



Tax & Business Lawyers

# NEWSLETTER

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## THE REGIME FOR THE REINVESTMENT OF REAL ESTATE CAPITAL GAINS AND DEDUCTIONS RELATED TO RENTAL INCOME

Geographical mobility and changes in taxpayers' personal and professional circumstances require flexible responses from the tax system.

The current regime, applicable to the reinvestment of real estate capital gains and to deductions on rental income, reflects this evolution, providing solutions better aligned with citizens' realities.

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Private Clients Team

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## INTRODUCTION

Following the amendments introduced by Decree-Law No. 57/2024, of 10 September, which definitively abolished the Extraordinary Contribution on Short-Term Rentals (CEAL), specific measures were implemented in the Personal Income Tax Code (IRS) aimed at promoting citizens' geographical and social mobility, in line with changes in their personal and professional circumstances.

These measures gave rise to the current regime, applicable to the reinvestment of real estate capital gains and to deductions on rental income, reflecting a more flexible approach that is better aligned with taxpayers' realities.

## REGIME FOR THE REINVESTMENT OF REAL ESTATE CAPITAL GAINS

Currently, in order to benefit from the capital gains tax exemption under the Personal Income Tax (IRS), the sold property must have served as the taxpayer's or their household's primary residence, as evidenced by the fiscal domicile, for the 12 months preceding the date of the sale or, if earlier, the date of reinvestment.

This requirement may, however, be waived in exceptional circumstances, such as changes in household composition — marriage, common-law partnership, divorce or its dissolution — or in the event of an increase in the number of dependents.

The regime for the reinvestment of real estate capital gains can be summarized as follows:

- ✓ The property must have been used as the primary residence for a minimum period of 12 months
- ✓ If the reinvestment occurs prior to the sale, the 12-month period is counted from the date of reinvestment
- ✓ Exceptions to the period are provided in cases of professional mobility or changes in family circumstances
- ✓ The previous limitation, which prevented access to the regime when the taxpayer had benefited from the exemption in the same year or in the three preceding years, has been removed

## DEDUCTIONS ON RENTAL INCOME

It is established that, from the gross rental income derived from residential lease agreements, the expenses incurred by the taxpayer for their own residence may be deducted, up to the total amount, provided that the following requirements are met:

- ✓ The property generating the rental income must have been, prior to being leased, the taxpayer's or their household's primary residence, as evidenced by the fiscal domicile, for at least 12 months
- ✓ The taxpayer must have relocated their primary residence to a location more than 100 km away from the property generating rental income
- ✓ Both lease agreements must be duly registered on the Portuguese Tax Authority's Portal.

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