



GOLDEN VISA AND NON HABITUAL TAX RESIDENCY

 MadeiraManagement

## PORTUGUESE GOLDEN VISA

Portugal has established the so called "**Golden Visa**" or **Residence by Investment Program**, aiming to promote direct foreign investment into Portugal.

Foreign investors in Portugal, from **non-EU countries** (*Portuguese, EU and EEE nationals are not accepted*), may be eligible for a special visa, enabling them and their immediate family to work or study legally in the country and to travel within the Schengen area, provided that certain minimum amounts are invested.

The investment must be maintained for a minimum period of 5 years. After this initial period, the investor may immediately apply for a permanent residency permit.

The investment can currently be made in different manners:

- **Capital transfer** with a minimum value of **1.000.000** (one million) Euro (e.g. bank deposit, acquisition of financial assets);
- The acquisition of **real estate** for a minimum amount of **€500.000** (five hundred thousand Euros);
- The purchase of **real estate**, with construction dating back more than 30 years or located in **urban regeneration** areas, for refurbishing, for a total value equal to or above **€350.000** (three hundred and fifty thousand Euros);
- Creation of, at least, **10 jobs**.
- The investment of a minimum **€350.000** (three hundred and fifty thousand Euros) in **research activities** conducted by public or private scientific research institutions involved in the national **scientific** or **technologic** system;
- Capital transfer with a value equal to or above **€250.000** (two hundred and fifty thousand Euros) for investing in **artistic output or supporting the arts**, for reconstruction or refurbishment of the national heritage, through the local and central authorities, public institutions, public corporate sector, public foundations, private foundations of public interest, networked local authorities, local corporate sector organizations, local associations and public cultural associations, pursuing activities of artistic output, and reconstruction or maintenance of the national heritage;
- Capital transfer with a value equal to or above **€350.000** (three hundred and fifty thousand Euros), for purchasing shares in **investment funds** or in **venture capital** geared to capitalize small and medium companies that, in turn, must present a feasible capitalization plan, incorporated under the Portuguese law, with a 5 years maturity plan and at least 60% of investments made in Portuguese companies;
- Capital transfer with a value equal to or above **€350.000** (three hundred and fifty thousand Euros), destined towards the incorporation of a **Portuguese commercial Company**, combined with the engagement of at least **5 permanent employees** or to increase the share capital of an already incorporated Portuguese Company, with the engagement or maintenance of a minimum of five permanent employees, for a minimum period of three years.

A 20% reduction on the minimum investment amount can be obtained if the investment is made in areas classified as "low density".



It is important to point out that in February 2021 the Portuguese Government approved changes to the Golden Visa program which will come into force on the 1<sup>st</sup> of January 2022.

These changes have special impact on real estate investments which, in areas such as Lisbon, Oporto and coastal locations, will only be allowed for non-residential properties. Madeira on the other hand, as well as the Azores and interior regions of mainland Portugal will continue to allow for real estate investments in residential properties as from 2022. An increase in the minimum investment amounts in other types of investment have also been approved.

Madeira Management is available to assist non EU residents in applying for the Golden Visa programme In Portugal. We can do this directly, if the intention is for the client to apply from Madeira, or through our network of associates in Mainland Portugal, should a client prefer to invest there.

There are a number of documents required for the submission of a Golden Visa application:

- Passport and valid Schengen Visa;
- Portuguese fiscal number (we can assist in obtaining this);
- Criminal record from country of residence;
- Portuguese criminal record;
- Declaration from the tax department proving the absence of debts to the tax authorities;
- Declaration from the Social Security department proving the absence of debts to Social Security authorities;
- Proof of Investment (the type of proof will depend on the chosen investment);
- Declaration from the investor confirming compliance with the investment requirements;
- Valid Health Insurance in Portugal;
- 2 passport type photographs;
- Receipt of payment of the application's examination fee.

