



Tax & Business Lawyers

PRACTICAL GUIDE

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REAL ESTATE INVESTMENT IN PORTUGAL

The property sector in Portugal has established itself as an area of high potential for both national and international investors. The combination of legal stability, fiscal attractiveness, quality of life and the country's strategic location makes the Portuguese market a safe and profitable option. The aim of this text is to present the main forms of property investment available in Portugal, highlighting the legal procedures, tax benefits, and the opportunities that the market offers in the residential, commercial, tourist and collective investment vehicle sectors.

Business Team



INTRODUCTION

Portugal is in an excellent geostrategic position, on the western edge of the European continent and acting as a privileged link between Europe, America and Africa. The Autonomous Regions of Madeira and the Azores reinforce this position, being the Atlantic's true calling cards to the world. This strategic location is accompanied by high quality infrastructures, an efficient railway network and an airport system that offers unique advantages, namely Lisbon Airport located in the heart of the capital, facilitating the mobility of investors and considerably reducing travelling times.

In addition to connectivity and modern infrastructures, Portugal offers a mild climate for most of the year, internationally recognised for the quality of life it offers its residents, where safety, gastronomy, the education system and cultural diversity stand out. The country also boasts high levels of security, affordable housing (compared to other European capitals), linguistic diversity, a cosmopolitan atmosphere, as well as favourable conditions for reconciling professional and personal life.

Portugal is one of the most popular countries for property investment in Europe

These factors, coupled with a favourable and transparent legal and tax regime, make Portugal not only a safe place to invest, but also an ideal destination to live or set up business, being internationally recognised as a choice of excellence in real estate investment.

The option of investing in the Portuguese property sector can be realised either through the direct acquisition of properties in the housing market or in the commercial and services market, or even in the tourism sector.

Another option for investing in the Portuguese property market is to direct the investment towards investment vehicles, such as property resale companies or Alternative Collective Investment Schemes.

REAL ESTATE PURCHASE AND SALE

Portugal offers security when buying a property as it has a public registry in which all properties and their respective owners are registered, and acts are validated by public bodies such as town halls, the Tax and Customs Authority and the Land Registry Office, which play a fundamental role in monitoring, supervising and validating property acquisition processes, certifying compliance with legal obligations during all stages of the transaction.

It is recommended to start the property acquisition process with real estate due diligence to check the legal status of the property by analysing its documents, ensuring that there are no liens or encumbrances, urban planning or tax irregularities, and confirming ownership and other elements essential to the security of the transaction.

After the Due Diligence or while it is taking place, and although it is not compulsory, a promissory contract of sale is usually signed as a mechanism to protect and regulate the expectations of the parties involved.

The promissory contract of purchase and sale allows the parties to establish, in writing, their unequivocal will to carry out the property transaction, setting, among other circumstances, the deadline for signing the public deed, the price and terms of payment and the declarations and guarantees imposed between the parties, namely regarding the condition of the property.

Finally, the transfer of ownership takes place with the definitive contract, which can be formalised through a public deed or a notarised private document, when signed before a lawyer, solicitor or entity with powers to do so, following which the property acquisition register is drawn up in favour of the new owner.

In this regard, it should be noted that the law establishes a legal guarantee period of 5 years for property from the date of its definitive acquisition. In this sense, any non-compliance must be reported within 1 year of the date on which it was detected (but always within the 5-year guarantee period).

When you buy a property, you have to pay (i) the Municipal Property Transfer Tax (IMT), calculated, as a general rule, on the value of the price, with the applicable rates varying according to the type and value of the property, 6.5% for buildable land, commercial space or urban buildings, up to 6% (progressive rate) for properties intended exclusively for residential use, 5% for rustic buildings or 10% for properties acquired by entities in jurisdictions with a clearly more favourable tax regime (offshore) and (ii) Stamp Duty, which is calculated at a rate of 0.8% on the value of the transaction.

During the ownership of the property, the owners are subject to the annual payment of the Municipal Property Tax (IMI), which is levied on the taxable value of the property. The owner of the property on 31 December of the reference year is liable for this tax. The rates applicable under this tax vary between 0.3 per cent and 0.45 per cent for urban properties and 0.8 per cent for rural properties.

In addition to IMI, there is also the Additional IMI (AIMI), which is a tax whose tax base is the overall value of urban residential buildings or land for construction belonging to the same taxpayer, with rates of 0.4 per cent for legal persons and 0.7 per cent for natural persons

(on the value that exceeds the deductions provided for), with marginal quotas of 1 per cent and 1.5 per cent for values above 1 or 2 million euros.

In the context of the housing crisis in Portugal, an exemption from IMT and Stamp Duty on first home purchases was approved for young people up to the age of 35, regardless of their nationality, if they are not dependent for Personal Income Tax (IRS) purposes. The exemption applies to properties with an acquisition value of up to € 316,772, and for higher values, IMT is levied on the excess.

