



# STILL WATERS

BUDGET  
LAW 18

GARRIGUES

# PORTUGUESE BUDGET LAW FOR 2018 - RELEVANT TAX MEASURES

Law 114/2017 of 29 December 2017 enacted the Portuguese Budget Law for 2018. Amendments are in force from 1 January 2018 onwards. Garrigues tax team looks into the most relevant tax measures included in the Budget Law, which include:

- The increase of the Corporate Income Tax (CIT) State Surtax was a tax measure floated in the weeks prior to the release of the Budget Bill but was not included in the first version presented in Parliament. During Parliament discussions, it was agreed to change the highest bracket of the State Surtax for CIT purposes applicable to taxable income in excess of € 35 million from 7% to 9%. The table below provides an overview of the CIT rates in Portugal for FY18.
- The adoption of a domestic rule deeming as Portuguese source the indirect transfer of immovable property located in Portugal - namely via the transfer of shares of foreign companies, if, at any time during the 365 days preceding the alienation, more than 50 percent of the value of the shares is derived, directly or indirectly through one or more interposed entities, from immovable property located in Portugal. This rule does not apply to properties assigned to agricultural, industrial or commercial activities not related to property trading. The same rule is adopted in Personal Income Tax (PIT).
- Relaxing of rules covering impairments on bad debts arising from insolvency proceedings or special revitalization processes (PER). This also includes measures to ease Value Added Tax (VAT) bad debt relief in those insolvency/revitalization processes.
- Extension of the notional interest deduction on subscribed share capital contributions - which provides for the application of a CIT deduction on the basis of a notional 7% rate over the share capital contribution not exceeding € 2 million for a maximum period of 5 years - to also cover conversion of credits (no longer restricted to shareholders) carried out within a share capital increase.
- Amendments to the Real Estate Transfer Tax exemption (and Stamp Tax exemption) applicable to corporate reorganizations, whose application will no longer require a prior request to the tax authorities (currently a burdensome and lengthy procedure). A description of the restructuring and underlying economic benefits should be included in the tax file of the entities benefiting from those exemptions.
- Revamp of the tax incentives for urban rehabilitation that have been a cornerstone of the successful urban requalification of both Lisbon and Oporto. This revamp also includes the introduction of a new concept of shops with history that will benefit from Municipal Property Tax exemption and increased CIT deduction of costs on refurbishment.
- The reintroduction, with effects as from January 1, 2018, of the Island of Mann, Jersey and Uruguay as Blacklisted Jurisdictions, thus reverting an elimination that had been approved back in 2016.
- Changes are also included in the Insolvency Code affecting tax benefits. The scope of the tax benefits regarding income taxes within insolvency procedure (with liquidation) is amended in order to exempt from PIT/CIT any income, gains or positive variations in equity not reflected in the P/L arising from the transfer in lieu of payment of assets and rights of the debtor; (ii) transfer of assets and rights of the creditors; or (iii) from the sale of assets and rights. The Stamp

Tax exemption on insolvencies is extended to the constitution or extension of guarantees provided under an insolvency, payment or recovery plan or made in connection with the liquidation of the insolvent estate.

- Under PIT, the current 5 taxable income tax brackets were divided into 7 income tax brackets with the rates up to 48% being maintained. It is confirmed that the extraordinary PIT surtax is extinguished for FY18 onwards. The additional PIT solidarity tax rate applicable to annual taxable income in excess of € 80,000 should remain in force, without any amendment.

- The PIT simplified regime was also amended (albeit in a more restrained manner than initially proposed). The lump-sum deduction from taxable income by applying the coefficients of the simplified regime may not be less than the positive difference between 15% of the gross income from services and the total of expenditure related to the activity incurred by the taxpayer (above/added by € 4,104). For the purpose of allocating (exclusively or partially) to the activity, the taxpayer must indicate in the e-invoice portal the general expenses with goods and services, rents, real estate (detailing if related to hotel activity or local accommodation) and imports and intra-Community acquisitions.

### Annex - Summary of the CIT Rates for 2018

Standard CIT rate	21% on taxable profits	<p>Levied on companies resident for tax purposes in Portugal or Madeira (also applicable to Portuguese PEs of foreign entities)</p> <p>Other reduced rates include:</p> <ul style="list-style-type: none"> <li>• 17% for SMEs on the first €15,000 of taxable income (the standard CIT rate shall apply on the excess)</li> <li>• 12.5% for SMEs located in Portuguese inland regions on the first € 15,000 of the taxable amount (the standard CIT rate shall apply on the excess)</li> <li>• 16.8% for companies resident for tax purposes in Azores (also applicable to PEs of foreign entities registered in Azores)</li> <li>• 5% for entities licensed to operate in the Madeira International Business Centre until 31 December 2027 subject to limitations on activities, taxable income thresholds and number of jobs created</li> </ul>
Municipal surtax (Derrama)	Up to 1.5% (depending on municipality) on taxable profits	<p>Levied on taxable income, prior to the deduction of any available carryforward tax losses. The local surtax is assessed and paid when filing the CIT return, but is a revenue of the municipality in which the company operates (some municipalities have reduced rates or exemption)</p>
State surtax (Derrama Estadual)	<ul style="list-style-type: none"> <li>• 3% on taxable profit exceeding € 1.5 million and up to € 7.5 million</li> <li>• 5% on taxable profit exceeding € 7.5 million and up to € 35 million</li> <li>• 9% on taxable profit exceeding € 35 million</li> </ul>	<p>Levied on taxable income, prior to the deduction of any available carryforward tax losses. The state surtax is paid in three instalments</p> <p>A regional surtax (Derrama Regional) applies in the Autonomous Region of Madeira on the same terms but with a 20% reduction on the tax rates</p>

For an extended overview of the Budget Law in Portuguese please [click here](#)

### LISBOA

Av. da República, 25 -1º  
1050-186 Lisboa (Portugal)  
T +351 213 821 200  
F +351 213 821 290

### PORTO

Av. da Boavista, 3523 - Ed. Aviz, 2º  
4100-139 Porto (Portugal)  
T +351 226 158 860  
F +351 226 158 888

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