

## 2023 PORTUGUESE STATE BUDGET

*The 2023 State Budget introduces some tax relief measures in terms of personal income tax, especially for younger people, and corporate income tax, especially for SMEs.*

*As announced, the 2023 State Budget also contains some support measures for companies and a new tax framework applicable to crypto assets income.*

The Parliament approved the [State Budget for 2023](#) (2023 State Budget).

In this newsletter, we summarise the main tax changes set out in the 2023 State Budget.

### PERSONAL INCOME TAX

Regarding Personal Income Tax (PIT), the main changes are as follows:

- **Update tax brackets and reduce the rate of the 2<sup>nd</sup> bracket.** The personal income tax brackets will be updated. For example, the first tax bracket will be increased from €7,116 to €7,479 and the last tax bracket from €75,009 to €78,834, which corresponds to an update of 5.1%. In addition, the rate applicable to the second bracket is reduced from 23% to 21%.
- **PIT partial exemption for young people.** The exemptions of the "Young PIT" are now as follows:
  - 50% with a limit of 12.5 times the value of the Social Support Index in the first year.
  - 40% with a limit of 10 times the value of the Social Support Index in the second year;
  - 30% with a limit of 7.5 times the value of the Social Support Index in the third and fourth years; and
  - 20% with a limit of 5 times the value of the Social Support Index in the fifth year.
- **Dependents deduction.** The deduction for the second and subsequent dependents who do not exceed the age of 6 by 31 December increases by €300 or, in case of joint custody, by €150.
- **Supplementary work.** The autonomous withholding rate applicable to overtime work is reduced by 50% from the 101<sup>st</sup> hour, inclusive.
- **Reduction in withholding tax for borrowers of house mortgage loans.** Withholding tax on Category A income is reduced to the rate of the lower bracket for taxpayers who are borrowers of a house mortgage loan and who cumulatively earn a monthly remuneration not exceeding €2,700.
- **Commercial/industrial crypto assets activities.** Transactions related to the issue of crypto assets, including mining, or the validation of crypto assets transactions through consensus mechanisms will be qualified and taxed as commercial and industrial activities. In the case of the application of the simplified tax regime, the coefficient of 0.15 will apply, with the exception of income from crypto asset mining for which a coefficient of 0.95 will apply. The cessation of activity and change of residence will be assimilated to disposal. Crypto

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assets that are unique and not fungible with other crypto assets are excluded from the concept of the crypto asset for PIT purposes.

- **Remuneration derived from operations related to crypto assets\***. Remuneration derived from crypto asset transactions (e.g., staking) will be considered for PIT purposes as capital income. This remuneration is exempt from withholding tax, being the taxpayers are obliged to report the income to the tax authorities. When the remuneration takes the form of crypto assets, the income will be taxed as capital gains at the moment of disposal of the crypto assets received.
- **Capital gains resulting from the sale of crypto assets\***. Gains resulting from the sale of crypto assets for consideration are qualified and taxed as capital gains, except when they are considered business/professional income or capital income. A change of residence will be assimilated to disposal for consideration. Capital gains will be calculated according to the FIFO (First In, First Out) rules. Notwithstanding, capital gains and capital losses will be excluded from taxation in respect of disposals that:
  - Relate to crypto assets held for a period of 365 days or more; or
  - Are made against the delivery of new crypto-assets – in this case, the crypto-assets received will be attributed an acquisition value equal to the acquisition value of the crypto-assets delivered.

These exclusions from taxation will not apply when the taxpayers or the debtors of the income are not resident in another Member State of the European Union or the European Economic Area or in another State or jurisdiction with which an international double taxation treaty, bilateral or multilateral agreement providing for the exchange of information for tax purposes is in force.

- **Reporting obligations on crypto asset transactions\***. Natural or legal persons, organizations, and other entities without legal personality, which provide crypto assets custody and administration services on behalf of third parties or have the management of one or more crypto assets trading platforms, must report to the Portuguese Tax Authorities, by the end of January of each year, for each taxpayer, through an official form, the operations carried out with their intervention, regarding crypto assets. However, the carry forward period will not apply where the beneficiaries or the entities paying the income are residents in a country or jurisdiction without information exchange instruments for tax purposes.
- **Partial exemption on income from the sale of energy**. The annual income resulting from the transaction of surplus energy produced for self-consumption, from renewable energy sources, by production units for self-consumption, up to the limit of 1 MW of the respective installed capacity, and from the transaction of energy produced in small production units from renewable energy sources, up to the limit of 1 MW of the respective installed capacity, will be partially exempt up to €1,000.
- **Real estate capital gains obtained by non-residents\***. Non-residents taxpayers will no longer benefit from the flat rate of 28% on capital gains arising from the disposal of property and such capital gains will be subject to the rules applicable to residents' taxpayers, i.e. inclusion of 50% of the capital gains and taxation according to the general and progressive rates.

