

A virtually surplus Budget

2020 State Budget Law
2020 May



2020 State Budget

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A virtually surplus Budget



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|| A reduction of tax rates would be desirable to foster investment and provide relief on the companies' short-term treasury needs."

The publication of the 2020 State Budget is now a reality – although a “virtual” reality. Its publication occurring right in the middle of the pandemic scenario weakens the State Budget in respect of its practical usefulness.

One can therefore expect on short term an amendment budget. Or even before that, changes in the law that reflect the social, economic and financial impacts that the pandemic is causing and will continue to cause.

It is quite unrealistic to think that the announced surplus will be maintained; that unemployment will not increase; that internal consumption can and will support growth.

Because of all this economic uncertainty it is crucial to think seriously on the tax burden since most of both families and companies will outlast in the absence of some relief, namely in what concerns treasury.



In fact, the extraordinary measures implemented by OECD member states aiming at an immediate relief on treasury cannot be withdrawn upon the end of the state of emergency. On the very next day, difficulties will continue to exist, and it will be necessary to extend those measures to a greater number of companies and people that in the meantime will end up being affected by the systemic effect of this pandemic. Challenging times are coming, where the budgetary balance must be the least of the worries, for the time being.

We therefore expect that the actual 2020 State Budget supports companies and families in an effective manner without the pressure of balancing the budget.

We will now focus on the amendments that have just entered into force following the publication of the State Budget, in view of the proposal that we had already commented. Curiously and although there was a record number of proposed amendments, just a few ended up being approved.

In what concerns companies, the main amendments foreseen in the State Budget proposal remained unchanged. Summarising: (i) the extension of R&D credit (“SIFIDE II”) to 2025 and change of the rules regarding eligible contributions to investment funds aiming at investing in R&D companies; (ii) the increase from EUR 10 million to EUR 12.5 million of the eligible amount of the benefit of deduction of retained and reinvestment profits (“DLRR”); (iii) the extension of the patent box regime to author rights related with computer programs; (iv) an autonomous tax rate of 10% on costs incurred with light passenger and goods vehicles,

■ ■ For families, an actual update of the Personal Income Tax brackets is required to neutralise the effects of the inflation index, besides an increase of tax credits and a deferral of the deadlines for the payment of taxes."

and motorcycles, with an acquisition cost up to EUR 27,500 (formerly, EUR 25,000); (v) in the first and second years of activity, taxpayers will not be liable for the 10% aggravated autonomous tax rate in case of realising losses; (vi) debts will be considered as doubtful if outstanding for more than 12 months (formerly 24 months), for the purpose of recovering VAT; (vii) exemption from stamp tax in case of agreements of centralised treasury management.

In a scenario where tax policy would be used as an instrument to foster investment and relief on the companies' short-term treasury needs, it would be desirable a reduction of tax rates, State Surtax rates as well as the autonomous tax rates. It would also be important to consider the business sectors subject to special levies, by means of the respective reduction or suspension, at least for a given period.

Tax incentives to foster job creation should also be revisited (by recapping the rules in the meantime revoked, although with some amendments); the same is valid for all the incentives to investment; this Budget should not disregard that non-small and medium sized companies have been constantly forgotten – these are the companies that will be able to make an additional effort and maintain jobs. To relief treasury needs, the second instalment of the special payment on account can be waived, in similar terms as those foreseen for the third instalment; increase the speed in processing VAT refunds; and an increase of the period to carry forward tax losses.



|| A rate of 10% now applies to the foreign sourced net pension income obtained by Non Habitual Residents, with the revocation of the previous exemption."

Special attention should be given to tourism, the sector which has been more affected, and continue to be affected upon the end of the emergency state.

In what concerns the tax burden on families, the major change in view of the proposal relates to the introduction of a rate of 10% on the net income from foreign-sourced pensions obtained by Non Habitual Residents (the former exemption is revoked).

Besides the above, the update of 0.3% of the tax brackets and the support to birth rate are maintained. In what concerns the simplified regime a highlight for the aggravated taxation of activities related with local lodging.

For families, an actual update of tax brackets is required, which would allow neutralising the effect of the inflation index, not only in the current year, but also in prior years where that neutralisation did not occur; also required are the increase of the tax credits related with family support and a deferral of the deadlines for the payment of taxes.

The tax "siege" to the real estate sector should also end. The combination of the crisis resulting from the pandemic and the aggravated taxation of Non Habitual Residents brought by this budget will surely lead to a crisis much worse than in 2010.

Lastly, attention should also be given to a review of the internal rules concerning tax residence, permanent establishment and other concepts. It should be assured that the tax regime applicable to people forced to travel during this period does not change. If that is not the case, increased situations of double residence will arise, which will obviously lead to increased situations of double taxation, undesirable in any scenario, and even more in the current one.

While it is certain that we will need to cope with the contraction of the economy, and subsequent increase of public (social) expense and reduction of tax revenues, it is a major challenge not to choose the easiest path by increasing taxation where possible.



2020 State Budget

Law



|| The law introduces a partial exemption from Personal Income Tax (PIT) on employment income earned by taxpayers aged between 18 and 26 years old."

1. Personal Income Tax

Employment income – Young people

The law introduces a partial exemption from Personal Income Tax (PIT) on employment income earned by taxpayers aged between 18 and 26 years old, that do not qualify as dependents and earn an amount of gross income equal or lower than EUR 29,179 (taxable income of EUR 25,075).

