PERSONAL INCOME TAX
NON-REGULAR TAX REGIME
FOR NON-REGULAR RESIDENTS
The Investment Tax Code, created by Decree-Law n. 249/2009, approved on September 23rd, implemented a Personal Income tax system for the non-regular resident, with the purpose of attracting to Portugal non-resident professionals qualified for activities with high added value intellectual or industrial propriety or know-how, as well as beneficiaries of pension schemes granted abroad.

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Who may apply for a non-regular resident status?

The non-regular resident tax regime is available for citizens meeting the following conditions:

• Deemed resident on Portuguese territory for tax purposes, according to any of the criteria defined under Art. 16, paragraph 1 or 2 of the Portuguese Personal Income Tax Code (CIRS), in the year to be taxed as a non-regular resident;

• Has not been deemed resident on Portuguese territory during the five years prior to the year pretended to be taxed as a non-regular resident.

When should the citizen apply for the non-regular resident status?

Before being deemed non-regular resident, a registration as resident on Portuguese national territory should be made at a local Tax office or Loja do Cidadão.

The application for a registration as non-regular resident should be submitted at the moment of the registration as a resident on Portuguese territory or later until March 31st, of the year following the year in which one became resident on Portuguese territory.

How can a citizen register as a non-regular resident?

Request the registration by submitting an application to the Director of the Taxable Persons Registration Service (Serviços de Registo de Contribuintes), meeting the delays mentioned above.

This application should be presented together with the statement mentioned hereafter and any accompanying documents to any Tax Office, any Loja do Cidadão, or sent by normal mail to the tax registration services at the following address: Direcção de Serviços de Registo de Contribuintes, Avenida João XXI, n.º 76, 6.º, 1049-065 Lisboa.

What statement should a citizen submit when applying for a registration as non-regular resident?

When applying for a registration as a non-regular resident, a statement must be submitted proving the non-fulfilment of the criteria necessary for being considered a resident on Portuguese territory during the five years before the date on which the taxation as non-regular habitual resident should start, for example:

• non-fulfilment of any of the conditions described on Art. 16, paragraph 1, 2 or 5 of the CIRS or
• based on the Convention for the elimination of double taxation.
What rights are granted to the non-regular resident?

A citizen deemed non-regular resident has the right to be taxed according to the non-regular resident tax scheme during a period of 10 consecutive years, from the year of the registration as a resident on Portuguese territory, as long as continues to be deemed resident in each of the 10 years.

This period of 10 years is not extendable.

Please note that the right to be taxed according to the non-regular resident tax regime in each year of the above mentioned period depends on the fulfillment of the condition of being deemed resident on Portuguese territory.

Whenever the citizen has not benefited from right to be taxed according to the tax regime defined for non-regular residents in one or more years of that 10 years period, still may benefit again from that same right in any of the remaining years of that period, provided the citizen still has a resident status for income tax purposes.

What activities are considered of high added value, of scientific, artistic or technical nature, for the purposes of application of the non-regular resident regime?

According to Ordinance n. 12/2010, January 7, table of the mentioned activities:

Table of activities considered of high added value according to the provisions of Art. 72, n. 6 and Art. 81, n. 4 of the Personal Income Tax Code (CIRS):

