established by the tax authorities of the country where the goods or services are received.

3.3. Rates

The rates are as follows:

Rate	Portugal	Azores and Madeira
Reduced	5%	4%
Intermediate	12%	8%
General	20%	14%

4. Stamp Duty

Stamp duty is one of the oldest taxes in Portugal. Its origins date back to the 17th century. Stamp duty is a tax on a wide range of economic acts and operations.

Law 150/99 of 11/09 repealed and replaced a series of legislative measures, which governed stamp duty and which dated back to 1926 and 1932. DL 287/2003 of 12th November profoundly altered almost all of the taxes in Portugal, to the extent that it introduced the Municipal Property Tax (IMI) and Municipal Property Transfer Tax Codes (IMT), together with some aspects related to the transfer of assets other than for good or valuable consideration.

Accordingly, almost all the legislation linked to the areas subject to the new regulations was also amended, and this included the Stamp Duty regulations.

4.1. Incidence

This tax is levied in relation to a series of legal acts, which are listed in the Table in Schedule I and II. Given its heterogeneous nature, it is necessary to consult the Table in order to establish whether a specific legal act gives rise to a charge to stamp duty. This can include a wide range of circumstances, such as tenancy agreements and leases, acts with regard to succession and gifts, cheques, deposits, prospecting for geological

resources on state-owned land, gaming, loans, interest, and coastal affreightment contracts inter alia.

The charge to tax is levied on the entities, which have an economic interest in the act. If there is more than one interested party, the charge to tax is allocated between them. In some situations, which may give rise to doubt, the law establishes an objective presumption as to the identity of the interested party.

All legal acts, which are subject to VAT, are not simultaneously subject to Stamp Duty.

4.2. Territorial incidence

The charge to Stamp duty affects acts practiced in Portugal. The law establishes that the following acts are also subject to stamp duty:

- a) Acts or documents, even if produced or signed outside of Portugal, when the same are produced in Portugal in order to take effect;
- b) Credit transactions effected and security provided, in which one of the parties is a resident, or is deemed to be a resident.
- c) Interest and commissions charged by any entity with a fixed domicile in Portugal, or which is deemed to have such a domicile;
- d) Insurance, when the risk or item insured, is in Portugal.





4.3. Exemptions

State entities and equivalent bodies, i.e. charitable organisations, as long as they are classified as legal persons that carry out activities of public interest, are exempt from the payment of stamp duty. This includes the State, the Autonomous Regions, local authorities and all public sector organisations (e.g. public institutes), provided they are non-commercial in nature.

4.4. Returns and payment

Generally, payment is due when the act, which is subject to stamp duty, takes place. However, in the case of some of these acts, the law establishes a different moment when the said obligation arises.

Stamp duty returns and payments of the tax collected must generally be made by the official or para-official entities involved therein, such as notaries, or in the case of acts

giving rise to credit transactions, or insurance, the entities granting the credit or issuing the insurance.

Stamp duty must be paid via a payment docket termed a "Guia".

4.5. Rates

The rates vary widely and range from 0.05% to 10% of the value of the act. In some cases the amount of stamp duty is fixed in Euros and varies between €1 and € 250.

The accumulation of rates is not permitted. In the event of accumulation only the highest rate is applied.





5. IMI – Municipal Property Tax

IMI – Municipal Property Tax is a tax on the taxable value of properties (rural, urban and mixed) in Portugal, which was introduced by Annexe II of DL 287/2003 of 12/12.

IMI is a municipal tax, the proceeds of which revert to the corresponding local authorities, it replaced the former Contribuição Autárquica and came into force on 01/12/2003.

5.1. The Taxpayer

IMI is payable by the proprietor, usufructuary or heritable building rights owner of the property on the 31st of December of the year in question.

In the case of undistributed estates, IMI is owed by the undivided estate represented by the Head of the Family.

5.2. Incidence

According to the law, property includes all parts of territory, including waters, plantations, buildings and constructions of any nature, which are incorporated therein or stand thereon on a permanent basis, provided that they are comprised in the estate of a private or juristic person and, in normal circumstances, has economic value.

For the purposes of IMI, each autonomous fraction in cases of horizontal property is treated as comprising a property.

5.3. Property

The Portuguese Tax law distinguishes between three types of properties according to their location and/or economic function. They are clearly defined in the law and their type is referred to in the Title Registration of the property. Portuguese law requires properties, which are also termed

immovables, to be registered. Furthermore, the law requires any alteration of any rights pertaining to the property to be registered before it can have legal effect. As so, any rights over the properties must be registered and only the register ones are valid.

The types of property according to the law are:

- a) Rural properties, which are properties not located in conurbations, which have an agricultural use, or, if they do not have an agricultural use are not used for construction.
- b) Urban properties are all properties, which are not classified as rural or mixed.
- c) A mixed property exists when a property has an urban part and a rural part, which are of equal economic value. NB: This concept is only relevant for tax purposes.



5.4. Property taxation value for IMI

The property taxation value is the property value as established by a valuation conducted, as from 12.11.2003, in accordance with the rules in the IMI Code, or in accordance with the Property Tax Code, in all other cases. This value is registered in the fiscal property register, which is a document, which is deposited at the Land Registry, which describes the property, identifies its proprietors and all events, which are relevant to or affect the property.

