TAX INCENTIVE FOR SCIENTIFIC RESEARCH AND INNOVATION

The State Budget for 2024 approved a new regime for non-habitual residents which it called the Tax Incentive for Scientific Research and Innovation ("IFICI") regime, with very similar characteristics to the regime for non-habitual residents, but even more tax advantageous.

In order to access this scheme, people wishing to benefit from it must not have been tax residents in Portugal in any of the 5 years prior to transferring their tax residence to Portugal and must become tax residents by:

- By staying in Portugal for more than 183 days, consecutive or interpolated, in any 12-month period beginning or ending in the year in question; or,
- If they have stayed in Portugal for less time, they have a dwelling there on any day during the 12-month period which suggests that they intend to maintain and occupy that dwelling as their habitual residence.

Therefore, individuals who benefit from this regime must qualify as tax residents in Portugal and, consequently, are subject to taxation in Portugal on their worldwide income, even though they benefit from very interesting preferential tax conditions compared to so-called "normal" residents in Portugal.

In order to access this new regime, it is essential to carry out one of the activities listed below:

- Jobs and board members in entities certified as startups;
- Jobs or other activities carried out by tax residents in the Autonomous Regions of the Azores or Madeira, under the terms to be defined by regional legislative decree;
- Teaching in higher education and scientific research, including scientific employment in entities, structures and networks dedicated to the production, dissemination and transmission of knowledge, integrated into the national science and technology system, as well as jobs and members of governing bodies in entities recognized as technology and innovation centers;
- Qualified jobs and board members within the scope of contractual benefits for productive investment, under the terms of the Investment Tax Code;
- Highly qualified professions, defined in an ordinance issued by the members of the Government responsible for the areas of finance and the economy [1], developed in:

1. Companies with relevant applications, in the financial year in which they began their functions or in the previous five financial years, which benefit or have benefited from the investment support tax regime; or,
2. Industrial and service companies [2], whose main activity corresponds to a CAE code defined in an order issued by the members of the Government responsible for the areas of finance and the economy and which export at least 50% of their turnover, in the financial year in which they began operating or in any of the two previous financial years.

- Other qualified jobs and members of governing bodies, in entities that carry out economic activities recognized by AICEP, E. P. E., or IAPMEI, I.P. as relevant to the national economy; or E., or by IAPMEI, I.P., as relevant to the national economy, namely in terms of attracting productive investment and reducing regional asymmetries; or,
- Research and development of personnel whose costs are eligible for the purposes of the system of tax incentives for research and business development.

As far as the applicable tax regime is concerned, it should be noted from the outset that income from dependent and independent work earned in Portugal, within the scope of the activities mentioned, is taxed under the IRS at the special rate of 20%, this rate being applicable for a period of 10 (ten) consecutive years from the year of registration as a resident in Portuguese territory, without prejudice to the option of aggregation.

This rate is therefore extremely attractive when compared to the progressive rates applicable to the salaries of so-called “normal” tax residents in Portugal.

Income from other categories earned in Portugal is subject to the tax regime applicable to other tax residents in Portugal, i.e. the general tax regime.

However, income earned abroad is exempt from taxation in Portugal, with the exception of pensions.

This means that the IFICI is more advantageous than the previous regime for non-habitual residents, since capital gains earned abroad were not exempt from taxation in Portugal.

We would also point out that, unlike the previous regime for non-habitual residents, this regime is expressly provided for in the Tax Benefits Statute [3], and the legislator had the firm intention of determining that it is a tax benefit, which is a more effective guarantee that the regime will be maintained for its 10 (ten) year period.

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[1] Under the terms of Order 352/2024/1 of December 23, the following are highly qualified professions for the purposes of the IFICI:
i.112 - Managing director and executive manager of companies;
ii.12 - Directors of administrative and commercial services;
iii.13 - Directors of production and specialized services (except Directors of other specialized services and professionals with command, direction or leadership functions in the security forces and services);
iv.21 - Specialists in the physical sciences, mathematics, engineering and related techniques (except architects, urban planners, surveyors and designers);
v.2163.1 - Industrial product or equipment designer;
vi.221 - Doctors;
vii.231 - University and higher education teachers;
viii.25 - Information and communication technology (ICT) specialists.

[2] Ministerial Order 352/2024/1 of December 23 states that the following are industrial and service companies:
i.Extractive industries;
ii.Manufacturing industries;
iii.Information and communication activities;
iv.Research and development in the physical and natural sciences;
v. Higher education;
vi. Human health activities.

[3]see article 58a.

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