1 - Architects, engineers and similar:
   101 - Architects
   102 - Engineers
   103 - Geologists
2 - Visual artists, actors and musicians:
   201 - Theater, ballet, cinema, radio and television artists
   202 - Singers
   203 - Sculptors
   204 - Musicians
   205 - Painters
3 - Auditors:
   301 - Auditors
   302 – Tax Consultants
4 - Doctors and dentists:
   401 - Dentists
   402 - Medical Analysts
   403 - Clinical Surgeons
   404 - Ship’s doctor
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>405</td>
<td>General Practitioners</td>
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<tr>
<td>406</td>
<td>Dentists</td>
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<tr>
<td>407</td>
<td>Clinical dentists</td>
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<td>408</td>
<td>Medical physiatrists</td>
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<td>409</td>
<td>Gastroenterologists</td>
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<td>410</td>
<td>Ophthalmologists</td>
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<tr>
<td>411</td>
<td>Orthopedic Surgeon</td>
</tr>
<tr>
<td>412</td>
<td>ENT(Ear Nose and Throat) specialists</td>
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<td>413</td>
<td>Pediatricians</td>
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<tr>
<td>414</td>
<td>Doctors from other specialties</td>
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<tr>
<td>501</td>
<td>Professors</td>
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<tr>
<td>601</td>
<td>Psychologists</td>
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<tr>
<td>701</td>
<td>Archaeologists</td>
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<tr>
<td>702</td>
<td>Biologists and life sciences experts</td>
</tr>
<tr>
<td>703</td>
<td>Computer Programmers</td>
</tr>
<tr>
<td>704</td>
<td>Software consultant and activities related to information technology and computing</td>
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<tr>
<td>705</td>
<td>Computer programming activities</td>
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<tr>
<td>706</td>
<td>Computer consultancy activities</td>
</tr>
<tr>
<td>707</td>
<td>Management and operation of computer equipment</td>
</tr>
<tr>
<td>708</td>
<td>Data services</td>
</tr>
<tr>
<td>709</td>
<td>Data processing, hosting and related activities; Web portals</td>
</tr>
<tr>
<td>710</td>
<td>Data processing, hosting and related activities</td>
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<tr>
<td>711</td>
<td>Other data service activities</td>
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<td>712</td>
<td>News agencies</td>
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<td>713</td>
<td>Other information service activities</td>
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<tr>
<td>714</td>
<td>Scientific research and development</td>
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<tr>
<td>715</td>
<td>Research and experimental development on natural sciences and engineering</td>
</tr>
<tr>
<td>716</td>
<td>Research and development in biotechnology</td>
</tr>
<tr>
<td>717</td>
<td>Designers</td>
</tr>
<tr>
<td>801</td>
<td>Investors, Directors and managers of companies that promote productive investment, as long as they are connected to projects and concession contracts that are eligible for tax benefits per the Investment Tax Code (Código Fiscal)</td>
</tr>
<tr>
<td>802</td>
<td>Upper Management</td>
</tr>
</tbody>
</table>
Who is considered to be an investor, director and/or manager?

On this table, as regards the activities with code 8 (801-Investidors, directors and managers and 802 – Upper management), please note that:

a) Investors can only benefit from the non-regular resident tax regime if their income is obtained as a director or manager;

b) A Manager is considered to be:
   1) Anyone under the scope of Decree-Law n. 71/2007, March 27 (Status of Public Manager);
   2) Anyone responsible for permanent establishments of non-resident entities;

c) Upper management includes all people at a director position and with binding powers of the legal person.

NOTE: Taxable persons may be notified to present the necessary documents (powers of attorney, trade register certificate, minutes, etc.) proving their capacity as director/manager and correspondent power of legal representation.

Are remunerations of statutory bodies of a legal person always eligible for special tax rate of 20%?

The remunerations of the legal person’s statutory bodies classified as income from employment (category A), according to Art. 2, paragraph 3a) of the Personal Income Tax Code (CIRS), are only eligible for the special tax rate of 20% as long as the exercise of these functions is under the scope of code 801 of the above mentioned Ordinance.

What withholding tax rate is to apply by the entities paying or providing category A income to non-regular residents?

Entities paying or providing income of category A to non-regular residents, resulting from activities of high added value, of scientific, artistic or technical nature, listed on the mentioned Ordinance n. 12/2010, January 7, shall apply a withholding tax of 20%, according to Art. 3, paragraph 6 of Decree-Law n. 42/91, January 22.

And what about category B income?