5.5. Registration/Update

The proprietor of the property or fraction is required to register and update the registration of an urban property.

5.6. Rates

The following rates are applied to all properties belonging to a taxpayer in Portugal:

- Rural properties: 0,8%
- Urban properties, which have not yet been valued in accordance with the IMI rules: 0.4% to 0.8%;
- Urban properties valued in accordance with the IMI Code: 0.2% to 0.5%.

In the case of mixed properties (which have a rural part and an urban part), the corresponding rate is applied to each part.

6. IMT – Municipal Property Transfer Tax

IMT (Municipal Property Transfer Tax) was introduced by Annexe II of DL 287/2003 of 12/12, came into force on 01.01.2004 and replaced the Municipal Sisa Tax.

This tax is a charge on transfers of title, or parts of title, to immovables located in Portugal for valuable consideration and in other circumstances, which the law treats as equivalent to transfers of immovables for valuable consideration (art. 1, 2 and 3 of the IMT Code).

6.1. Taxpayer

As a general rule, IMT is payable by the person to whom the assets are transferred. There are however rules regarding other situations, which include:

- In cases of the exchange of assets: IMT is paid by the party, who receives the assets of the greatest value.
- In cases of the division of assets: IMT is paid by the party, which receives assets, the value of which exceeds the said party's share of the said immovable assets.

6.2. Incidence

Transfers for valuable consideration of title to immovables, transfers of aspects of title and the creation or extinction of various types of contractual relations associated with immovables, located in Portugal, are detailed in the law and enumerated in the form to be submitted together with the tax return for this tax – Form 1.

This form can be obtained on the DGCI website www.e-financas.gov.pt.

6.3. Exemptions

Various items of legislation create IMT exemptions, most of which are included in list of instructions for the completion of IMT Form 1 referred to above. Most exemptions are applicable to state or charitable entities.

6.4. Entity with the power to give effect to exemptions

The official entity, which intervenes in the act or contract (usually a Notary).

6.5. Time limit

As a general rule, IMT exemption must be applied for prior to the act or contract, which gave rise to the transfer and always prior to the return that is required. If there is a time limit in a special law, which created the exemption, it must be applied for within that time limit.

6.6. Return and payment

The initiative to pay the tax is normally a matter for the taxpayers (transferees), who can, for that purpose, submit a duly completed IMT Form 1 at any Tax Office, prior to the transfer.

6.7. Rates

Urban properties which are solely used for housing (para. b) of no. 1 of art. 17 of the IMT Code)	1% to 6%
Rural properties	5%
Urban properties, which are solely used as an owner-occupied permanent residence (art. 9 or para a) of no. 1 of art. 17 of the IMT Code)	0% to 6%
Other properties and other acquisitions	6.5%
Properties acquired by entities, which are tax resident in a country, territory or region, which is subject to a clearly more favourable tax regime, as per the list approved by statutory instrument of the Ministry of Finance.	8%

7. Tax incentives

The Portuguese tax system provides for tax incentives, which cover a series of activities, which range from economic activities to philanthropic and cultural activities. Although an attempt has been made to include these incentives in a single item of legislation, i.e. the Tax Incentives Statute (EBF) – there are other tax incentives granted by other legislative measures.

The EBF defines the legal framework for the grant, supervision and loss of incentives, whether they are created by the general law or arise from contractual agreements between the State and another, non-State, entity.

The basic legislation, which governs these matters, is DL 215/89 of 01/07. The DL has been amended on various occasions since it was published, the most recent of which are: Law 67-A/2007 of 31/12 and DL 13/2008 of 18/01.

7.1. The concept of tax incentive

Tax incentives are exceptional measures introduced to promote relevant non-fiscal public interests, which are greater than that of the taxation they prevent. These incentives are accordingly exceptional and, in the case of automatic incentives, they only apply to the provisions stated by the law, and only that.

7.2. Types of tax incentives

Tax incentives comprise tax exemptions, tax rate reductions, amounts or items deductible from taxable income or from tax due, accelerated amortizations and reintegrations and other tax measures introduced to promote relevant extra-fiscal interests.

Tax incentives, which are subject to grant, presuppose one or more subsequent acts to grant the tax incentives.

Tax incentives may be granted by administrative act or by agreement between the Authorities and the interested parties. In both cases, tax incentives have a merely declaratory effect, unless the law provides otherwise.

7.3. Supervision

All private or juristic persons, who are granted tax incentives, whether automatic or subject to grant, are subject to supervision by the Direcção-Geral dos Impostos and the other authorities with powers to confirm compliance with tax incentive requirements and compliance with the obligations imposed on those entitled to tax incentives. The Direcção Geral dos Impostos is the supervisory and inspection body as the subject matter falls within its responsibilities.

However in the case of the grant of non-automatic tax benefits, other entities, such as the Ministry of the Economy, the Secretary of State for Tourism and the Autonomous Regions are involved. In this context, all the entities involved, i.e. which are involved in the grant of the fiscal advantage also supervise proper compliance with the incentive granted.

An automatic incentive is the one that is not subject to a negotiation or application in order to be granted by the Tax Authorities. Any taxpayer, which qualifies for an automatic tax incentive, is entitled to it.

