

# The Portuguese Non-habitual tax residents' regime

The Non-habitual Tax Residents regime ("NHR") foresees a very favorable tax regime applicable to individuals transferring their tax residence to Portugal. The NHR is one of the most competitive European regimes, in particular due to the following key-features: no deemed taxation / "lump-sum" taxation, no limitation on the remittance of funds, no wealth tax and no gift/inheritance tax on funds or assets transferred to spouses, ascendants (e.g. parents) or descendants (e.g. children). Moreover, this regime applies free of charge and is granted for a period of 10 years.

## Who is eligible?

A non-habitual tax resident is an individual that:

- Becomes a resident taxpayer for Portuguese Personal Income Tax Code ("PIT Code"); and
- Was not a resident taxpayer for PIT purposes in the 5 years prior to the application of the regime.

To qualify as a tax resident under Portuguese domestic rules, an individual is required to:

- Spend more than 183 days in Portuguese territory; or
- Own a dwelling that qualifies as a habitual residence in Portuguese territory on December 31st of the relevant tax year (regardless of the number of days effectively spent in Portugal).

## Benefits

The benefits provided in the NHR range from a full exemption on certain types of income and a reduced flat tax rate of 23.5% to other types of income.

<b>Foreign-source income</b>	<b>Passive income</b> derived outside Portugal (e.g. dividends, interest, pensions and rental income) are fully exempt in Portugal and this exemption applies irrespective of the taxation applicable at source (i.e. it is possible to achieve double non-taxation).
	<b>Active income</b> (e.g. income from employment and self-employment) derived in connection with "high value added activities" may also be fully exempt provided specific conditions are met. The activities qualified as "high value added" are identified in a statutory shortlist and include software developers, academics, researchers, tax advisors, senior company personnel and, in certain cases, board members such as CEOs and CFOs.
<b>Portuguese-source income</b>	<b>Active income</b> derived in Portugal in connection with "high value added activities" will be subject to a flat rate of 23.5% (instead of the general progressive tax rates).

## Legal certainty

In order to provide additional comfort to the individual applicants, it is possible to obtain a tax ruling from tax authorities, confirming that the individual is eligible and may claim the benefits of this regime. This option may be particularly advisable in respect of more complex investment structures.

The NHR is a straightforward procedure, however a case-by-case analysis is required to understand (i) whether the applicant meets all the requirements and (ii) what may be the scope of the benefits granted. Do not hesitate to contact VdA as we will be more than happy to assist you in clarifying your questions and / or assisting you in the process of applying for the NHR.