- **Deduction of VAT from newspapers\***. In 2023, taxpayers will be allowed to deduct part of the value of the VAT borne by any member of the household in connection with the acquisition of subscriptions of periodical newspapers and magazines, both in physical and digital format.

## CORPORATE INCOME TAX

In terms of Corporate Income Tax (**CIT**), the following changes should be highlighted:

- **CIT rate applicable to SMEs.** The amount to which the 17% corporate income tax rate applies increases from €25,000 to €50,000. In addition, this rate is applicable in the two financial years following mergers, splits, transfers of assets and exchanges of shares carried out between 1 January 2023 and 31 December 2026, in which the taxpayers qualify as small, medium-sized, or small-medium capitalization companies.
- **Tax relief regarding electricity and gas costs.** Companies will be allowed to deduct 120% of the electricity and gas costs provided that certain conditions are met. This tax relief will not apply to taxable persons carrying out economic activities which generate at least 50% of turnover in the field of:
  - Production, transport, distribution, and trade of electricity or gas; or
  - Manufacture of petroleum products refined or from waste, and of agglomerated fuels.
- **Tax relief regarding agricultural production costs \***. With effect from 1 January 2022 and provided certain conditions are met, companies will be entitled to deduct 140% of the expenses and losses incurred or borne with the acquisition of:
  - Fertilisers, organic and mineral fertilizers, and correctives.
  - Flours, cereals, and seeds, including mixtures, residues, and waste from food industries, and any other products suitable for the feeding of livestock, poultry, and other animals, referred to in the Codex Alimentarius, irrespective of breed and living functionality, intended for human consumption.
  - Irrigation water; and
  - Glass bottles.
- **Limitations on tax losses carry forward.** The time limit applicable to tax losses carried forward is revoked and the limit of the annual deduction is reduced from 70% to 65%.
- **Limitations on financing costs carry forward.** The non-deductible net financing costs carry forward is no longer applicable when there is a change in the ownership of more than 50% of the share capital or majority voting rights of the taxpayer, except when it is concluded that the main objective or one of the main objectives of the change was not tax evasion, which will be the case, namely, where the transaction was carried out for valid economic reasons.
- **Group taxation regime.** In the case of a change of control, when the new controlling company chooses to continue applying the special regime for the taxation of group companies, the authorization of the Government is no longer necessary for the deduction of tax losses of the group registered during the previous tax periods, except when it is

concluded that the main objective or one of the main objectives of the change was not tax avoidance, which will be the case, namely, where the transaction was carried out for valid economic reasons.

- **Taxation of income related to crypto assets (simplified regime) \***. Income from crypto assets which are not considered capital income, nor capital gains and losses or asset increases, are taxed by the application of a coefficient of 0.15. Income from crypto asset mining activity is subject to a coefficient of 0.95.
- **Taxation of profits of permanent establishments outside Portugal**. If companies have deducted tax losses relating to a permanent establishment outside Portugal in the last 12 years, they may not exclude from CIT the taxable profits up to the number of such losses.
- **Autonomous taxation of electric vehicles\***. Automobiles powered exclusively by electric energy, whose acquisition cost exceeds the value defined by the government's resolution, will be subject to autonomous taxation at a rate of 10%.
- **Deductibility of expenses with travel cards\***. Expenses incurred with the acquisition of travel cards for staff will be deductible at 150% instead of 130%.