7.4. Tax incentives and investment in manufacturing

Contractual tax incentives

7.4.1. Foreign Direct Investment

Investment projects in production units effected up to the 31st of December, of € 4, 987 978.97, or more, which are relevant to the development of sectors considered to be of strategic interest to the national economy and to the

reduction of regional imbalances, which create jobs and contribute to the promotion of technological innovation and scientific research in Portugal, can be granted contractual tax incentives for a period of up to 10 years, to be granted on the terms and conditions established in DL no. 409/99, of 15th October and in accordance with art. 39 of the EBF.

The following tax incentives may be granted cumulatively to investment projects:

- a) A tax credit calculated on the basis of the application of a percentage of between 5% and 20% of the relevant investments actually made in the project, which is deducted from the amount calculated in accordance with para. a) of no. 1 of article 83 of the IRC Code with regard to the part connected with the activity carried on by the entity within the ambit of the project;
- b) Exemption or reduction of local property tax with regard to land and buildings used by the entity in the business carried on within the ambit of the investment project;
- c) Exemption from or reduction of Municipal Property Transfer Tax with regard to land and buildings acquired by the entity for its business within the ambit of the investment project;
- d) Exemption or reduction of stamp duty, which is due in all acts or contracts necessary for the implementation of the investment project. Tax incentives to be granted cannot be accumulated with other incentives of the same nature, which can be granted to the said investment project.

The provisions of nos. 1 to 3 of art. 39 of the Tax Incentives Statute, introduced by DL no. 215/99, of the 1st of July as amended by art. 82 of Law no. 53-A/2006, of 20.12, the 2007 State Budget, with regulations introduced by DL no. 409/99, of 15th of October;

7.4.2. Portuguese Direct Investment Abroad

Investment projects implemented directly by Portuguese enterprises abroad involving an relevant investment of €

249, 398.95 or more, which make a positive contribution to the enterprises results and are of strategic interest for the internationalisation of the Portuguese economy, can be granted tax incentives on a contractual basis, for up to five years, in accordance with the terms, conditions and procedures established in DL no. 401/99, of 14th of October, and the principles established in art. 39 of EBF.

Promoters of investment projects can be granted the following tax incentives:

- a) An IRC tax credit of between 10% and 20% of the relevant investments to be deducted from the amount calculated in accordance with paragraph a) of no. 1 of art. 83 of the IRC Code, which cannot exceed 25% of that amount and subject to a maximum of € 997, 595.79 in each financial year;
- b) Elimination of double taxation in accordance with the provisions of art. 46 of the IRC Code, during the contractual term, when the investment takes the form of the formation or acquisition of foreign companies. Investments in free zones or in countries, territories and regions, which have a clearly more favourable tax regime, included in the list approved by the Ministry of Finance by statutory instrument, are excluded from the above.

If the investment projects are implemented in member state of the European Union, the provisions of this article apply solely to small and medium size enterprises, as defined by EU law.

7.5. Other tax incentives

There are other tax incentives, in addition to the tax incentives already referred to:

7.5.1. Free Zone Tax Benefits

Shareholdings in Companies in the Madeira and Ilha de Santa Maria Free Zone

Entities with holdings in the share capital of entities established in the free zones, which are referred to in paras. a), b), g) and h) of no. 1 of article 33 of the EBF, which have holdings in the share capital of companies established in the free zones are exempt from IRS or IRC until 13th December 2011, in respect of:

- profits placed at the disposition of the said companies in proportion to the sum of the exempt and non-exempt parts, derived from income, which arose outside of Portugal, of the net result of the corresponding tax year, plus the net value of asset variations, not reflected in the said results, as calculated for IRC purposes, including, with the necessary alterations, the amount attributed to shareholders as a consequence of the division, which is deemed, in accordance with art. 75 of the IRC Code, to be investment income, and the value attributed to the shareholders in the amortization of shareholdings without reductions of share capital – para. a) of no. 2 of art. 33 of the EBF;
- income from interest and other forms of remuneration of shareholders loans, allowances or advances of capital by shareholders to the company, or which are due because they did not withdraw the profits or income placed at their disposal (para. b) of no. 2 of art. 33 of the EBF).

7.5.2 Employers' Social Security Contributions

The income referred to in the first part of no. 3 of para. b) of no. 3 of art. 2 of the IRS Code are IRS exempt when in respect of contracts, which guarantee solely a retirement benefit, pension, invalidity or widow's or widower's pension, provided

that the requirements of paragraphs a), b), d), e) and f) of no. 4 of article 40 of the IRC Code, are complied with, so far as the said income does not exceed the limits provided in nos. 2 and 3 of the said article and without prejudice to the provisions of nos. 5 and 6 (no. 1 of art. 15 of the EBF).

