



Expat Consulting Portugal

The Non Habitual Residence Scheme as applying to returning Portuguese Citizens

There are several reasons for Portuguese emigrants to consider returning to Portugal, these include family and cultural ties and political and social uncertainty in some of the countries of the diaspora. Portugal's entry into the EU has catapulted Portugal into a developed country and brought the country's living standards in line with most other developed countries.

Recent changes to the Portuguese tax legislation has made the decision to relocate to Portugal more favourable than ever.

Generally, a Portuguese citizen is entitled to the benefits applicable to other foreigners settling in Portugal deriving from the non habitual residency scheme. In order to attract more immigrants and previous emigrants to return to Portugal, in 2009 the government introduced a favourable tax scheme, commonly known as the non habitual resident's scheme. The legislation, however, was not very clear as to the incentives applying to pensioners and retirees and the technical requirements were very restrictive. Due to these difficulties, the subsequent government updated the legislation, clarifying its applicability to pensioners and retirees and simplifying the technical requirements in requesting registration under this scheme

This scheme offers a 10 year tax holiday applicable to certain types of income, including pensions and private annuities. The scheme also extends, in certain circumstances to salary income in a very limited way, and income derived by certain professions, as approved in the tax legislation. Portugal has entered into double taxation treaties with most of the Portuguese speaking countries (PALOP) as well as with most countries of the Portuguese diaspora. These treaties together with the non habitual resident's scheme legislation regulate the incidence of taxation as may be applicable to returning emigrants.

One of the requirements is that the taxpayer was not a Portuguese resident taxpayer in the 5 years immediately preceding the application. Although this requirement seems simple enough, at times applicants unwittingly take steps which make the application difficult and sometimes impossible to achieve.

Pensions under this regime

Generally, private pensions are tax free under this scheme as well as private annuities. Civil pensions (payable by foreign governments or foreign local authorities) may also be tax free in Portugal if earned by Portuguese citizens in most cases.

Private annuities

Under its general taxing provisions, only 15% of the proceeds from privately purchased annuities are subject to income tax, the remaining 85% considered a return of capital.

Lump sum payments from pension funds

Should a taxpayer be in expectation of a lump sum payment from a pension fund, under most countries general law, he will be subject to tax thereon (a portion maybe taxfree). Should such a person be resident and registered in Portugal under the non habitual resident's scheme, and he has taken the necessary steps to leave the previous country, then the pension lump sum would in most circumstances be totally tax free. However, should the taxpayer not be registered under the non habitual residents scheme, this lump sum would be taxable in Portugal – the tax free portion would be irrelevant for Portuguese tax purposes and be subject to tax in Portugal.

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