



British retirees and Portugal's Non Habitual Residence Scheme

Portugal has been a popular British retirement destination for some time. There are many reasons for this:

- An agreeable climate
- A low incidence of crime
- A welcoming people
- Well developed leisure facilities (beaches, golfing, etc.)
- The country is readily accessible to the UK with extensive airlinks between the two countries.
- Portugal has a rich cultural, historical and gastronomic heritage.
- Currently a very favourable property market to buyers.
- In the 2000 WHO Health Report study of the world's public health systems, Portugal was ranked 12th.

The Non Habitual Resident's Scheme

In order to attract more immigrants to come to Portugal, the government introduced a favourable tax scheme, commonly known as the **non habitual resident's scheme**. This legislation however, was not very clear as to the incentives applying to pensioners and retirees. Due to these difficulties and others, the legislation was clarified as to its applicability to this group of beneficiaries.

The scheme offers a 10 year tax holiday to new residents in Portugal. However, planning is required to ensure a smooth accessibility into the scheme. As applicable to British retirees, the scheme operates in conjunction with the United Kingdom / Portuguese tax treaty. In Portugal, as in many other countries, residents are taxed on their world wide income. The United Kingdom has signed a tax treaty with Portugal in order to reduce the incidence of double taxation. The non habitual resident's scheme further modifies the position of those wishing to move to Portugal allowing for either tax exemption of some types of income which previously were taxable in Portugal (private pensions from a foreign source) and a favourable tax ceiling (20% - currently a tax surcharge is in effect) in the case of income earned from professional activities as enumerated in the law (see Appendix A).

Requirements of the Scheme

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 what should be a simple

application into a difficult process.

Under the Portuguese tax system, the applicant will be a tax resident if he spends more than 183 days in a tax year in Portugal, or have a Portuguese property which is considered to be his permanent home. There is also a Portuguese / UK double taxation treaty which determines residence in terms of a taxpayer's centre of vital interests. In the case of conflict, other factors besides the number of days spent in the country will be taken into account.

Private Pensions from a foreign source under the non habitual tax regime

According to the tax treaty between Portugal and the United Kingdom, private pensions from the United Kingdom are deemed to be taxable in Portugal for Portuguese residents. However under the non habitual resident's scheme, these pensions are tax-exempt. Therefore this type of income is completely tax free under this scheme.

Private annuities (insurance annuities)

Private annuities will be treated as above, with the additional proviso, as the law currently stands, that only 15% of the annuity will be subject to taxation in Portugal on the expiry of the 10 year tax exemption.

Civil pensions

Civil pensions (government and public authority pensions) are taxable by the UK authorities according to the above mentioned double taxation treaty (article 18) and therefore fall outside the ambit of this scheme. Although this appears to limit the benefits of the non habitual resident scheme, it should not be forgotten that the taxpayer and his/her spouse (in Portugal tax returns are submitted per family unit), may still have other income, which outside the scheme would be subject to marginal tax rates, but if some of the income is excluded from the tax computation, greatly reduces the taxes payable on income that maybe subject to tax.

Lump sum payments from pension funds

Should a UK taxpayer be in expectation of a lump sum payment from a pension fund, under the UK general law, he will be subject to tax thereon (a portion may be tax free). Should such a person be resident and registered in Portugal under the non habitual resident's scheme, and he has taken the necessary steps not to be an UK resident taxpayer, then the pension lump sum would be totally tax free. However, should the taxpayer not be registered under the non habitual resident's scheme, this lump sum would be fully taxable



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in Portugal – the tax free portion would be irrelevant for Portuguese tax purposes and be subject to tax in Portugal.

Income from salaries and services from the United Kingdom

Under the United Kingdom / Portugal tax treaty this type of income will be taxable in Portugal if the recipient is resident in Portugal. The non habitual resident's scheme however provides for a ceiling of 20% (currently a tax surcharge is in effect) on a list of approved high-income professions (see Appendix A).

Other Issues

Succession issues

There are no inheritance taxes on assets left to spouses and children and in their absence to parents and grandchildren. Assets left outside this group, is subject to a stamp duty of 10%

Foreigners, may leave their property by means of a will drawn up in accordance with their personal law, as opposed to Portuguese citizens where a portion of their assets must be left to the spouse and children / grandchildren, and in their absence to parents.

As of 17 August 2015, resident foreigners dying without a valid will (or similar document) expressly stating that they wish that their estate should be governed by their personal law, Portuguese inheritance laws will apply.

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Professions considered to be high value added for the purposes of the Non Habitual Residency Scheme

Ministerial Order 12/2010, of January 7

- Architects
- Engineers
- Geologists
- Artists (theatre, ballet, cinema, radio and television)
- Singers
- Sculptors
- Musicians
- Painters
- Auditors
- Tax consultants
- Medical doctors and dentists
- University professors
- Psychologists
- Archeologists
- Biologists and specialists in life sciences
- Computer programmers
- Computer consultants and information technology professionals
- Computer programming activities
- Computer consultants
- Management of computer equipment activities
- Activities related to information
- Activities on data processing, and related activities; web portals
- Other services related to data processing
- Other activities related to news gathering
- Other activities related to news agencies
- Activities related to scientific investigation and development
- Investigation and development of the physical and natural sciences
- Investigation and development in biotechnology
- Designers
- Investors, company directors and managers provided that investment made in terms of Investment Code of 249/2009 of the 23 September
- Senior managers of companies