The following are accordingly preconditions for the grant of the incentive:

- a) The contract must include all of the enterprises employees or be provided for in a collective bargaining agreement;
- b) The benefits must be established in accordance with objective criteria, which are identical for all workers, unless there are collective bargaining agreements, which provide otherwise;
- c) At least two thirds must effectively be paid in the form of a lifelong monthly cash payment in the event of retirement, invalidity or survivorship;
- d) The provisions of the pre-retirement and general social security provisions are complied with, with regard to age, the beneficiaries and the corresponding payments, unless there are legal or contractual provisions otherwise;
- e) The enterprise neither owns nor has the right to dispose of the funds;

Failure to comply with any of the conditions listed above has the following consequences:

- For the beneficiary worker or workers, the loss of the exemption and inclusion of all sums, which benefitted from the exemption, plus 10% per year, or part thereof, which has elapsed since the date on which the corresponding contributions were made in their IRS class A income (para. a) of no. 2 of art. 15 of the EBF).
- For the enterprise, autonomous taxation at the rate of 40% in the tax year of the breach, of the taxes, which during that year and the two previous years benefitted from the exemptions envisaged in para. a) of no. 2 of art. 15 of the EBF, (para. b) of no. 2 of art. 15 of the EBF).

If the provisions of the final part of no. 3 of para. c) of art. 2 of the IRS Code is complied with, the amount corresponding to one third of the amounts paid or made available, subject to a maximum limit of € 11, 704.70, is tax exempt.

The exemption referred to does not affect the inclusion of the exempt income for the purpose of the provisions of no. 4 of art. 22 of the IRS Code, or the decision as to the rate applicable to the rest of the taxable income (no. 4 of art. 15 of the EBF).

7.5.3. R&D incentives

Decree Law no. 292/97, of 22nd October, as amended Decree Law no. 197/2001 of the 29th of June, regarding the research and technological development tax credit and its provisions having been extended to the 2001, 2002 and 2003 tax years, by art. 60 of Law no. 3-B/2000 of the 4th of April, art. 9 of Law 40/2005 of 03/08 continued these provisions until 2010).

Beneficiaries:

IRC taxpayers resident in Portugal whose main business is of a commercial, industrial or agricultural nature and non-residents with a fixed establishment in Portugal.

Incentive:

Deduction from the income subject to IRC of a sum corresponding to the research and development expenses, which have not been contributed by the state as a non-repayable grant, incurred as from 1st of January 2006, at a twin percentage:

- a) Basic rate: 20% of the expenses incurred during that period;
- b) Incremental rate: 50% of the increase in expenses incurred during that period at a ratio of the simple arithmetic average of the two preceding tax years, up to a maximum of €750,000 (Law 40/2006. NB: this amount may be altered by art. 4, no. 1 para. b) of DL 40/2005.)

If the taxable income is insufficient, the undeducted part may be deducted during the following six tax years.

Definitions:

- a) Research expenses: expenses incurred with a view to the acquisition of new scientific or technical knowledge.
- b) Development expenses: expenses incurred in the use of research results or other scientific or technical knowledge with a view to the discovery or substantial improvement of raw materials, products, services or production processes.

7.5.4. Regional incentives

(DL 215/89, of 1st of July and Regional Tax Incentives (art. 39-B of DL no. 215/89, of 1st July))

The list of legislation, which regulate this incentive can be consulted in Schedule III.

Background of the incentive:

The incentives framework to combat the desertification of landlocked areas, which was created in 1993, was intended to continue until 2003, but has been successively extended until the present time.

The measures adopted relate to:

- The creation of infrastructures;
- Investment in manufacturing activities;
- Stimulation of the creation of stable jobs, with special aid for the long-term unemployed;
- Set-up of enterprises and retention of young people.

Incentives:

- a) A reduction to 20% of the IRC rate for enterprises located in the areas in question;
- b) In the case of the set-up of new enterprises, the rate is reduced to 15% for the first 5 years;

- c) Reintegrations and amortizations of investment expenses of IRC taxpayers, up to € 500,000, excluding the acquisition of land and light passenger vehicles, plus 30%, can be deducted for the purposes of the calculation of taxable profit;
- d) The obligatory social costs borne by the employer, plus 50%, can be deducted, in the case of the net creation of permanent jobs;
- e) Exemption from IMT for land, buildings or fractions for use by enterprises in the areas in question.



Qualification conditions:

- a) That the beneficiary entities have their main business in the areas in question, which means that 75% of their payroll costs, must be attributed to these areas;
- b) No salaries in arrears;
- c) Its tax payments and social security contributions must be in order;
- d) The new enterprise is not the result of a division, which took place after the publication of DL 171/99;
- e) Its tax returns must be submitted by a certified accountant;
- f) Submission of all necessary documents in order to obtain the incentive, so that it can be monitored.

7.5.5. Job creation incentives

(DL 215/89, of 1st July)

Whatever their location enterprises can obtain job creation tax incentives provides that the jobs created are permanent and for young people and/or the long-term unemployed.

Beneficiaries:

Enterprises, which comply with the conditions stipulated in paras. b), c), e) and f) of the preceding number, provided that there is net job creation.

Incentives:

150% of the annual costs of the engagement of new workers are tax deductible. The said costs comprise the salary and social security contributions.

This incentive is subject to the following limitations:

- a) The employee cannot be a member of the employer's family.
 - b) It cannot be combined with incentives granted by other legislation.
- It cannot be granted more than once to the same employee.