Category B income, resulting from activities of high added value, of scientific, artistic or technical nature, listed in the mentioned ordinance, shall be subject to a withholding tax of 20%, according to Art. 101, paragraph 1d) of the CIRS, and Art. 8, paragraph 1 of Decree-Law n. 42/91, January 22.
TAXATION OF INCOME
OBTAINED BY NON-REGULAR RESIDENTS

A – PORTUGUESE SOURCE INCOME

Net income of category A (employment) and B (self-employment) obtained from the high added value activities, of scientific, artistic or technical nature mentioned above, by non-regular residents on Portuguese territory are taxed at the special rate of 20%, in case the aggregation option is not exercised – Art. 72, paragraph 6 of the CIRS.

In case this aggregation option is exercised, it is mandatory to include the total income included in Art. 71, paragraph 6, Art. 72, paragraph 8 and Art. 81, paragraph 7 of the CIRS, in accordance with Art. 22, paragraph 5 of the CIRS.

Regarding the remaining income of category A and B (not considered of high added value) and income of the remaining categories, obtained from non-regular residents, these shall be aggregated and taxed according to the general rules of the CIRS.

B – FOREIGN SOURCE INCOME

Elimination of international juridical double taxation using the exemption method

1. Category A income (employment) – Art. 81, paragraph 3 of the CIRS

The exemption method is applied to category A income obtained abroad by non-regular residents on Portuguese territory, if one of the conditions described in the following subparagraphs is satisfied:

   a) Person taxed by the source State (Nation), according to the convention to eliminate double taxation entered into by Portugal and the source State (Nation); or

   b) They can be taxed in another country, in cases where the convention to eliminate double taxation has not been held, as long as the income obtained is not considered to have been obtained in Portuguese territory, according to Art. 18, paragraph 1 of the Personal Income Tax (IRS) Code.

2. Income in category B (Self Employment), E (Capital Income), F (Real State Income) and G (Increase in Wealth) – Art. 81, paragraph 4 of the CIRS

Income in category B (Self Employment), obtained through high added value rendering of services of a scientific, artistic or technical nature, or
from intellectual or industrial property, as well as, from providing information regarding an experiment carried out in the commercial, industrial or scientific areas, and those in category E, F and G, obtained abroad by non-regular residents, are **exempt** if alternatively:

a) They are taxed by the source State/nation, according to the convention to terminate double taxation entered into by Portugal and the source State; or

b) They can be taxed in another country, in cases where the convention to terminate double taxation has not been held into under the terms defined by the OECD Model Tax Convention on Income and Capital, **as long as** it is not a territory subject to privileged tax systems (defined by Ordinance n. 292/2011, November 8) and, as long as the corresponding income, cannot be considered to have been obtained on Portuguese territory, as per Art. 18., n. 1 of the CIRS of the Personal Income Tax (IRS) Code.

3. **Income in category H (pensions)** - Art. 81., n. 5 of CIRS

Portuguese non-regular residents that have obtained category H incomes in foreign countries, have exemption if these incomes are from contributions that have not been deducted under Art. n. 2 of Art. 25. of CIRS and if the conditions below are met:

a) They are taxed by the source State/nation, according to the convention to eliminate double taxation held by Portugal and the source State; or

b) They cannot be considered to have been obtained on Portuguese territory as per Art. 18, paragraph 1 of the CIRS.

4. **Other income obtained abroad**

Any other type of income obtained abroad, as business or professional income of Category B, not covered by this tax regime for non-regular residents, will be taxed on Portuguese territory according to Art. 15, paragraph 1 of the CIRS:

- according to the convention to eliminate double taxation held by Portugal and the source State, in case there is one; or

- in case there is no Convention, apply the unilateral standard to eliminate international juridical double taxation.
**FREQUENTLY ASKED QUESTIONS (II)**

**Is the above mentioned income obtained abroad totally exempted?**

Yes. Nevertheless this income (category A, B, E, F, G and H) is compulsorily included for determining the tax rate applying to the remaining income, except for income provided for under Art. 72, paragraph 4, 5 and 6 of the CIRS, according to Art. 81 of n. 6 of the CIRS.