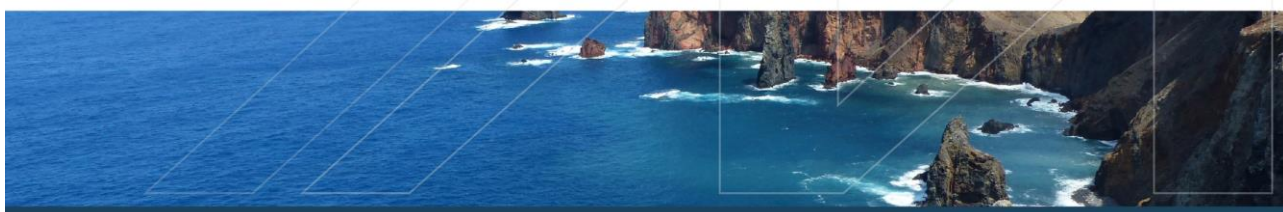
All foreign documents should be legalized with apostille or certified at a local Portuguese Consulate and, if presented in a foreign language (other than English), must be translated into Portuguese.

The application is submitted online with the Services of Foreigners and Borders (SEF) and will take a few months for the application to be processed. When processed, SEF will contact the investor's legal representative in Portugal and set up an appointment to collect signature and fingerprints.

The Golden Visa, when issued, will be valid for an initial period of one year and then should be renewed for subsequent periods of two years. After five years, the investor will be entitled to obtain Portuguese permanent residency and after six, full Portuguese citizenship can be applied for. When renewing the Visa, the individual should prove that he has remained in Portuguese territory for the required minimum periods: 7 days, in the first year; and 14 days in subsequent two year periods.

The Golden Visa involves the payment of the following official fees:

- Processing fee (application and renewal) - €533,00;



- Initial Golden Visa - €5.325,00
- Initial Golden Visa for family members - €5.325,00
- Renewal of Golden Visa - €2.663,00

It is important to point out that the Golden Visa does not necessarily imply Portuguese tax residency. If the holder of the Golden Visa does not stay in Portugal for more than 183 consecutive days, he/she will not be required to pay taxes for income generated outside of Portugal.

It is however also possible to apply for Portuguese tax residency, under certain conditions.

## NON HABITUAL TAX RESIDENCY

Portugal has also implemented a special regime for **non-habitual tax resident individuals**, which is intended to attract to Portugal certain qualified individuals and investments, as well as foreign pensioners. It is now ten years since the regime was initially implemented and significant changes to the initial regime have been recently introduced.

This special tax regime is applicable to individuals (EU or non EU residents) who have not been considered and taxed as tax residents in Portugal in any of the previous 5 years, but during that period have paid tax in a foreign country.

In order to be considered tax resident in Portugal one must either stay in the country for 183 days or more/year **or** hold permanent habitation premises on December 31 of a said year. After being recognised as a Non-Habitual Resident, one is entitled to be taxed in this capacity for a period of 10 (ten) consecutive years.

The main characteristics of the regime are as follows:

**Income obtained in Portugal:** The regime establishes that employment and self-employment domestic (Portuguese) income, related to certain "high added-value" activities of a scientific, artistic or technical nature (included in a list of activities published by the Portuguese Government), will be taxed at a flat rate of **20%**. The Portuguese government published a list of activities comprised in this special regime in 2010 and which ranges from architects, engineers, artists, auditors, doctors and dentists, some liberal professionals and highly skilled technicians to investors, directors and company managers. More recently, a new list has been introduced, eliminating some of the previous professions and introducing new ones.

All other Portuguese sourced income will be taxed at the standard progressive Personal Income Tax rates applied to Portuguese residents. Interest, dividends and capital gains of Portuguese origin will be taxed at a fixed rate of 28%.

**Income obtained outside Portugal:** The regime also establishes a tax **exemption** for foreign-sourced income, such as, employment income, self-employment income, rental income, interest, dividends as well as other investment income and pension income, under certain specific conditions, which vary depending on the type of income:





- **Employment income** – exempt as long as it has been effectively taxed in the source state, in accordance with an applicable Double Tax Treaty between Portugal and this State, or income has been effectively taxed in a country that has not signed a DTT with Portugal, but the income has not been obtained in Portugal.
- **Self-employment income related to high value added activities**, as per list referred above / **Capital Income** (interest, royalties and dividends) / **Real Estate Income** (rents) / **Capital Gains Income** - exempt as long as the income may be taxed in the source state, in accordance with an applicable Double Tax Treaty between Portugal and this State, or income may be taxed in a country that has not signed a DTT with Portugal, as long as it has not been obtained from a tax haven (as listed in Portugal) and the income has not been obtained in Portugal.
- **Pension Income** – As from 01.04.2020, foreign sourced pension income will be subject to a **10%** flat tax, as long as the income is not considered as having been obtained in Portugal (previously, pension income was exempt as long as it was effectively taxed in the source state, in accordance with an applicable Double Tax Treaty between Portugal and this State, or the income was not considered as having been obtained in Portugal). The new rules are applied also to lump-sum payments derived from life-insurance policies, pension funds and pension-savings plans.

