



O CENTRO INTERNACIONAL DE NEGÓCIOS DA **MADEIRA**

 **MadeiraManagement**

A GENERAL OVERVIEW

The Madeira International Business Centre (MIBC) is an established and important international business hub, wholly within Portugal and thus part of the European Union. It consists of a Free Trade Industrial Zone, an International Services Centre and an International Shipping Register.

Having been expressly approved by the European Union, the MIBC is certainly a credible and stable location for international operations, providing an extremely competitive low corporate income tax rate of 5%, guaranteed until the end of 2027.

The new **Tax Regime IV** provides the following main tax benefits:

- a reduced corporate tax rate of 5%, guaranteed until 2027;
- exemption of withholding tax on dividends paid to non Portuguese resident shareholders (corporate or individuals), as long as these are not resident in a black listed jurisdiction;
- No withholding tax on interest and other forms of payment for shareholders' loans, capital allowances or advances made by the shareholders to the company, as long as the shareholders are non-residents in Portugal.
- Worldwide participation exemption regime applicable to dividends, reserves, capital gains and losses;
- Exemption of withholding tax on royalties, services fees or interest paid to third parties;
- Possibility to apply Portugal's Patent Box Regime;
- Capital gains tax exemption on the sale of participations held in the Madeira company;
- Tax Credit to avoid International Double Taxation under certain circumstances;
- Exemption of notarial and registration fees;
- 80% reduction on the rate of Stamp Duty, municipal transaction taxes and municipal property taxes;
- 80% reduction on regional and municipal surcharges.

To be entitled to these benefits, the licensed companies should comply with one of the following substance requirements:

- (a) creation of one to five jobs in the first six months and a minimum investment of €75,000.00 in the acquisition of tangible or intangible fixed assets, during the first two years; or
- (b) creation of six or more jobs in the first six months.



Furthermore, the referred reduced tax rates will only apply to certain limits of the annual taxable income, which depend upon the number of employees engaged by the MIBC company in each tax year, as follows:

- 1 to 2 jobs: € 2,730,000.00;
- 3 to 5 jobs: € 3,550,000.00;
- 6 to 30 jobs: € 21,870,000.00;
- 31 to 50 jobs: € 35,540,000.00;
- 51 to 100 jobs: € 54,680,000.00;
- More than 100 jobs: € 205,500,000.00.

The portion of the year's taxable income which exceeds the *plafond* applicable, taking into account the number of employees engaged by the MIBC company, will be taxed at the general income tax rate applicable in Madeira and which is in 2016 of 21%. A MIBC company can also carry out activities in Portugal, however all income obtained from Portuguese sourced activities will be taxed at the standard corporate income tax rate.

Additionally, a new licensed Regime IV company will also need to ensure that its tax benefit is subject to one of the following additional annual maximum limits:

- a) 15,1% of the annual turnover; or
- b) 20,1% of the annual gross value added; or
- c) 30,1% of annual costs incurred with the workforce.

As referred above, a MIBC company can also apply the **worldwide participation exemption regime** introduced in 2014 and which provides a full tax exemption on dividends or reserves received by a Portuguese company, under the following conditions:

- the participation in the subsidiary is equal or superior to 10% and held for at least 1 year¹;
- the entity distributing dividends is NOT located in a black listed jurisdiction;
- the entity distributing dividends is subject and not exempt to Portuguese income tax (when the subsidiary is located in Portugal), to a tax referred in article 2 of the Parent/Subsidiary Directive (when the subsidiary is located within the EU) or, in other cases, to a tax identical or similar to Portuguese corporate income tax and is subject to a tax rate that is no less than 60% of the normal Portuguese tax rate (i.e. no less than 12.6%);

This participation exemption regime is also applied to capital gains or losses resulting from the sale of participations under the conditions mentioned above.

¹ This was altered with the 2016 State Budget, increasing the participation to 10%, from the previous 5% and reducing the holding period to 1 year, as opposed to the previous 24 months.



Capital gains derived by non residents from the sale of participations of a Portuguese company continue to be exempt from taxation in Portugal, unless the non resident is domiciled in a black listed jurisdiction or the Portuguese company holds real estate located in Portugal.

A MIBC company can also benefit from the recent **Patent Box Regime** providing a 50% exemption from corporate tax for companies exploiting patents, industrial designs and models protected by IP rights and registered after 01.01.2014.

The 2014 State Budget and the CIT Reform made some changes to the tax benefits applicable to Portuguese companies, also granted to MIBC companies. Since 1 January 2014, if all the requirements are met, only 50% of the income arising from the temporary use of patents and industrial drawings or models is relevant for the computation of the taxable income.

The combination of the CIT Code and special tax regime applicable to MIBC companies will result in the income derived from the temporary use of patents and industrial drawings or models being subject to an effective tax rate of 2,5%, in case certain conditions are met.

From a tax perspective, this regime is highly competitive (comparing to other European countries' regimes) and may represent a significant saving, regarding patents and industrial designs or models which are registered in Portugal.

As a Portuguese company, it will also be subject to Portuguese VAT registration, thus benefiting from the rate of VAT in Madeira – currently 22%.

Madeira companies may generally be used for:

- invoicing and trading operations
- holding investments
- accessing Portugal's double tax treaty network
- utilising the EU parent subsidiary directive
- holding intellectual property
- owning commercial and residential properties
- shipping and yacht registration,
- Internet delivered services

At this moment, there are two Tax Regimes in force applicable to Madeira IBC companies, depending on whether they were licensed before the end of 2014 or if they have only now been licensed under (or chosen to be licensed under) the recently EU approved tax **Regime IV**.

Existing companies, licensed before the end of 2014 continue to benefit from the special regime III also in force, unless they choose to immediately apply Regime IV.