The exemption only applies in the first three years in which these taxpayers earn income, after the year of completion of a level of education equal or higher than level 4 of the National Qualifications Framework, occurring in 2020 or following years.

The exemption corresponds to 30% of the income earned in the first year, 20% in the second year and 10% in the third year, capped at 7.5 x SSI (Social Support Index – “Indexante dos Apoios Sociais” or “IAS”), 5 x SSI and 2.5 x SSI (EUR 438.81 in 2020), respectively.

Each taxpayer can only benefit from this exemption once. The identification of the taxpayers who complete in each year one of the above levels of education is communicated to the Portuguese Tax Authorities in accordance with the procedure to be established by Decree.

In the annual income tax return (Form 3 or “Modelo 3”) the taxpayer should mark the option to exempt the referred income. Any remainder income earned is taxed at the general rates, however the full amount of income earned is considered for the purpose of determining the applicable rate (exemption with progression).

The withholding tax rate should also be determined with reference to the total income earned however applying only to the portion of income subject to tax. The taxpayer is required to provide proof of completion of a cycle of studies to the payer of the income.

Exclusion from taxation – Students

It is created an exclusion from taxation, capped at 5 times the IAS (i.e., € 2,194.05, for 2020) on employment income (Category A) from a labour contract and self-employment income (Category B) from a service-rendering activity, including single acts, obtained by students which are considered dependents for tax purposes and who are studying in a school integrated in the national education system or equivalent.

For this purpose, taxpayers should file a document supporting their attendance of the relevant school through the Portuguese Tax Authorities’ (PTA) website, up to 15 February of the year following the one to which the income relates to.



Dependents – Deductions

The current legislation provides for a personal deduction of EUR 600 per dependent, as well as an additional deduction of EUR 126 when the dependents are aged up to 3 years old with reference to 31 December of the tax year concerned.

In case of joint parental responsibility and alternate residence of the minor, the deduction amounts to EUR 300 with an additional deduction of EUR 63.

The additional deductions mentioned have been increased to EUR 300 and EUR 150, respectively, applicable to the second and following dependents, regardless of the age of the oldest dependent.

Capital gains – Transfer of residential real estate to private sphere

Capital gains arising from the transfer to the private sphere of residential real estate allocated to the entrepreneurial activities of self employed individuals are now exempt from taxation provided that the real estate is immediately allocated to the earning of real estate income (currently such gains are equivalent to a capital gain realized on the sale of real estate).

However if as a result of the transfer the real estate does not generate income in the next five years, the transfer shall qualify as a capital gain under Category G.

Self-employed income under the simplified regime – Local housing

Income generated by local housing in villas or apartments located in a containment area now benefits from a 50% relief from taxation (in 2019, the coefficient was 0.35), as per the rules applicable to business and professional income (Category B).

Progressive rates

The limits of the general PIT brackets have been increased by 0.3%. The applicable tax rates remain unchanged.

Accordingly, the table of tax rates for 2020 (for Portugal mainland) is the following:

Taxable Income (EUR)	Taxa (%)	Deduction (EUR)
Up to 7,112	14.5	0
Above 7,112 and up to 10,732	23.0	604.54
Above 10,732 and up to 20,322	28.5	1,194.80
Above 20,322 and up to 25,075	35.0	2,515.63
Above 25,075 and up to 36,967	37.0	3,017.27
Above 36,967 and up to 80,882	45.0	5,974.54
Above 80,882	48.0	8,401.21

1. Personal Income Tax

Simplified regime – Expenses

Upon filing of the annual tax return, taxpayers can amend the amounts included in the e-invoice platform in respect of expenses with personnel, rents and other expenses with the acquisition of goods and services necessary for the exercise of their professional activity.

In relation to these expenses, it will not be possible to challenge these amounts in March, if the taxpayer detects that the values included in the e-invoice platform are not correct.

Deduction in case of requesting an invoice

The tax deduction granted to taxpayers in respect of the VAT incurred, for requesting the issuance of invoices in certain specific sectors of activity now includes the acquisition of medicines for veterinary use.

Tax deductions – Amendment

The transitional regime that allows the taxpayers to amend upon filing of the 2019 annual tax return the amount of health, education, rents and retirement homes expenses included in the e-invoice platform.

In relation to these expenses, it will not be possible to challenge these amounts in March, if the taxpayer detects that the values included in the e-invoice platform are not correct.

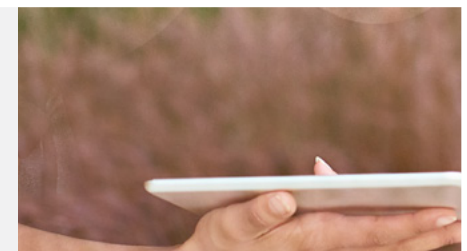
Non-habitual residents

A flat rate of 10% applicable to the net pension income from a foreign source obtained by non-habitual residents is introduced. The former exemption is revoked.

In addition, it is established that this 10% rate also applies to other income from a foreign source, such as pre-retirement benefits (and equivalent income) and benefits derived from life contributions made by employers to insurance premiums, pension funds or any complementary social security regimes, as well as any lump-sum payments received by the beneficiary.

A foreign tax credit for international double taxation is available against any foreign tax paid on the above income by the taxpayer.

As an alternative to the 10% rate, taxpayers may opt to include the above income and tax it at progressive rates.