## VALUE ADDED TAX

With regard to Value Added Tax (**VAT**), the following changes should be highlighted:

- **Increase the VAT exemption limit\***. The previous exemption VAT limit of €12,500 will be increased to €13,500 in 2023, €14,500 in 2024, and €15,000 in 2025.
- **Extension of the deadline for submitting the VAT returns\***. The deadline for filing the VAT returns for the month of June or the second quarter is extended to 20 September, and the payment deadline is extended to 25 September.
- **Reduction of VAT rate on vegetable-based drinks and butters\***. Vegetable-based drinks, yogurts, butters, margarines, and creams will now be taxed at 6%.
- **Reduction of the VAT rate on biomass equipment\***. The supply and installation of solid biomass local space heaters with a rated thermal input not exceeding 50 kW and solid biomass boilers with a rated thermal input not exceeding 500 kW meeting certain conditions, as well as pellets produced from biomass will now be taxed at 6%.

## SPECIAL TAXES ON CONSUMPTION

In terms of special taxes on consumption, the following amendments should be noted:

### DUTY ON PETROLEUM AND ENERGY PRODUCTS (ISP)

- **Partial reimbursement for diesel and professional gas**. Amendments to bring professional gas and public passenger transport to the refund framework, following the general requirements. The classification codes for diesel are changed to NC 2710 19 43 to 2710 19 48 and 2710 20 11 to 2710 20 19 and extended to gas NC 2711 11 00 and 2711 21 00. In addition to the requirement for the permissible total laden weight of vehicles to be not less than 7.5 tonnes, a requirement for a minimum capacity of 22 seats is added in the

case of public passenger transport undertakings. The limitation of the maximum annual supply value eligible for gas reimbursement is between 25,000 and 40,000 gigajoules.

- **Coloured and marked diesel.** The increase in the use of coloured and marked gas oil by small farmers, holders of family farming status, small fish farmers, and for small-scale and coastal fishing using coloured and marked gas oil with an annual consumption of up to 2,000 litres of €0.06 per litre on the reduced rate applicable to the equipment used, will remain in force in 2023.
- **Small-scale fishing.** A subsidy corresponding to the discount on the final price of petrol consumed equivalent to that resulting from the rate reduction applicable to diesel used in fishing will remain in force in 2023
- **Products used in the production of electricity, electricity, and heat or town gas (except biofuels, biomethane, green hydrogen, and other renewable gases):**
  - Products covered by CN codes 2710 19 62 to 2710 19 67 and CN codes 2710 20 32 and 2710 20 38, used in the production of electricity and cogeneration, or town gas on the mainland, are taxed at a rate corresponding to 100 % of the ISP rate and at a rate corresponding to 100 % of the addition on CO2 emissions.
  - Covered by CN codes 2710 19 43 to 2710 19 48, CN 2710 20 11 to 2710 20 19, CN 2710 19 62 to 2710 19 67, CN 2710 20 32 and 2710 20 38, consumed in the Autonomous Regions of Azores and Madeira and used for the production of electricity, electricity, and heat (cogeneration) or town gas, by entities which carry out such activities as their main activity, are taxed at a rate corresponding to 50% of the ISP rate and 50% of the rate of the CO2 emission surcharge. It is set to rise to 75 % and 100 % on 1 January 2024 and 2025 respectively.
  - Falling within CN code 2711, used in the production of electricity, of electricity and heat (cogeneration), or of town gas, by entities carrying out such activities as their main activity, apart from those used in the autonomous regions, are taxed at a rate corresponding to 40% of the ISP rate and at a rate corresponding to 40% of the rate of addition on CO2 emissions. It is set to rise to 50% as of 1 January 2024;
  - Falling within CN codes 2701, 2702, 2704, 2713, and 2711 12 11 which are used in installations subject to an agreement on the rationalization of energy consumption (ARCE), and fuel oil with a sulfur content not exceeding 0,5% falling within CN codes 2710 19 62 and 2710 19 66 will be taxed at a rate corresponding to 30% of the additional rate on CO2 emissions. It is set to increase to 65 % and 100 % on 1 January 2024 and 2025 respectively.

#### DUTY ON BEVERAGES

- **Duty on alcohol and alcoholic beverages\*.** Increase in the tax rates applicable to (i) beers, which will now vary between 8.76 euros/hl and 30.77 euros/hl, (ii) fermented, still, and sparkling beverages, which will now be 10.96 euros/hl, (iii) intermediate products, which will now be 79.93 euros/hl and (iv) spirits, which will now be 1,456.83 euros/hl.
- **Duty on beverages containing added sugar or other sweetening matter.** Increasing the taxable unit, with the tax rate varying between 1.05 euros/hl (sugar content less than 25g/l), 6.32 euros/hl (sugar content less than 50g/l and equal to or greater than 25g/l), 8.42

euros/hl (sugar content less than 80g/l and equal to or greater than 50g/l) and 21.07 euros/hl (sugar content equal to or greater than 80g/l). In liquid form the values increase to 6.32 euros/hl, 37.93 euros/hl, 50.56 euros/hl and 126.42 euros/hl, respectively; and in powder, granules, or other solid forms they increase to 10.54 euros/hl, 63.21 euros/hl, 84.28 euros/hl and 210.71 euros/hl per 100 kilograms net weight, respectively.

