

THE PORTUGUESE NON-HABITUAL TAX RESIDENT REGIME

MAIN FEATURES AND TAX
BENEFITS

APRIL 2020

THE NHR REGIME

The non-habitual tax resident regime (NHR) is a tax regime designed to attract specialized and high-net worth individuals to Portugal, which allows, under certain conditions, for an exemption on foreign income and reduced taxation on Portuguese income from employment and/or services.

The regime requires that the person becomes a Portuguese tax resident without having resided in Portugal in any of the previous 5 years and lasts for a period of 10 straight years.

PROCEDURES

After the registration as a tax resident is completed, the individual must apply for the NHR status no later than 31st of March of the year following the acquisition of the tax residency in Portugal.

The application is done online and requires the access codes to the tax authorities website.

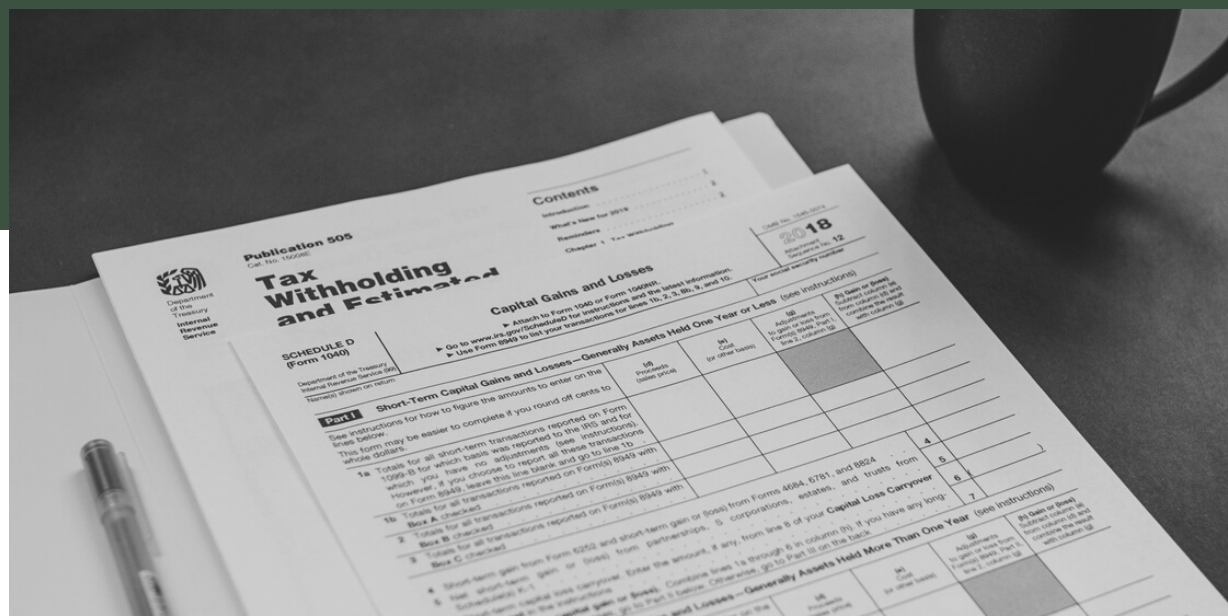
TAX BENEFITS

A person qualifying as an NHR will have access to a broad range of tax benefits.

However, there are specific requirements, which vary depending on the type of income for the tax benefits to apply.

The applicable tax benefits can be summarized as follows:

- i) Reduced 20% flat personal income tax rate (as opposed to a maximum marginal tax rate of 48%) on Portuguese employment income, subject to the activity being qualified as a high added value activity;
- ii) Reduced 20% flat personal income tax rate (as opposed to a maximum marginal tax rate of 48%) on Portuguese business income, subject to the activity being qualified as a high added value activity;
- iii) Exemption on foreign employment income (even if not from a high added value activity) if such income is effectively taxed in the other country in accordance with the applicable tax treaty or, in the absence of such treaty, if such income is duly taxed in the other country and it is not to be considered as obtained in Portugal (for example, because the paying entity is located in Portugal);