**Instead of the exemption regime, may the citizens opt for the tax credit method?**

Yes, the holders of the above mentioned exempted income obtained abroad may opt for **tax credit method** provided for by the international double taxation referred to in Art. 81, paragraph 1 of the CIRS, and in this case the income is compulsorily included for the purposes of taxation, except for income provided under Art. 72, paragraph 3, 4, 5 and 6 of the CIRS.

**Please note:**

Income of category A and B obtained abroad, not covered by the exemption method, once the requirements described in Art. 81, paragraph 3 and 4 a (and b) of the CIRS, is taxed to the special tax rate of 20%, if obtained form any of the high added value activities mentioned before.

**Who should submit Annex L attached to the revenue declaration “mod. 3” form for Personal Income Tax?**

Annex L is intended for declaring revenues obtained by non-regular residents on national territory, for the high added value activities listed above, of scientific, artistic or technical nature (tables 4A, 4B and 4C), as well as for identifying the double international taxation avoiding method selected for these earnings and earnings of categories E, F, G and H obtained abroad.

The form shall be submitted by the beneficiary of this income, registered in Portugal as non-regular resident for tax purposes.

This form is personal and can only be completed with the details of one single person.

The high value added income to mention on the following tables must also be filled in on the correspondent annexes (A, B or C).
Os dados recolhidos são processados automaticamente, destinando-se à prossecução das atribuições legalmente cometidas à administração fiscal.

Os interessados poderão aceder à informação que lhes diga respeito através da Internet devendo, caso ainda não possuam, solicitar a respectiva senha e proceder à sua correcção ou aditamento nos termos das leis tributárias.

Table 4A should be filled in with revenues from activities mentioned in Annex A, obtained by the non habitual resident for the high added value activities listed above, as follows:

- Column 1: paying entities of mentioned income;
- Column 2: codes of income used for reporting in Annex A;
- Column 3: codes of the activities producing the mentioned income (see table above);

Column 4: gross earnings before any deduction, obtained from high added value activities:

Table 4B should be filled in with professional income, mentioned on table 4A of Annex B, corresponding to the high added value activities, including intellectual or industrial property or know-how, listed on the mentioned table.

Should be filled-in as follows:

- Column 1, paying entities of mentioned income;
- Column 2, field number of table 4A of Annex B where income has been mentioned, earned by the non usual resident from high value added activity;
- Column 3, high added value activity code, as on the mentioned table, using code 999 for income from intellectual, industrial property or know-how;
- Column 4, income amount mentioned on table 4A of Annex B, obtained from high added value activity.
Table 4C should be filled in with the results (taxable profit or tax loss) of the professional earnings, according to the accounting registers, corresponding to high added value activities, including intellectual or industrial property and *know-how*, as mentioned on the table.

Should be filled-in as follows:

- Column 1, paying entities of mentioned income;
- Column 2, code of the high added value activity according to the mentioned table, code 999 should be used for income from intellectual and industrial property or *know-how*;
- Column 3, positive results regarding high added value activities;
- Column 4, negative results of the year regarding high added value activities.

<table>
<thead>
<tr>
<th>CAMPO DO QUADRO 6 DO ANEXO J</th>
<th>CÓDIGO ATIVIDADE</th>
<th>CAT. A ou B</th>
<th>PAIS</th>
<th>RENDIMENTO</th>
<th>COM IMPOSTO PAGO NO ESTRANGEIRO</th>
<th>SEM IMPOSTO PAGO NO ESTRANGEIRO</th>
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</tbody>
</table>

Table 5 should be filled in with income obtained abroad from high added value activities of category A and B, sorting income taxed abroad untaxed income.