1. Personal Income Tax

During the period in which taxpayers are registered as non-habitual residents, the exemption in respect of foreign pensions will continue to apply for taxpayers who, at the time of entry into force of the legislation:

- are already registered as non-habitual residents; or
- have already submitted an application for registration, which is pending from the analysis from the PTA; or
- already qualify as Portuguese tax residents and apply for the registration as non-habitual residents by 31 March 2020 or by 31 March 2021, as a result of meeting the conditions to qualify respectively in 2019 or 2020.

Taxpayers in the situations above may opt for one of the two regimes on their personal income tax return for 2020.

Time-sharing (“Direito Real de Habitação Duradoura – DHD”)

Several changes were introduced to the PIT Code related to DHD contracts which legal regime was recently created by Decree-Law no. 1/2020 of 9 January.

The DHD is intended to provide to one or more persons (dweller) access as permanent home of an immovable property owned by someone else, for a lifetime period, upon payment to the respective owner of a pecuniary deposit and a periodical compensation.

In return for the DHD the dweller is obliged to pay the owner:

- a **monthly compensation**, for each month of the duration of the DHD, to be established in the contract; and
- an **annual cash payment**, for each year elapsed as from the 11th year up to the end of the 30th year of the contract, corresponding to 5% of the initial deposit. This annual cash payment is deducted from the amount of the initial deposit.

Category F – rental income

The amounts earned by the property owners from contracts concluded under the DHD regime are classified as rental income.

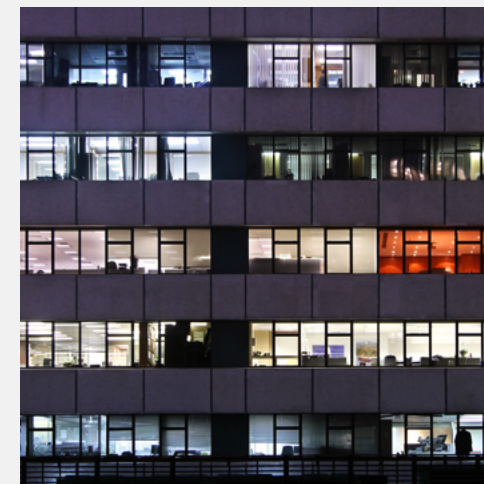
It is also established that this income is subject to taxation according to the following rules:

- from the moment it is received or made available, in the part that concerns the monthly payments;
- from the moment the annual payment is considered income for the owner or, in the part that corresponds to the initial deposit, when it is deducted by the owner due to the non-compliance by the dweller of the respective obligations under the terms provided for in the DHD legal regime.

Taxation – special rate

Similarly to the regime applicable to rental contracts for permanent housing with a duration of twenty years or more, rental income from DHD contracts also benefits from a reduction of 18 percentage points on the respective autonomous rate (28%) in respect of the monthly payments.

■ The amounts earned by property owners in connection with time-sharing contracts are taxed as rental income."



1. Personal Income Tax

Likewise, whenever by agreement of the parties, the DHD contract is terminated early, the right to the reduced taxation rate ceases to apply effective from the beginning of the contract. In that case, in the year of termination of the contract, the owner must declare that fact for the purpose of regularizing the difference between the amount of tax that was paid in each year and that which should have been paid, plus compensatory interest.

Tax deductions – expenses with property

15% of the amounts paid in relation to DHD contracts are tax deductible in the year in which such amounts are taxable as the owner's income, capped at EUR 502.

It is also established the obligation for the dweller to indicate the amount paid as an initial deposit in the annual income tax return (“Modelo 3”) for the year this is considered taxable income of the owner under the referred rules, that is, when it is deducted by the owner due to non-compliance by the dweller with the respective obligations under the terms of the DHD legal regime.

Obligation to issue a receipt

It is established the obligation for the owners of DHD contracts to issue a receipt, using the official format, of all the sums received from their tenants, including in respect of deposits, advance payments or reimbursement of expenses.

Withholding tax – Crowdfunding

Entities managing crowdfunding platforms, whose head office or permanent establishment is located in the Portuguese territory, shall be obliged to withhold PIT on investment income paid or placed at disposal.





Waive from withholding tax obligation

As a result of the change introduced to Article 53 of the VAT Code, it is increased from EUR 10,000 to EUR 11,000, in 2020, and to EUR 12,500 in 2021, the annual amount of income up to which no withholding taxes are due, except when withholding tax is due at flat rates, in respect of income from category B in general (self-employment/entrepreneurial) and category F (property income).

Payments on account

Individuals earning income of any category can make advance payments on account of the final tax due, in case the debtor of the income is not obliged to withhold tax (formerly applicable only in case of employment and pension income). This applies in case each payment on account is equal or higher than EUR 50.

Accessible habitation rentals – interpretative nature

It has been granted interpretative nature to the changes introduced through Law no. 119/2019, of 18 September, to some articles of the PIT Code in relation to the tax regime for accessible habitation rentals, as a result of which those changes produce effects as from 1 January 2019.

Legislative authorisations

Forest Savings Plans

The Government is authorised to create a tax benefits scheme applicable to Forest Saving Plans (“Planos de Poupança Florestal” or “PPF”). The scheme shall foresee an exemption from PIT applicable to interest derived from PPF, as well as tax credit corresponding to 30% of the cash amounts invested in the respective year in the PPF, capped at EUR 450 per taxpayer.

Environmental deductions

The Government is authorised to create environmental deductions on the acquisition of renewable production units for self-consumption, as well as heat pumps of energy class A or above, allocated to private use. Consequently, allowing part of such expenses as a tax deduction capped at EUR 1.000.