7.5.6. Tax incentives related to mergers or co-operation agreements between enterprises

(art. 56-B of DL no. 215/89, of 1st July)

Incentive:

Companies, which are being restructured pursuant to co-operation or merger agreements, can receive the following incentives:

- a) IMT exemption for land and buildings, not intended for residential use, which are necessary for the co-operation or merger.
- b) Stamp Duty exemption, for the acquisition of the immovables referred to above and for all operations related to the formation or increases of assets, which are necessary for the merger or co-operation.
- c) Exemption from all fees and other legal charges necessary for the completion of the merger or co-operation.

7.5.7. Tax incentives for land and buildings located in Enterprise Location Areas - ELE

(Art. 65 of the Tax Incentives Statute, as amended by no. 4 of art. 38 of the 2003 State Budget, Law no. 32-B/2002, of 30th December)

Beneficiaries:

- Enterprises, which set-up in these ELEs and acquire land and/or buildings;
- ELE management bodies.

Incentive:

- IMT exemption in the acquisition of immovables located in ELEs.
- IMI exemption for 10 years.

7.5.8. Tax incentives for property developments with tourist utility status

(Art. 43 of the Tax Incentives Statute)

Beneficiaries:

Property developments which have been classified as of touristic utility.

Incentive:

IMI exemption for seven years.

8. Sources

The main source of information for this text is the Ministry of Finance www.min-financas.pt, with links to other departments of the ministry, such as the Direcção Geral de Contribuições e Impostos (DGCI).

The FAQ sections is very complete and deals with the most important questions.

The Manuals of the DGCI Training Centre regarding the following can also be consulted:

- IRC
- IRS
- VAT

9. Annexes

9.1. Annexe I

General Stamp Duty Table

1	Acquisition of assets	
1.1	Acquisition for valuable consideration or by gift of title to or of aspects of title to land or buildings, and the rescission, invalidity or cancellation of the corresponding contracts – levied on the value	0.8%
1.2	Acquisition other than for valuable consideration of assets, including by prescription, to be added to the amount in item 1.1, levied on the value	10%
2	Leasing and subleasing, including alterations involving rents increases effected by alteration of the contractual clauses and promises of leases and subleases when the same are following by possession of the premises leased to the lessee – levied on the rent or the contractual increase thereof, for one month, without possibility of renewal or extension, on the value of the rent or rent increase stipulated for the period of the duration thereof.	10%
3	Certificates and undertakings given before courts and public departments, establishments or agencies, Autonomous Regions and local authorities, even if personalised, including public institutes, which comprise the rental of or bidding for goods, immovables, transfer, meeting of interested parties in which the adjudication of joint assets is agreed, admission of debt, guarantee, mortgage, pledge, liability for loss and damage and settlements of legal proceedings – levied on the value of each one	€ 10
4	Cheques of any type, which are issued in Portugal – levied on each one	€ 0.05
5	Gratuitous bailments	0.8%
6	Civil deposits, whatever the form thereof – levied on the value thereof	0.5%
7	Deposit, in any public department of the bylaws of associations and other institutions, when the formation thereof depends on the said deposit – levied on each one	€ 50
8	The text of any contract not specifically envisaged in this Table, including those signed before public entities – levied on each one	€ 5
9	Exploration, research and prospecting of geological resources comprised in the public domain of the state – levied on each administrative contract	€ 25
10	Security for the performance of obligations, whatever the nature or form thereof, i.e. avals, performance bonds and deposits, autonomous bank guarantees, guarantees, mortgages, pledges and performance insurance, except when materially ancillary to contracts specifically levied upon in this Table which are granted simultaneously with the creation of the obligation secured, even if in a different instrument or document – levied on the corresponding value, according to the term. The renewal of the contractual term is deemed to be a new transaction.	
10.1	Security for less than one year – levied on each month or part thereof	0.04%
10.2	Security for a period of one year or more	0.5%
10.3	Security for an unlimited term or for five years or more	0.6%

11	Gaming	
11.1	Bets on games not subject to the provisions of the special gaming tax, i.e. games represented by tickets, bulletins, cards, forms, raffles or tombolas – levied on the value thereof	
11.1.1	Pool bets	25%
11.1.2	Other bets	25%
11.2	Cards affording access to rooms in which games of chance or fortune are played, or equivalent documents, in accordance with the provisions of DL no. 422/89, of the 2 nd of December, even if the price thereof is not due, or if it is waived by the concessionary enterprises or the approval thereof has not been requested – levied on each one	
11.2.1	Type A Cards	
11.2.1.1	Valid for 3 months	€ 10
11.2.1.2	Valid for 6 months	€ 15
11.2.1.3	Valid for 9 months	€ 20
11.2.1.4	Valid for 12 months	€ 25
11.2.2	Type B Cards	
11.2.2.1	Valid for 1 day	€ 3
11.2.2.2	Valid for 8 days	€ 5
11.2.2.3	Valid for 30 days	€ 15
11.2.3	Type C Cards	€ 2
12	Licences	
12.1	For the installation and operation of electronic entertainment machines – levied for each machine and on the value of the fee due for the issue of the licence, at least € 15	20%
12.2	For any other legal games – levied on each machine and on the value of the fee due for the issue of the licence, at least e 15	20%
12.3	For the operation of bars and restaurants	
12.3.1	Night clubs and other establishments with an area set aside for dancing, i.e. bars and discotheques.	€ 250
12.3.2	Other establishments	€ 50
12.4	For the installation of automatic vending machines, which sell goods or services in areas to which the public has access – for each machine	€ 50
12.5	Other licences not specifically stipulated in this Table, granted by the State, Autonomous Regions and local authorities or any other of their departments, establishments or agencies, even if personalised, including public institutes – levied on each one	
12.5.1	When any fee or charge is due for the issue thereof – on the value thereof, not exceeding € 3	20%
12.5.2	When no fee or charge is due	€3
13	Tradesmen's books as required by law – levied per page	€0.50
14	Trademarks and patents - levied on the total amount of the fees due for all registrations and certificates	24%