#### DUTY ON TOBACCO

- **Regular tobacco.** Increase of the specific element to €112.5 and of the *ad valorem* element to 12%.
- **Heated tobacco.** Increase of the specific element to Euro 0.0896/g and of the *ad valorem* element to 15.15%. The minimum tax amount is also increased from 0.193 €/g to 0.182 €/g.
- **Cigars and cigarillos.** The *ad valorem* component of both is maintained at 25%. The 1,000 cigars and cigarillos will be increased to €432.87 and €64.93 respectively.
- **Fine-cut tobacco, other smoking tobacco, snuff, chewing tobacco.** Increase of the specific element to 0.087 euros/g, and the tax may not be less than €0.188.
- **Water pipe tobacco.** Increase of the *ad valorem* element to 50.50%, and of the specific element of the tax on the liquid containing nicotine, in containers used for loading and reloading electronic cigarettes to €0.336/ml.
- **Cigarettes manufactured in the Autonomous Region of Madeira.** Increase of the specific element to €64.01 and maintenance of the *ad valorem* at 9.1%, on cigarettes manufactured by small producers whose annual production does not exceed, individually, 500 t and which are consumed in these regions, the specific element. The minimum tax threshold is reduced to 87% and the rates of duty to be added to all cigarettes consumed in these regions are increased in the specific component to €22.47, maintaining the *ad valorem* at 9%.
- **Cigarettes manufactured in the Autonomous Region of the Azores.** The specific component is reduced to €35.36, and the *ad valorem* is maintained at 42%, for cigarettes manufactured by small producers whose annual production does not exceed, individually, 500 t and that is consumed in these regions. The minimum tax threshold is reduced to 80%.

#### CARBON TAX

The carbon tax for consumers traveling by air, sea, and river remains in force in 2023.

#### VEHICLES TAX

Increase in the vehicles tax rates applicable to cars, motorbikes, tricycles, and quadricycles, regarding their cylinder capacity and environmental component.

#### SINGLE CIRCULATION TAX

A generalized increase in the single circulation tax rates is applicable to all vehicles.

## REAL ESTATE TRANSFER TAX

Regarding Real Estate Transfer Tax (**RETT**), the following measures stand out:

- **Transactions involving crypto assets.** The value of crypto assets given in exchange for the transfer of the property will now be considered for the purposes of determining the taxable value.
- **Updating of the tax brackets.** RETT rates remain unchanged, but the values of the tax brackets for the acquisition of an urban building or building unit will be increased.
- **Exemption on an acquisition of real estate for resale\*.** The exemption will now apply to taxpayers who can prove that in the last two years have resold property previously acquired for this purpose, increasing the previous required period of only one year.
- **Taxable value in the exchange of real estate\*.** The real estate which is transferred within one year of the date of the exchange will no longer be covered by the rule which determines that the taxable value will be the taxable asset value when higher than the difference in values. For this purpose, the exchanger who has transferred the property must report this fact to the Tax Authority within 30 days.

## MUNICIPAL PROPERTY TAX

With regard to Municipal Property Tax (**MPT**), the following measures are of particular importance:

- **Increase of MPT on vacant buildings\*.** Degraded buildings or ruins where the state of conservation has been caused by a natural disaster or calamity will be excluded from the MPT increase applicable to vacant buildings.
- **Increase of MPT on uninhabited houses or houses used as local accommodation\*.** Municipalities may increase the MPT rate to be applied to buildings located in areas of urban pressure, as follows
  - up to 100% in cases where the buildings are used for local accommodation.
  - up to 25% in cases of houses that are not rented or in use as the taxpayer's own permanent residence.

A further 50% increase may apply whenever a taxpayer is a legal person or other equivalent entity.

