



Tax & Business Lawyers

NEWSLETTER

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COMPENSATION TO LANDLORDS AND LIMITS TO RENTS IN RESIDENTIAL LEASE AGREEMENTS PRIOR TO 1990

Decree-Law no. 132/2023, of December 27, was published as part of the legal framework for the urban lease regime, establishing the amounts and limits of the compensation to be awarded to landlords with rental contracts entered into before November 18, 1990, due to their failure to transition to the Novo Regime do Arrendamento Urbano ("NRAU") (hereinafter referred to as "DL 132/2023").

Business & Investments Team



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DL 132/2023 was published as part of the approval of the housing measures crystallized in Law no. 56/2023, of October 6, which determined that the lease agreements covered by such law would not be transferred to the NRAU.

In this context, the *Instituto da Habitação e da Reabilitação Urbana, I. P.* ("IHRU") and the *Centro de Competências de Planeamento, de Políticas e de Prospetiva da Administração Pública* ("PlanAPP") jointly prepared a report, published on November 20, 2023, which estimated the amounts and limits of the compensation to be awarded to landlords with lease agreements entered into before November 18, 1990, due to their non-transition to the NRAU, which concluded that the value corresponding to 1/15 of the tax value of the leased property should be used as the reference criteria for awarding this compensation to the landlords.

Subsequently, and considering it necessary to regulate the limits of compensation, the legislator, with the publication of DL 132/2023, established the following:

- The value of the rent for residential leases covered by DL 132/2023 may not be higher than the rents legally determined until July 1, 2024;
- Whenever the monthly rent for residential leases signed before the NRAU comes into force is less than 1/15 of the VPT of the property, divided into 12 months, the landlord will be entitled to compensation;
- The compensation will correspond to financial support granted to the landlord in the form of a non-refundable monthly subsidy;
- The amount of the compensation will correspond to the difference between the monthly rent due on July 1, 2024 and the amount corresponding to 1/15 of the tax property value of the property, divided into 12 months.

The lease agreements covered by such law would not be transferred to the NRAU.

In terms of proceeding and regarding the tax impact over the landlords, DL 132/2023 also determined that:

- The landlord must apply to the IHRU for the compensation to be awarded, and for this purposes the landlords should provide (i) the date on which the lease agreement was entered into, (ii) whether the lease agreement falls into one of the situations provided for in articles 35 and 36 of the NRAU, (iii) the amount of the monthly rent and (iv) the VPT of the leased premises;
- The compensation will be awarded for a period of 12 months, renewable for equal and successive periods, provided that, before the end of this period, the landlord demonstrates to the IHRU that the requirements for awarding the compensation are maintained;
- The death of the landlord to whom the compensation is awarded will not affect the maintenance of the right to this compensation by the person to whom the lease is transferred in accordance with the law; and
- No personal income tax (IRS) or social security contributions will be levied on the amounts of compensation provided for in DL 132/2023.

DL 132/2023 will come into force on July 1, 2024.

Rogério Fernandes Ferreira
Marta Machado de Almeida
Patrícia Largueiras
Luís Almeida Brito
Inês Dias de Pinho

Avenida da Liberdade 136 4º (receção)

1250-146 Lisboa • Portugal

T: +351 215 915 220

contact@rfflawyers.com

www.rfflawyers.com



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