2. Corporate Income Tax

|| Expenses incurred with passenger and goods light vehicles with an acquisition cost of up to EUR 27,500 (formerly EUR 25,000) are now subject to a 10% autonomous tax rate."

Rate – Small and Medium-sized Enterprises

The taxable basis subject to the reduced CIT rate of 17%, applicable to taxable entities qualifying as Small and Medium-Sized Enterprises (SME), is increased from EUR 15.000 to EUR 25.000.

Rate – Entities located in inland regions

The taxable basis subject to the reduced CIT rate of 12.5%, applicable to taxable entities qualifying as SME carrying out their activity in inland regions, is increased from EUR 15.000 to EUR 25.000.

Acquisition of travel cards

Expenses incurred with the acquisition of travel cards in benefit of the taxpayer's employees, are now allowed an additional deduction of 30%.

Patent Box Regime – Widening of the regime

The so-called Patent Box regime shall cover copyright from computer programs.

Autonomous taxation

Expenses incurred with passenger Expenses incurred with passenger and mixed used vehicles and motorcycles with an acquisition cost up to EUR 27.500 (formerly EUR 25.000), are now subject to a 10% rate.

The aggravated rate by 10 percentage points is no longer applicable to taxpayers that compute tax losses on their first and second years of activity.

Passenger vehicles powered by LPG will no longer benefit from a reduction on the applicable autonomous taxation rates.

Simplified Regime – Local housing in containment areas

For the purpose of assessing the taxable basis under the simplified regime, there is an aggravation from 0.35 to 0.50 of the coefficient applied to operating income derived from local housing (houses or apartments) located in containment areas.

The 0.35 coefficient is maintained for local housing that is not located in containment areas.

Deduction for reinvestment of retained earnings (DLRR)

It is now allowed reinvesting retained earnings in relevant applications within four years computed from the end of the tax year concerned (formerly, three years).

2. Corporate Income Tax

The maximum amount of retained earnings to reinvest was increased to EUR 12 million (formerly EUR 10 million).

Intangible assets, corresponding to the transfer of technology namely the acquisition of patent rights, licenses, know-how or technical knowledge not protected by patent, are now considered as eligible investment if they are amortizable for tax purposes and are not acquired from related parties.

The tax credit derived from assets acquired under financial leasing depends on the exercise of the call option within seven years computed from the date of the acquisition (formerly five years).

The amendments to the rules for reinvestment and to the exercise of the call option apply to ongoing periods from the first day of the 2020 tax period.



■ ■ **The maximum amount of retained earnings to reinvest has increased to EUR 12 million (formerly EUR 10 million)."**

R&D tax incentive scheme (SIFIDE II)

SIFIDE II is extended until 2025 (formerly applicable until 2020). Amendments have been introduced to the rules on the eligibility of contributions to public or private investment funds which invest predominantly in R&D companies, as follows:

- there is obligation to maintain the participation units in these funds for a 5-year period; lack of compliance implies the payment of the amount of tax that would have been due if the benefit would not apply (payment is due in the year of the sale), plus late assessment interest;

- in order to assess the investment made, the investment fund management companies must send on annual basis to the National Innovation Agency (“Agência Nacional de Inovação, S.A.”), by 30 June, the last audited annual report, as well as a document (portfolio or other) with evidence of the investments made by the fund in the previous tax year; these entities may also request from the National Innovation Agency the issuance of a statement of compliance of the investment policy foreseen in the fund management regulation, however this statement is not binding in respect on the tax eligibility of the contributions;
- the recognition by the National Innovation Agency of the nature of R&D shall be made in relation to entities and not in relation to the investment projects.

Legislative authorisations

Inland Valuation Program

The Government is granted authorisation to introduce a tax benefits scheme corresponding to a tax credit of 20% of the costs incurred with the creation of jobs in inland regions that exceed the national minimum wage, capped at the tax due in the tax year concerned. This legislative authorisation relies on the authorisation from the European Union to expand the regional aid scheme.

Incentives to internationalization

The Government is granted authorisation to introduce tax benefits to activities aiming at promoting SME, with the purpose of internationalising their products and activities, access to markets and enhancement of the national products.

Deduction for reinvestment of retained earnings (DLRR)

The Government is granted authorisation to extend the list of beneficiaries and eligible investments under the DLRR tax benefits scheme. The proposal foresees that the acquisition of shareholdings in companies whose main statutory object is substantially identical to that of the acquiring company is considered as eligible investment, if through the acquisition the acquiring company has the majority of the share capital with voting rights, as well as the completion, within a 3-year period, of a business restructuring (namely a merger of companies or an asset deal).

Additionally, the Government is granted authorisation to incorporate within the scope of the DLRR tax benefits scheme Small Mid Cap companies, i.e. those employing less than 500 people.

This legislation authorisation relies on the authorisation from the European Union to expand the regional aid scheme.





3. VAT and other indirect taxes

|| Debits that are unpaid for 12 months (formerly 24 months) since due date are now considered as bad debts."

Right to deduct

Expenses related to electricity used on electric or hybrid vehicles will be considered deductible for VAT purposes.

Irrecoverable and bad debts

The proposal foresees that unpaid debts aged more than 12 months since payment due date (currently 24 months) shall be considered as bad debts. Evidence of impairment and of collection efforts is required.

Requests for the recovery of VAT will have to be analysed by the Portuguese Tax Authorities within 4 months (currently 8 months). Lack of decision implies the denial of the request, except for invoices with an amount under EUR 150,000 (VAT included).

