

GARRIGUES

# Indirect Taxes Newsletter

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Main developments in indirect tax matters in Portugal





## News

### Housing package: tax incentives for the sale and rental of residential properties have been approved

The Portuguese Government has presented a set of measures aimed at mitigating the impact of the significant increase in housing prices observed in Portugal in recent years. Through Law no. 9-A/2026, of 6 March, the Parliament granted the Government legislative authorization to approve several tax incentives for the construction, rehabilitation, sale and rental of residential properties.

In the use of the aforementioned legislative authorization, Decree-Law no. 97/2026, of 20 May, was approved, which includes tax relief measures to promote the supply of housing. The most relevant tax changes implemented by this law are highlighted below.

#### Application of the reduced VAT rate

Item 2.42 was added to list I, annexed to the VAT Code, providing for the application of the reduced VAT rate (currently 6% in Portugal mainland and 4% in the autonomous regions) to construction or rehabilitation contracts for real estate intended for sale as the purchaser's own and permanent residence or exclusively for residential rental, provided that:

- The sale price does not exceed €660,982; or
- The monthly rent does not exceed €2,300.

These limits correspond to the concepts of “moderate sale price” and “moderate monthly rent” defined by reference, respectively, to the Real Estate Transfer tax (IMT) Code and the

guaranteed minimum monthly remuneration, and may therefore be updated in the future.

In addition, the following conditions must all be met:

- In the case of sale:
  - The acquisition of the property must be subject to the IMT rates applicable to the acquisition for the purchaser's own and permanent residence.
  - The sale of the property must be completed within a maximum period of 24 months after the issuance of the documentation relating to the property's use.
  - The application of the reduced VAT rate must be expressly stated in the public deed of sale.
- In the case of lease:
  - The lease must be exempt from VAT.
  - The lease agreement must be duly communicated to the Portuguese Tax Authority (PTA).
  - The first lease agreement must come into force within a maximum period of 24 months after the issuance of the documentation relating to the use of the property.
  - During the first five years after the issuance of the documentation relating to the use of the property, the property must be subject to residential lease for a minimum period of 36 months, consecutive or non-consecutive.

- The property must not be sublet for an amount higher than the moderate monthly rent.

This amendment to the VAT Code takes effect from July 1, 2026, and expires on December 31, 2032, and only applies to construction or rehabilitation works started between September 25, 2025, and December 31, 2029, for which VAT became due as from January 1, 2026.

### **Partial refund of VAT borne by private individuals on construction works**

Partial refund of VAT borne by individuals, outside the scope of any professional or business activity, on the acquisition of construction services relating to properties intended for their own and permanent residence (i.e., where they have their tax residence) is foreseen, provided that VAT becomes chargeable by December 31, 2032 and the standard VAT rate has been applied.

For this purpose, the property must be allocated, within six months from the issuance of the documentation relating to the beginning of use, to own and permanent residence, and must be maintained for a minimum period of 12 months, unless the exceptional circumstances defined in the Personal Income Tax (IRS) Code are verified.

This regime enters into force on July 1, 2026, and applies exclusively to situations in which the acquisition price of the land for construction or the respective taxable patrimonial value, if higher, plus construction costs (excluding VAT), does not exceed €660,982 (as defined by reference to the IMT Code as indicated above).

The amount to be refunded shall be the difference between the VAT borne at the standard rate and the VAT resulting from the application of the reduced rate to construction services.

### **Reverse-charge mechanism in the construction sector**

The application of the reverse charge mechanism is now also applicable to the acquisition of construction services related to residential properties by taxable persons who only carry out activities that do not grant the

right to deduct input VAT when they are purchasers of construction or rehabilitation works provided for in item 2.42 of list I annexed to the VAT Code referred to above.

To this end, those VAT-exempt taxable persons, since they are not required to submit VAT returns on a regular basis, must submit, by electronic data transmission, the return corresponding to the taxable transactions carried out and pay the respective VAT, at the legally authorized collection points, by the end of the month following the month in which it became chargeable.

### **Application of the increased IMT rate of 7.5% to non-residents**

The increased IMT rate of 7.5% is now applicable to the acquisition, by non-residents, of urban buildings or autonomous fractions intended exclusively for housing, ruling out the application of the exemptions and reductions normally provided for in the IMT Code, except when the non-resident has been considered tax resident in national territory under the terms of article 16 of the IRS Code.

However, in cases where the non-resident acquirer:

- Becomes tax resident in the Portuguese territory within two years from the acquisition
- or
- during the first five years after the acquisition, allocates the property to housing rental with moderate monthly rent, within six months following that date, keeping it rented for at least 36 months, consecutive or interpolated

may request the PTA to refund the difference between the tax paid and the amount that would result from the application of the general rates provided for in the IMT Code, within six months from the date on which they become a resident or on which the lease agreement is signed, respectively.