Regime III is similar to the new Regime IV, with the following exceptions:

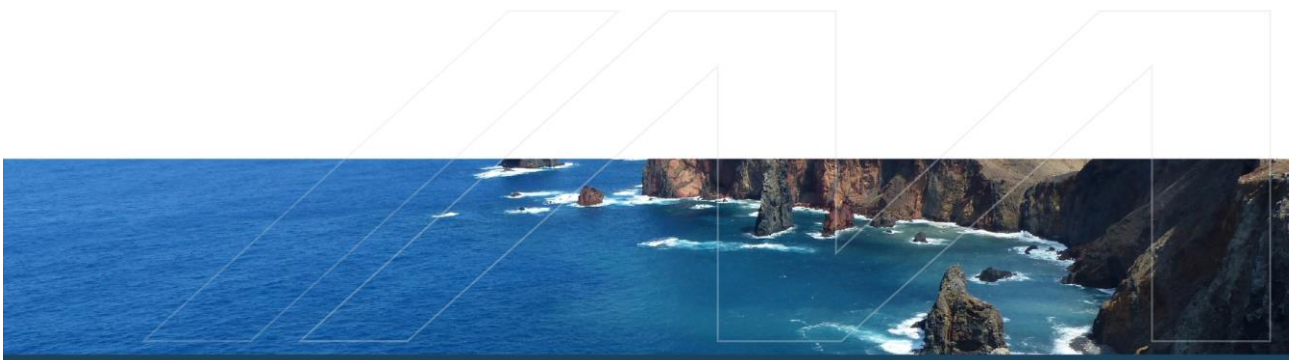
- The reduced rate of 5% corporate income tax will be applied until 2020 (at which time the company can decide to move into regime IV);
- The additional annual maximum limits referred above do not apply;
- Full exemption from Stamp Duty, municipal transaction taxes and municipal property taxes;
- There is no specific exemption on distribution of dividends to shareholders of a licensed MIBC company under Regime III. Instead standard Portuguese legislation must be applied, in which case the distribution of dividends to the quotaholders can only be made exempt of withholding tax under the following conditions:
 - i) when payment is made to a corporate EU or EEA shareholder with a direct participation superior to 10% and held for at least one year;
 - ii) when payment is made to foreign corporate shareholders that are in countries that have signed a DTT with Portugal that foresees exchange of information, with a direct participation superior to 10% and held for at least one year and as long as the beneficiary is subject, in its country of residence, to a nominal taxation not inferior to 60% of the Portuguese corporate income tax rate;
 - iii) when payment is made to corporate shareholders resident in Switzerland with a direct participation superior to 25% and held for at least two years.

Beyond these situations, reductions on the applicable withholding tax can also be obtained through the application of Double Tax Treaties signed by Portugal. In all other cases, a distribution of dividends will be subject to the standard rate of withholding tax, between 25% and 28% (35% in the case of blacklisted jurisdictions).

MMCL's main activity is developed in the Services Sector of the Madeira IBC, in which we incorporate and manage a large number of commercial companies, which benefit from Regime III or IV referred above.

In addition to the establishment and management of a Madeira Company, Madeira Management can provide a registered office address service to clients that require a physical presence in Madeira, as well assistance relating to locating office space, staff and relevant suppliers.

With regards to employee requirements, please note that we have in-house solutions that can facilitate the compliance with this requisite for a relatively low cost. Further information can be provided on request.



INTERNATIONAL FREE TRADE INDUSTRIAL ZONE

Besides benefiting from the existing tax regime applicable to a MIBC company, specific tax advantages are also available to industrial companies operating within the MIBC's Industrial Zone.

In effect, the reduced tax rate of 5% until 2027, also applies to income obtained in Portugal. Furthermore, the withholding tax exemption applied to dividends and interest paid to shareholders, in this case will also apply to shareholders (corporate or individuals) resident in Portugal.

Companies operating in the Industrial Free Trade Zone may also benefit from a 50% reduction on the taxable income, when fulfilling two of the following criteria:

- Contribution to the modernization of the economy through technical innovation, new products and procedures;
- Diversification of the regional economy by introducing new activities of added value;
- Fixation of qualified human resources;
- Contribution to the improvement of the environment;
- Creation of at least 15 jobs, which must be maintained for a minimum period of 5 years.

INTERNATIONAL SHIPPING REGISTER

A wide range of tax and financial incentives are available to shipping companies duly incorporated and licensed to operate within the legal framework of the MIBC.

Portugal's second Shipping Registry, based in Madeira, is known as "MAR" meaning "Sea". All vessels registered under MAR fly the Portuguese flag and all international conventions ratified by Portugal are complied with by MAR. Because MAR registered ships fly the Portuguese flag, they can be used for cabotage (coastal shipping, navigation, trade or transport) in EU countries.

The benefits of the new regime will apply on the activities of a vessel operating outside the Portuguese territorial waters when it is owned by a company licensed to operate under the free zone legislation.

Yachts can also be registered in MAR.

Madeira Management has extensive experience with the registration of vessels, yachts and the management of shipping companies. Please contact us for further information.



FINANCIAL SECTOR

Banking, insurance, collective investment schemes and other types of financial activities can no longer be licensed in the MIBC.

CONCLUSION

If you individually or, as a professional intermediary have a client who requires a serious jurisdiction for any of the activities referred to in this document, Madeira is an option worthy of carefully consideration. Our qualified and professional staffs regularly travel to advise and meet with clients. Please contact us to set up a meeting or to discuss your requirements over the telephone.

Important Note

This document has been prepared by Madeira Management for the information of clients and associates. Whilst every care has been taken in its preparation, no responsibility can be accepted for inaccuracies. Readers are also advised that the law and practice may change from time to time.