15	Notarial business and acts	
15.1	Notarial deeds, except for those concerning the acts referred to in no. 26, wills and other matters	€ 25
15.2	Entitlement of heirs and legatees – for each estate	€ 10
15.3	Instruments which open and approve closed and international wills – levied on each will	€ 25
15.4	Powers of Attorney and other instruments regarding the grant of powers of voluntary representation, including mandates and subdelegations	
15.4.1	Powers of attorney and other instruments, which grants powers of voluntary representation – levied on each one	
15.4.1.1	With powers of commercial management	€ 30
15.4.1.2	With any other powers	€ 5
15.4.2	Subdelegations – levied on each one	€ 2
15.5	Registration of documents produced to notaries, which are kept on file – levied for each registration	€ 0.08
15.6	Wills, including gifts mortis causa, when they have to take legal effect – levied for each one	€ 25
15.7	Other miscellaneous notarial instruments not specifically stipulated in this Table – levied for each one	€ 8
16	Customs	
16.1	Declarations of the subjection of non-community goods to a customs regime, except for the transit regime, in writing, by computer or by the customs authorities on the basis of the oral statements of the declarant – levied on each one	€ 1.50
16.2	Administrative sale of goods – for each docket	€ 1
16.3	Fees docket - for each one	€ 1
16.4	Deposit docket – for each one	€ 1,50
16.5	Licences for the movement of vessels from their anchorage – for each one	
16.5.1	Coasting and long haul	€ 8
16.5.2	Coastal shipping	€ 1
16.6	Permissions for vessels to depart on voyage – for each one	
16.6.1	Coastal shipping	€ 1
16.6.2	Coasting and long haul	€ 8
16.7	Air traffic departure forms for international commercial flights – for each flight	€ 8
16.8	Air traffic departure forms for domestic commercial flights – for each flight	€ 3
16.9	Other dockets, licences and forms not specified in item of this number – each	€ 1,50
17	Financial operations	
17.1	For the use of credit, in the form of funds, goods and other valuables as a consequence of any grant of credit, including assignment of credits, factoring, and cash transactions, whenever they involve any type of loan to the assignee, signatory or debtor. The extension of the contractual term is always considered to be a new grant of credit – levied on the value according to the term	
17.1.1	Credit for a term of less than one year - for each month or part thereof	0.04%
17.1.2	Credit for a term of one year or more	0.50%
17.1.3	Credit for a term of five years or more	0.60%
17.1.4	Current account or overdraft credit, or any other type of credit in which the term is not determined or determinable – levied on the monthly average of the sum of the daily balances due during the month, divided by 30	0.04%

17.2	Operations effected by or brokered by banks, finance companies or other entities or other entities legally equivalent thereto and any other financial institutions – levied on the amount charged	
17.2.1	Interest in respect of the discounting of bills of exchange and treasury bills, loans, credit accounts and credit without payment	4%
17.2.2	Premiums and interest in respect of bills of exchange acquired, bills of exchange receivable on the account of another, drafts drawn on Portuguese banks or any transfers	4%
17.2.3	Commissions on security provided	3%
17.2.4	Other commissions and consideration for financial services	4%
18	Letters of requests or mandates for the withdrawal and payment in of money or existing securities – levied on the amount to be withdrawn or paid in.	0.5%
19	Publicity	
19.1	Posters or advertisements affixed or displayed on fixed or movable supports on the public highway, or which are intended to be seen from the public highway, which advertise products, services or any industries, trades or entertainment, excluding those which identify the commercial establishment where they are affixed – levied per square metre or part thereof per calendar year	€ 1
19.2	Publicity in catalogues, programmes, leaflets, labels and other printed items, which are intended for public distribution – levied for every 1000 copies printed or part thereof	€ 1
20	Registrations and entries at registries of movable assets – for each one	€ 3
21	Buy and sell-back – Levied on the value of the contract	0.5%
22	Insurance	
22.1	Insurance policies – levied on the sum total of the insurance premium, the cost of the policy and any other amounts, which is comprised in the revenue of insurance companies, which are collected together with the said premium or in a separate document.	
22.1.1	Performance security insurance	3%
22.1.2	Accident, Illness, Credit and Agricultural and livestock insurance	5%
22.1.3	Goods carried insurance	5%
22.1.4	Vessels and Aircraft insurance	5%
22.1.5	Any other types of insurance	9%
22.2	Commissions charged for brokerage activity – levied on the net value of stamp duty	2%
23	Credit instruments	
23.1	Bills of Exchange – levied on the value thereof subject to a minimum of 1 (euro)	0.5%
23.2	Promissory notes – levied on the value thereof, subject to a minimum of 1 (euro)	0.5%
23.3	Orders and notes of any time, except for cheques, which direct the payment or delivery of money with the phrase to order at the disposition of, even if in the form of correspondence – levied on the value thereof, subject to a minimum of 1 (euro)	0.5%
23.4	Statements of invoices and invoices checked – levied on the value thereof, subject to a minimum of € 0.5 (*)Amendment introduced by Law no. 55/2004, of 30/12 – The rate was 5% until 31 December 2004	0.5% (*)
24	Public debt securities issued by foreign governments, except for public debt securities issued by member states of the European Union, when existing or offered for sale in Portugal – levied on the nominal value	0.9%

