

## 2022 PORTUGUESE STATE BUDGET PROPOSAL

*The 2022 State Budget proposal contains some tax relief measures, such as the creation of two new PIT brackets with reduced rates, a partial PIT exemption for the youngsters and the announced end of the Special Advance Payment (PEC).*

*However, some of the proposed changes may lead to an increased tax burden, including the mandatory inclusion of capital gains for PIT purposes and an increase of taxation of "sin" goods, such as alcohol and tobacco.*

The Portuguese Government submitted to the Parliament the State Budget proposal for 2022. In this newsletter we review the main tax changes proposed by the Government, which will now be discussed and approved by the Parliament.

### PERSONAL INCOME TAX (PIT)

In what concerns Personal Income Tax (**PIT**), the main changes are as follows:

- **Return Programme.** The return programme, which exempts 50% of the employment income and professional income obtained by taxpayers who became Portuguese residents in 2019 and 2020, will be extended to taxpayers that become residents in 2021, 2022 and 2023 provided that they have not been residents in the three previous years.
- **Youngsters partial PIT exemption.** A partial PIT exemption will apply to employment income and professional income obtained by taxpayers with the ages of 18 to 26, who are not dependents, after the conclusion of an education level equal to or higher than level 4 (in the case of level 8, the exemption may extend until the age of 28). The exemption will apply in the first 5 years after the conclusion of the required level of education and will cover:
  - 30% of the income in the first two years, with a limit of 7.5 times the value of the Social Support Index;
  - 20% of the income in the following two years, with a limit of 5 times the value of the Social Support Index; and
  - 10% of the income in the last year, with a limit of 2.5 times the value of the Social Support Index.
- **Inclusion of capital gains in the annual tax returns.** The positive balance between capital gains and capital losses arising from the disposal of shares and other securities held for less than one year will cease to be subject to flat rate of 28% and will have to be included in the annual tax returns if the taxpayer has a total taxable income equal to or greater than €75,009. The negative balance can be deducted in the following 5 years.
- **Change of PIT brackets.** The current seven PIT brackets will be increased to nine, with the introduction of the following new brackets:
  - A new third bracket (between €10,736 and €15,216) subject to a rate of 26.5% (instead of 28%); and
  - A new sixth bracket (between €36,757 and €48,033) subject to a rate of 43.5% (instead of 45%).

#### CONTACTS

##### ANDRE DIAS

[ADIAS@MACEDOVITORINO.COM](mailto:ADIAS@MACEDOVITORINO.COM)

##### JOÃO COMENDA

[JCOMENDA@MACEDOVITORINO.COM](mailto:JCOMENDA@MACEDOVITORINO.COM)

##### DÉBORA DUTRA

[DDUTRA@MACEDOVITORINO.COM](mailto:DDUTRA@MACEDOVITORINO.COM)

In parallel, the maximum limit of the eight bracket will be reduced from €80,882 to €75,009 and, as such, any income above this amount will be subject to the higher rate of 48%.

## CORPORATE INCOME TAX (CIT)

On the Corporate Income Tax (**CIT**) side, we highlight the following changes:

- **Non-deductible expenses.** Invoices issued by taxpayers who are not registered with the tax authorities will not be deductible for CIT purposes.
- **Tax exemption on IP income.** The PIT exemption on income derived from the assignment (or temporary use) of industrial property rights subject to registration will be increased from 50% to 85%.
- **Special advance payment.** The Special Advance Payment (the so-called “*Pagamento Especial por Conta*” or “*PEC*”) will be eliminated. The rules on the deduction and refund of the PECs paid in the previous years will remain in force.
- **Autonomous taxation relief.** The 10% increase of the autonomous taxation will not apply to micro, small and medium-sized companies in 2022 if they (i) have obtained taxable profit in one of the three previous tax periods and (ii) have filed the annual tax returns in the two previous tax periods.