- **Vacant properties located in areas of urban pressure\*.** Municipalities may increase the MPT rate for buildings that have been vacant for more than one year - instead of the current two - and the limit may be increased by:
  - 25% whenever the urban building or unit is intended for habitation and, in the year to which the tax relates, is not rented or allocated to the taxpayer's own and permanent residence.
  - 50% whenever a taxpayer is a legal person or other equivalent entity.

## STAMP DUTY

In terms of stamp duty, we highlight these new rules:

- **Gratuitous transfers.** The transfer of crypto assets without consideration is now considered to be a free transfer and subject to stamp duty.
- **Fees for the provision of crypto assets-related services.** Fees and considerations charged by or through crypto assets service providers are subject to stamp duty at a rate of 4%. Stamp duty is borne by the customers but must be levied by the crypto assets service providers unless they are not domiciled in Portugal, in which case the taxable persons are (i) the crypto assets service providers domiciled in Portugal who have intermediated the transactions or (ii) the representatives mandatorily appointed in Portugal for that purpose.
- **Taxable value of crypto assets.** The taxable value of crypto assets is determined as follows: by applying the specific rules set out in the Stamp Duty Code, the value of the official quotation, if any, or the value declared by the custodian or beneficiary, and should, as far as possible, approximate the market value. However, the Portuguese Tax Authorities have the power to determine the taxable value based on the market value when it justifiably considers that there may be a divergence between the declared value and the market value.
- **Exemption on Housing Loans\*.** Extensions of mortgage loan contracts entered between 1 November 2022 and 31 December 2023. Likewise, new contracts for debt refinancing will be exempt, as well as, under certain conditions, the provision of new guarantees/security related to existing loans.

## SPECIAL CONTRIBUTIONS

The 2023 State Budget extends the following special contributions to 2023:

- Special contribution to the conservation of forest resources.
- Contribution to the banking sector.
- Additional solidarity contribution to the banking sector.
- Contribution to the Pharmaceutical Industry.
- Extraordinary contribution to the energy sector.
- Extraordinary contribution to the suppliers of medical devices industry of the National Health Service; and
- Contribution to single-use plastic or aluminum packaging in prepared meals.

## TAX BENEFITS

The State Budget includes the following changes:

- **Benefits for companies located in Portugal inland.** The 12.5% rate applicable to companies that carry out economic activity in Portugal inland will now apply to the first €50,000 of taxable income, instead of the first €25,000. To determine the taxable income, the expenses with the net creation of jobs will be considered in 120% of its amount. Only employees working on an indefinite term basis who earn income from employment and reside, for tax purposes, in inland territories will be considered, excluding employees



assigned by temporary employment companies, employees on a casual assignment basis (in relation to the assigning entity) and employees in a multi-employer regime.

- **Benefits for students of educational establishments in Portugal inland or Autonomous Regions.** Students who attend educational establishments located in Portugal inland or in the Autonomous Regions will benefit from an additional tax relief of 10% in respect of the amounts borne as education and training expenses for PIT purposes, with the overall limit of such expenses being increased to €1,000 when the difference is related to these expenses. The deduction of real estate expenses will be limited to the amount of €1,000, over three years, for students who transfer their residence to Portugal inland.
- **Incentives for salary increases.** The costs corresponding to salary increases determined by a dynamic collective work regulation instrument for employees with an indefinite employment contract will now be considered at 150% of the respective amount for the purposes of determining the taxable income for CIT and PIT taxpayers with organized accounting. In any case, only costs related to employees whose remuneration has increased by at least 5.1% and above the minimum monthly salary will be considered. The maximum amount to be considered, per worker, is limited to 4 times the minimum monthly salary.
- **Incentive to companies' capitalization.** An amount corresponding to 4.5% of the net shareholder's equity increases will be deductible from the companies' taxable income. This rate increases to 5% in the case of micro, small or medium-sized companies or small and medium capitalization companies. The deduction cannot exceed €2,000,000 or 30% of the net result. The beneficiary must have organized accounting and no outstanding tax or social security debts, and its profit cannot be determined by indirect methods. This benefit is not applicable to credit institutions, financial companies, or similar entities.
- **Benefits applicable to students' rental income\*.** Rental income arising from municipal programs providing student accommodation for displaced students and with a rent limit will now be exempt from PIT and CIT.
- **Investment Tax Code\*.** The percentage of relevant investments that may be deducted in the computation of CIT is increased from 25% to 30%.

\* New amendments or adjusted amendments during the discussions held in Parliament.

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