TAX BENEFITS

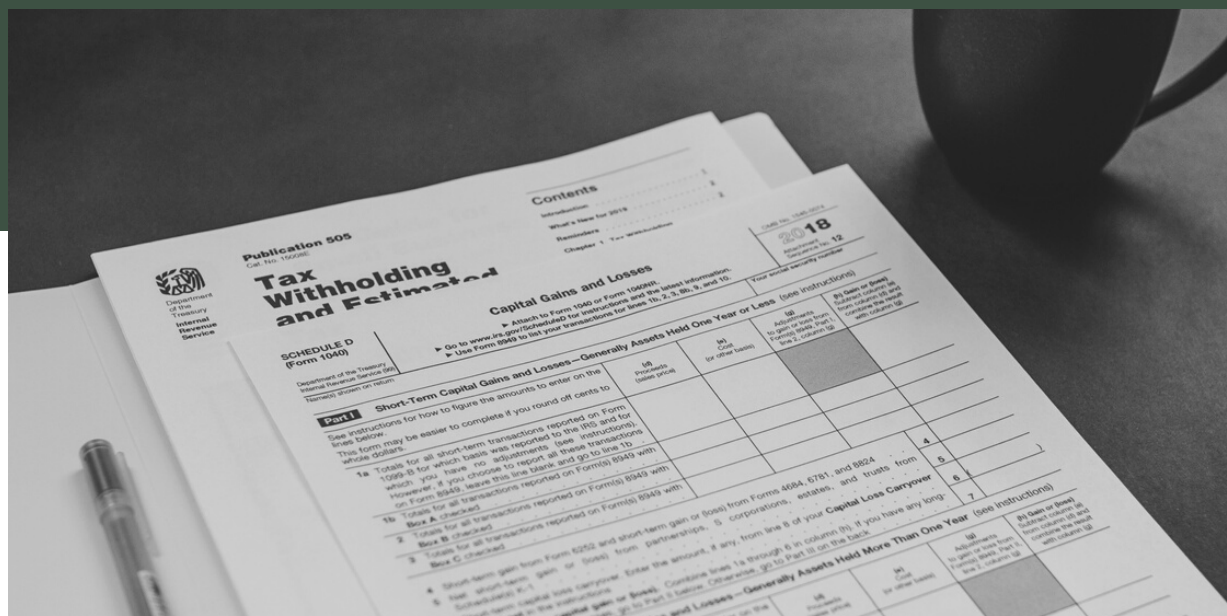
iv) Exemption on foreign business income derived from a high added value activity, if such income is taxable in the source country (even if not effectively taxed) in accordance with the applicable tax treaty or, in the absence of such treaty, if the income would have been taxable if there was a treaty, the source country is not a tax haven and the income is not to be considered as obtained in Portugal;

v) Exemption on foreign dividends, interest, capital gains and rental income, if such income is taxable in the source country (even if not effectively taxed) in accordance with the applicable tax treaty or, in the absence of such treaty, if the income would have been taxable if there was a treaty, the source country is not a tax haven and the income is not to be considered as obtained in Portugal;

vi) Exemption on foreign pensions (or reduced 10% tax for residents after April 1st 2020) if such income is duly taxed in the other country in accordance with the applicable tax treaty or if such income is not considered as obtained in Portugal.

If the above requirements are not met, standard Portuguese tax rules apply.

The above mentioned benefits do not apply to social security contributions which are in any case due in case of employees or service providers resident of Portugal.



MAIN ISSUES

Even if the regime seems to be straightforward, some aspects require particular attention and analysis.

A previous study is thus recommended for all situations, but in particular if any of the below apply:

- i) If the person holds investments in or through jurisdictions which are considered to be tax havens under Portuguese law;
- ii) If the person holds shares or voting rights in entities in a low-tax jurisdiction or which are effectively subject to a reduced taxation;
- iii) If the person performs consultancy activities;
- iv) If the person expects to realize capital gains (in particular if not from real estate);
- v) If the person is involved in trust or similar fiduciary structures.



TAX COMPLIANCE

As Portuguese tax residents, NHR taxpayers are obliged to submit a yearly tax return where all of its worldwide income (only income, not assets) is to be reported. Foreign bank accounts are also to be included (only account number, no balances).



HOW WE CAN HELP

Through our private clients' tax team we can help with the relevant tax analysis prior to acquiring Portuguese tax residency, as well as with all the relevant procedures as indicated above.

José Calejo Guerra
jcg@ccsllegal.com



Av. da Liberdade, 262, 2.º Esq.º
1250-149 Lisboa

T.: +351 215 835 196
www.ccsllegal.com