## VALUE ADDED TAX (VAT)

The Budget proposal also includes a few changes on the Value Added Tax (**VAT**):

- **Filing of VAT returns.** The deadline for filing the VAT returns will be the 20th day of the second month following the relevant month or quarter (depending on whether the taxpayer is subject to the monthly or quarterly VAT filing regime).
- **Payment of VAT.** The deadline for the payment of the VAT will be the 25th day of the second month following the relevant month or quarter (depending on whether the taxpayer is subject to the monthly or quarterly VAT filing regime).
- **Filing of the IES / DA and submission of the SAF-T file.** The implementation of the new rules set out in Ordinance No. 31/2019 for the submission of the SAF-T (PT) file on accounting was postponed to the years 2023 and following, with first delivery scheduled to the year 2024.
- **Suspension of ATCUD in 2022.** The affixing of the unique document code (ATCUD) on invoices and other documents relevant for tax purposes was postponed to 2023.
- **Excess energy from self-consumption.** Invoicing of the excess energy from self-consumption will be issued by the buyer instead of the supplier.

## EXCISE DUTIES

In what concerns Excise Duties, the Budget Draft contemplates the following changes:

### TAX ON OIL AND ENERGY PRODUCTS (TOEP)

- **Electricity produced for self-consumption.** A tax exemption will apply to electricity produced for self-consumption from renewable energy sources up to a limit of 30 kW of the installed capacity.
- **Additional to the TOEP rates.** The additional TOEP rate of 0.007 euros/l for gas and 0.0035 euros/l for diesel and colored and marked diesel will remain in force in 2022, up to a limit of €30,000,000 per year.
- **Products used in the production of electricity, electricity and heat or city-gas.** Some products will be taxed at 100% of the TOEP rate and at 100% of the CO2 rate while others will be subject to lower rates (e.g. cogeneration processes).

### TAXES ON DRINKS AND TOBACO

The Government proposes an increase on taxes on alcoholic drinks and non-alcoholic drinks. Tabaco tax rates will also increase.

### VEHICLES TAX

The Vehicles Tax rates applicable to the acquisition of cars, motorbikes, tricycles and quadricycles will be adjusted upwards taking into account their cylinder capacity and environmental component.

### SINGLE CIRCULATION TAX

The Budget Draft includes a general increase of around 1% in the Single Circulation Tax rates applicable to all vehicles and keeps in force the additional tax for diesel vehicles in categories A and B.

## REAL ESTATE TRANSFER TAX (RETT)

In what concerns Real Estate Transfer Tax (RETT), the main highlights are:

- **Extension of RETT.** RETT will apply to the following transactions:
  - Transfer of real estate by the shareholders to the company for the payment of accessory capital contributions;

- Award of real estate to the company's shareholders upon a share capital reduction, the repayment of accessory capital contributions or the performance of other company's obligations towards its shareholders; and
- Award of real estate to participants in closed-end real estate investment funds in connection with the redemption of the investment units or the reduction of the funds' capital.
- **Amendment to the tax brackets.** The RETT brackets applicable to the acquisition of urban buildings or units of urban buildings allocated to housing will be updated.
- **Transfer of parts of a building.** Upon the transfer of parts of a building, a surface/usufruct right or the land separated from the building RETT will be charged at a rate corresponding to the overall value of the building, considering the part or right transferred.
- **Incentives to urban rehabilitation.** The RETT exemption on the first transfer of buildings or units subject to urban rehabilitation will expire if:
  - The property is used for a purpose other than primary residence / lease for primary residence within six years from the date of transfer; or
  - The property is not used as primary residence within six months from the date of transfer; or
  - A lease contract is not entered within one year from the date of transfer.

## REAL ESTATE TAX (RET)

The Budget Draft does not include material changes to the Real Estate Tax, save for the following:

- **Urban buildings rented prior to the Urban Rental Regime.** The communication of rents due under rental contracts entered before the Urban Rental Regime must be made between 1 January and 15 February of the following year according to the official models and procedures.
- **RET exemption.** The €153,300 household income threshold applicable to the RET exemption on urban buildings or units built, improved or acquired for residential purposes will be assessed based on the total household gross income instead of its taxable income.

## STAMP DUTY

According to the Budget Draft the 50% increase of the stamp duty rates applicable to consumer credit contracts will remain in force in 2022.