The identification of the invoice relating to each bad debt, as well as of the acquirer, the invoice amount and the VAT assessed, the collection efforts made by the creditor and the (partial or total) failure of such efforts, as well as any other relevant documentation which serves as proof of the transactions, will have to be duly documented and certified, as follows:

- by an independent chartered accountant or certified accountant, in case the VAT adjustment does not exceed EUR 10,000 per VAT return;
- by a chartered accountant in the remainder cases.

The certification by an independent chartered accountant or certified accountant is required for each relevant document and period to which the VAT adjustment concerns and up to the submission of the request, otherwise the request is not considered as duly submitted.



For adjustments which do not require requests for VAT recovery (irrecoverable debts), certification is required up to the term of deadline for the submission of the VAT return, or up to its submission if made after the legal deadline.

3. VAT and other indirect taxes



Certification that the legal requirements for the VAT deduction are met in case of irrecoverable debts can now also be made by an independent certified accountant.

Reduced VAT rate

Item 2.10 of List I attached to the VAT Code is amended, in order to clarify that the reduced rate is applicable to purchases made by fire brigades held either by public or private entities.

Item 2.28 of List I attached to the VAT Code, related with domestic assistance to children, elderly, drug addicts, sick or disabled people, is also amended to include the provision of tele-assistance services and to clarify that this rate applies when the services are invoiced to the patient (end customer) and also to a public or private entity.

Treated residual waters shall be subject to VAT at the reduced rate, following the insertion in item 2.35 of List I attached to the VAT Code.

Bullfights are excluded from item 2.32 of List I attached to the VAT Code. On the other hand, this item now include tickets to zoos, botanical gardens and aquarium.

Item 2.34 is added to List I attached to the VAT Code. This includes services related with tours, with or without a guide, to national, public or municipal interest buildings, and museums that comply with the Portuguese Museum Legal Framework (except profit making entities that are not exempt under n.º 13 of article 9 of the VAT Code).



Beneficiaries of partial or full refund of amounts equivalent to VAT

The National Institute for the Conservation of Nature and Forests (“Instituto Nacional da Conservação da Natureza e da Florestas. I.P”) as well as non-profitable entities part of the national science and technology network, shall become beneficiaries of partial or full refunds of the VAT incurred in the acquisition of certain goods or services.

Legislative authorisations

Services related with food and beverages

For the 4th consecutive year, the Government is granted authorisation to amend item 3.1 of List II attached to the VAT Code. The purpose of this amendment is to apply it to other services related with beverages previously excluded. The amendments foreseen shall consider the conclusions of the inter-ministerial group appointed with that purpose.

Devices for disabled people

The Government is granted authorisation to amend items 2.6, 2.8, 2.9 and 2.30 of List I attached to the VAT Code, concerning goods and services subject to the reduced rate.

The purpose and object of the amendments to introduce to the VAT Code under the legislative authorisation granted are as follows:

- a) widening of the scope of item 2.9 of List I attached to the VAT Code, by reviewing the list approved by the Government, in order to include products, devices and support objects to be included in the list approved by the National Institute for the Rehabilitation, I.P. (“Instituto Nacional para a Reabilitação, I. P.”), which use is exclusively for permanently or temporary disabled people;
- b) adjust items 2.6, 2.8 and 2.30 to the new wording of item 2.9.

VAT on electricity

The Government is granted authorisation to create electricity consumption brackets based on the power structured hired and existing in the market.

The purpose and object of the legislative authorisation granted are as follows:

- a) amend List I and II attached to the VAT Code in order to create consumption brackets, allowing taxation at the reduced or intermediate rates of supplies of electricity related with a low consumption power hired;
- b) narrow the scope of the rates mentioned previously in order to reduce costs associated with energy consumption, protecting final consumption and minimising adverse environmental impacts derived from excessive electricity consumptions.

This measure requires previous analysis by the VAT Committee.

Excise Duties (IEC)

Tax on alcohol and alcoholic products (IABA)

A generalized increase by 0.3% was introduced. The lower tax bracket does not suffer any increase.

The applicable rates are now the following, depending on the added sugar or sweeteners:

- EUR 6.02/hl for drinks with a sugar content between 25 and 50 g/l;
- EUR 8.02/hl for drinks with a sugar content between 50 and 80 g/l; and
- for the higher tax bracket EUR 20,06/hl for drinks with a sugar content of 80 g/l or more.

The same increase by 0.3% applies to concentrates.

Tax on oil and energy products (ISP)

No significant changes have been introduced. A remark however on the increase on the maximum and minimum tax limits applicable in the Autonomous Region of the Azores.

In 2020, the additional excise duty on oil and energy products remains applicable (EUR 0.007/l for gasoline and EUR 0.0035/l for both diesel and coloured or marked diesel).

There is an increase of the additional excise duty on products classified under codes NC 2701 (coal, patent fuel, etc), 2702 (lignite) and 2704 (coke), when used in the production of electricity, electricity and heat (cogeneration), or city gas. These are now taxed at a rate corresponding to 50% of the tax on oil and energy products, as well as at a rate corresponding to 50% of the additional excise duty on CO₂ emissions.



There was an increase of taxation of products classified under codes NC 2710 19 61 to 2710 19 69 (fuel oils in general) and 2711 (petroleum gas and other gaseous hydrocarbon), when used in the production of electricity (autonomous regions excluded) and in the production of electricity and heat (cogeneration) or of city gas.

