

Frequently asked questions

As a non resident are there any restrictions on home ownership?

No, all EEC passport holders are afforded the same rights in this respect as a Portuguese National. Certain other countries where VISA restrictions apply, may be subject to different regulations.

How is the best way to buy, i.e. as a company or as an individual?

In relation to capital gains possibly due on a future sale of the property, under Portuguese tax law the gain obtained from the sale of property located in Portugal is considered as an income obtained in Portugal and therefore subject to taxation herein. In this case, capital gains tax would be payable in Portugal at the rate of 25% if either the seller is a non resident individual or company. In the case of a resident company, the latter would be required to add the capital gains to its whole income which would be taxed at the standard corporate income tax rate, i.e. 27,5% on the whole income. Capital gains are not subject to withholding taxes.

As far as rental income is concerned, rents paid under a lease agreement to non resident individuals or companies would be subject to corporate income tax at the rate of 15%, whereas rents paid to resident companies are taxed at the above rate of 27,5%, being allowed deductions related to maintenance and conservation expenses disbursed with the property and the Property Tax (IMI) paid on a yearly basis, provided that these expenses are attested by duly issued tax documents (invoices). If the lessee is a resident company or an individual subject to organized accounting obligations, the rents paid are subject to withholding tax of 15%, paid on account of the final tax due with the nature of an advance payment.

Should the property be held by a company domiciled in a blacklisted country or territory, as included in a Ministerial Order published in 2001 and further amended in 2004, please note that the corporate income tax (IRC) code provides for a presumption of taxable income consisting of the following: entities domiciled in blacklisted territories holding properties which are neither leased nor allocated to an economic activity (i.e. an activity generating income) will generate a gross annual income of 1/15 of the property's tax value, whenever such entities do not declare any other income. The presumed gross annual income of 1/15 of the property's tax value will be taxed, on a yearly basis, at the rate of 15%. The presumption at stake does not apply if the non resident entity owning the property shows that such property is not used by any entity domiciled within the Portuguese territory or that such property is vacant.

Bearing in mind the above, if there are no confidentiality/inheritance or other similar issues in connection with the purchase of the property, from a Portuguese tax law standpoint, we tend to advise clients to purchase property in their personal names.

Are there any restrictions to selling the property?

No. All the rules governing the condominium are included as attachments to the deeds. Any new owner automatically assumes responsibility for these on signature of the deed of sale.

Am I buying freehold or leasehold?

The apartments are sold freehold, available for use 52 weeks per year.

Can you sell the contract before completion of development?

Yes, but prior consent from the selling entity must be sought. property transfer tax (IMT), as defined below, on the sale of the contract may apply but would be borne by the purchaser.

Are the two underground parking spaces and the storeroom included in the purchase price?

Yes. A copy of the location of these is given as an attachment to the purchase contract.

Stamp duty and Property Transfer Tax

Stamp duty is levied on the purchase of real estate located in Portugal at a 0,8% rate on the purchase price payable upon the execution of the purchase deed together with the notary fees.

Sales of urban property exclusively for residential use are subject to Property Transfer Tax (IMT) at variable rates ranging from 0% to 6% on the purchase price or the tax value, whichever the highest. The 6% rate applies to purchase prices / tax values above € 521.700. Whenever the acquirer is resident in a blacklisted country or territory, a tax rate of 15% is levied.

IMT is generally levied immediately prior to the execution of the purchase deed.

Roughly, an allowance should be made for approximately 1% of the full purchase price for stamp duty, Notary and registration fees.

Inheritance Tax

Inheritance tax was replaced in 2004 by Stamp Duty. Gratuitous transfers to spouses and children are tax exempt, whether the transfer results from inheritance or a gift. Gratuitous transfers of real estate to third parties are subject to a 10% stamp duty.

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