## SPECIAL CONTRIBUTIONS

The following special contributions will also remain in force in 2022:

- Banking Sector Contribution;
- Banking Sector Additional Solidarity Levy;

- Audio-Visual Sector Contribution;
- Pharmaceutical Industry Contribution;
- Energy Sector Extraordinary Contribution (**CESE**);
- Extraordinary contribution on the suppliers of medical devices industry of the National Health Service; and
- Contribution on single-use plastic or aluminum packaging in finished meals.

A new special contribution for the conservation of forest resources will be approved and must be regulated within 90 days.

## TAX BENEFITS

The Budget Draft proposes the following amendments to the tax benefits:

- **Recovery Tax Incentive.** A new Recovery Tax Incentive applicable to CIT taxpayers will be created. The incentive will consist of a CIT deduction in 2022 equal to 70% of the investment expenses (up to an accumulated amount of € 5,000,000) which are made in the first 6 months of the 2022 tax period, corresponding to:
  - 10% of the eligible expenses (e.g., tangible fixed assets (with some exceptions) acquired as new and that have entered into operation by the end of the 2022 period or intangibles subject to depreciation), up to the amount corresponding to the simple arithmetic average of the eligible investment expenses of the three previous tax periods; and
  - 25% of the eligible expenses, in the part exceeding the above-mentioned limit.

To benefit from this incentive, among other conditions, the taxpayer may not:

  - Terminate employment contracts during three years from the beginning of the tax period in which the eligible investment expenditure is incurred, either through a collective dismissal or a job extinction procedure; and
  - Distribute dividends during three years from the beginning of the taxation period in which the eligible investment expenses are incurred.
- **Support for the implementation of SAF-T (PT) and ATCUD.** For micro, small and medium-sized enterprises, the extraordinary support corresponding to 120% of the respective expenses accounted in the 2022 tax period will remain in force.
- **VAT on donations.** The exemption from VAT of transfers of goods and services provided free of charge is now limited to 25% (as a whole) of the amount of the donation received.

## OTHER FISCAL MEASURES

The Budget Draft also includes the following COVID-19 related support measures:

- **Payment of debts in instalments.** In the tax enforcement proceedings initiated between 1 January and 31 December 2022, the number of monthly instalments will be increased up

to five years, regardless of the amount owed. Until 31 January 2022, debtors with installment plans in force may request the application of this exceptional regime, in which case the remaining installments will be added to the approved installment plan up to a limit of five years.

- **Deferral of tax obligations in the first half of 2022.** In the first half of 2022, PIT and CIT withholding tax and VAT may be paid in three or six-monthly instalments in a minimum amount of € 25.00, without interest or penalties, by submitting a request until the end of the period for voluntary payment. These rules will also be applicable to taxpayers that fulfil one of the following conditions:
  - Recorded in 2020 a turnover up to the thresholds applicable to micro, small and medium companies and, cumulatively, declare and demonstrate a decrease in turnover reported through the e-invoice of at least 10% of the monthly average of the calendar year of 2020 in relation to the same period of the previous year;
  - Have as main activity the accommodation, catering and similar, or culture; or
  - Have initiated or restarted the activity on or after 1 January 2021.

With regards to the obligation to pay VAT, in the case of taxpayers subject to the quarterly VAT filing regime, in the first semester of 2022 VAT may also be paid in three or six-monthly instalments in a minimum amount of EUR 25.00, without interest or penalties.

## LEGISLATIVE AUTHORISATIONS

In addition to the above proposed changes, the State Budget contemplates the following legislative authorisations for the Government to approve the following amendments:

- **Inland Support Programme.** The Government will create, within the scope of the Inland Support Programme, a set of tax benefits for the creation of jobs in inland territories, including a deduction of 20% of the expenses incurred with the creation of jobs that exceed the value of the statutory minimum wage.
- **Start-up support.** The Government will regulate the concept of "start-ups" for the purposes of granting financial or fiscal support, with a view to promoting the national entrepreneurial ecosystem and defining specific investment policies.
- **Stock option plans.** The Government will approve a special tax regime applicable to gains derived from option plans, subscription plans, allocation plans or other plans with equivalent effects on securities or equivalent rights that are created for the benefit of employees or members of corporate bodies.

*This information is provided for general purposes only and does not constitute professional advice.*

© MACEDO VITORINO