For fuel oils a rate corresponding to 25% of the ISP rate and a rate corresponding to 25% of the additional excise duty in CO₂ emissions was introduced. In case of petroleum gas, the rate is 10%.

These products are not subject to the additional excise duty on CO₂ emissions in case they are used in premises covered by the European Trade of Emission Licenses.

Tax on tobacco products (IST)

There was an increase by 3% on the specific component in heated tobacco.

There was an increase to the ad valorem component, of about 5%, on traditional cigarettes, as well as a reduction on the ad valorem component by 1 percentage point.

The tax on smoking and chewing tobacco did not suffer any amendments.

The excise rate levied on the nicotine liquid for vaping devices has increased by 3%.



|| A general increase of 0.3% of the tax on vehicles was introduced on the engine capacity component."

Tax on vehicles (ISV)

A general increase on the engine capacity component of about 0.3% was introduced.

As a result of the repeal of the transitional regime applicable in 2019, which foreseen a reduction in percentage of the CO₂ emissions measured under the Worldwide Harmonised Light Vehicle Test Procedure (WLTP), new tables for the environmental component, for the vehicles for which the measure is done under the WLTP have been created.

Passenger cars and combined passenger/goods vehicles intended to be rented with driver included – cabdrivers, letters “A” and “T” – equipped with engines powered exclusively for the use of liquefied petroleum gas, no longer benefit from an exemption from ISV.

Annual circulation tax (IUC)

A general increase of about 0.3% was introduced.

As a result of the repeal of the transitional regime applicable in 2019, which foreseen a reduction in percentage of the CO₂ emissions measured under the Worldwide Harmonised Light Vehicle Test Procedure (WLTP), the applicable tables shall be amended.

In order to allocate the respective revenue to municipalities, entities engaged in long term rental or operational leasing of vehicles are obliged to provide to the PTA data relating to the tax identification of the lessees. Regulation shall be published by Decree.

The additional circulation tax applicable to diesel vehicles (Categories a and B) shall apply in 2020.



4. Stamp Tax

|| There is now an exemption for loans not exceeding one year, under a cash pooling contract, in case of companies in a domain or group relationship."

Exemption on short term treasury needs

The Stamp Tax exemption on financing intended to cover short term treasury needs only refers to loans and no longer to financial operations. The exemption for short term treasury needs will only apply when the lender is a company.

Exemption for cash pooling contracts

The Stamp Tax exemption for financial transactions between companies in a domain or group relationship shall apply to loans not exceeding a one-year period, under a cash pooling contract, in case of companies in a control or group relationship.

The law defines the existence of a relationship of control or group when a company, so-called dominant, holds, for more than one year, directly or indirectly, at least 75% of the share capital of a so-called controlled company or companies, provided that such participation grants more than 50% of the voting rights.



Consumer credit

The 50% increase in the Stamp Tax in consumer credit is maintained for 2020, except for contracts already celebrated or under execution.

Additionally, the Stamp Tax rates are increased to (i) 0.2115% for credits with a maturity of less than one year per month or fraction (currently 0.192%); (ii) 2.64% for credits with a period equal to or greater than one year, as well as for credits with a maturity of five years or more (currently 2.4% for both cases). In case of consumer' credit with an undetermined period, the applicable rate on the monthly average debt will increase to 0.2115% (currently 0.192%).

Accounting records

Taxpayers are required to register in their accounts any changes to the information included in the Monthly Stamp Tax Statement.

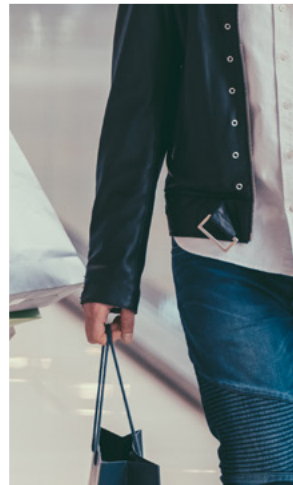
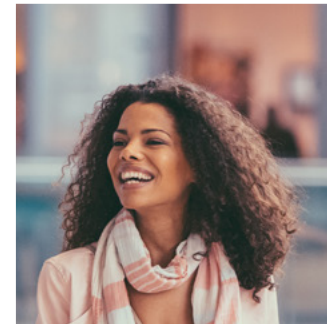
4. Stamp Tax

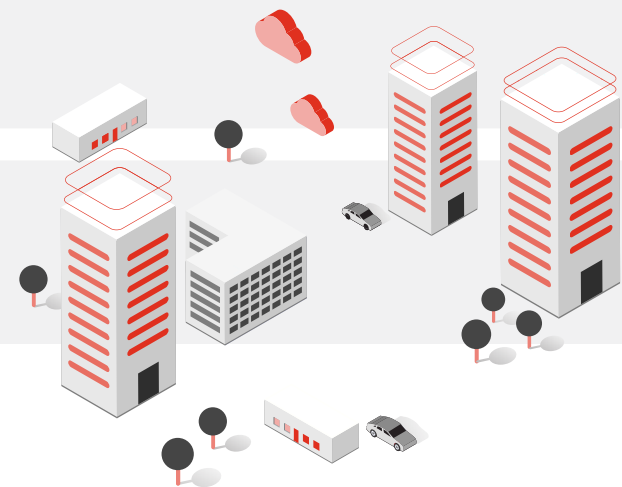
Exemption on transfers of ongoing concern

A Stamp Tax exemption applies on the transfer of ongoing concern (commercial, industrial or agricultural establishments) within the context of a business restructuring.