## The Volta system for the recycling of beverage packaging has come into force

The new Deposit and Refund System (SDR) applicable to beverage packaging, commonly known as "Volta", came into force in Portugal on April 10, 2026, with the aim of encouraging the return and recycling of packaging.

This system is based on the collection of a deposit of €0.10 per package, paid at the time of purchase and refunded to the consumer when it is returned, empty and in good condition, at an authorized collection point (such as supermarkets or stores). This amount is a refundable deposit, so it is not subject to VAT, and must be itemized on the invoice, with the respective legal basis for not applying VAT.

The SDR applies to non-reusable primary beverage packaging made of plastic, aluminum and ferrous metals, with a volume of up to 3

liters, covering categories such as water, soft drinks, juices and beer. Excluded are, among others, service packaging and beverages with a high dairy content.

Packagers are required to register with the system management entity (SDR Portugal) and to comply with several obligations, including (i) prior registration of packages, (ii) submission of monthly and annual declarations and (iii) payment of deposit amounts for each package and an annual financial instalment.

After its approval by SDR Portugal, the packages must have a barcode and the "Volta" symbol on their label.

This new regime reinforces the responsibility of producers and promotes a more circular economy, through the recovery and return of used packaging.



## Trends

### **The Constitutional Court confirms its understanding on the reduced VAT rate in urban rehabilitation**

Following the guidance of the Ruling for Uniformization of Jurisprudence of the Supreme Administrative Court (STA), of 27 March 2025, the Constitutional Court, in Judgement no. 155/2026, of February 10, 2026, confirmed that the interpretation adopted regarding item 2.23 of list I annexed to the VAT Code (in the wording that was in force until 6 October 2023) according to which the application of the reduced rate does not depend solely on the work being carried out in an Urban Rehabilitation Area, but also requires demonstrating that the intervention is part of a duly approved urban rehabilitation operation, is not unconstitutional.

### **The CJEU clarifies that the delay in receiving an invoice cannot prevent the immediate deduction of VAT**

In its judgment of February 11, 2026 (T-689/24), the CJEU ruled on the possibility for a taxable person to exercise the right to deduct VAT on the VAT return for the period in which the transaction actually took place, even if the invoice was only received in the following tax period, but still in time to be included before the submission of that return.

The Court clarified in this regard that holding the relevant invoice is a formal condition for the exercise of the right of deduction, which cannot be conditional, since the actual completion of the taxable transaction and the chargeability of input tax should be deemed sufficient. Deferring the deduction to the following tax period entails a temporary financial burden for the taxable

person, which is incompatible with the principles of neutrality and the immediate right to deduct. The Court also rejected the justification based on the fight against tax fraud and evasion, considering that a restriction on the right to deduct exceeds the principle of proportionality, especially when the taxable person already has a valid invoice on the date of submission of the tax return.

This decision consolidates the understanding that constraints of a purely formal nature on the exercise of the right to deduct VAT cannot prevail over compliance with the respective substantive requirements, in the light of European Union law.

### **The CJEU clarifies the VAT treatment of loyalty programs**

In its judgment of March 5, 2026 (C-436/24), the CJEU clarified that loyalty programs granted by suppliers to their customers, which consist of awarding points determined according to the volume of purchases of goods and which can be used to purchase new goods from the same supplier, are not covered by the concept of “voucher”, insofar as they do not create any obligation for the supplier to accept them as consideration (in whole or in part) for the transfer of goods, but only allow the customer to obtain additional goods when he/she makes a new purchase from that supplier.

Thus, the points awarded under those programs merely act as discounts on future purchases, rather than as independent means of payment, and therefore do not constitute vouchers within the meaning of the VAT Directive.

## The CJEU once again rules on the VAT regime applicable to intra-group transfer pricing adjustments

Under the *Stellantis* Judgment (C-603/24) of May 13, 2026, the CJEU clarified that intra-group transfer pricing adjustments do not constitute supplies of services for VAT purposes, but correspond only to mere intra-group financial settlements, without an identifiable consideration, unless there is a legal relationship between the companies in the group characterized by reciprocal commitments aimed at the provision of services between them, remunerated by means of a payment for those services in the form of an adjustment, establishing a direct link between the provision of services and that adjustment.

This court ruling reiterates the understanding adopted in the judgment of September 4, 2025 (C-726/23), highlighted in our last Newsletter, even though the CJEU held that the transfer pricing adjustments made in this specific case should have been subject to VAT because they constituted consideration for services provided between the group companies as they involved reciprocal commitments within the meaning described above, *i.e.*, because there was a specific advantage for the subsidiary and a direct link between the provision of services and the respective remuneration (even if variable).

For further details on the CJEU's reasoning in the *Stellantis* Judgment, see the note published by our tax litigation team, which followed this case, available at [CJEU clarifies the VAT regime for intra-group transfer pricing adjustments](#).

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