25	Postal and telegraphic orders, except for those termed "de serviço" – levied on each order	€ 0.05
26	Payments in for share capital	
26.1	Formation of a company with a share capital – levied on the real value of any assets paid in or to be paid in by the members after deduction of the obligations assumed and the costs borne by the company as a consequence of each payment in	0.4%
26.2	Transformation of a company with a share capital into a company, association or juristic person, which does not have a share capital – levied on the real value of the assets of any nature belonging to the company on the date of the transformation, after deduction of the obligations and costs to which it is subject at that time	0.4%
26.3	Increase of the share capital of a company with a share capital via the payment in of assets of any type, except cash, - levied on the real value of the assets of any type paid in, or to be paid in, by the members, after deduction of the obligations assumed and the costs borne by the company as a consequence of each payment in 0.4% (Amendment introduced by art. 60 of Law no. 67-A/2007 of 31 st December)	0.4%
26.4	Increase of the share capital of a company with a share capital via the payment in of assets of any type, which are remunerated not by shares in the share capital or assets, but by rights of the same type as those of the members, such as the rights to vote and share in the profits or in the liquidation proceeds – levied on the real value of the assets of any type paid in, or to be paid in, by the members, after deduction of the obligations assumed and the costs borne by the company as a consequence of each payment in.	0.4%
26.5	Transfer from a third country to a member state of the European Union of the locus of effective management of a company, association or juristic person, the registered office of which is located in a third country and which is deemed, for the purpose of the collection of the tax on payments in for share capital, to be a company with a share capital in that member state – levied on the real value of the assets of any type belonging to the company on the date of the transfer, after deduction of the obligations and costs to which it is subject at that time	0.4%
26.6	Transfer from a third country to a member state of the European Union of the registered office of a company, association or juristic person is located, which has its locus of effective management in a third country and which is deemed, for the purpose of the collection of the tax on payments in for share capital to be a company with a share capital in that member state of the European Union – levied on the real value of the assets of any type belonging to the company on the date of the transfer, after deduction of the obligations and costs to which it is subject at that time	0.4%
26.7	Transfer from a member state of the European Union to another member state of the locus of effective management of a company, association or juristic person is located in a third country, which is deemed, for the purpose of the collection of the tax on payments in for share capital, to be a company with a share capital in the latter member state and was not so considered in the other member state, except for the tax provided in Directive no. 69/335/EC, of 17 th of July, has been levied in the state of origin – levied on the real value of the assets of any type belonging to the company on the date of the transfer, after deduction of the obligations and costs to which it is subject at that time	0.4%
26.8	Transfer from a member state of the European Union to another member state of the registered office of a company, association or juristic person, the effective management of which is located in a third country or which is deemed, for the purpose of the collection of the tax on payments in for share capital, to be a company with a share capital in the latter member state and was not so considered in the other member state, except if the tax provided in Directive no. 69/335/EC, of 17 th of July, was levied in the state of origin – levied on the real value of the assets of any type belonging to the company on the date of the transfer, after deduction of the obligations and costs to which it is subject at that time	0.4%
27	Transfers of business or of the operation of services	
27.1	Assignments of commercial, industrial or agricultural – levied on its value	5%
27.2	Sub-concessions and assignments of concessions by the State, Autonomous Regions or by local authorities, for the operation of enterprises or services of any type, whether or not the operation thereof has commenced – levied on the value concession	5%

9.2. Annexe II

Stamp duty exemptions

(Law 150/99 of 11/09 as amended by DL 287/2003 of 12/11)

Article 6

Subjective Exemptions

The following entities are exempt from stamp duty when it is to be borne by them:

- a) The State, the Autonomous Regions, local authorities and their public sector associations and federations and any of their departments, establishments and agencies, even if personalised, including non-business public institutes;
- b) Social security institutions;
- c) Juristic persons with administrative public utility and mere public utility status;
- d) Private charitable institutions and entities with equivalent status;
- e) The spouse, issue and ancestors in transfers other than for valuable consideration to them.