Legislative authorization – Export-enhancing schemes

A legislative authorisation is granted, subject to the approval of the European Union, for the creation of a Stamp Tax exemption on premiums and commissions on exportation credit insurance policies, with or without State guarantee, with possible inclusion of other forms of financing guarantees.





5. Real Estate

|| Buildings classified as national monuments and of public or municipal interest are no longer exempt from annual property tax."

Annual Property Tax (IMI)

Tax registration value – Properties classified as “Others”

If, for the purposes of determining the tax registration value of properties classified as “others”, the method of the additional cost of the plot of land’s value is applicable, the plot of land to be considered is the one that corresponds to the area occupied by the property.

Registration of real estate located in more than one parish

In case of non-fenced urban or rural properties located in more than one parish, it is clarified that the respective registration is made in the parish where it is located the largest area or the largest number of constructions.



Identification of vacant buildings, degraded buildings and land for residential construction located in urban pressure areas

Municipalities should identify and report to the Portuguese Tax Authorities, until 31 December, degraded and vacant buildings or legal units, as well as land for construction intended for residential purposes, when located in urban pressure areas.

Increase of IMI rate – Degraded buildings and land intended for residential purposes located in urban pressure areas

The increase of the IMI rate applicable to vacant buildings located in urban pressure areas is extended to degraded buildings and land for construction intended for residential purposes, when located in such areas.

Under such increase, the IMI rate can be increased six times. An additional increase of 10%, in each of the following years, is also foreseen, capped at twelve times the IMI rate applicable.

Classified buildings – Repeal of the IMI exemption

The IMI exemption for buildings classified as of national monuments and buildings individually classified as of public or municipal interest is revoked.



Transfer Property Tax (IMT)

Expiration of the exemption from IMT on the acquisition of real estate by credit institutions

The IMT exemption applicable to the acquisition of real estate by credit institutions and commercial companies under their control, under, among others, enforcement proceedings, bankruptcy, insolvency or transfer in lieu of payment ceases to apply if the real estate is sold to related entities, even if the sale occurs within the 5 years period.

New IMT rate on the acquisition of residential properties

A new tax rate of 7.5% is introduced for the acquisition of urban properties intended for residential purposes, whose taxable base (as a rule, the acquisition price or the tax registration value, whichever higher) exceeds EUR 1 million.

Formerly, a maximum rate of 6% is foreseen for the acquisition of urban properties intended for residential purposes, whose taxable base exceeds EUR 574,323 (in case of permanent place of residence) or EUR 550,836 (in case of residential properties not intended for permanent abode).

Personal Income Tax and Corporate Income Tax

Exemption from taxation on real estate income

Rental income obtained under “Municipal Programs for affordable housing” (“Programas Municipais de oferta para arrendamento habitacional a custos acessíveis”) is exempt from PIT and CIT, provided that the income is obtained under lease or sublease agreements established for a minimum period of, at least, 5 years, whose rents do not exceed the limits foreseen in Ordinance n.º 176/2019, of 6 June.

The above-mentioned exemption is dependent of approval from the Minister of Finance.



6. Other tax matters

Tax benefits

Business restructuring derived from restructuring operations or cooperation agreements

The scope of exemptions from IMT, Stamp Duty and administrative fees for restructuring operations or cooperation agreements is extended to entities in general.

Support schemes to transport of passengers and goods

It is proposed that expenses incurred with the acquisition, in the Portuguese territory, of LPG to supply vehicles for the purpose of determining the taxable profit in CIT and Category B of PIT with organised accounting are no longer increased.

Extension

The following tax benefits foreseen in the Tax Benefits Code (“Estatuto dos Benefícios Fiscais” or “EBF”) (that would expire on 1 January 2020) are extended for one year:

- retirement savings account (Article 20);
- external loans and leases of imported equipment (Article 28);
- financial services of public entities (Article 29);
- swaps and loans of non-resident financial institutions (Article 30);
- deposits of non-resident credit institutions (Article 31);
- companies of the national merchant navy (Article 51, letter b);
- regional wine commissions (Article 52);
- managing entities of integrated systems for the management of specific waste (Article 53);
- flows, sports, cultural and recreation communities (Article 54);
- wastelands (Article 59);
- support measures for road transport of passengers and goods (Article 59-A);
- expenses with car sharing and bike sharing systems (Article 59-B);
- expenses with bike fleets (Article 59-C);
- cultural patronage (Article 62-B);
- deductions to the PIT and VAT – transmission of goods and services free of charge (Article 63); and
- VAT – transfers of goods and services free of charge (Article 64).

Celebration of the 500 years of the Circumnavigation

Donations granted by natural or legal persons to the celebration of the circumnavigation by the Portuguese navigator Fernão de Magalhães (“Estrutura de Missão para as Comemorações do V Centenário da Circum-Navegação comandada pelo navegador português Fernão de Magalhães (2019-2022)”) are eligible as a tax benefit under the cultural patronage regime.

Portuguese EU Council Presidency Mission

Donations granted by natural or legal persons to the Mission Structure for the Presidency of the Council of the European Union are eligible for patronage regime.

Dubai World Exhibition (2020)

Donations granted by natural or legal persons to the Embassy of Portugal in the United Arab Emirates, for the purposes of the Portuguese participation in the Dubai World Exhibition (2020), are eligible for patronage regime.

