Portugal may not be the first country that comes to mind when talking about favourable tax regimes but, in fact, Portugal offers a very attractive tax regime to newly resident individuals, referred to as Non-Habitual Residents (NHRs).

This regime provides for a flat income tax rate of 20% for qualifying employment and self-employment income and a tax exemption for almost all foreign source income.

The Portuguese economy has become increasingly diversified and service-based since the country joined the European Union (EU) in 1986. In competitiveness, Portugal ranks 51 out of 148 countries in the 2013-2014 World Economic Forums' Global Competitiveness Report and Portugal ranked 31 out of 189 countries in the 2013 World Bank Doing Business Report.

Add free remittance of funds, a friendly residence permit regime allowing for free movement within the Schengen area and the possibility to apply for Portuguese nationality and consequently an EU passport, the absence of wealth tax and a beneficial treatment of gifts and inheritances, and it is clear why Portugal is a very attractive location. The country is investing to become a premium tourism and real estate location, as well as a leading EU country in R&D and information technology. The government has launched an economic strategy focused on boosting exports and foreign direct investment. The launch of the 'Living in Portugal' site (www.livinginportugal.com/pt), the Golden Visa programme (see page 76) and the 2013 Corporate Income Tax reform are examples of the government's commitment to attract foreign investment to Portugal.

Portuguese Tax Regime for Non-Habitual Residents

The NHR regime, which is a beneficial Personal Income Tax (PIT) regime, is available to individuals becoming tax residents in Portugal, provided they were not Portuguese tax residents in the previous five years. The status is granted for a period of 10 consecutive years. Since 2012, the Portuguese tax authorities have simplified the procedures for registration under the NHR regime, evidence of Portugal's commitment to attract foreign talents, as well as High Net Worth Individuals (HNWIs) and their families.

There are already more than 1,000 individuals registered under the NHR regime and more than 400 applications are presently under analysis. Most NHRs come from Brazil and the European Union (mainly from France, Ireland, The Netherlands, Poland and Switzerland). Most of these individuals are registered as employees/self-employed with a 'high value added activity'. The other individuals registered have mainly pension income and income from investments.

To be considered as a tax resident, it is necessary to remain in Portugal for more than 183 days during the relevant fiscal year or to have a dwelling in Portugal on 31 December of that year with the intention to hold it as habitual residence.

NHRs are subject to a reduced flat 20% personal income tax rate on salaries as well as on business and professional income of a Portuguese source arising from listed 'high value added activities of a scientific, artistic or technical nature', as per a list published by the tax authorities. A 3,5% surcharge is currently also applicable.

NHRs will be exempt from PIT on salaries of a non-Portuguese source, if such salaries were subject to tax in the country of source under an existing double tax treaty or, if no double tax treaty exists, provided that they were effectively taxed in such country.

As a result, multinational corporations will have a major advantage in locating their centres of excellence (e.g. their R&D departments) in Portugal and Portuguese companies will have a significant stimulus to attract the best foreign talents.

Business and professional income of a non-Portuguese source relating to 'high value added services of a scientific, artistic or technical nature', as well as from intellectual or industrial property or 'know-how', earned by NHRs abroad are exempt from PIT, provided such income could be taxed under an existing double tax treaty or could be taxed in another non-'blacklisted' jurisdiction in accordance with the provisions of the OECD Model Tax Convention. It is not necessary that the income is actually taxed, but merely that the country of source has the right to tax it.

Rental income, capital gains on the sale of foreign real estate and investment income, such as dividends and interest from a non-Portuguese source are also exempt from PIT, provided the above conditions are met.

Pensions paid abroad to NHRs are also exempt from PIT, if such pensions were subject to tax under an existing double tax treaty or if the pension is not considered as obtained in Portugal and the related contributions did not give rise to a PIT deduction in Portugal. Since most double tax treaties grant exclusive taxation rights to the country of residence (which would be Portugal), in practice this means that the pension income may end up not being taxed in Portugal or in the country of source. Furthermore, by becoming Portuguese NHRs, HNWIs may be able to accrue their wealth in a friendly tax environment (other than a blacklisted tax haven), to dispose of their assets while benefiting from tax exemptions, to pass on their wealth or estate without inheritance or gift taxes to the next generation and/or to enjoy their retirement without tax leakage on their pensions.

A few reasons why living and investing in Portugal makes business sense

- A 20% flat rate for Portuguese-employment income from qualifying activities and exemption for almost all foreign source income is available for NHRs
- A tax exemption for gifts and inheritance tax to spouse, descendants or ascendants. Inheritances or gifts to other individuals will be either not taxable, due to generous territoriality rules, or subject to a flat 10% stamp tax rate
- No wealth tax and free remittance of funds either to Portugal or abroad
- Beneficial treatment for pensions and other life insurance products (including unit linked) may further significantly reduce the effective tax burden on capital invested
- Companies licensed to operate in the MIBC, including branches of non-resident entities, benefit from a 5% flat Corporate Income Tax (CIT) rate until 31 December 2020, applicable to income derived from transactions with non-residents (or with other MIBC entities), limited to thresholds of taxable income, and depending on the creation of jobs. Exemption from withholding tax applies on dividends, interest, royalties and services
- Portuguese companies may take advantage of EU non-discrimination rules and EU Directives on mergers, dividends, interest and royalties, as well as Portuguese double tax treaties
- Dividends and capital gains obtained by Portuguese companies can benefit from a participation exemption regime, which make Portugal interesting as a location for investments abroad, including investments in Brazil and the Portuguese-speaking countries in Africa.

Portugal has signed 67 double tax treaties, 61 of which are in force, more than 50 investment protection agreements, 15 tax information exchange agreements, most of which already in force (e.g. Bermuda, Cayman and Gibraltar) and several social security agreements.

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