To fill-in as follows:

- Column 1: field of table 6 of annex J where income obtained abroad from high value added activity has been mentioned;
- Column 2: activity code of the high value added activity, according to the mentioned table, using code 999 for income from intellectual and industrial property or *know-how*;
- Column 3: classify earnings as category A or category B for personal income tax purposes, using therefore letters A or B;
- Column 4: country code (include the link of the table at the end of the instructions of annex J) where the income from the high value added activities has been obtained;
- Column 5: income amount obtained from high value added activity;
- Column 6: amount of the tax paid abroad regarding high value added activity;
- Column 7: mark in case income obtained abroad has not been taxed in that country.
Table 6 in Annex L allows exercising the options provided for in the Portuguese Personal Income Tax Code (CIRS).

Table 6A – earnings from high value added activities, the beneficiary from high value added activities may opt for flat rate taxation, on field 1, or for inclusion, marking field 2. Opting for inclusion means encompassing all household revenues and limits the option in table 6B.

Table 6B – income obtained abroad – Annex J – Elimination of international double taxation, shows the chosen method for avoiding international double taxation.

The beneficiary may opt for the exemption method, in following circumstances, provided that he has not opted for inclusion in table 6:

- **Category A income** – if this income is taxed in another contracting State/nation, under the convention to eliminate double taxation or taxed in another country, region or territory, without any convention to eliminate double taxation and according to the provisions set out in paragraph 1 of article 18 of the CIRS, it should not be considered as obtained on Portuguese territory;

- **Category B income** – if obtained from services provided as high value added activities, of scientific, artistic or technical nature or obtained from intellectual or industrial propriety or from the supply of information regarding the experience acquired on the industrial, commercial or scientific sector in any of the following circumstances:

  a) Income is taxable in the other contracting Member State, according to the convention to avoid double taxation;

  b) Income is taxable in another country, territory or region, according to the OECD tax convention model on income and capital, except for those listed as privileged and clearly more favourable tax regimes, provided that this income is not considered as obtained on Portuguese territory according to the article 18 requirements of the CIRS.

- **Category E, F or G income** – provided that the conditions mentioned above are met.

- **Category H income** – provided that, if originated by contributions, this income has not generated a deduction according to Art. 25, paragraph 2 of the Portuguese Personal Income Tax Code (CIRS), each time the following conditions are met:

  a) Income is taxed in another contracting State, according to the treaty to eliminate double taxation signed by Portugal with this State; or
b) Based on the criteria of paragraph 1 of Art. 18 of the CIRS, income is not considered as obtained on Portuguese territory.

Please note: Tax return Form “mod. 3” for Personal Income tax including Annex L should be filed online, on the Portal das Finanças, during the month of April, when declaring exclusively category A and/or H income and during the month of May for the remaining cases.
HOW TO CONTACT THE TAX AND CUSTOMS AUTHORITY (AT)

In order to contact the AT, through webportal Portal das Finanças, it is possible to request the correspondent access password on www.portaldasfinancas.gov.pt on the option Novo utilizador, on the right and fill in the application form with the requested personal data.

It is also possible to authorize the AT to send optional and voluntary compliance support messages by SMS and e-mail. This is a free personal and confidential service, nevertheless you will have to ensure the reliability of e-mail and mobile phone.

As soon as the password application is sent two codes are automatically made available:

- to ensure mobile phone reliability, by SMS;
- to ensure e-mail reliability, by e-mail.

These codes can only be confirmed on the website Portal das Finanças on Cidadãos > Outros Serviços > Confirmação de Contactos after having received the access password for Portal das Finanças, which is sent by mail to the fiscal residence.

Aplicable legislation and administrative instructions:

- Dec. Law n. 249/2009, September 23
- Ordinance n. 12/2010, January 7
- Circular n. 2/2010, May 6
- Circular n. 9/2012, August 3

Please consult the Double Tax Treaties on website Portal das Finanças, Início >Informação Fiscal> Convenções

FOR FURTHER INFORMATION:

- Please contact Centro de Atendimento Telefónico (CAT) da Autoridade Tributária e Aduaneira, telephone number 707 206 707, every working day from 08H30 to 19H30;
- Please consult the information brochures on Portal das Finanças
- Please consult website Tax System in Portugal, in English
- Please turn to a Tax Office.