World Youth Day

Donations, in cash or in kind, to the Fundação JMJ-Lisboa 2022, which is legal entity responsible for preparing, organising and coordinating the World Youth Day 2022 in Lisbon, are considered as:

- costs for the year, for CIT purposes, corresponding to 140% of the respective total;
- expenditure, for PIT category B purposes, in an amount corresponding to 140% of the respective amount, and, in all other cases, a 30% tax credit of donations are deductible for PIT purposes. These benefits last until the conclusion of the event.

Portuguese sovereign debt issued in the Chinese market

The PIT and CIT exemptions on interest from Portuguese sovereign debt issued in renminbi in the Chinese internal debt market are maintained in 2020.

This exemption applies when holders or subscribers are non-residents without a permanent establishment in Portugal to which the loan is allocated, except if resident in tax havens. The information regarding the tax residency of the beneficiary should be demonstrated upon subscription with the competent public institute.

Associations representing families

Associations representing families no longer have benefits related with taxes and charges as applicable to public utility entities.

Legal regime of Group Agricultural Companies

Benefits and exemptions applicable to these entities have been revoked.

Levies

Audiovisual levy

There was no update on the monthly amounts of the audiovisual levy.

Bank levy

The bank levy is maintained in 2020.

Pharmaceutical industry levy

The extraordinary pharmaceutical industry levy is maintained in 2020.

■ A levy was introduced on the total amount (deducted from VAT) of the acquisition by entities of the National Health System of medical devices including devices for in vitro diagnosis."

Extraordinary levy on the energy sector (CESE)

The CESE is maintained in 2020.

The Government is granted authorization for a 90 day period, to amend the CESE regime. Amendments shall cover the rules for its application or the reduction of the respective rates in view of the reduction of the tariff debt of the National Electric System and corresponding reduction of the need to finance social and environmental policies of the energy sector.

Extraordinary levy on suppliers of the industry of medical devices of the National Health Insurance

It is approved a regime that creates an extraordinary levy on National Health System ("SNS") suppliers of medical devices including for in vitro diagnosis (hereafter devices).

The levy applies to suppliers, either producers, intermediaries, wholesalers or retailers, that invoice entities of the SNS for the supply of devices and respective accessories. The regime shall not apply to enterprise-class devices used in treatments and diagnosis.

The levy applies on the total amount of the acquisitions of devices made by SNS entities (VAT excluded), at rates varying from 1.5% and 4% depending on the annual amount of acquisitions.

Legislative authorization – Levy on single purpose packages

The Government is granted authorization to create a levy on single purpose packages, aiming at promoting a circular economy. This levy shall tax single purpose packages containing ready meals including take away and home delivery meals, aiming at a positive discrimination of packages that include recycled materials.

The taxpayers shall be the economic agent that produces or imports the packages.

The legislative authorization foresees the impact of the repercussion of the levy on the final consumer; the levy must be included as part of the price, mandatorily discriminated in the invoice issued.



Gambling and Betting

Legal regime of online gambling and betting – Special tax on online gambling (IEJO)

Several amendments have been introduced to the applicable rates:

- gambling activities: single rate of 25%;
- odds-type sports bets: single rate of 8%, except in case of commissions charged by the operator which represent the only direct income from odds-type sports bets in which gamblers play against each other (in which case the rate is 35%);
- horse bets: single rate of 25%;
- odds-type horse bets: single rate of 8%, except in case of commissions charged by the operator which represent the only direct income from odds-type horse bets in which gamblers play against each other (in which case the rate is 35%).



There is a proposal to reassess the tax regime of online gambling and betting within a maximum of 2 years.

Legal regime of exploitation and territorial-based horse betting

The charitable organization Santa Casa da Misericórdia de Lisboa is no longer subject to the gambling tax, in what concerns the exploitation of territorial-based horse betting.

Tax Justice

Interested parties

It is now mandatory to call any interested parties (who may be directly affected by the outcome of the judicial claim) to participate in the legal action, insofar as they can be identified, namely in the administrative process.

Seizure of bank accounts

The electronic mechanism for preventing simultaneous bank accounts' seizures through the same act shall continue to apply whenever the amount already seized totals the debt due.

■ ■ For Social Security purposes, no penalty will be imposed for failure to submit, during 2019, the quarterly income returns of self-employed workers."

Offsetting of tax debts

Micro and small companies can benefit from offsetting of tax debts with overdue and unpaid tax credits.

Decriminalisation of non-submission of the return

For Social Security purposes, no penalty will be imposed for failure to submit, during 2019, the quarterly income returns of self-employed workers.

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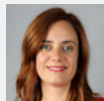


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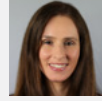
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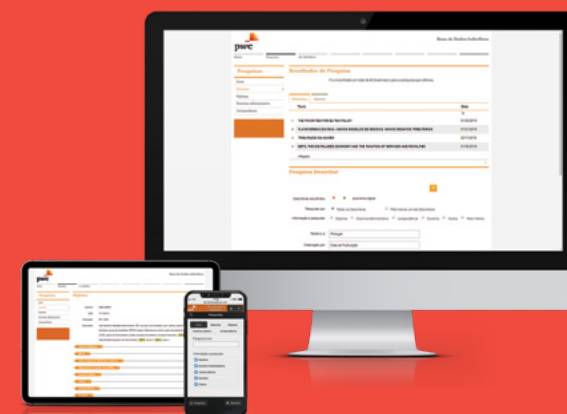
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