In addition to tax exemptions, the state can grant a personal guarantee to credit organisations, with a view to facilitating access to permanent home loans for young people between the ages of 18 and 35. This mechanism allows the credit institution to finance up to 100 per cent of the purchase price, provided certain legal requirements are met, namely tax residency in Portugal, income not exceeding the 8th IRS bracket (currently € 83,696) and no previous ownership of a residential property.

These incentives aim to facilitate the purchase of the first permanent home by young people, promoting access to housing and contributing to greater stability and dynamism in the Portuguese property market.

LEASE

Renting a property is one of the main anchors of property investment in Portugal, representing a significant percentage of this sector. Investors can choose between renting out their property for residential or non-residential purposes, and these two regimes are regulated by different legal frameworks.

Residential rentals are subject to a strict set of mandatory rules, essentially aimed at protecting the tenant's right to housing. Portuguese legislation endeavours to balance the protection of tenants with the interests of landlords, establishing parameters for the duration of the contract, updating of rents and termination conditions.

In the field of non-residential leases, more flexible rules are applicable, allowing greater contractual freedom between the parties to define deadlines, renewal conditions, rent updates and reasons for terminating the relationship. This regime is widely used for commercial, industrial and tourist purposes and for the establishment of national and multinational companies, which are thus able to access the Portuguese market without the need to purchase a property.

Regarding the tax regime, residential rents are taxed autonomously at a rate of 25 per cent, with reductions depending on the duration of the contract, which can reach 5 per cent for

contracts lasting 20 years or more; when it comes to non-residential rents, the applicable rate is 28 per cent.

Professional support in this area is essential to ensure correct compliance with the legal and tax obligations inherent in the rental activity, maximising profitability and mitigating risks for the investor.

INVESTMENT IN THE TOURISM SECTOR

Another way of making a profit from property investment, bearing in mind that Portugal is a tourist country par excellence, is to make an investment geared towards tourism, either (i) by buying property in tourist developments, which limits the owner's use of the property, but which has a management entity that looks after the investment and pays royalties indexed to its exploitation, or (ii) through short-term tourist rentals, known as local accommodation, which have become very popular as an alternative to hotels, making this investment also a good business model.

Recent legislative changes in the Portuguese legal system have given new impetus to the acquisition of properties with the aim of converting them into local accommodation establishments, namely the possibility of issuing new operating licences throughout mainland Portugal and the end of the need to renew registration.

Regarding the applicable tax regime, it should be noted that Portuguese legislation provides for the option of taxation according to the rules of category B, i.e. the application of a simplified regime if the annual turnover is less than 200,000 euros. When applying the simplified regime, the tax base will be calculated by applying a coefficient of 0.35, which means that only 35 per cent of the income obtained from the local accommodation activity will be taxed, and the corresponding progressive rate will then apply.

REAL ESTATE INDIRECT INVESTMENT

In addition to the direct purchase of property, investment in the Portuguese property market can also be made through property investment vehicles, either through Commercial Companies that operate the activity of buying property for resale or through Alternative Real Estate Collective Investment Schemes.

Property resale companies can benefit from exemption from IMT, provided they are registered to carry out the activity of buying, selling and reselling property, expressly state their intention to resell in the deed, present a certificate from the Tax Authority and resell the property within three years of its acquisition, keeping it as a current accounting asset.

Alternative Real Estate Collective Investment Schemes (OIA) are entities subject to supervision by the Portuguese Securities Market Commission (CMVM) and can take the form of (i) investment funds, functioning as autonomous assets constituted by raising and investing capital from natural or legal persons in real estate assets, which are managed by a management company, (ii) collective investment companies (SIC), which are characterised by having a corporate basis and can be self-managed or managed by a third party, or (iii) real estate investment and management companies (SIGI), whose main objective is the operation of rental properties.

The choice between investing in an investment fund or a SIC lies essentially in the degree of control that investors wish to exercise either through greater direct control (in the case of SICs) or through delegating management to a specialised management entity (in the case of Funds). Both models are designed to serve the interests and risk profiles of the different investors in the market, allowing access to income, capitalisation or diversification strategies for real estate investments in Portugal.

CONCLUSIONS

Portugal currently stands out as a destination of excellence for real estate investment, bringing together a wide range of strategic and social factors that create a favourable environment for both the direct purchase of real estate and investment in collective investment vehicles. Legal certainty, quality of life, modern infrastructure, tax incentives and economic stability make the country particularly attractive to both domestic and foreign investors.

The diversity of options available - from the housing market to the commercial sector, including tourism and indirect investment solutions - makes it possible to tailor investment strategies to the most varied profiles and objectives. At the same time, public incentive measures, particularly aimed at young people, seek to respond to housing challenges and further boost the market.

In this way, investing in the Portuguese property sector represents not only an opportunity for a sustainable financial return, but also the possibility of integrating into a stable, secure and promising social and economic context.

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