Portugal

Summary

Portugal offers a stable political and social environment, an excellent quality of life along with a favourable investment climate. The Non-Habitual Residence ('NHR') regime is an added bonus, providing individuals with favourable tax rates on foreign income for up to 10 years.

Becoming tax resident

In 2009 Portugal introduced the regime to encourage high net worth individuals and those working within specific industries to relocate there. To benefit from these rates there are relatively easy conditions to satisfy. An individual must:

- Not have been resident in Portugal within the previous five calendar years.
- Remain in Portugal for 183 days during the relevant fiscal year OR have a dwelling in Portugal owned or rented in their name.

The ability to be resident simply by renting or owning a home is the main benefit of this regime, however because physical presence in other countries denotes residence, care must be taken to not be dual resident elsewhere.

Those relocating from the UK must ensure they are not tax resident in the UK under the Statutory Residence Test. If the individual is classed as dual resident, the tie breaker test under the Double Tax Agreement would likely deem them UK resident if they haven't made Portugal their centre of vital interest.

Tax treatment

Income tax

The NHR regime is especially attractive to high net worth individuals, as the following are exempt from tax the first 10 years of residency:

- UK pensions taken as either income or lump sums
- State pension (but UK government pensions that remain taxable in the UK)
- Foreign investment income i.e. dividends, interest (provided not from a tax haven country that is backlisted by Portugal)
- Foreign sourced employment income (however UK sourced employment income will be taxable in the UK under the Double Tax Agreement)
- Overseas rental property income (but UK rental income will be taxed in the UK)
- Capital gains realised on non-Portuguese assets. Unfortunately, the exemption does not apply to gains realised on UK assets. To be exempt the gain must be capable of being taxed in the source country whereas the Portugal/UK Double Tax Agreement is clear that UK gains (other than land and property gains) are only assessable in the country of residence. As such gains realised on UK non-land and property assets will be subject to 28% rates of tax in Portugal.

Under the Double Tax Agreement, Portugal has sole taxing rights over the above sources of income but has made them tax exempt. This means the income cannot be taxed in the UK.

Other important tax treatments to note, that will be applicable under the NHR regime include:

- Gift tax exemption on gifts to spouses, descendants or ascendants. Gifts to individuals that you are not connected to with will either be subject to a flat stamp tax rate of 10% or not taxed at all due to generous territoriality rules.

- The receipt of trust income is not exempt under the regime and is taxed at 28%, as investment income.

- Purchase of a property is subject to 0.8% stamp duty with transfer tax applying at rates between 1% – 8%.

In general, this regime is undoubtedly beneficial for certain individuals for the first 10 years. However, following this period, the income and gains will be taxed at Portugal's relatively high tax rates (14.5% - 48%) although investment income is at a flat rate of 28%. The other issues to consider are:

- Penalties can be severe for late filling of tax returns anywhere between 10% of the amount owed, up to 200% (capped at €55,000).

- Most UK individuals would remain UK domiciled (unless they decided to make Portugal their permanent home) and are therefore still subject to UK inheritance tax on their worldwide estate.

- Tax free UK income derived from sources such as ISAs and Premium Bonds are likely to be subject to tax in Portugal.

- Capital gains are taxable at 28% rates.

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