Article 7

Other exemptions

1 – The following are also tax exempt:

- a) Premiums received for reinsurance from enterprises operating in Portugal legally;
- b) Life insurance premiums and commissions;
- c) Documents in writing of any contracts which are required to be signed within the ambit of operations effected, registered, paid or cleared via management bodies of regulated markets or via an entity indicated or approved by such a body in the exercise of its legal or regulatory powers, or by the management body of organised markets registered with the CMVM,

the direct or indirect subject matter of which is real or theoretical securities, equivalent rights, futures, interest rates, foreign currency or securities indices contracts, interest rates or foreign currencies;

- d) The security inherent in the operations effected, registered, paid or cleared via management bodies of regulated markets or via an entity indicated or approved by such a body in the exercise of its legal or regulatory powers, or by the management body of organised markets registered with the CMVM, the direct or indirect subject matter of which is real or theoretical securities, equivalent rights, futures, interest rate, foreign currency or securities indices contracts, interest rates or foreign currencies;
- e) Interest and commissions charged, security given and the use of credit granted by credit institutions, finance companies and venture capital companies and companies or entities, the objects and form of which are the same as that of credit institutions, finance companies and financial institutions envisaged in the community legislation, all of which are domiciled in member states of the European Union, or in any state, except for those domiciled in a territories with beneficial tax regimes, to be defined by statutory instrument of the Minister of Finance;
- f) Security provided to the State within the ambit of the management of the direct public debt solely in order to cover its credit risk exposure;
- g) Financial operations, including the associated interest, for a period of not more than a year, provided that the same are solely intended to cover cash flow shortages and are effected by venture capital companies (VCC) to companies in which they have holdings, and operations effected by holding companies (SGPS) in favour of companies controlled by them or in which they have the interested provided in no. 2 of article 1 and in paragraphs b) and c) of no. 3 of article 3 of Decree-Law no. 495/88, of 30th December, and also effected in favour of holding companies with which they are in a group or control relationship;

- h) Operations, including the associated interest, referred to in the preceding paragraph, when the same are effected by shareholders in favour of entities in which they have a direct share holding of not less than 10% and provided that it has been the holder thereof for at least one consecutive year, or since the formation of the said entity, provided in the latter case that the holding is held for the said period;
- i) Loans in the nature of shareholders loans, including the associated interest, made by shareholders to the company, in which an initial term of not less than a year is stipulated and which are not repaid prior to the end of the said term;
- j) Loans granted within the ambit of the legal framework governing housing credit, up to the amount of the capital debt, when the loans are a consequence of a change of credit institution or the subrogation of the mortgagee's rights and security, in accordance with the provisions of article 591 of the Civil Code;
- l) Interest charged on loans for the acquisition, construction, reconstruction or improvement of owner occupied housing;
- m) The buy and sell-back of securities or equivalent rights, on a stock exchange;
- n) Credit granted via a salary savings account, in relation to the part not exceeding the amount of the monthly salary credited each month to the account;
- o) Acts, contracts and operations in which community institutions or the European Investment Bank are involved, or in their favour;
- p) Bingo and games organised by charitable institutions, legally equivalent juristic persons or juristic persons with public utility status, which solely and exclusively or predominantly pursue charitable, assistance or aid purposes, when the proceeds are used in accordance with their objects, or must be paid over to other entities, in accordance with the law;
- q) Formation and increase of share capital as a consequence of the transfer by one or more companies with a share capital of their assets, or of one or various aspects of its business to one or more companies with a share capital, which are in existence or being formed;
- r) The formation and increase of share capital of holding companies (SGPS) and venture capital companies (VCC).
- s) Registrations and entries regarding vehicles which are powered solely by electricity or solar energy, or another not polluting power sources, at registries and at the corresponding attendance points or at the decentralised departments of the Direcção-Geral de Viação.
- 2 – The provisions of paragraphs g) and h) of no. 1 shall not apply when any of those involved do not have their head office or effective management in Portugal, except when the creditor has its head office or effective management in another member state of the European Union or in a state with which a treaty to prevent double taxation of income and capital is in force with Portugal, when the right to the exemption exists, unless the creditor has previously implemented the finance transactions envisaged in paragraphs g) and h) of no. 1 via operations effected with credit institutions or finance companies with their registered offices abroad or with the foreign subsidiaries or branches of credit institutions or finance companies with their registered office in Portugal.
- 3 – The provisions of paragraph i) of no. 1 shall not apply when the shareholder is an entity with its registered office in a territory with a beneficial tax regime, to be defined in a statutory instrument of the Ministry of Finance.
- 4 – The exemptions with regard to transfers other than for valuable consideration, contained in agreements between the state and any public or private sector persons shall remain in force.

Article 8

Annotation of exemptions

Whenever any exemption applies the legal provision pursuant to which it is granted shall be annotated on the document or instrument in question.

9.3. Annexe III

The legislation, which regulate this incentive are as follows:

- a) Law 171/99 of 18/09 introduced the special aid provisions for landlocked areas;
- b) Law 30-C/2000 29/12, Art 54 amends Law 171/99;
- c) DL 310/2001 of 10/12 introduces the regulations for the implementation of this benefit;
- d) S.I. 1467-A/2001 of 31/12 List of eligible areas;
- e) S.I. 56/2002 of 14/01 regulates activities;
- f) S.I. 170/2002 of 28/02 Idem;
- g) Law 107-B/03 of 31/12, art 131, extends the provisions until 2004;
- h) Law 55-B/2004 of 31/12, art 29, no. 7 extends some articles of the provisions until 2006;
- i) Official Note no. 147/01 of 30/03
- j) Law 53-A /2006 of 29/12, which amended some articles of the Tax Incentives Statute (EBF) DL 215/89 of 1/07. publicity of incentives for landlocked areas;