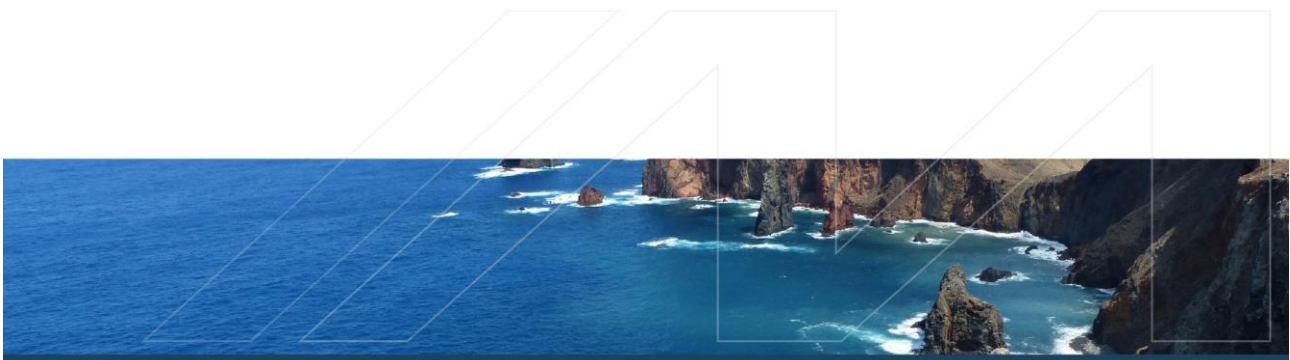
There are clear advantages in this special tax regime, even in those related to pensions, despite the recent changes.

Apart from the special rules applicable to Non-Habitual Residents as mentioned above, note should be made to the fact that there are no wealth taxes in Portugal and inheritance tax was abolished in 2004. Stamp Duty applies instead at a flat rate of 10% on the taxable value of the estate. There is however an exemption available for spouse, children and parents, meaning that estates left to such heirs pay no tax in Portugal at all.

An application for obtaining Non –habitual residence status should be submitted to the Portuguese Tax Authorities on or before 31<sup>st</sup> March in the year following the one in which the NHR status is intended to take effect. Granting of the NHR status is generally granted within 5 days, however may be subject to a review by the Tax Authorities, if there are any doubts regarding the previous tax residency of the applicant, in which case, it can take up to nine months to complete.

It is also important to point out that while there are no minimum stay requirements in Portugal, care must be taken to avoid deemed tax residence in another country. In effect, one cannot claim to have moved tax residence to Portugal, but keep one's state of affairs in the previous country to residence, as if no change had been made.

The Non-Habitual Residency application can be fairly straightforward, but a preliminary analysis should first be made to see the precise implications of the non-habitual tax residency. Once the status has been obtained, assistance will need to be provided to the client when submitting his/her annual tax return.



## FINAL NOTES

The Golden Visa Regime and the Portuguese Non-Habitual Residents Regime are legally compatible. A non-EU national can therefore simultaneously make an application to both regimes.

More recently, Portugal has also established other specialised types of Visa, namely the “**Start Up Visa**” and “**Tech Visa**”, with the aim of providing a residence visa for non-EU-Schengen start-up founders who want to establish their businesses and to reside in Portugal, also ensuring that highly qualified staff, especially from the technological area from outside the European Union, can access jobs created by Portuguese companies in a simplified way.

Once can also take into account the D7 Visa, a special residence permit for non EU pensioners or citizens with a recognised stable income, regardless of their age.

Portugal in general and Madeira (as well as the Algarve) have over the years become one of the top European destinations for purchasing property for investment and retirement. This is due to Portugal’s political and social stability, geographic location enabling people from across Europe to fly over in a couple of hours and obviously the fantastic climate.

Also being part of the European Union, Euro Zone and Schengen Agreement, the country provides an excellent quality of life and with its wonderful climate, is certainly the main reason it is a premium tourism destination.

These are all factors to consider, making Portugal an excellent choice of location for individuals who wish to gain access to Europe, or for Europeans who wish to obtain a less aggressive personal taxation.

### **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.*

